UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS

SECOND SESSION

VOLUME 148—PART 13

SEPTEMBER 20, 2002 TO OCTOBER 1, 2002

(PAGES 17373 TO 18819)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 2002

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

SENATE—*Friday, September 20, 2002*

The Senate met at 10 a.m. and was called to order by the Honorable THOMAS R. CARPER, a Senator from the State of Delaware.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we claim Your promise: "I will not forget you. See, I have inscribed you on the palms of my hands." So with confidence we pray the ancient Hebrew childhood prayer from the 31st Psalm: "Father, into Your hands I commit my spirit." As we pray that prayer, we get ourselves off our own hands and into Your strong, competent hands. We take each of the fears in our jumbled mass of worries and concerns and commit them to You. You have promised to keep us in perfect peace, if we allow You to keep our minds stayed on You. Interrupt us when we get too busy and remind us that we are here to serve You. When we forget You, remind us that You never forget or forsake us. May that awesome assurance steady our course and fill our sails with the wind of Your power. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable THOMAS R. CARPER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 20, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS R. CARPER, a Senator from the State of Delaware, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARPER thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The deputy majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, at 10:30 we will vote on the nomination of Reena Raggi to be a United States Circuit Judge for the Second Circuit. Following that vote, the Senate will be in a period of morning business until noon. We are expecting to go out of session shortly thereafter.

This is in preparation for next week which will be a very busy week. Everyone should understand that. Next week could be a very big week. We are going to do everything we can to complete work on the homeland security bill. I have tried previously, in the form of unanimous consent, and have been unsuccessful, but we really need to move off the Interior appropriations bill. It is obvious, because of the forest feud that is in that legislation, that that bill is not going to go forward. We should not be wasting the morning standing around here doing nothing.

I hope the minority will allow us, by consent, to spend all day each day next week on the homeland security bill so we can finish that bill. The two or three big amendments on that legislation have not yet been offered. We expect that to happen early next week. Later today, we will reoffer the unanimous consent request that we temporarily set aside the Interior bill and move on to the homeland security bill on a full-time basis. That would be the thing to do.

I have said before—and I really believe this to be the case; I sadly say this—that the minority is working toward our accomplishing nothing. They simply don't want us to complete the other appropriation bills. We have asked to be able to move off Interior and to go to another appropriations bill. They won't let us do that. They said there would be no more two-tracking of legislation, which is fine. But at least they should let us move off Interior so we can have full days on homeland security.

The President says he wants this legislation. His wants cannot be accomplished unless we are able to legislate on a full-time basis on it. Once we get started on something, we are back on Interior doing nothing. It takes time to get revved up again on homeland security. I hope that can be accomplished today, that we can get off Interior.

It seems quite clear that the efforts to arrive at a compromise have failed. People have tried hard, and certainly no one is to be faulted, but sometimes we have issues that are irreconcilable. In the Senate, simple majorities don't solve problems that are irreconcilable; it takes 60 votes. The proposition that the majority has offered can't get 60 votes. The proposition of the minority can't get 60 votes. It would be in the best interest of the country that we move off that legislation. Maybe later someone will come up with some kind of a brainstorm to figure some way out of it, but at this stage we have not been able to.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the vote begin 2 or 3 minutes early, and the leader asked me to announce this will be the last vote today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF REENA RAGGI TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10:29 a.m. having arrived, the Senate will proceed to executive session and consider Executive Calendar No. 1006, which the clerk will report.

The assistant legislative clerk read the nomination of Reena Raggi, of New York, to be United States Circuit Judge for the Second Circuit.

Mr. LEAHY. Madam President, today the Senate will confirm the nomination of Judge Reena Raggi to the United States Court of Appeals for the Second Circuit. This is the 14th circuit court nominee to be considered by the Senate since the change in Senate majority and reorganization of the Judiciary Committee 14 months ago. That is an average of one Court of Appeals judge a month since the Democratic majority has been in place. This pace is almost double that maintained by the Republicans during their 6½ years of control of the Senate. This is also the 78th judicial nominee we have confirmed in the past 14 months.

In contrast, our Republican predecessors voted on only 46 of President Clinton's more moderate Court of Appeals nominations in their 76 months of control for an average of closer to one circuit court confirmation every other month. In fact, during the entire 1996 session the Senate Republicans stalled all Court of Appeals nominees and not a single one was confirmed. Court of Appeals vacancies went from 16, when the Republicans took over in January 1995, to 33 by the time they finally relinquished control last summer and allowed the Judiciary Committee to reorganize. During the Republican stall on judicial confirmations, vacancies more than doubled on the Courts of Appeals. However, since last summer, the Democratic majority has exceeded the rate of attrition and confirmed 14 circuit court judges, in addition to 64 district court judges. Even with extraordinary attrition of 10 new circuit vacancies during this period, we have lowered the number of Court of Appeals vacancies from the 41 it would have been if Democrats were blocking judges as Republicans falsely claim, to 27.

There are now fewer circuit court vacancies than when the 107th Congress began. Republicans confirmed no circuit court nominees or any judicial nominees during their 6 months of control last year. They could have confirmed some of the nine circuit judges re-nominated by President Clinton, if they were truly concerned about the circuit court vacancy level. They could have done that to demonstrate some commitment to fairness and the bipartisanship they claim. But they did not. The President could have urged that those circuit court nominees be confirmed to demonstrate true bipartisanship and to address the injustices of the stalling tactics of the members of his party in the Senate. He did not. Instead, he withdrew all those circuit court nominees last spring then later renominated only one of them, occasioning more needless delay.

I would like to reflect on what could have been, but for the purposeful obstruction by Republican Senators of the confirmation of more than a score of President Clinton's circuit court nominees. If Republicans had not blocked the confirmation of almost two dozen, 22, circuit court nominees, and many more district court nominees, Democrats on the Judiciary Committee would have begun with 11 circuit court vacancies, instead of the 33 we inherited. With the 10 new circuit court vacancies that arose over these past 14 months, there would have been a total of 24 circuit court vacancies for this President to fill. Given the Democratic pace of considering circuit court nominees, even without any significant cooperation or consultation from the White House, our circuit courts would today be left with only 10 vacancies. That is what might have been, but for the determined, strategic blocking of so many circuit court nominees during the 6½ years of Republican control of the Senate. Instead, after 14 circuit confirmations, there remain 27 circuit court vacancies—still fewer than at the start of this Congress but far from where we could have been.

The Judiciary Committee has already voted on 83 of this President's judicial nominees, including 17 nominees to the Courts of Appeal. Two additional circuit court nominees have had hearings and another is scheduled for a hearing this coming week. The Senate Judiciary Committee has already voted on more circuit and district court nominees than in any of the previous 6½ years of Republican control. In fact, Democrats have given votes to more judicial nominees and, in particular, to more nominees to the Courts of Appeals, than in 1996 and 1997 combined, and than in the last 30 months of the Republican majority control in 1999, 2000 and early 2001.

Judge Raggi was appointed to the Federal trial court in 1987 by President Ronald Reagan. She has a solid record of accomplishment in both the private and public sectors. She received the strong support of her two Democratic Senators, CHUCK SCHUMER and HILLARY RODHAM CLINTON, and of the New York legal community. Even though Judge Raggi is a conservative Republican, we have every reason to believe that she will serve with distinction on the Second Circuit as a fair and impartial judge.

Her record is in sharp contrast to the record of the other circuit court nominee that the Judiciary Committee considered on the very same day: Justice Priscilla Owen, a nominee whose record was too extreme even for the very conservative Texas Supreme Court. Justice Owen's written opinions demonstrated her willingness to substitute her policy preferences for those of the Texas legislature and her determination to distort precedent. Even her fellow judges criticized her approach.

The administration's claim that Democrat's have created a glass ceiling for female judicial nominees is patently ridiculous. It is unfortunate that just 21 percent of President George W. Bush's judicial nominees are women, in contrast to 30 percent of President Clinton's judicial nominees. The percentage of women nominated by this President has been cut by almost a third compared with the prior administration. In fact, so far, President George W. Bush is appointing almost the same proportion of women to the Federal bench as his father, despite the passage of more than a decade since then in which the number of women practicing law and with judicial experience has increased exponentially.

With today's vote, the Democratic-led Senate has already confirmed 17 female judicial nominees of this President, including four to the Courts of Appeal Judge Edith Brown Clement to the Fifth Circuit, the first nominee to be confirmed to that court in more than 6 years; Judge Julia Smith Gibbons to the Sixth Circuit, the first nominee to be confirmed to that court in more than 5 years; Judge Sharon Prost to the Federal Circuit; and now Judge Reena Raggi to the Second Circuit. In all, Democrats have held hearings for 19 of the women nominated to the Federal bench by this President, and 18 of them have been voted on by the Judiciary Committee. A few of the remaining female nominees lack home-State consent, and some were nominated only recently and so lack completed paperwork. This Democratic-led Senate has regularly scheduled hearings and votes, unlike during the prior 6½ years of Republican control when so many women and minorities nominated to the Federal bench were never accorded hearings or votes.

Today's vote serves as another example of the Democrats' proven record of action and fairness on this President's judicial nominees. Judge Raggi is a conservative Republican. I voted for her confirmation in committee and vote to confirm her today, based on her overall record, her testimony before the committee and the bipartisan support she has received. Far from payback for Republican actions in the recent past, today's Democratic-led Senate's action is being taken notwithstanding those wrongs and to help fill vacancies that Republican obstruction helped create.

Despite the right-wing and partisan din about blockades and obstructionism, Democrats are actually achieving almost twice as much as our Republican counterparts did to provide judicial resources to the Federal courts. We would be even farther along if so many circuit court nominees of the prior administration had not been purposely blocked and defeated, and if we received more timely reviews from the ABA, and received the nominations of more moderate, mainstream judicial nominees.

Mr. HATCH. Madam President, I am very pleased that the Senate has taken up the nomination of Judge Reena Raggi to the Second Circuit Court of Appeals. She is a truly exceptional nominee with wide and well deserved bipartisan support.

We first became aware of Judge Raggi's outstanding credentials fifteen years ago, when the Senate confirmed to her nomination as a district judge for the Eastern District of New York. She received her Bachelor of Arts degree from Wellesley College and went on to graduate cum laude from Harvard Law School. She clerked for Judge Thomas E. Fairchild, then Chief Judge of the U.S. Court of Appeals for the Seventh Circuit, before working as an associate at the law firm of Cahill, Gordon & Reindel.

She then entered public service in Brooklyn, New York as an Assistant U.S. Attorney for the Eastern District of New York. She quickly rose through the ranks of the U.S. Attorney's Office, first to become head of the Narcotics Unit, then Chief of Special Prosecutions, which is in charge of prosecuting public corruption. In 1986, the Eastern District Board of Judges appointed here interim United States Attorney pending the Senate confirmation of a presidential nominee. A year later, Judge Raggi was nominated and confirmed as a district court judge.

That was 15 years ago. Today, I am proud to say that Judge Raggi has continued to serve as a jurist of the highest level of excellence. In fact, for the first 7 years of her tenure as a district judge, she was the least reversed judge in the Second Circuit.

Judge Raggi has presided over some of the most famous and infamous cases to be tried in New York's Federal court. Recently, she was the judge in the civil rights prosecution of former New York City police officer Charles Schwartz for the sexual battery of Abner Louima. We are all sadly familiar with the facts of Mr. Louima's case: While in police custody, officers savagely beat him in the bathroom of a New York City precinct house. This case was ramanded to Judge Raggi's court by the Second Circuit for retrial following the death of the original trial court judge. The retrial resulted in a perjury conviction against Mr. Schwartz.

Judge Raggi also presided over the trial of Thomas "Tommy Karate" Pitera, the first Federal death penalty case in New York in three decades.

Beginning in 1993, Judge Raggi presided over a series of cases stemming from the alien smuggling scandal of the "Golden Venture," a freighter that ran aground in Rockaway, NY. Almost 300 illegal aliens transported in deplorable conditions had to swim for shore, and 10 of the passengers died escaping the ship. The judge in 1994 rejected plea bargains reached by the government with seven of the Golden Venture defendants, finding that sentences of between 12 to 30 months in prison did not "adequately do justice" because the terms did not reflect the seriousness of the crimes.

Judge Raggi also played a significant role in the war against terrorism. In 1998, she oversaw the trial of Palestinian terrorist Gazi Abu Mezer, who was convicted of plotting a subway bombing aimed at Jews. The judge sentenced Mr. Mezer to life in prison.

All of this hard work and dedication to the law is reflected in Judge Raggi's ABA rating of unanimously "Well Qualified." This rating, of course, is the highest that the ABA awards. Her excellence has been reflected by the Second Circuit Court of Appeals' invitation to have her sit by designation on many of its panels.

Clearly, Judge Raggi represents the very best in our Nation's judges and will be an outstanding addition to the Second Circuit. I look forward to voting in favor of her nomination and hearing of her accomplishments in the future.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Reena Raggi, of New York, to be United States Circuit Judge for the Second Circuit? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Mr. SARBANES), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Minnesota (Mr. WELLSTONE) and are necessarily absent.

Mr. NICKLES. I announce that the Senator from Nevada (Mr. ENSIGN), the Senator from Wyoming (Mr. ENZI), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Kansas, (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS), the Senator from Oregon (Mr. SMITH), the Senator from Wyoming (Mr. THOMAS), and the Senator from Tennessee (Mr. THOMPSON) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 0, as follows:

[Rollcall Vote No. 219 Ex.]

YEAS—85

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Rockefeller
Santorum
Schumer
Shelby
Smith (NH)
Snowe
Specter
Stabenow
Stevens
Thurmond
Voinovich
Warner
Wyden

NOT VOTING—15

Boxer
Ensign
Enzi
Helms
Kennedy
Kerry
Murkowski
Roberts
Sarbanes
Sessions
Smith (OR)
Thomas
Thompson
Torricelli
Wellstone

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. The President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. NELSON of Florida). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak for up to 10 minutes each, and with the time to be equally divided between the two leaders or their designees.

The Senator from New York.

THE ECONOMY AND UNEMPLOYMENT INSURANCE

Mrs. CLINTON. Mr. President, I rise today to talk about an issue of great concern to my constituents and, indeed, to our entire country—the state of our Nation's economy. We know our economy was already in recession on September 10 and it was devastated on September 11 by the horrific attacks we suffered, and it is stalled now. Too many Americans are out of work. Too many have seen their pension and retirement security disappear because of the illegal, unethical, and simply inexplicable behavior of corporate executives. Too many people who lost their jobs as a result of September 11 have not yet been able to find work.

Let me just mention one of the hundreds of thousands—millions of such people: A New Yorker by the name of Felix Batista. Mr. Batista had worked for years, 25 years I believe, as a member of the wait staff at the restaurant known as Windows On The World at the top of the World Trade Center. He has four children. He was on vacation on September 11 when 73 of his coworkers were murdered. He lost not only friends and colleagues, he lost his job, and he has been unemployed since that terrible day. He is a man who had a wonderful employment record who now spends his days looking for work. He exhausted his unemployment benefits almost 3 months ago. How is he going to support his four children? He is a victim of the terrorist attacks on New York and America, and he is not alone.

Like so many other New Yorkers and Americans, despite their steadfast efforts to find work, and their overwhelming desire to get back to work, they remain out of work, struggling to make ends meet. In New York, there are 135,000 New Yorkers who have exhausted their benefits. Across the country, the number of people who have been unemployed for 6 months or longer has almost doubled, from 800,000 to 1.5 million in the last year, and that number is expected to increase to more than 2 million by December.

What have we, the elected representatives of all the people, including the people who are unemployed, the people such as Felix who have lost their jobs—what have we done to respond? We have extended unemployment benefits once—but only once. Contrast that with the recession of the early 1990s when Congress extended temporary benefits five times. But this year, even in the wake of the combination of a slowdown in the economy and terrorism, we have only extended benefits once. Once is not enough. Congress must act to extend unemployment insurance and disaster unemployment assistance for an additional 13 weeks each.

With more people losing their benefits every day and being put into the terrible position in which Mr. Batista finds himself, these extensions should be passed before Congress adjourns.

The Wall Street Journal says our economy is in the midst of a "jobless recovery." From what I hear, that phrase is only half true.

Across New York State, 553,000 New Yorkers are out of work, and the same story is true of company layoffs and plant closings in Niagara Falls, Rochester, and so many parts of New York.

Unfortunately, this is a story that is compounded by the corporate irresponsibility and illegality. They have added even more uncertainty to our economic condition. We not only are seeing plants closing and people losing their jobs because there is no business and there are no orders, but we are also in Rochester seeing 500 people out of work after Global Crossing filed for bankruptcy.

If there is any doubt that the economic situation is not producing jobs for people, take a look at this chart. It shows the number of jobs that are available compared with the number of people who are looking for work. As you can clearly see, during most of 2002, jobseekers far outnumbered job availability. In fact, in June, there were almost three jobseekers for every available job.

When President Bush took office in January 2001, there were approximately 1.5 jobseekers for every job. In just a short year and a half, we have gone from one job opening for every one and a half unemployed person to one job opening for nearly three unemployed persons.

But only looking at the statistics and the unemployment rate doesn't paint a complete picture. The constituents that I talk to in New York describe an endless, frustrating job search—that hopeless feeling that comes when you go out every day and read the want ads and follow up every single lead. These are people who are young and old and middle-aged. They are male, they are female, they are skilled and unskilled; they are white, they are black, and they are Latino. They are every kind of American. They want to work. But until this economy turns around, they need additional help.

The so-called jobless recovery has hit long-term unemployed workers particularly hard. The number of people who cannot find jobs for 6 months or longer has grown by almost 90 percent in the past year. In fact, the share of the unemployed today who have been without work for more than 26 weeks exceeds that of the recession of the early 1990s and the early 1980s.

According to a recent study, "an increase in the long term unemployment of workers with significant workforce experience" is particularly striking. But why should we be surprised? We have companies such as Enron, Global Crossing, WorldCom, and Tyco that are laying off, going into bankruptcy, and rendering unemployed highly skilled workers—people who got their education, went to college, and improved their skills. They were part of the new economy, and, all of a sudden, they find themselves on the unemployment lines.

What this means for real Americans is that people who are trying hard, who have played by the rules, who have been responsible, and, through no fault of their own—a corporate executive who commits illegalities, or a terrorist who destroys a building—are now unemployed.

The number of workers who have exhausted their benefits has doubled compared to 2 years ago. The number of workers who have exhausted their State benefits is 2.3 million, more than we had 10 years ago during the recession of the early 1990s.

As you can see from this chart, the number of workers exhausting their unemployment benefits without a job has risen steadily since last spring. If you are wondering what this means for individual States, I have information about every State in our country. This is not just a New York problem. This is a national problem. We may have the highest number of people who have exhausted their benefits, but, of course, you would expect that. We lost tens of thousands of jobs because of the attack and the collapse of the buildings. Because it was a crime scene, they couldn't reopen and get back into business.

Our unemployment rate in New York City is 8 percent—higher than the national average—unfortunately reflecting a condition that affects all Americans.

Back in the recession of the early 1990s when the first President Bush was in office, people who were unfortunate enough to lose their jobs got a compassionate response from the White House. The first President Bush said: You know, I am going to be there to help you. And, working with the Congress, that is exactly what happened. We extended unemployment benefits five times.

Are the people today less deserving? Are the workers who lost their jobs because of corporate illegality, economic slowdown, or terrorist attacks somehow not worthy of our help? I don't think so. I certainly hope not.

As you can see from this chart, which has a lot of writing on it, basically the bottom line is that during the early stage of the recession in the 1990s, 35 States received 26 weeks of benefits, and 16 received 33 weeks. And it is so clear that today during our recession we only have 39 States getting 13 weeks of benefits and 12 receiving 26.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mrs. CLINTON. I ask unanimous consent for another 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. This is not only a comparison—it should cause us to wonder what our national policy is—it is also a reflection of how we have no economic policy in America right now. We don't have an emphasis on creating jobs, prosperity, and economic opportunity.

Our leader, Senator DASCHLE, came to the floor earlier this week and, in a series of charts, made clear that we are not attending to America's business. We all know we have foreign policy challenges. I, for one, have supported our men and women in uniform and supported our need for homeland security. I will continue to do so because our threats are real, and we have to deal with them. But we are a great nation. We can do more than one thing at a time. We should be paying attention to our economy. We should be taking care of our unemployed workers. It is the right thing to do. I hope we will do it because it takes care of people.

Look at this next chart. Every dollar we spend on unemployment insurance adds $2.50 to our gross domestic product. It is a good investment. Why? Because when the unemployed get those benefits—when Mr. Batista and others like him finally get some help—what do they do? They go out and spend it. They have no other means. They have to buy food, they have to pay the rent, and they have to make a car payment. The money goes right into the economy, and it provides stimulus.

In contrast, President Bush's solution is to stimulate the economy for the wealthiest—keep giving them big tax cuts and hope that it trickles down to people such as Mr. Batista. That didn't work in the 1980s, it didn't work in the 1990s, and it will not work in the 21st century, either.

I believe the President is using the wrong approach. Our economy needs to help people. It needs to stimulate jobs. And we owe it to the unemployed such as Mr. Batista to act now.

Finally, obviously, I believe our economic policy during the 1990s worked for all Americans—the rich, middle income, and poor. It provided more than 22 million new jobs. We were on the right track in America when it came to the economy. For reasons that escape me, we threw all of that good work away, and now we are back into the deficits. We are not taking care of the unemployed. We are not creating jobs. And I don't think we have any plan to do so.

I earnestly request that our colleagues here take leadership and support our unemployed people. Do what was done in the 1990s, provide these benefits, stimulate the economy, and let us get back on the right track for America's future.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for an additional 15 minutes over and above the order that has been entered.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Chair.

IRAQ

Mr. BYRD. Mr. President, I call attention to an article in the Washington Post of September 15, Sunday, the final edition. I shall read excerpts therefrom. The headline: "In Iraqi War Scenario, Oil Is Key Issue; U.S. Drillers Eye Huge Petroleum Pool." The article is by Dan Morgan and David B. Ottaway, Washington Post staff writers.

I will proceed now with reading the first three paragraphs:

> A U.S.-led ouster of Iraqi President Saddam Hussein would open a bonanza for American oil companies long banished from Iraq, scuttling oil deals between Baghdad and Russia, France and other countries, and reshuffling world petroleum markets, according to industry officials and leaders of the Iraqi opposition.
>
> Although senior Bush administration officials say they have not begun to focus on the issues involving oil and Iraq, American and foreign oil companies have already begun maneuvering for a stake in the country's huge proven reserves of 112 billion barrels of crude oil, the largest in the world outside Saudi Arabia.
>
> The importance of Iraq's oil has made it potentially one of the administration's biggest bargaining chips in negotiations to win backing from the U.N. Security Council and Western allies for President Bush's call for tough international action against Hussein. All five permanent members of the Security Council—the United States, Britain, France, Russian and China—have international oil companies with major stakes in a change of leadership in Baghdad.
>
> "It's pretty straightforward," said former CIA director R. James Woolsey, who has been one of the leading advocates of forcing Hussein from power. "France and Russia have oil companies and interests in Iraq. They should be told that if they are of assistance in moving Iraq toward decent government, we'll do the best we can to ensure that the new government and American companies work closely with them." But he added: "If they throw in their lot with Saddam, it will be difficult to the point of impossible to persuade the new Iraqi government to work with them."
>
> Indeed, the mere prospect of a new Iraqi government has fanned concerns by non-American oil companies that they will be excluded by the United States, which almost certainly would be the dominant foreign power in Iraq in the aftermath of Hussein's fall.

Are you listening? Out there in America, are you listening?

Let me say that again, with reference to former CIA Director R. James Woolsey:

> But he added: "If they throw in their lot with Saddam, it will be difficult to the point of impossible to persuade the new Iraqi government to work with them."
>
> Indeed, the mere prospect of a new Iraqi government has fanned concerns by non-American oil companies that they will be excluded by the United States—

Hear that—

> which almost certainly would be the dominant foreign power in Iraq in the aftermath of Hussein's fall.

Are we paying attention?

> Representatives of many foreign oil concerns have been meeting with leaders of the Iraqi opposition to make their case for a future stake and to sound them out about their intentions.
>
> Since the Persian Gulf War in 1991, companies from more than a dozen nations, including France, Russia, China, India, Italy, Vietnam and Algeria, have either reached or sought to reach agreements in principle to develop Iraqi oil fields, refurbish existing facilities or explore undeveloped tracts. Most of the deals are on hold until the lifting of U.N. sanctions.
>
> But Iraqi opposition officials made clear in interviews last week that they will not be bound by any of the deals.

It is a lengthy article, Mr. President. I ask unanimous consent that this article be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Now, Mr. President, let me call attention to an editorial in today's Charleston, WV, Gazette, titled, "Bush, Cheney won't stop."

And I read therefrom:

> Although Iraq agreed to readmit U.N. weapons inspectors, President Bush and Vice President Cheney still are clamoring for U.S. military action to topple dictator Saddam Hussein.
>
> The White House continues its mantra—

Now listen. This is the Charleston, WV, Gazette.

> The White House continues its mantra that war is necessary because Saddam is "evil" and he's secretly making weapons of mass destruction. But this justification may be a smoke screen.

Are you listening? Are you listening, the people out there throughout this great land? Are you listening?

> . . . this justification may be a smoke screen. Some observers say the administration's hidden motive is to gain control of Iraq's oil.
>
> In a front-page Sunday report subtitled "U.S. Drillers Eye Huge Petroleum Pool," The Washington Post said America's oil industry—to which Bush and Cheney are closely tied—eagerly wants a "regime change" in Iraq so U.S. firms can begin drilling into Iraq's vast, 112-billion-barrel reserve.

So the Charleston Gazette of today calls attention to the Washington Post article which I have already read and have included in the RECORD, the Washington Post article of last Sunday.

Continuing with the Gazette editorial:

> The White House supports the London-based Iraqi National Congress, an umbrella

> organization of exiled Iraqi groups seeking to remove Saddam. INC [Iraqi National Congress] leader Ahmed Chalabi told the Post [the Washington Post] that, when a new regime is installed in Baghdad, "American companies will have a big shot at Iraqi oil."
>
> The Washington [Post] quoted former CIA Director James Woolsey:—

And I have also referred to his remarks. But let me continue with the Charleston Gazette editorial:

> Amazing!

In referring to what Mr. Woolsey was saying, the Gazette said:

> Amazing. This implies that Bush's war urge isn't about "evil" or weapons. It's about oil.

"It's about oil."

> Atlanta Journal-Constitution columnist Cynthia Tucker said the White House war demands are "tainted with the sickening smell of gasoline."

Now, that was the Atlanta Journal-Constitution. That is a Georgia paper that is known and read nationwide and internationally.

Let me read what that column said again:

> Atlanta Journal-Constitution columnist Cynthia Tucker said the White House war demands are "tainted with the sickening smell of gasoline."

Further reading from the Charleston Gazette of today:

> "If the Bush administration invades Iraq," she wrote—

Atlanta Journal-Constitution columnist Cynthia Tucker—

> "future scholars will look back on this period and name the period for what it was: the Petroleum Wars. . . . What but oil could possibly explain the Bush administration's stubborn insistence on attacking Saddam Hussein, who had no connection to the atrocities of Sept. 11?"
>
> Senator Robert C. Byrd, D-W.Va., has taken the lead in questioning President Bush's warplans.
>
> We hope that he and colleagues in Congress try to learn whether the White House war cry is designed to serve America's oil industry.

Mr. President, I ask unanimous consent that the Gazette editorial in its entirety be printed in the RECORD at the close of my remarks today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 14½ minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may have an additional 10 minutes, if needed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, before the Nation is committed to war, before we send our sons and daughters to battle in faraway lands, there are critical questions that must be asked, and it is not unpatriotic to ask questions.

To date, the answers from the administration have been less than satisfying. After weeks of criticism from Congress and, indeed, from the countries of the world, President Bush went to the United Nations to press his case that Iraq posed a serious threat to the peace and security of the globe. But instead of offering compelling evidence that the Iraqi regime had taken steps to advance its weapons program to the point that it is necessary for the United States to deliver an unprovoked attack on a sovereign state—namely, Iraq—the President offered the U.N. more of a warning than an appeal for support.

Instead of using the forum of the U.N. General Assembly to offer evidence and proof of his claims, the President basically told the nations of the world that "you are either with me or against me."

"Do not question this stand," the President said. If the U.N. is unwilling to act, then "by heritage and by choice, the United States of America will make that stand."

While Mr. Bush tried to play the role of an international prosecutor, his case was at best circumstantial. He did a fine job in laying out the facts with regard to the failure of the United Nations to uphold and take more compelling action in upholding its previous resolutions. He made a fine statement in that regard. He made it clear that the United Nations had not enforced its resolutions. Sixteen resolutions had been adopted by that agency.

But in the days that followed that address, the administration officials have attempted to provide some answers to the looming question. However, this week, when asked by the House Armed Services Committee members what was new, what was compelling to force the hand of this Nation against Saddam Hussein, Secretary of Defense Donald Rumsfeld offered nothing new. He pointed to the terrorist acts of September 11 as compelling reason, and he said:

> The last thing we want is a smoking gun. A gun smokes after it has been fired. The goal must be to stop Saddam Hussein before he fires a weapon of mass destruction against our people.

Well, he said the same thing before the Senate Armed Services Committee on yesterday. He said: We are being asked what is new.

He said: What is new? September 11.

Well, September 11 is not all that new, Mr. President, September 11 was 365 plus 9 days, in other words, 374 days ago. That is not so new.

With reference to Mr. Rumsfeld's statement concerning a smoking gun, when he said, "The last thing we want is a smoking gun. A gun smokes after it has been fired"—my concern, Mr. President, is that the United States, in forcing war in Iraq, will end up shooting itself in the foot. Unless proper care and deliberation precede any action, we must not be hell-bent on an invasion until we have exhausted every other possible option to assess and eliminate Iraq's supposed weapons of destruction program.

The United States must not act alone. The United States must have the support of the world.

Yesterday, the administration sent to Congress a draft resolution to authorize the use of American military might against Iraq. In that resolution, President Bush requests approval to "use all means" he determines to be appropriate. In other words, the President is saying: Authorize me, the President, authorize the President to "use all means" he, the President, determines to be appropriate.

Congress must not hand this administration or any other administration a blank check for military action, period. What Congress needs is solid evidence. What we need are answers. Does Saddam Hussein pose an imminent threat to the United States? Should the United States act alone as this administration has been threatening to do? Should Congress grant the President authority to launch a preemptive attack on Iraq? What would be the repercussions in the Middle East? What would be the repercussions around the globe?

How many civilians would die in Iraq? How many American men and women would be involved? Will even greater numbers of National Guardsmen and Reserves be called up to prepare for an invasion? And if they are, what will happen to the war on terrorism here at home? Will troops be shifted from other missions to support a war against Iraq?

We have 8,500 men and women in Afghanistan. We have forces in the Philippines, in Bosnia, in Kosovo and in many other places throughout the world. What are we going to do, pull all of them out of those faraway places and use them in an unprovoked attack on the sovereign state of Iraq?

How do we afford this war? The gulf war cost $61 billion. The gulf war of a decade ago cost $61 billion. Of that, other countries coughed up, in cash and in contributions in kind, $54 billion, leaving, I believe, roughly $7 billion, the cost to American taxpayers.

Now, what would it cost this time if other nations are not helping the United States to bear the financial burden? Bruce Lindsey, the President's economic adviser, says it might cost $100 billion or $200 billion. And then he said: $100 billion why, that is nothing. He is quoted in the press as saying: $100 billion? That is nothing. Yet, this administration won't get its feet out of the concrete and head out of the sand when it comes to raising the top line for Congress to be able to utilize in passing 13 appropriations bills and sending them to the President—not willing to agree to $9 billion more than the President's foot-in-concrete figure of $759 billion.

Congress needs $768 billion. The House chairman, Mr. YOUNG, and this chairman in the Senate, and Senator TED STEVENS, ranking member on the Senate Appropriations Committee, have agreed, and others agreed—and this Senate has agreed—it should be $768 billion. There is a $9 billion gap between what the President says and what the Congress needs to meet the needs of the people. I am talking about veterans' care, education, homeland security, and so on, these are the needs.

Congress would require—and has already reported bills out of the Senate Appropriations Committee which assume the figure $768 billion. The President and his OMB Director say, no, $759 billion; that is all. So, here we are—stuck; 13 appropriations bills are stuck because of the administration's immovability in dealing with the needs of the American people here at home.

The Administration, says: No, we won't accept that. Hence, we have 13 appropriations bills stuck.

Lawrence Lindsey has reportedly said, with reference to a war against Iraq: "Oh, that might cost $100 billion or $200 billion. $100 billion? Well, that is nothing." That is the attitude of this administration. That is the attitude of this administration.

Has the United States ruled out responding with nuclear weapons should Saddam Hussein use chemical or biological weapons against our soldiers? Does Saddam Hussein have the capability to unleash weapons of mass destruction within the United States? Does the United States have adequate military and intelligence resources to fight a war in Afghanistan and a war in Iraq while, at the same time, mobilizing resources to prevent or defend against attack within our own shores? What will happen to this war here at home?

What will happen to homeland security if the President unleashes an unprovoked attack on Iraq? Does anyone believe there would not be any repercussions here at home? We have terrorists within our midst in this country. They are all about us. The FBI arrested six in New York just recently. So the FBI is on the job. The FBI is working to defend this country. But what else might happen? Are we focused too greatly on fighting suspected terrorism overseas, while focusing too little on the threat of terrorism here at home? What is going to happen to the needs of this country—the monetary needs and the needs with respect to security of our nuclear plants? What is going to happen at our ports of entry and on our borders? What is going to happen within our midst if the President launches an unprovoked attack on Iraq?

These are questions—and there are many more questions—that will be asked. If it is unpatriotic to ask questions, then I am unpatriotic. Is it unpatriotic to ask questions, when this President is seeking powers that have never been given to any other President?

On September 19, yesterday, the President sent to Congress his suggested text for a resolution to authorize war with Iraq. The problems with this proposed resolution are numerous. When taken as a whole, this resolution would constitute the broadest possible grant of war powers to any President in the history of our Republic. The President has inherent powers under the Constitution to repel a sudden, unforeseen attack on this Nation—nobody argues with that—but he doesn't have inherent power under that Constitution to launch an unprovoked offensive military attack on another nation or state.

The resolution is an affront to the powers given by the Constitution to Congress on matters of war. The first 2 pages of the draft resolution have 16 "whereas" clauses that would serve to explain the intent of Congress—if the resolution were adopted as it is written—in passing the resolution for the use of force.

These clauses, as conceived by the White House, include numerous distortions of fact. For example, in the ninth "whereas" clause, it is asserted that the United States has the inherent right, as acknowledged in the U.N. Charter, to use force in order to defend itself, as if that is a justification for preemptive war. Let me read the relevant section of the U.N. Charter:

> Nothing in the present charter shall impair the inherent right of individual or collective self defense if an armed attack occurs against a member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security.

That does not seem to justify a preemptive attack. In the 16th clause, it is asserted that:

> The President has the authority under the Constitution to use force in order to defend the national security interests of the United States.

At last, the administration has awakened to the fact that there is still a Constitution. That is the first time that I have ever read anything or heard anything from the administration that would invoke the Constitution in this matter. Let's see what they are saying.

In the 16th "whereas" clause it is asserted that:

> The President has the authority under the Constitution to use force in order to defend the national security interests of the United States.

Well, that is the broadest reading of the Commander in Chief clause I think I have ever seen. What about the power of the Congress under article I, section 8 of the Constitution to declare war? That is not mentioned at all in the resolution proposed by the White House.

Mr. President, the White House resolution would authorize the President to use all means that he determines—that he determines. What a colossus this President is going to become if the Senate gives him this kind of authority. The White House resolution would authorize the President to use all means that he determines appropriate.

What does that mean? What does "appropriate" mean here? It would authorize the President to use all means that he—I repeat, that he—determines appropriate, including forces, to restore international peace and security in the region.

Mr. President, that is not an authorization for war with Iraq only. That language would allow the President to march our troops into Iran, Syria, Lebanon, Yemen, the West Bank, and anywhere else that is part of the Middle East or where the United States has any security interest in the Middle East. I cannot believe the gall and the arrogance of the White House in requesting such a broad grant of war powers.

Mr. President, this is the worst kind of election year politics!

EXHIBIT 1

[From The Washington Post, Sept. 15, 2002]

IN IRAQI WAR SCENARIO, OIL IS KEY ISSUE; U.S. DRILLERS EYE HUGE PETROLEUM POOL

(By Dan Morgan and Davis B. Ottaway)

A U.S.-led ouster of Iraqi President Saddam Hussein could open a bonanza for American oil companies long banished from Iraq, scuttling oil deals between Baghdad and Russia, France and other countries, and reshuffling world petroleum markets, according to industry officials and leaders of the Iraqi opposition.

Although senior Bush administration officials say they have not begun to focus on the issues involving oil and Iraq, American and foreign oil companies have already begun maneuvering for a stake in the country's huge proven reserves of 112 billion barrels of crude oil, the largest in the world outside Saudi Arabia.

The importance of Iraq's oil had made it potentially one of the administration's biggest bargaining chips in negotiations to win backing from the U.N. Security Council and Western allies for President Bush's call for tough international action against Hussein. All five permanent members of the Security Council—the United States, Britain, France, Russia and China—have international oil companies with major stakes in a change of leadership in Baghdad.

"It's pretty straightforward," said former CIA director R. James Woolsey, who has been one of the leading advocates of forcing Hussein from power. "France and Russia have oil companies and interests in Iraq. They should be told that if they are of assistance in moving Iraq toward decent government, we'll do the best we can to ensure that the new government and American companies work closely with them." But he added: "If they throw in their lot with Saddam, it will be difficult to the point of impossible to persuade the new Iraqi government to work with them."

Indeed, the mere prospect of a new Iraqi government has fanned concerns by non-American oil companies that they will be excluded by the United States, which almost certainly would be the dominant foreign power in Iraq in the aftermath of Hussein's fall. Representatives of many foreign oil concerns have been meeting with leaders of the Iraqi opposition to make their case for a future stake and to sound them out about their intentions.

Since the Persian Gulf War in 1991, companies from more than a dozen nations, including France, Russia, China, India, Italy, Vietnam and Algeria, have either reached or sought to reach agreements in principle to develop Iraqi oil fields, refurbish existing facilities or explore undeveloped tracts. Most of the deals are on hold until the lifting of U.N. sanctions.

But Iraqi opposition officials made clear in interviews last week that they will not be bound by any of the deals.

"We will review all these agreements, definitely," said Faisal Qaragholi, a petroleum engineer who directs the London office of the Iraqi National Congress (INC), an umbrella organization of opposition groups that is backed by the United States. "Our oil policies should be decided by a government in Iraq elected by the people."

Ahmed Chalabi, the INC leader, went even further, saying he favored the creation of a U.S.-led consortium to develop Iraq's oil fields, which have deteriorated under more than a decade of sanctions. "American companies will have a big shot at Iraqi oil," Chalabi said.

The INC, however, said it has not taken a formal position on the structure of Iraq's oil industry in event of a change of leadership.

While the Bush administration's campaign against Hussein is presenting vast possibilities for multinational oil giants, it poses major risks and uncertainties for the global oil market, according to industry analysts.

Access to Iraqi oil and profits will depend on the nature and intentions of a new government. Whether Iraq remains a member of the Organization of Petroleum Exporting Countries, for example, or seeks an independent role, free of the OPEC cartel's quotas, will have an impact on oil prices and the flow of investments to competitors such as Russia, Venezuela and Angola.

While Russian oil companies such as Lukoil have a major financial interest in developing Iraqi fields, the low prices that could result from a flood of Iraqi oil into world markets could set back Russian government efforts to attract foreign investment in its untapped domestic fields. That is because low world oil prices could make costly ventures to unlock Siberia's oil treasures far less appealing.

Bush and Vice President Cheney have worked in the oil business and have longstanding ties to the industry. But despite the buzz about the future of Iraqi oil among oil companies, the administration, preoccupied with military planning and making the case about Hussein's potential threat, has yet to take up the issue in a substantive way, according to U.S. officials.

The Future of Iraq Group, a task force set up at the State Department, does not have oil on its list of issues, a department spokesman said last week. An official with the National Security Council declined to say whether oil had been discussed during consultations on Iraq that Bush has had over the past several weeks with Russian President Vladimir Putin and Western leaders.

On Friday, a State Department delegation concluded a three-day visit to Moscow in connection with Iraq. In early October, U.S. and Russian officials are to hold an energy summit in Houston, at which more than 100 Russian and American energy companies are expected.

Rep. Curt Weldon (R–Pa.) said Bush is keenly aware of Russia's economic interests in Iraq, stemming from a $7 billion to $8 billion debt that Iraq ran up with Moscow before the Gulf War. Weldon, who has cultivated close ties to Putin and Russian parliamentarians, said he believed the Russian leader will support U.S. action in Iraq if he can get private assurances from Bush that Russia "will be made whole" financially.

Officials of the Iraqi National Congress said last week that the INC's Washington director, Entifadh K. Qanbar, met with Russian Embassy officials here last month and urged Moscow to begin a dialogue with opponents of Hussein's government.

But even with such groundwork, the chances of a tidy transition in the oil sector appear highly problematic. Rival ethnic groups in Iraq's north are already squabbling over the the giant Kirkuk oil field, which Arabs, Kurds and minority Turkmen tribesmen are eyeing in the event of Hussein's fall.

Although the volumes have dwindled in recent months, the United States was importing nearly 1 million barrels of Iraqi oil a day at the start of the year. Even so, American oil companies have been banished from direct involvement in Iraq since the late 1980s, when relations soured between Washington and Baghdad.

Hussein in the 1990s turned to non-American companies to repair fields damaged in the Gulf War and Iraq's earlier war against Iran, and to tap undeveloped reserves, but U.S. government studies say the results have been disappointing.

While Russia's Lukoil negotiated a $4 billion deal in 1997 to develop the 15-billion-barrel West Qurna field in southern Iraq, Lukoil had not commenced work because of U.N sanctions. Iraq has threatened to void the agreement unless work began immediately.

Last October, the Russian oil services company Slavneft reportedly signed a $52 million service contract to drill at the Tuba field, also in southern Iraq. A proposed $40 billion Iraqi-Russian economic agreement also reportedly includes opportunities for Russian companies to explore for oil in Iraq's western desert.

The French company Total Fina Elf has negotiated for rights to develop the huge Majnoon field, near the Iranian border, which may contain up to 30 billion barrels of oil. But in July 2001, Iraq announced it would no longer give French firms priority in the award of such contracts because of its decision to abide by the sanctions.

Officials of several major firms said they were taking care to avoiding playing any role in the debate in Washington over how to proceed on Iraq. "There's no real upside for American oil companies to take a very aggressive stance at this stage. There'll be plenty of time in the future," said James Lucier, an oil analyst with Prudential Securities.

But with the end of sanctions that likely would come with Hussein's ouster, companies such as ExxonMobil and ChevronTexaco would almost assuredly play a role, industry officials said. "There's not an oil company out there that wouldn't be interested in Iraq," one analyst said.

Staff writer Ken Bredemeier contributed to this report.

EXHIBIT 2

[From the Charleston Gazette Online, Sept. 20, 2002]

WAR FEVER: BUSH, CHENEY WON'T STOP

Although Iraq agreed to readmit U.N. weapons inspectors, President Bush and Vice President Cheney still are clamoring for U.S. military action to topple dictator Saddam Hussein.

The White House continues its mantra that war is necessary because Saddam is "evil" and he's secretly making weapons of mass destruction. But this justification may be a smoke screen. Some observers say the administration's hidden motive is to gain control of Iraq's oil.

In a front-page Sunday report subtitled "U.S. Drillers Eye Huge Petroleum Pool," The Washington Post said America's oil industry—to which Bush and Cheney are closely tied—eagerly wants a "regime change" in Iraq so U.S. firms can begin drilling into Iraq's vast, 112-billion-barrel reserve.

The White House supports the London-based Iraqi National Congress, an umbrella organization of exiled Iraqi groups seeking to remove Saddam. INC leader Ahmed Chalabi told the Post that, when a new regime is installed in Baghdad, "American companies will have a big shot at Iraqi oil."

The Washington paper quoted former CIA Director James Woolsey:

"It's pretty straightforward. France and Russia have oil companies and interests in Iraq. They should be told that if they are of assistance in moving Iraq toward decent government, we'll do the best we can to ensure that the new government and American companies work closely with them."

Amazing. This implies that Bush's war urge isn't about "evil" or weapons. It's about oil.

Atlanta Journal-Constitution columnist Cynthia Tucker said the White House war demands are "tainted with the sickening smell of gasoline."

"If the Bush administration invades Iraq," she wrote, "future scholars will look back on this period and name the period for what it was: the Petroleum Wars. . . . What but oil could possibly explain the Bush administration's stubborn insistence on attacking Suddam Hussein, who had no connection to the atrocities of Sept. 11?"

Sen. Robert C. Byrd, D–W.Va., has taken the lead in questioning President Bush's war plans.

We hope that he and colleagues in Congress try to learn whether the White House war cry is designed to serve America's oil industry.

Mr. BYRD. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Hearing no objection, the quorum call will be terminated.

The Senator from Florida, Mr. NELSON.

IRAQ AND HOMELAND DEFENSE

Mr. NELSON of Florida. I thank the President pro tempore for the recognition, and I thank the Senator from West Virginia, who just delivered a very insightful statement of why the Constitution must be protected and not shredded, why the Constitution must be adhered to in a protection of the carefully constructed separation of powers which gives us the checks and balances that have allowed this Government to endure for well over two centuries, to be the strong Government it is because, as a great British statesman once said: Power corrupts, and absolute power corrupts absolutely.

In the 1780s, when those political geniuses gathered to construct a document upon which this new Nation could be based and the delicate checks and balances were entered, as well as the spirit of compromise in that Constitutional Convention, they set off one branch of Government from the other.

Thus, as we come to this very serious determination of what to do in Iraq, we have to be mindful of the Constitution and its separation of powers. Clearly, the Constitution gives that awesome and very weighty responsibility of declaring war to the legislative branch of Government. There was a reason for that: So that no Executive would go off on a whim or on ill advice and start war but, rather, that the representatives of the people in this body and the body at the other end of the U.S. Capitol would be involved in that decisionmaking and, in fact, would make that decision and then reflect the will of the people.

I thank the Senator from West Virginia for a very cogent and timely statement.

There is trouble in the Middle East and central Asia. I have been to Afghanistan twice since the first of the year. I have been to Pakistan twice. I have been to India. I have been in the middle of that situation, urging the leaders of India and Pakistan to reduce the tensions on the Kashmir border because the last thing the world needs is an exchange of nuclear weapons. Particularly, that would hurt us because both of those countries are helping us in our war against terrorism.

I have been to the Middle East, and that is a troubled part of the world. As we approach this most momentous and solemn occasion about whether or not, in effect, to declare war by giving the President of the United States the authority for the expenditure of funds to conduct such a war, we must be mindful, and the questions must be answered:

What will a war in Iraq do to our war against terrorism? Will it be hurt? Will it be helped? Will our war against terrorism be set aside? Will our attempt to cut off the head of the snake that operates the al-Qaida machine be deterred in any way?

What will happen to the flow of oil out of that region of the world to the industrialized world?

What is the number of troops that is going to be required?

How likely are the casualties, and how many American lives can we expect to lose.

How many troops are we going to have to hold in reserve? Fighting door to door in downtown Baghdad is going to be a different kind of war, and I do not think we can go into Iraq assuming that the opposition is suddenly going to melt away and that the army is going to step forth and suddenly lay down its arms.

I personally believe that Saddam Hussein has chemical and biological weapons, and I personally think he is trying to develop nuclear weapons. If he, in fact, has chemical and biological weapons, will our troops be prepared if those weapons of mass destruction are utilized against our troops or utilized against any of the neighbors in the region?

Are we going to be able to approach a war in Iraq with our allies solidly behind us? There is an election going on right now in Germany, and that certainly does not seem to be the political talk in Germany. Germany is one of our closest allies.

There is also an election going on right now in Turkey, our very substantial ally. That election is in November. With the talk of war, with the imminent possibility of war, how much of a possibility is there that the election would throw to a religious party the opportunity to govern Turkey instead of the secular government that has given such stability, particularly military stability, in that part of the world?

Then the question arises, which I had the opportunity to ask the Secretary of Defense yesterday in the Armed Services Committee, what about after there has been the regime change? Is it going to be a regime that would be friendly to the United States? Would Iraq be kept intact, or would it be ripped asunder?—I might say, to the chagrin of our ally Turkey. What is the plan for the United States to be involved for the long term in Iraq, militarily and economically? We saw that in the phenomenal military success we had in Afghanistan—mostly success; some not so successful, such as Tora Bora. We saw that in the midst of all of that success, in a much different situation, the hard reality, after the fact, that the United States is going to need to be a military and economic presence in Afghanistan for a very long time.

Otherwise, if we leave, it will be like when we left in the late 1980s. After the Soviets got whipped, they tucked their tail between their legs and left, and we, assisting the victors, also left; it created a vacuum, and that vacuum was filled by the terrorists.

So in any post-Saddam Hussein Iraq, it is going to take a lot of effort and time and resources by the United States, and I want to see the administration spell that out clearly, as the Secretary of Defense started to do yesterday in response to my question. There is a lot of detail to be filled in.

It brings us to another question. We have in front of the Senate this question of homeland defense, and there is not one of us in this Chamber who does not want to have a reorganization of the Government so one hand knows better what the other hand is doing, so one hand knows better how we can coordinate, and a reorganization of the Government can achieve that. In the process, let's not overdo ourselves where we take away worker protections, where we strip apart agencies such as the Coast Guard, which is a necessary part of the homeland defense. The Coast Guard has a lot of other duties to perform. Particularly, if one comes from a State such as mine that has such tremendous coastline, the Coast Guard performs innumerable functions not only of search and rescue but of drug interdiction, and of course their duties have been heightened so much now on port security.

So, as we approach homeland defense, we have a great number of decisions to make about which we had better be cautious. Otherwise, going back to my initial comments of commendation for the Senator from West Virginia and his comments about Iraq and concern about the Constitution being shredded with regard to an invasion of Iraq, so, too, we have concerns about the Constitution not being obeyed by the Congress performing its appropriate legislative role as a check and a balance, as an overseer, as an appropriator of the funds, for this new Department that is to be created.

I offer these comments today, and I thank the Senator from West Virginia for his very insightful comments. It is always a pleasure to listen and to learn from the Senator from West Virginia.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I have had the pleasure of describing some of my concerns with regard to the possible invasion of Iraq and also the knitting together of the most massive reorganization of the Federal Government over the last half century and the creation of a new Department of Homeland Defense. This is a massive undertaking. It involves some 170,000 people. It involves scores of agencies, with an annual $38 billion budget.

Implied in my remarks is the urging of caution as we approach the creation of this agency. One of the items to be discussed in the Senate at a future time will be an amendment offered by the Senator from West Virginia to take a cautious and deliberative approach in knitting together this massive agency. The directorates would be set up under the legislation right away, but their implementation would occur over the course of 13 months. It would be done on a phased-in basis, in which the Congress would be consulted as it is phased in, where there would be time to make sure in the example that I have given earlier about the Coast Guard functions other than the homeland security function that, in fact, the Coast Guard would not be deterred from its multiple service roles.

It is a wise approach the Senator from West Virginia has brought to the table in slowing down the process. I hope our colleagues will see the wisdom of protecting the separation of powers as provided in the Constitution, and the wisdom of us being sure that instead of their being such a mass of confusion in a reorganization all at once, that it would be done in a deliberative and phased-in approach.

Mr. BYRD. Will the Senator yield?

Mr. NELSON of Florida. Certainly.

Mr. BYRD. I ask unanimous consent that the Senator have an additional 5 minutes, and that the previous order be extended for an additional 5 minutes.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. BYRD. Madam President, I thank the Senator from Florida for his perspicacious remarks. He has not been asleep. He has been ill with a temporary ailment, but he is back on the mend. He is ready to go.

I also thank my friend for his expression of support for my amendment. That amendment will be voted on next Tuesday. It will be voted up or down. Senators will have an opportunity to go on record, if they support that amendment, an opportunity to support the creation of a Department of Homeland Defense. In voting for my amendment, they will have an opportunity to say that we are not going to hand this whole package of homeland security as it is envisioned in the House or Senate bill. I refer to the Senate bill as the Lieberman bill.

Once the Senate passes on the homeland security bill, then the Senate bill would go to the conference. The conference report eventually would come back to both Houses, and the Senate will not have an opportunity on the conference report to amend. All the Senate will be able to do is vote up or down on the conference report.

Under the House bill or under the Lieberman bill, the overall time certainly under the Lieberman bill, the overall period for the "fleshing out" of this Department of Homeland Security, this fleshing out by moving various and sundry agencies and offices into the several directorates that are established by the Lieberman bill, and the five directorates that are mentioned in my amendment thereto, that fleshing out would occur under the Lieberman bill over a period of 13 months.

But in passing the Lieberman bill, and it is light-years ahead of the House bill, it is a better bill than the House bill, but it can be improved. That is what I am attempting to do with my amendment. Under the Lieberman bill, over a period of 13 months, Congress will be putting itself on the sidelines.

The Senate will be saying: OK, Mr. President, it is all yours. You have 13 months. Congress is going fishing. You have it. It is all yours.

Now, nothing would please this President more than to have such a blank check handed to him. The Lieberman bill, in that respect, is a Tonkin Gulf resolution on homeland security. Congress will be removing itself to the sidelines for those 13 months, and the President and this administration—think about that carefully—with its penchant for secrecy, its penchant for operating out of the White House, having no limitations, will have full authority to move agencies and 170,000 employees into this new department, with Congress relegating itself to the sidelines.

The hand of Congress ought to be there. Congress ought to conduct its constitutional responsibility of oversight in seeing that these agencies are put into the various directorates in an orderly way throughout the 13 months. The Lieberman committee and its counterpart in the House under my amendment would be front and center throughout the 13 months. That committee would still be in the driver's seat, and every 4 months there would be another shift of agencies and directorates, every 4 months, until it is completed, over a 13-month period.

All the while, Mr. LIEBERMAN's committee would take the policies and the recommendations of the Secretary of Homeland Security, look at them, debate them in the committee, amend them, and report the legislation to the Senate, and then the Senate would take the legislation, report it from the Lieberman committee, and debate it, amend it, send it to the President.

I have said we could have expedited procedure. I am not a Senator who likes expedited procedure, but in this situation I would be willing to have expedited procedures to see that the bill doesn't fall through the cracks in the committee, and that it is not filibustered or delayed in the Senate.

That is my prescription, my amendment for order: a phased filling out of the department by agencies and offices, under continuing congressional oversight, avoiding the chaos that will otherwise occur just by handing this whole thing over to the President and the administration—hook, line, and sinker. Just mark my words. I am seeking to improve the Lieberman bill. I am not adversarial to the Lieberman bill. But if we don't adopt my amendment, or something like it, there is going to be chaos, and instead of having a measure that will promote the security of our homeland and its people, we will be taking our eyes off the terrorists, off homeland security.

The federal agencies are out there, working now to provide homeland security. The passage of the Lieberman bill is not necessary in order to get these people out there guarding the ports of entry—the rivers and seaports and airports and the southern and northern borders. They are already out there working now, every day. The FBI, just a few days ago, in the State of New York, located a cell and arrested six persons. Did the FBI have to wait on this homeland security bill? There is no great outcry out there in the country; there is no great clamor for a homeland security bill. When I go to West Virginia, people don't come up to me and say: Senator, let's get that homeland security bill passed. When are you going to pass that bill? There is no great clamor out there. As a matter of fact, it is hard to get anyone to listen to a discussion of the subject.

I have been on this Senate floor time and time again, asking to be heard. Listen. Hear me. Why, the Members of the Senate aren't that greatly interested in this bill. Facing us in less than 2 months is a big election. All of a sudden this administration, which as late as the middle of August has been saying that there were "no plans on the President's desk" to go to war with Iraq. I asked the Secretary of State that question in a committee hearing: oh, there is "no plan. The President doesn't have any plan on his desk." I asked the Secretary of Defense. Oh, the President has no plans. The President himself has been quoted time and time again saying he has no plans; "there is no plan on my desk."

All of a sudden, bam, the administration wants to go to war with Iraq. It wasn't too long ago, I can remember the Secretary's public spokesman and Ari Fleischer and some others in the administration, saying: "Why have a Department of Homeland Defense? We don't need one." That wasn't long ago. But all of a sudden, all of a sudden the President was dropping in the polls and the domestic situation was such that the administration was appearing to be much like the Emperor who had no clothes. All of a sudden, bam, all of this war talk—the war fervor, the drums of war, the bugles of war, the clouds of war—this war hysteria has blown in like a hurricane. And what has that done to the President's polls? Seventy percent.

Don't tell me that things suddenly went wrong. I sat in on some of the secret briefings and nobody from the administration in those secret briefings has been able to answer the question: Why now? Why all of a sudden, when the administration was saying back just in August the President has no plans? Let's not have all of this angst about war.

All of a sudden this country is going to war. And the President is saying, I'll do this if the U.N. doesn't do it.

Now, all of a sudden, is the Administration talking about the domestic situation in this country? Are they talking about the stock market? Are they talking about the weakness of the economy? Are they talking about the jobs that are being lost? Are they talking about the decrease in housing starts in this country? No. No.

The war clouds are there. All of a sudden this administration sends up a resolution to Congress that is a nonstarter, to give this President the authority that he is asking for. Not by this Constitution will I give my vote on that resolution. That resolution is going to take some work. But all of a sudden? Why is it? Is it politics?

The Constitution is apparently irrelevant to people in this administration. What is wanted here by the administration is for Congress, in connection with war, to do the same as they want Congress to do in homeland security—hand over the whole authority and say: Take it, Mr. President. It's all yours for the next 13 months. Congress is going fishing. We are not going to be in the mix. Congress relegates itself to the sidelines.

How foolish can we be as Members of the Senate to tuck our tails between our legs and just quit and say: "You can have it all, Mr. President. Do anything you want to do with homeland security." Well, not by my vote.

I thank the distinguished Senator for his remarks.

Madam President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

EXTENSION OF MORNING BUSINESS

Mrs. CLINTON. Mr. President, I ask unanimous consent the order for the quorum call be rescinded and the time for morning business be extended.

The PRESIDENT pro tempore. There being no objection to the calling off of the quorum, further proceedings under the call are waived.

The distinguished Senator from New York, Mrs. CLINTON, is recognized.

Did the Senator have a further request?

Mrs. CLINTON. That the time for morning business be extended.

The PRESIDENT pro tempore. Without objection, it is so ordered. For how many minutes would the Senator suggest?

Mrs. CLINTON. Ten minutes, Mr. President.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from New York is recognized.

THANKING SENATOR BYRD

Mrs. CLINTON. Mr. President, I express my appreciation, and I know the appreciation of many of our colleagues, for the Chair's steadfast defense of the Constitution and for his reminder to constant all of us, that the Senate, being the premier deliberative body in the world and, as he often says, one of two such great deliberative Senates ever to be seen by history, has an important role to play in ensuring that the decisions that are made today will stand the test of time and will be made in concert with our constitutional framework and our obligations as Senators.

THREE GREAT CHALLENGES FACING OUR NATION

Mrs. CLINTON. Mr. President, in the recent colloquy and discussion that the Senator from West Virginia, our current Chair, had with the Senator from Florida, many important issues were raised about homeland security and how best to pursue the defense of our homeland.

I don't think anyone argues we now face three great challenges in our Nation. First, we have a national security challenge. Our men and women in uniform are addressing that challenge even as we speak—all over the world from Afghanistan to the Persian Gulf to the border of North and South Korea, and many other places as well. All of us support our military and have voted to provide the largest appropriations ever in our history to give our men and women who put themselves in harm's way all of the resources, technology and compensations that our great military deserves.

We have a new challenge; that is, the challenge of homeland security. Certainly, many of us have not had to think of this issue as we are now.

On September 11 of last year when we were so grievously attacked, it became clear that we had to begin to apply the techniques of security much closer to home that we have used to defend America's interests abroad for so many generations. We have to take a very hard look at our vulnerabilities, our infrastructure, our borders, and our public health capacity to deal with biological or chemical warfare. And it requires every one of us—not just those in elective office but every citizen—to become more vigilant and to understand that we are truly facing some serious threats.

At the same time, though, there is no reason for us not to debate the best way to defend ourselves. In every generation of America, we have had great debates about how to fight wars and how to structure our national security. Now we are having a debate about how to deal with the new demands of homeland security.

I applaud the Chair for his absolutely rock-solid commitment, his totally uncynical and heartfelt commitment to make sure we do this right. It is a huge undertaking. Are we being asked to merge departments just so somebody can say we did something or are we going to do it right? It is the right of patriotism to ask hard questions. That is who we are as Americans. We are not people who are blindly led. We are not sheep who follow any leader's oratory. We are an independent, free-spirited, liberty-loving people.

When we have debates, either on the floor of the Senate or in the media, about the right way to proceed, those of us who engage in that debate do so out of a deep wellspring of love and devotion to our country. No one exemplifies that more than the senior Senator from West Virginia.

In addition to our national security challenges and our homeland security challenges, we have all of the challenges we had on September 10 of last year. We have an economy that is stalled. We have a so-called "jobless recovery." We can't seem to come together on important issues.

I am delighted to see my colleague from Arizona in the Chamber. Senator MCCAIN has been a leader and advocate for prescription drugs and for patients getting the right to have the treatment their doctors prescribe—not an HMO or some bureaucrat somewhere.

There are many important issues we should be debating that also will determine the quality of our life and the opportunities for our children.

I hope, as people tune in to see what happens on the Senate floor—when they see the Senator from West Virginia or the Senator from Arizona taking to the floor to talk about an issue—that they recognize that we believe we are acting in the great tradition, not only of the American Senate and Congress, but of America's citizenry, because there isn't any greater title than one can have than citizen of the United States of America.

I, as one Senator, appreciate the Senator's vigilance, his constant reminder to the rest of us that we are here because of our Founders, their genius, and the Constitution which they bequeathed to us. The debates we are holding on this important issue of national homeland security and other pressing domestic issues are in the tradition of those Founders.

I thank the Chair. I yield the floor.

The PRESIDENT pro tempore. The Senator from Arizona, Mr. MCCAIN.

EXTENSION OF MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask for the forbearance of the distinguished

President pro tempore and ask unanimous consent that we extend morning business by about 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I thank the Senator from New York for her kind words about our efforts towards addressing some of the important issues of the day. I thank her.

CONDITION IN GEORGIA

Mr. McCAIN. Mr. President, despite America's preponderant role in the world, it is not often that foreign leaders tell us that their country would not exist as an independent state were it not for U.S. support. Yet leaders across the spectrum in the former Soviet republic of Georgia, including President Eduard Shevardnadze and his political opponents, frankly and gratefully attribute their national survival to unstinting American support since their independence from Soviet rule eleven years ago. In a troubling display of how history does not always move in a positive direction, Georgia's independence is once again under threat, with repercussions that should concern all who cherish freedom.

In an opportunistic twist of President Bush's policy of pre-emption against clear and present dangers to America and the world, President Putin of Russia has appropriated American rhetoric in the war on terrorism to justify Russian subversion of the Georgian state. A free Russian hand in Georgia is apparently the price President Putin believes the United States is willing to pay for Russia's support for military action against Iraq. President Bush and the Congress of the United States should disabuse our friends in Moscow of this illusion, immediately.

President Putin rode to power on promises to defeat Chechen separatists in Russia's south. Reports indicate that members of Al Qaeda and other terrorist groups operate in Chechnya. Russia has a right and an obligation to bring these legitimate terrorists to justice. But rather than targeting them and their Chechen comrades in arms, Russian forces have conducted a military campaign of astonishing brutality against Chechnya's civilian population as leaders in the West have looked the other way.

At the same time, Presidents Bush and Putin have brought about a historic change in U.S.-Russia relations that is moving our two nations from rivalry to strategic partnership. We in the United States welcome this development. But there can be no true partnership absent Russian commitment to the fundamental values that guide American policy in these areas.

I believe President Putin has indeed made a historic decision to align his country with the West as Russia moves away from its imperial past and towards a democratic, prosperous future. Yet Russia's threat to Georgia, like Russia's brutality in Chechnya, calls to mind a discredited, imperial past whose resurgence threatens the transformation in U.S.-Russian relations and, in particular, our joint commitment to eradicating the networks of global terror that threaten both our peoples.

Seized by the domestic political costs of a grinding war in Chechnya that Russia cannot win militarily, and calculating that President Bush's doctrine of pre-emption somehow applies to both a megalomaniacal tyrant like Saddam Hussein and a democratically oriented, pro-Western leader like Eduard Shevardnadze, President Putin has sent Russian jets to bomb targets in Georgia. Putin openly outlines his plans for a Russian invasion of Georgia to wipe out terrorism there. Motivated by a deep dislike of President Shevardnadze, whom they blame for the Soviet Union's disintegration and who has been targeted for assassination by figures linked to Moscow, and tempted by visions of Russian control over Russia's oil-rich Near Abroad, some Russian leaders seem to believe the impunity Russia has enjoyed in Chechnya would carry over to Russian military operations against its sovereign neighbor. They are wrong.

Russia's civilian and military leadership must know that our growing, and welcome, strategic partnership in the war on terror does not sanction unilateral Russian military adventurism for purposes whose relation to the war on terror is incidental. Moscow, and Washington, and Tbilisi are right to be alarmed by continuing reports that Chechen militants and members of al-Qaida have taken refuge in Georgia's lawless Pankisi Gorge. America's proper response was to deploy American Special Forces teams to Georgia to train and equip Georgian security forces to take control of the gorge and enforce Georgian control over its territory.

President Shevardnadze has announced a major Georgian military operation, with U.S. military advisors, to root out terrorists in Pankisi. International monitors are already stationed along Georgia's border with Chechnya, and President Shevardnadze has proposed expanding this monitoring force to prevent militants from finding refuge in Georgia in the future. Shevardnadze yesterday pledged to extradite 13 men that Russia says are Chechen guerrillas captured by Georgian security officials.

The United States and Russia, in the spirit of strategic partnership both countries profess, have a willing partner in President Shevardnadze to eliminate any terrorist presence in Georgia that Moscow correctly perceives to threaten its interests. But Russia has rejected Georgia's candid, and unprecedented, proposals to cooperate in eradicating terrorism. Instead, Russia seems to want to use the terrorist problem as a means of reasserting Russian control in Georgia, which already suffers the presence of three Russian military bases and separatist conflicts supported by Moscow.

Some in Moscow do not understand that unilateral and preemptive Russian military operations in Georgia make the situation worse, not better. These operations threaten to turn Russia's desire to root out a small group of terrorists into an international crisis that threatens what President Putin cherishes—a robust partnership with the West that he has defined as Russia's future.

It is unacceptable and immoral for any American leader to countenance Russia's increasingly open campaign for control of its neighbor to the south—which is why no American leader will do so. But pressure from Moscow works in insidious ways. One "senior Administration official" recently told the New York Times, "Looking now at the new strategic circumstances, I think there may be some rethinking about how we handle the Georgian situation. I think there's a recognition the Russian government has a legitimate security concern."

The United States properly shares Russia's concern about foreign terrorists seeking refuge in Georgia, and can surely find a way to advance our mutual interest in helping Georgia end incursions by these people. But giving Russia carte blanche to impose its own solution—as it has, brutally, in Chechnya—would be a repudiation of the values we are fighting the war on terror to defend and the celebration of freedom that took place in Georgia and across the former Soviet Union when imperial rule crumbled.

Strengthening the Georgian Government's capacity to control parts of its own country and working with American and Georgian officials to eliminate terrorists from Georgian territory, on terms acceptable to the Georgian Government, is an interest Moscow shares with Washington and Tbilisi. It is one we can advance together, in the spirit of partnership that characterizes our cooperation in the war on terrorism—not in the spirit of rivalry and spheres of influence that recall an unpleasant past.

Leaders in Moscow must know that no nation has a greater stake in wiping out al-Qaida's global terror network than the United States. We would never countenance any Georgian actions to wink at terrorism within its borders; indeed, our deployment of American Special Forces to Georgia is a measure of the seriousness with which we take the threat terrorists pose to Georgia and the region. In the same way, President Putin and those around him must know that we cannot countenance unilateral Russian military action that puts Georgia's independence at risk. I hope President Putin will make the choice that befits his role as an enlightened leader of the Russian people, and does not cast his lot with the officers and civilians around him who believe Russian can assert imperial control over a sovereign neighbor without consequence. There will be consequences—and no friend of Russia or Georgia should suggest otherwise.

(Mrs. CLINTON assumed the Chair.)

Mr. McCAIN. Madam President, I ask unanimous consent that a Wall Street Journal editorial of September 16, 2002, entitled "Putin's Iraq Price" a September 19, 2002, editorial in the Washington Post, entitled "A Parody Of Partnership" and an editorial from the Economist magazine of September 21, 2002, entitled "Putin's folly" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 16, 2002]

PUTIN'S IRAQ PRICE

One danger of President's Bush's otherwise successful overture to the United Nations on Iraq is the price the U.S. will have to pay to win Security Council approval. Russian President Vladimir Putin has already submitted his bill, requesting a global wink at military intervention in what used to be Soviet Georgia.

Even as the U.N. was still digesting Mr. Bush's speech last Friday, Mr. Putin appropriated the language of U.S. policy to justify his Georgian meddling. He accuses his southern neighbor of harboring Chechen rebels and others he calls terrorists, and the bold Russian hopes Mr. Bush will give him a pass in return for approving action against Iraq. This is an offer we hope the U.S. refuses, not least so it can begin better defining just what the new Bush "pre-emption" doctrine means.

For starters Mr. Putin's analogy is preposterous. Georgian President Eduard Shevardnadze is not only not another Saddam Hussein, he is one of the more enlightened leaders of the new countries that were once part of the former Soviet Union. He hasn't tried to acquire nuclear weapons or plotted to assassinate a U.S. President, much less invaded a neighbor, gassed his own people or ignored 16 U.N. resolutions.

On the contrary, Mr. Shevardnadze's main problem is that he has charted a pro-Western foreign policy that irritates some of his former Soviet colleagues in Moscow. He has already survived several assassination attempts, with the chief suspect in one case finding safe haven in Russia. He has fought a separatist war against Abkhaz rebels trained and funded by Russia. Russia still has three military bases in Georgia and has defied orders from the Organization for Security and Cooperation in Europe to vacate its base in Abkhazia and negotiate withdrawal from the others.

Mr. Shevardnadze is understandably keen not to give his big neighbor any excuse to intervene militarily. In response to Russia's latest saber-rattling, he has beefed up border security and invited monitors into Georgia to testify to his country's anti-terror efforts. U.S. special forces are already helping train and equip the Georgian military to root out rebels from Chechnya, a Russian republic on its northern border.

All of which suggests the need for Mr. Bush to elaborate on his pre-emption doctrine. We support this policy as necessary in a world in which madmen who control countries can get nuclear weapons; "non intervention" in the internal affairs of such countries is no longer a safe strategy. But the critics have a point that without some clarifying distinctions, the doctrine of preventive action can be abused by countries looking to settle old scores or grab new territory. Drawing a line between peaceful Georgia and Iraq—ruled by a lunatic dictator who traffics with terrorists and seeks nuclear weapons—would be a useful first step.

On Friday U.S. Undersecretary of State John Bolton began to take that step by saying the U.S. "opposes any unilateral military action by Russia" inside Georgia. He added that "I don't see that there are really any quid pro quos to be had" over Iraq, "whether with Russia or others."

We hope that view holds inside the Bush Administration, even as Russian pressure inevitably increases. Agreeing to Mr. Putin's Georgian price would be damaging to U.S. interests, and isn't necessary in any case. It would set a precedent for Russian action in oil-rich Central Asia, emboldening Russian nationalists to meddle next in Azerbaijan and elsewhere. It would also be dishonorable, abandoning a man in Mr. Shevardnadze who helped bring the Cold War to a peaceful end as the Soviet foreign minister under Mikhail Gorbachev.

It's doubtful that Mr. Putin will want to block U.S. action against Iraq in any event. Siding with Saddam would only undermine the worthy efforts he has made so far to build confidence in Russia as a political and business partner of the West. His overstretched military is already bleeding in Chechnya, and the last thing he needs is a ground war in neighboring Georgia. Using Iraq as cover for more meddling in impoverished Caucasus would only recall memories of Soviet imperialism.

Mr. Bush began to turn would opinion on Iraq last week not merely because he went to the U.N. but mainly because of the rightness of his cause. The U.S. can carry the day in Iraq without sacrificing its principles by catering to Mr. Putin's nationalist opportunism.

[From the Washington Post, Sept. 19, 2002]

A PARODY OF PARTNERSHIP

Vladimir Putin, the soul-baring friend of President Bush, is offering another demonstration of why the administration's flighty rhetoric about the "transformation" of U.S.-Russian relations has been premature. Mr. Putin's government is doing its best to hamstring Mr. Bush's campaign against Iraq; the Russian ambassador at the United Nations rushed to embrace Saddam Hussein's transparently tactical acceptance of weapons inspectors and declared that no further action by the Security Council was needed. Meanwhile, Mr. Putin himself is peddling a grotesque parody of Mr. Bush's principled stand on both Iraq and Afghanistan: Last week he informed the Security Council, in terms that deliberately echoed Mr. Bush, that the war on terrorism may require a unilateral Russian attack on the small neighboring nation of Georgia, a former republic of the Soviet Union that infuriates Moscow merely by existing as an independent, democratic and pro-Western state. This stunningly brazen attempt to cloak an old-fashioned threat of military aggression in Mr. Bush's new doctrine of preemption has been accompanied by an even more cynical suggestion of quid pro quo: Allow Russian to crush Georgian sovereignty, Mr. Putin hints, and he just might acquiesce in the enforcement of the U.N.-ordered disarmament of Iraq. Bush administration officials are saying they won't play Mr. Putin's game; the White House needs to make that point unambiguously this week to Mr. Putin's visiting defense and foreign ministers.

The nominal basis for Mr. Putin's threat to Georgia, a country the size of South Carolina with a mostly Christian population of 5 million, is that it is tolerating the presence of Muslim rebel fighters from the neighboring Russian province of Chechnya. Mr. Putin insists that these are terrorists, indistinguishable from al Qaeda, and that Georgia is allowing them to operate training camps and pass freely across the border. In fact the insurgents are almost all ethnic Chechens fighting for self-rule who take refuge during summer in the Pankisi Gorge, a wild, 11-mile-long strip that has long been lawless. The Bush administration contends that some al Qaeda operatives may be present in the Pankisi, but evidence is scant. In any case, the Georgian government clearly has no interest in backing al Qaeda terrorists, or even the Chechens; it has readily accepted an ongoing U.S. training programing for its army, and it recently dispatched 1,000 troops to clear out the Pankisi. President Eduard Shevardnadze has asked to meet with Mr. Putin and invited international monitoring of the border area; this week his administration agreed to extradite 13 suspects Russia says are Chechen guerrillas.

These initiatives are not enough for Mr. Putin: His generals say they are readying a cross-border invasion, following up on airstrikes carried out last month. It's not likely that Russian forces, which have failed to control Chechen movements across their own border, could eliminate or even locate any militants in the Pankisi. But that's not Mr. Putin's real aim. His goals are to distract attention from a recent series of military disasters in Chechnya—incidents that have revived discussion in Russia about the futility of Mr. Putin's campaign to suppress the rebellion by force—and to use the leverage of Russia's U.N. Security Council vote on Iraq to achieve suzerainty over Georgia, which Moscow has been seeking since long before the war on terrorism. This is not the behavior of a soul mate, or even a "strategic partner"; and a U.S.-Russian relationship afflicted by such tactics has not been transformed.

[From the Economist, Sept. 21, 2002]

PUTIN'S FOLLY

Those who write speeches for Russia's president, Vladimir Putin, no doubt imagine they are good students of American foreign policy. They seem determined to copy, or rather caricature, every new American idea. They no doubt had a hand, too, in drafting the stern letter that Mr. Putin sent to the United Nations, laying out his case for intervention in neighbouring Georgia unless its government clears its territory of a group of Chechen terrorists who have holed up there.

Like America in Iraq, his officials claim, Russia is insisting on its right to take military action, alone if necessary, against a nation which it deems to be in breach of international law; like America in Afghanistan,

> Russia justifies itself by recalling that failed states can be a source of festering security threats. Like George Bush, Mr. Putin is merely proposing to act pre-emptively, in extremis, against a state that poses a deadly and increasing danger. Indeed, regime change cannot be ruled out.
>
> A mixture of all these arguments has been used by Mr. Putin and his lieutenants to justify their recent and repeated threats of military action against Georgia—some air raids have already taken place, say the Georgians, and Russians have been hinting darkly that a land attack may follow. The Georgians stand accused of posing a threat to Russian security because they cannot or will not take effective action against the Chechen fighters, possibly allied with Islamist extremists from elsewhere, who have set up camp in the remote Pankisi gorge. If you cannot solve the problem—and guarantee that no attacks on Russian territory will be launched from Georgian territory—then we will, is the Kremlin's message. The Russian media, meanwhile, have mounted an escalating series of personal attacks on Georgia's president, Edward Shevardnadze. The clear implication is that nobody in Moscow would shed a tear if, in the turmoil caused by a Russian attack, the leadership of Georgia were to change hands.
>
> If there is not a grain of truth in Russia's arguments, it lies in the fact that Georgia, while not a failed state, is one that has had difficulty asserting its authority in its border areas. Indeed in two of its regions—Abkhazia and South Ossetia—the writ of the Tbilisi government does not run at all. Even in other places, it struggles to collect taxes and enforce the law. This is a dangerous state of affairs; where the rule of law is absent, smugglers in drugs, guns and even deadlier things fill the void.
>
> THE MOTE IN RUSSIA'S EYE
>
> But there is also a huge flaw in Russia's argument. If the Georgian state functions less than perfectly—in Pankisi and elsewhere—that is in large part because Russia itself has consistently undermined it. The restive mini-states within Georgia's legal boundaries (Abkhazia, South Ossetia and, to some extent, Ajaria in the south-west) defy the government with the help of powerful friends in Moscow.
>
> By sending 150 or so military advisers to Georgia, America is attempting to bolster the country's security forces. But even that programme has been undermined by Georgian officers with connections in Russia. If Russians are concerned about the security of their southern frontier, they would do better to reinforce Georgia's statehood rather than chip away at it. Georgia is neither a rogue state, nor (as yet) a failed one. Nor do Georgians need outsiders to orchestrate regime change for them. Imitation is a form of flattery, but other should not be duped into seeing parallels where none exist.

Mr. McCAIN. Madam President, all three of these editorials I have asked to be printed in the RECORD talk about the danger we are now experiencing concerning Mr. Putin's actions, or possible actions, in Georgia.

The Economist magazine editorial says:

> Russia would do better to bolster Georgia's stability, not undermine it.

It says:

> If there is one grain of truth in Russia's arguments, it lies in the fact that Georgia, while not a failed state, is one that has had difficulty asserting its authority in its border areas. . . .
>
> But there is also a huge flaw in Russia's argument. If the Georgian state functions less than perfectly—in Pankisi and elsewhere—that is in large part because Russia itself has consistently undermined it. The restive mini-states within Georgia's legal boundaries . . . defy the government with the help of powerful friends in Moscow. . . .
>
> If Russians are concerned about the security of their southern frontier, they would do better to reinforce Georgia's statehood rather than chip away at it. Georgia is neither a rogue state, nor (as yet) a failed one. Nor do Georgians need outsiders to orchestrate regime change for them. Imitation is a form of flattery, but others should not be duped into seeing parallels where none exist.

In the Washington Post it goes on to say, referring to Mr. Putin:

> His goals are to distract attention from a recent series of military disasters in Chechnya—incidents that have revived discussion in Russia about the futility of Mr. Putin's campaign to suppress the rebellion by force—and to use the leverage of Russia's U.N. Security Council vote on Iraq to achieve suzerainty over Georgia, which Moscow has been seeking since long before the war on terrorism. This is not the behavior of a soul mate, or even a "strategic partner"; and a U.S.-Russian relationship afflicted by such tactics has not been transformed.

Madam President, I thank the Presiding Officer for her patience. I do believe this is an important issue. I hope our Russian friends, with whom we have a very strong relationship, will not embark on an adventure which could have serious repercussions not only in the region but in the world.

I thank you, Madam President, and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE AGENDA

Mr. DASCHLE. Madam President, I have had a discussion with Senator LOTT with regard to next week's schedule. I have indicated privately to a number of Senators my concern for the legislative agenda we must confront prior to the time we leave. That agenda includes a number of issues that have support on both sides of the aisle. It recognizes that we have been on the homeland security bill now for 3 full weeks and the Interior appropriations bill for an equal amount of time. I am increasingly concerned that the longer we stay on those bills, the less likely it is that we will be able to adjourn on time.

Given that realization, my expectation is that we will require colleagues to be here at least possibly as early as next weekend to confront this agenda and to complete our work. I am not announcing necessarily that next weekend will be a work period, but I am suggesting to all colleagues that they not make any firm commitments next weekend.

We have to finish the homeland security bill next week. We have to deal with perhaps a continuing resolution, short-term, because of the pending end of this fiscal year. We have a number of other matters that have to be taken up prior to the completion of our work at the end of this session.

As I look at that schedule, I conclude that there is virtually no way we will be able to do this, and do it successfully, without longer hours and more days. The only days available to us, of course, are the Mondays and Fridays that have oftentimes been travel days for our Members but also Saturdays and Sundays.

It is my expectation that we will be using weekend days between now and the end of session, that we will require Senators to be here at least on Saturday and possibly on Sunday in an effort to complete our work. That may occur as early as next weekend.

This is not meant to be a threat or in any way a signal that we are not prepared to take whatever action necessary to preclude that, but I also want Senators to know that that is a very likely possibility.

I come to the floor with a recognition that we do need to make Senators aware of the importance of the schedule and the significant amount of work that needs to be done before we leave.

I appreciate everyone's cooperation and will appreciate the opportunity to speak more specifically to the schedule early next week.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

● Mr. WELLSTONE. Madam President, I regret that I was necessarily absent for the vote on the confirmation of Reena Raggi to the Second Circuit Court of Appeals. I would like to include in the RECORD that I would have voted "yes" on this nomination.●

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mr. REID. We are now in morning business; is that true?

The PRESIDING OFFICER. That is correct.

TRIBUTE TO DR. KELLY S. SEGARS

Mr. LOTT. Mr. President, I would like to recognize the professional achievements and public service of a truly extraordinary man, Dr. Kelly S. Segars, and to congratulate him on his selection as the 2002 Mississippi Family Physician of the Year.

The son of the late "Doc" and Ora Segars of Red Bay, Alabama, Dr. Segars displayed a penchant for helping and healing the sick from a very early age. He graduated with honors from high school, pharmacy school, and medical school despite an interruption while serving one tour in the Army during the Korean War. His military decorations include the American Defense Medal, the United Nations Medal, and the Army Commendation Medal.

Upon graduation from medical school in 1959, Dr. Segars entered the practice of Family Medicine in Iuka, Mississippi, not far from his birthplace, where he continues to practice today. Dr. Segars delivered some 500 babies before obtaining his board certification in geriatrics. He has been seeing some of the same patients for over 40 years and considers his many patients simply his "friends who have a medical problem occasionally." Dr. Segars' son joined his practice about 15 years ago, and the clinic, which is vital to the health of so many in the rural community of Iuka, has grown to include 31 employees.

Despite his resounding success as Iuka's resident physician—as if that accomplishment was not already enough for one man—Dr Segars' has consistently worked for the betterment of his community in many other ways. He established the First American National Bank just four years after opening his medical practice. It was the first bank established in the Great State of Mississippi since the bank holiday in 1929 when all of the banks were closed. He also chaired his town's municipal library committee where he initiated the project, obtained the funds, and oversaw construction of the library. His most recent civic project is the re-designation of highway US 72 to Interstate Highway 72, acknowledging the advantage of an Interstate Highway to draw bigger, more lucrative industries to Tishomingo County. It takes a special individual like Dr. Segars, with a clear vision of the future, to recognize the need for a public institution or additional infrastructure, and then to take it upon himself to see to it that the need is fulfilled.

As a charter member of the Board of Directors of the Tishomingo County Development Foundation and Industrial Park, he was instrumental in the acquisition of the Lockheed-Aerojet office and the recent establishment of the AlliantTech Systems facility. He was named as 1992 Citizen of the Year and the Aerospace Business Center was most appropriately named in his honor.

Dr. Segars has served as chair of the University of Mississippi Guardian Society, President of the Medical Alumni Association, and as a member of the Dean's Advisory Committee, University of Mississippi School of Medicine. He also is a member of the Iuka Methodist Church, where he is the Health and Welfare Representative and sits on the Administrative Board.

Dr. Segars' latest recognition as Mississippi Family Physician of the Year, by the Mississippi Academy of Family Physicians, could not have been awarded to a man more deserving of this very special recognition. Chosen from among hundreds of family physicians throughout Mississippi, Dr. Segars was nominated by a fellow physician and selected for the position by a panel of his peers. The panel clearly recognized—as have many others—that Dr. Segars' unique brand of personalized care and true concern for his patients has distinguished him as the best physician that Mississippi, and our country, has to offer.

In addition to his many professional and civic accomplishments, Dr. Segars also is an extremely successful family man. He and his wife Martha are the proud parents of three children: K. Scott Segars, Jr. M.D., and wife Diane; Mark Segars, Tishomingo County Prosecuting Attorney; and Leigh Segars, an attorney in Florida. Dr. Segars and his wife also have three grandsons: Tyler, Jake, and Thompson.

I ask my colleagues to join me today as I congratulate Dr. Kelly S. Segars as the Mississippi Family Practice Physician of the Year and wish him and his family all the best in his future as he continues as a leader in our community. On behalf of my colleagues on both sides of the aisle, I thank Dr. Segars for the many things he has done for the town of Iuka, Tishomingo County, the State of Mississippi, and our great Nation.

MORE GUNS EQUALS MORE SUICIDES

Mr. LEVIN. Mr. President, a study by the Harvard School of Public Health brings to light disturbing information about the presence of firearms in a home. The study conducted by Drs. Matthew Miller, Deborah Azrael, and David Hemenway entitled "Household Firearm Ownership and Suicide Rates in the United States" concluded that in states where gun ownership levels are higher, a disproportionately large number of people commit suicide.

According to the study, of the more than 30,000 suicides in 1998, 57 percent involved the use of a firearm. In states with more guns, people were more likely to commit suicide. The study found that in States with a higher incidence of gun ownership people were 1.6 times more likely to commit suicide than people in states with a lower incidence of gun ownership. Further, the Harvard study shows that people 15–24 years old from states with a high incidence of gun ownership are more than four times more likely to commit suicide than people the same age in states with a low incidence of gun ownership. According to statistics cited by the Brady Campaign to Prevent Gun Violence, in 1998, more than 1200 children aged 10–19 committed suicide with firearms. Nearly two-thirds of all completed teenage suicides involve a firearm.

One step that can be taken to reduce suicides among children is to prevent easy access to guns for children. I cosponsored Senator DURBIN's Child Access Prevention Act because it would do just that. Under this bill, adults who fail to lock up loaded firearms or an unloaded firearm with ammunition could be held liable if a weapon is taken by a child and used to kill or injure him or herself or another person. The bill would also increase the penalties for selling a gun to a juvenile and create a gun safety education program that includes parent-teacher organizations, local law enforcement and community organizations. This bill is similar to legislation President Bush signed into law as Governor of Texas. I support this bill and I believe it is a meaningful step in the right direction. It's clear that reducing child access to guns can save lives.

NATIONAL POW/MIA RECOGNITION DAY

Mr. LUGAR. Mr. President, today is National POW/MIA Recognition Day.

I rise on this special day to remember and honor those brave Americans who during past armed engagements in defense of this nation or our alliances were prisoners of war and those who are still listed missing in action. As a nation, we set aside this day to further recognize the sacrifices of the restless families of these fine patriots, assuring them that we have not forgotten.

In the past year, our dedicated Soldiers, Sailors, Airmen and Marines have again taken up the mantle of freedom; this time to prosecute an elusive and dangerous enemy. They have ousted an oppressive regime in Afghanistan and continue to hunt those implicated in the war on terrorism. Like generations before them, these Americans have sworn an oath to support and defend the Constitution. As a former Navy officer, I feel strongly that the United States government has a similarly strong obligation to these men and women who serve in the Armed Forces. Specifically, we must work to ensure the return of POWs and MIAs at the end of hostilities. We must not rest until all American POW/MIAs are returned and accounted for, and the many questions that have overwhelmed their families are answered.

The vigorous pursuit of this commitment must continue through on-site investigations being undertaken in Indochina and through a fuller examination of records in Russia, Iraq and

Southeast Asia. For in our history, we recall somberly today that while thousands died, many others endured years in starved, tortured, isolated misery before regaining their freedom. Their perseverance, integrity and heroism are shining examples of the core values on which this nation was founded and became great.

A year ago, Americans were sifting through smoldering rubble at the Pentagon and at the site of the twin towers looking for their comrades in arms. Those actions have ceased, but around the world, others continue to sift through long-silent war zones to find and identify remains of the fallen and the missing.

The Department of Defense Prisoner of War/Missing Personnel Office has had considerable successes in the past year, but we still have much to accomplish before our responsibility to all the POWs and MIAs is fulfilled. Just this year, we have identified the remains of 46 Americans who served in the Vietnam War. Unfortunately, there are still 1,907 unaccounted Americans who served in Vietnam. Also this year, 32 Americans have been repatriated who served in the Korean War, while over 8,100 remain unaccounted for. And, through hard work and determination in the past year, the DPMO has recovered the remains of eight Americans who served in the Second World War. 78,750 Americans who served in World War II are as yet accounted.

It is important to remember that this is a cooperative effort and requires commitments from all branches of our government as well as the countries where the servicemen remain missing. Negotiations in the past six years with North Korea have yielded many successes. One search operation continues even today in North Korea and a third and final operation for the year will begin on September 28, concluding October 29.

According to the Department of Defense, America has had 23 operations since 1996 to locate MIA's in North Korea. These missions are all possible because of cooperation and negotiation with North Korea. Let this cooperation be an example to all of what can be accomplished when we work together.

Today, I want to pay special tribute to the dedication and service of the soldiers from my home State of Indiana who are or were POW/MIAs from the Vietnam War and the Korean War.

These great Americans and their families have the gratitude of this free Nation. I urge the Senate, the administration, the Departments of Defense and State, the Joint Chiefs of Staff, and the National Security Agency to redouble their efforts to bring our soldiers home as quickly as possible. Let us all take heart from the POW/MIA flag, displayed in the Capitol rotunda, which proclaims: "You Are Not Forgotten."

I ask unanimous consent that the names of Indiana's missing and unaccounted from the Korea and Vietnam Wars be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Defense Prisoner of War/Missing Personnel Office

U.S. Unaccounted-For from the Vietnam War

Prisoners of War, Missing in Action and Killed in Action/Body not Recovered
Report for: Indiana

Military Service	Country of Casualty	Name	Loss Rank	Status	Date of Incident	Home of Record
USAF	N. Vietnam	BANCROFT, WILLIAM W JR	O2	BB	1970/11/13	INDIANAPOLIS, IN
USA	S. Vietnam	BEALS, CHARLES ELBERT	E4	BB	1970/07/07	FRENCH LICK, IN
USA	S. Vietnam	BEECHER, QUENTIN RIPPETOE	W2	XX	1967/06/11	TERRE HAUTE, IN
USMC	S. Vietnam	BREINER, STEPHEN EUGENE	E2	BB	1968/09/24	DECATUR, IN
USA	S. Vietnam	CARVER, HARRY FRANKLIN	E6	BB	1968/04/10	NEW ALBANY, IN
USMC	S. Vietnam	CHOMEL, CHARLES DENNIS	E2	BB	1967/06/11	COLUMBUS, IN
USAF	N. Vietnam	CLARK, LAWRENCE	E5	XX	1966/10/18	LOGANSPORT, IN
USMC	N. Vietnam	CLEM, THOMAS DEAN	O2	XX	1968/05/03	NEW PARIS, IN
USMC	S. Vietnam	CRODY, KENNETH LLOYD	E4	BB	1972/07/11	GRIFFITH, IN
USAF	S. Vietnam	DAVIS, GENE EDMOND	E5	XX	1966/03/13	EVANSVILLE, IN
USMC	S. Vietnam	DUCAT, PHILLIP ALLEN	O3	BB	1966/09/25	FT WAYNE, IN
USAF	S. Vietnam	DUVALL, DEAN ARNOLD	E3	XX	1966/03/13	MONTICELLO, IN
USA	Laos	GREEN, GEORGE CURTIS JR	E5	BB	1970/12/04	ATTICA, IN
USMC	S. Vietnam	HARPER, RALPH LEWIS	E3	BB	1968/06/06	INDIAPOLIS, IN
USA	S. Vietnam	HEITMAN, STEVEN W	E5	XX	1968/03/13	INDIANAPOLIS, IN
USAF	S. Vietnam	HELD, JOHN WAYNE	O3	XX	1968/04/17	INDIANAPOLIS, IN
USMC	S. Vietnam	HEWITT, SAMUEL EUGENE	E2	XX	1966/03/23	WALKERTON, IN
USAF	Laos	HILLS, JOHN RUSSELL	O4	BB	1966/02/14	SOUTH BEND, IN
USAF	S. Vietnam	HOSKINS, DONALD RUSSELL	E6	BB	1972/04/26	MADISON, IN
USA	S. Vietnam	HOWES, GEORGE ANDREWS	W3	XX	1970/01/10	KNOX, IN
USAF	Laos	JOHNS, PAUL F	O4	XX	1968/06/28	LACONIA, IN
USA	S. Vietnam	JOHNSON, JAMES REED	E3	BB	1966/08/21	INDIANAPOLIS, IN
USA	S. Vietnam	JONES, GRAYLAND	E3	BB	1969/11/23	INDIANAPOLIS, IN
USAF	S. Vietnam	KLUTE, KARL EDWIN	O3	BB	1966/03/14	RICHMOND, IN
USN	N. Vietnam	KNOCHEL, CHARLES ALLEN	O3	BB	1966/09/22	LAFAYETTE, IN
USMC	S. Vietnam	KUHLMAN, ROBERT J JR	O2	XX	1969/01/17	RICHMOND, IN
USN	N. Vietnam	LAMBTON, BENNIE RICHARD	E7	BB	1966/06/13	INDIANAPOLIS, IN
USA	S. Vietnam	LAUTZENHEISER, MICHAEL (NMI)	E5	BB	1971/10/26	MUNCIE, IN
USA	S. Vietnam	LAWSON, KARL WADE	E4	BB	1968/04/09	TERRE HAUTE, IN
USA	S. Vietnam	LINDEWALD, CHARLES W	E7	XX	1968/02/07	LA PORTE, IN
USA	S. Vietnam	LYON, JAMES MICHAEL	O3	KK	1970/02/05	INDIANAPOLIS, IN
USAF	S. Vietnam	MANN, ROBERT LEE	O3	BB	1965/10/22	LAFAYETTE, IN
USA	S. Vietnam	MARTIN, JERRY DEAN	E3	BB	1970/11/03	BEDFORD, IN
USMC	N. Vietnam	MCGARVEY, JAMES MAURICE	O4	XX	1967/04/17	VALPARAISO, IN
USAF	N. Vietnam	MIDNIGHT, FRANCIS B	O2	XX	1967/08/23	GARY, IN
CIVILIAN	S. Vietnam	MILLER, GEORGE C		BB	1975/03/12	, IN
USN	S. Vietnam	MITCHELL, HARRY E	E8	XX	1968/05/05	MARION, IN
USN	N. Vietnam	MONTGOMERY, RONALD WAYNE	E5	BB	1969/10/02	MOORES HILL, IN
USA	S. Vietnam	MOORE, RALPH EDWARD	E3	BB	1967/05/03	INDIANAPOLIS, IN
USA	Laos	NASH, JOHN MICHAEL	O3	BB	1966/03/15	TIPTON, IN
USAF	N. Vietnam	NELLANS, WILLIAM L	O3	XX	1967/09/17	WARSAW, IN
USA	S. Vietnam	NEWBURN, LARRY STEPHEN	E3	BB	1967/08/29	KOKOMO, IN
USN	S. Vietnam	PARKER, THOMAS AQUINAS	E6	BB	1967/04/05	OXFORD, IN
USAF	N. Vietnam	POOR, RUSSELL ARDEN	O3	XX	1967/02/04	WARSAW, IN
USN	S. Vietnam	POSEY, GEORGE RAY	E3	BB	1968/09/05	ANDERSON, IN
USN	N. Vietnam	ROGERS, BILLY LEE	E3	BB	1969/12/01	GARY, IN
USAF	Laos	ROGERS, CHARLES EDWARD	O4	BB	1967/05/04	GARY, IN
USN	S. Vietnam	SCHOONOVER, CHARLES DAVID	O4	BB	1966/01/16	INDIANAPOLIS, IN
USA	Laos	SMITH, RONALD EUGENE	E7	BB	1970/11/28	COVINGTON, IN
USN	N. Vietnam	SOUCY, RONALD PHILIP SR	E5	BB	1967/05/23	WHITING LAKE, IN
USMC	S. Vietnam	STAEHLI, BRUCE WAYNE	E3	XX	1968/04/30	CROW POINT LAKE, IN
USAF	N. Vietnam	STONEBRAKER, KENNETH ARNOL	O3	XX	1968/10/28	HOBART, IN
USAF	N. Vietnam	STUART, JOHN F	O4	XX	1972/12/20	INDIANAPOLIS, IN

Status Codes:
AR - AWOL/Deserter/Collaborator Returnee
BB - Killed in Action, Body Not Recovered
BR - Body Recovered
EE - Escapee
KK - Died in Captivity, Remains Not Returned
KR - Died in Captivity, Remains Returned
MM - Missing
NR - Remains Returned/Remains Recovered
PP - Prisoner
RR - Returnee
XX - Presumptive Finding of Death

This Vietnam War missing personnel report was prepared by the Defense Prisoner of War/Missing Personnel Office (DPMO). Please visit our web site at http://www.dtic.mil/dpmo for updates to this report and other official missing personnel reports.

Report Prepared: 8/19/02

Defense Prisoner of War/Missing Personnel Office

U.S. Unaccounted-For from the Vietnam War - Prisoners of War, Missing in Action and Killed in Action/Body not Recovered

Military Service	Country of Casualty	Name	Loss Rank	Status	Date of Incident	Home of Record
USA	S. Vietnam	STUCKEY, JOHN STEINER JR	E2	BB	1967/11/11	CLOVERDALE, IN
USA	S. Vietnam	TRAMPSKI, DONALD JOSEPH	E2	XX	1969/09/16	CHESTERTON, IN
USAF	Cambodia	WAGNER, RAYMOND ANTHONY	E3	BB	1972/03/27	EVANSVILLE, IN
USA	S. Vietnam	WHITTLE, JUNIOR LEE	E4	BB	1966/09/24	INDIANAPOLIS, IN
USAF	Laos	WRIGHT, THOMAS T	O3	XX	1968/02/27	GARY, IN
USA	S. Vietnam	YEAKLEY, ROBIN RAY	E4	BB	1972/06/11	SOUTH BEND, IN
USA	S. Vietnam	YOUNG, JEFFREY JEROME	E3	BB	1970/04/04	INDIANAPOLIS, IN

Report Totals:

Total BB - Killied in Action, Body Not Recovered:	37
Total KK - Died in Captivity, Remains Not Returned:	1
Total MM - Missing:	0
Total PP - Prisoner:	0
Total XX - Presumptive Finding of Death:	22
Total:	60

End of Report

Status Codes:

AR - AWOL/Deserter/Collaborator Returnee
BB - Killied in Action, Body Not Recovered
BR - Body Recovered
EE - Escapee
KK - Died in Captivity, Remains Not Returned
KR - Died in Captivity, Remains Returned
MM - Missing
NR - Remains Returned/Remains Recovered
PP - Prisoner
RR - Returnee
XX - Presumptive Finding of Death

This Vietnam War missing personnel report was prepared by the Defense Prisoner of War/Missing Personnel Office (DPMO). Please visit our web site at http://www.dtic.mil/dpmo for updates to this report and other official missing personnel reports.

Defense Prisoner of War/Missing Personnel Office

Personnel Missing - Korea (PMKOR)

(Report for Indiana)

Name	Military Service	Service Number	Grade	Rank	Unit	Incident Vehicle	Date of Incident	Date of Death (*See note)	Returned Date	Status	Home of Record
ACTON, FLOYD NEAL	USA	RA23047724	E4	CPL	G CO 2/38 REGT 2ID	NONE	5/17/51	12/31/53		MIA	JACKSON, IN
ADAMS, JAMES DWIGHT	USA	RA16312228	E4	CPL	MED CO 38 REGT 2ID	NONE	11/29/50	11/29/50		KIA	TIPPECANOE, IN
AKERS, HERBERT D	USA	RA16314622	E4	CPL	A BTRY 82 AAAW 2ID	NONE	12/1/50	3/5/51		POW	VIGO, IN
ANSPAUGH, GEORGE	USA	ER35908869	E7	SFC	G CO 2/38 REGT 2ID	NONE	5/17/51	12/31/53		MIA	DEKALB, IN
ARCHER, ROBERT GENE	USA	RA15420142	E4	CPL	HQ CO 1/32 REGT 7ID	NONE	12/2/50	2/28/51		POW	CLAY, IN
BAKER, DAVID	USA	RA16324110	E3	PFC	I CO 3/24 REGT 25ID	NONE	11/28/50	12/31/53		MIA	LAKE, IN
BAKER, DONALD LEWIS	USA	RA16277531	E5	SGT	H CO 2/24 REGT 25ID	NONE	9/6/50	3/31/51		POW	HOWARD, IN
BARKER, DONALD LEE	USA	RA35971592	E4	CPL	HQ CO 2/9 REGT 2ID	NONE	11/26/50	11/26/50		KIA	CASS, IN
BAUER, LESTER WILLIAM	USA	RA15277574	E3	PFC	I CO 3/29 REGT 24ID	NONE	7/27/50	12/31/53		MIA	CLINTON, IN
BEARD, ROBERT ALLEN	USA	O-02212047	O2	1LT	H CO 2/9 REGT 2ID	NONE	11/26/50	12/31/53		MIA	VERMILLION, IN
BEED, MILTON MARION	USA	RA17038006	E7	SFC	A CO 1/38 REGT 2ID	NONE	2/12/51	10/31/51		POW	MARION, IN
BELLAR, LOWELL W	USA	RA15198647	E3	PFC	M CO 3/31 REGT 7ID	NONE	12/1/50	12/1/50		KIA	LAKE, IN
BENDER, VICTOR VERNON	USA	RA15277459	E7	SFC	L CO 3/38 REGT 2ID	NONE	11/27/50	12/31/53		MIA	MARION, IN
BERRY, A D	USA	RA35721765	E8	MSG	HM CO 32ND INF	NONE	12/2/50	12/20/50		POW	VANDERVURGH, IN
BINGE, CHARLES F	USA	US55329092	E4	CPL	K CO 3/180 REGT 45ID	NONE	7/15/53	6/17/54		MIA	NEWTON, IN
BLASDEL, WILLIAM STANLEY	USMC	0561269	E3	CPL	H BRTY 3/11	NONE	11/28/50	11/28/53		MIA	NEW ALBANY, IN
BOWERMAN, WILLIAM J	USA	RA16268609	E4	CPL	B CO 1/32 REGT 7ID	NONE	12/2/50	12/31/53		MIA	DEKALB, IN
BOWMAN, ALLEN MILFORD	USMC	1082663	E3	CPL	B CO 1/5 REGT 1MAR	NONE	11/28/50	11/28/50		KIA	COVINGTON, IN
BRADLEY, ELDON R	USA	RA16314247	E4	CPL	E CO 2/8 REGT 1CAV	NONE	11/2/50	4/17/51		POW	ST JOSEPH, IN
BROCK, KENNETH WILBER	USMC	1064429	E2	PFC	G CO 3/5	NONE	12/1/50	12/1/50		KIA	INDIANAPOLIS, IN
BROWN, KENNETH	USA	US55200622	E3	PFC	K CO 3/15 REGT 3ID	NONE	8/14/52	8/14/52		KIA	MARION, IN
BROWN, THOMAS JAMES	USA	RA15420057	E4	CPL	B CO 1/38 REGT 2ID	NONE	5/18/51	12/31/53		MIA	ELKHART, IN
BURCH, HUGH MAYNARD	USAF	AF15277194	E5	SSG	93RD BOMB SQ	B-29	4/12/51	1/31/54		MIA	NEW CARLISLE, IN
BURNS, FORREST S	USA	O-00974111	O2	1LT	H CO 2/38 REGT 2ID	NONE	8/30/52	8/30/52		KIA	BARTHOLOMEW, IN
BYARD, BILLIE JACK	USA	RA15418425	E3	PFC	C BTRY 58TH FA 3ID	NONE	11/28/50	11/29/50		KIA	MARION, IN
CADDELL, DONALD	USA	RA16324148	E2	PVT	L CO 3/38 REGT 2ID	NONE	1/12/52	1/12/52		KIA	GREENE, IN
CALHOUN, STANLEY LOUIS JR	USN	2767382	E3	EMFN	USS MAGPIE	SHIP	10/1/50	10/2/51		MIA	DUNKIRK, IN
CHADWELL, GEORGE R	USA	RA16313989	E3	PFC	M CO 3/31 REGT 7ID	NONE	12/12/50	12/31/53		MIA	TIPPECANOE, IN
CHAPPEL, RICHARD A	USA	RA23020626	E4	CPL	B CO 1/8 REGT 1CAV	NONE	11/2/50	12/31/53		MIA	ALLEN, IN
CLARK, GENE FRANKLIN	USA	RA15275841	E5	SGT	HQ CO 8 REGT 1CAV	NONE	11/2/50	12/31/53		MIA	DELAWARE, IN
CLARK, HAROLD ROBERT	USA	ER35368243	E3	PFC	L CO 3/38 REGT 2ID	NONE	2/13/51	5/31/51		POW	MARION, IN
CLIFFORD, CLYDE R	USA	RA16314210	E4	CPL	D CO 1/27 REGT 25ID	NONE	7/26/50	12/31/53		MIA	ELKHART, IN
COLEMAN, JAMES ALLEN	USA	RA15246539	E7	SFC	I CO 3/19 REGT 24ID	NONE	4/25/51	4/25/51		KIA	VERMILLION, IN
CONDE, LOUIS BERNARD	USA	US55170838	E5	SGT	B CO 1/15 REGT 3ID	NONE	1/29/52	12/31/53		MIA	LAKE, IN
CONRAD, JACK DWAYNE	USA	RA16313046	E2	PV2	HHC 1/29 REGT 24ID	NONE	7/31/50	7/31/50		KIA	DELAWARE, IN
CONRAD, RICHARD LEON	USA	RA16313050	E3	PFC	HHC 1/29 REGT 24ID	NONE	7/31/50	7/31/50		KIA	DELAWARE, IN
CONSTANT, JAMES L	USA	RA16320424	E3	PFC	A CO 1/23 REGT 2ID	NONE	9/8/50	12/31/53		MIA	MARION, IN
COSBY, FOLTON	USA	RA35686359	E7	SFC	H CO 2/35 REGT 25ID	NONE	8/15/50	8/15/50		NBD	EDINBURG, IN
COWGER, JOHN HAROLD	USMC	0619868	E3	CPL	C CO 1/5 REGT 1MAR	NONE	11/28/50	11/28/50		KIA	TERRA HAUTE, IN
COX, CLARENCE VERNON JR	USA	RA15419041	E7	SFC	G CO 2/8 REGT 1CAV	NONE	11/1/50	12/31/53		MIA	MADISON, IN
COZAD, KENNETH LEE	USA	RA15275155	E5	SGT	G CO 2/19 REGT 24ID	NONE	7/30/50	3/1/54		MIA	JENNINGS, IN
CRANOR, GEORGE ELDON	USA	RA16311698	E3	PFC	AMB CO 7ID	NONE	11/28/50	3/18/54		MIA	LAKE, IN
CRISWELL, REED A	USA	RA16314940	E4	CPL	A BTRY 15 FA 2ID	NONE	2/13/51	4/5/51		POW	WASHINGTON, IN
CUNNINGHAM, WILLIAM R	USA	RA15276473	E4	CPL	B CO 1/32 REGT 7ID	NONE	12/2/50	12/31/53		MIA	VIGO, IN
DALLY, KENNETH HORTON	USA	RA35327139	E8	MSG	A CO 2 ENGR 2ID	NONE	12/1/50	1/15/51		POW	STEUBEN, IN
DALTON, HOWARD DALE	USA	RA15418915	E4	CPL	E CO 2/21 REGT 24ID	NONE	4/27/51	1/5/54		POW	TIPPECANOE, IN
DAVIS, EZEKIEL ALFONSO	USA	RA16333109	E2	PVT	D CO 1/9 REGT 2ID	NONE	2/11/51	2/17/54		MIA	GRANT, IN
DAVIS, JACK A	USA	ER15246484	E3	PFC	K CO 3/9 REGT 2ID	NONE	2/12/51	12/31/53		MIA	ST JOSEPH, IN

Notes/Explanations: (Unless denoted below, this report reflects information as reported in the service member's military record at the time of loss.)

- The "Grade" and "Rank" fields reflect the individual's pay grade and military rank as reflected by the military service; promotions awarded subsequent to the date of loss are appropriately reflected.
- The "Date of Death" field indicates the individual's date of death as determined by the individual Service Secretary. In the case of some individuals, this date was established by a Presumptive Finding Of Death (PFOD).
- The "Returned Date" field is the date the individual's remains were returned to the United States control. This date will be reflected only after a positive identification has been made.
- The "Status" field reflects the current classification of the individual as determined by the military branch of service. (KIA - Killed in Action; MIA - Missing in Action; POW - Prisoner of War; NBD - Non-Battle Death).

This list of Korean War missing personnel was prepared by the Defense Prisoner of War/Missing Personnel Office (DPMO).
Please visit our web site at http://www.dtic.mil/dpmo for updates to this list and other official missing personnel data lists.

Report Prepared: 7/22/02

Defense Prisoner of War/Missing Personnel Office

Personnel Missing - Korea (PMKOR)
(Report for Indiana)

Name	Military Service	Service Number	Grade	Rank	Unit	Incident Vehicle	Date of Incident	Date of Death (*See note)	Returned Date	Status	Home of Record
DAVIS, NORMAN GLEN	USAF	AF15209199	E6	SSG	8 BOMB SQ, LT	B-26	9/12/51	2/28/54		MIA	HYMERA, IN
DEBAUN, GEORGE JR	USMC	0550786	E3	CPL	G CO 3/1 REGT 1MAR	NONE	7/25/53	7/26/54		MIA	SHELBYVILLE, IN
DECKER, HOBART	USA	RA35098620	E3	PFC	D CO 1/31 REGT 7ID	NONE	12/20/50	12/20/50		NBD	, IN
DECKER, RAYMOND ALFRED	USAF	AO-2000360	O2	1LT	729TH BOMB SQ(L)	B-26	7/19/51	12/31/53		MIA	HOBART, IN
DELONG, CLAYTON C	USA	RA16311080	E4	CPL	K CO 3/31 REGT 7ID	NONE	12/12/50	12/31/53		MIA	ALLEN, IN
DENNIS, GENE ALTON	USAF	20163A	O2	1LT	428TH FTR BMB SQ	F-84E	9/28/52	12/31/53		MIA	MARION, IN
DEWITT, STANLEY L	USA	RA16312243	E5	SGT	MED DET 57 FA 7ID	NONE	12/6/50	12/31/53		MIA	CASS, IN
DICK, WILLIAM L JR	USA	RA16314645	E3	PFC	E CO 2/5 REGT 1CAV	NONE	8/15/50	2/19/54		MIA	JENNINGS, IN
DINERBOILER, MILTON J	USA	RA15277160	E3	PFC	HV MORT CO 32 REGT	NONE	12/2/50	4/30/51		POW	ELKHART, IN
DOODY, JAMES THOMAS	USA	RA15243815	E4	CPL	F CO 2/23 REGT 2ID	NONE	7/17/52	7/17/52		KIA	MARION, IN
DREW, DONALD D	USA	RA15419313	E4	CPL	M CO 3/34 REGT 24ID	NONE	7/20/50	12/31/53		MIA	WASHINGTON, IN
DUNN, JAMES R	USA	RA35725173	E7	SFC	HQ CO 3/8 REGT 1CAV	NONE	11/2/50	12/31/53		MIA	KNOX, IN
DURAKOVICH, JOSEPH	USA	ER35143986	E8	MSG	G CO 2/5 REGT 1CAV	NONE	11/28/50	12/31/53		MIA	LAKE, IN
EADS, DONALD WAYNE	USMC	1277798	E2	PFC	C CO 1/5 REGT 1MAR	NONE	3/26/53	3/26/54		MIA	BLOOMINGTON, IN
EATON, JOHN OMER	USA	RA16313235	E4	CPL	A CO 1/34 REGT 24ID	NONE	7/20/50	5/8/51		POW	CRAWFORD, IN
EGGERS, HERBERT PHILLIP	USA	RA16320452	E3	PFC	MED CO 19 REGT 24ID	NONE	7/16/50	12/31/53		MIA	MARION, IN
EMRICK, HOWARD W	USA	RA23008101	E3	PFC	L CO 3/34 REGT 24ID	NONE	7/20/50	12/31/53		MIA	ALLEN, IN
ENRIGHT, WILLIAM CHESTER	USMC	0894035	E4	SGT	I CO 3/7 REGT 1MAR	NONE	12/2/50	12/2/50		KIA	HAMMOND, IN
ESTES, ROBERT VERNON	USA	RA16312230	E4	CPL	HQ CO 1BN 9TH INF	NONE	11/30/50	1/31/51		POW	WHITE, IN
FAITH, DON CARLOS JR	USA	O-046673	O5	LTC	HQ CO 1/32ND INF	NONE	12/2/50	12/2/50		KIA	DAVIESS, IN
FINCH, ROBERT CLARENCE	USAF	AO-2078198	O2	1LT	728TH BOMB SQ(L)	B-26	9/7/51	12/31/53		MIA	LAFAYETTE, IN
FLUHR, PETER PAUL JR	USA	RA15380970	E4	CPL	F CO 2/8 REGT 1CAV	NONE	9/3/50	12/31/53		MIA	SCOTT, IN
FRAKES, EDWARD LEO	USMC	O-051084	O2	1STLT	VMF 311 MAG 33	F-9F	10/3/51	12/15/53		MIA	BRANCHVILLE, IN
FRANKART, NED CHARLES	USAF	AO-839010	O2	1LT	39TH FTR INT SQ	F-51D	11/3/51	12/31/53		KIA	FORT WAYNE, IN
FRANS, JACK MARVIN	USA	ER16313202	E4	CPL	A CO 1/38 REGT 2ID	NONE	2/12/51	1/18/54		MIA	DAVIESS, IN
FRANTZ, GEORGE ARTHUR	USA	RA16311766	E3	PFC	L CO 3/21 REGT 24ID	NONE	7/11/50	12/3/50		POW	MARION, IN
GARRIGUS, CHARLES	USA	RA35968746	E5	SGT	HQ CO 1/32 REGT 7ID	NONE	12/1/50	12/1/50		KIA	GIBSON, IN
GIBSON, CLIFTON E	USA	US55248898	E3	PFC	F CO 31ST INF	NONE	10/15/52	12/31/53		MIA	ST JOSEPH, IN
GIBSON, WILLARD M	USA	RA16314737	E5	SGT	E CO 2/9 REGT 2ID	NONE	12/1/50	6/21/51		POW	SULLIVAN, IN
GOE, CLYDE	USA	RA06662785	E8	MSG	I CO 38TH INF	NONE	11/30/50	12/31/53		MIA	BROWN, IN
GOODALL, ROBERT	USA	RA16332019	E3	PFC	K CO 9TH INF	NONE	2/12/51	3/31/51		POW	DELAWARE, IN
GREENE, JOSEPH P	USA	ER35720706	E3	PFC	2ND RECON CO 2ID	NONE	2/14/51	2/14/51		KIA	VANDERBURGH, IN
GRIFFITH, JACK WALTER	USN	O-283413	O3	LT	CARRIER AIR GP 2	F-9F2	7/4/52	5/25/54		MIA	EVANSVILLE, IN
GUDE, EDWARD ALLEN	USA	RA16310231	E4	CPL	M CO 3/23 REGT 2ID	NONE	11/19/50	12/31/53		MIA	PERRY, IN
GUYNN, JOHN EDWIN	USA	RA35902554	E4	CPL	HM CO 19TH INF	NONE	11/4/50	3/2/51		POW	HUNTINGTON, IN
HAMILTON, DONALD SEWELL	USA	RA15275073	E5	SGT	MED CO 32ND INF	NONE	12/2/50	12/31/53		MIA	GREENE, IN
HAMM, DONALD LANE	USA	RA15244528	E5	SGT	HHC 2/5 REGT 1CAV	NONE	11/28/50	12/31/53		MIA	DAVIESS, IN
HAMMON, KEITH EDWARD	USAF	AF15230651	E6	TSG	307TH BOMB GP	B-29	11/8/52	11/9/53		MIA	ROCKVILLE, IN
HARMON, GILBERT LARRY	USMC	1123570	E2	PFC	I CO 3/5 REGT 1MAR	NONE	7/26/53	7/26/54		MIA	TERRE HAUTE, IN
HARRIS, ELMER JR	USA	RA15416300	E4	CPL	C CO 2ND ENGR BN	NONE	11/28/50	12/31/53		MIA	MONROE, IN
HARRIS, MAX EUGENE	USA	RA15256584	E7	SFC	L CO 3/31 REGT 7ID	NONE	12/12/50	9/30/51		POW	WHITE, IN
HARRISON, BANNIE JR	USA	RA15278030	E4	CPL	M CO 9TH INF	NONE	12/1/50	1/7/51		POW	ALLEN, IN
HATCH, GENE N	USA	RA15278016	E5	SGT	MED CO 9TH INF	NONE	12/1/50	3/31/51		POW	ALLEN, IN
HAY, KENNETH VERNE	USA	RA15243924	E4	CPL	I CO 5TH CAV RGT	NONE	3/19/51	9/30/51		POW	WAYNE, IN
HENKENIUS, LEO JOSEPH	USMC	1063789	E2	PFC	E CO 2/7 REGT 1MAR	NONE	11/28/50	10/23/53		MIA	FORT WAYNE, IN
HILL, JAMES FELLA	USA	O-38835	O5	LTC	HH CO 9TH INF	NONE	12/1/50	12/15/50		POW	SPENCER, IN
HINDS, ROBERT LEE	USMC	1048219	E2	PFC	D CO 2/5 REGT 1MAR	NONE	12/7/50	12/7/50		KIA	INDIANAPOLIS, IN
HODGE, WILLIAM M	USA	RA15258056	E2	PVT	I CO 3/24 REGT 25ID	NONE	7/26/50	12/31/53		MIA	LAKE, IN

Notes/Explanations: (Unless denoted below, this report reflects information as reported in the service member's military record at the time of loss.)

- The "Grade" and "Rank" fields reflect the individual's pay grade and military rank as reflected by the military service; promotions awarded subsequent to the date of loss are appropriately reflected.
- The "Date of Death" field indicates the individual's date of death as determined by the individual Service Secretary. In the case of some individuals, this date was established by a Presumptive Finding Of Death (PFOD).
- The "Returned Date" field is the date the individual's remains were returned to the United States control. This date will be reflected only after a positive identification has been made.
- The "Status" field reflects the current classification of the individual as determined by the military branch of service. (KIA - Killed in Action; MIA - Missing in Action; POW - Prisoner of War; NBD - Non-Battle Death).

This list of Korean War missing personnel was prepared by the Defense Prisoner of War/Missing Personnel Office (DPMO).
Please visit our web site at http://www.dtic.mil/dpmo for updates to this list and other official missing personnel data lists.

Report Prepared: 7/22/02

Defense Prisoner of War/Missing Personnel Office

Personnel Missing - Korea (PMKOR)
(Report for Indiana)

Name	Military Service	Service Number	Grade	Rank	Unit	Incident Vehicle	Date of Incident	Date of Death (*See note)	Returned Date	Status	Home of Record
HOLLE, JOSEPH FRANCIS	USA	US55327978	E4	CPL	E CO 2/17 REGT 7ID	NONE	7/8/53	7/9/54		MIA	MARION, IN
HOLMAN, CHARLES RUTHERFORD	USN	O-486204	O2	LTJG	USS PRINCETON	AD-4	8/1/52	8/1/52		KIA	INDIANAPOLIS, IN
HOOPER, FLOYD E	USA	ER52007636	E4	CPL	I CO 19TH INF	NONE	2/4/51	6/30/51		POW	MADISON, IN
HUBARTT, RALPH ERNEST JR	USA	RA16311033	E4	CPL	H CO 2/38 REGT 2ID	NONE	11/27/50	12/31/53		MIA	HUNTINGTON, IN
HUKILL, PAUL F	USA	RA16311584	E3	PFC	A BTRY 38TH FA	NONE	11/30/50	1/12/51		POW	LAKE, IN
INMAN, RICHARD GEORGE	USA	O-00066536	O1	2LT	HM CO 17 REGT 7ID	NONE	7/7/53	7/7/53		MIA	KNOX, IN
JAYNES, EDWARD R	USA	RA15416806	E3	PFC	C CO 13 ENGR 7ID	NONE	12/1/50	12/31/53		MIA	GIBSON, IN
JESTER, WILLIAM F	USA	O-00057490	O2	1LT	HQ 3/21 REGT 24ID	NONE	7/12/50	5/31/51		POW	MARION, IN
JESTER, WILLIAM R	USA	RA15276540	E4	CPL	L CO 3/21 REGT 24ID	NONE	7/11/50	6/16/51		POW	SWITZERLAND, IN
JINKS, LEONARD W E	USA	RA15057580	E4	CPL	C CO 1/19 REGT 24ID	NONE	7/16/50	2/18/54		MIA	RIPLEY, IN
JOCHIM, CORNELIUS A	USA	RA15416759	E7	SFC	HV MTR CO 31 REGT 7ID	NONE	11/28/50	12/31/53		MIA	VANDERBURGH, IN
JOHNSON, WILLIAM H	USA	RA15275557	E3	PFC	F CO 2/7 REGT 3ID	NONE	12/3/50	12/31/53		MIA	CLARK, IN
KILLAR, PAUL MARTIN	USA	US55324677	E3	PFC	A CO 13 ENGR 7ID	NONE	7/9/53	7/10/54		MIA	LAKE, IN
LANDER, LAWRENCE EDWARD	USA	RA15208600	E5	SGT	HQ CO 3/9 REGT 2ID	NONE	12/1/50	2/28/51		POW	VANDERBURGH, IN
LANGWELL, ROBERT WARREN	USN	O-534047	O1	ENS	USS MAGPIE	SHIP	10/1/50	10/2/51		MIA	INDIANNAPOLIS, IN
LEFFLER, EVERETT W	USA	RA16310242	E4	CPL	C BTRY 38TH FA	NONE	11/30/50	12/31/53		MIA	KNOX, IN
LIDDLE, HARRY H JR	USA	US55200056	E3	PFC	F CO 179TH INF	NONE	6/11/52	6/11/52		KIA	DEARBORN, IN
LOVELESS, LARRY	USA	RA16311922	E3	PFC	C CO 1/9 REGT 2ID	NONE	8/11/50	8/11/50		KIA	HARRISON, IN
LYKINS, EARL PAUL	USA	RA15419183	E4	CPL	D CO 1/34 REGT 24ID	NONE	7/20/50	10/27/50		POW	RANDOLPH, IN
MACE, DELBERT ULYSSES	USA	US55031792	E7	SFC	A CO 21ST INF	NONE	12/12/51	12/12/51		KIA	PORTER, IN
MAGNUS, DONALD F	USA	RA15255097	E4	CPL	HQ CO 3/21 REGT 24ID	NONE	7/12/50	1/4/51		POW	VANDERBURGH, IN
MANION, EVERETT D	USA	RA15418921	E4	CPL	F CO 2/35 REGT 25ID	NONE	7/22/50	12/31/53		MIA	MONTGOMERY, IN
MARLATT, DONALD LEE	USA	RA16314684	E4	CPL	B CO 2ND ENGR BN	NONE	11/28/50	12/31/53		MIA	JASPER, IN
MARTIN, ALBERT F	USA	US55201362	E4	CPL	G CO 2/179TH INF	NONE	10/29/52	12/31/53		MIA	JAY, IN
MARTIN, HERBERT O	USA	RA15244895	E3	PFC	F CO 2/21 REGT 24ID	NONE	9/5/50	9/5/50		KIA	GIBSON, IN
MASTABAYVO, STEVE A	USA	US55219335	E3	PFC	C CO 1/9 REGT 2ID	NONE	8/14/52	12/31/53		MIA	LAKE, IN
MCCLAIN, EARL E	USA	RA15417938	E5	SGT	HM CO 21 REGT 24ID	NONE	9/4/50	12/31/53		MIA	MARION, IN
MCDANIEL, CHARLES H	USA	RA17000585	E8	MSG	MED CO 8 REGT 1CAV	NONE	11/2/50	12/31/53		MIA	JENNINGS, IN
MCDONIEL, RAYMOND JOHN	USA	O-1321324	O3	CPT	D CO 9TH INF	NONE	11/28/50	11/28/50		POW	MONROE, IN
MCFARREN, EDWARD Q	USA	ER52008423	E3	PFC	E CO 2/5 REGT 1CAV	NONE	11/28/50	12/31/53		MIA	KOSCIUSKO, IN
MCINTYRE, JAMES T	USA	RA16313204	E4	CPL	K CO 3/21 REGT 24ID	NONE	7/11/50	12/28/50		POW	FLOYD, IN
MCKEEHAN, HERBERT V	USA	RA16311516	E3	PFC	B CO 70 TNK 1CAV	NONE	11/2/50	11/2/50		KIA	LA PORTE, IN
MCNALLY, JOSEPH LAWRENCE	USA	RA35893731	E8	MSG	A CO 1/8 REGT 1CAV	NONE	11/2/50	12/31/53		MIA	HANCOCK, IN
MESHULAM, MORRIS	USA	RA15277708	E4	CPL	D CO 82 AAAW 2ID	NONE	12/1/50	1/11/51		POW	MARION, IN
METZCAR, R MAURICE	USA	O-1059560	O3	CPT	HQ CO 555 FA BN	NONE	4/25/51	9/28/51		POW	DELAWARE, IN
MICHAELS, MELVIN J	USA	RA16335916	E3	PFC	L CO 3/35 REGT 25ID	NONE	9/7/51	9/7/51		KIA	PORTER, IN
MIDDLETON, HARRY RICHARD	USAF	16941A	O3	CPT	12TH FTR BMBR SQ	F-51D	4/30/51	4/24/52		KIA	NAPPANEE, IN
MINNIEAR, ROBERT G	USA	RA16313155	E4	CPL	C BTRY 37TH FA	NONE	11/30/50	3/13/51		POW	TIPPECANOE, IN
MISHLER, JAMES E	USA	RA15276384	E3	PFC	SV BTRY 38 FA BN	NONE	11/30/50	3/4/51		POW	CLAY, IN
MITCHELL, DONALD K	USA	RA15417787	E4	CPL	G CO 23RD INF	NONE	11/30/50	11/30/50		KIA	LAKE, IN
MOORE, JOHN D JR	USA	RA35892154	E5	SGT	G CO 2/24 REGT 25ID	NONE	11/27/50	5/31/51		POW	LAKE, IN
MORRIS, CLARENCE TAYLOR	USMC	1243690	E2	PFC	E CO 2/1 REGT 1MAR	NONE	12/27/52	12/28/53		MIA	GARY, IN
MORRIS, DAVID WESLEY	USA	ER35145756	E4	CPL	D CO 1/38 REGT 2ID	NONE	2/12/51	6/17/51		POW	MADISON, IN
MORRIS, RUSSELL F	USA	ER35169826	E5	SGT	HQ CO 3/38 REGT 2ID	NONE	2/13/51	3/5/54		MIA	DELAWARE, IN
MULLETT, RICHARD EVERETT	USMC	0550847	E7	MSGT	VMF 513 MAG 12	F-73N	6/15/52	12/17/53		MIA	BUTLER, IN
MURDOCK, JACKIE LEE	USA	RA16314045	E3	PFC	B CO 1/34 REGT 24ID	NONE	7/6/50	10/29/50		POW	MONTGOMERY, IN
MYERS, DONALD WILLIAM	USMC	0655408	E2	PFC	C CO 1/7 REGT 1MAR	NONE	12/2/50	12/4/53		MIA	FT WAYNE, IN
NEISWINGER, THOMAS W	USA	RA15420168	E4	CPL	F CO 2/38 REGT 2ID	NONE	9/6/50	12/31/53		MIA	CLAY, IN

Notes/Explanations: (Unless denoted below, this report reflects information as reported in the service member's military record at the time of loss.)

- The "Grade" and "Rank" fields reflect the individual's pay grade and military rank as reflected by the military service; promotions awarded subsequent to the date of loss are appropriately reflected.
- The "Date of Death" field indicates the individual's date of death as determined by the individual Service Secretary. In the case of some individuals, this date was established by a Presumptive Finding Of Death (PFOD).
- The "Returned Date" field is the date the individual's remains were returned to the United States control. This date will be reflected only after a positive identification has been made.
- The "Status" field reflects the current classification of the individual as determined by the military branch of service. (KIA - Killed in Action; MIA - Missing in Action; POW - Prisoner of War; NBD - Non-Battle Death).

This list of Korean War missing personnel was prepared by the Defense Prisoner of War/Missing Personnel Office (DPMO).
Please visit our web site at http://www.dtic.mil/dpmo for updates to this list and other official missing personnel data lists.

Report Prepared: 7/22/02

Page Number: 3

Defense Prisoner of War/Missing Personnel Office

Personnel Missing - Korea (PMKOR)
(Report for Indiana)

Name	Military Service	Service Number	Grade	Rank	Unit	Incident Vehicle	Date of Incident	Date of Death (*See note)	Returned Date	Status	Home of Record
NICHOLSON, RICHARD L	USA	RA15276162	E4	CPL	E CO 2/7 REGT 1CAV	NONE	9/6/50	12/31/53		MIA	HENRY, IN
NORTHCUTT, CHARLES JR	USA	RA15417798	E4	CPL	C CO 3 ENGR 24ID	NONE	7/20/50	12/31/53		MIA	MONTGOMERY, IN
OLCOTT, RICHARD LEE	USAF	AO-736315	O2	1LT	39TH FTR INT SQ	F-51	10/6/51	10/18/51		KIA	FT WAYNE, IN
PEARSON, RAYMOND EDWARD	USA	O-02014734	O2	1LT	SVC BTRY 63 FA 24ID	NONE	7/14/50	2/28/51		POW	MONTGOMERY, IN
PHILLIPS, VIRGIL L	USA	RA35813775	E5	SGT	K CO 3/8 REGT 1CAV	NONE	11/2/50	12/31/53		MIA	MARTIN, IN
PICKENS, RUSSELL B	USA	RA16310805	E4	CPL	A BTRY 63 FA 24ID	NONE	7/20/50	12/31/53		MIA	ALLEN, IN
PLEISS, LEWIS PEIFER	USAF	AO-1912244	O2	1LT	25TH FTR INT SQ	F-80	9/23/51	12/31/53		MIA	NEW ALBANY, IN
PLUMP, JAMES	USA	RA34014959	E8	MSG	C CO 1/24 REGT 25ID	NONE	11/27/50	11/27/50		KIA	ST JOSEPH, IN
POTHAST, BOBBY LEE	USMC	1181849	E2	PFC	F CO 2/1 REGT1MAR	NONE	6/13/52	6/13/52		KIA	INDIANAPOLIS, IN
REYNOLDS, BERNARD CLAYTON	USA	US55049102	E4	CPL	D CO 1/38 REGT 2ID	NONE	5/18/51	12/31/53		MIA	RANDOLPH, IN
RICE, DONALD RAY	USA	RA16311222	E5	SGT	L CO 3/23 REGT 2ID	NONE	5/18/51	10/31/51		POW	PORTER, IN
RIDER, ALEXANDER DAVID	USMC	443270	E6	TSGT	4-2 MORT CO 7TH MAR	NONE	12/6/50	12/6/50		KIA	GARY, IN
RILEY, CHARLES D	USA	RA16314614	E4	CPL	B CO 2ND ENGR BN	NONE	11/28/50	2/28/51		POW	DELAWARE, IN
RODMAN, MARVIN L	USA	US55200683	E7	SFC	K CO 3/32 REGT 7ID	NONE	10/20/52	12/31/53		MIA	WASHINGTON, IN
ROSS, EDWARD F	USA	ER35540297	E5	SGT	H CO 2/7 REGT 3ID	NONE	4/25/51	12/31/53		MIA	DEKALB, IN
ROSS, ROBERT LEWIS	USAF	AF22998208	E5	SSG	28TH BOMB SQ	B-29	6/10/52	2/28/54		MIA	ROCKVILLE, IN
RUBY, GENE ROBERT	USMC	1082534	E2	PFC	HQ BTRY 3/11	NONE	11/30/50	11/30/50		KIA	ROANOKE, IN
RUSH, JOHN EARL	USMC	520559	E3	CPL	I CO 3/7 REGT 1MAR	NONE	12/2/50	1/14/54		MIA	SOUTH BEND, IN
SCOTT, MARLE D	USA	RA15278294	E3	PFC	B BTRY 57 FA 7ID	NONE	11/29/50	11/29/50		KIA	FOUNTAIN, IN
SCOTT, RICHARD DALE	USN	2916861	E6	BM1	USS MAGPIE	SHIP	10/1/50	10/2/51		MIA	PERU, IN
SECHMAN, DONALD R	USA	RA15275776	E4	CPL	I CO 3/34 REGT 24ID	NONE	7/20/50	1/20/54		MIA	MONTGOMERY, IN
SELMAN, CLIFFORD GENE	USAF	AO-1864097	O2	1LT	13 BOMB SQ, LT	B-26	5/17/53	5/18/54		MIA	LAFAYETTE, IN
SERWISE, LUTHER DEAN	USA	ER35096983	E7	SFC	A CO 1/38 REGT 2ID	NONE	2/12/51	2/17/54		MIA	LAKE, IN
SHEPLER, GERALD IVIN	USA	RA15419662	E4	CPL	K CO 3/187 ABN RCT	NONE	11/29/50	11/29/50		KIA	UNION, IN
SIMMONS, WALLACE JR	USA	RA35569696	E8	MSG	HQ BTRY 57 FA 7ID	NONE	12/6/50	12/31/53		MIA	MARION, IN
SIZEMORE, CHARLES EDWARD	USA	RA16311923	E4	CPL	HHC 8 REGT 1CAV	NONE	11/2/50	12/31/53		MIA	RUSH, IN
SMITH, CHARLES E	USA	RA16314105	E3	PFC	B CO 1/29 REGT 24ID	NONE	7/27/50	12/31/53		MIA	ST JOSEPH, IN
SMITH, LELAND FORD	USA	RA23021038	E4	CPL	K CO 3/35 REGT 25ID	NONE	11/28/50	2/28/51		POW	STEUBEN, IN
SODERSTROM, MARVIN W	USA	US55091639	E3	PFC	E CO 2/35 REGT 25ID	NONE	9/9/51	2/15/54		MIA	PORTER, IN
SPANGLER, DONALD E	USA	RA15275871	E3	PFC	B CO 1/8 REGT 1CAV	NONE	11/2/50	12/31/53		MIA	DELAWARE, IN
STEBBENS, ALVIN LOWELL	USA	RA16312837	E4	CPL	A CO 32ND INF	NONE	12/2/50	1/26/53		MIA	GRANT, IN
STRAWSER, PAUL P	USA	RA15212417	E4	CPL	A CO 1/34 REGT 24ID	NONE	7/6/50	11/22/50		POW	STEUBEN, IN
STURDIVANT, CHARLES	USA	ER52005770	E3	PFC	I CO 3/38 REGT 2ID	NONE	2/12/51	12/31/53		POW	HUNTINGTON, IN
STURGEON, GENE ALFRED	USMC	0450033	E3	CPL	B CO 1/7 REGT 1MAR	NONE	11/28/50	11/28/50		KIA	CONNERSVILLE, IN
SURBER, HAROLD PAUL	USA	US55031109	E4	CPL	C CO 38TH INF	NONE	5/18/51	7/31/51		POW	MARION, IN
TABACZYNSKI, EDWIN FELIX	USAF	AO-2221757	O1	2LT	16TH FTR INT SQ	F-80	8/20/51	8/1/52		KIA	MISHAWAKA, IN
TALLEY, JAMES WILLIS	USA	RA16324102	E3	PFC	C CO 1/24 REGT 25ID	NONE	11/26/50	11/26/50		KIA	LAKE, IN
THURMAN, JOHN EDWARD	USAF	AF16346460	E4	AIC	1ST SHORAN SQ	C-46	10/16/52	11/7/52		NBD	GREENSBORO, IN
TITUS, ROBERT ELI	USA	RA16312767	E3	PFC	C CO 1/19 REGT 24ID	NONE	7/16/50	12/31/50		POW	GRANT, IN
TOOPS, WILLIAM WILBUR	USAF	AO-1911692	O2	1LT	8TH FTR BMBR SQ	F-84E	6/16/52	6/16/52		KIA	ANDERSON, IN
TUCKER, ROBERT JEROME	USA	RA35724130	E4	CPL	E CO 2/24 REGT 25ID	NONE	11/27/50	11/27/50		KIA	GIBSON, IN
TURNER, ROBERT WILLIAM	USN	2914368	E7	ENC	USS PLEDGE, AM-277	AM	10/12/50	10/12/50		KIA	LOGANSPORT, IN
WAGNER, GENE LEWIS	USA	RA15275693	E4	CPL	A CO 1/19 REGT 24ID	NONE	7/16/50	10/31/50		POW	WHITE, IN
WASIAK, RICHARD L	USA	RA16311250	E4	CPL	C CO 1/32 REGT 7ID	NONE	12/2/50	12/31/53		MIA	LAKE, IN
WHITE, ROBERT LEE	USA	RA16312975	E4	CPL	A BTRY 38TH FA	NONE	11/30/50	4/4/51		POW	HENRY, IN
WHITE, ROBERT LOUIS	USA	RA16320481	E5	SGT	HQ CO 1BN 9INF	NONE	11/30/50	12/31/53		MIA	DECATUR, IN
WILDER, ROBERT DEWITT	USMC	1176607	E3	CPL	G CO 3/7 REGT 1MAR	NONE	10/6/52	10/6/52		KIA	EVANSVILLE, IN
WILLIAMS, GROVER LOIS	USMC	0593728	E3	CPL	E CO 2/7 REGT 1MAR	NONE	11/28/50	10/22/53		MIA	WALKERTON, IN

Notes/Explanations: (Unless denoted below, this report reflects information as reported in the service member's military record at the time of loss.)

- The "Grade" and "Rank" fields reflect the individual's pay grade and military rank as reflected by the military service; promotions awarded subsequent to the date of loss are appropriately reflected.
- The "Date of Death" field indicates the individual's date of death as determined by the individual Service Secretary. In the case of some individuals, this date was established by a Presumptive Finding Of Death (PFOD).
- The "Returned Date" field is the date the individual's remains were returned to the United States control. This date will be reflected only after a positive identification has been made.
- The "Status" field reflects the current classification of the individual as determined by the military branch of service. (KIA - Killed in Action; MIA - Missing in Action; POW - Prisoner of War; NBD - Non-Battle Death).

Report Prepared: 7/22/02

This list of Korean War missing personnel was prepared by the Defense Prisoner of War/Missing Personnel Office (DPMO).
Please visit our web site at http://www.dtic.mil/dpmo for updates to this list and other official missing personnel data lists.

Page Number: 4

Defense Prisoner of War/Missing Personnel Office

Personnel Missing - Korea (PMKOR)

(Report for Indiana)

Name	Military Service	Service Number	Grade	Rank	Unit	Incident Vehicle	Date of Incident	Date of Death (*See note)	Returned Date	Status	Home of Record
WILSON, MERBLE EUGENE	USA	RA15242639	E3	PFC	L CO 5TH CAV RGT	NONE	2/15/51	3/5/54		POW	TIPPECANOE, IN
WOLIUNG, JOHN GEORGE	USAF	AO-826818	O3	CPT	12TH FTR BMBR SQ	F-51	11/5/52	10/28/53		MIA	GREENCASTLE, IN
ZEKUCIA, BERNARD M	USA	US55061590	E4	CPL	G CO 2/38 REGT 2ID	NONE	8/27/51	8/27/51		KIA	LAKE, IN

Count Total: 195

End of Report

Notes/Explanations: (Unless denoted below, this report reflects information as reported in the service member's military record at the time of loss.)

- The "Grade" and "Rank" fields reflect the individual's pay grade and military rank as reflected by the military service; promotions awarded subsequent to the date of loss are appropriately reflected.
- The "Date of Death" field indicates the individual's date of death as determined by the individual Service Secretary. In the case of some individuals, this date was established by a Presumptive Finding Of Death (PFOD).
- The "Returned Date" field is the date the individual's remains were returned to the United States control. This date will be reflected only after a positive identification has been made.
- The "Status" field reflects the current classification of the individual as determined by the military branch of service. (KIA - Killed in Action; MIA - Missing in Action; POW - Prisoner of War; NBD - Non-Battle Death).

This list of Korean War missing personnel was prepared by the Defense Prisoner of War/Missing Personnel Office (DPMO).
Please visit our web site at http://www.dtic.mil/dpmo for updates to this list and other official missing personnel data lists.

IRAQ

Mr. VOINOVICH. Mr. President, I submit for the CONGRESSIONAL RECORD the following statement on Iraq, which I released following the President's remarks to the United Nations one week ago today. I ask unanimous consent that my statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. VOINOVICH. President Bush's speech today before the United Nations outlined well Saddam Hussein's sustained history of defiance of UN resolutions and the will of the international community. He left no doubt in any reasonable person's mind that Iraq is a threat to the stability of the Middle East, is a danger to his own people, and is fundamentally hostile to the basic human rights of life, liberty and the pursuit of happiness upon which our nation is founded. Saddam Hussein is a threat to peace and his defiance of the world community and his continued pursuit of weapons of mass destruction show that he has no intention of changing his ways.

The President's simple recitation of Iraq's defiance and broken promises was convincing and persuasive. No interpretation was required. The President said it best: "By breaking every pledge by his deceptions and his cruelties, Saddam Hussein has made the case against himself."

The President's challenge, therefore, isn't making the case against Iraq, but building the support for action to force Iraqi compliance with UN resolutions calling for it to cease its support of terrorist groups, cease the production of weapons of mass destruction and allow international weapons inspections. Generating this support among the American people, Congress and our international partners is critical if any effort to deal with the Iraqi threat is to be successful.

As governor of Ohio and commander-in-chief of the Ohio National Guard during the Persian Gulf War, I saw firsthand how the unequivocal support that existed for our campaign to evict Saddam Hussein from Kuwait made it so much easier for our soldiers to leave home for an overseas mission. Ohioans supported our military mission and they supported our troops. There was no doubt about Saddam Hussein's guilt or his need to be stopped. This type of support is important if we are to ultimately succeed in stopping the Iraqi threat.

With his speech today, President Bush has started to build this base of support. I applaud his decision to go before the world community at the United Nations and to challenge the body to stand behind its resolutions, live up to its charter and be a force for peace and the preservation of human rights. The President's meeting with British Prime Minister Tony Blair last weekend and his recent series of conversations with world leaders are the right beginning. It must be built upon and strengthened. Our allies must be consulted, probed for advice, and engaged in the process, not just lectured, if we are to succeed. The President also must reach out to our emerging allies in the Middle East who, since 9–11, have begun to cooperate in the war on terrorism.

There is still much work to do as we consider options for confronting the looming threat presented by Iraq's ongoing programs to develop weapons of mass destruction. It is clear that we cannot sit idly by and allow Saddam Hussein to move forward in his work to acquire these deadly capabilities. As we examine possible courses of action I'm confident the President is going to take every necessary step to continue to make his case to Congress and to the American people, and to consult with our allies as well as the countries in the region with whom we have emerging, important relationships. We owe it to those at home and abroad that we seek to protect from Saddam Hussein and his weapons to be diligent in the building of consensus so that our efforts to handle the Iraqi threat can be successful and conclusive.

ADDITIONAL STATEMENTS

TRIBUTE TO NORMA DICKSON

• Mr. BURNS. Mr. President, I would like to take the opportunity to congratulate Norma Eudora Cronk Dickson. On October 16th, 2002 she will celebrate her 100th birthday. Norma is a resident of Chinook, MT.

Norma Dickson was born October 16, 1902. She was the eldest of four children born to John Colburn Cronk and Anna Rogers Cronk. John and Anna Cronk moved to Montana in 1898, and settled in the Milk River Valley in Coburg, MT. Her parents were ranchers and prominent members of the community. Her father John was elected State representative in Montana in 1923. Her parents raised cattle and prize winning Percheron horses. The livestock pavilion at the Blaine County Fairgrounds was dedicated to her father's memory.

Norma attended college and taught for a few years prior to her marriage in 1928 to Dr. Joseph Robert Dickson, another Montana native who practiced dentistry in Chinook, MT.

Norma and Dr. Dickson had four children, Joseph Robert Dickson Jr., Marilyn Dickson Gregg, James Cronk Dickson, and George William Hunt Dickson. They also have thirteen grandchildren and ten great-grandchildren.

In addition to Norma's dedication to her family, she has been very active in her community of Chinook, MT. Her involvements include the Eastern Star, Chinook Presbyterian Church, and High School Girl's State. She has also worked at the Chinook Senior Center as a volunteer from its inception until she was 97 years old. Finally, she was named Senior of the Year in Chinook. She is a treasure to her community, her State, and of course, to her family.•

LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred February 11, 2001 in Rifle, CO. Kyle Skyock, 16, was found unconscious on the side of a road after being beaten by four teenage boys who believed he was gay. Skyock's injuries included a fractured skull, burns, three broken ribs, and a bruise described by doctors as being in the shape of a two-by-four. During the beating, the assailants made derogatory comments about the victim's perceived sexual orientation.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

OREGON'S TECHNOLOGY LEADERS

• Mr. WYDEN. Mr. President, a little more than a year ago, the terrible events of September 11 forced the awakening and mobilization of a critical resource in this country. In response to that tremendous tragedy, America's technology innovators, skilled workers in all walks of life, have stepped forward to help America address the numerous threats our enemies pose.

One of these threats is cybersecurity. As computer networks have become increasingly central to this Nation's infrastructure and businesses, that the importance of securing our information and information technologies has grown. Today I wish to draw the Senate's attention to emerging technologies for dealing with these new threats. I also want to discuss how this country can maximize a uniquely American resource: that is, the skilled innovation of our tech sector.

Technology workers and managers from my home State of Oregon have inspired me with their technical skills and their passion to put their talents to work serving America. The Portland area is home to one of the Nation's largest concentration of cybersecurity vendors in the country. Portland now boasts a remarkable cluster of small and large companies actively working to make America's portion of cyberspace a safer place.

Just a few examples: Tripwire is the world leader in data integrity assurance, providing software that establishes the foundation for IT security and reliability. Tripwire is used to protect some of the world's most sensitive data, and that includes some of the most important systems right here in Washington.

Digimarc provides digitally watermarked drivers licenses for 37 States, and supplies official identification documents for governments around the world. Its technology enables authentication with a greater level of assurance than has historically been possible.

Swan Island Networks is building software platforms that enable secure communications of sensitive information to trusted users across organizational boundaries. It is helping Federal and local agencies and first responders to communicate effectively to audiences inside and outside the firewall.

Intel Corporation, which has its largest base of employment in Oregon, is leading the National Emergency Messaging Systems initiative from the Portland area. Intel is helping local, State and Federal officials respond to emergencies.

WireX has won international recognition for its Immunix Network Security Solutions. The company was founded by a grant from DARPA in 1998.

Galois Connections designs and develops high confidence software for critical and demanding applications. Its clientele includes the National Security Agency.

Kryptiq builds secure email systems that are built to preserve privacy, as well as the integrity of documents.

Oregon is home to many, many more, including Flatrock, Infotects, Network Associates, Rulespace, TechTracker and True Disk. Some of these companies have persevered and become successful selling products and services that government is using to defend its infrastructure. Many others have developed products, launched companies, and knocked on doors in Washington, trying to find an entry point. Their efforts must be sustained and encouraged.

There are numerous ways to provide that encouragement, and not all of them originate in Washington. It is vital to look at what is working on the local level and nurture it there. It is time to lower the speedbumps. Straighten the curves. Shorten the straightaways. Bring our technological talent quickly to the front lines of this new kind of war.

In Oregon, a coalition of these cybersecurity companies has come together in the wake of 9/11. The Oregon Regional Alliance for Information and Network Security, or Oregon RAINS, is banding together to offer products and services America needs now. These companies are working together to find new ways of navigating the Federal bureaucracy to get their products on the ground.

In my view, the Federal Government should do all it can to be responsive to organizations like Oregon RAINS. Currently, our sluggish bureaucracy often discriminates against small, young and distant vendors. America's enemies won't be defeated solely by the ideas of huge corporations or entrenched government contractors. This country needs the help of smaller, nimble players who are long on passion and talent, but short on expertise about dealing with their Federal Government.

It is essential to eliminate the roadblocks American innovators face. A 20-person company in Beaverton, OR shouldn't have to devote precious resources to hiring lobbyists, making multiple trips to see different people in different agencies, and pursuing expensive and, frankly, frequently obsolete certifications.

Earlier this year I was proud to author the Science and Technology Emergency Mobilization Act, along with my colleague Senator ALLEN, and to see it passed by this Senate. That legislation mandated the creation of a clearinghouse, or single entry point, for technology innovators offering new products for the war on terrorism. I am gratified to see that concept echoed in the Homeland Security legislation sponsored by Senator LIEBERMAN.

My legislation, as well as Senator LIEBERMAN's homeland security bill, also directs the executive branch to establish a national test bed to evaluate new technologies.

In my view, this national test bed could eventually serve as a model for regional test beds. If that little company in Beaverton, OR, could run pilot programs in its backyard, the company could more easily answer questions, deal with challenges and monitor results.

Regional efforts to test new technologies would also increase our likelihood of finding unexpected solutions in unexpected places. Some technology or technique that we couldn't have foreseen might pop up and help us win this war. The beauty of American innovation is that it could just as easily come from a suburban basement, a sparsely furnished loft, or a coalition of small companies as it could from the business-as-usual landscape.

There are other ways the Federal Government can be a better partner to small technology innovators like those in my home State. Accelerating research and public-private technology partnerships through Federal grants. Deepening our cyber-security bench by funding IT education and channeling bright students into those areas. Raising awareness in the general public so that everyone sees the importance of securing this country's infrastructure.

I can assure you that in my home state alone there are a plethora of skilled software engineers and managers who are eager to see their technologies deployed to serve America. The Federal Government needs to partner with them and help them help their neighbors. American lives are at stake.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:39 pm., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 337. Concurrent resolution recognizing the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to baseball and the Nation.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on September 19, 2002, by the President pro tempore (Mr. BYRD):

S. 1834. An act for the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit.

H.R. 4687. An act to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

H.R. 5157. An act to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 337. Concurrent resolution recognizing the teams and players of the Negro Baseball Leagues for their achievements, dedication, sacrifices, and contributions to baseball and the Nation; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 20, 2002, she had presented to the President of the United States the following enrolled bill:

S. 1834. An act for the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 2984. A bill to authorize a project for environmental restoration at Smith Island, Maryland; to the Committee on Environment and Public Works.

By Mr. NELSON of Florida:

S. 2985. A bill to direct the Environmental Protection Agency to provide technical assistance for the cleanup at the site of the first anthrax attack; to the Committee on Environment and Public Works.

By Ms. STABENOW:

S. 2986. A bill to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community, Michigan; to the Committee on Indian Affairs.

By Mr. INOUYE:

S. 2987. A bill to amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. NELSON of Florida:

S. 2988. A bill to provide for the cleanup of the site of the first anthrax attack; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD:

S. Res. 329. A resolution authorizing the Sergeant at Arms and Doorkeeper of the Senate to ascertain and settle claims arising out of anthrax exposure in the Senate complex; considered and agreed to.

By Mr. HATCH (for himself, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CLELAND, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. FEINGOLD, Mr. FITZGERALD, Mr. FRIST, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Mr. LOTT, Ms. MIKULSKI, Mr. MILLER, Mr. MURKOWSKI, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. REID, Mr. ROBERTS, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SHELBY, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. THURMOND, Mr. TORRICELLI, Mr. VOINOVICH, Mr. WYDEN, and Ms. LANDRIEU):

S. Res. 330. A resolution designating the month of October 2002, as "Family History Month"; considered and agreed to.

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. Con. Res. 144. A concurrent resolution expressing the sense of Congress that the President should posthumously award the Presidential Medal of Freedom to Harry W. Colmery; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 710

At the request of Mr. KENNEDY, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 710, a bill to require coverage for colorectal cancer screenings.

S. 969

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 969, a bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

S. 1914

At the request of Mr. KERRY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1914, a bill to amend title 49, United States Code, to provide a mandatory fuel surcharge for transportation provided by certain motor carriers, and for other purposes.

S. 2663

At the request of Mr. BREAUX, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2714

At the request of Mrs. CLINTON, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2714, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002.

S. 2841

At the request of Mr. CORZINE, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2841, a bill to adjust the indexing of multifamily mortgage limits, and for other purposes.

S. 2945

At the request of Mr. WYDEN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2945, to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

S. 2953

At the request of Mr. CAMPBELL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2953, a bill to redesignate the Colonnade Center in Denver, Colorado, as the "Cesar E. Chavez Memorial Building".

S. RES. 307

At the request of Mr. TORRICELLI, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Res. 307, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. CON. RES. 143

At the request of Mr. CHAFEE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. Con. Res. 143, a concurrent resolution designating October 6, 2002, through October 12, 2002, as "National 4-H Youth Development Program Week".

AMENDMENT NO. 4535

At the request of Mr. THOMAS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of amendment No. 4535 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 2984. A bill to authorize a project for environmental restoration at Smith Island, Maryland; to the Committee on Environment and Public Works.

Mr. SARBANES. Mr. President, this measure would authorize the Smith Island, Maryland ecosystem restoration project. Joining me in sponsoring this measure is my colleague Senator MIKULSKI.

Smith Island, is one of the last remaining inhabited islands in the Chesapeake Bay and an area of unique cultural, historical and environmental significance. Because of its location and elevation, it is highly susceptible to the damaging forces of nature. In the past 150 years, more than 3,000 acres of the island have eroded into the Chesapeake Bay. As a consequence, the communities of Ewell, Tylerton and Rhodes Point are seriously threatened, the Federal navigation channels shoal within months after dredging, and habitat and other natural resources are being lost at an alarming rate. Since 1993 alone, the Smith Island vicinity has lost over 2400 acres of Submerged Aquatic Vegetation, SAV ecologically valuable wetlands have also been lost. This habitat is critical to the health of the Bay and the area's fishing and crabbing industry.

Over the years, Senator MIKULSKI and I have worked very closely with the citizens of Smith Island, the Somerset County Commissioners, the U.S. Army Corps of Engineers and other State and Federal resource agencies to address the serious erosion problem and other needs on the island. Among other projects, we secured funding to help protect the eroding shoreline of Tylerton, to dredge the channels and repair of the stone jetties leading into Ewell, which has also helped with the erosion problem in that community, to construct a new sewage treatment facility, and to expedite completion of the Corps of Engineers' feasibility study for Smith Island.

That latter study was completed in May of 2001 and the Chief of Engineers report on this project was transmitted to the Congress in October, 2001. The reports recommend construction of offshore segmented breakwaters and back-filling to create additional wetlands along the coastline of Martin National Wildlife Refuge to stop or reverse the tremendous loss of SAV around parts of Smith Island. The recommended plan is expected to protect approximately 720 acres and restore about 1,400 acres of wetland and SUV habitat. The legislation, which we are introducing today, would authorize construction of this project at a total cost of approximately $7.5 million. It is our hope that this measure will be included as part of a broader package of water resource projects being developed by the Senate Environment and Public Works Committee.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 329—AUTHORIZING THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE TO ASCERTAIN AND SETTLE CLAIMS ARISING OUT OF ANTHRAX EXPOSURE IN THE SENATE COMPLEX

Mr. DODD submitted the following resolution; which was considered and agreed to:

S. RES. 329

Resolved, That (a) the Sergeant at Arms and Doorkeeper of the Senate—

(1) in accordance with such regulations as the Committee on Rules and Administration may prescribe, may consider and ascertain any claim incident to service by a Member, officer, or employee of the Senate for any damage to, or loss of, personal property, for which the Member, officer, or employee has not been reimbursed, resulting from the anthrax incident of October 15, 2001, or the related remediation efforts undertaken from such date through March 15, 2002; and

(2) may, with the approval of the Committee on Rules and Administration and in accordance with the provisions of section 3721 of title 31, United States Code, determine, compromise, adjust, and settle such claim in an amount not exceeding $4,000 per claimant.

(b) Claimants shall file claims pursuant to this resolution with the Sergeant at Arms not later than December 31, 2002.

(c) Any compromise, adjustment, or settlement of any such claim pursuant to this resolution shall be paid from the contingent fund of the Senate on a voucher approved by the chairman of the Committee on Rules and Administration.

SENATE RESOLUTION 330—DESIGNATING THE MONTH OF OCTOBER 2002, AS "FAMILY HISTORY MONTH"

Mr. HATCH (for himself, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CLELAND, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. FEINGOLD, Mr. FITZGERALD, Mr. FRIST, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Mr. LOTT, Ms. MIKULSKI, Mr. MILLER, Mr. MURKOWSKI, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. REID, Mr. ROBERTS, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SHELBY, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. THURMOND, Mr. TORRICELLI, Mr. VOINVOICH, Mr. WYDEN, and Ms. LANDRIEU) submitted the following resolution; which was considered and agreed to:

S. RES. 330

Whereas it is the family, striving for a future of opportunity and hope, that reflects our Nation's belief in community, stability, and love;

Whereas the family remains an institution of promise, reliance, and encouragement;

Whereas we look to the family as an unwavering symbol of constancy that will help us discover a future of prosperity, promise, and potential;

Whereas within our Nation's libraries and archives lie the treasured records that detail the history of our Nation, our States, our communities, and our citizens;

Whereas individuals from across our Nation and across the world have embarked on a genealogical journey by discovering who their ancestors were and how various forces shaped their past;

Whereas an ever-growing number in our Nation and in other nations are collecting, preserving, and sharing genealogies, personal documents, and memorabilia that detail the life and times of families around the world;

Whereas 54,000,000 individuals belong to a family where someone in the family has used the Internet to research their family history;

Whereas individuals from across our Nation and across the world continue to research their family heritage and its impact upon the history of our Nation and the world;

Whereas approximately 60 percent of Americans have expressed an interest in tracing their family history;

Whereas the study of family history gives individuals a sense of their heritage and a sense of responsibility in carrying out a legacy that their ancestors began;

Whereas as individuals learn about their ancestors who worked so hard and sacrificed so much, their commitment to honor their ancestors' memory by doing good is increased;

Whereas interest in our personal family history transcends all cultural and religious affiliations;

Whereas to encourage family history research, education, and the sharing of knowledge is to renew the commitment to the concept of home and family; and

Whereas the involvement of National, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support, and participation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2002, as "Family History Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

SENATE CONCURRENT RESOLUTION 144—EXPRESSING THE SENSE OF CONGRESS THAT THE PRESIDENT SHOULD POSTHUMOUSLY AWARD THE PRESIDENTIAL MEDAL OF FREEDOM TO HARRY W. COLMERY

Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

Whereas the life of Harry W. Colmery of Topeka, Kansas, was marked by service to his country and its citizens;

Whereas Harry Colmery earned a degree in law in 1916 from the University of Pittsburgh and, through his practice of law, contributed to the Nation, notably by successfully arguing two significant cases before the United States Supreme Court, one criminal, the other an environmental legal dispute;

Whereas during World War I, Harry Colmery joined the Army Air Service, serving as a first lieutenant at a time when military aviation was in its infancy;

Whereas after World War I, Harry Colmery actively contributed to the growth of the newly formed American Legion and went on to hold several offices in the Legion and was elected National Commander in 1936;

Whereas in 1943, the United States faced the return from World War II of what was to become an active duty force of 15,000,000 soldiers, sailors, airmen, and Marines;

Whereas Harry Colmery, recognizing the potential effect of the return of such a large number of veterans to civilian life, set out to craft legislation seeking to ensure that these Americans who had fought for the democratic ideals of the Nation and to preserve freedom would be able to fully participate in all of the opportunities the Nation provided;

Whereas in December 1943, Harry Colmery crafted the initial draft of the legislation that became the Servicemen's Readjustment Act of 1944, also known as the GI Bill of Rights;

Whereas the GI Bill of Rights is credited by veterans' service organizations, economists, and historians as the engine that transformed postwar America into a more egalitarian, prosperous, and enlightened Nation poised to lead the world in the 21st century;

Whereas since its enactment, the GI Bill of Rights has provided education or training for approximately 7,800,000 men and women, including 2,200,000 in college, 3,400,000 in other schools, 1,400,000 in vocational education, and 690,000 in farm training;

Whereas as a result of the benefits available to veterans through the initial GI Bill, the Nation gained over 800,000 professionals as the GI Bill transformed these veterans into 450,000 engineers, 238,000 teachers, 91,000 scientists, 67,000 doctors, and 22,000 dentists;

Whereas 2,100,000 World War II veterans purchased homes through the GI Bill;

Whereas President Truman established the Presidential Medal of Freedom in 1945 to recognize notable service during war and in 1963 President Kennedy reinstated the medal to honor the achievement of civilians during peacetime;

Whereas pursuant to Executive Order 11085, the Medal of Freedom may be awarded to any person who has made an especially meritorious contribution to "(1) the security or national interests of the United States, or (2) world peace, or (3) cultural or other significant public or private endeavors"; and

Whereas Harry Colmery, noted for his service in the military, in the legal sector, and on behalf of the Nation's veterans, clearly meets the criteria established for the Presidential Medal of Freedom: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President should posthumously award the Presidential Medal of Freedom to Harry W. Colmery of Topeka, Kansas.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4695. Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4696. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H .R. 5005, supra; which was ordered to lie on the table.

SA 4697. Mr. BYRD (for Mr. BIDEN) proposed an amendment to the bill H.R. 2121, An Act to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society and independent media in that country.

TEXT OF AMENDMENTS

SA 4695. Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. HARKIN, Mr. LUGAR, and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 347, after line 5, add the following:

DIVISION D—EXEMPT COMMODITIES TRANSACTIONS

SEC. 3101. SHORT TITLE.

This division may be cited as the "Exempt Commodities Transactions Act".

SEC. 3102. OFF-EXCHANGE TRANSACTIONS IN EXEMPT COMMODITIES.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking subsections (g) and (h) and inserting the following:

"(g) OFF-EXCHANGE TRANSACTIONS IN EXEMPT COMMODITIES.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED ENTITY.—The term 'covered entity' means—

"(i) an electronic trading facility; and

"(ii) a dealer market.

"(B) DEALER MARKET.—

"(i) IN GENERAL.—The term 'dealer market' has the meaning given the term by the Commission.

"(ii) INCLUSIONS.—The term 'dealer market' includes each bilateral or multilateral agreement, contract, or transaction determined by the Commission, regardless of the means of execution of the agreement, contract, or transaction.

"(2) EXEMPTION FOR TRANSACTIONS NOT ON TRADING FACILITIES.—Except as provided in paragraph (4), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that—

"(A) is entered into solely between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction; and

"(B) is not entered into on a trading facility.

"(3) EXEMPTION FOR TRANSACTIONS ON COVERED ENTITIES.—Except as provided in paragraphs (4), (5), and (6), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that is—

"(A) entered into on a principal-to-principal basis solely between persons that are eligible contract participants at the time at which the persons enter into the agreement, contract, or transaction; and

"(B) executed or traded on a covered entity.

"(4) REGULATORY AND OVERSIGHT REQUIREMENTS.—

"(A) IN GENERAL.—An agreement, contract, or transaction described in paragraph (2) or (3) (and the covered entity on which the agreement, contract, or transaction is executed) shall be subject to—

"(i) sections 5b, 12(e)(2)(B), and 22(a)(4);

"(ii) the provisions relating to manipulation and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2);

"(iii) the provisions relating to fraud and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, and 8a; and

"(iv) in the case of a transaction or covered entity performing a significant pricing or price discovery function for transactions in the cash market for the underlying commodity, the requirements (to the extent the Commission determines appropriate by regulation) that—

"(I) notice be provided to the Commission in such form as the Commission may require;

"(II)(aa) reports be filed with the Commission (including large trader position reports); and

"(bb) timely dissemination of price, trading volume, and other trading data be provided; and

"(III) consistent with section 4i, books and records be maintained relating to each transaction in such form as the Commission may require for a period of at least 5 years after the date of the transaction.

"(B) TRANSACTIONS EXEMPTED BY COMMISSION ACTION.—Notwithstanding any exemption by the Commission under section 4(c), an agreement, contract, or transaction described in paragraph (2) or (3) shall be subject to the authorities in clauses (i), (ii), and (iii) of subparagraph (A).

"(5) COVERED ENTITIES.—An agreement, contract, or transaction described in paragraph (3) and the covered entity on which the agreement, contract, or transaction is executed, shall be subject to (to the extent the Commission determines appropriate)—

"(A) section 5a, to the extent provided in section 5a(g)) and 5d;

"(B) consistent with section 4i, a requirement that books and records relating to the business of the covered entity on which the agreement, contract, or transaction is executed be made available to representatives of the Commission and the Department of Justice for inspection for a period of at least 5 years after the date of each transaction, including—

"(i) information relating to data entry and transaction details sufficient to enable the Commission to reconstruct trading activity on the covered entity; and

"(ii) the name and address of each participant on the covered entity authorized to enter into transactions; and

"(C) a requirement that information on volume, settlement price, open interest, opening and closing ranges, and any other information that the Commission determines to be appropriate for public disclosure be made available to the public on a daily basis, except that the Commission shall not—

"(i) require the real-time publication of proprietary information; or

"(ii) prohibit the commercial sale of real-time proprietary information.

"(6) NOTIFICATION, DISCLOSURES, AND OTHER REQUIREMENTS FOR COVERED ENTITIES.—A covered entity subject to the exemption under paragraph (3) shall (to the extent the Commission determines appropriate)—

"(A) notify the Commission of the intention of the covered entity to operate as a covered entity subject to the exemption under paragraph (3), which notice shall include—

"(i) the name and address of the covered entity and a person designated to receive communications from the Commission;

"(ii) the commodity categories that the covered entity intends to list or otherwise make available for trading on the covered entity in reliance on the exemption under paragraph (3);

"(iii) certifications that—

"(I) no executive officer or member of the governing board of, or any holder of a 10 percent or greater equity interest in, the covered entity is a person described in any of subparagraphs (A) through (H) of section 8a(2);

"(II) the covered entity will comply with the conditions for exemption under this subsection; and

"(III) the covered entity will notify the Commission of any material change in the information previously provided by the covered entity to the Commission under this paragraph; and

"(iv) the identity of any derivatives clearing organization to which the covered entity transmits or intends to transmit transaction data for the purpose of facilitating the clearance and settlement of transactions conducted on the covered entity subject to the exemption under paragraph (3);

"(B)(i) provide the Commission with access to the trading protocols of the covered entity and electronic access to the covered entity with respect to transactions conducted in reliance on the exemption under paragraph (3); and

"(ii) on special call by the Commission, provide to the Commission, in a form and manner and within the period specified in the special call, such information relating to the business of the covered entity as a covered entity exempt under paragraph (3), including information relating to data entry and transaction details with respect to transactions entered into in reliance on the exemption under paragraph (3), as the Commission may determine appropriate—

"(I) to enforce the provisions specified in paragraph (4);

"(II) to evaluate a systemic market event; or

“(III) to obtain information requested by a Federal financial regulatory authority to enable the authority to fulfill the regulatory or supervisory responsibilities of the authority;

“(C)(i) on receipt of any subpoena issued by or on behalf of the Commission to any foreign person that the Commission believes is conducting or has conducted transactions in reliance on the exemption under paragraph (3) on or through the covered entity relating to the transactions, promptly notify the foreign person of, and transmit to the foreign person, the subpoena in a manner that is reasonable under the circumstances, or as specified by the Commission; and

“(ii) if the Commission has reason to believe that a person has not timely complied with a subpoena issued by or on behalf of the Commission under clause (i), and the Commission in writing directs that a covered entity relying on the exemption under paragraph (3) deny or limit further transactions by the person, deny that person further trading access to the covered entity or, as applicable, limit that access of the person to the covered entity for liquidation trading only;

“(D) comply with the requirements of this subsection applicable to the covered entity and require that each participant, as a condition of trading on the covered entity in reliance on the exemption under paragraph (3), agree to comply with all applicable law;

“(E) certify to the Commission that the covered entity has a reasonable basis for believing that participants authorized to conduct transactions on the covered entity in reliance on the exemption under paragraph (3) are eligible contract participants;

“(F) maintain sufficient capital, commensurate with the risk associated with the transaction; and

“(G) not represent to any person that the covered entity is registered with, or designated, recognized, licensed, or approved by the Commission.

“(7) Hearing.—A person named in a subpoena referred to in paragraph (6)(C) that believes the person is or may be adversely affected or aggrieved by action taken by the Commission under this subsection, shall have the opportunity for a prompt hearing after the Commission acts under procedures that the Commission shall establish by rule, regulation, or order.

“(8) Private regulatory organizations.—

“(A) Delegation of functions under core principles.—A covered entity may comply with any core principle under subparagraph (B) that is applicable to the covered entity through delegation of any relevant function to—

“(i) a registered futures association under section 17; or

“(ii) another registered entity.

“(B) Core principles.—The Commission may establish core principles requiring a covered entity to monitor trading to—

“(i) prevent fraud and manipulation;

“(ii) prevent price distortion and disruptions of the delivery or cash settlement process;

“(iii) ensure that the covered entity has adequate financial, operational, and managerial resources to discharge the responsibilities of the covered entity; and

“(iv) ensure that all reporting, recordkeeping, notice, and registration requirements under this subsection are discharged in a timely manner.

“(C) Responsibility.—A covered entity that delegates a function under subparagraph (A) shall remain responsible for carrying out the function.

“(D) Noncompliance.—If a covered entity that delegates a function under subparagraph (A) becomes aware that a delegated function is not being performed as required under this Act, the covered entity shall promptly take action to address the noncompliance.

“(E) Violation of core principles.—

“(i) In general.—If the Commission determines, on the basis of substantial evidence, that a covered entity is violating any applicable core principle specified in subparagraph (B), the Commission shall—

“(I) notify the covered entity in writing of the determination; and

“(II) afford the covered entity an opportunity to make appropriate changes to bring the covered entity into compliance with the core principles.

“(ii) Failure to make changes.—If, not later than 30 days after receiving a notification under clause (i)(I), a covered entity fails to make changes that, as determined by the Commission, are necessary to comply with the core principles, the Commission may take further action in accordance with this Act.

“(F) Reservation of emergency authority.—Nothing in this paragraph limits or affects the emergency powers of the Commission provided under section 8a(9).

“(9) No effect on other authority.—This subsection shall not affect the authority of the Federal Energy Regulatory Commission to regulate an agreement, contract, or transaction under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C 717 et seq.).”.

SEC. 3103. FRAUDULENT TRANSACTIONS PROHIBITED.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

“(a) Prohibition.—It shall be unlawful for any person, directly or indirectly, in or in connection with any account, or any offer to enter into, the entry into, or the confirmation of the execution of, any agreement, contract, or transaction subject to this Act—

“(1) to cheat or defraud or attempt to cheat or defraud any person;

“(2) willfully to make or cause to be made to any person any false report or statement, or willfully to enter or cause to be entered for any person any false record;

“(3) willfully to deceive or attempt to deceive any person by any means whatsoever; or

“(4) except as permitted in written rules of a registered entity—

“(A) to bucket an order;

“(B) to fill an order by offset against the 1 or more orders of another person; or

“(C) willfully and knowingly, for or on behalf of any other person and without the prior consent of the person, to become—

“(i) the buyer with respect to any selling order of the person; or

“(ii) the seller with respect to any buying order of the person.”.

SEC. 3104. FERC LIAISON.

Section 2(a)(9) of the Commodity Exchange Act (7 U.S.C. 2(a)(9)) is amended by adding at the end the following:

“(C) Liaison with Federal Energy Regulatory Commission.—The Commission shall, in cooperation with the Federal Energy Regulatory Commission, maintain a liaison between the Commission and the Federal Energy Regulatory Commission.”.

SEC. 3105. CRIMINAL AND CIVIL PENALTIES.

(a) Enforcement Powers of Commission.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the tenth sentence—

(1) by inserting “(A)” after “assess such person”; and

(2) by inserting after “each such violation” the following: “, or (B) in any case of manipulation of, or attempt to manipulate, the price of any commodity, a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to such person for each such violation,”.

(b) Manipulations or Other Violations.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence—

(1) by striking “paragraph (a) or (b) of section 9 of this Act” and inserting “subsection (a), (b), or (f) of section 9”; and

(2) by striking “said paragraph 9(a) or 9(b)” and inserting “subsection (a), (b), or (f) of section 9”.

(c) Nonenforcement of Rules of Government or Other Violations.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence—

(A) by inserting “section 2(g)(8),” after “sections 5 through 5c,”; and

(B) by inserting before the period at the end the following: “, or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than $1,000,000 for each such violation”; and

(2) in the second sentence, by inserting before the period at the end the following: “, except that if the failure or refusal to obey or comply with the order involved any offense under section 9(f), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)”.

(d) Action to Enjoin or Restrain Violations.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a–1(d)) is amended by striking “(d)” and all that follows through the end of paragraph (1) and inserting the following:

“(d) Civil Penalties.—

“(1) In general.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

“(A) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

“(B) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.”.

(e) Violations Generally.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by redesignating subsection (f) as subsection (e); and

(2) by adding at the end the following:

“(f) Price Manipulation.—It shall be a felony punishable by a fine of not more than $1,000,000 for each violation or imprisonment for not more than 10 years, or both, together with the costs of prosecution, for any person—

“(1) to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity;

“(2) to corner or attempt to corner any such commodity;

“(3) knowingly to deliver or cause to be delivered (for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication) false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce; or

"(4) knowingly to violate section 4 or 4b, any of subsections (a) through (e) of subsection 4c, or section 4h, 4o(1), or 19.".

SEC. 3106. FEDERAL ENERGY REGULATORY COMMISSION REVIEW OF ENERGY TRADING MARKETS.

Section 402 of the Department of Energy Organization Act (42 U.S.C. 7172) is amended by adding at the end the following:

"(i) REVIEW OF DERIVATIVES TRANSACTIONS.—

"(1) IN GENERAL.—To the extent that the Commission determines that any contract that comes before the Commission is not under the jurisdiction of the Commission, the Commission shall refer the contract to the appropriate Federal agency.

"(2) MEETINGS.—A designee of the Commission shall meet quarterly with a designee of the Commodity Futures Trading Commission, the Securities Exchange Commission, the Department of the Treasury, and the Federal Reserve Board to discuss—

"(A) conditions and events in energy trading markets; and

"(B) any changes in Federal law (including regulations) that may be appropriate to regulate energy trading markets.

"(3) LIAISON.—The Commission shall, in cooperation with the Commodity Futures Trading Commission, maintain a liaison between the Commission and the Commodity Futures Trading Commission.".

SEC. 3107. CONFORMING AMENDMENTS.

(a) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in subsection (d)(1), by striking "section 5b" and inserting "section 5a(g), 5b,";

(2) in subsection (e)—

(A) in paragraph (1), by striking ", 2(g), or 2(h)(3)"; and

(B) in paragraph (3), by striking "2(h)(5)" and inserting "2(g)(6)";

(3) by redesignating subsection (i) as subsection (h); and

(4) in subsection (h) (as redesignated by paragraph (3)); and

(A) in paragraph (1)—

(i) by striking "No provision" and inserting "IN GENERAL.—Subject to subsection (g), no provision"; and

(ii) in subparagraph (A)—

(I) by striking "section 2(c), 2(d), 2(e), 2(f), or 2(g) of this Act" and inserting "subsection (c), (d), (e), or (f)"; and

(II) by striking "section 2(h)" and inserting "subsection (g)"; and

(B) in paragraph (2), by striking "No provision" and inserting "IN GENERAL.—Subject to subsection (g), no provision".

(b) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting ", or pursuant to an exemption under section 4(c)" after "transaction execution facility".

(c) Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended—

(1) by inserting "or covered entity under section 2(g)" after "direct the contract market";

(2) by striking "on any futures contract"; and

(3) by inserting "or covered entity under section 2(g)" after "given by a contract market".

SA 4696. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, between lines 3 and 4, insert the following:

(4) OPERATIONAL TEST AND EVALUATION.—

(A) PRINCIPAL OFFICIAL FOR OPERATIONAL TEST AND EVALUATION.—The Under Secretary is the official within the Department who, under the Secretary, is responsible for operational test and evaluation activities of the Department. As such, the Under Secretary is the principal adviser to the Secretary regarding such activities and shall carry out the duties set forth in the other provisions of this paragraph subject to the authority, direction, and control of the Secretary.

(B) POLICIES AND PROCEDURES.—The Under Secretary shall prescribe policies and procedures for the conduct of operational test and evaluation activities of the Department.

(C) MONITORING AND REVIEW.—The Under Secretary shall monitor and review the conduct of operational test and evaluation activities of the Department. The Under Secretary shall require prompt reports on the conduct of such activities.

(D) COORDINATION.—The Under Secretary shall coordinate operational test and evaluation that is carried out jointly by two or more Under Secretaries of Homeland Security.

(E) FINANCIAL MANAGEMENT.—The Under Secretary shall review all matters relating to the budget and financial management for operational test and evaluation by the Department and submit to the Secretary any recommendations that the Under Secretary determines appropriate regarding such matters.

(F) ACCESS TO INFORMATION.—The Under Secretary shall have access to any records and other information of the Department that the Under Secretary determines necessary to carry of the duties of the position under this paragraph.

(G) ANNUAL REPORT TO CONGRESS.—Not later than February 15 of each year, the Under Secretary shall submit to Congress a report on the conduct of operational test and evaluation activities of the Department during the fiscal year ending in the preceding year. The report shall include an assessment of the overall strength and effectiveness of the operational test and evaluation infrastructure of the Department and, for each major system subjected to operational test and evaluation during the fiscal year covered by the report, the following information:

(i) SYSTEM MISSION.—The mission of the major system.

(ii) BACKGROUND SYSTEM INFORMATION.—Background technical and programmatic information on the major system.

(iii) TEST AND EVALUATION ACTIVITIES.—A discussion of the operational test and evaluation conducted on the major system during such fiscal year.

(iv) OPERATIONAL EFFECTIVENESS ASSESSMENT.—An assessment of the operational effectiveness of the major system, as determined on the basis of the results of the operational test and evaluation.

(H) DEFINITIONS.—In this paragraph:

(i) MAJOR SYSTEM.—The term "major system" has the meaning given such term in section 4(9) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(9)).

(ii) OPERATIONAL TEST AND EVALUATION.—The term "operational test and evaluation" means a test, under realistic combat conditions, of any item (or key component) of a technology, of a device, or of equipment for the purpose of determining the effectiveness and suitability of the technology, device, or equipment for use by typical users to meet homeland security needs or objectives, together with an evaluation of the results of such test.

(I) GAO REPORT.—Not later than two years after the effective date of this division, the Comptroller General shall submit to Congress a report on the administration of operational test and evaluation within the Department. The report shall include a discussion of the implementation of this paragraph, together with any recommendations for improvement of the implementation of this section that the Comptroller General considers appropriate. Effective 90 days after the date on which the report under this section is due, this subparagraph is repealed.

On page 91, beginning on line 9, strike "(h) OFFICE FOR TECHNOLOGY EVALUATION AND TRANSITION.—" and insert "(h) OFFICE FOR TESTING, EVALUATION, AND TRANSITION.—".

On page 91, beginning on line 14, strike "Office for Technology Evaluation and Transition" and insert "Office for Testing, Evaluation, and Transition".

On page 91, between lines 16 and 17, insert "(A) carry out the duties of the Under Secretary with respect to operational test and evaluation;".

On page 92, line 11, insert "(except for the function described in paragraph (2)(A))" after "The functions described under this subsection".

SA 4697. Mr. BYRD (for Mr. BIDEN) proposed an amendment to the bill H.R. 2121, An Act to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society and independent media in that country; as follows:

At the appropriate place in the bill insert the following:

SEC. . PRESERVING THE ARCHIVES OF HUMAN RIGHTS ACTIVIST AND NOBEL PEACE PRIZE WINNER ANDREI SAKHAROV.

(a) AUTHORIZATION.—The President is authorized, on such terms and conditions as the President determines to be appropriate, to make a grant to Brandeis University for an endowment for the Andrei Sakharov Archives and Human Rights Center for the purpose of collecting and preserving documents related to the life of Andrei Sakharov and the administration of such Center.

(b) FUNDING.—There is authorized to be appropriated to the President to carry out subsection (a) not more than $1,500,000.

SEC. . EXTENSION OF LAW.

The provisions of section 108(c) of H.R. 3427, as enacted by section 1000(a)(7) of P.L. 106–113, shall apply to U.S. contributions for fiscal year 2003 to the organization described in section 108(c) of H.R. 3427.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, September 20, 2002 at 10:00 a.m. and 2:30 p.m. to hold a joint open hearing with the House Permanent Select Committee on Intelligence regarding the Joint Inquiry into the events of September 11, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING SERGEANT AT ARMS AND DOORKEEPER OF SENATE TO ASCERTAIN AND SETTLE CLAIMS ARISING OUT OF ANTHRAX EXPOSURE

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of S. Res. 329 submitted earlier today by Senator DODD.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 329) authorizing the Sergeant at Arms and Doorkeeper of the Senate to ascertain and settle claims arising out of anthrax exposure in the Senate complex.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, en bloc, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 329) was agreed to as follows:

S. RES. 329

Resolved, That (a) the Sergeant at Arms and Doorkeeper of the Senate—

(1) in accordance with such regulations as the Committee on Rules and Administration may prescribe, may consider and ascertain any claim incident to service by a Member, officer, or employee of the Senate for any damage to, or loss of, personal property, for which the Member, officer, or employee has not been reimbursed, resulting from the anthrax incident of October 15, 2001, or the related remediation efforts undertaken from such date through March 15, 2002; and

(2) may, with the approval of the Committee on Rules and Administration and in accordance with the provisions of section 3721 of title 31, United States Code, determine, compromise, adjust, and settle such claim in an amount not exceeding $4,000 per claimant.

(b) Claimants shall file claims pursuant to this resolution with the Sergeant at Arms not later than December 31, 2002.

(c) Any compromise, adjustment, or settlement of any such claim pursuant to this resolution shall be paid from the contingent fund of the Senate on a voucher approved by the chairman of the Committee on Rules and Administration.

FAMILY HISTORY MONTH

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 330.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 330) designating the month of October 2002, as "Family History Month".

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution and preamble be agreed to, the motion to reconsider be laid on the table, and that any statements pertaining thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 330) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 330), with its preamble, reads as follows:

S. RES. 330

Whereas it is the family, striving for a future of opportunity and hope, that reflects our Nation's belief in community, stability, and love;

Whereas the family remains an institution of promise, reliance, and encouragement;

Whereas we look to the family as an unwavering symbol of constancy that will help us discover a future of prosperity, promise, and potential;

Whereas within our Nation's libraries and archives lie the treasured records that detail the history of our Nation, our States, our communities, and our citizens;

Whereas individuals from across our Nation and across the world have embarked on a genealogical journey by discovering who their ancestors were and how various forces shaped their past;

Whereas an ever-growing number in our Nation and in other nations are collecting, preserving, and sharing genealogies, personal documents, and memorabilia that detail the life and times of families around the world;

Whereas 54,000,000 individuals belong to a family where someone in the family has used the Internet to research their family history;

Whereas individuals from across our Nation and across the world continue to research their family heritage and its impact upon the history of our Nation and the world;

Whereas approximately 60 percent of Americans have expressed an interest in tracing their family history;

Whereas the study of family history gives individuals a sense of their heritage and a sense of responsibility in carrying out a legacy that their ancestors began;

Whereas as individuals learn about their ancestors who worked so hard and sacrificed so much, their commitment to honor their ancestors' memory by doing good is increased;

Whereas interest in our personal family history transcends all cultural and religious affiliations;

Whereas to encourage family history research, education, and the sharing of knowledge is to renew the commitment to the concept of home and family; and

Whereas the involvement of National, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support, and participation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2002, as "Family History Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 1035, 1036, 1039 and the nominations on the Secretary's desk; that the nominations be confirmed; the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and that any statements relating thereto be printed in the RECORD; and that the Senate then resume legislative session, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NOMINATIONS

COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under Title 14, U.S.C., Section 271:

To be rear admiral (lower half)

Capt. Jody A. Breckenridge, 6724
Capt. John E. Crowley, 5694
Capt. Larry L. Hereth, 6731
Capt. Richard R. Houck, 0136
Capt. Clifford I. Pearson, 4808
Capt. James C. Van Sice, 3714

The following named officer for appointment to the grade indicated in the United States Coast Guard under Title 14, U.S. Code, Section 211:

To be Rear Admiral Lower Half

Stephen W. Rochon, 4866

DEPARTMENT OF JUSTICE

Antonio Candia Amador, of California, to be United States Marshal for the Eastern District of California for the term of four years, vice Jerry J. Enomoto.

PN2162 Coast Guard nomination of David C. Clippinger, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 2002

PN2161 Coast Guard nominations (59) beginning Christine D Balboni, and ending Steven E Vanderplas, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 2002

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR MONDAY, SEPTEMBER 23, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2:30 p.m., Monday, September 23; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 3:30, with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of Senator LOTT or his designee and the second half under the control of Senator DASCHLE or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, on Monday, the Senate will resume consideration of the Interior Appropriations Act. The next rollcall votes will occur on Monday at about 5:30 in relation to the Dodd amendment to the Interior Appropriations Act, and on cloture on the Byrd substitute amendment to the Interior appropriations bill.

ORDER FOR ADJOURNMENT

Mr. REID. If there is no further business now to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of the Senator from West Virginia, Mr. BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAYH). Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the parliamentary situation at the moment?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BYRD. Is there an order permitting Senators to speak during morning business?

The PRESIDING OFFICER. The previous order is for 10 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed out of order for as much time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I do not expect to speak overly long. I think I should be able to complete my statement in 20 minutes.

HOW SADDAM HAPPENED

Mr. BYRD. Mr. President, yesterday, at a hearing of the Senate Armed Services Committee, I asked a question of the Secretary of Defense. I referred to a Newsweek article that will appear in the September 23, 2002, edition. That article reads as follows. It is not overly lengthy. I shall read it. Beginning on page 35 of Newsweek, here is what the article says:

> America helped make a monster. What to do with him—and what happens after he is gone—has haunted us for a quarter century.

The article is written by Christopher Dickey and Evan Thomas. It reads as follows:

> The last time Donald Rumsfeld saw Saddam Hussein, he gave him a cordial handshake. The date was almost 20 years ago, Dec. 20, 1983; an official Iraqi television crew recorded the historic moment.
>
> The once and future Defense secretary, at the time a private citizen, had been sent by President Ronald Reagan to Baghdad as a special envoy. Saddam Hussein, armed with a pistol on his hip, seemed "vigorous and confident," according to a now declassified State Department cable obtained by Newsweek. Rumsfeld "conveyed the President's greetings and expressed his pleasure at being in Baghdad," wrote the notetaker. Then the two men got down to business, talking about the need to improve relations between their two countries.
>
> Like most foreign-policy insiders, Rumsfeld was aware that Saddam was a murderous thug who supported terrorists and was trying to build a nuclear weapon. (The Israelis had already bombed Iraq's nuclear reactor at Osirak.) But at the time, America's big worry was Iran, not Iraq. The Reagan administration feared that the Iranian revolutionaries who had overthrown the shah (and taken hostage American diplomats for 444 days in 1979–81) would overrun the Middle East and its vital oilfields. On the—theory that the enemy of my enemy is my friend, the Reaganites were seeking to support Iraq in a long and bloody war against Iran. The meeting between Rumsfeld and Saddam was consequential: for the next five years, until Iran finally capitulated, the United States backed Saddam's armies with military intelligence, economic aid and covert supplies of munitions.
>
> Rumsfeld is not the first American diplomat to wish for the demise of a former ally. After all, before the cold war, the Soviet Union was America's partner against Hitler in World War II. In the real world, as the saying goes, nations have no permanent friends, just permanent interests. Nonetheless, Rumsfeld's long-ago interlude with Saddam is a reminder that today's friend can be tomorrow's mortal threat. As President George W. Bush and his war cabinet ponder Saddam's successor's regime, they would do well to contemplate how and why the last three presidents allowed the Butcher of Baghdad to stay in power so long.
>
> The history of America's relations with Saddam is one of the sorrier tales in American foreign policy. Time and again, America turned a blind eye to Saddam's predations, saw him as the lesser evil or flinched at the chance to unseat him. No single policymaker or administration deserves blame for creating, or at least tolerating, a monster; many of their decisions seemed reasonable at the time. Even so, there are moments in this clumsy dance with the Devil that make one cringe. It is hard to believe that, during most of the 1980s, America knowingly permitted the Iraq Atomic Energy Commission to import bacterial cultures that might be used to build biological weapons.

Let me read that again:

> It is hard to believe that, during most of the 1980s, America knowingly permitted the Iraq Atomic Energy Commission to import bacterial cultures that might be used to build biological weapons. But it happened.
>
> America's past stumbles, while embarrassing, are not an argument for inaction in the future. Saddam probably is the "grave and gathering danger" described by President Bush in his speech to the United Nations last week. It may also be true that "whoever replaces Saddam is not going to be worse," as a senior administration official put it to Newsweek. But the story of how America helped create a Frankenstein monster it now wishes to strangle is sobering. It illustrates the power of wishful thinking, as well as the iron law of unintended consequences.
>
> America did not put Saddam in power. He emerged after two decades of turmoil in the '60s and '70s, as various strongmen tried to gain control of a nation that had been concocted by British imperialists in the 1920s out of three distinct and rival factions, the Sunnis, Shiites and the Kurds. But during the cold war, America competed with the Soviets for Saddam's attention and welcomed his war with the religious fanatics of Iran. Having cozied up to Saddam, Washington found it hard to break away—even after going to war with him in 1991. Through years of both tacit and overt support, the West helped create the Saddam of today, giving him time to build deadly arsenals and dominate his people. Successive administrations always worried that if Saddam fell, chaos would follow, rippling through the region and possibly igniting another Middle East war. At times it seemed that Washington was transfixed by Saddam.
>
> The Bush administration wants to finally break the spell. If the administration's true believers are right, Baghdad, after Saddam falls will look something like Paris after the Germans fled in August 1944. American troops will be cheered as liberators, and democracy will spread forth and push Middle Eastern despotism back into the shadows. Yet if the gloomy predictions of the administration's many critics come true, the Arab street, inflamed by Yankee imperialism, will rise up and replace the shaky but friendly autocrats in the region with Islamic fanatics.
>
> While the Middle East is unlikely to become a democratic nirvana, the worst-case scenarios, always a staple of the press, are probably also wrong or exaggerated. Assuming that a cornered and doomed Saddam does not kill thousands of Americans in some kind of horrific Gotterdammerung—a scary possibility, one that deeply worries administration officials—the greatest risk of his fall is that one strongman may simply be replaced by another. Saddam's successor may not be a paranoid sadist. But there is no assurance that he will be America's friend or forswear the development of weapons of mass destruction.
>
> American officials have known that Saddam was a psychopath—

Get that.

> American officials have known that Saddam was a psychopath ever since he became the country's de facto ruler in the early 1970s. One of Saddam's early acts after he took the title of president in 1979 was to videotape a session of his party's congress, during which he personally ordered several members executed on the spot.

Let me repeat that:

> American officials have known that Saddam was a psychopath ever since he became the country's de facto ruler in the early 1970s. One of Saddam's early acts after he took the title of president in 1979 was to videotape—

Videotape—

> a session of his party's congress, during which he personally ordered several members executed on the spot.
>
> The message, carefully conveyed to the Arab press, was not that these men were executed for plotting against Saddam, but rather for thinking about plotting against him. From the beginning, U.S. officials worried about Saddam's taste for nasty weaponry; indeed, at their meeting in 1983, Rumsfeld warned that Saddam's use of chemical weapons might "inhibit" American assistance. But top officials in the Reagan administration saw Saddam as a useful surrogate. By going to war with Iran, he could bleed the radical mullahs who had seized control of Iran from the pro-American shah. Some Reagan officials even saw Saddam as another Anwar Sadat, capable of making Iraq into a modern secular state, just as Sadat had tried to lift up Egypt before his assassination in 1981.
>
> But Saddam had to be rescued first. The war against Iran was going badly by 1982. Iran's "human wave attacks" threatened to overrun Saddam's armies. Washington decided to give Iraq a helping hand.
>
> After Rumsfeld's visit to Baghdad in 1983, U.S. intelligence began supplying the Iraqi dictator with satellite photos showing Iranian deployments. Offfcial documents suggest that America may also have secretly arranged for tanks and other military hardware to be shipped to Iraq in a swap deal—American tanks to Egypt, Egyptian tanks to Iraq. Over the protest of some Pentagon skeptics, the Reagan administration began allowing the Iraqis to buy a wide variety of "dual use" equipment and materials from American suppliers. According to confidential Commerce Department export-control documents obtained by NEWSWEEK, the shopping list included a computerized database for Saddam's Interior Ministry (presumably to help keep track of political opponents); helicopters to transport Iraqi officials; television cameras for "video surveillance applications"; chemical-analysis equipment for the Iraq Atomic Energy Commission (IAEC), and, most unsettling, numerous shipments of "bacteria/fungi/protozoa" to the IAEC. According to former officials, the bacterial cultures could be used to make biological weapons, including anthrax. The State Department also approved the shipment of 1.5 million atropine injectors, for use against the effects of chemical weapons, but the Pentagon blocked the sale. The helicopters, some American officials later surmised, were used to spray poison gas on the Kurds.
>
> The United States almost certainly knew from its own satellite imagery that Saddam was using chemical weapons against Iranian troops. When Saddam bombed Kurdish rebels and civilians with a lethal cocktail of mustard gas, sarin, tabun and VX in 1988, the Reagan administration first blamed Iran, before acknowledging, under pressure from congressional Democrats, that the culprits were Saddam's own forces. There was only token official protest at the time. Saddam's men were unfazed. An Iraqi audiotape, later captured by the Kurds, records Saddam's cousin Ali Hassan al-Majid (known as Ali Chemical) talking to his fellow officers about gassing the Kurds. "Who is going to say anything?" he asks. "The international community? F——k them!"
>
> The United States was much more concerned with protecting Iraqi oil from attacks by Iran as it was shipped through the Persian Gulf. In 1987, an Iraqi Exocet missile hit an American destroyer, the USS Stark, in the Persian Gulf, killing 37 crewmen. Incredibly, the United States excused Iraq for making an unintentional mistake and instead used the incident to accuse Iran of escalating the war in the gulf. The American tilt to Iraq became more pronounced. U.S. commandos began blowing up Iranian oil platforms and attacking Iranian patrol boats. In 1988, an American warship in the gulf accidentally shot down an Iranian Airbus, killing 290 civilians. Within a few weeks, Iran, exhausted and fearing American intervention, gave up its war with Iraq.
>
> Saddam was feeling cocky. With the support of the West, he had defeated the Islamic revolutionaries in Iran. America favored him as a regional pillar; European and American corporations were vying for contracts with Iraq. He was visited by congressional delegations led by Sens. Bob Dole of Kansas and Alan Simpson of Wyoming, who were eager to promote American farm and business interests. But Saddam's megalomania was on the rise, and he overplayed his hand. In 1990, a U.S. Customs sting operation snared several Iraqi agents who were trying to buy electronic equipment used to make triggers for nuclear bombs. Not long after, Saddam gained the world's attention by threatening "to burn Israel to the ground." At the Pentagon, analysts began to warn that Saddam was a growing menace, especially after he tried to buy some American-made high-tech furnaces useful for making nuclear-bomb parts. Yet other officials in Congress and in the Bush administration continued to see him as a useful, if distasteful, regional strongman. The State Department was equivocating with Saddam right up to the moment he invaded Kuwait in August 1990.

Mr. President, I referred to this Newsweek article yesterday at a hearing of the Senate Armed Services Committee. Specifically; during the hearing, I asked Secretary Rumsfeld:

> Mr. Secretary, to your knowledge, did the United States help Iraq to acquire the building blocks of biological weapons during the Iran-Iraq war? Are we in fact now facing the possibility of reaping what we have sewn?

The Secretary quickly and flatly denied any knowledge but said he would review Pentagon records.

I suggest that the administration speed up that review. My concerns and the concerns of others have grown.

A letter from the Centers For Disease Control and Prevention, which I shall submit for the RECORD, shows very clearly that the United States is, in fact, preparing to reap what it has sewn. A letter written in 1995 by former CDC Director David Satcher to former Senator Donald W. Riegle, Jr., points out that the U.S. Government provided nearly two dozen viral and bacterial samples to Iraqi scientists in 1985—samples that included the plague, botulism, and anthrax, among other deadly diseases.

According to the letter from Dr. Satcher to former Senator Donald Riegle, many of the materials were hand carried by an Iraqi scientist to Iraq after he had spent 3 months training in the CDC laboratory.

The Armed Services Committee is requesting information from the Departments of Commerce, State, and Defense on the history of the United States, providing the building blocks for weapons of mass destruction to Iraq. I recommend that the Department of Health and Human Services also be included in that request.

The American people do not need obfuscation and denial. The American people need the truth. The American people need to know whether the United States is in large part responsible for the very Iraqi weapons of mass destruction which the administration now seeks to destroy.

We may very well have created the monster that we seek to eliminate. The Senate deserves to know the whole story. The American people deserve answers to the whole story.

Also yesterday, in the same 6 minutes that I was given in which to ask questions—which was extended by virtue of the kindness of the distinguished Senator from Georgia, Mr. MAX CLELAND, and other members of the committee, so it was perhaps 9 or 10 minutes—there was another interesting question that I asked. Let me read a portion of that transcript from the Armed Services Committee:

> Thank you, Mr. Chairman, for holding these hearings. Mr. Secretary, to your knowledge, did the United States help Iraq to acquire the building blocks of biological weapons during the Iran-Iraq War? Are we, in fact, now facing the possibility of reaping what we have sown?
>
> Rumsfeld: Certainly not to my knowledge. I have no knowledge of United States companies or government being involved in assisting Iraq develop chemical, biological or nuclear weapons.

There is another excerpt from that question and answer period in which Secretary Rumsfeld and I engaged:

> Byrd: Now, the Washington Post reported this morning [yesterday] that the United States is stepping away from efforts to strengthen the Biological Weapons Convention. Are we not sending exactly the wrong signal to the world, at exactly the wrong time?
>
> Doesn't this damage our credibility in the international community at the very time that we are seeking their support to neutralize the threat of Iraq's biological weapons program? If we supplied, as the Newsweek article said, if we supplied the building blocks for germ and chemical warfare to this madman in the first place, this psychopath, how do we look to the world to be backing away from this effort to control it at this point?

That question speaks for itself. I ask unanimous consent that the following material be printed in the RECORD at the close of my remarks: The partial transcript from the Senate Armed Services Committee hearing on September 19; the article from the Washington Post of yesterday, titled "U.S.

Drops Bid to Strengthen Germ Warfare Accord''; the Newsweek article, which I have alluded to already; a letter dated January 6, 1994, requesting information from the Centers for Disease Control and a response to the Honorable Donald W. Riegle, Jr., U.S. Senator, dated June 21, 1995, from David Satcher, M.D., Ph.D., Director; a U.S. Senate Hearing Report 103–900, dealing with U.S. exports of biological materials to Iraq to the Senate Committee on Banking, Housing, and Urban Affairs which has oversight responsibility for the Export Administration Act, and keeping in mind that the U.S. Department of Commerce approves licenses by that Department for exports; including also the U.S. Senate hearing report in that matter. Included in the approved sales are such items as Bacillus Anthracis, anthrax, Clostridium Botulinum, Histoplasma Capsulatum, which causes a disease superficially resembling tuberculosis that may cause pneumonia; Brucella Melitensis, a bacteria which can cause chronic fatigue, and so on; Clostridium Perfringens, which causes gas gangrene. I believe that completes the list.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BYRD-RUMSFELD TRANSCRIPT—PARTIAL TRANSCRIPT FROM SENATE ARMED SERVICES COMMITTEE, SEPTEMBER 19, 2002

LEVIN. Senator Byrd?

BYRD. Thank you, Mr. Chairman, for holding these hearings.

Mr. Secretary, to your knowledge, did the United States help Iraq to acquire the building blocks of biological weapons during the Iran-Iraq War? Are we, in fact, now facing the possibility of reaping what we have sown?

RUMSFELD. Certainly not to my knowledge. I have no knowledge of United States companies or government being involved in assisting Iraq develop chemical, biological or nuclear weapons.

BYRD. Mr. Secretary, let me read to you from the September 23, 2002, Newsweek story. I read this, I read excerpts, because my time is limited.

''Some Reagan officials even saw Saddam as another Anwar Sadat, capable of making Iraq into a modern secular state, just as Sadat had tried to lift up Egypt before his assassination in 1981. But Saddam had to be rescued first. The war against Iran was going badly by 1982.''

BYRD. ''Iran's human-wave attacks threatened to overrun Saddam's armies. Washington decided to give Iraq a helping hand. After Rumsfeld's visit to Baghdad in 1982, U.S. intelligence began supplying the Iraqi dictator with satellite photos showing Iranian deployments.

''Official documents suggest that America may also have secretly arranged for tanks and other military hardware to be shipped to Iraq in a swap deal: American tanks to Egypt, Egyptian tanks to Iraq.

''Over the protest of some Pentagon skeptics, the Reagan administration began allowing the Iraqis to buy a wide variety of, quote, 'dual-use,' close quote, equipment and materials from American suppliers.

''According to confidential Commerce Department export control documents obtained by Newsweek, the shopping list included a computerized database for Saddam's Interior Ministry, presumably to help keep track of political opponents, helicopters to help transport Iraqi officials, television cameras for video surveillance applications, chemical analysis equipment for the Iraq Atomic Energy Commission, IAEC, and, most unsettling, numerous shipments of the bacteria, fungi, protozoa to the IAEC.

''According to former officials the bacterial cultures could be used to make biological weapons, including anthrax. The State Department also approved the shipment of 1.5 million atropine injectors for use against the effects of chemical weapons but the Pentagon blocked the sale.

''The helicopters, some American officials later surmised, were used to spray poison gas on the Kurds. The United States almost certainly knew from its own satellite imagery that Saddam was using chemical weapons against Iranian troops.

''When Saddam bombed Kurdish rebels and civilians with a lethal cocktail of mustard gas, sarin, tabun and VX in 1988, the Reagan administration first blamed Iran before acknowledging, under pressure from congressional Democrats, that the culprit were Saddam's own forces. There was only token official protest at the time. Saddam's men were unfazed.

''An Iraqi audiotape later captured by the Kurds records Saddam's cousin, Ali Hassan al-Majid, known as Ali Chemical, talking to his fellow officers about gassing the Kurds. Quote, 'Who is going to say anything?' close quote, he asks, 'the international community? F-blank them!' exclamation point, close quote.''

Now can this possibly be true? We already knew that Saddam was a dangerous man at the time. I realize that you were not in public office at the time, but you were dispatched to Iraq by President Reagan to talk about the need to improve relations between Iraq and the U.S.

Let me ask you again: To your knowledge did the United States help Iraq to acquire the building blocks of biological weapons during the Iran-Iraq war? Are we, in fact, now facing the possibility of reaping what we have sown?

The Washington Post reported this morning that the United States is stepping away from efforts to strengthen the Biological Weapons Convention. I'll have a question on that later.

Let me ask you again: Did the United States help Iraq to acquire the building blocks of biological weapons during the Iran-Iraq War? Are we, in fact, now facing the possibility of reaping what we have sown?

RUMSFELD. I have not read the article. As you suggest, I was, for a period in late '83 and early '84, asked by President Reagan to serve as Middle East envoy after the Marines—241 Marines were killed in Beirut.

As part of my responsibilities I did visit Baghdad. I did meet with Mr. Tariq Aziz. And I did meet with Saddam Hussein and spent some time visiting with them about the war they were engaged in with Iran.

At the time our concern, of course, was Syria and Syria's role in Lebanon and Lebanon's role in the Middle East and the terrorist acts that were taking place.

As a private citizen I was assisting only for a period of months. I have never heard anything like what you've read, I have no knowledge of it whatsoever, and I doubt it.

BYRD. You doubt what?

RUMSFELD. The questions you posed as to whether the United States of America assisted Iraq with the elements that you listed in your reading of Newsweek and that we could conceivably now be reaping what we've sown.

I think—I doubt both.

BYRD. Are you surprised that this is what I've said? Are you surprised at this story in Newsweek?

RUMSFELD. I guess I'm at an age and circumstance in life where I'm no longer surprised about what I hear in the newspapers.

BYRD. That's not the question, I'm of that age, too. Somewhat older than you, but how about that story I've read?

RUMSFELD. I see stories all the time that are flat wrong. I just don't know. All I can say . . .

BYRD. How about this story? This story? How about this story, specifically?

RUMSFELD. As I say, I have not read it, I listened carefully to what you said and I doubt it.

BYRD. All right.

Now the Washington Post reported this morning that the United States is stepping away from efforts to strengthen the Biological Weapons Convention. Are we not sending exactly the wrong signal to the world, at exactly the wrong time?

BYRD. Doesn't this damage our credibility in the international community at the very time that we are seeking their support to neutralize the threat of Iraq's biological weapons program? If we supplied, as the Newsweek article said, if we supplied the building blocks for germ and chemical warfare to this madman in the first place, this psychopath, how do we look to the world to be backing away from this effort to control it at this point?

RUMSFELD. Senator, I think it would be a shame to leave this committee and the people listening with the impression that the United States assisted Iraq with chemical or biological weapons in the 1980s. I just do not believe that's the case.

BYRD. Well, are you saying that the Newsweek article is inaccurate?

RUMSFELD. I'm saying precisely what I said, that I didn't read the Newsweek article, but that I doubt it's accurate.

BYRD. I'll be glad to send you up a copy.

RUMSFELD. But that I was not in government at that time, except as a special envoy for a period of months. So one ought not to rely on me as the best source as to what happened in that mid-'80s period that you were describing.

I will say one other thing. On two occasions I believe when you read that article, you mentioned the IAEC, which as I recall is the International Atomic Energy Commission, and mentioned that if some of the things that you were talking about were provided to them, which I found quite confusing to be honest.

With respect to the Biological Weapons Convention, I was not aware that the United States government had taken a position with respect to it. It's not surprising because it's a matter for the Department of State, not the Department of Defense.

If in fact they have indicated, as The Washington Post reports, that they are not going to move forward with a—I believe it's an enforcement regime, it's not my place to discuss the administration's position when I don't know what it is.

But I can tell you, from a personal standpoint, my recollection is that the biological convention never, never was anticipated that there would even be thought of to have an enforcement regime. And that an enforcement regime on something like that, where there are a lot of countries involved who are on the terrorist list who were participants in that convention, that the United States has, over a period of administrations, believed that it would not be a good idea, because the United States would be a net loser from an enforcement regime.

But that is not the administration's position. I just don't know what the administration's position is.

LEVIN. We're going to have to leave it there, because you're way over.

BYRD. This is a very important question.

LEVIN. It is indeed, and you're over time, I agree with you on the importance, but you're way over time, sir.

BYRD. I know I'm over time, but are we going to leave this in question out there dangling?

LEVIN. One last question.

BYRD. I ask unanimous consent that I may have an additional five minutes.

LEVIN. No, I'm afraid you can't do that. If you could just do one last—well, wait a minute, ask unanimous consent, I can't stop you from doing that.

(UNKNOWN). I object.

(LAUGHTER)

BYRD. Mr. Chairman?

LEVIN. Just one last question. Would that be all right so you could wind that up?

Senator Byrd, if you could just take one additional question.

BYRD. I've never—I've been in this Congress 50 years. I've never objected to another senator having a few additional minutes.

Now Mr. Chairman, I think that the secretary should have a copy of this report, this story that—from Newsweek that I've been querying him about. I think he has a right to look at that.

LEVIN. Could somebody take that out to the secretary?

BYRD. Now, while that's being given to the secretary, Mr. Secretary, I think we're put into an extremely bad position before the world today if we're going to walk away from an international effort to strengthen the Biological Weapons Convention against germ warfare, advising its allies that the U.S. wants to delay further discussions until 2006. Especially in the light of the Newsweek story; I think we bear some responsibility.

INHOFE. Mr. Chairman I ask for a point of order.

LEVIN. Can we just have this be the last question, if you would just go along with us please, Senator Inhofe?

INHOFE. I'll only say though, in all respect to the Senator from West Virginia, we have a number of senators here. We have a limited time of six minutes each, and we're entitled to have our six minutes. That should be a short questions if it's the last question.

LEVIN. If we could just make that the last question and answer, I would appreciate it. The chair would appreciate the cooperation of all senators.

Secretary Rumsfeld, could you answer that question please?

RUMSFELD. I'll do my best.

Senator, I just in glancing at this, and I hesitate to do this because I have not read it carefully.

But it says here that, "According to confidential Commerce Department export control documents obtained by Newsweek, the shopping list included." It did not say that there were deliveries of these things. It said that Iran—Iraq asked for these things. It talks about a shopping list.

Second, in listing these things, it says that they wanted television cameras for video surveillance applications, chemical analysis equipment for the Iraq Atomic Energy Commission, the IAEC—and that may very well be the Iraqi Atomic Energy Commission, which would be—mean that my earlier comment would not be correct, because I thought it was the International Atomic Energy Commission. But this seems to indicate it's the Iraq Commerce Commission.

BYRD. Mr. Chairman, may I say to my friend from Oklahoma, I'm amazed that he himself wouldn't yield me time for this important question. I would do the same for him.

Mr. Chairman, I would like to ask . . .

(CLELAND). I yield my five minutes, Senator.

BYRD. I thank the distinguished Senator.

Mr. Chairman, I would like to ask the secretary—and I don't just like to ask him—I asked him to review Pentagon records to see if the Newsweek article is true or not. Will the secretary do that?

RUMSFELD. It appears that they're Department of Commerce records, as opposed to Pentagon. But I can certainly ask that the Department of Commerce and, to the extent that it's relevant, the Department of State, look into it and see if we can't determine the accuracy or inaccuracy of some aspects of this. Yes, sir.

LEVIN. And we go one step further than that. I think the request is that the Defense Department search its records. Will you do that?

RUMSFELD. We'll be happy to search ours, but this refers to the Commerce Department.

LEVIN. We will ask the State Department and the Commerce Department to do the same thing.

RUMSFELD. We'd be happy to.

LEVIN. And we will also ask the Intelligence Committee to stage a briefing for all of us on that issue, so that Senator Byrd's question . . .

BYRD. Mr. Chairman, I thank the chairman.

LEVIN. Thank you very much, Senator.

BYRD. I thank the secretary.

RUMSFELD. Thank you.

LEVIN. Senator Byrd, we will ask Senator Graham and Senator Shelby to hold a briefing on that subject, because it is a very important subject.

BYRD. I thank the chairman.

[From the Washington Post, Sept. 19, 2002]

U.S. DROPS BID TO STRENGTHEN GERM WARFARE ACCORD

(By Peter Slevin)

The Bush administration has abandoned an international effort to strengthen the Biological Weapons Convention against germ warfare, advising its allies that the United States wants to delay further discussions until 2006. A review conference on new verification measures for the treaty has been scheduled for November.

Less than a year after a State Department envoy abruptly pulled out of biowarfare negotiations in Geneva, promising that the United States would return with new proposals, the administration has concluded that treaty revisions favored by the European Union and scores of other countries will not work and should not be salvaged, administration officials said yesterday.

The decision, which has been conveyed to allies in recent weeks, has been greeted with warnings that the move will weaken attempts to curb germ warfare programs at a time when biological weapons are a focus of concern because of the war on terrorism and the administration's threats to launch a military campaign against Iraq. It also comes as the administration, which has angered allies by rejecting a series of multilateral agreements, is appealing to the international community to work with it in forging a new U.N. Security Council resolution on Iraq's programs to develop weapons of mass destruction.

The 1972 Biological Weapons Convention, which has been ratified by the United States and 143 other countries, bans the development, stockpiling and production of germ warfare agents, but has no enforcement mechanism. Negotiations on legally binding measures to enforce compliance have been underway in Geneva for seven years.

The administration stunned its allies last December by proposing to end the negotiators' mandate, saying that while the treaty needed strengthening, the enforcement protocol under discussion would not deter enemy nations from acquiring or developing biological weapons if they were determined to do so. Negotiators suspended the discussions, saying they would meet again in November when U.S. officials said they would return with creative solutions to address the impasse.

Instead, U.S. envoys are now telling allies that the administration's position is so different from the views of the leading supporters of the enforcement protocol that a meeting would dissolve into public squabbling and should be avoided, administration officials said. Better, they said, to halt discussions altogether.

"It's based on an incorrect approach. Our concern is that it would be fundamentally ineffective," a State Department official said. Another administration official said the "best and least contentious" approach would be to hold a very brief meeting in November—or even no meeting at all—and talk again when the next review is scheduled four years from now.

Amy Smithson, a biological and chemical weapons specialist, said the administration is making a mistake by halting collaborative work to strengthen the convention. "It sounds to me as though they've thrown the baby out with the bath water," said Smithson, an analyst at the Henry L. Stimson Center. "The contradiction between the rhetoric and what the administration is actually doing—the gulf is huge. Not a day goes by when they don't mention the Iraq threat."

The Stimson Center is releasing a report today that criticizes the U.S. approach to the convention. Drawn from a review by 10 pharmaceutical companies and biotechnology experts, the document argues that bioweapons inspections can be effective with the right amount of time and the right science and urges the administration to develop stronger measures.

"To argue that this wouldn't be a useful remedy would just be a mistake. I think it's because they're looking through the wrong end of the telescope," said Matthew Meselson, a Harvard biologist who helped draft a treaty to criminalize biological weapons violations. "We're denying ourselves useful tools."

The administration has focused publicly on a half-dozen countries identified by the State Department as pursuing germ warfare programs. Undersecretary of State John R. Bolton said the existence of Iraq's bioweapons project is "beyond dispute." The U.S. government also believes Iran, North Korea, Sudan, Libya and Syria are developing such weapons, he said.

Meselson concurred with the administration's position that a limited enforcement provision for the bioweapons treaty could not provide confidence that countries are staying clean. But he said that a pact establishing standards and verification measures would deter some countries while also helping to build norms of international behavior.

Bolton, on the other hand, told delegates to last year's review conference that "the time for 'better-than-nothing' protocols is over. We will continue to reject flawed texts like the BWC draft protocol, recommended to us simply because they are the product of lengthy negotiations or arbitrary deadlines, if such texts are not in the best interests of the United States."

With only hours to go at the meeting, Bolton stopped U.S. participation in the final negotiations. He said of the resulting one-year delay, "This gives us time to think creatively on alternatives."

In Bolton's view, each country should develop criminal laws against germ warfare activities, develop export controls for dangerous pathogens, establish codes of conduct for scientists and install strict biosafety procedures. The administration has proposed that governments resolve disputes over biowarfare violations among themselves, perhaps through voluntary inspections or by referral to the United Nations secretary general.

Such an approach is "at best ineffectual," said the specialists gathered by the Stimson Center. At worst, they concluded, the approach could damage U.S. interests because it would not be structured to deliver "meaningful monitoring."

"If a challenge inspection system is not geared to pursue violators aggressively, then it does not serve U.S. security interests," the 65-page report states. The participants strongly favored establishing mandatory standards backed by penalties and "robust" inspections, which goes significantly further than the proposed protocol backed by the EU and other nations.

The State Department Web site has not yet been changed to reflect the change in policy. It says, "The United States is committed to strengthening the BWC as part of a comprehensive and multidisciplinary strategy for combating the proliferation of weapons of mass destruction and international terrorism. . . . We would like to share these ideas with our international partners."

PARTIAL TRANSCRIPT FROM SENATE ARMED SERVICES COMMITTEE, SEPTEMBER 19, 2002

LEVIN. Senator Byrd?

BYRD. Thank you, Mr. Chairman, for holding these hearings.

Mr. Secretary, to your knowledge, did the United States help Iraq to acquire the building blocks of biological weapons during the Iran-Iraq War? Are we, in fact, now facing the possibility of reaping what we have sown?

RUMSFELD. Certainly not to my knowledge. I have no knowledge of United States companies or government being involved in assisting Iraq develop chemical, biological or nuclear weapons.

BYRD. Mr. Secretary, let me read to you from the September 23, 2002, Newsweek story. I read this, I read excerpts, because my time is limited.

"Some Reagan officials even saw Saddam as another Anwar Sadat, capable of making Iraq into a modern secular state, just as Sadat had tried to lift up Egypt before his assassination in 1981. But Saddam had to be rescued first. The war against Iran was going badly by 1982."

"Iran's human-wave attacks threatened to overrun Saddam's armies. Washington decided to give Iraq a helping hand. After Rumsfeld's visit to Baghdad in 1983, U.S. intelligence began supplying the Iraqi dictator with satellite photos showing Iranian deployments.

"Official documents suggest that America may also have secretly arranged for tanks and other military hardware to be shipped to Iraq in a swap deal: American tanks to Egypt, Egyptian tanks to Iraq.

"Over the protest of some Pentagon skeptics, the Reagan administration began allowing the Iraqis to buy a wide variety of, quote, 'dual-use,' close quote, equipment and materials from American suppliers.

"According to confidential Commerce Department export control documents obtained by Newsweek, the shopping list include a computerized database for Saddam's Interior Ministry, presumably to help keep track of political opponents, helicopters to help transport Iraqi officials, television cameras for video surveillance applications, chemical analysis equipment for the Iraq Atomic Energy Commission, IAEC, and, most unsettling, numerous shipments of the bacteria, fungi, protozoa to the IAEC.

"According to former officials the bacterial cultures could be used to make biological weapons, including anthrax. The State Department also approved the shipment of 1.5 million atropine injectors for use against the effects of chemical weapons but the Pentagon blocked the sale.

"The helicopters, some American officials later surmised, were used to spray poison gas on the Kurds. The United States almost certainly knew from its own satellite imagery that Saddam was using chemical weapons against Iranian troops.

"When Saddam bombed Kurdish rebels and civilians with a lethal cocktail of mustard gas, sarin, tabun and VX in 1988, the Reagan administration first blamed Iran before acknowledging, under pressure from congressional Democrats, that the culprit were Saddam's own forces. There was only token official protest at the time. Saddam's men were unfazed.

"An Iraqi audiotape later captured by the Kurds records Saddam's cousin, Ali Hassan al-Majid, known as Ali Chemical, talking to his fellow officers about gassing the Kurds. Quote, 'Who is going to say anything?' close quote, he asks, 'the international community? F-blank them!' exclamation point, close quote."

Now can this possibly be true? We already knew that Saddam was a dangerous man at the time. I realize that you were not in public office at the time, but you were dispatched to Iraq by President Reagan to talk about the need to improve relations between Iraq and the U.S.

Let me ask you again: To your knowledge did the United States help Iraq to acquire the building blocks of biological weapons during the Iran-Iraq war? Are we, in fact, now facing the possibility of reaping what we have sown?

The Washington Post reported this morning that the United States is stepping away from efforts to strengthen the Biological Weapons Convention. I'll have a question on that later.

Let me ask you again: Did the United States help Iraq to acquire the building blocks of biological weapons during the Iran-Iraq War? Are we, in fact, now facing the possibility of reaping what we have sown?

RUMSFELD. I have not read the article. As you suggest, I was, for a period in late '83 and early '84, asked by President Reagan to serve as Middle East envoy after the Marines—241 Marines were killed in Beirut.

As part of my responsibilities I did visit Baghdad. I did meet with Mr. Tariq Aziz. And I did meet with Saddam Hussein and spent some time visiting with them about the war they were engaged in with Iran.

At the time our concern, of course, was Syria and Syria's role in Lebanon and Lebanon's role in the Middle East and the terrorist acts that were taking place.

As a private citizen I was assisting only for a period of months. I have never heard anything like what you've read, I have no knowledge of it whatsoever, and I doubt it.

BYRD. You doubt what?

RUMSFELD. The questions you posed as to whether the United States of America assisted Iraq with the elements that you listed in your reading of Newsweek and that we could conceivably now be reaping what we've sown.

I think—I doubt both.

BYRD. Are you surprised that this is what I've said? Are you surprised at this story in Newsweek?

RUMSFELD. I guess I'm at an age and circumstance in life where I'm no longer surprised about what I hear in the newspapers.

BYRD. That's not the question. I'm of that age, too. Somewhat older than you, but how about that story I've read?

RUMSFELD. I see stories all the time that are flat wrong. I just don't know. All I can say . . .

BYRD. How about this story? This story? How about this story, specifically?

RUMSFELD. As I say, I have not read it, I listened carefully to what you said and I doubt it.

BYRD. All right.

Now the Washington Post reported this morning that the United States is stepping away from efforts to strengthen the Biological Weapons Convention. Are we not sending exactly the wrong signal to the world, at exactly the wrong time?

BYRD. Doesn't this damage our credibility in the international community at the very time that we are seeking their support to neutralize the threat of Iraq's biological weapons program? If we supplied, as the Newsweek article said, if we supplied the building blocks for germ and chemical warfare to this madman in the first place, this psychopath, how do we look to the world to be backing away from this effort to control it at this point?

RUMSFELD. Senator, I think it would be a shame to leave this committee and the people listening with the impression that the United States assisted Iraq with chemical or biological weapons in the 1980s. I just do not believe that's the case.

BYRD. Well, are you saying that the Newsweek article is inaccurate?

RUMSFELD. I'm saying precisely what I said, that I didn't read the Newsweek article, but that I doubt its accurate.

BYRD. I'll be glad to send you up a copy.

RUMSFELD. But that I was not in government at that time, except as a special envoy for a period of months. So one ought not to rely on me as the best source as to what happened in that mid-'80s period that you were describing.

I will say one other thing. On two occasions I believe when you read that article, you mentioned the IAEC, which as I recall is the International Atomic Energy Commission, and mentioned that if some of the things that you were talking about were provided to them, which I found quite confusing to be honest.

With respect to the Biological Weapons Convention, I was not aware that the United

States government had taken a position with respect to it. It's not surprising because it's a matter for the Department of State, not the Department of Defense.

If in fact they have indicated, as The Washington Post reports, that they are not going to move forward with a—I believe it's an enforcement regime, it's not my place to discuss the administration's position when I don't know what it is.

But I can tell you, from a personal standpoint, my recollection is that the biological convention never, never was anticipated that there would even be thought of to have an enforcement regime. And that an enforcement regime on something like that, where there are a lot of countries involved who are on the terrorist list who were participants in that convention, that the United States has, over a period of administrations, believed that it would not be a good idea, because the United States would be a net loser from an enforcement regime.

But that is not the administration's position. I just don't know what the administration's position is.

LEVIN. We're going to have to leave it there, because you're way over.

BYRD. This is a very important question.

LEVIN. It is indeed, and you're over time. I agree with you on the importance, but you're way over time, sir.

BYRD. I know I'm over time, but are we going to leave this in question out there dangling?

LEVIN. One last question.

BYRD. I ask unanimous consent that I may have an additional five minutes.

LEVIN. No, I'm afraid you can't do that. If you could just do one last—well, wait a minute, ask unanimous consent, I can't stop you from doing that.

(UNKNOWN). I object.

(Laughter)

BYRD. Mr. Chairman?

LEVIN. Just one last question. Would that be all right so you could wind it up?

Senator Byrd, if you could just take one additional question.

BYRD. I've never—I've been in this Congress 50 years. I've never objected to another senator having a few additional minutes.

Now Mr. Chairman, I think that the secretary should have a copy of this report, this story that—from Newsweek that I've been querying him about. I think he has a right to look at that.

LEVIN. Could somebody take that out to the secretary?

BYRD. Now, while that's being given to the secretary, Mr. Secretary, I think we're put into an extremely bad position before the world today if we're going to walk away from an international effort to strengthen the Biological Weapons Convention against germ warfare, advising its allies that the U.S. wants to delay further discussions until 2006., Especially in the light of the Newsweek story; I think we bear some responsibility.

INHOFE. Mr. Chairman I ask for a point of order.

LEVIN. Can we just have this be the last question, if you would just go along with us please, Senator Inhofe?

INHOFE. I'll only say though, in all respect to the senator from West Virginia, we have a number of senators here. We have a limited time of six minutes each, and we're entitled to have our six minutes. That should be a short question if it's the last question.

LEVIN. If we could just make that the last question and answer, I would appreciate it. The chair would appreciate the cooperation of all senators.

RUMSFELD. I'll do my best.

Senator, I just in glancing at this, and I hesitate to do this because I have not read it carefully.

But it says here that, "According to confidential Commerce Department export control documents obtained by Newsweek, the shopping list included." It did not say that there were deliveries of these things. It said that Iran—Iraq asked for these things. It talks about a shopping list.

Second, in listing these things, it says that they wanted television cameras for video surveillance applications, chemical analysis equipment for the Iraq Atomic Energy Commission, the IAEC—and that may very well be the Iraqi Atomic Energy Commission, which would be—mean that my earlier comment would not be correct, because I thought it was the International Atomic Energy Commission. But this seems to indicate it's the Iraq Commerce Commission.

BYRD. Mr. Chairman, may I say to my friend from Oklahoma, I'm amazed that he himself wouldn't yield me time for this important question. I would do the same for him.

Mr. Chairman, I would like to ask . . .

(CLELAND). I yield my five minutes, Senator.

BYRD. I thank the distinguished Senator.

Mr. Chairman, I would like to ask the secretary—and I don't just like to ask him—I ask him to review Pentagon records to see if the Newsweek article is true or not. Will the secretary do that?

RUMSFELD. It appears that they're Department of Commerce records, as opposed to Pentagon. But I can certainly ask that the Department of Commerce and, to the extent that it's relevant, the Department of State, look into it and see if we can't determine the accuracy or inaccuracy of some aspects of this. Yes, sir.

LEVIN. And we go one step future than that. I think the request is that the Defense Department search its records. Will you do that?

RUMSFELD. We'll be happy to search ours, but this refers to the Commerce Department.

LEVIN. We will ask the State Department and the Commerce Department to do the same thing.

RUMSFELD. We'd be happy to.

LEVIN. And we will also ask the Intelligence Committee to stage a briefing for all of us on that issue, so that Senator Byrd's question . . .

BYRD. Mr. Chairman, I thank the chairman.

LEVIN. Thank you very much, Senator.

BYRD. I thank the secretary.

RUMSFELD. Thank you.

LEVIN. Senator Byrd, we will ask Senator Graham and Senator Shelby to hold a briefing on that subject, because it is a very important subject.

BYRD. I thank the chairman.

[From Newsweek, Sept. 23, 2002]

HOW SADDAM HAPPENED

(By Christopher Dickey and Evan Thomas)

The last time Donald Rumsfeld saw Saddam Hussein, he gave him a cordial handshake. The date was almost 20 years ago, Dec. 20, 1983; an official Iraqi television crew recorded the historic moment.

The once and future Defense secretary, at the time a private citizen, had been sent by President Ronald Reagan to Baghdad as a special envoy. Saddam Hussein, armed with a pistol on his hip, seemed "vigorous and confident," according to a new declassified State Department cable obtained by Newsweek. Rumsfeld "conveyed the President's greetings and expressed his pleasure at being in Baghdad," wrote the notetaker. Then the two men got down to business, talking about the need to improve relations between their two countries.

Like most foreign-policy insiders, Rumsfeld was aware that Saddam was a murderous thug who supported terrorists and was trying to build a nuclear weapon. (The Israelis had already bombed Iraq's nuclear reactor at Osirak.) But at the time, America's big worry was Iran, not Iraq. The Reagan administration feared that the Iranian revolutionaries who had overthrown the shah (and taken hostage American diplomats for 444 days in 1979–81) would overrun the Middle East and its vital oilfields. On the theory that the enemy of my enemy is my friend, the Reaganites were seeking to support Iraq in a long and bloody war against Iran. The meeting between Rumsfeld and Saddam was consequential: for the next five years, until Iran finally capitulated, the United States backed Saddam's armies with military intelligence, economic aid and covert supplies of munitions.

FORMER ALLIES

Rumsfeld is not the first American diplomat to wish for the demise of a former ally. After all, before the cold war, the Soviet Union was America's partner against Hitler in World War II. In the real world, as the saying goes, nations have no permanent friends, just permanent interests. Nonetheless, Rumsfeld's long-ago interlude with Saddam is a reminder that today's friend can be tomorrow's mortal threat. As President George W. Bush and his war cabinet ponder Saddam's successor's regime, they would do well to contemplate how and why the last three presidents allowed the Butcher of Baghdad to stay in power so long.

The history of America's relations with Saddam is one of the sorrier tales in American foreign policy. Time and again, America turned a blind eye to Saddam's predations, saw him as the lesser evil or flinched at the chance to unseat him. No single policymaker or administration deserves blame for creating, or at least tolerating, a monster; many of their decisions seemed reasonable at the time. Even so, there are moments in this clumsy dance with the Devil that make one cringe. It is hard to believe that, during most of the 1980s, America knowingly permitted the Iraq Atomic Energy Commission to import bacterial cultures that might be used to build biological weapons. But it happened.

America's past stumbles, while embarrassing, are not an argument for inaction in the future. Saddam probably is the "grave and gathering danger" described by President Bush in his speech to the United Nations last week. It may also be true that "whoever replaces Saddam is not going to be worse," as a senior administration official put it to Newsweek. But the story of how America helped create a Frankenstein monster it now wishes to strangle is sobering. It illustrates the power of wishful thinking, as well as the iron law of unintended consequences.

TRANSFIXED BY SADDAM

America did not put Saddam in power. He emerged after two decades of turmoil in the '60s and '70s, as various strongmen tried to gain control of a nation that had been concocted by British imperialists in the 1920s out of three distinct and rival factions, the Sunnis, Shiites and the Kurds. But during the cold war, America competed with the Soviets for Saddam's attention and welcomed his war with the religious fanatics of Iran. Having cozied up to Saddam, Washington. . . .

While the Middle East is unlikely to become a democratic nirvana, the worst-case scenarios, always a staple of the press, are probably also wrong or exaggerated. Assuming that a cornered and doomed Saddam does not kill thousands of Americans in some kind of horrific Götterdämmerung—a scary possibility, one that deeply worries administration officials—the greatest risk of his fall is that one strongman may simply be replaced by another. Saddam's successor may not be a paranoid sadist. But there is no assurance that he will be America's friend or forswear the development of weapons of mass destruction.

A TASTE FOR NASTY WEAPONS

American officials have known that Saddam was a psychopath ever since he became the country's de facto ruler in the early 1970s. One of Saddam's early acts after he took the title of president in 1979 was to videotape a session of his party's congress, during which he personally ordered several members executed on the spot. The message, carefully conveyed to the Arab press, was not that these men were executed for plotting against Saddam, but rather for thinking about plotting against him. From the beginning, U.S. officials worried about Saddam's taste for nasty weaponry; indeed, at their meeting in 1983, Rumsfeld warned that Saddam's use of chemical weapons might "inhibit" American assistance. But top officials in the Reagan administration saw Saddam as a useful surrogate. By going to war with Iran, he could bleed the radical mullahs who had seized control of Iran from the pro-American shah. Some Reagan officials even saw Saddam as another Anwar Sadat, capable of making Iran into a modern secular state, just as Sadat had tried to lift up Egypt before his assassination in 1981.

But Saddam had to be rescued first. The war against Iran was going badly by 1982. Iran's "human wave attacks" threatened to overrun Saddam's armies. Washington decided to give Iraq a helping hand. After Rumsfeld's visit to Baghdad in 1983, U.S. intelligence began supplying the Iraqi dictator with satellite photos showing Iranian deployments. Official documents suggest that America may also have secretly arranged for tanks and other military hardware to be shipped to Iraq in a swap deal—American tanks to Egypt, Egyptian tanks to Iraq. Over the protest of some Pentagon skeptics, the Reagan administration began allowing the Iraqis to buy a wide variety of "dual use" equipment and materials from American suppliers. According to confidential Commerce Department export-control documents obtained by Newsweek, the shopping list included a computerized database for Saddam's Interior Ministry (presumably to help keep track of political opponents); helicopters to transport Iraqi officials; television cameras for "video surveillance applications"; chemical-analysis equipment for the Iraq Atomic Energy Commission (IAEC), and, most unsettling, numerous shipments of "bacteria/fungi/protozoa" to the IAEC. According to former officials, the bacteria cultures could be used to make biological weapons, including anthrax. The State Department also approved the shipment of 1.5 million atropine injectors, for use against the effects of chemical weapons, but the Pentagon blocked the sale. The helicopters, some American officials later surmised, were used to spray poison gas on the Kurds.

"WHO IS GOING TO SAY ANYTHING?"

The United States almost certainly knew from its own satellite imagery that Saddam was using chemical weapons against Iranian troops. When Saddam bombed Kurdish rebels and civilians with a lethal cocktail of mustard gas, sarin, tabun and VX in 1988, the Reagan administration first blamed Iran, before acknowledging, under pressure from congressional Democrats, that the culprits were Saddam's own forces. There was only token official protest at the time. Saddam's men were unfazed. An Iraqi audiotape, later captured by the Kurds, records Saddam's cousin Ali Hassan al-Majid (known as Ali Chemical) talking to his fellow officers about gassing the Kurds. "Who is going to say anything?" he asks. "The international community? F—k them!"

The United States was much more concerned with protecting Iraqi oil from attacks by Iran as it was shipped through the Persian Gulf. In 1987, an Iraqi Exocet missile hit an American destroyer, the USS Stark, in the Persian Gulf, killing 37 crewmen. Incredibly, the United States excused Iraq for making an unintentional mistake and instead used the incident to accuse Iran of escalating the war in the gulf. The American tilt to Iraq became more pronounced. U.S. commandos began blowing up Iranian oil platforms and attacking Iranian patrol boats. In 1988, an American warship in the gulf accidentally shot down an Iranian Airbus, killing 290 civilians. Within a few weeks, Iran, exhausted and fearing American intervention, gave up its war with Iraq.

Saddam was feeling cocky. With the support of the West, he had defeated the Islamic revolutionaries in Iran. America favored him as a regional pillar. European and American corporations were vying for contracts with Iraq. He was visited by congressional delegations led by Sens. Bob Dole of Kansas and Alan Simpson of Wyoming, who were eager to promote American farm and business interests. But Saddam's megalomania was on the rise, and he overplayed his hand. In 1990, a U.S. Customs sting operation snared several Iraqi agents who were trying to buy electronic equipment used to make triggers for nuclear bombs. Not long after, Saddam gained the world's attention by threatening "to burn Israel to the ground." At the Pentagon, analysts began to warn that Saddam was a growing menace, especially after he tried to buy some American-made high-tech furnaces useful for making nuclear-bomb parts. Yet other officials in Congress and in the Bush administration continued to see him as a useful, if distasteful, regional strongman. The State Department was equivocating with Saddam right up to the moment he invaded Kuwait in August 1990.

AMBIVALENT ABOUT SADDAM'S FATE

Some American diplomats suggest that Saddam might have gotten away with invading Kuwait if he had not been quite so greedy. "If he had pulled back to the Mutla Ridge [overlooking Kuwait City], he'd still be there today," one ex-ambassador told Newsweek. And even though President George H.W. Bush compared Saddam to Hitler and sent a half-million-man Army to drive him from Kuwait, Washington remained ambivalent about Saddam's fate. It was widely assumed by policymakers that Saddam would collapse after his defeat in Desert Storm, done in by him humiliated officer corps or overthrown by the revolt of a restive minority population. But Washington did not want to push very hard to topple Saddam. The gulf war, Bush I administration officials pointed out, had been fought to liberate Kuwait, not oust Saddam. "I am certain that had we taken all of Iraq, we would have been like the dinosaur in the tar pit—we would still be there," wrote the American commander in Desert Storm, Gen. Norman Schwarzkopf, in his memoirs. America's allies in the region, most prominently Saudi Arabia, feared that a post-Saddam Iraq would splinter and destabilize the region. The Shiites in the south might bond with their fellow religionists in Iran, strengthening the Shiite mullahs, and threatening the Saudi border. In the north, the Kurds were agitating to break off parts of Iraq and Turkey to create a Kurdistan. So Saddam was allowed to keep his tanks and helicopters—which he used to crush both Shiite and Kurdish rebellions.

The Bush administration played down Saddam's darkness after the gulf war. Pentagon bureaucrats compiled dossiers to support a war-crimes prosecution of Saddam, especially for his sordid treatment of POWs. They documented police stations and "sports facilities" where Saddam's henchmen used acid baths and electric drills on their victims. One document suggested that torture should be "artistic." But top Defense Department officials stamped the report secret. One Bush administration official subsequently told The Washington Post, "Some people were concerned that if we released it during the [1992 presidential] campaign, people would say, 'Why don't you bring this guy to justice?'" (Defense Department aides say politics played no part in the report.)

The Clinton administration was no more aggressive toward Saddam. In 1993, Saddam apparently hired some Kuwaiti liquor smugglers to try to assassinate former president Bush as he took a victory lap through the region. According to one former U.S. ambassador, the new administration was less than eager to see an open-and-shut case against Saddam, for fear that it would demand aggressive retaliation. When American intelligence continued to point to Saddam's role, the Clintonites lobbed a few cruise missiles into Baghdad. The attack reportedly killed one of Saddam's mistresses, but left the dictator defiant.

CLINTON-ERA COVERT ACTIONS

The American intelligence community, under orders from President Bill Clinton, did mount covert actions aimed at toppling Saddam in the 1990s, but by most accounts they were badly organized and halfhearted. In the north, CIA operatives supported a Kurdish rebellion against Saddam in 1995. According to the CIA's man on the scene, former case officer Robert Baer, Clinton administration officials back in Washington "pulled the plug" on the operation just as it was gathering momentum. The reasons have long remained murky, but according to Baer, Washington was never sure that Saddam's successor would be an improvement, or that Iraq wouldn't simply collapse into chaos. "The question we could never answer," Baer told Newsweek, "was, 'After Saddam goes, then what?'" A coup attempt by Iraqi Army officers fizzled the next year. Saddam brutally rolled up the plotters. The CIA operatives pulled out, rescuing everyone they could, and sending them to Guam.

Meanwhile, Saddam was playing cat-and-mouse with weapons of mass destruction. As part of the settlement imposed by America and its allies at the end of the gulf war, Saddam was supposed to get rid of his existing stockpiles of chem-bio weapons, and to allow in inspectors to make sure none were being hidden or secretly manufactured. The U.N. inspectors did shut down his efforts to build a nuclear weapon. But Saddam continued to secretly work on his germ- and chemical-warfare program. When the inspectors first suspected what Saddam was trying to hide in 1995, Saddam's son-in-law, Hussein Kamel, suddenly fled Iraq to Jordan. Kamel had overseen Saddam's chem-bio program, and his defection forced the revelation of some of the secret locations of Saddam's deadly labs. That evidence is the heart of the "white paper" used last week by President Bush to support his argument that Iraq has been defying U.N. resolutions for the past decade. (Kamel had the bad judgment to return to Iraq, where he was promptly executed, along with various family members.)

By now aware of the scale of Saddam's efforts to deceive, the U.N. arms inspectors were unable to certify that Saddam was no longer making weapons of mass destruction. Without this guarantee, the United Nations was unwilling to lift the economic sanctions imposed after the gulf war. Saddam continued to play "cheat and retreat" with—the inspectors, forcing a showdown in December 1998. The United Nations pulled out its inspectors, and the United States and Britain launched Operation Desert Fox, four days of bombing that was supposed to teach Saddam a lesson and force his compliance.

Saddam thumbed his nose. The United States and its allies, in effect, shrugged and walked away. While the U.N. sanctions regime gradually eroded, allowing Saddam to trade easily on the black market, he was free to brew all the chem-bio weapons he wanted. Making a nuclear weapon is harder, and intelligence officials still believe he is a few years away from even regaining the capacity to manufacture enriched uranium to build his own bomb. If he can steal or buy ready-made fissile material, say from the Russian mafia, he could probably make a nuclear weapon in a matter of months, though it would be so large that delivery would pose a challenge.

LASHING OUT?

As the Bush administration prepares to oust Saddam, one way or another, senior administration officials are very worried that Saddam will try to use his WMD arsenal Intelligence experts have warned that Saddam may be "flushing" his small, easy-to-conceal biological agents, trying to get them out of the country before an American invasion. A vial of bugs or toxins that could kill thousands could fit in a suitcase—or a diplomatic pouch. There are any number of grim end-game scenarios. Saddam could try blackmail, threatening to unleash smallpox or some other grotesque virus in an American city if U.S. forces invaded. Or, like a cornered dog, he could lash out in a final spasm of violence, raining chemical weapons down on U.S. troops, handing out his bioweapons to terrorists. "That's the single biggest worry in all this," says a senior administration official. "We are spending a lot of time on this," said another top official.

Some administration critics have said, in effect, let sleeping dogs lie. Don't provoke Saddam by threatening his life; there is no evidence that he has the capability to deliver weapons of mass destruction. Countered White House national-security adviser Condoleezza Rice, "Do we wait until he's better at it?" Several administration officials indicated that an intense effort is underway, covert as well as overt, to warn Saddam's lieutenants to save themselves by breaking from the dictator before it's too late. "Don't be the fool who follows the last order" is the way one senior administration official puts it.

The risk is that some will choose to go down with Saddam, knowing that they stand to be hanged by an angry mob after the dictator falls. It is unclear what kind of justice would follow his fall, aside from summary hangings from the nearest lamppost.

POST-SADDAM IRAQ

The Bush administration is determined not to "overthrow one strongman only to install another," a senior administration official told Newsweek. This official said that the president has made clear that he wants to press for democratic institutions, government accountability and the rule of law in post-Saddam Iraq. But no one really knows how that can be achieved. Bush's advisers are counting on the Iraqis themselves to resist a return to despotism. "People subject to horrible tryanny have strong antibodies to anyone who wants to put them back under tyranny," says a senior administration official. But as another official acknowledged, "a substantial American commitment" to Iraq is inevitable.

At what cost? And who pays? Will other nations chip in money and men? It is not clear how many occupation troops will be required to maintain order, or for how long. Much depends on the manner of Saddam's exit: whether the Iraqis drive him out themselves, or rely heavily on U.S. power. Administration officials shy away from timeables and specifies but say they have to be prepared for all contingencies. "As General Eisenhower said, 'Every plan gets thrown out on the first day of battle. Plans are useless. Planning is everything'," said Vice President Cheney's chief of staff, I, Lewis (Scooter) Libby.

It is far from clear that America will be able to control the next leader of Iraq, even if he is not as diabolical as Saddam. Any leader of Iraq will look around him and see that Israel and Pakistan have nuclear weapons and that Iran may soon. Just as England and France opted to build their own bombs in the cold war, and not depend on the U.S. nuclear umbrella, the next president of Iraq may want to have his own bomb. "He may want to, but he can't be allowed to," says a Bush official. But what is to guarantee that a newly rich Iraqi strongman won't buy one with his nation's vast oil wealth? In some ways, Iraq is to the Middle East as Germany was to Europe in the 20th century, too large, too militaristic and too competent to coexit peacebly with neighbors. It took two world wars and millions of lives to solve "the German problem." Getting rid of Saddam may be essential to creating a stable, democratic Iraq. But it may be only a first step on a long and dangerous march.

Per our previous conversation, after reviewing the available licensing records of the Bureau of Export Administration, U.S. Department of Commerce, related to biological materials exported to the government of Iraq, additional information identifying the genus species, and strain or origin (if known) of the following viruses, bacteria, fungi, and protozoa for which export licenses were granted is requested.

Date License Approved, Consignee, and Material information:

02/08/85, Iraq Atomic Energy Commission, Ustilago

02/22/85 (2 each), Ministry of Higher Education, Fungi Histoplasma

07/11/85 (2 each), Middle and Near East Regional A, Fungi Histoplasma

10/02/85 (46 each), Ministry of Higher Education, Bacteria

10/08/85 (10 each), Ministry of Higher Education, Bacteria, Clostridium, Francisella

03/21/86 (18 each), Agriculture and Water Resources, Fungi, Alysidium, Aspergillus, Hypopichia

03/21/86 (21 each), Agriculture and Water Resources, Fungi, Actinormucor, Aspergillus, Rhizopus, Rhizomucor, Talaromyces, Fusarium, Penicillium, Tricyoderma

02/04/87 (11 each), State Company for Drug Indust, Bacteria Bacillus, Bacillus, Escherichia, Staphylococcus, Klebsiella, Salmonella, Pseudomonas

08/17/87 (2 each), Iraq Atomic Energy Commission, Bacteria, Escherichia

03/24/88 (3 each), Iraq Atomic Energy Commission, Bacteria, Escherichia

04/22/88, Sera and Vaccine Institute, Bacteria, Salmonella (Class I), Clostridium (Class II), Brucella (Class III), Corynebacterium (II), Vibrio (Class III)

05/05/88 (1 each), Iraq Atomic Energy Commission, Bacteria, Escherichia

08/16/88, Ministry of Trade, Bacteria, (12 each) Bacillus (Class III), (6 each) Bacillus (Class II), (6 each) Bacillus (Class III), (9 each) Clostridium (Class 10)

11/07/88 (2 each), Iraq Atomic Energy Commission, Bacteria, Escherichia (Class I)

12/19/88 (3 each), Iraq Atomic Energy Commission, Bacteria Escherichia (Class I)

The above listing includes only those material for which export licenses were granted from January 1, 1985, until the present. A number of requests were returned without action. If any information is available as to the specific materials requested by the consignee in these cases, it may also prove useful. A listing of materials for which export licenses were approved between January 1, 1980 and December 31, 1984 follows. I understand that record may no longer be available for these items, however, if any specific information is available which identifies these materials please forward it as well.

Data License Approved, Consignee, and Material Information

08/14/80 (20 each), Ministry of Health for College, Bacteria/Fungi, not further identified

09/11/80 (45 each), University of Baghdad, Bacteria/Fungi/Protozoa, Virus/Viroids (15 each), not further identified

03/17/82 (1 each), University of Mosul, Bacteria/Fungi/Protozoa

04/09/82 (6 each), General Establishment/Drugs, Pseudomonas, Salmonella, Aspergillus

04/09/82 (6 each), General Establishment/Drugs, Pseudomonas, Salmonella, Aspergillus

07/30/82 (3 each), State Co for Drug Industries, Bacillus

08/08/84 (2 each), Ministry of Health for College, Bacteria Corynebacterium

11/30/84 (59 each), College of Medicine, Aspergillus, Epidermophyton, Microsporum, Penicillium, Trichophyton, Alternaria, Neisseria, Clostridium, Bacteroides, Escherichia

I understand that information for those items exported prior to January 1, 1985 may be unavailable. Please feel free to contact me if you have any questions regarding this request at 202–224–4822.

HEADLINE: Ustilago nuda (Jensen) Rostrup, ATCC 34718. TEXT: CBS 118.19. H. Kniep. USDA permit PPQ–526 required. Growth Conditions: Medium 336 24C. Shipped: Test tube. Price Code: W.

HEADLINE: Histoplasma capsulatum var. farciminosum, ATCC 32136. TEXT: A.A.

Padhye CDC Disagnostic 76-066816 (Histoplasma farciminosum). CBS 176.57. Class III pathogen, requests must carry signed statement assuming all risks and responsibilities for lab handling. Growth Conditions: Medium 337 25C. Shipped: Test tube. Price Code: W.

AMERICAN TYPE CULTURE COLLECTION, CUSTOMER ACTIVITY DETAIL REPORT, FROM: 01/01/85 TO: 12/31/93; FOR: ALL CUSTOMERS, FOR COUNTRY: IRAQ

Inv. #	Date	ATCC #	Description	Batch #	Quantity	Price
			Cust #: 015408 Customer Name: UNIV OF BAGHDAD			
010072 ..	05/02/86	000000000010	BACILLUS ANTHRACIS	8-20-82	2	108.80
010072 ..	05/02/86	000000000082	BACILLUS SUBTILIS	6-20-84	2	108.80
010072 ..	05/02/86	000000003502	CLOSTRIDIUM BOTULINUM TYPE A	7-7-81	3	163.20
010072 ..	05/02/86	000000003624	CLOSTRIDIUM PERFRINGENS	10-85SV	2	20.40
010072 ..	05/02/86	000000006051	BACILLUS SUBTILIS	12-6-84	2	20.40
010072 ..	05/02/86	000000006223	FRANCISELLA TULARENSIS VAR. TULARENSIS	5-14-79	2	108.80
010072 ..	05/02/86	000000009441	CLOSTRIDIUM TETANI	3-84	3	163.20
010072 ..	05/02/86	000000009564	CLOSTRIDIUM BOTULINUM TYPE E	3-29-79	2	108.80
010072 ..	05/02/86	000000010779	CLOSTRIDIUM TETANI	4-24-84S	3	30.60
010072 ..	05/02/86	000000012916	CLOSTRIDIUM PERFRINGENS	8-14-80	2	108.80
010072 ..	05/02/86	000000013124	CLOSTRIDIUM PERFRINGENS	7-84SV	3	30.60
010072 ..	05/02/86	000000014185	BACILLUS ANTHRACIS	1-14-80	3	163.20
010072 ..	05/02/86	000000014578	BACILLUS ANTHRACIS	1-6-78	2	108.80
010072 ..	05/02/86	000000014581	BACILLUS MEGATERIUM	4-18-85	2	20.40
010072 ..	05/02/86	000000014945	BACILLUS MEGATERIUM	6-21-81	2	108.80
010072 ..	05/02/86	000000017855	CLOSTRIDIUM BOTULINUM TYPE E	6-21-71	2	108.80
010072 ..	05/02/86	000000019213	BACILLUS MEGATERIUM	3-84	2	108.80
010072 ..	05/02/86	000000019397	CLOSTRIDIUM BOTULINUM TYPE A	8-18-81	3	163.20
010072 ..	05/02/86	000000023450	BRUCELLA ABORTUS BIOTYPE 3	8-2-84	3	163.20
010072 ..	05/02/86	000000023455	BRUCELLA ABORTUS BIOTYPE 9	2-5-68	3	163.20
010072 ..	05/02/86	000000023456	BRUCELLA MELITENSIS BIOTYPE 1	3-8-78	2	108.80
010072 ..	05/02/86	000000023458	BRUCELLA MELITENSIS BIOTYPE 3	1-29-68	2	108.80
010072 ..	05/02/86	000000025763	CLOSTRIDIUM BOTULINUM TYPE A	8-83	2	108.80
010072 ..	05/02/86	000000035415	CLOSTRIDIUM BOTULINUM TYPE F	2-24-84	2	108.80
						297.12
010072 ..	05/02/86	FREIGHT				0.00
010072 ..	05/02/86	TAX				
010072 ..	05/02/86		Total Invoice		58	2,813.12
			Total for: UNIV OF BAGHDAD		58	2,813.12
			Cust #: 016124 Customer Name: STATE CO FOR DRUG INDUST.			
AC377 ...	08/31/87	000000002601	SACCHAROMYCES CEREVISIAE	8-28-80	1	12.00
AC377 ...	08/31/87	000000006539	SALMONELLA CHOLERAESUIS SUBSP. CHOLERAESUIS	6-86S	1	12.00
AC377 ...	08/31/87	000000006633	BACILLUS SUBTILIS	10-85	2	128.00
AC377 ...	08/31/87	000000010031	KLEBSIELLA PNEUMONIAE SUBSP. PNEUMONIAE	8-13-80	1	64.00
AC377 ...	08/31/87	000000010536	ESCHERICHIA COLI	4-9-80	1	64.00
AC377 ...	08/31/87	000000011778	BACILLUS CEREUS	5-85SV	2	24.00
AC377 ...	08/31/87	000000012228	STAPHYLOCOCCUS EPIDERMIDIS	11-86S	1	12.00
AC377 ...	08/31/87	000000014884	BACILLUS PUMILUS	9-8-80	2	128.00

AC1507, 04/26/88, Total Invoice

AC1616, 07/11/88, 0000000035-X, COMMUNICATION FEES, 35-X.

AC1616, 07/11/88, 000000011303, ESCHERICHIA COLI, 4-87S.

AC1616, 07/11/88, 000000037349, PTIBO542 PLASMID IN AGROBACTERIUM TUMEFACIENS, 6-14-85.

AC1616, 07/11/88, 000000045031, CAULIFLOWER MOSAIC CAULIMOVIRUS CLONE, 5-28-85.

AC1616, 07/11/88, FREIGHT.

AC1616, 07/11/88, TAX.

062876, 10/12/87, Total Invoice

AC1507, 04/26/88, 0000000035-X, COMMUNICATION FEES.

AC1507, 04/26/88, 000000057236, HU LAMBDA 4X-8 PHAGE LYSATE.

AC1507, 04/26/88, 000000057240, HU LAMBDA 14 PHAGE LYSATE.

AC1507, 04/26/88, 000000057242, HU LAMBDA 15 PHAGE LYSATE.

AC1507, 04/26/88, FREIGHT.

AC1507, 04/26/88, TAX.

AC489, 08/31/87, 000000023846, ESCHERICHIA COLI, 7-29-83.

AC489, 08/31/87, 000000033694, ESCHERICHIA COLI, 7-29-83.

AC489, 08/31/87, FREIGHT.

AC489, 08/31/87, MINIMUM.

CUST #: 022913, Customer Name: TECHNICAL & SCIENTIFIC

AC2658, 09/29/88, 000000000240, BACILLUS ANTHRACIS, 5-14-63.

AC2658, 09/29/88, 000000000938, BACILLUS ANTHRACIS, 1963.

AC2658, 09/29/88, 000000003629, CLOSTRIDIUM PERFRINGENS, 10-23-85.

AC2658, 09/29/88, 000000008009, CLOSTRIDIUM PERFRINGENS, 3-30-84.

AC2658, 09/29/88, 000000008705, BACILLUS ANTHRACIS, 6-27-62..

AC2658, 09/29/88, 000000009014, BRUCELLA ABORTUS, 5-11-66.

AC2658, 09/29/88, 000000010388, CLOSTRIDIUM PERFRINGENS, 6-1-73.

AC2658, 09/29/88, 000000011966, BACILLUS ANTHRACIS, 5-5-70.

AC2658, 09/29/88, 000000025763, CLOSTRIDIUM BOTULINUM TYPE A, 7-86.

AC2658, 09/29/88, 000000033018, BACILLUS CEREUS, 4-83.

AC2658, 09/29/88, 000000033019, BACILLUS CEREUS, 3-88.

AC2658, 09/29/88, DISCOUNT.

AC2658, 09/29/88, FREIGHT.

AC2658, 09/29/88, TAX.

AC3352, 01/17/89, Total Invoice

AC1639, 01/31/89, 0000000035-X, COMMUNICATION FEES, 35-X.

AC1639, 01/31/89, 000000057056, PHPT31 PLASMID IN ESCHERICHIA COLI JM83, 3-88.

AC1639, 01/31/89, 000000057212, P LAMBDA 500 PLASMID IN ESCHERICHIA COLI, 88-09.

AC1639, 01/31/89, FREIGHT.

AC1639, 01/31/89, TAX.

DEPARTMENT OF HEALTH & HUMAN
SERVICES, CENTERS FOR DISEASE
CONTROL AND PREVENTION,
Atlanta, GA, June 21, 1995.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR RIEGLE: In 1993, at your request, the Centers for Disease Control and Prevention (CDC) forwarded to your office a listing of all biological materials, including viruses, retroviruses, bacteria, and fungi, which CDC provided to the government of Iraq from October 1, 1984, through October 13, 1993. Recently, in the course of reviewing our shipping records for a Freedom of Information Act (FOIA) request from a private citizen, we identified an additional shipment, on May 21, 1985, that was not included on the list that was provided to your office. Following this discovery, we conducted a thorough review of all of our shipping records and are confident that we have now included a listing of all shipments. A corrected list is enclosed (Note: the new information is italicized).

These additional materials were hand-carried by Dr. Mohammad Mahoud to Iraq after he had spent three months training in a CDC laboratory. Most of the materials were non-infectious diagnostic reagents for detecting evidence of infections to mosquito-borne viruses. Only two of the materials are on the Commodity Control List, i.e., Yersinin Pestis (the agent of plague) and dengue virus. (the strain of plague bacillus was non-virulent, and CDC is currently petitioning the Department of Commerce to remove this particular variant from the list of controlled materials).

We regret that our earlier list was incomplete and appreciate your understanding.

Sincerely,

DAVID SATCHER,
Director.

Enclosure. (Copy unclear)

CDC SHIPMENTS TO IRAQ OCTOBER 1, 1984 THROUGH PRESENT

4/26/85—MINISTER OF HEALTH, MINISTRY OF HEALTH, BAGHDAD, IRAQ

8 Vials antigen and antisera, (R. rickettsii and R. typhi) to diagnose rickettsial infections (non-infectious).

5/21/85—DR. MAHAMMAD IMAD, AL-DEAN M. MAHMUD, DEPT. OF MICROBIOLOGY, COLLEGE OF MEDICINE, UNIVERSITY OF BASRAH, BASRAH, IRAQ

Etiologic Agents:—lyophilized arbovirus seed;

West Nile Fever Virus, Lyophilized cultures of avirulant yersinia pestis and Y. pseudotuberculosis ((strain r);

0.5 ml Bhania Virus (Iq 690);

0.5 ml Dongua Virus type 2 (New Guinea C);
0.5 ml Dongua Virus type 3 (H–97);
0.5 ml Hazara Virus (Pak IC 280);
0.5 ml Kemeroud Virus (rio);
0.5 ml Langat Virus (TP 21);
0.5 ml Sandfly Fever/Naples Virus (original);
0.5 ml Sandfly Fever/Sicilian Virus (original);
0.5 ml Sindbis Virus (Egar 339);
0.5 ml Tahyna Virus (Bardos 92);
0.5 ml Thgoto Virus (II A).

Diagnostic Reagents and Associated Materials:

2. vials each Y. pestis FA (+ & -) conjugates;
2 vials Y. pestis Fraction 1 antigen;
10 vials Y. pestis bacteriophage impregnated paper strips;
5 plague-infected mouse tissue smears (fixed);
Various protocols for diagnostic bacteriology tests;
23 X 0.5 ml Bhanja (Ig 690) antigen;
22 X 0.5 ml Dengue Type 2 (New Guinea C) antigen;
22 X 0.5 ml Dengue type 3 (H–69) antigen;
22 X 0.5 ml Hazara (Pak IC 290) antigen;
22 X 0.5 ml Kemarovo (Rio) antigen;
22 X 0.5 ml Langat (IF 21) antigen,
24 X 0.5 ml Sandfly Fever/Naples (original) antigen;
24 X 0.5 ml Sandfly Fever/Sicilian (original) antigen;

Diagnostic Reagents and Associated Materials:

2 vials each *Y. pestis* PA (+6−) conjugates;
2 vials *Y. pestis* Fraction 2 antigen;
10 vials *Y. pestis* bacteriophage impregnated paper stripe;
5 plague-infected mouse tissue smears (fixed);
Various protocols for diagnostic bacteriology tests;
23 X 0.5 ml Bhanja (Ig 690) antigen;
22 X 0.5 ml Dengue Type 2 (New Guinea C) antigen;
22 X 0.5 ml Dengue Type 3 (H–67) antigen;
22 X 0.5 ml Hazara (Pak IC 280) antigen;
23 X 0.5 ml Kemorovo (Rio) antigen;
21 X 0.5 ml Langat (TP 21) antigen;
24 X 0.5 ml Sandfly Fever/Maples (original) antigen;
24 X 0.5 ml Sandfly Fever/Sicilian (original) antigen;
23 X 0.5 ml Sindbis (EgAr 339) antigen;
23 X 0.5 ml Tahyna (Bardos 92) antigen;
20 X 0.5 ml Thogoto (II A) antigen;
23 X 0.5 ml Bhanja (Ig 690) antigen;
21 X 0.5 ml West Nile (Eg 101) antigen;
20 X 0.5 ml Normal SMB antigen;
10 X 0.5 ml Normal SML antigen;
5 X 1.0 ml Bhanja (Ig 690) antibody;
5 X 1.0 ml Dengue Type 2 (New Guinea C) antibody;
5 X 1.0 ml Dengue Type 3 (H–87) antibody;
5 X 1.0 ml Hazara (Pak IC 280) antibody;
5 X 1.0 ml Xemerovo (Rio) antibody;
5 X 2.0 ml Langat (TP 21) antibody;
5 X 1.0 ml Sandfly Fever/Naples (original) antibody;
5 X 2.0 ml Sandfly Fever/Sicilian (original) antibody;
5 X 1.0 ml Sindbis (EgAr 339) antibody;
5 X 1.0 ml Tahyna (Bardos 92) antibody;
5 X 1.0 ml Thogoto (II A) antibody;
5 X 1.0 ml West Nile (Eg 101) antibody;
3 X 1.0 ml Normal MHIAF (SMB) antibody;
3 X 1.0 ml Normal MHIAF (SML) antibody;
1.0 ml A polyvalent grouping fluid;
1.0 ml AIYA, etc. polyvalent grouping fluid;
1.0 ml B polyvalent grouping fluid;
1.0 ml BUN polyvalent grouping fluid;
1.0 ml BWA polyvalent grouping fluid;
1.0 ml C–1 polyvalent grouping fluid;
1.0 ml C–2 polyvalent grouping fluid;
1.0 ml CAL polyvalent grouping fluid;
1.0 ml CAP polyvalent grouping fluid;
1.0 ml CON polyvalent grouping fluid;
1.0 ml GMA polyvalent grouping fluid;
1.0 ml KEM polyvalent grouping fluid;
1.0 ml PAL polyvalent grouping fluid;
1.0 ml PAT polyvalent grouping fluid;
1.0 ml PHL polyvalent grouping fluid;
1.0 ml ORF polyvalent grouping fluid;
1.0 ml Rabies, etc. polyvalent grouping fluid;
1.0 ml STM polyvalent grouping fluid;
1.0 ml TCR polyvalent grouping fluid;
1.0 ml VSV polyvalent grouping fluid;
1.0 ml polyvalent 1;
1.0 ml polyvalent 2;
1.0 ml polyvalent 3;
1.0 ml polyvalent 4;
1.0 ml polyvalent 5;
1.0 ml polyvalent 6;
1.0 ml polyvalent 7;
1.0 ml polyvalent 8;
1.0 ml polyvalent 9;
1.0 ml polyvalent 10;
1.0 ml polyvalent 12;
1.0 ml Group B1 reagent;
1.0 ml Bluetongue reagent;
4 X 0.5 ml Dengue 1–4 set monoclonal antibodies;
1.0 ml St. Louis Enc. (MSI–7) monoclonal antibody;
1.0 ml Western Eq. Enc. (McMillian) monoclonal antibody.

6/26/85—

Dr. Mohammed S. Khidar, University of Baghdad, College of Medicine, Department of Microbiology. Baghdad, Iraq 3 yeast cultures *Candida sp.* (etiologic).

3/10/86

Dr. Rowil Shawil Georgis, M.B.CH.B.D.F.H., Officers City Al-Muthanna, Quartret 710, Street 13, Close 69, House 28/I, Baghdad, Iraq. 1 vial Botulinum Toxiod # A-2 (non-infectious).

4/21/56—DR. ROWIL SHAWIL GEORGIS, N.B. CIR. D.D.F.H., OFFICERS CITY AL-MUTHANA, QUARTRET 710, STREET 13, CLOSE 69, HOUSE 23/R, BAGHDAD, IRAQ

1 vial Botulinum toxin (non-infections).

7/21/88—DR. FAQID ALFARHOOD, MAHELA 887, ZIKAK 54, HOUSE 97, HAY ALJIHAD, KERK, BAGHDAD, IRAQ

teaching supplies (non-infectious); CDC procedures manuals.

7/27/88—DR. FAGID ALFARHOOD, MAHELA 887, ZIKAK 54, HOUSE 97, HAY ALJIHAD, KERK, BAGHDAD, IRAQ

teaching supplies (non-infectious); CDC procedure manuals.

11/28/89—DR. NADEAL T. AL HADITHI, UNIVERSITY OF BASRAH, COLLEGE OF SCIENCE, DEPARTMENT OF BIOLOGY, BASRAH, IRAQ

5.0 mls Enterococcus faecalis;
5.0 mls Enterococcus faccium;
5.0 mls Enterococcus avium;
5.0 mls Enterococcus raffinosus;
5.0 mls Enterococcus gallinarum;
5.0 mls Enterococcus durans;
5.0 mls Enterococcus hirac;
5.0 mls Streptococcus bovis (cciologic).

FROM U.S. SENATE HEARING REPORT 103–900

U.S. EXPORTS OF BIOLOGICAL MATERIALS TO IRAQ

The Senate Committee on Banking, Housing, and Urban Affairs has oversight responsibility for the Export Administration Act. Pursuant to the Act, Committee staff contacted the U.S. Department of Commerce and requested information on the export of biological materials during the years prior to the Gulf War. After receiving this information, we contacted a principal supplier of these materials to determine what, if any, materials were exported to Iraq which might have contributed to an offensive or defensive biological warfare program. Records available from the supplier for the period from 1985 until the present show that during this time, pathogenic (meaning "disease producing"), toxigenic (meaning "poisonous"), and other biological research materials were exported to Iraq pursuant to application and licensing by the U.S. Department of Commerce. Records prior to 1985 were not available, according to the supplier. These exported biological materials were not attenuated or weakened and were capable of reproduction. According to the Department of Defense's own Report to Congress on the Conduct of the Persian Gulf War, released in April 1992:

"By the time of the invasion of Kuwait, Iraq had developed biological weapons. It's advanced and aggressive biological warfare program was the most advanced in the Arab world. The program probably began late in the 1970's and concentrated on the development of two agents, botulinum toxin and anthrax bacteria. . . . Large scale production of these agents began in 1989 at four facilities near Baghdad. Delivery means for biological agents ranged from simple aerial bombs and artillery rockets to surface-to-surface missiles."

Included in the approved sales are the following biological materials (which have been considered by various nations for use in war), with their associated disease symptoms:

Bacillus Anthracis: anthrax is a disease-producing bacteria identified by the Department of Defense in the The Conduct of the Persian Gulf War: Final Report to Congress, as being a major component in the Iraqi biological warfare program.

Anthrax is an often-fatal infectious disease due to ingestion of spores. It begins abruptly with high fever, difficulty in breathing, and chest pain. The disease eventually results in septicemia (blood poisoning), and the mortality is high. Once septicemia is advanced, antibiotic therapy may prove useless, probably because the exotoxins remain, despite the death of the bacteria.

Clostridium Botulinum: a baterial source of botulinum toxin, which causes vomiting, constipation, thirst, general weakness, headache, fever, dizziness, double vision, dilation of the pupils and paralysis of the muscles involving swallowing. It is often fatal.

Histoplasma Capsulatum: causes a disease superficially resembling tuberculosis that may cause pneumonia, enlargement of the liver and spleen, anemia, an influenza-like illness and an acute inflammatory skin disease marked by tender red modules, usually on the shins. Reactivated infection usually involves the lungs, the brain, spinal membranes, heart, peritoneum, and the adrenals.

Brucella Melitensis: a bacterial which can cause chronic fatigue, loss of appetite, profuse sweating when at rest, pain in joints and muscles, insomnia, nausea, and damage to major organs.

Clostridium Perfringens: a highly toxic bacteria which causes gas gangrene. The bacteria produce toxins that move along muscle bundles in the body killing cells and producing necrotic tissue that is then favorable for further growth of the bacteria itself. Eventually, these toxins and bacteria enter the bloodstream and cause systemic illness.

In addition, several shipments of Escherichia Coli (E.Coli) and genetic materials, as well as human and bacterial DNA, were shipped directly to the Iraq Atomic Energy Commission.

The following is a detailed listing of biological materials, provided by the American Type Culture Collection, which were exported to agencies of the government of Iraq pursuant to the issuance of an export licensed by the U.S. Commerce Department:

Date: February 8, 1985

Sent to: Iraq Atomic Energy Agency

Materials Shipped: Ustilago nuda (Jensen) Rostrup.

Date: February 22, 1985

Sent to: Ministry of Higher Education

Materials Shipped: Histoplasma capsulanum var. farciminosum (ATCC 32136). Class III pathogen.

Date: July 11, 1985.

Sent to: Middle And Near East Regional A.

Materials Shipped: Histoplasma capsulatum var. farciminosum (ATCC 32136). Class III pathogen.

Date: May 2, 1986.

Sent to: Ministry of Higher Education.

Materials Shipped: 1. Bacillus Anthracis Cohn (ATCC 10). Batch #08-20-82 (2 each). Class III pathogen.

2. Bacillus Subtitlis (Ehrenberg) Cohn (ATCC 82). Batch #06-20-84 (2 each).

3. Clostridium botulinum Type A (ATCC 3502). Batch #07-07-81 (3 each). Class III Pathogen.

4. Clostridium perfringens (Weillon and Zuber) Hauduroy, et al (ATCC 3624). Batch #10-85SV (2 each).

5. Bacillus subtilis (ATCC 6051). Batch #12-06-84 (2 each).

6. Francisella tularensis, var. tularensis Olsufiev (ATCC 6223) Batch #05-14-79 (2 each). Avirulent, suitable for preparations of diagnostic antigens.

7. Clostridium tetani (ATCC 9441). Batch #03-84 (3 each). Highly toxigenic.

8. Clostridium botulinum Type E (ATCC 9564). Batch #03-02-79 (2 each). Class III pathogen.

9. Clostridium tetani (ATCC 10779). Batch #04-24-84S (3 each).

10. Clostridium perfringens (ATCC 12916). Batch #08-14-80 (2 each). Agglutinating type 2.

11. Clostridium perfringens (ATCC 13124). Batch #07-84SV (3 each). Type A, alphatoxigenic, produces lechitinase C.J. Appl.

12. Bacillus Anthracis (ATCC 14185). Batch #01-14-80 (3 each). G.G. Wright (Fort Dertick) V770-NP1-R. Bovine anthrax, Class III pathogen.

13. Bacillus Anthracis (ATCC 14578). Batch #01-06-78 (2 each). Class III pathogen.

14. Bacillus megaterium (ATCC 14581). Batch #04-18-85 (2 each).

15. Bacillus megaterium (ATCC 14945). Batch #06-21-81 (2 each).

16. Clostridium botulinum Type E (ATCC 17855. Batch #06-21-71. Class III pathogen.

17. Bacillus megaterium (ATCC 19213). Batch #3-84 (2 each).

18. Clostridium botulinum Type A (ATCC 19397). Batch #08-18-81 (2 each). Class III pathogen.

19. Brucella abortus Biotype 3 (ATCC 23450). Batch #08-02-84 (3 each). Class III pathogen.

20. Brucella abortus Biotype 9 (ATCC 23455). Batch #02-05-68 (3 each). Class III pathogen.

21. Brucella melitensis Biotype 1 (ATCC 23456). Batch #03-08-78 (2 each). Class III pathogen.

22. Brucella melitensis Biotype 3 (ATCC 23458. Batch #01-29-68 (2 each). Class III pathogen.

23. Clostridium botulinum Type A (ATCC 25763. Batch #8-83 (2 each). Class III pathogen.

24. Clostridium botulinum Type F (ATCC 35415). Batch #02-02-84 (2 each). Class III pathogen.

Date: August 31, 1987.

Sent to: State Company for Drug Industries.

Materials Shipped:

1. Saccharomyces cerevesia (ATCC 2601). Batch #08-28-08 (1 each).

2. Salmonella choleraesuis subsp. choleraesuis Serotype typhia (ATCC 6539). Batch #06-86S (1 each).

3. Bacillus subtillus (ATCC 6633). Batch# 10-85 (2 each).

4. Klebsiella pneumoniae subsp. pneumoniae (ATCC 10031). Batch# 08-13-80 (1 each).

5. Escherichia coli (ATCC 10536). Batch# 04-09-80 (1 each).

6. Bacillus cereus (11778). Batch# 05-85SV (2 each).

7. Staphylococcus epidermidis (ATCC 12228). Batch# 11-86s (1 each).

8. Bacillus pumilus (ATCC 14884). Batch# 09-08-90 (2 each).

Date: July 11, 1988.

Sent to: Iraq Atomic Energy Commission.

Materials Shipped:

1. Escherichia coli (ATCC 11303). Batch# 04-87S. Phage host.

2. Cauliflower Mosaic Caulimovirus (ATCC 45031). Batch# 06-14-85. Plant virus.

3. Plasmid in Agrobacterium Tumefaciens (ATCC 37349). (Ti plasmid for co-cultivation with plant integration vectors in E Coli). Batch# 05-28-85.

Date: April 26, 1988.

Sent to: Iraq Atomic Energy Commission.

Materials Shipped:

Hulambda4x-8, clone: human hypoxanthine phosphoribosyltransferase (HPRT). Chromosome(s): X q26.1 (ATCC 57236) Phage vector; Suggested host: E.coli.

2. Hulambdal 14-8, clone: human hypoxanthine phosphoribosyltransferase (HPRT). Chromosome(s): X q26.1 (ATCC 57240) Phage vector; Suggest host: E.coli.

3. Hulambda 15, clone: human hypoxanthine phosphoribosyltransferase (HPRT). Chromosome(s): X q26.1 (ATCC 57242) Phage vector; Suggested host: E.coli.

Date: August 31, 1987.

Sent to: Iraq Atomic Energy Commission.

Materials Shipped:

1. Escherichia coli (ATCC 23846). Batch# 07-29-83 (1 each).

2. Escherichia coli (ATCC 33694). Batch# 05-87 (1 each).

Date: September 29, 1988.

Sent to: Ministry of Trade.

Materials Shipped:

1. Bacillus anthracis (ATCC 240). Batch# 05-14-63 (3 each). Class III pathogen.

2. Bacillus anthracis (ATCC 938). Batch# 1963 (3 each). Class III pathogen.

3. Clostridium perfringens (ATCC 3629). Batch# 10-23-85 (3 each).

4. Clostridium perfringens (ATCC 8009). Batch# 03-30-84 (3 each).

5. Bacillus anthracis (ATCC 8705). Batch# 06-27-62 (3 each). Class III pathogen.

6. Brucella abortus (ATCC 9014). Batch# 05-11-66 (3 each). Class III pathogen.

7. Clostridium perfringens (ATCC 10388). Batch# 06-01-73 (3 each).

8. Bacillus anthracis (ATCC 11966). Batch# 05-05-70 (3 each). Class III pathogen.

9. Clostridium botulinum Type A. Batch# 07-86 (3 each). Class III pathogen.

10. Bacillus cereus (ATCC 33018). Batch# 04-83 (3 each).

11. Bacillus ceres (ATCC 33019). Batch# 03-88 (3 each).

Date: January 31, 1989.

Sent to: Iraq Atomic Energy Commission.

Materials Shipped:

1. PHPT31, clone: human hypoxanthine phosphoribosyltransferase (HPRT). Chromosome(s): X q26.1 (ATCC 57057)

2. plambda500, clone: human hypoxanthine phosphoribosyltransferase pseudogene (HPRT). Chromosome(s): 5 p14-p13 (ATCC 57212).

Date: January 17, 1989

Sent to: Iraq Atomic Energy Commission.

Materials Shipped:

1. Hulambda4x-8, clone: human hypoxanthine phosphoribosyltransferase (HPRT). Chromosome(s): X q26.1 (ATCC 57237) Phage vector; Suggested host: E. coli.

2. Hulambda14, clone: human hypoxanthine phosphoribosyltransferase (HPRT). Chromosome(s): X q26.1 (ATCC 57240) Cloned from human lymphoblast. Phage vector; Suggested host: E. coli.

3. Hulambda15, clone: human hypoxanthine phosphoribosyltransferase (HPRT). Chromosome(s): X q26.1 (ATCC 57241) Phage vector; Suggested host: E. coli.

Additionally, the Centers for Disease Control has compiled a listing of biological materials shipped to Iraq prior to the Gulf War. The listing covers the period from October 1, 1984 (when the CDC began keeping records) through October 13, 1993. The following materials with biological warfare significance were shipped to Iraq during this period:

Date: November 28, 1989.

Sent to: University of Basrah, College of Science, Department of Biology.

Materials Shipped:

1. Enterococcus faecalis.
2. Enterococcus faecium.
3. Enterococcus avium.
4. Enterococcus raffinosus.
5. Enterococcus gallinarium.
6. Enterococcus durans.
7. Enterococcus hirae.
8. Streptococcus bovis (etiologic).

Date: April 21, 1986.

Sent to: Officers City Al-Muthanna, Quartret 710, Street 13, Close 69 House 28/I, Baghdad, Iraq.

Materials Shipped:

1. 1 vial botulinum toxoid (non-infectious).

Date: March 10, 1986.

Sent to: Officers City Al-Muthanna, Quartret 710, Street 13, Close 69 House 28/I, Baghdad, Iraq.

Materials Shipped:

1. 1 vial botulinum toxoid #A2 (non-infectious).

Date: June 25, 1985.

Sent to: University of Baghdad, College of Medicine, Department of Microbiology.

Materials Shipped:

1. 3 yeast cultures (etiologic) Candida sp.

Date: May 21, 1985.

Sent to: Basrah, Iraq.

Materials Shipped:

1. Lyophilized arbovirus seed (etiologic).
2. West Nile Fever Virus.

Date: April 26, 1985.

Sent to: Minister of Health, Ministry of Health, Baghdad, Iraq.

Materials Shipped:

1.8 vials antigen and antisera (r. rickettsii and r. typhi) to diagnose rickettsial infections (non-infectious).

UNSCOM BIOLOGICAL WARFARE INSPECTIONS

UNSCOM inspections uncovered evidence that the government of Iraq was conducting research on pathogen enhancement on the following biological warfare-related materials: bacillus anthracis; clostridium botulinum; clostridium perfirgens; brucella abortis; brucella melentensis; francisella tularensis; and clostridium tetani.

In addition, the UNSCOM inspections revealed that biological warfare-related stimulant research was being conducted on the following materials: bacillus subtillus; bacillus ceres; and bacillus megatillus.

UNSCOM reported to Committee staff that a biological warfare inspection (BW3) was conducted at the Iraq Atomic Energy Commission in 1993. This suggests that the Iraqi government may have been experimenting with the materials cited above (E. coli and rDNA) in an effort to create genetically altered microorganisms (novel biological warfare agents). Committee staff plans to interview the BW3 team leader, Col. David Franz of the United States Army Medical Research Institute for Infectious Diseases (USAMRIID) in the near future. This phase of the investigation continues.

BIOLOGICAL WARFARE DEFENSE

The following section, describing the types, dissemination, and defensive measures against biological agents, is quoted verbatim from a United States Marine Corps Institute document, Nuclear and Chemical Operations, MCI 7711B, used in the Command and Staff College's nonresident program. It is clear from this document that the Department of Defense recognizes both the threat and U.S. vulnerability to biological weapons. This document also outlines the Department's understanding of what actions should be taken in the event that a biological weapon has been or is suspected to have been employed.

"Biological agents cannot be detected by the human senses. A person could become a casualty before he is aware he has been exposed to a biological agent. An aerosol or mist of biological agent is borne in the air. These agents can silently and effectively attack man, animals, plants, and in some cases, materiel. Agents can be tailored for a specific type of target.

Methods of using antipersonnel agents undoubtedly vary so that no uniform pattern of employment or operation is evident. It is likely that agents will be used in combinations so that the disease symptoms will confuse diagnosis and interfere with proper treatment. It is also probable that biological agents would be used in heavy concentrations to insure a high percentage of infection in the target area. The use of such concentrations could result in the breakdown of individual immunity because the large number of micro-organisms entering the body could overwhelm the natural body defenses.

Types of biological agents

Different antipersonnel agents require varying periods of time before they take effect, and the periods of time for which they will incapacitate a person also vary. Most of the diseases having antipersonnel employment potential are found among groups of diseases that are naturally transmitted between animals and man. Mankind is highly vulnerable to them since he has little contact with animals in today's urban society. The micro-organisms of possible use in warfare are found in four naturally occurring groups—the fungi, bacteria, ricketisiae, and viruses.

a. Fungi. Fungi occur in many forms and are found almost everywhere. They range in size from a single cell, such as yeast, to multicellular forms, such as mushrooms and puffballs. Their greatest employment potential is against plants, although some forms cause disease in man. A fungus causes the disease coccidioidomycosis in man. Other common infections caused by Fungi include ringworm and "athletes foot."

b. Bacteria. Bacteria comprise a large and varied group of organisms. They occur in varying shapes, such as rods, spheres, and spirals, but they are all one-celled plants. Some bacteria can assume a resistant structure called a spore, which enables them to resist adverse environmental conditions. Others may produce poisonous substances called toxins. Examples of human disease caused by bacteria are anthrax, brucellosis, tularemia, staphylococcus, and streptococcus.

c. Rickettsiae. Rickettsiae organisms have the physical appearances of bacteria and the growth characteristics of viruses. Members of this group must have living tissue for growth and reproduction, whereas most fungi and bacteria can be grown on artificial material. Another characteristic of rickettsiae is that most diseases caused by this group are transmitted by the bite of an insect, such as the mosquito, mite, or tick. Rocky Mountain Spotted Fever, Q fever, and typhus are diseases of mankind caused by rickettsiae.

d. Virus. The smallest living things known to mankind are virsuses. Viruses are so small that an electron microscope is required to see them. Viruses cannot be grown in the absence of living tissue. Diseases which are caused by viruses cannot normally be treated with antibiotics. Viruses cause yellow fever, rabies, and poliomyelitis.

Dissemination of biological agents

a. Aerosol. Biological agents may be disseminated on, or over, the target by many means, such as aircraft, missiles, and explosive munitions. These devices produce a biological aerosol, and, if antipersonnel biological agents are ever used, they will probably be disseminated in the form of biological mists or aerosols. This method of dissemination would be extremely effective because the micro-organisms would be drawn into the lungs as a person breathes, and there they would be rapidly absorbed into the blood stream. *The hours from dusk until dawn appear to be the best time for dissemination of biological agents. The weather conditions are most favorable for these agents at night, since sunlight will destroy many of them. In field trials, using harmless biological aerosols, area coverages of thousands of square miles have been accomplished. The aerosol particles were carried for long distances by air currents.* (emphasis added)

b. Living Hosts. Personnel may be infected by disease carrying vectors, such as insects, rats, or other animals. Mosquitos may spread malaria, yellow fever, or encephalitis; rats spread plague (any mammal may carry rabies). Militarily, specific vectors may be selected, infected as required, and then released in the target area to seek out their human victims and pass on the disease. Since infection is transmitted through a bite in the skin, protective masks offer no protection. A vectorborne agent may remain in the target area for as long as there are live hosts; thus, a major disadvantage results. The vectorborne agent can become a permanent hazard in the area as the host infects others of his species.

c. Food and Water Contamination. Biological agents could also be delivered to target personnel by placing the agent in food and water supplies (sabotage). This type of attack would probably be directed against small targets, such as industrial complexes, headquarters, or specific individuals. The methods of delivering the attack are many and varied.

Defensive Measures

The United States carries out research aimed at improved means of detection of biological agents and treatment and immunization of personnel. Both of these are essential to biological defense.

a. Before an Attack. The inability of the individual to detect a biological attack is perhaps the greatest problem. Contributing factors are the delay experienced before the onset of symptoms and the time required to identify specific agents. Without an adequate means of detection, complete defensive measures may not be taken since an attack must first be detected before you can defend against it. Diseases caused by biological agents do not appear until a few days to weeks after contact with the agent. Personnel are protected against biological agents in aerosol form by the protective mask. Ordinary clothing protects the skin from contamination by biological agents. Other means of protection include immunizations; quarantining contaminated areas; cleanliness of the body, clothing, and living quarters; stringent rodent and pest control; proper care of cuts and wounds; and education of troops to eat and drink only from approved sources.

b. After an Attack: *After a biological agent attack has occurred, it will be necessary to identify the agent used in the attack so that proper medical treatment may be given to exposed personnel. To perform this identification, it is necessary to collect samples or objects from the contaminated area and send them to a laboratory or suitable facility for processing. Samples may be taken from the air, from contaminated surfaces, or from contaminated water. After the sample is taken, laboratory time will be required to identify the suspected biological agent.* The length of time for identification is being significantly shortened through the use of new medical and laboratory techniques. Proper defensive actions taken during a biological attack depend upon the rapid detection of the attack. Biological defense is continuous. You must always be prepared for the employment of these weapons. (emphasis added)

Mr. BYRD. Mr. President, I thank the Chair and I thank all Members.

RUSSIAN DEMOCRACY ACT OF 2002

Mr. BYRD. Mr. President, by request of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 543, H.R. 2121.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2121) to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote society in that country and to support independent media.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic].

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Russian Democracy Act of 2001".

[SEC. 2. FINDINGS AND PURPOSES.

[(a) FINDINGS.—Congress makes the following findings:

[(1) Since the dissolution of the Soviet Union, the leadership of the Russian Federation has publicly committed itself to building—

[(A) a society with democratic political institutions and practices, the observance of universally recognized standards of human rights, and religious and press freedom; and

[(B) a market economy based on internationally accepted principles of transparency, accountability, and the rule of law.

[(2) In order to facilitate this transition, the international community has provided multilateral and bilateral technical assistance, and the United States' contribution to these efforts has played an important role in developing new institutions built on democratic and liberal economic foundations and the rule of law.

[(3)(A) Since 1992, United States Government democratic reform programs and public diplomacy programs, including training, small grants, and technical assistance to independent television, radio, and print media across the Russian Federation, have strengthened nongovernment-owned media, provided access to and training in the use of the Internet, brought nearly 40,000 Russian citizens to the United States, and have led to the establishment of over 65,000 nongovernmental organizations, thousands of vibrant independent media outlets, and numerous political parties.

[(B) These efforts contributed to the substantially free and fair Russian parliamentary elections in 1995 and 1999 and Presidential elections in 1996 and 2000.

[(4) The United States has assisted Russian efforts to replace its centrally planned, state-controlled economy with a market economy and helped create institutions and infrastructure for a market economy by encouraging the transparent privatization of state-owned enterprises. Approximately two-thirds of the Russian Federation's gross domestic product is now generated by the private sector.

[(5)(A) The United States fostered grassroots entrepreneurship in the Russian Federation by focusing United States economic assistance on small- and medium-sized businesses and by providing training, consulting services, and small loans to more than 250,000 Russian entrepreneurs.

[(B) There are now more than 900,000 small businesses in the Russian Federation, producing 12 to 15 percent of the gross domestic product of the Russian Federation.

[(C) United States-funded programs help to fight corruption and financial crime, such as money laundering, by helping to—

[(i) establish a commercial legal infrastructure;

[(ii) develop an independent judiciary;

[(iii) support the drafting of a new criminal code, civil code, and bankruptcy law;

[(iv) develop a legal and regulatory framework for the Russian Federation's equivalent of the United States Securities and Exchange Commission;

[(v) support Russian law schools;

[(vi) create legal aid clinics; and

[(vii) bolster law-related activities of nongovernmental organizations.

[(6) Because the capability of Russian democratic forces and the civil society to organize and defend democratic gains without international support is uncertain, and because the gradual integration of the Russian Federation into the global order of free-market, democratic nations will further enhance Russian cooperation with the United States on a wide-range of political, economic, and security issues, the success of democracy in Russia is in the national security interest of the United States, and the United States Government should develop a far-reaching and flexible strategy aimed at strengthening Russian society's support for democracy and a market economy, particularly by enhancing Russian democratic institutions and education, promoting the rule of law, and supporting Russia's independent media.

[(7) Since the tragic events of September 11, 2001, the Russian Federation has stood with the United States and the civilized world in the struggle against terrorism and has cooperated in the war in Afghanistan by sharing intelligence and through other means.

[(b) PURPOSES.—The purposes of this Act are—

[(1) to strengthen and advance institutions of democratic government and of a free and independent media and to sustain the development of an independent civil society in the Russian Federation based on religious and ethnic tolerance, internationally recognized human rights, and an internationally recognized rule of law; and

[(2) to focus United States foreign assistance programs on using local expertise and giving local organizations a greater role in designing and implementing such programs, while maintaining appropriate oversight and monitoring.

[SEC. 3. UNITED STATES POLICY TOWARD THE RUSSIAN FEDERATION.

[(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should—

[(1) recognize that a democratic and economically stable Russian Federation is inherently less confrontational and destabilizing in its foreign policy and therefore that the promotion of democracy in Russia is in the national security interests of the United States; and

[(2) continue and increase assistance to the democratic forces in the Russian Federation, including the independent media, regional administrations, democratic political parties, and nongovernmental organizations.

[(b) STATEMENT OF POLICY.—It shall be the policy of the United States—

[(1) to facilitate Russia's integration into the Western community of nations, including supporting the establishment of a stable democracy and a market economy, and also including Russia's membership in the appropriate international institutions;

[(2) to engage the Government of Russian Federation and Russian society in order to strengthen democratic reform and institutions, and to promote good governance principles based on the internationally recognized norms of transparency in business practices, the rule of law, religious freedom, and human rights;

[(3) to advance a dialog between United States Government officials and private sector individuals and representatives of the Government of the Russian Federation regarding Russian integration into the Western community of nations;

[(4) to encourage United States Government officials and private sector individuals to meet regularly with democratic activists, human rights activists, representatives of the independent media, representatives of nongovernmental organizations, civic organizers, and reform-minded politicians from Moscow and the various regions of the Russian Federation;

[(5) to incorporate democratic reforms, the promotion of an independent media, and economic reforms in the broad United States agenda with the Government of the Russian Federation;

[(6) to encourage the Government of the Russian Federation to address cross-border issues, including the environment, crime, trafficking, and corruption in a cooperative and transparent manner consistent with internationally recognized and accepted principles of the rule of law;

[(7) to consult with the Government of the Russian Federation and the Russian Parliament on the adoption of economic and social reforms necessary to sustain Russian economic growth and to ensure Russia's transition to a fully functioning market economy;

[(8) to persuade the Government of the Russian Federation to honor its commitments made to the Organization for Security and Cooperation in Europe (OSCE) at the November 1999 Istanbul Conference and to conduct a genuine good neighbor policy toward the other independent states of the former Soviet Union in the spirit of internationally accepted principles of regional cooperation; and

[(9) to encourage the G-7 partners and international financial institutions, including the World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development, to develop financial safeguards and transparency practices in lending to the Russian Federation.

[SEC. 4. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

[(a) AMENDMENTS.—

[(1) DEMOCRACY AND RULE OF LAW.—Section 498(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295(2)) is amended—

[(A) in the heading, by striking "DEMOCRACY" and inserting "DEMOCRACY AND RULE OF LAW";

[(B) by striking subparagraphs (E) and (G);

[(C) by redesignating subparagraph (F) as subparagraph (I);

[(D) by inserting after subparagraph (D) the following:

["(E) development and support of grassroots and nongovernmental organizations promoting democracy, the rule of law, transparency, and accountability in the political process, including grants in small amounts to such organizations;

["(F) international exchanges to promote greater understanding by Russian Federation citizens on how democracy, public policy process, market institutions, and an independent judiciary function in Western societies;

["(G) political parties committed to promoting democracy, human rights, and economic reforms;

["(H) support for civic organizations committed to promoting human rights; and"; and

[(E) by adding at the end the following:

["(J) strengthened administration of justice through programs and activities carried out in accordance with section 498B(e), including—

["(i) support for nongovernmental organizations, civic organizations, and political parties that favor a strong and independent judiciary based on merit;

["(ii) support for local organizations that work with judges and law enforcement officials in efforts to achieve a reduction in the number of pretrial detainees; and

["(iii) support for the creation of Russian legal associations or groups that provide training in human rights and advocacy, public education with respect to human rights-related laws and proposed legislation, and legal assistance to persons subject to improper government interference.".

[(2) Independent Media.—Section 498 of the Foreign Assistance Act of 1961 (22 U.S.C. 2295) is amended—

[(A) by redesignating paragraphs (3) through (13) as paragraphs (4) though (14), respectively; and

[(B) by inserting after paragraph (2) the following:

["(3) Independent Media.—Developing a free and independent media, including—

["(A) supporting all forms of non-state-owned media reporting, including print, radio, and television;

["(B) providing special support for, and unrestricted public access to, nongovernmental Internet-based sources of information, dissemination and reporting, including providing technical and other support for web radio services, providing computers and other necessary resources for Internet connectivity and training new Internet users in nongovernmental and other civic organizations on methods and uses of Internet-based media; and

["(C) training in journalism, including investigative journalism techniques which educate the public on the costs of corruption and act as a deterrent against corrupt officials.".

[(b) Conforming Amendment.—Section 498B(e) of such Act is amended by striking "paragraph (2)(G)" and inserting "paragraph (2)(J)".

[SEC. 5. ACTIVITIES TO SUPPORT THE RUSSIAN FEDERATION.

[(a) Assistance Programs.—In providing assistance to the Russian Federation under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.), the President is authorized to carry out the following specific activities:

[(1) Work with the Government of the Russian Federation, the Duma, and representatives of the Russian Federation judiciary to help implement a revised and improved code of criminal procedure and other laws.

[(2) Establish civic education programs relating to democracy, public policy, the rule of law, and the importance of an independent media, including the establishment of "American Centers" and public policy schools at Russian universities and programs by universities in the United States to offer courses through Internet-based off-site learning centers at Russian universities.

[(3) Support the Regional Initiatives (RI) program, which provides targeted assistance in those regions of the Russian Federation that have demonstrated commitment to reform, democracy, and the rule of law, and which promote the concept of such programs as a model for all regions of the Russian Federation.

[(b) Radio Free Europe/Radio Liberty and Voice of America.—Radio Free Europe/Radio Liberty and the Voice of America should use new and innovative techniques, in cooperation with local independent media sources, to disseminate information throughout the Russian Federation relating to democracy, free-market economics, the rule of law, and human rights.

[SEC. 6. AUTHORIZATION OF ASSISTANCE FOR DEMOCRACY, INDEPENDENT MEDIA, AND THE RULE OF LAW.

[Of the amounts made available to carry out the provision of chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) and the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 for fiscal year 2002, not less than $50,000,000 is authorized to be available for the activities authorized by paragraphs (2) and (3) of section 498 of the Foreign Assistance Act of 1961, as amended by section 4(a) of this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Russian Democracy Act of 2002".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress makes the following findings:

(1) Since the dissolution of the Soviet Union, the leadership of the Russian Federation has publicly committed itself to building—

(A) a society with democratic political institutions and practices, the observance of universally recognized standards of human rights, and religious and press freedom; and

(B) a market economy based on internationally accepted principles of transparency, accountability, and the rule of law.

(2) In order to facilitate this transition, the international community has provided multilateral and bilateral technical assistance, and the United States' contribution to these efforts has played an important role in developing new institutions built on democratic and liberal economic foundations and the rule of law.

(3)(A) Since 1992, United States Government democratic reform programs and public diplomacy programs, including training, and small grants have provided access to and training in the use of the Internet, brought nearly 40,000 Russian citizens to the United States, and have led to the establishment of more than 65,000 nongovernmental organizations, thousands of independent local media outlets, despite governmental opposition, and numerous political parties.

(B) These efforts contributed to the substantially free and fair Russian parliamentary elections in 1995 and 1999.

(4) The United States has assisted Russian efforts to replace its centrally planned, state-controlled economy with a market economy and helped create institutions and infrastructure for a market economy. Approximately two-thirds of the Russian Federation's gross domestic product is now generated by the private sector, and the United States recognized Russia as a market economy on June 7, 2002.

(5)(A) The United States has fostered grassroots entrepreneurship in the Russian Federation by focusing United States economic assistance on small- and medium-sized businesses and by providing training, consulting services, and small loans to more than 250,000 Russian entrepreneurs.

(B) There are now more than 900,000 small businesses in the Russian Federation, producing 12 to 15 percent, depending on the estimate, of the gross domestic product of the Russian Federation.

(C) United States-funded programs have contributed to fighting corruption and financial crime, such as money laundering, by helping to—

(i) establish a commercial legal infrastructure;

(ii) develop an independent judiciary;

(iii) support the drafting of a new criminal code, civil code, and bankruptcy law;

(iv) develop a legal and regulatory framework for the Russian Federation's equivalent of the United States Securities and Exchange Commission;

(v) support Russian law schools;

(vi) create legal aid clinics; and

(vii) bolster law-related activities of nongovernmental organizations.

(6) Because the capability of Russian democratic forces and the civil society to organize and defend democratic gains without international support is uncertain, and because the gradual integration of the Russian Federation into the global order of free-market, democratic nations would enhance Russian cooperation with the United States on a wide range of political, economic, and security issues, the success of democracy in Russia is in the national security interest of the United States, and the United States Government should develop a far-reaching and flexible strategy aimed at strengthening Russian society's support for democracy and a market economy, particularly by enhancing Russian democratic institutions and education, promoting the rule of law, and supporting Russia's independent media.

(7) Since the tragic events of September 11, 2001, the Russian Federation has stood with the United States and the rest of the civilized world in the struggle against terrorism and has cooperated in the war in Afghanistan by sharing intelligence and through other means.

(8) United States-Russia relations have improved, leading to a successful summit between President Bush and President Putin in May 2002, resulting in a "Foundation for Cooperation".

(b) Purposes.—The purposes of this Act are—

(1) to strengthen and advance institutions of democratic government and of free and independent media, and to sustain the development of an independent civil society in the Russian Federation based on religious and ethnic tolerance, internationally recognized human rights, and an internationally recognized rule of law; and

(2) to focus United States foreign assistance programs on using local expertise and to give local organizations a greater role in designing and implementing such programs, while maintaining appropriate oversight and monitoring.

SEC. 3. UNITED STATES POLICY TOWARD THE RUSSIAN FEDERATION.

(a) Sense of Congress.—It is the sense of Congress that the United States Government should—

(1) recognize that a democratic and economically stable Russian Federation is inherently

less confrontational and destabilizing in its foreign policy and therefore that the promotion of democracy in Russia is in the national security interests of the United States; and

(2) continue and increase assistance to the democratic forces in the Russian Federation, including the independent media, regional administrations, democratic political parties, and nongovernmental organizations.

(b) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to facilitate Russia's integration into the Western community of nations, including supporting the establishment of a stable democracy and a market economy within the framework of the rule of law and respect for individual rights, including Russia's membership in the appropriate international institutions;

(2) to engage the Government of the Russian Federation and Russian society in order to strengthen democratic reform and institutions, and to promote transparency and good governance in all aspects of society, including fair and honest business practices, accessible and open legal systems, freedom of religion, and respect for human rights;

(3) to advance a dialogue among United States Government officials, private sector individuals, and representatives of the Government of the Russian Federation regarding Russia's integration into the Western community of nations;

(4) to encourage United States Government officials and private sector individuals to meet regularly with democratic activists, human rights activists, representatives of the independent media, representatives of nongovernmental organizations, civic organizers, church officials, and reform-minded politicians from Moscow and all other regions of the Russian Federation;

(5) to incorporate democratic reforms, the promotion of independent media, and economic reforms in a broader United States dialogue with the Government of the Russian Federation;

(6) to encourage the Government of the Russian Federation to address, in a cooperative and transparent manner consistent with internationally recognized and accepted principles, cross-border issues, including the nonproliferation of weapons of mass destruction, environmental degradation, crime, trafficking, and corruption;

(7) to consult with the Government of the Russian Federation and the Russian Parliament on the adoption of economic and social reforms necessary to sustain Russian economic growth and to ensure Russia's transition to a fully functioning market economy and membership in the World Trade Organization;

(8) to persuade the Government of the Russian Federation to honor its commitments made to the Organization for Security and Cooperation in Europe (OSCE) at the November 1999 Istanbul Conference, and to conduct a genuine good neighbor policy toward the other independent states of the former Soviet Union in the spirit of internationally accepted principles of regional cooperation; and

(9) to encourage the G–8 partners and international financial institutions, including the World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development, to develop financial safeguards and transparency practices in lending to the Russian Federation.

SEC. 4. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) IN GENERAL.—

(1) DEMOCRACY AND RULE OF LAW.—Section 498(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295(2)) is amended—

(A) in the paragraph heading, by striking "DEMOCRACY" and inserting "DEMOCRACY AND RULE OF LAW";

(B) by striking subparagraphs (E) and (G);

(C) by redesignating subparagraph (F) as subparagraph (I);

(D) by inserting after subparagraph (D) the following:

"(E) development and support of grass-roots and nongovernmental organizations promoting democracy, the rule of law, transparency, and accountability in the political process, including grants in small amounts to such organizations;

"(F) international exchanges and other forms of public diplomacy to promote greater understanding on how democracy, the public policy process, market institutions, and an independent judiciary function in Western societies;

"(G) political parties and coalitions committed to promoting democracy, human rights, and economic reforms;

"(H) support for civic organizations committed to promoting human rights;"; and

(E) by adding at the end the following:

"(J) strengthened administration of justice through programs and activities carried out in accordance with section 498B(e), including—

"(i) support for nongovernmental organizations, civic organizations, and political parties that favor a strong and independent judiciary;

"(ii) support for local organizations that work with judges and law enforcement officials in efforts to achieve a reduction in the number of pretrial detainees; and

"(iii) support for the creation of legal associations or groups that provide training in human rights and advocacy, public education with respect to human rights-related laws and proposed legislation, and legal assistance to persons subject to improper government interference.".

(2) INDEPENDENT MEDIA.—Section 498 of the Foreign Assistance Act of 1961 (22 U.S.C. 2295) is amended—

(A) by redesignating paragraphs (3) through (13) as paragraphs (4) through (14), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) INDEPENDENT MEDIA.—Developing free and independent media, including—

"(A) supporting all forms of independent media reporting, including print, radio, and television;

"(B) providing special support for, and unrestricted public access to, nongovernmental Internet-based sources of information, dissemination and reporting, including providing technical and other support for web radio services, providing computers and other necessary resources for Internet connectivity and training new Internet users in nongovernmental civic organizations on methods and uses of Internet-based media; and

"(C) training in journalism, including investigative journalism techniques that educate the public on the costs of corruption and act as a deterrent against corrupt officials.".

(b) CONFORMING AMENDMENT.—Section 498B(e) of such Act is amended by striking "paragraph (2)(G)" and inserting "paragraph (2)(J)".

SEC. 5. ACTIVITIES TO SUPPORT THE RUSSIAN FEDERATION.

(a) ASSISTANCE PROGRAMS.—In providing assistance to the Russian Federation under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.), the President is authorized to—

(1) work with the Government of the Russian Federation, the Duma, and representatives of the Russian Federation judiciary to help implement a revised and improved code of criminal procedure and other laws;

(2) establish civic education programs relating to democracy, public policy, the rule of law, and the importance of independent media, including the establishment of "American Centers" and public policy schools at Russian universities and encourage cooperative programs with universities in the United States to offer courses through Internet-based off-site learning centers at Russian universities; and

(3) support the Regional Initiatives (RI) program, which provides targeted assistance in those regions of the Russian Federation that have demonstrated a commitment to reform, democracy, and the rule of law, and which promotes the concept of such programs as a model for all regions of the Russian Federation.

(b) RADIO FREE EUROPE/RADIO LIBERTY AND VOICE OF AMERICA.—RFE/RL, Incorporated, and the Voice of America should use new and innovative techniques, in cooperation with local independent media sources and using local languages as appropriate and as possible, to disseminate throughout the Russian Federation information relating to democracy, free-market economics, the rule of law, and human rights.

SEC. 6. AUTHORIZATION OF ASSISTANCE FOR DEMOCRACY, INDEPENDENT MEDIA, AND THE RULE OF LAW.

Of the amounts made available to carry out the provision of chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) and the FREEDOM Support Act for fiscal year 2003, $50,000,000 is authorized to be available for the activities authorized by paragraphs (2) and (3) of section 498 of the Foreign Assistance Act of 1961, as amended by section 4(a) of this Act.

Amend the title so as to read: "An Act to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society and independent media in that country.".

AMENDMENT NO. 4697

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BIDEN and Mr. HELMS, proposes an amendment numbered 2121.

At the appropriate place in the bill insert the following:

SEC. . PRESERVING THE ARCHIVES OF HUMAN RIGHTS ACTIVIST AND NOBEL PEACE PRIZE WINNER ANDREI SAKHAROV.

(a) AUTHORIZATION.—The President is authorized, on such terms and conditions as the President determines to be appropriate, to make a grant to Brandeis University for an endowment for the Andrei Sakharov Archives and Human Rights Center for the purpose of collecting and preserving documents related to the life of Andrei Sakharov and the administration of such Center.

(b) FUNDING.—There is authorized to be appropriated to the President to carry out subsection (a) not more than $1,500,000.

SEC. . EXTENSION OF LAW.

The provisions of section 108(c) of H.R. 3427, as enacted by section 1000(a)(7) of P.L. 106–113, shall apply to U.S. contributions for fiscal year 2003 to the organization described in section 108(c) of H.R. 3427.

Mr. BYRD. Mr. President, I ask unanimous consent that the Biden-Helms amendment at the desk be agreed to, the committee amendment be agreed to, the bill, as amended, be read the third time and passed, and the amendment to the title be agreed to; that the motion to reconsider be laid upon the table with no intervening action or debate; and that any statements relating thereto be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4697) was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The title amendment was agreed to.

The bill (H.R. 2121), as amended, was read the third time and passed, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Russian Democracy Act of 2002".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Since the dissolution of the Soviet Union, the leadership of the Russian Federation has publicly committed itself to building—

(A) a society with democratic political institutions and practices, the observance of universally recognized standards of human rights, and religious and press freedom; and

(B) a market economy based on internationally accepted principles of transparency, accountability, and the rule of law.

(2) In order to facilitate this transition, the international community has provided multilateral and bilateral technical assistance, and the United States' contribution to these efforts has played an important role in developing new institutions built on democratic and liberal economic foundations and the rule of law.

(3)(A) Since 1992, United States Government democratic reform programs and public diplomacy programs, including training, and small grants have provided access to and training in the use of the Internet, brought nearly 40,000 Russian citizens to the United States, and have led to the establishment of more than 65,000 nongovernmental organizations, thousands of independent local media outlets, despite governmental opposition, and numerous political parties.

(B) These efforts contributed to the substantially free and fair Russian parliamentary elections in 1995 and 1999.

(4) The United States has assisted Russian efforts to replace its centrally planned, state-controlled economy with a market economy and helped create institutions and infrastructure for a market economy. Approximately two-thirds of the Russian Federation's gross domestic product is now generated by the private sector, and the United States recognized Russia as a market economy on June 7, 2002.

(5)(A) The United States has fostered grassroots entrepreneurship in the Russian Federation by focusing United States economic assistance on small- and medium-sized businesses and by providing training, consulting services, and small loans to more than 250,000 Russian entrepreneurs.

(B) There are now more than 900,000 small businesses in the Russian Federation, producing 12 to 15 percent, depending on the estimate, of the gross domestic product of the Russian Federation.

(C) United States-funded programs have contributed to fighting corruption and financial crime, such as money laundering, by helping to—

(i) establish a commercial legal infrastructure;

(ii) develop an independent judiciary;

(iii) support the drafting of a new criminal code, civil code, and bankruptcy law;

(iv) develop a legal and regulatory framework for the Russian Federation's equivalent of the United States Securities and Exchange Commission;

(v) support Russian law schools;

(vi) create legal aid clinics; and

(vii) bolster law-related activities of nongovernmental organizations.

(6) Because the capability of Russian democratic forces and the civil society to organize and defend democratic gains without international support is uncertain, and because the gradual integration of the Russian Federation into the global order of free-market, democratic nations would enhance Russian cooperation with the United States on a wide range of political, economic, and security issues, the success of democracy in Russia is in the national security interest of the United States, and the United States Government should develop a far-reaching and flexible strategy aimed at strengthening Russian society's support for democracy and a market economy, particularly by enhancing Russian democratic institutions and education, promoting the rule of law, and supporting Russia's independent media.

(7) Since the tragic events of September 11, 2001, the Russian Federation has stood with the United States and the rest of the civilized world in the struggle against terrorism and has cooperated in the war in Afghanistan by sharing intelligence and through other means.

(8) United States-Russia relations have improved, leading to a successful summit between President Bush and President Putin in May 2002, resulting in a "Foundation for Cooperation".

(b) PURPOSES.—The purposes of this Act are—

(1) to strengthen and advance institutions of democratic government and of free and independent media, and to sustain the development of an independent civil society in the Russian Federation based on religious and ethnic tolerance, internationally recognized human rights, and an internationally recognized rule of law; and

(2) to focus United States foreign assistance programs on using local expertise and to give local organizations a greater role in designing and implementing such programs, while maintaining appropriate oversight and monitoring.

SEC. 3. UNITED STATES POLICY TOWARD THE RUSSIAN FEDERATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should—

(1) recognize that a democratic and economically stable Russian Federation is inherently less confrontational and destabilizing in its foreign policy and therefore that the promotion of democracy in Russia is in the national security interests of the United States; and

(2) continue and increase assistance to the democratic forces in the Russian Federation, including the independent media, regional administrations, democratic political parties, and nongovernmental organizations.

(b) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to facilitate Russia's integration into the Western community of nations, including supporting the establishment of a stable democracy and a market economy within the framework of the rule of law and respect for individual rights, including Russia's membership in the appropriate international institutions;

(2) to engage the Government of the Russian Federation and Russian society in order to strengthen democratic reform and institutions, and to promote transparency and good governance in all aspects of society, including fair and honest business practices, accessible and open legal systems, freedom of religion, and respect for human rights;

(3) to advance a dialogue among United States Government officials, private sector individuals, and representatives of the Government of the Russian Federation regarding Russia's integration into the Western community of nations;

(4) to encourage United States Government officials and private sector individuals to meet regularly with democratic activists, human rights activists, representatives of the independent media, representatives of nongovernmental organizations, civic organizers, church officials, and reform-minded politicians from Moscow and all other regions of the Russian Federation;

(5) to incorporate democratic reforms, the promotion of independent media, and economic reforms in a broader United States dialogue with the Government of the Russian Federation;

(6) to encourage the Government of the Russian Federation to address, in a cooperative and transparent manner consistent with internationally recognized and accepted principles, cross-border issues, including the nonproliferation of weapons of mass destruction, environmental degradation, crime, trafficking, and corruption;

(7) to consult with the Government of the Russian Federation and the Russian Parliament on the adoption of economic and social reforms necessary to sustain Russian economic growth and to ensure Russia's transition to a fully functioning market economy and membership in the World Trade Organization;

(8) to persuade the Government of the Russian Federation to honor its commitments made to the Organization for Security and Cooperation in Europe (OSCE) at the November 1999 Istanbul Conference, and to conduct a genuine good neighbor policy toward the other independent states of the former Soviet Union in the spirit of internationally accepted principles of regional cooperation; and

(9) to encourage the G–8 partners and international financial institutions, including the World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development, to develop financial safeguards and transparency practices in lending to the Russian Federation.

SEC. 4. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) IN GENERAL.—

(1) DEMOCRACY AND RULE OF LAW.—Section 498(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295(2)) is amended—

(A) in the paragraph heading, by striking "DEMOCRACY" and inserting "DEMOCRACY AND RULE OF LAW";

(B) by striking subparagraphs (E) and (G);

(C) by redesignating subparagraph (F) as subparagraph (I);

(D) by inserting after subparagraph (D) the following:

"(E) development and support of grass-roots and nongovernmental organizations promoting democracy, the rule of law, transparency, and accountability in the political process, including grants in small amounts to such organizations;

"(F) international exchanges and other forms of public diplomacy to promote greater understanding on how democracy, the public policy process, market institutions, and an independent judiciary function in Western societies;

"(G) political parties and coalitions committed to promoting democracy, human rights, and economic reforms;

"(H) support for civic organizations committed to promoting human rights;"; and

(E) by adding at the end the following:

"(J) strengthened administration of justice through programs and activities carried out in accordance with section 498B(e), including—

"(i) support for nongovernmental organizations, civic organizations, and political parties that favor a strong and independent judiciary;

"(ii) support for local organizations that work with judges and law enforcement officials in efforts to achieve a reduction in the number of pretrial detainees; and

"(iii) support for the creation of legal associations or groups that provide training in human rights and advocacy, public education with respect to human rights-related laws and proposed legislation, and legal assistance to persons subject to improper government interference.".

(2) INDEPENDENT MEDIA.—Section 498 of the Foreign Assistance Act of 1961 (22 U.S.C. 2295) is amended—

(A) by redesignating paragraphs (3) through (13) as paragraphs (4) through (14), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) INDEPENDENT MEDIA.—Developing free and independent media, including—

"(A) supporting all forms of independent media reporting, including print, radio, and television;

"(B) providing special support for, and unrestricted public access to, nongovernmental Internet-based sources of information, dissemination and reporting, including providing technical and other support for web radio services, providing computers and other necessary resources for Internet connectivity and training new Internet users in nongovernmental civic organizations on methods and uses of Internet-based media; and

"(C) training in journalism, including investigative journalism techniques that educate the public on the costs of corruption and act as a deterrent against corrupt officials.".

(b) CONFORMING AMENDMENT.—Section 498B(e) of such Act is amended by striking "paragraph (2)(G)" and inserting "paragraph (2)(J)".

SEC. 5. ACTIVITIES TO SUPPORT THE RUSSIAN FEDERATION.

(a) ASSISTANCE PROGRAMS.—In providing assistance to the Russian Federation under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.), the President is authorized to—

(1) work with the Government of the Russian Federation, the Duma, and representatives of the Russian Federation judiciary to help implement a revised and improved code of criminal procedure and other laws;

(2) establish civic education programs relating to democracy, public policy, the rule of law, and the importance of independent media, including the establishment of "American Centers" and public policy schools at Russian universities and encourage cooperative programs with universities in the United States to offer courses through Internet-based off-site learning centers at Russian universities; and

(3) support the Regional Initiatives (RI) program, which provides targeted assistance in those regions of the Russian Federation that have demonstrated a commitment to reform, democracy, and the rule of law, and which promotes the concept of such programs as a model for all regions of the Russian Federation.

(b) RADIO FREE EUROPE/RADIO LIBERTY AND VOICE OF AMERICA.—RFE/RL, Incorporated, and the Voice of America should use new and innovative techniques, in cooperation with local independent media sources and using local languages as appropriate and as possible, to disseminate throughout the Russian Federation information relating to democracy, free-market economics, the rule of law, and human rights.

SEC. 6. AUTHORIZATION OF ASSISTANCE FOR DEMOCRACY, INDEPENDENT MEDIA, AND THE RULE OF LAW.

Of the amounts made available to carry out the provision of chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) and the FREEDOM Support Act for fiscal year 2003, $50,000,000 is authorized to be available for the activities authorized by paragraphs (2) and (3) of section 498 of the Foreign Assistance Act of 1961, as amended by section 4(a) of this Act.

SEC. 7. PRESERVING THE ARCHIVES OF HUMAN RIGHTS ACTIVIST AND NOBEL PEACE PRIZE WINNER ANDREI SAKHAROV.

(a) AUTHORIZATION.—The President is authorized, on such terms and conditions as the President determines to be appropriate, to make a grant to Brandeis University for an endowment for the Andrei Sakharov Archives and Human Rights Center for the purpose of collecting and preserving documents related to the life of Andrei Sakharov and the administration of such Center.

(b) FUNDING.—There is authorized to be appropriated to the President to carry out subsection (a) not more than $1,500,000.

SEC. 8. EXTENSION OF LAW.

The provisions of section 108(c) of H.R. 3427, as enacted by section 1000(a)(7) of Public Law 106–113, shall apply to United States contributions for fiscal year 2003 to the organization described in section 108(c) of H.R. 3427.

Amend the title so as to read: "An Act to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society and independent media in that country.".

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 23, 2002, AT 2.30 P.M.

Mr. BYRD. Mr. President, that concludes the business of the Senate for today.

Thereupon, the Senate, at 3:38 p.m., adjourned until Monday, September 23, 2002, at 2:30 p.m.

NOMINATIONS

Executive nominations received by the Senate September 20, 2002:

DEPARTMENT OF JUSTICE

KEVIN J. O' CONNOR, OF CONNECTICUT, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF CONNECTICUT FOR THE TERM OF FOUR YEARS, VICE STEPHEN C. ROBINSON, RESIGNED.

JOHN FRANCIS CLARK, OF VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS, VICE JOHN WILLIAM MARSHALL, RESIGNED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate September 20, 2002:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral (lower half)

CAPT. JODY A. BRECKENRIDGE
CAPT. JOHN E. CROWLEY
CAPT. LARRY L. HERETH
CAPT. RICHARD R. HOUCK
CAPT. CLIFFORD I. PEARSON
CAPT. JAMES C. VAN SICE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S. CODE, SECTION 211:

To be rear admiral (lower half)

STEPHEN W. ROCHON

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

REENA RAGGI, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

DEPARTMENT OF JUSTICE

ANTONIO CANDIA AMADOR, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING CHRISTINE D. BALBONI AND ENDING STEVEN E. VANDERPLAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

COAST GUARD NOMINATION OF DAVID C. CLIPPINGER.

HOUSE OF REPRESENTATIVES—*Monday, September 23, 2002*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 23, 2002.

I hereby appoint the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, Your revelation shaped the founding of this Nation. Divine Providence has guided us through the years. Our spiritual heritage gives us strength as leaders in government face the questions and problems whirling around us in these autumn winds.

You have boldly said "Today I have set before you life and death, therefore choose life." These words have inspired people of faith down through the ages. Renew hearts around the world as people dedicate their energy in the pursuit of peace and justice. Bless America's leadership in the effort to unite people against all forms of terrorism and help build a more humane world.

In You we place our trust now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Guam (Mr. UNDERWOOD) come forward and lead the House in the Pledge of Allegiance.

Mr. UNDERWOOD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2121. An act to make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society in that country and to support independent media.

The message also announced that pursuant to Public Law 106–170, the Chair, on behalf of the Democratic Leader, after consultation with the Chairman of the Senate Committee on Finance, announces the appointment of Jack L. Hillyard, of Iowa, to serve as a member of the Ticket to Work and Work Incentives Advisory Panel, vice Dr. Richard V. Burkhauser, of New York.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 20, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelop received from the White House on September 20, 2002 at 9:44 a.m. and said to contain a message from the President whereby he submits the National Security Strategy of the United States.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

NATIONAL SECURITY STRATEGY OF THE UNITED STATES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services:

To the Congress of the United States:

As required by section 108 of the National Security Act of 1947, as amended (50 U.S.C. 404a), I am transmitting a report prepared by my Administration on the National Security Strategy of the United States.

GEORGE W. BUSH.
THE WHITE HOUSE, *September 19, 2002.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Member will be recognized for 5 minutes.

CONTINUING CHALLENGES FACING GUAM'S ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, as we consider unfinished legislative business for the 107th Congress, I want to take this opportunity to talk about the continuing challenges facing Guam's economy as well as the economies of other insular areas of the United States.

Over the past year, the entire country has faced unprecedented economic challenges in the aftermath of September 11 as well as security challenges, and we have responded here in Congress by the consideration of legislation to establish a Department of Homeland Security and have taken steps to restore the peace in the Middle East and to make our security stronger in the Middle East and around the world.

Against this backdrop, many of the economic relief measures that were passed by Congress did not address the economic conditions of Guam and the other insular areas for a wide number of reasons regarding the exact nature of the relationship.

Fortunately for Guam, legislation was eventually signed into law by President Bush on August 21, the Guam Foreign Investment Equity Act, to provide for equitable rates for foreign investors in Guam and level the playing field.

Most recently, the Committee on Resources on September 12 also marked up H.R. 2826, legislation to provide relief to U.S. Territories by increasing the matching waiver requirements for Federal grants for the territorial governments in Guam, the Virgin Islands, American Samoa and the Commonwealth of the Northern Marianas. I hope that the House will be able to act on this measure in the near future.

With regard to actions by the executive branch, I am pleased that President Bush announced the appointment of David Cohen to be Deputy Assistant Secretary for Insular Affairs in late April. This appointment was an elevation from the position formerly entitled Director of the Office of Insular Affairs; and it was greatly appreciated by people in the territories, particularly given Mr. Cohen's qualifications and knowledge of insular issues.

Today I would like to again reiterate my call for the establishment of a Federal interagency group headed by the White House and Department of the Interior to address issues in the U.S. Territories of Guam, the Virgin Islands, the Northern Marianas, and American Samoa; and I am hopeful that President Bush will do so by Presidential executive order.

As a follow-up to my previous concerns on Federal insular affairs, I believe it is equally important to ensure that there is greater coordination amongst Federal agencies on insular area issues. The elevation of the OIA director to the Deputy Assistant Secretary position and the establishment of a Federal interagency group on insular areas are both necessary to improve Federal territorial relations and to have a chance to improve our economies as well.

Unlike the 50 States, any of the 50 States, the insular areas simply do not have the same representation, available resources, or level playing field in Congress or the Federal policy-making process. In addition, our small populations, geographical distance from Washington, D.C., and our varying political and tax structures create even greater challenges and complexities.

While the Interior Department is the lead agency for the territories, many of the pressing matters facing our island communities do not fall under that Department's jurisdiction. Such things as taxes, economic development, health, education, labor, immigration, agriculture, the environment, transportation, housing and defense all fall under other agencies. As a result, the insular area governments, many of which are experiencing budgetary shortfalls and double-digit unemployment rates, have a difficult time having issues addressed by the executive branch in an effective and timely manner.

Previously, under the previous Clinton administration, an Interagency Group on Insular Areas was established by Presidential memorandum in 1999 to provide guidance to Federal agencies on policies concerning the insular areas. Although a forum was held in the year 2000 and an attempt was made to produce a Federal progress report on economic development, there has been no continuation in the dialogue between the insular areas and the interagency group. Consequently, there has been very little coordination of the executive response. During these very difficult economic times, it is more important that there be a forum in which the insular areas can work with all of the Federal agencies in a collaborative matter.

It is important to understand that in a place like Guam we are experiencing double-digit unemployment. In fact, some figures place us as high as 21 percent unemployment. We are suffering from the effects of September 11. We need the administration to establish via Presidential executive order an interagency group to address economic issues, homeland security issues, anything that affects the territories.

COMMUNICATION FROM DISTRICT DIRECTOR OF HON. BRIAN BAIRD, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Jeanne Bennett, District Director of the Honorable Brian Baird, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 10, 2002.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a deposition subpoena issued by the Superior Court of Washington for Cowlitz County in a civil case pending there.

After consultation with the Office of General Counsel, I have determined that it is consistent with the precedents and privileges of the House to comply with the subpoena.

Sincerely,

JEANNE BENNETT,
District Director.

CONFERENCE REPORT ON H.R. 1646

Mr. HYDE submitted the following conference report and statement on the bill (H.R. 1646), to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–671)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1646), to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment to the text and an amendment to the title as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 2003".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into two divisions as follows:

(1) DIVISION A.—Department of State Authorization Act, Fiscal Year 2003.

(2) DIVISION B.—Security Assistance Act of 2002.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Definitions.

DIVISION A—DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEAR 2003

Sec. 101. Short title.

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

Subtitle A—Department of State

Sec. 111. Administration of foreign affairs.
Sec. 112. United States educational, cultvral, and public diplomacy programs.
Sec. 113. Contributions to international organizations.
Sec. 114. International Commissions.
Sec. 115. Migration and refugee assistance.
Sec. 116. Grants to The Asia Foundation.

Subtitle B—United States International Broadcasting Activities

Sec. 121. Authorizations of appropriations.

TITLE II—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

Subtitle A—Basic Authorities and Activities

Sec. 201. Emergency evacuation services.
Sec. 202. Special agent authorities.
Sec. 203. International Litigation Fund.
Sec. 204. State Department records of overseas deaths of United States citizens from nonnatural causes.
Sec. 205. Foreign Relations Historical Series.
Sec. 206. Expansion of eligibility for award of certain construction contracts.
Sec. 207. International Chancery Center.
Sec. 208. Travel to Great Lakes fisheries meetings.
Sec. 209. Correction of Fishermen's Protective Act of 1967.
Sec. 210. Use of funds received by the International Boundary and Water Commission.
Sec. 211. Fee collections relating to intercountry adoptions and affidavits of support.
Sec. 212. Annual reports on compliance with The Hague Convention on the Civil Aspects of International Child Abduction.
Sec. 213. Repeal of provision regarding housing for Foreign Agricultural Attaches.
Sec. 214. United States policy with respect to Jerusalem as the capital of Israel.
Sec. 215. Report concerning efforts to promote Israel's diplomatic relations with other countries.
Sec. 216. Continuation of reporting requirements.

Subtitle B—Educational, Cultural, and Public Diplomacy Authorities

Sec. 221. Fulbright-Hays Act authorities.
Sec. 222. Extension of requirement for scholarships for Tibetans and Burmese.
Sec. 223. Plan for achievement of public diplomacy objectives.
Sec. 224. Advisory Committee on Cultural Diplomacy.
Sec. 225. Allocation of funds for "American Corners" in the Russian Federation.
Sec. 226. Report relating to Commission on Security and Cooperation in Europe.
Sec. 227. Amendments to the Vietnam Education Foundation Act of 2000.
Sec. 228. Ethical issues in international health research.
Sec. 229. Conforming amendments.

Subtitle C—Consular Authorities
Sec. 231. Report on visa issuance to inadmissible aliens.
Sec. 232. Denial of entry into United States of Chinese and other nationals engaged in coerced organ or bodily tissue transplantation.
Sec. 233. Processing of visa applications.
Sec. 234. Machine readable visas.
Subtitle D—Migration and Refugees
Sec. 241. Prohibition on funding the involuntary return of refugees.
Sec. 242. United States membership in the International Organization for Migration.
Sec. 243. Report on overseas refugee processing.
TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE
Subtitle A—Organizational Matters
Sec. 301. Comprehensive workforce plan.
Sec. 302. "Rightsizing" overseas posts.
Sec. 303. Qualifications of certain officers of the Department of State.
Subtitle B—Personnel Matters
Sec. 311. Thomas Jefferson Star for Foreign Service.
Sec. 312. Presidential rank awards.
Sec. 313. Foreign Service National Savings Fund.
Sec. 314. Clarification of separation for cause.
Sec. 315. Dependents on family visitation travel.
Sec. 316. Health education and disease prevention programs.
Sec. 317. Correction of time limitation for grievance filing.
Sec. 318. Training authorities.
Sec. 319. Unaccompanied air baggage.
Sec. 320. Emergency medical advance payments.
Sec. 321. Retirement credit for certain Government service performed abroad.
Sec. 322. Computation of Foreign Service retirement annuities as if Washington, D.C., locality-based comparability payments were made to overseas-stationed Foreign Service members.
Sec. 323. Plan for improving recruitment of veterans into the Foreign Service.
Sec. 324. Report concerning minority employment.
Sec. 325. Use of funds authorized for minority recruitment.
Sec. 326. Assignments and details of personnel to the American Institute in Taiwan.
Sec. 327. Annual reports on foreign language competence.
Sec. 328. Travel of children of members of the Foreign Service assigned abroad.
TITLE IV—INTERNATIONAL ORGANIZATIONS
Sec. 401. Payment of third installment of arrearages.
Sec. 402. Limitation on the United States share of assessments for United Nations peacekeeping operations in calendar years 2001 through 2004.
Sec. 403. Limitation on the United States share of assessments for United Nations regular budget.
Sec. 404. Promotion of sound financial practices by the United Nations.
Sec. 405. Reports to Congress on United Nations activities.
Sec. 406. Use of secret ballots within the United Nations.
Sec. 407. Sense of Congress relating to membership of the United States in UNESCO.
Sec. 408. United States membership on the United Nations Commission on Human Rights and International Narcotics Control Board.
Sec. 409. Plan for enhanced Department of State efforts to place United States citizens in positions of employment in the United Nations and its specialized agencies.
TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES
Sec. 501. Modification of limitation on grant amounts to RFE/RL, Incorporated.
Sec. 502. Pay parity for senior executives of RFE/RL, Incorporated.
Sec. 503. Authority to contract for local broadcasting services outside the United States.
Sec. 504. Personal services contracting pilot program.
Sec. 505. Travel by Voice of America correspondents.
Sec. 506. Report on broadcasting personnel.
Sec. 507. Conforming amendments.
TITLE VI—MISCELLANEOUS PROVISIONS
Subtitle A—Middle East Peace Commitments Act of 2002
Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Reports.
Sec. 604. Imposition of sanctions.
Subtitle B—Tibet Policy
Sec. 611. Short title.
Sec. 612. Statement of purpose.
Sec. 613. Tibet negotiations.
Sec. 614. Reporting on Tibet.
Sec. 615. Congressional-Executive Commission on the People's Republic of China.
Sec. 616. Economic development in Tibet.
Sec. 617. Release of prisoners and access to prisons.
Sec. 618. Establishment of a United States branch office in Lhasa, Tibet.
Sec. 619. Requirement for Tibetan language training.
Sec. 620. Religious persecution in Tibet.
Sec. 621. United States Special Coordinator for Tibetan Issues.
Subtitle C—East Timor Transition to Independence Act of 2002
Sec. 631. Short title.
Sec. 632. Bilateral assistance.
Sec. 633. Multilateral assistance.
Sec. 634. Trade and investment assistance.
Sec. 635. Generalized System of Preferences.
Sec. 636. Authority for radio broadcasting.
Sec. 637. Security assistance for East Timor.
Sec. 638. Reporting requirement.
Subtitle D—Clean Water for the Americas Partnership
Sec. 641. Short title.
Sec. 642. Definitions.
Sec. 643. Establishment of program.
Sec. 644. Environmental assessment.
Sec. 645. Establishment of Technology America Centers.
Sec. 646. Promotion of water quality, water treatment systems, and energy efficiency.
Sec. 647. Grants for prefeasibility studies within a designated subregion.
Sec. 648. Clean Water Technical Support Committee.
Sec. 649. Authorization of appropriations.
Sec. 650. Report.
Sec. 651. Termination date.
Sec. 652. Effective date.
Subtitle E—Freedom Investment Act of 2002
Sec. 661. Short title.
Sec. 662. Purposes.
Sec. 663. Human rights activities at the Department of State.
Sec. 664. Human Rights and Democracy Fund.
Sec. 665. Reports on actions taken by the United States to encourage respect for human rights.
Subtitle F—Elimination and Streamlining of Reporting Requirements
Sec. 671. Elimination of certain reporting requirements.
Sec. 672. Biennial reports on programs to encourage good governance.
Subtitle G—Other Matters
Sec. 681. Amendments to the International Religious Freedom Act of 1998.
Sec. 682. Amendments to the Victims of Trafficking and Violence Protection Act of 2000.
Sec. 683. Annual human rights country reports on child soldiers.
Sec. 684. Extension of authority for Caucus on International Narcotics Control.
Sec. 685. Participation of South Asian countries in international law enforcement.
Sec. 686. Payment of anti-terrorism judgments.
Sec. 687. Reports on participation by small businesses in procurement contracts of USAID.
Sec. 688. Program to improve building construction and practices in Latin American countries.
Sec. 689. Sense of Congress relating to HIV/AIDS and United Nations peacekeeping operations.
Sec. 690. Sense of Congress relating to Magen David Adom Society.
Sec. 691. Sense of Congress regarding the location of Peace Corps offices abroad.
Sec. 692. Sense of Congress relating to resolution of the Taiwan Strait issue.
Sec. 693. Sense of Congress relating to display of the American flag at the American Institute in Taiwan.
Sec. 694. Reports on activities in Colombia.
Sec. 695. Report on United States-sponsored activities in Colombia.
Sec. 696. Report on extradition policy and practice.
Sec. 697. Special Court for Sierra Leone.
Sec. 698. United States Envoy for Peace in Sudan.
Sec. 699. Transfer of proscribed weapons to persons or entities in the West Bank and Gaza.
Sec. 700. Sense of Congress relating to arsenic contamination in drinking water in Bangladesh.
Sec. 701. Policing reform and human rights in Northern Ireland.
Sec. 702. Annual reports on United States-Vietnam human rights dialogue meetings.
Sec. 703. Sense of Congress regarding human rights violations in Indonesia.
Sec. 704. Report concerning the German Foundation "Remembrance, Responsibility, and the Future".
Sec. 705. Sense of Congress on return of portraits of holocaust victims to the artist Dina Babbitt.
Sec. 706. International drug control certification procedures.
DIVISION B—SECURITY ASSISTANCE ACT OF 2002
TITLE X—GENERAL PROVISIONS
Sec. 1001. Short title.
Sec. 1002. Definitions.
TITLE XI—VERIFICATION OF ARMS CONTROL AND NONPROLIFERATION AGREEMENTS
Sec. 1101. Verification and Compliance Bureau personnel.
Sec. 1102. Key Verification Assets Fund.
Sec. 1103. Revised verification and compliance reporting requirements.

TITLE XII—MILITARY AND RELATED ASSISTANCE

Subtitle A—Foreign Military Sales and Financing Authorities

Sec. 1201. Authorization of appropriations.
Sec. 1202. Relationship of Foreign Military Sales to United States nonproliferation interests.
Sec. 1203. Official reception and representation expenses.
Sec. 1204. Arms Export Control Act prohibition on transactions with countries that have repeatedly provided support for acts of international terrorism.
Sec. 1205. Congressional notification of small arms and light weapons license approvals; reports.
Sec. 1206. Treatment of Taiwan relating to transfers of defense articles and defense services.

Subtitle B—International Military Education and Training

Sec. 1211. Authorization of appropriations.
Sec. 1212. Human rights violations.
Sec. 1213. Participation in post-undergraduate flying training and tactical leadership programs.

Subtitle C—Assistance for Select Countries

Sec. 1221. Assistance for Israel and Egypt.
Sec. 1222. Security assistance for Greece and Turkey.
Sec. 1223. Security assistance for certain other countries.
Sec. 1224. Assistance for Lebanon.

Subtitle D—Excess Defense Article and Drawdown Authorities

Sec. 1231. Excess defense articles for certain countries.
Sec. 1232. Annual listing of possible excess defense articles.
Sec. 1233. Leases of defense articles for foreign countries and international organizations.
Sec. 1234. Priority with respect to transfer of excess defense articles.

Subtitle E—Other Political-Military Assistance

Sec. 1241. Destruction of surplus weapons stockpiles.

Subtitle F—Antiterrorism Assistance

Sec. 1251. Authorization of appropriations.

Subtitle G—Other Matters

Sec. 1261. Additions to United States War Reserve Stockpiles for Allies.
Sec. 1262. Revised military assistance reporting requirements.
Sec. 1263. Consultation with Congress with regard to Taiwan.

TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

Subtitle A—General Provisions

Sec. 1301. Authorization of appropriations.
Sec. 1302. Nonproliferation technology acquisition programs for friendly foreign countries.
Sec. 1303. International nonproliferation and export control training.
Sec. 1304. Relocation of scientists.
Sec. 1305. International Atomic Energy Agency regular budget assessments and voluntary contributions.
Sec. 1306. Amendments to the Iran Nonproliferation Act of 2000.
Sec. 1307. Amendments to the North Korea Threat Reduction Act of 1999.
Sec. 1308. Annual reports on the proliferation of missiles and essential components of nuclear, biological, chemical, and radiological weapons.

Subtitle B—Russian Federation Debt Reduction for Nonproliferation

Sec. 1311. Short title.
Sec. 1312. Findings and purposes.
Sec. 1313. Definitions.
Sec. 1314. Authority to reduce the Russian Federation's Soviet-era debt obligations to the United States.
Sec. 1315. Russian Federation Nonproliferation Investment Agreement.
Sec. 1316. Independent media and the rule of law.
Sec. 1317. Restriction on debt reduction authority.
Sec. 1318. Discussion of Russian Federation debt reduction for nonproliferation with other creditor states.
Sec. 1319. Implementation of United States policy.
Sec. 1320. Consultations with Congress.
Sec. 1321. Annual reports to Congress.

Subtitle C—Nonproliferation Assistance Coordination

Sec. 1331. Short title.
Sec. 1332. Findings.
Sec. 1333. Definitions.
Sec. 1334. Establishment of Committee on Nonproliferation Assistance.
Sec. 1335. Purposes and authority.
Sec. 1336. Administrative support.
Sec. 1337. Confidentiality of information.
Sec. 1338. Statutory construction.
Sec. 1339. Reporting and consultation.

Subtitle D—Iran Nuclear Proliferation Prevention Act of 2002

Sec. 1341. Short title.
Sec. 1342. Withholding of voluntary contributions to the International Atomic Energy Agency for programs and projects in Iran.
Sec. 1343. Annual review by Secretary of State of programs and projects of the International Atomic Energy Agency; United States opposition to certain programs and projects of the Agency.
Sec. 1344. Reporting requirements.
Sec. 1345. Sense of Congress.

TITLE XIV—EXPEDITING THE MUNITIONS LICENSING PROCESS

Sec. 1401. License officer staffing.
Sec. 1402. Funding for database automation.
Sec. 1403. Information management priorities.
Sec. 1404. Improvements to the Automated Export System.
Sec. 1405. Adjustment of threshold amounts for congressional review purposes.
Sec. 1406. Congressional notification of removal of items from the Munitions List.

TITLE XV—NATIONAL SECURITY ASSISTANCE STRATEGY

Sec. 1501. Briefing on the strategy.
Sec. 1502. Security assistance surveys.

TITLE XVI—MISCELLANEOUS PROVISIONS

Sec. 1601. Nuclear and missile nonproliferation in South Asia.
Sec. 1602. Real-time public availability of raw seismological data.
Sec. 1603. Detailing United States governmental personnel to international arms control and nonproliferation organizations.
Sec. 1604. Diplomatic presence overseas.
Sec. 1605. Compliance with the Chemical Weapons Convention.

TITLE XVII—AUTHORITY TO TRANSFER NAVAL VESSELS

Sec. 1701. Authority to transfer naval vessels to certain foreign countries.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) DEPARTMENT.—The term "Department" means the Department of State.

(3) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of State.

DIVISION A—DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEAR 2003

SEC. 101. SHORT TITLE.

This division may be cited as the "Department of State Authorization Act, Fiscal Year 2003".

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

Subtitle A—Department of State

SEC. 111. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated for the Department under "Administration of Foreign Affairs" to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, and for other purposes authorized by law, including public diplomacy activities and the diplomatic security program:

(1) DIPLOMATIC AND CONSULAR PROGRAMS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For "Diplomatic and Consular Programs", $4,030,023,000 for the fiscal year 2003.

(B) WORLDWIDE SECURITY UPGRADES.—Of the amount authorized to be appropriated by subparagraph (A), $564,000,000 for the fiscal year 2003 is authorized to be appropriated for worldwide security upgrades.

(C) BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR.—Of the amount authorized to be appropriated by subparagraph (A), $20,000,000 for the fiscal year 2003 is authorized to be appropriated for salaries and expenses of the Bureau of Democracy, Human Rights, and Labor.

(D) RECRUITMENT OF MINORITY GROUPS.—Of the amount authorized to be appropriated by subparagraph (A), $2,000,000 for the fiscal year 2003 is authorized to be appropriated for the recruitment of members of minority groups for careers in the Foreign Service and international affairs.

(2) CAPITAL INVESTMENT FUND.—For "Capital Investment Fund", $200,000,000 for the fiscal year 2003.

(3) EMBASSY SECURITY, CONSTRUCTION AND MAINTENANCE.—

(A) IN GENERAL.—For "Embassy Security, Construction and Maintenance", $555,000,000 for the fiscal year 2003, in addition to amounts otherwise authorized to be appropriated for such purpose by section 604 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–470).

(B) AMENDMENT OF THE NANCE-DONOVAN FOREIGN RELATIONS AUTHORIZATION ACT.—Section 604(a)(4) of that Act (113 Stat. 1501A–453) is amended by striking "$900,000,000" and inserting "$1,000,000,000".

(4) REPRESENTATION ALLOWANCES.—For "Representation Allowances", $9,000,000 for the fiscal year 2003.

(5) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For "Protection of Foreign Missions and Officials", $11,000,000 for the fiscal year 2003.

(6) EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For "Emergencies in the Diplomatic and Consular Service", $15,000,000 for the fiscal year 2003.

(7) REPATRIATION LOANS.—For "Repatriation Loans", $1,250,000 for the fiscal year 2003.

(8) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For "Payment to the American Institute in Taiwan", $18,817,000 for the fiscal year 2003.

(9) OFFICE OF THE INSPECTOR GENERAL.—For "Office of the Inspector General", $30,800,000 for the fiscal year 2003.

(b) AVAILABILITY OF FUNDS FOR PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—The amount appropriated pursuant to subsection (a)(5) is authorized to remain available through September 30, 2004.

SEC. 112. UNITED STATES EDUCATIONAL, CULTURAL, AND PUBLIC DIPLOMACY PROGRAMS.

The following amounts are authorized to be appropriated for the Department to carry out public diplomacy programs of the Department under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Foreign Affairs Reform and Restructuring Act of 1998, the Center for Cultural and Technical Interchange Between East and West Act of 1960, the Dante B. Fascell North-South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—

(i) IN GENERAL.—For the "Fulbright Academic Exchange Programs" (other than programs described in subparagraph (B)), $135,000,000 for the fiscal year 2003.

(ii) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAM.—Of the amount authorized to be appropriated by clause (i), $5,000,000 for the fiscal year 2003 is authorized to be available to carry out the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

(iii) NEW CENTURY SCHOLARS INITIATIVE—HIV/AIDS.—Of the amount authorized to be appropriated under clause (i), $1,000,000 for the fiscal year 2003 is authorized to be available for HIV/AIDS research and mitigation strategies under the Health Issues in a Border-Less World academic program of the New Century Scholars Initiative.

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(i) IN GENERAL.—For other educational and cultural exchange programs authorized by law, $125,000,000 for the fiscal year 2003.

(ii) TIBETAN EXCHANGES.—Of the amount authorized to be appropriated by clause (i), $500,000 for the fiscal year 2003 is authorized to be available for "Ngawang Choephel Exchange Programs" (formerly known as "programs of educational and cultural exchange between the United States and the people of Tibet") under section 103(a) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104–319).

(iii) EAST TIMORESE SCHOLARSHIPS.—Of the amount authorized to be appropriated by clause (i), $500,000 for the fiscal year 2003 is authorized to be available for "East Timorese Scholarships".

(iv) MONTENEGRO PARLIAMENTARY DEVELOPMENT.—Of the amount authorized to be appropriated by clause (i), $500,000 for the fiscal year 2003 is authorized to be available for a program of parliamentary development and exchanges in Montenegro.

(v) SOUTH PACIFIC EXCHANGES.—Of the amount authorized to be appropriated under clause (i), $750,000 for the fiscal year 2003 is authorized to be available for "South Pacific Exchanges".

(vi) ISRAEL-ARAB PEACE PARTNERS PROGRAM.—Of the amount authorized to be appropriated under clause (i), $750,000 for the fiscal year 2003 is authorized to be available for people-to-people activities (with a focus on young people) to support the Middle East peace process involving participants from Israel, the Palestinian Authority, Arab countries, and the United States, to be known as the "Israel-Arab Peace Partners Program".

(vii) SUDANESE SCHOLARSHIPS.—Of the amount authorized to be appropriated under clause (i), $500,000 for the fiscal year 2003 is authorized to be available for scholarships for students from southern Sudan for secondary or postsecondary education in the United States, to be known as "Sudanese Scholarships".

(2) NATIONAL ENDOWMENT FOR DEMOCRACY.—

(A) IN GENERAL.—For the "National Endowment for Democracy", $42,000,000 for the fiscal year 2003.

(B) REAGAN-FASCELL DEMOCRACY FELLOWS.—Of the amount authorized to be appropriated under subparagraph (A), $1,000,000 for the fiscal year 2003 is authorized to be available for a fellowship program known as the "Reagan-Fascell Democracy Fellows", for democracy activists and scholars from around the world at the International Forum for Democratic Studies in Washington, D.C., to study, write, and exchange views with other activists and scholars and with Americans.

(3) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the "Center for Cultural and Technical Interchange between East and West", $15,000,000 for the fiscal year 2003.

(4) DANTE B. FASCELL NORTH-SOUTH CENTER.—For the "Dante B. Fascell North-South Center", $2,500,000 for the fiscal year 2003.

SEC. 113. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a) ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated under the heading "Contributions to International Organizations" $891,378,000 for the fiscal year 2003 for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(2) AVAILABILITY OF FUNDS FOR CIVIL BUDGET OF NATO.—Of the amount authorized to be appropriated under the heading "Contributions to International Organizations" for fiscal year 2003, and for each fiscal year thereafter, such sums as may be necessary are authorized for the United States assessment for the civil budget of the North Atlantic Treaty Organization.

(b) CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.—There is authorized to be appropriated under the heading "Contributions for International Peacekeeping Activities" $725,981,000 for the fiscal year 2003 for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(c) PROHIBITION ON FUNDING OTHER FRAMEWORK TREATY-BASED ORGANIZATIONS.—None of the funds made available for the 2002–2003 biennium budget under subsection (a) for United States contributions to the regular budget of the United Nations may be available for the United States proportionate share of any framework treaty-based organization, including the Framework Convention on Global Climate Change, the International Seabed Authority, and the International Criminal Court.

(d) FOREIGN CURRENCY EXCHANGE RATES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amount authorized to be appropriated by subsection (a), there is authorized to be appropriated such sums as may be necessary for the fiscal year 2003 to offset adverse fluctuations in foreign currency exchange rates.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under this subsection may be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to the appropriate congressional committees that such amounts are necessary due to such fluctuations.

(e) REFUND OF EXCESS CONTRIBUTIONS.—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the organization or agency concerned its proportionate share of the amount by which the total contributions to the organization or agency exceed the expenditures of the regular assessed budget of the organization or agency.

SEC. 114. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international commissions, and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For "International Boundary and Water Commission, United States and Mexico"—

(A) for "Salaries and Expenses", $28,387,000 for the fiscal year 2003; and

(B) for "Construction", $9,517,000 for the fiscal year 2003.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For "International Boundary Commission, United States and Canada", $1,157,000 for the fiscal year 2003.

(3) INTERNATIONAL JOINT COMMISSION.—For "International Joint Commission", $7,544,000 for the fiscal year 2003.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For "International Fisheries Commissions", $19,780,000 for the fiscal year 2003.

SEC. 115. MIGRATION AND REFUGEE ASSISTANCE.

(a) IN GENERAL.—There is authorized to be appropriated for the Department for "Migration and Refugee Assistance" for authorized activities, $820,000,000 for the fiscal year 2003.

(b) REFUGEES RESETTLING IN ISRAEL.—Of the amount authorized to be appropriated by subsection (a), $60,000,000 is authorized to be available for the fiscal year 2003 for the resettlement of refugees in Israel.

(c) TIBETAN REFUGEES IN INDIA AND NEPAL.—Of the amount authorized to be appropriated by subsection (a), $2,000,000 for the fiscal year 2003 is authorized to be available for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(d) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.—Of the amount authorized to be appropriated by subsection (a), $2,000,000 for the fiscal year 2003 is authorized to be available for humanitarian assistance (including food, medicine, clothing, and medical and vocational training) to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.

SEC. 116. GRANTS TO THE ASIA FOUNDATION.

Section 404 of The Asia Foundation Act (title IV of Public Law 98–164; 22 U.S.C. 4403) is amended to read as follows:

"SEC. 404. There is authorized to be appropriated to the Secretary of State $15,000,000 for the fiscal year 2003 for grants to The Asia Foundation pursuant to this title.".

Subtitle B—United States International Broadcasting Activities

SEC. 121. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, and the Foreign Affairs Reform and Restructuring Act of 1998, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—

(A) IN GENERAL.—For "International Broadcasting Operations", $485,823,000 for the fiscal year 2003.

(B) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated by subparagraph (A) for the fiscal year 2003, there is authorized to be available for Radio Free Asia $35,000,000 for the fiscal year 2003.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For "Broadcasting Capital Improvements", $13,740,000 for the fiscal year 2003.

(3) BROADCASTING TO CUBA.—For. "Broadcasting to Cuba", $25,923,000 for the fiscal year 2003.

(b) CONTINUATION OF ADDITIONAL AUTHORIZATION FOR BROADCASTING TO THE PEOPLE'S REPUBLIC OF CHINA AND NEIGHBORING COUNTRIES.—Section 701 of Public Law 106–286 (22 U.S.C. 7001) is amended—

(1) in subsection (a) by striking "2001" and inserting "2003"; and

(2) in subsection (b)(1), by striking "2001 and 2002" and inserting "2001, 2002, and 2003".

(c) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR MIDDLE EAST RADIO NETWORK OF VOICE OF AMERICA.—In addition to such amounts as are made available for the Middle East Radio Network of Voice of America pursuant to the authorization of appropriations under subsection (a), there is authorized to be appropriated $20,000,000 for the fiscal year 2003 for the Middle East Radio Network of Voice of America.

TITLE II—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

Subtitle A—Basic Authorities and Activities

SEC. 201. EMERGENCY EVACUATION SERVICES.

Section 4(b)(2)(A) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671(b)(2)(A)) is amended to read as follows:

"(A) the evacuation when their lives are endangered by war, civil unrest, or natural disaster of—

"(i) United States Government employees and their dependents; and

"(ii) private United States citizens or third-country nationals, on a reimbursable basis to the maximum extent practicable, with such reimbursements to be credited to the applicable Department of State appropriation and to remain available until expended, except that no reimbursement under this clause shall be paid that is greater than the amount the person evacuated would have been charged for a reasonable commercial air fare immediately prior to the events giving rise to the evacuation;".

SEC. 202. SPECIAL AGENT AUTHORITIES.

(a) GENERAL AUTHORITY.—Section 37(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) obtain and execute search and arrest warrants, as well as obtain and serve subpoenas and summonses issued under the authority of the United States;";

(2) in paragraph (3)(F), by inserting "or President-elect" after "President"; and

(3) by amending paragraph (5) to read as follows:

"(5) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.".

(b) AGREEMENTS.—Section 37(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking "(b) AGREEMENT.—" and all that follows through the end of paragraph (1) and inserting the following:

"(b) AGREEMENTS WITH ATTORNEY GENERAL AND SECRETARY OF THE TREASURY AND FIREARMS REGULATIONS.—

"(1) AGREEMENT WITH ATTORNEY GENERAL.—The authority conferred by paragraphs (1) and (4) of subsection (a) shall be exercised subject to an agreement between the Secretary and the Attorney General.

"(2) AGREEMENT WITH ATTORNEY GENERAL AND SECRETARY OF THE TREASURY.—The authority conferred by paragraphs (2) and (5) of subsection (a) shall be exercised subject to an agreement among the Secretary, the Attorney General, and the Secretary of the Treasury.".

(c) IMPLEMENTATION OF SEARCH, SEIZURE, SERVICE, AND ARREST AUTHORITY.—(1) The authority conferred by paragraphs (2) and (5) of section 37(a) of the State Department Basic Authorities Act of 1956, as amended by subsection (a), may not be exercised until the date on which the Secretary—

(A) submits the agreement required by subsection (b)(2) of section 37 of such Act to the appropriate congressional committees; and

(B) publishes in the Federal Register a notice that the agreement has been submitted in accordance with the requirements of subparagraph (A).

(2) The authority conferred by paragraphs (2) and (5) of subsection (a) of section 37 of the State Department Basic Authorities Act of 1956, as in effect on the day before the date of the enactment of this Act, may continue to be exercised until the date on which the notice described in paragraph (1)(B) is published in the Federal Register.

SEC. 203. INTERNATIONAL LITIGATION FUND.

Section 38 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) is amended by adding at the end the following new subsection:

"(e) RETENTION OF FUNDS.—

"(1) IN GENERAL.—To reimburse the expenses of the United States Government in preparing or prosecuting a proceeding before an international tribunal, or a claim against a foreign government or other foreign entity, the Secretary may retain 1.5 percent of any amount between $100,000 and $5,000,000, and one percent of any amount over $5,000,000, received per claim under chapter 34 of the Act of February 27, 1896 (22 U.S.C. 2668a; 29 Stat. 32).

"(2) TREATMENT.—Amounts retained under the authority of paragraph (1) shall be deposited into the fund under subsection (d).".

SEC. 204. STATE DEPARTMENT RECORDS OF OVERSEAS DEATHS OF UNITED STATES CITIZENS FROM NON-NATURAL CAUSES.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section:

"SEC. 57. STATE DEPARTMENT RECORDS OF OVERSEAS DEATHS OF UNITED STATES CITIZENS FROM NON-NATURAL CAUSES.

"(a) COLLECTION OF INFORMATION.—The Secretary shall, to the maximum extent practicable, collect, with respect to each foreign country, the following information with respect to each United States citizen who dies in that country from a nonnatural cause on or after the date of enactment of the Foreign Relations Authorization Act, Fiscal Year 2003:

"(1) The date of death.

"(2) The locality where the death occurred (including the state or province and municipality, if available).

"(3) The cause of death, including information on the circumstances of the death, and including, if the death resulted from an act of terrorism, a statement disclosing that information.

"(4) Such other information as the Secretary shall prescribe.

"(b) DATABASE.—The Secretary shall establish and maintain a database containing the information collected under subsection (a).

"(c) PUBLIC AVAILABILITY OF INFORMATION.—Beginning three months after the date of enactment of the Foreign Relations Authorization Act, Fiscal Year 2003, the Secretary, shall make available, on a country-by-country basis, on the Internet website of the Department's Bureau of Consular Affairs, the information from the database described in subsection (b) with respect to deaths occurring since the date of enactment of that Act, or occurring during the preceding three calendar years, whichever period is shorter. The information shall be updated at least every six months.".

SEC. 205. FOREIGN RELATIONS HISTORICAL SERIES.

(a) ANNUAL REPORTS BY THE ADVISORY COMMITTEE.—Section 404(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4354(d)) is amended—

(1) by striking "REPORTING REQUIREMENT.—" and inserting "ANNUAL REPORTS BY THE ADVISORY COMMITTEE.—"; and

(2) by inserting "and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives" after "Secretary of State".

(b) ANNUAL REPORTS BY THE SECRETARY.—Section 404(e) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4354(e)) is amended to read as follows:

"(e) ANNUAL REPORTS BY THE SECRETARY.—

"(1) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the compliance of the Department of State with the provisions of this title, including—

"(A) the volumes published in the previous calendar year;

"(B) the degree to which the Department is not in compliance with the deadline set forth in section 401(c); and

"(C) the factors relevant to the inability of the Department to comply with the provisions of this title, including section 401(c).

"(2) FORM OF REPORTS.—Each report required to be submitted by paragraph (1) shall be submitted in unclassified form, together with a classified annex if necessary.".

SEC. 206. EXPANSION OF ELIGIBILITY FOR AWARD OF CERTAIN CONSTRUCTION CONTRACTS.

(a) IN GENERAL.—Section 11(b)(4)(A) of the Foreign Service Buildings Act, 1926 (22 U.S.C. 302(b)(4)(A)) is amended by inserting "or at a United States diplomatic or consular establishment abroad" after "United States".

(b) CONFORMING AMENDMENT.—Section 402(c)(2)(D) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4852(c)(2)(D)) is amended by inserting "or at a United States diplomatic or consular establishment abroad" after "United States".

SEC. 207. INTERNATIONAL CHANCERY CENTER.

Section 1 of the Act of October 8, 1968 (Public Law 90–553, as amended; commonly known as the "International Center Act") is amended—

(1) by redesignating clauses (a) and (b) as clauses (1) and (2), respectively;

(2) by inserting "(a)" after "That"; and

(3) by adding at the end the following new subsections:

"(b) There is established in the Treasury of the United States an account into which may be deposited funds provided as advance payments pursuant to subsection (a).

"(c) The Secretary of State may request the Secretary of the Treasury to invest such portion of the funds deposited in that account as is not, in the judgment of the Secretary of State, required to meet the current needs of the account. Such investments shall be made by the Secretary of the Treasury in public debt securities with maturities suitable to the needs of the account, as determined by the Secretary of State, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States of comparable maturity.".

SEC. 208. TRAVEL TO GREAT LAKES FISHERIES MEETINGS.

Section 4(c) of the Great Lakes Fisheries Act of 1956 (16 U.S.C. 933(c)) is amended—

(1) by striking "five" and inserting "ten"; and

(2) by striking "each" and inserting "the annual".

SEC. 209. CORRECTION OF FISHERMEN'S PROTECTIVE ACT OF 1967.

Section 7(a)(3) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(a)(3)) is amended by striking "Secretary of Commerce" and inserting "Secretary of State".

SEC. 210. USE OF FUNDS RECEIVED BY THE INTERNATIONAL BOUNDARY AND WATER COMMISSION.

Section 5 of the Act entitled "An Act providing for a study regarding the equitable use of the waters of the Rio Grande below Fort Quitman, Texas, in cooperation with the United States of Mexico", approved May 13, 1924 (22 U.S.C. 277d), is amended by inserting ", the North American Development Bank, or the Border Environment Cooperation Commission" after "United Mexican States".

SEC. 211. FEE COLLECTIONS RELATING TO INTERCOUNTRY ADOPTIONS AND AFFIDAVITS OF SUPPORT.

(a) ADOPTION FEES.—Section 403(b) of the Intercountry Adoption Act of 2000 (Public Law 106–279) is amended—

(1) in paragraph (2), by adding at the end the following new sentence: "Such fees shall remain available for obligation until expended."; and

(2) by striking paragraph (3).

(b) AFFIDAVIT OF SUPPORT FEES.—Section 232 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–425) is amended—

(1) in subsection (c), by adding at the end the following new sentence: "Such fees shall remain available for obligation until expended."; and

(2) by striking subsection (d).

SEC. 212. ANNUAL REPORTS ON COMPLIANCE WITH THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION.

Section 2803(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105–277; 112 Stat. 2681–846) is amended by striking "during the period ending September 30, 2001".

SEC. 213. REPEAL OF PROVISION REGARDING HOUSING FOR FOREIGN AGRICULTURAL ATTACHES.

Section 738 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–387; 114 Stat. 1549A–34) is repealed.

SEC. 214. UNITED STATES POLICY WITH RESPECT TO JERUSALEM AS THE CAPITAL OF ISRAEL.

(a) CONGRESSIONAL STATEMENT OF POLICY.—The Congress maintains its commitment to relocating the United States Embassy in Israel to Jerusalem and urges the President, pursuant to the Jerusalem Embassy Act of 1995 (Public Law 104–45; 109 Stat. 398), to immediately begin the process of relocating the United States Embassy in Israel to Jerusalem.

(b) LIMITATION ON USE OF FUNDS FOR CONSULATE IN JERUSALEM.—None of the funds authorized to be appropriated by this Act may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

(c) LIMITATION ON USE OF FUNDS FOR PUBLICATIONS.—None of the funds authorized to be appropriated by this Act may be available for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

(d) RECORD OF PLACE OF BIRTH AS ISRAEL FOR PASSPORT PURPOSES.—For purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary shall, upon the request of the citizen or the citizen's legal guardian, record the place of birth as Israel.

SEC. 215. REPORT CONCERNING EFFORTS TO PROMOTE ISRAEL'S DIPLOMATIC RELATIONS WITH OTHER COUNTRIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Israel is a friend and ally of the United States whose security is vital to regional stability and United States interests.

(2) Israel currently maintains diplomatic relations with approximately 160 countries. Approximately 30 countries do not have any diplomatic relations with Israel.

(3) The State of Israel has been actively seeking to establish formal relations with a number of countries.

(4) The United States should assist its ally, Israel, in its efforts to establish diplomatic relations.

(5) After more than 50 years of existence, Israel deserves to be treated as an equal nation by its neighbors and the world community.

(b) REPORT CONCERNING UNITED STATES EFFORTS TO PROMOTE ISRAEL'S DIPLOMATIC RELATIONS WITH OTHER COUNTRIES.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that includes the following information (in classified or unclassified form, as appropriate):

(1) Actions taken by the United States to encourage other countries to establish full diplomatic relations with Israel.

(2) Specific responses solicited and received by the Secretary from countries that do not maintain full diplomatic relations with Israel with respect to the status of negotiations to enter into diplomatic relations with Israel.

(3) Other measures being undertaken, and measures that will be undertaken, by the United States to ensure and promote Israel's full participation in the world diplomatic community.

SEC. 216. CONTINUATION OF REPORTING REQUIREMENTS.

(a) REPORTS ON CLAIMS BY UNITED STATES FIRMS AGAINST THE GOVERNMENT OF SAUDI ARABIA.—Section 2801(b)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105–277) is amended by striking "seventh" and inserting "eleventh".

(b) REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.—Section 2802(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105–277) is amended by striking "September 30, 2001," and inserting "September 30, 2003,".

(c) REPORT ON TERRORIST ACTIVITY IN WHICH UNITED STATES CITIZENS WERE KILLED AND RELATED MATTERS.—Section 805(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (section 805(a) of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–470) is amended by striking "Not later" and all that follows through "2001," and inserting "Not later than May 1, 2003, and not later than May 1, 2004,".

Subtitle B—Educational, Cultural, and Public Diplomacy Authorities

SEC. 221. FULBRIGHT-HAYS ACT AUTHORITIES.

Section 112(d) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(d)) is amended—

(1) by inserting "(1)" immediately after "(d)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), the Bureau may also exercise the authorities of this Act to administer programs authorized by, or funded pursuant to, the FREEDOM Support Act, the Support for East European Democracy Act, the Foreign Assistance Act of 1961, or any other Act authorizing educational or cultural exchanges or activities, to the extent that such programs are consistent with the purposes of this Act.".

SEC. 222. EXTENSION OF REQUIREMENT FOR SCHOLARSHIPS FOR TIBETANS AND BURMESE.

Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104–319; 22 U.S.C. 2151 note) is amended by striking "for the fiscal year 2000" and inserting "for the fiscal year 2003".

SEC. 223. PLAN FOR ACHIEVEMENT OF PUBLIC DIPLOMACY OBJECTIVES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department designed to achieve the following objectives:

(1) Full integration of public diplomacy policy into overall policy formulation and implementation.

(2) Closer communication and policy coordination between public diplomacy officers and other officers in the regional bureaus of the Department and at overseas posts.

(3) The creation of channels of direct communication between the public diplomacy officers in regional bureaus of the Department and the Under Secretary of State for Public Diplomacy.

(4) Minimizing any adverse consequences of public diplomacy officers in country posts reporting to the regional bureaus of the Department.

SEC. 224. ADVISORY COMMITTEE ON CULTURAL DIPLOMACY.

(a) ESTABLISHMENT.—There is established an Advisory Committee on Cultural Diplomacy (in

this section referred to as the "Advisory Committee"), which shall be composed of nine members, as follows:

(1) The Under Secretary of State for Public Diplomacy, who shall serve as Chair.

(2) The Assistant Secretary of State for Educational and Cultural Affairs.

(3) Seven members appointed pursuant to subsection (c).

(b) DUTIES.—The Advisory Committee shall advise the Secretary on programs and policies to advance the use of cultural diplomacy in United States foreign policy. The Advisory Committee shall, in particular, provide advice to the Secretary on—

(1) increasing the presentation abroad of the finest of the creative, visual, and performing arts of the United States; and

(2) strategies for increasing public-private partnerships to sponsor cultural exchange programs that promote the national interests of the United States.

(c) APPOINTMENTS.—The members of the Advisory Committee shall be appointed by the Secretary, not more than four of whom shall be from the same political party, from among distinguished Americans with a demonstrated record of achievement in the creative, visual, and performing arts, or international affairs. No officer or employee of the United States shall be appointed to the Advisory Committee.

(d) VACANCIES.—A vacancy in the membership of the Advisory Committee shall be filled in the same manner as provided under this subsection to make the original appointment.

(e) MEETINGS.—A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall meet at least twice each year or as frequently as may be necessary to carry out its duties.

(f) ADMINISTRATIVE SUPPORT.—The Secretary is authorized to provide the Advisory Committee with necessary administrative support from among the staff of the Bureau of Educational and Cultural Affairs of the Department.

(g) COMPENSATION.—Members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Advisory Committee.

(h) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to the Advisory Committee to the extent that the provisions of this section are inconsistent with that Act.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department such sums as may be necessary to carry out this section.

(j) TERMINATION.—The Advisory Committee shall terminate September 30, 2005.

SEC. 225. ALLOCATION OF FUNDS FOR "AMERICAN CORNERS" IN THE RUSSIAN FEDERATION.

(a) FINDING.—Congress finds that joint ventures with host libraries in the Russian Federation known as "American Corners" are an effective means—

(1) to provide information about United States history, government, society, and values;

(2) to provide access to computers and the Internet; and

(3) to leverage United States assistance and exchange programs in the Russian Federation.

(b) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated by section 112(1)(B) of this Act for the fiscal year 2003, $500,000 is authorized to be available for "American Corner" centers operating in the Russian Federation.

SEC. 226. REPORT RELATING TO COMMISSION ON SECURITY AND COOPERATION IN EUROPE.

Section 5 of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe" (22 U.S.C. 3005) is amended to read as follows:

"SEC. 5. In order to assist the Commission in carrying out its duties, the Secretary of State shall submit to the Commission an annual report discussing the overall United States policy objectives that are advanced through meetings of decision-making bodies of the Organization for Security and Cooperation in Europe (OSCE), the OSCE implementation review process, and other activities of the OSCE. The report shall also include a summary of specific United States policy objectives with respect to participating states where there is particular concern relating to the implementation of OSCE commitments or where an OSCE presence exists. Such summary shall address the role played by OSCE institutions, mechanisms, or field activities in achieving United States policy objectives. Each annual report shall cover the period from January 1 to December 31, shall be submitted not more than 90 days after the end of the reporting period, and shall be posted on the Internet website of the Department of State.".

SEC. 227. AMENDMENTS TO THE VIETNAM EDUCATION FOUNDATION ACT OF 2000.

(a) PURPOSES OF THE ACT.—Section 202 of the Vietnam Education Foundation Act of 2000 (title II of division B of H.R. 5666, as enacted by section 1(a)(4) of Public Law 106–554 and contained in appendix D of that Act; 114 Stat. 2763A-255) is amended—

(1) in paragraph (1)(A), by inserting "in the United States" after "technology)"; and

(2) in paragraph (1)(B), by striking "appropriate Vietnamese institutions" and inserting "academic institutions in Vietnam".

(b) ELECTION OF THE CHAIR.—Section 205(c) of such Act is amended by inserting "voting members of the" after "The".

(c) DUTIES OF THE BOARD.—Section 205(e) of such Act is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) provide overall supervision and direction of the Foundation;

"(2) establish criteria for the eligibility of applicants, including criteria established by section 206(b), and for the selection of fellowship recipients; and

"(3) select the fellowship recipients.".

(d) TREATMENT OF PRESIDENTIAL APPOINTEES TO THE BOARD OF DIRECTORS.—Section 205 of such Act is amended—

(1) in subsection (f)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Board shall serve without compensation."; and

(B) by adding at the end the following new paragraph:

"(3) COMPENSATION OF PRESIDENTIAL APPOINTEES.—The members of the Board appointed under subsection (a)(6) shall be paid at the daily equivalent of the rate of basic pay payable for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a Board member."; and

(2) by adding at the end the following new subsection:

"(g) TREATMENT OF PRESIDENTIAL APPOINTEES AS SPECIAL GOVERNMENT EMPLOYEES.—The members of the Board appointed under subsection (a)(6) shall be special Government employees, as defined in section 202(a) of title 18, United States Code.".

(e) TRAVEL REGULATIONS.—Section 205 of such Act, as amended by subsection (d), is further amended by adding at the end the following new subsection:

"(h) TRAVEL REGULATIONS.—Members of the Board shall be subject to the same travel regulations as apply to officers and employees of the Department of State.".

(f) VACANCIES.—Section 205(b) of such Act is amended by adding at the end the following new paragraph:

"(3)(A) Any member appointed to fill a vacancy prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

"(B) Upon the expiration of his or her term of office, any member may continue to serve until a successor is appointed.".

(g) ENGLISH PROFICIENCY.—Section 206(a)(2) of such Act is amended to read as follows:

"(2) SCIENTIFIC AND TECHNICAL VOCABULARY IN ENGLISH.—Fellowships awarded to Vietnamese nationals under paragraph (1) may include funding to improve English proficiency in a fellowship recipient's field of study.".

(h) SELECTION CRITERIA.—Section 206(b) of such Act is amended—

(1) in paragraph (1), by striking "Vietnamese candidates for fellowships" and inserting "Fellowship candidates from Vietnam"; and

(2) in paragraph (2), by striking "teaching candidates" and inserting "candidates for teaching fellowships".

(i) ANNUAL REPORT.—Such Act is amended—

(1) in section 207(d), by striking "Board" and inserting "Secretary of the Treasury"; and

(2) in section 209(b)—

(A) by striking "Foundation" and inserting "Board"; and

(B) by striking "its operations under this title" and inserting "the operations of the Foundation under this title, including the financial condition of the Foundation".

(j) COMPENSATION OF EXECUTIVE DIRECTOR.—Section 208(d) of such Act is amended by striking "level V of the Executive Schedule under section 5316" and inserting "level IV of the Executive Schedule under section 5315".

(k) CLERICAL CORRECTIONS.—Such Act is amended—

(1) in section 206(d)—

(A) in the subsection heading, by striking "MATCHING" and inserting "COST-SHARING"; and

(B) by striking "matching" and inserting "cost-sharing";

(2) in section 206(e)—

(A) by striking "proficiency" and inserting "progress"; and

(B) by inserting before the period at the end the following: "and applicable law";

(3) in section 208(a), by striking "Secretary" and inserting "Director";

(4) in section 208(d), by striking "title V" and inserting "title 5"; and

(5) in section 209(a)(5), by striking "District of Columbia" and inserting "metropolitan Washington, D.C., area".

SEC. 228. ETHICAL ISSUES IN INTERNATIONAL HEALTH RESEARCH.

(a) IN GENERAL.—The Secretary shall make available funds for international exchanges to provide opportunities to researchers in developing countries to participate in activities related to ethical issues in human subject research, as described in subsection (c).

(b) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall coordinate programs conducted pursuant to this section with similar programs that may be conducted by the United States Agency for International Development and other Federal agencies as part of United States international health programs, particularly with respect to research and treatment of infectious diseases.

(c) ETHICAL ISSUES IN HUMAN SUBJECT RESEARCH.—For purposes of subsection (a), the phrase "activities related to ethical issues in human subject research" includes courses of study, conferences, and fora on development of and compliance with international ethical standards for clinical trials involving human subjects, particularly with respect to responsibilities of researchers to individuals and local communities participating in such trials, and on management and monitoring of such trials based on such international ethical standards.

SEC. 229. CONFORMING AMENDMENTS.

Section 112(g) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(g)) is amended—

(1) in paragraph (1), by striking "United States Information Agency" and inserting "Department of State";

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "Associate Director for Educational and Cultural Affairs of the United States Information Agency" and inserting "Assistant Secretary of State for Educational and Cultural Affairs";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively;

(3) in paragraph (5), by striking "United States Information Agency" and inserting "Department of State";

(4) in paragraph (6)(G), by striking "United States Information Agency" and inserting "Department of State"; and

(5) in paragraph (7), by striking "Director of the United States Information Agency" and inserting "Secretary of State, acting through the Under Secretary of State for Public Diplomacy".

Subtitle C—Consular Authorities

SEC. 231. REPORT ON VISA ISSUANCE TO INADMISSIBLE ALIENS.

Section 51(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723(a)) is amended—

(1) by inserting "(1) DENIAL OF VISAS.—" before "The Secretary"; and

(2) by adding at the end the following:

"(2) VISA ISSUANCE TO INADMISSIBLE ALIENS.—The Secretary shall, on a semiannual basis, submit to the appropriate committees of the Congress a report describing every instance during the period covered by the report in which a consular post or the Visa Office of the Department of State issued an immigrant or nonimmigrant visa to an alien who is inadmissible to the United States based upon terrorist activity or failed to object to the issuance of an immigrant or nonimmigrant visa to an alien notwithstanding any such ground of inadmissibility. The report shall set forth the name and nationality of the alien, the issuing post, and a brief factual statement of the basis for issuance of the visa or the failure to object. The report may be submitted in classified or unclassified form.".

SEC. 232. DENIAL OF ENTRY INTO UNITED STATES OF CHINESE AND OTHER NATIONALS ENGAGED IN COERCED ORGAN OR BODILY TISSUE TRANSPLANTATION.

(a) DENIAL OF ENTRY.—Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary shall direct consular officers not to issue a visa to any person whom the Secretary finds, based on credible and specific information, to have been directly involved with the coercive transplantation of human organs or bodily tissue, unless the Secretary has substantial grounds for believing that the foreign national has discontinued his or her involvement with, and support for, such practices.

(b) EXCEPTION.—The prohibitions in subsection (a) do not apply to an applicant who is a head of state, head of government, or cabinet-level minister.

(c) WAIVER.—The Secretary may waive the prohibitions in subsection (a) with respect to a foreign national if the Secretary—

(1) determines that it is important to the national interest of the United States to do so; and

(2) not later than 30 days after the issuance of a visa, provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 233. PROCESSING OF VISA APPLICATIONS.

(a) IN GENERAL.—It shall be the policy of the Department to process each visa application from an alien classified as an immediate relative or as a K–1 nonimmigrant within 30 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service. In the case of an immigrant visa application where the petitioner is a relative other than an immediate relative, it should be the policy of the Department to process such an application within 60 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service.

(b) DEFINITIONS.—In this section:

(1) IMMEDIATE RELATIVE.—The term "immediate relative" has the meaning given the term in section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)).

(2) K–1 NONIMMIGRANT.—The term "K–1 nonimmigrant" means a nonimmigrant alien described in section 101(a)(15)(K)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)(i)).

SEC. 234. MACHINE READABLE VISAS.

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (8 U.S.C. 1351 note) is amended by adding at the end the following:

"(3) For the fiscal year 2003, any amount that exceeds $460,000,000 may be made available only if a notification is submitted to Congress in accordance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956.".

Subtitle D—Migration and Refugees

SEC. 241. PROHIBITION ON FUNDING THE INVOLUNTARY RETURN OF REFUGEES.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by section 204 of this Act, is further amended by adding at the end the following new section:

"SEC. 58. PROHIBITION ON FUNDING THE INVOLUNTARY RETURN OF REFUGEES.

"(a) PROHIBITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), none of the funds made available to the Department of State, or the United States Emergency Refugee and Migration Assistance Fund established in section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)), may be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(2) EXCEPTION.—The prohibition in paragraph (1) does not apply to the return of any person on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate resolution of advice and consent to ratification of the Protocol.

"(b) CONGRESSIONAL NOTIFICATION REQUIRED IN ALL CASES.—None of the funds made available to the Department of State, or the United States Emergency Refugee and Migration Assistance Fund established in section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)), may be available to effect the involuntary return by the United States of any person to any country unless the Secretary first notifies the appropriate congressional committees, except that, in the case of an emergency involving a threat to human life, the Secretary shall notify the appropriate congressional committees as soon as practicable.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting activities of the Department of State that relate to removal proceedings under the Immigration and Nationality Act or extradition.

"(d) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

"(2) TO EFFECT THE INVOLUNTARY RETURN.—The term "to effect the involuntary return" means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person's will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.".

SEC. 242. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL ORGANIZATION FOR MIGRATION.

Section 2(a) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(a)) is amended to read as follows:

"(a)(1) The President is authorized to continue membership for the United States in the International Organization for Migration in accordance with the constitution of such organization approved in Venice, Italy, on October 19, 1953, as amended in Geneva, Switzerland, on November 24, 1998, upon entry into force of such amendments.

"(2) For the purpose of assisting in the movement of refugees and migrants, there are authorized to be appropriated to the President such amounts as may be necessary from time to time for payment by the United States of its contributions to the International Organization for Migration and all necessary salaries and expenses incidental to United States participation in such organization.".

SEC. 243. REPORT ON OVERSEAS REFUGEE PROCESSING.

(a) REPORT ON OVERSEAS REFUGE PROCESSING.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on overseas processing of refugees for admission to the United States.

(b) CONTENTS.—The report shall include the following detailed information:

(1) United States procedures for the identification of refugees who are particularly vulnerable or whose individual circumstances otherwise suggest an urgent need for resettlement, including the extent to which the Department now insists on referral by the United Nations High Commissioner for Refugees as a prerequisite to consideration of such refugees for resettlement in the United States, together with a plan for the expanded use of alternatives to such referral, including the use of field-based nongovernmental organizations to identify refugees in urgent need of resettlement.

(2) The extent to which the Department makes use in overseas refugee processing of the designation of groups of refugees who are of special concern to the United States, together with the reasons for any decline in such use over the last 10 years and a plan for making more generous use of such categories in the future.

(3) The extent to which the United States currently provides opportunities for resettlement in the United States of individuals who are close family members of citizens or lawful residents of the United States, together with the reasons for any decline in the extent of such provision over the last 10 years and a plan for expansion of such opportunities in the future.

(4) The extent to which opportunities for resettlement in the United States are currently provided to "urban refugees" and others who do not currently reside in refugee camps, together with a plan for increasing such opportunities, particularly for refugees who are in urgent need of resettlement, who are members of refugee groups of special interest to the United States, or who are close family members of United States citizens or lawful residents.

(5) The Department's assessment of the feasibility and desirability of modifying the Department's current list of refugee priorities to create an additional category for refugees whose need for resettlement is based on a long period of residence in a refugee camp with no immediate prospect of safe and voluntary repatriation to their country of origin or last permanent residence.

(6) The extent to which the Department uses private voluntary agencies to assist in the identification of refugees for admission to the United States, including the Department's assessment of the advantages and disadvantages of private voluntary agencies, the reasons for any decline in the Department's use of voluntary agencies over the last 10 years, and a plan for the expanded use of such agencies.

(7) The extent to which the per capita reception and placement grant to voluntary agencies assisting in resettlement of refugees has increased over the last 10 years commensurate with the cost to such agencies of providing such services.

(8) An estimate of the cost of each change in current practice or procedure discussed in the report, together with an estimate of any increase in the annual refugee admissions ceiling that would be necessary to implement each change.

TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

Subtitle A—Organizational Matters

SEC. 301. COMPREHENSIVE WORKFORCE PLAN.

(a) WORKFORCE PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a comprehensive workforce plan for the Department for the fiscal years 2003 through 2007. The plan shall consider personnel needs in both the Civil Service and the Foreign Service and expected domestic and overseas personnel allocations. The workforce plan should set forth—

(1) the detailed mission of the Department;

(2) the definition of work to be done;

(3) a description of cyclical personnel needs based on expected retirements and attrition; and

(4) a statement of the time required to hire, train, and deploy new personnel.

(b) DOMESTIC STAFFING MODEL.—Not later than one year after the date of the enactment of this Act, the Secretary shall compile and submit to the appropriate congressional committees a domestic staffing model for the Department.

SEC. 302. "RIGHTSIZING" OVERSEAS POSTS.

(a) "RIGHTSIZING" AT THE DEPARTMENT OF STATE.—

(1) IN GENERAL.—The Secretary shall establish a task force within the Department on the issue of "rightsizing" overseas posts.

(2) PRELIMINARY REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report that outlines the status, plans, and activities of the task force. In addition to such other information as the Secretary considers appropriate, the report shall include the following:

(A) The objectives of the task force.

(B) Measures for achieving the objectives under subparagraph (A).

(C) Identification of the official of the Department with primary responsibility for the issue of "rightsizing".

(D) The plans of the Department for the reallocation of staff and resources based on changing needs at overseas posts and in the metropolitan Washington, D.C., area.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report reviewing the activities and progress of the task force established under paragraph (1).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an interagency working group on the issue of "rightsizing" the overseas presence of the United States Government.

(2) PRELIMINARY REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report which outlines the status, plans, and activities of the interagency working group. In addition to such other information as the Secretary considers appropriate, the report shall include the following:

(A) The objectives of the working group.

(B) Measures for achieving the objectives under subparagraph (A).

(C) Identification of the official of each agency with primary responsibility for the issue of "rightsizing".

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report reviewing the activities and progress of the working group established under paragraph (1).

SEC. 303. QUALIFICATIONS OF CERTAIN OFFICERS OF THE DEPARTMENT OF STATE.

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended—

(1) by striking subsections (f) and (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) QUALIFICATIONS OF CERTAIN OFFICERS OF THE DEPARTMENT OF STATE.—

"(1) OFFICER HAVING PRIMARY RESPONSIBILITY FOR PERSONNEL MANAGEMENT.—The officer of the Department of State with primary responsibility for assisting the Secretary with respect to matters relating to personnel in the Department of State, or that officer's principal deputy, shall have substantial professional qualifications in the field of human resource policy and management.

"(2) OFFICER HAVING PRIMARY RESPONSIBILITY FOR DIPLOMATIC SECURITY.—The officer of the Department of State with primary responsibility for assisting the Secretary with respect to diplomatic security, or that officer's principal deputy, shall have substantial professional qualifications in the fields of (A) management, and (B) Federal law enforcement, intelligence, or security.

"(3) OFFICER HAVING PRIMARY RESPONSIBILITY FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT.—The officer of the Department of State with primary responsibility for assisting the Secretary with respect to international narcotics and law enforcement, or that officer's principal deputy, shall have substantial professional qualifications in the fields of (A) management, and (B) law enforcement or international narcotics policy.".

Subtitle B—Personnel Matters

SEC. 311. THOMAS JEFFERSON STAR FOR FOREIGN SERVICE.

Section 36A of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708a) is amended—

(1) in the section heading, by striking "**FOREIGN SERVICE STAR**" and inserting "**THOMAS JEFFERSON STAR FOR FOREIGN SERVICE**"; and

(2) by striking "Foreign Service star" each place it appears and inserting "Thomas Jefferson Star for Foreign Service".

SEC. 312. PRESIDENTIAL RANK AWARDS.

(a) COMPARABLE PAYMENTS.—Section 405(b)(3) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)(3)) is amended by striking the second sentence and inserting "Payments under this paragraph to a member of the Senior Foreign Service may not exceed, in any fiscal year, the percentage of basic pay established under section 4507(e)(1) of title 5, United States Code, for a Meritorious Executive, except that payments of the percentage of the basic pay established under section 4507(e)(2) of such title for Distinguished Executives may be made in any fiscal year to up to 1 percent of the members of the Senior Foreign Service.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2002.

SEC. 313. FOREIGN SERVICE NATIONAL SAVINGS FUND.

Section 408(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3968(a)(1)) is amended in the third sentence by striking "(C)" and all that follows through "covered employees." and inserting "(C) payments by the Government and employees to (i) a trust or other fund in a financial institution in order to finance future benefits for employees, including provision for retention in the fund of accumulated interest and dividends for the benefit of covered employees; or (ii) a Foreign Service National Savings Fund established in the Treasury of the United States, which (I) shall be administered by the Secretary, at whose direction the Secretary of the Treasury shall invest amounts not required for the current needs of the Fund; and (II) shall be public monies, which are authorized to be appropriated and remain available without fiscal year limitation to pay benefits, to be invested in public debt obligations bearing interest at rates determined by the Secretary of the Treasury taking into consideration current average market yields on outstanding marketable obligations of the United States of comparable maturity, and to pay administrative expenses.".

SEC. 314. CLARIFICATION OF SEPARATION FOR CAUSE.

(a) IN GENERAL.—Section 610(a) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)) is amended—

(1) in paragraph (1), by inserting "decide to" after "may";

(2) by striking paragraphs (2), (3), (4), (5), and (6); and

(3) by inserting after paragraph (1) the following:

"(2)(A) Except as provided in subparagraph (B), whenever the Secretary decides under paragraph (1) to separate, on the basis of misconduct, any member of the Service (other than a United States citizen employed under section 311 of the Foreign Service Act of 1980 who is not a family member) who either—

"(i) is serving under a career appointment, or

"(ii) is serving under a limited appointment,

the member may not be separated from the Service until the member receives a hearing before the Foreign Service Grievance Board and the Board decides that cause for separation has been established, unless the member waives, in *writing, the right to such a hearing, or the member's appointment has expired, whichever is sooner.*

"(B) The right to a hearing in subparagraph (A) does not apply in the case of an individual who has been convicted of a crime for which a sentence of imprisonment of more than one year may be imposed.

"(3) If the Board decides that cause for separation has not been established, the Board may direct the Department to pay reasonable attorneys' fees to the extent and in the manner provided by section 1107(b)(5). The hearing provided under this paragraph shall be conducted in accordance with the hearing procedures applicable to grievances under section 1106 and shall be in lieu of any other administrative procedure authorized or required by this or any other Act. Section 1110 shall apply to proceedings under this paragraph.

"(4) Notwithstanding the hearing required by paragraph (2), at the time that the Secretary decides to separate a member of the Service for cause, the member shall be placed on leave without pay. If the member does not waive the right to a hearing, and the Board decides that cause for separation has not been established, the member shall be reinstated with back pay.".

(b) CONFORMING AMENDMENTS.—Section 1106(8) of the Foreign Service Act of 1980 (22 U.S.C. 4136(8)) is amended—

(1) in the first sentence—

(A) by striking "the involuntary separation of the grievant,"; and

(B) by striking "grievant, or" and inserting "grievant or"; and

(2) by striking the last sentence.

SEC. 315. DEPENDENTS ON FAMILY VISITATION TRAVEL.

(a) IN GENERAL.—Section 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(8)) is amended by striking "Service" and inserting "Service, and members of his or her family,".

(b) PROMULGATION OF GUIDANCE.—The Secretary shall promulgate guidance for the implementation of the amendment made by subsection (a) to ensure its implementation in a manner which does not substantially increase the total amount of travel expenses paid or reimbursed by the Department for travel under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which guidance for implementation of such amendment is issued by the Secretary.

SEC. 316. HEALTH EDUCATION AND DISEASE PREVENTION PROGRAMS.

Section 904(b) of the Foreign Service Act of 1980 (22 U.S.C. 4084(b)) is amended by striking "families, and (3)" and inserting "families, (3) health education and disease prevention programs for all employees, and (4)".

SEC. 317. CORRECTION OF TIME LIMITATION FOR GRIEVANCE FILING.

Section 1104(a) of the Foreign Service Act of 1980 (22 U.S.C. 4134(a)) is amended in the first sentence by striking "but in no case less than two years" and inserting "but in no case more than three years".

SEC. 318. TRAINING AUTHORITIES.

Section 2205 of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of Public Law 105–277; 112 Stat. 2681–808) is amended—

*(1) in the section heading, by striking "**PILOT**";*

(2) by striking subsection (a)(3); and

(3) by striking subsection (c).

SEC. 319. UNACCOMPANIED AIR BAGGAGE.

Section 5924(4)(B) of title 5, United States Code, is amended by inserting after the first sentence the following: "At the election of the employee, in lieu of the transportation of the baggage of a dependent from the dependent's school, the costs incurred to store the baggage at or in the vicinity of the school during the dependent's annual trip between the school and the employee's duty station may be paid or reimbursed to the employee, except that the amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.".

SEC. 320. EMERGENCY MEDICAL ADVANCE PAYMENTS.

Section 5927 of title 5, United States Code, is amended—

(1) by amending subsection (a)(3) to read as follows:

"(3) to an employee compensated pursuant to section 408 of the Foreign Service Act of 1980, who—

"(A) pursuant to United States Government authorization is located outside the country of employment; and

"(B) requires medical treatment outside the country of employment in circumstances specified by the President in regulations."; and

(2) in subsection (b), by striking "appointed" and inserting "hired".

SEC. 321. RETIREMENT CREDIT FOR CERTAIN GOVERNMENT SERVICE PERFORMED ABROAD.

(a) RETIREMENT CREDIT FOR CERTAIN GOVERNMENT SERVICE PERFORMED ABROAD.—Subject to subsection (b)(1), credit under chapter 84 of title 5, United States Code, shall be allowed for any service performed by an individual if or to the extent that—

(1) it was performed by such individual—

(A) after December 31, 1988, and before May 24, 1998;

(B) at a United States diplomatic mission, consular post (other than a consular agency), or other Foreign Service post abroad; and

(C) under a temporary appointment pursuant to sections 309 and 311 of the Foreign Service Act of 1980 (22 U.S.C. 3949 and 3951);

(2) at the time of performing such service, such individual would have satisfied all eligibility requirements under regulations of the Department (as in effect on the date of the enactment of this Act) for a family member limited noncareer appointment (within the meaning of such regulations, as in effect on such date of enactment), except that, in applying this paragraph, an individual not employed by the Department while performing such service shall be treated as if then so employed;

(3) such service would have been creditable under section 8411(b)(3) of such title 5 if—

(A) the service had been performed before January 1, 1989; and

(B) the deposit requirements of section 8411(f) of such title 5 had been met with respect to such service;

(4) such service would not otherwise be creditable under the Federal Employees' Retirement System or any other retirement system for employees of the United States Government (disregarding title II of the Social Security Act); and

(5) the total amount of service performed by such individual (satisfying paragraphs (1) through (4)) is not less than 90 days.

(b) REQUIREMENTS.—

(1) REQUIREMENTS OF THE INDIVIDUAL.—In order to receive credit under chapter 84 of title 5, United States Code, for any service described in subsection (a), the individual who performed such service (or, if deceased, any person who is or would be eligible for a survivor annuity under the Federal Employees' Retirement System based on the service of such individual)—

(A) shall file a written application with the Office of Personnel Management not later than 36 months after the effective date of the regulations prescribed to carry out this section (as specified in those regulations); and

(B) shall remit to the Office (for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund) the total amount that, under section 8422 of such title 5, should have been deducted from the basic pay of such individual for such service if such service had then been creditable under such chapter 84.

(2) GOVERNMENT CONTRIBUTIONS.—

(A) IN GENERAL.—In addition to any other payment that it is required to make under chapter 84 of title 5, United States Code, a department, agency, or other instrumentality of the United States shall remit to the Office of Personnel Management (for deposit in the Treasury of the United States to the credit of the Fund) the amount described in subparagraph (B).

(B) AMOUNT DESCRIBED.—The amount described in this subparagraph is, with respect to a remittance under paragraph (1), the total amount of Government contributions that would, under section 8423 of title 5, United States Code, have been required of the instrumentality involved (to the extent that it was the employing entity during the period of service to which such remittance relates) in connection with such service.

(C) SPECIAL RULE.—If an amount cannot be remitted under this paragraph because an instrumentality has ceased to exist, such amount shall instead be treated as part of the supplemental liability referred to in section 8423(b)(1)(A) or (B) of title 5, United States Code (whichever would be appropriate).

(3) RELATED REQUIREMENTS.—Any remittance under paragraph (1) or (2)—

(A) shall be made in such time, form, and manner as the Office of Personnel Management may by regulation require; and

(B) shall be computed with interest (in accordance with section 8334(e) of title 5, United States Code, and such requirements as the Office may by regulation prescribe).

(4) NOTIFICATION AND ASSISTANCE REQUIREMENTS.—

(A) IN GENERAL.—The Office of Personnel Management shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited under this section, or to have any annuity computed or recomputed under this section, of their entitlement to such credit, computation, or recomputation.

(B) ASSISTANCE TO INDIVIDUALS.—The Office shall, on request, assist any individual referred to in subparagraph (A) in obtaining from any department, agency, or other instrumentality of the United States such information in the possession of such instrumentality as may be necessary to verify the entitlement of such individual to have any service credited, or to have any annuity computed or recomputed, pursuant to this section.

(C) ASSISTANCE FROM INSTRUMENTALITIES.—Any department, agency, or other instrumentality of the United States that possesses any information with respect to any service described in subsection (a) shall, at the request of the Office, furnish such information to the Office.

(c) DEFINITIONS.—In this section:

(1) ABROAD.—The term "abroad" has the meaning given such term under section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902).

(2) BASIC PAY.—The term "basic pay" has the meaning given such term under section 8401 of title 5, United States Code.

(3) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—The term "Civil Service Retirement and Disability Fund" or "Fund" means the Civil Service Retirement and Disability Fund under section 8348 of title 5, United States Code.

(4) TEMPORARY APPOINTMENT.—The term "temporary appointment" means an appointment that is limited by its terms to a period of one year or less.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to permit or require the making of any contributions to the Thrift Savings Fund that would not otherwise have been permitted or required had this section not been enacted.

(e) APPLICABILITY.—

(1) ANNUITIES COMMENCING ON OR AFTER EFFECTIVE DATE OF IMPLEMENTING REGULATIONS.—An annuity or survivor annuity—

(A) which is based on the service of an individual who performed service described in subsection (a), and

(B) which commences on or after the effective date of the regulations prescribed to carry out this section (as determined under subsection (b)(1)(A)),

shall (subject to subsection (b)(1)) be computed taking into account all service described in subsection (a) that was performed by such individual.

(2) ANNUITIES WITH COMMENCEMENT DATE PRECEDING EFFECTIVE DATE OF IMPLEMENTING REGULATIONS.—

(A) RECOMPUTATION CASES.—An annuity or survivor annuity—

(i) which is based on the service of an individual who performed service described in subsection (a), and

(ii) which commences before the effective date referred to in paragraph (1)(B),

shall (subject to subsection (b)(1)) be recomputed taking into account all service described in subsection (a) that was performed by such individual.

(B) OTHER CASES.—An annuity or survivor annuity—

(i) which is based on the service of an individual who performed service described in subsection (a),

(ii) the requirements for entitlement which could not be met without taking into account service described in subsection (a), and

(iii) which (if service described in subsection (a) had been taken into account, and an appropriate application been submitted) would have commenced before the effective date referred to in paragraph (1)(B),

shall (subject to subsection (b)(1)) be computed taking into account all service described in subsection (a) that was performed by such individual.

(C) RETROACTIVE EFFECT.—Any computation or recomputation of an annuity or survivor annuity pursuant to this paragraph shall—

(i) if pursuant to subparagraph (A), be effective as of the commencement date of the annuity or survivor annuity involved; and

(ii) if pursuant to subparagraph (B), be effective as of the commencement date that would have applied if application for the annuity or survivor annuity involved had been submitted on the earliest date possible in order for it to have been approved.

(D) LUMP-SUM PAYMENT.—Any amounts which by virtue of subparagraph (C) are payable for any months preceding the first month (on or after the effective date referred to in paragraph (1)(B)) as of which annuity or survivor annuity payments become payable fully reflecting the computation or recomputation under subparagraph (A) or (B) (as the case may be) shall be payable in the form of a lump-sum payment.

(E) ORDER OF PRECEDENCE.—Section 8424(d) of title 5, United States Code, shall apply in the case of any payment under subparagraph (D) payable to an individual who has died.

(f) IMPLEMENTATION.—The Office of Personnel Management, in consultation with the Secretary, shall prescribe such regulations and take such action as may be necessary and appropriate to implement this section.

SEC. 322. COMPUTATION OF FOREIGN SERVICE RETIREMENT ANNUITIES AS IF WASHINGTON, D.C., LOCALITY-BASED COMPARABILITY PAYMENTS WERE MADE TO OVERSEAS-STATIONED FOREIGN SERVICE MEMBERS.

(a) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—

(1) COMPUTATION OF ANNUITIES.—Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046(a)) is amended by adding at the end the following new paragraph:

"(9) For purposes of any annuity computation under this subsection, the basic salary or basic pay of any member of the Service whose official duty station is outside the continental United States shall be considered to be the salary or pay that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member's official duty station had been Washington, D.C.".

(2) GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—Section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking "7" and inserting "7.25"; and

(ii) in the second sentence, by striking "An equal amount shall be contributed by the Department" and inserting "The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under section 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105–33; 22 U.S.C. 4045 note), and section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–346; 114 Stat. 1356A–54), plus .25 percent of basic salary, and shall be made";

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting at the end of the first sentence ", plus an amount equal to .25 percent of basic pay"; and

(ii) in subparagraph (B), by inserting at the end of the first sentence ", plus an amount equal to .25 percent of basic pay";

(C) in paragraphs (1) and (2), by striking "Department" each place it appears and inserting "employing agency"; and

(D) in paragraph (3), by inserting at the end of the first sentence ", plus .25 percent".

(b) FOREIGN SERVICE PENSION SYSTEM.—

(1) COMPUTATION OF ANNUITIES.—Section 855(a) of the Foreign Service Act of 1980 (22 U.S.C. 4071d(a)) is amended by adding at the end the following new paragraph:

"(3) For purposes of any annuity computation under this subsection, the average pay (as used in section 8414 of title 5, United States Code) of any member of the Service whose official duty station is outside the continental United States shall be considered to be the salary that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member's official duty station had been Washington, D.C.".

(2) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—Section 856(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)(2)) is amended by striking:

"7.5 .... After December 31, 2000."

and inserting the following:

"7.5 .... After December 31, 2000."

(c) EFFECTIVE DATES.—

(1) COMPUTATION OF ANNUITIES.—The amendments made by subsections (a)(1) and (b)(1) shall apply to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.

(2) GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—The amendments made by subsections (a)(2) and (b)(2) shall take effect with the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.

SEC. 323. PLAN FOR IMPROVING RECRUITMENT OF VETERANS INTO THE FOREIGN SERVICE.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department to improve the recruitment of veterans for the career Foreign Service. The plan shall—

(1) address personnel issues relevant to such recruitment efforts; and

(2) include proposals for improving coordination between the Department and the Departments of Defense, Transportation, and Veterans Affairs in promoting the recruitment of veterans to the career Foreign Service.

(b) DEFINITION.—In this section, the term "veterans" has the meaning given that term in section 101(2) of title 38, United States Code.

SEC. 324. REPORT CONCERNING MINORITY EMPLOYMENT.

On April 1, 2003, and April 1, 2004, the Secretary shall submit a comprehensive report to Congress, with respect to the preceding calendar year, concerning the employment of members of minority groups at the Department, including the Civil Service and the Foreign Service. The report shall include the following data (reported in terms of real numbers and percentages and not as ratios):

(1) For the last preceding Foreign Service examination and promotion cycles for which such information is available—

(A) the numbers and percentages of members of all minority groups taking the written Foreign Service examination;

(B) the numbers and percentages of members of all minority groups successfully completing and passing the written Foreign Service examination;

(C) the numbers and percentages of members of all minority groups successfully completing and passing the oral Foreign Service examination;

(D) the numbers and percentages of members of all minority groups entering the junior officer class of the Foreign Service;

(E) the numbers and percentages of members of all minority groups who are Foreign Service officers at each grade; and

(F) the numbers and percentages of members of all minority groups promoted to each grade of the Foreign Service.

(2) For the last preceding year for Civil Service employment at the Department for which such information is available—

(A) numbers and percentages of members of all minority groups entering the Civil Service;

(B) the number and percentages of members of all minority groups who are Civil Service employees at each grade of the Civil Service; and

(C) the number of and percentages of members of all minority groups promoted at each grade of the Civil Service.

SEC. 325. USE OF FUNDS AUTHORIZED FOR MINORITY RECRUITMENT.

(a) CONDUCT OF RECRUITMENT ACTIVITIES.—

(1) IN GENERAL.—Amounts authorized to be appropriated for minority recruitment under section 111(1)(D) shall be used only for activities directly related to minority recruitment, such as recruitment materials designed to target members of minority groups and the travel expenses of recruitment trips to colleges, universities, and other institutions or locations.

(2) LIMITATION.—Amounts authorized to be appropriated for minority recruitment under section 111(1)(D) may not be used to pay salaries of employees of the Department.

(b) RECRUITMENT ACTIVITIES AT ACADEMIC INSTITUTIONS.—The Secretary shall expand the recruitment efforts of the Department to include not less than 25 percent of the part B institutions (as defined under section 322 of the Higher Education Act of 1965) in the United States and not less than 25 percent of the Hispanic-serving institutions (as defined in section 502(a)(5) of such Act) in the United States.

(c) EVALUATION OF RECRUITMENT EFFORTS.—The Secretary shall establish a database relating to efforts to recruit members of minority groups into the Foreign Service and the Civil Service and shall report to the appropriate congressional committees on the evaluation of efforts to recruit such individuals, including an analysis of the information collected in the database created under this subsection. Such report shall be included in each of the two reports required under section 324.

SEC. 326. ASSIGNMENTS AND DETAILS OF PERSONNEL TO THE AMERICAN INSTITUTE IN TAIWAN.

Section 503 of the Foreign Service Act of 1980 (22 U.S.C. 3983) is amended—

(1) by adding at the end the following new subsection:

"(d)(1) The Secretary may assign a member of the Service, or otherwise detail an employee of the Department, for duty at the American Institute in Taiwan, if the Secretary determines that to do so is in the national interest of the United States.

"(2) The head of any other department or agency of the United States may, with the concurrence of the Secretary, detail an employee of that department or agency to the American Institute in Taiwan, if the Secretary determines that to do so is in the national interest of the United States.

"(3) In this subsection, the term 'employee' does not include—

"(A) a noncareer appointee, limited term appointee, or limited emergency appointee (as such terms are defined in section 3132(a) of title 5, United States Code) in the Senior Executive Service; or

"(B) an employee in a position that has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(4) An assignment or detail under this subsection may be made with or without reimbursement from the American Institute in Taiwan.

"(5) The period of an assignment or detail under this subsection shall not exceed a total of 6 years, except that the Secretary (or any other head of a department or agency of the United States, with the concurrence of the Secretary) may extend the period of an assignment or detail for an additional period of not more than 6 years."; and

(2) in subsection (c), by striking "Assignments" and inserting "Except as otherwise provided in subsection (d)(5), assignments".

SEC. 327. ANNUAL REPORTS ON FOREIGN LANGUAGE COMPETENCE.

Section 702(c) of the Foreign Service Act of 1980 (22 U.S.C. 4022(c)) is amended—

(1) by striking "March 31" and inserting "January 31"; and

(2) in paragraph (1), by striking "calendar year" and inserting "fiscal year".

SEC. 328. TRAVEL OF CHILDREN OF MEMBERS OF THE FOREIGN SERVICE ASSIGNED ABROAD.

Section 901(15) of the Foreign Service Act of 1980 (22 U.S.C. 4081(15)) is amended by striking "port of entry in the contiguous 48 States which is nearest to that post" and inserting "residence of the other parent, or between the post to which the member is assigned and the residence of the child if the child does not reside with a parent".

TITLE IV—INTERNATIONAL ORGANIZATIONS

SEC. 401. PAYMENT OF THIRD INSTALLMENT OF ARREARAGES.

(a) IN GENERAL.—The United Nations Reform Act of 1999 (title IX of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-475) is amended as follows:

(1) Section 912(b)(3) is amended by striking ", upon the certification described in section 941" and inserting the following: "upon a certification described in section 941 with respect to the United Nations or a particular designated specialized agency, and immediately with respect to organizations to which none of the conditions in section 941(b) apply".

(2) Section 941(a)(2) is amended—

(A) by striking "also";

(B) by striking "in subsection (b)(4)" both places it appears; and

(C) by striking ", if the other conditions in subsection (b) are satisfied".

(3) Section 941(a)(3) is amended by striking "and for any other organization to which none of the conditions in subsection (b) apply".

(4) Section 941(b)(3) is amended—

(A) in the paragraph heading, by striking "NEW BUDGET PROCEDURES" and inserting "BUDGET PRACTICES";

(B) by striking "has established and";

(C) by striking "procedures" and inserting "practices"; and

(D) in subparagraphs (A) and (B) by striking "require" each place it appears and inserting "result in".

(5) Section 941(b)(9) is amended—

(A) in the paragraph heading by striking "NEW BUDGET PROCEDURES" and inserting "BUDGET PRACTICES";

(B) by striking "Each designated specialized agency has established procedures to—" and inserting "The practices of each designated specialized agency—"; and

(C) in subparagraphs (A), (B), and (C) by striking "require" each place it appears and inserting "result in".

(b) CONFORMING AMENDMENT.—The undesignated paragraph under the heading "ARREARAGE PAYMENTS" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as contained in section 1000 of division B of the Consolidated Appropriations Act, 2000; Public Law 106–113) is amended—

(1) in the first proviso, by striking "the share of the total of all assessed contributions for any designated specialized agency of the United Nations does not exceed 22 percent for any single member of the agency, and"; and

(2) by inserting after "respective agencies:" the following: "Provided further, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated with respect to a designated specialized agency of the United Nations until such time as the share of the total of all assessed contributions for that designated specialized agency does not exceed 22 percent for any member of the agency:".

(c) TRANSMITTAL OF CERTIFICATIONS TO CONGRESS.—Section 912(c) of the United Nations Reform Act of 1999 (title IX of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–477) is amended to read as follows:

"(c) ADVANCE CONGRESSIONAL NOTIFICATION.—Funds made available pursuant to section 911 may be obligated and expended only if the appropriate certification has been submitted to the appropriate congressional committees 15 days prior to payment of the funds, in the case of a certification submitted with respect to funds made available for fiscal year 2000.".

SEC. 402. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS PEACEKEEPING OPERATIONS IN CALENDAR YEARS 2001 THROUGH 2004.

(a) IN GENERAL.—Section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note) is amended—

(1) by striking "funds" and inserting "(A) IN GENERAL.—Except as provided in subparagraph (B), funds"; and

(2) by adding at the end the following:

"(B) REDUCTION IN UNITED STATES SHARE OF ASSESSED CONTRIBUTIONS.—Notwithstanding the percentage limitation contained in subparagraph (A), the United States share of assessed contributions for each United Nations peacekeeping operation during the following periods is authorized to be as follows:

"(i) For assessments made during calendar year 2001, 28.15 percent.

"(ii) For assessments made during calendar year 2002, 27.90 percent.

"(iii) For assessments made during calendar year 2003, 27.40 percent.

"(iv) For assessments made during calendar year 2004, 27.40 percent.".

(b) CONFORMING AMENDMENTS TO PUBLIC LAW 92-544.—Title I of the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (22 U.S.C. 287e note) is amended—

(1) in the next to the last sentence of the undesignated paragraph under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" in Public Law 92-544 (22 U.S.C. 287e note), by striking "After" and inserting "Subject to section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), after"; and

(2) in the last sentence of the undesignated paragraph under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" in Public Law 92-544 (22 U.S.C. 287e note)—

(A) by striking "Appropriations are authorized" and inserting "Subject to section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), appropriations are authorized"; and

(B) by striking "(other than United Nations peacekeeping operations) conducted" and inserting "conducted by or under the auspices of the United Nations or".

SEC. 403. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS REGULAR BUDGET.

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

"SEC. 11. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS REGULAR BUDGET.

"None of the funds available to the Department of State shall be used to pay the United States share of assessed contributions for the regular budget of the United Nations in an amount greater than 22 percent of the total of all assessed contributions for that budget.".

SEC. 404. PROMOTION OF SOUND FINANCIAL PRACTICES BY THE UNITED NATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) In the early 1980s, the United States Government began to pay United States assessments to certain international organizations in the last quarter of the calendar year in which they were due. This practice allowed the United States to pay its annual assessment to the United Nations and other international organizations with the next fiscal year's appropriations, taking advantage of the fact that international organizations

operate on calendar years. It also allowed the United States to reduce budgetary outlays, making the United States budget deficit appear smaller.

(2) The United States, which is assessed 22 percent of the United Nations regular budget, now pays its dues at least 10 months late, and often later depending on when the relevant appropriation is enacted.

(3) This practice causes the United Nations to operate throughout much of the year without a significant portion of its operating budget. By midyear, the budget is usually depleted, forcing the United Nations to borrow from its separate peacekeeping budget (the organization is prohibited from external borrowing). As a result, countries that contribute to United Nations peacekeeping missions are not reimbursed on a timely basis.

(4) For years, the United States has been encouraging the United Nations and other international organizations to engage in sound, fiscally responsible budgetary practices. In fact, many of the conditions in United States law for paying nearly $1,000,000,000 in debt to the United Nations and other international organizations are aimed at this goal. But late payment of United States dues forces the United Nations and other international organizations to engage in budgetary practices that are neither sound nor responsible.

(b) Sense of Congress.—It is the sense of Congress that the United States should initiate a process to synchronize the payment of its assessments to the United Nations and other international organizations over a multiyear period so that the United States can resume paying its dues to such international organizations at the beginning of each calendar year.

(c) Authorization of Appropriations.—

(1) In general.—In addition to amounts otherwise available for the purpose of payment of the United States assessed contributions to the United Nations and other international organizations, there are authorized to be appropriated such sums as may be necessary to carry out the policy described in subsection (b).

(2) Availability of funds.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 405. REPORTS TO CONGRESS ON UNITED NATIONS ACTIVITIES.

(a) Amendments to United Nations Participation Act.—Section 4 of the United Nations Participation Act (22 U.S.C. 287b) is amended—

(1) by striking subsections (b) and (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) Annual Report on Financial Contributions.—Not later than July 1 of each year, the Secretary of State shall submit a report to the designated congressional committees on the extent and disposition of all financial contributions made by the United States during the preceding year to international organizations in which the United States participates as a member.";

(3) in subsection (e)(5) by striking subparagraph (B) and inserting the following:

"(B) Annual report.—The President shall submit an annual report to the designated congressional committees on all assistance provided by the United States during the preceding calendar year to the United Nations to support peacekeeping operations. Each such report shall describe the assistance provided for each such operation, listed by category of assistance."; and

(4) by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

(b) Conforming Amendments.—

(1) Section 2 of Public Law 81–806 (22 U.S.C. 262a) is amended by striking the last sentence.

(2) Section 409 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), is amended by striking subsection (d).

SEC. 406. USE OF SECRET BALLOTS WITHIN THE UNITED NATIONS.

Not later than 120 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees containing a detailed analysis, and a determination based on such analysis, on whether the use of secret ballots within the United Nations and the specialized agencies of the United Nations serves the interests of the United States.

SEC. 407. SENSE OF CONGRESS RELATING TO MEMBERSHIP OF THE UNITED STATES IN UNESCO.

It is the sense of Congress that the President, having announced that the United States will rejoin the United Nations Educational, Scientific, and Cultural Organization (UNESCO), should submit a report to the appropriate congressional committees—

(1) describing the merits of renewing the membership and participation of the United States in UNESCO; and

(2) detailing the projected costs of United States membership in UNESCO.

SEC. 408. UNITED STATES MEMBERSHIP ON THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS AND INTERNATIONAL NARCOTICS CONTROL BOARD.

The United States, in connection with its voice and vote in the United Nations General Assembly and the United Nations Economic and Social Council, shall make every reasonable effort—

(1) to secure a seat for the United States on the United Nations Commission on Human Rights;

(2) to secure a seat for a United States national on the United Nations International Narcotics Control Board; and

(3) to prevent membership on the Human Rights Commission by any member nation the government of which, in the judgment of the Secretary, based on the Department's Annual Country Reports on Human Rights and the Annual Report on International Report on Religious Freedom, consistently violates internationally recognized human rights or has engaged in or tolerated particularly severe violations of religious freedom in that country.

SEC. 409. PLAN FOR ENHANCED DEPARTMENT OF STATE EFFORTS TO PLACE UNITED STATES CITIZENS IN POSITIONS OF EMPLOYMENT IN THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan that provides for—

(1) proposals to reverse the decline in recent years in funding and personnel resources devoted to the placement of United States citizens in positions within the United Nations system;

(2) steps to intensify coordinated, high-level diplomatic efforts to place United States citizens in senior posts in the United Nations Secretariat and the specialized agencies of the United Nations; and

(3) appropriate mechanisms to address the underrepresentation, relative to the United States share of assessed contributions to the United Nations, of United States citizens in junior positions within the United Nations and its specialized agencies.

TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

SEC. 501. MODIFICATION OF LIMITATION ON GRANT AMOUNTS TO RFE/RL, INCORPORATED.

Section 308(c) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207(c)) is amended to read as follows:

"(c) The total amount of grants made for the operating costs of RFE/RL, Incorporated, may not exceed $85,000,000 in fiscal year 2003.".

SEC. 502. PAY PARITY FOR SENIOR EXECUTIVES OF RFE/RL, INCORPORATED.

Section 308(h)(1) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207(h)(1)) is amended—

(1) by adding at the end the following new subparagraph:

"(C) Notwithstanding the limitations under subparagraph (A), grant funds provided under this section may be used by RFE/RL, Incorporated, to pay up to three employees employed in Washington, D.C., salary or other compensation not to exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code."; and

(2) in subparagraph (A), by striking "(B)," and inserting "(B) or (C),".

SEC. 503. AUTHORITY TO CONTRACT FOR LOCAL BROADCASTING SERVICES OUTSIDE THE UNITED STATES.

Section 802(b)(4) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1472(b)(4)) is amended—

(1) by inserting before the period the following: "and is authorized to enter into contracts for periods not to exceed ten years to acquire local broadcasting services outside the United States"; and

(2) by striking "United States Information Agency" and inserting "Broadcasting Board of Governors".

SEC. 504. PERSONAL SERVICES CONTRACTING PILOT PROGRAM.

(a) In General.—The Director of the International Broadcasting Bureau (in this section referred to as the "Director") may establish a pilot program (in this section referred to as the "program") for the purpose of hiring United States citizens or aliens as personal services contractors, without regard to Civil Service and classification laws, for service in the United States as broadcasters, producers, and writers in the International Broadcasting Bureau to respond to new or emerging broadcast needs or to augment broadcast services.

(b) Conditions.—The Director is authorized to use the authority of subsection (a) subject to the following conditions:

(1) The Director determines that existing personnel resources are insufficient and the need is not of permanent duration.

(2) The Director approves each employment of a personal services contractor.

(3) The contract length, including options, may not exceed 2 years, unless the Director makes a finding that exceptional circumstances justify an extension of up to one additional year.

(4) Not more than a total of 60 United States citizens or aliens are employed at any one time as personal services contractors under the program.

(c) Termination of Authority.—The authority to award personal services contracts under the pilot program authorized by this section shall terminate on December 31, 2005. A contract entered into prior to the termination date under this subsection may remain in effect for a period not to exceed 6 months after such termination date.

SEC. 505. TRAVEL BY VOICE OF AMERICA CORRESPONDENTS.

(a) Exemption From Responsibilities of the Secretary.—Section 103(a)(1)(A) of the

Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802(a)(1)(A)) is amended in the parenthetical clause by inserting "Voice of America correspondents on official assignment and" after "other than".

(b) EXEMPTION FROM CHIEF OF MISSION RESPONSIBILITIES.—Section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) is amended—

(1) in the parenthetical clause in subsection (a)(1), by inserting "Voice of America correspondents on official assignment and" after "except for";

(2) in the parenthetical clause in subsection (a)(2), by inserting "Voice of America correspondents on official assignment and" after "except for"; and

(3) in the parenthetical clause in subsection (b), by inserting "Voice of America correspondents on official assignment and" after "except for".

SEC. 506. REPORT ON BROADCASTING PERSONNEL.

Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report regarding senior personnel of the United States Broadcasting Board of Governors and efforts to diversify the workforce. The report shall include the following information, reported separately, for the International Broadcasting Bureau, RFE/RL, Incorporated, and Radio Free Asia:

(1) A list of all personnel positions at or above the GS–13 pay level.

(2) The number and percentage of women and members of minority groups in positions under paragraph (1).

(3) The increase or decrease in the representation of women and members of minority groups in positions under paragraph (1) from previous years.

(4) The recruitment budget for each broadcasting entity and the aggregate budget.

(5) Information concerning the recruitment efforts of the Broadcasting Board of Governors relating to women and members of minority groups, including the percentage of the recruitment budget utilized for such efforts.

SEC. 507. CONFORMING AMENDMENTS.

The United States International Broadcasting Act of 1994 (22 U.S.C.6201 et seq.) is amended—

(1) in section 305(a)(4) (22 U.S.C. 6204(a)(4)), by striking "annually,," and inserting "annually,"; and

(2) in section 313(a) (22 U.S.C. 6212(a)), in the text above paragraph (1), by striking "the direction and".

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Middle East Peace Commitments Act of 2002

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Middle East Peace Commitments Act of 2002".

SEC. 602. FINDINGS.

Congress makes the following findings:

(1) In 1993, the Palestine Liberation Organization (in this subtitle referred to as the "PLO") made the following commitments in an exchange of letters with the Prime Minister of Israel:

(A) Recognition of the right of the State of Israel to exist in peace and security.

(B) Acceptance of United Nations Security Council Resolutions 242 and 338.

(C) Resolution of all outstanding issues in the conflict between the two sides through negotiations and exclusively peaceful means.

(D) Renunciation of the use of terrorism and all other acts of violence and responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations, and discipline violators.

(2) The Palestinian Authority, the governing body of autonomous Palestinian territories, was created as a result of agreements between the PLO and the State of Israel that are a direct outgrowth of the commitments made in 1993.

(3) Congress has provided authorities to the President to suspend certain statutory restrictions relating to the PLO, subject to Presidential certifications that the PLO has continued to abide by commitments made.

SEC. 603. REPORTS.

(a) IN GENERAL.—The President shall, at the times specified in subsection (b), transmit to the appropriate congressional committees a report on compliance by the PLO or the Palestinian Authority, as appropriate, with each of the commitments specified in section 602(1). The report shall include, with respect to each such commitment, the determination of the President as to whether or not the PLO or the Palestinian Authority, as appropriate, has complied with that commitment during the period since the submission of the preceding report or, in the case of the initial report, during the preceding six-month period. In the event that the President imposed one or more sanctions under section 604 during the period covered by the report, the report shall include a description of each such sanction imposed.

(b) TRANSMISSION.—The initial report required under subsection (a) shall be transmitted not later than 60 days after the date of enactment of this Act. Each subsequent report shall be submitted on the date on which the President is next required to submit a report under the P.L.O. Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) and may be combined with such report.

SEC. 604. IMPOSITION OF SANCTIONS.

(a) IN GENERAL.—If, in any report transmitted pursuant to section 603, the President determines that the PLO or the Palestinian Authority, as appropriate, has not complied with each of the commitments specified in section 602(1), or if the President fails to make a determination with respect to such compliance, the President shall, for a period of time not less than the period described in subsection (b), impose one or more of the following sanctions:

(1) DENIAL OF VISAS TO PLO AND PALESTINIAN AUTHORITY OFFICIALS.—The Secretary shall direct consular officers not to issue a visa to any member of the PLO or any official of the Palestinian Authority.

(2) DOWNGRADE IN STATUS OF PLO OFFICE IN THE UNITED STATES.—Notwithstanding any other provision of law, the President shall withdraw or terminate any waiver by the President of the requirements of section 1003 of the Foreign Relations Authorization Act of 1988 and 1989 (22 U.S.C. 5202) (prohibiting the establishment or maintenance of a Palestinian information office in the United States), and such section shall apply so as to prohibit the operation of a PLO or Palestinian Authority office in the United States from carrying out any function other than those functions carried out by the Palestinian information office in existence prior to the Oslo Accords.

(3) DESIGNATION AS A FOREIGN TERRORIST ORGANIZATION.—The Secretary shall designate the PLO, or one or more of its constituent groups (including Fatah and Tanzim) or groups operating as arms of the Palestinian Authority (including Force 17), as a foreign terrorist organization, in accordance with section 219(a) of the Immigration and Nationality Act.

(4) PROHIBITION ON UNITED STATES ASSISTANCE TO THE WEST BANK AND GAZA.—United States assistance (except humanitarian assistance) may not be provided to programs or projects in the West Bank or Gaza.

(b) DURATION OF SANCTIONS.—The period of time referred to in subsection (a) is the period of time commencing on the date that the report pursuant to section 603 was transmitted and ending on the later of—

(1) the date that is 180 days after such date; or

(2) the date that the next report under section 603 is required to be transmitted.

(c) WAIVER AUTHORITY.—The President may waive any sanction imposed under subsection (a) if the President determines that such a waiver is in the national security interest of the United States. The President shall report such a determination to the appropriate congressional committees.

Subtitle B—Tibet Policy

SEC. 611. SHORT TITLE.

This subtitle may be cited as "Tibetan Policy Act of 2002".

SEC. 612. STATEMENT OF PURPOSE.

The purpose of this subtitle is to support the aspirations of the Tibetan people to safeguard their distinct identity.

SEC. 613. TIBET NEGOTIATIONS.

(a) POLICY.—

(1) IN GENERAL.—The President and the Secretary should encourage the Government of the People's Republic of China to enter into a dialogue with the Dalai Lama or his representatives leading to a negotiated agreement on Tibet.

(2) COMPLIANCE.—After such an agreement is reached, the President and the Secretary should work to ensure compliance with the agreement.

(b) PERIODIC REPORTS.—Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the President shall transmit to the appropriate congressional committees a report on—

(1) the steps taken by the President and the Secretary in accordance with subsection (a)(1); and

(2) the status of any discussions between the People's Republic of China and the Dalai Lama or his representatives.

SEC. 614. REPORTING ON TIBET.

Whenever a report is transmitted to Congress under section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m, 2304) or under section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)), Tibet shall be included in such report as a separate section.

SEC. 615. CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA.

Section 302(h) of the U.S.-China Relations Act of 2000 (Public Law 106–286), relating to the Congressional-Executive Commission on the People's Republic of China, is amended—

(1) by striking "shall include specific information" and inserting the following: "shall include—

"(1) specific information";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(2) a description of the status of negotiations between the Government of the People's Republic of China and the Dalai Lama or his representatives, and measures taken to safeguard Tibet's distinct historical, religious, cultural, and linguistic identity and the protection of human rights.".

SEC. 616. ECONOMIC DEVELOPMENT IN TIBET.

(a) DECLARATIONS OF POLICY.—It is the policy of the United States to support economic development, cultural preservation, health care, and education and environmental sustainability for Tibetans inside Tibet. In support of this policy, the United States shall use its voice and vote to support projects designed in accordance with the principles contained in subsection (d) that are designed to raise the standard of living for the Tibetan people and assist Tibetans to become self-sufficient.

(b) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall instruct the

United States executive director of each international financial institution to use the voice and vote of the United States to support projects in Tibet, if the projects are designed in accordance with the principles contained in subsection (d).

(c) EXPORT-IMPORT BANK AND TDA.—The Export-Import Bank of the United States and the Trade and Development Agency should support projects proposed to be funded or otherwise supported by such entities in Tibet, if the projects are designed in accordance with the principles contained in subsection (d).

(d) TIBET PROJECT PRINCIPLES.—Projects in Tibet supported by international financial institutions, other international organizations, nongovernmental organizations, and the United States entities referred to in subsection (c), should—

(1) be implemented only after conducting a thorough assessment of the needs of the Tibetan people through field visits and interviews;

(2) be preceded by cultural and environmental impact assessments;

(3) foster self-sufficiency and self-reliance of Tibetans;

(4) promote accountability of the development agencies to the Tibetan people and active participation of Tibetans in all project stages;

(5) respect Tibetan culture, traditions, and the Tibetan knowledge and wisdom about their landscape and survival techniques;

(6) be subject to on-site monitoring by the development agencies to ensure that the intended target group benefits;

(7) be implemented by development agencies prepared to use Tibetan as the working language of the projects;

(8) neither provide incentive for, nor facilitate the migration and settlement of, non-Tibetans into Tibet; and

(9) neither provide incentive for, nor facilitate the transfer of ownership of, Tibetan land or natural resources to non-Tibetans.

SEC. 617. RELEASE OF PRISONERS AND ACCESS TO PRISONS.

The President and the Secretary, in meetings with representatives of the Government of the People's Republic of China, should—

(1) request the immediate and unconditional release of all those held prisoner for expressing their political or religious views in Tibet;

(2) seek access for international humanitarian organizations to prisoners in Tibet to ensure that prisoners are not being mistreated and are receiving necessary medical care; and

(3) seek the immediate medical parole of Tibetan prisoners known to be in serious ill health.

SEC. 618. ESTABLISHMENT OF A UNITED STATES BRANCH OFFICE IN LHASA, TIBET.

The Secretary should make best efforts to establish an office in Lhasa, Tibet, to monitor political, economic, and cultural developments in Tibet.

SEC. 619. REQUIREMENT FOR TIBETAN LANGUAGE TRAINING.

The Secretary shall ensure that Tibetan language training is available to Foreign Service officers, and that every effort is made to ensure that a Tibetan-speaking Foreign Service officer is assigned to a United States post in the People's Republic of China responsible for monitoring developments in Tibet.

SEC. 620. RELIGIOUS PERSECUTION IN TIBET.

(a) HIGH-LEVEL CONTACTS.—Pursuant to section 105 of the International Religious Freedom Act of 1998 (22 U.S.C. 6414), the United States Ambassador to the People's Republic of China should—

(1) meet with the 11th Panchen Lama, who was taken from his home on May 17, 1995, and otherwise ascertain information concerning his whereabouts and well-being; and

(2) request that the Government of the People's Republic of China release the 11th Panchen Lama and allow him to pursue his religious studies without interference and according to tradition.

(b) PROMOTION OF INCREASED ADVOCACY.—Pursuant to section 108(a) of the International Religious Freedom Act of 1998 (22 U.S.C. 6417(a)), it is the sense of Congress that representatives of the United States Government in exchanges with officials of the Government of the People's Republic of China should call for and otherwise promote the cessation of all interference by the Government of the People's Republic of China or the Communist Party in the religious affairs of the Tibetan people.

SEC. 621. UNITED STATES SPECIAL COORDINATOR FOR TIBETAN ISSUES.

(a) UNITED STATES SPECIAL COORDINATOR FOR TIBETAN ISSUES.—There shall be within the Department a United States Special Coordinator for Tibetan Issues (in this section referred to as the "Special Coordinator").

(b) CONSULTATION.—The Secretary shall consult with the chairmen and ranking minority members of the appropriate congressional committees prior to the designation of the Special Coordinator.

(c) CENTRAL OBJECTIVE.—The central objective of the Special Coordinator is to promote substantive dialogue between the Government of the People's Republic of China and the Dalai Lama or his representatives.

(d) DUTIES AND RESPONSIBILITIES.—The Special Coordinator shall—

(1) coordinate United States Government policies, programs, and projects concerning Tibet;

(2) vigorously promote the policy of seeking to protect the distinct religious, cultural, linguistic, and national identity of Tibet, and pressing for improved respect for human rights;

(3) maintain close contact with religious, cultural, and political leaders of the Tibetan people, including regular travel to Tibetan areas of the People's Republic of China, and to Tibetan refugee settlements in India and Nepal;

(4) consult with Congress on policies relevant to Tibet and the future and welfare of the Tibetan people;

(5) make efforts to establish contacts in the foreign ministries of other countries to pursue a negotiated solution for Tibet; and

(6) take all appropriate steps to ensure adequate resources, staff, and bureaucratic support to fulfill the duties and responsibilities of the Special Coordinator.

Subtitle C—East Timor Transition to Independence Act of 2002

SEC. 631. SHORT TITLE.

This subtitle may be cited as the "East Timor Transition to Independence Act of 2002".

SEC. 632. BILATERAL ASSISTANCE.

(a) AUTHORITY.—The President, acting through the Administrator of the United States Agency for International Development, is authorized to—

(1) support the development of civil society, including nongovernmental organizations in East Timor;

(2) promote the development of an independent news media;

(3) support job creation, including support for small business and microenterprise programs, environmental protection, sustainable development, development of East Timor's health care infrastructure, educational programs, and programs strengthening the role of women in society;

(4) promote reconciliation, conflict resolution, and prevention of further conflict with respect to East Timor, including establishing accountability for past gross human rights violations;

(5) support the voluntary and safe repatriation and reintegration of refugees into East Timor;

(6) support political party development, voter education, voter registration, and other activities in support of free and fair elections in East Timor; and

(7) promote the development of the rule of law.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the President to carry out this section $25,000,000 for the fiscal year 2003.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 633. MULTILATERAL ASSISTANCE.

The Secretary of the Treasury shall instruct the United States executive director at each international financial institution to which the United States is a member to use the voice, vote, and influence of the United States to support economic and democratic development in East Timor.

SEC. 634. TRADE AND INVESTMENT ASSISTANCE.

(a) OPIC.—The President should initiate negotiations with the Government of East Timor to enter into a new agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to East Timor in order to expand United States investment in East Timor, emphasizing partnerships with local East Timorese enterprises.

(b) TRADE AND DEVELOPMENT AGENCY.—

(1) IN GENERAL.—The Director of the Trade and Development Agency is authorized to carry out projects in East Timor under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421).

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to the Trade and Development Agency to carry out this subsection $1,000,000 for fiscal year 2003.

(B) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

(c) EXPORT-IMPORT BANK.—The Export-Import Bank of the United States should expand its activities in connection with exports to East Timor to the extent such activities are requested and to the extent there is a reasonable assurance of repayment.

SEC. 635. GENERALIZED SYSTEM OF PREFERENCES.

As soon as possible after the enactment of this Act, the United States Trade Representative and the Commissioner of Customs should send an assessment team to East Timor to compile a list of duty-free eligible products so that the Government of East Timor can begin the process of applying for General System of Preference benefits.

SEC. 636. AUTHORITY FOR RADIO BROADCASTING.

The Broadcasting Board of Governors should broadcast to East Timor in an appropriate language or languages.

SEC. 637. SECURITY ASSISTANCE FOR EAST TIMOR.

(a) STUDY AND REPORT.—

(1) STUDY.—The President shall conduct a study to determine—

(A) the extent to which East Timor's security needs can be met by the transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961;

(B) the extent to which international military education and training (IMET) assistance will enhance professionalism of the armed forces of East Timor, provide training in human rights, and promote respect for human rights and humanitarian law; and

(C) the terms and conditions under which such defense articles or training, as appropriate, should be provided.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains the findings of the study conducted under paragraph (1).

(b) AUTHORIZATION OF ASSISTANCE.—

(1) IN GENERAL.—Beginning on the date on which Congress receives the report transmitted under subsection (a)(2), or the date on which Congress receives the certification transmitted under paragraph (2), whichever occurs later, the President is authorized—

(A) to transfer excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) to East Timor in accordance with such section; and

(B) to provide military education and training under chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.) for the armed forces of East Timor in accordance with such chapter.

(2) CERTIFICATION.—A certification described in this paragraph is a certification that—

(A) East Timor has established an independent armed forces; and

(B) the assistance proposed to be provided pursuant to paragraph (1)—

(i) is in the national security interests of the United States; and

(ii) will promote both human rights in East Timor and the professionalization of the armed forces of East Timor.

SEC. 638. REPORTING REQUIREMENT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and every 12 months thereafter for the next five years, the Secretary shall prepare and transmit to the appropriate congressional committees a report that contains the information described in subsection (b).

(b) INFORMATION.—The report required by subsection (a) shall include—

(1) developments in East Timor's political and economic situation in the period covered by the report, including an evaluation of any elections which have occurred in East Timor and the refugee reintegration process in East Timor;

(2) in the initial report, a 3-year plan for United States foreign assistance to East Timor in accordance with section 632, prepared by the Administrator of the United States Agency for International Development, which outlines the goals for United States foreign assistance to East Timor during the 3-year period;

(3) a description of the activities undertaken in East Timor by the International Bank for Reconstruction and Development, the Asian Development Bank, and other international financial institutions, and an evaluation of the effectiveness of these activities;

(4) an assessment of the status of United States trade and investment relations with East Timor, including a detailed analysis of any trade and investment-related activity supported by the Overseas Private Investment Corporation, the Export-Import Bank of the United States, or the Trade and Development Agency during the period of time since the previous report;

(5) a comprehensive study and report on local agriculture in East Timor, emerging opportunities for producing, processing, and exporting indigenous agricultural products, and recommendations for appropriate technical assistance from the United States; and

(6) statistical data drawn from other sources on economic growth, health, education, and distribution of resources in East Timor.

Subtitle D—Clean Water for the Americas Partnership

SEC. 641. SHORT TITLE.

This subtitle may be cited as the "Clean Water for the Americas Partnership Act of 2002".

SEC. 642. DEFINITIONS.

In this subtitle:

(1) JOINT PROJECT.—The term "joint project" means a project between a United States association or nonprofit entity and a Latin American or Caribbean association or nongovernmental organization.

(2) LATIN AMERICAN OR CARIBBEAN NONGOVERNMENTAL ORGANIZATION.—The term "Latin American or Caribbean nongovernmental organization" includes any institution of higher education, any private nonprofit entity involved in international education activities, or any research institute or other research organization, based in the region.

(3) REGION.—The term "region" refers to the region comprised of the member countries of the Organization of American States (other than the United States and Canada).

(4) UNITED STATES ASSOCIATION.—The term "United States association" means a business league described in section 501(c)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(6)), and exempt from taxation under section 501(a) of such Code (26 U.S.C. 501(a)).

(5) UNITED STATES NONPROFIT ENTITY.—The term "United States nonprofit entity" includes any institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), any private nonprofit entity involved in international education activities, or any research institute or other research organization, based in the United States.

SEC. 643. ESTABLISHMENT OF PROGRAM.

The President is authorized to establish a program which shall be known as the "Clean Water for the Americas Partnership".

SEC. 644. ENVIRONMENTAL ASSESSMENT.

The President is authorized to conduct a comprehensive assessment of the environmental problems in the region to determine—

(1) which environmental problems threaten human health the most, particularly the health of the urban poor;

(2) which environmental problems are most threatening, in the long-term, to the region's natural resources;

(3) which countries have the most pressing environmental problems; and

(4) whether and to what extent there is a market for United States environmental technology, practices, knowledge, and innovations in the region.

SEC. 645. ESTABLISHMENT OF TECHNOLOGY AMERICA CENTERS.

(a) AUTHORITY TO ESTABLISH.—The President, acting through the Director General of the United States and Foreign Commercial Service of the Department of Commerce, is authorized to establish Technology America Centers (TEAMs) in the region to serve the entire region and, where appropriate, to establish TEAMs in urban areas of the region to focus on urban environmental problems.

(b) FUNCTIONS.—The TEAMs would link United States private sector environmental technology firms with local partners, both public and private, by providing logistic and information support to United States firms seeking to find local partners and opportunities for environmental projects. TEAMs should emphasize assisting United States small businesses.

(c) LOCATION.—In determining whether to locate a TEAM in a country, the President, acting through the Director General of the United States and Foreign Commercial Service of the Department of Commerce, shall take into account the country's need for logistic and informational support and the opportunities presented for United States firms in the country. A TEAM may be located in a country without regard to whether a mission of the United States Agency for International Development is established in that country.

SEC. 646. PROMOTION OF WATER QUALITY, WATER TREATMENT SYSTEMS, AND ENERGY EFFICIENCY.

Subject to the availability of appropriations, the President is authorized to provide matching grants to United States associations and United States nonprofit entities for the purpose of promoting water quality, water treatment systems, and energy efficiency in the region. The grants shall be used to support joint projects, including professional exchanges, academic fellowships, training programs in the United States or in the region, cooperation in regulatory review, development of training materials, the establishment and development in the region of local chapters of the associations or nonprofit entities, and the development of online exchanges.

SEC. 647. GRANTS FOR PREFEASIBILITY STUDIES WITHIN A DESIGNATED SUBREGION.

(a) GRANT AUTHORITY.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Director of the Trade and Development Agency is authorized to make grants for prefeasibility studies for water projects in any country within a single subregion or in a single country designated under paragraph (2).

(2) DESIGNATION OF SUBREGION.—The Director of the Trade and Development Agency shall designate in advance a single subregion or a single country for purposes of paragraph (1).

(b) MATCHING REQUIREMENT.—The Director of the Trade and Development Agency may not make any grant under this section unless there are made available non-Federal contributions in an amount equal to not less than 25 percent of the amount of Federal funds provided under the grant.

(c) LIMITATION PER SINGLE PROJECT.—With respect to any single project, grant funds under this section shall be available only for the prefeasibility portion of that project.

(d) DEFINITIONS.—In this section:

(1) PREFEASIBILITY.—The term "prefeasibility" means, with respect to a project, not more than 25 percent of the design phase of the project.

(2) SUBREGION.—The term "subregion" means an area within the region and includes areas such as Central America, the Andean region, and the Southern cone.

SEC. 648. CLEAN WATER TECHNICAL SUPPORT COMMITTEE.

(a) IN GENERAL.—The President is authorized to establish a Clean Water Technical Support Committee (in this section referred to as the "Committee") to provide technical support and training services for individual water projects.

(b) COMPOSITION.—The Committee shall consist of international investors, lenders, water service providers, suppliers, advisers, and others with a direct interest in accelerating development of water projects in the region.

(c) FUNCTIONS.—Members of the Committee shall act as field advisers and may form specialized working groups to provide in-country training and technical assistance, and shall serve as a source of technical support to resolve barriers to project development.

SEC. 649. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President $10,000,000 for each of the fiscal years 2003, 2004, and 2005 to carry out this subtitle.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

SEC. 650. REPORT.

Eighteen months after the establishment of the program pursuant to section 643, the President shall submit a report to the appropriate congressional committees containing—

(1) an assessment of the progress made in carrying out the program established under this subtitle; and

(2) any recommendations for the enactment of legislation to make changes in the program established under this subtitle.

SEC. 651. TERMINATION DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the authorities of this subtitle shall terminate 3 years after the date of establishment of the program described in section 643.

(b) EXCEPTION.—In lieu of the termination date specified in subsection (a), the termination required by that subsection shall take effect five years after the date of establishment of the program described in section 643 if, prior to the termination date specified in subsection (a), the President determines and certifies to the appropriate congressional committees that it would be in the national interest of the United States to continue the program described in such section 643 for an additional 2-year period.

SEC. 652. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the date of enactment of this Act.

Subtitle E—Freedom Investment Act of 2002

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Freedom Investment Act of 2002".

SEC. 662. PURPOSES.

The purposes of this subtitle are the following:

(1) To underscore that promoting and protecting human rights is in the national interests of the United States and is consistent with American values and beliefs.

(2) To establish a goal of devoting one percent of the funds available to the Department under "Diplomatic and Consular Programs", other than such funds that will be made available for worldwide security upgrades and information resource management, to enhance the ability of the United States to promote respect for human rights and the protection of human rights defenders.

SEC. 663. HUMAN RIGHTS ACTIVITIES AT THE DEPARTMENT OF STATE.

(a) INCREASING RESOURCES AND IMPORTANCE OF HUMAN RIGHTS.—It is the sense of Congress that—

(1) the budget for the Bureau of Democracy, Human Rights, and Labor for fiscal years 2003 and 2004 should be substantially increased so that beginning in fiscal year 2005, and each fiscal year thereafter, not less than 1 percent of the amounts made available to the Department under the heading "Diplomatic and Consular Programs", other than amounts made available for worldwide security upgrades and information resource management, should be made available for salaries and expenses of the Bureau of Democracy, Human Rights, and Labor; and

(2) any assignment of an individual to a political officer position at a United States mission abroad that has the primary responsibility for monitoring human rights developments in a foreign country should be made upon the recommendation of the Assistant Secretary of State for Democracy, Human Rights, and Labor in conjunction with the head of the Department's regional bureau having primary responsibility for that country.

(b) PLAN RELATED TO HUMAN RIGHTS ACTIVITIES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department designed to achieve the following objectives:

(1) Improving the integration of human rights policy into the Department's overall policy formulation and implementation.

(2) Achieving closer communication and policy coordination between the Bureau of Democracy, Human Rights, and Labor and the regional bureaus of the Department, both within the United States and at overseas posts.

(3) Assigning individuals recommended by the Bureau of Democracy, Human Rights, and Labor, in conjunction with the relevant Department regional bureau, to political officer positions at United States missions abroad that have the primary responsibility for monitoring human rights developments in foreign countries.

SEC. 664. HUMAN RIGHTS AND DEMOCRACY FUND.

(a) ESTABLISHMENT OF FUND.—There is established a Human Rights and Democracy Fund (in this section referred to as the "Fund") to be administered by the Assistant Secretary of State for Democracy, Human Rights, and Labor.

(b) PURPOSES OF FUND.—The purposes of the Fund shall be—

(1) to support defenders of human rights;

(2) to assist the victims of human rights violations;

(3) to respond to human rights emergencies;

(4) to promote and encourage the growth of democracy, including the support for nongovernmental organizations in foreign countries; and

(5) to carry out such other related activities as are consistent with paragraphs (1) through (4).

(c) FUNDING.—

(1) IN GENERAL.—Of the amounts made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 2003, $21,500,000 is authorized to be available to the Fund for carrying out the purposes described in subsection (b). Amounts made available to the Fund under this paragraph shall also be deemed to have been made available under section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)).

(2) ALLOCATION OF FUNDS FOR THE DOCUMENTATION CENTER OF CAMBODIA.—Of the amount authorized to be available to the Fund under paragraph (1) for fiscal year 2003, $1,000,000 is authorized to be available for the Documentation Center of Cambodia for the purpose of collecting, cataloguing, and disseminating information about the atrocities committed by the Khmer Rouge against the Cambodian people.

(3) FATHER JOHN KAISER MEMORIAL FUND.—Of the amount authorized to be available to the Fund under paragraph (1) for fiscal year 2003, $500,000 is authorized to be available to advance the extraordinary work and values of Father John Kaiser with respect to solving ethnic conflict and promoting government accountability and respect for human rights. The amount made available under this paragraph may be referred to as the "Father John Kaiser Memorial Fund".

SEC. 665. REPORTS ON ACTIONS TAKEN BY THE UNITED STATES TO ENCOURAGE RESPECT FOR HUMAN RIGHTS.

(a) SECTION 116 REPORT.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) in paragraph (7), by striking "and" at the end and inserting a semicolon;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country.".

(b) SECTION 502B REPORT.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended by inserting after the fourth sentence the following: "Such report shall also include, for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country.".

(c) SEPARATE REPORT.—The information to be included in the report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 pursuant to the amendments made by subsections (a) and (b) may be submitted by the Secretary as a separate report. If the Secretary elects to submit such information as a separate report, such report shall be submitted not later than 30 days after the date of submission of the report required by section 116(d) and 502B(b) of the Foreign Assistance Act of 1961.

Subtitle F—Elimination and Streamlining of Reporting Requirements

SEC. 671. ELIMINATION OF CERTAIN REPORTING REQUIREMENTS.

The following provisions of law are hereby repealed:

(1) ECONOMIC POLICY AND TRADE PRACTICES.—Section 2202 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4711).

(2) ANNUAL REPORTS ON ECONOMIC AND SOCIAL GROWTH.—Section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (22 U.S.C. 2394 note).

(3) REPORTING REQUIREMENTS REGARDING CERTAIN LEASES OF REAL PROPERTY.—Section 488(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291g(3); relating to reporting requirements regarding certain leases of real property).

(4) REPORTING REQUIREMENTS REGARDING PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL.—Section 324 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (section 324 of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–437).

SEC. 672. BIENNIAL REPORTS ON PROGRAMS TO ENCOURAGE GOOD GOVERNANCE.

(a) CONVERSION OF ANNUAL REPORTS TO BIENNIAL REPORTS.—Section 133(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152c(d)) is amended—

(1) in the subsection heading, by striking "ANNUAL REPORT" and inserting "BIENNIAL REPORTS"; and

(2) in paragraph (1)—

(A) in the text above subparagraph (A), by striking "an annual report" and inserting "a biennial report";

(B) in subparagraph (A), by striking "prior year" and inserting "preceding two-year period"; and

(C) in subparagraph (B), by striking "prior year" and inserting "preceding two-year period".

(b) TRANSITION.—The first biennial report under section 133(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152c(d)), as amended by subsection (a), is required to be submitted not later than two years after the date of submission of the last annual report required under such section 133 (as in effect before the date of enactment of this Act).

Subtitle G—Other Matters

SEC. 681. AMENDMENTS TO THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998.

(a) VIOLATIONS OF RELIGIOUS FREEDOM.—Section 102(b)(1)(B) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1)(B)) is amended by inserting "including policies that discriminate against particular religious groups or members of such groups," after "the existence of government policies violating religious freedom,".

(b) ESTABLISHMENT OF STAGGERED TERMS OF MEMBERS OF COMMISSION.—Section 201(c) of such Act (22 U.S.C. 6431(c)) is amended by adding after paragraph (1) the following new paragraph:

"(2) ESTABLISHMENT OF STAGGERED TERMS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), members of the Commission appointed to serve on the Commission during the period May 15, 2003, through May 14, 2005, shall be appointed to terms in accordance with the provisions of this paragraph.

"(B) PRESIDENTIAL APPOINTMENTS.—Of the three members of the Commission appointed by the President under subsection (b)(1)(B)(i), two shall be appointed to a 1-year term and one shall be appointed to a 2-year term.

"(C) APPOINTMENTS BY THE PRESIDENT PRO TEMPORE OF THE SENATE.—Of the three members of the Commission appointed by the President pro tempore of the Senate under subsection (b)(1)(B)(ii), one of the appointments made upon the recommendation of the leader in the Senate of the political party that is not the political party of the President shall be appointed to a 1-year term, and the other two appointments under such clause shall be 2-year terms.

"(D) APPOINTMENTS BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.—Of the three members of the Commission appointed by the Speaker of the House of Representatives under subsection (b)(1)(B)(iii), one of the appointments made upon the recommendation of the leader in the House of the political party that is not the political party of the President shall be to a 1-year term, and the other two appointments under such clause shall be 2-year terms.

"(E) APPOINTMENTS TO 1-YEAR TERMS.—The term of each member of the Commission appointed to a 1-year term shall be considered to have begun on May 15, 2003, and shall end on May 14, 2004, regardless of the date of the appointment to the Commission. Each vacancy which occurs upon the expiration of the term of a member appointed to a 1-year term shall be filled by the appointment of a successor to a 2-year term.

"(F) APPOINTMENTS TO 2-YEAR TERMS.—Each appointment of a member to a two-year term shall identify the member succeeded thereby, and each such term shall end on May 14 of the year that is at least two years after the expiration of the previous term, regardless of the date of the appointment to the Commission.".

(c) ELECTION OF CHAIR OF COMMISSION.—Section 201(d) of such Act (22 U.S.C. 6431(d)) is amended by striking "in each calendar" and inserting "after May 30 of each".

(d) VACANCIES.—Section 201(g) of such Act (22 U.S.C. 6431(g)) is amended by adding at the end the following: "A member may serve after the expiration of that member's term until a successor has taken office. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.".

(e) AUTHORIZATIONS OF APPROPRIATIONS.—Section 207(a) of such Act (22 U.S.C. 6435(a)) is amended by inserting "for the fiscal year 2003" after "$3,000,000".

(f) PROCUREMENT OF NONGOVERNMENTAL SERVICES.—The third sentence of section 208(c)(1) of such Act (22 U.S.C. 6435a(c)(1)) is amended to read as follows: "The Commission may procure temporary and intermittent services under the authority of section 3109(b) of title 5, United States Code, except that the Commission may not expend more than $100,000 in any fiscal year to procure such services.".

(g) REVISED TERMINATION DATE OF COMMISSION.—Section 209 of the International Religious Freedom Act of 1998 (22 U.S.C. 6436) is amended by striking "May 14, 2003" and inserting "September 30, 2011".

SEC. 682. AMENDMENTS TO THE VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000.

(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—Section 107(a)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7105(a)(1)) is amended by adding at the end the following: "In addition, such programs and initiatives shall, to the maximum extent practicable, include the following:

"(A) Support for local in-country nongovernmental organization-operated hotlines, culturally and linguistically appropriate protective shelters, and regional and international nongovernmental organization networks and databases on trafficking, including support to assist nongovernmental organizations in establishing service centers and systems that are mobile and extend beyond large cities.

"(B) Support for nongovernmental organizations and advocates to provide legal, social, and other services and assistance to trafficked individuals, particularly those individuals in detention.

"(C) Education and training for trafficked women and girls.

"(D) The safe integration or reintegration of trafficked individuals into an appropriate community or family, with full respect for the wishes, dignity, and safety of the trafficked individual.

"(E) Support for developing or increasing programs to assist families of victims in locating, repatriating, and treating their trafficked family members, in assisting the voluntary repatriation of these family members or their integration or resettlement into appropriate communities, and in providing them with treatment.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 113 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7110) is amended—

(1) in subsection (a), by striking "for fiscal year 2002" and inserting "for each of the fiscal years 2002 and 2003";

(2) in subsection (c)—

(A) in paragraph (1), by striking "and $10,000,000 for fiscal year 2002" and inserting ", $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003"; and

(B) in paragraph (2)—

(i) by striking "there are authorized to be appropriated to the Secretary of State" and inserting "there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001, 2002, and 2003"; and

(ii) by striking "for fiscal year 2001" and inserting "for such fiscal year"; and

(3) in paragraphs (1) and (2) of subsection (e), by striking "and $10,000,000 for fiscal year 2002" each place it appears and inserting ", $10,000,000 for fiscal year 2002; and $15,000,000 for fiscal year 2003".

SEC. 683. ANNUAL HUMAN RIGHTS COUNTRY REPORTS ON CHILD SOLDIERS.

(a) COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)), as amended by section 665(a) of this Act, is further amended—

(1) in paragraph (8), by striking "and" at the end;

(2) in paragraph (9), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(10)(A) wherever applicable, a description of the nature and extent—

"(i) of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, and the participation of such individuals in such groups; and

"(ii) that such individuals take a direct part in hostilities;

"(B) what steps, if any, taken by the government of the country to eliminate such practices; and

"(C) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary.".

(b) COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended by inserting after the sixth sentence the following: "Each report under this section shall also include (i) wherever applicable, a description of the nature and extent of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, the participation of such individuals in such groups, and the nature and extent that such individuals take a direct part in hostilities, (ii) what steps, if any, taken by the government of the country to eliminate such practices, and (iii) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary of State.".

SEC. 684. EXTENSION OF AUTHORITY FOR CAUCUS ON INTERNATIONAL NARCOTICS CONTROL.

Section 814(i) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93) is amended by striking "2002" and inserting "2005".

SEC. 685. PARTICIPATION OF SOUTH ASIAN COUNTRIES IN INTERNATIONAL LAW ENFORCEMENT.

The Secretary shall ensure, where practicable, that appropriate government officials from countries in the South Asia region shall be eligible to attend courses at the International Law Enforcement Academy located in Bangkok, Thailand, and Budapest, Hungary, consistent with other provisions of law, with the goal of enhancing regional cooperation in the fight against transnational crime.

SEC. 686. PAYMENT OF ANTI-TERRORISM JUDGMENTS.

Section 2002(a)(2)(A)(ii) of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386; 114 Stat. 1542)) is amended by striking "or July 27, 2000" and inserting "June 6, 2000, July 27, 2000, or January 16, 2002".

SEC. 687. REPORTS ON PARTICIPATION BY SMALL BUSINESSES IN PROCUREMENT CONTRACTS OF USAID.

(a) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the Administrator shall submit to the designated congressional committees a report that contains the following:

(1) For each of the fiscal years 2000, 2001, and 2002:

(A) The total number of the contracts that were awarded by the Agency to—

(i) all small businesses;

(ii) small business concerns owned and controlled by socially and economically disadvantaged individuals;

(iii) small business concerns owned and controlled by women;

(iv) small businesses participating in the program under section 8(a) of such Act (15 U.S.C. 637(a)); and

(v) qualified HUBZone small business concerns.

(B) The percentage of all contracts awarded by the Agency that were awarded to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

(C) Of all contracts awarded by the Agency for performance in the United States, the percentage of the contracts that were awarded to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

(D) To the extent available—

(i) the total number of grant and cooperative agreements that were made by the Agency to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A);

(ii) the percentage of all grant and cooperative agreements awarded by the Agency that were awarded to small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts; and

(iii) of all grant and cooperative agreements made by the Agency to entities in the United States, the percentage of the grant and cooperative agreements that were awarded to small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

(E) To the extent available—

(i) the total dollar amount of all subcontracts entered into with the small businesses in each category specified in clauses (i) through (v) of subparagraph (A) by the prime contractors for contracts entered into by the Agency; and

(ii) the percentage of all contracts entered into by the Agency that were performed under subcontracts described in clause (i), as computed on the basis of dollar amounts.

(2) An analysis of any specific industries or sectors that are underrepresented by small businesses in the awarding of contracts by the Agency and, to the extent such information is available, such analysis pertaining to the making of grants and cooperative agreements by the Agency.

(3) A specific plan of outreach, including measurable achievement milestones, to increase the total number of contracts that are awarded by the Agency, and the percentage of all contracts awarded by the Agency (computed on the basis of dollar amount) that are awarded, to—

(A) all small businesses;

(B) small business concerns owned and controlled by socially and economically disadvantaged individuals;

(C) small business concerns owned and controlled by women;

(D) small businesses participating in the program under section 8(a) of such Act (15 U.S.C. 637(a)); and

(E) qualified HUBZone small business concerns,

in order to meet the statutory and voluntary targets established by the Agency and the Small Business Administration, with a particular focus on the industries or sectors identified in paragraph (2).

(4) Any other information the Administrator determines appropriate.

(b) PLAN TO INCREASE SMALL BUSINESS CONTRACTING.—The plan required for the report under subsection (a)(3) shall include the following matters:

(1) Proposals and milestones that apply to all contracts entered into by or on behalf of the Agency in Washington, D.C., and proposals and milestones that apply to all contracts entered into by or on behalf of the Agency by offices outside Washington, D.C.

(2) Proposals and milestones of the Agency to increase the amount of subcontracting to businesses described in such subsection (a)(3) by the prime contractors of the Agency.

(3) With the milestones described in paragraph (2), a description of how the Administrator plans to use the failure of a prime contractor to meet goals as a ranking factor for evaluating any other submission from the contractor for future contracts by the Agency.

(c) ANNUAL REPORTS.—Not later than January 31, 2004, January 31, 2005, and January 31, 2006, the Administrator shall submit to the designated congressional committees a report for the preceding fiscal year that contains a description of the percentage of total contract and grant and cooperative agreement dollar amounts that were entered into by the Agency, and the total number of contracts and grants and cooperative agreements that were awarded by the Agency, to small businesses in each category specified in clauses (i) through (v) of subsection (a)(1)(A) during such fiscal year. The report for a fiscal year shall include, separately stated for contracts and grant and cooperative agreements entered into by the Agency, the percentage of the contracts and grant and cooperative agreements, respectively, that were awarded to small businesses in each such category, as computed on the basis of dollar amounts. The report shall also include a description of achievements toward measurable milestones for direct contracts of the Agency entered into by offices outside of Washington, D.C., and for subcontracting by prime contractors of the Agency.

(d) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the United States Agency for International Development.

(2) AGENCY.—The term "Agency" means the United States Agency for International Development.

(3) DESIGNATED CONGRESSIONAL COMMITTEES.—The term "designated congressional committees" means—

(A) the Committee on International Relations and the Committee on Small Business of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Small Business of the Senate.

SEC. 688. PROGRAM TO IMPROVE BUILDING CONSTRUCTION AND PRACTICES IN LATIN AMERICAN COUNTRIES.

(a) IN GENERAL.—The President, acting through the Administrator of the United States Agency for International Development, is authorized, under such terms and conditions as the President may determine, to carry out a program to improve building construction codes and practices in Ecuador, El Salvador, and other Latin American countries (in this section referred to as the "program").

(b) PROGRAM DESCRIPTION.—

(1) IN GENERAL.—The program shall be in the form of grants to, or contracts with, organizations described in paragraph (2) to support the following activities:

(A) TRAINING.—Training of appropriate professionals in Latin America from both the public and private sectors to enhance their understanding of building and housing codes and standards.

(B) TRANSLATION AND DISTRIBUTION.—Translating and distributing in the region detailed construction manuals, model building codes, and publications from organizations described in paragraph (2), including materials that address zoning, egress, fire and life safety, plumbing, sewage, sanitation, electrical installation, mechanical installation, structural engineering, and seismic design.

(C) OTHER ASSISTANCE.—Offering other relevant assistance as needed, such as helping government officials develop seismic micro-zonation maps or draft pertinent legislation, to implement building codes and practices that will help improve the resistance of buildings and housing in the region to seismic activity and other natural disasters.

(2) COVERED ORGANIZATIONS.—Grants and contracts provided under this section shall be carried out through United States organizations with expertise in the areas described in paragraph (1), including the American Society of Testing Materials, the Underwriters Laboratories, the American Society of Mechanical Engineers, the American Society of Civil Engineers, the American Society of Heating, Refrigeration, and Air Conditioning Engineers, the International Association of Plumbing and Mechanical Officials, the International Code Council, and the National Fire Protection Association.

SEC. 689. SENSE OF CONGRESS RELATING TO HIV/AIDS AND UNITED NATIONS PEACEKEEPING OPERATIONS.

It is the sense of the Congress that the President should direct the Secretary and the United States Representative to the United Nations to urge the United Nations to adopt an HIV/AIDS mitigation strategy as a component of United Nations peacekeeping operations.

SEC. 690. SENSE OF CONGRESS RELATING TO MAGEN DAVID ADOM SOCIETY.

(a) FINDINGS.—Congress finds the following:

(1) It is the mission of the International Red Cross and Red Crescent Movement to prevent and alleviate human suffering wherever it may be found, without discrimination.

(2) The International Red Cross and Red Crescent Movement is a worldwide institution in which all national Red Cross and Red Crescent societies have equal status.

(3) The Magen David Adom Society is the national humanitarian society in the State of Israel.

(4) Since 1949 the Magen David Adom Society has been refused admission into the International Red Cross and Red Crescent Movement and has been relegated to observer status without a vote because it has used the Red Shield of David, the only such national organization denied membership in the Movement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the International Committee of the Red Cross should immediately recognize the Magen David Adom Society;

(2) the Federation of Red Cross and Red Crescent Societies should grant full membership to the Magen David Adom Society immediately following recognition by the International Committee of the Red Cross of the Magen David Adom Society as a full member of the International Committee of the Red Cross;

(3) the Red Shield of David should be accorded the same protections under international law as the Red Cross and the Red Crescent; and

(4) the United States should continue to press for full membership for the Magen David Adom Society in the International Red Cross Movement.

SEC. 691. SENSE OF CONGRESS REGARDING THE LOCATION OF PEACE CORPS OFFICES ABROAD.

It is the sense of the Congress that, to the degree permitted by security considerations, the Secretary should give favorable consideration to requests by the Director of the Peace Corps that the Secretary exercise his authority under section 606(a)(2)(B) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865(a)(2)(B)) to waive certain requirements of that Act in order to permit the Peace Corps to maintain offices in foreign countries at locations separate from the United States embassy.

SEC. 692. SENSE OF CONGRESS RELATING TO RESOLUTION OF THE TAIWAN STRAIT ISSUE.

It is the sense of the Congress that Taiwan is a mature democracy that fully respects human rights and it is the policy of the United States that any resolution of the Taiwan Strait issue must be peaceful and include the assent of the people of Taiwan.

SEC. 693. SENSE OF CONGRESS RELATING TO DISPLAY OF THE AMERICAN FLAG AT THE AMERICAN INSTITUTE IN TAIWAN.

It is the sense of the Congress that the American Institute in Taiwan and the residence of *the director of the American Institute in Taiwan should publicly display the flag of the United States in the same manner as United States embassies, consulates, and official residences throughout the world.*

SEC. 694. REPORTS ON ACTIVITIES IN COLOMBIA.

(a) REPORT ON REFORM ACTIVITIES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and not later than April 1 of each year thereafter, the Secretary shall submit to the appropriate congressional committees a report on the status of activities funded or authorized, in whole or in part, by the Department or the Department of Defense in Colombia to promote alternative development, recovery and resettlement of internally displaced persons, judicial reform, the peace process, and human rights.

(2) CONTENTS.—Each such report shall contain the following:

(A) A summary of activities described in paragraph (1) during the previous 12-month period.

(B) An estimated timetable for the conduct of such activities in the subsequent 12-month period.

(C) An explanation of any delay in meeting timetables contained in the previous report submitted in accordance with this subsection.

(D) An assessment of steps to be taken to correct any delays in meeting such timetables.

(b) REPORT ON CERTAIN COUNTERNARCOTICS ACTIVITIES.—

(1) DECLARATION OF POLICY.—It is the policy of the United States to encourage the transfer of counternarcotics activities carried out in Colombia by United States businesses that have entered into agreements with the Department or the Department of Defense to conduct such activities, to Colombian nationals, in particular personnel of the Colombian antinarcotics police, when properly qualified personnel are available.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, and not later than April 1 of each year thereafter, the Secretary shall submit to the appropriate congressional committees a report on the activities of United States businesses that have entered into agreements in the previous 12-month period with the Department or the Department of Defense to carry out counternarcotics activities in Colombia.

(3) CONTENTS.—Each such report shall contain the following:

(A) The name of each United States business described in paragraph (2) and description of the counternarcotics activities carried out by the business in Colombia.

(B) The total value of all payments by the Department and the Department of Defense to each such business for such activities.

(C) A written statement justifying the decision by the Department and the Department of Defense to enter into an agreement with each such business for such activities.

(D) An assessment of the risks to personal safety and potential involvement in hostilities incurred by employees of each such business as a result of their activities in Colombia.

(E) A plan to provide for the transfer of the counternarcotics activities carried out by such United States businesses to Colombian nationals, in particular personnel of the Colombian antinarcotics police.

(4) DEFINITION.—In this subsection, the term "United States business" means any person (including any corporation, partnership, or other organization) that is subject to the jurisdiction of the United States or organized under the laws of the United States, but does not include any person (including any corporation, partnership, or other organization) that performs contracts involving personal services.

SEC. 695. REPORT ON UNITED STATES-SPONSORED ACTIVITIES IN COLOMBIA.

(a) FINDINGS.—Congress makes the following findings:

(1) Heroin originating from Colombia is beginning to dominate the illicit market of that narcotic in the United States partly because law enforcement has struggled to interdict effectively what is often voluminous importations of small quantities of Colombia's inexpensive and pure heroin.

(2) Destruction of opium, from which heroin is derived, at its source in Colombia is traditionally one of the best strategies to combat the heroin crisis in the United States, according to Federal law enforcement officials.

(3) There is a growing alarm concerning the spillover effect of Plan Colombia on Ecuador, a frontline state. The northern region of Ecuador, including the Sucumbios province, is an area of particular concern.

(4) As a result of Plan Colombia-related activities, drug traffickers, guerrillas, and paramilitary groups have made incursions from Colombia into Ecuador, increasing the level of violence and delinquency in the border region.

(b) REPORT TO CONGRESS.—Not later than 150 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees which sets forth a statement of policy and comprehensive strategy for United States activities in Colombia related to—

(1) the eradication of all opium cultivation at its source in Colombia; and

(2) the impact of Plan Colombia on Ecuador and the other adjacent countries to Colombia.

SEC. 696. REPORT ON EXTRADITION POLICY AND PRACTICE.

Not later than May 1, 2003, the Secretary shall submit a report to the appropriate congressional committees on extradition practice between the United States and governments of foreign countries with which the United States has an extradition relationship. The report shall include—

(1) an aggregate list, by country, of—

(A) the number of extradition requests made by the United States to that country in 2002; and

(B) the number of fugitives extradited by that country to the United States in 2002;

(2) an aggregate list, by country, of—

(A) the number of extradition requests made by that country to the United States in 2002; and

(B) the number of fugitives extradited by the United States to that country in 2002;

(3) any other relevant information regarding difficulties the United States has experienced in obtaining the extradition of fugitives (including a discussion of the unwillingness of treaty partners to extradite nationals or where fugitives may face capital punishment or life imprisonment); and

(4) a summary of the Department's efforts in 2002 to negotiate new or revised extradition treaties, and its agenda for such negotiations in 2003.

SEC. 697. SPECIAL COURT FOR SIERRA LEONE.

(a) FINDING.—Congress finds that prompt establishment of a Special Court for Sierra Leone is an important step in restoring a credible system of justice and accountability for the crimes committed in Sierra Leone and would contribute to the process of national reconciliation in that country.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should support the Truth and Reconciliation Commission in Sierra Leone, including through assistance in the collection of human rights data relevant to the Commission's work.

(c) ALLOCATION OF FUNDS.—Of the amounts made available to the Department of State for fiscal year 2003, there is authorized to be available $5,000,000 to support the Special Court for Sierra Leone.

(d) EXTENSION OF REWARDS PROGRAM.—Section 102 of Public Law 105–323, as amended (22 U.S.C. 2708 note), is further amended—

(1) in subsection (a), by inserting "the Special Court of Sierra Leone" after "by,"; and

(2) in subsection (c), by adding at the end the following new paragraph:

"(3) For the purposes of subsection (a), the Statute of the Special Court for Sierra Leone means the Statute contained in the Annex to the Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone.".

SEC. 698. UNITED STATES ENVOY FOR PEACE IN SUDAN.

There should continue to be a United States Envoy for Peace in Sudan until the full implementation of a comprehensive settlement to the conflict in Sudan that is acceptable to the parties to the conflict.

SEC. 699. TRANSFER OF PROSCRIBED WEAPONS TO PERSONS OR ENTITIES IN THE WEST BANK AND GAZA.

(a) DETERMINATION REGARDING TRANSFERS.—If the President determines, based on a preponderance of the evidence, that a foreign person or entity has knowingly transferred proscribed weapons to Palestinian entities in the West Bank or Gaza, then, for the period specified in subsection (b), no assistance may be provided to the person or entity under part II of the Foreign Assistance Act of 1961 and no sales of defense articles or defense services may be made to the person or entity under section 23 of the Arms Export Control Act.

(b) DURATION OF PROHIBITION.—The period referred to in subsection (a) is the period commencing on the date on which a notification of a determination under subsection (a) is submitted to the appropriate congressional committees and ending on the date that is two years after such date.

(c) REPORT.—In conjunction with the report required under title VIII of the P.L.O. Commitments Compliance Act of 1989 (Public Law 101–246), the President shall submit a report to the appropriate congressional committees on transfers reviewed pursuant to subsection (a).

(d) DEFINITION.—In this section, the term "proscribed weapons" means arms, ammunition, and equipment the transfer of which is not in compliance with the Agreement on the Gaza Strip and the Jericho Area of May 4, 1994, its annexes, or subsequent agreements between Israel and the PLO, or Palestinian Authority, as appropriate.

SEC. 700. SENSE OF CONGRESS RELATING TO ARSENIC CONTAMINATION IN DRINKING WATER IN BANGLADESH.

(a) FINDINGS.—Congress finds that—

(1) beginning in 1993, naturally occurring inorganic arsenic contamination of water began to be confirmed in Bangladesh in tube-wells installed in the 1970s, when standard water testing did not include arsenic tests;

(2) because health effects of ingesting arsenic-contaminated drinking water appear slowly, preventative measures are critical to preventing future contamination in the Bangladeshi population; and

(3) health effects of exposure to arsenic include skin lesions, skin cancer, and mortality from internal cancers.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should—

(1) work with appropriate United States Government agencies, national laboratories, universities in the United States, the Government of Bangladesh, international financial institutions and organizations, and international donors to identify a long-term solution to the arsenic-contaminated drinking water problem in Bangladesh, including drawing arsenic out of the existing tube-wells and finding alternate sources of water; and

(2) submit a report to the appropriate congressional committees on proposals to bring about

arsenic-free drinking water to Bangladeshis and to facilitate treatment for those who have already been affected by arsenic-contaminated drinking water in Bangladesh.

SEC. 701. POLICING REFORM AND HUMAN RIGHTS IN NORTHERN IRELAND.

(a) Congressional Statement of Policy.—Congress—

(1) supports independent judicial public inquiries into the murders of defense attorneys Patrick Finucane and Rosemary Nelson as a way to instill confidence in the Police Service of Northern Ireland; and

(2) continues to urge the United Kingdom to take appropriate action to protect defense lawyers and human rights defenders in Northern Ireland.

(b) Decommissioning Weapons.—Congress—

(1) calls on the Irish Republican Army to continue and complete the decommissioning of all their arms and explosives; and

(2) calls for—

(A) the decommissioning of all weapons held by paramilitaries on all sides, such as the Provisional Irish Republican Army (PIRA), the Real Irish Republican Army (RIRA), the Continuity Irish Republican Army (CIRA), the Loyalist Volunteer Force (LVF), the Orange Volunteers (OV), the Red Hand Defenders (RHD), the Ulster Defense Association/Ulster Freedom Fighters (UDA/UFF), the Ulster Volunteer Force (UVF); and

(B) the immediate cessation of paramilitary punishment attacks and exiling.

(c) Support for Global War on Terrorism.—Congress recognizes the United Kingdom's commitment to support the United States in a global war on terrorism.

(d) Report on Policing Reform and Human Rights in Northern Ireland.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to the appropriate congressional committees on the following:

(1) The extent to which the Governments of the United Kingdom and Ireland have implemented the recommendations relating to the 175 policing reforms contained in the Patten Commission report issued on September 9, 1999, including a description of the progress of the integration of human rights, as well as recruitment procedures aimed at increasing Catholic representation, including the effectiveness of such procedures, in the new Police Service of Northern Ireland.

(2) The status of the investigations into the murders of Patrick Finucane, Rosemary Nelson, and Robert Hammill, including the extent to which progress has been made on recommendations for independent judicial public inquiries into these murders.

(3) All decommissioning acts taken to date by the Irish Republican Army, including the quantity and precise character of what the IRA decommissioned, as reported and verified by the International Commission on Decommissioning.

(4) All acts of decommissioning taken by other paramilitary organizations, including a description of all weapons and explosives decommissioned.

(5) A description of the measures taken to ensure that the programs described under subsection (e) comply with the requirements of that subsection.

(e) Compliance With Prior Provisions.—Any training or exchange program conducted by the Federal Bureau of Investigation or any other Federal law enforcement agency for the Police Service of Northern Ireland or its members shall—

(1) be necessary to improve the professionalism of policing in Northern Ireland;

(2) be necessary to advance the peace process in Northern Ireland;

(3) include in the curriculum a significant human rights component; and

(4) only be provided to Police Service of Northern Ireland (PSNI) members who have been subject to a vetting procedure established by the Department and the Department of Justice to ensure that such program does not include PSNI members who there are substantial ground for believing have committed or condoned violations of internationally recognized human rights, including any role in the murder of Patrick Finucane or Rosemary Nelson or other violence or serious threat of violence against defense attorneys in Northern Ireland.

SEC. 702. ANNUAL REPORTS ON UNITED STATES-VIETNAM HUMAN RIGHTS DIALOGUE MEETINGS.

Not later than December 31 of each year or 60 days after the second United States-Vietnam human rights dialogue meeting held in a calendar year, whichever is earlier, the Secretary shall submit to the appropriate congressional committees a report covering the issues discussed at the previous two meetings and describing to what extent the Government of Vietnam has made progress during the calendar year toward achieving the following objectives:

(1) Improving the Government of Vietnam's commercial and criminal codes to bring them into conformity with international standards, including the repeal of the Government of Vietnam's administrative detention decree (Directive 31/CP).

(2) Releasing political and religious activists who have been imprisoned or otherwise detained by the Government of Vietnam, and ceasing surveillance and harassment of those who have been released.

(3) Ending official restrictions on religious activity, including implementing the recommendations of the United Nations Special Rapporteur on Religious Intolerance.

(4) Promoting freedom for the press, including freedom of movement of members of the Vietnamese and foreign press.

(5) Improving prison conditions and providing transparency in the penal system of Vietnam, including implementing the recommendations of the United Nations Working Group on Arbitrary Detention.

(6) Respecting the basic rights of indigenous minority groups, especially in the central and northern highlands of Vietnam.

(7) Respecting the basic rights of workers, including working with the International Labor Organization to improve mechanisms for promoting such rights.

(8) Cooperating with requests by the United States to obtain full and free access to persons who may be eligible for admission to the United States as refugees or immigrants, and allowing such persons to leave Vietnam without being subjected to extortion or other corrupt practices.

SEC. 703. SENSE OF CONGRESS REGARDING HUMAN RIGHTS VIOLATIONS IN INDONESIA.

It is the sense of Congress that the Government of Indonesia should—

(1) demonstrate substantial progress toward ending human rights violations by the armed forces in Indonesia (TNI);

(2) terminate any TNI support for and cooperation with terrorist organizations, including Laskar Jihad and militias operating in the Malukus, Central Sulawesi, West Papua (Irian Jaya), and elsewhere;

(3) investigate and prosecute those responsible for human rights violations, including TNI officials, members of Laskar Jihad, militias, and other terrorist organizations; and

(4) make concerted and demonstrable efforts to find and prosecute those responsible for the murders of Papuan leader Theys Elvay, Acehnse human rights advocate Jafar Siddiq Hamzah, and United States citizens Edwin L. Burgon and Ricky L. Spier.

SEC. 704. REPORT CONCERNING THE GERMAN FOUNDATION "REMEMBRANCE, RESPONSIBILITY, AND THE FUTURE".

(a) Report Concerning the German Foundation "Remembrance, Responsibility, and the Future".—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until all funds made available to the German Foundation have been disbursed, the Secretary shall report to the appropriate congressional committees on the status of the implementation of the Agreement and, to the extent possible, on whether or not—

(1) during the 180-day period preceding the date of the report, the German Bundestag has authorized the allocation of funds to the Foundation, in accordance with section 17 of the law on the creation of the Foundation, enacted by the Federal Republic of Germany on August 8, 2000;

(2) the entire sum of 10,000,000,000 deutsche marks has been made available to the German Foundation in accordance with Annex B to the Joint Statement of July 17, 2000;

(3) during the 180-day period preceding the date of the report, any company or companies investigating a claim, who are members of ICHEIC, were required to provide to the claimant, within 90 days after receiving the claim, a status report on the claim, or a decision that included—

(A) an explanation of the decision, pursuant to those standards of ICHEIC to be applied in approving claims;

(B) all documents relevant to the claim that were retrieved in the investigation; and

(C) an explanation of the procedures for appeal of the decision;

(4) during the 180-day period preceding the date of the report, any entity that elected to determine claims under Article 1(4) of the Agreement was required to comply with the standards of proof, criteria for publishing policyholder names, valuation standards, auditing requirements, and decisions of the Chairman of ICHEIC;

(5) during the 180-day period preceding the date of the report, an independent process to appeal decisions made by any entity that elected to determine claims under Article 1(4) of the Agreement was available to and accessible by any claimant wishing to appeal such a decision, and the appellate body had the jurisdiction and resources necessary to fully investigate each claim on appeal and provide a timely response;

(6) an independent audit of compliance by every entity that has elected to determine claims under Article 1(4) of the Agreement has been conducted; and

(7) the administrative and operational expenses incurred by the companies that are members of ICHEIC are appropriate for the administration of claims described in paragraph (3).

The Secretary's report shall include the Secretary's justification for each determination under this subsection.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the resolution of slave and forced labor claims is an urgent issue for aging Holocaust survivors, and the German Bundestag should allocate funds for disbursement by the German Foundation to Holocaust survivors as soon as possible; and

(2) ICHEIC should work in consultation with the Secretary in gathering the information required for the report under subsection (a).

(c) Definitions.—In this section:

(1) Agreement.—The term "Agreement" means the Agreement between the Government

of the United States of America and the Government of the Federal Republic of Germany concerning the Foundation "Remembrance, Responsibility and the Future", done at Berlin July 17, 2000.

(2) ANNEX B TO THE JOINT STATEMENT OF JULY 17, 2000.—The term "Annex B to the Joint Statement of July 17, 2000" means Annex B to the Joint Statement on occasion of the final plenary meeting concluding international talks on the preparation of the Federal Foundation "Remembrance, Responsibility and the Future", done at Berlin on July 17, 2000.

(3) GERMAN FOUNDATION.—The term "German Foundation" means the Foundation "Remembrance, Responsibility and the Future" referred to in the Agreement.

(4) ICHEIC.—The term "ICHEIC" means the International Commission on Holocaust Era Insurance Claims referred to in Article 1(4) of the Agreement.

SEC. 705. SENSE OF CONGRESS ON RETURN OF PORTRAITS OF HOLOCAUST VICTIMS TO THE ARTIST DINA BABBITT.

(a) FINDINGS.—Congress finds that—

(1) Dina Babbitt (formerly known as Dinah Gottliebova), a United States citizen has requested the return of watercolor portraits she painted while suffering a 1½-year-long internment at the Auschwitz death camp during World War II;

(2) Dina Babbitt was ordered to paint the portraits by the infamous war criminal Dr. Josef Mengele;

(3) Dina Babbitt's life, and her mother's life, were spared only because she painted portraits of doomed inmates of Auschwitz-Birkenau, under orders from Dr. Josef Mengele;

(4) these paintings are currently in the possession of the Auschwitz-Birkenau State Museum;

(5) Dina Babbitt is the rightful owner of the artwork, since the paintings were produced by her own talented hands as she endured the unspeakable conditions that existed at the Auschwitz death camp;

(6) the artwork is not available for the public to view at the Auschwitz-Birkenau State Museum and therefore this unique and important body of work is essentially lost to history; and

(7) this continued injustice can be righted through cooperation between agencies of the United States and Poland.

(b) SENSE OF CONGRESS.—Congress—

(1) recognizes the moral right of Dina Babbitt to obtain the artwork she created, and recognizes her courage in the face of the evils perpetrated by the Nazi command of the Auschwitz-Birkenau death camp, including the atrocities committed by Dr. Josef Mengele;

(2) urges the President to make all efforts necessary to retrieve the 7 watercolor portraits Dina Babbitt painted, while suffering a 1½-year-long internment at the Auschwitz death camp, and return them to her;

(3) urges the Secretary to make immediate diplomatic efforts to facilitate the transfer of the 7 original watercolors painted by Dina Babbitt from the Auschwitz-Birkenau State Museum to Dina Babbitt, their rightful owner;

(4) urges the Government of Poland to immediately facilitate the return to Dina Babbitt of the artwork painted by her that is now in the possession of the Auschwitz-Birkenau State Museum; and

(5) urges the officials of the Auschwitz-Birkenau State Museum to transfer the 7 original paintings to Dina Babbitt as expeditiously as possible.

SEC. 706. INTERNATIONAL DRUG CONTROL CERTIFICATION PROCEDURES.

During any fiscal year, funds that would otherwise be withheld from obligation or expenditure under section 490 of the Foreign Assistance Act of 1961 may be obligated or expended beginning October 1 of such fiscal year provided that:

(1) REPORT.—Not later than September 15 of the previous fiscal year the President has submitted to the appropriate congressional committees a report identifying each country determined by the President to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

(2) DESIGNATION AND JUSTIFICATION.—In each report under paragraph (1), the President shall also—

(A) designate each country, if any, identified in such report that has failed demonstrably, during the previous 12 months, to make substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961; and

(B) include a justification for each country so designated.

(3) LIMITATION ON ASSISTANCE FOR DESIGNATED COUNTRIES.—In the case of a country identified in a report under paragraph (1) that is also designated under paragraph (2) in the report, United States assistance may be provided to such country in the subsequent fiscal year only if the President determines and reports to the appropriate congressional committees that—

(A) provision of such assistance to the country in such fiscal year is vital to the national interests of the United States; or

(B) subsequent to the designation being made under paragraph (2)(A), the country has made substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961.

(4) INTERNATIONAL COUNTERNARCOTICS AGREEMENT DEFINED.—In this section, the term "international counternarcotics agreement" means—

(A) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) any bilateral or multilateral agreement in force between the United States and another country or countries that addresses issues relating to the control of illicit drugs, such as—

(i) the production, distribution, and interdiction of illicit drugs;

(ii) demand reduction;

(iii) the activities of criminal organizations;

(iv) international legal cooperation among courts, prosecutors, and law enforcement agencies (including the exchange of information and evidence);

(v) the extradition of nationals and individuals involved in drug-related criminal activity;

(vi) the temporary transfer for prosecution of nationals and individuals involved in drug-related criminal activity;

(vii) border security;

(viii) money laundering;

(ix) illicit firearms trafficking;

(x) corruption;

(xi) control of precursor chemicals;

(xii) asset forfeiture; and

(xiii) related training and technical assistance,

and includes, where appropriate, timetables and objective and measurable standards to assess the progress made by participating countries with respect to such issues.

(5) APPLICATION.—(A) Section 490 (a) through (h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(a)-(h)) shall not apply during any fiscal year with respect to any country identified in the report required by paragraph (1) of this section.

(B) Notwithstanding paragraphs (1) through (5)(A) of this section, the President may apply the procedures set forth in section 490 (a) through (h) of the Foreign Assistance Act of 1961 during any fiscal year with respect to any country determined to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

(6) STATUTORY CONSTRUCTION.—Nothing in this section supersedes or modifies the requirement in section 489(a) of the Foreign Assistance Act of 1961 (with respect to the International Narcotics Control Strategy Report) for the transmittal of a report not later than March 1, each fiscal year under that section.

(7) TRANSITION RULE.—For funds obligated or expended under this section in fiscal year 2003, the date for submission of the report required by paragraph (1) of this section shall be at least 15 days before funds are obligated or expended.

(8) EFFECTIVE DATE.—This section shall take effect upon the date of enactment of this Act into law and shall remain in effect thereafter unless Congress enacts subsequent legislation repealing such section.

DIVISION B—SECURITY ASSISTANCE ACT OF 2002

TITLE X—GENERAL PROVISIONS

SEC. 1001. SHORT TITLE.

This division may be cited as the "Security Assistance Act of 2002".

SEC. 1002. DEFINITIONS.

In this division:

(1) DEFENSE ARTICLE.—The term "defense article" has the meaning given the term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794 note).

(2) DEFENSE SERVICE.—The term "defense service" has the meaning given the term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794 note).

(3) EXCESS DEFENSE ARTICLE.—The term "excess defense article" has the meaning given the term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).

TITLE XI—VERIFICATION OF ARMS CONTROL AND NONPROLIFERATION AGREEMENTS

SEC. 1101. VERIFICATION AND COMPLIANCE BUREAU PERSONNEL.

(a) IN GENERAL.—Of the amount authorized to be appropriated by section 111(a)(1)(A), $14,000,000 is authorized to be available for the Bureau of Verification and Compliance of the Department of State for Bureau-administered activities, including the Key Verification Assets Fund and to upgrade Bureau spaces for certification as a Sensitive Compartmented Information Facility (SCIF).

(b) ADDITIONAL PERSONNEL.—In addition to the amount made available under subsection (a), $1,800,000 is authorized to be available for the fiscal year 2003 from the Department's American Salaries Account, for the purpose of hiring new personnel to carry out the Bureau's responsibilities, as set forth in section 112 of the Arms Export Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113, including the assignment of one full-time person to the Bureau to manage the document control, tracking, and printing requirements of the Bureau's operation in a SCIF.

SEC. 1102. KEY VERIFICATION ASSETS FUND.

Of the total amount made available to the Department for fiscal year 2003, $7,000,000 is authorized to be available within the Verification and Compliance Bureau's account to carry out section 1111 of the Arms Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113.

SEC. 1103. REVISED VERIFICATION AND COMPLIANCE REPORTING REQUIREMENTS.

Section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended by striking "January 31" and inserting "April 15".

TITLE XII—MILITARY AND RELATED ASSISTANCE

Subtitle A—Foreign Military Sales and Financing Authorities

SEC. 1201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section $4,107,200,000 for fiscal year 2003.

SEC. 1202. RELATIONSHIP OF FOREIGN MILITARY SALES TO UNITED STATES NONPROLIFERATION INTERESTS.

(a) Authorized Purposes.—The first sentence of section 4 of the Arms Export Control Act (22 U.S.C. 2754) is amended by inserting "for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons," after "self-defense,".

(b) Definition of "Weapons of Mass Destruction".—Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(10) 'weapons of mass destruction' has the meaning provided by section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1)).".

SEC. 1203. OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.

Section 43(c) of the Arms Export Control Act (22 U.S.C. 2792(c)), is amended by striking "$72,500" and inserting "$86,500".

SEC. 1204. ARMS EXPORT CONTROL ACT PROHIBITION ON TRANSACTIONS WITH COUNTRIES THAT HAVE REPEATEDLY PROVIDED SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM.

The second sentence of section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) is amended—

(1) by striking "groups or" and inserting "groups,"; and

(2) by inserting before the period the following: ", or willfully aid or abet the efforts of an individual or group to use, develop, produce, stockpile, or otherwise acquire chemical, biological, or radiological weapons".

SEC. 1205. CONGRESSIONAL NOTIFICATION OF SMALL ARMS AND LIGHT WEAPONS LICENSE APPROVALS; REPORTS.

(a) Congressional Notification of Export License Approvals.—Section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)) is amended by inserting "(or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)" after "$50,000,000 or more".

(b) Report.—Section 40A(c) of the Arms Export Control Act (22 U.S.C. 2785(c)) is amended by inserting before the period the following: "and the numbers, range, and findings of end-use monitoring of United States transfers of small arms and light weapons".

(c) Annual Military Assistance Reports.—Section 655(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2415(b)(3)) is amended by inserting before the period at the end the following: ", including, in the case of defense articles that are firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or spare parts for such weapons, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, United States Code, that were licensed for export during the period covered by the report".

(d) Report on Arms Brokering.—Not later than June 30, 2003, the Secretary shall submit a report to the appropriate congressional committees on activities of registered arms brokers, which shall discuss—

(1) the role of such brokers in the United States and other countries;

(2) United States law, regulations, and policy regarding arms brokers;

(3) violations of the Arms Export Control Act;

(4) United States resources and personnel devoted to the monitoring of arms brokers;

(5) any needed changes in law, regulation, policy, or resources; and

(6) any implications for the regulation of arms brokers in other countries.

SEC. 1206. TREATMENT OF TAIWAN RELATING TO TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.

Notwithstanding any other provision of law, for purposes of the transfer or possible transfer of defense articles or defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or any other provision of law, Taiwan shall be treated as though it were designated a major non-NATO ally (as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q)).

Subtitle B—International Military Education and Training

SEC. 1211. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the President $85,000,000 for fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training).

SEC. 1212. HUMAN RIGHTS VIOLATIONS.

(a) Annual Report.—Chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) is amended by adding at the end the following new section:

"SEC. 549. HUMAN RIGHTS REPORT.

"(a) In General.—Not later than March 1 of each year, the Secretary of State shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing, to the extent practicable, any involvement of a foreign military or defense ministry civilian participant in education and training activities under this chapter in a violation of internationally recognized human rights reported under section 116(d) of this Act subsequent to such participation.

"(b) Form.—The report described in subsection (a) shall be in unclassified form, but may include a classified annex.".

(b) Records Regarding Foreign Participants.—Section 548 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347g) is amended—

(1) by striking "In" and inserting:

"(a) Development and Maintenance of Database.—In"; and

(2) by adding at the end the following new subsections:

"(b) Annual List of Foreign Personnel.—For the purposes of preparing the report required pursuant to section 549 of this Act, the Secretary of State may annually request the Secretary of Defense to provide information contained in the database, with respect to a list submitted to the Secretary of Defense by the Secretary of State, that contains the names of foreign personnel or military units. To the extent practicable, the Secretary of Defense shall provide, and the Secretary of State may take into account, the information contained in the database, if any, relating to the Secretary of State's submission.

"(c) Updating of Database.—If the Secretary of State determines and reports to Congress under section 549 of this Act that a foreign person identified in the database maintained pursuant to this section was involved in a violation of internationally recognized human rights, the Secretary of Defense shall ensure that the database is updated to contain such fact and all relevant information.".

SEC. 1213. PARTICIPATION IN POST-UNDERGRADUATE FLYING TRAINING AND TACTICAL LEADERSHIP PROGRAMS.

Section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) is amended by adding at the end the following new subsection:

"(c)(1) The President is authorized to enter into cooperative arrangements providing for the participation of foreign and United States military and civilian defense personnel in post-undergraduate flying training and tactical leadership programs at training locations in Southwest Asia without charge to participating foreign countries, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act). Such training must satisfy common requirements with the United States for post-undergraduate flying and tactical leadership training.

"(2) Cooperative arrangements under this subsection shall require an equitable contribution of support and services from each participating country. The President may waive the requirement for an equitable contribution of a participating foreign country if he determines that to do so is important to the national security interests of the United States.

"(3) Costs incurred by the United States shall be charged to the current applicable appropriations accounts or funds of the participating United States Government agencies.".

Subtitle C—Assistance for Select Countries

SEC. 1221. ASSISTANCE FOR ISRAEL AND EGYPT.

(a) Authorization of Appropriations for Israel.—Section 513 of the Security Assistance Act of 2000 (Public Law 106–280) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "2001 and 2002" and inserting "2002 and 2003"; and

(ii) by adding at the end the following new sentence: "Such funds are authorized to be made available on a grant basis as a cash transfer.";

(B) by adding at the end the following new paragraph:

"(3) Additional ESF Assistance for Fiscal Year 2003.—Only for fiscal year 2003, in addition to the amount computed under paragraph (2) for that fiscal year, an additional amount of $200,000,000 is authorized to be made available for ESF assistance for Israel, notwithstanding section 531(e) or 660(a) of the Foreign Assistance Act of 1961, for defensive, nonlethal, antiterrorism assistance, which amount shall be considered, for purposes of subsection (d), as an amount appropriated by an Act making supplemental appropriations.";

(2) in subsection (c)(1), by striking "2001 and 2002" and inserting "2002 and 2003";

(3) in subsection (c)(3), by striking "Funds authorized" and all that follows through "later" and inserting: "Funds authorized to be available for Israel under subsection (b)(1) and paragraph (1) of this subsection for fiscal years 2002 and 2003 shall be disbursed not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing,

and related programs for fiscal year 2003, or October 31 of the respective fiscal year, whichever is later."; and

(4) in subsection (c)(4)—

(A) by striking "fiscal year 2001" and inserting "fiscal years 2002 and 2003"; and

(B) by striking "$520,000,000" and inserting "$535,000,000 for fiscal year 2002 and not less than $550,000,000 for fiscal year 2003".

(b) AUTHORIZATION OF APPROPRIATIONS FOR EGYPT.—Section 514 of the Security Assistance Act of 2000 (Public Law 106–280) is amended—

(1) by striking "2001 and 2002" each place it appears and inserting "2002 and 2003"; and

(2) in subsection (e), by striking "Funds estimated" and all that follows through "and" at the end of paragraph (2) and inserting the following: "Funds estimated to be outlayed for Egypt under subsection (c) during fiscal years 2002 and 2003 shall be disbursed to an interest-bearing account for Egypt in the Federal Reserve Bank of New York not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2003, or by October 31 of the respective fiscal year, whichever is later, provided that—

"(1) withdrawal of funds from such account shall be made only on authenticated instructions from the Defense Finance and Accounting Service of the Department of Defense;

"(2) in the event such account is closed, the balance of the account shall be transferred promptly to the appropriations account for the Foreign Military Financing Program.".

SEC. 1222. SECURITY ASSISTANCE FOR GREECE AND TURKEY.

(a) IN GENERAL.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.)—

(1) $1,120,000 for fiscal year 2003 is authorized to be available for Greece; and

(2) $2,800,000 for fiscal year 2003 is authorized to be available for Turkey.

(b) USE FOR PROFESSIONAL MILITARY EDUCATION.—Of the amounts available under paragraphs (1) and (2) of subsection (a) for fiscal year 2003, $500,000 of each such amount should be available for purposes of professional military education.

(c) USE FOR JOINT TRAINING.—It is the sense of Congress that, to the maximum extent practicable, amounts available under subsection (a) that are used in accordance with subsection (b) should be used for joint training of Greek and Turkish officers.

(d) REPEAL.—Effective October 1, 2002, section 512 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 856) is repealed.

SEC. 1223. SECURITY ASSISTANCE FOR CERTAIN OTHER COUNTRIES.

(a) FMF FOR CERTAIN OTHER COUNTRIES.—Of the total amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), the following amounts are authorized to be available on a grant basis for the following countries:

(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $22,000,000.

(2) BULGARIA.—For Bulgaria, $11,000,000.

(3) THE CZECH REPUBLIC.—For the Czech Republic, $11,000,000.

(4) GEORGIA.—For Georgia, $7,000,000.

(5) HUNGARY.—For Hungary, $11,000,000.

(6) JORDAN.—For Jordan, $198,000,000.

(7) MALTA.—For Malta, $1,150,000.

(8) THE PHILIPPINES.—For the Philippines, $25,000,000.

(9) POLAND.—For Poland, $16,000,000.

(10) ROMANIA.—For Romania, $12,000,000.

(11) SLOVAKIA.— For Slovakia, $9,000,000.

(12) SLOVENIA.—For Slovenia, $5,000,000.

(b) IMET.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.), the following amounts are authorized to be available for the following countries:

(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $3,300,000.

(2) BULGARIA.—For Bulgaria, $1,370,000.

(3) THE CZECH REPUBLIC.—For the Czech Republic, $1,900,000.

(4) GEORGIA.—For Georgia, $1,200,000.

(5) HUNGARY.—For Hungary, $1,900,000.

(6) JORDAN.—For Jordan, $4,000,000.

(7) MALTA.—For Malta, $350,000.

(8) THE PHILIPPINES.—For the Philippines, $2,000,000.

(9) POLAND.—For Poland, $2,000,000.

(10) ROMANIA.—For Romania, $1,500,000.

(11) SLOVAKIA.—For Slovakia, $950,000.

(12) SLOVENIA.—For Slovenia, $950,000.

(c) REPEALS.—Sections 511 (a) and (b) and 515 of the Security Assistance Act of 2000 are repealed.

SEC. 1224. ASSISTANCE TO LEBANON.

(a) PROHIBITION.—Notwithstanding any other provision of law, $10,000,000 of the amounts made available for fiscal year 2003 or any subsequent fiscal year that are allocated for assistance to Lebanon under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund) may not be obligated unless and until the President certifies to the appropriate congressional committees that—

(1) the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel; and

(2) the Government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed.

(b) REQUIREMENT RELATING TO FUNDS WITHHELD.—Notwithstanding any other provision of law, any funds withheld pursuant to subsection (a) may not be programmed in order to be used for a purpose other than for assistance to Lebanon until the last month of the fiscal year in which the authority to obligate such funds lapses.

Subtitle D—Excess Defense Article and Drawdown Authorities

SEC. 1231. EXCESS DEFENSE ARTICLES FOR CERTAIN COUNTRIES.

(a) AUTHORITY.—Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during the fiscal year 2003 funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the authority provided under this section should be utilized only for those countries demonstrating a genuine commitment to democracy and human rights.

SEC. 1232. ANNUAL LISTING OF POSSIBLE EXCESS DEFENSE ARTICLES.

Section 25(a) of the Arms Export Control Act (22 U.S.C. 2765(a)) is amended—

(1) by striking "and" at the end of paragraph (12)(B);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

"(13) a list of weapons systems that are significant military equipment (as defined in section 47(9) of this Act), and numbers thereof, that are believed likely to become available for transfer as excess defense articles during the next 12 months; and".

SEC. 1233. LEASES OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

Section 61(b) of the Arms Export Control Act (22 U.S.C. 2796(b)), is amended—

(1) by striking "(b) Each lease agreement" and inserting "(b)(1) Each lease agreement";

(2) by striking "of not to exceed five years" and inserting "which may not exceed (A) five years, and (B) a specified period of time required to complete major refurbishment work of the leased articles to be performed prior to the delivery of the leased articles,"; and

(3) by adding at the end the following:

"(2) In this subsection, the term 'major refurbishment work' means work for which the period of performance is 6 months or more.".

SEC. 1234. PRIORITY WITH RESPECT TO TRANSFER OF EXCESS DEFENSE ARTICLES.

Section 516(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(c)(2)) is amended by striking "and to major non-NATO allies on such southern and southeastern flank" and inserting ", to major non-NATO allies on such southern and southeastern flank, and to the Philippines".

Subtitle E—Other Political-Military Assistance

SEC. 1241. DESTRUCTION OF SURPLUS WEAPONS STOCKPILES.

Of the funds authorized to be appropriated to the President for fiscal year 2003 to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), relating to development assistance, up to $10,000,000 is authorized to be made available for the destruction of surplus stockpiles of small arms, light weapons, and other munitions.

Subtitle F—Antiterrorism Assistance

SEC. 1251. AUTHORIZATION OF APPROPRIATIONS.

Section 574(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–4(a)) is amended by striking "and $73,000,000 for fiscal year 2002" and inserting ", $73,000,000 for fiscal year 2002, and $64,200,000 for fiscal year 2003".

Subtitle G—Other Matters

SEC. 1261. ADDITIONS TO UNITED STATES WAR RESERVE STOCKPILES FOR ALLIES.

Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended to read as follows:

"(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $100,000,000 for fiscal year 2003.

"(B) Of the amount specified in subparagraph (A) for fiscal year 2003, not more than $100,000,000 may be made available for stockpiles in the State of Israel."

SEC. 1262. REVISED MILITARY ASSISTANCE REPORTING REQUIREMENTS.

(a) EXCEPTION FOR CERTAIN COUNTRIES.—Section 656(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2416(a)) is amended—

(1) by striking "(a) ANNUAL REPORT.—Not" and inserting the following:

"(a) ANNUAL REPORT.—

"(1) IN GENERAL.—Not"; and

(2) by adding at the end the following:

"(2) EXCEPTION FOR CERTAIN COUNTRIES.—Paragraph (1) does not apply to any NATO member, Australia, Japan, or New Zealand, unless one of the appropriate congressional committees has specifically requested, in writing, inclusion of such country in the report. Such request shall be made not later than 90 calendar

days prior to the date on which the report is required to be transmitted.''.

(b) ANNUAL MILITARY ASSISTANCE REPORTS.—Section 655 of the Foreign Assistance Act of 1961 (22 U.S.C. 2415) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) QUARTERLY REPORTS ON GOVERNMENT-TO-GOVERNMENT ARMS EXPORTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (10), (11), and (12), respectively.

SEC. 1263. CONSULTATION WITH CONGRESS WITH REGARD TO TAIWAN.

Beginning 180 days after the date of enactment of this Act, and every 180 days thereafter, the President shall provide detailed briefings to and consult with the appropriate congressional committees regarding the United States security assistance to Taiwan, including the provision of defense articles and defense services.

TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

Subtitle A—General Provisions

SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–4) is amended—

(1) in subsection (a), by striking all after ''chapter'' and inserting ''$162,000,000 for fiscal year 2003.''; and

(2) in subsection (c)—

(A) in the subsection heading by striking ''FISCAL YEAR 2001''; and

(B) by striking ''2001'' and inserting ''2002''.

(b) SUBALLOCATIONS.—Of the amount authorized to be appropriated to the President for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–4)—

(1) $2,000,000 is authorized to be available for such fiscal year for the purpose of carrying out section 584 of the Foreign Assistance Act of 1961, as added by section 1303 of this Act; and

(2) $65,000,000 for fiscal year 2003 are authorized to be available for science and technology centers in the independent states of the former Soviet Union.

(c) CONFORMING AMENDMENT.—Section 302 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 853) is repealed.

(d) FURTHER AUTHORIZATION.—There is authorized to be appropriated under ''Nonproliferation, Anti-terrorism, Demining, and Related Programs'' $382,400,000 for fiscal year 2003.

SEC. 1302. NONPROLIFERATION TECHNOLOGY ACQUISITION PROGRAMS FOR FRIENDLY FOREIGN COUNTRIES.

(a) IN GENERAL.—For the purpose of enhancing the nonproliferation and export control capabilities of friendly countries, of the amount authorized to be appropriated for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.), the Secretary is authorized to make available—

(1) $5,000,000 for the procurement and provision of nuclear, chemical, and biological detection systems, including spectroscopic and pulse echo technologies; and

(2) $10,000,000 for the procurement and provision of x-ray systems capable of imaging sea-cargo containers.

(b) REPORTS ON TRAINING PROGRAM.—

(1) INITIAL REPORT.—Not later than March 31, 2003, the Secretary shall submit a report to the appropriate congressional committees setting forth his plans and budget for a multiyear training program to train foreign personnel in the utilization of the systems described in subsection (a).

(2) SUBSEQUENT REPORTS.—Not later than March 31, 2004, and annually thereafter for the next three years, the Secretary shall submit a report to the appropriate congressional committees describing the progress, current status, and budget of that training program and of the provision of those systems.

SEC. 1303. INTERNATIONAL NONPROLIFERATION AND EXPORT CONTROL TRAINING.

Chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.) is amended—

(1) by redesignating sections 584 and 585 as sections 585 and 586, respectively; and

(2) by inserting after section 583 the following:

''SEC. 584. INTERNATIONAL NONPROLIFERATION EXPORT CONTROL TRAINING.

''(a) GENERAL AUTHORITY.—The President is authorized to furnish, on such terms and conditions consistent with this chapter (but whenever feasible on a reimbursable basis), education and training to appropriate military and civilian personnel of foreign countries for the purpose of enhancing the nonproliferation and export control capabilities of such personnel through their attendance in special courses of instruction conducted by the United States.

''(b) ADMINISTRATION OF COURSES.—The Secretary of State shall have overall responsibility for the development and conduct of international nonproliferation education and training programs under this section, and may utilize other departments and agencies of the United States, as appropriate, to recommend personnel for the education and training and to administer specific courses of instruction.

''(c) PURPOSES.—Education and training activities conducted under this section shall be—

''(1) of a technical nature, emphasizing techniques for detecting, deterring, monitoring, interdicting, and countering proliferation;

''(2) designed to encourage effective and mutually beneficial relations and increased understanding between the United States and friendly countries; and

''(3) designed to improve the ability of friendly countries to utilize their resources with maximum effectiveness, thereby contributing to greater self-reliance by such countries.

''(d) PRIORITY TO CERTAIN COUNTRIES.—In selecting personnel for education and training pursuant to this section, priority should be given to personnel from countries determined by the Secretary of State to be countries frequently transited by proliferation-related shipments of cargo.''.

SEC. 1304. RELOCATION OF SCIENTISTS.

(a) REINSTATEMENT OF CLASSIFICATION AUTHORITY.—Section 4 of the Soviet Scientists Immigration Act of 1992 (Public Law 102–509; 106 Stat. 3316; 8 U.S.C. 1153 note) is amended by striking subsection (d) and inserting the following:

''(d) DURATION OF AUTHORITY.—The authority under subsection (a) shall be in effect during the following periods:

''(1) The period beginning on the date of the enactment of this Act and ending 4 years after such date.

''(2) The period beginning on the date of the enactment of the Security Assistance Act of 2002 and ending 4 years after such date.''.

(b) LIMITATION ON NUMBER OF SCIENTISTS ELIGIBLE FOR VISAS UNDER AUTHORITY.—Section 4(c) of such Act (8 U.S.C. 1153 note) is amended by striking ''750'' and inserting ''950''.

(c) LIMITATION ON ELIGIBILITY.—Section 4(a) of that Act (8 U.S.C. 1153 note) is amended by adding at the end the following new sentence: ''A scientist is not eligible for designation under this subsection if the scientist has previously been granted the status of an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).''.

(d) CONSULTATION REQUIREMENT.—The Attorney General shall consult with the Secretary, the Secretary of Defense, the Secretary of Energy, and the heads of other appropriate agencies of the United States regarding—

(1) previous experience in implementing the Soviet Scientists Immigration Act of 1992; and

(2) any changes that those officials would recommend in the regulations prescribed under that Act.

SEC. 1305. INTERNATIONAL ATOMIC ENERGY AGENCY REGULAR BUDGET ASSESSMENTS AND VOLUNTARY CONTRIBUTIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department has concluded that the International Atomic Energy Agency (in this section referred to as the ''IAEA'') is a critical and effective instrument for verifying compliance with international nuclear nonproliferation agreements, and that it serves as an essential barrier to the spread of nuclear weapons.

(2) The IAEA furthers United States national security objectives by helping to prevent the proliferation of nuclear weapons material, especially through its work on effective verification and safeguards measures.

(3) The IAEA can also perform a critical role in monitoring and verifying aspects of nuclear weapons reduction agreements between nuclear weapons states.

(4) The IAEA has adopted a multifaceted action plan, to be funded by voluntary contributions, to address the threats posed by radioactive sources that could be used in a radiological weapon and will be the leading international agency in this effort.

(5) As the IAEA has negotiated and developed more effective verification and safeguards measures, it has experienced significant real growth in its mission, especially in the vital area of nuclear safeguards inspections.

(6) Nearly two decades of zero budget growth have affected the ability of the IAEA to carry out its mission and to hire and retain the most qualified inspectors and managers, as evidenced in the decreasing proportion of such personnel who hold doctorate degrees.

(7) Increased voluntary contributions by the United States will be needed if the IAEA is to increase its safeguards activities and also to implement its action plan to address the worldwide risks posed by lost or poorly secured radioactive sources.

(8) Although voluntary contributions by the United States lessen the IAEA's budgetary constraints, they cannot readily be used for the long-term capital investments or permanent staff increases necessary to an effective IAEA safeguards regime.

(9) The recent United States decision to accept a 25 percent IAEA regular budget assessment was based upon a correct interpretation of existing law. It was not the intent of Congress that the United States contributions to all United Nations-related organizations and activities be reduced pursuant to the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–405 et seq.), which sets 22 percent assessment rates as benchmarks for the general United Nations budget, the Food and Agricultural Organization, the World Health Organization, and the International Labor Organization. Rather, contributions for an important and effective agency such as the IAEA should be maintained at levels commensurate with the criticality of its mission.

(10) The Secretary should negotiate a gradual and sustained increase in the regular budget of the International Atomic Energy Agency, which should begin with the 2004 budget.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated for

Nonproliferation, Anti-terrorism, Demining, and Related Programs there is authorized to be appropriated $60,000,000 for fiscal year 2003 for a United States voluntary contribution to the International Atomic Energy Agency, including for the purpose of implementing the Protection Against Nuclear Terrorism program adopted by the International Atomic Energy Agency Board of Governors in March 2002.

SEC. 1306. AMENDMENTS TO THE IRAN NONPROLIFERATION ACT OF 2000.

(a) REPORTS ON PROLIFERATION TO IRAN.—Section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 114 Stat. 39; 50 U.S.C. 1701 note) is amended by adding at the end the following new subsection:

"(e) CONTENT OF REPORTS.—Each report under subsection (a) shall contain, with respect to each foreign person identified in such report, a brief description of the type and quantity of the goods, services, or technology transferred by that person to Iran, the circumstances surrounding the transfer, the usefulness of the transfer to Iranian weapons programs, and the probable awareness or lack thereof of the transfer on the part of the government with primary jurisdiction over the person.".

(b) DETERMINATION EXEMPTING FOREIGN PERSONS FROM CERTAIN MEASURES UNDER THE ACT.—Section 5(a)(2) of such Act is amended by striking "systems" and inserting "systems, or weapons listed on the Wassenaar Arrangement Munitions List of July 12, 1996, or any subsequent revision of that list".

SEC. 1307. AMENDMENTS TO THE NORTH KOREA THREAT REDUCTION ACT OF 1999.

(a) RESTRICTIONS.—Section 822(a) of the North Korea Threat Reduction Act of 1999 (subtitle B of title VIII of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–472) is amended by striking "nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement," each of the two places it appears and inserting "specified nuclear item,".

(b) SPECIFIED NUCLEAR ITEM DEFINED.—Section 823 of the North Korea Threat Reduction Act of 1999 is amended by inserting at the end the following:

"(5) SPECIFIED NUCLEAR ITEM.—The term 'specified nuclear item' includes—

"(A) nuclear material, facilities, components, or other goods, services, or technology the transfer of which to North Korea would be required by the Atomic Energy Act of 1954 to be subject to an agreement for cooperation, as defined in section 11 b. of that Act (42 U.S.C. 2014 b.), between the United States and North Korea; and

"(B) components that are listed on Annex A or Annex B to the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 5/Part 1, or any subsequent revision thereof).".

SEC. 1308. ANNUAL REPORTS ON THE PROLIFERATION OF MISSILES AND ESSENTIAL COMPONENTS OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL WEAPONS.

(a) REPORT.—Not later than March 1, 2003, and annually thereafter, the President shall transmit to the designated congressional committees an annual report on the transfer by any country of weapons, technology, components, or materials that can be used to deliver, manufacture (including research and experimentation), or weaponize nuclear, biological, chemical or radiological weapons (in this section referred to as "NBC weapons") to any country other than a country referred to in subsection (d) that is seeking to possess or otherwise acquire such weapons, technology, or materials, or other system that the Secretary or the Secretary of Defense has reason to believe could be used to develop, acquire, or deliver NBC weapons.

(b) MATTERS TO BE INCLUDED.—Each such report shall include—

(1) the transfer of all aircraft, cruise missiles, artillery weapons, unguided rockets and multiple rocket systems, and related bombs, shells, warheads and other weaponization technology and materials that the Secretary or the Secretary of Defense has reason to believe may be intended for the delivery of NBC weapons;

(2) international transfers of MTCR equipment or technology to any country that is seeking to acquire such equipment or any other system that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(3) the transfer of technology, test equipment, radioactive materials, feedstocks and cultures, and all other specialized materials that the Secretary or the Secretary of Defense has reason to believe could be used to manufacture NBC weapons.

(c) CONTENT OF REPORT.—Each such report shall include the following with respect to preceding calendar year:

(1) The status of missile, aircraft, and other NBC weapons delivery and weaponization programs in any such country, including efforts by such country or by any subnational group to acquire MTCR-controlled equipment, NBC-capable aircraft, or any other weapon or major weapon component which may be utilized in the delivery of NBC weapons, whose primary use is the delivery of NBC weapons, or that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(2) The status of NBC weapons development, acquisition, manufacture, stockpiling, and deployment programs in any such country, including efforts by such country or by any subnational group to acquire essential test equipment, manufacturing equipment and technology, weaponization equipment and technology, and radioactive material, feedstocks or components of feedstocks, and biological cultures and toxins.

(3) A description of assistance provided by any person or government, after the date of the enactment of this Act, to any such country or subnational group in the acquisition or development of—

(A) NBC weapons;

(B) missile systems, as defined in the MTCR or that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(C) aircraft and other delivery systems and weapons that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(4) A listing of those persons and countries that continue to provide such equipment or technology described in paragraph (3) to any country or subnational group as of the date of submission of the report, including the extent to which foreign persons and countries were found to have knowingly and materially assisted such programs.

(5) A description of the use of, or substantial preparations to use, the equipment of technology described in paragraph (3) by any foreign country or subnational group.

(6) A description of the diplomatic measures that the United States, and that other adherents to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons, have made with respect to activities and private persons and governments suspected of violating the MTCR and such other arrangements.

(7) An analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other countries that adhere to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons in controlling the export of MTCR and other NBC weapons and delivery system equipment or technology.

(8) A summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2401b(b)(4)) and under section 73(d) of the Arms Export Control Act (22 U.S.C. 2797b(d)).

(9) An explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including programs involving launches of space vehicles.

(10) A description of each transfer by any person or government during the preceding 12-month period which is subject to sanctions under the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484).

(d) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, the Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Turkey, the United Kingdom, and the United States.

(e) CLASSIFICATION OF REPORT.—The Secretary shall make every effort to submit all of the information required by this section in unclassified form. Whenever the Secretary submits any such information in classified form, the Secretary shall submit such classified information in an addendum and shall also submit concurrently a detailed summary, in unclassified form, of that classified information.

(f) DEFINITIONS.—In this section:

(1) DESIGNATED CONGRESSIONAL COMMITTEES.—The term "designated congressional committees" means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(2) MISSILE; MTCR; MTCR EQUIPMENT OR TECHNOLOGY.—The terms "missile", "MTCR", and "MTCR equipment or technology" have the meanings given those terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(3) PERSON.—The term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of its successor entities, parents, or subsidiaries.

(4) WEAPONIZE; WEAPONIZATION.—The term "weaponize" or "weaponization" means to incorporate into, or the incorporation into, usable ordnance or other militarily useful means of delivery.

(g) REPEALS.—

(1) IN GENERAL.—The following provisions of law are repealed:

(A) Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (22 U.S.C. 2751 note).

(B) Section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5606).

(C) Section 1607(a) of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484).

(D) Paragraph (d) of section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of title I of division A of Public Law 104–208; 110 Stat. 3009–171).

(2) CONFORMING AMENDMENTS.—Section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, is amended—

(A) in paragraph (b), by adding "and" at the end; and

(B) in paragraph (c), by striking "; and" and inserting a period.

Subtitle B—Russian Federation Debt Reduction for Nonproliferation

SEC. 1311. SHORT TITLE.

This subtitle may be cited as the "Russian Federation Debt for Nonproliferation Act of 2002".

SEC. 1312. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) It is in the vital security interests of the United States to prevent the spread of weapons of mass destruction to additional states or to terrorist organizations, and to ensure that other nations' obligations to modify their stockpiles of such arms in accordance with treaties, executive agreements, or political commitments are fulfilled.

(2) In particular, it is in the vital national security interests of the United States to ensure that—

(A) all stocks of nuclear weapons and weapons-usable nuclear material in the Russian Federation are secure and accounted for;

(B) stocks of nuclear weapons and weapons-usable nuclear material that are excess to military needs in the Russian Federation are monitored and reduced;

(C) any chemical or biological weapons, related materials, and facilities in the Russian Federation are destroyed;

(D) the Russian Federation's nuclear weapons complex is reduced to a size appropriate to its post-Cold War missions, and its experts in weapons of mass destruction technologies are shifted to gainful and sustainable civilian employment;

(E) the Russian Federation's export control system blocks any proliferation of weapons of mass destruction, the means of delivering such weapons, and materials, equipment, know-how, or technology that would be used to develop, produce, or deliver such weapons; and

(F) these objectives are accomplished with sufficient monitoring and transparency to provide confidence that they have in fact been accomplished and that the funds provided to accomplish these objectives have been spent efficiently and effectively.

(3) United States programs should be designed to accomplish these vital objectives in the Russian Federation as rapidly as possible, and the President should develop and present to Congress a plan for doing so.

(4) Substantial progress has been made in United States-Russian Federation cooperative programs to achieve these objectives, but much more remains to be done to reduce the urgent risks to United States national security posed by the current state of the Russian Federation's weapons of mass destruction stockpiles and complexes.

(5) The threats posed by inadequate management of weapons of mass destruction stockpiles and complexes in the Russian Federation remain urgent. Incidents in years immediately preceding 2001, which have been cited by the Russia Task Force of the Secretary of Energy Advisory Board, include—

(A) a conspiracy at one of the Russian Federation's largest nuclear weapons facilities to steal nearly enough highly enriched uranium for a nuclear bomb;

(B) an attempt by an employee of the Russian Federation's premier nuclear weapons facility to sell nuclear weapons designs to agents of Iraq and Afghanistan; and

(C) the theft of radioactive material from a Russian Federation submarine base.

(6) Addressing these threats to United States and world security will ultimately consume billions of dollars, a burden that will have to be shared by the Russian Federation, the United States, and other governments, if these threats are to be neutralized.

(7) The creation of new funding streams could accelerate progress in reducing these threats to United States security and help the government of the Russian Federation to fulfill its responsibility for secure management of its weapons stockpiles and complexes as United States assistance phases out.

(8) The Russian Federation has a significant foreign debt, a substantial proportion of which it inherited from the Soviet Union.

(9) Past debt-for-environment exchanges, in which a portion of a country's foreign debt is canceled in return for certain environmental commitments or payments by that country, suggest that a debt-for-nonproliferation exchange with the Russian Federation could be designed to provide additional funding for nonproliferation and arms reduction initiatives.

(10) Most of the Russian Federation's official bilateral debt is held by United States allies that are advanced industrial democracies. Since the issues described pose threats to United States allies as well, United States leadership that results in a larger contribution from United States allies to cooperative threat reduction activities will be needed.

(11) At the June 2002 meeting of the G–8 countries, agreement was achieved on a G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, under which the advanced industrial democracies committed to contribute $20,000,000,000 to nonproliferation programs in the Russian Federation during a 10-year period, with each contributing country having the option to fund some or all of its contribution through reduction in the Russian Federation's official debt to that country.

(12) The Russian Federation's Soviet-era official debt to the United States is estimated to be $480,000,000 in Lend-Lease debt and $2,250,000,000 in debt as a result of credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

(b) Purposes.—The purposes of this subtitle are—

(1) to facilitate the accomplishment of the United States objectives described in the findings set forth in subsection (a) by providing for the use of a portion of the Russian Federation's foreign debt to fund nonproliferation programs, thus allowing the use of additional resources for these purposes; and

(2) to help ensure that the resources made available to the Russian Federation are targeted to the accomplishment of the United States objectives described in the findings set forth in subsection (a).

SEC. 1313. DEFINITIONS.

In this subtitle:

(1) Appropriate congressional committees.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) Cost.—The term "cost" has the meaning given that term in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

(3) Russian federation nonproliferation investment agreement or agreement.—The term "Russian Federation Nonproliferation Investment Agreement" or "Agreement" means the agreement between the United States and the Russian Federation entered into under section 1315(a).

(4) Soviet-era debt.—The term "Soviet-era debt" means debt owed as a result of loans or credits provided by the United States (or any agency of the United States) to the Union of Soviet Socialist Republics under the Lend Lease Act of 1941 or the Commodity Credit Corporation Charter Act.

(5) State sponsor of international terrorism.—The term "state sponsor of international terrorism" means those countries that have been determined by the Secretary of State, for the purposes of section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism.

SEC. 1314. AUTHORITY TO REDUCE THE RUSSIAN FEDERATION'S SOVIET-ERA DEBT OBLIGATIONS TO THE UNITED STATES.

(a) Authority To Reduce Debt.—

(1) In general.—Upon the entry into force of a Russian Federation Nonproliferation Investment Agreement, the President may reduce amounts of Soviet-era debt owed by the Russian Federation to the United States (or any agency or instrumentality of the United States) that are outstanding as of the last day of the fiscal year preceding the fiscal year for which appropriations are available for the reduction of debt, in accordance with this subtitle.

(2) Limitation.—The authority provided by paragraph (1) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of reducing any debt pursuant to such subsection are made in advance.

(3) Supersedes existing law.—The authority provided by paragraph (1) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(r)) or section 321 of the International Development and Food Assistance Act of 1975.

(b) Implementation.—

(1) Delegation of authority.—The President may delegate any authority conferred upon the President in this subtitle to the Secretary of State.

(2) Establishment of terms and conditions.—Consistent with this subtitle, the President shall establish the terms and conditions under which loans and credits may be reduced pursuant to subsection (a).

(3) Implementation.—In exercising the authority of subsection (a), the President—

(A) shall notify—

(i) the Department of State, with respect to obligations of the former Soviet Union under the Lend Lease Act of 1941; and

(ii) the Commodity Credit Corporation, with respect to obligations of the former Soviet Union under the Commodity Credit Corporation Act;

(B) shall direct the cancellation of old obligations and the substitution of new obligations consistent with the Russian Federation Nonproliferation Investment Agreement; and

(C) shall direct the appropriate agency to make an adjustment in the relevant accounts to reflect the new debt treatment.

(4) Deposit of repayments.—All repayments of outstanding loan amounts under subsection (a) that are not designated under a Russian Federation Nonproliferation Investment Agreement shall be deposited in the United States Government accounts established for repayments of the original obligations.

(5) Not treated as foreign assistance.—Any reduction of Soviet-era debt pursuant to this subtitle shall not be considered assistance for the purposes of any provision of law limiting assistance to a country.

(c) Authorization of Appropriation.—

(1) In general.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of modifying any Soviet-era debt obligation pursuant to subsection (a), there are authorized to be appropriated to the President such sums as may be necessary.

(2) Availability of funds.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 1315. RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT.

(a) In General.—

(1) IN GENERAL.—The President is authorized to enter into an agreement with the Russian Federation under which an amount equal to the value of the debt reduced pursuant to section 1314 will be used to promote the nonproliferation of weapons of mass destruction and the means of delivering such weapons. An agreement entered into under this section may be referred to as the "Russian Federation Nonproliferation Investment Agreement".

(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees at least 15 days in advance of the United States entering into a Russian Federation Nonproliferation Investment Agreement.

(b) CONTENT OF THE AGREEMENT.—The Russian Federation Nonproliferation Investment Agreement shall ensure that—

(1) an amount equal to the value of the debt reduced pursuant to this subtitle will be made available by the Russian Federation for agreed nonproliferation programs and projects;

(2) each program or project funded pursuant to the Agreement will be approved by the President;

(3) the administration and oversight of nonproliferation programs and projects will incorporate best practices from established threat reduction and nonproliferation assistance programs;

(4) each program or project funded pursuant to the Agreement will be subject to monitoring and audits conducted by or for the United States Government to confirm that agreed funds are expended on agreed projects and meet agreed targets and benchmarks;

(5) unobligated funds for investments pursuant to the Agreement will not be diverted to other purposes;

(6) funds allocated to programs and projects pursuant to the Agreement will not be subject to any taxation by the Russian Federation;

(7) all matters relating to the intellectual property rights and legal liabilities of United States firms in any project will be agreed upon before the expenditure of funds would be authorized for that project; and

(8) not less than 75 percent of the funds made available for each nonproliferation program or project under the Agreement will be spent in the Russian Federation.

(c) USE OF EXISTING MECHANISMS.—It is the sense of Congress that, to the extent practicable, the boards and administrative mechanisms of existing threat reduction and nonproliferation programs should be used in the administration and oversight of programs and projects under the Agreement.

(d) JOINT AUDITING.—It is the sense of Congress that the United States and the Russian Federation should consider commissioning the United States General Accounting Office and the Russian Chamber of Accounts to conduct joint audits to ensure that the funds saved by the Russian Federation as a result of any debt reduction are used exclusively, efficiently, and effectively to implement agreed programs or projects pursuant to the Agreement.

(e) STRUCTURE OF THE AGREEMENT.—It is the sense of Congress that the Agreement should provide for significant penalties—

(1) if funds obligated for approved programs or projects are determined to have been misappropriated; and

(2) if the President is unable to make the certification required by section 1317(a) for two consecutive years.

SEC. 1316. INDEPENDENT MEDIA AND THE RULE OF LAW.

Notwithstanding section 1315 (a)(1) and (b)(1), up to 10 percent of the amount equal to the value of the debt reduced pursuant to this subtitle may be used to promote a vibrant, independent media sector and the rule of law in the Russian Federation through an endowment to support the establishment of a "Center for an Independent Press and the Rule of Law" in the Russian Federation, which shall be directed by a joint United States-Russian Board of Directors in which the majority of members, including the chairman, shall be United States personnel, and which shall be responsible for management of the endowment, its funds, and the Center's programs.

SEC. 1317. RESTRICTION ON DEBT REDUCTION AUTHORITY.

(a) PROLIFERATION TO STATE SPONSORS OF TERRORISM.—Subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until the President certifies to the appropriate congressional committees that the Russian Federation has made material progress in stemming the flow of sensitive goods, technologies, material, and know-how related to the design, development, and production of weapons of mass destruction and the means to deliver them to state sponsors of international terrorism.

(b) ANNUAL DETERMINATION.—If, in any annual report to Congress submitted pursuant to section 1321, the President cannot certify that the Russian Federation continues to meet the condition required in subsection (a), then, subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until such certification is made to the appropriate congressional committees.

(c) PRESIDENTIAL WAIVER.—The President may waive the requirements of subsection (a) or (b) for a fiscal year if the President—

(1) determines that application of the subsection for a fiscal year would be counter to the national interest of the United States; and

(2) so reports to the appropriate congressional committees.

SEC. 1318. DISCUSSION OF RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION WITH OTHER CREDITOR STATES.

It is the sense of Congress that the President and such other appropriate officials as the President may designate should pursue discussions with other creditor states with the objectives of—

(1) ensuring that other advanced industrial democracies, especially the largest holders of Soviet-era Russian debt, dedicate significant proportions of their bilateral official debt with the Russian Federation or equivalent amounts of direct assistance to the G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, as agreed upon in the Statement by G–8 Leaders on June 27, 2002; and

(2) reaching agreement, as appropriate, to establish a unified Russian Federation official debt reduction fund to manage and provide financial transparency for the resources provided by creditor states through debt reductions.

SEC. 1319. IMPLEMENTATION OF UNITED STATES POLICY.

It is the sense of Congress that implementation of debt-for-nonproliferation programs with the Russian Federation should be overseen by the coordinating mechanism established pursuant to section 1334 of this Act.

SEC. 1320. CONSULTATIONS WITH CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the implementation of this subtitle and the Russian Federation's eligibility for debt reduction pursuant to this subtitle.

SEC. 1321. ANNUAL REPORTS TO CONGRESS.

Not later than December 31, 2003, and not later than December 31 of each year thereafter, the President shall prepare and transmit to Congress a report concerning actions taken to implement this subtitle during the fiscal year preceding the fiscal year in which the report is transmitted. The report on a fiscal year shall include—

(1) a description of the activities undertaken pursuant to this subtitle during the fiscal year;

(2) a description of the nature and amounts of the loans reduced pursuant to this subtitle during the fiscal year;

(3) a description of any agreement entered into under this subtitle;

(4) a description of the progress during the fiscal year of any projects funded pursuant to this subtitle;

(5) a summary of the results of relevant audits performed in the fiscal year; and

(6) a certification, if appropriate, that the Russian Federation continued to meet the condition required by section 1317(a), and an explanation of why the certification was or was not made.

Subtitle C—Nonproliferation Assistance Coordination

SEC. 1331. SHORT TITLE.

This subtitle may be cited as the "Nonproliferation Assistance Coordination Act of 2002".

SEC. 1332. FINDINGS.

Congress finds that—

(1) United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in ensuring that weapons of mass destruction, weapons-usable material and technology, and weapons-related knowledge remain beyond the reach of terrorists and weapons-proliferating states;

(2) although these efforts are in the United States national security interest, the effectiveness of these efforts has suffered from a lack of coordination within and among United States Government agencies;

(3) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union, specifically, spending and investment by the United States private sector in job creation initiatives and proposals for unemployed Russian Federation weapons scientists and technicians, are making an important contribution in ensuring that knowledge related to weapons of mass destruction remains beyond the reach of terrorists and weapons-proliferating states; and

(4) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union make advisable the establishment of a coordinating body to ensure that United States public and private efforts are not in conflict, and to ensure that public spending on efforts by the independent states of the former Soviet Union is maximized to ensure efficiency and further United States national security interests.

SEC. 1333. DEFINITIONS.

(a) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—In this subtitle, the term "independent states of the former Soviet Union" has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(b) APPROPRIATE COMMITTEES OF CONGRESS.—In this subtitle, the term "the appropriate committees of Congress" means the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate and the Committees on International Relations, Armed Services, and Appropriations of the House of Representatives.

SEC. 1334. ESTABLISHMENT OF COMMITTEE ON NONPROLIFERATION ASSISTANCE.

(a) IN GENERAL.—The President shall establish a mechanism to coordinate, with the maximum possible effectiveness and efficiency, the

efforts of United States Government departments and agencies engaged in formulating policy and carrying out programs for achieving nonproliferation and threat reduction.

(b) MEMBERSHIP.—The coordination mechanism established pursuant to subsection (a) shall include—

(1) representatives designated by—

(A) the Secretary of State;

(B) the Secretary of Defense;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Attorney General; and

(F) the Director of the Office of Homeland Security, or the head of a successor department or agency; and

(2) such other executive branch officials as the President may select.

(c) LEVEL OF REPRESENTATION.—To the maximum extent possible, each department or agency's representative designated pursuant to subsection (b)(1) shall be an official of that department or agency who has been appointed by the President with the advice and consent of the Senate.

(d) CHAIR.—The President shall designate an official to direct the coordination mechanism established pursuant to subsection (a). The official so designated may invite the head of any other department or agency of the United States to designate a representative of that department or agency to participate from time to time in the activities of the Committee.

SEC. 1335. PURPOSES AND AUTHORITY.

(a) PURPOSES.—

(1) IN GENERAL.—The primary purpose of the coordination mechanism established pursuant to section 1334 of this Act should be—

(A) to exercise continuing responsibility for coordinating worldwide United States nonproliferation and threat reduction efforts to ensure that they effectively implement United States policy; and

(B) to enhance the ability of participating departments and agencies to anticipate growing nonproliferation areas of concern.

(2) PROGRAM MONITORING AND COORDINATION.—The coordination mechanism established pursuant to section 1334 of this Act should have primary continuing responsibility within the executive branch of the Government for—

(A) United States nonproliferation and threat reduction efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(B) coordinating the implementation of United States policy with respect to such efforts.

(b) AUTHORITY.—In carrying out the responsibilities described in subsection (a), the coordination mechanism established pursuant to section 1334 of this Act should have, at a minimum, the authority to—

(1) establish such subcommittees and working groups as it deems necessary;

(2) direct the preparation of analyses on issues and problems relating to coordination within and among United States departments and agencies on nonproliferation and threat reduction efforts;

(3) direct the preparation of analyses on issues and problems relating to coordination between the United States public and private sectors on nonproliferation and threat reduction efforts, including coordination between public and private spending on nonproliferation and threat reduction programs and coordination between public spending and private investment in defense conversion activities of the independent states of the former Soviet Union;

(4) provide guidance on arrangements that will coordinate, deconflict, and maximize the utility of United States public spending on nonproliferation and threat reduction programs, and particularly such efforts in the independent states of the former Soviet Union;

(5) encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union or other countries of concern to voluntarily report these efforts to it;

(6) direct the preparation of analyses on issues and problems relating to the coordination between the United States and other countries with respect to nonproliferation efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(7) consider, and make recommendations to the President with respect to, proposals for such new legislation or regulations relating to United States nonproliferation efforts as may be necessary.

SEC. 1336. ADMINISTRATIVE SUPPORT.

All United States departments and agencies shall provide, to the extent permitted by law, such information and assistance as may be requested by the coordination mechanism established pursuant to section 1334 of this Act, in carrying out its functions and activities under this subtitle.

SEC. 1337. CONFIDENTIALITY OF INFORMATION.

Information which has been submitted to or received by the coordination mechanism established pursuant to section 1334 of this Act in confidence shall not be publicly disclosed, except to the extent required by law, and such information shall be used by it only for the purpose of carrying out the functions set forth in this subtitle.

SEC. 1338. STATUTORY CONSTRUCTION.

Nothing in this subtitle—

(1) applies to the data-gathering, regulatory, or enforcement authority of any existing United States department or agency over nonproliferation efforts in the independent states of the former Soviet Union, and the review of those efforts undertaken by the coordination mechanism established pursuant to section 1334 of this Act shall not in any way supersede or prejudice any other process provided by law; or

(2) applies to any activity that is reportable pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

SEC. 1339. REPORTING AND CONSULTATION.

(a) PRESIDENTIAL REPORT.—Not later than 120 days after each inauguration of a President, the President shall submit a report to the Congress on his general and specific nonproliferation and threat reduction objectives and how the efforts of executive branch agencies will be coordinated most effectively, pursuant to section 1334 of this Act, to achieve those objectives.

(b) CONSULTATION.—The President should consult with and brief, from time to time, the appropriate committees of Congress regarding the efficacy of the coordination mechanism established pursuant to section 1334 of this Act in achieving its stated objectives.

Subtitle D—Iran Nuclear Proliferation Prevention Act of 2002

SEC. 1341. SHORT TITLE.

This subtitle may be cited as the "Iran Nuclear Proliferation Prevention Act of 2002".

SEC. 1342. WITHHOLDING OF VOLUNTARY CONTRIBUTIONS TO THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR PROGRAMS AND PROJECTS IN IRAN.

Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) is amended by adding at the end the following:

"(d)(1) Notwithstanding subsection (c), if the Secretary of State determines that programs and projects of the International Atomic Energy Agency in Iran are inconsistent with United States nuclear nonproliferation and safety goals, will provide Iran with training or expertise relevant to the development of nuclear weapons, or are being used as a cover for the acquisition of sensitive nuclear technology, the limitations of subsection (a) shall apply to such programs and projects, and the Secretary of State shall so notify the appropriate congressional committees (as defined in section 3 of the Foreign Relations Authorization Act, Fiscal Year 2003).

"(2) A determination made by the Secretary of State under paragraph (1) shall be effective for the 1-year period beginning on the date of the determination.".

SEC. 1343. ANNUAL REVIEW BY SECRETARY OF STATE OF PROGRAMS AND PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY; UNITED STATES OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF THE AGENCY.

(a) ANNUAL REVIEW.—

(1) IN GENERAL.—The Secretary shall undertake a comprehensive annual review of all programs and projects of the International Atomic Energy Agency (IAEA) in the countries described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and shall determine if such programs and projects are consistent with United States nuclear nonproliferation and safety goals.

(2) REPORT.—Not later than one year after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary shall submit to Congress a report containing the results of the review under paragraph (1).

(b) OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF INTERNATIONAL ATOMIC ENERGY AGENCY.—The Secretary shall direct the United States representative to the International Atomic Energy Agency to oppose programs of the Agency that are determined by the Secretary under the review conducted under subsection (a)(1) to be inconsistent with nuclear nonproliferation and safety goals of the United States.

SEC. 1344. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to Congress a report that contains—

(1) a description of the total amount of annual assistance to Iran from the International Atomic Energy Agency;

(2) a list of Iranian officials in leadership positions at the Agency;

(3) the expected timeframe for the completion of the nuclear power reactors at the Bushehr nuclear power plant;

(4) a summary of the nuclear materials and technology transferred to Iran from the Agency in the preceding year that could assist in the development of Iran's nuclear weapons program; and

(5) a description of all programs and projects of the International Atomic Energy Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and any inconsistencies between the technical cooperation and assistance programs and projects of the Agency and United States nuclear nonproliferation and safety goals in those countries.

(b) ADDITIONAL REQUIREMENT.—The report required to be submitted under subsection (a) shall be submitted in an unclassified form, to the extent appropriate, but may include a classified annex.

SEC. 1345. SENSE OF CONGRESS.

It is the sense of Congress that the President should pursue internal reforms at the International Atomic Energy Agency that will ensure that all programs and projects funded under the Technical Cooperation and Assistance Fund of the Agency are compatible with United States nuclear nonproliferation policy and international nuclear nonproliferation norms.

TITLE XIV—EXPEDITING THE MUNITIONS LICENSING PROCESS

SEC. 1401. LICENSE OFFICER STAFFING.

(a) Funding.—Of the amount authorized to be appropriated by section 111(a)(1)(A), $10,000,000 is authorized to be available for salaries and expenses of the Office of Defense Trade Controls of the Department.

(b) Assignment of License Review Officers.—Effective January 1, 2003, the Secretary shall assign to the Office of Defense Trade Controls of the Department a sufficient number of license review officers to ensure that the average weekly caseload for each officer does not routinely exceed 40.

(c) Detailees.—Given the priority placed on expedited license reviews in recent years by the Department of Defense, the Secretary of Defense should ensure that 10 military officers are continuously detailed to the Office of Defense Trade Controls of the Department of State on a nonreimbursable basis.

SEC. 1402. FUNDING FOR DATABASE AUTOMATION.

Of the amount authorized to be appropriated by section 111(a)(2), $4,000,000 is authorized to be available for the Office of Defense Trade Controls of the Department for the modernization of information management systems.

SEC. 1403. INFORMATION MANAGEMENT PRIORITIES.

(a) Objective.—The Secretary shall establish a secure, Internet-based system for the filing and review of applications for export of Munitions List items.

(b) Establishment of an Electronic System.—Of the amount made available pursuant to section 1402 of this Act, $3,000,000 is authorized to be available to fully automate the Defense Trade Application System, and to ensure that the system—

(1) is a secure, electronic system for the filing and review of Munitions List license applications;

(2) is accessible by United States companies through the Internet for the purpose of filing and tracking their Munitions List license applications; and

(3) is capable of exchanging data with—

(A) the Export Control Automated Support System of the Department of Commerce;

(B) the Foreign Disclosure and Technology Information System and the USXPORTS systems of the Department of Defense;

(C) the Export Control System of the Central Intelligence Agency; and

(D) the Proliferation Information Network System of the Department of Energy.

(c) Munitions List Defined.—In this section, the term "Munitions List" means the United States Munitions List of defense articles and defense services controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

SEC. 1404. IMPROVEMENTS TO THE AUTOMATED EXPORT SYSTEM.

(a) Contribution to the Automated Export System.—Of the amount provided under section 1402 of this Act, $250,000 is authorized to be available for the purpose of—

(1) providing the Department with full access to the Automated Export System;

(2) ensuring that the system is modified to meet the needs of the Department, if such modifications are consistent with the needs of other United States Government agencies; and

(3) providing operational support.

(b) Mandatory Filing.—The Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Treasury, shall publish regulations in the Federal Register to require, upon the effective date of those regulations, that all persons who are required to file export information under chapter 9 of title 13, United States Code, file such information through the Automated Export System.

(c) Requirement for Information Sharing.—The Secretary shall conclude an information-sharing arrangement with the heads of the United States Customs Service and the Census Bureau—

(1) to allow the Department to access information on controlled exports made through the United States Postal Service; and

(2) to adjust the Automated Export System to parallel information currently collected by the Department.

(d) Secretary of Treasury Functions.—Section 303 of title 13, United States Code, is amended by striking ", other than by mail,".

(e) Filing Export Information, Delayed Filings, Penalties for Failure To File.—Section 304 of title 13, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "the penal sum of $1,000" and inserting "a penal sum of $10,000"; and

(B) in the third sentence, by striking "a penalty not to exceed $100 for each day's delinquency beyond the prescribed period, but not more than $1,000," and inserting "a penalty not to exceed $1,000 for each day's delinquency beyond the prescribed period, but not more than $10,000 per violation";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

"(b) Any person, other than a person described in subsection (a), required to submit export information, shall file such information in accordance with any rule, regulation, or order issued pursuant to this chapter. In the event any such information or reports are not filed within such prescribed period, the Secretary of Commerce (and officers of the Department of Commerce specifically designated by the Secretary) may impose a civil penalty not to exceed $1,000 for each day's delinquency beyond the prescribed period, but not more than $10,000 per violation.".

(f) Additional Penalties.—

(1) In general.—Section 305 of title 13, United States Code, is amended to read as follows:

"SEC. 305. PENALTIES FOR UNLAWFUL EXPORT INFORMATION ACTIVITIES.

"(a) Criminal Penalties.—

"(1) Failure to file; submission of false or misleading information.—Any person who knowingly fails to file or knowingly submits false or misleading export information through the Shippers Export Declaration (SED) (or any successor document) or the Automated Export System (AES) shall be subject to a fine not to exceed $10,000 per violation or imprisonment for not more than 5 years, or both.

"(2) Furtherance of illegal activities.—Any person who knowingly reports any information on or uses the SED or the AES to further any illegal activity shall be subject to a fine not to exceed $10,000 per violation or imprisonment for not more than 5 years, or both.

"(3) Forfeiture penalties.—Any person who is convicted under this subsection shall, in addition to any other penalty, be subject to forfeiting to the United States—

"(A) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

"(B) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

"(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

"(b) Civil Penalties.—The Secretary (and officers of the Department of Commerce specifically designated by the Secretary) may impose a civil penalty not to exceed $10,000 per violation on any person violating the provisions of this chapter or any rule, regulation, or order issued thereunder, except as provided in section 304. Such penalty may be in addition to any other penalty imposed by law.

"(c) Civil Penalty Procedure.—

"(1) In general.—Whenever a civil penalty is sought for a violation of this section or of section 304, the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Any such hearing shall be conducted in accordance with sections 556 and 557 of title 5, United States Code.

"(2) Commencement of civil actions.—If any person fails to pay a civil penalty imposed under this chapter, the Secretary may request the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the date the order imposing the civil penalty becomes final. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(3) Remission or mitigation of penalties.—The Secretary may remit or mitigate any penalties imposed under paragraph (1) if, in the Secretary's opinion—

"(A) the penalties were incurred without willful negligence or fraud; or

"(B) other circumstances exist that justify a remission or mitigation.

"(4) Applicable law for delegated functions.—If, pursuant to section 306, the Secretary delegates functions under this section to another agency, the provisions of law of that agency relating to penalty assessment, remission or mitigation of such penalties, collection of such penalties, and limitations of actions and compromise of claims, shall apply.

"(5) Deposit of payments in general fund of the Treasury.—Any amount paid in satisfaction of a civil penalty imposed under this section or section 304 shall be deposited into the general fund of the Treasury and credited as miscellaneous receipts.

"(d) Enforcement.—

"(1) By the Secretary of Commerce.—The Secretary of Commerce may designate officers or employees of the Office of Export Enforcement to conduct investigations pursuant to this chapter. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this chapter, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.

"(2) By the Commissioner of Customs.—The Commissioner of Customs may designate officers or employees of the Customs Service to enforce the provisions of this chapter, or to conduct investigations pursuant to this chapter.

"(e) Regulations.—The Secretary of Commerce shall promulgate regulations for the implementation and enforcement of this section.

"(f) Exemption.—The criminal fines provided for in this section are exempt from the provisions of section 3571 of title 18, United States Code.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 9 of title 13, United States Code, is amended by striking the

item relating to section 305 and inserting the following:

"305. Penalties for unlawful export information activities.".

SEC. 1405. ADJUSTMENT OF THRESHOLD AMOUNTS FOR CONGRESSIONAL REVIEW PURPOSES.

(a) IN GENERAL.—The Arms Export Control Act is amended—

(1) in section 3(d) (22 U.S.C. 2753(d))—

(A) in paragraphs (1) and (3)(A), by striking "The President may not" and inserting "Subject to paragraph (5), the President may not"; and

(B) by adding at the end of the following new paragraph:

"(5) In the case of a transfer to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on consent of the President set forth in paragraphs (1) and (3)(A) shall apply only if the transfer is—

"(A) a transfer of major defense equipment valued (in terms of its original acquisition cost) at $25,000,000 or more; or

"(B) a transfer of defense articles or defense services valued (in terms of its original acquisition cost) at $100,000,000 or more).";

(2) in section 36 (22 U.S.C. 2776)—

(A) in subsection (b)—

(i) in paragraph (1), by striking "(1) In the case of" and inserting "(1) Subject to paragraph (6), in the case of";

(ii) in paragraph (5)(C), by striking "(C) If" and inserting "(C) Subject to paragraph (6), if"; and

(iii) by adding at the end of the following new paragraph:

"(6) The limitation in paragraph (1) and the requirement in paragraph (5)(C) shall apply in the case of a letter of offer to sell to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries only if the letter of offer involves—

"(A) the sale of major defense equipment under this Act for, or the enhancement or upgrade of major defense equipment at a cost of, $25,000,000 or more, as the case may be; and

"(B) the sale of defense articles or services for, or the enhancement or upgrade of defense articles or services at a cost of, $100,000,000 or more, as the case may be; or

"(C) the sale of design and construction services for, or the enhancement or upgrade of design and construction services at a cost of, $300,000,000 or more, as the case may be."; and

(B) in subsection (c)—

(i) in paragraph (1), by striking "(1) In the case of" and inserting "(1) Subject to paragraph (5), in the case of"; and

(ii) by adding at the end the following new paragraph:

"(5) In the case of an application by a person (other than with regard to a sale under section 21 or 22 of this Act) for a license for the export to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on the issuance of the license set forth in paragraph (1) shall apply only if the license is for export of—

"(A) major defense equipment sold under a contract in the amount of $25,000,000 or more; or

"(B) defense articles or defense services sold under a contract in the amount of $100,000,000 or more.";

(3) in section 63(a) (22 U.S.C. 2796b(a))—

(A) by striking "In the case of" and inserting "(1) Subject to paragraph (2), in the case of"; and

(B) by adding at the end the following new paragraph:

"(2) In the case of an agreement described in paragraph (1) that is entered into with a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand, the limitations in paragraph (1) shall apply only if the agreement involves a lease or loan of—

"(A) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $25,000,000 or more; or

"(B) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $100,000,000 or more."; and

(4) in section 47 (22 U.S.C. 2794), as amended by section 1202(b) of this Act—

(A) by striking "and" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(11) 'Sales territory' means a country or group of countries to which a defense article or defense service is authorized to be reexported.".

(b) LICENSES FOR EXPORTS TO INDIA AND PAKISTAN.—Section 9001(e) of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) is amended by adding at the end the following: "The application of these requirements shall be subject to the dollar amount thresholds specified in that section.".

SEC. 1406. CONGRESSIONAL NOTIFICATION OF REMOVAL OF ITEMS FROM THE MUNITIONS LIST.

Section 38(f)(1) of the Arms Export Control Act (22 U.S.C. 2778(f)(1)) is amended by striking the third sentence and inserting the following: "The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.".

TITLE XV—NATIONAL SECURITY ASSISTANCE STRATEGY

SEC. 1501. BRIEFING ON THE STRATEGY.

Not later than March 31, 2003, officials of the Department and the Department of Defense shall brief the appropriate congressional committees regarding their plans and progress in formulating and implementing a national security assistance strategy. This briefing shall include—

(1) a description of how, and to what extent, the elements of the strategy recommended in section 501(b) of the Security Assistance Act of 2000 (22 U.S.C. 2305(b)) have been or will be incorporated in security assistance plans and decisions;

(2) the number of out-years considered in the strategy;

(3) a description of the actions taken to include the programs listed in section 501(c) of the Security Assistance Act of 2000 (22 U.S.C. 2305(c)), as well as similar programs of military training or other assistance to the military or security forces of a foreign country;

(4) a description of how a national security assistance strategy is being implemented regarding specific countries;

(5) a description of any programmatic changes adopted or expected as a result of adopting a strategic approach to security assistance policymaking;

(6) a description of any obstacles encountered in formulating or implementing a national security assistance strategy; and

(7) a description of any resource or legislative needs highlighted by this process.

SEC. 1502. SECURITY ASSISTANCE SURVEYS.

(a) UTILIZATION.—The Secretary should utilize security assistance surveys in preparation of a national security assistance strategy pursuant to section 501 of the Security Assistance Act of 2000 (22 U.S.C. 2305).

(b) FUNDING.—Of the amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), $2,000,000 is authorized to be available to the Secretary to conduct security assistance surveys, or to request such surveys, on a reimbursable basis, by the Department of Defense or other United States Government agencies. Such surveys shall be conducted consistent with the requirements of section 26 of the Arms Export Control Act (22 U.S.C. 2766).

TITLE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. NUCLEAR AND MISSILE NONPROLIFERATION IN SOUTH ASIA.

(a) UNITED STATES POLICY.—It shall be the policy of the United States, consistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.T. 483), to encourage and work with the governments of India and Pakistan to achieve the following objectives by September 30, 2003:

(1) Continuation of a nuclear testing moratorium.

(2) Commitment not to deploy nuclear weapons.

(3) Commitment not to deploy ballistic missiles that can carry nuclear weapons and to restrain the ranges and types of missiles developed or deployed.

(4) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Nuclear Suppliers Group.

(5) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Zangger Committee.

(6) Agreement by both governments to bring their export controls in accord with the guidelines, requirements, and annexes of the Missile Technology Control Regime.

(7) Establishment of a modern, effective system to control the export of sensitive dual-use items, technology, technical information, and materiel that can be used in the design, development, or production of weapons of mass destruction and ballistic missiles.

(8) Conduct of bilateral meetings between Indian and Pakistani senior officials to discuss security issues and establish confidence-building measures with respect to nuclear policies and programs.

(b) FURTHER UNITED STATES POLICY.—It shall also be the policy of the United States, consistent with its obligations under the Treaty on the Nonproliferation of Nuclear Weapons (21 U.S.T. 483), to encourage, and, where appropriate, to work with, the Governments of India and Pakistan to achieve not later than September 30, 2003, the establishment by those governments of modern, effective systems to protect and secure their nuclear devices and materiel from unauthorized use, accidental employment, or theft. Any such dialogue with India or Pakistan would not be represented or considered, nor would it be intended, as granting any recognition to India or Pakistan, as appropriate, as a nuclear weapon state (as defined in the Treaty on the Non-Proliferation of Nuclear Weapons).

(c) REPORT.—Not later than March 1, 2003, the President shall submit to the appropriate congressional committees a report describing United States efforts to achieve the objectives listed in subsections (a) and (b), the progress made toward the achievement of those objectives, and the likelihood that each objective will be achieved by September 30, 2003.

SEC. 1602. REAL-TIME PUBLIC AVAILABILITY OF RAW SEISMOLOGICAL DATA.

The head of the Air Force Technical Applications Center shall make available to the public, immediately upon receipt or as soon after receipt as is practicable, all raw seismological data provided to the United States Government by any international monitoring organization that is directly responsible for seismological monitoring.

SEC. 1603. DETAILING UNITED STATES GOVERNMENTAL PERSONNEL TO INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION ORGANIZATIONS.

(a) In General.—The Secretary, in consultation with the Secretaries of Defense and Energy and the heads of other relevant United States departments and agencies, as appropriate, should develop measures to improve the process by which United States Government personnel may be detailed to international arms control and nonproliferation organizations without adversely affecting the pay or career advancement of such personnel.

(b) Report Required.—Not later than May 1, 2003, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives setting forth the measures taken under subsection (a).

SEC. 1604. DIPLOMATIC PRESENCE OVERSEAS.

(a) Purpose.—The purpose of this section is to—

(1) elevate the stature given United States diplomatic initiatives relating to nonproliferation and political-military issues; and

(2) develop a group of highly specialized, technical experts with country expertise capable of administering the nonproliferation and political-military affairs functions of the Department.

(b) Authority.—To carry out the purposes of subsection (a), the Secretary is authorized to establish the position of Counselor for Nonproliferation and Political Military Affairs in United States diplomatic missions overseas, to be filled by individuals who are career Civil Service officers or Foreign Service officers committed to follow-on assignments in the Nonproliferation Bureau or the Political Military Affairs Bureau of the Department.

(c) Training.—After being selected to serve as Counselor, any person so selected shall spend not less than 10 months in language training courses at the Foreign Service Institute, or in technical courses administered by the Department of Defense, the Department of Energy, or other appropriate departments and agencies of the United States, except that such requirement for training may be waived by the Secretary.

SEC. 1605. COMPLIANCE WITH THE CHEMICAL WEAPONS CONVENTION.

(a) Findings.—Congress makes the following findings:

(1) On April 24, 1997, the Senate provided its advice and consent to ratification of the Chemical Weapons Convention subject to the condition, among others, that the President certify that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

(2) Congress enacted the same condition into law as section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)).

(3) Part II, paragraph 57, of the Verification Annex of the Convention requires that all samples requiring off-site analysis under the Convention shall be analyzed by at least two laboratories that have been designated as capable of conducting such testing by the OPCW.

(4) The only United States laboratory currently designated by the OPCW is the United States Army Edgewood Forensic Science Laboratory.

(5) In order to comply with the Chemical Weapons Convention, the certification submitted pursuant to condition (18) of the resolution of ratification of the Chemical Weapons Convention, and the requirements of section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)), the United States must possess, at a minimum, a second OPCW-designated laboratory.

(6) The possession of a second OPCW-designated laboratory is necessary in view of the potential for a challenge inspection to be initiated against the United States by a foreign nation.

(7) The possession of a third OPCW-designated laboratory would enable the OPCW to implement its normal sample analysis procedures, which randomly assign real and manufactured samples so that no laboratory knows the origin of a given sample.

(8) To qualify as a designated laboratory, a laboratory must be certified under ISO Guide 25 or a higher standard and complete three proficiency tests. The laboratory must have the full capability to handle substances listed on Schedule 1 of the Annex on Schedules of Chemicals of the Chemical Weapons Convention. In order to handle such substances in the United States, a laboratory also must operate under a bailment agreement with the United States Army.

(9) Several existing United States commercial laboratories have approved quality control systems, already possess bailment agreements with the United States Army, and have the capabilities necessary to obtain OPCW designation.

(10) In order to bolster the legitimacy of United States analysis of samples taken on its national territory, it is preferable that one designated laboratory not be a United States Government facility.

(b) Establishment of Non-Governmental Designated Laboratory.—

(1) Report.—Not later than March 1, 2003, the United States National Authority, as designated under section 101 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711) (referred to in this section as the "National Authority"), shall submit to the appropriate congressional committees a report detailing a plan for securing OPCW designation of a nongovernmental United States laboratory by December 1, 2004.

(2) Directive.—Not later than June 1, 2003, the National Authority shall select, through competitive procedures, a nongovernmental laboratory within the United States to pursue designation by the OPCW.

(3) Delegation.—The National Authority may delegate the authority and administrative responsibility for carrying out paragraph (2) to one or more of the heads of the agencies described in section 101(b)(2) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711(b)(2)).

(c) Definitions.—In this section:

(1) Chemical weapons convention or convention.—The term "Chemical Weapons Convention" or "Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding:

(A) The Annex on Chemicals.

(B) The Annex on Implementation and Verification.

(C) The Annex on the Protection of Confidential Information.

(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(E) The Text on the Establishment of a Preparatory Commission.

(2) OPCW.—The term "OPCW" means the Organization for the Prohibition of Chemical Weapons established under the Convention.

TITLE XVII—AUTHORITY TO TRANSFER NAVAL VESSELS

SEC. 1701. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) Transfers by Grant.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) Poland.—To the Government of Poland, the OLIVER HAZARD PERRY class guided missile frigate WADSWORTH (FFG 9).

(2) Turkey.—To the Government of Turkey, the KNOX class frigates CAPODANNO (FF 1093), THOMAS C. HART (FF 1092), DONALD B. BEARY (FF 1085), McCANDLESS (FF 1084), REASONER (FF 1063), and BOWEN (FF 1079).

(b) Transfers by Sale.—The President is authorized to transfer vessels to foreign governments and foreign governmental entities on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) Mexico.—To the Government of Mexico, the NEWPORT class tank landing ship FREDERICK (LST 1184).

(2) Taiwan.—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act), the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(3) Turkey.—To the Government of Turkey, the OLIVER HAZARD PERRY class guided missile frigates ESTOCIN (FFG 15) and SAMUEL ELIOT MORISON (FFG 13).

(c) Grants Not Counted in Annual Total of Transferred Excess Defense Articles.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) Costs of Transfers on Grant Basis.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1))) in the case of a transfer authorized to be made on a grant basis under subsection (a).

(e) Waiver Authority.—For a vessel transferred on a grant basis pursuant to authority provided by subsection (a)(2), the President may waive reimbursement of charges for the lease of that vessel under section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) for a period of one year before the date of the transfer of that vessel.

(f) Repair and Refurbishment in United States Shipyards.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) Expiration of Authority.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

And the Senate agree to the same.

Amend the title so as to read: "An Act to authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.".

And the Senate agree to the same.

From the Committee on International Relations, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
CHRISTOPHER H. SMITH,
TOM LANTOS,
HOWARD L. BERMAN,
ILEANA ROS-LEHTINEN,

From the Committee on the Judiciary for consideration of sections 234, 236, 709, 710, and 844 and section 404 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
JOHN CONYERS, Jr.,
Managers on the Part of the House.

JOE BIDEN,
PAUL S. SARBANES,
CHRIS DODD,
JOHN F. KERRY,
JESSE HELMS,
DICK LUGAR,
CHUCK HAGEL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes, submit the following joint statement in the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

FOREIGN RELATIONS AUTHORIZATION ACT FOR FISCAL YEAR 2003

Title I—Authorization of Appropriations

Sec. 111. Administration of Foreign Affairs

This section authorizes appropriations under the heading "Administration of Foreign Affairs" for fiscal year 2003. This section authorizes a total of $4,970,890,000 for fiscal year 2003.

Sec. 111(a)(1) Diplomatic and Consular Programs. This section authorizes $4,030,023,000 for fiscal year 2003. Of the amounts authorized by this section $564,000,000 is for worldwide security upgrades; $20,000,000 is for the Bureau of Democracy, Human Rights and Labor; and $2,000,000 is for recruitment of minority groups.

Sec. 111(a)(2) authorizes $200,000,000 for fiscal year 2003 for the Capital Investment Fund.

Sec. 111(a)(3) authorizes $555,000,000 for fiscal year 2003 for Embassy Security, Construction and Maintenance. These funds are in addition to funds authorized to be appropriated for this purpose by section 604 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act FY 2000 and 2001.

Sec. 111(a)(4) authorizes $9,000,000 for fiscal year 2003 for Representation Allowances.

Sec. 111(a)(5) authorizes $11,000,000 for fiscal year 2003 for Protection of Foreign Missions and Officials.

Sec. 111(a)(6) authorizes $15,000,000 for fiscal year 2003 for Emergencies in the Diplomatic and Consular Service.

Sec. 111(a)(7) authorizes $1,250,000 in fiscal year 2003 for Repatriation Loans.

Sec. 111(a)(8) authorizes $18,817,000 for fiscal year 2003 for Payment to the American Institute in Taiwan.

Sec. 111(a)(9) authorizes $30,800,000 for fiscal year 2003 for the Office of the Inspector General.

Subsection (b) provides that funds authorized by subsection (a)(5) are authorized to remain available until September 30, 2004.

Sec. 112. United States educational, cultural, and public diplomacy programs

This section authorizes appropriations totaling $260,000,000 for fiscal year 2003 for Fulbright and other educational and cultural exchange programs.

Sec. 112(1)(A) authorizes $135,000,000 for Fulbright Academic Exchange Programs. Of the amounts authorized, $5,000,000 is authorized for the Vietnam Fulbright Academic Exchange Program. Also of the amounts authorized, $1,000,000 is for the New Century Scholars Initiative—HIV/AIDS.

Sec. 112(1)(B) authorizes $125,000,000 for fiscal year 2003 for other educational and cultural exchange programs. Of the amounts authorized, $500,000 is for Tibetan Exchanges, $500,000 is for East Timorese Scholarships, $500,000 is for Montenegro Parliamentary Development, $750,000 is for South Pacific Exchanges, $750,000 is for the Israel-Arab Peace Partners Program and, $500,000 is for Sudanese scholarships.

Sec. 112(2) National Endowment for Democracy

Authorizes $42,000,000 for fiscal year 2003 for the National Endowment for Democracy. Of the amounts authorized, $1,000,000 is available for Reagan-Fascell Democracy Fellows.

Sec. 112(3) East-West Center

Authorizes $15,000,000 for fiscal year 2003 for the East-West Center.

Sec. 112(4) North-South Center

Authorizes $2,500,000 for fiscal year 2003 for the North-South Center.

Sec. 113. Contributions to international organizations

Sec. 113(a) authorizes $891,378,000 for fiscal year 2003 for assessed contributions to international organizations.

Sec. 113(b) authorizes $725,981,000 for fiscal year 2003 for assessed contributions to international peacekeeping.

Sec. 113(c), (d), (e). These sections include restrictions or limits on UN funding for framework treaties, technical provisions regarding foreign currency exchange rates, and refunds of excess contributions to international organizations which have been carried in previous Acts.

Sec. 114. International commissions

Authorizes $66,385,000 for fiscal year 2003 for U.S. contributions to the International Boundary and Water Commission, United States and Mexico; the International Boundary Commission, United States and Canada; the International Joint Commission; and the International Fisheries Commission. These funds enable the United States to meet its obligations as a participant in international commissions including those dealing with American boundaries and related matters with Canada and Mexico and international fisheries commissions.

Sec. 115. Migration and Refugee Assistance

Authorizes $820,000,000 for fiscal year 2003 for Migration and Refugee Assistance. This section enables the Secretary of State to provide assistance and make contributions for migrants and refugees, including contributions to international organizations such as the United Nations High Commissioner for Refugees and the International Committee for the Red Cross, and through private volunteer agencies, governments, and bilateral assistance, as authorized by law.

This section also includes subauthorizations for Tibetan refugees in India and Nepal, refugees resettling in Israel, and humanitarian assistance for displaced Burmese.

Sec. 116. Grants to the Asia Foundation

Authorizes $15,000,000 for fiscal year 2003 for grants to the Asia Foundation.

Mobile library. The Managers take note of the actions taken by the U.S. Interests Section in Havana, Cuba to use a portion of the funds allocated for outreach to independent organizations inside the island and expansion of independent libraries, to establish a mobile library that will ensure broader distribution of approved materials to pro-democracy forces throughout the island.

SUBTITLE B—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

Sec. 121. Authorization of appropriations

Sec. 121(a)(1) authorizes $485,823,000 for fiscal year 2003 for international broadcasting operations. Of the amounts authorized, $35,000,000 is authorized for Radio Free Asia.

Sec. 121(2) authorizes $13,740,000 for fiscal year 2003 for Broadcasting Capital Improvements.

Sec. 121(3) authorizes $25,923,000 for fiscal year 2003 for Broadcasting to Cuba.

Sec. 121(b) continues authorization for broadcasting to the PRC and neighboring countries.

Sec. 121(c) authorizes an additional $20,000,000 for fiscal year 2003 for the Middle East Radio Network of Voice of America.

Mobile library. The Managers take note of the actions taken by the U.S. Interests Section in Havana, Cuba to use a portion of the funds allocated for outreach to independent organizations inside the island and expansion of independent libraries, to establish a mobile library that will ensure broader distribution of approved materials to pro-democracy forces throughout the island.

Title II—Department of State Authorities and Activities

Sec. 201. Emergency evacuation services

Under current law, the State Department has authority to use appropriated funds to evacuate private U.S. citizens (and accompanying dependents or guardians), as well as third-country nationals, when their lives are endangered by war, civil unrest, or natural disaster. This section clarifies the Department's authority to retain reimbursements for emergency evacuation services from private U.S. citizens and third-country nationals.

Sec. 202. Special agent authorities

This section makes three changes to the authorities of Diplomatic Security (DS) Agents. First, paragraph (1) gives such agents authority to obtain and execute search and arrest warrants as well as obtain and serve subpoenas and summonses issued under the authority of the United States. Under current law, agents may exercise these authorities only for offenses involving passport and visa cases. This limitation may handicap agents, for example, who are carrying out their protective functions in a situation in which an individual wanted on a federal warrant poses a threat to the protected person. The broader authority provided in this section is similar to authority possessed by numerous law enforcement agents throughout the federal government. Paragraph (2) makes a technical correction to section 37(a) of the State Department Basic Authorities Act to make clear that a Secretary of State named by a "President-elect" is entitled to protection by Diplomatic Security agents. Paragraph (3) gives DS agents the authority to make arrests without warrant for any federal offense committed in their presence, or for any felony cognizable under the law of the United States if the agents have reasonable grounds to believe that the person has committed or is committing such felony. Under current law, agents may exercise this authority in limited circumstances. As with paragraph (1), this provision gives DS agents the same authority granted to numerous other federal law enforcement agents.

Subsection (b) provides that the exercise of certain authorities contained in section 37(a) of the State Department Basic Authorities Act shall be subject to an agreement with the Attorney General, the Secretary of State, and the Secretary of the Treasury.

Subsection (c) provides that the authorities in paragraph 2 and 5 of such subsection may not be exercised until the Secretary of State submits the agreement described above to the appropriate committees and publishes a notice in the Federal Register.

Sec. 203. International Litigation Fund

This section allows the State Department to be reimbursed for costs associated with representing American citizens or companies in international claims. The section would allow the Department to deduct and retain 1.5% of payments of at least $100,000 up to $5 million, and 1% of payments above $5 million received by the Department from foreign governments or foreign entities as a result of the Department's pursuit of claims on behalf of U.S. citizens or others. The funds so retained would be placed into the International Litigation Fund, which was established by Congress in 1994 to provide a dependable and flexible source of funds for expenses relating to preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity. The Fund has no dedicated source of money; rather, it is dependent on voluntary contributions, transfers from other agencies, or reprogrammings. Similar deductions are taken from Iran-U.S. Claims Tribunal awards of the Foreign Claims Settlement Commission.

Sec. 204. State Department records of overseas deaths of U.S. citizens from unnatural causes

This section requires the Secretary of State to collect certain information regarding the deaths of U.S. citizens when those deaths result from non-natural causes. This information will be maintained in a data base on a country-by-country basis and will be available to the public.

This section is intended to provide specific information to potential travelers about deaths of American citizens overseas when those deaths result from non-natural causes. The current Consular Information Sheets tend to warn of generalized dangers, such as "Several tourists have been killed or injured in jet-ski accidents, particularly when participating in group tours." The information provided must be specific enough to alert the U.S. public to potential dangers to enable the reader to make an informed decision. The Managers intend that this section will be applied in a manner consistent with the Privacy Act. The section requires that the information be gathered to the "maximum extent practicable." This should be read as a rule of reason. Consular officials should gather information from reports presented directly to them, from media reports, and from other sources. They are not required, for the purposes of this section, to engage in exhaustive investigations.

Sec. 205. Foreign relations historical series

This provision makes two amendments to increase reporting to Congress on the implementation of Title IV of the State Department Basic Authorities Act, relating to the Foreign Relations of the United States Historical Series. In 1991, Congress enacted Title IV out of concern for the timeliness and historical accuracy of the series, and mandated that it be a "thorough, accurate and reliable documentary record of major U.S. foreign policy decisions and significant U.S. diplomatic activity." Title IV requires, among other things, that the Secretary ensure that volumes in the series be published not more than 30 years after the events recorded. A decade after the law was enacted, the Department remains out of compliance with this provision. These reporting requirements will facilitate oversight by Congress of implementation of Title IV.

Sec. 206. Expansion of eligibility for award of certain construction contracts

This section would amend eligibility limitations for award of certain contracts for construction, alteration, or repair of State Department buildings and grounds abroad. Currently, bidder qualifications are determined on the basis of nationality of ownership, evidence that the bidder has performed similar construction work in the United States, and other criteria. The amendment would modify the "similar construction work" criterion to include work performed at a U.S. diplomatic or consular establishment abroad, thus enlarging the pool of potentially qualified bidders.

Sec. 207. International Chancery Center

This section amends section 1 of the International Center Act to establish an account in the Treasury into which advances from foreign governments and international organizations may be deposited and whose proceeds may be invested in public debt obligations. Currently, such advances are held in a public bank account.

Sec. 208. Travel to Great Lakes fisheries meetings

This section makes a change to the Great Lakes Fishery Act of 1956 to increase from 5 to 10 the number of government officials permitted to travel to the annual meeting. This section is needed to reflect a change in the meeting structure for the Great Lakes Fisheries Commission (GLFC), which promotes environmental protection and economic development among the Great Lakes member states and Canada. When section 4 of the Great Lakes Fisheries Act of 1956 was originally enacted, the GLFC held two annual meetings per year with five members of the Great Lakes Fisheries Advisory Committee attending each meeting. The GLFC now holds only one annual meeting. This provision will permit the State Department to fund the travel of up to 10 members of the advisory committee to the one annual meeting.

Sec. 209. Correction of Fishermen's Protective Act of 1967

This section makes a technical correction to section 7 of the Fishermen's Protective Act of 1967 (P.L. 83–680), which was enacted to deter foreign governments from seizing U.S. commercial fishing vessels based on claims to a fisheries jurisdiction not recognized by the United States. One of the State Department's primary responsibilities under the Act is to administer funds from which reimbursement could be sought by U.S. vessel owners. Recent amendments erroneously transferred certain responsibilities from the Secretary of the Interior to the Secretary of Commerce, rather than to the Secretary of State.

Sec. 210. Use of funds received by International Boundary and Water Commission

This provision permits the U.S. Section of the International Boundary and Water Commission to receive reimbursements from the North American Development Bank and the Border Environment Cooperation Committee.

Sec. 211. Fee collections relating to intercountry adoptions and affidavits of support

This section amends Section 403 of the Intercountry Adoption Act of 2000 and Section 232 of the Foreign Relations Authorization Act, Fiscal Years 2000 and 2001. These amendments permit the expenditure of funds collected by the Department under those statutory provisions.

Sec. 212. Annual reports on compliance with the Hague Convention on the civil aspects of international child abduction

This section makes permanent the reporting requirement enacted in Section 2803(a) of the Foreign Affairs Reform and Restructuring Act of 1998 pertaining to compliance with the Hague Convention on the Civil Aspects of International Child Abduction.

The Managers are alarmed by the State Department's continuing lack of success in serious child abduction cases involving Germany, Sweden and many other countries. Success should be determined by whether the reunion of left-behind parent and abducted child has occurred. Establishment of child abduction commissions, study groups and other bodies are no substitute for reunions.

The State Department's performance in assisting Americans whose children have been wrongfully taken or retained abroad is hampered by the lack of involvement and personal diplomacy by chiefs of mission. It is also hampered by relegation of consular issues to a second tier of importance by Department and embassy Managers. This must change.

The Managers expect that the annual report will address the primary issue as to whether a parent-child reunion occurred as a separate and distinct matter from the issue of whether the case has been resolved. The Managers also expect that the State Department's child abduction report will be made available on the State Department's web page. The report should also be disseminated to all state and local governments, to ensure that child abduction issues are taken into account by these authorities as appropriate.

The Managers considered amending the child abduction reporting requirement in order to address concerns raised regarding previous reports. However, the Managers decided to simply extend the requirement for a report indefinitely, with the expectation that the State Department will respond to the concerns stated above.

Sec. 213. Repeal of provision regarding housing for foreign agricultural attache

This section repeals Section 738 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (P.L. 106–387) limiting the authority of the State Department to sell overseas property.

Sec. 214. United States policy with respect to Jerusalem as the capital of Israel

This section contains four provisions related to the recognition of Jerusalem as Israel's capital. It urges the President to immediately begin the process of relocating the U.S. Embassy in Israel to Jerusalem. It bars the use of funds for the operation of the U.S. consulate in Jerusalem unless the consulate is under the supervision of the U.S. Ambassador to Israel. It denies funds for the publication of official U.S. government documents listing capital cities unless they identify Jerusalem as the capital of Israel. Finally, it allows U.S. citizens born in Jerusalem to have Israel listed, upon request, as their place of birth on passports.

Sec. 215. Report concerning efforts to promote Israel's diplomatic relations with other countries

This section requires the Secretary of State to submit a report concerning United States efforts to promote Israel's diplomatic relations with other countries. The report is required not later than 60 days after the date of the enactment of this Act.

Sec. 216. Continuation of reporting requirements

This section continues reports initially enacted in 1998 relating to Saudi claims, the implementation of the LIBERTAD Act, and deaths of Americans by terrorist activities.

SUBTITLE B—EDUCATIONAL, CULTURAL, AND PUBLIC DIPLOMACY AUTHORITIES

Sec. 221. Fulbright-Hays authorities

This provision amends subsection 112(d) of the Mutual Educational and Cultural Exchange Act of 1961, as amended ("Fulbright-Hays Act"), to clarify that the Bureau of Educational and Cultural Affairs may administer programs authorized by several other Acts to the extent such programs are consistent with the purposes of the Fulbright-Hays Act.

Sec. 222. Extension of requirement for scholarships for Tibetans and Burmese

This section extends the authorization for the exchange and scholarship programs for Tibetan and Burmese exiles (contained in Public Law 104-319) through fiscal year 2003.

Sec. 223. Plan related to public diplomacy activities

This section requires the Secretary of State to submit a plan for integrating public diplomacy policy into overall policy formulation and implementation, for improving coordination and communication between public diplomacy officers and the State Department's regional bureaus, and between public diplomacy officers and the Under Secretary of State for Public Diplomacy. At present, public diplomacy considerations are not always adequately addressed in the formulation and implementation of policy, policy coordination is minimal, and public diplomacy officers lack direct channels of communication to the Assistant Secretaries in the regional bureaus or to the Under Secretary for Public Diplomacy.

Sec. 224. Advisory Committee on Cultural Diplomacy

This section establishes, on a temporary basis, an advisory committee on cultural diplomacy to assist the Undersecretary for Public Diplomacy and the Assistant Secretary for Educational and Cultural Affairs in devising initiatives to expand such programming and increase the use of public-private partnerships to fund such programming. The conference committee believes that expansion of cultural diplomacy—the presentation of creative, visual and performing arts abroad—could have significant benefits to U.S. diplomacy. Unfortunately, direct funding for such programs has declined considerably in recent years. Under Section 105(f) of the Fulbright-Hays Act, the Department has authority to accept funds from the private sector for such activities. The Managers urge the Department and the Advisory Committee to explore ways of increasing private sector support for such programming. The Managers urge the Secretary to consider candidates nominated by organizations such as the National Assembly of State Art Agencies, the Association of Performing Arts Presenters, and Americans for the Arts.

Sec. 225. Allocation of funds for "American Corners" in the Russian Federation

This section authorizes $500,000 for fiscal year 2003 for "American Corners" centers in host libraries in the Russian Federation. A number of such centers already exist. The Managers believe that the inclusion of information about United States history, government, culture and values in Russian libraries and access to computers and the Internet in these centers will enhance U.S. programs of assistance and increase Russian citizens' awareness about the United States.

Sec. 226. Report relating to Commission on Security and Cooperation in Europe

This section rewrites and updates a current reporting requirement of the Department of State to the Commission on Security and Cooperation in Europe, a joint Executive-Congressional commission.

Sec. 227. Amendments to the Vietnam Education Foundation Act of 2000

This section makes technical amendments to the Vietnam Education Foundation Act of 2000, including clarification of the duties of the Foundation's Board of Directors and the status and tenure of its members.

Sec. 228. Ethical issues in international health

This section requires the Secretary to fund exchanges to provide opportunities to researchers in developing countries to participate in activities related to ethical issues in human subject research, as described in subsection (c). Subsection (b) requires the Secretary to coordinate such programs that may be conducted by USAID and other federal agencies. The Managers intend that these exchanges will help develop expertise in countries where pharmaceutical companies conduct human and other trials so that the developing country has the ability to evaluate the design of such trials.

Sec. 229. Conforming amendments

This section contains several technical and conforming amendments which were overlooked in recent Foreign Relations Authorization Acts.

SUBTITLE C—CONSULAR AUTHORITIES

231. Report on visa issuance to inadmissable aliens

Under current law, the Department of State reports to Congress periodically about non-immigrant visa applications which are refused because the applicant is ineligible under section 212(a)(3) of the Immigration and Nationality Act, relating to security and other grounds. This section adds a requirement that the Department report twice a year on visas issued pursuant to waivers of ineligibility under Section 212(a)(3), including so-called "silent" waivers. As with the current report under Section 51(a) of the Basic Authorities Act, this report may be submitted in classified form.

Sec. 232. Denial of entry into United States of Chinese and other nationals engaged in coerced organ or bodily tissue transplantation

This section prohibits the issuance of a U.S. visa and the entry into the United States to any person who has been directly involved with the coercive transplantation of human organs or bodily tissue unless there are substantial grounds for believing that this individual has discontinued his or her involvement with, and support for, such practices. The visa denial must be based upon "credible and specific information." The prohibition does not apply to a head of state, head of government, or cabinet-level minister. The provision may be waived by the Secretary of State when it is in the national interest to do so. The Managers are concerned about continued reports of involuntary organ harvesting in nations such as the People's Republic of China. A recent study by the Laogai Research Foundation suggests that a number of Chinese doctors who have received specialized medical training in the United States may have been involved in the practice of harvesting organs from executed prisoners without permission from the potential donors or their families.

Sec. 233. Processing of visa applications

This section states that (1) it shall be the policy of the State Department to process visa applications of immediate relatives and fiances of U.S. citizens within 30 days of receiving all necessary documents; and (2) it should be the policy of the Department to process applications sponsored by someone other than an immediate relative within 60 days.

Sec. 234. Machine readable visas

This section provides a cap on the use of funds collected by the State Department for machine readable visas for fiscal year 2003. Funds exceeding $460 million may only be used subject to reprogramming.

SUBTITLE D—MIGRATION AND REFUGEES

Sec. 241. Prohibition on funding the involuntary return of refugees

Subsection 241(a) makes permanent a provision of current law contained in previous Foreign Relations Authorization Acts prohibiting the use of funds appropriated to the State Department for the involuntary return of refugees to countries in which they have a well-founded fear of persecution, except on grounds recognized as precluding refugee protection under the 1951 Convention and 1967 Protocol. The provision does not prohibit funding for the return of persons who had been found to be non-refugees by a process genuinely calculated to identify and protect refugees.

Subsection 241(b) requires that notice be given to the appropriate congressional committees prior to use of funds appropriated to the State Department for the involuntary return of any person. The subsection provides a limited exception in cases where prior notice is impracticable due to an emergency involving a threat to human life. The notice provision provides an opportunity for congressional oversight to ensure that the prohibition on funding the return of refugees is strictly observed. The managers recognize that activities described in this section may require expedition and that the notice required by this section may therefore be provided in whatever way is most appropriate under the circumstances. The notice required by this section may be written or oral, may be provided whether or not Congress is in session, and in appropriate cases may be provided in classified form. The notice provision does not require the Department to delay any return pending congressional approval or review.

Subsection(c) makes clear that the provisions of this section do not apply to the return of persons pursuant to removal proceedings under the Immigration and Nationality Act or to extradition proceedings, because the law governing these activities provides adequate protections for persons subject to these proceedings, including an opportunity to be heard on any claim that he or she would face persecution upon return.

Subsection (d) defines "effect the involuntary return" as requiring by means of physical force or circumstances amounting to a threat thereof a person to return to a country against his or her will, regardless of whether the person is present in the U.S. and regardless of whether the U.S. acts directly or through an agent. The language "regardless of whether the United States acts directly or through an agent" applies to situations in which the United States contracts with, makes arrangements with, or funds another government or an organization to carry out a project or activity on its behalf. The Managers do not intend it to apply to situations in which the United States contributes funds to another government or an organization as part of a general or special appeal or program and in which United States funds will be commingled with those of other contributors.

This provision applies only to funds appropriated to the Department including the Diplomatic and Consular Programs account and the International Narcotics Control and Law Enforcement account. It does not apply to any funds transferred to the Department from other federal agencies. However, the Managers expect that the Department will notify the appropriate congressional committees as soon as practicable of any case in which the Department uses transferred funds to effect involuntary returns, so that the committees may decide whether further legislation is necessary.

Sec. 242. U.S. membership in the International Organization for Migration

This section provides Congressional approval of certain amendments to the constitution of the International Organization for Migration (IOM). These amendments were adopted in 1998 by the IOM governing body, of which the United States is a member. The proposed amendments to the IOM constitution concern four issues of internal IOM governance.

Sec. 243. Report on overseas refugee processing

This section requires a report on overseas processing of refugees for admission to the United States. In particular, the report should assess the needs of refugees who do not currently have access to U.S. resettlement programs, despite the dramatic decline in U.S. refugee admissions over the last decade. With respect to refugee groups and profiles that should be carefully considered in connection with the preparation of this report, the Managers adopt by reference the explanatory material for section 252 in the House International Relations Committee report (107–57) on H.R. 1646.

Title III—Organization and Personnel of the Department of State

SUBTITLE A—ORGANIZATIONAL MATTERS

Sec. 301. Comprehensive workforce plan

This section requires the State Department to submit to Congress a comprehensive workforce plan within 6 months of the date of enactment. It also requires that the Department develop within 1 year of the date of enactment a domestic staffing model to assist in determining workforce needs in future years. The Managers are concerned that the Department has failed to devote sufficient attention to workforce planning. In particular, the Managers are dismayed at the Department's apparent inability to match staffing requirements to meet the policy needs of overseas posts and stateside offices. This requires dramatically improved coordination between the post mission plans, the regional bureaus policy priorities, and the Bureau of Personnel.

Sec. 302. "Rightsizing" overseas posts

This section requires the Department to establish both an internal and an interagency task force to review issues of overseas staffing presence. This follows through on numerous reports, including that of the Overseas Presence Advisory Panel, that details the need to "right size" overseas posts—i.e., staffing the post to the mission. Reports on the progress of each of these task forces are required.

Sec. 303. Qualifications of certain officers of the Department of State

This section amends Section 1 of the State Department Basic Authorities Act of 1956 to require the officer with primary responsibility for international narcotics and law enforcement, or that officer's principal deputy, to have substantial professional qualifications in the fields of management and Federal law enforcement or international narcotics policy.

SUBTITLE B—PERSONNEL MATTERS

Sec. 311. Thomas Jefferson Star for Foreign Service

In 1999, Congress created the "Foreign Service Star" to honor U.S. government employees killed or wounded in the line of duty overseas. This provision amends the name of the award to "Thomas Jefferson Star for Foreign Service." The change was requested by the State Department. The award is authorized for all personnel serving at overseas missions.

Sec. 312. Presidential Rank Awards

This provision amends the Foreign Service Act of 1980 in order to restore parity between Senior Foreign Service and Senior Executive Service Presidential Awards. This parity was lost upon enactment of a provision in the FY 1999 Treasury and General Government Appropriations Act which altered the system for awards to senior executives in the civil service, but neglected to make a similar change for Senior Foreign Service Officers.

Sec. 313. Foreign Service National Savings Fund

This section amends Section 408 of the Foreign Service Act to explicitly authorize the Department of the Treasury to hold foreign national retirement funds and accumulated interest. Section 408 provides that the employees hired by the Department and other agencies overseas are compensated based on prevailing wage rates and compensation practices to the extent consistent with public interest. In particular, section 408 explicitly provides the authority for such agencies and their locally engaged staff to make payments to a trust or other fund in a financial institution in order to finance future benefits for such staff. The Department believes that having the Department of Treasury act as a financial institution to hold the funds contributed by the agencies and their locally engaged staff (i.e., the funds contributed based on prevailing practice or the funds voluntarily contributed by the locally engaged staff) would provide a safe and secure means of ensuring the overseas staff's retirement needs are adequately met.

Sec. 314. Clarification of separation for cause

This section revises section 610 of the Foreign Service Act of 1980, related to separation from the Service for cause, to make the provision more comprehensible. Several recent amendments to Section 610 have necessitated this change. This section is not intended to make substantive changes to Section 610.

Sec. 315. Dependents on family visitation travel

This section provides Foreign Service families who are separated because of an assignment to an unaccompanied post greater flexibility in arranging authorized family visits. Currently only the Foreign Service Officer may travel to visit family within a certain dollar limitation. This provision would allow for other family members to be authorized to travel in order to meet on authorized family visits at locations other than their home leave addresses.

Sec. 316. Health education and disease prevention programs

This section amends Section 904(b) of the Foreign Service Act of 1980 in order that the Department may better allow its medical professionals to provide counseling and educational materials to foreign national employees of U.S. missions concerning diseases to which they are exposed but that may not be attributable to the workplace. The Office of Medical Services currently provides on-the-job illness and injury services for locally-engaged staff. This provision permits the Department to provide health information and counseling. This is not intended to include any activities contrary to U.S. government policy on family planning.

Sec. 317. Correction of time limitations for grievance filing

This section amends section 1104(a) of the Foreign Service Act of 1980 to correct a drafting error made in the most recent Foreign Relations Authorization Act (P.L. 106–113). This is a technical correction. The literal requirement of the 1999 amendment—that a grievance involving a supervisor be filed "in no case less than two years after the occurrence giving rise to the grievance"—imposes a waiting period, contrary to the intent of Congress.

Sec. 318. Training authorities

This section would make permanent a pilot program authorized in 1998 at the Foreign Service Institute (FSI) which permitted the FSI to provide, on a reimbursable or advance-of-funds basis, appropriate training and related services to employees of U.S. companies which do business abroad, and to family members of such employees, when such training is in the national interest. The pilot program also authorized training, on a reimbursable basis, to Members of Congress or the Judiciary and employees of the legislative and judicial branches. This section requires a report every other year, so Congress can monitor the situation and ensure that such training is not interfering with the primary mission of the FSI.

Sec. 319. Unaccompanied air baggage

This section relates to unaccompanied air baggage of dependent personnel. Under current law, dependent children (of government personnel) on educational travel are allowed to ship up to 250 pounds of baggage between the United States and the employee's post. The law, however, does not cover any storage of effects. Thus, students often spend much of the summer without their baggage because it is in transit either to or from the post. The provision would allow dependent children who attend school in the United States the option of either leaving their belongings in short-term commercial storage in the United States, if there is no additional cost, instead of shipping their baggage to post. Local storage is a common-sense alternative.

Sec. 320. Emergency medical advance payments

In 1999, Congress provided agencies the authority to advance up to three months' pay to an employee assigned or located outside of the United States on government authorization (i.e., on temporary duty), when the employee or family member must undergo certain medical treatments abroad. Such authority is extended to foreign national employees and non-family member United States citizen employees hired abroad when such individuals need medical care while they are located outside their country of employment on U.S. Government authorization.

Sec. 321. Retirement credit for certain government service preformed abroad

Because of changes made in 1986 to federal retirement law, individuals who worked for the Department of State in U.S. missions abroad under part-time, intermittent or temporary ("PIT") appointments after January 1, 1989, were not eligible to pay into a federal retirement system for that service, or receive credit for that service, in order to improve their future retirement situations. The Department of State amended its regulations in 1998 to cover PIT appointees. The amendment created an inequity for PIT appointees who were employed between 1989 and 1998, since that employment time could not be "purchased" or credited toward any federal retirement system. This section is intended to remedy this inequity by permitting individuals with creditable service as PIT appointees between 1989 and 1998 to receive credit and make a deposit into the Federal Employees Retirement System for all or part of that period. It also recognizes the value added by PIT appointees, who are generally the dependents of Foreign Service or U.S. Armed Forces members, to official operations abroad. The Managers believe that this remedy addresses a basic inequity, however unintended, created by various changes to federal retirement law.

Sec. 322. Computation of Foreign Service retirement annuities as if locality pay were made to overseas stationed Foreign Service members

This section addresses a retirement and pay issued identified by the State Department. At present, "locality pay"—which is provided to employees serving in the United States—is included in the calculation of Foreign Service retirement. Foreign Service Officers serving overseas do not receive locality pay. Thus, as they near retirement, they have a significant financial incentive to seek assignment to Washington, D.C. This often deprives overseas posts of the more experienced officers. Under this section, an officer, while serving overseas, will have his or her annuity calculated as if he or she were actually receiving locality pay.

Sec. 323. Plan for improving recruitment of veterans into the Foreign Service

This section requires the Secretary of State to submit a plan to improve the recruitment of veterans to serve as candidates for the Foreign Service. The Managers believe that the United States armed forces provide a largely untapped recruitment pool of qualified individuals with international experience, as well as writing, reporting and analytical skills.

Sec. 324. Report concerning minority employment

This section requires a report on the status of minority recruitment and promotion efforts in the Department of State for both the Civil and Foreign Service. It is similar to a provision adopted in the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, and adds a requirement for information regarding recruitment and promotion of the Civil Service to the preexisting provision.

Sec. 325. Use of funds authorized for minority recruitment

This section requires the Department to provide additional information on minority recruitment efforts at the Department. Subsection (a) provides that amounts specifically authorized for minority recruitment under section 111 shall be used only for activities directly related to minority recruitment. Salaries of employees involved in recruitment efforts are not to be counted toward that amount. Subsection (b) provides that the State Department must expand its recruitment efforts to 25 percent of Historically Black Colleges and Universities and 25 percent of Hispanic-serving institutions, as defined by law. Subsection (c) requires the Secretary to establish a database relating to efforts to recruit members of minority groups into the Foreign and Civil Service and to report on the evaluation of efforts to recruit such individuals. The Managers are concerned that the Department has not made enough progress in recruiting and promoting members of minority groups to serve in the Foreign and Civil Service. The Managers incorporate by reference the description of the provision in the House passed version of H.R. 1646, section 343, in House Report 107-57.

Sec. 326. Assignments and details of personnel to the American Institute in Taiwan

This section authorizes the detail of U.S. government employees to the American Institute in Taiwan (AIT) if the Secretary determines it is in the national interest to do so. Former federal employees who work at AIT have sometimes been disadvantaged by comparison to employees who remain in federal service without a break in service. The grievance rights of separated Foreign Service Officers who work at AIT are far more restricted; former Civil Service employees at AIT cannot apply for "State only" vacancies upon their return; and eligible family members working at AIT cannot earn credit toward retirement. This section corrects that situation.

Sec. 327. Annual reports on foreign language competence

This section changes the date related to a report on foreign language competence. This change converts the report from a calender year to a fiscal year basis and alters the required date of submission of the report.

Sec. 328. Travel of children of members of the Foreign Service assigned abroad

This section amends Section 901 of the Foreign Service Act to provide a child under 21 with the additional flexibility regarding authorized travel when the child is separated from his or her parents.

Title IV—International Organizations

Sec. 401. Payment of the third installment of arrearages

This section amends several conditions that must be certified pursuant to section 941 in the United Nations Reform Act of 1999 to pay the third and last installment of arrearages to the UN and other international organizations under that Act. This section would "de-link" all UN agencies allowing arrearage payments to each international organization upon certification of the conditions established for that particular agency, without linking such payments to the certification of conditions for other organizations. This section would also facilitate certification of other "year three" conditions.

Sec. 402. Limitation on the U.S. share of assessments for UN peacekeeping operations in calendar years 2001 through 2004

This section amends section 404(b)(2) of the Foreign Relations Authorization Act, FY94 and FY95, which places a cap of 25 percent on the rate of payment by the U.S. of UN assessments for peacekeeping. This would allow full payment for those assessments in calendar years 2001 through 2004 at the following rates: 28.15 percent for calender year 2001; 27.90 percent for calender year 2002 and; 27.40 for calender year 2003 and 2004. This cap of 25 percent would be restored after 2004.

Sec. 403. Limitation on the U.S. share of assessments for UN regular budget

This provision codifies the 22 percent cap on the U.S. assessment rate for the UN regular budget—as negotiated by the then-UN Ambassador Holbrooke in December of 2000. It is consistent with a condition enacted in the United Nations Reform Act of 1999.

Sec. 404. Promotion of sound financial practices by the UN

This provision notes that the U.S. pays its dues to the UN regular budget at least ten months late every year and that other countries have begun to adopt a similar practice. This late payment of U.S. dues results in the UN engaging in unsound budgetary practices. It states the sense of the Congress that the U.S. should initiate a process to synchronize the payment of its assessment to the UN, its affiliated agencies and other international organizations over a multiyear period so the U.S. can resume paying its dues at the beginning of each calendar year. It authorizes such sums as may be necessary to carry out this policy.

Sec. 405. Reports to Congress on UN activities

This section amends the UN Participation Act by eliminating the requirement to submit quarterly reports on U.S. participation in UN peacekeeping operations. It preserves the requirement for an annual report and consolidates requirements for two annual reports on U.S. financial contributions to international organizations.

Sec. 406. Use of secret ballots within the UN

This section requires a report regarding the use of secret ballots within the UN and its specialized agencies. This report shall also include a determination whether the use of these ballots serves the interests of the U.S.

Sec. 407. Sense of Congress relating to Membership of the U.S. in UNESCO

This section expresses the sense of Congress that the President should, in light of his announcement that the U.S. will rejoin the United Nations Educational, Scientific, and Cultural Organization, submit a report describing the merits of renewing U.S. membership in this organization and projecting the costs of such membership.

Sec. 408 U.S. membership on the UN Commission on Human Rights and International Narcotics Control Board

This section urges the U.S. to make every reasonable effort at the UN to secure a seat for the U.S. on the U.N. Commission on Human Rights, and for a U.S. national on the UN International Narcotics Control Board and to prevent membership on the Commission by any member state that, in the judgment of the Secretary, consistently violates internationally recognized human rights or has engaged in severe violations of religious freedom in that country.

Sec. 409. Plan for enhanced Department of State efforts to place U.S. nationals in positions of employment in the UN and its specialized agencies

This section calls for the Secretary of State to submit a report containing a plan describing the steps the Department will take to increase American representation in the UN and its specialized agencies.

Title V—U.S. International Broadcasting Activities

Sec. 501. Modification of limitation on grant amounts to RFE/RL, Inc

This section amends a current limit on grants to RFE/RL, Inc., raising it from $75 million per year to $85 million in fiscal year 2003.

Sec. 502. Pay parity for senior executives of RFE/RL, Inc

Under current law, RFE/RL grant funds may not be used to pay any salary or compensation in excess of the rate level IV of the Executive Schedule. The Broadcasting Board of Governors has interpreted this provision as placing a cap on the salaries of senior Managers of RFE/RL at the rate of pay for Executive Level IV, exclusive of locality pay. RFE/RL senior executives are not federal employees and do not receive locality pay under the Federal Employee Pay Comparability Act of 1990 (which provides for locality adjustments in certain high-cost areas). In order to provide pay parity for these senior employees, this provision would permit up to three senior RFE/RL Managers based in Washington to receive a salary benefit equivalent to the comparable Senior Executive Service salary with locality pay.

Sec. 503. Authority to contract for local broadcasting services outside the United States

This section amends current law relating to authority to enter into contracts for certain capabilities. Under current law, the Broadcasting Board of Governors may enter into contracts for periods not to exceed 7 years for circuit capacity to distribute radio and television programs. This section provides authority to enter into contracts for up to 10 years in order to acquire local broadcasting services outside the United States.

Sec. 504. Personal services contracting pilot program

This section provides the International Broadcasting Bureau (IBB) with the authority to implement a pilot program to utilize personal services contracts in the United States. The authority is capped at 60 employees at any one time.

Sec. 505. Travel by Voice of America correspondents

This section exempts Voice of America (VOA) correspondents from the security responsibilities of the Secretary of State under Section 103 of the Diplomatic Security Act and from the Chief of Mission responsibilities in Section 207 of the Foreign Service Act of 1980. Although VOA correspondents are on the federal payroll, they are unique in that they are working journalists. Accordingly, their independent decisions on when and where to cover the news should not be governed by other considerations. The Managers expects that the VOA Director will take appropriate steps to ensure that VOA correspondents do not take undue risks that threaten their personal security.

Sec. 506. Reports on broadcasting personnel

This section requires the Broadcasting Board of Governors to submit a report on its efforts to diversify the workforce at the International Broadcasting Agency.

Sec. 507. Conforming amendments

This section makes technical and conforming amendments to the U.S. International Broadcasting Act to correct technical errors made in previous Foreign Relations Authorization Acts.

Title VI—Miscellaneous Provisions

SUBTITLE A—MIDDLE EAST PEACE COMMITMENTS ACT OF 2002

Sec. 601. Short title

This subtitle is the "Middle East Peace Commitments Act of 2002."

Sec. 602. Findings

This section describes the most basic commitments made by Palestine Liberation Organization (PLO) in an exchange of letters between the late Prime Minister Yitzhak Rabin and Chairman Yasser Arafat on September 13, 1993. These commitments include resolving outstanding issues through peaceful means, renouncing terrorism and violence, and assuming responsibility over all PLO personnel.

Sec. 603. Reports

This section requires the President to make a determination and to report every six months (initially 60 days after enactment of the legislation) on whether the PLO and/or the Palestinian Authority (PA) are abiding by their commitments as specified in Section 602.

Sec. 604. Imposition of sanctions

This section provides that, if it is determined (in the Section 603 report) that the PLO and/or the PA are not in compliance with the commitments specified in Section 602, then the President is required to impose at least one of four sanctions for a period of at least six months. The possible sanctions are: deny U.S. visas to PLO and PA officials, downgrade the status of the PLO office in Washington to an information office as existed before the Oslo accords, designate the PLO or its constituent groups as terrorist organizations, and cut off non-humanitarian U.S. assistance to the West Bank and Gaza. The President is allowed to waive the sanctions requirement upon making a determination that such a waiver is in the national security interest of the United States.

SUBTITLE B—TIBET POLICY

This subtitle lays out a comprehensive approach for American policy toward Tibet. The Committee believes that this statement of policy is warranted due to the failure of the Government of the People's Republic of China to preserve the distinct ethnic, cultural and religious identity of the Tibetan people and to enter into a dialog with the Dalai Lama or his representatives to reach a negotiated agreement on Tibet.

Sec. 611. Short title

This section entitles this subtitle as the "Tibetan Policy Act of 2002."

Sec. 612. Statement of purpose

This section states the purpose of this subtitle: to support the aspirations of the Tibetan people to safeguard their distinct identity.

Sec. 613. Tibet negotiations

This section urges the President and Secretary of State to encourage the Government of the People's Republic of China to enter into a dialogue with the Dalai Lama or his representatives leading to a negotiated agreement on Tibet, and to provide an annual report to the Congress on steps taken to encourage this dialogue and the status of discussions between the Government of China and the Dalai Lama. The Managers note that the Dalai Lama's special representative held talks with Chinese officials in Beijing and in Lhasa, Tibet, in September 2002, and hope that these talks will lead to a meaningful dialogue.

Sec. 614. Reporting on Tibet

This section mandates that a separate section on Tibet be included in the annual human rights report and the annual religious freedom report submitted by the Department of State to the Congress.

Sec. 615. Congressional Executive Commission on the People's Republic of China

This section amends the U.S.-China Relations Act of 2000 to include as issues to be considered by the Congressional-Executive Commission on the People's Republic of China (1) a description of the status of negotiations between the Government of the PRC and the Dalai Lama; and (2) measures taken to safeguard Tibet's distinct identity.

Sec. 616. Economic development on the Tibetan plateau

Subsection (a) of this section states that it is the policy of the United States to support economic development, cultural preservation, health care, and education and environmental sustainability for Tibetans inside Tibet. The Managers note that in 1980 Chinese Party Secretary Hu Yaobang formulated the Six Point Program for Tibet, which stated that the "Tibetan people's habits, customs, history and culture must be respected," that "all ideas that ignore and weaken Tibetan culture are wrong," and that "Tibet should lay down laws, rules and regulations according to its special characteristics to protect the right of national autonomy and its special national interests." Recognizing that the Dalai Lama is not seeking independence for Tibet, that in 1979 Deng Xiaoping offered to negotiate on all issues other than independence, and that President Jiang Zemin has stated that the door to negotiations is open if the Dalai Lama accepts that Tibet is an inseparable part of China, the Conference believes that the adoption by the current Chinese government of the principles formulated by Hu Yaobang would improve the potential for meaningful negotiations with the Dalai Lama and have a positive impact on United States-China relations. Subsection (b) mandates that the United States use its voice and vote in international financial institutions to support projects in Tibet designed in accordance with a set of principles, enumerated in subsection (d), that are designed to raise the standard of living for the Tibetan people and to make them self-sufficient. Subsection (c) states that Export-Import Bank and the Trade and Development Agency should support projects following these principles. Subsection (d) enumerates the principles which are to serve as guidelines for the projects that international financial institutions, non-governmental organizations and the U.S. government should support in Tibet.

Sec. 617. Release of prisoners and access to prisons

This section states that the President and Secretary of State should request the Government of the PRC to immediately release all Tibetan political prisoners including those known to be seriously ill and seek access for international humanitarian organizations to Tibetan prisoners.

Sec. 618. Establishment of a U.S. branch office in Lhasa, Tibet

This section urges the Secretary of State to make best efforts to establish an office in Lhasa, Tibet, to monitor developments in Tibet.

Sec. 619. Requirement for Tibetan language training

This section mandates that Tibetan language training be available to Foreign Service Officers and to make every effort to assign a Tibetan-speaking officer to the U.S. consulate in the PRC that monitors developments in Tibet.

Sec. 620. Religious persecution in Tibet

This section states that the U.S. Ambassador to China should seek to meet with the 11th Panchen Lama and request his release by the Government of the PRC.

Sec. 621. United States Special Coordinator for Tibetan Issues

This section mandates the establishment within the Department of State of a United States Special Coordinator for Tibetan Issues and outlines the central objective and duties of the Special Coordinator.

SUBTITLE C—EAST TIMOR TRANSITION TO INDEPENDENCE ACT OF 2002

This subtitle specifies steps to be taken by the U.S. government to facilitate the transition of East Timor to independence. The Managers believe that it is in the interests of the United States to help the people of East Timor, who voted overwhelmingly for independence from Indonesia in August 1999, to realize their aspirations for a stable, prosperous democratic nation.

Sec. 631. Short title

This section entitles this subtitle as the "East Timor Transition to Independence Act of 2002."

Sec. 632. Bilateral assistance

This section authorizes $25 million for fiscal year 2003 for programs in East Timor.

Sec. 633. Multilateral assistance

This section mandates that the United States use its voice, vote and influence at each of the international financial institutions of which it is a member to support economic and democratic development in East Timor.

Sec. 634. Trade and investment assistance

Subsection (a) of this section urges the President of the Overseas Private Investment Corporation (OPIC) to initiate negotiations with the Government of East Timor to enter into a new agreement authorizing OPIC to carry out programs with respect to East Timor. Subsection (b) authorizes $1 million to the Trade and Development Agency to carry out programs in East Timor. Subsection (c) encourages the U.S. Export-Import Bank to expand its activities with respect to East Timor.

Sec. 635. Generalized System of Preferences

This section urges the U.S. Trade Representative and the Customs Commissioner to send an assessment team to East Timor to determine what products from East Timor would be eligible for benefits under the Generalized System of Preferences.

Sec. 636. Authority for radio broadcasting

This section provides that the Broadcasting Board of Governors should broadcast to East Timor in an appropriate language or languages.

Sec. 637. Security assistance for East Timor

Subsection (a) of this section requires the President to conduct a study and report to the appropriate Congressional committees on the extent to which East Timor's security needs can be met through provision of excess defense articles and on the extent to which international military education and training (IMET) assistance will enhance the professionalism of the armed forces of East Timor. Subsection (b) authorizes the provision of excess defense articles and IMET pending a certification that East Timor has established independent armed forces and that assisting those forces will promote U.S. national interests and human rights and professionalization of the armed services in East Timor.

Sec. 638. Reporting requirement

This section requires the Secretary of State to transmit a report within 180 days of enactment, and annually thereafter for five years, on various developments with respect to East Timor including the specific steps taken by U.S. agencies to assist East Timor.

SUBTITLE D—CLEAN WATER FOR THE AMERICAS PARTNERSHIP OF 2002

Sec. 641. Short title

This section entitles the subtitle as the "Clean Water for the Americas Partnership Act of 2002."

Sec. 642. Definitions

This section defines terms used in the subtitle.

Sec. 643. Establishment of program

This section authorizes the President to establish a Clean Water for the Americas Partnership.

Sec. 644. Environmental assessment

This section authorizes the President to conduct a comprehensive environmental assessment in the region to determine the most severe environmental problems threatening human health, which countries have them, and whether there is a market for the U.S. environmental industry in the region.

Sec. 645. Establishment of American technology centers

This section authorizes the President to establish Technology America Centers (TEAMs) in the region to link the U.S. environmental technology industry with local partners by providing logistic and information support to U.S. firms seeking opportunities for environmental projects.

Sec. 646. Promotion of water quality, water treatment systems, and energy efficiency

This section authorizes the President to provide matching grants to U.S. associations and non-profits for the purpose of promoting water quality, water treatment and energy efficiency in the region. These grants shall be used to support professional exchanges, academic fellowships, training programs, development of local chapters of associations or non-profits, and online exchanges.

Sec. 647. Grants for feasibility studies within a designated subregion

This section authorizes 75/25 matching grants, through the Trade and Development Agency, for "pre-feasibility studies" for water projects within a subregion or an individual country of the Latin America/Caribbean region. These grants would provide potential investors in environmental projects, primarily water projects such as water treatment plants, a "jump-start" in getting these projects off the ground.

Sec. 648. Clean Water Technical Support Committee

This section authorizes the President to establish a Clean Water Technical Support Committee to provide technical support for water projects in the region.

Sec. 649. Authorization of appropriations

This section authorizes $10 million for each of the fiscal years 2003 through 2005.

Sec. 650. Report

This section mandates a report to within two years of establishment of the program under Sec. 643 containing an assessment of the progress made in this program and any recommendations for legislative changes.

Sec. 651. Termination date

This section terminates the authorities provided by this subtitle three years after the establishment of the program, unless the President certifies that it would be in the national interest to maintain the program for an additional two-year period.

Sec. 652. Effective date

This section sets the effective date of this subtitle as 90 days after the date of enactment.

SUBTITLE E—FREEDOM INVESTMENT ACT OF 2002

Section 661. Short Title

This section entitles this subtitle as the Freedom Investment Act of 2002.

Sec. 662. Purposes

This section states that the purposes of this subtitle are to: underscore that promoting and protecting human rights is in the national interest of the United States; is consistent with American values and beliefs; and to establish a goal of devoting one percent of the State Department's operating budget to enhancing the ability of the United States to promote respect for human rights and the protection of human rights defenders.

Sec. 663. Human rights activities at the Department of State

This section expresses the sense of Congress that the budget for the Bureau of Democracy, Human Rights and Labor (DRL) should be substantially increased so that beginning in fiscal year 2005, one percent of the State Department's operating budget should be available for such bureau. It also expresses the sense of Congress that any assignment of an individual to a political officer position at a United States Mission abroad that has the primary responsibility for monitoring human rights developments in a foreign country should be made upon the recommendation of the Assistant Secretary for Democracy, Human Rights and Labor in conjunction with the head of the Department's regional bureau having primary responsibility for that country. This section also requires the Secretary to submit a plan for the Department to (1) improve integration of human rights policy into the Department's overall policy formulation and implementation, (2) achieve closer communication and policy coordination between DRL and the regional bureau, including between DRL and personnel at overseas posts, and (3) to assign persons in the manner described above.

With respect to funding, the Managers intend that the Department take seriously the goals established by this section. For the last few years the Department has been pressed to substantially increase the resources devoted to human rights in general and the DRL bureau in particular. The Managers believe this trend must continue so as to meet the goal defined above.

The Managers also believe that the Department needs to ensure that human rights concerns are considered at every level of decision making within the Department, from the country desk to the Secretary of State. While there has been some movement towards achieving this goal since the mid-1990's, the Managers intend that the Department think creatively in finding new ways to ensure that human rights is an integral component of U.S. foreign policy. In particular, the Managers believe that there needs to be more communication between DRL and the regional bureaus, which often have day-today operational responsibilities with respect to human rights matters, and most importantly, more direct communication between DRL and officers in the field. At a minimum the DRL Bureau needs to concur in any recommendation to assign a person to the particular position overseas. By giving such a role to the DRL Bureau, the Managers believe that Foreign Service Officers will be more likely to seek positions in DRL, since the Bureau will be able to further their career development. The Managers expect that in countries that have significant human rights problems, DRL would have a role in the assignment of senior positions responsible for such issues.

Section 664. Human Rights and Democracy Fund

This section authorizes $21,500,000 for the Human Rights and Democracy Fund from funds appropriated under the "Economic Support Fund" account. The Managers expect that this fund shall continue to be administered by the DRL bureau, as is the case today. The provision also contains a specific authorization for the Documentation Center of Cambodia and a Father John Kaiser Memorial Fund.

Section 665. Reports on actions taken by the United States to encourage respect for human rights

Subsection (a) of this section amends sections 116 and 502B of the Foreign Assistance Act to require that the report mandated by such sections include additional information with respect to each country for which the report indicates that extra-judicial killings, torture, or other serious violations of human rights have occurred. For each such country, the Department is required to report the extent to which the United States has taken or will take action to encourage an end to such practices. Subsection (b) of this section provides that reports on such matters may be submitted in a separate report.

The Mangers intend that the reporting required by the amendments in this section be a serious and substantial report outlining a specifically tailored strategy for each country where there is substantial evidence indicating that the human rights abuses described in the section have occurred.

SUBTITLE F—ELIMINATION AND STREAMLINING OF REPORTING REQUIREMENTS

Sec. 671. Elimination of certain reporting requirements

This section eliminates several reporting requirements.

Sec. 672. Biennial reports on programs to encourage good governance

This section changes the annual report required to a biennial report.

SUBTITLE G—OTHER MATTERS

Sec. 681. Amendments to the International Religious Freedom Act of 1998

This section makes revisions to the International Religious Freedom Act of 1998 related to the Commission on International Religious Freedom created by the Act.

Subsection (a) amends the reporting requirement in the International Religious Freedom Act of 1998 to include information on discrimination against particular religious groups or members of such groups. In particular, the Managers are concerned about the use of "sect filters" as a violation of religious freedom as indicated in senate report 107-60, page 33.

Subsection (b) provides for staggered terms for Commission members.

Subsection (c) alters the date of the election of the Chair of the Commission.

Subsection (d) relates to vacancies.

Subsection (e) authorizes $3,000,000 in fiscal year 2003.

Subsection (f) provides limited authority to procure non-governmental services.

Subsection (g) extends the Commission to 2011.

Sec. 682. Amendments to the Victims of Trafficking and Violence Protection Act of 2000

This section amends the Trafficking Victims Protection Act (Title I of the Victims of Trafficking and Violence Protection Act of 2000) to make clear that programs of assistance to foreign victims shall include, to the maximum extent practical, support to non-governmental organizations in foreign countries that provide protection and assistance to trafficking victims; for education and training of trafficking victims; for safe and voluntary integration or reintegration, as appropriate, of victims into families and/or communities; and for programs that assist families in locating their family members who are trafficking victims and in helping them to return to their homes, to integrate into the communities in which they are living, or to resettle in safe third countries, according to the wishes of the victim. This section also authorizes funding for fiscal year 2003 for programs and activities under the Trafficking Victims Protection Act.

Sec. 683. Annual Human Rights Country Reports on Child Soldiers

This section amends sections 116(d) and 502B of the Foreign Assistance Act of 1961 to require that the State Department's Country Reports on Human Rights Practices includes information related to each country's compliance with the standards set forth in the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

Sec. 684. Extension of authority for Caucus on International Narcotics Control

This section extends the authorization of the Senate Caucus on International Narcotics Control through September 30, 2005.

Sec. 685. Participation of South Asia countries in international law enforcement

This section provides that the Secretary of State shall ensure, where practicable, that appropriate government officials from countries in the South Asia region shall be eligible to attend courses at the International Law Enforcement Academies located in Bangkok, Thailand, and Budapest, Hungary, consistent with other provisions of law, with the goal of enhancing regional cooperation in the fight against transnational crime.

Sec. 686. Payment of anti-terrorism judgments

This section modifies section 2002 of the Victims of Trafficking and Violence Protection Act, which facilitates collection of damage awards imposed by certain judgments of United States courts against state sponsors of terrorism by amending (a)(2)(A)(ii) of that section to make additions to the persons covered by that section.

Sec. 687. Reports on participation by small businesses in procurement contracts of USAID

Concerns have been expressed regarding the amount of procurement by USAID from small business and small businesses owned and controlled by women and socially and economically disadvantaged individuals, among others. This section is intended to obtain additional information beyond the information that USAID has filed with the Small Business Administration regarding these matters.

Sec. 688. Program to improve building construction and practices in Latin American countries

To limit the economic and social cost of future natural disasters in the region, this section authorizes the President to carry out a program to improve building codes and practices in Latin America by: training appropriate professionals from the region in building codes, practices, and standards; translating American building and life safety codes into Spanish: and providing other relevant assistance as needed, including helping local government officials develop seismic micro-zonation maps.

While El Salvador and Ecuador are initial candidates for the activities authorized in this section, the Managers encourage the Administration to extend this program to other Latin American countries, as needed. The Managers also expect that the Administrator of the United States Agency for International Development will consider implementing the program through organizations which are not-for-profits standards development organizations, as defined in OMB Circular A119, to the maximum extent practicable, and possess the relevant experience with the Spanish language.

Sec. 689. Sense of Congress relating to HIV/AIDS and UN peacekeeping operations

This section expresses the sense of Congress that the President should direct the Secretary of State and the U.S. Representative to the U.N. to urge the UN to adopt an HIV/AIDS mitigation strategy as a component of UN peacekeeping operations. The Managers acknowledge the dangers associated with the use of peacekeeping forces that contain personnel infected with HIV/AIDS, especially when peacekeeping forces are usually deployed to areas already suffering from the disruption of social, economic, and civil order. This section urges the President to focus special diplomatic emphasis on the establishment of an HIV/AIDS mitigation strategy to be a component of standard UN peacekeeping procedures in order to minimize and, if possible eliminate, these additional dangers. The Managers believe that such a strategy could include specialized training for local officials in particularly hard-hit regions, such as East and Southern Africa, by USAID and similar organizations.

Sec. 690. Sense of Congress relating to Magen David Adom Society

This section recognizes that the Magen David Adom Society is the national humanitarian society in the State of Israel and that it follows all the principles of the International Red Cross and Red Crescent Movement. Since 1949 the Magen David Adom Society has been refused admission into the International Red Cross and Red Crescent

Movement and has been relegated to observer status without a vote because it has used the Red Shield of David as its symbol. The section states that it is the sense of Congress that (1) the International Committee of the Red Cross should immediately recognize the Magen David Adom Society; (2) the Federation of Red Cross and Red Crescent Societies should grant full membership to the Magen David Adom Society immediately following recognition by the International Committee of the Red Cross of the Magen David Adom Society as a full member; (3) the Red Shield of David should be accorded the same protections under international law as the Red Cross and the Red Crescent; and (4) the United States should continue to press for full membership for the Magen David Adom Society in the International Red Cross Movement.

Sec. 691. Sense of Congress regarding the location of Peace Corps offices abroad

This section expresses the sense of Congress that the Secretary of State should give favorable consideration to requests by the Director of the Peace Corps to allow the Peace Corps to maintain offices in locations separate from the United States embassy to the degree consistent with security considerations.

Sec. 692. Sense of Congress relating to resolution of Taiwan Strait issue

This section expresses the sense of Congress that Taiwan is a democracy and it is the policy of the U.S. that a resolution of the Taiwan Strait issue must be peaceful and include the assent of the people of Taiwan.

Sec. 693. Sense of Congress relating to display of the American flag at the American Institute in Taiwan

This section expresses the sense of the Congress that the American Institute in Taiwan and the residence of the director of the American Institute in Taiwan should publicly display the flag of the United States in the same as manner as it is displayed at United States embassies, consulates, and official residences throughout the world.

Sec. 694. Reports on activities in Colombia

This section requires the Secretary of State to submit two separate reports to Congress on U.S.-funded activities in Colombia. The first report will summarize U.S. efforts to promote alternative development, recovery and resettlement of internally displaced persons, judicial reform, the peace process, and human rights. The report also will establish timetables for these activities, justify delays in meeting previous timetables, and identify corrective measures to prevent future delays.

The second report relates to the activities of U.S. businesses that have entered into agreements with the Departments of State and Defense to administer counter-narcotics programs in Colombia. Given the crucial role of U.S. businesses in carrying out the counter-narcotics objectives of Plan Colombia and its successor programs, the Managers hope that this report will encourage the Administration to be more forthcoming as to the specifics of its partnership with U.S. businesses in Plan Colombia-related activities and the Administration's plans to transfer operational control of same to the appropriate Colombian authorities.

Sec. 695. Report on United States-sponsored activities in Colombia

This section requires the Secretary of State to provide the Congress with a report outlining a comprehensive strategy to eradicate all opium cultivation in Colombia and the impact of Plan Colombia on neighboring countries.

Sec. 696. Report on extradition policy and practice

This section requires a report on extradition practices. The Managers attache great importance to international law enforcement assistance, in particular as the war on terrorism proceeds. The Managers take note of important steps forward achieved recently by the Departments of State and Justice in the field of extradition. In particular, the Managers are aware that these Departments have concluded extradition agreements with several South American countries that require the extradition of nationals. This substantial achievement represents a major departure from the normal practice of civil law countries. These agreements eliminate a major bilateral law enforcement irritant where they are in force, and the Managers hope that this practice will be emulated by treaty partners in Europe and elsewhere.

Sec. 697. Special Court for Sierra Leone.

This section authorizes appropriations of $5 million in fiscal year 2003 to support the Special Court for Sierra Leone. This section also authorizes rewards for information that leads to the arrest of persons indicted by the Special Court.

Sec. 698. United States Envoy for Peace in Sudan

This section states that there should continue to be a United States Envoy for Peace in Sudan until there is a comprehensive settlement to the conflict in Sudan.

Sec. 699. Transfer of proscribed weapons to persons or entities in the West Bank and Gaza

This section authorizes certain sanctions against foreign persons or entities which knowingly transfer certain weapons to Palestinian entities in the West Bank or Gaza.

Sec. 700. Sense of Congress relating to arsenic contamination in drinking water in Bangladesh

This section expresses the sense of Congress that the Secretary of State should work with appropriate United States Government agencies, national laboratories, universities in the United States, the Government of Bangladesh, international financial institutions and organizations, and international donors to identify a long-term solution to the arsenic-contaminated drinking water problem in Bangladesh. It also requests a report on proposals to bring arsenic-free drinking water and to facilitate treatment for those who have already been affected by arsenic-contaminated drinking water in Bangladesh.

Sec. 701. Policing reform and human rights in Northern Ireland

This section reiterates the commitment of the Congress to promote respect for human rights by all parties in Northern Ireland. It calls for independent judicial public inquiries into the killings of defense lawyers Rosemary Nelson and Patrick Finucane and for the government of the United Kingdom to take appropriate measures to protect defense lawyers and human rights defenders, as well as for the decommissioning of weapons by the Irish Republican Army all other paramilitary groups and an end to punishment attacks and exiling by such groups. The section also requires the President to submit a report on the extent to which the governments of the United Kingdom and the Republic of Ireland have implemented the recommendations of the Patten Commission with respect to policing reform, on the status of investigations into the deaths of Rosemary Nelson, Patrick Finucane, and Robert Hammill, and on the status of decommissioning of weapons by the Irish Republican Army and other paramilitary organizations. Finally, the section sets forth conditions on training or exchanges conducted by United States law enforcement agencies for the Police Service of Northern Ireland (PSNI) or its members to ensure that such programs promote the peace process and the professionalism of policing and does not include PSNI members who there are substantial grounds for believing have committed or condoned human rights violations.

Sec. 702. Annual report on United States-Vietnam human rights dialogue meetings

This section requires an annual report on the issues discussed at meetings of the United States-Vietnam human rights dialogues, and to what extent the Vietnamese government has made progress on certain human rights issues, including the following: improving commercial and criminal codes, releasing those imprisoned or detained on political or religious grounds, ending official restrictions on religious activity, promoting freedom of the press, improving prison conditions, respecting the rights of indigenous minority groups and of workers, and cooperating with U.S. requests to obtain access to those seeking to come to the United States as refugees or emigrants. The Managers believe that the bilateral dialogue can be an effective means of bringing about improvements in Vietnam's human rights policies if U.S. officials make concerted efforts to place specific issues and cases on the table and encourage the government of Vietnam to respond with concrete steps.

Sec. 703. Sense of Congress regarding human rights violations in Indonesia

This section expresses a sense of Congress that the Government of Indonesia should demonstrate progress toward ending human rights violations by the armed forces and make efforts to find and prosecute those responsible for the murders of Papuan leader Theys Eluay and Acehnese human rights advocate Jafar Siddiq Hamzah, and U.S. citizens Edwin L. Burgon and Ricky L. Spier.

Sec. 704. Report concerning the German Foundation "Remembrance, Responsibility, and the Future"

This section directs the Secretary of State to report on the status of the agreement between the government of the United States and the Federal Republic of Germany concerning the Foundation that was established to distribute Holocaust era insurance claims and payments to Holocaust survivors who were forced into labor or slave labor. This report shall be submitted to appropriate congressional committees, either in writing or orally, within 180 days after the enactment of this Act, and every 180 days thereafter.

Sec. 705. Sense of Congress on return of portraits of Holocaust victims to the artist Dina Babbitt

This section expresses the sense of the Congress that the President and Secretary of State should make all efforts necessary to retrieve the original seven watercolor portraits painted by Dina Babbitt that are held by the Auschwitz-Birkenau State Museum.

Sec. 706. International drug control certification procedures

This section provides an alternative mechanism to Section 490 of Chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to annual drug certification procedures). That mechanism requires the submission of a report to Congress by September 15 of the previous fiscal year setting forth the names of countries determined by the President to be major drug-transit or major illicit drug producers as defined in section 481(e) of the Foreign Assistance Act of 1961. In such reports the President must identify which, if any countries, included in the report have "demonstrably failed" to adhere to obligations under international counter narcotics agreements or have failed to take the counter narcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961 and give a rationale for such determinations.

The section also prohibits any country so identified from receiving U.S. assistance in the subsequent fiscal year unless the President determines that the continuation of assistance is vital to U.S. national interests, or after the initial determination on September 15 of the previous fiscal year, the President subsequently determines that such country is in fact adhering to its international obligations with respect to counter narcotics matters. Once the requirements of this section are fulfilled, funds that would be otherwise withheld pursuant to section 490 are available for obligation or expenditure on or after October 1 of the next fiscal year. If a report is filed pursuant to this section, section 490 (a) through (h) of the Foreign Assistance Act of 1961 will no longer apply in the new fiscal year for countries otherwise covered by that section which have been included in the report required under paragraph (1).

The section also contains a transition rule for fiscal year 2003 setting the date for the transmission of the report required under paragraph 1 of this section at not less than 15 days prior to the obligation or expenditure of any funds that would otherwise be withheld pursuant to Section 490 of the Foreign Assistance Act of 1961. Section 490 (a) through (h) would not apply in FY 2003 for any country included in this report.

Notwithstanding the above, this section would also allow the President to apply Section 490 (a)–(h) of the Foreign Assistance Act of 1961 to any country determined to be a major drug transit or illicit drug producing country as defined in section 481(e) of that Act, at his discretion. The Managers believe that under either alternative, if a major drug producer or major transit country fails to qualify for assistance, and the President does not determine that the provision of assistance is nonetheless vital to U.S. national interests, then the President must also direct that United States Executive Directors to each multilateral bank to vote against loans or other utilization of funds to such country from such institutions as described in Sec. 490(a)(2) of the Foreign Assistance Act of 1961.

The Managers believe that the addition of this alternative approach gives the President more flexibility to implement a successful U.S. counter-narcotics policy.

DIVISION B—SECURITY ASSISTANCE ACT OF 2002

Title X—General Provisions

Sec. 1001. Short Title

This section designates the short title of Division B.

Sec. 1002. Definitions

This section provides definitions for purposes of Division B.

Title XI—Verification of Arms Control and Nonproliferation Agreement

Sec. 1101. Verification and Compliance Bureau personnel

This section authorizes $14,000,000 for fiscal year 2003 for the Bureau of Verification and Compliance. In addition, this section authorizes an additional $1,800,000 in fiscal year 2003 for the purpose of hiring new personnel to carry out the Bureau's responsibilities including the assignment of one full-time person in the Bureau to manage the document control, tracking, and printing requirements of the Bureau's operation in a Sensitive Compartmented Information Facility (SCIF).

The Bureau of Verification and Compliance in the Department of State has been unable, with its current personnel and its wide responsibilities (which include some services of common concern for other bureaus), to fully support compliance analysis and enforcement, as well as U.S. negotiations in which verification is an important issue. The Managers therefore authorize a larger budget than requested for this Bureau, including $1.8 million for additional personnel, which should remedy the problem.

The Managers applaud the Department of State for the improvement in the content of its congressionally-mandated nonproliferation reports; further improvement, however, is still needed. For example, the Managers expect the Verification and Compliance Bureau to address countries' compliance with their legal and political nonproliferation commitments, consistent with that Bureau's original statutory mandate. The intent of section 2(a)(1)(B) of the Iran Nonproliferation Act of 2000 (P.L. 106–178) was to cover items that would contribute to the nuclear, chemical, and biological weapons capabilities, and the ballistic missile capabilities, of Iran. The reference in that Act to the Missile Technology Control Regime (MTCR) Annexes was not meant to imply that the report under that Act should cover only the transfer of components meeting every Annex criterion. Rather, items of the general type listed in the Annexes, which could also be used in MTCR-class missiles, should also be covered, consistent with section 2(a)(2) of the Act.

Sec. 1102. Key Verification Assets Fund

This section authorizes $7,000,000 in fiscal year 2003 for the purposes of funding the Key Verification Assets Fund.

The Key Verification Assets Fund has had limited funding since it was created pursuant to section 1111 of the Arms Control and Nonproliferation Act of 1999, but has demonstrated an ability to leverage the work of other departments and agencies in technical aspects of arms control verification. Too often, Department of State funds are required to keep other departments' or agencies' verification assets functioning. While this is a valid and vital use of the Key Verification Assets Fund, the Managers hope that much of the increased funding authorized in this section can be used to promote improved verification, rather than merely to prevent significant degradation of U.S. verification capabilities.

Sec. 1103. Revised verification and compliance reporting requirements

This section modifies the date by which a report on arms control, nonproliferation and disarmament, and compliance is due. Under current law, the report is due on January 31st of each year. This objective has rarely been achieved, if ever. The Managers expect the deadline of April 15th set by this section to be a more realistic date and urge the executive branch to honor this revised requirement.

Title XII—Military and Related Assistance

SUBTITLE A—FOREIGN MILITARY SALES AND FINANCING AUTHORITIES

Sec. 1201. Authorization of appropriations

This section authorizes $4,107,200,000 for fiscal year 2003 for Foreign Military Financing (FMF), which is the executive branch's requested amount.

Sec. 1202. Relationship of foreign military sales to the U.S. nonproliferation interests

This section amends section 4 of the Arms Export Control Act (AECA) to expand the purposes for which foreign military sales may be provided. This section also amends the AECA to provide a statutory definition of the term, "weapons of mass destruction."

Section 4 of the Arms Export Control Act permits U.S. arms sales or leases "solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less-developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries." The Managers' amendment to that section makes clear that such sales or leases are also permitted for preventing or hindering the proliferation of weapons of mass destruction and the means for delivering such weapons. The urgent and significant nature of these threats to U.S. national security makes it necessary to marshal all available programs, including arms transfers, as appropriate, to halt proliferation.

Sec. 1203. Official reception and representation expenses

This section amends section 43(c) of the Arms Export Control Act (22 U.S.C. 2792) to increase the annual limit on the amount of funds that may be expended for official reception and representation expenses under the Arms Export Control Act from $72,500 to $86,500. Reception and representational expenses are an important part of the successful conduct of the Security Cooperation Program. Since 1993, the amount authorized for these expenses has remained at the same ceiling of $72,500.

An additional increase for representational and entertainment expenses was sought by the Department of Defense through the fiscal year 2002 budget request for the Foreign Military Financing (FMF) Program, which is included in the Foreign Operations Appropriation. That FMF request, combined with section 1203, results in the total representational fund budget used by the Security Cooperation Organizations, to include the Security Assistance Offices (SAOs). Since 1993, an additional 33 SAOs have been opened. These additional 33 SAOs require new representational funding that is comparable to what SAOs in other countries receive, which is $2,000 per office. The Department of Defense has indicated that section 1203 will result in no additional costs to that Department.

Sec. 1204. Arms Export Control Act prohibition on transactions with countries that have repeatedly provided support for acts of international terrorism

This section modifies section 40 of the Arms Export Control Act (AECA), which prohibits transactions with countries that have repeatedly provided support for acts of international terrorism.

Section 40 of the AECA (22 U.S.C. 2780) prohibits various arms transactions with certain countries, and subsection (d) of that section applies those limits to any country that the Secretary of State determines has repeatedly provided support for acts of international terrorism. Such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material.

The Managers believe that willfully aiding or abetting the proliferation of chemical, biological, or radiological agents to individuals or groups is an activity equally deserving of sanction under section 40 of AECA. Inclusion of the term, "radiological agents," is not meant to bar legitimate and legal transfers of radiological material, such as nuclear reactor fuel or medical or industrial isotopes, for purely peaceful purposes. The Managers do intend, however, that if a country contributes to the proliferation of such materials to be used as or in radiological weapons, or with the knowledge or reason to believe that they would be so used, then section 40 of AECA should be applied.

Sec. 1205. Congressional notification of small arms and light weapons license approval; reports

This section amends section 36(c) of the Arms Export Control Act (AECA) to require that arms transfers consisting of defense articles that are firearms controlled under category I of the United States Munitions List be notified to the Congress, if such proposed transfers are valued at $1,000,000 or more.

This section also includes three reporting requirements. First, this section amends section 40 of the AECA to require the executive branch to report on the numbers, range, and findings of end-use monitoring of U.S. transfers of small and light weapons. Second, this section amends section 655 of the Foreign Assistance Act to require additional information on small arms and light weapons including the aggregate dollar value and quantity of semiautomatic assault weapons or spare parts for such weapons that were licensed for export during the period covered by the report required by section 655. And third, this section requires a one-time report on activities of registered arms brokers.

Sec. 1206. Treatment of Taiwan relating to transfers of defense articles and defense services

This section requires that Taiwan shall be treated as though it were designated a major non-NATO ally for the purposes of the transfer or possible transfer of defense articles or defense services under the Arms Export Control Act, the Foreign Assistance Act or any other provision of law.

SUBTITLE B—INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 1211. Authorization of appropriations

This section authorizes $85,000,000 for fiscal year 2003 for the International Military Education and Training (IMET) program. This level of funding is an increase of $5,000,000 over the executive branch's request for fiscal year 2003, which reflects the Managers' strong support for the IMET program.

Sec. 1212. Human rights violations

This section requires additional reporting to the Congress regarding human rights violations by participants in the International Military Education and Training (IMET) program.

Current U.S. law requires that prospective IMET participants be screened to ensure that they do not have records of human rights violations. There is no requirement, however, to monitor their human rights records after receiving U.S. training. Last year, Congress mandated a new Department of Defense database on IMET participants after December 31, 2000, which does not require new collection of information but should help the Defense Department to keep track of the training it provides, and where its former students go as their careers progress. One justification for the IMET program is that it provides human rights training and a consciousness about respecting human rights in its participants, who presumably will be more respectful of human rights concerns in their own countries. This provision will allow the executive branch and the Congress to better assess the impact of IMET human rights training.

The Managers believe that if a former IMET participant is found to have been involved in a human rights violation, reported in the Department of State's annual human rights report, that person's previous IMET training should be reported to the Congress. To assist the Secretary of State in determining whether there was any such involvement, section 1212 authorizes the Secretary to obtain from the Secretary of Defense, annually, any IMET participant database information with respect to a list containing the names of foreign personnel or military units. If it should be determined, as a result, that a former IMET participant was involved in a human rights violation, the Department of Defense shall update its IMET participant database to reflect that information. This process will give policymakers—and especially the Department of Defense itself—new information with which to evaluate and improve the effectiveness of IMET courses.

Sec. 1213. Participation in post-undergraduate flying training and tactical leadership programs

This section amends chapter 5 of the Foreign Assistance Act to provide the authority for the President to enter into bilateral or multilateral agreements with friendly foreign countries for the cooperative furnishing of post-undergraduate flying and tactical leadership training on a non-reimbursable basis at facilities in Southwest Asia.

The Managers believe that providing this authority to the President will allow the United States to better utilize the Gulf Air Warfare Center located in the United Arab Emirates. Access to this center will allow the United States to maintain influence with counterparts in the region, and will provide U.S. forces with access to an unparalleled training and range facility.

The Managers expect that the executive branch will work to ensure that the agreements between the U.S. and certain countries in Southwest Asia will be based on the equitable provision of support and services. The Managers intend that the language provided which allows a waiver for the requirement of equitable support and services should be used sparingly, if at all.

SUBTITLE C—SECURITY ASSISTANCE FOR SELECT COUNTRIES

Sec. 1221. Security assistance for Israel and Egypt

This section modifies provisions in current law to authorize Foreign Military Financing (FMF) and Economic Support Funds (ESF) at funding levels and under terms and conditions consistent with the executive branch's request for such programs for fiscal year 2003.

Beginning in fiscal year 2001, the United States began to reduce Economic Support Funds (ESF) assistance to the countries of Israel and Egypt and to replace 50 percent of the reductions in ESF for Israel with an increase in the Foreign Military Financing (FMF) funds for that country. Section 1221 continues that process.

The Managers also note that this section authorizes $200,000,000 in ESF for Israel for fiscal year 2003 for defensive, nonlethal antiterrorism assistance.

Sec. 1222. Security assistance for Greece and Turkey

This section authorizes assistance under the International Military Education and Training (IMET) program for fiscal year 2003 for Greece and Turkey.

This section continues policies established previously, notably in section 512 of the Security Assistance Act of 2000 (P.L. 106-280).

Sec. 1223. Security assistance for certain other countries

This section authorizes assistance for Foreign Military Financing (FMF) and International Military Education and Training (IMET) for fiscal year 2003 for selected countries.

The Managers believe that it is important to specify security assistance amounts for a number of countries of particular concern. In this year's bill, FMF and IMET amounts are specified for the Baltic states, Bulgaria, the Czech Republic, Georgia, Hungary, Jordan, Malta, the Philippines, Poland, Romania, Slovakia and Slovenia. Funding levels for these countries are at or slightly above the executive branch's request for fiscal year 2003.

Sec. 1224. Assistance to Lebanon

This section addresses U.S. assistance for Lebanon. Under this section, $10,000,000 of the Economic Support Funds (ESF) allocated to Lebanon must be withheld for fiscal year 2003 and for all subsequent fiscal years unless and until the President certifies to the appropriate congressional committees for each fiscal year that (1) the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel; and (2) the Government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed. The withheld funds may not be reprogrammed for any other purpose until the last month of the fiscal year in which the authority to obligate such funds lapses.

This provision is intended to persuade the Government of Lebanon to meet its obligation under UN Security Council Resolution 425, which calls for restoration of the Government of Lebanon's "effective authority" in Southern Lebanon, in the wake of Israel's May 2000 withdrawal from Southern Lebanon. The Israeli withdrawal and compliance with UNSCR 425 was certified by the UN Secretary-General and the UN Security Council President. The Government of Lebanon's failure to comply with UNSCR 425 has resulted in significant control of the border by

Hizballah, which has initiated numerous attacks on Israeli soldiers and soil, resulting in several deaths and casualties. Allowing an organization designated as a foreign terrorist organization to operate on the Lebanese border during the war on terrorism is highly destabilizing in this volatile region.

SUBTITLE D—EXCESS DEFENSE ARTICLE AND DRAWDOWN AUTHORITIES

Sec. 1231. Excess defense articles for certain countries

This section authorizes funds of the Department of Defense to be expended for packing and shipping of excess defense articles (EDA) under section 516 of the Foreign Assistance Act.

The EDA program enables the United States to meet foreign policy objectives while simultaneously supporting U.S. friends and allies by improving their defense capabilities and enhancing interoperability, and to reduce U.S. stocks of excess equipment. Most Central and Southern European and Newly Independent States countries urgently seek U.S. EDA to replace former Soviet equipment as both a political statement and a way to enhance interoperability with NATO. In addition, certain countries, such as Estonia, Latvia and Lithuania, continue to require EDA as they build their defense forces from zero. Unfortunately, most of these countries cannot afford the packing, crating, handling and transportation (PCH&T) costs associated with EDA as they convert to market economies. Without extended authority to assume those costs, the EDA program becomes virtually unavailable to these countries.

In the Fiscal Year 2000 and 2001 Foreign Relations Authorization Act, Title XII—Security Assistance, sections 1211 and 1212, contained in the Fiscal Year 2001 Appropriations Act, P.L. 106–113, such authority was granted for fiscal year 2000 and fiscal year 2001 for EDA provided to Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Slovakia, Ukraine, and Uzbekistan. The same authority was provided for Mongolia for fiscal year 2001 and fiscal year 2002 in the Security Assistance Act of 2000, Section 707, P.L. 106–80.

Section 1231 extends these current authorities to fiscal year 2003 for certain specified Central and Southern European and certain other countries. Newly included countries include India, Pakistan, Tajikistan and Turkmenistan, all of which have offered assistance in the war on international terrorism.

Sec. 1232. Annual listing of possible excess defense articles

This section amends section 25 of the Arms Export Control Act (AECA) to require that the annual "Javits report" of possible arms transfers for the coming year include a list and amount of weapons systems that are significant military equipment that the executive branch believes are likely to become available for transfer as excess defense articles (EDA) during the next 12 months.

The Managers realize that often it is difficult to determine in advance what defense articles will become available for transfer as EDA and do not expect perfection in an annual listing of such articles. As new significant military equipment is deployed by the United States armed forces, however, the systems it replaces can become available at a predictable rate. Given the increasing strategic role that the transfer of EDA plays in U.S. relations with other countries, the Managers believe that such transfers should be the product of interagency strategic thinking and planning. In order to encourage such a process, section 1232 mandates this new reporting requirement.

Sec. 1233. Leases of defense articles for foreign countries and international organizations

This section modifies section 61 of the Arms Export Control Act (AECA) to provide authority to the President to enter into leases for defense articles from the stocks of the Department of Defense for fixed periods of time longer than five years in instances where the defense articles require major refurbishment work prior to delivery to the lessor foreign country or international organization.

Section 2796(b) of title 22, U.S.C., currently provides that the President may lease defense articles from the stocks of the Department of Defense to eligible foreign countries and international organizations for a fixed duration of not more than five years. Some defense articles require major refurbishment work prior to delivery to the eligible foreign country or international organization. By including the time needed to complete this required refurbishment work in the five-year limit on the overall lease, the actual amount of time the eligible party has the beneficial use of the leased defense article is often significantly reduced. Section 1233 provides authority to the President to enter into such leases for fixed periods of time longer than five years, with the period of time for which a particular lease may exceed five years being defined by the time required to perform the required refurbishment work. The recipient of the leased defense article will pay for the actual cost of the refurbishment work.

In recent years, as an economical and expeditious way to acquire modern defense capabilities to meet their defense requirements in the near term, several NATO allies have sought leases of nonexcess U.S. military fighter aircraft, ships, and tanks that needed major refurbishment. As a result, these allies have committed millions of dollars for the refurbishment work, as well as for the actual lease payments for the defense articles. In addition, they agree to return the refurbished defense articles in as good a condition as when they received them, while taking into consideration normal wear and tear. These major refurbishments may take 18 months or even more, such as with military fighter aircraft. Including the refurbishment time in the five-year lease limit can and often does seriously impact the actual beneficial time of use by the recipient.

In addition, adding a definition of "major refurbishment work" clearly identifies the specific activity that is acceptable outside the five-year lease limit and articulates the minimum period of time for such activity. The specific activity must be "major refurbishment work," and the minimum period of time for such activity is established at six months. The time required to complete the major refurbishment work, rather than the costs associated with this activity, must be the defining point, because it is the delay in delivery and the subsequent reduced amount of time of beneficial use by the recipient that is the major concern.

Sec. 1234. Priority with respect to transfer of excess defense articles

This section amends section 516 of the Foreign Assistance Act to require that the Philippines, along with other eligible countries pursuant to that section, receive priority with respect to the delivery of excess defense articles.

SUBTITLE E—OTHER POLITICAL-MILITARY ASSISTANCE

Sec. 1241. Destruction of surplus weapons stockpiles

This section authorizes that of the assistance made available in fiscal year 2003 to carry out chapters 1 and 10 of part I of the Foreign Assistance Act (relating to development assistance), up to $10,000,000 is authorized to be made available for the destruction of surplus stockpiles of small arms, light weapons, and other munitions.

From time to time, the United States has supported programs in developing countries to buy back and/or destroy small arms, light weapons, and other munitions that might otherwise be used in criminal activities or ethnic conflicts. Such programs can be especially useful in a country that is emerging from a period of civil war, as was the case in the country of Mali a few years ago when a U.S.-assisted gun buy-back program succeeded in removing from circulation a large number of weapons.

The Managers believe that carefully chosen programs of this sort should be encouraged. Since such programs may be vital to giving a country the stability that is needed for social and economic development, the Managers believe also that the judicious use of development assistance funds for this purpose is warranted. The small arms destruction program is expected to receive $2,000,000 in fiscal year 2003 from the funds allotted to "Nonproliferation, Anti-terrorism, Demining, and Related Programs." Section 1241 does not require that additional funds be made available to this program, but does give the Secretary that option. The Managers believe that these funds should not detract from existing or planned developmental or assistance projects using funds under this chapter of the Foreign Assistance Act.

SUBTITLE F—ANTITERRORISM ASSISTANCE

Sec. 1251. Authorization of appropriations

This section authorizes $73,000,000 for fiscal year 2002 and $64,200,000 for fiscal year 2003 for antiterrorism assistance, which reflect the executive branch's request.

The Managers express their strong continued support for the Department of State's antiterrorism assistance programs, which play an important role in improving other countries' ability to protect U.S. diplomatic and military personnel overseas.

Sec. 1261. Additions to United States war reserves stockpiles for allies

This section amends section 514 of the Foreign Assistance Act to provide authority to transfer excess munitions items in the value of $100,000,000 to the war reserve stockpile (WRSA) in Israel.

The Managers note that providing authority to enhance the WRSA in Israel supports the European Command's (USEUCOM) strategy of forward engagement and assists the defense of Israel.

Sec. 1262. Revised military assistance reporting requirements

This section amends section 656 of the Foreign Assistance Act (FAA) to make clear that the annual foreign military training report does not apply to any NATO ally, Australia, Japan or New Zealand, unless one of the appropriate committees of Congress has specifically requested in writing the inclusion of such country in the report. As a matter of practice, each committee will file such written request regarding a country if either the chairman or the ranking minority member of that committee determines that such a request is advisable.

In addition, this section eliminates two reporting requirements. First, this section amends section 655 of the FAA to delete that portion of the annual military assistance report which requires information relating to military imports. And second, this section amends section 36 of the Arms Export Control Act to delete a portion of a report which requires estimates of U.S. military personnel, U.S. Government civilian personnel and U.S. civilian contract personnel in foreign countries assisting in the implementation of security assistance programs.

Sec. 1263. Consultation with Congress with regard to Taiwan

This section requires the President to provide biannual detailed briefings and consult with the Congress regarding U.S. security assistance to Taiwan, including the provision of defense articles and defense services.

The purpose of this provision is to embed in permanent law the briefing and consultation process with regard to arms transfers to Taiwan that has been required in annual appropriations laws and that reflects the current practice adopted by the executive branch.

Title XIII—Nonproliferation and Export Control Assistance

SUBTITLE A—GENERAL PROVISIONS

Sec. 1301. Authorization of appropriations

This section authorizes $162,000,000 for fiscal year 2003 for Nonproliferation and Export Control Assistance. Of this amount, $2,000,000 is authorized for section 584 of the Foreign Assistance Act of 1961, as added by section 1303 of this Act, and $65,000,000 for fiscal year 2003 for science and technology centers in the independent states of the former Soviet Union. Finally, $382,400,000 is authorized for fiscal year 2003 for "Nonproliferation, Antiterrorism, Demining, and Related Programs."

Sec. 1302. Nonproliferation technology acquisition programs for friendly foreign countries

The Managers have consistently supported programs to improve the border security and export control services of friendly foreign countries. Providing reasonably sophisticated detection equipment to those countries can help stem the flow of materials usable in weapons of mass destruction, whether they are radioactive materials or equipment for the manufacture of chemical weapons. To this end, section 1302 authorizes the Department of State to spend up to $5 million annually to buy nuclear, chemical, and biological detection systems for other countries' export control services, as well as $10 million a year for x-ray systems to image sea-cargo containers. The Managers do not intend for these programs to take away from any existing programs or authorities. Rather, these are intended to be two very specific additions to the nonproliferation and export control tool kit.

To make effective use of these funds, however, the Secretary should develop and budget for a multiyear training plan to assist foreign personnel in the utilization of these detection systems. Although multiyear training will not be required in every case, it will in some; and follow-up training to ensure proper use and maintenance of the equipment will guard against the provision of equipment that is never used or that falls quickly into disrepair. The provision requires the Secretary to submit annual reports for four years to the Senate Foreign Relations and House International Relations Committees describing the systems provided and the progress, status, and budget for a multiyear training program to operate those systems.

Sec. 1303. International nonproliferation and export control training

The Department of State, working with other U.S. Government agencies and with governments and non-governmental organizations in friendly countries, has done much to improve export control law, regulations, procedures, and equipment around the world—and most notably in the independent states of the former Soviet Union. The Managers have supported these programs and worked to expand them. The Managers believe that such training, and especially training conducted in the United States where participants can observe a sophisticated export control system firsthand, deserves specific attention in the law. Section 1303 therefore adds nonproliferation export control training to the activities specifically authorized by Chapter 9 of Part II of the Foreign Assistance Act.

Education and training conducted under this section shall be of a technical nature, emphasizing techniques for detecting, deterring, monitoring, interdicting, and countering proliferation. The Managers see education and training in export control law, regulation, organization, and procedures as fully compliant with this requirement, although we must also train foreign personnel in detection and investigative techniques. The Managers also intend that this section not interfere with education and training programs that take place overseas. Rather, it reflects the Managers' belief that one important element in export control training consists of exposing participants to how our own export control system combines effectiveness with adherence to democratic principles and the rule of law.

Sec. 1304. Relocation of scientists

From 1992 through its expiration in 1996, the Soviet Scientists Immigration Act (P.L. 102-509) allowed a total of up to 750 highly skilled scientists and their families to be admitted to the United States without meeting the normal requirement that an alien's services in the sciences, arts, or business be sought by an employer in the United States. Section 1304 revives this law for another 4 years and increases to 950 the total number of such scientists who, over the two 4-year periods, having met criteria set by the Attorney General, may be so admitted. The Attorney General is directed to consult with other departments and agencies to determine whether any changes are needed in the regulations governing this program, and use of this provision is denied to a scientist who has previously been granted the status of an alien lawfully admitted for permanent residence.

Sec. 1305. International Atomic Energy Agency regular budget assessments

The International Atomic Energy Agency (IAEA) is a particularly important international organization. It furthers U.S. national security objectives by helping to prevent the proliferation of nuclear weapons material, especially through its work on effective verification and safeguards measures. The Department of State has concluded that the IAEA "is a critical and effective instrument for verifying compliance with international nuclear nonproliferation agreements, and serves as an essential barrier to the spread of nuclear weapons." The organization is poised to become even more active and important, moreover, as more countries sign the new model safeguards protocol that grants the IAEA the right to inspect undeclared facilities, and as the nuclear weapons states seek its help in verifying warhead or fissile material storage or destruction agreements. In addition, in March 2002, the IAEA established an important new program to reduce the risks of nuclear or radiological terrorism.

Nearly two decades of "zero budget growth" have impaired the ability of the IAEA to carry out its mission and to hire and retain the most qualified inspectors and Managers. The proportion of safeguards inspectors who hold doctorate degrees has fallen from 32 percent in 1985 to 19 percent in 2000. In June 2001, IAEA Director General Dr. Mohamed El Baradei told his Board of Governors that zero real growth had left the safeguards mission underfunded by $20 million in the regular budget, which "led to a situation where . . . we are in a position to carry out only adequate safeguards, not optimum safeguards, owing to our inability to modernize equipment and make full use of available new technologies." Voluntary contributions by the United States lessen the IAEA's budgetary constraints, but they cannot readily be used for the long-term capital investments or permanent staff increases necessary for an effective IAEA safeguards regime.

In light of these real problems in an agency upon which the United States depends to enforce the Nuclear Nonproliferation Treaty, the Managers believe that a gradual and sustained increase in the IAEA's regular budget is needed. The Managers also believe that more of that budget should be devoted to nuclear nonproliferation activities, but this cannot be achieved unless the total increases as well.

The IAEA's 2003 regular budget has already been fixed, so no increase in that budget can be achieved before 2004. Given the urgency of attending to materials that pose a risk of being used in nuclear or radiological terrorism, notably research reactor fuels that use fissile material and "orphaned" radioactive sources, this section authorizes a $10,000,000 increase in the United States voluntary contribution to the IAEA for 2003.

The Managers have been informed of the Administration's decision no longer to insist that its approximate share of the IAEA budget be reduced from 25 percent to 22 percent, in keeping with reductions that are required by law in our contributions to most United Nations organizations. Section 308 makes clear that it was not the intent of Congress that the United States' contributions to all United Nations-related organizations and activities be reduced pursuant to the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (contained in Appendix G of P.L. 106-113), which sets 22 percent assessment rates as benchmarks for the general United Nations budget, the Food and Agricultural Organization, the World Health Organization, and the International Labor Organization. Rather, contributions for an important and effective agency like the IAEA should be maintained at levels commensurate with the criticality of their missions.

Sec. 1306. Amendments to the Iran Nonproliferation Act of 2000

This section specifies in greater detail the content of the reports to the Congress that are required pursuant to the Iran Nonproliferation Act of 2000. It also makes clear that if a person only transfers to Iran advanced conventional weapons covered by section 2(a)(1)(E) of the Act, that person is not automatically exempt from sanctions. This amendment to section 5(a)(2) of the Act is in keeping with the original intent of Congress.

Sec. 1307. Amendments to the North Korea Threat Reduction Act of 1999

This section amends Section 822(a) of the North Korea Threat Reduction Act of 1999 (Subtitle B of title VIII of division A of HR 3427, as enacted into law by section 1000(a)(7)) by substituting for the existing listing of facilities, components, goods and so forth, the term "specified nuclear item," which is further defined as such material, facilities, components, goods, services or technology which would be subject to an Agreement for Cooperation if exported to North Korea; and components that are listed in Annex A or B to the Nuclear Suppliers Group Guidelines.

Sec. 1308. Annual report on the proliferation of missiles and essential components of nuclear, biological, and chemical weapons

This section consolidates four existing reporting requirements into one annual report on the proliferation of missiles and nuclear, biological and chemical weapons.

SUBTITLE B—RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION

Sec. 1311. Short title

This section states the short title as "Russian Federation Debt for Nonproliferation Act of 2002."

Sec. 1312. Findings and purposes

This section sets forth findings regarding the United States' security interest in preventing the spread of weapons of mass destruction and reducing world stockpiles of such weapons, especially in the Russian Federation. Among the findings are that existing nonproliferation assistance programs have made substantial progress, but that the threats posed by inadequate management of weapons of mass destruction stockpiles and complexes in the Russian Federation remain urgent, especially the threat that weapons of mass destruction materials or technology will be sold or stolen and diverted to rogue states or terrorists.

New funding streams are needed for programs to stem these threats, and the burden will have to be shared by the Russian Federation, the United States, and other governments. The Russian Federation assumed the Soviet Union's debts and owes roughly $2.7 billion to the United States and perhaps ten times that amount to other advanced industrialized countries. Debt reduction could be designed to provide additional funding for nonproliferation and arms reduction initiatives, and this funding could be especially large if U.S. friends and allies were to follow the U.S. lead in this regard. The bold June 2002 decision of the G-8 at its Kananaskis meeting to provide the Russian Federation "10 plus 10 over 10"—$10,000,000,000 in U.S. nonproliferation assistance and $10,000,000,000 in assistance from the other members over 10 years—includes the possibility of member states using debt reduction as a means of financing this assistance.

This section also states that it is in the vital national security interests of the United States that: all stocks of nuclear weapons and weapons-usable nuclear material in the Russian Federation are secure and accounted for; stocks of nuclear weapons and weapons-usable nuclear material that are excess to military needs in the Russian Federation are monitored and reduced; any chemical or biological weapons, related materials, and facilities in the Russian Federation are destroyed; the Russian Federation's nuclear weapons complex is reduced to a size appropriate to its post-Cold War missions, and its experts in weapons of mass destruction technologies are shifted to gainful and sustainable civilian employment; the Russian Federation's export control system blocks any proliferation of weapons of mass destruction, the means of delivering such weapons, and materials, equipment, know-how, or technology that would be used to develop, produce, or deliver such weapons; and these objectives are accomplished with sufficient monitoring and transparency to provide confidence that they have in fact been accomplished and that the funds provided to accomplish these objectives have been spent efficiently and effectively.

Subsection (b) states that the purposes of this subtitle are to facilitate the accomplishment of the United States objectives described in the findings set forth in subsection (a) by providing for the use of a portion of the Russian Federation's foreign debt to fund nonproliferation programs, and to help ensure that the resources made available to the Russian Federation are targeted to the accomplishment of these objectives. This subsection also states that the intent is to allow the use of additional resources for these purposes. Specifically, the Managers do not intend that debt reduction be used as a substitute for current direct assistance to nonproliferation programs in the Russian Federation.

Sec. 1313. Definitions

Section 1313 defines five terms of art. In particular, in this subtitle, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

Sec. 1314. Authority to reduce the Russian Federation's Soviet-era debt obligations to the United States

The Russian Federation has assumed the debts owed by the former Soviet Union, including roughly $480,000,000 in Lend-Lease debt dating back to U.S. assistance during World War II and $2,240,000,000 in debt owed to the United States as a result of credits extended under Title I of the Agricultural Trade Development and Assistance Act of 1954. Section 1314 authorizes the President to reduce this debt after notifying the appropriate congressional committees of his intention at least 15 days in advance of any formal determination to do so, and allocates such sums as may be necessary in fiscal year 2003 for the cost of reduction in this debt. Debt reduction may be implemented upon entry into force of a "Russian Federation Nonproliferation Investment Agreement" authorized under section 1315. The authority provided by this section shall be available only to the extent, however, that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of reducing any debt pursuant to this section are made in advance.

The Managers understand that any debt reduction agreement reached pursuant to this subtitle is likely to involve the full value of the Russian Federation's Soviet-era official debt to the United States. The purpose of the debt reduction will be to provide new funds for nonproliferation programs in the Russian Federation, rather than to provide debt relief to a country that is, after all, meeting its international financial obligations. The Managers hope, therefore, that any debt reduction agreement will encompass not only the face value of the debt, but also the interest or other debt servicing charges that would otherwise be owed.

Sec. 1315. Russian Federation nonproliferation investment agreement

This section authorizes the President, in consultation with other appropriate officials of the Federal Government, to enter into a "Russian Federation Nonproliferation Investment Agreement" with the Russian Federation concerning the use of the funds saved by that country as a result of any debt reduction provided pursuant to this subtitle. The Managers intend that such an agreement govern any debt reduction provided pursuant to sections 1314.

The Managers are especially cognizant of the need to ensure that funds provided through Russian Federation debt reduction be invested in nonproliferation programs or projects in an efficient and transparent manner. The Russian Federation Nonproliferation Investment Agreement shall therefore ensure that: (1) an amount equal to the value of the debt reduced pursuant to this subtitle will be made available for agreed nonproliferation programs and projects; (2) each such program or project will be approved by the President; (3) administration and oversight of nonproliferation programs and projects will incorporate best practices from established threat reduction and nonproliferation assistance programs; (4) each program or project funded pursuant to the Agreement will be subject to audits conducted by or for the United States Government to confirm that agreed funds are expended on agreed projects and meet agreed targets and benchmarks; (5) unobligated funds for investments pursuant to the Agreement will not be diverted to other purposes; (6) funds allocated to programs and projects pursuant to the Agreement will not be subject to any taxation by the Russian Federation; (7) all matters relating to the intellectual property rights and legal liabilities of United States firms in a given project will be agreed upon before the expenditure of funds would be authorized for that project; and (8) not less than 75 percent of the funds made available for each nonproliferation program or project under the Agreement will be spent in the Russian Federation.

Further, this subsection expresses the sense of Congress that: to the extent practicable, the boards and administrative mechanisms of existing threat reduction and nonproliferation programs should be used in the administration and oversight of programs and projects under the Agreement; the United States and the Russian Federation should consider commissioning the General Accounting Office and the Russian Chamber of Accounts to conduct joint audits to ensure that the funds saved by the Russian Federation as a result of any debt reduction are used exclusively, efficiently, and effectively to implement agreed programs or projects pursuant to the Agreement; and the Agreement should provide for significant penalties if agreed funds are misappropriated, or if the President is unable to certify for two consecutive years that Russia has made material progress in stemming the flow of sensitive goods, technologies, material and know-how related to the design, development, and production of weapons of mass destruction and the means to deliver them to state sponsors of international terrorism, as required in section 1317.

Sec. 1316. Independent media and the rule of law

The United States has an important interest in encouraging the development of an independent media sector and the rule of law in the Russian Federation. Such developments would help develop Russian involvement in and cooperation with Western political and economic institutions, thereby increasing Russia's economic well-being and its likelihood of maintaining nonproliferation programs on its own (through increased transparency and a decreased incentive to profit from illicit technology sales). They would also make it less likely that a rogue operation to engage in proliferation could ever go undetected or unexposed.

Section 1316 therefore provides that up to 10 percent of the funds saved by the Russian Federation as a result of any debt relief provided pursuant to this subtitle may be used to promote a vibrant, independent media sector and the rule of law in the Russian Federation. The mechanism for this would be an endowment to support the establishment of a "Center for an Independent Press and the Rule of Law" in the Russian Federation, which shall be directed by a joint United States-Russian Board of Directors in which the majority of members, including the chairman, shall be United States personnel, and which shall be responsible for the management of the endowment, its funds, and the Center's programs. While the President is not obligated to use the authority provided by this section, given events in Russia over the past year, in which independent media outlets have been closed or placed under government control, the Managers strongly urge the executive branch to explore exercising this authority.

Sec. 1317. Restrictions on debt reduction authority

The overarching framework for debt-for-nonproliferation under this subtitle is that benefits to the Russian Federation that flow from debt reduction and devoting the funds saved to nonproliferation programs are greater than any similar benefits gained from the proliferation of sensitive items and technologies to state sponsors of terrorism. As such, the first condition of any debt reduction is the need for the Russian Federation to stem the flow of sensitive goods, technologies, material, and know-how related to the research, design, development, and production of weapons of mass destruction and the means to deliver them to countries that have been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism. In particular, the Managers are most concerned regarding the proliferation of dual-use nuclear and missile goods, technologies, materials, and know-how to Iran. Section 1317 therefore conditions section 1314 concerning the authority to grant debt reduction by requiring the President to certify to the appropriate committees of Congress that the Russian Federation has made and continues to make "material progress" toward that end before any debt reduction can be provided. For this purpose, 'material progress' is defined as significant, measurable, and demonstrable reductions in Russian proliferation as measured on an annual basis. Until that certification can be made, no debt reduction can be provided, unless the President waives this requirement pursuant to the provisions of subsection (c).

This section also states in subsection (b) that if in any subsequent annual report to Congress submitted pursuant to section 1317 the President cannot certify that the Russian Federation continues to meet the condition required in subsection (a), then the authorities granted under this subtitle may not be exercised and funds may not be expended, unless and until such certification is made to the appropriate congressional committees. Under subsection (c), the President may waive the requirements of subsections (a) and (b) for a given fiscal year if the President determines that the imposition of those requirements in that fiscal year would be detrimental to the national interest of the United States and so reports to the appropriate committees of Congress.

Sec. 1318. Discussion of Russian Federation debt reduction for nonproliferation with other creditor states

Western countries, other than the United States, hold roughly 90 percent of the Russian Federation's Soviet-era official bilateral debt. Were these countries to join with the United States in allowing this debt to be used for nonproliferation programs in the Russian Federation, the funds available for such purposes would be greatly enhanced. Section 1318 expresses the sense of Congress that the President and other appropriate officials designated by the President should pursue discussions with other creditor states to: ensure that other advanced industrial democracies, especially the largest holders of Soviet-era Russian debt, dedicate significant proportions of their bilateral official debt with the Russian Federation or equivalent amounts of direct assistance to the G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, as agreed upon in the Statement by G–8 Leaders on June 27, 2002; and reach agreement, as appropriate, to establish a unified Russian Federation official debt reduction fund to manage and provide financial transparency for the resources provided by creditor states through debt reductions.

Sec. 1319. Implementation of United States policy

This section expresses the sense of Congress that implementation of debt-for-nonproliferation programs with the Russian Federation should be overseen by the coordinating mechanism established pursuant to section 1334 of this Act. This interagency committee is intended to coordinate all U.S. Government nonproliferation programs in the former Soviet Union and will be best situated to provide efficient and effective oversight and management of both existing nonproliferation programs and programs or projects resulting from any debt reduction.

Sec. 1320. Consultations with Congress

This section requires the President to consult with the appropriate congressional committees on a periodic basis to review the implementation of this subtitle and the Russian Federation's eligibility for debt reduction pursuant to this subtitle.

Sec. 1321. Annual reports to Congress

This section requires the President, no later than December 31, 2003, and annually by December 31 of each subsequent year, to prepare and transmit to Congress a report concerning actions taken to implement this subtitle during the fiscal year preceding the fiscal year in which the report is transmitted. The report shall include (1) a description of the activities undertaken pursuant to this subtitle during the fiscal year; (2) a description of the nature and amounts of the loans reduced pursuant to this subtitle during the fiscal year; (3) a description of any agreement entered into under this subtitle; (4) a description of the progress during the fiscal year of any projects funded pursuant to this subtitle; (5) a summary of the results of relevant audits performed in the fiscal year; and (6) a certification, if appropriate, that the Russian Federation continues to meet the condition required by section 1317(a) and an explanation as to why such certification was or was not made.

SUBTITLE C—NONPROLIFERATION ASSISTANCE COORDINATION

Sec. 1331. Short title

This section states that this subtitle may be cited as the "Nonproliferation Assistance Coordination Act of 2002."

Sec. 1332. Findings

This section states the findings of Congress. United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in keeping weapons of mass destruction and related material, technology and knowledge out of the hands of terrorists and rogue states. The many U.S. programs are managed by several departments, however, and repeated studies have cited a lack of effective coordination. For example, the Russia Task Force of the Secretary of Energy Advisory Board, chaired by former Senator (and now Ambassador) Howard Baker and former White House counsel Lloyd Cutler, said of these programs: "Coordination within and among U.S. Government agencies is insufficient and must be improved." (Cited in Howard Baker and Lloyd Cutler, Co-Chairs, Russia Task Force, Secretary of Energy Advisory Board, A Report Card on the Department of Energy's Nonproliferation Programs with Russia, January 10, 2001, p. 23.)

The Administration formed an interagency mechanism for its review of these programs, and the Managers believe that a similar approach is needed for continuing high-level coordination among programs. Private sector spending and foreign investment are increasingly important sources of employment for ex-weapons scientists in the former Soviet Union. Some of these efforts are channeled through U.S. Government or U.S.-supported institutions like the Department of Energy's Initiatives for Proliferation Prevention program, the State Department's International Science and Technology Centers program and the Cooperative Research and Development Foundation. The Managers also believe that nongovernmental efforts, like those of Ted Turner's Nuclear Threat Initiative, will also play an important role, however, and the U.S. Government should coordinate its efforts with those of the private sector.

Sec. 1333. Definitions

This section defines terms used in this subtitle. It defines the term "independent states of the former Soviet Union" to have the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801). "Appropriate committees of Congress" is defined to mean the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate and the Committees on International Relations, Armed Services, and Appropriations of the House of Representatives.

Sec. 1334. Establishment of committee on nonproliferation assistance

This section directs the President to establish a mechanism to coordinate U.S. efforts in formulating and carrying out programs for achieving nonproliferation and threat reduction. This mechanism shall include: representatives designated, respectively, by the Secretaries of State, Defense, Energy, and Commerce, the Attorney General, and the Director of the Office of Homeland Security or such successor department or agency; and any other executive branch official the President selects. Each department or agency representative should, to the maximum extent possible, have been appointed by the President with the advice and consent of the Senate. The President shall designate the chair of the coordination mechanism, and the chair may invite the head of any other department or agency to send a representative to participate from time to time in the activities of the coordinating committee.

Sec. 1335. Purposes and authority

This section directs that the interagency coordination mechanism should have the authority to commission analyses on issues relating to coordination of nonproliferation assistance programs within the U.S. Government, between the U.S. public and private sectors, and between the United States and other countries. Within the U.S. Government, the coordination mechanism should provide guidance to coordinate, de-conflict and maximize the utility of nonproliferation assistance programs. It should also consider and make recommendations, as necessary, to the President and Congress regarding proposals for new legislation or regulations relating to U.S. nonproliferation efforts in the independent states of the former Soviet Union. Given the large number of departments and congressional committees with a role in this effort, it will be especially useful for the Administration to bring agencies together and make coherent recommendations regarding the increased nonproliferation efforts that are clearly required today. As the aforementioned Baker-Cutler task force stated in its report to the Secretary of Energy, "[t]he most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons-usable material in Russia could be stolen and sold to terrorists or hostile nation-states and used against American troops abroad or citizens at home." (P. iii)

Sec. 1336. Administrative support

This section directs that all United States departments and agencies shall provide, to the extent permitted by law, such information and assistance as may be requested by the coordination mechanism in carrying out its functions and activities established pursuant to section 1334.

Sec. 1337. Confidentiality of information

This section assures that information which has been submitted or received in confidence shall not be publicly disclosed, except to the extent required by law, and such information shall be used by the coordination mechanism only for the purpose of carrying out the functions and activities set forth in this subtitle. This section does not, in and of itself, exempt such information from the Freedom of Information Act. It is intended, rather, to underscore the need for departmental representatives to discuss candidly the successes and shortfalls of their nonproliferation assistance programs and to enable committee members to "think outside the box" in formulating guidance for executive branch programs and recommendations to the President and Congress.

Sec. 1338. Statutory construction

Section 1338 makes clear that the Nonproliferation Assistance Coordination Act of 2002 does not remove the existing authority of any U.S. department or agency over nonproliferation efforts in the independent states of the former Soviet Union. The interagency coordination mechanism is not to be an operational agency. This subtitle does not give it the budgetary authority vested in the executive branch departments or in the Office of Management and Budget. Neither does this subtitle apply to any activity that is reportable pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

Sec. 1339. Reporting and consultation

Section 1339 stipulates that not later than 120 days after each inauguration of a President of the United States of America, the President shall submit a report to the Congress on his or her general and specific nonproliferation and threat reduction objectives and how the efforts of executive branch agencies will be coordinated most effectively, pursuant to section 1334 of this Act, to achieve those objectives.

SUBTITLE D—IRAN NUCLEAR PROLIFERATION PREVENTION ACT OF 2002

Sec. 1341. Short title

This section states that this subtitle may be cited as the "Iran Nuclear Proliferation Act of 2002."

Sec. 1342. Withholding of voluntary contributions to the IAEA for programs and projects in Iran

This section amends Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) by adding at the end the following: "(d) (1) Notwithstanding subsection (c), if the Secretary of State determines that programs and projects of the International Atomic Energy Agency in Iran are inconsistent with United States nuclear nonproliferation and safety goals, will provide Iran with training or expertise relevant to the development of nuclear weapons, or are being used as a cover for the acquisition of sensitive nuclear technology, the limitations of subsection (a) shall apply to such programs and projects, and the Secretary of State shall so notify the appropriate congressional committees (as defined in section 3 of the Foreign Relations Authorization Act, Fiscal Year 2003.)"

Sec. 1343. Annual review by Secretary of State of programs and projects of the IAEA; U.S. opposition to certain programs and projects of the agency

This section directs the Secretary to undertake a comprehensive annual review of all programs and projects of the International Atomic Energy Agency (IAEA) in the countries described in section 307(a) of the Foreign Assistance Act of 1961 (U.S.C. 2227(a)) and shall determine if such programs and projects are consistent with United States nuclear nonproliferation and safety goals. The Secretary shall also, not later than one year after the date of enactment of this Act, and on an annual basis thereafter for five years, submit to Congress a report containing the results of this review.

This section also directs the Secretary to direct the United States representative to the International Atomic Energy Agency to oppose programs of the Agency that are determined by the Secretary under the review conducted under subsection (a)(1) to be inconsistent with nuclear nonproliferation and safety goals of the United States.

Sec. 1344, Reporting requirements

This section requires that, not later than 180 days after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to Congress a report that contains (1) a description of the total amount of annual assistance to Iran from the International Atomic Energy Agency; (2) a list of Iranian officials in leadership positions at the Agency; (3) the expected time frame for the completion of the nuclear power reactors at the Bushehr nuclear power plant; (4) a summary of the nuclear materials and technology transferred to Iran from the Agency in the preceding year that could assist in the development of Iran's nuclear weapons program; and (5) a description of all programs and projects of the International Atomic Energy Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and any inconsistencies between the technical cooperation and assistance programs and projects of the Agency and United States nuclear nonproliferation and safety goals in those countries. The report required to be submitted under subsection (a) shall be submitted in an unclassified form, to the extent appropriate, but may include a classified annex.

Sec. 1345. Sense of Congress

This section states the sense of Congress that the President should pursue internal reforms at the International Atomic Energy Agency that will ensure that all programs and projects funded under the Technical Cooperation and Assistance Fund of the Agency are compatible with United States nuclear nonproliferation policy and international nuclear nonproliferation norms. Pursuant to section 307 of the Foreign Assistance Act, the Managers note the continued restrictions in that provision regarding Cuba which include limitations on U.S. funding for IAEA technical cooperation activities in that country.

Title XIV—Expediting the Munitions Licensing Process

Sec. 1401. License officer staffing

This section authorizes $10,000,000 for fiscal year 2003 to be appropriated for "Diplomatic and Consular Programs" for salaries and expenses of the Office of Defense Trade Controls of the Department. This section also requires that, effective January 1, 2003, the Secretary shall assign to the Office of Defense Trade Controls of the Department a sufficient number of license review officers to ensure that the average weekly caseload for each officer does not routinely exceed 40. It is important to note that, given the qualitative differences between individual cases (e.g., in their technical complexity), the caseload for some license review officers might appropriately be significantly fewer than 40 cases per week.

Finally, given the priority placed on expedited license reviews in recent years by the Department of Defense, this section states that the Secretary of Defense should ensure that military officers are continuously detailed to the Office of Defense Trade Controls of the Department of State on a nonreimbursable basis.

Sec. 1402. Funding for database automation

This section directs that of the amount authorized to be appropriated under the appropriations account of the Department entitled "Capital Investment Fund" for fiscal year 2003, $4,000,000 is authorized to be available for the Office of Defense Trade Controls of the Department for the modernization of information management.

Sec. 1403. Information management priorities

Sec. 1403 requires the Secretary to establish a secure, Internet-based system for the filing and review of applications for export of United States Munitions List items. Of the amount made available pursuant to section 1402, $3,000,000 is authorized to be available to fully automate the Defense Trade Application System, and to ensure that the system: (1) is a secure, electronic system for the filing and review of Munitions List license applications; (2) is accessible by United States companies through the Internet for the purpose of filing and tracking their Munitions List license applications; and (3) is capable of exchanging data with the Export Control Automated Support System of the Department of Commerce, the Foreign Disclosure and Technology Information System and the USXPORTS systems of the Department of Defense, the Export Control System of the Central Intelligence Agency, and the Proliferation Information Network System of the Department of Energy.

Sec. 1404. Improvements to the automated export system

Section 1404 mandates that the Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of the Treasury, publish regulations in the Federal Register to require, upon the effective date of those regulations, filing through the Automated Export System for the remainder of exports that were not covered by regulations issued pursuant to section 1252(b) of the Security Assistance Act of 1999 (113 Stat. 1501A at 1536, as enacted into law by section 1000(a)(7) of Public Law 106–113; 13 U.S.C. 301 note).

This section also requires the Secretary of State to conclude an information-sharing arrangement with the heads of the United States Customs Service and the Census Bureau to adjust the Automated Export System to parallel information currently collected by the Department of State.

This section also significantly increases the penalties for failure to file export declarations through the Automated Export System and for knowingly failing to file or filing misleading export information through the Shippers Export Declaration (or any successor document) or the Automated Export System. It sets forth procedures for civil penalty imposition by the Department of Commerce, but permits other agencies to use their own procedures if the Secretary of Commerce delegates enforcement functions to them. It also authorizes the Secretary of Commerce to designate officers or employees of the Office of Export Enforcement to conduct investigations pursuant to chapter 9 of title 13 of the U.S. Code (on the census). In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this chapter, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General. The Commissioner of Customs is given similar authority to designate officers or employees of the Customs Service to enforce the provisions of this chapter, or to conduct investigations pursuant to this chapter. Finally, this section authorizes the Secretary of Commerce to promulgate regulations for the implementation and enforcement of this section. The criminal fines provided for in this section are exempted from the provisions of section 3571 of title 18, United States Code. A clerical amendment to the table of sections at the beginning of chapter 9 of title 13, United States Code, strikes the item relating to section 305 and inserts, "305. Penalties for unlawful export information activities."

Sec. 1405. Adjustment of threshold amounts for congressional review purposes

Pursuant to section 36 of the Arms Export Control Act, the Senate Committee on Foreign Relations and the House International Relations Committee receive prior notice of hundreds of arms sales each year. As inflation and improved technology have raised the cost of weapons systems, the old dollar thresholds in the law have forced the reporting of more and more export licenses that are of no substantive interest to either committee, but that necessarily subject U.S. companies to additional delays due to the requirement for congressional consideration.

This section sets new prior notice thresholds of $25,000,000 for major defense equipment and $100,000,000 for other items, and $300,000,000 for design and construction services, which will apply to most sales to NATO members, Australia, Japan or New Zealand. The one exception will be sales to one or more of those countries that incorporate a new or increased sales territory that includes a country outside of that group. The Managers believe that approval of such a sales territory is tantamount to approving future sales to the listed countries, and sometimes such third-country sales pose security or policy concerns. The Managers note that discussions on the issue of notification thresholds with the Department of State and the Department of Defense will continue in the coming year.

Sec. 1406. Congressional notification of removal of items from the munitions list

This section requires the President to provide 30 days' notice to the Congress in accordance with the procedures applicable to reprogramming justifications under section 634A(a) of the Foreign Assistance Act of 1961 of any items proposed to be removed from the Munitions List. The Defense Trade Security Initiative calls for a review of the Munitions List every 4 years. The Managers understand that the Administration is currently reviewing a portion of the list to determine if items warrant removal from the list. While the recent completion of the review of one-quarter of the Munitions List did not remove any items to the detriment of U.S. national security, the Managers believe that the oversight responsibilities of Congress with regard to the sale of lethal military arms would be prudently exercised by the opportunity to review under these procedures any proposed deletions to the Munitions List. The Managers trust that continued consultation with the Department of State over the ongoing review of and changes to the Munitions List will allow any alterations to the Munitions List to occur without undue delay, controversy, or diminution of U.S. national security.

Title XV—National Security Assistance Strategy

Sec. 1501. Briefing on the strategy

Foreign Military Financing (FMF), transfers of excess defense articles (EDA), and International Military Education and Training (IMET) are justified not simply in military terms, but as contributions to the overall national security of the United States. The fact that they are authorized in the Foreign Assistance Act of 1961 and the Arms Export Control Act reflects a recognition that they are intended primarily to serve foreign policy objectives.

It can be most difficult, however, to keep foreign policy objectives in the forefront when the details of program implementation involve detailed issues of military efficiency at home and abroad. The Managers believe that the State Department must develop a national security assistance strategy that integrates the FMF, EDA and IMET programs, on a country-by-country basis, into the National Security Strategy of the United States. This will bring greater coherence to those programs and ensure that they achieve maximum benefits for U.S. foreign policy. The Managers appreciate the fact that relevant officials are trying to impose greater strategic and policy discipline on these programs, and they expect to see tangible results in this regard.

This section directs that, no later than March 31, 2003, officials of the Department of State and the Department of Defense shall brief the appropriate congressional committees regarding their plans and progress in formulating and implementing a national security assistance strategy. This briefing shall include: (a) how, and to what extent, the elements of the strategy recommended in section 501(b) of the Security Assistance Act of 2000 (22 U.S.C. 2305(b)) have been or will be incorporated in security assistance plans and decisions; (b) the number of outyears considered in the strategy; (c) actions taken to include the programs listed in section 501(c) of the Security Assistance Act of 2000 (22 U.S.C. 2305(c)), as well as similar programs of military training or other assistance to the military or security forces of a foreign country; (d) how a national security assistance strategy is being implemented regarding specific countries; (e) any programmatic changes adopted or expected as a result of adopting a strategic approach to security assistance policymaking; (f) any obstacles encountered in formulating or implementing a national security assistance strategy; and (g) any resources or legislative needs highlighted by this process. It is especially important to include similar programs other than FMF, EDA, and IMET, so that uniform policy and standards are maintained over all such programs.

Sec. 1502. Security assistance surveys

This section encourages the Secretary of State to use security assistance surveys in the preparation of a national security assistance strategy. This section also authorizes $2,000,000 to be available to the Secretary to conduct security assistance surveys, or request such surveys by the Department of Defense or other U.S. agencies on a reimbursable basis.

Title XVI—Miscellaneous Provisions

Sec. 1601. Nuclear and missile nonproliferation in South Asia

The war against terrorism has made South Asia a military theater of operations and has produced new, cooperative relations between the United States and both India and Pakistan. It has not reduced, however, the risk that this region will contribute to the proliferation, or even the use, of nuclear weapons. Indeed, concern over the security of special nuclear material in South Asia has been heightened by the increased tension in the area. In promulgating a statement of United States policy on nonproliferation objectives in South Asia, the Managers intend that the executive branch maintain and demonstrate a high priority for these concerns. Osama bin Laden's efforts to acquire weapons of mass destruction make clear that nonproliferation is now part and parcel of the war on terrorism, and not a subsidiary issue. The Committee also intends that all U.S. policy and actions on nuclear issues in South Asia be consistent with United States obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.T. 483) and with past U.S. policy on these matters.

To this end, subsection (a) states that it shall be the policy of the United States, consistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, to encourage and work with the governments of India and Pakistan to achieve nonproliferation objectives by September 30, 2003, including: the continuation of a nuclear testing moratorium; a commitment not to deploy nuclear weapons or ballistic missiles that can carry nuclear weapons and to restrain the ranges and types of missiles developed or deployed; agreement by both governments to bring their export controls in accord with the guidelines established by the major international nonproliferation regimes; establishment of a modern, effective system to control the export of sensitive dual-use items, technology, technical information, and materiel that can be used in the design, development, or production of weapons of mass destruction and ballistic missiles; and bilateral meetings between senior Indian and Pakistani officials to discuss security issues and establish confidence-building measures with respect to nuclear policies and programs.

Subsection (b) states that it shall be the policy of the United States, consistent with its obligations under the Treaty on the Nonproliferation of Nuclear Weapons, to encourage and, where appropriate, to work with the Governments of India and Pakistan to achieve not later than September 30, 2003, the establishment by those governments of modern, effective systems to protect and secure their nuclear devices and materiel from unauthorized use, accidental employment, or theft. Any such dialogue with India or Pakistan would not be represented or considered, nor would it be intended, as granting any recognition to India or Pakistan, as appropriate, as a nuclear weapon state (as defined in the Treaty on the Non-Proliferation of Nuclear Weapons).

Finally, this section requires the President to submit, not later than March 1, 2003, to the appropriate congressional committees a report describing United States efforts to achieve the objectives listed in subsections (a) and (b), the progress made toward the achievement of those objectives, and the likelihood that each objective will be achieved by September 30, 2003.

Sec. 1602. Real-time public availability of raw seismological data

One area in which policy and science both benefit from close collaboration is seismology—the study of disturbances in the earth's crust. Scientists measure seismic waves primarily to study earthquakes and to differentiate them from rock falls and manmade explosions. Public benefits from this work have included a better understanding of earthquakes, improved ability to warn of possible tsunamis so that people can move to higher ground, monitoring of volcanos for public safety purposes, improved techniques to locate oil reserves, and the detection and characterization of nuclear weapons tests. Data gathered for national security reasons can in turn be of great use to science. Pursuant to the Comprehensive Nuclear Test-Ban Treaty, an International Monitoring System (IMS) is being put in place that will link 170 seismic monitoring stations, including some that are new or in locations to which outside observers have not previously had access. The United States participates in the development of the IMS and receives near-real time data from the seismic and other sensors in that system.

These data, if made available to scientists in a timely fashion, would improve worldwide earthquake monitoring capabilities. Combining IMS data with seismological data from sites outside the IMS will, in turn, enable scientists to assist governments—including our own—in determining whether an unusual seismic event was a nuclear weapons test. The United States has pressed for near-real time release of IMS data to the public, but has not achieved international consensus in favor of that.

The Managers believe that more must be done to bring about the timely release of these data. The case for letting all the world's experts obtain these data in a timely fashion is one that every country should understand: more complete data and competitive analysis decrease the risk that an event will be misinterpreted. And if, as appears to be the case, nearly all countries accept this argument, then they ought to act upon that, either through appropriate international organizations or through separate bilateral or multilateral agreements regarding each country's data.

Section 1602 directs the head of the Air Force Technical Applications Center (AFTAC) to make available to the public, as soon as possible after receipt, all raw seismological data provided to the United States Government by any international monitoring organization that is directly responsible for seismological monitoring. AFTAC is the U.S. Government agency that gathers these data, so its director is an appropriate official to release them.

Sec. 1603. Detailing U.S. governmental personnel to international arms control and nonproliferation organizations

United States Government personnel have performed important work for international organizations over the years. One well-known example was UNSCOM, the United Nations Special Commission in Iraq, which conducted inspections in that country in an effort to locate and destroy weapons of mass destruction capabilities. Such details of U.S. personnel serve both our own national interest and the world's need for technical and logistical expertise in these crucial organizations. Too often, however, the personnel detailed to international organizations find that their careers suffer because they have spent months or years away from their home offices and outside normal personnel career paths. This section directs the Secretary of State to develop measures whereby U.S. personnel may be detailed to international arms control and nonproliferation organizations without having their careers suffer, and to report to the appropriate committees no later than May 1, 2003, on measures taken.

Sec. 1604. Diplomatic presence overseas

As the events since September 11, 2001, have made all too clear, antiterrorism and nonproliferation are increasingly important elements of American foreign and national security policy. These are not issues that America can handle alone. Rather, we must enlist other nations to do their part as well, both at home and in international fora. To meet the challenges of the 21st century, U.S. missions overseas must have high-level personnel who have both language training and substantive expertise in nonproliferation and political military affairs.

This section authorizes the Secretary of State to create the position of Counselor for Nonproliferation and Political Military Affairs at U.S. missions overseas, to be filled by career Civil Service officers or Foreign Service officers who will receive, as a rule, 10 months of special substantive or language training before assuming their posts.

Sec. 1605. Compliance with the Chemical Weapons Convention

On April 24, 1997, the Senate provided its advice and consent to ratification of the Chemical Weapons Convention subject to the condition, among others, that the President certify that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States. Congress enacted the same condition into law as section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)). Part II, paragraph 57, of the Verification Annex of the Convention requires that all samples requiring off-site analysis under the Convention shall be analyzed by at least two laboratories that have been designated as capable of conducting such testing by the Organization for the Prevention of Chemical Weapons (OPCW). The only United States laboratory currently designated by the OPCW is the United States Army Edgewood Forensic Science Laboratory.

In order to comply with the Chemical Weapons Convention, the certification submitted pursuant to condition (18) of the resolution of ratification of the Chemical Weapons Convention, and section 304 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724), the United States must possess, at a minimum, a second OPCW-designated laboratory. The possession of a second laboratory is especially necessary in view of the potential for a challenge inspection to be initiated against the United States by a foreign nation. To qualify as a designated laboratory, a laboratory must be certified under ISO Guide 25 or a higher standard, and complete three proficiency tests. The laboratory must have the full capability to handle substances listed on Schedule 1 of the Annex on Schedules of Chemicals of the Convention. In order to handle such substances in the United States, a laboratory also must operate under a bailment agreement with the United States Army.

Several existing United States commercial laboratories have approved quality control systems, already possess bailment agreements with the United States Army, and have the capabilities necessary to obtain OPCW designation. The Managers believe that, in order to safeguard samples taken on U.S. territory and bolster the legitimacy of the analysis of those samples, thereby protecting the proprietary and business interests of U.S. firms, and to promote similar transparency and confidence when inspections are conducted abroad, one of the United States designated laboratories should not be a U.S. Government facility.

This section therefore requires that the United States National Authority, by June 1, 2003, select a nongovernmental laboratory to pursue designation by the OPCW. A report is required by March 1, 2003, detailing a plan for securing OPCW designation of a third United States laboratory by December 1, 2004. With three designated U.S. laboratories, the OPCW could randomly send a real sample to two laboratories and a false sample to the third, so that a laboratory would never be sure what sample it was analyzing. This approach, which is in keeping with OPCW intent worldwide, would reduce significantly the value of any espionage information that a country or company might hope to gain by infiltrating a laboratory.

Title XVII—Authority to Transfer Naval Vessels

Sec. 1701. Authority to transfer naval vessels to certain foreign countries

This section authorizes the President to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) Poland.—To the Government of Poland, the Oliver Hazard Perry class guided missile frigate Wadsworth (FFG 9);

(2) Turkey.—To the Government of Turkey, the Knox class frigates Capodanno (FF 1093), Thomas C. Hart (FF 1092), Donald B. Beary (FF 1085), McCandless (FF 1084), Reasoner (FF 1063), and Bowen (FF 1079).

This section also authorizes the President to transfer vessels to foreign governments and foreign governmental entities on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) Mexico.—To the Government of Mexico, the Newport class tank landing ship Frederick (LST 1184);

(2) Taiwan.—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act), the Kidd class guided missile destroyers Kidd (DDG 993), Callaghan (DDG 994), Scott (DDG 995), and Chandler (DDG 996);

(3) Turkey.—To the Government of Turkey, the Oliver Hazard Perry class guided missile frigates Estocin (FFG 15) and Samuel Eliot Morison (FFG 13).

This section also states that the value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

This section states further that any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)) in the case of a transfer authorized to be made on a grant basis.

This section also directs that, for a vessel transferred on a grant basis to Turkey, the President may waive reimbursement of charges for the lease of that vessel under section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) for a period of one year before the date of the transfer of that vessel.

This section also directs that, to the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, be performed at a shipyard located in the United States, including a United States Navy shipyard.

Finally, the authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

From the Committee on International Relations, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Henry Hyde,
Christopher H. Smith,
Tom Lantos,
Howard L. Berman,
Ileana Ros-Lehtinen,

From the Committee on the Judiciary for consideration of sections 234, 236, 709, 710, and 844 and section 404 of the Senate amendment, and modifications committed to conference:

F. James Sensenbrenner,
John Conyers, Jr.,
Managers on the Part of the House.

Joe Biden,
Paul S. Sarbanes,
Chris Dodd,
John F. Kerry,
Jesse Helms,
Dick Lugar,
Chuck Hagel,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Underwood) to revise and extend their remarks and include extraneous material:)

Mr. Underwood, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on September 20, 2002 he presented to the President of the United States, for his approval, the following bills.

H.R. 3880. To provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes.

H.R. 4687. To provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that . . . .

H.R. 5157. To amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit. . . etc.

ADJOURNMENT

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 24, 2002, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9262. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — AQI User Fees: Extension of Current Fees Beyond Fiscal Year 2002 [Docket No. 02-085-1] received September 17, 2002, pursuant to 5 U.S.C. 801 (a)(1)(A); to the Committee on Agriculture.

9263. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Azoxystrobin; Pesticide Tolerances [OPP-2002-0238; FRL-7198-9] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9264. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Diflubenzuron; Pesticide Tolerances [OPP-2002-0224; FRL-7200-4] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9265. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Diflubenzuron; Pesticide Tolerances for Emergency Exemption [OPP-2002-0253; FRL-7273-7] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9266. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Fluroxypyr 1-methylheptyl ester; Pesticide Tolerances for Emergency Exemptions [OPP-2002-0234; FRL-7198-3] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9267. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Halosulfuron-methyl; Pesticide Tolerance [OPP-2002-0243; FRL-7200-8] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9268. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Indoxacarb; Pesticide Tolerance for Emergency Exemption [OPP-2002-0256; FRL-7274-9] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9269. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Methoxyfenozide; Pesticide Tolerance [OPP-2002-0219; FRL-7198-5] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9270. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Tolylfluanid; Pesticide Tolerance [OPP-2002-0216; FRL-7200-5] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9271. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Triclopyr; Pesticide Tolerance [OPP-2002-0190; FRL-7196-7] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9272. A letter from the Deputy Congressional Liaison, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Reporting and Disclosure Requirements for State Member Banks With Securities Registered Under the Securities Exchange Act of 1934 [Regulation H; Docket No. R-1129] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9273. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Suspension of Community Eligibility [Docket No. FEMA-7791] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9274. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7614] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9275. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-B-7429] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9276. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Records and Reports Concerning Experience With Approved New Animal Drugs; Delay of Effective Date [Docket No. 88N-0038] (RIN: 0910-AA02) received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9277. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Attainment for the Carbon Monoxide National Ambient Air Quality Standard for Metropolitan Provo; State of Utah, and Approval of Revisions to the Oxygenated Gasoline Program [UT-001-0045a, UT-001-0046a; FRL-7377-9] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9278. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; National Primary Drinking Water Regulations; and National Secondary Drinking Water Regulations; Methods Update [FRL-7379-6] (RIN: 2040-AD59) received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9279. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revision to the Arizona State Implementation Plan, Arizona Department of Environmental Quality [AZ 078-0036; FRL-7380-9] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9280. A letter from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Eligibility Requirements in Part 78 Regarding 12 GHz Cable Television Relay [CS Docket No. 99-250, RM-9257] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9281. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report pursuant to Title VIII of Public Law 101-246 Foreign Relations Authorization Act for Fiscal Year 1990-91, as amended; to the Committee on International Relations.

9282. A letter from the Chairman, Federal Accounting Standards Advisory Board, transmitting the Board's report entitled, "Eliminating the Category National Defense Property, Plant and Equipment"; to the Committee on Government Reform.

9283. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Excepted Service-Schedule A Authority For Nontemporary Part-Time or Intermittent Positions (RIN: 3206-AJ06) received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9284. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 083002A] received September 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9285. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Black Sea Bass Fishery; Commercial Quota Harvested for Quarter 3 Period [Docket No. I.D. 073002A] received September 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9286. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 073002B] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9287. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Special Local Regulations for Marine Events; James River, Jamestown to Scotland, Virginia [CGD05-02-064] (RIN: 2115-AE46) received September 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9288. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment Class D Airspace; White Plains, NY [Airspace Docket No. 02-AEA-04] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9289. A letter from the Attorney-Advisor, Department of Transportation, transmitting the Department's final rule — Amendment to the Definitions of Revenue and Nonrevenue passengers [Docket No. OST-00-7735] (RIN: 2139-AA07) received September 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9290. A letter from the Attorney, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Miscellaneous Revisions to Registration Requirements [Docket No. RSPA-02-13328 (HM-208E)] (RIN: 2137-AD74) received September 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9291. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727 Series Airplanes [Docket No. 2002-NM-154-AD; Amendment 39-12871; AD 2002-17-05] (RIN: 2120-AA64) received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9292. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Ballonbau Worner GmbH Model K-630/1-Stu Manned Free Gas Balloons [Docket No. 2000-CE-35-AD; Amendment 39-12869; AD 2002-17-04] (RIN: 2120-AA64) received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9293. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Diamond Aircraft Industries GmbH Models HK 36 R "Super Dimona," HK36 TC, HK 36 TS, HK 36 TTC, HK 36 TTC-ECO, HK 36 TTC-ECO (Restricted Category), and HK 36 TTS Sailplanes [Docket No. 2002-CE-11-AD; Amendment 39-12870; AD 2002-15-01 R1] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9294. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 Airplanes [Docket No. 2002-NM-195-AD; Amendment 39-12872; AD 2002-17-06] (RIN: 2120-AA64) received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9295. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. HC-A3V, HC-B3M, HC-B3T, HC-B4M, HC-B4T, and HC-B4M Series Propellers; Correction [Docket No. 95-ANE-30-AD; Amendment 39-9738; AD 96-18-14] (RIN: 2120-AA64) received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9296. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2001-NM-344-AD; Amendment 39-12874; AD 2002-18-02] (RIN: 2120-AA64) received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9297. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron, a Division of Textron Canada, Model 407 Helicopters [Docket No. 2002-SW-03-AD; Amendment 39-12868; AD 2002-17-03] (RIN: 2120-AA64) received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9298. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A320 and A321 Series Airplanes [Docket No. 2001-NM-256-AD; Amendment 39-12873; AD 2002-18-01] (RIN: 2120-AA64) received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9299. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendments [Docket No. 30327; Amdt. No. 437] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9300. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures;

Miscellaneous Amendments [Docket No. 30324; Amdt. No. 3018] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9301. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30323; Amdt. No. 3017] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9302. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30322; Amdt. No. 3016] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9303. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30321; Amdt. No. 3015] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9304. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Regulated Navigation Area; Savannah River, Georgia [CGD07-01-037] (RIN: 2115-AE84) received August 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9305. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30326; Amdt. No. 3020] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9306. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30325; Amdt. No. 3019] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9307. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Poplarville, MS [Airspace Docket No. 02-ASO-8] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9308. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amend Class E Airspace; Seneca Falls, NY [Airspace Docket No. 02-AEA-07] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9309. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amend Class E Airspace: Mount Pocono, PA [Airspace Docket No. 02-AEA-09] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9310. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines [Docket No. 98-ANE-48-AD; Amendment 39-12867; AD 2002-17-02] (RIN: 2120-AA64) received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9311. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Tank Level or Pressure Monitoring Devices [USCG-2001-9046] (RIN: 2115-AG10) received September 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9312. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; Naval Base Coronado, San Diego Bay, CA [COTP San Diego 02-018] (RIN: 2155-AA97) received September 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9313. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Passaic River, NJ [CGD01-02-108] (RIN: 2115-AE47) received September 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9314. A letter from the Attorney, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Revision to Standards for Infectious Substances; Correction [Docket No. RSPA-98-3971 (HM-226)] (RIN: 2137-AD13) received September 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9315. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Amendment to the Effluent Limitations Guidelines and Standards for the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper, and Paperboard Point Source Category: Final Rule; OMB Approvals Under the Paperwork Reduction Act: Technical Amendment [FRL-7379-4] (RIN: 2040-AD23) received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9316. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule — Accounts, Records and Reports — Technical Amendments [STB Ex Parte No. 636] received September 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9317. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the Department's final rule — Extension of Import Restrictions Imposed on Archaeological Material from Mali [T.D. 02-55] (RIN: 1515-AD16) received September 18, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9318. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code [TD 9015] (RIN: 1545-BA98) received September 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9319. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Exemption from Tax on Corporations, Certain Trusts (Rev. Rul. 2002-55) received September 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9320. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Reduced Maximum Exclusion of Gain from Sale or Exchange of Principal Residence for Taxpayers Affected by the September 11, 2001, Terrorist Attacks [Notice 2002-60] received August 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9321. A letter from the Secretary, Environmental Protection Agency, transmitting the Agency's FY 2000 report entitled, "Implementation of the Waste Isolation Pilot Plant Land Withdrawal Act"; jointly to the Committees on Armed Services and Energy and Commerce.

9322. A letter from the Secretary, Department of Agriculture, transmitting the Department's report entitled, "Herger-Feinstein Quincy Library Group Forest Recovery Act Pilot Project Status Report to Congress FY 2001"; jointly to the Committees on Resources and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 5180. A bill to direct the Secretary of Agriculture to convey certain real property in the Dixie National Forest in the State of Utah; with an amendment (Rept. 107–665). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. S. 491. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project (Rept. 107–666). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. S. 941. An act to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to extend the term of the advisory commission for the recreation area, and for other purposes; with an amendment (Rept. 107–667). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. S. 1227. An act to authorize the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Niagara Falls National Heritage Area in the State of New York, and for other purposes (Rept. 107–668). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. S. 1240. An act to provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to American Fork Canyon, Utah, and for other purposes (Rept. 107–669). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. S. 1946. An act to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail (Rept. 107–670). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee of Conference. Conference report on H.R. 1646. A bill to authorize appropriations for the Department of

State for fiscal years 2002 and 2003, and for other purposes (Rept. 107-671). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. DUNCAN, and Mr. DEFAZIO):

H.R. 5428. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. TOM DAVIS of Virginia:

H.R. 5429. A bill to provide an exemption from local taxation for direct-to-subscriber satellite service providers, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Florida:

H.J. Res. 110. A joint resolution authorizing the use of United States Armed Forces against Iraq; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 612: Mr. RODRIGUEZ.

H.R. 1987: Mr. ROGERS of Michigan.

H.R. 4672: Mr. BAKER and Mr. PLATTS.

H.R. 4754: Mr. EDWARDS.

H.R. 5089: Ms. BERKLEY and Ms. WATSON.

H.R. 5214: Mr. SHUSTER.

H.R. 5250: Mr. HEFLEY, Mr. LARSON of Connecticut, and Mr. MICA.

H.R. 5285: Mr. HINCHEY, Mr. SABO, Mr. PRICE of North Carolina, and Mr. GOODE.

H.R. 5340: Ms. WATERS.

H. Con. Res. 116: Mr. BECERRA.

H. Con. Res. 177: Mr. BLUMENAUER, Mr. SHERMAN, and Mr. ANDREWS.

H. Res. 50: Mr. CONYERS.

SENATE—*Monday, September 23, 2002*

The Senate met at 2:30 p.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Liberating Lord of all, we begin the work of this week remembering what took place 140 years ago yesterday on September 22, 1862. President Abraham Lincoln, a humble instrument in Your mighty hands, issued the life changing, values-reorienting, culture-reforming Emancipation Proclamation. The right to life, freedom, and citizenship was assured for all persons regardless of race, origin, or circumstance. This courageous position of valuing all human life by freeing the slaves was the direct result of biblical truth which could no longer be denied.

Now, 140 years later, we ask for Your strength to continue to overcome any vestiges or prejudice in our hearts. We still need Your emancipation from customs that constrict, practices that patronize, superiority that scrutinizes, and attitudes that anger. Keep us in the battle for equality in education, job opportunities, and social advancement for all Americans. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 23, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN D. ROCKEFELLER IV, a Senator from the State of West Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROCKEFELLER thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. I thank the Chair.

SCHEDULE

Mr. REID. The Chair will announce shortly that there will be a period for morning business until 3:30 p.m. today, with the first half under the control of the Republican leader. I see Senator THOMAS is here to lead the Senate in discussion this afternoon. The second half of the time is under the control of the majority leader or his designee.

At 3:30 p.m., the Senate will resume consideration of the Interior Appropriations Act, with 60 minutes of debate in relation to the Dodd amendment regarding recognition of Indian tribes. Following this debate, there will be 60 minutes of debate in relation to cloture on the Byrd amendment regarding the fire service and agricultural disaster funding.

At 5:30 p.m., there will be two rollcall votes, first in relation to the Dodd amendment and second on cloture on the Byrd firefighting repayment amendment.

Following these votes, the Senate will resume consideration of the Homeland Security Act under the management of Senator LIEBERMAN and Senator THOMPSON.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 3:30 p.m., with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time will be under the control of the Republican leader or his designee.

The distinguished Senator from Wyoming.

CHOOSING PRIORITIES

Mr. THOMAS. I thank the Chair.

Mr. President, I wish to take a few minutes to talk about where the Senate is and where the Senate is going. Obviously, we are coming to the end of the session. I presume the maximum we will be here is 2 weeks after this week, a total of 3 weeks, unless circumstances change.

We have, of course, as usual, a lot of legislation that could be done. There are a lot of issues about which we have talked this year that need to be finalized. All those issues rise to the top at the end of a session.

More importantly, we are faced with the fact that there is limited time, and the process takes a good deal of time. Therefore, it is necessary, it seems to me, for us to choose priorities and decide what we must complete before we go into recess for the election and after and, of course, do whatever we can but that those need to be our priorities.

I am one who believes strongly in the fact that one has to make priorities, in any group, although this group is not an easy one to manage. Decisions need to be made with respect to what we need to do and, frankly, finding some limits on how long we can spend on different issues.

We only have time for a relatively few items to be completed, in my opinion. Some of them are more fairly obvious and some are quite important. Obviously, we have to complete homeland security. We have been on that bill now, I believe, 3 weeks. Hopefully, we will finish it very soon. Because of the time, it needs to be completed soon.

Quite frankly, we find ourselves in a delay, a stalling arrangement here that is not where we need to be. Are there differences of views? Of course, and they need to be resolved, but that is what the system is about, and we need to go on.

We are going to be faced very soon with a resolution with respect to Iraq. In fact, we are working on it now. It is an issue that needs to be addressed and addressed quickly. Again, it will take a certain amount of time, but we do need to address it, and we need to address it on the basis that it is a priority with which we need to deal, however one feels about it.

Defense appropriations: We are going to find ourselves not having dealt with more than half the appropriations bills by the time we go into recess, but many of them can probably be tided over for several months with a continuing resolution, funding the agencies at the level they have been in the past year. It is not an unusual occurrence. But Defense appropriations, in this instance, is quite different because of the circumstances relating to terrorism.

Defense appropriations need to be completed. More resources obviously need to be available to our military so

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

when we ask our military to do whatever we ask them to do, they have the best support we can possibly give to them.

The CR needs to be dealt with so we do not have the Government being stopped because of no financing. Remember, we did that a number of years ago. We cannot let that happen, of course.

There are lots of issues people will talk about that indeed are important, and if we had our way, they could all be done. Unfortunately, a lot of those issues have not been brought out of committee and to the floor so we can move them forward. I believe 8 out of 13 appropriations bills have not been dealt with yet.

We are going to soon have to deal with a payback for Medicare. I find at home—and I am sure everyone else does, too—more physicians are not treating Medicare patients because the reimbursement has gone down, and it is scheduled to go down more the first of next month. Frankly, this would be a relatively easy issue to fix. We know what the percentages are, and we could do something about that.

An issue that I have talked a great deal about and that is more difficult—and I do not think we will accomplish but many of us would like to—is pharmaceuticals. We need to find a way to make pharmaceuticals more available to the elderly particularly. We have worked on that a great deal and have not come to a conclusion and will not, in my opinion, by the time this session is over.

We have spent a good deal of time on energy. Certainly, energy is an issue that affects not only the economy but it affects terrorism and the upheaval in the Middle East where we have let ourselves become 60 percent dependent on imported energy. We need to change that. We need to have a policy. We have not had a policy for some time. We are now in the process of developing that policy in a conference committee, and we need to get that finished.

We talked about drought relief. It is on the table. We can do that.

Unfortunately, we will probably not be able to deal with terrorism insurance, which is too bad. It is a good issue because it has to do with the economy. It has to do with the resistance to constructing buildings, for example, when you cannot have insurance for them.

There are lots of other issues, such as tort reform and health care costs. I think we have to move on those issues. We have to move ahead with the budget resolution, which we have not had for the first time in a number of years.

One may say, what is the difference? The difference is not only does it help us deal with what we are going to spend, but it has an operational aspect to it that says if you spend over what you have agreed to for the budget, there have to be 60 votes to pass it, which is the kind of resistance we need when we are spending too much money.

We have already talked about prescription drugs. That is an issue we really need to deal with. There are a number of ideas, and we need to consider them.

The permanent tax cut, of course, again, has to do with stimulating the economy, and we have talked about that a great deal as something we need to do.

There are also the issues of homeland security and welfare reform. Welfare reform is pretty much ready to go in the committee. We are going to have to have a temporary passage to keep that in place because it expires shortly. These are the things we need to deal with, as well as the appropriations bills.

I urge that we set some priorities, decide what it is we are going to do over this time, and set some time goals so we can work at it. Then I think we really have to enforce it.

Today, for example, it will be 5 o'clock on a Monday before we get around to voting, and I suspect we will be out again next Friday. The time has come when we really need to take the time that is available to do what we have to do. That is our challenge, and certainly it is not easy.

It is difficult because we all have different ideas about what issues are most important. We have some compelling issues that clearly need to be moved on because of the shortage of time. I urge we move that way and complete the work that is necessary for it to be done before we leave in October.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

THINNING THE FORESTS

Mr. KYL. Mr. President, in the time I have this afternoon, I want to address three subjects. The first relates to an issue we are going to be taking up tonight, which is the cloture motion on an amendment relating to the Interior appropriations bill. The Domenici-Craig amendment dealing with forest health will go down if cloture is invoked. Therefore, I urge my colleagues not to vote to invoke cloture.

I also acknowledge that the efforts to try to reach a compromise on how to protect our forests from disease, infestation, poor health, and fire have not borne fruit, and it is unlikely there will be an agreement reached in a bipartisan way sufficient to allow us to pass something that will provide relief to those, particularly in the West, who have forests that need this kind of treatment. That being the case, we are going to have to find another way to deal with the issue.

The administration is committed to forest health. The President has laid out a plan, and I think administratively the Departments of the Interior and Agriculture will do the very best they can to work within the existing law to manage our forests to bring them back to health and to prevent fires.

The reality is that this failure to reach an agreement will have disastrous consequences, not just in terms of fire but the health of our forests, particularly in the West, and that is not a situation we should be very proud of in this body.

We tried very hard, particularly those of us who represent the Western States, to educate some of our colleagues about what we mean by forest management. There is not much debate in the scientific community about what ought to be done to our forests, maybe 75 million acres of trees. They need to be treated, and by that we mean there needs to be a process whereby the dead, dying, and diseased timber, as well as the very small diameter timber, is removed so the forest can sustain the larger trees we want to preserve and return forests to the healthy conditions they were in maybe about 100 years ago. This means opening up the canopies and providing more opportunity for grass. The trees that would be thinned would not only remove a source of competition to the larger trees in terms of soaking up the moisture and nutrients from the soil, but also providing fuel for forest fires which, instead of just creeping along the ground as they did 100 years or so ago, are now using these small trees to basically climb a ladder up to the crowns of the big trees.

What we see on television, when we see the pictures of these enormous forest fires, is the canopies of the big trees literally superheating and then exploding into flame, and this is what spreads the fire for miles and miles.

If the dead and dying fuel on the forest floor is removed, the down fuel as well as those small-diameter trees that are literally choking the forests to death right now, it is not only opened up for the trees and other flora and fauna that we want to grow properly but it also removes a significant fire danger. That is what the scientific community understands needs to be done.

The problem is that there are radical environmentalists who do not want to see this done. Ironically, our goal is the same: To protect those beautiful big trees and to create a healthy environment for all of the other flora and fauna. But they are so afraid that a timber industry will be either preserved or regenerated, and that that timber industry will soon set its sights on cutting the big trees as well, that they are really willing to cut off their nose to spite their face; that is to say, to risk the health of the entire forest in order that a timber industry is not encouraged to take hold.

In my State of Arizona, there is not any more timber industry, so we are not interested in bringing an industry back. It is gone. There are a couple of small mills that can take small-diameter timber and make 2 by 4's and fiberboard. The White Mountain Apache Indian Tribe has two small mills that can handle larger diameter timber which they cut on their reservation.

But this is not about creating a timber industry in Arizona. It is not about logging. We are not going to have logging as we used to know it. It is about companies being permitted to do the Government's work of cleaning out the forests and making a little bit of profit. They are not going to do it for free. We do not have enough money in the budget to pay the cost of doing that. They have to be willing to do it for the small amount of money they can make on the products they are now permitted to sell.

That is what this debate has been all about, and I am very discouraged that the radical environmental movement has such a stranglehold on some politicians that even though they will privately tell us they understand the scientists are right, that we do need to go in and manage our forests, they are not willing to confront these people in an open forum. It has been an interesting one-sided debate we have had in the Senate. No one has defended the other position. The reason is because it is indefensible. It boils down to a political issue. That is too bad for the forests.

I understand what happens when we are not able to reach agreement. We are not going to be able to get 60 votes to carry the day. As a result, we have to find another way to do this. Therefore, depending upon what the assistant majority leader and others decide to do at the end of the day, that issue may well be behind us as of tonight as something we will deal with in the Senate. That is too bad. We should have been able to deal with that.

I add a postscript before I turn to the next subject. Some on my side of the aisle have criticized the majority leader because he was able to secure in an appropriations bill special relief for his home State of South Dakota and the Black Hills by doing exactly what we are talking about, thinning those forests. He did that by, in effect, waiving all environmental considerations. In other words, the legislation provided the sufficiency for environmental achievement and nothing further was required to clean up these forests.

There was criticism. I suppose one could criticize the use of the process in the way that he did but frankly, I cannot criticize what he was attempting to achieve and what will be achieved as a result of his actions. The Black Hills are some of my favorite forests in this country. I used to vacation there as a young boy. I love the Black Hills. I am glad the majority leader saw fit to save the Black Hills. I wish we could apply something close to that same management technique for the rest of the country's forests. I find it ironic people would permit it to be done in this one area, which I support, but nowhere else.

I hope we can find a way to address this in the future, put the politics behind us, and get back to a scientific resolution of the issue.

IRAQ

Mr. KYL. Mr. President, the second subject I address is a resolution the White House has sent Congress for consideration of Presidential authority to deal with the problem of Iraq. There have been questions raised this weekend about the language of the resolution and the need, in some people's minds, to define it and provide greater definition.

My own view is the President and his administration did a very good job at crafting a resolution which will give the President the authority he needs to do the things we understand have to be done. I am a little worried about trying to be too cute in drafting language that will constrain the President in a variety of ways, not because we do not want to know what the President has in mind, but because we do not want to come back to the Congress every time the President needs some additional component of authority in fighting this war on terror.

The immediate need is to grant the authority to follow up on the resolutions that were violated by Saddam Hussein, and that if the United Nations is not going to take action, and it is not, then for the United States to be able to do that. We will pass that resolution by a fairly wide margin both in the House of Representatives and in the Senate. I am hoping Members of this body will not view it necessary to draft the language in such a way that it puts the interests of the United States behind the authority of the United Nations.

The U.S. Government and those who represent the people of America will act on behalf of the security interests of the American people. That ought to be our first objective, not to try to resurrect the good reputation of the United Nations, not to put the U.S. position in a subservient role to the Security Council of the United Nations, and not to subject our decisionmaking or the President's authority to act to approval first of a body in the United Nations.

I therefore urge my colleagues not to succumb to the temptation of inserting language which would submit first to the United Nations and then the U.S. Congress.

It was my understanding—perhaps I should have asked unanimous consent before I began to speak—that I would be allotted 20 minutes, 10 minutes beyond the usual time.

Mr. REID. We have a limited amount of time. We have Democrats that need to speak.

I am sorry, but I have to object.

Mr. KYL. Might I then have 30 seconds to explain that I had been told that I would have 20 minutes, and I have calibrated my remarks to reflect that? I regret I will not be able to finish these remarks.

Mr. REID. Mr. President, I apologize to the Senator. We on this side have speakers who wish to speak. If the entire allotted time is not used—I think it will be; we have our time allotted—perhaps the Senator wants to wait around to see if Democrats show up when they are supposed to.

The ACTING PRESIDENT pro tempore. The Chair observes that the minority controls 8 minutes 16 seconds.

Mr. DOMENICI. I ask that the Senator from New Mexico be allocated the 8 minutes.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

THE ECONOMY

Mr. DOMENICI. Mr. President, fellow Senators, I will not get a chance today to accomplish what I intend to accomplish. I assure those who are listening they will not have to wait long to get the rest of it because as we get time this week, we will start talking a little bit.

The majority side, led by the majority leader and the chairman of the Budget Committee, last week took to the floor one or two times with lengthy discussions about the American economy, with comments by each of them about who was to blame for the economic shortcomings that exist today.

I start with the economic downturn. Many Members and a few Americans remember the name Joseph Stiglitz. He was chairman of President Clinton's Council of Economic Advisers. He is quoted in the Atlantic Monthly, October 2002, page 77. He was known as an erudite and academically brilliant economist. He summarized when asked: When did the downturn start?

He said:

> The economy was slipping into recession even before Bush took office, and the corporate scandals that are rocking America began much earlier.

In this article he is explaining the American economy, which had been so buoyant for almost 10 years. We spoke of it from both sides of the aisle, with great admiration and fantastic respect for who did what, who did not do what, and why did this American economy grow.

He is suggesting the beginnings of the downward trends, in response to a question:

> The economy was slipping into recession even before Bush took office . . .

Not when he sent us a budget; not when he sent us a tax bill; not when he recommended we have tax cuts to perk this economy up; not when he recommended we spend more money to continue perking it up. Before those events occurred, the American economy was slipping into recession.

It is all right by this Senator that we come to the floor and state what we think. It is all right with me if we state them in political tones. It is all right with me if we state them with overtones that are patently political. It is someone's responsibility, when they think that is the case, to at least try to respond.

I will not be able, in the next 5 or 6 minutes, to respond to what probably was more than an hour last week by two or three on the other side, led by their leader, the majority leader, and the chairman of the Budget Committee, and what they had to say when they blamed the President of the United States for almost everything that is going wrong with the economy, in spite of many of them knowing that this is the fact, that this is the salient fact—that it all began long before that. We may be even fortunate that the economy, in its downward pressures, did not get worse. Perhaps it did not get worse because we did some things right under the leadership of the President and with Congress. Although it was difficult, hard work, we did follow most of his suggestions to try to get out from the slippage.

In less than a week we will enter the new fiscal year, the year of 2003. Let me repeat, in less than 1 week we will be entering the new Federal fiscal year, fiscal year 2003. As this new fiscal year approaches without us having enacted even one appropriations bill for next year, I have been struck by some of the statements being made on the floor—principally on that side of the aisle, and principally by leaders of the majority party.

Recently, the majority leader and the chairman of the Senate Budget Committee have taken to the floor to criticize the President's handling of the economy. I would like to be as honest as I can about this, so let's try to be honest as to what this is all about. This is politics, in my humble opinion, at its worst. Unwilling or afraid to face up to their own responsibilities, unable to defend their own record for failing to enact a budget in the Senate for the first time in the history of the Budget Act, they are now trying to confuse the public and somehow blame the President or the House of Representatives—which happens to be Republican by a few votes—for their failure. So now the time has come to play the blame game and to run away from whatever you have done and pin it on somebody else. That is this time of year.

This is important, and I would like the record to be clear. Back in May, the majority leader blamed the lack of a budget on an evenly divided membership in the Senate. Earlier this month, the chairman of the Democratic National Committee, Mr. McAuliffe, appearing on a Sunday morning show—I think it was "Face The Nation"—said: Don't blame us: . . . we need 60 votes for a budget.

Finally, last week the chairman of the Senate Budget Committee, referring to an amendment that was voted in the Senate on June 20, clearly implying that it was a Senate budget, literally said here on the floor:

> . . . we got 59 votes for that proposal on a bipartisan basis. We needed a supermajority, which is 60.

Let me be as clear as I possibly can. We have not voted on a budget resolution in the Senate this year. We have not voted on a budget this year in the Senate. This will be the first time in the Budget Act's nearly 27-year history that the Senate has not adopted a budget blueprint. Say what you want about what it is or what it is not, we have always seen fit to adopt one. As tough as it was, as many hard votes as it took in the hours allotted under law, we always got one. We got one out of the committee when we were practically tied, for all intents and purposes. But no budget resolution has been brought to the floor of the Senate to be debated and voted on this year.

The chairman of the Budget Committee knows this. The majority leader knows this. To even hint that we have considered a budget is an absolute insult to those of us who worked to make this process a functional part of fiscal decisionmaking here in the Senate.

If my time is up, I yield the floor.

The PRESIDING OFFICER (Mr. WYDEN). The Senator from Nevada, the assistant majority leader.

THE ECONOMY

Mr. REID. Mr. President, my friend, the senior Senator from New Mexico, has a chart. He talks about when the downtown started. The fact is, it is here. To try to divert attention from the problems of this country by trying to talk about when this problem started really doesn't do the trick. Presidents are blamed or given credit for what happens during their 4 years of office. That is the way it is, and that is the way it should be. The fact is, during this administration the economy has gone downhill every month the President has been in office.

To talk about when a problem started, we had problems during the 8 years that Clinton was President, but he was able to respond to make sure the country went on an upward path after that. The fact is, President Bush, no matter what he received when he was President, has done nothing to alleviate the problem. He has made it worse.

I would say to my friend from New Mexico, if he read the rest of Stiglitz's article, I find Stiglitz blames much, if not all, of the problems of this economy directly on the President, President Bush's economic policies. We just had Stiglitz appear before the Democratic Senatorial Campaign Committee and he spent all afternoon telling us what was wrong with the Bush economic policies. Joseph Stiglitz has won a Nobel Prize in economics. He is one of the most renowned economists in the world. He places the blame at the foot of the President of the United States, President Bush, for the economy we now have.

There may have been some corporate problems that started many years ago. But, remember, this White House wanted to bring corporate America to the White House—and they did. There is no better example of that than the fact that when the Chairman of the Securities and Exchange Commission was having his confirmation hearings, he said he wanted to bring a kinder more gentle SEC to America. That is what we have had at this White House. They simply have been kinder and gentler. They brought corporate America to the White House. The American people do not want that.

My friend also mentions in passing the United States of Representatives, which is controlled by the Republicans by just a few votes. Those of us who have served in the House of Representatives know the party that controls the House of Representatives controls the agenda over there. That is the way it works. It has always worked that way. One reason we have gotten nothing done in the Congress is because the Republican majority in the House of Representatives decided a long time ago they were not going to have anything happen this year. That is why we have every conference report stuck in a dark hole in the House of Representatives. They won't let us do anything on bankruptcy. They won't let us do anything on terrorism insurance. They won't let us do anything on election reform. They won't let us do anything on the Patients' Bill of Rights. They won't let us do anything on our generic drug bill, and on and on.

Whether it is 1 or 100 vote, it doesn't matter in the House of Representatives. It works like the parliamentary system. The party in power controls the agenda, and the House leadership has stated publicly that they are going to have nothing happen. They don't want their members to take tough votes, just like on the bankruptcy bill.

For the former chairman of the Budget Committee to come here and blame the problems on the budget—we don't have a budget because they won't let us have a budget—the fact is, the Appropriations Committee, under the leadership of Senator BYRD and Senator STEVENS, made sure that all appropriations bills were under the budget numbers, even though we didn't have budget numbers. The budget numbers are good numbers. They will not let us do the budget bills because of the same reason—the same reason. The House of Representatives has not moved appropriations bills.

You see, the Senate passed out of committee every appropriations bill. It has been done long since. But the House refuses to move on the bills. Therefore, we cannot do them. We are going to have a cloture vote on the Interior bill, which the Presiding Officer has worked on, not for hours, not days, but weeks, trying to come up with a compromise to meet the needs of the American public in the western part of the United States on firefighting but has been unable to work anything else. But that Interior appropriations bill is extremely important. It is not as if there is no money going to firefighting. There is 800 million extra dollars in this Interior bill to fight fires.

But they only want them to be fought—in the minds of the Republicans—the way they want to fight them. Do you know how they want to fight them? Take all environmental standards and go out and start chopping and burning anything in the forest that a lot of lumber companies want.

I say to my friend—he is my friend—the distinguished Senator from New Mexico that this won't sell. To come and say the problem started before President Bush became President is to blame it on somebody else. The President of the United States is stuck with an economic standard in this—his—administration, and for 2 years this economy has been going downhill, downhill, downhill. You can't blame it on September 11. The Afghanistan war caused about 25 percent of the problem. But all economists indicate that the other problem is right at the foot of this administration—whether it is tax policy or their other economic policies—which is responsible for 75 percent of our downturn.

We have all been affected. People in Nevada—in fact, people in every State in the Union—have been affected by the downturn in the economy. Many Nevadans, and people who live in all 50 States, have seen their retirement savings disappear in the wake of corporate crime, accounting abuses, and stock market declines.

The Las Vegas Review-Journal, the largest newspaper in Nevada, which has a circulation of a quarter million—to say it is conservative is a gross understatement; it is really conservative. It really focuses on government a lot. However, as conservative as that newspaper is, they wrote an editorial one day last week—in fact, the day after Senator DASCHLE gave a speech on the floor with the charts that he had—under the headline "Daschle is right." I thought they made a misprint when I picked up that newspaper. But they had not. They believe TOM DASCHLE is right.

This newspaper with a conservative bias, and which seldom has kind words for Democrats or the majority leader, said in this editorial that America needs a new economic direction and President Bush's policies have failed.

The Las Vegas Review-Journal said:

> The economy is showing an anemic 1 percent rate of growth, the majority leader charged. Under the Bush administration the Nation has lost 2 million jobs and $4.5 trillion in stock market value—much of it melting out of individual Americans' retirement acts. Foreclosures are up, and the government is once again spending Social Security surpluses to pay for other programs . . . it would be a mistake to dismiss the statistics he cites. They are real, as are the economic doldrums they describe.

They go on to say:

> President Bush has indeed failed to do all that he could and should have done to put America back on the path to vibrant economic growth, opportunity and prosperity.

That is about as direct as you can get.

It doesn't stop there. Robert Novak—I have great respect for Robert Novak. I consider him a friend. But I have to tell you that he has rarely said anything nice about me, and rarely has anything nice to say about Democrats. He is a very conservative political pundit, and he is a good one. I have appeared on his show on a number of occasions. He is hard, but he is fair. You always know where he is coming from. But rarely does he join with us in criticizing Republicans and what they are doing. But he did yesterday. I think it was yesterday. I read about it in the paper. It may have been Saturday. He said something very similar to what the Las Vegas Review-Journal said. But his column is printed all over America, and in the Washington Post, of course.

In this piece, under the headline "Avoidance Agenda"—and in other newspapers the same column had a different headline: "Winning Without a Vision"—in this piece, Novak takes Republicans to task for offering no domestic alternative to the "kitchen table" issues which Democrats are discussing and working on: Prescription drugs and other health benefits, corporate accountability, pension protection, Social Security.

According to Novak:

> Midsummer Democratic exuberance has vanished, and Republican anxiety has faded—thanks to Iraq's eclipsing economic issues six weeks before midterm elections. Yet, beneath the surface, thoughtful Republicans ask: What will it mean for the party to sneak by on November 5 without a vision and, indeed, without an agenda?
>
> George W. Bush is committed to being a war President, unwilling to use the bully pulpit to press domestic programs, especially without support from Congress.

He continues:

> The crowding out of corporate corruption by war against Iraq unquestionably has brightened Republican prospects for winning both houses of Congress, saving President Bush from electoral disasters frequently visited on new presidents at midterm. However, apart from the war on terrorism, the Republican Party flinches from standing for much of anything in the 2002 election.
>
> The problem is that Republicans—including Bush himself—do not pursue a domestic alternative.
>
> This is a matter of concern for the future and perhaps even for this election among a variety of wise old heads in the GOP. One early GWB-for-president backer voiced displeasure with Bush's handling of an economy in which corporate profits are low, investor confidence has been shattered and consumer confidence is in jeopardy. "He does not seem worried enough about the economy, does not express himself forcefully enough." The president does not share his father's boredom with domestic affairs, but there is no doubt he sees his destiny as winning the war against terrorism and not as reformer of the tax system.
>
> There are officials inside the administration who signal their concern by suggesting it is necessary to come up with new domestic initiatives.
>
> Bush and the Republican Party actually risk a lot tying themselves to the limited goal of maintaining a House majority. By accepting the caution urged on him by Capitol Hill, the president abdicates a vital responsibility of the president as a party leader. Any new initiatives await passage of an Iraq resolution or perhaps even congressional adjournment, leaving a Republican voice that is muted on everything but Iraq.

I started saying a couple of weeks ago, as others have said, that this country is a big country; we can have a big political agenda. We can focus on Iraq, as we should, but we can focus on other things. The administration is focusing only on Iraq. Let us talk about the other issues. Let us talk about the stumbling, faltering economy, which we must address.

If you were planning on retiring, Mr. President, this year, you would have to wait, on average, 7 years before you could retire. You would have to work an extra 7 years because you have lost that much—mostly in the stock market. People who were going to retire can't retire. If you started out with $100 in savings, you now have about $65 in savings. That is it. You multiply that, and you will see what it does to somebody who is building for retirement.

The Las Vegas Review-Journal has not changed its political philosophy; they have had the same political philosophy for decades. Also, I would say that Robert Novak hasn't changed; he has had the same political philosophy for 30 or 40 years.

The Republicans' proposed solution to economic woes plaguing Nevada and the entire country are far different from those favored not only by Senate Democrats. I also not only speak for Senate Democrats but I speak for mainstream Nevadans and Americans.

I have no doubt that Republicans will continue to criticize and even mislead readers about our policies, and that is too bad. To come here today and to say the problems of this country are the result of something that started a long time ago is ridiculous. I have no doubt we must continue to address the problems that face this country, and we must continue to address them focusing on more than Iraq. This country has more ability to do that.

I am very disappointed that my friend, the distinguished Senator from New Mexico, would come here and cite Joseph Stiglitz as supporting the policy of this country going back to the last administration when, in fact, if you read anything that Stiglitz writes, he talks about the economy being bad as a result of what happened with this administration's economic policy.

TRIBUTE TO GREG MADDUX

Mr. REID. Mr. President, I rise today to pay tribute to an outstanding Nevadan, Greg Maddux.

Greg Maddux is a baseball player. That is a tremendous understatement. He is one of best pitchers in professional baseball today and considered among the best to ever play the game.

Yesterday Greg won this 15th game of the season for the 15th year in a row, tying a record set by Cy Young.

For those who do not follow baseball or are not aware of the significance of this accomplishment, let me explain that Cy Young was one of baseball's first superstars. He pitched about a hundred years ago, starting in 1890 and finishing his career in 1911. Cy Young set many records that last to this day and will likely never be broken. He became the standard by which all pitchers who followed, even now about a century after him, are judged. In fact, the honor bestowed each year on the best pitcher in each league is known as the Cy Young award.

Greg Maddux became the first player to ever win four consecutive Cy Young awards with his dominant performances in the early to mid 1990s. His latest achievement testifies to his continued excellence, his endurance and consistency and his continued hard work.

Greg was born on April 14, 1966, the youngest of three children born to parents Dave and Linda Maddux. Dave was in the Air Force so the family including Greg's brother Mike and sister Terri moved around a lot but eventually settled in Las Vegas.

At Valley High in Las Vegas, Greg Maddux earned All-State honors in baseball his junior and senior years. He was selected by the Chicago Cubs in the second round of the free agent draft while he was still in high school, and following his graduation in 1984, he joined their minor league system. He made quick progress in the minors, earing a call up to the big leagues in 1986 at age 20, becoming the youngest Cub in the majors since 1967. He won his first start on September 7 of that year with a complete game victory against the Cincinnati Reds, who were his favorite team as a youth. And later that month he won his second game when he beat his brother Mike, himself a successful professional player who pitched for 15 years in the major leagues. In fact, Mike pitched for 10 major league teams over 15 years. But for his brother, Greg, he would be Las Vegas's most famous major league pitcher.

You can imagine how proud the Maddux family must have been to see these 2 brothers competing against each other as they had years earlier when they played whiffle ball games in the backyard, and the satisfaction Greg took in overcoming his big brother.

Greg started playing catch with his dad when he was just 2 years old and made enough progress that several years later he skipped tee ball and started playing peewee ball against boys much older and bigger than him.

Although he was the smallest and youngest kid on the team, Greg became the starting pitcher and the best player on the team, and his father—who coached the team—already saw signs that Greg was destined to be a star.

The Maddux family had a passion for sports, and the children learned the key to success was effort.

"I think our household was like every other American household," says Greg's mother, Linda. "It was routine. They had school, homework, baseball practice, and chores around the house."

One of the values that David and Linda Maddux tried to instill in Greg and his two siblings was a "good work ethic."

"Each one had his jobs around the house," she says, "and they did them without question."

That hard work clearly has paid off throughout Greg Maddux's career, helping make him the winningest pitcher of the 1990s.

He is not physically imposing—he stands less than 6 feet tall and weighs perhaps 175 pounds. He doesn't overpower but baffles batters with his pinpoint control and mastery. A maxim normally applied to real estate could also describe the keys to Greg Maddux's successful pitching: location, location, location.

He works efficiently, using economy of pitches. In yesterday's record-setting victory 61 of his 76 pitches were strikes. And last year he averaged only 1 walk per 9 innings.

As different as it is to draw a walk from him Greg is also stingy in giving up runs.

He concluded the 1990s with a 2.54 ERA over the decade, the third lowest ERA for any decade since 1910, behind only Hoyt Wilhelm (2.16) and Sandy Koufax (2.36) in the 1960s. In 1995, he became the first pitcher to log back to back seasons with an ERA under 1.80.

His main pitches include a fastball in the mid-80s, a curve ball, slider and changeup. But whatever he throws, he regards his favorite pitch as strike three.

Teammate John Smoltz, also a Cy Young winning pitcher says of Greg, "Every pitch has a purpose. Sometimes he knows what he's going to throw two pitches ahead. I swear, he makes it look like guys are swinging foam bats against him."

And an opposing team's scout remarks, "Maddux is so good, we all should be wearing tuxedos when he pitches."

Greg Maddux has been described as a scientist who dissects opposing teams, an artist who paints the corners of home plate and a magician who can perform wonders with a baseball and make a talented batter disappear.

Sports Illustrated hailed him as the "best pitcher you'll ever see."

When he takes the mound, he presents a clinic, masterfully working the plate and using his arsenal of pitches. With guile, cunning and a poker face, he outsmarts opponents and keeps them guessing. It has been said that he can throw any pitch anywhere he wants on any count. As a result, batters are seldom able to hit the ball solidly and are often off balance, resulting in a harmless grounder or fly ball.

Not only is Greg Maddux an outstanding pitcher, but an all around baseball player, as he can field, hit and run the bases very well. He holds numerous records for putouts, assists and double plays, and is considered one of the best-fielding pitchers of all time. He has won 12 consecutive Gold Glove Awards for his fielding and is likely on his way to yet another.

As I said he works hard on his batting, normally not something pitchers are known for. In 1999, he hit 2 home runs and averaged .264.

Clearly, Greg Maddux is willing to give his all to help his team win though he manages to keep his cool regardless of the circumstances.

His calm demeanor and humility mask a fierce determination and competitive spirit that have earned him the nickname "Mad Dog."

Greg has been one of the major reasons the Atlanta Braves have been able to win their division an unprecedented 12 years in a row and again this year have the best record in the league.

He wears number 31, but since joining the Braves as a free agent in 1993, he has been the number 1 pitcher on a team that includes 2 other Cy Young winners, Smoltz and Glavine.

Yet Greg is a modest man who downplays his achievement.

"I never really thought about it," Maddux said of the record he set yesterday. "It feels good to be healthy enough to get it." He praises his teammates for much of his success and cites winning the World Series with the Braves in 1995, not any individual achievement, as his greatest and proudest moment in sports.

Watching Greg Maddux on the mound, Braves pitching coach Leo Mazzone says he is well aware that he is seeing a future Hall of Famer. For winning the Cy Young, his glove and spikes are already in the Hall, and Greg Maddux certainly will be voted in as soon as he is eligible, five years after he retires.

As much of a success and a role model as Greg Maddux is on the baseball field, he is also a success and role model in life.

He is a devoted family man, married to a wonderful wife Kathy. They have a daughter, Amanda Paige and a son Chase Alan.

Greg can afford to live anywhere. I know that we are happy that he and his family have chosen to live in Las Vegas and to contribute generously to others in the community, whether signing autographs for fans or giving his time and money towards charitable causes.

Greg states that he has no use for the glamorous life which his money could buy and describes himself as "your average Joe."

Kathy and Greg lead the Maddux Foundation, which is involved in several charitable activities in Las Vegas and Atlanta. The Foundation supports children's homes, domestic crisis shelters, and boys' and girls' clubs.

"Our foundation is low key," Maddux said. "We've never really solicited anyone outside before."

"The goal is to give more money to charity. It's about 'How much can we give?' instead of 'How much can we profit?' "

In recent years, the Madduxes have expanded their philanthropic efforts, and brother Mike also has a foundation that helps children. Greg participates in golf tournaments whose proceeds go to the Southern Nevada chapter of the Candlelighters, which works with families whose children are battling cancer, and Safe Nest, which helps victims of domestic violence.

To my friend, Greg Maddux, a great baseball player and great American I want to thank you for all you have done for Las Vegas and for Nevada, and as a role model for all America. You are a breath of fresh air in a troubled world.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ AND THE ECONOMY

Mr. DURBIN. Mr. President, I spent the weekend in my home State of Illinois, from the southern part of the State, the metro east, St. Clair County, Madison County, and the city of Chicago, going from one place to another, and it is interesting to me that people will stop and ask me about our going to war in Iraq.

I have not found a single person who makes any excuses for Saddam Hussein. I will not. He is a man who certainly distinguished himself—if that is the word—in the history of this world: for his aggression, his militarism, his inhumane treatment of his own people and his neighbors.

He is someone who cannot be trusted but must be watched carefully and closely. He is someone who must be monitored at all times for fear he could go too far in his development of weapons and his development of military strategies as a threat to the world. Everyone concedes this. I certainly concede it.

We found what he was all about when he invaded Kuwait. We have watched him closely ever since. The United Nations put restrictions on what he can do in defense of his own nation, limitations on his own military power. One of those limitations prohibits weapons of mass destruction: chemical weapons, biological weapons, and nuclear weapons.

The United Nations started inspecting for those weapons after the Persian Gulf war. Saddam Hussein threw every obstacle he could find in their path. He discouraged them when he could, and ultimately the inspections were withdrawn 4 or 5 years ago. We still do a flyover with our planes to watch everything that happens in his country, not to mention all the other sources of intelligence. We worry about him, as we should.

Having said all those things, and the fact that almost everyone acknowledges them to be true, it is still interesting, as I go around my State—a State which is fairly diverse in terms of its economy, in terms of its culture, in terms of its politics—there is no ground swell for America to invade Iraq and to displace Saddam Hussein from power.

The idea of a land invasion, for what the President calls a "regime change" has not brought the people out cheering, as they cheered after September 11 when we said we were going after Osama bin Laden and al-Qaida. Instead, what I hear from the people I speak to in Illinois is that certainly we have to keep an eye on this man, but why should we do it alone? Shouldn't the United States have standing with it a coalition of countries around the world? Why would we do this by ourselves? Isn't it better to invite other nations to be part of it because there is strength in numbers, more clarity of purpose, a sharing of the burden not only of the war but of controlling Iraq after it is defeated?

I can tell you that Thomas Friedman, the foreign Times correspondent for the New York Times, said it best. He said: Our situation in Iraq, if we go it alone, is much the same as the person who walks into the store and sees a sign which says, "If you break it, you own it."

If we displace Saddam Hussein from power in Iraq, then, frankly, as those who displaced him, we will have a burden to bring some stability and security to that country. Is it not better for us, in that circumstance, to have other Western civilized democratic nations standing behind us, not only behind the muzzle of the gun pointed at him but standing in league with us to make sure Iraq is peaceful and safe for a long time?

Let me add one other element that comes up time and again. This is a different world since September 11 of last year. We have to measure our foreign policy against its impact on terrorism. There is not a country in the world which would knowingly attack the United States. We have the best military in the world, the best men and women in uniform, the best technology, but we know we are vulnerable, we are vulnerable to terrorism.

If we make that decision to go it alone in Iraq, to do it by ourselves, and say to the rest of the world, we don't care what the opinion of the United Nations is or any other country is, we will go it alone, would that not invite a backlash from parts of the world that are preaching extremism and fundamentalism? Wouldn't that, unfortunately, sow the seeds of terrorism?

Isn't it far better for us to have a coalition with Arab States, as President Bush's father did in the Persian Gulf, a grand coalition of countries that say Saddam Hussein has to be watched carefully?

When I saw the resolution that President Bush sent us last week, that is not his intension, that is not his design. If you think that trip to the United Nations was an appeal to that body to move forward and do things, it might have been, but, frankly, his resolution he sent to us basically says: Ignore my speech; ignore my visit to the United Nations; ignore the United Nations; give me the authority to do it by myself.

I have no doubt we could win that war, that we could displace Saddam Hussein, but isn't there a better and more cautious and more prudent and more successful strategy we should consider—bringing in the United Nations for real inspections, unconditional inspections, enforced with military force, if they must be, including some troops from the United States, to make sure the inspectors get into the places they need to; and failing that, if Saddam Hussein stops the inspectors, that we issue an ultimatum to him through the United Nations, that if you do not allow unconditional inspections, you can expect there will be a forceful effort by the countries of the world to enforce United Nations resolutions already in place? Isn't that a far better approach than to say, we have a battle plan; we are going to attack; we will send you a note, United Nations, and let you know what happens?

The United Nations should not dictate American policy, but President Bush's father was right. When you can involve a coalition of nations around the world in your effort to bring peace to a region, you have a far greater chance of success, world acceptance, sharing the burden; and, ultimately, the American people would not stand by themselves but stand in concert with those of like mind and like values.

As I return to Illinois, people tell me over and over again: Senator, when you go back, please go to the floor of the Senate and express our feelings that we do need a coalition of force, not just for the principle and value of it but for the military significance of it, not just so we are not standing alone but so we are validated in the eyes of the world that what we are standing for is not just a narrow interest of the United States but in the best interest of a free and peaceful world.

That is what makes sense. That is what we ought to move forward with.

Mr. REID. Will the Senator yield for a question?

Mr. DURBIN. Yes, I am happy to yield.

Mr. REID. I ask my friend from Illinois, is it true, when you returned to Illinois, people were asking about things other than Iraq?

Mr. DURBIN. Exactly true.

Mr. REID. Are people concerned about the stumbling, staggering, faltering economy?

Mr. DURBIN. I say to the Senator from Nevada, that is where I was headed next.

This chart, which I have brought to the floor, talks about the lost private sector jobs in the last 50 years. Look at what has occurred under President Eisenhower through George W. Bush. Look at the only period that shows red ink, the net loss of jobs; and it turns out to be under President Bush.

The people of Illinois talk about Iraq because it is in the headlines. That is all the media talks about. But when it comes to the issues they worry about, this is what they are concerned about. There are not enough jobs, not enough good-paying jobs.

Unfortunately, under this administration, the economy is not even a major issue. They are ignoring it. I asked last week—and I will renew my request to the President—can you give us 1 hour a week on America's economy, 1 hour to talk about income and job security? That is a valid issue.

Take a look at long-term unemployment. It has more than doubled under President Bush. In January 2001, when he came to office, there were 648,000 under long-term unemployment, people unemployed for half a year. That number has more than doubled in this period of time. The President may rally America to stand behind him, as he should, on the war on terrorism and foreign policy. But he ought to rally America to work, give people opportunities so they can be employed, so they have some opportunity to enjoy the benefits of this country.

We are facing now the weakest economic growth in 50 years. This chart shows economic growth, the average rate of growth over the last 2 years. Under President George W. Bush, it has been 1.0 percent. The next worst President, since Eisenhower, was his father. Then you have to go back to Gerald Ford to find another bad period of time.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized for 10 additional minutes.

Mr. REID. Mr. President, reserving the right to object, I don't see anyone here wishing to speak. It is my understanding morning business has, under the previous order, ended.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. The next period of time is for debate on the cloture motion; is that right?

The PRESIDING OFFICER. Under the previous order, the Senate is to resume consideration of H.R. 5093.

Mr. REID. So is it now time to debate the Dodd amendment?

The PRESIDING OFFICER. Yes, to discuss the Dodd amendment.

Mr. REID. I don't see anyone here, so I ask unanimous consent that the Senator from Illinois be recognized for 10 minutes and that the Republicans be given an extra 10 minutes also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I will yield at least a portion of my time to my friend from North Dakota.

Look at the rate of growth under the Bush Presidency. Is it any wonder the President does not want to talk about the economy?

Mr. REID. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. REID. I should have included that this time comes from the debate on the Dodd amendment, that that number be lessened by 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. If you have the weakest economic growth in 50 years, there is no reason for you to talk about it. Certainly this Bush White House will not. They won't bring this issue to the American people because they don't have much to tell us.

The news we have seen on the economy is well known. Take a look at what has happened in terms of the market value of those who own stocks, the New York Stock Exchange and Nasdaq, $4.5 trillion of lost stock market wealth between January 2001, when President Bush came to office, and August 2002. That, of course, represents not just a loss in stock market wealth, it is a loss of savings. It is a loss of college savings accounts for kids. It is a loss of pension plans, 401(k)s, and people making new plans with their lives because of the bottom falling out of the stock market.

Of course, last week we saw the Dow Jones crashing even further. The people in the Bush administration do not want to discuss this. They don't want to talk about turning this economy around. They want to talk about rallying troops.

Let's rally the American people to get the economy back on its feet. Let the President give us 1 hour a week talking about what we can do to try to get this economy moving forward again.

This stock market decline is a new record. If you look at the sharpest percentage decline in the Standard & Poor's 500, only Herbert Hoover has a worse record than President George W. Bush. Herbert Hoover in the Great Depression saw the stock market decline by 30 percent. So far, under President George W. Bush we have seen a decline of 21 percent—historic declines. It is no wonder the President does not want to discuss this.

Look as well at what workers are facing who still are on the job. The cost of health insurance has inflated dramatically since the President came to office: family coverage, 16 percent; individual coverage, 27 percent.

The biggest single complaint I have heard from businesses, labor unions, and individuals in the State of Illinois: the cost of health insurance. Senator, what are you going to do about it? The honest answer is that this Congress has done nothing about it, nor has the President proposed anything significant.

When we consider the issues we should be about, national security is No. 1, I agree, but it is not the only issue facing America. We need to discuss issues of pension security and income security and health care security and the future of Social Security. Those are issues American families worry about every single day. We in the Senate should worry about them as well.

I yield to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I have been listening to the Senator from Illinois. He is right. Iraq is not an irrelevant issue. It is a very important issue. The President will find, as we finish all of these discussions, that we will have a pretty unified voice on what we do around the world, but we need to do that through the United Nations, with other partner countries, as part of a coalition. At the end of the day, this country will have led the way towards that result.

It is also the case, when most people sit down around the supper table and talk about their lives, they are talking about subjects that are much different from Iraq. They are discussing issues such as: Do we have a good job; does it pay well; do we have job security; do we send our kids to good schools; do grandpa and grandma have decent health care; do we live in a safe neighborhood? All of those issues exist as well.

There are some who don't want to talk about any of those issues. They say: These issues somehow are irrelevant.

They are not irrelevant to people out of work, who are concerned about their jobs, concerned about opportunities for themselves and their children, concerned about the ability to buy health care, to pay for health insurance, to afford their prescription medicine. The Senator is absolutely correct. There are a lot of other issues we must resolve.

This Senate is at parade rest; I am guessing because there are some people here who don't want us to do anything on these issues, whether it is health care, the economy, or corporate scandals. And incidentally, I won't have time to talk much about that, but we have not finished on that issue, the issue of corporate scandals. We are talking about hundreds of millions and billions of dollars frittered away by CEOs and others who have run corporations into the ground.

A recent study by the Financial Times says that of the 25 largest bankruptcies in America, prior to bankruptcy 208, executives took $3.3 billion out of the companies prior to running them into the ground. Should we do something about that? We should. That issue isn't over, despite the fact there are some in this Chamber and downtown who resist every step of the way.

We have a lot to do. There is a lot on the agenda, a lot on our plate. Frankly, there are some people who are sitting here with their feet on the brakes. They don't want anything to happen on issues that matter a great deal to the average American family.

I have listened attentively to the presentation. I was going to come over and make a presentation myself. I will do that tomorrow.

The answer is, yes, let's be very concerned about Iraq, about foreign policy, about the war on terrorism. Let's be concerned about it, do it seriously. But let's also understand it is not the only subject. There are other important considerations impacting on the lives of American families with which we need to be dealing.

Mr. DURBIN. I thank the Senator from North Dakota. Average families have to worry about a lot of issues: the health of their children, whether they can make the mortgage payment. If families can face more than one responsibility, our Government certainly can.

It is not enough to say we are just going to focus on the Middle East and what might happen there in the years to come; let's talk about what is happening in the middle west and the East and the South and the North, all across the United States. What are we doing to make sure this economy turns around and gives people a chance?

I spoke to a friend of mine in the plumbers union in Chicago who told me that the cost of prescription drugs for retirees last year went up 300 percent in his one local. He said: I don't know if we can meet our obligation to our seniors that we promised over the years.

As for corporate greed and scandals, the Senator from North Dakota talks about the bankruptcies and the money squandered before bankruptcy. There is a company called Tyco where the CEO, Mr. Kozlowski, has been written up in the Wall Street Journal. Their company didn't go into bankruptcy. It is still in business. But what he did to it was to bleed it of a lot of money, hundreds of millions of dollars in the years leading up to his resignation.

All of these things have discredited American business. They have discredited the good, honest businesspeople who lead our Nation effectively. Frankly, they have put a damper on America's feelings about buying stock. The President needs to address this.

We passed the Sarbanes bill. It was a good bill. I was glad to vote for it. There is more to do: the bankruptcy code, that corporate bankruptcy will take into account when people have squandered the money of corporations so that it comes back into the corporation and away from these corporate executives; that they be charged with crimes when they are guilty. All of these issues need to be taken up. It is an agenda which we should face because it is an agenda the American people face every single day. And unless and until we do that, we are not meeting our obligation.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I see the Senator from Colorado here. Under the order entered, it is my understanding that Senators CAMPBELL and INOUYE have equal time with Senator DODD. Is that the understanding?

Mr. CAMPBELL. Yes.

Mr. REID. The order said Senator CAMPBELL had 20 minutes, Senator DODD had 20, and Senator INOUYE had 20. Is that all right with the Senator from Colorado?

Mr. CAMPBELL. That is my understanding.

Mr. REID. When we started this debate, we gave 10 minutes to the Democrats and 10 minutes to the Republicans, leaving 20 minutes on each side. Senator INOUYE said that would be OK with him. If we need more time—

Mr. CAMPBELL. I think 10 will be enough. Perhaps I can ask unanimous consent if it is not; that is, 10 minutes for Senator INOUYE and 10 for me?

Mr. REID. Yes. Why don't we do this. There is no one here to use the Republicans' morning business time. Why don't we give you back, so you have enough time, 25 minutes, and let's make sure Senator DODD has that. So I think that will extend the vote 10 minutes.

Mr. CAMPBELL. That is fine. Has Senator DODD spoken yet?

Mr. REID. No, he has not. The vote would take place at 5:40, and Senator DODD will have 25 minutes and Senators CAMPBELL and INOUYE would have 25 minutes.

Mr. CAMPBELL. I ask the leader, has Senator INOUYE been here yet?

Mr. REID. Yes.

Mr. DODD. This debate would end at 4:30; is that right?

Mr. REID. Yes. But the Republicans are entitled to 10 minutes in morning business. They may use that.

Mr. DODD. Does this require a unanimous consent request?

Mr. REID. Yes, Mr. President. I ask unanimous consent for that.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5093, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

Pending:

Byrd Amendment No. 4472, in the nature of a substitute.

Byrd Amendment No. 4480 (to Amendment No. 4472), to provide funds to repay accounts from which funds were borrowed for emergency wildfire suppression.

Craig/Domenici Amendment No. 4518 (to Amendment No. 4480), to reduce hazardous fuels on our national forests.

Dodd Amendment No. 4522 (to Amendment No. 4472), to prohibit the expenditure of funds to recognize Indian tribes and tribal nations until the date of implementation of certain administrative procedures.

Byrd/Stevens Amendment No. 4532 (to Amendment No. 4472), to provide for critical emergency supplemental appropriations.

The PRESIDING OFFICER. Under the previous order, there will now be debate on the Dodd amendment No. 4522 until 4:40, equally divided between Senators DODD, INOUYE, and CAMPBELL, or their designees.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, the amendment is offered on behalf of myself and Senator LIEBERMAN. I presume he will be coming to the floor at some point. He has a strong interest in the amendment. I want to be notified by the Chair when I have consumed 10 minutes, so I can leave time for Senator LIEBERMAN.

I begin by thanking my colleagues from Hawaii and Colorado. They were very generous—they are all the time, but particularly last week—in conducting a hearing on the subject matter that is the subject of this amendment. They graciously listened to a series of witnesses from the administration, from Connecticut, mayors from towns in Connecticut, along with other interested parties on the subject matter generally of the recognition process at the Bureau of Indian Affairs. So any discussion of the matter before us should begin with an expression of gratitude to both of these distinguished Members of the Senate for their willingness to listen to the case we presented.

Again, I express my gratitude to them. They are friends of mine, and this is one of those awkward moments that can happen when good friends find themselves on opposite sides of an issue.

Secondly, I had a good meeting last week with some of the national representatives of the Native American community from Indian country here in the Senate. I did state to them, which I will state here as well, that I take great pride in the relationship I have with my Indian constituents in Connecticut, as I have had around the country—on numerous occasions, whether appearing in Window Rock, AZ, or with the Gila River tribes, and others; with my good friend from Alaska, and others; I take a great deal of pride in my strong support for the Native American community.

What brings us here, and what Senator LIEBERMAN and I are raising, is the concern that we have over the present recognition process. It is a concern that was not generated by my State alone. It was, in fact, generated by a study done by the Government Accounting Office, backed by representatives of the Bureau of Indian Affairs. In 2000, the Assistant Secretary for Indian Affairs stated before the U.S. Congress that the system was terribly broken and in need of repair. I don't know of anyone who disagrees with that.

Now, there are suggestions on how best to repair this. The problem is that while we are waiting for the repairs to occur, recognitions are going forward. In many cases, of course, they will be proven to be absolutely well-deserved, but others may not be. My concern is when that happens, it not only does damage to the communities and others who may be adversely affected by those decisions, but I argue just as strongly that an adverse impact occurs as well on existing tribal nations that have long sought recognition, and suspicions are raised about the validity and credibility of the process. Those who have received recognition I think are devalued as well. There are now pending 222 recognition petitions before the Bureau of Indian Affairs.

I have put up a chart showing where they are in the country. Many States, of course, have none; 37 States have at least 1 pending. In my State there are 12. Understand the size of my State. It is about 110 miles by 50 miles. There are national parks in this country that are larger geographically than my State. Some counties in various States are larger than Connecticut. So when you start talking about 12 petitions pending, you can begin to understand what the impact can be, particularly if there are concerns about the validity of some of the petitions pending. Massachusetts has 6, Rhode Island has 5, California has 53, North Carolina has 16, South Carolina has 11, Michigan has 10, Louisiana has 10, Missouri has 9, and so forth.

My colleagues are more than welcome to look at the list I have. There is a particular poignancy in Connecticut because of the number. Every single petition may be entirely meritorious. I would not, for one, suggest that they should not be approved if, in fact, that is the case. But, if you will, what provoked this particular concern to raise this amendment was a decision reached only a few weeks ago where two petitioning parties in Connecticut were each denied separate recognition. But the Bureau of Indian Affairs, contrary to the recommendation of the technical staff, recognized, in effect, a third tribe, and said both of these tribes are not two separate tribes, but one.

That may be a very legitimate conclusion, but you can understand the concern when all of a sudden, without any hearings, they arrived at a third conclusion, and the Assistant Secretary found that to be the result. So that raises concerns, obviously, in the minds of many people. Imagine two people seeking grant applications, both applications are rejected, and the Secretary of some agency construed a third grant application. It seems to me that goes beyond any parameters that Congress has extended to the Bureau of Indian Affairs in this kind of a process.

As I mentioned earlier, we have already seen statements from the Assistant Secretary of the Bureau of Indian Affairs. I quote him:

> I am troubled by the money backing certain petitions, and I do think it is time that Congress should consider an alternative to the existing process. Otherwise, we are more likely to recognize someone that might not deserve it.
>
> The more contentious and nasty things become, the less we feel we are able to do it. I know it is unusual for an agency to give up a responsibility like this, but this one has outgrown us. It needs more expertise and resources than we have available.

Mr. President, we could not agree more. I am not suggesting with this amendment, by the way, that any of the applications should be rejected. This bill would involve a 1-year moratorium to put the brakes on in order to put in place a recognition process that is predictable, credible, that would allow people to have an opportunity to respond, if you will.

I don't believe a year is asking too much. I know there are tribes that have been waiting decades, in some cases, for recognition. I feel as strongly about what has happened to them as I do in areas where recognition may be extended where it may not be warranted. The process is broken if you have to wait 25 years to be heard. That itself makes the case. That argues for the amendment and not against it.

So we feel strongly this amendment is not an egregious reach of authority.

Many people all the time ask us for support on various matters. I have certainly cast many votes where parts of the country have been affected by drought or other natural disasters. This is not a natural disaster. It is not even a disaster. It does not rise to that level, but my colleagues ought to understand when we have this kind of pressure occurring in a relatively small piece of geography where concerns are being raised despite recommendations of a technical staff and other recommendations, one can understand the urgency. I think any Senator representing his or her State faced with this kind of issue would take a similar position.

It is with a sense of regret that we have moved forward. I wish we had more time to wait and that another year or two would be adequate. But in the next year or two, we are going to find a lot of these recognition petitions to have been ruled upon. They may be ruled invalid.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. DODD. Mr. President, I will let my colleagues proceed and share a few thoughts. The General Accounting Office is the last point I will make. In their study released last November, they were highly critical of the BIA. They did not just speak about Connecticut. They talked about the country. They said the Assistant Secretary has rejected several recent recommendations made by the technical staff, all resulting in either proposed or final decisions to recognize tribes when staff recommended against recognition.

I am not suggesting staff is always right in these matters or suggesting they are right and the Assistant Secretary is wrong. However, it seems to me it ought to be a source of some trouble when we have that kind of conflict of opinions occurring. Especially with 222 petitions pending, with criteria being used selectively, I think it is dangerous and could provoke a lot of hostility which we ought to avoid.

I urge the amendment be adopted, and I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Colorado.

Mr. CAMPBELL. Mr. President, first, I thank Senator DODD and Senator LIEBERMAN. I know, probably better than most in this Chamber, the exemplary voting record they have had and the strong voice they have been in supporting American Indians nationwide, people who very often are left out and do not have a very strong voice in the Congress. They do not have all the lobbyists that many groups have. They do not have the input that many other groups have. I know both these Senators have done a great job for them.

In this particular case, my friend and colleague, Senator INOUYE, the chairman of the Indian Affairs Committee, is going to move to table the amendment offered by Senators DODD and LIEBERMAN. I reluctantly say it is the right thing to do for our colleagues to vote to table.

During the time we have been considering the fiscal year 2003 Interior appropriations bill and Senator DODD's amendment, the Committee on Indian Affairs has held a hearing on two bills to address the Federal acknowledgment process introduced by both of these great Senators.

I know of no one who has said the Bureau of Indian Affairs is doing everything right, and we constantly review the actions of the Bureau in our committee.

I believe the process that governs how the United States recognizes Indian tribes should be transparent, timely, and afford due process to petitioners. I also believe fundamental fairness requires that truly affected communities be given an opportunity to be heard because, particularly with the advent of gaming, there are many things that happen when the tribes get the opportunity to game that sometimes local communities believe they are left out in the hearing process.

Of all affected communities, I believe the United States owes a moral debt to the Native American communities to ensure they receive every measure of fairness we can provide. That, in fact, is the core tenet of trust responsibility as set up originally in our Federal Government.

The hearing our committee held on September 17 has been very helpful in understanding the effects of this amendment since it contains several of the primary features of Senator DODD's bill, S. 1392. Very important, in my view, was a statement by the administration before our committee that it was opposed to S. 1392 and opposed to this amendment, too.

Primary among the administration's objections is that the legislation and the amendment would:

One, authorize "interested parties" to request that the Secretary conduct formal hearings on a petition, in addition to the formal on-the-record administrative factfinding proceeding, and the extensive administrative hearings and appeals that are currently available. They are already available. "Interested parties" is somewhat vague.

Two, alter the standard of proof from a "reasonable likelihood" standard to a "more likely than not" standard.

And, three, create conflict and confusion with the regulatory process by statutorily duplicating some regulations but not others, thereby inserting uncertainty as to which regulatory provisions are applicable.

Additionally, the administration informed the committee that it cannot support a moratorium on an already lengthy, burdensome, and slow process. Senator DODD spoke to that. In fact, they did testify that if either the Dodd bill or the Dodd amendment passed, it would take over a year to promulgate new rules to implement either one, the bill or the rule.

I believe the imposition of such a moratorium would be particularly onerous on those petitioning groups that have gone through nearly the entire process and are now in the stage known as the final determination phase.

Just as important, in my mind, as the opposition of the administration is the position of already-recognized Indian tribes that already have a government-to-government relationship with the U.S. Government. We have received dozens of letters and calls from across the country.

I ask unanimous consent to print in the RECORD the tribes nationwide and four national associations in opposition to the Dodd amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRIBAL OPPOSITION TO DODD AMENDMENT

(1) Tribes opposing amendment: 21;

(2) Tribal association opposing amendment: 5;

(3) Tribes or tribal associations supporting amendment: 0.

TRIBES OPPOSING AMENDMENT

Oneida Indian Nation
Ft. McDowell
Agua Caliente Band of Cahuilla Indians
Passamaquoddy Tribe
Nooksack Indian Tribe
Lower Elwha Klallam Tribe
Sycuan Band of the Kumeyaay Nation
Choctaw Nation of Oklahoma
Hoopa Valley Tribe
Jamestown S. Klallam Tribe
Squaxim Island Tribe
Lummi Indian Tribe
Gun Lake Tribe
Cabazon Band of Mission Indians
Cahto Tribe
Susanville Indian Rancheria
Prairie Island Indian Community
Golden Hill Paugussett Indian Tribe
Wyandotte Nation
Saint Regis Mohawk Tribe
Winnebago Tribe of Nebraska

TRIBAL ASSOCIATIONS OPPOSING AMENDMENT

National Congress of American Indians
United South and Eastern Tribes
Midwest Alliance of Sovereign Tribes
Northwest Indian Fisheries Commission
California Nations Indian Gaming Association

Mr. CAMPBELL. Mr. President, these tribes and organizations from across the United States, from Indian country, have declared their universal opposition. Indeed, they are dismayed that we would be considering making such a sea change on Federal Indian policy through the appropriations process. Since tribes have been playing by the rules and some, indeed, have waited for years for recognition, it seems to me a bit unfair to put this in an appropriations bill.

The Committee on Indian Affairs has held many hearings on the issue of recognition and recognition reform over the past several years. We also heard from several Native groups that the process has taken generations and people have actually died waiting for recognition.

I find it somewhat ironic that descendants of Native people who have lived on this continent for thousands of years have to document who they are to a government set up by primarily post-Columbian immigrants.

One thing that has become crystal clear from our hearings—and this has been documented by the GAO and inspector general reports—is that this agency, the Branch Acknowledgment Research, BAR, is not able to provide information in a timely manner to either the Native American petitioners or to outside interested groups. That is where we should be putting our emphasis and providing more money for that process.

A substantial contributing factor is the flood of requests under the Freedom of Information Act. These FOIAs, as they are called, are keeping the BAR in a state of constant churning of documents, preventing them from performing their core tasks.

Those asking for reforms must recognize the process in place is made worse by the avalanche of lawsuits filed by local communities, State attorneys general, and some suits by already-recognized tribes. I fail to see how providing even more opportunities for lawyers to inject themselves into the process, and generate more lawsuits, is an improvement over the process. If we are going to reform the acknowledgment process, we should make sure we are providing reforms—true reforms—that provide benefits not just for States, the attorneys general, and the lawyers, but also for the petitioning groups themselves.

Finally, I cannot support an appropriations rider that would so substantially impact a regulatory process that has been in place for 25 years and through which so many participants are still working their way.

Placing a moratorium on the process and altering the evidentiary standard is a dramatic change in policy and should not be made without very careful consideration. I could only support such drastic actions if I were presented with credible proof of actual fraud or something equally bad.

I must add that I do support one provision of my colleague's amendment and legislation; that is, as I mentioned, to substantially increase the funds that the BAR receives to conduct its research. In fact, I encourage both my colleagues, Senator DODD and Senator LIEBERMAN, and would join with them in efforts in obtaining the $10 million authorized in this legislation rather than a smaller amount that is in his amendment.

Providing greater resources to the BAR would enable experienced and capable people, whether genealogists, anthropologists, or archeologists, to do their work and provide an answer in a timely manner.

In conclusion, I ask my colleagues to support the motion of the Senator from Hawaii, our chairman, Mr. INOUYE, to table.

I yield back my time.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Who yields time?

Mr. INOUYE. Mr. President, I yield myself 12 minutes.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, first, may I say I am most grateful to my colleague from Connecticut for his gracious remarks. He knows very well it is a very difficult chore to be speaking against his amendment. When one thinks of the friendship that started since the time of his father, this is not easy, but I believe most respectfully that the amendment my colleague from Connecticut presents is not proper.

He says he is for reform. We are all for reform. As my colleague from Connecticut pointed out, there are tribes that have been waiting not a year, not 5 years, but decades to even be recognized for consideration by the administration. This will further prolong it.

Those of us who serve on the Indian Affairs Committee have had reason to pay special attention to the State of Connecticut for quite a few years now—in no small part because of the tensions that we read about in the media reports that appear to be arising out of the fact that the two Federally-recognized tribes in southeastern Connecticut—the Mashantucket Pequot Tribe and the Mohegan Tribe—are conducting gaming activities on their lands under the authority of the Indian Gaming Regulatory Act—as is their right to do under that Federal law.

Because we have been monitoring the public dialogue in the State of Connecticut rather closely, and because the hearing the Committee on Indian Affairs held last week on Senator DODD'S authorization bill, from which the elements of his amendment to the Interior appropriations bill are drawn, I would like to take a few moments to acquaint my colleagues with the dynamics that are at play in the State of Connecticut as I understand them.

Pursuant to the compacts each of those two tribes entered into with the State of Connecticut, in exchange for the exclusive authorization to operate certain forms of class III gaming, as defined in the Federal law, the two tribes have been making payments to the State of Connecticut from the revenues derived from the operation of slot machines.

Those funds are intended, as I understand it, to defray the costs of any impacts that the tribes' conduct of gaming activities may have on the surrounding towns and communities.

Unfortunately, despite the fact that together, over the past nine years, the two tribes have thus far paid the State of Connecticut $2.2 billion, the towns most directly affected by an increase in traffic and business, have not received funding from the State of Connecticut that they feel is adequate to address their needs.

This is what one of the councilmen from one of the towns nearest the Mashantucket Pequot indicated in his testimony before the Committee on Indian Affairs last week. I have no doubt that his perceptions are sincerely-held, nor that they are shared by others in his town.

It is not my place to question the decisions of the State of Connecticut in allocating the funds the State has received from the tribes, but it seems to me that we might well not be here today, were those towns in close proximity to the Foxwoods and Mohegan Sun gaming facilities and hotels not experiencing impacts that were intended to be addressed by the substantial payments—and I think $2.2 billion is substantial by any measure—that both tribes have made to the State of Connecticut thus far.

I raise these issues that are seemingly unrelated to the matter we address today, because the local Connecticut town officials have repeatedly suggested that there is a direct relationship between the process by which the United States Government recognizes the inherent sovereignty of tribal groups and the impacts of gaming activities from which they seek financial relief from the Federal Government.

I have no doubt that the citizens of Connecticut would acknowledge that there are Indian tribes and Native people who are also citizens of Connecticut, because as early as the 1600's, long before this nation was formed, Connecticut established five reservations to serve as homelands for the Indian people of Connecticut.

Thus, for over 400 years, Connecticut has, by its own action, recognized that there are Indian tribes who have historically and traditionally, made their homes in Connecticut—and indeed, that Indian tribes occupied the area that is now the State of Connecticut, long before Connecticut established Indian reservations.

So the arguments that give rise to my friend's amendment cannot be that the State of Connecticut does not recognize the Indian tribes of Connecticut.

No, the argument advanced by the non-Indian citizens of Connecticut and some officials of the State of Connecticut seems to be that the United States should not recognize the Indian tribes that have historically occupied the area that is now the State of Connecticut.

And so, unusual activities are being initiated by State and local officials, to prevent the United States from recognizing these Connecticut tribes.

These activities include litigation, of course, but they also include the hiring of genealogists and anthropologists and historians, and even former employees of the Bureau of Indian Affairs' Branch of Acknowledgment, in an effort to develop information that could serve to prove that the Indian tribes that are recognized by the State of Connecticut either are not Indian tribes, or at least, that they are not Indian tribes which should be recognized by the United States.

I don't suppose that I am the only one to whom this position appears fundamentally and inherently contradictory.

In any event, it is clear that there are citizens and local governments in Connecticut and even the State of Connecticut who are expending substantial sums and considerable energy to oppose the Federal acknowledgment of Connecticut tribes, and that they believe the United States should subsidize their expenditures.

Indeed, Senator DODD has a bill pending in the Committee on Indian Affairs that would provide grants to State and local governments so that they could be better able to carry on their fight.

That is one set of issues.

Another set of issues has to do with the erroneous perception—and sadly I think perhaps this inaccurate portrait is drawn somewhat deliberately—that acknowledgment by the United States that a tribal group is an Indian tribe, leads directly and automatically to the conduct of gaming.

In fact, the vast majority of Federally-recognized tribes in the United States are not engaged in the conduct of gaming activities under the authority of Federal law, and many, like the great Navajo Nation—the largest land-based Indian tribe in the United States—have consistently rejected gaming as a means of economic development.

The acknowledgment of an Indian tribe by the Secretary of the Interior does not even entail the establishment of a land base that could serve as the homeland for tribal members.

No, instead, there is a separate process to determine whether land should be taken into trust for an Indian tribe—a process which provides for significant involvement of State Governors, as well as State legislatures and local governments.

That process is not an easy one—there are tribes across the country who will verify that it takes years—as much as 10 to 20 years—to have land taken into trust.

And that is only step one..

Should a tribe want to pursue gaming as a means of economic development, there is a separate process with even higher burdens to meet—for the taking of land into trust for gaming purposes.

In this process, for land that is to be taken into trust for purposes of gaming after October 17, 1988, there is not only a prohibition in Federal law that has only limited exceptions, but a far greater role for the Governor of each State in whether land is taken into trust for gaming. Some commentators have even suggested that this role that each Governor is afforded under Federal law constitutes an absolute veto power.

So to conclude, it is abundantly clear to anyone who cares to conduct even the most superficial survey of Federal Indian law, that the acknowledgment of an Indian tribe by the United States is a process that is separate and decidedly distinct from the issue of gaming.

Though some may see it as being to their advantage to lump these different processes together and make it appear that they are all one—as one who has served on the Committee on Indian Affairs for 24 years now, I can assure my colleagues that it simply is not so.

As the Chairman of the Republican National Committee, Marc Racicot, recently was quoted as responding to the notion that people are mixing Federal recognition with Indian gaming, "Is the question really about the Federal recognition process or is it about gambling? Frankly, I think people should address those questions honestly."

As my colleagues know, Marc Racicot is the former Governor and former attorney general for many years of the State of Montana.

In that same interview that was published ten days ago, Governor Racicot indicated that his experience with Federal recognition has not been mired in "irregularities and improprieties" as alleged by Connecticut officials. Instead, Governor Racicot stated "the process is clear, plain and steeped in integrity".

If Governor Racicot's observations were the exception to a perception widely-held across the country, we might have a different set of circumstances to address.

But the problems that are cited by the citizens of Connecticut are clearly different from those that have been identified by administration officials, both past and present, by petitioning groups, by the General Accounting Office, and by those who have testified before the Committee on Indian Affairs.

Of course, like any new venture that bring more people, more traffic, and more revenues into a State, there have been concerns expressed about the impacts of gaming—in our history as a country we saw them first in New Jersey and Nevada.

Today gaming, whether it is Government-sponsored or privately-owned gaming, whether it is tribally-operated or commercially-conducted—from State lotteries to horse tracks to river boats, gaming has given rise to controversy.

As we consider the amendment of my friend from Connecticut, let those of us who know the difference, keep gaming issues separate, and focus on the Federal acknowledgment process.

Could the Federal acknowledgment process benefit from reform?

I don't think there is any question that it could.

The committees of Congress—the Indian Affairs Committee in the Senate—would not have held so many hearings over the years and would not have considered so many proposals to reform the process, were it not in need of refinement.

The problem is that we do not have agreement on the nature of the problem and even less agreement on the appropriate resolution.

If you asked tribal groups that have been through the acknowledgment process or that have petitions now pending before the Branch of Acknowledgment, I believe you would find unanimity in their view that the process takes too long.

In testimony on Senator DODD's authorizing bill that was presented to the Indian Affairs Committee last week, the chairperson of the Eastern Pequot Tribe—a tribe recognized by the State of Connecticut since the 1600's—testified that the tribe's petition has been pending in the Bureau of Indian Affairs, BIA, for 24 years.

The BIA's records clearly document that the experience of the Eastern Pequot is not atypical.

Each of the Assistant Secretaries for Indian Affairs within the Department of Interior over the past several Administrations—both Republican and Democrat—have stated their views that the process is too long, too cumbersome, and too expensive for the petitioning tribal groups.

The last Assistant Secretary implemented reforms to streamline the process. The current Assistant Secretary is taking further steps to address the backlog in petitions, because by most calculations, it will take the Branch of Acknowledgment another 200 years to complete work on the petitions that are now pending before the Department.

Senator DODD's amendment does not address the seriously-problematic length of the acknowledgment process nor does it seek to reduce the burden on petitioning groups, and so Indian tribes across the country have contacted the Committee to indicate that they do not see this amendment as effecting the kind of reform that has long been seen as necessary.

Unfortunately, Senator DODD's amendment will lengthen the process for those tribal groups who are subject to the proposed moratorium by yet another year, at a minimum, given that we cannot know how much time will be entailed in the promulgation of the rules and regulations required by the amendment.

Experience would instruct us that this moratorium will last for much longer than a year.

The General Accounting Office examined the acknowledgment process in its November 2001 report to the Congress, and found that the seven mandatory criteria which each petitioning group must satisfy, were not being applied in a consistent manner. The conclusions of the GAO report corroborated another long-held view in Indian country.

The amendment before us does not address this issue either.

What the amendment does propose is something that, in the view of many of us who have struggled with these issues for years, requires a much more thorough vetting before it is made part of the permanent body of Federal law.

That is the fundamental question of whether the acknowledgment of a tribal group by the United States should be an adversarial process in which other governments should participate.

Although the current process provides for the involvement of "interested parties" in formal meetings and in the process of appeals, and State and local governments have made very effective use of the Freedom of Information Act requests to further bring the snail's pace of the acknowledgment process to a grinding halt, there has been no national discussion and no nationwide consultation within Indian country on this fundamental issue.

Yet, the amendment before us proposes to inject a process of adversarial hearings—at the request of any and all interested parties—throughout the acknowledgment process, and it would appear, before a petition is even ready for consideration.

Another change that the amendment imposes is a change in the burden of proof that a petitioner must meet in satisfying the seven mandatory criteria.

The impact of such a change has not been assessed—it would effect a change in existing law—and there can be no doubt that tribal groups who have been through the process and have not succeeded will now come to the Government seeking reconsideration under the new standard.

Even more likely is the prospect that interested parties will contest the Secretary's findings in favor of acknowledgment on the grounds that those groups that have been acknowledged may not have satisfied the new standard.

Reopening every past action of acknowledgment by the Secretary to assess whether the new standard would have changed the outcome in each case is clearly going to require years and years of effort and litigation.

I think we would all agree that generating new lawsuits against the government is not a direction that reform should take.

Last but certainly not least problematic from the vantage point of Indian country, petitioning groups, from the administration, the authorizing committees of the Congress, and from the Indian Affairs Committee is the moratorium that Senator DODD's amendment would impose on the acknowledgment process.

This moratorium affects not only the groups that have been in the process for twenty years or more, and not only the groups whose petitions are the subject of Federal district court orders, but also groups that are already through the acknowledgment process and currently in the appeals phase.

Particularly in the case of this last group, there has been no rationale advanced as to why a moratorium should be imposed on their petitions in order to reform a process of which they are no longer a part.

Like many of us, I read the newspapers and media accounts from other States. Over the years, I have even spent a little work time in Connecticut trying to be of assistance to the citizens of Connecticut. So I think I have a sense of what pressures are brought to bear on the Members of Congress who serve that State.

Working together, I think we can address the concerns that were expressed at the Indian Affairs Committee hearing last week, but I have to say, as chairman of the authorizing committee, that proposed changes in substantive law and regulations require and deserve careful consideration.

If the provisions of Senator DODD's authorizing measure are to become law, they should be considered in their entirety—not in piecemeal fashion in an appropriations bill—and they should be considered in the context of what reform is needed—as defined by a much larger base of our national citizenry than the citizens of one State.

And so I call upon my colleague from Connecticut to work with us to effect comprehensive reform, and in the interim, to allow the administration to take the steps it has proposed to improve upon the current process with funds appropriated for that purpose.

All of the tribal groups that would be immediately affected by the proposed moratorium filed their petitions well before the advent of Federally-authorized Indian gaming.

They couldn't have been motivated by the prospects of something that did not exist when they filed their petitions and should not be penalized for what has since come to pass.

Let us keep these matters separate, addressing the impact of gaming as they arise, and addressing reform of the Federal acknowledgment process with the deliberative discussion that it deserves.

With these considerations in mind, I urge my colleagues to oppose Senator DODD's amendment.

I will share footnotes in history that we may have forgotten over the years. Our Founding Fathers felt so strongly about the importance of Indian nations that in the Constitution of the United States they have set forth, in good language, that Indians should be recognized as sovereign countries and as sovereign nations. We have entered into 800 treaties with Indian countries, as we do with the British, the Germans, the French, the Japanese, and the Chinese.

Indians are sovereign. I realize it is very difficult for fellow Americans to look upon the Indians as sovereign people, but they are. They were here before we arrived. This was their land.

Sadly, I must report that the Senate—of the 800 treaties we have had signed by the President of the United States and by the ruling monarchy of the nation, 430 were ratified by our predecessors and 370 are still in the files. They are in the files because we found oil, gold, and precious material and suddenly we felt, no, we cannot give that away.

Of the 430 we ratified, we violated provisions in every single one of them. That is our record. I am not proud of it. I think the Indians have waited a long time for justice, and I am sorry to say to my dearest friend of all that this does not bring justice to them.

When the first European landed here, he found a sophisticated and organized group of people. They had elected leaders. They had a judiciary. In fact, if one reads the writings of Jefferson and Benjamin Franklin, they will note reference to the Iroquois Confederacy, a confederacy made up of six tribes, six nations. Each tribe elected their representatives, the judiciary, their leader. They sent a delegation of representatives to the central office, and the clan mothers voted to select the supreme chief. In those days, long before we came on the scene, the women took part in the electoral process. They were a few years ahead of us. That was democracy as our forefathers conceived.

Laws were passed to further strengthen the basis of sovereignty. At the time they were recognized as sovereign nations, these Indian nations had jurisdiction, authority, and control over 550 million acres of land. Since then we have had the Indian wars, and let us call it what it was, Indian extermination laws. We had what is known as an allotment. Let's open it up. From 550 million acres, today there are 50 million left.

One of the provisions in this amendment speaks of lands where they historically resided. Most of the Indians of this land do not live in places where they historically resided. The Cherokees now live in Oklahoma. After the Indian wars, they were rounded up from the Carolinas, and before they landed in Oklahoma, the dumping ground, 80 percent were dead.

So where is the historic place of residence? One can say that of just about every Indian tribe. This is what we are dealing with.

In the State of Connecticut, there are two very successful Indian casinos, Mohegan Sun and Foxwoods. In the last 9 years, they have provided income to the State of $2.2 billion because that is part of the agreement with the State of Connecticut. That is a lot of money.

We cannot intrude ourselves into the affairs of the State and say you should give that money to the town next to Foxwood or next to Mohegan because the impact is greater. That is the State's decision. I would think the moneys these Indians have provided for the government of Connecticut should be sufficient, but that is not within our responsibility.

Another footnote in history: One would get the impression after listening to this debate that most of these Indians who are seeking recognition and who are seeking land are seeking such land for gambling purposes. Far from the truth, sir. Most of them do not want gambling. In fact, the largest Indian tribe in our Nation is the Navajos. They will not permit gaming within their lands. No, they do not want any gambling in their lands.

Of those treaties that were not ratified by the Congress—still in the files around here—there are several that affected the Indian nations of California. Because the treaties were not considered, in a sense they are men and women without nations, without land. We decided to put them in a little enclave and say: You live here or you live there because you look alike.

My first chore as chairman of this committee was to break up a tribe because we had put in Pequots and Hoopa-Huroks, historic fighters.

Just in case one gets the impression the Indians are "give me, give me, give me, all the time," they have given more than any one of us can expect. As one who values the service of men and women in uniform, may I simply say that of all the ethnic groups in the United States, of all the racial groups in the United States, on the basis of per capita participation, the Indians have sent more sons and daughters in uniform to face harm's way than any other ethnic group—more than the Germans, the Irish, the British, or what have you. Indians have fought in every war in the last century, and every one now, in greater numbers. They have given their lives in greater numbers, per capita. They are not asking for a handout. They are asking for what the Constitution calls for and what the laws of this land call for.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. I yield to the Senator from Connecticut.

Mr. LIEBERMAN. I thank my friend and colleague from Connecticut.

In a little over an hour the Senate will vote on the amendment Senator DODD and I have introduced which we believe will reform and strengthen the Federal tribal recognition process to the benefit of the Native American community and everyone else concerned. It will make that process more fair and give it more credibility and hopefully will provide the resources to have the decisions on tribal recognition made by the BIA and the BAR in a much more timely fashion.

Some tribes have been waiting years and years and years for a decision from this recognition process that is, regrettably, broken. Of course, in part it is broken because of the gambling associated with Native American tribal recognition and the surge of applications, the dramatic interest in recognition. Often, recognition leads to the presence of gambling in a locality and the inability of these regulatory authorities to keep up with that extraordinary increase in demands on them.

In Connecticut—a relatively small State, yet we have three federally recognized tribes—one recently recognized tribe is being appealed and nine more recognition petitions from our small State are in the pipeline of the Bureau of Indian Affairs. We have in two of the federally recognized tribes the two largest casinos in North America, I believe in the world. So there is an impact that these decisions have.

That is why, last year, my colleague from Connecticut and I introduced S. 1392 and S. 1393, which were designed to reform and improve the process by which the Federal Government recognizes the sovereign status of American Indian tribes and their tribal governments. We certainly did not view this as antirecognition because there is a historic, a moral right to recognition by tribes that can meet the requirements of this process. Nor was it, as we conceived of it, inherently antigambling. It was to say that the decisions have taken on extraordinary importance and they ought to be reached by a process that is not only fair in itself and gives all participants—the tribes claiming recognition, the neighbors of the tribal grounds, towns, et cetera—the belief that they have been through a process that is fair and therefore that the results of the process, the decisions made, are credible.

We have introduced this amendment reluctantly because the problems with the tribal recognition process have not gotten better, notwithstanding concerns expressed by many, as has been indicated here.

As my colleague from Connecticut has said, this happens to be a problem that has impacted Connecticut, a relatively small State, but this is really a national problem affecting Native Americans seeking tribal recognition in the States in which they are now located.

Let me quote from the GAO report, which has been cited, which found that "the basis for BIA's tribal recognition decisions is not always clear."

It went on to state:

> While there are set criteria that petitioners must meet to be granted recognition, there is no clear guidance that explains how to interpret key aspects of the criteria. For example, it is not always clear what level of evidence is sufficient to demonstrate a tribe's continuous existence over a period of time—one of the key aspects of the criteria. As a result, there is less regulatory certainty about the basis for recognition decisions.

That is from a critical report by the GAO on this recognition process. That GAO critique has been seconded by the Interior Department's inspector general and, as has been noted in this debate, even by the past Assistant Secretary for Indian Affairs.

Despite these critiques, there have been no real changes in the recognition process to fix the problems. Instead, the status quo has continued at the BIA, with applicants experiencing long delays and parties in various cases dealing with decisions that they believe have been unfairly arrived at. The amendment we will vote on at 5:30 this afternoon is our attempt to improve this situation. Rather than letting the process continue in the current manner, we ask for it to provide adequate procedures to ensure its legitimacy—something that would benefit both the tribes and the communities and parties that surround them.

I want to stress that this amendment does nothing to affect already recognized Federal tribes or to hinder their economic development plans; nor does it change existing Federal tribal recognition laws. It is our hope, in fact, and has been our hope, that the Native American tribes might support these procedural reforms that we are recommending so as to buttress the legitimacy of the ultimate recognition rulings.

While, as my friends and colleagues from Colorado and Hawaii have indicated, that is not the case and, in fact, a large number of Native American tribes have opposed this amendment, I continue to hope the fact that we have brought it before the Senate may encourage them, under the wise and fair leadership of the Senator from Hawaii, Mr. INOUYE, and the Senator from Colorado, Mr. CAMPBELL, to see if we can't find common ground.

It seems to me no matter what side you are on in a particular proceeding before the BAR or BIA, you have an interest in due process and you have an interest in the result of the process being as broadly credible as possible.

What our amendments would do consistent with recognition laws is to ensure that recognition criteria are satisfied and that all affected parties, including affected neighboring towns, have a chance to fairly participate in the decision process. Our amendment ensures a system of notice to affected parties. It assures that relevant evidence from petitioners and interested parties, including neighboring towns, is properly considered; that a formal hearing may be requested with an opportunity for witnesses to be called and with other due process procedures in place; that a transcript of the hearing is kept; that the evidence is sufficient to show the petitioner meets the seven mandatory criteria of Federal regulations; and that a complete and detailed explanation of the final decisions and findings of fact are published in the Federal Register. There is nothing very radical here. It is basic due process procedural rights, all consistent with the established recognition criteria. We have not changed the recognition criteria in the amendment that we proposed.

Under the amendment, funding available under the Interior appropriations bill to the Bureau of Indian Affairs for the recognition process becomes available when these fundamental due process procedures are implemented by the Secretary of the Interior. So insofar as this is considered a moratorium, it is a moratorium, as I know Senator DODD has indicated, that could end in a week if these due process changes were put into effect. Our amendment dictates no outcomes in any particular cases. It aims to ensure a fair process.

So I hope my colleagues will take a look at the amendment. In some sense the impact of the currently broken process at the BIA has been felt with a particular intensity in Connecticut. But this is a national problem.

We may not adopt this amendment today. I hope we will, but if we do not, this is a problem that is not going to go away. It is going to be felt more and more around the country. Again, I say our aspiration is to find common ground. I thank the Chairman, Senator INOUYE, and Senator CAMPBELL for their characteristic courtesy and respect and thoughtfulness. We disagree on this one. It is a disagreement in good faith on both sides. I continue to express the hope that under their leadership, those who are concerned about the fairness of the recognition process, those who are concerned about the lack of speed in the process—the terrible delays—will be able to come together and agree on a series of reforms, and then the funding for additional staff at the BAR and BIA to make the promise of due process here real for all concerned.

I yield the floor.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 2 minutes remaining. The Senator from Colorado has 3 minutes 53 seconds remaining.

Mr. DODD. Mr. President, I see the majority whip. I ask unanimous consent we extend the debate an additional 10 minutes, equally divided, so we can make some concluding remarks.

Mr. REID. Mr. President, I think that would be appropriate.

The PRESIDING OFFICER. Is there objection?

Mr. CAMPBELL. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I have made most of my comments already. I don't know who else will be here on the floor to speak against the Dodd-Lieberman amendment, but I would like to respond to just two small points that were made by our friend, Senator LIEBERMAN.

First, though, let me thank Senator INOUYE for a very eloquent statement. He really does speak from the heart. When you hear him talk about basic fairness and justice that American Indians deserve and need, I think Senator INOUYE's own experience and background as a Japanese-American and what his people went through in World War II gives him a very special insight, and certainly a very special feeling for what Indian people face.

Let me make two very short comments on Senator LIEBERMAN's remarks. He made reference that this would not affect existing tribes. He is right, I guess, in some respects. But I think we need to look at that in historical context.

First of all, when the original recognition process was done—clear back in the early 1800s—it was done so that the Federal Government could provide rations, blankets, and so on, to the Indian tribes that were deprived at that time of their hunting rights and restricted to certain areas. That is why it was originally set up. They had to find out who qualified to get some benefits, and that is what trust authority is about.

It will not surprise anyone in this Chamber to know that there were some people even at that time who did not want recognition. Certainly some of them hid out in the hills of the Carolinas because of the Trail of Tears, when their cousins and brothers and fathers were rounded up and driven at gunpoint clear across the Nation to Oklahoma. The ones who hid out in the Southeast States—would you want to tell some government bent on killing your people you want to be recognized? Not likely; that would be a pretty dumb thing to do.

There have been Indian people in some parts of this country all along who were not "recognized" by the U.S. Government. It didn't mean they were not Indian. It didn't mean anything of the sort. They knew very well what would happen to them if they were so-called recognized.

The second point I want to make is during the 1950s, during what was called the Termination Act, the Federal Government, in its infinite wisdom, decided many Indian tribes were no longer tribes. I guess that meant they were no longer Indians, at least not of a group of Indians. That has always rather confused me because I have always likened it to maybe telling African Americans that they were no longer Black. I mean, you are what God made you. That's it.

But through the Termination Act of the 1950s—I don't remember the exact number, and I don't have it in my notes—as I just offhand remember, there were over a hundred, if not several hundred, tribes who were told by the Federal Government: You are no longer Indian tribes.

Many of them are still trying to be rerecognized. The ones that were terminated in the 1950s, they have to get recognized through a different process. They have to do it through legislation.

But the point is the fact that many of them that historically had ancestors on this continent maybe for 10,000 years were being told by a government set up by new immigrants that they were no longer Indian tribes still confuses me.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my colleague from Connecticut, Mr. LIEBERMAN, for a very eloquent statement. Let me also thank my colleague from Hawaii for a very eloquent statement he has made. I would not take issue with any comment he made about the relationship between the history of the U.S. Government and its treatment of Native American tribes going back to the founding days of this Republic.

It is a sorry history in many instances and circumstances.

The Senator very graciously mentioned my father. Let me mention my mother. My mother used to tell me all the time that two wrongs do not make a right.

That we have done a terrible injustice to Native American people over the years does not justify, in my view, continuing a process that would allow recognition to occur where it may not be warranted. In America, where recognition should be extended and granted, the process must be fair. As for the recognition process—its history—my friend from Colorado makes a very strong statement. It is something of a historic anomaly in many ways; that's why recognition must even occur. The fact is that the current process is the law of the land.

I can speak very directly about my own State. It is a difficult process, which is still ongoing for that matter. There are those in my State and others who would like to undo the recognition extended to the Mashantucket Pequots. Books have been written about it. Popular books have been written. That garnered national attention in questioning the recognition of that tribe. I have disagreed with them.

I also know the process that the Mohican Tribe went through in my State. It was a very long and elaborate process, working very closely with the community leaders in the towns in which they are located—State, as well as the National Government.

Our point here is not about the history, as much as concern about the history is justified. It is not about the past, as legitimate as those arguments are. It is about today and the future.

Let me quote, if I can, a letter I received from the National Congress of American Indians.

By the way, the amendment that is part of the bill was considered for over a year and isn't written out of whole cloth. I showed this amendment to Native Americans around the country and asked them what they thought of the amendment.

This letter I received from Tex Hall is dated September 12 of this year. He opposes the amendment. Let me be very clear. The National Congress of American Indians opposes the Dodd-Lieberman amendment, but listen to what he says in the letter. I am reading from the second paragraph.

> And I believe that tribal leaders agree with you it must be a rigorous process requiring the petitioner to demonstrate historical and continuous American Indian identity in a distinct community. We believe that the process could benefit from a serious review by Congress and a codification of the process and the criteria.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CONGRESS OF
AMERICAN INDIANS,
Washington, DC, September 12, 2002.

Re Opportunity to Meet and Discuss Federal Recognition Process.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DODD: On behalf of the more than 250 member Tribal Nations of the National Congress of American Indians, I write to request an opportunity to meet with you and a group of tribal leaders to discuss proposals to change the process for petitioning the federal government for recognition as a federally-recognized Indian tribe.

Both the federal government and the NCAI have a longstanding position that legitimate Indian tribes whose status has been historically omitted should have the right to petition for formal recognition by the federal government. And I believe that tribal leaders agree with you it must be a rigorous process requiring the petitioner to demonstrate historical and continuous American Indian identity in a distinct community. We believe that the process could benefit from a serious review by Congress and a codification of the process and the criteria.

The current process is plagued by an enormous backlog, and some petitioners have been waiting over two decades since they submitted their initial petitions. NCAI believes that the federal government should make the resources available so that petitions can be processed in a timely way.

As you know, we do not agree with your pending amendment. We believe it would create an indefinite moratorium on the recognition process. Because there is no incentive for the Secretary to actually create the new process, the petitioning tribes would be put in limbo for additional years, adding to the unjustness of the already interminable federal delays.

In addition, by attempting to create a moratorium on federal tribal recognition through the introduction of an amendment to the Interior Appropriation bill, this amendment attempts to circumvent the Congress' procedures for dealing with complex Indian issues like federal recognition. Such a drastic change in federal Indian policy should be referred to the authorizing committees for development of the record and an opportunity for broader participation and deliberation. While we greatly appreciate the contacts from your office, two days notice is not nearly enough time to engage tribal leaders in a meaningful discussion.

As I mentioned above, I would very much like to meet with you to discuss these matters in greater detail and would be willing to put together a small group of tribal leaders to participate in the discussion. I believe that we should also include Senators Inouye and Campbell in the discussion, so that this issue can be prepared for review by the Senate Committee on Indian Affairs.

Thank you for your consideration of this request.

Sincerely,

TEX G. HALL,
President.

Mr. DODD. Mr. President, my colleagues ought to know that in the concluding paragraphs of the letter he disagrees with this amendment.

But his conclusion about a process that needs repair is one that is embraced almost by all.

My good friend from Colorado has legislation pending that would move the present recognition process from the BIA to a new commission. I agree with him on that approach. I believe it will take time to get that done. I presume there will be regulations and the like appended to it.

It is not a question of debate about whether or not the process is in need of repair. It appears that everybody agrees with them because of what has happened and the various circumstances. We are talking about 222 petitions, and maybe more—all of which may be legitimate. But shouldn't we know in the end that there has been a process followed fairly by all and that there will be at the end of the day a conclusion that is just and reasonable and will withstand the test of time? That is all we are suggesting.

The poignancy, I suppose, is because it impacts my State. I am aware of it because of what's going on in my State. If I had no petitions pending in my State, I wouldn't be standing here. I wouldn't be aware of the issue. But we are aware of it.

I am worried about the future for the very same reasons that history suggests—that we will find out again that there is unnecessary division, hostility, and resentment growing. That should not be the case.

I strongly urge that this amendment not be defeated—I suspect that it may be—and that we do something soon to repair a process that looks too cavalier. If there is just going to be recognition of all petitions coming forward, why don't we just say so straight out? If there is going to be a process to demonstrate satisfaction of some particular criteria, let us make sure it works. As it is now, it is catch as catch can. Sometimes the rules apply. Sometimes they don't. Of the seven criteria, some we follow rigorously, and some we don't at all. Some are applied in some cases and not in others. Some petitioners are granted, some are denied, and some are brought together. There are third choices inexplicably made.

This isn't working right. It needs to be repaired. We can do that in a very short order because we recommend no new criteria. We just say codify the existing criteria, put it in shape, and let everybody know that the process is working so they can go through it in a reasonable way. It is outrageous that they should have to wait two or three decades for recognition.

The fact is that we have supported additional resources here to the agency to try to provide the technical staff so decisions can be made within a reasonable amount of time. With these resources, people can be heard and the agency can reach final conclusions that I believe all Americans can support.

That is what this amendment tries to do—nothing more than that and nothing less than that, but nothing more than that.

Again, I suspect the amendment will be defeated, but I hope the end result is that we can get a better system. My State may regrettably find itself with some petitions granted that do not deserve to be, but maybe that is the price you pay for doing something about broader reform.

I regret that there had to be a disagreement between people who support Native Americans. I admire them immensely. But as I look down the road here, I worry that if we don't straighten this situation out that we could find the situation getting worse. I don't want to see that happen. For those reasons, I urge adoption of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, is there any time remaining?

The PRESIDING OFFICER. Five minutes seventeen seconds.

Mr. INOUYE. Mr. President, if the Senate should rule that the votes against the amendment prevail, may I assure my colleagues that the committee stands ready to consider any and all suggestions on how to reform this process. It is a scandal at this time. We realize that. It should be changed.

I move to table the amendment.

Mr. DODD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the motion to proceed to the motion entered to reconsider the vote whereby cloture was not invoked on amendment No. 4480 is agreed to and the motion to reconsider is agreed to.

There will now be 60 minutes for debate with respect to that cloture motion, with the time equally divided and controlled by the two leaders or their designees.

Mr. REID. Mr. President, the Republicans have still 10 minutes as if in morning business. The time is yielded on this Dodd amendment, but there are still 10 minutes of morning business to which Republicans are entitled. Do they intend to use that?

Of course, we will have time later this evening, as we always do. I ask unanimous consent that we move forward, as the Chair announced, and that the time allocated be disposed of.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, point of information: What time will the vote on the Dodd amendment take place?

The PRESIDING OFFICER. At approximately 5:37.

Mr. CAMPBELL. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding that we are on H.R. 5093. Is that right?

The PRESIDING OFFICER. The Senator is correct.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The Chair lays before the Senate cloture motion having been presented under Rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Byrd amendment No. 4480, as amended, to H.R. 5093, the Department of Interior Appropriations bill, 2003.

Debbie Stabenow, Harry Reid, Charles Schumer, Evan Bayh, Mark Dayton, Jeff Bingaman, Jim Jeffords, Joseph Lieberman, Bill Nelson of Florida, Blanche L. Lincoln, Byron L. Dorgan, Jack Reed, Patrick Leahy, Robert C. Byrd, Mary Landrieu, Max Baucus.

Mr. REID. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I understand that between now and 5:30 we have been allotted time to debate the Craig-Domenici amendment as it relates to the cloture motion on the Byrd amendment on the Interior bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. CRAIG. Thank you.

Mr. President, I will allot myself 10 minutes to debate this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, for several weeks now, the Senate has been considering the Interior appropriations bill, of which the Byrd amendment to that bill would put critical fire money back into our Forest Service budgets that have been badly depleted by the season that we are hopefully beginning to leave, which is known as the fire season, especially in the Great Basin West. That money is critical.

But it was because of our concern about fires and the wildfires that have swept through the West this summer that I and Senator DOMENICI and a good many other western colleagues joined in working with the administration, and for a good long while in a very bipartisan way, to see if there was not some middle ground to create some flexibility to go into those worst fuel-laden lands and to develop a thinning and cleaning process that would be environmentally sensitive and at the same time effectively reduce the fuel loading that has gone on there that has precipitated in some of these very dramatic wildfires that have occurred out West this summer.

I recite, again, for the record, we have burned well over 6.5 million acres to date of wildlife habitat and watershed, possibly several million acres of old-growth forests. We have lost about 3,000 homes, private homes of our citizens. Over 25 people, I believe—26 or 27 at least—have been killed in relation to these fires. It is without question a national emergency, a national crisis. I almost have the sense that we have fiddled a bit over the last couple of weeks while our forests have burned.

There are still fires burning in California. As we speak, acreage burning in a national forest outside of Los Angeles over the weekend has consumed over 12,000 acres and has threatened numerous homes. Yet because of some special interests here and phenomenal allegations or statements made in the media over the last several weeks, you would think I and others were trying to precipitate a whole new logging program for the forests and that somehow was evil, instead of the very limited, targeted thinning and cleaning that we think could and should be utilized to reduce the fuel loading on these forests that has created these firestorms.

I have here a variety of editorials and news comments from major papers across the Nation. I am fascinated by words such as "nose under the tent," "intent to allow logging companies to be turned loose once again in our national forests." My reaction is, can those who write the news read the news?

Can they not read the Craig-Domenici amendment and understand that it is phenomenally limited, that it would require very specific language by the U.S. Forest Service, that there would be the right to go to Federal court and block any of these actions, that we have tied no one's hands other than to say that on these limited, targeted acres, we will not allow appeals, nor will we allow a temporary court injunction that has locked up tens of thousands of acres already, many of them that burned this summer, from the ability to get in and thin and clean them?

No. Those who write the news can read the news. But oftentimes those who write the news choose a bias that they think is popular, and in the end our forests burn. Thousands of homes are lost, lives endangered, and we struggle here at the Federal level to attempt to make some slight adjustments in public policy to return a state of health to our national forests.

Last week, our colleague from New Mexico, Senator BINGAMAN, came to the floor and offered an alternative amendment. He did not introduce it. He laid it before us as something that could be viewed as an alternative. I began to study it to try to see if it was a reasonable alternative or whether in fact it would deny any activity, if it was simply a Trojan horse in the reality of, would it do something similar to what the other Senator from New Mexico, Mr. DOMENICI, and I had proposed.

After thorough examination of that, I must tell you I believe the Bingaman amendment to be just that, a Trojan horse. Not only does it limit dramatically what you could be able to do, it creates some categorical exemptions. And then it does something else that is very important in the language of the law or the policy we are debating as to whether it frees the hands of the forest managers within these limited areas to do what is necessary to limit this fuel loading.

It is a term called extraordinary circumstance; in other words, there won't be any appeals based on the standards of the National Environmental Policy Act, or any temporary court injunctions, unless there is an extraordinary circumstance.

That is a provision in administrative regulations that governs the management activities of forests that is really quite clear. Let me count the number of ways an extraordinary circumstance could occur. It is literally in the eye of the beholder, in the eye of the person who wants to file the appeal. It probably broadens the effective opportunity to bring an appeal to any of these actions on our public lands when, on the other hand, the Senator from New Mexico would suggest he was creating greater flexibility.

Organizations such as the NRDC or the Earth Justice Defense League, the Sierra Club, the Wilderness Society, and the Southwest Center for Biodiversity clearly could use this as the opportunity for which they have already used the law, to lock up any effort or nearly all efforts in attempting to deal with what we would hope would be an effective way of thinning and cleaning.

You have heard me speak in the last days about the total amount of acreage out there that is in crisis at this moment. We have about 74.5 million acres that are at high risk, and while we have that many, Senator DOMENICI and I, and many of the colleagues who have joined with us—I now see the Senator from Arizona in the Chamber, who is a cosponsor, and the Senator from Montana—have asked that we only be able to deal with about 10,000,000 acres, not opening the forest wide open but a limited number, for a very real reason.

I believe it is fundamentally important that we show the American people that when we stand on the floor of the Senate and talk about not entering roadless areas and protecting old growth and merely thinning and cleaning and bringing down the fuel loads and moving them out of the forest, we want to prove it, we do want the American people to see that what we say is, in fact, what we mean, and that the U.S. Forest Service will go forward in a limited way to do just exactly that.

Do I want to prove the editorial writers of some of America's press wrong? You bet I do. Because they are wrong, and they flat know it. In fact, it reminds me of that news reporter from NPR who e-mailed some of our environmental groups and said: Get me the worst case scenario so I can disprove the logic or the arguments of the Senator from Idaho. And the environmental group writes back and says: We can't give you any worst case scenarios because we have them all on appeal and we have it shut down so they don't exist.

So in other words, when we are concerned that the appeals route would be used in these limited cases, the environmental groups have responded that they are already using them, that they are not tolerating the activities of thinning and cleaning.

So it is obvious why we would want to step forward and say, let us use this limited opportunity to thin and clean and then show the American people that there is a better way of conducting forest health and allowing our forests to once again rejuvenate themselves for watershed, for wildlife habitat.

My colleagues are here in the Chamber to speak. Let me conclude.

Even if the public policy of our country allowed it, 8 to 10 million acres to be thinned on a 1.5- to 2-year basis, and average that out over the next 20 years, we would still—because of the health of our forests today and the fuel loading that exists and the bug kill and the dead and dying—lose anywhere from 5 to 6 to 7 million acres a year to wildfire. That is the reality of the environment in which we live, the reality of the environment we are now trying to change so slightly to return forest health.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BURNS. I yield myself 5 minutes. I know there are other Senators on the floor wanting to speak. I will just speak common sense.

Legalese is not my expertise. I leave it to those trained in the discipline, as most of my expertise was on the farm.

This is a very troubling issue for one simple reason: What if anybody were allowed to put in a garden and at the same time were prohibited from doing any weeding or watering or doing anything to make it produce—prevented from fundamental attention?

I am wondering if they would enjoy the fruits of their labor when harvest time comes. They say history is the greatest blueprint to the future. Throughout history, all creation on this earth, in order to ensure its internal survival, it must have some kind of economic worth.

Now, that sounds hard and cold, doesn't it? But it happens to be a very true fact. There are those who somehow choose to look at our natural resources, or a natural landscape, and put it over into the column called "spiritual"—not logical, not economic. Our forests cannot survive the ages with that approach. Under that philosophy, what will survive longer than the forests is the pine bark beetle. Fires will continue to exist—hotter—taking from the soil what cannot be replaced by anything but old growth.

So as we approach this problem, I ask for common sense. What we are trying to do here is a commonsense approach to settle our disagreements on how we manage the forests. We hire the U.S. Forest Service to do that. When their management practices are questioned, the burden of proof falls on them to prove why that management practice will work, but I see no proof offered by those making the appeal that the Forest Service plan doesn't work. That is what we are trying to do—get it to an impartial environment to settle those differences. That is all we are asking. We are not changing any law, no environmental law, not the Environmental Protection Act, not the Clean Water Act, not the Clean Air Act, not the Forest Management Act. We are not changing any law. We are not denying anybody's right to appeal or to have their day either on an administrative appeal or a judicial appeal. We are not changing that.

That was changed, however, with regard to South Dakota. So we are not going that far. What we are saying is we are going to put the ball on the 50-yard line, which requires the burden of proof both from the land managers and by those who would disagree with them. That is all we are asking. And then the third thing we are asking is that we get a vote, a commonsense vote.

The American people, every night this summer, watched their forests burn—every night. Such a waste. There was not only the loss of the resource, but the loss of the wildlife and the habitat and the water quality because the rains will come and the snows will come and the mud will slide. Now, I don't know any other way to put that other than it has been my experience in my years of working and living in an environment of sun, water, and soil, and what it produces. So I am sorry that we have to educate and remind people that what we see outside in our natural environment does change.

Mr. President, I yield the floor to my friend from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I first ask unanimous consent to have printed in the RECORD an editorial of the Arizona Republic this morning entitled "Forest Plan Has Merits."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREST PLAN HAS MERITS

Interior Secretary Gale Norton may be correct about the desperate conditions of America's western forests. And she may be right, too, in her pitch that President Bush's Healthy Forests initiative is a reasonable plan for bringing them back to health.

But the Interior secretary—indeed, the entire Bush administration—is over-optimistic in the extreme if they truly believe environmentalists are going to leap on board with it.

In Phoenix last week for a Native American economic development summit, Norton detailed for the Editorial Board elements of the initiative, which would treat about 10 million forested acres deemed in critical shape.

Much of the plan is inspired by the work of such Arizona forest scientists as Wally Covington of Northern Arizona University and Stephen Campbell of the University of Arizona, both of whom have conducted or contributed to landmark forest management studies.

Covington has proposed thinning Arizona forests to 19th century conditions; Campbell's Blue Ridge Demonstration Project envisions the way to do it: By authorizing private-sector "stewards" who would perform commercial bio-mass extraction. That is, private firms that would do mostly small-tree logging, cleaning the forest of fuels and putting the wood they chop to innovative uses. In Phoenix, Norton passed around some intriguing examples of wood products produced from small-diameter trees.

Already, though, critics are labeling the proposal as a tree grab on behalf of the timber industry.

At the heart of their objections is the vast territory targeted by Bush for treatment and the means he proposes to accomplish it: Providing 10-year contracts to the "stewards" and placing restrictions on the burdensome review process that so many thinning projects over the years have had to endure.

Among the many Forest Service thinning projects reviewed and appealed to death was the 7,000-acre Baca Ecosystem Management Area in northeastern Arizona. After two years of appeals and lawsuits, only 300 acres of the Baca project were treated by the time the "Rodeo-Chediski" holocaust roared through. Today, 90 percent of the Baca area is a wasteland of dead, blackened stumps and sterilized soils.

Healthy Forests is on the right road.

Democrats in Congress are coalescing around a far more limited plan that accepts many of Bush's premises but restricts the bio-mass extraction to forests near communities. That doesn't address the plague of deep-forest destruction, and not just by fire. Federal wildlife officials have identified 46 species of fish and birds that are declining in population because of the thicketlike density of the deep forests.

The president's "stewardship" proposal deserves consideration. It seems tailor-made for Arizona, which today has no logging industry at all. Just thick, tinder-dry forests waiting to be consumed.

The forests need good stewards. Healthy Forests might become a way to find them.

Mr. KYL. Mr. President, this editorial points out the plan that President Bush has proposed, as largely reflected in the proposal Senator BURNS and Senator CRAIG and others have been talking about, is the way to scientifically manage our forests. We are bragging a little bit in Arizona because one of the scientists who pioneered this technique is Dr. Wally Covington of Northern Arizona University at Flagstaff. He and Stephen Campbell of the University of Arizona conducted these landmark management studies and demonstrated that by returning our forests to the conditions in which they existed 100 years ago, we can save them from disease, insect infestation, and catastrophic wildfire.

What that entails is going in and mechanically thinning and removing—thinning the small-diameter trees that clog the forests and removing that and the other debris from the forest—cleaning up the forests, in effect; then when that debris has largely been removed, introducing fire through a prescribed burn in the wet, cooler months of October or November so the fire doesn't get out of control. There is not nearly as much fuel to burn and it is cooler. Then, at that point, basically we let nature take its course. Say the next summer a lightening strikes a tree and starts a fire. What is going to happen after this debris has been cleaned out and the fuel has been removed? It will move along the grass and it may burn the grass and a few pieces of dry limbs and debris on the floor; but since most of it has been cleaned up, it is not going to create a crown fire, which causes all the damage.

Since most of the small-diameter trees have been removed, it is not going to have that ladder of trees to climb up to the canopy of the big trees.

What you have seen on television is the preheating of these big ponderosa pines from the forest fire. Then when the fire goes through the smaller trees, it climbs up the ladder of the forest into the canopy of the big trees and explodes into those giant fireballs we have all seen and have been sickened by. That is what happened in Arizona this year, when fires devastated an area the size of the State of Rhode Island. That is how much burned in Arizona. When you look at the moonscape-type of environment that now exists, you are sickened by the reality that much of this could have been prevented.

It turns out there was a project that had been proposed by the Forest Service in this area about 3 years ago, and there were about 2 years of lawsuits and appeals by environmental groups to stop this so-called Baca ecosystem management area. Well, the fire came through and only about 300 acres had been permitted to be treated by the time the fire came through because of the appeals that had been filed by these environmental groups, as a result of which about 90 percent of the Baca area has been burned. It is now nothing but sterilized soil and blackened tree trunks with no branches or pine needles on them whatsoever.

So the filing of the appeal by these environmental groups resulted in about 90 percent of this area burning rather than being treated. Some of the environmental groups will say they want to protect endangered species or old-growth trees. Well, they protected neither in this case. The fire came through and wiped them all out. Why? Because we haven't been able to thin and do prescribed burning. We could not cut out that dog hair thicket that exists in the forests because they have not been treated before. It is called dog hair thicket because they say a dog cannot run through it without leaving half of its hair behind in the snarly little trees that are growing in the area of the forest that needs to be treated.

What happens when the area is treated? You have cut out a lot of the small-diameter material and taken out the debris, and you open up the forest to the sunlight. You create an opportunity for grasses to grow, and you reintroduce butterflies, birds, insects, and small and large animals to the area.

All of a sudden, instead of a dead and dying ecosystem, you have created a very vibrant and healthy natural ecosystem.

What is our goal with respect to the trees? Our goal is to try to preserve as many of the old-growth and large-diameter trees as possible. That is what is done when we thin the forests the way we are talking about doing.

So why haven't we been able to come to some compromise on the legislation we are talking about to enable us to do this? The reason is there are radical environmental groups that, frankly, have control of some of the politics of this issue with some of our colleagues and have persuaded them that we are going to open it up to unfettered logging, we are going to log the old-growth forests, we are going to clearcut the western forests, we are going to take away any opportunity for people to have input as to what is done, we are going to destroy all the environment for endangered species, and so on.

All of that is simply wrong. It is not true. We are talking about legislation that has very significant limits. These thinning projects have to be approved by all of the different groups, the so-called stakeholders, the environmental process, the NEPA process where the forest plan has to have been followed.

The whole point of the stewardship projects, as they are called, is to enable us to go in and clean out the forests, leaving the large trees. That is the whole point.

Under our legislation citizens would be permitted to file a lawsuit in court and appeal the plan if they want to. Nothing stops them from doing that. All they have to do is point out to the judge: Look, the object here was to save these big trees and cut out the underbrush. Well, they are not doing that in this case, if there ever were such a plan proposed.

I do not think they want to have to face up to the reality of what we have proposed, which is a very reasonable way to manage our forests. In many respects, they would rather cut off their nose to spite their face. That is a phrase I used earlier today, and one of my young staff said: What does that mean? It is a phrase my grandmother used to say. It means you are basically so selfish about what you want to do that you are not willing to look at the larger picture, which would enable you to save yourself if you would apply management techniques.

We could apply this management technique to thin the forests and do prescribed burning and, thus, prevent the kind of disease or forest fires that in the past have ravaged these forests and absolutely wiped out the habitats. Some people would rather have the fires exist to catastrophically burn the entire area and ruin the habitat for the endangered species and all other species because at least that did not permit the loggers to log big trees. That is right, it did not permit the cutting of any kind of trees.

What was the result? It burned the entire forest. So the entire ecosystem is now dead, and it will take literally hundreds of years to come back and produce those big, beautiful trees we all want to save.

It is a sorry state of affairs that we have not been able to achieve a result on this issue. I hoped we would have been able to do so. I hope my colleagues will not vote for cloture when that vote comes in the next 10 or 15 minutes.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. Mr. President, I see no one else in the Chamber to yield time, so I ask unanimous consent to speak an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for an additional 5 minutes.

Mr. KYL. Mr. President, I will go on to explore this a little bit more.

One of the techniques of the opponents of what we propose is to say—we all agree with the management. I have not heard anybody say they disagree with this thinning and prescribed burning management technique, but they want it done in an area called the urban/wildland interface; that is to say, where the forest meets communities—summer homes, small towns, so on. We will thin an area a quarter of a mile, maybe half a mile, around these communities and structures and, therefore, save them from catastrophic wildfire; that ought to do the trick.

That will not do the trick. In the first place, it is a nice sentiment to try to save small communities and buildings, but that is only part of what we are about here. We are literally about saving the forests themselves, the entire ecosystem, the place where all the flora and fauna live and survive, where the endangered species live. Most of the endangered species do not live right on the edge of the communities.

Why would we not want to create a healthy environment for the endangered species and for the other flora and fauna in the forests? Why would we not want to treat in the middle of the forest rather than just along the roads, by the homes or small communities?

Of course, we want to save them from catastrophic wildfires, but the best way to do that is to treat the entire forest so the fires do not get a big momentum to roll into the communities.

We had the unfortunate experience with the Rodeo-Chediski fire this last summer where the fire was so large and burning so rapidly with such intense heat that it was skipping right over areas that had been treated. While it did not burn those areas, fortunately, because they had been treated, it went on to burn other parts of the forest.

It is no salvation necessarily that we treat a small perimeter around buildings or communities. That is not necessarily going to save them from fire. Even if it does, as I said, we still have not treated the rest of the forest, which is the whole object of returning health to the forest. That is why you cannot just limit this thinning project to the areas immediately surrounding communities. We will have done nothing to save the rest of the forest from insects, disease, mistletoe, and catastrophic wildfire that will destroy the trees and the habitat for the mammals, birds, insects, and the fish that live in the area we want to preserve. That is why it is no answer to say: Let's do treatment in the urban interface area.

There were also attempts to put limits on how many board feet of trees could be removed from these areas—250,000 board feet in an area, for example; I think up to 1 million board feet in an area that had burned. The board feet of timber calculated to exist in the Rodeo-Chediski burned area is 100 million board feet. What was offered was literally a drop in the bucket.

If we are going to salvage the timber that was burned, as the White Mountain Apache Tribe is permitted to do on its part of the forest that was burned, then we are going to have to have special relief because there is no time to do all the studies that are necessary if anybody files an appeal. If they do not file an appeal, then we can salvage that timber, just as the White Mountain Apache Tribe is doing. If someone files an appeal, there is no way to get to the timber before the insects get to it. That is the choice we have. That is why we were so anxious to get something done now instead of waiting.

As I said, it does not appear we have reached a consensus to do that, and that is too bad because as the editorial I just put in the RECORD points out, we do not have time to waste. We have to treat these forests now or they will be subject to burning next year, and, in any event, we will not be able to save them from the diseases that have infected many of the forests today.

If there are others to speak, I will be happy to relinquish the floor to them. In that regard, I suggest the absence of a quorum, but if no one appears thereafter for a minute or two, then I will reclaim the floor and speak some more.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I have checked with the Senator from West Virginia, who has indicated he does not wish to speak at this time, and therefore I will go ahead until one of our colleagues comes.

I want to tell a couple of stories about what I have personally observed in our forests, and it might be of interest to others who perhaps do not have these same kinds of trees in their States.

The country's largest ponderosa pine forest extends through the belt of Arizona that runs literally from the Grand Canyon all the way to New Mexico and then goes on into New Mexico. These trees look a little like the giant sequoias in California. They are not quite as big, but when they reach 300 or 400 years of maturity, they are very large, over 30 inches in diameter. They have a yellow bark with beautiful big canopies, much like the sequoias in California. These are the trees we are all trying to preserve.

I went to an area that was BLM land north of the Grand Canyon after Secretary Bruce Babbitt, then-Secretary of Interior, had authorized a thinning project for that area in the neighborhood of Mount Trumble. Secretary Babbitt was able to do this because, as Secretary of the Interior, he had control over the BLM land, and he basically ordered that it be done, which was a good thing, too, because this is an area with which he was familiar. He had gone hiking throughout the area many times. He knew how desperately the area was in need of this treatment.

So I went up there to see the work that was being done, and the BLM officer said: I have to show you this. Come look. And we drove to an area where it was just as thick as could be, with tiny trees about this size. There must have been thousands per acre. You could hardly wind your way through the forest. None of them was more than 15 or 20 feet high, if that. They were not very pretty. They precluded any grass from growing. There were no animals, obviously, that could wind their way through it. It was a pretty sterile environment, and they were obviously crowding out other kinds of trees that one would have preferred to see grow there.

We came to this huge ponderosa pine, one of the biggest trees I had ever seen other than a redwood or a sequoia. The boughs literally came all the way down to the ground. All around this tree was this brush, these little scrub trees—maybe as tall as I am, maybe a little bit higher—with trunks 3 or 4 inches around. It was literally a tinder box.

This BLM agent said: We have to clear this stuff away immediately. Any spark anywhere near here is going to set off a fire that is going to come all the way through. It is going to run right up the boughs of this tree and destroy this beautiful old tree.

He told me there were many more in this same area, and that is why we had to hurry up and get this area treated.

That is what we are trying to do. We are not going to cut that tree or any other trees that even approximate that size. The object is to clear out all the other stuff so these big beautiful trees can continue to grow in a healthy state, they will not have the competition for air and water and nutrients from all of these little trees, and there will then be grasses reintroduced, the animals can come up, as well as the birds and the butterflies.

All of the studies by Dr. Covington that I mentioned earlier have demonstrated that the species come back within a year. The pitch content of the trees is enhanced significantly, so they are impervious to the bark beetles. The protein content of the grass is increased by an order of magnitude, so the elk and the deer come back. When all of the little mammals come back, then the hawks and the eagles come back, the butterflies begin to pollinate, and all of a sudden there are hundreds of more species of flowers and weeds and grasses than there were before, and there is a park-like condition where there are far fewer trees per acre but it is to the carrying capacity of the land.

So there may only be 150 or 250 trees per acre at that point, but they are all beautiful trees that are going to be healthy and in an environment where the rest of the forests can survive as opposed to the kind of thing about which I was talking.

Now why would people object to doing that? I had a group of environmentalists come into my office, and I asked them: Don't you agree that this is the right science? And they finally said: Yes.

I then said: Why won't you do it?

They said: Well, you do have to have commercial companies come in and do this thinning; right?

I said: Yes, of course.

And they do have to make a profit; right?

And I said: Yes.

And they are not going to work for free. They have to make some money.

I said: You don't object to that, do you?

They said: No, but what we are worried about is that 25, 30, or 40 years after all of this is done and you have treated all of the forests that need to be treated this way, then they will turn their chain saws on the big trees because they will want to save their jobs and save their mills and stay in business, and that is what we are concerned about.

I was dumbfounded at the suggestion that that would actually happen. If all of us who want to save the forests are as concerned in 40 years as we are now—and there is no reason to believe we will not—none of that would ever be permitted to happen. This again falls into the "cut off your nose to spite your face" category. In order to achieve something good, we are going to have the potential of something bad occurring 40 years down the road, a potential that is so small that it is just unthinkable it would ever happen? But because of that little potential in their minds, they are going to prevent us from treating the patient now?

It seems very illogical. It is like saying we are not going to treat the patient's cancer now because the patient will live but eventually the patient is going to die; therefore, there is no point in treating the patient now.

It does not make sense to me, and that is why I think it is a shame we have not been able to reach some kind of agreement on the kind of plan we were talking about that would have limited the amount of acreage that would be treated. It would have limited it to those areas that are so-called class 3 areas, which are the ones most in need of treatment where the danger of catastrophic wildfire is the greatest. We are not even talking about the class 2 or class 1 areas, just class 3.

Within that, it would be further limited in the legislation we have been discussing. We were even willing to limit it to areas of municipal watersheds and urban interface as long as those were broadly enough defined to include the kind of forests we are talking about here, the part of the area that needs to be treated.

None of that was acceptable to those groups that do not want us to treat the forests. As a result, we are going to have another year pass, presumably, unless we are able to do something next spring, where we are subject to these catastrophic wildfires and the forest continues to deteriorate.

At what point, do we finally say, it is worth it to go in and treat these forests? Since there is not enough money in the world to pay AmeriCorps volunteers to go in and do this by one-half acre at a time, we have to have commercial enterprises that are able to go in and take out enough product that they can stay in business. That product can be very small diameter product. It can be poles for construction of cabins. It can be 2-by-4-sized timber. It can be the chipped product that makes fiberboard. In some cases, they may get to medium-sized trees that can actually produce some timber. But if so, why not? If the carrying capacity of the acre is such that some of the trees should be removed, even the so-called medium-sized maybe even 15 or 20 inches in diameter, why wouldn't one do that if what they were leaving were still the very large growth trees we are all talking about protecting?

Senator CRAIG made the offer that at least 10 of the biggest old-growth trees would have to be left. We can probably multiply that and say 100. The bottom line is, those are the trees we are trying to leave. So if the carrying capacity of the land will carry 100, 150, or 200 of those trees, that is how many would be left. Nobody is trying to cut the big beautiful trees down.

In the areas Senator DOMENICI and I represent, it is a dry enough condition in Arizona and New Mexico that we cannot stand many more summers of drought before these forests are going to be all burned up. That is why we have been so disappointed at not being able to get into those forests now and begin this process of taking out the dead and dying timber and cutting out the small-diameter timber that is precluding the rest from growing.

I saw the treatment area we have been experimenting with in Arizona. I saw the results of this thinning, and the species that have come back are just amazing—the birds and the butterflies and the wildflowers. It is incredible what can be done if this is actually permitted to go forward, and so I hope there is a way to do it. I regret we have not been able to find that way yet.

I thank Senator CRAIG and Senator DOMENICI for their work, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. I yield 2 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. Mr. President, I thank Senator KYL, Senator REID, and Senator CRAIG for commenting on the Domenici-Craig amendment, on which the Senator has joined from the very beginning.

I hope everyone will understand this is a very serious situation. We honestly believe there is a compromise that would work, that would prove that we can clean up parts of our forest without in any way damaging the so-called old forest trees, doing it in almost a manicured fashion so long as it is understood what was permitted to do.

It is imperative we send a signal to the American people, not all of whom are in the West. Those in America who saw the fires from a distance know something is wrong. They probably know it got in this condition over many years and will not be fixed tomorrow. They probably concluded we ought to try to fix it.

We are trying to have a year consistent with good rules and good solid approach to management so we can start this process so the users of the forest, and those who recreate, graze cattle, have forests in their backyard, all understand we can begin this cleanup process and move in the right direction so we can start a more major cleanup next year when we try to put new policies into effect to save the forests and not see them go up in flames.

Mr. CRAIG. Mr. President, I know the vote is pending. We all want to see the Interior appropriations bill move on. I have said to Senator REID what we normally do with a second-degree amendment is give it a vote. We certainly would like that vote on our amendment. We think it is appropriate. We think it is within the rules. It is a responsible way to dispose of this issue and move on. I hope we get to that vote. We think it is right. It is appropriate. It is within the rules.

It is important for the Congress and this Senate to speak to the issue of forest health and do so in some form. We think the amendment is adequate in that.

Mr. REID. Mr. President, the Senator from New Mexico is on his way and wishes to speak on this matter. The Senator from West Virginia has 22 minutes, and Senator WELLSTONE wishes to speak. We will see what happens.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield 3 minutes to the distinguished Senator from New Mexico, Mr. BINGAMAN.

Mr. BINGAMAN. Mr. President, I appreciate my friend and colleague, Senator BYRD, yielding time.

I will speak briefly about the forests and the fire-thinning proposals and the fire-risk reduction proposals pending in the Senate. One amendment Senator CRAIG proposed is an amendment to the Byrd amendment to the bill. That certainly is a worthy proposal, in many respects. I don't agree with all aspects of it. I have offered an alternative that I think makes more sense. I am glad to go into the detail. I have done that once in the Senate, and I am glad to do it again.

Procedurally, people need to realize there is no reason we should be holding up action on this bill or on the Byrd amendment because of the issue of forest thinning. The forest-thinning proposal Senator CRAIG is offering can be offered as an amendment to the bill. My proposal can be offered as an amendment to the bill. We can get a good debate on those two proposals. I would hope we could come together around a single proposal. We have been working to do that. Either way, there is no reason going forward with the Byrd amendment should be in any way impeded by the need to resolve this forest-thinning issue. We can resolve the forest thinning issue on separate amendments and have the debate appropriate to that.

I believe on the merits what I proposed is a better way to go as an amendment to an appropriations bill because it does not make major changes in the underlying law. It does not make major changes in the authority for Federal courts. For that reason, I hope when we do get to a vote on forest-thinning proposals I will have a chance to persuade my colleagues.

Mr. REID. Will the Senator yield?

Mr. BINGAMAN. I am happy to yield.

Mr. REID. It is also my understanding that under the procedures now before the Senate—regarding the drought assistance measure, which passed by 79 votes—if this vote does not go, that money that we voted to approve for the farms is gone for those who are desperate for the money all over the country; is that true?

Mr. BINGAMAN. Mr. President, in response, I agree entirely with the Senator from Nevada. It is very important to Senators on both sides of the aisle for the drought relief assistance to be made available in short order. I hope very much we can move ahead with that.

We can also do this forest thinning issue. I am not suggesting we complete action on this bill absent completion on the forest thinning, but we can do separate amendments. Senator CRAIG can offer his amendment to the bill; I can offer my amendment to the bill. We can have a good debate. Hopefully, we can persuade the Senate on a proposal that makes good sense for everyone and gets the job done.

Mr. REID. Senator WELLSTONE is actually on the subway on his way over.

Mr. DOMENICI. Would the Senator permit me to ask Senator BINGAMAN a question?

Mr. BYRD. Mr. President, I yield 1 minute to each Senator for that purpose.

Mr. DOMENICI. I wanted to exchange a couple of points with my colleague. I don't know if the Senator had a chance today to read the Santa Fe, NM, editorial about thinning forests.

Mr. BINGAMAN. I did not read that.

Mr. DOMENICI. In this very short time I will try to paraphrase it. They were talking about what a wonderful event it will be for the Santa Fe watershed—which the Senator and I have seen a number of times—when we get around to cleaning it and then thinning it, so that if water or fire would fall on the upper watershed, it would not do violence to the water, which is the long-term lifeblood for the city. I just wondered if the Senator might recognize that when we are finished tonight, if in fact the amendments are no longer in order, or if they are in order, that we will still be left with an issue of whether watersheds are going to be included in this new approach? And, if so, how much of a watershed—how much of that watershed can be done in Western States? Isn't that one of the issues remaining?

Mr. BINGAMAN. In response to my friend and colleague from New Mexico, I agree with him that it is an extremely important part of the issue, as to the thinning debate, what additional authority we provide to the Forest Service to accomplish thinning within watersheds. I have a proposal which I have shown to my colleague that I believe provides ample authority, particularly in the Santa Fe watershed, for them to do everything they would like to do there. I think the earlier proposal Senator CRAIG has will do that same thing, in fact do quite a bit more.

Mr. DOMENICI. Right.

Mr. BINGAMAN. I think it is an important issue for us to get resolved, but I think both proposals do the job with regard to the specific issue that the Senator has raised.

Mr. DOMENICI. I thank the Senator for yielding the minute. I assume I have 10 seconds left.

Mr. BYRD. I don't like to yield 10 seconds. I yield the Senator an additional minute. Does this Senator wish additional time?

Mr. BINGAMAN. No, thank you.

Mr. DOMENICI. I say to my friend, I hope after this vote, before we finalize this, we might one more time sit and look at this. I think we have narrowed the issue that is most in our minds to be resolved.

I understand you have a proposal in good faith. We have one in good faith. Somehow or another it is assumed by both sides that theirs each will do what will help solve this problem. If we had a little more time, if you could meet with us, it would be greatly appreciated.

I thank Senator BYRD.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for this quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE addressed the Chair.

Mr. BYRD. Mr. President, how much time does the distinguished Senator wish me to yield to him?

Mr. WELLSTONE. I say to my colleague, less than 5 minutes.

Mr. BYRD. Do I have 5 minutes remaining?

The PRESIDING OFFICER. The Senator has 9 minutes.

Mr. BYRD. I yield 5 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. WELLSTONE. Mr. President, this is really an amendment that has everything in the world to do with whether or not a lot of people in northwestern Minnesota are going to go under economically or not. We had 79 votes to provide this disaster assistance. For northwest Minnesota, this will probably be about $300 million.

There are some who say the administration has shown they understand it is a serious problem because they are going to commit $850 million for drought relief. First, this is a 50 cent fix to a million dollar problem. Second, I don't think taking this small amount of money out of the School Lunch Program and helping people for a couple of weeks is the answer to what has happened around our country—be it fire or be it floods or be it drought.

I was up in northwest Minnesota on Friday. I do not know how I can continue to go back up there and explain to people how it can be that week after week this is being blocked. As far as I am concerned, we can have up-or-down votes on all these amendments. That is my own view. But I say to my colleagues, I implore them, I beg you, let's break this traffic jam and let's have the votes and let's move this forward.

Really, time is not neutral for so many of the independent producers and the farmers in northwest Minnesota. The FEMA assistance has been great, but it is not going to help them. There has been massive damage to cropland. Crop insurance comes nowhere near covering it. We have had this ridiculous debate about how it is going to come out of the farm programs. It is not going to happen. CBO won't score it that way. But close to $6 billion nationally will not be additional money we are going to spend on the farm program because prices are up. But for the farmers in northwest Minnesota and the producers in northwest Minnesota, they have no production.

For me as a Senator, this is the priority. It is just impossible to meet with people—without sounding melodramatic—to just look at their eyes and know what they are going through and explain how, once again, this is being blocked or filibustered. I know we are not going to win on this vote, but I urge colleagues to please vote for cloture. It would make a huge difference to a lot of really honest, hard-working, salt of the Earth people in northwest Minnesota.

I yield the floor.

Mr. REID. Mr. President, with the consent of the managers, I ask the time be yielded back so we can vote.

Mr. BYRD. I yield my time remaining.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, the question is on agreeing to the motion to table amendment No. 4522. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "Aye".

Mr. NICKLES. I announce that the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Arkansas (Mr. HUTCHINSON) are necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 15, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—80

Akaka
Allard
Allen
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Clinton
Cochran
Collins
Conrad
Craig
Crapo
Daschle
Dayton
DeWine
Domenici
Dorgan
Durbin
Edwards
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inouye
Johnson
Kennedy
Kohl
Leahy
Levin
Lincoln
Lott
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner
Wellstone
Wyden

NAYS—15

Carnahan
Cleland
Corzine
Dodd
Ensign
Helms
Inhofe
Jeffords
Kyl
Landrieu
Lieberman
Lugar
Nickles
Reid
Sessions

NOT VOTING—5

Baucus
Hutchinson
Kerry
Murkowski
Torricelli

The motion was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Senator BYRD's amendment No. 4480.

Joseph Lieberman, Harry Reid, Jean Carnahan, Daniel K. Inouye, Christopher Dodd, Herb Kohl, Jack Reed, Richard J. Durbin, Kent Conrad, Paul Wellstone, Patrick Leahy, Jeff Bingaman, Barbara Boxer, Byron L. Dorgan, Mark Dayton, Debbie Stabenow, Jim Jeffords, Robert Torricelli.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Byrd amendment No. 4480 to H.R. 5093, the Department of Interior and Related Agencies Appropriations Act, shall be brought to a close.

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. TORRICELLI), are necessarily absent.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from Alaska (Mr. MURKOWSKI), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 46, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—49

Akaka
Allard
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wellstone
Wyden

NAYS—46

Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—5

Baucus
Hutchinson
Kerry
Murkowski
Torricelli

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Byrd amendment No. 4644 (to amendment No. 4471) to provide for the establishment of the Department of Homeland Security, and an orderly transfer of functions to the directorates of the Department.

Lieberman/McCain amendment No. 4694 (to amendment No. 4471) to establish the National Commission on Terrorist Attacks Upon the United States.

The PRESIDING OFFICER. The Senator from Nevada.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Lieberman substitute amendment No. 4471 for H.R. 5005, the Homeland Security bill.

Debbie Stabenow, Harry Reid, Charles Schumer, Evan Bayh, Mark Dayton, Jeff Sessions, John Edwards, Jim Jeffords, Joseph Lieberman, Bill Nelson of

Florida, Blanche L. Lincoln, Byron L. Dorgan, Jack Reed, Patrick Leahy, Robert C. Byrd, Mary Landrieu, Max Baucus.

Mr. LEAHY. Mr. President, I note my objection to Hatch amendment No. 4693 on cybersecurity to amendment No. 4471.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have spoken with Senator LIEBERMAN. He has indicated to me there is no business to conduct tonight on this bill.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business until 7:15 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the exception of Senator LOTT, who has indicated to me he wishes to speak, and he should be able to speak for whatever time he desires.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VISIT OF ASKAR AKAEV, PRESIDENT OF THE KYRGYZ REPUBLIC

Mr. THURMOND. Mr. President, I rise today to recognize the visit of the President of the Kyrgyz Republic, Askar Akaev, to the United States from September 19–24, 2002. President Akaev is here at the invitation of President Bush.

While in Washington, the President of the Kyrgyz Republic scheduled meetings with President George W. Bush, Vice President RICHARD CHENEY, Secretary of State Colin Powell, and Secretary of Agriculture Ann Veneman. In addition, meetings at the United States Capitol with the Speaker of the House of Representatives DENNIS HASTERT, Senate Republican Leader TRENT LOTT, and other leaders of the Senate who have expressed an interest in Central Asia affairs were on his calendar.

During his visit to New York, President Akaev addressed the General Assembly of the United Nations and met with Secretary General Kofi Annan. He also participated in a round table discussion with members of the business community.

The tragic events of September 11, 2001 redefined the importance of the Kyrgyz Republic's critical location in Central Asia. It has a major role in the region's political and security framework. As an ally of the United States in central Asia, the Kyrgyz Republic opened its territory to approximately 3000 coalition troops at the height of United States operations in Afghanistan. It is significant that the coalition forces were allowed to deploy military personnel in Manas airport in the capitol city of Bishkek. Kyrgyzstan remains a host to a significant number of troops, as well as aircraft and technical support. The new political landscape created by these deployments has altered the Kyrgyz Republic's relations with its regional powers, Russia and China.

At the same time, the Kyrgyz Republic is pressing ahead with economic reforms. The European Bank for Reconstruction and Development, one of the international financial institutions active in the region, concluded last year that Kyrgyzstan has successfully completed its economic structural reform program. Kyrgyzstan was the region's first nation to secure membership in the World Trade Organization, in 1998, and the first nation of the Commonwealth of Independent States to receive permanent normal trade relations with the United States.

Kyrgyzstan has committed itself to a free trade model and has implemented many new initiatives through a dramatic reform of its trade, tax, and intellectual property laws. The Kyrgyz Republic was also the first country in the region to introduce a fully convertible currency, and has consistently led the way in market reforms.

As a result of the tragedy on the south of Kyrgyzstan, he has also reconstituted the government to include representatives of several groups previously in opposition and has organized a Constitutional Council, also filled with opposition-minded figures, to provide further opportunities for power changing. The nation now faces its first transition of power since independence. President Akaev and his government are determined to see that this transition occurs through an election process that builds and legitimizes democratic institutions.

President Askar Akaev was born on November 10, 1944 in the village of Kyzyl-Bairak, Kemin district of Kyrgyzstan in a family of farmers. In 1961, he finished secondary school with a Gold Medal. He graduated with honors from Leningrad Fine Mechanics and Optics Institute in 1967 and pursued his studies to become a Doctor of Science.

Dr. Akaev started his career in 1961 as a mechanic worker. He held other positions as an engineer, senior lecturer, professor, and finally the Head of the Computer Sciences Department in Frunze Polytechnical Institute, now Bishkek Technical University.

In 1984, Askar Akaev was elected a correspondent member of the Academy of Sciences of Kyrgyzstan, at the same year he became an academician. In 1986, he was appointed Head of the Department of Science and Higher Academic Institutions, Kyrgyz Communist Party's Central Committee. From 1987 until 1989, he served as the Vice President at the Kyrgyz Academy of Sciences and later became its President. In 1989, Askar Akaev was elected as a Deputy of the Supreme Council of the USSR.

On October 27, 1990, the Parliament of Kyrgyzstan elected Askar Akaev as the President of the Kyrgyz Soviet Socialist Republic. At the nationwide elections on October 12, 1991, he was elected as the First President of independent nation of Kyrgyzstan. The people of Kyrgyzstan confirmed Akaev's powers at the national referendum on January 30, 1994. On December 24, 1995 the President of the Kyrgyz Republic Askar Akaev was re-elected. President Akaev announced that he will not seek reelection when his term ends in 2005.

The President's spouse, Mairam Akeva, is a professor of Science on Machine Dynamics and is the head of the International Charitable Foundation of Childhood and Maternity Support. Established in 1993, this organization assists women and children with different forms of pulmonary and bronchial diseases.

The Kyrgyz Republic is situated in the middle of Central Asia, at the crossroads of culture and civilizations, at the branch of the legendary Silk Road. In 1999, President Akaev authored a report called "The Diplomacy of the Silk Road." His article remains timely today, given the changes that have taken place in central Asia since September 11, 2001.

In conclusion, many commodities were traded on the Silk Road which stretched 5000 miles from east to west. One very important "commodity" in this new century is friendship. Today, the United States has a good ally and friend in that region of the world. Kyrgyzstan is indeed a partner for peace and stability in Central Asia. In this regard, I wish to congratulate President Akaev on his successful visit to the United States and wish him well with all future endeavors.

I ask unanimous consent to print the article to which I referred in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIPLOMACY OF THE SILK ROAD

(By Askar Akaev)

THE PAST AND PRESENT OF THE GREAT SILK ROAD

The Great Silk Road, which in ancient times joined East with West, and to some extent North with South, by means of trade and economic, cultural-humanitarian and also political and diplomatic ties, has a history stretching back several thousand years. At various phases of its existence the content and significance, directions and scale of contacts varied, but one thing remained unchanged: throughout that long period, the Great Silk Road played the role of a connecting bridge between countries and civilizations.

It served as a channel for trade, which became the catalyst for the development of crafts. Travelers and explorers studied the countries and peoples of the lands along the entire length of the Road, thus making an enormous contribution to the development of knowledge.

The world became acquainted with the ideas and work of the greatest philosophers, scholars and statesmen. Intensive mutual enrichment of cultures took place, and there was an active exchange of knowledge and of spiritual and philosophical concepts and views. Thanks to the Road, outstanding epics and legends became the property of all mankind.

Via the Great Silk Road, syncretic and monotheistic religious ideas were disseminated. Zoroastrianism, Buddhism, Judaism, Islam and Christianity all found their adherents along the Great Silk Road.

The Great Silk Road was also of immeasurable significance in the establishment and maintenance of diplomatic relations among the centers of political life, the major States of Europe and Asia. Many historical sources bear witness to the active nature and high level of official contacts and the exchange of diplomatic missions, particularly between Byzantium and China, powers which played a significant role in the International life of that era.

The intensive and multidirectional process of Inter-civilizational communication on various levels went on for centuries.

Despite a number of changes of direction, by the will of historical fate the main arteries of the Great Silk Road passed through the territory of Kyrgyzstan.

On the eve of the new third millennium, the idea of a revival of the Great Silk Road has met with broad international support and an extremely warm response, largely as a result of the existence of two interdependent trends that characterize the development of the modern world.

The first of these involves the steady intensification of the processes of interdependence and globalization, the phenomenally rapid development and introduction of the latest technologies, communication systems and computer networks and the acceleration on an unprecedented scale of information and capital flows that "erode" national boundaries.

The second trend reflects the high level of integration at the regional and subregional levels.

The current steady and dynamic development of political, trade and economic relations would be unthinkable without the strengthening of fraternal, trusting and mutually advantageous relations of partnership between all States of the Silk Road region.

The geography of the Great Silk Road has no bounds or limitations. Its expansion by those countries which intend to develop cooperation with the countries in the Great Silk Road region is naturally and objectively determined by the entire course of historical development.

The arms race, local conflicts, extremism and terrorism, the unlawful manufacture, distribution and consumption of narcotic substances, natural disasters and those brought about by technology or by man, and crying social needs are problems that lead to recognition of the natural and objective need for a revival of the Great Silk Road on a qualitatively new basis.

While in the past the Great Silk Road played the role of a connecting bridge, now, in a situation of globalization, the destiny of the Road extends far beyond the framework of this dimension alone. The cosmic and the planetary appear as a single whole, implying an organic combination of present-day progress with the development of human civilization itself.

The renaissance of the Great Silk Road under the new historical circumstances refutes the ideas that were current in the past, which at times artificially contrasted the ways in which the East and the West perceived and viewed the world as totally incompatible with one another. Fortunately, ideas of planet-wide significance and scale are now predominant in the minds and hearts of the peoples, inhabiting the region of the Road.

The ideas of humanism, tolerance and the revival of spirituality are gaining ground in their tenacious struggle against age-old prejudices and intolerance of different ways of thinking.

Kyrgyzstan, lying at the very center of the Eurasian continent, at the junction of several civilizations, having taken in and absorbed a multiplicity of cultures and ways of looking at the world, possesses under present circumstances the necessary prerequisites for becoming a bridge of friendship and cooperation between all the countries within the Great Silk Road.

KYRGYZSTAN—AN INSEPARABLE PART OF THE GREAT SILK ROAD THE COUNTRY KNOWN AS "KYRGYZSTAN"

After regaining its State independence, Kyrgyzstan set out on, a qualitatively new road of its development, the road of political and socio-economic transformations.

Such concepts as "democratization", "civil freedoms" and "supremacy of the law" have become firmly embedded in everyday practice. The principle of separation of powers and the system of "checks and balances" in the interrelations between them have clearly demonstrated their effectiveness.

Favourable conditions have been created for encouraging initiatives and activity by citizens at the local level and for the comprehensive development of local self-government as the foundation for the life of the State.

The idea of "Kyrgyzstan—our common home" has become the recognized basis for enhancing and strengthening inter-ethnic harmony and creating the conditions for a life in dignity for all citizens of the country. In Kyrgyzstan, which has absorbed in equal measure the spiritual heritage and rich traditions of the East and the West, representatives of many ethnic groups and religious faiths live together in peace and harmony.

Kyrgyzstan has created the conditions for the establishment of an open society with a developed market economy, successfully solved the problem of macroeconomic stabilization and entered the stage of economic growth.

A national information structure is being created in Kyrgyzstan with access to worldwide computer networks.

Currently, the most important goals facing society as a whole are to intensify the positive trends in the economy and make them stable, to encourage and support national entrepreneurship, especially on the part of small and medium-sized businesses, to attract direct investment and to make extensive use of new technology.

An attractive investment climate has been created in Kyrgyzstan, and a legislative base has been established which affords foreign investors the necessary guarantees and privileges.

The stable political system and the open and democratic nature of Kyrgyzstan's economy create favorable conditions for the development of mutually advantageous international cooperation.

Kyrgyzstan has entered the era of democracy and renewal.

KYRGYZSTAN AND THE COUNTRIES OF THE GREAT SILK ROAD REGION

The conception of Kyrgyzstan's foreign policy with regard to bilateral cooperation excludes in principle the use of the prefix "anti-". This is the outcome of the entire course of Kyrgyzstan's historical development as an independent State and of the fact that our country pursues a peace-loving foreign policy and builds its relations with the outside world on the basis of the universally accepted principles and norms of international law.

Kyrgyzstan, as a consistent advocate of broad and multifaceted international cooperation for the joint solution of global international problems, takes up "anti-drug", "anti-extremism" and "anti-terrorism" positions. It is an implacable opponent of unlawful arms trading and distribution of arms and strives to achieve stability, progress and economic stability not only in the region, but throughout the world.

Our country is deeply convinced that along the entire length of the modern-day Great Silk Road, no serious problems or contradictions of an antagonistic nature are to be found between the countries falling within its orbit.

Among the participants in international relations, awareness is growing of the need to resolve chronic problems by peaceful means, at the negotiating table. In this connection, the example of Tajikistan, whose history is inseparable from the history of the Great Silk Road, is instructive. The political will and desire to seek compromise and mutually acceptable solutions that have been demonstrated by the leaders of the parties that were previously in conflict, combined with the mediating efforts and good will of neighbouring countries, including Kyrgyzstan, give grounds for hoping that the processes of peace and national reconciliation in that country are irreversible.

Kyrgyzstan's initiative in relation to the conduct of a peace conference on Afghanistan has been widely acknowledged. The joint efforts and cooperation of all the countries falling within the orbit of the Great Silk Road can and must lead to the long-awaited peace in that long-suffering land and turn forever a somber page in the history of the region.

The creation of a nuclear-weapon-free zone in Central Asia, cessation of the arms race and the conversion of military production, and the creation of conditions for the stable development of all countries of the Great Silk Road without exception afford grounds for assuming that at the beginning of the third millennium the region of the Road, which possesses vast potential and resources, will become one of the most flourishing and prosperous in the world, in that problems affecting the interests of all the countries will be resolved jointly and all obstacles to the free movement of goods, capital, services and manpower along the entire length of the Road will be removed.

Kyrgyzstan is making purposeful efforts to develop cooperation with all the countries of the Great Silk Road region. In view of its geographical location, our country has a favorable opportunity of simultaneously developing fruitful relations in such directions as "Kyrgyzstan—neighbouring countries", "Kyrgyzstan—Europe" and "Kyrgyzstan—East and South-East Asia".

"Kyrgyzstan—neighbouring countries"—our country is working steadily to intensify various forms of cooperation with neighbouring countries and to expand political, trade and economic and cultural and humanitarian relations. The existence of common historical, political, economic and cultural and humanitarian links with countries which in the past formed a single whole necessitates the maintenance and development of relations through bilateral and multilateral cooperation. Kyrgyzstan is attentively following the dynamics of and collectively participating in the multilateral integration processes in countries of the Commonwealth of Independent States, and making its contribution to the strengthening and intensification of regional and subregional integration.

Acknowledging the important role of a favorable external environment for subsequent development, Kyrgyzstan is working consistently and fruitfully to strengthen security along the State borders with all neighbouring countries. Together with other countries of the region, it has signed a number of important agreements aimed at strengthening confidence-building measures in the military sphere and reducing the armed forces in the border region, and this has made it possible to settle almost completely the border disputes that still remain from the past.

Kyrgyzstan is geographically and historically close to the Muslim States of the Great Silk Road region, which possess considerable investment, industrial and raw material potential.

"Kyrgyzstan—Europe"—The significance of this direction for Kyrgyzstan is determined by the following main factors: the need for and benefits of cooperation with developed European countries; the desirability of further developing links with the Eastern European States; and participation in the European affairs of the states bordering on Kyrgyzstan. In developing its relations with European countries, Kyrgyzstan will, alongside efforts on the bilateral level, step up its activity in the field of multilateral diplomacy, taking advantage of the unique opportunity to participate in the work of the European institutions dealing with issues of security (including in the Central Asian region), economic cooperation and the development of democratic institutions.

"Kyrgyzstan—South and South-East Asia"—Kyrgyzstan's cooperation with the countries of East and South-East Asia is conducted both on the bilateral level and through international organizations. Despite the financial and economic difficulties some Asian countries have recently been experiencing, their economic potential will play a growing role in the international arena.

Taking into account the South-East Asia countries' great wealth of experience of activity, Kyrgyzstan will in future show great interest in participating actively in various regional forums of the Association of South-East Asian Nations, and also in the establishment of cooperation on a regional basis.

States are prompted by their national interests, set in the context of geostrategic and geopolitical realities. In this connection, Kyrgyzstan can succeed in developing relations with all the countries of the Great Silk Road region, bearing in mind the following factors:

(a) In terms of economic indicators, Kyrgyzstan falls into the category of "developing countries" as used in international practice. This enables it to be a full participant in the leading organs of multilateral diplomacy of the countries of the South and defend their international economic and political interests collectively;

(b) Kyrgyzstan, as a country with a transition economy, is entitled to count on the cooperation of the developed countries and international financial and economic organizations in conducting its policy of reforms;

(c) Kyrgyzstan also forms part of the group of land-locked countries. Located at the very center of East-West and North-South transport and communication routes, it feels a natural need to link up with modem communication systems and ensure reliable access to maritime transport, and is also aware of the objective need to become a transit country. It is therefore working actively to develop all forms of communications, in particular transport and information, in the interests of all the Great Silk Road countries.

PRINCIPLES OF COOPERATION AND ESTABLISHMENT OF THE BASIS FOR RELATIONS WITH THE GREAT SILK ROAD COUNTRIES

The conduct of the "Great Silk Road" policy is based on the following principles:

Equitable partnership, friendship and cooperation with:
All Great Silk Road countries;
Interdependence;
Mutual advantage;
The long-term perspective;
Multifaceted development of international cooperation.

Equitable partnership, friendship and cooperation with all Great Silk Road countries are the most important components of a principle which is objective and universal in nature, relating equally to the hopes and aspirations of any country interested in creating a favorable environment along its national borders and in the content of bilateral and multilateral diplomacy. This principle is in full conformity with the universally acknowledged principles and norms of international law as laid down in the Charter of the United Nations, including mutual respect for sovereignty, territorial integrity and inviolability of borders, non-interference in internal affairs, non-use of force, settlement of conflicts by peaceful means and equal and mutually advantageous cooperation.

Interdependence has become a completely new phenomenon of the end of the twentieth century. Globalization has led to an awareness of the unarguable fact that no country, however powerful it may be in military and economic terms, can face alone the challenges that call in question the survival of the whole of mankind.

The principle of mutual advantage is sufficiently obvious. The development of mutually advantageous international cooperation within the Great Silk Road region will allow all countries without exception to find answers to many questions and solve the problems they are at present contending with. The countries of the region are actively striving to create new and diversify existing transportation systems so as to ensure the shortest and best means of access to world communications; they are encouraging and developing international trade, both within the region and outside it; and they are intensifying and stepping up cultural and humanitarian, scientific and educational and tourism contacts between the nationals of all the countries of the region.

The principle of the long-term perspective is inseparably interrelated with the preceding principle. The entire historical experience of the development both of the Great Silk Road itself and of the countries drawn into its orbit over the course of many centuries, has convincingly demonstrated the importance of and vital need for the development of inter-State relations that address the long-term perspective.

Multifaceted development of international cooperation is a necessary condition for the creation of favorable prerequisites and possibilities for the conduct of a balanced, flexible and maneuverable policy on the international arena; it corresponds to Kyrgyzstan's long-term national interests and is determined by the entire complex of problems and issues that need to be solved in the future.

PROSPECTS FOR THE APPLICATION OF THE "GREAT SILK ROAD" FOREIGN POLICY CONCEPT

The application of "Great Silk Road" diplomacy will have favorable long-term consequences for Kyrgyzstan and for all the other countries located in the Great Silk Road region.

The revival of the Great Silk Road at this juncture will make it possible to create all the necessary conditions for the transformation of the region into an area of stability, security, friendship, cooperation and equitable partnership.

The present-day Great Silk Road creates favorable prerequisites for the intensification of international cooperation in the joint solution of the global problems facing mankind on the threshold of the third millennium.

The expansion of the geography of the Great Silk Road will make it possible to make fuller use of the existing opportunities and rich potential for intensifying international trade and economic, cultural and humanitarian, scientific and technical and tourist contacts between all countries and peoples. There are sufficient grounds for thinking that all the Great Silk Road countries will make the maximum efforts to ensure that in the new millennium there emerge from the Road region, which constitutes a vast space crossing the entire Eurasian continent from East to West and uniting a diversity of cultures, traditions and historical fates, only positive impulses of solidarity, peace, progress and prosperity.

Kyrgyzstan is ready and able to act as a binding link between all the Great Silk Road countries.

For Kyrgyzstan, the interests and objectives of its foreign policy consist in ensuring to the fullest possible extent the strengthening, by political and diplomatic means, of international guarantees of its independence, sovereignty, economic self-sufficiency and territorial integrity.

To achieve these goals and objectives, Kyrgyzstan is full of resolve and will to comprehensively encourage and develop friendly, good-neighbourly relations of partnership with all the countries of the Great Silk Road region and to participate consistently and concretely in integration processes.—Askar Akaev, President of Kyrgyzstan.

DECISION ON IRAQ

Mr. KYL. Mr. President, I want to have printed in the RECORD an op-ed by columnist Charles Krauthammer discussing the United Nations and its debate over how to deal with Iraq. Mr. Krauthammer makes the point that nations are driven by their own self-interests; thus, members of the U.N. Security Council—such as France, Russia, and China—all have varied perspectives on a potential confrontation with Iraq.

He argues that it is not "unseemly" for the United States to similarly act in the name of its own interests. And that it is, in his words, an "absurdity" to suggest that the U.S. is suddenly granted "moral legitimacy" by U.N. Security Council approval for its actions, since the Security Council itself is composed of member states acting in their own self interests.

I ask unanimous consent the op-ed by Mr. Krauthammer be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IS THIS THE WAY TO DECIDE ON IRAQ?

(By Charles Krauthammer)

There is something deeply deranged about the Iraq debate.

The vice president, followed by the administration A Team and echoing the president, argues that we must remove from power an irrational dictator who has a history of aggression and mass murder, is driven by hatred of America and is developing weapons of mass destruction that could kill millions of Americans in a day. The Democrats respond with public skepticism, a raised eyebrow and the charge that the administration has yet to "make the case."

Then on Sept. 12, the president goes to the United Nations and argues that this same dictator must be brought to heel to vindicate some Security Council resolutions and thus rescue the United Nations from irrelevance. The Democrats swoon. "Great speech," they say. "Why didn't you say that in the first place? Count us in."

When the case for war is made purely in terms of American national interest—in terms of the safety, security and very lives of American citizens—chins are pulled as the Democrats think it over. But when the case is the abstraction of being the good international citizen and strengthening the House of Kofi, the Democrats are ready to parachute into Baghdad.

This hierarchy of values is bizarre but not new. Liberal internationalism—the foreign policy school of the modern Democratic Party (and of American liberalism more generally)—is deeply suspicious of actions taken for reasons of naked interest. After all, this is the party that in the last decade voted overwhelmingly against the Persian Gulf War, where vital American interests were at stake (among them, keeping the world's largest reservoir of oil out of the hands of a hostile dictator), while supporting humanitarian military interventions in Somalia, Haiti, Bosnia and Kosovo, places with only the remotest connection to American security interests.

This is all sweet and nice. And highly, flatteringly moral. But is this the way to decide when to risk the lives of brave young Americans?

This fawning over the president's rescue-the-U.N. rationale is not just sentimental, it is illogical. Assume—big assumption—that the United Nations does act and passes a resolution magnanimously allowing Americans to fight and die in Iraq. How does that rescue the United Nations from irrelevance? Under a feckless U.S. administration that allowed things to drift, the United Nations sat on its hands through the 1990s and did nothing. If not for this American president who threatens to invade on his own if he has to, the United Nations would still be doing nothing. The United Nations is irrelevant one way or the other. It is acting now only because of American pressure. It will go back to sleep tomorrow when America eases that pressure.

And what is the moral logic underlying the Democrats' demand for U.N. sanctions? The country's top Democrat, Sen. Tom Daschle, said that U.N. support "will be a central factor in how quickly Congress acts. If the international community supports it, if we can get the information we've been seeking, then I think we can move to a [Senate] resolution."

Daschle's insistence on the centrality of a U.N. stamp of approval is puzzling. How does this work? In what way does the approval of the Security Council confer moral legitimacy on this enterprise? Perhaps Daschle can explain how the blessing of the butchers of Tiananmen Square, who hold the Chinese seat on the Security Council, lends moral authority to an invasion of Iraq. Or the support of the Kremlin, whose central interest in Iraq is the $8 billion that it owes Russia.

Or the French. There can be no Security Council approval without them. Does Daschle imagine that their approval will hinge on humanitarian calculations? If the French come on board it will be because they see an Anglo-American train headed for Baghdad and they don't want to be left at the station. The last time the Middle East was carved up was 1916, when a couple of British and French civil servants, a Mr. Sykes and a Mr. Picot, drew lines on a map of the crumbling Ottoman Empire. Among other goodies, France got Syria and Lebanon. Britain got Iraq. The French might not relish being shut out of Iraq a second time.

My point is not to blame France or China or Russia for acting in their national interests. That's what nations do. That's what nations' leaders are supposed to do. My point is to express wonder at Americans who find it unseemly to act in the name of their own national interests and who cannot see the logical absurdity of granting moral legitimacy to American action only if it earns the approval of the Security Council—approval granted or withheld on the most cynical ground of self-interest.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 19, 2000 in Los Altos, CA. A gay man and his friend were assaulted outside a hair salon. The assailant, Peter Ellsworth, used anti-gay epithets during the attack. Mr. Ellsworth has been charged in connection with the incident.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

ANGELS IN ADOPTION

• Mrs. CARNAHAN. Mr. President, I would like to take this opportunity to recognize the individuals, organizations, and families who open their hearts to adoptive children. Children around the world, in Cambodia, in Romania, and in our own country wait desperately for families to care and provide for them. The parents who adopt these needy children turn their lives around and offer them a brighter future filled with love and hope.

As a member of the Congressional Coalition on Adoption, I would like to recognize the efforts of parents, adoption agencies, support groups and other individuals whose dedication to adoption makes a difference in the lives of children. Adoption provides countless children with stable homes, caring families and loving supportive parents. In particular, I would like to honor Dennis and Debbie Sparrow of Saint Louis, Missouri. This year, I have nominated the Sparrows as "Angels in Adoption" for their hard work and dedication to adoptive children from Romania. The "Angels in Adoption" award is presented by the Congressional Coalition on Adoption to recognize those who enrich the lives of adoptive children.

Dennis and Debbie Sparrow adopted their first child from Romania in 1991. During the adoption process, the Sparrows saw firsthand how many of the children in orphanages are destined for a life of poverty and hardship. Upon their return, Dennis and Debbie started two organizations to benefit the children they saw in Romania. S.E.E.K., Save Eastern Europe's Kids, collects donations for Romanian orphans and their caregivers. S.E.E.K. International, a non-profit adoption agency, assists prospective parents and children through the adoption process. In addition to helping over 100 children find loving homes, the Sparrows have personally adopted five children.

The Sparrows' exemplary work demonstrates that individuals can make a great difference. They have provided invaluable resources and support to other families wishing to bring Romanian children into their lives. They have raised money to assist in the care of these children. They have established two adoption placement centers in Romania. Moreover, they have inspired others to open their hearts and homes to the orphaned children of Romania.

I want to applaud Dennis and Debbie Sparrow for their devotion to helping adoptive parents and children. These "Angels in Adoption" have not only made a difference in hundreds of young lives, but they have also raised the awareness of the benefits of adoption. The hard work of these angels is an inspiration to others and a blessing to the children whose lives they have touched.•

CONGRATULATIONS ON THE 95TH ANNIVERSARY OF UPS

• Mr. CLELAND. Mr. President, today I congratulate United Parcel Service on the occasion of its 95th anniversary, and to ask my distinguished colleagues to join me in recognizing the accomplishments of one of the Nation's most successful companies, a company that employs more than 371,000 men and women worldwide.

UPS was founded on August 28, 1907, in a small office under a sidewalk in Seattle, WA, where founder Jim Casey started what has become the largest transportation company in the world. Now headquartered in Atlanta, GA, UPS is considered the world leader in package delivery, and has been recognized for 4 straight years as the "World's Most Admired Delivery Company" by Fortune magazine.

Customers around the globe rely on UPS to ship nearly 13 million packages a day, creating a volume of 3.4 billion packages annually. UPS.com is one of the busiest websites on the Internet, allowing customers to enhance the customer service and efficiency of their e-commerce.

And UPS employees are among the best in the business, a result of working in an environment that enables growth and opportunity. In return, UPSers provide countless hours of volunteerism to organizations such as the United Way. In fact, last year alone, employees donated more than $50 million to the United Way, more than any corporation in the 115-year history of the United Way.

The true spirit of UPS is shown in the legacy carried out by its employees over the last 95 years. UPS is an example of what's right in corporate America today, and I am proud to congratulate them on 95 years of exemplary service.•

WELCOMING BOETTGER BABY

• Mr. CRAPO. Mr. President, I rise today to announce the birth of a fine young lady, Emily Copeland Boettger. Emily is the first child of Scott and Sally Boettger, and was born on May 8, 2002. Scott and Sally live in Hailey, ID, and are active in natural resources and environmental issues in the State. Scott serves as the Executive Directory of the Wood River Land Trust, and Sally serves as the Director of Development of The Nature Conservancy in Idaho. I have spent time in the Boettger's home and enjoyed their expertise and experience in outdoor activities. I'm happy to report that mother, father, and baby are doing well, although Scott and Sally are probably getting used to fewer hours of sleep.

Emily is the granddaughter of Cherry and William F. Gillespie, III, of Wilmington, DE, and Doug and Gail Boettger of Spring City, PA. I know they join with me in sending best wishes and welcome greetings to young Emily.

It is always a joyous event to bring a new family member into the world. Emily has been much-anticipated and has held a place in the hearts of her parents and family for many months now as they have awaited her arrival. As the father of five myself, I know that Scott and Sally are in for a most remarkable, frustrating, rewarding, and exciting experience of their lives. Emily will make certain of that. Our best wishes go out to the Boettger family on this most auspicious occasion.•

IN MEMORY OF IRA YELLIN

• Mrs. BOXER. Mr. President, I would like to take this moment to reflect on the rich life and legacy of an exceptional Los Angeles leader and friend, Ira Yellin.

Ira died of cancer on September 10, 2002, of complications from lung cancer at his home in Santa Monica Canyon. He was 62 years old. This was a sad day for so many people throughout California, whose lives were touched by Ira's unyielding commitment to making our community a more beautiful and better place to live.

Although a strong supporter of many civic organizations, Ira was most well-known for his extraordinary dedication to restoration of several of Los Angeles's historic gems. While eating at Grand Central Market, waiting for a train at Union Station or admiring the beautiful restoration of City Hall, we have Ira to thank for helping to restore and maintain these wonderful places. Those who have visited Los Angeles' recently dedicated Catholic Cathedral of Our Lady of Angels may also thank Ira, for playing a role in its design.

Born in 1940 near Boston, MA, and raised in Van Nuys, CA, Ira often visited downtown Los Angeles with his father, who instilled in his son the passion for city life and the importance of making the world a better place. Years later, Ira attended Princeton University and Harvard Law School, and returned to California where he received a master's degree in law from the University of California, Berkeley. After he finished his studies, he spent a year in the Marines before settling in Los Angeles.

In 1967, Ira worked as a lawyer at a Beverly Hills firm while helping to run a non-profit legal advocacy organization. Then, in 1975, he left the firm to work in real estate development and management, overseeing building projects throughout California and on Los Angeles' Westside. However, Ira realized he was more drawn to downtown buildings in need of restoration than the state-of-the-art buildings on Los Angeles' affluent Westside. In 1985, Ira began his own real estate firm and dedicated his life to the revival of buildings throughout Los Angeles.

Ira's passion for turning neglected buildings into treasures for the community made him a great asset to Los Angeles. His dedication to community service benefitted many cultural and civic organizations. Ira was active with the Skirball Cultural Center, the J. Paul Getty Trust and served as past president of the American Jewish Committee.

I will miss Ira Yellin. Until the very end, he pursued his vision and turned dreams into realities. Although his presence will be greatly missed, his wonderful work will be long remembered for generations to come.•

ON THE WORK OF ATF SPECIAL AGENT JOHN CARR, 2002 MEDAL OF VALOR RECIPIENT

• Mrs. BOXER. Mr. President, I am proud today to recognize the courage of Bureau of Alcohol, Tobacco and Firearms, ATF, Special Agent John Carr, who was recently honored with the Federal Bar Association's, FBA, distinguished 2002 Medal of Valor Award in Los Angeles. For the past 13 years, the FBA has presented the award to federal employees who demonstrate outstanding service in their field of work.

Special Agent Carr earned his award for working undercover to catch violent gang members staging a series of home invasion robberies. Carr transformed his look, acquainted himself with the criminals, and pretended to help them in their operation. Carr gave the criminals false information, which led them to traps planned by the ATF. Thanks to Carr's work, many dangerous criminals were caught and taken off our streets.

John Carr risked his life working on this assignment. There are not many people who would make such a great sacrifice for others to feel safe in their homes. Through his courage, bravery and steadfast dedication, Carr prevailed in the face of danger. I extend my sincere congratulations to John Carr on this honor, and thank him for his great work.•

CONGRATULATIONS TO NICK COSMA

• Mr. THOMAS. Mr. President, I rise today to offer my most sincere words of support and encouragement to Mr. Nick Cosma. Today Nick will stand and take his oath to become a citizen of the United States.

I believe it is particularly important during such times as these to reflect upon the dream that America represents to so many people like Nick around the world. A strong family, an adventurer's spirit and a solid character are essential ingredients to brave the challenges of an unknown land. While it certainly isn't an easy task to come from afar and try to make a better life in the United States, people continually come to these shores in search of opportunity, freedom and personal liberty. America is a country full of opportunity for those who are willing to work hard. Nick's hard work and dedication has brought him through our legal process to a junction where he can call himself an American.

Today Nick will have earned all of the rights and responsibilities that come with citizenship. I know this is a proud day for Nick and his wife Abra and their family and friends. As I understand, Nick has already been shopping for a fireproof safe to house his new American passport. It is apparent that Nick is already taking his new responsibilities seriously.

So with that, I offer congratulations to Nick Cosma and his family on his day of becoming a citizen.●

TRIBUTE TO ODILE GROGAN

● Mr. KENNEDY. Mr. President, I ask unanimous consent that the following tribute by my nephew, Joseph P. Kennedy II, be printed in the RECORD in honor of Odile Grogan, a dear friend of all of the Kennedy family.

The tribute follows:

TRIBUTE TO ODILE GROGAN

(By Joseph P. Kennedy II)

More than 20 years ago, my good friend Rick Grogan had the great fortune of meeting a savvy and stylish Parisian, Odile Claude Emelie Basch, who was working in New York City, running programs in support of the arts.

The timing was perfect. Rick, turning his sights to a career in international business, found a companion conversant in languages, accustomed to travel, and filled with the same spirit of adventure that has always animated his life.

Before meeting Rick, Odile's consuming passion was the arts.

The Gallic phase of her arts education took place in the Left Bank of Paris, renowned as a world center of culture. She attended the Ecole Alsacienne, located near the Montparnasse cafés frequented by artists and writers for over a century. Her talents were then nurtured at the Lycee Fenelon in the Quartier Saint Germain-des-Pres, just a few yards from Pablo Picasso's former atelier on Rue des Grandos Augustins.

After receiving the Baccalaureate, she took up studies at the arts-intensive Finch College in New York City, whose students have ranged the artistic gamut from Grace Slick to Isabella Rossellini.

She went on to receive an M.A. in art history from Queens College and subsequently applied both her management and art history skills directing visual and performing arts partron programs under Phillip Morris's legendary chairman, Joseph F. Cullman III. Her guidance led to innovative partnerships between the company and such institutions as the Whitney Museum, which opened a branch in the company's newly built headquarters.

It was during her tenure at Phillip Morris that Odile walked onto the canvas of Rick Grogan's life.

In Odile, he found someone at ease in every facet of conversation, with views as varied and forceful as his own. Whether discussing politics, cuisine, painting, or education, Odile proved not just a font of opinions and facts but a master of epithets and one-liners, in two tongues, no less.

Just out of Harvard Business School, Rick married Odile in 1981 and they moved to London, where Rick worked as a consultant for Bain Company. Rick thought they might spend a year or two in England before returning to the U.S.

Odile thought otherwise. As a tribute to her powers of persuasion, she convinced her deal-maker husband that London was just the right place for the family, conveniently located between France and America.

Rick bought the argument if not the logic and so they settled into life in England, their lives soon graced by Alexandra, Nicholas, and Charlotte, wonderfully gifted children who feel at home anywhere from Harvard Square to Picadily Circus to Place de la Concorde.

In spite of all her household demands, Odile never neglected to devote time and energy to her beloved arts. A benefactor of the Serpentine Gallery in London's Kensington Gardens, she has encouraged policies to bring a wider public into museums, using the arts to uplift and liberate the human spirit across broader demographics.

Her cultivated judgment has also been sought by the Tate Museum, where she serves on the acquisition committee.

Several years ago, the enviable rhythms of the Grogans' family life were interrupted by a cycling accident in the French countryside. Rick lay near death in a coma.

Odile, at his side every moment, took full charge of his medical care and recovery. "He is my husband," she declared. "I can take care of him."

And so she did, sitting long hours by his hospital bed, watching for this eyes to open and recognition to light up his expression. With her help and the force of her spirit, Rick did awaken and recover.

The mishap was an awful physical setback but one that brought forth a remarkable discovery for Rick.

He learned that Odile was not just a caring wife and a loving mother, not just a skilled hostess and devoted patroness, not just a talented linguist and art history scholar, but an angel of mercy.

All the advantages of education and career mean little without love in our lives. When that love finds it greatest expression in our hour of need, we can indeed count ourselves among the blessed.

This past June, Rick brought together a wide circle of their family and friends to celebrate all that Odile has meant to him in their years together. The gathering at Versailles Palace was an extraordinary expression of Rick's love.

But the gilt and glitter of that magnificent setting paled in comparison to what shined forth in from the hearts of all there assembled in tribute to Odile.

In the many decades I have known Rick, he has enjoyed tremendous success in academics, athletics, and business. However, the triumph that counts the most is the crown of his heart, his incomparable wife Odile, my good friend's own angel of mercy.●

NATIONAL SCHOOL BACKPACK AWARENESS DAY

● Mr. FRIST. Mr. President, fall has come and across the country, students are returning to school facing a public health risk from what many see as a completely benign and essential back-to-school supply, the school backpack.

More than 40 million American students carry backpacks to and from school each day. Health experts say that many of our children are hauling around too much weight, and that extra weight can adversely affect their healthy growth and development. Children carrying backpacks that are overloaded or improperly worn are putting themselves at risk for musculoskeletal pain, including back, neck, and shoulder pain, adverse affects on posture and the developing spine and compromised breathing and fatigue.

The good news for parents and kids is that many of these problems can be avoided by taking some very simple steps to help lighten the load. And the first step is education, raising awareness among parents, educators and kids about these potential risks and offering solutions to address them.

To that end, the American Occupational Therapy Association, AOTA, is sponsoring the first of its kind National School Backpack Awareness Day this week, on Wednesday, September 25. On that day, health professionals will hold events in schools across the country to weigh-in backpack-wearing kids and demonstrate the risks of injury that can result from carrying packs that are worn improperly, or are too heavy. Experts say that students should carry backpacks that weigh no more than 15 percent of their total body weight. Occupational Therapists, thousands of whom work every day in America's schools, will offer simple steps in how to properly pack, select and wear school backpacks.

In Nashville, TN, Occupational Therapists will be at the Nashville State Technical Community College helping students learn more about the issue. In Knoxville, there will be a backpack weigh-in and Awareness Day event at Pond Gap Elementary School. I am proud to see these communities taking a leadership role on this important public health issue and I encourage other communities to take similar action on this day to help prevent health care problems that can arise.

Surely, we can all appreciate the bottom line lesson in this important public health education campaign, an ounce of prevention is worth of a pound of cure.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. BOXER:

S. 2989. A bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land; to the Committee on Indian Affairs.

By Mr. BINGAMAN:

S. 2990. A bill to provide for programs and activities to improve the health of Hispanic individuals, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for Mr. TORRICELLI):

S. 2991. A bill for the relief of Sharif Kesbeh, Asmaa Sharif Kesbeh, Batool Kesbeh, Noor Sharif Kesbeh, Alaa Kesbeh, Sandos Kesbeh, Hadeel Kesbeh, and Mohanned Kesbeh; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself, Mrs. CLINTON, and Mrs. HUTCHISON):

S. Con. Res. 145. A concurrent resolution recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 121

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 121, a bill to establish an Office of Children's Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children, and for other purposes.

S. 1377

At the request of Mr. SMITH of Oregon, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1377, a bill to require the Attorney General to establish an office in the Department of Justice to monitor acts of international terrorism alleged to have been committed by Palestinian individuals or individuals acting on behalf of Palestinian organizations and to carry out certain other related activities.

S. 1761

At the request of Mr. DORGAN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1761, a bill to amend title XVIII of the Social Security Act to provide for coverage of cholesterol and blood lipid screening under the medicare program.

S. 2119

At the request of Mr. GRASSLEY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2557

At the request of Mr. HATCH, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2557, a bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs medicare beneficiaries, and for other purposes.

S. 2765

At the request of Mr. VOINOVICH, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2765, a bill to amend chapter 55 of title 5, United States Code, to exclude availability pay for certain Federal law enforcement officers from the limitation on premium pay, and for other purposes.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2922

At the request of Ms. LANDRIEU, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2922, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 2933

At the request of Mr. BREAUX, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 2933, a bill to promote elder justice, and for other purposes.

S. 2949

At the request of Mr. HOLLINGS, the names of the Senator from Nevada (Mr. REID), the Senator from Massachusetts (Mr. KERRY) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. 2949, a bill to provide for enhanced aviation security, and for other purposes.

S. 2980

At the request of Mr. BOND, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2980, a bill to revise and extend the Birth Defects Prevention Act of 1998.

S. RES. 307

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. Res. 307, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 322

At the request of Mrs. LINCOLN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. Res. 322, a resolution designating November 2002, as "National Epilepsy Awareness Month".

S. RES. 325

At the request of Mr. SESSIONS, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Kentucky (Mr. BUNNING), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. Res. 325, a resolution designating the month of September 2002 as "National Prostate Cancer Awareness Month".

S. CON. RES. 138

At the request of Mr. REID, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Oklahoma (Mr. INHOFE), the Senator from Rhode Island (Mr. REED) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. Con. Res. 138, a concurrent resolution expressing the sense of Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

AMENDMENT NO. 4568

At the request of Mr. HOLLINGS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 4568 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4694

At the request of Mr. LIEBERMAN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of amendment No. 4694 proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 2990. A bill to provide for programs and activities to improve the health of Hispanic individuals, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today I am introducing a bill that will be jointly introduced by Representative CIRO RODRIGUEZ tomorrow when the House of Representatives comes into session entitled the "Hispanic Health Improvement Act of 2002." This bill builds upon legislation that Representative RODRIGUEZ introduced in the last Congress and addresses the tremendous health disparities that confront the Hispanic community in our Nation.

Even if you know the statistics, they remain shocking. Over one-third, or 35 percent of Hispanic adults lack health insurance. Despite the passage of the Children's Health Insurance Program, 27 percent of Latino children remain uninsured, which is sharp comparison to 9 percent of white, 18 percent of black and 17 percent of Asian/Pacific Islander children.

In testimony before the Senate Health, Education, Labor and Pensions Committee earlier today on Hispanic health issues, Dr. Glenn Flores, chair of the Latino Consortium of the American Academy of Pediatrics Center for Child Health Research, added:

> Among uninsured poor children in the U.S., Latinos outnumber all other racial/ethnic groups, including whites: there are 1 million poor, uninsured Latino children, compared with 766,000 white, and 533,000 African-American poor, uninsured children. . . . Although 1999 marked the first time in many years that the proportion of uninsured Latino children actually decreased (from 30% to 27%), recent national data suggest that outreach efforts to enroll Latino children have largely been unsuccessful. A Kaiser Commission report found that only 26% of parents of eligible uninsured children said that they had ever talked to someone or received information about Medicaid enrollment, and 46% of Spanish-speaking parents were unsuccessful at enrolling their uninsured children in Medicaid because materials were unavailable in Spanish.

In order to address the lack of health care coverage, the legislation would expand CHIP to cover pregnant women and parents of children enrolled in CHIP. The legislation provides $50 million in grants to community-based groups to improve outreach and enrollment of children in Medicaid and CHIP with the grants targeted to Hispanic communities.

In addition, the bill eliminates a number of enrollment barriers within Medicaid.

And finally, it provides States the option to enroll legal immigrant pregnant women and children in Medicaid or CHIP. This comes from legislation introduced by Senator GRAHAM earlier in this Congress.

In addition to poor coverage rates, according to the Centers for Disease Control and Prevention, or CDC, the Hispanic population has morbidity and mortality rates that more often than not exceed that of any other ethnic groups. For example, age-adjusted mortality rates for diabetes are over 50 percent higher among Hispanic persons than non-Hispanic whites. HIV infection rates are over 3 times those of non-Hispanic whites. Tuberculosis rates among Latino children are 13 times that of whites.

The legislation addresses these problems in a number of ways. In the area of access and affordability, our bill requires an annual report to Congress on how Federal programs are responding to improve the health status of Hispanic individuals with respect to diabetes, cancer, asthma, HIV infection, AIDS, substance abuse, and mental health. The bill provides $100 million for targeted diabetes prevention, education, school-based programs, and screening activities in the Hispanic community.

In addition, the legislation specifically addresses the problems facing communities along the U.S.-Mexico border, a 2,000-mile stretch of land that contains 11 million people, 5 of the 7 poorest metropolitan statistical areas in the country, and disease rates in some areas that are extraordinary. If the region were a State, the border would rank first in the number of uninsured, last in terms of per capita income, and first in a number of diseases.

As Dr. Francisco Cigarroa, president of the University of Texas Health Sciences Center at San Antonio, noted in testimony at today's earlier hearing on Hispanic health, "Germs respect no INS regulations. We truly must work with our neighbors to the South if we are to avoid a major influx of new conditions and diseases. It can be seen so clearly on a map. Just as there are 'rivers of commerce' there are 'rivers of infectious disease' and though they may start at the Border, they are eventually seen all the way to the northern Border that we share with Canada."

In response, the bill provides $200 million to border communities to improve health services and infrastructure along the U.S.-Mexico border.

The numbers I have cited thus far indicate what we do know. Almost as much of a concern is what we do not know with respect to the status of Hispanic health in this Nation. According to one study, only 22 percent of all articles published in major medical journals included non-English-speaking patients.

The bill provides funding to do additional research and work on reducing health disparities in this Nation. Among the various provisions include efforts to improve the recruitment and retention of Hispanic health professionals and programs that support the training health professionals who can provide culturally competent and linguistically appropriate care. With respect to training more minority health professionals, Dr. Cigarroa said at today's hearing, "We should do this because it is the smart thing to do. If we fail to take steps to address the gap between the health of the majority population and the health of the nation's rapidly growing minority populations, we are on a course leading to a collision. We are far too great a nation to allow this to happen."

Representative CIRO RODRIGUEZ, the forthcoming chairman of the Congressional Hispanic Caucus, and I have worked together on this legislation to respond to the challenge before us with regard to coverage, access, and health disparities entitled the "Hispanic Health Improvement Act of 2002."

While the legislation puts forth a number of initiatives to address what are disproportionately Hispanic problems, it must be noted that each section of the bill, including those to reduce the number of uninsured and to improve access to care, would improve the overall health of our entire Nation regardless of race or ethnicity.

Over the coming months, I look forward to working with my colleagues to revise and improve upon this legislation for reintroduction in the 108th Congress.

Mr. President, I request unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Hispanic Health Improvement Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEALTH CARE COVERAGE

Subtitle A—Coverage for Parents and Pregnant Women

Sec. 101. Coverage of parents and pregnant women under the medicaid program and title XXI.
Sec. 102. Automatic enrollment of children born to title XXI parents.
Sec. 103. Optional coverage of children through age 20 under the medicaid program and title XXI.
Sec. 104. Technical and conforming amendments to authority to pay medicaid expansion costs from title XXI appropriation.

Subtitle B—Outreach and Enrollment

Sec. 111. Grants to promote innovative outreach and enrollment efforts under SCHIP.

Subtitle C—Immigrant Children and Pregnant Women

Sec. 121. Optional coverage of legal immigrants under the medicaid program and SCHIP.
Sec. 122. Permitting States and localities to provide health care to all individuals.

Subtitle D—Eligibility Simplification

Sec. 131. State option to provide for simplified determinations of a child's financial eligibility for medical assistance under medicaid.
Sec. 132. Application of simplified title XXI procedures under the medicaid program.

Subtitle E—SCHIP Wrap-Around Benefits
Sec. 141. Requiring coverage of substantially equivalent dental services under SCHIP.
Sec. 142. State option to provide wrap-around SCHIP coverage to children who have other health coverage.
Subtitle F—Immunization Coverage Through SCHIP
Sec. 151. Eligibility of children enrolled in the State Children's Health Insurance Program for the pediatric vaccine distribution program.
Subtitle G—Limited English Proficient Communities
Sec. 161. Increased Federal reimbursement for language services under the medicaid program and the State Children's Health Insurance Program.
Subtitle H—Binational Health Insurance
Sec. 171. Binational health insurance.
TITLE II—ACCESS AND AFFORDABILITY
Subtitle A—Report on Programs for Improving the Health Status of Hispanic Individuals
Sec. 201. Annual report regarding diabetes, HIV/AIDS, substance abuse, and mental health.
Subtitle B—Diabetes Control and Prevention
Sec. 211. National diabetes education program of Centers for Disease Control and Prevention; increased authorization of appropriations for activities regarding Hispanic individuals.
Sec. 212. National Institutes of Health; implementation of recommendations of diabetes research working group.
Subtitle C—HIV Prevention Activities Regarding Hispanic Individuals
Sec. 221. Programs of Centers for Disease Control and Prevention; representation of Hispanic individuals in membership of community planning groups.
Sec. 222. AIDS education and training centers funded by Health Resources and Services Administration; establishment of center directed toward minority populations with hiv.
Subtitle D—Prevention of Latina Adolescent Suicides
Sec. 231. Short title.
Sec. 232. Establishment of program for prevention of Latina adolescent suicides.
Subtitle E—Dental Health Services
Sec. 241. Grants to improve the provision of dental health services through community health centers and public health departments.
Sec. 242. School-based dental sealant program.
Subtitle F—Border Health
Sec. 251. Short title.
Sec. 252. Definitions.
Sec. 253. Border health services grants.
Sec. 254. United States-Mexico Border Health Commission.
Subtitle G—Community Health Workers
Sec. 261. Short title.
Sec. 262. Grants to promote positive health behaviors in women.
Subtitle H—Patient Navigator, Outreach, and Chronic Disease Prevention
Sec. 271. Short title.
Sec. 272. HRSA grants for model community cancer and chronic disease care and prevention; HRSA grants for patient navigators.
Sec. 273. NCI grants for model community cancer and chronic disease care and prevention; NCI grants for patient navigators.
TITLE III—HEALTH DISPARITIES
Subtitle A—Hispanic-Serving Health Professions Schools
Sec. 301. Hispanic-serving health professions schools.
Subtitle B—Health Career Opportunity Program
Sec. 311. Educational assistance regarding undergraduates.
Sec. 312. Centers of excellence.
Subtitle C—Bilingual Health Professionals
Sec. 321. Training of bilingual health professionals with respect to minority health conditions.
Subtitle D—Cultural Competence
Sec. 331. Definition.
Sec. 332. Activities of Office of Minority Health; Center for Linguistic and Cultural Competence in Health Care.
Sec. 333. Cultural competence demonstration projects.
Subtitle E—Data Regarding Race and Ethnicity
Sec. 341. Collection of data.
Sec. 342. Development of standards; study to measure patient outcomes under medicare and medicaid programs.
Subtitle F—National Assessment of Status of Latino Health
Sec. 351. National assessment of status of Latino health.
Subtitle G—Office of Minority Health
Sec. 361. Revision and extension of programs of Office of Minority Health.
Sec. 362. Establishment of individual Offices of Minority Health within agencies of Public Health Service.
Sec. 363. Assistant Secretary of Health and Human Services for Civil Rights.

TITLE I—HEALTH CARE COVERAGE

Subtitle A—Coverage for Parents and Pregnant Women

SEC. 101. COVERAGE OF PARENTS AND PREGNANT WOMEN UNDER THE MEDICAID PROGRAM AND TITLE XXI.

(a) INCENTIVES TO IMPLEMENT COVERAGE OF PARENTS AND PREGNANT WOMEN.—

(1) UNDER MEDICAID.—

(A) ESTABLISHMENT OF NEW OPTIONAL ELIGIBILITY CATEGORY.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(i) by striking "or" at the end of subclause (XVII);

(ii) by adding "or" at the end of subclause (XVIII); and

(iii) by adding at the end the following:

"(XIX) who are individuals described in subsection (k)(1) (relating to parents of categorically eligible children);".

(B) PARENTS DESCRIBED.—Section 1902 of the Social Security Act is further amended by inserting after subsection (j) the following:

"(k)(1)(A) Individuals described in this paragraph are individuals—

"(i) who are the parents of an individual who is under 19 years of age (or such higher age as the State may have elected under section 1902(l)(1)(D)) and who is eligible for medical assistance under subsection (a)(10)(A);

"(ii) who are not otherwise eligible for medical assistance under such subsection or under a waiver approved under section 1115 or otherwise (except under section 1931 or under subsection (a)(10)(A)(ii)(XIX)); and

"(iii) whose family income exceeds the effective income level or resource level applicable under the State plan under part A of title IV as in effect as of July 16, 1996, but does not exceed the highest effective income level applicable to a child in the family under this title.

"(B) In establishing an income eligibility level for individuals described in this paragraph, a State may vary such level consistent with the various income levels established under subsection (l)(2) based on the ages of children described in subsection (l)(1) in order to ensure, to the maximum extent possible, that such individuals shall be enrolled in the same program as their children.

"(C) An individual may not be treated as being described in this paragraph unless, at the time of the individual's enrollment under this title, the child referred to in subparagraph (A)(i) of the individual is also enrolled under this title.

"(D) In this subsection, the term 'parent' has the meaning given the term 'caretaker relative' for purposes of carrying out section 1931.

"(2) In the case of a parent described in paragraph (1) who is also the parent of a child who is eligible for child health assistance under title XXI, the State may elect (on a uniform basis) to cover all such parents under section 2111 or under this title.".

(C) ENHANCED MATCHING FUNDS AVAILABLE IF CERTAIN CONDITIONS MET.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(i) in the fourth sentence of subsection (b), by striking "or subsection (u)(3)" and inserting ", (u)(3), or (u)(4)"; and

(ii) in subsection (u)—

(I) by redesignating paragraph (4) as paragraph (6), and

(II) by inserting after paragraph (3) the following:

"(4) For purposes of subsection (b) and section 2105(a)(1):

"(A) PARENTS AND PREGNANT WOMEN.—The expenditures described in this subparagraph are the expenditures described in the following clauses (i) and (ii):

"(i) PARENTS.—If the conditions described in clause (iii) are met, expenditures for medical assistance for parents described in section 1902(k)(1) and for parents who would be described in such section but for the fact that they are eligible for medical assistance under section 1931 or under a waiver approved under section 1115.

"(ii) CERTAIN PREGNANT WOMEN.—If the conditions described in clause (iv) are met, expenditures for medical assistance for pregnant women described in subsection (n) or under section 1902(l)(1)(A) in a family the income of which exceeds the effective income level applicable under subsection (a)(10)(A)(i)(III) or (l)(2)(A) of section 1902 to a family of the size involved as of January 1, 2002.

"(iii) CONDITIONS FOR EXPENDITURES FOR PARENTS.—The conditions described in this clause are the following:

"(I) The State has a State child health plan under title XXI which (whether implemented under such title or under this title) has an effective income level for children that is at least 200 percent of the poverty line.

"(II) State child health plan does not limit the acceptance of applications, does not use a waiting list for children who meet eligibility standards to qualify for assistance, and provides benefits to all children in the State who apply for and meet eligibility standards.

"(III) The State plans under this title and title XXI do not provide coverage for parents with higher family income without covering parents with a lower family income.

"(IV) The State does not apply an income level for parents that is lower than the effective income level (expressed as a percent of the poverty line) that has been specified under the State plan under title XIX (including under a waiver authorized by the Secretary or under section 1902(r)(2)), as of January 1, 2002, to be eligible for medical assistance as a parent under this title.

"(iv) CONDITIONS FOR EXPENDITURES FOR CERTAIN PREGNANT WOMEN.—The conditions described in this clause are the following:

"(I) The State has established an effective income eligibility level for pregnant women under subsection (a)(10)(A)(i)(III) or (l)(2)(A) of section 1902 that is at least 185 percent of the poverty line.

"(II) The State plans under this title and title XXI do not provide coverage for pregnant women described in subparagraph (A)(ii) with higher family income without covering such pregnant women with a lower family income.

"(III) The State does not apply an income level for pregnant women that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) that has been specified under the State plan under subsection (a)(10)(A)(i)(III) or (l)(2)(A) of section 1902, as of January 1, 2002, to be eligible for medical assistance as a pregnant woman.

"(IV) The State satisfies the conditions described in subclauses (I) and (II) of clause (iii).

"(v) DEFINITIONS.—For purposes of this subsection:

"(I) The term 'parent' has the meaning given such term for purposes of section 1902(k)(1).

"(II) The term 'poverty line' has the meaning given such term in section 2110(c)(5).".

(D) APPROPRIATION FROM TITLE XXI ALLOTMENT FOR MEDICAID EXPANSION COSTS FOR PARENTS; ELIMINATION OF COUNTING MEDICAID CHILD PRESUMPTIVE ELIGIBILITY COSTS AGAINST TITLE XXI ALLOTMENT.—Subparagraph (B) of section 2105(a)(1) of the Social Security Act, as amended by section 104(a), is amended to read as follows:

"(B) PARENTS AND PREGNANT WOMEN.—Expenditures for medical assistance that are attributable to expenditures described in section 1905(u)(4)(A).".

(E) ONLY COUNTING ENHANCED PORTION FOR COVERAGE OF ADDITIONAL PREGNANT WOMEN.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(i) in the fourth sentence of subsection (b), by inserting "(except in the case of expenditures described in subsection (u)(5))" after "do not exceed";

(ii) in subsection (u), by inserting after paragraph (4) (as inserted by subparagraph (C)), the following:

"(5) For purposes of the fourth sentence of subsection (b) and section 2105(a), the following payments under this title do not count against a State's allotment under section 2104:

"(A) REGULAR FMAP FOR EXPENDITURES FOR PREGNANT WOMEN WITH INCOME ABOVE JANUARY 1, 2002 INCOME LEVEL AND BELOW 185 PERCENT OF POVERTY.—The portion of the payments made for expenditures described in paragraph (4)(A)(ii) that represents the amount that would have been paid if the enhanced FMAP had not been substituted for the Federal medical assistance percentage.".

(2) UNDER TITLE XXI.—

(A) PARENTS AND PREGNANT WOMEN COVERAGE.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

"SEC. 2111. OPTIONAL COVERAGE OF PARENTS OF TARGETED LOW-INCOME CHILDREN OR TARGETED LOW-INCOME PREGNANT WOMEN.

"(a) OPTIONAL COVERAGE.—Notwithstanding any other provision of this title, a State may provide for coverage, through an amendment to its State child health plan under section 2102, of parent health assistance for targeted low-income parents, pregnancy-related assistance for targeted low-income pregnant women, or both, in accordance with this section, but only if—

"(1) with respect to the provision of parent health assistance, the State meets the conditions described in clause (iii) of section 1905(u)(4)(A);

"(2) with respect to the provision of pregnancy-related assistance, the State meets the conditions described in clause (iv) of section 1905(u)(4)(A); and

"(3) in the case of parent health assistance for targeted low-income parents, the State elects to provide medical assistance under section 1902(a)(10)(A)(ii)(XIX), under section 1931, or under a waiver under section 1115 to individuals described in section 1902(k)(1)(A)(i) and elects an effective income level that, consistent with paragraphs (1)(B) and (2) of section 1902(k), ensures to the maximum extent possible, that such individuals shall be enrolled in the same program as their children if their children are eligible for coverage under title XIX (including under a waiver authorized by the Secretary or under section 1902(r)(2)).".

"(b) DEFINITIONS.—For purposes of this title:

"(1) PARENT HEALTH ASSISTANCE.—The term 'parent health assistance' has the meaning given the term child health assistance in section 2110(a) as if any reference to targeted low-income children were a reference to targeted low-income parents.

"(2) PARENT.—The term 'parent' has the meaning given the term 'caretaker relative' for purposes of carrying out section 1931.

"(3) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term child health assistance in section 2110(a) as if any reference to targeted low-income children were a reference to targeted low-income pregnant women, except that the assistance shall be limited to services related to pregnancy (which include prenatal, delivery, and postpartum services) and to other conditions that may complicate pregnancy.'

"(4) TARGETED LOW-INCOME PARENT.—The term 'targeted low-income parent' has the meaning given the term targeted low-income child in section 2110(b) as if the reference to a child were deemed a reference to a parent (as defined in paragraph (3)) of the child; except that in applying such section—

"(A) there shall be substituted for the income level described in paragraph (1)(B)(ii)(I) the applicable income level in effect for a targeted low-income child;

"(B) in paragraph (3), January 1, 2002, shall be substituted for July 1, 1997; and

"(C) in paragraph (4), January 1, 2002, shall be substituted for March 31, 1997.

"(5) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' has the meaning given the term targeted low-income child in section 2110(b) as if any reference to a child were a reference to a woman during pregnancy and through the end of the month in which the 60-day period beginning on the last day of her pregnancy ends; except that in applying such section—

"(A) there shall be substituted for the income level described in paragraph (1)(B)(ii)(I) the applicable income level in effect for a targeted low-income child;

"(B) in paragraph (3), January 1, 2002, shall be substituted for July 1, 1997; and

"(C) in paragraph (4), January 1, 2002, shall be substituted for March 31, 1997.

"(6) PARENT.—The term 'parent' has the meaning given the term 'caretaker relative' for purposes of carrying out section 1931.

"(c) REFERENCES TO TERMS AND SPECIAL RULES.—In the case of, and with respect to, a State providing for coverage of parent health assistance to targeted low-income parents or pregnancy-related assistance to targeted low-income pregnant women under subsection (a), the following special rules apply:

"(1) Any reference in this title (other than in subsection (b)) to a targeted low-income child is deemed to include a reference to a targeted low-income parent or a targeted low-income pregnant woman (as applicable).

"(2) Any such reference to child health assistance—

"(A) with respect to such parents is deemed a reference to parent health assistance; and

"(B) with respect to such pregnant women, is deemed a reference to pregnancy-related assistance.

"(3) In applying section 2103(e)(3)(B) in the case of a family or pregnant woman provided coverage under this section, the limitation on total annual aggregate cost-sharing shall be applied to the entire family or such pregnant woman.

"(4) In applying section 2110(b)(4), any reference to 'section 1902(l)(2) or 1905(n)(2) (as selected by a State)' is deemed a reference to the effective income level applicable to parents under section 1931 or under a waiver approved under section 1115, or, in the case of a pregnant woman, the income level established under section 1902(l)(2)(A).

"(5) In applying section 2102(b)(3)(B), any reference to children found through screening to be eligible for medical assistance under the State medicaid plan under title XIX is deemed a reference to parents and pregnant women.".

(B) ADDITIONAL ALLOTMENT FOR STATES PROVIDING COVERAGE OF PARENTS OR PREGNANT WOMEN.—

(i) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by inserting after subsection (c) the following:

"(d) ADDITIONAL ALLOTMENTS FOR STATE COVERAGE OF PARENTS OR PREGNANT WOMEN.—

"(1) APPROPRIATION; TOTAL ALLOTMENT.—For the purpose of providing additional allotments to States under this title, there is appropriated, out of any money in the Treasury not otherwise appropriated—

"(A) for fiscal year 2002, $2,000,000,000;

"(B) for fiscal year 2003, $2,000,000,000;

"(C) for fiscal year 2004, $3,000,000,000;

"(D) for fiscal year 2005, $3,000,000,000;

"(E) for fiscal year 2006, $5,000,000,000;

"(F) for fiscal year 2007, $5,000,000,000;

"(G) for fiscal year 2008, $5,000,000,000;

"(H) for fiscal year 2009, $5,000,000,000;

"(I) for fiscal year 2010, $5,000,000,000; and

"(J) for fiscal year 2011 and each fiscal year thereafter, the amount of the allotment provided under this paragraph for the preceding fiscal year increased by the percentage increase (if any) in the medical care expenditure category of the Consumer Price Index for All Urban Consumers (United States city average).

"(2) STATE AND TERRITORIAL ALLOTMENTS.—

"(A) IN GENERAL.—In addition to the allotments provided under subsections (b) and (c), subject to paragraphs (3) and (4), of the amount available for the additional allotments under paragraph (1) for a fiscal year, the Secretary shall allot to each State with a State child health plan approved under this title—

"(i) in the case of such a State other than a commonwealth or territory described in subparagraph (B), the same proportion as the proportion of the State's allotment under subsection (b) (determined without regard to subsection (f)) to the total amount of the allotments under subsection (b) for such States eligible for an allotment under this paragraph for such fiscal year; and

"(ii) in the case of a commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth's or territory's allotment under subsection (c) (determined without regard to subsection (f)) to the total amount of the allotments under subsection (c) for commonwealths and territories eligible for an allotment under this paragraph for such fiscal year.

"(B) AVAILABILITY AND REDISTRIBUTION OF UNUSED ALLOTMENTS.—In applying subsections (e) and (f) with respect to additional allotments made available under this subsection, the procedures established under such subsections shall ensure such additional allotments are only made available to States which have elected to provide coverage under section 2111.

"(3) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are not available for amounts expended before October 1, 2002. Such amounts are available for amounts expended on or after such date for child health assistance for targeted low-income children, as well as for parent health assistance for targeted low-income parents, and pregnancy-related assistance for targeted low-income pregnant women.

"(4) REQUIRING ELECTION TO PROVIDE COVERAGE.—No payments may be made to a State under this title from an allotment provided under this subsection unless the State has made an election to provide parent health assistance for targeted low-income parents, or pregnancy-related assistance for targeted low-income pregnant women.".

(ii) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(I) in subsection (a), by inserting "subject to subsection (d)," after "under this section,";

(II) in subsection (b)(1), by inserting "and subsection (d)" after "Subject to paragraph (4)"; and

(III) in subsection (c)(1), by inserting "subject to subsection (d)," after "for a fiscal year,".

(C) NO COST-SHARING FOR PREGNANCY-RELATED BENEFITS.—Section 2103(e)(2) of the Social Security Act (42 U.S.C. 1397cc(e)(2)) is amended—

(i) in the heading, by inserting "AND PREGNANCY-RELATED SERVICES" after "PREVENTIVE SERVICES"; and

(ii) by inserting before the period at the end the following: "and for pregnancy-related services".

(3) EFFECTIVE DATE.—The amendments made by this subsection apply to items and services furnished on or after October 1, 2002, without regard to whether regulations implementing such amendments have been issued.

(b) MAKING TITLE XXI BASE ALLOTMENTS PERMANENT.—Section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following:

"(11) for fiscal year 2008 and each fiscal year thereafter, the amount of the allotment provided under this subsection for the preceding fiscal year increased by the percentage increase (if any) in the medical care expenditure category of the Consumer Price Index for All Urban Consumers (United States city average).".

(c) OPTIONAL APPLICATION OF PRESUMPTIVE ELIGIBILITY PROVISIONS TO PARENTS.—Section 1920A of the Social Security Act (42 U.S.C. 1396r–1a) is amended by adding at the end the following:

"(e) A State may elect to apply the previous provisions of this section to provide for a period of presumptive eligibility for medical assistance for a parent (as defined for purposes of section 1902(k)(1)) of a child with respect to whom such a period is provided under this section.".

(d) CONFORMING AMENDMENTS.—

(1) ELIGIBILITY CATEGORIES.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended, in the matter before paragraph (1)—

(A) by striking "or" at the end of clause (xii);

(B) by inserting "or" at the end of clause (xiii); and

(C) by inserting after clause (xiii) the following:

"(xiv) who are parents described (or treated as if described) in section 1902(k)(1),".

(2) INCOME LIMITATIONS.—Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "1902(a)(10)(A)(ii)(XIX)," after "1902(a)(10)(A)(ii)(XVIII),".

(3) CONFORMING AMENDMENT RELATING TO NO WAITING PERIOD FOR PREGNANT WOMEN.—Section 2102(b)(1)(B) of the Social Security Act (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(A) by striking ", and" at the end of clause (i) and inserting a semicolon;

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end the following:

"(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income parent who is pregnant.".

SEC. 102. AUTOMATIC ENROLLMENT OF CHILDREN BORN TO TITLE XXI PARENTS.

(a) TITLE XXI.—Section 2102(b)(1) (42 U.S.C. 1397bb(b)(1)) is amended by adding at the end the following:

"(C) AUTOMATIC ELIGIBILITY OF CHILDREN BORN TO PREGNANT WOMEN.—Such eligibility standards shall provide for automatic coverage of a child born to an individual who is provided assistance under this title in the same manner as medical assistance would be provided under section 1902(e)(4) to a child described in such section.".

(b) CONFORMING AMENDMENT TO MEDICAID.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended in the first sentence by striking "so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for such assistance".

SEC. 103. OPTIONAL COVERAGE OF CHILDREN THROUGH AGE 20 UNDER THE MEDICAID PROGRAM AND TITLE XXI.

(a) MEDICAID.—

(1) IN GENERAL.—Section 1902(l)(1)(D) of the Social Security Act (42 U.S.C. 1396a(l)(1)(D)) is amended by inserting "(or, at the election of a State, 20 or 21 years of age)" after "19 years of age".

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(e)(3)(A) of the Social Security Act (42 U.S.C. 1396a(e)(3)(A)) is amended by inserting "(or 1 year less than the age the State has elected under subsection (l)(1)(D))" after "18 years of age".

(B) Section 1902(e)(12) of the Social Security Act (42 U.S.C. 1396a(e)(12)) is amended by inserting "or such higher age as the State has elected under subsection (l)(1)(D)" after "19 years of age".

(C) Section 1920A(b)(1) of the Social Security Act (42 U.S.C. 1396r–1a(b)(1)) is amended by inserting "or such higher age as the State has elected under section 1902(l)(1)(D)" after "19 years of age".

(D) Section 1928(h)(1) of the Social Security Act (42 U.S.C. 1396s(h)(1)) is amended by inserting "or 1 year less than the age the State has elected under section 1902(l)(1)(D)" before the period at the end.

(E) Section 1932(a)(2)(A) of the Social Security Act (42 U.S.C. 1396u–2(a)(2)(A)) is amended by inserting "(or such higher age as the State has elected under section 1902(l)(1)(D))" after "19 years of age".

(b) TITLE XXI.—Section 2110(c)(1) of the Social Security Act (42 U.S.C. 1397jj(c)(1)) is amended by inserting "(or such higher age as the State has elected under section 1902(l)(1)(D))".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2002, and apply to medical assistance and child health assistance provided on or after such date, whether or not regulations implementing such amendments have been issued.

SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS TO AUTHORITY TO PAY MEDICAID EXPANSION COSTS FROM TITLE XXI APPROPRIATION.

(a) AUTHORITY TO PAY MEDICAID EXPANSION COSTS FROM TITLE XXI APPROPRIATION.—Section 2105(a) of the Social Security Act (42 U.S.C. 1397ee(a)) is amended to read as follows:

"(a) ALLOWABLE EXPENDITURES.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan approved under this title, from its allotment under section 2104, an amount for each quarter equal to the enhanced FMAP of the following expenditures in the quarter:

"(A) CHILD HEALTH ASSISTANCE UNDER MEDICAID.—Expenditures for child health assistance under the plan for targeted low-income children in the form of providing medical assistance for expenditures described in the fourth sentence of section 1905(b).

"(B) RESERVED.—[reserved].

"(C) CHILD HEALTH ASSISTANCE UNDER THIS TITLE.—Expenditures for child health assistance under the plan for targeted low-income children in the form of providing health benefits coverage that meets the requirements of section 2103.

"(D) ASSISTANCE AND ADMINISTRATIVE EXPENDITURES SUBJECT TO LIMIT.—Expenditures only to the extent permitted consistent with subsection (c)—

"(i) for other child health assistance for targeted low-income children;

"(ii) for expenditures for health services initiatives under the plan for improving the health of children (including targeted low-income children and other low-income children);

"(iii) for expenditures for outreach activities as provided in section 2102(c)(1) under the plan; and

"(iv) for other reasonable costs incurred by the State to administer the plan.

"(2) ORDER OF PAYMENTS.—Payments under a subparagraph of paragraph (1) from a State's allotment for expenditures described in each such subparagraph shall be made on a quarterly basis in the order of such subparagraph in such paragraph.

"(3) NO DUPLICATIVE PAYMENT.—In the case of expenditures for which payment is made under paragraph (1), no payment shall be made under title XIX.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 1905(u).—Section 1905(u)(1)(B) of the Social Security Act (42 U.S.C. 1396d(u)(1)(B)) is amended by inserting "and section 2105(a)(1)" after "subsection (b)".

(2) SECTION 2105(c).—Section 2105(c)(2)(A) of the Social Security Act (42 U.S.C. 1397ee(c)(2)(A)) is amended by striking "subparagraphs (A), (C), and (D) of".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 251), whether or not regulations implementing such amendments have been issued.

Subtitle B—Outreach and Enrollment

SEC. 111. GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS UNDER SCHIP.

(a) IN GENERAL.—Section 2104(f) of the Social Security Act (42 U.S.C. 1397dd(f)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following:

"(2) GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

"(A) IN GENERAL.—Prior to any redistribution under paragraph (1) of unexpended allotments made to States under subsection (b) or (c) for fiscal year 2000 and any fiscal year thereafter, the Secretary shall—

"(i) reserve from such unexpended allotments the lesser of $50,000,000 or the total amount of such unexpended allotments for grants under this paragraph for the fiscal year in which the redistribution occurs; and

"(ii) subject to subparagraph (B), use such reserved funds to make grants to local and community-based public or nonprofit organizations (including organizations involved in women's health, pediatric advocacy, local and county governments, public health departments, Federally-qualified health centers, children's hospitals, and hospitals defined as disproportionate share hospitals under the State plan under title XIX) to conduct innovative outreach and enrollment efforts that are consistent with section 2102(c) and to promote understanding of the importance of health insurance coverage for prenatal care and children.

"(B) PRIORITY FOR GRANTS IN CERTAIN AREAS.—In making grants under subparagraph (A)(ii), the Secretary shall give priority to grant applicants that propose to target the outreach and enrollment efforts funded under the grant to geographic areas—

"(i) with high rates of eligible but unenrolled children, including such children who reside in rural areas; or

"(ii) with high rates of families for whom English is not their primary language.

"(C) APPLICATIONS.—An organization that desires to receive a grant under this paragraph shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide.".

(b) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT TITLE XXI APPLICATIONS.—Section 1902(a)(55) of such Act (42 U.S.C. 1396a(a)(55)) is amended by inserting ", and applications for child health assistance under title XXI" after "(a)(10)(A)(ii)(IX)".

Subtitle C—Immigrant Children and Pregnant Women

SEC. 121. OPTIONAL COVERAGE OF LEGAL IMMIGRANTS UNDER THE MEDICAID PROGRAM AND SCHIP.

(a) MEDICAID PROGRAM.—Section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and

(2) by adding at the end the following:

"(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance under this title for aliens who are lawfully residing in the United States (including battered aliens described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance, within any of the following eligibility categories:

"(i) PREGNANT WOMEN.—Women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy).

"(ii) CHILDREN.—Children (as defined under such plan), including optional targeted low-income children described in section 1905(u)(2)(B).

"(B)(i) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

"(ii) The provisions of sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not apply to a State that makes an election under subparagraph (A).".

(b) TITLE XXI.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

"(E) Section 1903(v)(4) (relating to optional coverage of permanent resident alien children), but only if the State has elected to apply such section to that category of children under title XIX.".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2002, and apply to medical assistance and child health assistance furnished on or after such date.

SEC. 122. PERMITTING STATES AND LOCALITIES TO PROVIDE HEALTH CARE TO ALL INDIVIDUALS.

(a) IN GENERAL.—Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621) is amended—

(1) in subsection (b)—

(A) by striking paragraphs (1) and (3); and

(B) by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "(2) and (3)" and inserting "(2), (3), and (4)"; and

(ii) in subparagraph (B), by striking "health,"; and

(B) by adding at the end the following new paragraph

"(4) Such term does not include any health benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to health care furnished before, on, or after the date of the enactment of this Act.

Subtitle D—Eligibility Simplification

SEC. 131. STATE OPTION TO PROVIDE FOR SIMPLIFIED DETERMINATIONS OF A CHILD'S FINANCIAL ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER MEDICAID.

(a) IN GENERAL.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

"(13)(A) At the option of the State, the plan may provide that financial eligibility requirements for medical assistance are met for an individual who is under an age specified by the State (not to exceed 19 years of age) based on a determination, during the 12 months prior to applying for such assistance, of the individual's family or household income or resources by a Federal or State agency (or a public or private entity making such determination on behalf of such agency) specified by the plan, provided that such agency has fiscal liabilities or responsibilities affected or potentially affected by such determinations, and provided that all information furnished by such agency pursuant to this subparagraph is used solely for purposes of determining eligibility for medical assistance under the State plan approved under this title or for child health assistance under a State plan approved under title XXI.

"(B) Nothing in subparagraph (A) shall be construed to authorize the denial of medical assistance under a State plan approved under this title or of child health assistance under a State plan approved under title XXI to an individual under 19 years of age who, without regard to the application of this paragraph or an option exercised thereunder, would qualify for such assistance.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2002.

SEC. 132. APPLICATION OF SIMPLIFIED TITLE XXI PROCEDURES UNDER THE MEDICAID PROGRAM.

(a) APPLICATION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (3), by inserting "subject to paragraph (5)", after "Notwithstanding subsection (a)(17),"; and

(B) by adding at the end the following:

"(5) With respect to determining the eligibility of individuals under 19 years of age (or such higher age as the State has elected under paragraph (1)(D)) for medical assistance under subsection (a)(10)(A) and, separately, with respect to determining the eligibility of individuals for medical assistance under subsection (a)(10)(A)(i)(VIII) or (a)(10)(A)(ii)(XIX), notwithstanding any other provision of this title, if the State has established a State child health plan under title XXI—

"(A) the State may not apply a resource standard;

"(B) the State shall use the same simplified eligibility form (including, if applicable, permitting application other than in person) as the State uses under such State child health plan with respect to such individuals;

"(C) the State shall provide for initial eligibility determinations and redeterminations of eligibility using verification policies, forms, and frequency that are no less restrictive than the policies, forms, and frequency the State uses for such purposes under such State child health plan with respect to such individuals; and

"(D) the State shall not require a face-to-face interview for purposes of initial eligibility determinations and redeterminations unless the State requires such an interview for such purposes under such child health plan with respect to such individuals.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) apply to determinations of eligibility made on or after the date that is 1 year after the date of the enactment of this Act, whether or not regulations implementing such amendments have been issued.

(b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Section 1920A(b)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r-1a(b)(3)(A)(i)) is amended by inserting "a child care resource and referral agency," after "a State or tribal child support enforcement agency,".

(2) APPLICATION TO PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN UNDER MEDICAID.—Section 1920(b) of the Social Security Act (42 U.S.C. 1396r-1(b)) is amended by adding at the end after and below paragraph (2) the following flush sentence:

"The term 'qualified provider' includes a qualified entity as defined in section 1920A(b)(3).".

(3) APPLICATION UNDER TITLE XXI.—

(A) IN GENERAL.—Section 2107(e)(1)(D) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended to read as follows:

"(D) Sections 1920 and 1920A (relating to presumptive eligibility).".

(B) CONFORMING ELIMINATION OF RESOURCE TEST.—Section 2102(b)(1)(A) of such Act (42 U.S.C. 1397bb(b)(1)(A)) is amended—

(i) by striking " and resources (including any standards relating to spenddowns and disposition of resources)"; and

(ii) by adding at the end the following: "Effective 1 year after the date of the enactment of the Hispanic Health Improvement Act 2002, such standards may not include the application of a resource standard or test.".

(c) AUTOMATIC REASSESSMENT OF ELIGIBILITY FOR TITLE XXI AND MEDICAID BENEFITS FOR CHILDREN LOSING MEDICAID OR TITLE XXI ELIGIBILITY.—

(1) LOSS OF MEDICAID ELIGIBILITY.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking the period at the end of paragraph (65) and inserting "; and", and

(B) by inserting after paragraph (65) the following:

"(66) provide, in the case of a State with a State child health plan under title XXI, that before medical assistance to a child (or a parent of a child) is discontinued under this title, a determination of whether the child (or parent) is eligible for benefits under title XXI shall be made and, if determined to be so eligible, the child (or parent) shall be automatically enrolled in the program under such title without the need for a new application.".

(2) LOSS OF TITLE XXI ELIGIBILITY AND COORDINATION WITH MEDICAID.—Section 2102(b) (42 U.S.C. 1397bb(b)) is amended—

(A) in paragraph (3), by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following:

"(D) that before health assistance to a child (or a parent of a child) is discontinued under this title, a determination of whether the child (or parent) is eligible for benefits under title XIX is made and, if determined to be so eligible, the child (or parent) is automatically enrolled in the program under such title without the need for a new application;";

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) COORDINATION WITH MEDICAID.—The State shall coordinate the screening and enrollment of individuals under this title and under title XIX consistent with the following:

"(A) Information that is collected under this title or under title XIX which is needed to make an eligibility determination under the other title shall be transmitted to the appropriate administering entity under such other title in a timely manner so that coverage is not delayed and families do not have to submit the same information twice. Families shall be provided the information they need to complete the application process for coverage under both titles and be given appropriate notice of any determinations made on their applications for such coverage.

"(B) If a State does not use a joint application under this title and such title, the State shall—

"(i) promptly inform a child's parent or caretaker in writing and, if appropriate, orally, that a child has been found likely to be eligible under title XIX;

"(ii) provide the family with an application for medical assistance under such title and offer information about what (if any) further information, documentation, or other steps are needed to complete such application process;

"(iii) offer assistance in completing such application process; and

"(iv) promptly transmit the separate application under this title or the information obtained through such application, and all other relevant information and documentation, including the results of the screening process, to the State agency under title XIX for a final determination on eligibility under such title.

"(C) Applicants are notified in writing of—

"(i) benefits (including restrictions on cost-sharing) under title XIX; and

"(ii) eligibility rules that prohibit children who have been screened eligible for medical assistance under such title from being enrolled under this title, other than provisional temporary enrollment while a final eligibility determination is being made under such title.

"(D) If the agency administering this title is different from the agency administering a State plan under title XIX, such agencies shall coordinate the screening and enrollment of applicants for such coverage under both titles.

"(E) The coordination procedures established between the program under this title and under title XIX shall apply not only to the initial eligibility determination of a family but also to any renewals or redeterminations of such eligibility.".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) apply to individuals who lose eligibility under the medicaid program under title XIX, or under a State child health insurance plan under title XXI, respectively, of the Social Security Act on or after October 1, 2002 (or, if later, 60 days after the date of the enactment of this Act), whether or not regulations implementing such amendments have been issued.

(d) PROVISION OF MEDICAID AND CHIP APPLICATIONS AND INFORMATION UNDER THE SCHOOL LUNCH PROGRAM.—Section 9(b)(2)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(2)(B)) is amended—

(1) by striking "(B) Applications" and inserting "(B)(i) Applications"; and

(2) by adding at the end the following:

"(ii)(I) Applications for free and reduced price lunches that are distributed pursuant to clause (i) to parents or guardians of children in attendance at schools participating in the school lunch program under this Act shall also contain information on the availability of medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and of child health and other assistance under title XXI of such Act, including information on how to obtain an application for assistance under such programs.

"(II) Information on the programs referred to in subclause (I) shall be provided on a form separate from the application form for free and reduced price lunches under clause (i).".

(e) 12-MONTHS CONTINUOUS ELIGIBILITY.—

(1) MEDICAID.—Section 1902(e)(12) of the Social Security Act (42 U.S.C. 1396a(e)(12)) is amended—

(A) by striking "At the option of the State, the plan may" and inserting "The plan shall";

(B) by striking "an age specified by the State (not to exceed 19 years of age)" and inserting "19 years of age (or such higher age as the State has elected under subsection (l)(1)(D)) or, at the option of the State, who is eligible for medical assistance as the parent of such a child"; and

(C) in subparagraph (A), by striking "a period (not to exceed 12 months) " and inserting "the 12-month period beginning on the date".

(2) TITLE XXI.—Section 2102(b)(2) of such Act (42 U.S.C. 1397bb(b)(2)) is amended by adding at the end the following: "Such methods shall provide 12-months continuous eligibility for children under this title in the same manner that section 1902(e)(12) provides 12-months continuous eligibility for children described in such section under title XIX. If a State has elected to apply section 1902(e)(12) to parents, such methods may provide 12-months continuous eligibility for parents under this title in the same manner that such section provides 12-months continuous eligibility for parents described in such section under title XIX.".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall take effect on October 1, 2002 (or, if later, 60 days after the date of the enactment of this Act), whether or not regulations implementing such amendments have been issued.

Subtitle E—SCHIP Wrap-Around Benefits

SEC. 141. REQUIRING COVERAGE OF SUBSTANTIALLY EQUIVALENT DENTAL SERVICES UNDER SCHIP.

(a) IN GENERAL.—Section 2103(c)(2) of the Social Security Act (42 U.S.C. 1397cc(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) Dental services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2003.

SEC. 142. STATE OPTION TO PROVIDE WRAP-AROUND SCHIP COVERAGE TO CHILDREN WHO HAVE OTHER HEALTH COVERAGE.

(a) IN GENERAL.—

(1) SCHIP.—

(A) STATE OPTION TO PROVIDE WRAP-AROUND COVERAGE.—Section 2110(b) of the Social Security Act (42 U.S.C. 1397jj(b)) is amended—

(i) in paragraph (1)(C), by inserting ", subject to paragraph (5)," after "under title XIX or"; and

(ii) by adding at the end the following new paragraph:

"(5) STATE OPTION TO PROVIDE WRAP-AROUND COVERAGE.—A State may waive the requirement of paragraph (1)(C) that a targeted low-income child may not be covered under a group health plan or under health insurance coverage, if the State satisfies the conditions described in subsection (c)(8). The State may waive such requirement in order to provide—

"(A) dental services;

"(B) cost-sharing protection; or

"(C) all services.

In waiving such requirement, a State may limit the application of the waiver to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan."; and

(B) CONDITIONS DESCRIBED.—Section 2105(c) of such Act (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

"(8) CONDITIONS FOR PROVISION OF WRAP AROUND COVERAGE.—For purposes of section 2110(b)(5), the conditions described in this paragraph are the following:

"(A) INCOME ELIGIBILITY.—The State child health plan (whether implemented under title XIX or this XXI)—

"(i) has an income eligibility standard not less than that described in paragraph (4) of such section;

"(ii) subject to subparagraph (B), does not limit the acceptance of applications for children; and

"(iii) provides benefits to all children in the State who apply for and meet eligibility standards.

"(B) NO WAITING LIST IMPOSED.—With respect to children whose family income is at or below 200 percent of the poverty line, the State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan.

"(C) NO MORE FAVORABLE TREATMENT.—The State child health plan may not provide more favorable coverage of dental services to the children covered under section 2110(b)(5) than to children otherwise covered under this title.".

(C) STATE OPTION TO WAIVE WAITING PERIOD.—Section 2102(b)(1)(B) of such Act (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by striking the period and inserting "; and"; and

(iii) by adding at the end the following new clause:

"(iii) at State option, may not apply a waiting period in the case of child described in section 2110(b)(5), if the State satisfies the requirements of section 2105(c)(8).".

(2) APPLICATION OF ENHANCED MATCH UNDER MEDICAID.—Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(A) in subsection (b), in the fourth sentence, by striking "or subsection (u)(3)" and inserting "(u)(3), or (u)(4)"; and

(B) in subsection (u)—

(i) by redesignating paragraph (4) as paragraph (5); and

(ii) by inserting after paragraph (3) the following new paragraph:

"(4) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for items and services for children described in section 2110(b)(5), but only in the case of a State that satisfies the requirements of section 2105(c)(8).".

(3) APPLICATION OF SECONDARY PAYOR PROVISIONS.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by section 121(b), is amended—

(A) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively; and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) Section 1902(a)(25) (relating to coordination of benefits and secondary payor provisions) with respect to children covered under a waiver described in section 2110(b)(5).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2003, and shall apply to child health assistance and medical assistance provided on or after that date.

Subtitle F—Immunization Coverage Through SCHIP

SEC. 151. ELIGIBILITY OF CHILDREN ENROLLED IN THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM FOR THE PEDIATRIC VACCINE DISTRIBUTION PROGRAM.

(a) IN GENERAL.—Section 1928(b)(2)(B)(ii)(I) of the Social Security Act (42 U.S.C. 1396s(b)(2)(B)(ii)(I)) is amended by inserting "(other than a State child health plan under title XXI)" after "policy or plan".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to vaccines administered on or after the date of the enactment of this Act.

Subtitle G—Limited English Proficient Communities

SEC. 161. INCREASED FEDERAL REIMBURSEMENT FOR LANGUAGE SERVICES UNDER THE MEDICAID PROGRAM AND THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

(a) MEDICAID.—Section 1903(a)(3) of the Social Security Act (42 U.S.C. 1396b(a)(3)) is amended—

(1) in subparagraph (D), by striking "plus" at the end and inserting "and"; and

(2) by adding at the end the following:

"(E) 90 percent of the sums expended with respect to costs incurred during such quarter as are attributable to the provision of language services, including oral interpretation, translations of written materials, and other language services, for individuals with limited English proficiency who apply for, or receive, medical assistance under the State plan; plus".

(b) SCHIP.—Section 2105(a)(1) of the Social Security Act (42 U.S.C.1397ee(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "section 1905(b))" and inserting "section 1905(b)) or, in the case of expenditures described in subparagraph (D)(iv), 90 percent"; and

(2) in subparagraph (D)—

(A) in clause (iii), by striking "and" at the end;

(B) be redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following:

"(iv) for expenditures attributable to the provision of language services, including oral interpretation, translations of written materials, and other language services, for individuals with limited English proficiency who apply for, or receive, child health assistance under the plan; and".

(c) NONAPPLICATION OF LIMIT ON ADMINISTRATIVE EXPENDITURES.—Section 2105(a) of the Social Security Act (42 U.S.C.1397ee(a)) is amended by adding at the end the following:

"(3) NONAPPLICATION OF LIMIT ON ADMINISTRATIVE EXPENDITURES.—The 10 percent limitation on expenditures not used for medicaid or health assistance imposed under subsection (c)(2)(A) shall not apply to payments made under this subsection for expenditures described in paragraph (1).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2003.

Subtitle H—Binational Health Insurance

SEC. 171. BINATIONAL HEALTH INSURANCE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study concerning binational health insurance efforts. In conducting such study, the Institute shall solicit input from border health experts and health insurance companies.

(b) REPORT.—Not later than 1 year after the date on which the Secretary of Health and Human Services enters into the contract under subsection (a), the Institute of Medicine shall submit to the Secretary and the appropriate committees of Congress a report concerning the study conducted under subsection (a). Such report shall include the recommendations of the Institute on ways to expand or improve binational health insurance efforts.

TITLE II—ACCESS AND AFFORDABILITY

Subtitle A—Report on Programs for Improving the Health Status of Hispanic Individuals

SEC. 201. ANNUAL REPORT REGARDING DIABETES, HIV/AIDS, SUBSTANCE ABUSE, AND MENTAL HEALTH.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this Act referred to as the "Secretary") shall annually submit to Congress a report on programs carried out through the Public Health Service with respect to improving the health status of Hispanic individuals regarding diabetes, cancer, asthma, HIV infection, AIDS, substance abuse, and mental health, including—

(1) prevention programs carried out through the Centers for Disease Control and Prevention and the Substance Abuse and Mental Health Services Administration;

(2) treatment programs carried out through the Health Resources and Services Administration and the Substance Abuse and Mental Health Services Administration;

(3) research programs carried out through the National Institutes of Health; and

(4) activities of the Office of Public Health and Science, including activities of the Office of Minority Health.

(b) DATA COLLECTION.—Each report under subsection (a) shall include information on programs carried out through the Public Health Service to collect data that relates to the health status of Hispanic individuals regarding diabetes, HIV infection, AIDS, substance abuse, and mental health.

Subtitle B—Diabetes Control and Prevention

SEC. 211. NATIONAL DIABETES EDUCATION PROGRAM OF CENTERS FOR DISEASE CONTROL AND PREVENTION; INCREASED AUTHORIZATION OF APPROPRIATIONS FOR ACTIVITIES REGARDING HISPANIC INDIVIDUALS.

(a) In General.—For the purpose of carrying out the activities described in subsection (b) through the Division of Diabetes Translation of the Centers for Disease Control and Prevention, there are authorized to be appropriated $100,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2007. Such authorization of appropriations is in addition to other authorizations of appropriations that are available for such purpose.

(b) Increase in Prevention Activities.—The activities referred to in subsection (a) are—

(1) identifying geographic areas in which the incidence of or mortality from diabetes in Hispanic individuals is significantly above the national average for such individuals;

(2) carrying out in such areas prevention activities regarding diabetes that are directed toward Hispanic individuals, including education programs and screening programs;

(3) designing and assisting with the implementation of school-based programs aimed at modifying environmental risk factors and access to care for high-risk and diagnosed Hispanic youth; and

(4) designing and assisting with the implementation of diabetes-specific programs to improve diagnosis, treatment, and self-management training in community health clinics.

SEC. 212. NATIONAL INSTITUTES OF HEALTH; IMPLEMENTATION OF RECOMMENDATIONS OF DIABETES RESEARCH WORKING GROUP.

For the purpose of carrying out the plan to implement the recommendations of the Diabetes Research Working Group of the National Institute on Diabetes and Digestive and Kidney Diseases (which plan was developed and submitted to the Congress pursuant to the Department of Health and Human Services Appropriations Act, 2000), which most impact the Hispanic community, including research into obesity, behavioral and environmental risk factors, and special needs of minority women, children and the elderly, there are authorized to be appropriated $363,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2007.

Subtitle C—HIV Prevention Activities Regarding Hispanic Individuals

SEC. 221. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION; REPRESENTATION OF HISPANIC INDIVIDUALS IN MEMBERSHIP OF COMMUNITY PLANNING GROUPS.

(a) In General.—With respect to community planning groups that the Centers for Disease Control and Prevention utilizes in carrying out programs for the prevention of HIV infection, the Secretary, acting through the Director of such Centers, shall carry out the following:

(1) The Secretary shall identify community planning groups for which Hispanic individuals are underrepresented as members in relation to the number of Hispanic individuals with HIV who reside in the communities involved.

(2) The Secretary shall develop a plan to increase the representation of Hispanic individuals in the membership of the community planning groups identified under paragraph (1). Such plan may provide for facilitating the participation of Hispanic individuals as members in such groups by assisting the individuals with the incidental costs incurred by the individuals in being such members, such as the costs of transportation and childcare services.

(3) The plan shall include a strategy and detailed timeline for implementing the plan.

(b) Definition.—In this section, the term “community planning group” has the meaning that applies for purposes of programs established pursuant to the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (including title XXVI of the Public Health Service Act).

SEC. 222. AIDS EDUCATION AND TRAINING CENTERS FUNDED BY HEALTH RESOURCES AND SERVICES ADMINISTRATION; ESTABLISHMENT OF CENTER DIRECTED TOWARD MINORITY POPULATIONS WITH HIV.

(a) In General.—In carrying out section 2692 of the Public Health Service Act (42 U.S.C. 300ff-111), the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to eligible Hispanic-serving institutions for the purpose of carrying out projects under such section with respect to HIV in racial and ethnic minority groups.

(b) Cultural Competence.—A condition for grants under subsection (a) is that the applicants involved agree that the education and training provided through projects under such subsection will be provided in a culturally competent manner (as defined in section 331).

(c) Eligible Institutions.—In this section:

(1) Eligible hispanic-serving institution.—The term “eligible Hispanic-serving institution” means a Hispanic-serving institution that has a record of carrying out HIV-related activities with respect to Hispanic individuals.

(2) Hispanic-serving institution.—The term “Hispanic-serving institution” has the meaning given such term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).

Subtitle D—Prevention of Latina Adolescent Suicides

SEC. 231. SHORT TITLE.

This subtitle may be cited as the “Latina Adolescent Suicide Prevention Act”.

SEC. 232. ESTABLISHMENT OF PROGRAM FOR PREVENTION OF LATINA ADOLESCENT SUICIDES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by inserting after section 520A the following section:

“SEC. 520B. PREVENTION OF LATINA ADOLESCENT SUICIDES.

“(a) In General.—The Secretary shall carry out a program to make awards of grants, cooperative agreements, or contracts to public and nonprofit private entities for the purpose of reducing suicide attempts and deaths among Latina adolescents and for the purpose of dealing with depression and other related emotional conditions which may contribute to suicide.

“(b) Collaboration.—The Secretary shall ensure that the program carried out under this section is developed in collaboration with the relevant institutes at the National Institutes of Health, the Health Resources and Services Administration, the Centers for Disease Control and Prevention, and the Administration on Children and Families.

“(c) Preference.—In making awards under subsection (a), the Secretary shall give preference to applicants that—

“(1) demonstrate a strong linkage with schools and are actually supported by and operated within a school facility or associated setting;

“(2) provide direct services to Latina adolescents and their family members when appropriate; and

“(3) serve geographic areas that already have a high concentration of underserved adolescent Latinas or a rapidly growing Hispanic population, based on the latest census data.

“(d) Requirements.—A condition for the receipt of an award under subsection (a) is that the applicant involved demonstrate that the project to be carried out with the award will—

“(1) provide for the timely assessment and treatment of Latina adolescents at risk for suicide;

“(2) use evidenced-based strategies;

“(3) be based on exemplary practices that are adapted to the unique characteristics and needs of the local community;

“(4) be integrated into the existing health care system in the community, including primary health care, mental health services, and substance abuse services as appropriate;

“(5) be integrated into other systems in the community to address the needs of Latina adolescents including the educational system, juvenile justice, and recreation;

“(6) provide support services to the families and friends of those who plan, attempt, or actually commit suicide;

“(7) provide culturally, linguistically, and developmentally appropriate services;

“(8) agree to outcomes evaluation to determine the success of the program and the possibility of replication to other adolescent girls at risk of suicide;

“(9) provide or ensure referral for mental health and substance abuse services as needed; and

“(10) ensure that staff used in the program are trained in suicide prevention and in the identification of conditions which left untreated may lead to suicide, are capable of providing culturally and linguistically appropriate services, and that professionals involved in the system of care are given training in identifying persons at risk of suicide.

“(e) Coordination.—A condition for the receipt of an award under subsection (a) is that the applicant involved demonstrate that—

“(1) the application has the support of the local communities and the approval of the political subdivision to be served by the project to be carried out under the award; and

“(2) the applicant has discussed the application with local and State mental health officials.

“(f) Matching Requirement.—With respect to the costs to be incurred by an applicant in carrying out a project under subsection (a), the Secretary may require as a condition of the receipt of the award that the applicant make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs ($1 for each $3 of Federal funds provided under the award).

“(g) Evaluation.—The Secretary shall ensure that entities receiving awards under subsection (a) submit an evaluation of the project carried out under the award that includes an evaluation of—

“(1) the efficacy of project strategies; and

“(2) short, intermediate, and long-term outcomes, including the overall impact of the project on the self-esteem of Latina adolescents, their emotional well-being and development, ability to deal in a positive and confident manner with their families, peers, and social environment, and to make constructive and personally fulfilling life choices.

"(h) DISSEMINATION AND EDUCATION.—The Secretary shall ensure that the findings from the program carried out under this section are disseminated to State and local governmental agencies and private providers of mental health and substance abuse services.

"(i) DURATION OF PROJECTS.—With respect to an award under subsection (a), the period during which payments under such award are made may not exceed 5 years.

"(j) DEFINITION.—In this section, the term 'adolescent' means an individual between the ages of 11 and 17 (inclusive).

"(k) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 and 2005.

"(2) ALLOCATION FOR PROGRAM MANAGEMENT.—Of the amount appropriated under paragraph (1) for a fiscal year, the Secretary may reserve not more than 1 percent for administering the program under this section.".

Subtitle E—Dental Health Services

SEC. 241. GRANTS TO IMPROVE THE PROVISION OF DENTAL HEALTH SERVICES THROUGH COMMUNITY HEALTH CENTERS AND PUBLIC HEALTH DEPARTMENTS.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by inserting before section 330, the following:

"SEC. 329. GRANT PROGRAM TO EXPAND THE AVAILABILITY OF SERVICES.

"(a) IN GENERAL.—The Secretary, acting through the Health Resources and Services Administration, shall establish a program under which the Secretary may award grants to eligible entities and eligible individuals to expand the availability of primary dental care services in dental health professional shortage areas or medically underserved areas.

"(b) ELIGIBILITY.—

"(1) ENTITIES.—To be eligible to receive a grant under this section an entity—

"(A) shall be—

"(i) a health center receiving funds under section 330 or designated as a Federally qualified health center;

"(ii) a county or local public health department, if located in a federally-designated dental health professional shortage area;

"(iii) an Indian tribe or tribal organization (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)); or

"(iv) a dental education program accredited by the Commission on Dental Accreditation; and

"(B) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(2) INDIVIDUALS.—To be eligible to receive a grant under this section an individual shall—

"(A) be a dental health professional licensed or certified in accordance with the laws of State in which such individual provides dental services;

"(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require; and

"(C) provide assurances that—

"(i) the individual will practice in a federally-designated dental health professional shortage area; and

"(ii) not less than 33 percent of the patients of such individual are—

"(I) receiving assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(II) receiving assistance under a State plan under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.); or

"(III) uninsured.

"(c) USE OF FUNDS.—

"(1) ENTITIES.—An entity shall use amounts received under a grant under this section to provide for the increased availability of primary dental services in the areas described in subsection (a). Such amounts may be used to supplement the salaries offered for individuals accepting employment as dentists in such areas.

"(2) INDIVIDUALS.—A grant to an individual under subsection (a) shall be in the form of a $1,000 bonus payment for each month in which such individual is in compliance with the eligibility requirements of subsection (b)(2)(C).

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Notwithstanding any other amounts appropriated under section 330 for health centers, there is authorized to be appropriated $40,000,000 for each of fiscal years 2003 through 2007 to hire and retain dental health care providers under this section.

"(2) USE OF FUNDS.—Of the amount appropriated for a fiscal year under paragraph (1), the Secretary shall use—

"(A) not less than 75 percent of such amount to make grants to eligible entities; and

"(B) not more than 25 percent of such amount to make grants to eligible individuals.".

SEC. 242. SCHOOL-BASED DENTAL SEALANT PROGRAM.

Section 317M(c) of the Public Health Service Act (42 U.S.C. 247b-14) is amended—

(1) in paragraph (1), by inserting "and school-linked" after "school-based";

(2) in the first sentence of paragraph (2)—

(A) by inserting "and school-linked" after "school-based"; and

(B) by inserting "or Indian tribe" after "State"; and

(3) by striking paragraph (3) and inserting the following:

"(3) ELIGIBILITY.—To be eligible to receive funds under paragraph (1), an entity shall—

"(A) prepare and submit to the State or Indian tribe an application at such time, in such manner and containing such information as the State or Indian tribe may require; and

"(B) be a—

"(i) public elementary or secondary school—

"(I) that is located in an urban area in which and more than 50 percent of the student population is participating in Federal or State free or reduced meal programs; or

"(II) that is located in a rural area and, with respect to the school district in which the school is located, the district involved has a median income that is at or below 235 percent of the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); or

"(ii) public or non-profit health organization, including a grantee under section 330, that is under contract with an elementary or secondary school described in subparagraph (B) to provide dental services to school-age children.".

Subtitle F—Border Health

SEC. 251. SHORT TITLE.

This subtitle may be cited as the "Border Health Security Act of 2002".

SEC. 252. DEFINITIONS.

In this subtitle:

(1) BORDER AREA.—The term "border area" has the meaning given the term "United States-Mexico Border Area" in section 8 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n-6).

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 253. BORDER HEALTH SERVICES GRANTS.

(a) IN GENERAL.—The Secretary, acting through the United States-Mexico Border Health Commission and in consultation the State border health offices, shall award grants to States, local governments, and non-profit health organizations along the border of the United States and Mexico to address priorities and recommendations established by—

(1) the United States-Mexico Border Health Commission and the United States Section Commission outreach offices in each of the United States border States; and

(2) the Secretary to improve the health of border region residents.

(b) APPLICATION.—To be eligible for a grant under subsection (a), a State, local government, or non-profit health organization shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received under a grant under this section shall be used for programs relating to maternal and child health, public health, health promotion, oral health, behavioral and mental health, substance abuse, conditions that have high prevalence along the United States-Mexico border, medical and health services research, promotoras or community health workers, health care infrastructure problems in the border region (including planning and construction grants), health disparities along the United States-Mexico border environmental health, health education, outreach and enrollment services with respect to Federal programs (including the programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 and 1397aa et seq.), and other programs determined appropriate by the Secretary.

(d) SUPPLEMENT NOT SUPPLANT.—Amounts provided to a grantee under a grant awarded under this section shall be used to supplement and not supplant other funds available to the grantee to carry out the activities described in subsection (c).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $200,000,000 for fiscal year 2003, and such sums as may be necessary for each fiscal year thereafter.

SEC. 254. UNITED STATES-MEXICO BORDER HEALTH COMMISSION.

The United States-Mexico Border Health Commission Act (22 U.S.C. 290n et seq)) is amended—

(1) in section 2, by inserting ", within the Office of Border Health of the Department of Health and Human Services," after "to establish"; and

(2) by adding at the end the following:

"SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act, $10,000,000 for fiscal year 2003, and such sums as may be necessary for each fiscal year thereafter.".

Subtitle G—Community Health Workers

SEC. 261. SHORT TITLE.

This subtitle may be cited as the “Community Health Workers Act of 2002”.

SEC. 262. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

“SEC. 399O. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

“(a) GRANTS AUTHORIZED.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and other Federal officials determined appropriate by the Secretary, is authorized to award grants to States or local or tribal units, to promote positive health behaviors for women in target populations, especially racial and ethnic minority women in medically underserved communities.

“(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used to support community health workers—

“(1) to educate, guide, and provide outreach in a community setting regarding health problems prevalent among women and especially among racial and ethnic minority women;

“(2) to educate, guide, and provide experiential learning opportunities that target behavioral risk factors including—

“(A) poor nutrition;

“(B) physical inactivity;

“(C) obesity;

“(D) tobacco use;

“(E) alcohol and substance use;

“(F) injury and violence;

“(G) risky sexual behavior; and

“(H) mental health problems;

“(3) to educate and guide regarding effective strategies to promote positive health behaviors within the family;

“(4) to educate and provide outreach regarding enrollment in health insurance including the State Children's Health Insurance Program under title XXI of the Social Security Act, medicare under title XVIII of such Act and medicaid under title XIX of such Act;

“(5) to promote community wellness and awareness; and

“(6) to educate and refer target populations to appropriate health care agencies and community-based programs and organizations in order to increase access to quality health care services, including preventive health services.

“(c) APPLICATION.—

“(1) IN GENERAL.—Each State or local or tribal unit (including federally recognized tribes and Alaska native villages) that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

“(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

“(A) describe the activities for which assistance under this section is sought;

“(B) contain an assurance that with respect to each community health worker program receiving funds under the grant awarded, such program provides training and supervision to community health workers to enable such workers to provide authorized program services;

“(C) contain an assurance that the applicant will evaluate the effectiveness of community health worker programs receiving funds under the grant;

“(D) contain an assurance that each community health worker program receiving funds under the grant will provide services in the cultural context most appropriate for the individuals served by the program;

“(E) contain a plan to document and disseminate project description and results to other States and organizations as identified by the Secretary; and

“(F) describe plans to enhance the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs by—

“(i) assisting individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs; and

“(ii) providing other services as the Secretary determines to be appropriate, that may include transportation and translation services.

“(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to those applicants—

“(1) who propose to target geographic areas—

“(A) with a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;

“(B) with a high percentage of families for whom English is not their primary language; and

“(C) that encompass the United States-Mexico border region;

“(2) with experience in providing health or health-related social services to individuals who are underserved with respect to such services; and

“(3) with documented community activity and experience with community health workers.

“(e) COLLABORATION WITH ACADEMIC INSTITUTIONS.—The Secretary shall encourage community health worker programs receiving funds under this section to collaborate with academic institutions. Nothing in this section shall be construed to require such collaboration.

“(f) QUALITY ASSURANCE AND COST-EFFECTIVENESS.—The Secretary shall establish guidelines for assuring the quality of the training and supervision of community health workers under the programs funded under this section and for assuring the cost-effectiveness of such programs.

“(g) MONITORING.—The Secretary shall monitor community health worker programs identified in approved applications and shall determine whether such programs are in compliance with the guidelines established under subsection (e).

“(h) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to community health worker programs identified in approved applications with respect to planning, developing, and operating programs under the grant.

“(i) REPORT TO CONGRESS.—

“(1) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under subsection (a), the Secretary shall submit to Congress a report regarding the grant project.

“(2) CONTENTS.—The report required under paragraph (1) shall include the following:

“(A) A description of the programs for which grant funds were used.

“(B) The number of individuals served.

“(C) An evaluation of—

“(i) the effectiveness of these programs;

“(ii) the cost of these programs; and

“(iii) the impact of the project on the health outcomes of the community residents.

“(D) Recommendations for sustaining the community health worker programs developed or assisted under this section.

“(E) Recommendations regarding training to enhance career opportunities for community health workers.

“(j) DEFINITIONS.—In this section:

“(1) COMMUNITY HEALTH WORKER.—The term ‘community health worker’ means an individual who promotes health or nutrition within the community in which the individual resides—

“(A) by serving as a liaison between communities and health care agencies;

“(B) by providing guidance and social assistance to community residents;

“(C) by enhancing community residents' ability to effectively communicate with health care providers;

“(D) by providing culturally and linguistically appropriate health or nutrition education;

“(E) by advocating for individual and community health or nutrition needs; and

“(F) by providing referral and followup services.

“(2) COMMUNITY SETTING.—The term ‘community setting’ means a home or a community organization located in the neighborhood in which a participant resides.

“(3) MEDICALLY UNDERSERVED COMMUNITY.—The term ‘medically underserved community’ means a community identified by a State—

“(A) that has a substantial number of individuals who are members of a medically underserved population, as defined by section 330(b)(3); and

“(B) a significant portion of which is a health professional shortage area as designated under section 332.

“(4) SUPPORT.—The term ‘support’ means the provision of training, supervision, and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.

“(5) TARGET POPULATION.—The term ‘target population’ means women of reproductive age, regardless of their current childbearing status.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2003, 2004, and 2005.”.

Subtitle H—Patient Navigator, Outreach, and Chronic Disease Prevention

SEC. 271. SHORT TITLE.

This Act may be cited as the “Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2002”.

SEC. 272. HRSA GRANTS FOR MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; HRSA GRANTS FOR PATIENT NAVIGATORS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

“SEC. 330I. MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; PATIENT NAVIGATORS.

“(a) MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION.—

“(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private health centers (including health centers under section 330, Indian Health Service Centers, and rural health clinics) for the development and operation of model programs that—

“(A) provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases;

“(B) ensure that the health services are provided to such individuals in a culturally competent manner; and

"(C) assign patient navigators, in accordance with applicable criteria of the Secretary, for individuals of health disparity populations to—

"(i) accomplish, to the extent possible, the follow-up and diagnosis of an abnormal finding and the treatment and appropriate follow-up care of cancer or other chronic disease; and

"(ii) facilitate access to appropriate health care services within the health care system to ensure optimal patient utilization of such services.

"(2) Outreach services.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public of the services of the model program under the grant. Such activities shall include facilitating access to appropriate health care services and patient navigators within the health care system to ensure optimal patient utilization of these services.

"(3) Application for grant.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(4) Evaluations.—

"(A) In general.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, directly or through grants or contracts, provide for evaluations to determine which outreach activities under paragraph (2) were most effective in informing the public of the model program services and to determine the extent to which such programs were effective in providing culturally competent services to the health disparity population served by the programs.

"(B) Dissemination of findings.—The Secretary shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

"(5) Coordination with other programs.—The Secretary shall coordinate the program under this subsection with the program under subsection (b), with the program under section 417D, and to the extent practicable, with programs for prevention centers that are carried out by the Director of the Centers for Disease Control and Prevention.

"(b) Program for Patient Navigators.—

"(1) In general.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private health centers (including health centers under section 330, Indian Health Service Centers, and rural health clinics) for the development and operation of programs to pay the costs of such health centers in—

"(A) assigning patient navigators, in accordance with applicable criteria of the Secretary, for individuals of health disparity populations for the duration of receiving health services from the health centers;

"(B) ensuring that the services provided by the patient navigators to such individuals include case management and psychosocial assessment and care or information and referral to such services;

"(C) ensuring that the patient navigators provide services to such individuals in a culturally competent manner; and

"(D) developing model practices for patient navigators, including with respect to—

"(i) coordination of health services, including psychosocial assessment and care;

"(ii) appropriate follow-up care, including psychosocial assessment and care; and

"(iii) determining coverage under health insurance and health plans for all services.

"(2) Outreach services.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public of the services of the model program under the grant.

"(3) Application for grant.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(4) Evaluations.—

"(A) In general.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, directly or through grants or contracts, provide for evaluations to determine the effects of the services of patient navigators on the individuals of health disparity populations for whom the services were provided, taking into account the matters referred to in paragraph (1)(C).

"(B) Dissemination of findings.—The Secretary shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

"(5) Coordination with other programs.—The Secretary shall coordinate the program under this subsection with the program under subsection (a) and with the program under section 417D.

"(c) Requirements Regarding Fees.—A condition for the receipt of a grant under subsection (a)(1) or (b)(1) is that the program for which the grant is made have in effect—

"(1) a schedule of fees or payments for the provision of its services that is consistent with locally prevailing rates or charges and is designed to cover its reasonable costs of operation; and

"(2) a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the ability of the patient to pay.

"(d) Model.—Not later than three years after the date of the enactment of this section, the Secretary shall develop a peer-reviewed model of systems for the services provided by this section. The Secretary shall update such model as may be necessary to ensure that the best practices are being utilized.

"(e) Duration of Grant.—The period during which payments are made to an entity from a grant under subsection (a)(1) or (b)(1) may not exceed five years. The provision of such payments are subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed as establishing a limitation on the number of grants under such subsection that may be made to an entity.

"(f) Definitions.—For purposes of this section:

"(1) The term 'culturally competent', with respect to providing health-related services, means services that, in accordance with standards and measures of the Secretary, are designed to effectively and efficiently respond to the cultural and linguistic needs of patients.

"(2) The term 'appropriate follow-up care' includes palliative and end-of-life care.

"(3) The term 'health disparity population' means a population where there exists a significant disparity in the overall rate of disease incidence, morbidity, mortality, or survival rates in the population as compared to the health status of the general population. Such term includes—

"(A) racial and ethnic minority groups as defined in section 1707; and

"(B) medically underserved groups, such as rural and low-income individuals and individuals with low levels of literacy.

"(4)(A) The term 'patient navigator' means an individual whose functions include—

"(i) assisting and guiding patients with a symptom or an abnormal finding or diagnosis of cancer or other chronic disease within the health care system to accomplish the follow-up and diagnosis of an abnormal finding as well as the treatment and appropriate follow-up care of cancer or other chronic disease; and

"(ii) identifying, anticipating, and helping patients overcome barriers within the health care system to ensure prompt diagnostic and treatment resolution of an abnormal finding of cancer or other chronic disease.

"(B) Such term includes representatives of the target health disparity population, such as nurses, social workers, cancer survivors, and patient advocates.

"(g) Authorization of Appropriations.—

"(1) In general.—

"(A) Model programs.—For the purpose of carrying out subsection (a) (other than the purpose described in paragraph (2)(A)), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007.

"(B) Patient navigators.—For the purpose of carrying out subsection (b) (other than the purpose described in paragraph (2)(B)), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007.

"(C) Bureau of primary health care.—Amounts appropriated under subparagraph (A) or (B) shall be administered through the Bureau of Primary Health Care.

"(2) Programs in rural areas.—

"(A) Model programs.—For the purpose of carrying out subsection (a) by making grants under such subsection for model programs in rural areas, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007.

"(B) Patient navigators.—For the purpose of carrying out subsection (b) by making grants under such subsection for programs in rural areas, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007.

"(C) Office of rural health policy.—Amounts appropriated under subparagraph (A) or (B) shall be administered through the Office of Rural Health Policy.

"(3) Relation to other authorizations.—Authorizations of appropriations under paragraphs (1) and (2) are in addition to other authorizations of appropriations that are available for the purposes described in such paragraphs.".

SEC. 273. NCI GRANTS FOR MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; NCI GRANTS FOR PATIENT NAVIGATORS.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end following section:

"SEC. 417D. MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION; PATIENT NAVIGATORS.

"(a) MODEL COMMUNITY CANCER AND CHRONIC DISEASE CARE AND PREVENTION.—

"(1) IN GENERAL.—The Director of the Institute may make grants to eligible entities for the development and operation of model programs that—

"(A) provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases;

"(B) ensure that the health services are provided to such individuals in a culturally competent manner; and

"(C) assign patient navigators, in accordance with applicable criteria of the Secretary, for individuals of health disparity populations to—

"(i) accomplish, to the extent possible, the follow-up and diagnosis of an abnormal finding and the treatment and appropriate follow-up care of cancer or other chronic disease; and

"(ii) facilitate access to appropriate health care services within the health care system to ensure optimal patient utilization of such services.

"(2) ELIGIBLE ENTITIES.—For purposes of this section, an eligible entity is a designated cancer center of the Institute, an academic institution, a hospital, a nonprofit organization, or any other public or private entity determined to be appropriate by the Director of the Institute, that provides services described in paragraph (1)(A) for cancer or chronic diseases.

"(3) OUTREACH SERVICES.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public of the services of the model program under the grant. Such activities shall include facilitating access to appropriate health care services and patient navigators within the health care system to ensure optimal patient utilization of these services.

"(4) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Director of the Institute and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(5) EVALUATIONS.—

"(A) IN GENERAL.—The Director of the Institute, directly or through grants or contracts, shall provide for evaluations to determine which outreach activities under paragraph (3) were most effective in informing the public of the model program services and to determine the extent to which such programs were effective in providing culturally competent services to the health disparity population served by the programs.

"(B) DISSEMINATION OF FINDINGS.—The Director of the Institute shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

"(6) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall coordinate the program under this subsection with the program under subsection (b), with the program under section 330I, and to the extent practicable, with programs for prevention centers that are carried out by the Director of the Centers for Disease Control and Prevention.

"(b) PROGRAM FOR PATIENT NAVIGATORS.—

"(1) IN GENERAL.—The Director of the Institute may make grants to eligible entities for the development and operation of programs to pay the costs of such entities in—

"(A) assigning patient navigators, in accordance with applicable criteria of the Secretary, for individuals of health disparity populations for the duration of receiving health services from the health centers;

"(B) ensuring that the services provided by the patient navigators to such individuals include case management and psychosocial assessment and care or information and referral to such services;

"(C) ensuring that the patient navigators provide services to such individuals in a culturally competent manner; and

"(D) developing model practices for patient navigators, including with respect to—

"(i) coordination of health services, including psychosocial assessment and care;

"(ii) follow-up services, including psychosocial assessment and care; and

"(iii) determining coverage under health insurance and health plans for all services.

"(2) OUTREACH SERVICES.—A condition for the receipt of a grant under paragraph (1) is that the applicant involved agree to provide ongoing outreach activities while receiving the grant, in a manner that is culturally competent for the health disparity population served by the program, to inform the public of the services of the model program under the grant.

"(3) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Director of the Institute and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(4) EVALUATIONS.—

"(A) IN GENERAL.—The Director of the Institute, directly or through grants or contracts, shall provide for evaluations to determine the effects of the services of patient navigators on the health disparity population for whom the services were provided, taking into account the matters referred to in paragraph (1)(C).

"(B) DISSEMINATION OF FINDINGS.—The Director of the Institute shall as appropriate disseminate to public and private entities the findings made in evaluations under subparagraph (A).

"(5) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall coordinate the program under this subsection with the program under subsection (a) and with the program under section 330I.

"(c) REQUIREMENTS REGARDING FEES.—A condition for the receipt of a grant under subsection (a)(1) or (b)(1) is that the program for which the grant is made have in effect—

"(1) a schedule of fees or payments for the provision of its services that is consistent with locally prevailing rates or charges and is designed to cover its reasonable costs of operation; and

"(2) a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the ability of the patient to pay.

"(d) MODEL.—Not later than three years after the date of the enactment of this section, the Director of the Institute shall develop a peer-reviewed model of systems for the services provided by this section. The Director shall update such model as may be necessary to ensure that the best practices are being utilized.

"(e) DURATION OF GRANT.—The period during which payments are made to an entity from a grant under subsection (a)(1) or (b)(1) may not exceed five years. The provision of such payments are subject to annual approval by the Director of the Institute of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed as establishing a limitation on the number of grants under such subsection that may be made to an entity.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'culturally competent', with respect to providing health-related services, means services that, in accordance with standards and measures of the Secretary, are designed to effectively and efficiently respond to the cultural and linguistic needs of patients.

"(2) the term 'appropriate follow-up care' includes palliative and end-of-life care.

"(3) the term 'health disparity population' means a population where there exists a significant disparity in the overall rate of disease incidence, morbidity, mortality, or survival rates in the population as compared to the health status of the general population. Such term includes—

"(A) racial and ethnic minority groups as defined in section 1707; and

"(B) medically underserved groups, such as rural and low-income individuals and individuals with low levels of literacy.

"(4)(A) the term 'patient navigator' means an individual whose functions include—

"(i) assisting and guiding patients with a symptom or an abnormal finding or diagnosis of cancer or other chronic disease within the health care system to accomplish the follow-up and diagnosis of an abnormal finding as well as the treatment and appropriate follow-up care of cancer or other chronic disease; and

"(ii) identifying, anticipating, and helping patients overcome barriers within the health care system to ensure prompt diagnostic and treatment resolution of an abnormal finding of cancer or other chronic disease.

"(B) Such term includes representatives of the target health disparity population, such as nurses, social workers, cancer survivors, and patient advocates.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) MODEL PROGRAMS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007.

"(2) PATIENT NAVIGATORS.—For the purpose of carrying out subsection (b), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007.

"(3) RELATION TO OTHER AUTHORIZATIONS.—Authorizations of appropriations under paragraphs (1) and (2) are in addition to other authorizations of appropriations that are available for the purposes described in such paragraphs.".

TITLE III—HEALTH DISPARITIES

Subtitle A—Hispanic-Serving Health Professions Schools

SEC. 301. HISPANIC-SERVING HEALTH PROFESSIONS SCHOOLS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to Hispanic-serving health professions schools for the purpose of carrying out programs to recruit Hispanic individuals to enroll in and graduate from the schools, which may include providing scholarships and other financial assistance as appropriate.

(b) ELIGIBILITY.—For purposes of subsection (a), an entity is a Hispanic-serving health professions school if the entity—

(1) is a school or program under section 799B of the Public Health Service Act (42 U.S.C. 295p);

(2) has an enrollment of full-time equivalent students that is at least 5 percent Hispanic students;

(3) has been effective in carrying out programs to recruit Hispanic individuals to enroll in and graduate from the school;

(4) has been effective in recruiting and retaining Hispanic faculty members; and

(5) has a significant number of graduates who are providing health services to medically underserved populations or to individuals in health professional shortage areas.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007.

Subtitle B—Health Career Opportunity Program

SEC. 311. EDUCATIONAL ASSISTANCE REGARDING UNDERGRADUATES.

(a) IN GENERAL.—Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq) is amended by adding at the end the following:

"SEC. 771. HEALTH CAREERS OPPORTUNITY PROGRAM.

"(a) IN GENERAL.—Subject to the provisions of this section, the Secretary may make grants and enter into cooperative agreements and contracts for any of the following purposes:

"(1) Identifying and recruiting individuals who—

"(A) are students of elementary schools, or students or graduates of secondary schools or of institutions of higher education;

"(B) are from disadvantaged backgrounds; and

"(C) are interested in a career in the health professions.

"(2) Facilitating the entry of such individuals into a health professions school.

"(3) Providing counseling or other services designed to assist such individuals in successfully completing their education at such a school.

"(4) Providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist the individuals in successfully completing such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education.

"(5) Paying such stipends as the Secretary may approve for such individuals for any period of education in student-enhancement programs (other than regular courses) at a health professions school, except that such a stipend may not be provided to an individual for more than 12 months, and such a stipend may not exceed $25 per day (notwithstanding any other provision of law regarding the amount of stipends).

"(6) Carrying out programs under which such individuals both—

"(A) gain experience regarding a career in a field of primary health care through working at facilities of nonprofit private community-based providers of primary health services; and

"(B) receive academic instruction to assist in preparing the individuals to enter health professions schools in such fields.

"(b) RECEIPT OF AWARD.—

"(1) ELIGIBLE ENTITIES; REQUIREMENT OF CONSORTIUM.—The Secretary may make an award under subsection (a) only if the following conditions are met:

"(A) The applicant for the award is a public or nonprofit private entity, and the applicant has established a consortium consisting of nonprofit private community-based organizations and health professions schools.

"(B) The health professions schools of the consortium are schools of medicine or osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, or podiatric medicine, or graduate programs in mental health practice (including such programs in clinical psychology).

"(C) Except as provided in subparagraph (D), the membership of the consortium includes not less than one nonprofit private community-based organization and not less than three health professions schools.

"(D) In the case of an applicant whose exclusive activity under the award will be carrying out one or more programs described in subsection (a)(6), the membership of the consortium includes not less than one nonprofit private community-based organization and not less than one health professions schools.

"(E) The members of the consortium have entered into an agreement specifying—

"(i) that each of the members will comply with the conditions upon which the award is made; and

"(ii) whether and to what extent the award will be allocated among the members.

"(2) REQUIREMENT OF COMPETITIVE AWARDS.—Awards under subsection (a) shall be made only on a competitive basis.

"(c) FINANCIAL REQUIREMENTS.—

"(1) ASSURANCES REGARDING CAPACITY.—The Secretary may make an award under subsection (a) only if the Secretary determines that, in the case of activities carried out under the award that prove to be effective toward achieving the purposes of the activities—

"(A) the members of the consortium involved have or will have the financial capacity to continue the activities, regardless of whether financial assistance under subsection (a) continues to be available; and

"(B) the members of the consortium demonstrate to the satisfaction of the Secretary a commitment to continue such activities, regardless of whether such assistance continues to be available.

"(2) MATCHING FUNDS.—

"(A) IN GENERAL.—With respect to the costs of the activities to be carried out under subsection (a) by an applicant, the Secretary may make an award under such subsection only if the applicant agrees to make available in cash (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that, for any fourth or subsequent fiscal year for which the applicant receives such an award, is not less than 50 percent of such costs.

"(B) FEDERAL AMOUNTS.—Amounts provided by the Federal Government may not be included in determining the amount of non-Federal contributions required in subparagraph (A).

"(C) LIMITATION.—The Secretary may not require non-Federal contributions for the first three fiscal years for which an applicant receives a grant under subsection (a).

"(d) PREFERENCE IN MAKING AWARDS.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—In making awards under subsection (a), the Secretary shall, subject to paragraph (3), give preference to any applicant that, for the purpose described in subparagraph (B), has made an arrangement with not less than one entity from each of the following categories of entities: Community-based organizations, elementary schools, secondary schools, institutions of higher education, and health professions schools.

"(B) PURPOSE.—The purpose of arrangements under subparagraph (A) is to establish a program for individuals identified under subsection (a) under which—

"(i) the activities described in such subsection are carried out on behalf of the individuals; and

"(ii) health professions schools make a commitment to admit as students of the schools such individuals who participate in the program, subject to the individuals meeting reasonable academic standards for admission to the schools.

"(2) ADDITIONAL PREFERENCES.—Of the applicants under subsection (a) that are receiving preference for purposes of paragraph (1), the Secretary shall, subject to paragraph (3), give additional preference to applicants whose consortium under subsection (b) includes as members one or more health professions schools that have not previously received any award under this section (including this section as in effect prior to fiscal year 1997).

"(3) LIMITATION.—An applicant may not receive preference for purposes of paragraph (1) or (2) unless the consortium under subsection (b) includes not less than one health professions school that has demonstrated success in enrolling students from disadvantaged backgrounds.

"(e) OBJECTIVES UNDER AWARDS.—

"(1) ESTABLISHMENT OF OBJECTIVES.—Before making a first award to an applicant under subsection (a), the Secretary shall establish objectives regarding the activities to be carried out under the award, which objectives are applicable until the next fiscal year for which such award is made after a competitive process of review. In making an award after such a review, the Secretary shall establish additional objectives for the applicant.

"(2) PRECONDITION FOR SUBSEQUENT AWARDS.—In the case of an applicant seeking an award under subsection (a) pursuant to a competitive process of review, the Secretary may make the award only if the applicant demonstrates to the satisfaction of the Secretary that the applicant has met the objectives that were applicable under paragraph (1) to the preceding awards under such subsection.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $33,000,000 for fiscal year 2003, $40,000,000 for fiscal year 2004, and such sums as may be necessary for each subsequent fiscal year.".

(b) TECHNICAL AMENDMENT.—Section 770(a) of the Public Health Service Act (42 U.S.C. 295e(a)) is amended by inserting "(other than section 771)" after "this subpart".

SEC. 312. CENTERS OF EXCELLENCE.

"For the purpose of establishing and operating health careers centers of excellence, there are authorized to be appropriated $40,000,000 for fiscal year 2003, and such sums as may be necessary for each subsequent fiscal year.

Subtitle C—Bilingual Health Professionals

SEC. 321. TRAINING OF BILINGUAL HEALTH PROFESSIONALS WITH RESPECT TO MINORITY HEALTH CONDITIONS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall (directly or through awards of grants or contracts to public or nonprofit private entities) carry out a program—

(1) to identify health professionals who speak both English and a language used by racial or ethnic minority groups in the United States; and

(2) to train such health professionals with respect to the treatment of minority health conditions, such as diabetes, HIV infection, substance abuse, and conditions regarding mental health.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2007.

Subtitle D—Cultural Competence

SEC. 331. DEFINITION.

(a) IN GENERAL.—In this Act, the term "culturally competent", with respect to the manner in which health-related services, education, and training are provided, means providing the services, education, and training in the language and cultural context that is most appropriate for the individuals for whom the services, education, and training are intended, including as necessary the provision of bilingual services.

(b) MODIFICATION.—The definition established in subsection (a) may be modified as needed at the discretion of the Secretary after providing a 30-day notice to Congress.

SEC. 332. ACTIVITIES OF OFFICE OF MINORITY HEALTH; CENTER FOR LINGUISTIC AND CULTURAL COMPETENCE IN HEALTH CARE.

(a) EDUCATIONAL MATERIALS; TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary, acting through the Office of Minority Health under section 1707 of the Public Health Service Act (42 U.S.C. 300u-6), shall—

(A) provide for the development of educational materials on providing health services in a culturally competent manner;

(B) provide technical assistance in carrying out programs that use such materials; and

(C) provide technical assistance on other matters regarding the provision of health services in a culturally competent manner.

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated $1,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2007.

(b) CENTER FOR LINGUISTIC AND CULTURAL COMPETENCE IN HEALTH CARE.—

(1) IN GENERAL.—The Secretary, acting through the Office of Minority Health under section 1707 of the Public Health Service Act (42 U.S.C. 300u-6), shall provide for a Center for Linguistic and Cultural Competence in Health Care to carry out programs to promote and facilitate the provision of health-related services, education, and training in a culturally competent manner.

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated $5,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2007.

SEC. 333. CULTURAL COMPETENCE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Care Financing Administration, shall conduct a cultural competence demonstration project under which grants are made to two hospitals with a history in the medicare program to enable them to implement standards for the culturally competent provision of services to address the specific needs of any population that constitutes at least 5 percent of the population served by the hospital involved.

(b) NUMBER AND TYPE.—Of the hospitals provided grants under this section, one shall be located in an urban and the other in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(d)). The urban hospital shall serve a significant limited English proficient population and be within 175 miles of the border with Mexico. In selecting such hospitals, the Secretary shall give preference to hospitals that serve large immigrant populations.

(c) AMOUNT AND DURATION OF GRANT.—A grant under this section for a hospital shall be in the amount of $5,000,000 and shall be for a period of 5 years.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall also provide for a grant to an appropriate qualified entity in an amount not to exceed $1,000,000 to evaluate the demonstration projects conducted under this section.

(2) REPORT.—The Secretary shall submit to Congress a report on the projects conducted under this section. The Secretary shall include in such report the results of the evaluation conducted under paragraph (1) and recommendations on whether on going medicare funding should be provided for implementation of standards for cultural competency in hospitals.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund (under section 1817 of the Social Security Act (42 U.S.C. 1395i)) to carry out this section, $11,000,000, which shall remain available until expended.

Subtitle E—Data Regarding Race and Ethnicity

SEC. 341. COLLECTION OF DATA.

Part A of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 306 the following:

"SEC. 306A. DATA ON RACE AND ETHNICITY.

"(a) IN GENERAL.—The Secretary shall by regulation provide for the following:

"(1) Health data collected under programs carried out by the Secretary (whether collected directly or pursuant to grants, cooperative agreements, or contracts) shall include data on race, ethnicity, and spoken and written language and shall, at a minimum, use the categories for race and ethnicity described in OMB Directive 15.

"(2) Data collected by the Secretary pursuant to title VI of the Civil Rights Act of 1964 shall include data on race and ethnicity and shall, at a minimum, use such categories.

"(3) Data on race and ethnicity that is collected under paragraph (1) or (2) shall use the procedures described in such Directive for collecting data from an individual, and shall be maintained and presented (including for reporting purposes) in accordance with such Directive.

"(4) For health encounters that require the presence of a legal parent or guardian who does not speak English or who is limited English proficient, health data collected by the Secretary pursuant to this section shall also include data on the of the accompanying adult or guardian.

"(5) Such other data as the Secretary may designate (including administrative records) shall be collected, maintained, and presented in accordance with such Directive, to the extent that such data are collected by the Secretary and relate to health-related programs that are carried out by the Secretary.

"(b) DEFINITION.—In this section, the term 'OMB Directive 15' means Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting, as established by the Director of the Office of Management and Budget through the notice issued October 30, 1997 (62 FR 58782). Such term includes any subsequent revisions to such Directive.".

SEC. 342. DEVELOPMENT OF STANDARDS; STUDY TO MEASURE PATIENT OUTCOMES UNDER MEDICARE AND MEDICAID PROGRAMS.

(a) DEVELOPMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary, acting through the Administrator of the Health Care Financing Administration, shall develop outcome measures to evaluate, by race and ethnicity, the performance of health care programs and projects that provide health care to individuals under the medicare and medicaid programs (under titles XVIII and XIX, respectively, of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.).

(b) STUDY.—After the Secretary develops the outcome measures under subsection (a), the Secretary shall conduct a study that evaluates, by race and ethnicity, the performance of health care programs and projects referred to in subsection (a).

(c) REPORT TO CONGRESS.—Not later that 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the outcome measures developed under subsection (a), and the results of the study conducted pursuant to subsection (b).

Subtitle F—National Assessment of Status of Latino Health

SEC. 351. NATIONAL ASSESSMENT OF STATUS OF LATINO HEALTH.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a national assessment of the status of Latino health to be known as the "Hispanic Health and Nutrition Examination Survey" or "HHANES II".

(b) GOAL.—The goal of the national assessment under subsection (a) shall be to produce estimates of health and nutritional status for Mexican Americans, Puerto Ricans, Cuban Americans, and other Hispanic subpopulations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary in each of fiscal years 2003 through 2005 to carry out this section.

Subtitle G—Office of Minority Health

SEC. 361. REVISION AND EXTENSION OF PROGRAMS OF OFFICE OF MINORITY HEALTH.

Section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) is amended by striking subsection (b) and all that follows and inserting the following:

"(b) DUTIES.—With respect to improving the health of racial and ethnic minority groups, the Secretary, acting through the Deputy Assistant Secretary for Minority Health (in this section referred to as the 'Deputy Assistant Secretary'), shall carry out the following:

"(1) Establish short-range and long-range goals and objectives and coordinate all other activities within the Public Health Service that relate to disease prevention, health promotion, service delivery, and research concerning such individuals. The heads of each of the agencies of the Service shall consult with the Deputy Assistant Secretary to ensure the coordination of such activities.

“(2) Carry out the following types of activities by entering into interagency agreements with other agencies of the Public Health Service:

“(A) Support research, demonstrations and evaluations to test new and innovative models.

“(B) Increase knowledge and understanding of health risk factors.

“(C) Develop mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including individuals who are members of racial or ethnic minority groups.

“(D) Ensure that the National Center for Health Statistics collects data on the health status of each minority group.

“(E) With respect to individuals who lack proficiency in speaking the English language, enter into contracts with public and nonprofit private providers of primary health services for the purpose of increasing the access of the individuals to such services by developing and carrying out programs to provide bilingual or interpretive services.

“(3) Support a national minority health resource center to carry out the following:

“(A) Facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care.

“(B) Facilitate access to such information.

“(C) Assist in the analysis of issues and problems relating to such matters.

“(D) Provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance).

“(4) Carry out programs to improve access to health care services for individuals with limited proficiency in speaking the English language by facilitating the removal of impediments to the receipt of health care that result from such limitation. Activities under the preceding sentence shall include conducting research and developing and evaluating model projects.

“(5) Not later than June 8 of each year, the Deputy Assistant Secretary shall submit to the Secretary a report summarizing the activities of each of the minority health offices under section 1707A.

“(c) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Health (in this subsection referred to as the ‘Committee’). The Deputy Assistant Secretary shall consult with the Committee in carrying out this section.

“(2) DUTIES.—The Committee shall provide advice to the Deputy Assistant Secretary carrying out this section, including advice on the development of goals and specific program activities under paragraphs (1) and (2) of subsection (b) for each racial and ethnic minority group.

“(3) CHAIR.—The Deputy Assistant Secretary shall serve as the chair of the Committee.

“(4) COMPOSITION.—

“(A) The Committee shall be composed of 12 voting members appointed in accordance with subparagraph (B), and nonvoting, ex officio members designated in subparagraph (C).

“(B) The voting members of the Committee shall be appointed by the Secretary from among individuals who are not officers or employees of the Federal Government and who have expertise regarding issues of minority health. The racial and ethnic minority groups shall be equally represented among such members.

“(C) The nonvoting, ex officio members of the Committee shall be the directors of each of the minority health offices established under section 1707A, and such additional officials of the Department of Health and Human Services as the Secretary determines to be appropriate.

“(5) TERMS.—Each member of the Committee shall serve for a term of 4 years, except that the Secretary shall initially appoint a portion of the members to terms of 1 year, 2 years, and 3 years.

“(6) VACANCIES.—If a vacancy occurs on the Committee, a new member shall be appointed by the Secretary within 90 days from the date that the vacancy occurs, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Committee.

“(7) COMPENSATION.—Members of the Committee who are officers or employees of the United States shall serve without compensation. Members of the Committee who are not officers or employees of the United States shall receive, for each day (including travel time) they are engaged in the performance of the functions of the Committee. Such compensation may not be in an amount in excess of the daily equivalent of the annual maximum rate of basic pay payable under the General Schedule (under title 5, United States Code) for positions above GS–15.

“(d) CERTAIN REQUIREMENTS REGARDING DUTIES.—

“(1) RECOMMENDATIONS REGARDING LANGUAGE AS IMPEDIMENT TO HEALTH CARE.—The Secretary, acting through the Director of the Office of Refugee Health, the Director of the Office of Civil Rights, and the Director of the Office of Minority Health of the Health Resources and Services Administration, shall make recommendations to the Deputy Assistant Secretary regarding activities under subsection (b)(4).

“(2) EQUITABLE ALLOCATION REGARDING ACTIVITIES.—

“(A) In making awards of grants, cooperative agreements, or contracts under this section or section 338A, 338B, 724, 736, 737, 738, or 740, the Secretary, acting as appropriate through the Deputy Assistant Secretary or the Administrator of the Health Resources and Services Administration, shall ensure that such awards are equitably allocated with respect to the various racial and minority populations.

“(B) With respect to grants, cooperative agreements, and contracts that are available under the sections specified in subparagraph (A), the Secretary shall—

“(i) carry out activities to inform entities, as appropriate, that the entities may be eligible for awards of such assistance;

“(ii) provide technical assistance to such entities in the process of preparing and submitting applications for the awards in accordance with the policies of the Secretary regarding such application; and

“(iii) inform populations, as appropriate, that members of the populations may be eligible to receive services or otherwise participate in the activities carried out with such awards.

“(3) CULTURAL COMPETENCY OF SERVICES.—The Secretary shall ensure that information and services provided pursuant to subsection (b) are provided in the language and cultural context that is most appropriate for the individuals for whom the information and services are intended.

“(e) GRANTS AND CONTRACTS REGARDING DUTIES.—

“(1) IN GENERAL.—In carrying out subsection (b), the Deputy Assistant Secretary may make awards of grants, cooperative agreements, and contracts to public and nonprofit private entities.

“(2) PROCESS FOR MAKING AWARDS.—The Deputy Assistant Secretary shall ensure that awards under paragraph (1) are made only on a competitive basis, and that an award is made for a proposal only if the proposal has been recommended for such an award through a process of peer review and has been so recommended by the advisory committee established under subsection (c).

“(3) EVALUATION AND DISSEMINATION.—The Deputy Assistant Secretary, directly or through contracts with public and private entities, shall provide for evaluations of projects carried out with awards made under paragraph (1) during the preceding 2 fiscal years. The report shall be included in the report required under subsection (f) for the fiscal year involved.

“(f) BIENNIAL REPORTS.—Not later than February 1 of fiscal year 1998 and of each second year thereafter, the Deputy Assistant Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities carried out under this section during the preceding 2 fiscal years and evaluating the extent to which such activities have been effective in improving the health of racial and ethnic minority groups. Each such report shall include the biennial reports submitted to the Deputy Assistant Secretary under section 1707A(e) for such years by the heads of the minority health offices.

“(g) DEFINITION.—For purposes of this section:

“(1) RACIAL AND ETHNIC MINORITY GROUP.—The term ‘racial and ethnic minority group’ means American Indians (including Alaskan Natives, Eskimos, and Aleuts); Asian Americans and Pacific Islanders; Blacks; and Hispanics.

“(2) HISPANIC.—The term ‘Hispanic’ means individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or any other Spanish-speaking country.

“(h) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $21,000,000 for fiscal year 2003, $25,000,000 for fiscal year 2004, and $28,000,000 for fiscal year 2005.

“(2) ALLOCATION OF FUNDS BY SECRETARY.—Of the amounts appropriated under paragraph (1) for a fiscal year in excess of $15,000,000, the Secretary shall make available not less than $3,000,000 for carrying out subsection (b)(2)(E).”.

SEC. 362. ESTABLISHMENT OF INDIVIDUAL OFFICES OF MINORITY HEALTH WITHIN AGENCIES OF PUBLIC HEALTH SERVICE.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by inserting after section 1707 the following section:

“SEC. 1707A. INDIVIDUAL OFFICES OF MINORITY HEALTH WITHIN PUBLIC HEALTH SERVICE.

“(a) IN GENERAL.—The head of each agency specified in subsection (b)(1) shall establish within the agency an office to be known as the Office of Minority Health. Each such Office shall be headed by a director, who shall be appointed by the head of the agency within which the Office is established, and who shall report directly to the head of the agency. The head of such agency shall carry out this section (as this section relates to the agency) acting through such Director.

"(b) Specified Agencies.—

"(1) In general.—The agencies referred to in subsection (a) are the following:

"(A) The Centers for Disease Control and Prevention.

"(B) The Agency for Healthcare Research and Quality.

"(C) The Health Resources and Services Administration.

"(D) The Substance Abuse and Mental Health Services Administration.

"(2) National institutes of health.—For purposes of subsection (c) and the subsequent provisions of this section, the term 'minority health office' includes the Office of Research on Minority Health established within the National Institutes of Health. The Director of the National Institutes of Health shall carry out this section (as this section relates to the agency) acting through the Director of such Office.

"(c) Composition.—The head of each specified agency shall ensure that the officers and employees of the minority health office of the agency are, collectively, experienced in carrying out community-based health programs for each of the various racial and ethnic minority groups that are present in significant numbers in the United States. The head of such agency shall ensure that, of such officers and employees who are members of racial and ethnic minority groups, no such group is disproportionately represented.

"(d) Duties.—Each Director of a minority health office shall monitor the programs of the specified agency of such office in order to carry out the following:

"(1) Determine the extent to which the purposes of the programs are being carried out with respect to racial and ethnic minority groups;

"(2) Determine the extent to which members of such groups are represented among the Federal officers and employees who administer the programs; and

"(3) Make recommendations to the head of such agency on carrying out the programs with respect to such groups. In the case of programs that provide services, such recommendations shall include recommendations toward ensuring that—

"(A) the services are equitably delivered with respect to racial and ethnic minority groups;

"(B) the programs provide the services in the language and cultural context that is most appropriate for the individuals for whom the services are intended; and

"(C) the programs utilize racial and ethnic minority community-based organizations to deliver the services.

"(e) Biennial Reports to Secretary.—The head of each specified agency shall submit to the Secretary for inclusion in each biennial report under section 1707(g) (without change) a biennial report describing—

"(1) the extent to which the minority health office of the agency employs individuals who are members of racial and ethnic minority groups, including a specification by minority group of the number of such individuals employed by such office; and

"(2) the manner in which the agency is complying with Public Law 94-311 (relating to data on Americans of Spanish origin or descent).

"(f) Definitions.—For purposes of this section:

"(1) Minority health office.—The term 'minority health office' means an office established under subsection (a), subject to subsection (b)(2).

"(2) Racial and ethnic minority group.—The term 'racial and ethnic minority group' has the meaning given such term in section 1707(g).

"(3) Specified agency.—The term 'specified agency' means—

"(A) an agency specified in subsection (b)(1); and

"(B) the National Institutes of Health.

"(g) Funding.—

"(1) Allocations.—Of the amounts appropriated for a specified agency for a fiscal year, the Secretary may reserve not more than 0.5 percent for the purpose of carrying out activities under this section through the minority health office of the agency. In reserving an amount under the preceding sentence for a minority health office for a fiscal year, the Secretary shall reduce, by substantially the same percentage, the amount that otherwise would be available for each of the programs of the designated agency involved.

"(2) Availability of funds for staffing.—The purposes for which amounts made available under paragraph (1) may be expended by a minority health office include the costs of employing staff for such office.".

SEC. 363. ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES FOR CIVIL RIGHTS.

(a) In General.—Part A of title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following:

"SEC. 229. ASSISTANT SECRETARY FOR CIVIL RIGHTS.

"(a) Establishment of Position.—There shall be in the Department of Health and Human Services an Assistant Secretary for Civil Rights, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) Responsibilities.—The Assistant Secretary shall perform such functions relating to civil rights as the Secretary may assign.".

(b) Conforming Amendment.—Section 5315 of title 5, United States Code, is amended, in the item relating to Assistant Secretaries of Health and Human Services, by striking "(6)" and inserting "(7)".

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 145—RECOGNIZING AND COMMENDING MARY BAKER EDDY'S ACHIEVEMENTS AND THE MARY BAKER EDDY LIBRARY FOR THE BETTERMENT OF HUMANITY

Mr. KENNEDY (for himself, Mrs. Clinton, and Mrs. Hutchison) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. Con. Res. 145

Whereas the Mary Baker Eddy Library for the Betterment of Humanity will officially open on September 29, 2002, in Boston, Massachusetts, thereby making available to the public the Mary Baker Eddy Collections, one of the largest collections of primary source material by and about an American woman;

Whereas the namesake of the Library, Mary Baker Eddy, achieved international prominence during her lifetime (1821–1910) as the founder of Christian Science and was the first woman in the United States to found and lead a religion that became an international movement with members in 139 countries;

Whereas historians compare Mary Baker Eddy to 19th century women reformers like Elizabeth Cady Stanton and Susan B. Anthony, who took leadership roles at a time when women infrequently did so;

Whereas Mary Baker Eddy founded and served as the pastor of her own church, the First Church of Christ, Scientist, in Boston, and established a publishing organization that produces numerous publications, including "The Christian Science Monitor", an international daily newspaper that has won 7 Pulitzer Prizes;

Whereas in recognition of the numerous achievements of Mary Baker Eddy, the Women's National Hall of Fame inducted her into its membership in 1995 for having made "an indelible mark on society, religion, and journalism";

Whereas the Mary Baker Eddy Library, a facility of 81,000 square feet, provides a place for people to come together to explore ideas and offers on-site and online educational experiences, programs, and exhibits;

Whereas the Mary Baker Eddy Collections consist of more than 100,000 documents, artifacts, photographs, and other media that chronicle the development of Mary Baker Eddy's ideas and offer an unequalled resource to scholars in women's history and mind-body medicine;

Whereas the Library's initiative to make the previously unpublished materials in the Mary Baker Eddy Collections available to the public is exemplary of, and in full accord with, the intent of the provisions of title 17, United States Code, relating to the publication of previously unpublished materials; and

Whereas the Mary Baker Eddy Library will establish an Institute for the Rediscovery and Preservation of the History of Women in Seneca Falls, New York, the birthplace of the first Women's Rights Convention, in order to showcase new research on the forgotten histories of women and offer educational programs for students: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes and commends—

(1) Mary Baker Eddy for her outstanding achievements and contributions, particularly her contributions to the advancement of women's rights as a public figure and role model in the early stages of the women's rights movement; and

(2) the Mary Baker Eddy Library for the Betterment of Humanity, which will open to the public on September 29, 2002.

Mr. KENNEDY. Mr. President, it is a privilege to submit, on behalf of myself, Senator Clinton and Senator Hutchison, a concurrent resolution to recognize the achievements of Mary Baker Eddy and the opening of the Mary Baker Eddy Library for the Betterment of Humanity. The Library, which officially opens to the public on September 29, will provide public access to the Mary Baker Eddy papers, one of the largest collections of primary source material by and about an American woman.

The Library will provide invaluable insight to Mary Baker Eddy's remarkable life and serve as an important resource for scholars, researchers and the public. Its mission will sustain her powerful legacy that ideas can inspire individuals, empower them and transform their lives.

The Mary Baker Eddy Library, a facility encompassing over 80,000 square feet, will be a dynamic meeting place for people to explore ideas through its on-sight and on-line educational experiences, programs and exhibits. So, too, its unique Mapparium will once again be available to visitors to the Library. The collections consist of over 100,000 documents, artifacts, photographs and other media that chronicle the development of Mary baker Eddy's ideas and offer an unparalleled resource for scholars in women's history, spirituality and journalism.

The Library's effort to release previously unpublished materials in the Mary Baker Eddy Collections to the public will enrich our understanding of her extraordinary achievements. In conjunction with this facility in Boston, the Library will also establish an Institute for the Rediscovery and Preservation of the History of Women in Seneca Falls, New York, the birthplace of the first Women's Rights Convention, in order to showcase research on the forgotten histories of women and offer a wide range of educational programs for students.

I am pleased to submit this resolution to recognize this outstanding woman and the richness of her accomplishments. I would also like to congratulate Virginia Harris for her efforts to ensure that the Mary Baker Eddy Library became a reality and for her tireless energy and visionary leadership as Chairman of the Board of the Christian Science Church.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4698. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4698. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, between lines 9 and 10, insert the following:

Subtitle C—Small Business Procurement Goals

SEC. 521. SMALL BUSINESS PROCUREMENT GOALS.

(a) IN GENERAL.—In regards to procurement contracts of the Department, the Secretary shall annually establish goals for the participation by—

(1) small business concerns;

(2) small business concerns owned and controlled by service-disabled veterans;

(3) qualified HUBZone small business concerns;

(4) small business concerns owned and controlled by socially and economically disadvantaged individuals;

(5) small business concerns owned and controlled by women.

(b) DEFINITIONS.—The terms used in subsection (a) have the meaning given the terms in section 3 of the Small Business Act (15 U.S.C. 632) and relevant regulations promulgated thereunder.

(c) DEPARTMENT GOALS NOT LESS THAN GOVERNMENT-WIDE GOALS.—Notwithstanding section 15(g) of the Small Business Act (15 U.S.C. 644(g)), each goal established under subsection (a) shall be equal to or greater than the corresponding Government-wide goal established by the President under section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)).

(d) INCENTIVE FOR GOAL ACHIEVEMENT.—Achievement of the goals established under subsection (a) shall be an element in the performance standards for employees of the Department who have the authority and responsibility for achieving such goals.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday, September 24, 2002, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct an oversight hearing on the "Role of the Special Trustee" within the Department of Interior.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, September 25, 2002, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct a business meeting to consider S. 958, the Western Shoshone Claims Distribution Act, and H.R. 2880, the Five Nations Citizens Land Reform Act, to be followed immediately by a hearing to receive testimony on the President's appointment of Quanah Crossland Stamps to serve as Commissioner for the Administration for Native Americans, and the appointment of Phil Hogen to serve as Chairman of the National Indian Gaming Commission.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, September 26, 2002, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct an oversight hearing on "Intra-tribal Leadership Disputes and Tribal Governance."

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, September 23, 2002, at 2:30 p.m., in open session to continue to receive testimony on U.S. policy on Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on "Hispanic Health: Problems with Coverage, Access, and Health Disparities" during the session of the Senate on Monday, September 23, 2002, at 2 p.m., in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, SEPTEMBER 24, 2002

Mr. REID. Mr. President, in the morning it is my understanding that we are going to open at 9:30 and go to the 45 minutes and 15 minutes that Senators BYRD and LIEBERMAN have on the cloture. Is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, following consultation with Senators BYRD and LIEBERMAN, I ask unanimous consent that at 9:30, or as soon as the prayer and pledge are completed, Senator SARBANES be recognized for 5 minutes; that Senator DORGAN be recognized for 5 minutes; Senator WELLSTONE be recognized for 5 minutes; Senator CANTWELL for 5 minutes; Senator MURRAY for 5 minutes. Then, at approximately 9:55, Senator LIEBERMAN would be recognized for 5 minutes on his own time; Senator JEFFORDS would be recognized at approximately 10 a.m. for 5 minutes; Senator BOXER would be recognized for 5 minutes following that; then Senator STABENOW would be recognized for 5 minutes; following that, Senator BYRD would be recognized for whatever time is remaining; and that Senator LIEBERMAN would have 10 minutes remaining and he and Senator THOMPSON would close the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:25 a.m., Tuesday, September 24; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date; the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the Homeland Security Act under the previous order; further, that the live quorum with respect to the cloture motions filed earlier today be waived and that the Senators have until 1 p.m. to file first-degree amendments notwithstanding the recess of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, the next rollcall vote will occur at about 10:30 tomorrow morning on the Byrd amendment to the Homeland Security Act regarding orderly transition. Following this vote, there will be a period for morning business until 12:30 for tributes to Senator STROM THURMOND. The Senate will recess from 12:30 to 2 p.m. for the weekly party conferences. Then at 2 p.m., the Senate will resume consideration of the Homeland Security Act with 15 minutes of debate on the Lieberman-McCain amendment regarding a September 11 commission prior to a vote at approximately 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I very much appreciate the courtesy of the Republican leader. He is going to be the final speaker today and rather than having me wait until he completes his statement, he was very courteous, as he always is, to allow me to do the wrap-up now.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the statement of the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMISSIONS

Mr. LOTT. Mr. President, let me begin tonight with a quote from Federalist Paper No. 37, January 11, 1789, by James Madison.

> It is misfortune, inseparable from human affairs, that public measures are rarely investigated with that spirit of moderation which is essential to a just estimate of their real tendency to advance or obstruct the public good.

James Madison believed then it would always be very hard to investigate events and do it in such a way, in moderation and without partisanship, that the public would be able to find out what really happened and then determine what should be done in the future to keep it from happening again—to advance the good or obstruct the bad.

Another quote from an anonymous source goes something along the lines of: If God had created a commission to establish Heaven and Earth, we wouldn't be here today.

Mr. President, my own experiences with commissions over 30 years in Congress have not been good. I view Congressional commissions as an abdication of responsibility. What are we for? Why do we have an Armed Services Committee, an Intelligence Committee, a Governmental Affairs Committee, or a Foreign Affairs Committee?

It seems to me that we in Congress should do the work of reviewing the laws and overseeing the agencies and the various departments. Are they serving the public the right way? In a responsible way? Or is there an abdication of responsibility and duty by the various administrations in charge of running our government?

One of the reasons I have never supported BRAC, the various base closure commissions, is that when we create those commissions we are basically saying: We do not have the courage to do it; do not let us know what is going on; shove it off on a commission and let them do it.

But in the past closing excess bases had always been handled without a commission after every previous war. However, about 20 or 25 years ago Congress started to say: No, we cannot do that, we will not do it.

In the past after previous wars how was the military scaled down? Pentagon officials and other administration officials—after World War I, after World War II, after the Korean war—would send recommendations to the Congress regarding excess capacity and bases they felt were no longer needed. And unless Congress blocked it, the bases were closed. I bet every State in the Nation still has bases left over from World War II. In my own State, we had bases in Hattiesburg, in Greenville, MS, and Greenwood, MS. Some of the finest airport runways in our State are the very sturdy concrete runways that were built during World War II for air training facilities.

Congress simply acted and then the administration acted. Then powerful members of Congress started saying: No, you cannot close my base; close someone else's base. That is what ultimately led to the creation of commissions.

I have no doubt about the integrity and the good intentions of Senator LIEBERMAN and Senator MCCAIN with their proposal to create an independent commission to investigate September 11, 2001. How did that attack happen, where were the failures, and how can we avoid repeating them. I know these two men. They are men of good faith that feel so strongly about our country they want this to be a positive thing. They envision some commission of grand pooh-bahs and gray eminences that will assemble and give us the benefit of their great wisdom, men and women who have been in the Government, been in the intelligence community, been in Congress, and thus could do the country a great service.

Mr. President, the track record of that happening is unfortunately very poor. As with all commissions, there are fundamental problems with this commission. Of course, we are now in the second iteration of how this commission would be set up and I presume there will be a third and a fourth. I presume the House will have yet a different version after they go through their iterations of a commission. And then the Administration has concerns that will have to be addressed as well.

Let me point out where a few of the problems with this particular commission are. Initially, the first draft of the Lieberman-McCain proposal would have had 14 Members, 5 appointed by the Democrat leaders in Congress, 5 by the Republican leaders in Congress and 4 by the President with the President naming the chairman.

Then someone figured out, wait a minute; that means there would be nine Republicans and five Democrats. That doesn't look bipartisan enough. So they said we cannot do that.

Now what is actually in the legislation as proposed is that five people would be appointed by the Democratic leadership and five by Republicans. Senator DASCHLE appoints three; I would appoint two; the Speaker would appoint three; and Congressman GEPHARDT, two—for a total of 10 members. However, there are no Presidentially appointed members, and no process for selecting a chairman. The bill just says there will be a chairman and a vice chairman of opposite parties. So, wonderful, how are the Chairman and Vice Chairmen going to be chosen. By Heaven?

If the commission were constituted that way they would be meeting 3 months just to pick their chairman. Which Member is going to break ranks and vote with the other five? I know the presumption is that these will be men and women of such eminence and prominence that they would meet, all 10 of them, and quickly decide on a chairman and a vice chairman and they would move along swiftly.

It "ain't" going to happen. I have had direct personal experience with a few commissions over the past 10 years, particularly when I was majority leader. I was involved in setting up a gaming commission to look at gaming in America, the effects of gaming, Internet and Indian gaming and the problems associated with gambling. I don't know how much money they spent for that commission. And good men and women were on that commission—men, women, minorities, and Native Americans representing all the various viewpoints. It was well constituted and the people who appointed the members did an exceptionally good job.

The commission members met, they acted seriously, they went all over the country, they thought about it, and they filed a report, and closed up their commission. I bet not one U.S. Senator ever read the report, ever. And I am embarrassed to say I read an outline and kind of glanced over it. I was not an advocate of the gaming commission, but I went along with it at the request of, among others, my great friend from Indiana, Dan Coats. Good work. Good intentions, Mr. President. Nothing came of it.

Even more recently, we had the Breaux Commission on Medicare. That was an interesting one, too. I think it was set up correctly number-wise, with good people: JAY ROCKEFELLER from the Finance Committee; Bob Kerrey, a very innovative thinker on Medicare; Dr. BILL FRIST was appointed on our side; Senator PHIL GRAMM, certainly one of the most knowledgeable Senators in this area who is also on the Finance Committee. Even former Finance Committee Chairman Pat Moynihan was on it.

We also had people from the real world on the commission. I know a woman on the commission who was over 70 with silver hair—I will not mention her name because I cannot connect it to her age. She dealt with Medicare on a daily basis. She benefitted from Medicare. She knew what she was talking about. We had all these people who knew what Medicare was supposed to do for the nation's seniors, in theory. It was a great commission.

JOHN BREAUX was the chairman. I might note that it was interesting how JOHN got to be chairman. I remember specifically talking to President Clinton about somebody both sides could accept. We settled on JOHN and he took it and did a good job. The commission met and their meetings were on C-SPAN. They did a lot of thoughtful work, they had good debate, and they made excellent recommendations. They issued a commission report detailing their great recommendations.

What happened to their report Mr. President? Nothing. None of their recommendations have been implemented or acted on. And, by the way, they called for providing a prescription drug benefit. They had a plan to do it without bankrupting the entire Medicare system. It was the Breaux proposal and then the Breaux-Frist proposal. It was a tremendous effort. But nothing ever came of it.

So the track record on Commissions is not good. I don't want this to be a commission that is not set up right, that spends millions of dollars for nothing. I am told it is just $3 million, but I bet it winds up being closer to $12 million or more and that does not count the cost of the assistance that the other parts of the federal government are required to give it under the proposed bill. The commission will also stretch out over 18 months. When its report is ultimately filed, it will garner headlines and discussion on the weekend talk shows for a week or two, but then it will be forgotten and not much will come of it.

Mr. President, I sincerely hope that if we do create the commission that I am wrong. But I don't think the prospects or the track record look very good.

Now, again, as I have said, the actual language of the amendment concerns me in many respects. For instance, it says that one of the purposes of the commission would be:

> . . . to ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks.

However, there is no provision in this bill as to how the commission will have to deal with the evidence they are given by the Department of Justice, U.S. Attorneys, Federal courts, and others in order to safeguard it. Would the public, and our enemies, be able to get this information through the Freedom of Information Act or not? I suppose this issue can be addressed, but it is not clear in the bill as written and it needs to be.

Mr. President, the commission is also given almost total access to the nation's classified information, yet again there is nothing in the proposal that requires or directs the commission to safeguard it. The Senate and House Intelligence Committees have strict rules and elaborate procedures—as does the CIA, DOD, the National Security Agency and other entities entrusted with the nation's top secret information for protecting such information. Yet, there is there is no explicit requirement in this bill for this commission to protect our national secrets.

But again, that is why I like the joint House-Senate Intelligence Committee's efforts—it is equally divided among the parties, they have experience dealing with classified information, and they have settled procedures for handling such information.

Astoundingly, it appears that most of this new commission's proceedings would have to be public since they would be subject to the Federal Advisory Committee Act and that it materials available to the public under the Freedom of Information Act despite that fact that the Commission would be dealing with some of our most important and best kept secrets.

I also have concerns about the procedures for using and the extent of the subpoena authority granted the commission under this amendment. It appears that once elected, the Chairman, Vice Chairman, or even the Chairman of a Subcommittee created by the Commission, can issue any and all subpoenas he or she desires without having to go back to the rest of the Commission for permission, approval, or even a vote on the wisdom or propriety of their subpoena. We do not generally grant such unilateral subpoena authority to Chairman and Ranking members in Congress.

Mr. President, I have been opposed to this commission thus far. First, of course, as I have said, because I oppose commissions almost universally because I do not think they produce good results and because that is what we in Congress are for. But second—and one of the things I have been thinking about—is because we have already had the joint intelligence committee, House and Senate, looking into this matter. Those members have been working through these issues. They are still working on it. They have not yet completed their work. We have not received a final report. We are getting a few preliminary staff reports. Nevertheless, it seems we are going to go ahead and have this vote before we even get to see what the final results of Congress' own inquiry are.

By the way, I do wish the Joint Committee would do their work and tell Congress what we need to do to protect Americans from terrorism in the future. If we need to change even more about how our intelligence community operates, let's do it. I think we can do it in a bipartisan way.

Mr. President, I note that the amendment as proposed also states that the commission will:

> . . . make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks . . . [and] investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

I wonder if the sponsors are aware that, since 1995, the Government has produced reams of materials regarding counter-terrorism, intelligence activities, and aviation security. Since 1995, seven commissions have dealt in this area and issued 10 separate reports prior to 9/11.

One of the past commissions was the so-called Gilmore Commission. Its official name was the "U.S. Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction." The Gilmore Commission submitted three reports to the President and Congress. The first one submitted in 1999 was titled "Assessing the Threat." The second submitted in 2000 was titled, "Toward a National Strategy for Combating Terrorism." The final report submitted just before the 9/11 attacks was titled "For Ray Downey."

The panel consisted of government officials and infrastructure specialists who examined domestic and international threats to the homeland, and made many recommendations for increased security and better coordination between federal and state agencies in combating terrorism.

Then there was the Hart-Rudman Commission led by two very respected

Senators. Its official title was the "U.S. Commission on National Security in the 21st Century" and it ultimately issued reports and specific recommendations in 1999, 2000, 2001.

The reports were titled "New World Coming: Major Themes and Implications" (1999); "Seeking a National Strategy" (2000); and "Road Map for National Security: Imperative for Change" (2001). The commission, which was chartered by then Secretary of Defense William Cohen, had a broad mandate to study "the anticipated security environment in the early 21st Century." Its recommendations in three reports call for a counter-terrorism policy focus on deterrence and domestic preparedness capabilities. Most significantly, the Commission recommended establishing a Homeland Security Agency while noting the need for more human intelligence.

Then there was the "IC21: The Intelligence Community In The 21st Century" Report. This was done by the House Permanent Select Committee on Intelligence which published the report in 1996. The goal was to "define the type of intelligence community which would best meet the U.S. national security needs into the next century."

There was the so-called Bremer Commission created by Public Law 105-277 and officially titled the "U.S. National Commission on Terrorism and National Security in the 21st Century." The Bremer Commission released its report in 2000 and recommended a more aggressive domestic and foreign policy in combating terrorism.

Then there was the Aspin-Brown Commission, led by two more well respected gray eminences of the kind we are talking about—former Congressman Aspin and former Secretary of Defense Harold Brown. The Commission was created by Public Law 103-539 and charged with "Preparing for the 21st Century and Appraisal of U.S. Intelligence."

They made three findings in 1996: That the United States needed to better integrate intelligence into the policy community, needed for intelligence agencies to operate as a community, and needed to create greater efficiency and bring more rigor and modern management practices to the system. This was in 1996.

A really important commission was the "U.S. White House Commission On Aviation Safety and Security," which issued a report from its Chairman—Vice President Gore to President Clinton in 1997. It was a good report. It also had specific recommendations about how to improve aviation security. What happened to it? Nothing was acted on. Congress didn't act on it. Good work was done. This commission was tasked with developing "a strategy to improve aviation safety and security, both domestically and internationally."

Let's look at a few of the recommendations this report made in 1997—over four years before the 9/11 attacks took place. The very first paragraph in the report's 3rd Chapter—titled "Improving Security for Travelers"—said the following:

> The Federal Bureau of Investigation, the Central Intelligence Agency, and other intelligence sources have been warning that the threat of terrorism is changing in two important ways. First, it is no longer just an overseas threat from foreign terrorists. People and places in the United States have joined the list of targets, and Americans have joined the ranks of terrorists. The bombings of the World Trade Center in New York and the Federal Building in Oklahoma City are clear examples of the shift, as is the conviction of Ramzi Yousef for attempting to bomb twelve American airliners out of the sky over the Pacific Ocean. The second change is that in addition to well-known, established terrorist groups, it is becoming more common to find terrorists working alone or in ad-hoc groups, some of whom are not afraid to die in carrying out their designs.

Mr. President, that one chapter went on to make 31 recommendations for improving aviation security. Some of those recommendations given over four years before 9/11 tragedy were as follows:

> Recommendation 3.7—The FAA should work with airlines and airport consortia to ensure that all passengers are positively identified and subjected to security procedures before they board aircraft.
>
> Recommendation 3.9—Assess the possible use of chemical and biological weapons as tools of terrorism.
>
> Recommendation 3.10—The FAA should work with industry to develop a national program to increase the professionalism of the aviation security workforce, including screening personnel.
>
> Recommendation 3.11—Access to airport controlled areas must be secured and the physical security of aircraft must be ensured.
>
> Recommendation 3.14—Require criminal background checks and FBI fingerprints for all screeners, and all airport and airline employees with access to secure areas.
>
> Recommendation 3.17—Establish an interagency task force to assess the potential use of surface-to-air missiles against commercial aircraft.
>
> Recommendation 3.19—Complement technology with automated passenger profiling.
>
> Recommendation 3.20—Certify screening companies and improve screener performance.
>
> Recommendation 3.21—Aggressively test existing security systems.
>
> Recommendation 3.23—Give properly cleared airline and airport security personnel access to the classified information they need to know.
>
> Recommendation 3.24—Begin implementation of full bag-passenger match.
>
> Recommendation 3.26—Improve passenger manifests.
>
> Recommendation 3.27—Significantly increase the number of FBI agents assigned to counter-terrorism investigations, to improve intelligence and to crisis response.

Mr. President, all of this information is in the public record. It is there. Why don't we make use of it?

The list goes on. There were over 90 GAO reports before 9/11 and now there are over 50 GAO reports on Aviation and National Security and Terrorism since 9/11. There was a 1999 report titled "The FBI 30-year Retrospective Special Report on Counter-terrorism" that was put out by the FBI's Counter-Terrorism Division and which detailed 30 years of terrorism. It was done after terrorists were caught in 1999 trying to smuggle bomb-making materials into Jordan, and into the US from Canada in Washington State to disrupt celebrations of the Millennium.

That report gave the American public the following assurances in 1999:

> In November 1999, the FBI restructured its National Security Division to create, for the first time, a division-level component dedicated specifically to combating terrorism.
>
> In 1999 the FBI established the Counterterrorism and the Investigative Services divisions to further enhance the operational and analytic focus on the full range of activities in which violent extremists engage.

The FBI's 30-year retrospective report concluded with the following—as it turned out false—assurance in 1999:

> While the threat is formidable, the U.S. intelligence and law enforcement community have developed an effective and highly integrated response to the [counter-terrorism threat.] . . . Increasingly, the FBI's efforts involve the assistance and cooperation of other intelligence and law enforcement agencies. The threats of the new Millennium require such an integrated and aggressive response.

Mr. President, do you see my point? Good work has been done by good men and women, experts in this field, reports on what we need to do in order to do a better job—in 1996, 1997, 1998 and 1999 and 2000 and 2001. All this good work by the commissions, the GAO, the FBI, and others has not resulted in us doing anything about it.

Now we are going to have one more commission report. These are the commission reports on my desk that have been done already since 1995—a pretty good stack. It is very interesting reading.

The GAO report here, just on the top, "Combating Terrorism, FBI'S Use of Federal Funds for Counter-terrorism and Related Activities"—there is just simply a plethora of counter-terrorism reports available making thousands of recommendations. These reports did not look at the specific events that led up to 9/11 and what happened and what we have learned from that, but they did look at what we should have been doing to prevent it.

I think, unfortunately, this commission amendment is probably going to be agreed to, but I wanted to raise my concerns about the way the commission amendment is drafted, the way the commission would be created, the cost that would be involved, and the likelihood that at the end of the day its findings will meet the fate of those from so many commissions before it.

As to money, I am sure they are starting off way low. They will be back asking for an increase in money within 3 to 6 months. I have already experienced that, too. In fact, one of the commissions I referred to earlier came back wanting more money, they wanted a little bit more, they came back yet a second time but I said: No. Wrap it up.

So I just do not think this is a wise thing to do. I think we ought to do it, or I think the administration ought to do it, but somebody needs to grab hold of this and do it the right way. Maybe the joint intelligence committee can still give us what we need in order to decide if we need more laws or if we need more reform within the intelligence community. But this commission is not going to bring us a lot more. It may get a few big headlines. It is going to cost a lot more money. Yet, I doubt if much will come out of it.

By the way, probably the earliest we will get anything out of it specifically would be 18 months from now. Goodness gracious, if we need to take action on what we have learned and what we know, are we going to wait for 18 months to see this commission report before we act? By the time this commission acts, I fervently hope that Congress will already have done everything that needs to be done as a result of the events of 9/11.

I thank the Chair for showing patience, and the staff here. I do not want to keep them too long. But I was afraid I would not get an opportunity to raise these questions tomorrow before we go to the vote. Maybe there will be a stampede to just get this done, but, boy, we are going to need to do a lot of work before we enact it into law.

I believe we are ready to complete our work for the day. I yield the floor.

ADJOURNMENT UNTIL 9:25 A.M. TOMORROW

The PRESIDING OFFICER (Ms. CANTWELL). Under the previous order, the Senate stands adjourned until 9:25 tomorrow morning.

Thereupon, the Senate, at 7:07 p.m., adjourned until Tuesday, September 24, 2002, at 9:25 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO JUDI ROGERS AND YOUNG SHIN

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 2002

Ms. LEE. Mr. Speaker, I am tremendously proud to rise today to recognize two of my constituents, Judi Rogers and Young Shin, for recently winning the Nation's highest honor for community health leadership from The Robert Wood Johnson Foundation.

Rogers and Shin captured two of the ten national awards for their work in the Oakland and Berkeley communities. They were selected from a pool of over 450 nominees from across the country, and will each receive a grant for $120,000 to continue their important work.

Rogers has been recognized for her work with Through the Looking Glass—a Berkeley organization serving families with disabilities—where she provides childbirth and parenting education for mothers with disabilities. She provides home-based services to more than 35 families a year, most of them low income. She also leads a monthly support group.

Her work touches families well beyond Berkeley. As part of Through the Looking Glass' National Resource Center for Parents with Disabilities, she offers technical assistance and training for parents and professionals both nationally and internationally. The Center is funded by the Department of Education's National Institute of Disability and Rehabilitation Research. She is also the author of "Mother to Be: A Guide to Pregnancy and Birth for Women with Disabilities."

Rogers' has drawn on her own experience as an occupational therapist and disabled mother of two to inspire her work. A recent battle with breast cancer also convinced her to initiate a community outreach program to provide breast cancer screening services to women with disabilities.

As Roger's nominator for the award aptly put it, "She has opened up a whole new world for people with disabilities."

Young Shin launched the Asian Immigrant Women Advocates (AIWA) in 1983 to empower Asian immigrant women in California's factories to create healthier working conditions. Since 1991, her work has focused on addressing health and safety issues, especially for garment and electronics workers at risk for chronic injuries and exposure to hazardous chemicals. The group's Peer Health Promoter Project has trained over 75 women as peer educators, who have, in turn, trained an additional 300 women on workplace injury prevention.

In 2000, Shin partnered with the University of California-San Francisco to establish the two-year Asian Immigrant Women Workers Clinic. The clinic, which is located near the garment factories in Oakland's Chinatown district, has treated more than 250 women with ergonomic injuries. The clinic has now expanded its services and operates independently with low-wage Asian and Latino workers under the auspices of UCSF.

Shin also developed a project to set up sewing labs where garment workers can collaborate with health care professionals to design and test practical, low-cost workstation improvements.

On top of all these efforts, her group also sponsors literacy classes, leadership training and campaigns on workplace issues.

Mr. Speaker, it's plain to see that Judi Rogers and Young Shin are tremendously deserving of their recent awards and I am thrilled to call attention to their achievements. I urge my colleagues to join me in congratulating them both.

* * *

EULOGY TO DONALD LEO DUCHARME

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 2002

Mr. MEEHAN. Mr. Speaker, I was saddened to learn of the tragic death of Donald Leo Ducharme on June 11, 2002. Donald was a Dracut, Massachusetts resident, Lowell-native, and dedicated teacher for 27 years at the Greater Lawrence Vocational High School. He is survived by his wife of 36 years, Rita and his six children, Heidi, Dawn, Jessica, Donald, Todd, and Toby. A beautiful eulogy was given on June 14, 2002, at St. Magdalen's Church in Dracut by his son, Donald. I ask for unanimous consent to submit it to the RECORD:

First of all, I want to thank everyone for coming. It is really amazing how many people I have seen over the past couple of days. You may think that it was tough to stand up yesterday for 8 hours, but the longer it went the easier it got. It was such an incredible tribute to see for my father. I would also like to ask you to keep a smile on your face and feel free to laugh, Dad would want it that way, and I may need the help.

Some of you maybe wondering how I was picked to be up here. I'm happy to say that it was actually my father's wish. I know this because we talked about it. About a year ago, I had a short strange dream one night. It started with me in this same exact spot. I walked to the podium and the first thing I did was ask the question, "How many of you people think my father is one of the biggest pains in the butt you know?" The wording was a little more harsh, if you know what I mean. Anyway, half the place raised their hands. I followed that question with another, "Now how many people would think of that same pain in the butt as the first person to call if you needed help with something?" and all the same hands plus a few extras came up. I awoke just after, thinking that was a very strange dream. I wasn't sure whether or not to tell him about it, but after working with him for so many years, I was able to talk to him about anything. I told him the story a few days later, which was also just after the family's long time friend and neighbor, Mr. Pepin passed away. He said, "You know, when I was at Mr. Pepin's funeral, I thought about asking you to do it." So here I am.

In the time since September 11th, many people have been called heroes. So, I named this next section "Our Fallen Hero":

He may not be a veteran of a military war, but did I ever have some with my brothers. He wasn't a policeman, but he was at least a traffic cop in our house. He wasn't a fireman, but no one could build a more beautiful, safer place for a fire. He was always there when you needed him, no questions asked, except to find out what tools he needed to bring. He is our Fallen Hero.

Okay, enough mushy stuff, OR we do the mushy stuff his way and all line up for slaps in the back of the head, any takers? Yes, it was a strange way to show love, and it didn't make much sense for a long time. He wanted things done right and done right meant his way. As much as I tried to prove him wrong, somehow he was always right. It started making sense to me when I was about 16. I was thinking about getting my license and therefore needed a car. Well, when I was 12, 13, 14 years old it didn't make much sense to me why I had to go to work with him all summer and every Saturday during school, but when I asked my Mom how much money I had to buy a car it started making sense. Then a couple of years later I started realizing it had nothing to do with the money, but it had everything to do with the ability and skills it takes to be able to make money, and making money really meant being able to stand on your own two feet and providing for your own family some day.

We all had our lessons growing up. Heidi was in charge of cleaning the pool, and no one kept it cleaner than her. The only problem was Dad thought she dragged the hose on the concrete and put holes in it. So, he booted her in the butt all the way to her bedroom and she was grounded. Sometime later, maybe a couple of months or the next summer, there were a few more leaks in conjunction with butt chewings and punishments. It turns out it wasn't Heidi at all. Luckily, for her, Pepere R. Dad's father-in-law, figured out that because of the way the hose was hung on the fence the sun was actually melting holes in it.

Then there was Dawn Ann; could be here all day, only because there is no one more like Dad. Dad was always very strict with his girls, especially with all the guys that were always hanging around the house. One day my parents weren't around when Dawn got a call to go to a Celtics game. She really did want to ask for permission, uh huh, but it was before everyone carried a cell phone. So in her infinite wisdom she decides she is going into Boston on the train with 3 of the guys to a Celtics game. Mom and Dad came home and asked Heidi where Dawn was. You would have thought there was a steam engine train in the living room with the smoke

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

that came out of his ears. You guessed it, Grounded!

Jessica. As any parent knows, you never want to pick favorites out of your kids, or at least admit it. Well, we all know that Jess is the favorite, Daddy's little girl, can do no wrong. Just a couple of weeks ago I was at my parents' unloading my truck from a long day of work. As I was about to leave, Dad came out of the house and said, "Jessica just called and there is a bat in the house. Do you mind giving me a hand?" Now mind you it was about 8:00 in the evening and Dad hadn't even eaten dinner yet, but it was Jessica, so we went over right away, of course after we grabbed the necessary tools: a fishing net, racquetball racquets and leather gloves. We show up and Jess and her roommate are hiding in her car. Dad is there to save the day so they got out of the car and proceeded to tell us the bat was this big, it had fangs and was hissing at them. Frankie had also shown up in the mean time. The three guys go into the house looking all over. We went upstairs to double check rooms we already searched and as Dad opened a door, he saw it flying and slammed the door shut. The hunt was on, we had it trapped in one room, but we had to make our plan. Frankie suggested going out onto the roof of the farmer's porch from the other bedroom and try to see where the bat was. I crawled out onto the roof and made my way over to the bedroom window. The shades were almost all the way shut, except for a small slot in the middle. Dad has his hand on the door ready to barge through with the racquet when I give him the okay. I see the TINY bat flying around. I'm yelling, "Not yet, not yet!" from the roof, and then I'm not sure where it is, so I said, "I think it landed in the closet." Dad makes his charge, but I was wrong, it wasn't in the closet, it was flying right at him. In a flash, I see his eyes light up, a scream come out of his mouth, and the racquet whipping around. I almost rolled off the roof I was laughing so hard as I witnessed this all through the window. Once again, our Hero came through. A little side note to Frankie, No pressure, but if you had plans to ask Dad for Jessica's hand in marriage you're in trouble, because now you have to come through me!

This next one is about Toby, another one I could go on all day about. One day, all 6 kids went to McDonald's with Mom. Right before we left the restaurant Toby snatched up some ketchup packets and put them in his pocket. When we arrived home, Toby decided that it would be funny to put the ketchup under the tires of Mom's car. Next thing you know, Mom drove off and the ketchup splattered all over the driveway.

We all thought this was hysterical, until later that evening when Dad YELLED downstairs, "Kids, get up here! All of you!"

We all thought we were going to get into trouble for the ketchup incident and didn't think twice about pushing Toby up the stairs first (since he did it of course). As we all crept up the stairs, cowering behind Toby, we inched down the seemingly never-ending hallway to Mom and Dad standing in the kitchen. With the look of death on their faces, we became more nervous. They sat us down and began speaking in a stern voice. But instead of getting in trouble, they proceeded to tell us that we would be visiting Disney World for Christmas.

I bet they never saw such relieved faces as we all laughed and jumped around. We then all started to laugh about thinking we were going to be in such trouble over the ketchup and ended up telling Mom and Dad what had happened earlier that day. To our relief, they laughed too and Toby wasn't in trouble. It turns out Disney wasn't the only thing on the agenda. Dad also built a fireplace for his sister Jackie while we were down there on vacation.

Todd. When it came to just about everything my Dad did, safety was always one of the most important things. One day at work, we were coming to the top of a big chimney. We had staging set up on the roof, and a hoist ladder to bring the material up to the roof. Todd was always the best tree climber in the family, so he was elected to walk the material from the ladder to the staging and up the incline of the roof. Like I said, Dad was always safety conscious, so he tied a rope around Todd and then tied it to the staging, in case he slipped. Todd backed up a step and had a very nervous look on his face. My father was concerned and said, "Todd, are you still afraid to fall," and he replied, "No". So he asked why he looked so scared, and Todd replied, "I don't like being tied so close to you that I don't have a chance to get away before you slap me if I do something wrong." It was always tough love from Dad.

Some of those stories make him sound like a bad guy, but really, he only meant the best for his kids. Officially, he only had 6 kids, but sometimes it seemed more like 26. He treated so many of our friends and relatives as if they were his own. For example, even with 6 kids on his hands, he didn't hesitate for a second to bring his nephew Jeremy into our house when his brother fell off a roof and was paralyzed. Jeremy became another brother to all of us. There are many others he treated with the same love, to name a few, TJ, Rick and Reg, Frankie and Shawn, Lisa, Nicky, Lyle, Bobby, Patrick, all of the guys that ever worked for him, Mike, the Kenny's, Scooter, Billy, and many others, you know who you are.

Not only was he a great father to many, but he was also a true friend and brother. Over the past couple of days, it felt kind of strange hearing some of these people say sorry to me for my loss, and the rest of my brothers and sisters. It felt strange because I thought I should be saying the same to them knowing what they lost, the best friend or brother you could ever ask for. Aunt Ruby, Aunt Jackie, Uncle Gerry, Uncle Norm, Ralph, Peter, Billy, Rudy, Klaus, Ronny and so many others, I just can't name them all.

As a Pepere, to his 7 ⅔ grandchildren, Victoria, Ali, Gary B, Mitch, AJ, Kelly, Josh, and one soon to be. What a treat to go to Pepere's house, the surprise bag (a toy or treat for each kid, every time they came to the house), rides on the Bobcat, playing in the sand pile, ice cream sundaes right after breakfast, the ball pit, swings on the tree, and even a swing in the house just in case it rained. If your Mom or Dad said No, just ask Pepere.

As a husband, Mom, I don't know how you did it. Not only did she take care of 6 kids, but he was the biggest kid of all. He loved to play: fishing, Nascar, racquetball, driving the Vette (at 160 mph early Sunday morning). There were so many things he loved to do and he did them right to the end, but most sacred of all in his heart was you Mom. He couldn't have done any of the things he did without knowing you would be waiting there for him when he got home. Especially seeing the only thing the man could cook was popcorn!

Thank You.

AMERICA'S TECHNOLOGY INDUSTRY

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 2002

Mr. OTTER. Mr. Speaker, I rise today to place into the RECORD a newspaper article carrying a welcome story about America's technology industry. Over the last year the financial markets, as well as the American people, have been rocked by stories of huge corporations that used accounting chicanery and outright lies to defraud investors. I am proud to say that Micron, based in Boise, Idaho, has a worldwide reputation for conservative accounting and fair-dealing with employees, investors, and the community. I am hopeful that innovative, upstanding companies like Micron will lead this Nation into economic recovery and renewed faith in the marketplace.

[From the EE Times, Asia, Sept. 16, 2002]

MICRON'S COST MANAGEMENT ENVY

Micron execs have been talking about conservative financial management long before the industry came to know about the shocking revelations of Worldcom's accounting irregularities.

Some EEs in Silicon Valley often wonder how Micron Technology Inc. escapes cyclical storms that have become the hallmark of semiconductor businesses. Industry observers generally point to its single-minded focus on memories and its frugal culture that helps keep production costs low.

But there is something more remarkable about the Boise, Idaho-based company that became evident only lately: conservative accounting. Micron execs have been talking about conservative financial management long before the industry came to know about the shocking revelations of WorldCom's accounting irregularities.

Memory business has been intensely competitive, and on top of that, sometimes countries or rather a group of companies tend to make memories a strategic business. "We prepare for that by not borrowing too much money, which helps us prepare to face all kinds of situations," says a Micron executive.

In 1990, Micron was ranked as the 11th DRAM maker, while last year, it was the second largest memory vendor. Despite the rupture of the Hynix deal and the fear of decline in DRAM market this year, Micron is progressively investing in new technologies.

The memory chipmaker has recently demonstrated the first DDR–II system for PC applications—with memory channel running at 533/MHz data rate for a channel bandwidth of 4,300/MBps. The demonstration included a variety of developments including a 256/Mb DDR–II device, a hardware-analysis board and signal-analysis software.

The system would allow not only to verify DDR–II channel performance, but also to characterize how well the channel works for various operating conditions, data patterns as well as timing and voltage margins.

While Micron's decisions are driven around cost scenarios, this tradition will soon be put to the test in the much talked-about 200/mm-to-300/mm conversion. So far, the chipmaker seems to be a trendsetter as it relates the 300/mm transition to production cost. As CEO Steve Appleton puts it, the company doesn't care what anyone else is doing, unless it helps to drive the cost of 300/mm and change the model.

After the irrational exuberance of 2000 was followed by pessimism last year, the industry is waking up to new realities born out of accounting loopholes. Here, Micron's prescience and financial savvy can provide some significant lessons.

INTRODUCTION OF THE WATER RESOURCES DEVELOPMENT ACT OF 2002

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 2002

Mr. YOUNG of Alaska. Mr. Speaker, I am very pleased to introduce, along with the Ranking Member of the Transportation and Infrastructure Committee, JAMES OBERSTAR, the Water Resources and Environment Subcommittee Chairman, JOHN J. DUNCAN, JR., and the Ranking Member of the Water Resources and Environment Subcommittee, PETER DEFAZIO, the Water Resources Development Act of 2002.

Every two years, Congress makes it a high priority to meet our Nation's water resources needs by enacting a Water Resources Development Act. Through this legislation, Congress authorizes the Corps of Engineers to carry out its primary missions of providing navigation improvements at harbors and waterways, flood damage reduction in our communities and coastal areas, and environmental restoration along the Nation's rivers, and lakes. These projects have a profound impact on the economy of this Nation by reducing transportation costs, saving lives, homes, and businesses from the ravages of flooding, and improving our quality of life. The standard of living for every American has been positively affected by the work the Corps does with its local partners.

Under authorities enacted in Water Resources Development Acts, the Corps of Engineers constructs harbors and navigation channels. Over 13 million American jobs are depended on trade, making our ports and waterways vital to our economic, as well as national, security. Our harbors currently handle over 2 billion tons of cargo a year, and that volume is projected to double by 2020. We need to be ready to handle the larger ships that will carry that cargo or face potential loss of trade. Our inland navigation system is critical to our transportation system. Inland waterways cover 12,000 miles and carry ⅙th of the Nation's inter-city freight, at a cost per ton-mile that is ½ that of rail and ⅒th that of trucks. We need to keep transportation of goods on our inland waterways efficient to keep our farmers competitive in the world market.

The Water Resources Development Act of 2002 helps our Nation stay competitive by authorizing or modifying over 50 projects, studies, and policies relating to navigation improvements, as well as related projects and policy changes to improve the management of dredged material.

Water Resources Development Acts also authorize the Corps to protect towns and cities from the ravages of floods. Over the past 10 years, flood damage reduction projects built by the Corps with local partners have prevented more than $208 billion in damages.

Water Resources Development Act of 2002 continues to provide this protection by authorizing or modifying over 75 projects and studies relating to flood damage reduction, and nearly 20 related projects for shoreline protection.

Since 1990, environmental restoration also has been a primary mission of the Corps. These projects range from small aquatic ecosystem restoration projects to multi-billion dollar projects like the Comprehensive Everglades Restoration Plan.

The Water Resources Development Act of 2002 continues this mission by authorizing or modifying over 40 environmental restoration projects and studies.

In this legislation, we also recognize that there are other water resources challenges that face this Nation where the Corps' expertise could help—particularly since needs for water supply, water quality, and navigation often are interrelated. The Water Resource Development Act of 2002 provides additional opportunities for the Corps to lend its technical expertise where a community or a region has decided to address water resources matters on a watershed or river basin basis.

There are some who believe we do not need a Corps of Engineers Civil Works program. Some say it openly, and propose to eliminate funding the Corps. Others are more subtle and instead are trying to convince Congress to add so many procedural hurdles that a single person could have the ability to stop a water resources project, no matter how important the project is to the safety of our citizens or the strength or our economy. I have a different view of the Corps and a different vision for its future.

First, I believe that this Nation needs an Army Corps of Engineers. Most members of the House of Representatives agree. We have received requests from nearly 200 members for over 400 separate water resources projects, studies, and modifications to projects. These requests are generated at the local level, and are tailored to meet local needs. No matter what some may say here in Washington, back home people want and need a vital and continuing civil works program.

Second, I support the Corps process for formulating water resources projects. Under the Corps planning process, all projects must be in the Federal interest and must be economically justified and environmentally sound, but the details of a project are developed through a close interaction between the Corps and the local communities that share in the cost of the project. This is a bottom-up process that allows projects to be designed to best meet local needs.

Deciding where investments in water resources are warranted is a complex task often involving sophisticated economic analyses. While there has been some criticism of how the Corps has attempted to do these analyses in certain projects, the fact is no other Federal agency requires its projects to go through a similar benefit cost review.

There have been some individual cases where the economic analysis of a project has been flawed. This is a personnel and management problem, not a problem with the Corps' statutory authorities. The Chief of Engineers is taking steps to address this issue through improved training and establishing centers of expertise. We in Congress also have many oversight tools that give us the ability to investigate the merits of a project, and we have demonstrated that we are not hesitant to use these tools to scrutinize controversial projects.

After reviewing all of the requests from members, it is clear to us that the House of Representatives supports changes to the Corps civil works program to speed the delivery of projects, not changes that will lengthen the Corps' process and add costs. For example, we have received over 40 requests from members asking that their local project sponsors be allowed to move ahead of the Corps and receive credit for work they begin on projects, while the Corps' lengthy study and review process is underway. Other members of Congress requested statutory language directing the Corps to expedite its planning process and deliver needed projects more quickly. No member of Congress has asked the Committee to add more procedural hurdles, more delay, and more costs to their projects.

The Corps civil works program is nearly unique. The Corps is a Federal agency that partners with local agencies to solve local problems. The needs are identified at the local level and the solutions are developed through a bottom-up process—they are not thrust upon a community as top-down mandates. I am proud to say that the Water Resources Development Act of 2002 continues in this tradition.

THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 2002

Mr. JOHNSON of Illinois. Mr. Speaker, last Wednesday our nation commemorated the terrorist attacks of September 11, 2001. While these attacks were committed on the World Trade Center and the Pentagon, they were in fact directed at our nation as a whole. Our freedom, our way of life, the very foundations of our great democracy, were ruthlessly targeted by an unprecedented force of evil. Now, one year later, our nation is stronger and more unified than ever to rid the world of terrorism in all of its forms, as well as its root causes including poverty, injustice, and despair. It is my sincere hope that America never forgets the terrible atrocities committed within our borders. These acts were a direct attack upon freedom-loving people everywhere and we have a duty to ensure that freedom and democracy prevail in this struggle against tyranny and oppression.

MOTION TO INSTRUCT CONFEREES ON H.R. 3295, HELP AMERICA VOTE ACT OF 2001

SPEECH OF

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 2002

Mr. DAVIS of Illinois. Mr. Speaker, I rise to support Congresswoman WATERS' motion asking the conferees for H.R. 3295 to complete their work and file a conference report by October 1st. In view of the confusion we have witnessed this month in Florida's primary elections, it is more important than ever that we complete work on this measure before the end of this session. I also want to re-affirm my support for the motion to instruct offered by Mr. LANGEVIN that was passed by the House on July 9th. That motion asked the conferees to agree to the Senate provisions relating to the accessibility of voting systems for individuals with disabilities.

It is essential that at least one voting machine in each polling place be accessible to people with disabilities. This can be done in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters. The provisions referred to in the motion passed on July 9 were endorsed by a coalition of more than 20 national organizations representing people with disabilities.

I support the motion asking the conferees to complete their work by October 1st, and I also urge the conferees to adopt the language as outlined in the motion approved by this body on July 9th.

JOINT RESOLUTION AUTHORIZING THE USE OF UNITED STATES ARMED FORCES AGAINST IRAQ

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 2002

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce a Joint Resolution. It authorizes the use of U.S. Armed Forces to defend our national security interests against the threat posed by Iraq. However, this Resolution does set some definitive conditions for the President prior to engaging the U.S. Armed Forces. It requires the President to exhaust diplomatic efforts to obtain Iraq's compliance with the U.N. Security Council Resolutions. It also requires the President to present the Congress with a comprehensive plan of how stability will be maintained in the region in a post-strike environment.

The young men and women of our Armed Forces are already fighting a war on terrorism. Before we expand their role, and send them even deeper into harm's way, I want assurances that we have explored and exhausted every avenue for a peaceful and diplomatic solution. I also want assurances that we have a plan for maintaining stability in the region once we declare victory.

Let me be perfectly clear. I am well aware that for more than a decade, Iraq has violated virtually every U.N. Security Council Resolution. With each violation, the threat to international peace and security becomes more ominous. I believe that Iraq not only poses a threat to our national security interests, but also threatens the stability and security of the entire region and indeed, the world. It is becoming more and more evident that we must be proactive in defending our nation. We know that the United States is a terrorism target, and we know that Iraq constitutes a real and imminent threat against our national security interests.

However, only Congress has the authority to declare war. The Congress must be convinced that every conceivable option has been explored. The Congress must be convinced that the post-strike plan for maintaining stability in that region is achievable. The Congress must agree that a preemptive strike is our only course of action.

I urge my colleagues to vote for this Resolution.

CRISIS IN THE CHILD WELFARE SYSTEM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 2002

Mr. GEORGE MILLER of California. Mr. Speaker, we can all agree that the quality of care received by children under the supervision and protective custody of the state is an important aspect of the foster care system. Unfortunately, there is widespread disagreement between states and the federal government on how quality of care standards should be defined, assessed, and enforced.

In the following article, the Sacramento Bee reports that California's Department of Social Services and the U.S. Administration for Children and Families are immersed in a heated battle over foster care licensing standards. At issue, is a 2-year-old federal mandate that directs states to equalize foster home licensing standards between relative and non-relative foster care providers.

The Department of Health and Human Services (HHS) contends that the long-standing regulation that allowed states to exempt relative caregivers from meeting some of the licensing standards that applied to professional non-relative foster parents created a separate and unequal standard that could not be upheld. HHS maintains that it repeatedly told states like California in writing that it could not bill the federal government for relative foster homes that failed to meet federal regulations. Consequently, the U.S. Administration for Children and Families withheld $18 million in grants from California for failure to bring relative foster homes up to non-relative foster home standards.

In response, California asserts that the federal government's insistence on rigid compliance with non-relative foster care standards eliminates room for flexibility in overlooking minimal licensing violations. Additionally, California argues it threatens their ability to place children in the homes of loving and caring relatives that are unable to fully meet licensing requirements because of issues of poverty. According to the California Deputy Director of Social Services "it [relative foster home;] could be a very loving, giving family, but the question is can the child go there if, for example, the siblings will sleep [together] in a double bed."

The battle unfolding in California may be just the tip of the iceberg. In many states across the nation, kinship care standards vary and are more relaxed than non-relative foster care standards. If we truly believe the safety and well-being of children should come first, then we must begin to carefully assess and examine child welfare issues such as kinship care practice and foster care licensing standards. While it is the government with the power of the purse that may ultimately win the war, we must be careful to ensure that the best interests of foster children are not forgotten in the heat of battle.

The article follows:

[From the Sacramento Bee, Sept. 3, 2002]

LAWSUIT TO TARGET RULES FOR FOSTER CARE BY RELATIVES

(By Mareva Brown)

More than $100 million designated for relatives who care for California's foster children is in danger of being withheld over the next year while California's Department of Social Services and a federal regulatory agency wage a fierce battle over standards.

At issue is a 2-year-old federal requirement that relatives caring for foster children be screened and approved using the same criteria as is used to license non-relative foster homes. Federal officials say California has refused to enforce the new standard, and they have begun withholding the first of $112 million in foster care payments that could be held back if tens of thousands of relatives' homes aren't quickly approved using the new standards.

California officials maintain they have followed the intent of the law, eliminating relatives who have criminal pasts or who can't be trusted to keep children safe. But they say following it to the letter would require them to remove children from nurturing relatives who are capable of providing good care but whose homes do not meet federal foster care guidelines, often because of poverty. Of particular concern, state officials say, are federal mandates specifying no more than two children to a bedroom, no shared beds and no mixing of genders in bedrooms—space requirements many impoverished families can't afford to meet.

"It could be a very loving, giving family, but the question is can the child go there if, for example, the siblings will sleep in a double bed," said DSS Deputy Director Sylvia Pizzini. "It's the intersection with poverty that has the roughest edges here."

As state officials tried to hammer out a compromise late last week, a public interest law firm in San Francisco prepared to file a civil lawsuit that would compel the state to comply with the federal standard. The Youth Law Center's executive director, Carole Schauffer, said that while the state bickers over language, it risks robbing foster families of desperately needed funds.

"Even tough this is not a role we logically should take, we're trying to see if there is any peace here," said Schauffer, a staunch advocate for foster children. "Because without peace, it's very harmful to California kids."

The federal government pays for about 40 percent of the cost to care for the nation's half-million foster children. In California, home to nearly 100,000 foster children, the federal share amounts to nearly $300 million per quarter. About half the state's foster children are placed with relatives.

Last spring, the U.S. Administration for Children and Families began deferring $18.7 million per quarter as a penalty for the state's failure to document that all relatives' homes had been cleared. The deferral, which cannot be appealed, comes after two years of debate between federal and state officials over how to interpret and apply the new statute.

While the state has absorbed the first deferral, officials say they eventually will have to reduce foster payments to the counties. The counties, in turn, will have to choose between removing children from the homes of relatives or reducing payment to those relatives.

And for many relatives living close to the edge, providing foster care without the payment simply would be too expensive.

Albert Cabrera and his wife, caring for their 9-month-old granddaughter in a three-bedroom home off Power Inn Road, offer a typical example. The baby was placed there two months ago by social workers who ensured the couple had no criminal record and that the temperature in their hot water heater was safe, and who left the couple with a letter saying they would be reimbursed $425 per month for the child's care.

The Cabreras are among many foster grandparents who are retired or don't earn enough to easily absorb the costs of raising grandchildren. Last week, as the couple waited for their reimbursement check, Cabrera's wife delayed buying medicine for her high blood pressure so she could buy formula for the baby. Cabrera worries about how he'll pay for the additional gas money they'll need each month to take the baby to visits with her parents and to doctor's appointments.

"In the beginning, we thought we would put away the money they were going to send us for the baby," Cabrera said. "But we need it."

Sacramento County actually is among the few counties in California that have inspected relatives' homes using the new standards. Ninety percent of the 1,490 relatives' homes used for foster care in Sacramento County have been approved. The rest are awaiting upgrades and are expected to be certified soon.

But Sacramento County is the exception. Most counties in January began using the standards to approve new foster placements with relatives but have not inspected the homes of relatives where children placed before January.

Until state officials can provide the federal government with proof that all relatives' homes in California have been certified, the penalties will continue—and will affect all counties alike.

The biggest backlog is in Los Angeles.

In March, prompted by the new statute, Los Angeles County conducted a sample survey of the foster homes of children placed with relatives. The county is home to more than half the state's foster children, and nearly 6,500 of them live with relatives.

Of the 200 homes surveyed, only two met federal standards. Among the deficiencies were 16 families who did not have adequate smoke detectors in their homes and 50 cases in which children shared a bed or slept in a non-bedroom area.

"Most cases can be remedied with adequate financial resources," the report concluded.

Pizzini said state officials have been working diligently on the issue for more than a year and criticized the federal government for its heavy penalty, saying there were lesser sanctions available.

But federal regulators and Schauffer, of the Youth Law Center said the state has not made any significant effort to meet federal guidelines, even though some remedies are fairly simple.

The Department of Social Services has yet to create and disperse a statewide standardized checklist for evaluating relatives' homes, as officials agreed to do in April, according to a federal letter.

The state has not provided any proof that homes have been approved using the new guidelines. And, despite a deadline of June to reassess the homes of all relatives providing foster care, thousands of homes have been checked.

"It was deliberately not done," said Schauffer, who says she plans to file the lawsuit this week. "It was either a financial or a philosophical position they were taking: Either we don't think relatives should be licensed, (that) they should be able to take care of their kids in any way they want. Or, if you look at it in a different way, neither the counties or the states way to pay the cost of having relatives assessed."

It is expensive.

In Sacramento County, officials created a kinship evaluation unit five months ago and staffed it with six social workers who were removed from units in which they were overseeing the care of children.

Child Protective Services Director Leland Tom said he is proud that the county has evaluated every relative's home but that the cost has been high.

"It's having a major impact on our workload," Tom said. "And the sticking point for counties has been, here is this additional workload that is being pushed on us, but we're not being given additional funding to do it."

Pizzini said the state also has concerns about the potential harm to children, given that the new process takes longer to complete, in some cases forcing children into the foster homes of strangers before relatives can be cleared. She said allowances need to be made.

"Grandmother and Uncle don't come into our office three months ahead of time and say, 'In the future, you're going to remove one of my nieces (from her home),' " she said. "That doesn't happen. On the other hand, we recruit strangers to come into care, and we have the luxury of some time."

IN RECOGNITION OF CATHOLIC HOME BUREAU

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 2002

Mrs. MALONEY of New York. Mr. Speaker, I would like to pay tribute to Catholic Home Bureau on the occasion of their Seventeenth Annual Child of Peace Dinner. For their unwavering commitment and many charitable endeavors, James and Colleen Donaghy will be honored with the Child of Peace Award.

A true leader and a hands-on executive, James Donaghy serves as Chairman of the Structure Tone Organization, one of the preeminent full-service Construction Management an General Contracting firms in the world today. Mr. Donaghy has actively participated in the company's strategic planning and worldwide business development efforts, helping to guide the firm through a challenging period into the multi-billion dollar global entity it is today.

Mr. Donaghy's incomparable professional commitment is mirrored by his dedication to the arts and civic organizations in the community, as indicated by his membership in various boards, committees and councils including the Board of Directors of The Boy Scouts of America, St. Thomas Aquinas College, Covenant House and the National Multiple Sclerosis Society. Mr. Donaghy's civic mindedness extends to his organization, which provides substantial contributions and support to charities throughout the New York City metropolitan area.

Colleen Donaghy has also extended her professional expertise as a social worker to the community by assisting the elderly at Riverdale Senior Services Center. Proud new parents of their first child, James Kieran Donaghy, Jr., Mr. and Mrs. Donaghy have demonstrated a lifelong commitment to improving the lives of underprivileged New Yorkers.

I would also like to commend Catholic Home Bureau for their significant efforts to enhance the quality of life for families and children in the New York Metropolitan area since 1899. Catholic Home Bureau currently operates a foster care program and a family day care program through New York City's Administration for Children's Services, a shelter program through New York City's Department of Homeless Services, and a privately funded Maternity Services and Private Adoption Program.

The Child of Peace Dinner benefits the Maternity Services Program which is one of the largest providers of private maternity services in the New York Archdiocesan network. The Maternity Services Program aids women and families in need who are facing a crisis pregnancy with counseling, medical care, infant and maternity clothing, cribs, housing referrals, and emergency assistance. I want to recognize the dedication of Bernard and Peggy Smyth, who are this year's Dinner Chairpersons. In addition to being adoptive parents for Catholic Home Bureau, they both have demonstrated their commitment to helping the organization achieve its mission.

In recognition of James and Colleen Donaghy's selfless efforts and Catholic Home Bureau's outstanding contributions to the community, I ask that my colleagues join me in saluting Catholic Home Bureau on the occasion of their 17th Annual Child of Peace Dinner.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 24, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 25

9:30 a.m.

Environment and Public Works

Finance

To hold joint hearings to examine alternatives for financing the U.S. surface transportation system.

SD–215

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To continue hearings to examine the status of implementation of Federal Stem Cell Research Policy.

SD–124

Armed Services

To resume hearings to examine U.S. policy on Iraq.

SH–216

10 a.m.

Indian Affairs

Business meeting to consider pending calendar business; to be followed by a hearing to consider the nominations of Quanah Crossland Stamps, of Virginia, to be Commissioner of the Administration for Native Americans, Department of Health and Human Services, and Philip N. Hogen, of South Dakota, to be Chairman of the National Indian Gaming Commission.

SR–485

Health, Education, Labor, and Pensions

Business meeting to consider S.2499, to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food; S.830, to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; S.1806, to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy; S.969, to establish a Tick-Borne Disorders Advisory Committee; S.2821, to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention; the nominations of Maria Mercedes Guillemard, of Puerto Rico, to be a Member of the National Museum Services Board; David Wenzel, of Pennsylvania, to be a Member of the National Council on Disability; Marco A. Rodriguez, of California, to be a Member of the National Council on Disability; Milton Aponte, of Florida, to be a Member of the National Council on Disability; Michelle Guillermin, of Maryland, to be Chief Financial Officer, Corporation for National and Community Service; Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability; and Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability, and other pending calendar business.

SD–430

Judiciary

To hold hearings to examine asbestos litigation.

SD–226

2 p.m.

Foreign Relations

To resume hearings to examine Iraq.

SD–419

2:30 p.m.

Banking, Housing, and Urban Affairs

Housing and Transportation Subcommittee

To hold hearings to examine affordable housing production and working families.

SD–538

Commerce, Science, and Transportation

Consumer Affairs, Foreign Commerce, and Tourism Subcommittee

To hold hearings to examine the state of tourism one year after September 11, 2001.

SR–253

SEPTEMBER 26

9:30 a.m.

Environment and Public Works

Business meeting to consider pending calendar business.

SD–406

10 a.m.

Indian Affairs

To hold oversight hearings on intra-tribal leadership disputes and tribal governance.

SR–485

Health, Education, Labor, and Pensions

To hold hearings to examine the benefits and challenges of web-based education.

SD–430

Judiciary

To hold hearings to examine pending judicial nominations.

SD–106

Aging

To hold hearings to examine long-term care in the health industry.

SD–628

10:15 a.m.

Foreign Relations

To continue hearings to examine Iraq.

SD–419

2:30 p.m.

Foreign Relations

To continue hearings to examine Iraq.

SD–419

SEPTEMBER 27

9 a.m.

Armed Services

To hold hearings to examine the nominations of General James L. Jones, Jr., USMC, for reappointment to the grade of general and to be Commander, United States European Command and Supreme Allied Commander, Europe, Admiral James O. Ellis, Jr., USN, for reappointment to the grade of admiral and to be Commander, United States Strategic Command, Lieutenant General Michael W. Hagee, USMC, for appointment to the grade of general and to be Commandant of the Marine Corps, Charles S. Abell, of Virginia, to be Deputy Under Secretary of Defense for Personnel and Readiness, Thomas Forrest Hall, of Oklahoma, to be Assistant Secretary of Defense for Reserve Affairs, and Charles E. Erdmann, of Colorado, to be a Judge of the United States Court of Appeals for the Armed Forces.

SH–216

10 a.m.

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine the annual report of the Postmaster General, focusing on the Postal Service Transformation Plan, the progress of cleaning anthrax-contaminated postal facilities, and further steps the Postal Service will take to reduce debt and increase financial transparency.

SD–342

SEPTEMBER 30

10 a.m.

Environment and Public Works

Transportation, Infrastructure, and Nuclear Safety Subcommittee

To hold hearings to examine the conditions and performance of the federal-aid highway system.

SD–406

OCTOBER 8

10 a.m.

Judiciary

Constitution Subcommittee

To hold hearings to examine the detention of U.S. citizens.

SD–226

POSTPONEMENTS

SEPTEMBER 25

2:30 p.m.

Foreign Relations

African Affairs Subcommittee

To hold hearings to examine the current situation in Angola.

SD–419

SENATE—*Tuesday, September 24, 2002*

The Senate met at 9:25 a.m. and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Today's prayer will be offered by the guest Chaplain, the Reverend Cecil T. Washington, Jr., of the New Beginning Baptist Church in Topeka, KS.

The Reverend Mr. Washington, please.

PRAYER

The guest Chaplain offered the following prayer:

Heavenly Father, You said in Proverbs 14:34 that righteousness of character exalts a Nation and that lack of it brings disgrace.

Deliver this Nation from the poverty of a declining integrity, from the breaking down of ethics and morality. Infuse the economy of this Nation's soul with the blessed capital of richness in character.

As a master engraver imprints a character into metal, would You imprint into the spiritual mettle of these Senators the wisdom and goodness necessary to guide this country. Give them the grace to overcome any approaching disgrace.

As we look back at the Fathers of this Nation who were guided by Your sacred word, we can say, "Well done."

As our descendants look back over the work being done here, let them be able to say, "Well done," that we were guided by Your word.

Bless our President and the men and women of this Senate with the wisdom, courage, and boldness to shun ridicule and take a stand for righteousness. And when all political and personal correctness is finally judged, let us hear You say "Well done"—(Matt 25:21).

In the Name of Jesus, the Christ, thanks for hearing this prayer. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT C. BYRD led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 24, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW assumed the Chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Madam President, I ask unanimous consent that prior to the Chair announcing the business for the day, the Senator from Kansas, Mr. BROWNBACK, be recognized for up to 4 minutes. Following his statement, I ask unanimous consent that as soon as the Chair announces the legislation of today the time begin running.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. BROWNBACK. Thank you very much, Madam President. Good morning. And I thank the Senator from Nevada for his recognition, and the Senator from West Virginia for allowing me to speak briefly.

WELCOMING GUEST CHAPLAIN REVEREND CECIL WASHINGTON

Mr. BROWNBACK. Madam President, I want to take a moment to recognize the guest Chaplain, Cecil Washington, from Topeka, KS. He has traveled here with his wife Audrey to be the guest Chaplain today. She is in the gallery.

I have had the pleasure of knowing Reverend Washington for many years. He has a distinguished record as not only a dedicated and caring minister but as a fellow traveler, helping those in need along the way in many places, as I have seen him do in Kansas and across the country.

Reverend Washington is deeply rooted in the Topeka community. He is committed to nurturing and guiding individuals in taking command and control of their lives.

In fact, Reverend Washington founded and is director of the Prayers Answered, Lives Saved Recovery Group, or PALS. This organization provides Bible-based, Christ-centered addiction support for all substance abuse users.

His organization has helped countless individuals redefine their lives and begin to make positive life choices for themselves and their loved ones.

Reverend Washington also knows the importance of self-sufficiency. He is the past president of Jobs Partnership of Topeka. He has worked tirelessly to help see that the individuals with whom he works develop the skills necessary to become self-sufficient and sustain their independence.

In addition, Reverend Washington has served in many capacities in the State of Kansas. He is the past Chaplain of both the State house of representatives and the State senate of Kansas. He has also served on a number of advisory committees and boards.

Currently, Reverend Washington is the pastor and founder of the New Beginning Missionary Baptist Church in Topeka, KS. He founded this church in March of 1998, which has a very expansive and growing congregation.

Finally, Reverend Washington is a sought-after minister, lecturer, and is the author of the book "The Triple Solution For Our Double A Problem," published in 2001. It is probably a good book for everybody to read to get a triple solution to double problems.

I am proud to have him here today. As I mentioned, he is joined by his wife.

I encourage Members of the Senate, as they come to the Chamber, if they get a chance, to meet Reverend Washington, I think they will be blessed. He has shared quite a testimony.

Some of you may recognize that he used to sing with Marvin Gaye, the Four Tops, and the Supremes. He has a voice, as you heard, and gave that for the ministry that the Lord might use it in another way. He is quite an individual and has been a good friend. I am glad to have him here as the guest Chaplain.

I have a statement I ask unanimous consent be printed in the RECORD from Congressman JIM RYUN of the second district in Kansas, which serves the Topeka area.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF REPRESENTATIVE JIM RYUN OF KANSAS

I am pleased that Pastor Cecil Washington is with us today and am grateful for his willingness to open the Senate Chamber in prayer.

Pastor Washington is an exemplary citizen and a strong role model. His contributions to the State of Kansas are commendable and I applaud him for his service.

Pastor Washington currently is the pastor of the New Beginning Baptist Church in Topeka, KS, and previously served as the Chaplain of the Kansas House of Representatives.

Pastor Washington, thank you for being here.

Mr. BROWNBACK. I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

HOMELAND SECURITY ACT OF 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Byrd amendment No. 4644 (to amendment No. 4471), to provide for the establishment of the Department of Homeland Security, and an orderly transfer of functions to the Directorates of the Department.

Lieberman/McCain amendment No. 4694 (to amendment No. 4471), to establish the National Commission on Terrorist Attacks Upon the United States.

AMENDMENT NO. 4644

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. There are several speakers who will support my amendment, and each speaker has been allotted 5 minutes.

Will the Chair kindly remind each speaker when 4 minutes of the 5 have elapsed?

The ACTING PRESIDENT pro tempore. The Chair will do so.

Under the previous order, the Senator from North Dakota is recognized for up to 5 minutes.

Mr. DORGAN. Madam President, thank you very much.

I am pleased to be here to support the amendment offered by my colleague, the Senator from West Virginia, Mr. BYRD. This is a very important subject, the subject of homeland security. In some areas, if we make a mistake in the United States Congress, we waste money or some other inconvenience occurs or something important happens. But this is a case where if we make a mistake, the safety of the American people is at stake. So homeland security is critically important.

I have watched with great interest Senator BYRD's presentation of his amendment. Let me say this about my colleague from West Virginia. Much has been said about him. Let me say today that I think he is old-fashioned. That is right, I think he is old-fashioned. I think he brings to the floor, with this amendment, the values and virtues of being old-fashioned, saying: Yes, let's do it, but let's do it right.

I know that is old-fashioned to some. We live in kind of a turbo-charged world. We want what we want, and we want it right now. We are a world of fast food, Jiffy Lube, 1-hour cleaning, and Minute Rice. We want it this instant.

Senator BYRD brings to us a version of legislative home cooking, saying: Let's put all this together the right way. Let's make sure it is seasoned the right way because the safety and security of this country depends on it.

Senator BYRD's amendment does not change the deadlines by which we will provide homeland security, but he sets up weigh points by which we can work with the executive branch to create this new Department of Homeland Security. After all, we are talking about putting 170,000 people in a single agency—one single agency.

Some would say: Well, that is pretty easy to do. It is not easy to do at all. The development of a bureaucracy is always at odds and always creates tension with efficiency and effectiveness. Take a look at what has happened in recent days, the stories about the CIA and the FBI and the kind of work that was done, or not done, with respect to what they knew and did not know leading up to September 11.

It is very important we have agencies put together and locked together in a way that protects this country's interests, and especially that we have accountability. And that is where the Byrd amendment is so important.

The Byrd amendment will guarantee the accountability of all of the Department's activities because it will be assigned to one person. One person will be accountable for this agency as it is constructed: the Secretary of Homeland Security. I think that is very important to understand.

We are talking about putting together agencies, such as the Coast Guard, the Customs Service, Border Patrol, Transportation, security, Secret Service. This is a very big project.

Now, let me talk, just for a moment, about two very specific areas I am concerned about because they are part and parcel of this and why it is so important we get it right.

Port security in this country, homeland security/port security: We are going to spend $7 to $8 billion defending against an intercontinental ballistic missile that is going to come in at 14,000 miles an hour. People are worried a terrorist or a rogue nation is going to get ahold of an ICBM, so we will spend $7 to $8 billion on that in the Defense bill this year. But it is far more likely that a weapon of mass destruction will come into a port, in a container, on a container ship, and pull up to that port at 2 miles per hour.

We have 5.7 million containers coming into our ports every year and 5.6 million are not inspected. Dealing with that has to be a part of homeland security. That is why we have to get this right.

What Senator BYRD is suggesting in this amendment is not that we should delay the creation of homeland security. It is that, as we move along to the 13 months, we, in fact, create weigh points so we can measure what we are doing, what the President is doing, what the administration is doing.

The ACTING PRESIDENT pro tempore. The Senator has used 4 minutes.

Mr. DORGAN. It is very much like when you learn to fly. I learned to fly with a private plane once. When you fly, you fly the weigh points you establish out there. This legislation says: Yes, let's have a Homeland Security Department. Let's meet the deadline, do it on time, but let's do it right. And it establishes weigh points by which the Congress becomes a full partner with the administration in developing and making sure that we implement properly the Homeland Security Department.

If we make a mistake here, it is about the security of the United States of America. This is not about wasting money. It is about this country's security. That is why this amendment is so important.

People say: Well, this amendment guts the bill coming out of the committee. It does not do anything of the sort. This bill improves it. And this bill gives Congress the role it ought to have with the administration to make homeland security work for the United States of America.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maryland is recognized for up to 5 minutes.

Mr. SARBANES. Madam President, I rise in support of the Byrd amendment and urge my colleagues to back this very important amendment. But I also rise to thank the very able Senator from West Virginia for his firm and constant leadership on this very important issue. I particularly appreciate the careful way in which he has formulated this amendment.

This amendment actually would achieve the establishment of the Department within the same timeframe that is contained in the bill brought from the committee.

The only difference is it would do it in stages and would give the Congress a continuing role to examine carefully how this is being done, how the directorates are put into place, and would give us a better chance to carefully examine the full range of implications of many of the important principles, including worker protections, civil liberties, privacy, secrecy, and which functions to transfer and how they should be transferred.

This is an enormous undertaking. The Senator from West Virginia has made a singular contribution in developing the potential ramifications and consequences of that with which we are dealing.

Senator BYRD is given to quoting Roman history. A lot of my colleagues tend to consider that as interesting but not always directly relevant. I disagree. I think he reaches back and draws out lessons which are of extreme importance to us. I particularly like the quote he used in this debate of Gaius Petronius Arbiter, who was an adviser to Nero:

> We trained hard . . . but it seems that every time we were beginning to form into teams, we would be reorganized. I was to learn later in life that we tend to meet any new situation by reorganizing; and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency, and demoralization.

What an apt quotation as we consider the important issue before us today.

The Baltimore Sun ran an editorial actually concluding that they were against establishing the Department of Homeland Security. Senator BYRD's amendment does not do that. Senator BYRD is prepared to establish the Department, but he wants to be very careful in how we do it. The Sun, in that editorial, pointed out that in trying to establish this Department, we are taking the focus off the need for tighter oversight of the Nation's security systems; that shifting 22 Federal agencies and 170,000 employees is a massive undertaking, and it needs to be done very carefully.

That is what the Senator from West Virginia has stressed again and again. We need congressional involvement which will help to ensure that we will craft the best possible legislation.

The ACTING PRESIDENT pro tempore. The Senator has used 4 minutes.

Mr. SARBANES. Additional oversight is required in order to assure that this is done in the right manner. We have agencies with multiple functions. Some relate to homeland security; some do not. How are we going to accommodate that complexity? The Byrd amendment, by requiring further timely participation of the Congress, will give us the opportunity for additional scrutiny to ensure that a massive governmental reorganization is done carefully and effectively. We do not want to create chaos and confusion which will set us back in our efforts to deal with homeland security.

The Senator from West Virginia has underscored how carefully we did the National Security Act that reorganized the Department of Defense. That is not being done in this instance. I very strongly support this amendment and urge my colleagues to back it.

I ask unanimous consent the Sun editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Sept. 23, 2002]

BOONDOGGLED

At the risk of sounding heretical, it's time to pull the plug on the plan to create a Department of Homeland Security. Better yet, drive a stake through its heart.

Months of debate have made clear that this bureaucratic boondoggle offers no promise of making the homeland more secure. Worse, it takes the focus off the need for tighter oversight of the nation's security systems.

President Bush offered the most sweeping government reorganization in a half-century largely as a political and public relations tactic. He was trying to counter Senate Democrats who were advancing similar legislation of their own.

He timed the unveiling of his plan to drown out the testimony of FBI Agent Coleen M. Rowley, who was blowing the whistle on the security failures of her hidebound agency that blinded it to clues of the Sept. 11 attacks.

Shifting 22 federal agencies and 170,000 workers into a new department will cost billions but will do nothing to solve the problems Agent Rowley addressed. What's needed is greater sharing, and coordination and synthesis of the security information collected by the myriad agencies.

But this new department would not even include the FBI and the CIA, which are the two premier intelligence gatherers. Nor is there any guarantee that greater sharing would take place between them if they were together.

The FBI, and Drug Enforcement Administration and the Immigration and Naturalization Service are already grouped together in the Justice Department, and they don't have a system for streamlined communications. As Agent Rowley told Congress, the various offices of the FBI didn't even share information with each other.

For the nation's security apparatus to become more efficient, the psychology and culture of those competitive and turf-protective agencies must change. Moving boxes around on an organizational chart and creating cement edifices to house them will do nothing but create more pork-barrel booty for lawmakers eager for new facilities in their home states.

Rep. Steny H. Hoyer, a Maryland Democrat who opposes creation of the department, contends the homeland security oversight job could be done by upgrading the White House advisor post now held by Tom Ridge. The main reason Senate Democrats started pushing the idea of a new department was their frustration with Mr. Ridge's refusal to submit to their questioning on the grounds that he was a confidential presidential aide.

Few lawmakers have openly opposed this sacred cow. The proposal whisked through the House in a matter of hours before the summer recess. It is bogged down in the Senate largely because of a partisan dispute over worker rules.

Mr. Bush is taking advantage of the opportunity to mow down longstanding worker rights and protections, saying he needs greater flexibility to hire, fire and move workers around.

That alone is a good reason to deep-six this plan. Civil service laws may well need some updating to attract and retain a quality work force. But the changes should be carefully applied throughout the government to avoid creating a class system in which workers at some agencies are treated better than those at others.

This Congress will leave much unfinished business. With any luck, that will include this pointless bureaucratic reshuffling.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota is recognized for up to 5 minutes.

Mr. WELLSTONE. Madam President, I am pleased to support the Byrd amendment. I thank Senator JOSEPH LIEBERMAN for his fine work. He was talking about a Department of Homeland Security long before the administration and understood the need.

I believe the Byrd amendment is a key improvement.

Mr. SARBANES. Will the Senator yield for 10 seconds?

Mr. WELLSTONE. I am pleased to.

Mr. SARBANES. I want to underscore what the Senator said. Senator LIEBERMAN has done fine work on this legislation. It is no detraction from Senator LIEBERMAN's fine efforts to support the Byrd amendment. In fact, I think the two can be perceived as being complementary.

I thank the Senator.

Mr. WELLSTONE. I thank the Senator from Maryland. His remarks reinforce what all of us believe.

The Byrd amendment would allow for a more orderly transition of authorities to a new Homeland Security Department than the underlying bill would otherwise provide for. I support the underlying bill, and I commend the chairman of the Governmental Affairs Committee and others for their work on it. Long before the Administration concluded that a single new Federal department could best protect our domestic security, the committee and its chairman, Senator LIEBERMAN, developed the framework for such a department. Now that framework is essentially the bill we have before us. It is a good framework, but I believe this amendment is a key improvement.

This bill authorizes the largest reorganization of Federal Government functions undertaken in half a century. While we have been debating the bill for several weeks, I agree with the Senator from West Virginia that it is a task that warrants deliberation and care. It is the right of Congress to participate deeply both in creating the framework for this needed new department, but also in overseeing key details of the transition to it. Indeed, in my view, we have not only the right to participate. We have an obligation.

The Byrd amendment would allow immediate creation of a new Homeland Security Department. It would immediately establish the superstructure of the Secretary and the six directorates as outlined by the Lieberman substitute, and then require that the administration submit three separate legislative proposals to transfer agencies and functions to the new Department. This would give Congress the opportunity to gauge and modify how the new Department is being implemented, while it drafts legislation to transfer additional functions and agencies and would provide Congress with additional means to head off problems that traditionally plague and delay massive reorganizations. What's more, under the

Byrd amendment, Congress would be required to act on these legislative proposals within 13 months on enactment, which is roughly the same time period outlined by the Lieberman plan.

Once the Department of Homeland Security is established, the Secretary will submit legislative proposals and recommendations for the orderly transfer of agencies and functions, based on the Department's actual needs in carrying out its mission.

Through additional involvement in the implementation of agency transfers and reorganizations, Congress will be able to exercise meaningful oversight after the enactment of homeland security legislation.

The Byrd amendment gives Congress a much-needed opportunity to review more thoroughly the details of the reorganization during the one-year transition period established in the Lieberman bill.

Congress can use this time to consider specific agency transfers, worker protection policies, new intelligence authority, and constitutional protections, instead of handing off unresolved questions for the President and the Secretary to answer.

Under the Byrd amendment, Congress will receive better information from the administration during the implementation the Lieberman bill, including the criteria used by the administration in choosing which agencies and functions to transfer into the Department.

The Byrd amendment guides us towards a more rational approach for undertaking the task of creating the new department, and I support it. Protecting the American homeland is not just President Bush's responsibility. It is our responsibility as well. And it is the responsibility of future Presidents and future Congresses. So we must make sure that we do everything within our power now to create the very best structure to protect our's and future generations.

As I have said, Madam President, the Byrd amendment will allow for the immediate creation of a new Homeland Security Department. It is important to understand that. There is no delay, and we have the same basic legislative time period of 13 months. Once the Department of Homeland Security is established, the Secretary will submit legislative proposals and recommendations for the orderly transfer of agencies and functions based on the Department's actual needs in carrying on its mission. Through additional involvement in the implementation of the agency transfers and reorganizations, Congress will be able to exercise meaningful oversight after the enactment of homeland security legislation.

That is what is so important about the Byrd amendment. It guides us toward a more rational approach to the undertaking of the task of creating a new Department. I support it.

Protecting the American homeland is not just President Bush's responsibility or any President's responsibility; it is our responsibility as well. It is the responsibility of future Presidents and future Congresses.

We must do everything within our power now to create the very best structure to protect our future and that of our children and grandchildren. I believe the Byrd amendment is a positive contribution.

Senator BYRD plays a key, indispensable role. Senator BYRD has been on the floor week after week calling on all of us to exercise our constitutional responsibility; talking about the importance of legislative involvement, the importance of checks and balances, the importance of deliberation, the importance of understanding full well the consequences of what we do.

The Senator from West Virginia deserves a tremendous amount of credit for his exceptional work as a Senator. I am very pleased to support the amendment.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California is recognized for up to 5 minutes.

Mrs. BOXER. Madam President, I thank Senator BYRD for allowing me to take some of this time. It is truly an honor for me to rise on behalf of his amendment.

If ever there has been a more fierce, more forthright defender of the Constitution and the responsibilities we have as Senators, I can think of none other.

Clearly, what we have before us is a bill crafted by Senator LIEBERMAN which is far better than what has come out of the House, far better than what the administration put forward. There is no question in my mind that Senator LIEBERMAN has taken us forward.

I have to say, as someone who has been in office for many years, I have come to be very skeptical about a huge reshuffling of agencies in Government and huge moves without lots of time to look at the ramifications. My belief is that in moving so quickly to such a large reshuffling, we are going to bring about less accountability, not more, in terms of how this Government functions.

Senator BYRD is saying, yes, we need to create this Department. Let's bring forward some of the best and brightest people to begin to put it together. But let's slow down; let's take a deep breath. Let's make sure what we are doing is going to result in more protection for the American people, more efficiency on behalf of these departments, not less.

I am also very concerned about the movement away from rights for people who will work in this Department. Senator LIEBERMAN has been very strong, and I hope he will prevail, but I am very concerned that more than 40,000 people in this new Department who do not deal directly with national security—they may be, for example, a secretary, a file clerk, someone who works in that Department—are going to lose worker protections.

I have said before, and I will reiterate it today, that it is a very cynical move, I believe a grab of power on behalf of this administration, to do that to these people. Doesn't the President have more things to occupy himself—and I know he does—than worrying about whether a secretary or a file clerk has the ability to say to the people who supervise her, through her union, through her bargaining unit: I need a better salary; I need better health care; explain to me what my work rules will be? I do not think any President—this one or any future one—should interfere with that. It is very important that people have their dignity.

On the one hand, we have the President saying he is creating this new Department and it is so important; on the other hand, what is the first thing he wants to do? He wants to strip away the rights of people.

In California over the weekend, I spoke to working men and women, maybe about a thousand of them. I pointed out to them what I have pointed out in this Chamber—and others have pointed it out, too—that the real heroes of 9/11 were not politicians, were not any Senators or Members of Congress. Certainly not. And certainly not anyone sitting in the Oval Office or in the Old Executive Office Building.

The ACTING PRESIDENT pro tempore. The Senator has used 4 minutes.

Mrs. BOXER. Madam President, do I have 1 minute remaining?

The ACTING PRESIDENT pro tempore. That is correct.

Mrs. BOXER. Madam President, the real heroes of 9/11 were working men and women, and they did not look at their watch and say: Gee, am I working overtime? They just went into those burning buildings. That is important.

Mr. President, when I first read the details of the President's Homeland Security Department proposal, I was concerned. And when the House leadership passed the President's proposal without so much as a second glance, I was dismayed.

Instead of a creating a blueprint for enhanced domestic security and more efficient Government, the President and a handful of others have created a patchwork proposal.

The legislation created by Senator LIEBERMAN stands in distinct contrast to the House-passed bill.

I believe the amendment proposed by Senator BYRD builds upon and strengthens the good work of Senator LIEBERMAN and his committee. The Byrd amendment provides for the creation of a Department of Homeland Security—just as the Lieberman bill does. But, instead of immediately moving agencies into the new Department's directorates, the administration would be required to come back to Congress—and to the relevant House and Senate oversight committees—with detailed legislative proposals before any transition actually occurs.

Many questions remain unanswered about this Department of Homeland Security. The Byrd amendment would require the President and his advisors to address these questions before agencies are moved into the new Department.

If we grant the administration the statutory powers it is demanding without first passing the Byrd amendment and making it part of the final bill we send to the President, we will lose the support, I believe, to get it right.

The Byrd amendment would also ensure that the implementation of the Department occurs in a more thoughtful way, with more openness and less secrecy.

I will conclude in this way: I am proud to support Senator BYRD's amendment. I hope my colleagues will do so, too. It retains the checks and balances that are so important and that our Founders told us we must do. It also will result in a Department that will be well thought out and that means it will, in fact, protect the people of this country in a much better way than we are being protected today.

I thank the Chair very much and yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Washington, Ms. CANTWELL, is recognized for up to 5 minutes.

Ms. CANTWELL. I thank the Chair.

Madam President, I rise today in support of the Byrd amendment to ensure the proper deliberation and congressional oversight in the creation of the Department of Homeland Security. While I applaud the chairman and ranking member for working to develop changes in our Federal system to better harden our defenses against potential terrorism targets, and to create effective, integrated protections, we must not allow the task of government reorganization to distract us from our vulnerabilities.

I think it is particularly timely that we are on the floor debating how to protect ourselves from the future of any kind of 9/11 attacks while the Intelligence Committee is discussing the implications of its report that demonstrates how the primary weakness is not the fact we did not have a 170,000-person Federal agency.

Instead, we are learning that the men and women of our intelligence community neither have the resources nor the adequate mechanisms in place to communicate and to share information and to connect the dots before an attack happened.

I urge my colleagues to remember, while creation of a Homeland Security Department is an important step, which I believe is about hardening our targets and creating redundancy, we cannot ignore the primary challenge we are facing in intelligence gathering.

Similarly, any forward movement in strengthening our homeland security must not also distract us from our constitutionally mandated responsibilities to provide the necessary oversight and adequate deliberation in the enormous process of creating a new Department.

Make no mistake, we are currently considering some giant and unprecedented changes to our Federal system:

We are radically reshaping our Federal Government to meet new goals.

We are contemplating dramatic—and I think fundamentally unwise—changes to important civil service laws.

We are deliberating substantial changes to the roles and missions of many important agencies that provide important functions for our country.

We are even considering unprecedented changes in the relationship between Congress and the administration by handing over substantial aspects of our constitutionally derived authority to shape and form the functions of Government.

Despite the enormity of this effort and its implications, some have criticized the Senate for not rushing this legislation through this body. I submit that these critics are wrong. We are accountable to our constituents for good, thoughtful legislation—not the rate at which we pass a bill.

Our Founding Fathers created an ingenious system of Government that stresses deliberation as the only rational method to ensure sound decisionmaking.

This piece of legislation—perhaps the most important, wide-ranging legislation that has come before the Senate in recent years—deserves thoughtful consideration that is absolutely necessary in putting together this new agency.

That is exactly what Senator BYRD is proposing that we do. I thank the distinguished President pro tempore for his effort in stressing the importance of this responsibility.

The Byrd amendment will strengthen Senator LIEBERMAN's bill by sending the message that this body is committed to creating a Department of Homeland Security with a mission to protect the American people and with the clear determination that we will act responsibly in doing so because we want to get it right. This is critically important because it would require the implementation of the new Department to be considered by Congress.

The Byrd amendment ensures that the important first step is followed by a process that will ensure that Congress and the Nation are involved in asking the right questions when it comes to the specific details of this reorganization, including the specific agencies and responsibilities that need to be transferred, the personnel strategies that need to be implemented, and a wide array of other logistical issues.

Any reorganization of this magnitude is difficult and complex. I can tell you, having been in the private sector, I have seen a lot of reorganizations in the private sector that don't go as smoothly as people want them to. And on a much larger scale, this proposal, I believe, deserves the kind of attention this amendment gives it.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Ms. CANTWELL. Madam President, I think there are two fundamental examples in this bill. One of them is the Coast Guard—I am sure my colleague from Washington will expound on this—which is being transferred. The critical mission of that agency needs to be secured and understood as that agency is transferred. The other is an important opportunity within the National Institute of Standards and Technology with the Computer Security Division—again, a key mission that is being met for the private sector in creating technology standards that may be transferred, and that mission may be lost.

In summary, it is critically important that we not rush to make these changes and then believe we have delivered service to the American people. Let them be sure we are involved in guaranteeing that this agency is hardening our targets and strengthening our redundancy.

The PRESIDING OFFICER. The senior Senator from Washington, Mrs. MURRAY, is recognized for 5 minutes.

Mrs. MURRAY. Madam President, for the past several weeks we have been talking about the proposal to create a Department of Homeland Security. I think it is very clear that there are a lot of details that still need to be worked out.

I thank Senator BYRD for his leadership and his patience in raising the questions that must be raised to improve our security and our safety.

I want to make sure we don't just "do something" about security, but that we do the right thing. Let's face it, it takes time to get the simple things right. I have been working with the Transportation Security Administration now for months on airline security and we still have not worked out all of the issues. It took a long time for us to get the National Guard to deploy to our northern border. In creating this new Department, I want to make sure we get it right.

Three weeks ago, I spoke on the Senate floor and raised a number of questions, and at this point I am still troubled by the lack of answers I have received. There are many different ways to set up this Department. The President has offered one way. His proposal was created in a short amount of time by a few officials meeting at the White

House in secret. We don't know how the President's proposal will balance the security and the economic needs of the American people.

As I have stated before, I have two major concerns. First, we have not yet figured out how to fulfill our traditional missions and the new security missions at the same time. If we combine these various agencies into one massive Homeland Security Department, how are we going to meet the traditional mission?

Just look at the Coast Guard. Since September 11, the Coast Guard has shifted resources away from their traditional missions to homeland defense. That is an appropriate response, but it comes at a cost. What the shift in resources means to the average American is that the Coast Guard is now spending less time interdicting drugs and illegal immigrants, enforcing fishery and marine safety laws, and protecting our marine environment. Yet the need for the Coast Guard to perform these vital missions is as important today as it was before the attack on our country.

Unfortunately, we have not figured out how to effectively carry out both missions at the same time. I would like to know how one massive Department, focused primarily on security, will more effectively address all of our safety and security needs.

Secondly, I am very concerned about how this new Department will function. The administration has asked for unprecedented power and control over this proposed Department. The President wants to change the personnel rules so he can have what he calls flexibility. From what I understand, the administration already has flexibility under current law.

In addition to dramatic new controls over workers, the administration wants the power to move money around without congressional input. From what I have seen so far, that is pretty scary news for families in my State of Washington.

Right now, I can fight to make sure that the needs in my State are being met. But if the administration gets this unprecedented authority, then accountants in the Office of Management and Budget will decide what is important to the people in my home State. If that happens, my constituents are going to lose out—at a cost to their safety and their security.

So we need to better understand and define all of the missions in the various agencies. We need to make sure they continue to fulfill their traditional missions. That is why I support the Byrd amendment. It will allow us to move forward in a pragmatic manner that allows us to do this right. It is essential for our economic security and our future safety.

I urge my colleagues to support the Byrd amendment.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut, Mr. LIEBERMAN, is recognized to speak for up to 5 minutes.

Mr. LIEBERMAN. I thank the Chair.

Madam President, for literally more than a year now, the bipartisan membership of the Senate Governmental Affairs Committee has been working to strengthen our homeland security, particularly and intensely after the events of September 11 which showed the extent to which the disorganization of Federal homeland security activities created vulnerabilities of which the terrorists took advantage.

The amendment offered by the great Senator from West Virginia is the most direct challenge the committee's work will face in this debate because it puts at issue the question not only of the approach the committee has taken in creating the Department but whether we in the Senate believe it is urgently necessary to have a Department of Homeland Security, a better organized Federal Government to protect the American people anytime soon.

This amendment will retain the basic administrative structure of the Department as we have proposed, but that is all. The amendment nominally sets up the same six directorates as the Governmental Affairs Committee proposal, but that is where the similarity ends.

Here is an example: We created a directorate for emergency preparedness and response. Our Committee proposal transfers six distinct agencies, or sets of programs, and includes more than seven pages of legislative text specifying the missions and operating provisions of the directorate. The parallel provision in Senator BYRD's amendment, section 134, found on page 37 of that amendment, consists of not seven pages but seven lines of text. Three creates the directorate, and four authorizes an Under Secretary to run it. But that is all. No goals, no missions, no duties, no programs, no personnel, no directorate in any real sense. That is the approach taken by this amendment for all of the directorates, with the exception of Immigration, where the amendment does not disturb our provision to transfer and restructure the Immigration and Naturalization Service.

For example, our provisions regarding a new division of intelligence would immediately begin building a potent new capability to analyze all information regarding terrorist threats and disseminate the information to help prevent or protect against attacks.

The Intelligence Directorate in the Byrd amendment is an empty room with a name on the door, awaiting future legislation to give it staff and purpose; and so it would remain, I fear, indefinitely, because there is no effective termination point, no effective implementation point in the amendment's structure.

Section 139 of the Byrd amendment calls for the Secretary of the new Department to submit to Congress over the course of the next year a series of legislative proposals for these shell directorates, including recommendations for the transfer of authorities, functions, personnel, assets, agencies, or entities, all of which would fill them up and give them some meaning.

Those recommendations are to be submitted to Congress at least 4 months apart, beginning no sooner than February 3, 2003—next year. That means that, at best, Congress would have the administration's proposals a year from now—a year to recreate proposals that we have before us today.

The amendment states that Congress should take action on these proposals within 13 months of enactment of the underlying homeland security legislation. But even if this deadline were heeded, it means only that Congress would take some action. Congress could reject one or more of the proposals or vote to study the matter further. The fact is that it is very hard to bind a future Congress to do anything. So at the end of the year, under the committee's proposal, that is the deadline for this Department to be fully up and running. Thirty days after the President signs legislation under our proposal, the new Secretary would have the power to start getting the Department running. A lot of it would start rapidly, but it would all be done within a year.

Within a year, under the Byrd amendment, there is nothing but the hope that Congress will react to the proposals the administration will have sent it. So with the exception of immigration functions, there would be no assurance in the end that anything would ever be transferred into the new Department. It could indefinitely remain a bare-bones proposal with no meat on its skeletal frame whatsoever.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized to speak for up to 5 minutes.

Mr. JEFFORDS. Madam President, let me begin by commending Senator LIEBERMAN for leading this debate. I appreciate the hard work the Senator from Connecticut, the Governmental Affairs Committee, and the staff put into this important legislation.

I rise today to support the amendment of the homeland security legislation that has been proposed by my colleague from West Virginia, Senator BYRD.

I am concerned about the path we are proceeding down to create this new Department, and I doubt that the result of this flawed process will adequately address the intelligence failures that were revealed so tragically on September 11, 2001.

Congress must not cede its constitutional role and responsibilities to the executive branch in this dramatic Government reorganization. Congress must remain engaged in this effort to ensure it results in a functioning, effective agency.

This mandate is made clearer when we compare the current process with similar reorganizations in the past.

For instance, comparisons have been drawn between this legislation and the creation of the Department of Defense. But the creation of the Department of Defense involved a collaborative process between the executive branch and the Congress. And the executive branch agencies affected by the proposed Department were participants in the process.

Thus, the Department of Defense was founded upon discussion, debate, and compromise.

This cooperative approach to developing a workable new Department contrasts starkly with the way the administration developed its homeland security draft legislation.

A small group of advisers working in secret within the White House developed President Bush's proposal. Members of Congress and Secretaries of the affected cabinet agencies were reportedly not even informed about the proposal until the days before it was unveiled.

And even now, rather than working with Congress to develop consensus on this legislation, the administration insists it will veto any proposal that does not closely resemble its own.

Of specific concern, the administration's proposal does not place enough emphasis on correcting what went wrong prior to September 11. I firmly hope that we, as a Nation, will develop a comprehensive plan to address the shortcomings in our intelligence gathering and communication efforts.

Because of the similarity of the September 11 attacks and the attack on Pearl Harbor over 60 years ago, we should remember the finding of the Joint Congressional Committee that investigated Pearl Harbor.

That Committee found that ". . . the security of the Nation can be insured only through . . . centralization of responsibility in those charged with handling intelligence."

I hope we will learn our lesson after the tragic events of September 11. Correcting intelligence failures must be the hallmark of any new Department of Homeland Security.

This reorganization will affect the lives of everyday Americans for years to come. Because the President's proposal does not adequately address intelligence failures, and because the administration refuses to enter into a constructive dialogue with the Congress regarding legitimate disagreements, we have a constitutional responsibility to act.

Therefore, I support Senator BYRD's amendment to the homeland security legislation. The Byrd amendment will go a long way toward ensuring Congress continues to play a constructive role in shaping the new Department as this process moves forward.

I commend the Senator from West Virginia for his help and assistance in helping us all to better understand this problem.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Under the previous order, the Senator from Michigan is recognized to speak for up to 5 minutes.

Ms. STABENOW. Mr. President, I acknowledge, as other colleagues have, the important work of the Senator from Connecticut. Senator LIEBERMAN was the first to outline the reasons for bringing together all of the essential functions of Government that relate to homeland security. I know he has put literally hundreds of hours into this effort, and we thank him for that.

I support the Byrd amendment as an addition to this effort, not as a detraction, because I believe what Senator BYRD has articulated is a very important part of the way we put together a Department of Homeland Security. I think it is essential. So while I support the homeland security effort, I believe it is important to move forward along the timelines and with the checks and balances that Senator BYRD so thoughtfully has put together.

Simply put, the mission of this Department is too important to be rushed into law. I know the Senator from Connecticut would say that after months and months it does not seem like rushing; that there has been a tremendous amount of effort that has gone into this. But as that is said, I also know it is a huge task bringing together 170,000 employees, and there are many questions about the various departments, so this is something that will take continued time and thoughtfulness to be able to put together.

There are many questions that remain, and if the public is to have confidence in the new Department, those questions need to be answered. For instance, why are certain agencies being transferred into the new Department? What criteria are the administration using to determine what agencies should be transferred? Almost all of these agencies being transferred have other functions not related to homeland security, which is of great concern in Michigan—this has been raised in a number of contexts—and how will those functions be separated? How will they be affected?

In Michigan, we have concerns about the Coast Guard, which is a very important part of our operations not only in fighting terrorism but we want to make sure there are sufficient resources to deter terrorists from coming into our country by boat. We also know there is a critical role in search and rescue operations and ship inspections. We want to make sure in Michigan we do not lose resources for those essential civilian functions as well as the important efforts to fight terrorism.

In earlier discussions about the Homeland Security Department, the Department of Agriculture's Animal and Plant Health Inspection System, or APHIS, would have been moved to the Homeland Security Department. While it is reasonable that the border inspection mission of APHIS would be a part of the new Department, it is also critical the domestic mission of protecting animal and plant health, and ultimately the health of American consumers, remains within the Department of Agriculture. If the full transfer of APHIS comes up again, I would like to debate and vote on that.

Those are the kinds of issues I am concerned about. We have workforce questions. There are a number of issues that have been raised which I believe need our continual input, and that is why I support the timeframe that has been put together in the Byrd amendment to create the Department without delay but then to come back to the Congress, receive input, take it step by step to make sure we are, in fact, doing it right. That is what the Byrd amendment is all about. It is about creating this Department with input feedback, coordination, and cooperation that is going to enable us to do this huge job.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Ms. STABENOW. I believe the Byrd amendment is a more disciplined process that will help us create a Department that is cohesive, responsive, and effective with its duties and missions clearly defined. I urge my colleagues to join with so many of us in supporting the Byrd amendment.

I yield back my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Under the order that was entered last night, Senator BYRD had requested 10 minutes. We all thought it was 5 minutes, but I think it is appropriate he have the 10 minutes. Therefore, I ask unanimous consent that Senator LIEBERMAN be extended another 5 minutes to balance out that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from West Virginia is recognized to speak for up to 10 minutes.

Mr. BYRD. Mr. President, it is my understanding Senator THOMPSON wants to speak. I ask the Chair to alert me when I have consumed 4 minutes and when I have consumed 5 minutes. I hope by the time I use 5 minutes Mr. THOMPSON will be in the Chamber so the other side can be heard, I can then speak, and then Mr. LIEBERMAN can close out the debate.

I congratulate Mr. LIEBERMAN, the Governmental Affairs Committee, and all of the staff members of that committee. They have worked hard, they have worked long, and they have produced a bill that is, in my judgment, a great improvement over the House bill.

My amendment only addresses title I of the Governmental Affairs bill. The other titles are not touched by my amendment.

What does my amendment do? My amendment substitutes for title I in the Lieberman bill in a way that provides congressional oversight and a systematic and orderly process by which the agencies are transferred into the new Department.

My amendment provides for the creation of a Department of Homeland Security. My amendment provides for the same superstructure as does the Lieberman amendment: in other words, the same directorates in title I and the same number of Under Secretaries, Assistant Secretaries, and so on. Those are how the two titles, title I in the Lieberman bill and title I in the Byrd amendment, are the same. What is the difference, then? The difference is my amendment provides for an orderly process whereby, in every 120 days over the next 13 months, there will be a transfer of agencies into the Department. So these will occur at 120-day intervals, unlike the Lieberman bill, which provides for the wholesale transfer over the next 13 months; it could come early, it could come late, it could come earlier than 90 days after the passage of the bill, or it could come as late as the close of the transition period, which is 12 months following the first 30 days.

Mr. LIEBERMAN says the Department will be up and running in 13 months under his legislation. But his legislation requires only that agencies be transferred by the conclusion of the 13 months. It doesn't say they will be up and running. His bill in that respect is exactly like my amendment. Both the Lieberman bill and the Byrd amendment provide for the conclusions of the transfers of agencies over the 13 months—by the end of the transition period, which is the end of the 13 months.

Neither his bill nor my amendment provides that the Department will be "up and running," as the distinguished Senator has said. No legislation can guarantee when the Department will be "up and running." It will likely be years, which is why Congress needs to ensure a continuing role for itself.

So there will be an orderly process under the Byrd amendment, and the chaos that will occur under the Lieberman proposal will be avoided.

Congress is kept involved under the Byrd amendment, which means that the Lieberman committee will be kept involved. My amendment provides for the protection of employee rights, privacy, and civil liberties. How does it do that? Because Congress stays involved.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mr. BYRD. I thank the Chair.

Congress is involved. Mr. LIEBERMAN's committee will be involved time and again—once, twice, three times. So Congress will be there, looking over the shoulder of the agencies, so to speak, looking over the shoulder of the administration, looking over the shoulder of the President. The President has said he needs flexibility.

We hear that worker rights will be challenged, will be jeopardized. That is not true under my amendment because of the fact that Congress will always be there, looking over the shoulders of those who would be acting to constitute the agency transfers.

Time and again, the workers' rights will be under surveillance because Congresses will not pass this bill and then walk away, as would be the case in the Lieberman bill, in which instance the Congress would pass the bill now, and then for the next 13 months——

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. BYRD. Over the next 13 months, Congress would walk away to the sidelines.

So under my amendment, we are not going to say: Mr. President, here is the bill. You take it. Just report back to us from time to time and let us know how it is working. Congress is not going to relegate itself to a zero. Congress is going to be involved. Congress will be there to protect worker rights, to protect privacy, to protect civil liberties.

So I urge the Senators to vote for my amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I yield up to 5 minutes of the time I have to the Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank my colleagues again for their eloquent statements on behalf of their positions. I think the issue with regard to this amendment has been well clarified because of those statements. I think it is pretty obvious now that there is almost unanimity that we need to proceed with the homeland security bill—unanimity in this body. There is disagreement as to whether we ought to get about doing it or whether we should delay it. I think that is the fundamental issue with regard to this amendment.

This amendment that has been offered by the Senator from West Virginia would basically postpone the implementation of the new Department for at least a year. The President's proposals in the House and Senate bills all establish directorates. They list responsibilities, transfer funds to agencies.

Senator BYRD strikes from the Lieberman substitute all language spelling out responsibilities and transfers of functions for each directorate, leaving only language establishing each directorate under an Under Secretary. Instead, he requires the administration to provide legislative proposals in the future, no sooner than February of 2003 for border and transportation, no sooner than 120 days later for intelligence and for critical infrastructure, and no sooner than 120 days after that for emergency preparedness and science and technology.

The overall thrust is to delay implementation of this bill. The question we have to ask ourselves is whether we believe, in the exercise of our responsibilities as representatives of the people of our States, that that is the thing to do, that is where we are. I suggest we already have legislative proposals before us that the Senator from West Virginia would have the administration produce sometime next year.

We in government, especially those in the Governmental Affairs Committee, have been watching and listening and discussing for years the way the Government in many respects is dysfunctional. It has been created and added onto little by little over the years. It needs reorganization in the worst sort of way. We have been listening and watching and discussing the fact that the threat to our country from rogue nations and from terrorists is growing and growing and growing. This is not new information to any of us.

The disorganization of government and the growing threat of especially nuclear proliferation have been things that have been before this body for years and years and years. Unfortunately, it takes something like September 11 to get us activated so we even have a discussion such as this.

Now we have a proposal that says essentially we are moving too fast, although commissions started telling us 2 years ago what we needed to do. We started having hearings a year ago with regard to what we needed to do, and we have had 18 hearings on homeland security in the Governmental Affairs Committee alone and dozens of other hearings in the House and the Senate.

Is it really too rapid? Are we really moving too fast? Is that a criticism that is a just accusation to this body: That we are speeding this thing along, at long last, after all the information and hearings and GAO reports that you could stack as high as your head about the problems with Government and the way it needs to be reorganized and needs to be more efficient, that we have too much waste and fraud and abuse and mismanagement and overlap and duplication—for years and years, and nobody paid any attention to it?

Now we are finally getting around to addressing some of this, and the issue before us is whether or not we need to wait at least another year before we even start doing those things. I suggest we do not. I suggest we need to get on about it. I suggest obviously there are going to be a lot of twists and turns in the road.

We have seen amendments to the Department of Energy Act recently. We have seen DoD amendments in 1985, major amendments, Goldwater-Nickles. Major pieces of legislation creating major departments or consolidated departments always produce the need to revisit those issues at a subsequent time.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. THOMPSON. I ask for an additional 1 minute.

The PRESIDING OFFICER. The Senator may continue.

Mr. THOMPSON. I suggest Congress is not going to lose its oversight. It has been under Congress's oversight, I might add, that this duplication, waste, fraud, abuse, mismanagement, and civil service system, which the Brookings Institution and representatives there say fails and underwhelms in every task it takes—it has been under our supervision that that has been created. With the appropriations process and the oversight process, if we do it correctly—not the way we have necessarily done it in the past; if we do it correctly—Congress will have a firm hand as we go down the road in the creation and the implementation of this new Department.

It is not because we are moving too fast or because of any structural deficiencies that Congress has not had the proper hand. It is because we just simply have not done it. I suggest it is about time we did it. The creation of this Department is the first step in that regard.

Mr. BIDEN. Mr. President, I rise in support of the Byrd amendment.

I had a conversation recently with Alexander Giacco, the former chairman of the board of Hercules, Incorporated. Mr. Giacco, although not taking a position on this amendment, impressed upon me the difficulty of wholesale organizational change, of the importance of getting such a structural upheaval right, and it is his comments which in part guide my vote this morning.

Senator BYRD has it right. Senator BYRD warned us months ago that a Department of Homeland Security was needed, but that the way to create such a massive new structure was not to rush into a new flow chart without asking questions first. The way to do this job right is to be deliberate, to be thoughtful, and to ask the tough questions about how our Federal agencies will interact so as to better protect the Nation. Senator BYRD's amendment gets us to a new Department as quickly as does the President's proposal and as does the proposal reported favorably by the Committee on Governmental Affairs in July.

It is important for us first to understand all that has been done since September 11 to boost our homeland defenses. In the 12 months since the attacks, the President and the Congress have moved with dispatch. The President created the Office of Homeland Security and selected the able Tom Ridge as its head. I was proud to work with my colleagues on the Judiciary Committee to draft the USA Patriot Act. That bill was a long overdue strengthening of our laws against terror. It increased the ability of law enforcement to share information, facilitated the sharing of information from criminal investigations, and reconsidered the wall that has in the past prevented the FBI and the CIA from working effectively together.

The FBI has expanded its terrorist threat warning system. A new five-level homeland security alert system has been created. Ninety-three antiterrorism task forces have been created in U.S. Attorney offices around the country. INS and Customs are working together to increase their cooperation in border enforcement. The FBI now provides information, on a daily basis, to terrorism task forces nationwide as well as to the CIA and the Defense Department. Director Mueller is in the process of revamping the entire FBI so that its primary focus is the prevention of terrorism. The INS and the State Department have together developed a Consolidated Consular Database, a database that includes visa information and photographs for aliens seeking entry into the U.S.

We have created an entire new agency, the Transportation Security Administration. Its sole mission is to protect the Nation's transportation systems. TSA has deployed federal passenger screeners to 122 airports. They have hired more than 32,000 new Federal security screeners. These screeners will be in all 429 commercial airports by November 19. Ultimately, TSA will hire some 54,000 Federal passenger and baggage screener workers. This represents a wholesale change from the way the country organized its airport security systems prior to September 11.

Congress, with the leadership of Senator BYRD, has passed an emergency supplemental spending bill designed to increase the resources available to our States and localities and so the country can better prevent and respond to terror threats.

The President's proposal was developed extremely rapidly, after months of Administration claims that a Homeland Security Department was not necessary, and by a tiny number of people with little to no expertise in security matters. In contrast, the chairman of the Governmental Affairs Committee has been at this issue for over a year. Senator LIEBERMAN rightly alerted us to the recommendations of the Hart/Rudman Commission and others even before September 11. His committee held a series of hearings over the past year to determine how best to restructure and reorganize Federal agencies so that they are best positioned to respond to terror.

It is much more important that we do this right rather than doing this quickly. Imagine the impact on our country if we get this massive job wrong. Reorganizations are hard work, and if history is any guide our first effort often needs to be revisited. Modern management principles teach that the agencies and functions of the executive branch should be grouped together based on their major purposes or missions. The National Security Act of 1947 created the Department of Defense, the Central Intelligence Agency and the National Security Council. Even this well thought out proposal has required serious congressional tinkering: Congress made further amendments to the organization of our national security agencies in 1949, 1953, 1958, and in 1986.

Senator BYRD's amendment builds on the work of the Committee on Governmental Affairs. The amendment retains the overall administrative structure as envisioned by the committee: six new directorates, each headed by an Under Secretary. A new Directorate of Immigration Affairs is created, and recommendations made by Senators KENNEDY and BROWNBACK to reform the INS are adopted there. The new Secretary of Homeland Security is required to submit to Congress recommendations for structuring the other five directorates. The first recommendation would be received by Congress no later than February of next year. Congress is required to take action on all of the administration's proposals by 13 months from after the legislation goes into effect. The Department would be in place in 13 months time at the latest, the same timeframe envisioned by Senator LIEBERMAN's proposal.

The Byrd amendment gives us an orderly process under which agencies are transferred into the new Department. The Governmental Affairs bill requires that agencies are transferred to the new Department over a transition period lasting 13 months. But neither the Byrd Amendment nor the Governmental Affairs Committee's bill guarantees that a new Department will be "up and running" in just over a year's time. In fact, the General Accounting Office has testified that Congress should not expect "meaningful and sustainable results" from the new Department for at least 5 years, and perhaps as long as 10 years, due to the inherently slow nature of transitioning so many agencies into one new structure. Timing of the creating of a new Department is thus not an issue under either proposal.

Senator BYRD's proposal guarantees that the new Department will be created with increased congressional oversight over its functions. Congress will not be able to pass this bill and walk away. Rather, we will be forced to more closely scrutinize these proposals to better ensure that the new Department will function effectively. I urge my colleagues to support the Byrd amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from West Virginia has 4 minutes 19 seconds.

Mr. BYRD. There remain 4 minutes 19 seconds.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. Mr. President, will the Chair inform me when I have 1 minute remaining.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BYRD. Mr. President, the distinguished Senator from Tennessee and others have claimed that my amendment would delay the implementation of the Department.

The exact opposite is true. My amendment will provide in an inordinate way the expeditious functioning and the expeditious transfers of the various agencies in the Department.

Let me say this, too. The people who are going to protect this country under a new Homeland Security Department are protecting this country today. They are on the borders every night. They are at the ports of entry. They are at the airports. We saw only recently the FBI arrest of six persons of Yemeni descent. According to the FBI, they constitute a terrorist cell. So the FBI is out there doing its job. We don't have a Department of Homeland Security. It didn't keep the FBI from doing its work. These people are out there every night and every day, 24 hours a day. So the work is going forward. Even if we never create a Homeland Security Department, these people are out there, and they are performing their work, and doing it admirably.

The argument has been made that Senators should oppose my amendment because it would undo the work of the Governmental Affairs Committee and force the Senate to readdress issues that have already been decided. But the Senate has not decided these issues, and they won't be decided even if we pass the Lieberman bill.

Of the 80-plus Federal agencies that currently have homeland security-related functions, we don't know why 28 of those agencies and offices were chosen by the administration and endorsed by the Governmental Affairs Committee to be transferred to this new Department. We don't know how the administration will reorganize these agencies once they are transferred.

We don't even have a budget for this new Department. So we have no idea about the costs associated with implementing it or how the administration plans to pay for this Department. We don't know if and by how much worker protection will be curtailed within this new Department.

Yet the Lieberman bill would have the Congress grant the statutory powers to the administration to create this Department and require only that the President report back to the Congress and to the American people after these decisions have already been made. The Congress would walk away from this new Department and require only that the President let us know how everything turns out.

My amendment seeks to create a process by which the Congress would retain control over the implementation of the new Department. It seeks to ensure that this Department is not left to languish in a limbo of chaos and confusion.

My amendment seeks to ensure that the Congress thoroughly consider what we are doing before granting broad authority to the administration with regard to such fundamental concerns as civil service protections and the privacy rights and civil liberties of the American public.

The PRESIDING OFFICER. The Senator has used 3 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, I will tell you what is delaying the work of homeland security—the intransigence on the part of the President. He had an opportunity to sign an appropriations bill that would provide $2.5 billion for homeland security—a total of $5.1 billion. He had an opportunity to sign it as an emergency. All it needed was his name. He had 30 days in which to consider it. He steadfastly refused to sign his name. This is money that is awaiting the President's signature to go throughout this country to aid the people at the local level in making preparations to avoid another terrorist attack, and to ameliorate the effects of such attacks if they occur.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, I ask unanimous consent for an additional 30 seconds for each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I urge Senators to cast their vote today. I know most of the other side, if not all on the other side of the aisle, will probably vote against this amendment. We are going to lose on this amendment, but I thank those who have spoken for it. I thank those who will vote for it.

Let me say to you that it is not how it looks today; it is how your vote will look 1 year from today. I urge all Senators to support my amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I appreciate this amendment being put forward. I oppose it intensely. I have great respect for the sponsor. But I appreciate it being put forward because, more than any other amendment that we have heard or will hear on this bill, it frames the issue. The question that Senator BYRD's amendment forces every Senator to answer is, Do you want to create a Department of Homeland Security anytime soon? Do you have a feeling of urgency about the disorganization of our Federal Government's response to the terrorist threat, and do you want to respond to it anytime soon?

With all respect, this amendment eviscerates the proposal that came out of our committee, the bipartisan proposal. As I have said earlier in the debate, it builds a house and leaves only the attic with a few people up on top. It creates an army to protect America and the rest of the world against terrorism with a few generals and no soldiers underneath.

To say that it strengthens our proposal is like telling somebody who owns a house that you are strengthening their house by removing the foundation. It puts at issue what we have done.

I do not see how anyone can vote for this amendment and say they are for adopting and creating a Department of Homeland Security soon. The question is, What happens after 13 months? Under our bill, as Senator BYRD has said, all of the agencies that are going to be part of the new Department have to be transferred within 13 months. To me, that means they are going to be operating together as a whole Department, but they have to be transferred.

What happens under the amendment? All that has to happen in 13 months is that Congress has to act in some way, if Congress 13 months from now decides that it wants to act. It is kind of a moral invocation, if you will. It is not enforceable by anyone. That is why I say that ultimately not only does the amendment eviscerate the bill but it has no end point to it.

Senator BYRD is right. There are Border Patrol and other agencies out there right now, but are they talking to each other? Are they coordinating their strategies? Are they integrating their databases? Are they meshing their command structures? Are they working adequately with State and local officials with the purpose of making every decision on every agency stronger and more effective to protect our Nation? The answer is no.

In a Dear Colleague letter that Senator BYRD sent, he said similar things to what he said on the floor. He said that the "amendment seeks to create a process by which the Congress would retain control over the implementation of this new Department." But it does so at a very high cost. The cost is no guarantee that the Department would be created anytime soon.

I stress that the underlying proposal which came out of our committee does, in fact, protect the right of Congress to oversee and have great influence over the implementation of this new Department, first, and most significantly, through the appropriations process, and, second, we specifically rejected a call by the White House for broad authority to reorganize the components of the new Department notwithstanding what the law says now. We have said in this bill that you can only do what the law allows. If you want to change the law, you have to come back to the place where laws are made; that is, the Congress. We have required that every 6 months the new Secretary come back to Congress and make recommendations to us about any changes he or she wants to make in this Department.

So the issue is clear, and the moment of truth has arrived for Senators. Do we want to create a Department of Homeland Security now? If you do, I respectfully suggest that you must vote against this amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from West Virginia.

The Senator from Connecticut.

Mr. LIEBERMAN. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. LIEBERMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The result was announced—yeas 28, nays 70, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—28

Biden
Boxer
Byrd
Cantwell
Clinton
Conrad
Dayton
Dorgan
Feingold
Feinstein
Graham
Harkin
Hollings
Jeffords
Johnson
Kennedy
Kohl
Leahy
Mikulski
Murray
Nelson (FL)
Reed
Reid
Sarbanes
Schumer
Stabenow
Wellstone
Wyden

NAYS—70

Akaka
Allard
Allen
Bayh
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Carnahan
Carper
Chafee
Cleland
Cochran
Collins
Corzine
Craig
Crapo
Daschle
DeWine
Dodd
Domenici
Durbin
Edwards
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kerry
Kyl
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner

NOT VOTING—2

Baucus
Inouye

The amendment (No. 4644) was rejected.

Mr. REID. I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Nevada.

Mr. REID. Madam President, it is my understanding we are now going to proceed to a period of time to offer tributes to our friend, the distinguished Senator from South Carolina; is that true?

The PRESIDING OFFICER. The Senate is open for morning business for that purpose.

Mr. REID. Madam President, I ask unanimous consent that the first speaker be the majority leader, the second speaker be the Republican leader, followed by Senators HOLLINGS, STEVENS, BYRD, and a Republican, to be named at a later time.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, for not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The majority leader.

TRIBUTE TO SENATOR STROM THURMOND

Mr. DASCHLE. Madam President, I join my colleagues today in this special presentation to acknowledge the distinguished Senator from South Carolina for his decades of service in this Senate.

America has changed in many ways in the 48 years since JAMES STROM THURMOND was first elected to the Senate. But some things have not changed. Among them are Senator THURMOND's fierce determination to do what he regards as the right thing for the people of his beloved South Carolina.

While Senator THURMOND and I often reach different conclusions and cast different votes, I admire his devotion to his State, to our Nation, and to this Senate. In recent years, fulfilling that obligation has seemed at times to require an extraordinary exercise of will or love or both.

Someday another Senator will sit in Senator THURMOND's seat, but it is hard to imagine anyone ever filling his shoes. He is, as I have said before, an institution within an institution.

He has been alive for almost half the history of the United States. Theodore Roosevelt was President when he was born. He was 17 years old when American women secured the right to vote. He is one of only a few Americans alive who received votes from Civil War veterans. He has lived through the term of 18 of America's 43 Presidents and served as a Senator under 10 of them.

His long and distinguished career is remarkable for its many successes, both in and out of the Senate.

In 1996, Senator THURMOND became the oldest person ever to serve in the Senate.

In 1997, he became the longest serving Senator.

In 1998, he became one of only three Senators, in addition to our colleague, Senator ROBERT BYRD, ever to cast 15,000 votes in this Senate.

In addition, Senator THURMOND has served as a senator in the South Carolina State Legislature and as Governor of that great State. He has been a senior member of both the Democratic and Republican parties and a Presidential candidate of a third party. There is not another American, living or dead, who can make that claim.

He has also served our country in uniform. Senator THURMOND entered the U.S. Army for the first time in 1924. Twenty years later, he volunteered for service in World War II, and on June 6, 1944, at the age of 43, he took part in the first wave of the D-Day invasion, the airdrop of American troops on Normandy Beach.

I am told that Senator THURMOND wanted to parachute into Normandy Beach, but another officer who clearly did not know with whom he was dealing, decided Senator THURMOND was too old to jump out of an airplane. So Senator THURMOND piloted a glider instead, landing, with the rest of his company, behind enemy lines.

Senator THURMOND is today a retired major general in the Army Reserves, the President pro tempore Emeritus of the Senate, a member of the South Carolina Hall of Fame, and a recipient of more honors and awards than any of us can name, including the prestigious Presidential Medal of Freedom.

Simply said, we will never see another like him.

I join my colleagues this morning in our heartfelt expression of gratitude to

Senator THURMOND for his decades of service. We wish him, his family, and staff our very best in his future, whatever life may hold beyond the 107th Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, today the Senate takes time to celebrate the life and career of one of its most outstanding Members who, though always a loyal son of South Carolina, has become, indeed, a nation's treasure. It is not enough to say Senator STROM THURMOND has lived his life well. It has been an extraordinary life.

Again and again today, we will hear points made about various accomplishments in his life. Senator DASCHLE has already noted many of them, but there is so much that can be said about this particular Senator that words are almost inadequate.

As I was thinking about him over the weekend, I thought about his life and what he has done and what he has seen and the little acts he does on a human personal basis.

First, when one thinks about it, his is a life that has included being an educator, a judge, a soldier, yes, a general, Governor, a Presidential candidate—in fact, when I was 7 years old, Senator THURMOND was already running for President and carried my State as well as four others, I believe—and a U.S. Senator where he has served so admirably as chairman of the Judiciary Committee, chairman of the Armed Services Committee, and President pro tempore.

I remember in my first couple of years in the Senate, Senator THURMOND was managing a bill on the floor. I believe it was a crime bill. I remember he got right out in the center aisle and gave a fantastic speech, with energy, all the enthusiasm one would expect from a much younger man, but then he was young in spirit, and he made us all feel good about what we could do as the years went by.

He has been a philanthropist. He has practiced what he has preached. The record is replete with scholarships and examples of generosity from this Senator, what he has done for others on a financial basis but, more importantly, at times, on a very personal basis, and I will talk about that in a moment.

Obviously, he has achieved the ultimate in life also as a proud father. Watching him with his sons and his daughters is a marvelous experience for all of us.

He truly has achieved the rank of statesman. Some serve their country as teachers, jurists, or as State or local officials, but Senator THURMOND has been all of those and so much more: A counselor to Presidents, a warrior in the cause of freedom, not to mention a humanitarian, a staunch patriot, and a faithful friend. I do not think we will ever see a life in history such as that of Senator STROM THURMOND; he has served his country in so many ways.

His public career spans the days of Franklin Roosevelt and the present President, George W. Bush. Senator THURMOND knew the veterans of the greatest war. He was there. He saw it in real time. He knows the soldiers of our current war on terrorism, and today, as a member of the Armed Services Committee, he works to make sure they have what they need to do the job because he understands the importance of their job in the defense of freedom.

When I was born 60 years ago, Senator THURMOND was already a judge and well on his way toward a governorship and his candidacy for President. Yet here we are today as colleagues in this great institution. I know I am not alone in feeling humbled by his presence.

In the days to come, the newspapers will emphasize his extraordinary political career, but the epic that is STROM THURMOND is far too grand to be summed up as an enduring politician and to leave it at that. No, we know better. After all, it is not many of us who have a room in this Capitol named for us while we are still here to use it.

Another Senator from South Carolina, John C. Calhoun, in his time was described this way:

> As a Senator, he was the model of courtesy. He listened attentively to each one who spoke, neither reading nor writing when in his seat.

At one time or another, I believe every Senator in this Chamber has been touched by Senator THURMOND's courtesy, and we will honor him if we continue to follow his example in that regard. Hardly a day goes by, when Senator THURMOND is on the floor, that he does not call me over and offer support and offer a piece of candy for my beautiful wife. He reassures me what a beautiful lady she is and what a credit she is to this Senator from Mississippi.

I wonder sometime, too, if we all appreciate and even our pages realize that a great man of history walks among us every day, but he does it in such a humble way and such a generous way. How many of us have taken the time to not only acknowledge these pages who are seeing history in the making and are working for us to make the institution look better, but taken the time to bring them to the dining room for a meal?

I always loved it when I was in the dining room and Senator THURMOND came with a whole string of pages right behind him treating them to lunch. It was like a hen with her biddies behind her, a beautiful sight—a little thing, but typical of Senator THURMOND.

There are the calls he has made when friends have had trouble in their family or illnesses or deaths. There are stories of Senator THURMOND calling people or even going to the house of one of his former staff members after she had had a baby. Knocking on the door, he came to congratulate her and to get a look at this newborn baby. Over and over, that is the kind of man he has been.

So while he has had these great achievements, he has kept that common touch. In fact, I think the greatest story about Senator THURMOND is not list of achievements but the fact he has never wavered in defending, protecting, and working for the principles he believes in and the importance of keeping that human touch, that personal touch.

Senator THURMOND is a different case in many ways. He is, of course, of a different generation and he exemplifies its strengths just as he has worked to leave behind its shortcomings. During his last Congress with us, it was sometimes difficult to remember that at the start of World War II, a mere youngster of 39, he actually resigned his office as a judge. He was with the 82nd Airborne Division and landed in the Normandy Invasion on D-day.

Half a century ago, GEN Douglas MacArthur addressed the Congress and delivered his famous line about old soldiers:

> They never die, they just fade away.

Well, Senator THURMOND decided to do neither. He resolved to keep working for his country, devoting all of his experience, all of his wisdom, all of his energy to that task. We have been blessed and enriched by his determination. He has been here every day, and I have not checked the record, but I think he has been here for every vote this year, which is typical of the sheer iron will that has been the example of his great life.

He has seen the defeat of nazism, the collapse of communism, and the bringing down of the Iron Curtain. He has been an important part of making all of that possible. He has worked with Presidents repeatedly to support their efforts to do what needed to be done for our country.

It has been 213 years since George Washington was inaugurated as President and the first Congress assembled to write laws for the new Nation. Senator THURMOND has seen more than 99 of those years. It reemphasizes the fact we are still a young country. This great Republic is still very young in the annals of history, and this one man has seen almost half of those years. He is an institution, a senior statesman, but he is much more than that. He is a patriot. He loves this country of ours in an old-fashioned way, a simple and deep way that seemed to have gone out of style a few decades ago but a way we have relearned during this past year.

Our centennial Senator's life is a part of the rich rolling tapestry that is America's history. This soldier who fought at Normandy, this cold war warrior who helped Presidents overcome communism, has lived to witness a new enemy of freedom strike at us and all that we hold dear. He saw the tragedy last September that still tears at our hearts, but he saw, too, the resurgence of what he cherished most: Pride in America, devotion, honor and sacrifice for America. I do not know of any other Senator who will earn this title, but it seems to be appropriate to refer to Senator THURMOND as our centennial Senator. He could have very easily been an inspiration perhaps for that great quote that is attributed to Teddy Roosevelt back in 1910 that sums up, I believe, the greatness of this Senator.

> It is not the critic who counts, not the man who points out how the strong man stumbles or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs and comes up short again and again, who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause; who at the best, knows, in the end, the triumph of high achievement and who, at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.

Senator THURMOND has been in the arena. He has been dusty and sweaty and, yes, probably even bloody, but he still stands, the rock from South Carolina, a great Senator, a great man, a great friend. The Senate will not quite be the same when we convene next year, but we will all be better because of the Senator from South Carolina.

Senator THURMOND, you are the best. You are an institution, but more than that you are a great friend. We love you and we wish you many more happy days in your next career.

Mr. THURMOND. Thank you very much.

Mr. LOTT. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, the distinguished minority leader has noted STROM's comment about the beauty of his wife Patricia. STROM has also done that to my wife Peatsy. I think the record ought to be made here that for STROM THURMOND, all women are beautiful.

Madam President, as the longest serving junior Senator in the history of the Senate, it is my distinct honor and privilege to pay tribute to the longest serving senior Senator and the longest serving Senator in the history of the Senate. The story is told about a Washington matron at one of these evening receptions, how she rushed up to a Spanish Ambassador and allowed:

> Mr. Ambassador, this bull fighting, the No. 1 sport in your country, I think it is revolting.

After a pause, the Ambassador turned to the matron and said:

> Madam, you are mistaken. Bull fighting is our No. 2 sport; revolting is our No. 1.

That has been the record of J. STROM THURMOND in the field of public service. He has definitely been a revolutionary with respect to public service. At age 29, he served as the youngest county superintendent of education in the history of our State; thereupon, being elected as the youngest State Senator from his home county; thereafter, as the youngest circuit judge presiding, being elevated there in the year 1938.

When Germany declared war, just a few days after December 7—Germany declared war first on us before we declared war on Germany—STROM THURMOND, as a presiding circuit judge, took off those robes and volunteered for service in World War II. He was exempt from service under our judiciary rules in the State of South Carolina, but he didn't hesitate. And as has been noted here, made the invasion on D-day, June 6, 1944, in Europe and served in five campaigns with valor and courage, coming back to retire as a major general in the U.S. Army.

In 1948, he organized the only really successful third party movement in this country as a States Rights Party, and as a candidate for President he carried South Carolina, Alabama, Mississippi, and Louisiana—he carried four States.

Thereafter, in 1954 he was the first—and I take it the only—Senator ever elected to the Senate as a write-in candidate. Then, in 1964, having been a Democrat, he changed parties. He saw the future of the State of South Carolina and the South in the Republican Party, and he has led the move ever since.

There is no question in my mind that he has had the most distinguished of service up here, serving as the chairman of the Judiciary Committee, chairman of the Armed Services Committee, chairman of the Veterans' Affairs Committee, and the President pro tempore of the Senate. But I think people back home know STROM best of all for his constituent service. Whether it is the job found for a constituent, or helping a family get a relative admitted to the hospital, or sending a letter to the deceased's family, or helping when the soldier is brought back home, or whatever it is, you can count on STROM. I can tell that to you right now. He has made his fame looking out for the people of his home State.

It has been noted that STROM was born when Teddy Roosevelt was President. Elihu Root, who was the Secretary of State for Teddy Roosevelt, once remarked that:

> Politics is the practical art of self government and someone must attend to it if we are going to have self government.

And he made the cogent observation:

> The principal ground for reproach against any American citizen is that he is not a politician. In representative America, every citizen counts.

Heaven knows, STROM THURMOND of South Carolina has counted at every particular turn, during illustrious service of some 70 years. I think he is the living example that the best politics is no politics. It is my privilege to pay tribute to him now. I am sure I am going to have the opportunity many times hereafter as we both move along. But it has been a distinct pleasure to serve as his junior Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I have listened attentively to every word that has been spoken today about this colleague of ours. Those words have been true. I well remember when I first came to the Senate, I remember STROM THURMOND's late wife used to sit in the gallery up here and listen to the debates. She was a beautiful woman. I remember very well the day she passed away. I remember coming to the Senate and seeking out STROM THURMOND, and here he was, sitting in the back row. I walked up to his desk, and he stood, and I said:

> STROM, I'm so sorry to hear about your great misfortune.

And he stood with that stoic way of his and thanked me and sat down.

I also remember when Erma and I lost our grandson Michael. It was 20 years ago. I remember the funeral service, and I remember who was there. I recall who came to share in the greatest sorrow of my life.

Some of my colleagues were there. Howard Baker was there, the majority leader. The then-Governor of my State of West Virginia, Jay Rockefeller, was there. Who else? Who else? No other Senator, with the exception of one—STROM THURMOND. He came.

I have seen him at funeral homes of others who were the relatives of Senators and some who were not relatives of Senators. I have seen STROM THURMOND there.

I shall never forget when STROM met with tragedy in his life not many years ago when he gave up the prized possession, a daughter. I went to South Carolina to be with STROM and to share his sorrow.

Then, just a few days ago, a message came into my office. STROM had called my wife. She had an operation—appendectomy. Who called to express concern for her and to wish her an early recovery? That man—STROM THURMOND.

'Tis the human touch in this world that
 counts,
The touch of your hand and mine.
Which means far more to the fainting heart
Than shelter and bread and wine.
For shelter is gone when the night is o'er
And bread lasts only a day,
But the touch of the hand and the sound of
 the voice
Sing on in the soul alway.

STROM THURMOND, in a few more weeks, will be the first sitting United States Senator to become a centenarian.

What an amazing record. What an amazing man. In his 100 years on this

Earth, he has been a teacher, a coach, an attorney, a judge, a Governor, a soldier, a college professor, an author, a lawmaker at both the State and Federal levels, a delegate at six Democratic National Conventions and six Republican National Conventions, and a U.S. Senator who has served 47 years in this Chamber and cast more than 15,000 votes.

That is more votes than soldiers that Flaminius lost at the Battle of Lake Trasimeno in the year 217 B.C.

Senator THURMOND was born into the Old South, His hometown of Edgefield was the home of the cane swinging Representative Preston Brooks, who gained a place in history for beating a northern Senator who had insulted his family and his state. Senator THURMOND's grandfather, George Washington Thurmond, was with General Lee at Appomattox when Lee surrendered to Grant. His father, Judge J. William Thurmond was a lieutenant of the legendary South Carolina Senator "Pitchfork" Ben Tillman, whom I used to read about before I came to the arena of politics. A product of the Old South, Senator THURMOND emerged to become an important leader in the New South.

Senator THURMOND's amazing life has spanned twentieth century America. When he was born, the Wright brothers had yet to make their historic, heavier-than-air manned flight. He has lived to see manmade vehicles reaching the outer limits of our universe. What a change in a single lifetime. Perhaps an even greater, more monumental change took place right here in the U.S. Senate. When STROM THURMOND was born, on December 5, 1902, U.S. Senators were not elected by the people of their states, but selected by their state legislatures. The Senate had no permanent office buildings; Senators had no professional staffs. Boy, what a change STROM THURMOND has lived to see here.

Even more amazing is how his life and career have mirrored so much of the history of twentieth century America.

In 1928, STROM THURMOND, a Democrat at the time, was elected to his first political office, superintendent of schools, Edgefield County, South Carolina—when Calvin Coolidge was president. Those were the days of mechanically-sliced bread.

In 1932, he was elected to the State Senate of South Carolina—that was the year Franklin Roosevelt was elected President of the United States.

How well I remember the days when the coal miners of West Virginia marched—over 100,000 strong. John L. Lewis, the leader of that great United Mine Workers Organization, had his picture in every miner's home. STROM THURMOND was there.

It was Roosevelt's Administration that marked the emergence of the Democratic Party as the majority party. I remind my colleagues that Senator THURMOND was a Democrat in those days.

In 1942, STROM THURMOND volunteered for service in World War II—the war that marked the emergence of the United States as a superpower. I might point out that Senator THURMOND could have stayed safely on the sidelines of that conflict. He was beyond draft age and, as a judge, he held a draft-exempted status. Yet he volunteered to put himself in harm's way and heroically served his country.

On June 6, 1944, paratrooper STROM THURMOND took part in the D-Day invasion that began the Allied liberation of Europe from Nazi tyranny and the defeat of worldwide fascism.

In 1946, like so many other World War II veterans, including Richard Nixon and John F. Kennedy, STROM THURMOND returned home to a career in public service. While Mr. Kennedy and Mr. Nixon were elected to Congress that year, Mr. THURMOND was elected governor of his beloved South Carolina.

In 1948, Governor STROM THURMOND ran for president as a States Rights Democrat, carrying 4 states and winning 39 electoral votes. This means that President Harry Truman's great upset victory over Thomas Dewey in the 1948 presidential election included the defeat of STROM THURMOND.

In 1954, STROM THURMOND was elected to the Senate as a write-in candidate. Imagine that. No other Senator was ever elected as a write-in candidate to this body. This made him the first and only person in U.S. history elected to the Senate in this manner. He is the only person ever elected to any major office in the United States in this manner.

In 1957, Senator STROM THURMOND set a record for the longest individual speech ever delivered in the Senate—24 hours and 18 minutes, from August 28 to August 29, 1957.

In 1964, Senator THURMOND switched from the Democratic Party to the Republican Party—our loss, your gain—a move that marked the beginning of the "southern strategy" that has reshaped the Republican Party.

In 1981, when Ronald Reagan became President, Senator THURMOND was chosen as Senate President pro tempore, placing him third in the line of succession to the Presidency. And in the early days in the history of this country, it would have been the Vice President and then STROM THURMOND, because he would then have been second in line of succession to the Presidency.

On March 8, 1996, Senator THURMOND, at the age of 93, 93 years and 94 days—oh, to be 93 years again—93 years and 94 days, became the oldest person ever to serve in the Senate.

On May 25, 1997, he became the longest serving Senator in the history of the Senate, surpassing the record of 41 years and 10 months held by Carl Hayden.

He is a man with whom I have never had a cross word in this Senate—never.

On December 31, 1997, Senator THURMOND's colleague, Senator ERNEST HOLLINGS, became the longest serving junior Member of the Senate, 31 years and 53 days, surpassing the "junior" record of Senator John Stennis.

In 1998, Senator THURMOND became the second Senator ever to cast 15,000 votes.

As I have said, what an amazing life. What an amazing life. What an amazing career. There is none other like it.

But I am pleased and I am proud to point out that throughout it all, Senator THURMOND has always remained a man of his word, a devoted father, and a Senator ready to defend his State, his country, and his values, as a distinguished leader, who is revered in his home State of South Carolina—a State that has built statues in his honor, a State that has named buildings in his honor, a State that has named roads and dams and lakes in his honor.

Foremost, Senator THURMOND has remained a southern gentleman of the first order: charming, polite, optimistic, friendly, courteous, and enduring.

May God bless you, Senator THURMOND. May God bless you always.

This is a man. Whence cometh another?

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I am sort of humbled to be following my great friend from West Virginia and the statement he has just made.

When I came to the Senate 34 years ago, this true southern gentleman was among the first to make me welcome. I came from a fairly new State. Senator THURMOND had already served for 14 years as a Senator when I joined the Senate. He was generous with his time, helping this young Westerner to become familiar with the traditions of the Senate, sharing his knowledge of procedures, and some of the pitfalls, and emphasizing the importance of maintaining a sense of dignity.

I soon learned that the gracious STROM THURMOND was extending to me friendship, which is part and parcel of this man. His courtly manners and his helpfulness were legendary even then.

Today, all these years after he gave me that first crushing handshake, he remains the dignified, gallant gentleman of whom I became a friend in 1968. He continues to demonstrate the spirit that has given him the courage to beat the odds, overcome obstacles, and deal with some of life's toughest challenges.

As he prepares to leave us, after almost a half century of serving the people of South Carolina and our Nation, I just want to take a few moments to look back on the personal relationship I have had with Senator THURMOND.

While we share a bond of serving in the military during World War II, Senator THURMOND far surpassed any of my experiences. He landed, as people have already said, on D-day in Normandy. He served in both the European and Pacific theaters. And he earned an astounding 18 decorations, including the Legion of Merit and the Bronze Star for Valor.

When my first wife Ann died in a plane crash that I survived, STROM's helping hand was there, ready to assist always. The counsel and support he offered were born from the experience of his own tragedy 8 years earlier, when he lost his wife Jean. While he understood the importance of dealing with my grief, he lobbied me to find a new partner in life, as he had done.

When Catherine and I were married, STROM made sure she had a great welcome as the Senate's newest spouse. And when our Lily—now a senior at Stanford, who visited the Senate from time to time when she was a toddler—returns to these halls, she always makes sure to see Uncle STROM. As a matter of fact, there is not a day goes by that STROM does not ask me: How is Lily? And last night, Madam President, Lily, now a senior at Stanford, sent me an e-mail. I would like to read from it. I quote:

> When I think about some of my earliest memories, I always come back to images in my head of entering the big white Capitol to see you and your friends. Because, of course, I didn't know anything about the important roles of the people I knew or the grandness of the Capitol. What I really remember is going to see friends like "Uncle Strom" and running in circles around the patterns of the tiles by the entrance to the floor. I can't think of how many times I saw Strom's familiar face and ran to give him a big hug, hearing his voice calling, "Lily, look how big you've grown," or, "Miss Lily, you're such a pretty girl!" Seeing Uncle Strom was always a highlight of my trips to the Capitol, and once I got to know Julie, being with her also made some long nights of political gatherings much more fun! Julie, like her father, is such a generous, caring, and warm person, and I feel lucky to have gotten to know her, Nancy, and Uncle Strom.

Madam President, Lily had a great many birthday parties here in the Senate. At that time, I was the whip, the assistant leader, and Uncle STROM was always at the top of her guest list, which she prepared herself.

I think we can all testify to STROM's sweet tooth. He never saw a birthday cake or a scoop of ice cream he did not like.

I will leave it to others, who will also pay tribute to STROM today, to tell of his many accomplishments. They will note he has many titles in his 100 years: From teacher to coach to superintendent of education; from second lieutenant to general; from attorney at law to judge; and from Governor to Senator. Those titles were all earned through dedication and hard work, and they are hallmarks of his distinguished career. I respect those titles. But there is one that is more important to me than all the others, and that is the title I used first: Friend. We are all the richer for having STROM THURMOND in our midst. To be able to count him as a friend is the greatest privilege of all.

So I am here today, Senator THURMOND, to say thank you for your dedication, your patriotism, your generosity of spirit, but, most of all, on a very personal basis, for your friendship.

Thank you, STROM.

Thank you, Madam President.

Mr. BOND. Madam President, there are some times even in the Senate when enough words cannot be said. Senator THURMOND has probably made more history than many of us will ever see. He has experienced more history than most of us will ever know. Every member of the Senate would be proud to tell our grandchildren that "I served with STROM THURMOND." Because the senior Senator from South Carolina has been such a force in politics for over 50 years, I would like to tell my grandparents that I served with STROM THURMOND.

He always did his duty and he spent the better part of a century shaping the greatest nation on earth.

There isn't a history teacher alive who wouldn't like to bring their class to Senator THURMOND's office to see a portrait of history laid out on his walls. One would think that to live and perform at the ripe young age of 99, one would be wise to pace oneself. Instead, Senator THURMOND has put in a professional marathon, but at the pace of a 100-yard dash. He is the Lance Armstrong and Cal Ripken of pubic service with over 15,000 votes. Alternatively, I would rather say that Cal Ripken is the iron man STROM THURMOND of Major League Baseball.

In his book, "Great Political Wit," our former colleague Bob Dole described Senator THURMOND's 90th birthday. At that festive event, Senator THURMOND noted that, "all evening, people had been coming up to him to express the hope that they would be present for his 100th birthday. To which Senator THURMOND replied, "if you eat right and exercise regularly, I don't see any reason why you shouldn't be around to see it."

In terms of ethics and duty, he remains old fashioned. He believes that the real "woman's place" is sitting next to him testing his charm, and his grip.

If there is a more extraordinary resume in a Congress full of honor and achievement, I cannot imagine. In his career, he has responded to the titles of: teacher, coach, Lieutenant, Counselor, superintendent Judge, General, Governor, Senator and President Pro Tempe.

When Ted Williams set down his bat to go defend his country during World War II, Judge THURMOND set down his gavel, at age 40, to join the 82nd Airborne that landed on Normandy Beach. Before he returned to the bench he had battled his way across France, Belgium, Holland, Luxembourg, Czechoslovakia, and Germany and finished in the Philippines.

Few in the history of this country have dedicated so much energy on behalf of the country they loved. And through it all, it seemed that the senior Senator had energy in reserve.

I had my staff dig up the Senator's first floor statement which occurred on January 28, 1955. He spoke directly after Senators Long and Humphrey. He was speaking eloquently but directly and succinctly on the need to meet the threat of communism head on. This was in relation to an authorization of force to protect Formosa, requested by President Eisenhower. Let me read his final paragraph: "Our earnest prayer is for peace. If war should come, it would not be the result of any aggressive act on the part of the United States. But war might come as a result of any display of weakness, of disunity, or of hesitation. I shall cast my vote on the side of firmness, for unity and for decision."

As near as I can tell, his approach to and commitment to the security of free people has not deviated since that first floor statement.

We are all grateful for the distinguished tenure of Senator THURMOND; grateful to the people of his State for sending him here, and grateful to his family for sharing him. His retirement is well-deserved and I hope he now has more surplus time to build up his push-ups and pull ups so he can return to fighting shape again.

Additionally, after 36 years in the Senate, some of us are getting tired of calling Chairman HOLLINGS "junior."

It is my high honor and privilege humbly to thank our still young-of-heart STROM and wish him a busy retirement.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, after hearing the remarks of the Senator from Alaska, I have to say I am very sorry that my children, Bailey and Houston, will not have the chance to have birthday parties with STROM THURMOND since he will be leaving this year. I know it was a rich part of Lily Stevens' heritage and probably why she is a student at Stanford today. She had such an upbringing and she learned a lot throughout her early life.

It is a privilege to be able to add to the accolades to Senator STROM THURMOND. So much has been said already today, but it is fitting that the first retiring Senator in this cycle who does get floor tributes be Senator STROM THURMOND. There is no one like him. There never has been, and there never will be.

On December 5, STROM THURMOND will celebrate his 100th birthday. To give you some perspective, STROM THURMOND was born the same year as Thomas Dewey, Charles Lindbergh, and the nation of Cuba, which gained its independence from Spain. STROM was 14 when Lenin overthrew Czar Nicholas in Russia. STROM was 15 when a young, left-handed pitcher named Babe Ruth led the Red Sox to their last World Series victory. STROM was 17 when women earned the right to vote, and now he has served with 24 of the 31 women to ever hold a seat in the Senate.

On November 3, 1954, STROM became the only Senator ever to be elected as a write-in candidate. He is the oldest sitting and the longest serving Senator in U.S. history. I doubt his record will be broken in the near future—maybe never.

During my own tenure in the Senate, a mere 9 years by comparison, I have been touched by STROM THURMOND's presence. South Carolina and Texas hold a rich heritage together. STROM often reminds me that William Barret Travis, a Texas hero who commanded the forces at the Alamo, hailed from STROM's home county in South Carolina.

Another South Carolinian who made his way to the wild west of Texas was Thomas Jefferson Rusk. Thomas Rusk was the first Senator from Texas to hold my seat. He was one of the heroes of the battle of San Jacinto which liberated the Republic of Texas. Senator Rusk's family was living in a rented home in South Carolina when he was born. The home, which belonged to John C. Calhoun, would later become the site of STROM's alma mater, Clemson University.

An even more important connection is our States' contributions to the Nation's Armed Forces. I have been proud to stand side by side with STROM in supporting our men and women in uniform and ensuring that they have every available resource to do the job we ask them to do.

In his almost 50 years in the Senate, STROM THURMOND has accomplished a great deal. But his greatest legacy is his enduring support for those who serve in uniform. I was privileged to work with STROM when he was chairman of the Armed Services Committee. He focused on a host of important issues, such as military health care and quality of life for service members and their families. In 1998, we named the Defense authorization bill the STROM THURMOND Defense authorization bill in recognition of his lifelong commitment to the defense of our Nation.

When the Japanese bombed Pearl Harbor, STROM was a 40-year-old circuit judge who would have been forgiven most certainly if he had decided to spend the duration of the war guarding the homefront. Not STROM. Even though he was exempt from the draft, he volunteered for combat and went on to become a highly decorated officer.

At the age of 42, LTC STROM THURMOND became the oldest man to help take the beach of Normandy on D-day. His unpowered glider was shot down behind enemy lines, and he survived by taking shelter in an apple orchard.

Given the casualties on that dreadful day on Normandy's beach, STROM THURMOND probably considered a long and fruitful life to be measured in days, not decades. Soldiers who survived the horrific days at Normandy or Guadalcanal or Iwo Jima often say that every day thereafter is a free day.

Fifty years later, in defiance of every insurance actuary who ever built a calculator, or more aptly a slide rule, STROM THURMOND skipped the 50th anniversary celebration of that brief but memorable flight. I remember because I was here at the 50th anniversary of Normandy. There was a huge celebration of the Members of Congress who had participated in that particular part of our war effort. But, there was one Senator missing from that 50th anniversary at Normandy. It was STROM THURMOND. STROM THURMOND, who was 92 at the time, missed the 50th anniversary because that was the weekend of his son's graduation from high school. Think about it.

STROM has always known what matters. He has always focused on what is important. He continues to do that today.

He continued to serve after the war in the Reserves, rising to the rank of major general. His whole life has been a tradition of service. From World War II to the Governor's mansion and ultimately to the halls of the Senate, he has always made public service his top priority.

In the final scene of the movie "Saving Private Ryan," the movie's namesake returns 50 years after that battle to the grave at Normandy of the captain who gave his life to save Private Ryan. In one of the movie's most touching scenes, Ryan tells the long-dead captain that he has tried to honor his sacrifice by living a good life. That scene captures the essence of what we as a nation owe to those who have fought for our country and our freedom: to honor their sacrifice by trying to lead a good life and by doing everything we can to keep our country free and at peace.

STROM has truly honored his comrades who fell that dreadful day and all those who have worn the uniform since. He has been good, as he has also been great. He has led the Senate to keep our military strong through the generations.

For those of us who have served with STROM in the Senate, he has been the senior Senator from South Carolina during our entire careers, including of course, FRITZ HOLLINGS. FRITZ must be the oldest, longest serving junior Senator in the history of the Senate. That will surely change.

And that change is going to take some getting used to. Having STROM THURMOND gone, will make this a different place for all of us, particularly the Senate pages. STROM THURMOND has always been particularly attentive and sweet to the Senate pages, probably throughout his career. I have seen it time and time again where he has taken the pages for lunch or for ice cream to talk to them so that they can ask him questions. I truly believe if you ever took a poll of the Senate pages, their favorite Senator would always be STROM THURMOND.

He is a legend. He is an institution. More important, STROM THURMOND is the heart and soul of the Senate. We honor him today.

Mr. ALLARD. Mr. President, I rise today to honor my good friend and colleague, STROM THURMOND. I am proud to be his colleague and friend. What a great American. After my election to the Senate, he was there to greet me.

When we think about institutions, we think about established organizations that are dedicated to public-service and advancement of science or culture. Institutions are created not by single people, but rather by the collective group that share ideals and values which are inherent to their cause. But while institutions are defined by the ideas that created them in the first place, it is individuals that truly identify the institution.

Just as John Glenn personifies the achievements of NASA, just as Martin Luther King Jr. embodies the Civil Rights movement, just as Albert Einstein represents the science of physics, the U.S. Senate is symbolized by Senator STROM THURMOND. Today we honor the gentleman who has spent nearly half his life in the Senate, a man who people cannot help but mention whenever the Senate is brought up in conversation.

While his accomplishments in this body merit enough attention, what took place before his foray into national politics is just as noteworthy. From graduation at Clemson University, to becoming a State Senator in South Carolina followed by confirmation as Circuit Judge, Senator THURMOND dedicated his life to public service. After signing an age waiver so that he could parachute onto the beaches of Normandy, STROM continued service in the U.S. Army as a reservist to eventually gain the rank of Major General after 36 years in the military. Somehow he even found time to run for governor of South Carolina and serve for 6 years.

We have ceremonies for men who were veterans in World War II and were involved in the D-Day invasion in France. We have ceremonies for former Governors who are elected and serve their states with distinction. We even hold ceremonies for those fortunate enough to serve in the armed services for 36 years. And today we hold a day of celebration for a man who accomplished not one but all of these feats, and then was elected as a write-in candidate on his way to serving in the U.S. Congress longer than any other human being. Yet many of his past accomplishments are overlooked because of his remarkable service in his nearly 50 years in the Senate. It is a testimony to his nature and the impact he has had on American politics that we sometimes fail to mention the first part of his life.

As we honor STROM THURMOND today, I would like to thank him personally for not only his dedication to serving the people of South Carolina, but also for his leadership in the Senate and for being a friend. It has been a privilege to serve on the Armed Services Committee with Mr. THURMOND, and we all know about his hard work and commitment to our military that he has displayed over the years. Thank you also, Senator THURMOND, for your dedication to this institution that we serve in today, an institution that will bare your mark for years. But more importantly, thank you for your service to the United States; you certainly are a centenarian for the ages.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition to join in paying tribute to Senator STROM THURMOND. Senator THURMOND will celebrate his 100th birthday on December 5 and has the most remarkable record of longevity in the Senate of any Senator in history.

I was disappointed when STROM decided not to run for reelection last year, but I can understand his views on the subject. He has been really a paragon of agility and sturdiness, taking steps two at a time, coming up to the Senate Chamber—until very recently. STROM continues to have a very firm handshake and he continues to have an agile mind and he continues to make all the votes. So that is one of the reasons why I questioned his decision not to run for reelection. I had watched Senator THURMOND over the years, and when I was elected to the Senate in 1980, I looked forward to meeting him. But I did not have to await my arrival in the Senate to have my first contact with Senator THURMOND because one day late in November, I was sitting in my den and the phone rang. There was a deep southern voice: I would like to speak to Senator SPECTER.

I said: This is he.

He said: This is Senator THURMOND.

I said: What a great pleasure to hear from you, Senator THURMOND.

He said: I called to ask if you would be willing to support me for President pro tempore.

I said: Senator, I thought the position of President pro tempore was automatically the senior member of the party in power, and I know that is you, sir.

He said: That is true, but I do not like to take anything for granted.

I said: Senator THURMOND, you may be assured I will support you for President pro tempore. And I did.

I would like another chance to do that. Maybe we will have a chance to support him for President pro tempore after the November elections.

When I joined the Senate, I selected the Judiciary Committee, which is right in line with my own training and interests. Senator THURMOND, of course, was the chairman of the Judiciary Committee. Regrettably, when there were efforts to form a quorum, members were usually very late. I made it a point to arrive on time. When I did that the third time in a row—the chairman has to arrive on time—when I did that the third time in a row, Senator THURMOND asked what I was doing there on time. Then he thanked me, congratulated me, and said I might even start a precedent.

In 1982, when there were two Pennsylvanians up for confirmation, Judge Mansman and Judge Caldwell, I was there to present them to the committee. Senator THURMOND was presiding as chairman. He asked them a question. He said to them: If confirmed, do you promise to be courteous? I thought to myself: Why would he ask the question, If you are confirmed, do you promise to be courteous? Not surprisingly, both nominees said yes.

Then Senator THURMOND said: Because the more power a person has, the more courteous a person should be. I have not heard a more profound statement in my 22 years in the Senate. Not that there is a whole lot of competition for profound statements around here.

When Senator THURMOND does not appear at Judiciary Committee hearings, I ask the question. I have had many nominees comment to me after a number of years how they thought that was a very significant question. If any judge is listening now, that is the hallmark of a judge. Judges have a lot of reasons to be out of sort with lawyers who are not prepared, or witnesses who are unresponsive, but there is enormous power in that black robe with a lifetime appointment, and Senator THURMOND had his finger right on it.

There are a lot of vignettes I could tell, but Senator ALLEN has come to the floor, so I will limit myself to a couple more.

When Senator Howard Baker was the majority leader, we used to have all-night sessions, a very stark contrast from now when we hardly have day sessions. One evening we had a finance bill before us. It was 1982. It was 11:45 p.m. The floor was crowded with Senators. Nobody had any appointments left at 11:45 p.m. Senator Baker stood behind that podium and said: Amendments, like mushrooms, grow overnight, so we are going to stay and finish the bill. I have consulted with the chairman—Senator Dole of the Finance Committee—and we worked through the night. There were maybe three, four rollcall votes, a lot of amendments taken, a lot of amendments dropped. We walked out at 6:30 in the morning into the sunshine with a complete complex finance bill.

If we did that tonight, we would finish homeland security by morning. In any event, that is one of the occasions I went down to the restaurant, which was kept open. I made it a point to find Senator THURMOND's table and have a bowl of soup and to hear great stories about Senator THURMOND's career in Washington, DC. He talked about Lyndon Johnson as a Senator, and that young fellow, John Kennedy, who came to the Senate, about the heroes and the legends of the Senate, because he has seen them all.

One story he told, which I thought was especially interesting, was about the inaugural parade on January 20, 1949. Senator THURMOND had run for President and had carried four States and almost threw the election into the House of Representatives. In the parade, after President Truman was elected and Vice President Alben Barkley was elected, STROM came down with his wife riding in an open-top car, probably dressed in a cutaway. I am not sure about that. Maybe I will ask STROM to yield for a question here. When he passed the reviewing stand, he stood up and tipped his hat. Vice President Alben Barkley started to raise his hand and, as STROM told the story, Truman grabbed his hand and pulled it down and said: Don't you wave to that SOB. I might be more explicit but somebody might want to have it stricken from the RECORD as being an inappropriate statement.

One more short story. In a Judiciary Committee hearing on one occasion, STROM did not want to see a quorum reached because he did not want legislation to be passed out of the committee. So he stood right outside the Judiciary Committee door over in 226. He wanted to be right there poised to go into the room in the event there was a quorum so he could obstruct whatever it was he did not want to happen.

Ralph Yarborough, a Senator from Texas, came up and grabbed hold of STROM and tried to pull him into the hearing room. STROM—I do not know exactly what the wrestling maneuver was, but Yarborough ended up on the floor in a STROM THURMOND scissor.

STROM did finally agree to release Senator Yarborough with Yarborough's promise he would not go into the hearing room.

As the story goes, Yarborough went into the hearing room. STROM should never have released him. He probably would still be there if STROM had not been so generous.

Senator THURMOND has been an example in many ways as his political philosophy has advanced. He is a great advocate for African Americans, constituents—the wall of his office ought to be memorialized and left intact. He has so many plaques and commemorative memorabilia.

It has enabled me to tell a story on the stump which has been somewhat useful both from a political and humorous point of view, and that is, when running for reelection, I say: If I am reelected in 2004 when I am next up and decide to run again 6 years later in 2010, and decide to try again 6 years after that in 2016, and run again in 2022, and then run again in 2028, at that point, I will be younger than Senator STROM THURMOND is today.

People are always amazed at the thought of running in 2028. So they think it is not too bad to run in the year 2004 for a fifth term. They are always very much impressed by Senator STROM THURMOND.

So, STROM, I join my colleagues in saluting you for a fabulous career and wish you 100 more years of continued good health.

I yield the floor.

Mr. BINGAMAN. Mr. President, three score and 10 years ago our colleague, STROM THURMOND, first won elective office when he was chosen to serve in the South Carolina House of Representatives. He has been figure of influence in—and on behalf of—his home State ever since.

The longest-serving Senator in the history of this body, he will be retiring at the end of this Congress, and today we have the opportunity to recount our own experiences with this American legend.

Senator THURMOND had been in the Senate 26 years when I arrived in 1983, a brand-new member of the Armed Services Committee. He never treated me as the neophyte, just-learning-the-ropes newcomer that I was. From the start, I was his colleague, and he was mine. His long history of work on national defense is based on his love of this country, and his own experiences on the battlefield. Somebody thought he was too old to be a paratrooper for the Normandy Landing. It is part of his extraordinary resume that he got an age exemption, and parachuted in on D-Day.

There is no one quite like him. I have appreciated his friendship from my first day here, and, with my colleagues, will feel a great pang of loss when the new Congress opens in January and he will not take his seat as a Senator from South Carolina.

I think all of us recall those lines from "Hamlet" when we think about our friend and his remarkable life. "He was a man, take him for all in all/I ensure shall not look upon his like again."

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I ask unanimous consent that I be allowed to speak for as much time as I may consume. I estimate I will need 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I join my colleagues in saluting the senior Senator from South Carolina, Mr. THURMOND, as he prepares to celebrate his 100th birthday. JAMES STROM THURMOND is not just a man who is loved by the people of South Carolina, who elected him to a remarkable eight terms to the Senate, but he is a man who is respected and admired by this body and institution in which he serves.

Others who have spoken, who are much more senior to me, have recounted his distinguished careers, stories, the elections, the changes in our country over the years, and also the positive changes in Senator THURMOND as he has moved forward with America and the times, in making sure that all Americans have opportunities in education, to compete and succeed in life.

I find it interesting that he was the first person in 1954 to ever be elected to a national office by a write-in vote. The people of South Carolina elected STROM THURMOND to the Senate by a write-in vote. At that time, I was not paying too much attention to politics since I was only 2 years old when he won that election.

There are a lot of stories to tell and a lot of impressions have been made in the short time I have been in the Senate. I knew I had come to a very special place when the first meeting of the Republican Senate caucus was singing happy birthday for Senator THURMOND's 98th birthday, and I was thinking of all the stories of STROM THURMOND, this living legend. That day we also had a very rancorous debate on different positions, the policy chairman, the Senate Republican chair. There were people giving nominating speeches and seconding speeches, and it was tough to choose among friends, but we finally decided who the policy chair was and the Republican Senate chair. There were all of these contests and seconding speeches.

At the end, Leader LOTT said: We have to also elect the Senate President pro tempore and, of course, that is going to be STROM THURMOND. There were no nominating speeches and no seconding speeches. Everyone rose and said "aye."

STROM then stood up, and this was the extent of STROM's speech: Thank you all. You are darn smart people. And that is how STROM was easily elected.

There are so many memories of STROM THURMOND in the Allen family. I remember my mother always talking about dancing with STROM THURMOND. Whenever we bring up the Senate, she says: I danced with STROM THURMOND. She says it every time I bring up the Senate, and this was back in the 1970s. I know there are a lot of ladies' hearts that have fluttered over the years with the wonderful privilege of dancing with STROM THURMOND.

My wife's family, the Brown family, is from South Carolina. Of course, he is revered as a hero in South Carolina, as he is all across the country but especially in South Carolina. Any time any of that family in South Carolina had a wedding, a birthday or a birth, STROM THURMOND was there congratulating them on that wonderful event.

I also have the privilege of being assigned to an office in the Russell building that is in the same hallway as STROM THURMOND. I see STROM as he makes it to every vote. I see him on the elevator as we go to the trolley to get to the Chamber. He is always smiling. He is always cheerful. He is always in a good mood.

This year we all were blessed with those good South Carolina peaches to make sure we are all getting a good healthy diet. I was commenting about the great peaches and I said, most of my staff took those peaches, and STROM said: Well, get that boy another bag of those South Carolina peaches. So our family was able to enjoy those wonderful peaches.

Last year, we had the national D-day memorial in Bedford County, VA, which had the highest per capita loss of life in the D-day invasion. It was a wonderful event. The President was there. The Ambassador from France was there. It was a wonderful ceremony. STROM THURMOND was there. STROM THURMOND was one of those brave soldiers who obviously stormed those beaches and fortunately survived the Normandy invasion on D-day. I will say the President received a slightly bigger cheer, but every single person who was there, those thousands and thousands of people loved seeing STROM THURMOND, a true American hero, in Bedford for that celebration and dedication of the national D-day memorial.

The point is, STROM THURMOND is an inspiration to many of us for many different reasons. While we all aspire to achieve such longevity, we admire STROM THURMOND for a life lived fully and in the advancement of public service. As Senator THURMOND reaches his centenarian status later this year, on behalf of all the good people of Virginia, I offer my best wishes to him, his family, and his constituents.

There will never be another STROM THURMOND. Nevertheless, I hope and pray God will continue to bless America with people who have STROM THURMOND's cheerfulness and devotion, and I surely hope we are blessed with people of his character.

It is great to be a Senator from Virginia, but it is truly an honor to serve with Senator THURMOND. I shall always and forever cherish the memories of your smiling, twinkling eyes which reveal your happy heart. You have been a great soldier, a great Senator, and a great leader. I thank God for blessing us with people of your character.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Is consent required to make my remarks?

The PRESIDING OFFICER. It is.

Mr. MCCONNELL. I ask unanimous consent that I be allowed to proceed for 7 minutes in my tribute to our retiring Senator, Mr. THURMOND.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, what is perhaps more amazing than STROM THURMOND's record length of service in the Senate is how he made it here in the first place.

STROM THURMOND was the first and only American ever elected to the Senate as a write-in candidate. The dizzying prospect of waging a write-in campaign strikes fear into any aspiring or incumbent politician. After all, getting voters to the polls is one thing. Getting voters to go the extra mile and write in a name not listed on the ballot is a wholly different beast.

So once one knows that in 1954, STROM was able to inspire a majority of South Carolina voters to write him into the Senate, and into the history books, it makes perfect sense why he also ended up as our Nation's longest serving Senator.

Today, of course, it is STROM's record-setting tenure that has captivated American political and popular culture. Turn the page of any magazine or the dial of any radio and, eventually, you will find Americans holding up STROM as the benchmark to near-immortality.

For years, Senator THURMOND has attributed his age-defying achievements to "diet, exercise, and an optimistic attitude." Well, I dug a little deeper reading old clips on the advice he has given to friends and colleagues so I could try and piece together a more specific and exhaustive answer.

After sleuthing around a bit, here is the "simple" formula I can pass along: Begin your mornings with 20 minutes of calisthenics, 50 pushups, 10 minutes of weightlifting, and 20 minutes on a exercise bike. Oh, and swim a half mile twice a week; eat half of a banana, four prunes, a handful of grapes, blueberries, peaches, egg whites, a glass of Orange Juice, and a glass of prune juice; inherit good genes; abstain from fried or fatty foods. But eat lots of chicken, fish, and all kinds of seafood; abstain from caffeine; abstain from sugars; abstain from smoking.

But beneath all the rubble surrounding "STROM's Secrets," one ingredient stands out above all others. In an editorial celebrating the Senator's 99th birthday, the Rock Hill Herald revealed STROM's secret to longevity as "his determination to serve South Carolina as long as he's able."

I believe that this sentiment more than the prune juice or the push-ups best explains STROM's record-setting service to South Carolina, from a small-town school superintendent among the peach groves of tiny Edgefield, SC, to almost a half a century in the Senate.

Mr. President, as I said, the year Senator THURMOND came to this body on a write-in—a most astonishing thing because no other Senator in American history has ever been elected to the Senate by a write-in—I was playing Little League baseball in Augusta, GA, across the Savannah River from Senator THURMOND's hometown of Aiken. I confess I was not following politics all that carefully at age 12, but I do remember my parents talking about Senator THURMOND's astonishing accomplishment right across the river in South Carolina, having been elected to the Senate on a write-in ballot.

As I grew older and began to pay attention to Government and politics in America, I began to realize STROM THURMOND was something quite special. When I came to the Senate in 1984, 40 years after my parents telling me about Senator THURMOND winning on a write-in, I knew instantly I was in the presence of a legend, as we all have been who have had the privilege of being a Member of this body at the same time as the senior Senator from South Carolina.

There will literally never be another American like Senator THURMOND. We all know he was too old for World War II, he did not have to go, but at age 42, as Senator ALLEN just made reference to, Senator THURMOND was there on D-day. In fact, he was in one of those gliders the night of D-day. Last year, we had an opportunity to see "Band of Brothers" on HBO about the 101st and its experience from D-day through the end of war. I watched every segment of that. In addition to what I was viewing on the television screen, I thought mostly about our colleague and his harrowing experience of going in the night of D-day on a glider. He did crack up, and as we all know, he was able to walk away and survive the crackup and survive the war and become an American hero.

Not many of us are ever going to be legends, and almost none of us are going to be legends in our own time. The Senator from South Carolina has lived long enough to observe his own legendary status, which is a truly remarkable thing. We will never, ever, see another STROM THURMOND. He is unique in the annals of American history.

I want to say to you, Senator THURMOND, as a son of the South myself, somebody who was born in Alabama and then migrated north to Kentucky—most people think of Kentucky as south, but for us it was north—and having lived in Georgia when you were first elected on a write-in, I want to say to you that you have been an inspiration to me and an inspiration to many of us in the deep South who have been so proud of you and your enormous accomplishments over the years.

I extend my congratulations to Senator THURMOND on his pending birthday, reaching 100 years of age. In fact, I had the Today show on this morning and Willard mentioned you, Senator THURMOND. He is working up to celebrating your 100th birthday in December and, of course, finishing up your term. You have had a truly remarkable career that will never be equaled in this body. My congratulations to you and our best wishes for the future.

So, Senator, today I raise my voice—joining the chorus of so many other voices—to pay my fondest farewell to your tireless and timeless dedication to serving the families of the great Palmetto State.

I yield the floor.

TRIBUTE TO SENATOR STROM THURMOND

Mr. DODD. Mr. President, I apologize. I was not able to be here this morning when the Senators expressed their words and thoughts about our wonderful colleague, STROM THURMOND, who is retiring from the Senate this year. I wanted to join in the particular tribute in saying to him and the people of South Carolina and the rest of our colleagues something we all feel, regardless of the disagreements we may have had on substantive policy matters, STROM THURMOND is truly an American institution in many ways.

I cannot even begin to imagine the U.S. Senate without this remarkable individual in our presence. For nearly 50 years—almost a quarter of the life of this country—through 10 Presidential administrations, STROM THURMOND has been an institution in the Chamber of the Senate. Eight Senators serving today were not yet born when STROM THURMOND was first elected to the Senate in 1954.

It is not the fact that Senator THURMOND has served the Senate longer than any other Senator in our Nation's history that makes him unique. It has been, in my view, STROM THURMOND's fascinating journey through life that makes him unique. His story is truly a unique American story.

In the course of his nearly 100 years, STROM THURMOND has been a teacher, judge, combat hero, Governor, winner of the Presidential Medal of Freedom, and, of course, a Senator. In more than 20 years of our serving together, I have not always agreed with Senator THURMOND, as I know many of my colleagues have not over the years, but he has always been a true embodiment of the "way of the Senate,"—always thoughtful, always respectful, and always deliberative. In short, he has been a great Senate colleague.

My father, Senator Thomas Dodd, served with Senator THURMOND for 12 years. I have served with him for 20. That is 32 of his almost 50 years. They, too, had their differences, but they had tremendous respect for one another and were very good friends. My family will always think of STROM THURMOND not simply as a friend but as a loyal friend to the Dodd family.

I believe that no matter what your ideology or political persuasion, one cannot look upon the life of STROM THURMOND without concluding that it is in so many ways so remarkable.

What else can you say about a man who, at the age of 42, took a leave of absence as a Circuit Judge in South Carolina to volunteer to parachute behind enemy lines with the 82nd Airborne Division during the Normandy D-Day invasion, for which he was awarded 5 Battle Stars for Bravery in Combat?

What else can you say about a man who has dedicated his entire life to public service, to the service of his country?

While never neglecting to be a stalwart in support of the state and people of his beloved South Carolina, there are literally dozens upon dozens of schools, buildings, parks, and streets in South Carolina named after their senior Senator. Senator STROM THURMOND has never failed to put America first.

He has always treated public service to America as a sacred responsibility. In this respect, STROM THURMOND is a very, very rare breed.

Senator THURMOND was born at the dawn of the 20th century, born to a very different time; to a very different America.

Over the past century, America has grown as a Nation. Over the past century, America has become a more free, a more fair, and a more compassionate nation.

And, over the past century, Senator THURMOND has also grown.

Senator THURMOND once said, "People evolve. They reach a higher truth in life."

STROM THURMOND lived through the entire 20th century, a century which began with two world wars and ended with a triumph of democracy.

It was a century of enormous political and social upheaval, but it was also a century of enormous progress and enlightenment.

STROM THURMOND was not just witness to the entire 20th century, he was a full participant.

His journey mirrored America's journey.

And now, at the dawn of a new century, STROM THURMOND is still a participant in America's journey.

In closing I would just like to tell STROM THURMOND that his lifetime of service to his country, and his nearly 50 years in the United States Senate, is greatly appreciated, and will be sorely missed.

STROM, it is an honor and a privilege working with you, and I will miss you very, very much.

Mr. NICKLES. Madam President, several of our colleagues made some remarks concerning our esteemed friend and colleague, Senator STROM THURMOND. I wish to join them in that effort.

STROM THURMOND, by the end of this year, will complete 48 years in the Senate—eight terms in the Senate. I will be completing four terms, and it is mind-boggling to think someone would complete eight, 48 years in the Senate. He was elected to the Senate in 1954 and has served this body with great distinction and honor during that time.

Prior to that time, he was also Governor of South Carolina. Even before that, he was one of the heroes, in my opinion, who actually helped liberate Europe going into Normandy. He actually parachuted into Normandy behind enemy lines. He earned 18 decorations for his service, including the Purple Heart.

He is an outstanding hero, American, Governor, Senator, serving 48 years in the Senate. He has had a wealth of experience.

I remember my first contact with Senator THURMOND is when he called me to congratulate me upon my election in 1980 and urged me to serve on the Judiciary Committee, which I respectfully declined, but I found it was hard to turn down STROM THURMOND. He has been a very close confidante and friend.

My daughter had the privilege of working for him for a short period of time, and she considers that a highlight in her career as well.

He served both as chairman of the Armed Services Committee and also the Judiciary Committee. He served with distinction and honor. He has brought great pride to the Senate. He is the Senator's Senator, and I join my colleagues in saying that we have the greatest esteem and respect for Senator STROM THURMOND.

Mr. GRASSLEY. Mr. President, Senator STROM THURMOND achieved more before middle age than many of us achieve in a lifetime. Born in 1902, Senator THURMOND in 1933 was already a State senator in South Carolina. In 1938, he was a State court judge. From 1942 to 1946, he served in World War II, landing on the beach in Normandy on D-day with the 82nd Airborne Division and earning numerous decorations, medals and awards. In 1947, the year he turned 45, he was the Governor of South Carolina. In 1954, when he was elected to the Senate, he already had a full history of serving the public, especially the people of his beloved home State of South Carolina. In the Senate, Senator THURMOND has demonstrated a keen political instinct and achieved a legendary reputation for constituent service. The people of South Carolina know Senator THURMOND will treat them royally—a standard I try to emulate for my own constituents. Senator THURMOND's imprint on the Senate is with this institution forever.

Senator THURMOND is responsible for one of the highlights of my Senate service. In 1980, soon after I was first elected to the Senate, Senator THURMOND was becoming chairman of the Judiciary Committee. He asked me to join the committee. I explained I wasn't a lawyer, but he explained I didn't need to be. Senator THURMOND promised to get me good staff to help me with the technical points of Judiciary Committee work. He delivered on that promise, and I thoroughly enjoy serving on the Judiciary Committee. I hope to continue serving on that committee as long as I'm a member of the Senate, although of course I won't serve as long as Senator THURMOND. I appreciate Senator THURMOND's support of me as a freshman Senator, and an unknown quantity, by giving me the opportunity to join his committee. I hope I haven't disappointed him.

As a farm State Senator, I seek like-minded Senators to support the survival of family farmers. Senator THURMOND has always supported any efforts to advance this cause. He comes from a largely agricultural State, and he understands how family farmers not only feed the world, but also make up part of the fabric of American life. I'm grateful to have served with Senator THURMOND over the years, and to continue serving with him.

Mr. HATCH. Mr. President, I rise to speak in honor of my good friend—and legend—the distinguished Senator from South Carolina, STROM THURMOND.

From the moment STROM THURMOND set foot in this Chamber in 1954, he has been setting records. He was the only person ever elected to the Senate on a write-in-vote. He set the record for the longest speech on the Senate floor, clocked at an astounding 24 hours and 18 minutes. He is the longest serving Senator in the history of the Senate. As he approaches his 100th birthday, he is also the oldest serving Senator. Many of my colleagues will recall the momentous occasion in September of 1998 when he cast his 15,000th vote in the Senate. With these and so many other accomplishments over the years, he has appropriately been referred to as "an institution within an institution."

In 1902, the year STROM THURMOND was born, life expectancy was 51 years—and today it is 77 years. STROM continues to prove that, by any measure, he is anything but average.

He has seen so much in his life. To provide some context, let me point out that, since his birth, Oklahoma, New Mexico, Arizona, Alaska and Hawaii gained statehood, and 11 amendments were added to the Constitution. The technological advancements he has witnessed, from the automobile to the airplane to the Internet, literally span a century of progress. Conveniences we have come to take for granted today were not always part of STROM THURMOND's world. Perhaps this explains why, during Judiciary Committee hearings, he has been heard asking witnesses who were too far away from the microphone to "please speak into the machine."

The story of his remarkable political career truly could fill several volumes. It began with a win in 1928 for the Edgefield County Superintendent of Schools. Eighteen years later, he was Governor of South Carolina. STROM was even a Presidential candidate in 1948, running on the "Dixiecrat" ticket against Democrat Harry Truman.

I must admit, Mr. President, that he has come a long way in his political career, given that he originally came to the Senate as a Democrat. I am happy to say that wisdom came within a few short years when STROM saw the light and joined the Republican Party.

When I first arrived in the Senate in January of 1977, he was my mentor. As my senior on the Judiciary Committee, it was STROM THURMOND who helped me find my way and learn how the committee functioned. He has not only been a respected colleague, but a personal friend, ever since.

During his tenure as chairman of the Judiciary Committee, STROM THURMOND left an indelible mark on the committee and the laws that came through it. He became known and respected for many fine qualities and positions—his devotion to the Constitution, his toughness on crime, his sense of fairness.

He is also famous for his incredible grip. Many of us in this Chamber have experienced STROM THURMOND holding our arm tightly as he explains a viewpoint and asks for our support. I might add that this can be a very effective approach.

STROM is also known to have a kind word or greeting for everyone who comes his way, and for being extremely good to his staff. Despite his power and influence, he has never forgotten the importance of small acts of kindness. For example, whenever he eats in the Senate Dining Room, he grabs two fistfuls of candy. When he returns to the floor of the Senate, he hands the candy out to the Senate Pages. Unfortunately, it is usually melted into a kaleidoscope of sugar by then! I have a feeling that the Pages prefer it when STROM takes them out for ice cream.

STROM THURMOND is truly a legend—someone to whom the people of South Carolina owe an enormous debt of gratitude for all his years of service. Clearly, the people of South Carolina recognize the sacrifices he has made and are grateful for all he has done for them. In fact, you cannot mention the name STROM THURMOND in South Carolina without the audience bursting into spontaneous applause. He truly is an American political icon.

Abraham Lincoln once said that "The better part of one's life consists of friendships." With a friend like STROM THURMOND, this sentiment couldn't be more true. I am a great admirer of STROM THURMOND, and I am proud to call him my friend.

Mr. President, one final note about STROM THURMOND: He is a great patriot. I am grateful for his work with me over the years in support of a constitutional flag amendment. A decorated veteran of World War II who fought at Normandy on D-day, STROM THURMOND loves this country. Let me close by saying that this country loves him, too.

Mr. DOMENICI. Mr. President, I rise today to congratulate my dear friend and colleague Senator STROM THURMOND of South Carolina for his 48 years of service to this country.

Senator THURMOND was first elected to the U.S. Senate in 1954, as the first person in U.S. history to be elected to a major office by a write-in ballot. As the longest serving Senator in the Senate, STROM has been a part of a lot of firsts in our Nation's history and he has contributed to every major policy issue facing this country for the last half century. He is a true legend.

STROM has been a respected authority on military issues. He served in World War II, fighting in 5 battles, including the Normandy Invasion, and received 18 decorations, medals, and awards, including the Purple Heart, the Bronze Star for Valor, and the Legion of Merit With Oak Leaf cluster. In 1959, STROM attained the rank of major general. He has been a member of the Senate Armed Services Committee since 1959. His expertise in military issues has been a great benefit to our men and women in uniform.

His love for the state of South Carolina has been a guiding force in his life. He has been a coach, an educator, an attorney, a State senator, a judge, a Governor, and, most importantly, an impeccable leader for the people of South Carolina.

STROM has not only been a remarkable Senator, but an even better American. I know I speak for all my colleagues here in the Senate when I say that he will be missed.

Mr. BUNNING. Mr. President, it is with great pride and honor that I rise today amongst my fellow colleagues to honor one of America's finest citizens, Senator STROM THURMOND of South Carolina.

When I look at STROM's career and all that he has accomplished throughout his life, I often find myself wondering how one man could possibly do so much in just one lifetime. STROM THURMOND truly deserves the title of Renaissance man. He has been a farmer, a teacher, a lawyer, a judge, an author, a Governor, a war veteran, a major general in the U.S. Army Reserves, a State senator, a U.S. Senator, a Democrat, a Dixiecrat, a Republican, a husband and a father.

Since 1954, when he ran and won a seat in the Senate as a write-in candidate, STROM THURMOND has worked tirelessly and selflessly for the people of South Carolina and the citizens of this great Nation, casting more than 15,000 votes in his time in the Senate.

I now ask that my fellow members of the Senate join me in thanking and honoring our good friend and colleague for all that he has done throughout his life and throughout his tenure in the Senate. His brilliance, leadership and unmatched wit will be sorely missed by this legislative body and by the entire Nation. But we will always hold on to the many memories and stories he left behind.

Mr. THOMPSON. Mr. President, I rise to pay tribute to the senior Senator from South Carolina, Mr. Strom Thurmond. Not only is Senator THURMOND the oldest Member ever to serve in the Senate, and the longest serving member, his entire life has been dedicated to service to his country. At the age of 21, in 1924, Senator THURMOND was commissioned a second lieutenant in the U.S. Army Reserves. At the age of 26, he was serving as the Superintendent of Education in Edgefield County, SC. From there he went on to serve as a State Senator, and then as Circuit Judge of South Carolina, a position he left to serve his country during World War II. For his military service, he earned a total of 18 different medals, decorations, and awards. He served as the Governor of South Carolina, and while serving, he ran for President as the head of the third party States Rights Democrats. He received 39 electoral votes, the third largest ever for an independent party candidate. Then in 1954, he was elected to the Senate as a write-in candidate, the first person ever to be elected to the Senate as a write-in candidate.

Senator THURMOND's career as a member of the Senate has been not only long but distinguished. He served as either chairman or ranking member of the Senate Judiciary Committee for 12 years and he served as either chairman or ranking member of the Senate Armed Services Committee for 6 years. In fact, he has served on the Armed Services Committee for the last 43 years, where he has been a leader in promoting a strong national defense.

So while we do well to recognize his extraordinary years of service to the

Senate, it is worth remembering that Senator THURMOND is the perfect example of a true statesman a man who has dedicated his life to serving his country in any way possible, in all branches of government, in times of war and in times of peace. Senator THURMOND has set an example not only as a great Senator, but as a great citizen of this country, and it is for that reason that we are here to pay tribute, to demonstrate our respect, and to offer our thanks.

Mr. LUGAR. Mr. President, I am pleased to take this opportunity to pay tribute to the remarkable life of Senator STROM THURMOND of South Carolina.

On December 5, 2002, Senator THURMOND will turn 100 years old, another amazing milestone for an indefatigable public servant. Throughout his historic years of service in the Senate, he has distinguished himself through his energy, his spirited patriotism, and his dedication to excellence. Every Member of this body counts him as a friend and as an inspiration.

Beginning his public service career in 1923 as a teacher and athletic coach, he became the superintendent of education in Edgefield County, SC. He was elected to the State senate at the young age of 31 and later served as a Circuit Judge of South Carolina.

He left the judicial bench in 1942 to fight in World War II where he parachuted into Normandy on D-day with the 82nd Airborne Division. He served in the Civil Affairs section of the First Army headquarters where he was awarded five Battle Stars, the Legion of Merit with Oak Leaf Cluster, a Bronze Star for Valor, the Purple Heart, the Belgian Order of the Crown, and the French Croix de Guerre. Upon his return to South Carolina, he served as Governor before he was elected to the Senate in 1954.

STROM THURMOND's career as a Senator has been distinguished by love of his country and all the possibilities he has envisioned for it. His longevity and strength are a result of his determination to further his ideals, his commitment to personal fitness, and his devotion to serve the people of South Carolina.

Senator THURMOND's influence has been felt throughout the Senate, but it has been particularly noteworthy in his leadership on the Armed Services, Judiciary, and Veterans' Affairs Committees. In recent years, as President Pro Tempore, he set an example for us all with his thoughtful wit, his constancy, and his obvious love for the Senate and its institutions.

Senator THURMOND is a statesman whose retirement from this Chamber will leave the Senate a diminished place. I am pleased to join with my Senate colleagues in acclaiming his lifetime of service to America.

Mr. AKAKA. Mr. President, I join my colleagues in congratulating the senior Senator from South Carolina, our esteemed colleague and a legendary public servant, as we honor his service to America and his beloved constituents in South Carolina.

When the 107th Congress adjourns sine die later this year, it will end another chapter in the life and legendary public service of Senator THURMOND. For almost 48 years, STROM THURMOND has been an important person in the life of the Senate. Indeed, December 24, 2002, will mark the 48th anniversary of Senator THURMOND's arrival in the Senate after his election as a write-in candidate, a feat that itself is historic and unprecedented. December 5, 2002, also marks another marvelous milestone, Senator THURMOND's 100th birthday. In considering these truly remarkable events, it is humbling to recall that Senator THURMOND's service in the Senate is longer than the period of time that Hawaii has been a State.

It is even more remarkable to consider Senator THURMOND's accomplishments outside of the Senate: attorney, state legislator, judge, decorated World War II hero and participant in the D-day landing, Governor of South Carolina, husband, and father.

I have had the privilege of serving with Senator THURMOND during the 12 years I have been in the Senate, the last quarter of his remarkable tenure, and we serve together on the Armed Services and Veterans' Affairs Committees. As Chairman Emeritus of both Committees, Senator THURMOND has earned a well-deserved reputation as a determined and powerful advocate for our Nation's men and women in uniform and our veterans. His commitment to improve services, benefits, and quality of life for servicemembers and veterans, and their families, is unwavering.

On a personal note, our former colleague, Senator Bob Dole, Majority Leader DASCHLE, and others have spoken about emulating Senator THURMOND's diet and exercise regimen as a way of enjoying similar longevity. I would like to share with my colleagues one of Senator THURMOND's dietary secrets: he has a fondness for Hawaiian macadamia nuts. I can think of no better testimonial for the health benefits of macadamia nuts then the gentleman from South Carolina!

I thank our leaders for scheduling this time for the Senate to honor the remarkable life and times of a great American patriot and a gentleman of the Senate, Senator STROM THURMOND.

Mrs. CLINTON. Mr. President, I rise today to honor my colleague from South Carolina and to wish him a happy 100th birthday.

For the better part of the 20th century, STROM THURMOND devoted his life to public service—service to the people of South Carolina, service to his country in World War II, and service in the Senate.

He began his career as a teacher and coach. He became superintendent of education in Edgefield County. He landed at Normandy on D-day with the 82nd Airborne Division, and returned home to become Governor of South Carolina.

In 1954, STROM THURMOND became the first Member of the Senate to win election as a write-in candidate. He has spent most of his life giving back to the people and the places that have given him so much in life.

As a U.S. Senator, no one has had a more distinguished career than STROM THURMOND. For more than 48 years, he has been a champion for our veterans. Time and time again, he has fought to strengthen their education and rehabilitation benefits, and to provide them with the best health care and housing.

In the last year, he continued to do more for our military. He filed legislation to ensure that disabled veterans have access to service dogs so that they can lead a more independent life. He has reached across the aisle to end the limit on Junior ROTC programs with our colleague Senator GRAHAM from Florida.

He secured education benefits for our brave men and women serving in Afghanistan in Operation Enduring Freedom. Each effort has brought more honor and dignity to the courageous men and women who give so much of themselves so that we can live in freedom.

Just as he began his career as a teacher in 1923, I know that he was so very proud to support last year's "No Child Left Behind Act." He understands that the best place to open a child's mind and heart to the opportunities that surround him or her is through education.

I want to take this moment to thank Senator THURMOND for supporting New York during this difficult year. In the wake of massive terrorist attacks, Senator THURMOND stood by the people of New York and the people of New York are grateful for his assistance as the city rebuilds.

Today, it gives me great pleasure to honor STROM THURMOND and to express my sincere gratitude and appreciation for all that he has done to improve the lives of the people he represents in South Carolina and every American.

We are honored for his years of service and wish him a very happy birthday.

Mr. KENNEDY. Mr. President, I am honored to join my colleagues in this tribute to Senator THURMOND and his extraordinary record of service to the people of South Carolina and the Nation.

As the longest serving member of the United States Senate in history, the Senator from South Carolina cast his first vote in January 1955—when seven of his current colleagues were not even born. His election in 1954 was an American first. Senator THURMOND was the first person ever elected to a major office as a write-in candidate.

Senator THURMOND came to this body half a century ago as a man of humble origins with a teacher's background and a legal education given to him by his father, and he has never stopped teaching and learning.

In the years since he first came to the Senate, he has cast over 15,000 votes, and he has always stood up for his beliefs with a passionate conviction. Over the years, many of us have often disagreed with him on specific issues, but we have always had great respect for his ability and dedication.

Senator THURMOND has served our country with great dedication in the armed forces as well, from his early days as a Second Lieutenant in the Army Reserve in 1924 to his outstanding service in the 82nd Airborne during World War II. He volunteered for service immediately after the attack on Pearl Harbor in 1941, and piloted a glider onto the beaches at Normandy in 1944, earning five battle stars and numerous other medals for his courage in combat.

I have had the honor to serve for many years with Senator THURMOND on both the Armed Services Committee and the Judiciary Committee in the Senate, and we often worked together to meet the important challenges facing our Nation.

Two decades ago, as members of the Judiciary Committee, we worked together for a period of several years to reform and improve the federal sentencing system. Our proposal was eventually enacted as the Sentencing Reform Act of 1984.

Prior to the 1984 Act, federal sentencing was famously characterized by Judge Marvin Frankel as a system of "law without order." Judges had unreviewable discretion to sentence defendants to lengthy periods of incarceration—or no incarceration at all. Gross disparities in sentencing were common, even within the same federal courthouse. Too often, those disparities were related to the race or the economic resources of the defendant.

Some thought the answer to that problem was mandatory sentencing laws. But Senator THURMOND and I developed the fairer and more effective approach of sentencing guidelines that is used today.

Senator THURMOND and I came to the issue from different perspectives, but we agreed on the goal of fair sentencing laws. It took several years of debates, but Senator THURMOND and I stood together. Our ideas prevailed, and I am proud to have worked with him on this important reform of the Nation's criminal justice system.

We have worked together on the Armed Services Committee as well. Senator THURMOND has never forgotten the responsibility of the 82nd Airborne to be America's Guard, and to go "All the Way" in protecting the rights of our men and women in uniform and our Nation's veterans.

From the STROM THURMOND Institute at his alma mater, Clemson University to STROM THURMOND High School to Interstate Highway 20, also known as STROM THURMOND Highway, the Senator from South Carolina has been honored by communities in his state and by the American people as well. I know that all of us in the Senate commend him, as he retires this year, for his long and distinguished service to the Senate and the Nation.

Mr. COCHRAN. Mr. President, it has been heartwarming to hear the eloquent remarks about the accomplishments and career of our distinguished colleague from South Carolina.

He has been my friend and colleague in the Senate for twenty-four years. It has been a high privilege and honor to work with him and to learn from his example of dedicated service to the citizens of his state.

As this session of the Senate nears an end, it is hard to imagine that it will be Senator THURMOND'S last term as a United States Senator.

Since 1964, he has worked hard to strengthen and protect our country and defend the principles on which it was founded. He can be assured that his has been a successful and remarkable career.

I'm proud to join others today in thanking and commending him for his truly outstanding record of public service.

Mr. FRIST. Mr. President, born nearly a century ago, when Mark Twain was alive and Teddy Roosevelt was still President, STROM THURMOND has led a life of public service unmatched in the modern history of America. He has been a friend to all of the more than 400 Senators with whom he has served. And he will forever be a symbol of what one person can accomplish when they live life to the fullest.

STROM THURMOND has served in the Senate for all but four of my 50 years of age. Though that is a remarkable accomplishment itself, we should not forget what STROM accomplished before coming to the Senate.

He was a teacher, an athletic coach, and a Superintendent of Education. He studied law under his father, Judge J. William Thurmond and became a City Attorney, County Attorney, State Senator, and, eventually, a Circuit Court Judge.

Though exempt from serving in the military, STROM, who had already been an army reservist and a commissioned 2nd Lieutenant by the age of 21, volunteered for active duty on the day we entered WWII. As a member of the 82nd Airborne, he parachuted behind enemy lines on D-Day and helped secure the foothold for the Allies to liberate the European continent.

For his distinguished service, STROM was awarded five Battle Stars and 18 other decorations, including the Legion of Merit with Oak Leaf Cluster, the Purple Heart, the Bronze Star for Valor, the Belgian Order of the Crown and the French Cross of War.

After the war, STROM returned home to South Carolina. He was elected Governor in 1946 and then ran for President of the United States as the States Rights Democratic candidate. Although Harry Truman prevailed, STROM won four states and 39 electoral votes. That tally still stands as the third largest independent electoral vote in U.S. history.

Despite not winning the presidency, STROM was determined to serve in Washington. He ran for the Senate in 1954 and became the only candidate elected to Congress by a write-in vote in American history. STROM has been re-elected eight times since. Clearly the people of South Carolina value principle, character and courage in their leaders.

Though it has been more difficult in recent years for STROM to make it home to South Carolina, that has not stopped South Carolina from coming to him. And it shouldn't. For decades STROM attended every county fair, handled every constituent request, and sent a congratulatory note to every high school graduate, many of whom came to intern in his office.

It has been said that almost 70 percent of South Carolinians have met STROM THURMOND face-to-face.

Over the course of his long and distinguished career, STROM THURMOND has been a witness to history. As a young man, he knew people who had seen Andrew Jackson, and he campaigned for the votes of men who fought in the Civil War. He and Herbert Hoover won their first elective office in the same year, 1928.

But STROM has more than seen history; he has written it. Not only is he the oldest and long-serving Senator, he has served with about one-fifth of the nearly 2,000 people who have been members of the Senate since 1789. And he is nearly one half the age of the United States Constitution itself.

Like the great experiment that is American democracy, STROM THURMOND has certainly faced his trials, both politically and personally. Yet, through it all, he has always held tight to his principles, always upheld his beliefs, and always defended American values at home and abroad.

Today we say thanks to this giant of a man not only for the history he has witnessed and written, but for the service his life will inspire for generations to come. God bless our friend, our colleague, and the Senate's Icon of Time, the senior Senator from South Carolina, STROM THURMOND.

Mr. LIEBERMAN. Mr. President, I am proud to join my colleagues today in paying tribute to our friend from

South Carolina, Senator STROM THURMOND, who through his 48 years of distinguished service in this body has given special meaning to the term Senior Senator and left an indelible mark on the history of this great Nation.

Well before Senator STROM THURMOND celebrated his 100th birthday this year, he had become an institution within this institution. To many Americans, that is primarily because of his much-celebrated durability. But to those of us who have the privilege to work with him here in the Capitol, it is as much a measure of his inexhaustible amiability, the graciousness and decency that have come to define STROM's way, and his extraordinary dedication to the people and the country he serves.

Senator THURMOND has been such a fixture here in the Senate, it is easy to forget that he led a remarkable public life long before he came to Washington. He began his career as a farmer, teacher, and athletic coach. He was superintendent of education in his home county. He was town and county attorney. He was State senator in his great State of South Carolina. He was a judge. He served in the Second World War, and was part of the Normandy invasion with the 82nd Airborne. He was Governor of South Carolina. And from that position of leadership he went on to run for President in 1948, before getting elected to the Senate for the first time in 1954.

Since then, Senator THURMOND has had the unique distinction of having been a delegate to six national Democratic Conventions and six national Republic Conventions. And he has found the time to be reelected to the Senate an astounding eight times, serving as an esteemed member of the Senate Armed Services Committee since 1959, and as President pro tempore of the Senate from 1981–86 and 1995–2001.

I have had the honor of serving with Senator THURMOND on the Armed Services Committee for more than a dozen of those years, and it is readily apparent why the people of South Carolina—not to mention his colleagues on both sides of the aisle—hold him in such high regard. Quite simply, every day he is happy to be helping and protecting the security of our country. Here in Washington, he has been a fierce protector of his State interests. And at home he has been a gentle and caring friend to his constituents, always ready to listen and willing to act on their behalf. It is a testament to that friendship and admiration that at least 20 buildings, centers, rooms, and statues in South Carolina have been named after him. And that's not counting all the streets and roads that carry the Thurmond name.

The long list of these accomplishments would take most Americans 300 hundred years to accumulate. Senator THURMOND has gotten them all under his belt in a mere 100. And through it all, Senator THURMOND has grown not only as a public servant and leader, but as a human being. After running for President as a State's rights candidate, he later supported the renewal of the Voting Rights Act and observance of the Martin Luther King, Jr. holiday on behalf of his State. And today, in recognition of all his hard work for all the people of South Carolina, he is beloved throughout his State by constituents of all colors. That transformation sends a powerful message that all of us could become better Americans and better individuals—and that the United States of America, for all its blessings, can always become a better nation.

For all this, we honor Senator THURMOND as a man of iron with a heart of gold, who has lived a love for his country and all that makes it exceptional, and given not just the best of years of life but just about every year of life to make his community and his country a better place. The Senate will just not be the same without him. But today we can and should celebrate the tremendous difference he has made. So we thank him for all your service and sacrifice, and wish you a long and healthy retirement. God knows you have earned it.

Mr. CRAPO. Mr. President, I rise today to address homeland security.

No Member of this body can deny that homeland security is of the utmost importance at this time. We all agree that protecting Americans from further deadly terrorist attacks is, without question, our most urgent national priority. President Bush and the American people have called on us to act on his priority.

Americans cannot ignore continuing widespread threats made by terrorist groups throughout the world. Even in Idaho, a State that is more than 2,000 miles from any of the sites of the terrorist attacks that occurred on September 11, 2001, people are mindful of these new dangers that exist. There is a general feeling across the country that no one can consider themselves isolated or immune.

In securing our Nation and protecting the American people, we need an approach that is coordinated, comprehensive, and collaborative; a system that acts at Federal, State, and community levels. We are capable of creating a Department of Homeland Security that protects the United States from terrorist threats while preserving American civil liberties on which our country was founded. It is incumbent upon us to create a dynamic, synchronized, and flexible entity, so that we can, indeed, facilitate the need for homeland security on a national level, while at the same time meeting the challenges posed by ever-changing threats made from many different fronts. We do not know where our next threat will materialize and we should not withhold from the President the ability to analyze and respond aggressively and dynamically as the situation commands.

To be successful in our endeavor for national safety, the interests of the American people must supercede party differences; we must be united as we were last September if we wish to protect the people of the United States. I applaud Senator GRAMM and Senator MILLER for their tireless efforts working toward a bipartisan substitute that truly provides the tools and capabilities needed by those entrusted with defending the people. It is high time that the Senate move forward on this legislation, following the lead of the other body, and respond to the call of the American people.

Mr. President, I hope the Senate will support President Bush, allowing him the same flexibility given other presidents in times of war. Our quick and aggressive action regarding Homeland Security is imperative; we must grant the President the power, flexibility, and necessary resources to guide us through this continuing conflict. For as long as terrorism continues to be a worldwide scourge, threats to our national security should be met with the fullest and most aggressive response. I stand with the President in his concerted effort to root out this evil and to bring security to our Nation.

Mr. CORZINE. Mr. President, I rise today in strong support of the Lieberman amendment establishing a commission to examine and report upon the facts and circumstances relating to the most catastrophic terrorist attack in the history of the United States: the September 11 terrorist attacks on the Pentagon and the World Trade Center. I was a cosponsor of the legislation upon which this amendment is based and am eager for the work of the commission to get underway.

The senseless attacks of September 11, 2001, made it clear to all Americans that the United States was inadequately prepared for the threats posed in a post-cold-war world. Now that the Soviet Union has dissolved and American relations with Russia and China have improved markedly, disparate religiously motivated non-state actors have distinguished themselves as a clear and present danger to international stability and the security of the American homeland. The commission that would be created by this amendment would go a long way in helping the United States identify the causes of the September 11 disaster and inform the U.S. Congress as it embarks upon the difficult process of reorganizing our government to respond to newly recognized threats.

For many families that I have spoken with, the inability of the government to provide a full accounting of the events surrounding the death of their loved ones in the September 11 attacks has added to their grief. They have requested that the government provide them with a thorough explanation of the various factors that led to the untimely deaths of their dear relatives. If the public report released by this commission provides some small measure of comfort to these families, then in my view, it is worthwhile.

But this commission is important for pragmatic as well as emotional reasons. Few people doubt that the terrorist attacks unmasked unfortunate weaknesses in the United States homeland security posture. In the weeks and months following the attacks, the Congress moved swiftly to address some of the most obvious weakenesses. Consequently, there have already been substantial changes in a variety of areas, ranging from the formation of the Transportation Security Administration to necessary adjustments in the way that the Department of Justice responds to new threats. But our work is far from complete.

It would be an unfortunate mistake to believe that the U.S. Congress has already uncovered all of the missteps that allowed the horrific tragedy of September 11, 2001 to take place. A commission, composed of outside experts and government officials, will provide a nuanced analysis of the myriad events related to the most catastrophic attack on the United States in history.

The work of the Intelligence Committee has been entirely professional and profoundly important, but it is insufficient by design. The mistakes and miscuss relating to the September 11 attacks are not limited to intelligence failures alone, but run the gamut from foreign policy decisions regarding the use of American forces and aid after the fall of the Soviet Union to shortcomings in American law enforcement and immigration practices. Ultimately, an effective investigation must not restrict itself simply to the operations of our intelligence-gathering agencies. In fact, an effective analysis should not limit itself to the Federal Government, but must take an incisive look at both the public and private sector and at the State and national level, to generate recommendations that will truly address the specific and often esoteric factors that led to the September 11 attacks.

No committee or commission to date has been given the jurisdiction to take the long view and provide a holistic evaluation of the factors relating to and the issues surrounding the most devastating attack in American history. The commission that would be created by this amendment would provide a level of scrutiny and self-reflection that is urgently needed after an event of the magnitude and the scope of the September 11 disaster.

Just 11 days after Pearl Harbor was bombed in 1941, the U.S. Congress passed legislation creating the Roberts Commission, a commission to determine, in the words of historian Gordon Prange, "whether 'derelictions of duty' or 'errors of judgment' had influenced the Japanese at Pearl Harbor and, if so, who was responsible." The commission then made a series of recommendations designed to improve American security.

The September 11 disaster is no less significant and has no fewer ramifications than the Japanese attack at Pearl Harbor. The President has correctly characterized the international fight against terrorism as a war. As we embarked on World War II, we established a commission to analyze the Pearl Harbor attack. Similarly, as we embark on the war on terrorism, we must establish a commission to analyze the September 11 attacks.

It is essential that Congress know what went wrong so the United States can plan for the future. Weaknesses must be shored up, gaps must be filled, and oversights must be rectified.

Above all, this amendment would represent an important step in realizing the ultimate goal of all Americans, both Democrat and Republican alike: to ensure that an event like September 11 never happens again.

I urge my colleagues to support Senator LIEBERMAN's amendment.

Mr. CONRAD. Mr. President, at the close of the 107th Congress, the Senate will lose a legend, a colleague who has served more than 40 years in the U.S. Senate, cast more than 15,000 votes and achieved the record as the longest-serving Member in this body.

Perhaps most notably, our colleague, on his retirement, will have completed the lengthiest record of public service on behalf of our country. Senator THURMOND has served his community as an educator; the State as State senator, judge, and Governor; and our Nation in World War II in both the European and Pacific theaters, an Army Reservist for 36 years, as a candidate for President and as U.S. Senator. This record of service spans a period of more than 80 years.

Remarks by Senator THURMOND at the time of his swearing-in ceremony for his seventh term in 1997 express succinctly his views and commitment to public service. At the time he said, "there is no more rewarding endeavor than public service, and without question, the more than 40 years I have spent in the U.S. Senate have been among the happiest of my life."

As I review Senator THURMOND's record of service, and reflect on his service in the Senate and to our country, few Americans have had the opportunity to witness and shape history as he has. Senator THURMOND's achievements in the military and on defense matters serve to underscore this point.

Senator THURMOND is a veteran who served in World War II during some of the most difficult combat of the war. He parachuted into Normandy on D-Day with the 82nd Airborne Division, earning 5 battle stars and 18 decorations including the Purple Heart, the Legion of Merit, Belgian Order of the Crown and French Croix de Guerre during his service. Following WWII, Senator THURMOND continued his military career by serving in the Army Reserves for many years. During this period, he attained the rank of major general.

Knowing the face of battle, THURMOND never forgot the importance maintaining a strong defense and especially of taking care of our military personnel. As a member of the Senate Armed Services Committee since 1959, and chairman of the committee for a number of years during the 1990s, Senator THURMOND made certain that the needs of our military were met. He had a special concern for junior enlisted personnel and non-commissioned officers along with the welfare of their families.

This concern was clearly demonstrated by his efforts during Senate consideration of the National Defense Authorization Act of FY 1999. In this Act, a number of provisions were incorporated that significantly improve benefits for military personnel. Were it not for Senator THURMOND's leadership on military personnel issues, our Armed Forces would unquestionably not be receiving the benefits that they should and are entitled to receive. I am pleased that the National Defense Authorization Act for FY 1999 bears his name. It is a fitting tribute to an individual who cared so much for our military personnel.

There is so much that can be said about Senator THURMOND and his many contributions to our country. He was an 82nd Airborne paratrooper with a remarkable service record in World War II, a disabled veteran, an educator, and a distinguished public servant at all levels of government. Unquestionably, Senator THURMOND deserves our respect. It is my hope that younger Americans will have opportunities to learn about Senator THURMOND's career and accomplishments. I have been privileged to serve with Senator THURMOND and thank him for his service.

Mr. HAGEL. Mr. President, I rise to honor South Carolina's senior Senator STROM THURMOND. Senator THURMOND will turn 100 on December 5. Only 126 years before Senator THURMOND's birth, the United States of America gained its independence; 37 years before Senator THURMOND was born, the Civil War ended; and when he was a year old, Wright brothers engineered the first flight from Kitty Hawk. Senator THURMOND made a commitment at an early age to serve the interests and needs of our Nation. His life is full of our country's history, and he has made our country his life.

Since his days as a school teacher and athletic coach in the early 1920's

Senator THURMOND has continued to be a leader and serve the interests of our country well above his own. Senator THURMOND served on active duty with the U.S. Army in World War II. He was a judge at that time, so he was exempt from military service. But Senator THURMOND volunteered, and as a 41-year-old Lt. Colonel, dropped behind enemy lines on D-Day in Normandy with the 82nd Airborne Division. During his 36 years of distinguished military service in the Active and Reserve Army, he was awarded five Battle Stars and 15 decorations, medals and other awards.

Senator THURMOND carried his military experience to the Senate and quickly became a respected leader advocating a strong national defense for America. As a major general in the U.S. Army Reserve and a WWII combat vet, his contributions to the Armed Service Committee since 1959 have provided a strong voice on the needs of our service men and women and a first-hand perspective on the realities of war. Senator THURMOND has also used his experience in law and in the military through his long-standing leadership on the Veterans Affairs and Judiciary Committees.

Senator THURMOND will be missed in the Senate as a friend, a leader, a colleague and for his tremendous contributions to our Nation. He is history in motion. Senator THURMOND was born during the Presidency of another fearless leader, Theodore Roosevelt. President Theodore Roosevelt once said, "We have got but one life here. It pays, no matter what comes after it, to try and do things, to accomplish things in this life and not merely to have a soft and pleasant time." Senator THURMOND's life is an accomplishment of great leadership and selflessness. We are all grateful for his service to our country and I am proud to have served with him.

Mr. LEVIN. Mr. President, I am pleased to join my colleagues in paying tribute to Senator STROM THURMOND and honoring him for his unparalleled record of public service to this Nation.

No Senator serving today can appreciate what this body will be like when STROM THURMOND leaves at the end of this year because Senator THURMOND has served longer in this body than any other Senator in history. His 48 years in the United States Senate have spanned the terms of 10 Presidents of the United States, and he keeps pictures of all 10 of those Presidents on the wall in his office.

Senator THURMOND's extraordinary private and public lives span the twentieth century. He began his political career in 1929 as the Superintendent of Education in Edgefield, SC. In 1933, he became a State Senator. In 1946, he was elected Governor of South Carolina. In 1948, while he was still Governor, he ran for President as a State's Right Democrat and received 39 electoral votes, the third best showing by an independent candidate in U.S. history.

Senator THURMOND was elected to the Senate in 1954 as a write-in candidate, the first person ever elected to major office by this method. But true to a campaign pledge he made, he resigned in 1956 to eschew the advantages of incumbency before running successfully for re-election. In 1964, he left the Democratic Party and became a Goldwater Republican, presaging, or perhaps, ushering in, GOP gains in the South. He has served as a delegate to 6 Democratic and nine Republican National Conventions, a distinction I doubt anyone else shares.

When I joined the Army Services Committee in 1979, Senator THURMOND had already served on the Committee for 20 years. His love for and dedication to the United States military goes back even further, though, to his commission as an Army Reserve second lieutenant of infantry in 1924 at the age of 21. He served with distinction in both the European and Pacific Theaters in the Second World War, receiving numerous decorations that include the Legion of Merit, the Bronze Star medal with "V" device, the Army Commendation Medal, the Belgian Order of the Crown, and the French Croix de Guerre. He landed in a glider on Normandy with the 82nd Airborne Division on D-Day, and went on to win 5 battle stars. In 1959, the year that he joined the Senate Armed Service Committee, Senator THURMOND was promoted to major general in the United States Army Reserve.

During Senator THURMOND's tenure on the Armed Services Committee, our Armed Forces have faced challenge after challenge in Western Europe, Vietnam, the Middle East, the Caribbean basin, the Persian Gulf, the Balkans, and Afghanistan. Through it all, Senator THURMOND has persevered in his unwavering support for our men and women in uniform. He steadfast commitment to our national defense has been a rock upon which we could all rely and has helped ensure that our military has always been ready to answer the call whenever and wherever needed.

Senator THURMOND served as Chairman of the Senate Armed Services Committee in the 104th and 105th Congresses. I had the honor and pleasure to serve as his Ranking Member in 1997 and 1998. I know from personal experience how seriously Senator THURMOND treated his duties as Chairman and how hard he worked to be fair and even-handed with every Member of the Committee. I am sure that I speak for all of our colleagues in saying just how much we appreciate not only the commitment that Senator THURMOND brought to his duties as Chairman, but also his lifelong dedication to the defense of our Nation and to the welfare of the men and women in uniform.

As the Ranking Member of the Armed Services Committee in 1997 and 1998, it was a great personal pleasure for me to work with Senator THURMOND in producing the National Defense Authorization Act for Fiscal Year 1998 and the STROM THURMOND National Defense Authorization Act for Fiscal Year 1999. When Senator THURMOND leaves our Committee and the Senate at the end of this Congress, we will miss his warmth, his sense of humor, and his tremendous dedication to our national security.

In my 24 years of service with STROM THURMOND, I have never known him to be anything other than unfailingly optimistic, always courteous, and ever-thoughtful of his Senate colleagues and their families. It is a pleasure to join all of my colleagues today in honoring and thanking this remarkable man, my friend, for his lifetime of service to his country.

Mr. SARBANES. Mr. President, I rise today to join my esteemed colleagues in honoring Senator STROM THURMOND and his lifetime of service to South Carolina and our Nation.

A career like that of the senior Senator from South Carolina will almost certainly never be duplicated. Although I am the "senior Senator" from Maryland, my colleague Senator THURMOND was a practicing attorney in Edgefield, SC when I was born in 1933. And by that time, Senator THURMOND already had begun his distinctive career in the public interest.

Born in 1902, Senator THURMOND received his bachelor's degree from Clemson University in 1923 and was a teacher and athletic coach for 6 years while serving in the U.S. Army Reserves. In 1929, he became the Superintendent of Education in Edgefield County, SC and soon thereafter was admitted to the State Bar, studying law under his father, Judge J. William Thurmond. While practicing law, STROM began his political career as a South Carolina State Senator and Circuit Judge. Senator THURMOND took a four-year leave of absence from his judicial duties from 1942 to 1946 in order to serve with the 82nd Airborne Division in World War II. During the War, Senator THURMOND served in the American, European and Pacific Theaters; landed in Normandy on D-Day; and earned eighteen decorations, medals and awards including, the Legion of Merit with Oak Leaf Cluster, Bronze Star for Valor, Purple Heart, Belgian Order of the Crown, and French Croix de Guerre, during his military service.

If STROM's service to our Nation ended in 1946 with his military career, it would have been a remarkable record of achievement. But his contributions to education, the legal profession, and the military make up just the beginning of Senator THURMOND's legacy. From 1947 to 1951, STROM was known as Governor THURMOND, as he led his beloved State of South Carolina. After his 1948 bid for the presidency, STROM returned to the practice of law and, in 1954, launched a successful write-in candidacy for election to the U.S. Senate. Pursuant to a promise made during his write-in campaign, STROM resigned from the Senate in April 1956 to run in the Democratic primary election. STROM was reelected to the Senate in November 1956 and resumed his duties and has been elected to the Senate seven more times by the people of South Carolina.

Reaching the age of 100, as Senator THURMOND will do this December 5, is, alone, a remarkable achievement. The 2000 Census counted just 50,500 Americans 100 or older. And STROM is a clear example for those older Americans, and citizens of all ages, of the remarkable impact one person can have on our Nation. For most of the past 48 years, Senator THURMOND has been a fixture and a legend in the United States Senate. He has held positions of power, including President Pro Tempore, and Committee chairmanships. In the Senate, he has worked with ten Presidents Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, Reagan, George H. W. Bush, Clinton, and George W. Bush. He is the longest serving Member of the Senate, and cast his 15,000th vote in September 1998.

It goes without saying that throughout his time in this distinguished body, and over the course of his lifetime, STROM has seen our Nation change in remarkable ways. His service in this great deliberative body has given the Senate a perspective and continuity unparalleled in our history. I am pleased to have had the opportunity to serve with him over these many years, and to join my colleagues today in paying tribute to a true public servant, Senator STROM THURMOND.

Mr. KYL. Mr. President, our colleague STROM THURMOND is retiring soon, and I just wanted to say a few words, on this special day of appreciation, about the gentleman from South Carolina. For that is what he is: the consummate gentleman. There is the public STROM that everyone knows—the legend—then there is the private STROM, a colleague and collaborator I have always found to be eager to help a fellow Senator and accommodate his concerns. I have felt honored to work with him on issues of national defense, foreign policy, and many other matters important to the people of the United States. The people of South Carolina, in particular, can be very proud of this war hero, who landed in Normandy as a member of the 82nd Airborne Division in 1942, who was Governor of South Carolina, and who, in the Senate, distinguished himself as chairman of the Judiciary Committee and the Armed Services Committee.

There are great STROM THURMOND stories—many told by STROM himself, of course. For my part, I like to tell the one about his 90th birthday celebration, held here in Washington. One reporter asked if he could expect to see STROM on his 100th birthday. And Senator THURMOND looked him up and down and said: "Well, you look fit enough to me. If you eat right and drink right, you ought to be around to see me then."

He is an inspiration. As everyone knows, he represents continuity in the United States Senate, being, since 1996, its oldest serving member, and, since 1997, its longest serving member. Those are for the record books. But on a personal level, I can say that the Senate will not be the same without his buoyant spirit. I thank him for helping me in so many ways, and for his invaluable service to our country.

Ms. SNOWE. I rise to join with my colleagues today in honoring a man the "Almanac of American Politics" rightly calls "the most enduring figure in American politics today", the Senior Senator from South Carolina, the senior member of the Senate, and the longest serving senator in United States history, our colleague Senator STROM THURMOND.

I think that any of us who have had the honor of serving in this body have to be in awe of Senator THURMOND's remarkable 48-year tenure. The responsibilities of this job, the demands on one's time and energy, are incredible. That Senator THURMOND has continued to engender the trust, respect, and support of the people of South Carolina through nearly five decades in the Senate and nearly seventy years in elective office is a testament not only to his storied dedication to his constituents, but to his seemingly-inexhaustible passion for service.

Senator THURMOND is quite literally an institution within an institution. If this were baseball, he would be Babe Ruth larger than life, shattering records, and giving 100 percent effort at every at-bat.

Even today, I continue to marvel that I am serving along-side this legislative legend. This is a man who was on the floor of this chamber when I was seven years old, a man who was nominated for President when I was one year old, a man who was elected Governor of South Carolina before I was born. Alive even before the Wright Brothers took flight, he has seen firsthand the greatest single period of societal and technological change in the history of the world. He would have even been old enough at age 15 to read first-hand news accounts of the last time the Boston Red Sox won the World Series. Now that is truly amazing!

When you think about it, Senator STROM THURMOND's political life spanned the great majority of the 20th century, while he has witnessed—during his more than 36,400 days on earth—nearly half of the history of the United States. It is possible he received votes from Confederate war veterans in his bid for the South Carolina legislature in 1933. This is an extraordinary figure on the landscape of our land—a living history class and inseparable from any discussion or dissection of the United States Senate.

Indeed, Senator THURMOND's tenure has charted many changes in our country, the world, and American society. In an inspiration to all of us, Senator THURMOND has never stopped learning, never stopped drawing lessons from experience and from others. He bears the mark that defines great men and women—the integrity and honesty of an open mind.

And there should be no mistake—as if the time Senator THURMOND has devoted to public office is not enough for several lifetimes, he has also served his country in the crucible of war, gaining an exemption from being "over age" so he could don a uniform and ultimately participate in the invasion at Normandy on D-day.

Fittingly, years later, Senator THURMOND would call upon his "trial by fire" experience as Chairman of the Armed Services Committee—and I was proud to call him "Chairman" for much of my time on the Committee. He has always been a champion not only of a strong national defense, but also for the men and women who provide that defense, and we owe him a debt of gratitude that simple words fail to repay.

In short, some people live long, but not fully. Senator THURMOND's life, however, is remarkable not only for its apparent disregard for such trivialities as "time", but also—and more importantly—for its richness.

The great American writer Henry David Thoreau aspired to, in his plain-spoken but powerful words, "live deep and suck all the marrow out of life . . ." Well, Senator STROM THURMOND personifies that dream—making Thoreau's declaration his personal credo, and leaving the rest of us to watch in admiration and wonder.

So today, as we celebrate Senator THURMOND's century of contributions, let us also celebrate the remarkable story of America's journey, for in many ways they are one-in-the-same. STROM, your colleagues wish you all the best—and we thank you for exemplifying what it means to serve in the greatest Democracy the world has ever known.

Mr. KERRY. Mr. President, I rise today to pay respects to a man who has served his country for the past 78 years. In the year 1924, at the age of 21, STROM THURMOND was commissioned a 2nd Lieutenant in the U.S. Army Reserve. Twenty years later, STROM fought valiantly during World War II and amazingly, at the age of 43, he was part of the first wave of American soldiers who landed in Normandy during

D-day, parachuting behind enemy lines with the 82nd Airborne Division.

For his bravery and outstanding service in combat, STROM THURMOND was awarded 18 service decorations, awards and medals. In addition to his Bronze Star for Valor, he received the Legion of Merit with Oak Leaf Cluster, the Purple Heart. For his merit and heroism during the D-day invasion and subsequent freeing of Belgium and France, he was awarded both the Belgian Order of the Crown and the French Croix de Guerre from the Belgian and French Governments, respectively.

After returning from the war, STROM THURMOND began an unprecedented career in the Senate which has been marked by a dedication to upholding the honor and dignity of the United States Military and America's heroic veterans helping to ensure that every veteran has a voice in the Halls of Congress and the opportunity and protection commensurate with the dignity and honor with which they served.

In 1959, 36 years after he had been commissioned, STROM THURMOND retired from the United States Army Reserves a major general of the U.S. Reserves, ending an amazing career that spanned two wars and countless acts of personal bravery and leadership. In the Senate he has brought his many years of experience to many debates and, for the last 30 years, to the Veterans Affairs Committee where his personal commitment to veterans issues has been heralded by all.

As a veteran, I have great respect for Senator THURMOND's active role on the Veterans Affairs Committee and his contributions to make certain in words and deeds that our veterans and their families receive the best possible care and that the U.S. Government honors the promise it makes to each soldier who wears the uniform of our country.

When STROM THURMOND retires after this year, the Senate will lose a man who has seen the arc of the 20th century with his very eyes. From fighting in some of the greatest battles in world history to bearing witness to the Great Depression and the Great Society, STROM THURMOND has seen decades pass in which America has fought in war and prospered in peace—decades in which America emerged from isolation to lead the world to greater freedom and liberty for all—decades in which American made certain the promises of our forebears and their quest for a more equal society.

Mr. CRAIG. Mr. President, like all my colleagues, I rise today to honor the Senior Senator from South Carolina, Mr. THURMOND, who is also America's Senior Senator.

Some of my earliest memories of working in the Senate with Senator THURMOND were our efforts on balancing the budget and on the balanced budget amendment to the Constitution. He was the real father of this Amendment, dating back to his early years in the Senate. And he fought so hard on this issue because he cared so deeply about us leaving our children a legacy of opportunity and economic security.

Senator THURMOND told me he liked being around young people because they challenged him with new ideas and kept him young.

As the ranking member of the Senate Aging Committee, every day I grow to appreciate a little more what Senator THURMOND has spent a lifetime teaching us: the importance of being young at heart.

That positive attitude was evident when, a few years ago, Senator THURMOND told Reuters he was ready to be a back-up space shuttle crew member for Senator John Glenn, saying: "I always believed that if NASA really wanted to study the effects of space travel on an older American, they should have called me."

Senator THURMOND has spent almost a century, not only as a witness to history, but as a shaper of history.

Today may be Strom Thurmond Day, but if the 20th century was the American Century, then it was also the Strom Thurmond Century.

Senator THURMOND was 41 years young, when he climbed into glider number 34 of the 82nd Airborne Division in June 1944 and took part in the Normandy invasion on D-day. Fifty years later, Senator THURMOND showed perspective, when he did not return to Normandy for 50th anniversary commemorations because it was more important to attend his son's graduation.

A few years later he ran for President, against Harry Truman and Tom Dewey, as the nominee of the States' Rights Democratic Party, and won 39 electoral votes.

A few years after that, he became the only Senator in American history to be elected by a write-in vote, demonstrating the devotion of South Carolina voters to STROM THURMOND that has never wavered, as his dedication to them has never wavered.

Lyndon Johnson said the Senate has show horses and work horses. Senator THURMOND has always been a work horse.

The experts tell us that one of the keys to a long, healthy life is being adaptable and being able to renew oneself.

Over the years, Senator THURMOND also has displayed a firm foundation of principles, in his devotion to family, faith, and freedom.

Like all the great persons of history who have had staying power, Senator THURMOND has shown that great balance of having a firm moral foundation and being able to renew himself.

In fact, he is the only Member of this body to have served in the majority as a Democrat, in the minority as a Democrat, in the minority as a Republican, and in the majority as a Republican. That is adaptability.

I would also add, he has always shown unfailing graciousness to colleagues, to constituents, and to all the Senate staff.

I remember our former Senate Republican Leader, Bob Dole, being asked what his health care plan was. He replied: "I'm in favor of the Thurmond plan. I want to do what he does. I used to follow him around and if he ate a banana, I ate a banana."

All of us could not do much better than to follow the example of STROM THURMOND.

In Jack Bass and Marilyn Thompson's biography of Senator THURMOND, they quoted a woman who knew him since boyhood, who said: "He hasn't changed. Everything he's done has been done to the full. There's no halfway doings about STROM."

Today we honor our colleague, friend, and mentor, for a full career of accomplishment, for his full dedication to America and South Carolina, and for a full life, in every respect.

Mr. REID. Mr. President, I join my colleagues today in recognizing the distinguished Senator from South Carolina and his years of service in the U.S. Senate.

STROM THURMOND has lived almost one century—his 100th birthday will be December 5th—and he has been a Senator for almost half of that time. He is now finishing his eighth full term, making him the longest serving Senator and the oldest Member of Congress. But Senator THURMOND is known—and will long be remembered—for much more than his longevity.

He has had a remarkable life and career of service to South Carolina and the United States, having served as a school superintendent, State Senator, judge, and as the Palmetto State's Governor.

He entered the Nation's military when he was 21 years old and almost 20 years later volunteered to serve in World War II. He was among the brave American troops who landed in Normandy on D-day with the 82nd Airborne Division, and he received numerous awards for his military service including the Bronze Star for Valor and a Purple Heart.

Senator THURMOND has fought no less fiercely in the political arena. He has used his gifts, experience, the power and respect he has earned and knowledge of Senate rules and procedures to advocate on behalf of his causes.

Although he has switched political parties during his career, serving first as a Democrat, running for President as a "States Rights" third-party candidate in 1948, and becoming a Republican in 1964, he has consistently adhered to his political ideology.

I am glad that we have an opportunity to acknowledge his contributions and to reflect on the considerable impact he has had on this body, his party, and the Nation.

Senator THURMOND is a living monument but just to make sure his service is recognized, the people of South Carolina, whom he has represented for so long, have honored him by erecting a monument for him and naming dozens of facilities for him.

Senator THURMOND will certainly be missed around here. I bid him farewell and extend my best wishes to him and his family.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived and passed, the Senate will now stand in recess until the hour of 2 p.m.

EXTENSION OF MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent morning business be extended.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from South Carolina.

THANKING THE SENATE

Mr. THURMOND. Mr. President, I am surely honored by the generous remarks of my colleagues, Senator DASCHLE, Senator LOTT, Senator HOLLINGS, Senator BYRD, Senator STEVENS, Senator HUTCHISON, Senator ALLARD, Senator SPECTER, Senator ALLEN, Senator McCONNELL, and all others.

It is hard for me to believe that it was about 80 years ago that I began my professional career. Beginning as a school teacher and coach, I have enjoyed public service as a County Superintendent of Education, attorney, State Senator, State Circuit Judge, military officer, Governor, and Senator. While I have enjoyed each and every job I have held over the years, there is no job I have treasured more than serving as a U.S. Senator. I am proud to be a member of this remarkable legislative body and have been blessed to observe nearly a half-century of our Nation's history from within this chamber. I still recall the cold Christmas Eve, December 24, 1954, when I was sworn in by then Vice-President Richard Nixon, with my late wife, Jean, by my side.

I came to Washington with one priority—to serve this Nation and my fellow South Carolinians with integrity and to the best of my ability. As I now enter the final days of my Senate career, with nearly 48 years of Senate service, I trust I have accomplished that objective.

The U.S. Senate is a special institution in many respects. The six-year term assures that there is the stability within this chamber which allows the Senate to be a deliberative body. The great history of this body reflects the great issues of American History. Here we have debated fundamental questions regarding the status of our Union, national territorial expansion, matters of war and peace, social and economic policies affecting every individual, and many other important matters of national interest as well as local issues.

Given the esteemed stature of this legislative body, it was with no small amount of humility that I moved from South Carolina to Washington so many years ago. Like every other man and woman who serves in the Senate, regardless of party affiliation or ideology, I desired to perform my duties with honor, to the best of my ability, and with a goal of making a difference in the lives of my fellow citizens.

As Senators, we have many roles to perform in the discharge of our duties. There is no other job in the world that allows us to have a more direct impact on improving the lives of individuals and strengthening our Nation. Through legislation, oversight, and old-fashioned constituent service, each of us is able to help the citizens of our respective States, as well as build a Nation which is stronger and better for all who live here. The work we do here benefits millions of Americans. One cannot help but take great satisfaction and pride in such important service.

As legislators we are called upon to vote on matters of local concern and national interest. I have cast over 16,300 rollcall votes as a U.S. Senator. Each vote is cast considering the concerns of my constituents and what is right for our Nation. While I have missed a few votes, I am pleased that I have been present for over 95 percent of all rollcall votes called by the Senate during my time in office.

It is the floor debate and the rollcall votes that citizens most closely associate with the work of the U.S. Senate. When visitors come to the Capitol, the overwhelming majority of them visit the Senate and House Galleries to watch their Congress in action. I suspect that most Americans are less familiar with the Committee system, but as we all know, that is where a significant amount of the work of this institution is accomplished.

During my Senate career, I have been privileged to serve on a number of Committees in the U.S. Senate. As a member and Chairman of the Armed Services Committee I worked hard to help build the finest military force that history has seen. On the Judiciary Committee, which I also chaired, my priorities were to safeguard the Constitution, keep the judicial branch independent and staffed with well qualified men and women, and enact sound policies to help make our communities safe. As a founding member of the Veterans' Affairs Committee I have always fought to ensure that the men and women of our Armed Forces receive the health care and benefits they deserve. On each of the Committees I served, I associated with Senators who were expert in their areas of oversight, who took their duties as Committee Members seriously, and who were exceptional legislators.

One of the primary duties of a Senator is to represent and assist constituents. I consider constituent service to be the most significant aspect of my Senate career. I am pleased that my Senate office has helped hundreds of thousands of South Carolinians interact with a government bureaucracy that can sometimes be confusing, unyielding, and intimidating.

As the calendar draws closer to the day that I walk out of the door of Room 217 of the Russell Senate Office Building, I know that pundits and historians will examine my career and study my service and achievements. I pray that such an examination will determine that I was a man who rendered a worthy service to the Nation and to my State. I hope I am known, above all, as a man who tried to help others. I also acknowledge that whatever I have been able to achieve, through my years of Senate service, it was largely through working closely with my colleagues.

No single individual can accomplish what has to be done here without recognizing the contribution of those who served before we arrived. When I think of the South Carolinians who occupied this seat before me, I am humbled. To follow in the footsteps of such distinguished men as Pierce Butler, Charles Pinckney, Thomas Sumter, John C. Calhoun, Benjamin Tillman and many others, is indeed an honor.

Likewise, much of our own success is due to the colleagues with whom we serve. This is perhaps the greatest aspect of being a Senator—to associate with such fine individuals. I have been so fortunate that in my tenure here I have had the distinction of serving with so many fine men and women. I regret that it is simply impossible to identify each and every single Senator with whom I have had the pleasure of serving. As an historical note, 1,864 men and women have served as U.S. Senators. I have had the privilege to serve with 410 of these great men and women. I have had the distinct opportunity to serve, in some instances, with more than one generation from some great families. I note there are Senators serving today whose fathers were my colleagues some years ago. I am hesitant to recognize individual colleagues, for I have enjoyed my association with every Senator, but a few stand out in my mind.

My long-time colleague, Senator HOLLINGS, has served with me for nearly 36 years. I greatly appreciate his friendship and extend my best wishes to him and his lovely wife, Peatsy.

Having served on both sides of the aisle, and having presided over the Senate as President pro tempore for a number of years, I am privileged to have friends in both parties. I enjoyed my association with distinguished Senators such as Richard Russell and Herman Talmadge. Bobby Kennedy was a special Senator, whose office was across the hall from mine. I have enjoyed a long and warmhearted association with ROBERT BYRD and TED STEVENS. Similarly, I have a great respect for JOE BIDEN, with whom I serve on the Judiciary Committee. My neighbor, JESSE HELMS, is a great American and a great friend. Our current Republican leader, TRENT LOTT, always has a kind word and a friendly greeting. I admire the many genuine heroes who have served in the Senate—men like DAN INOUYE.

In addition, much of the success of individual Senators and of the Senate is due to the leadership of the Senate. Distinguished statesmen like Mike Mansfield, Everett Dirksen, Hugh Scott, Howard Baker, Bob Dole, were great men who served this institution with dedication and concern for the well-being of the Senate and the Nation.

As a Senator I have served with ten Presidents, from Dwight D. Eisenhower to our current capable and dedicated leader, George W. Bush. Three of those—John Kennedy, Lyndon Johnson, and Richard Nixon—were Senate colleagues. In the Supreme Court, 108 Justices have served since the formation of the Court in 1790. I am proud to have participated in the advice and consent in the confirmation of 20 of these outstanding men and women, as well as hundreds of judges in the lower courts.

Mr. President, today's Senate is much different than when I first arrived. At that time there were four fewer Senators, for neither Alaska nor Hawaii had been admitted to the Union. Our friends from the "Aloha" and "Last Frontier" states did not join us until 1959.

Not only were there fewer Senators, but the Senate support staff was much smaller. When I began my Senate service, I was assisted by just four attorneys and three typists. Today, I have over 35 hard-working, dedicated staff members. At the end of my first term there were about 6000 staff serving Members and Committees in the House and Senate. Today there are over 18,000 staff in personal and committee offices. An additional 13,000 staff support the Congress in various Congressional support agencies.

This growth in the Senate staff, as well as the increase in the length of the Senate calendar, is a reflection of the growth of the Federal government. Both in size and in scope, the Federal government has enlarged its involvement in the life of Americans. I am not convinced, however, that this has always been in the best interest of our Nation.

There have been significant physical changes to the Capitol complex. When I first arrived in Washington, the Russell Senate Office Building housed all Senators, staff, committees, and other support personnel and functions. In 1958 the Dirksen Office Building was completed, and in 1982 the Hart Office Building was finished. The Capitol building itself was enlarged during my tenure with the east front extension. That extension provided additional rooms when it was completed in 1962. As I depart, a great addition is underway with the construction of the Capitol Visitor Center. I am proud of my contribution to this effort which began in earnest just a few years ago as I served as President pro tempore and Co-Chairman of the Capitol Preservation Commission.

Despite all the changes that have occurred in this institution and in our Nation, there is one constant—that has been the closeness of the Senate family. There are literally thousands of people who work quietly, outside the spotlight, to ensure this institution runs smoothly. I express my appreciation to all in the Senate who contribute to the success of every Senator and make this institution a community. This family includes the Secretary of the Senate, the Sergeant-at-Arms, the staff of those Officers, the Clerks, Doorkeepers, Capitol Hill Police, the staff of the Senate restaurants, the Attending Physician and staff, the cloakroom staff, the Chaplain's office, the Parliamentarian, the Architect of the Capitol and staff, the Librarians, staff of the Congressional Research Service and the General Accounting Office, and many others, too numerous to mention.

I must also pay tribute to my own staff. A strong, competent, and capable staff is absolutely necessary to any Senator. We could not keep up with all our duties, maintain contacts with constituents, or accomplish our legislative goals without our staff. Throughout my career, I have made it a point to hire the best people I could to work in my personal office and on my committees. I have enjoyed my association with literally hundreds of bright, talented and hard-working individuals. I have enjoyed watching them mature in their personal lives and grow in their professional careers. I am proud of my staff. I ask unanimous consent that a list of my current staff be inserted in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. THURMOND. Finally, I express my deepest appreciation to my entire family for their love and support, especially my children. Strom, Julie, Paul, and my beloved daughter, the late Nancy Moore, have been the joy of my life. I thank them for their sacrifices and devotion.

Mr. President, no matter which side of the aisle we occupy, regardless of the issues that may divide us, and despite any political differences we may have, all of us ran for office and fought to stay here because we want to serve and make a difference. There is no more noble calling than public service, and no more rewarding place to serve than the U.S. Senate. This is truly one of the most unique and special institutions in the world and the opportunity to serve in this body is a rare privilege and one which I think all of us value equally.

In my public service career, I have served in many different capacities and at every level of government, but none has been more meaningful or gratifying than the time I have spent as the Senator from South Carolina.

When I graduated from Clemson College in 1923, my father gave me a paper entitled "Advice" which I have always proudly displayed in my Senate office and after which I have always tried to pattern my life. The advice which my father gave me, and which I pass on to others follows:

Remember your God;

Take good care of your body and tax your nervous system as little as possible;

Obey the laws of the land;

Be strictly honest;

Associate with only the best people, morally and intellectually;

Think 3 times before you act once, and if you are in doubt, don't act at all;

Be prompt on your job to the minute;

Read at every spare chance and think over and try to remember what you have read;

Do not forget that "skill and integrity" are the keys to success.

Mr. President, I leave you, and my friends, with my father's universal advice and add the following: Always respect and appreciate your tenure in the world's greatest deliberative body; do your absolute best to serve this Nation with honor and decorum; and strive to keep the U.S. Senate the proud, historic and distinguished body of government it has been since the birth of this blessed Nation.

As I close out my public service career, I again thank my constituents, my colleagues, my staff and my family. May God bless each of you, the U.S. Senate, and God bless the United States of America.

I love all of you, and especially your wives.

EXHIBIT 1

SENATOR STROM THURMOND STAFF LIST

Duke Short, Chief of Staff and Administrative Assistant.

Holly Richardson, Executive Assistant.

Mark Ivany, Personal Assistant.

Eliza Edgar, Assistant to the Chief of Staff.

Erin Goodin, Receptionist.

Walker Clarkson, Receptionist.

PRESS/PUBLIC AFFAIRS

Becky Fleming, Press Secretary.

Emily Dorroh, Press Assistant.

RECORDS

Les Sealy, Office Manager and Systems Administrator.
David Black, Assistant Office Manager.

PROJECTS

Bill Tuten, Projects Director.
John Hawk, Projects Assistant.
Kevin Smith, Projects Assistant.
Michael Bozzelli, Projects Assistant.
Melissa Kiracofe-Low, Projects Assistant.

GENERAL LEGISLATION

David Best, Legislative Director.
Ernie Coggins, Legislative Assistant.
James Galyean, Legislative Assistant.
Helena Mell, Legislative Correspondent.
Ashley Hurt, Legislative Correspondent.

MILITARY CASEWORK

Matt Martin.

JUDICIARY SUBCOMMITTEE ON THE CONSTITUTION, FEDERALISM AND PROPERTY RIGHTS

Scott Frick, Chief Counsel.
Melinda Koutsoumpas, Chief Clerk.

ARMED SERVICES

George Lauffer, Military Assistant.

PRESIDENT PRO TEMPORE, EMERITUS

James Graham, Staff Assistant.

THURMOND STATE OFFICES

Columbia: Warren Abernathy, State Director; Jeanie Rhyne; Valerie Gaines; Lind Morris; Michelle Quinn; and Christie Humphries.
Aiken: Elizabeth McFarland.
Charleston: Patricia Rones-Sykes.
Florence: Raleigh Ward and Kathryn Hook (Volunteer).

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate stands in recess until the hour of 2 p.m.

Thereupon, at 12:43 p.m., the Senate recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Mr. REID).

HOMELAND SECURITY ACT OF 2002—Resumed

AMENDMENT NO. 4694

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized for 7½ minutes.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I am pleased to urge adoption of the amendment offered by Senator MCCAIN and ask that the vote be taken by the yeas and nays.

The PRESIDING OFFICER. Is the Senator asking for the yeas and nays on the amendment?

Mr. LIEBERMAN. That is correct.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I rise to discuss briefly my vote on the September 11 Commission. I joined in the amendment proposed by my good friends from Connecticut and Arizona because it is the right thing to do. Sitting as I do on both the Judiciary and Intelligence Committees, it has become clear to me over the past year that many different causes contributed to the horrific terrorist attacks on September 11. I have become convinced that we need to take a hard look at how this tragedy happened in order to better understand how we might avoid a similar tragedy in the future. Hindsight is, indeed, 20-20, and we may be able to profit from a detached and objective analysis of mistakes that may have been made in the days and months before that attack. We need to learn from our mistakes. The stakes are simply too high to bury them.

While I believe that a September 11 Commission should be appointed, I also think that the administration should have some voice in its makeup. The amendment establishes a 10-member commission with all of the 10 members appointed by the majority and minority leaders of Congress. It is fitting that Congress play a large role in defining the membership of this Commission, but it is striking to me that the administration has no voice at all. Just as this Commission was approved by strong bipartisan support, so too should its task be apolitical. In this spirit, I would call upon my colleagues to think seriously about providing the administration with some role in defining the Commission.

Mr. KYL. Mr. President, as a member of the Select Committee on Intelligence, I have had reservations about creating an outside commission to investigate 9/11 as called for in this amendment. My reservations have essentially been twofold: First, the Intelligence Committees were given the responsibility to look into this very matter, so an additional investigation would be duplicative and place additional stress on our intelligence community at a time when its resources should be dedicated to fighting the war on terrorism.

Second, we had every reason to believe that the joint committee investigation would do its job—that is, find out what went wrong, why it went wrong, and how we can reform the intelligence community to try to prevent future such failures.

Sadly, it appears that the joint committee will fall short of that goal. In the Intelligence Committee, I have expressed serious reservations about the direction of the investigation, including the allocation of time and resources to holding premature open hearings.

Last week, the joint committee held public hearings in spite of not having completed its investigation. In fact, what was presented last week was only a staff document, not a consensus product of the committee. Members had no practical input into this interim report.

The interim statement from the joint inquiry staff provided information about what has been done to date, a chronology of events leading to the September 11th attacks, and some background information about al-Qaida. This history may be useful, but it does not address the questions that are fundamental to this investigation.

In the committee, we heard from more than one witness that at least some of the problems in the intelligence community stem from a bureaucratically and politically-induced culture of risk aversion and/or an inadequate allocation and improper prioritization of resources. Yet, it is not evident that the joint committee inquiry is serious about pursuing these fundamental questions.

For these and other reasons, it will be difficult for me to concur in the final joint committee product without reservations. We will not know what we haven't been told. Therefore, we will not be able to vouch unequivocally for the final product.

And, of course, these are the very questions that have led to calls for the creation of a national commission to investigate these matters, and, hence, to this amendment. Reluctantly, I have come to the conclusion that it is necessary. If its work starts after the Joint Intelligence Committee investigation has concluded, there should be no duplication or additional stress on the entities required to cooperate in the investigation.

Mr. President, because of the inadequate course being taken by the Joint Intelligence Committee investigation, and because the imposition of that investigation on our intelligence apparatus will be ended by the time this commission begins its work, I will support the creation of the commission.

Mr. LIEBERMAN. Mr. President, I have had the chance to speak about the urgent necessity of this independent commission to review the causes of the tragic events of September 11. It responds to the public interest by creating the best possible Department of Homeland Security to close the gaps that existed prior to that. The joint intelligence committees have done excellent work that led to disclosures that cry out to us for further investigation by our intelligence apparatus—and some other aspects of our Government that created the vulnerabilities which enabled the terrorists to strike at us last September 11.

There is very little time available.

I yield 2½ minutes to my colleague from Pennsylvania and 2½ to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Connecticut for yielding time.

Immediately after 9/11, I opposed the creation of an independent commission because at that time I believed the appropriate investigation should be conducted by the Intelligence Committees of the two Houses and that there ought to be a period for the intelligence community to regroup after 9/11.

As matters have eventuated, it has not been possible for the joint investigation by the Senate and House Intelligence Committees to be completed. We are now nearing the interim term, and that is why I now believe an independent commission would be the thing to do.

When the so-called leak occurred and the Intelligence Committees invited the FBI to conduct an investigation, I thought that was very inadvisable, and by a letter dated June 24, I wrote to the chairmen and vice chairmen of the committees of both Houses saying in effect that it was unwise to have the Intelligence Committees investigating the FBI when the FBI was investigating the Intelligence Committees; that as a matter of separation of powers, it is highly undesirable to have the executive branch investigating congressional oversight; but if they believed it was necessary, a better approach would be to hire independent counsel, as the Judiciary Committee did when a leak occurred during the confirmation hearings of Justice Thomas.

But it is evident at this point that the Intelligence Committees are not going to finish the job, that there are very vital issues to be determined as to the lapse on 9/11, and that on the basis of the current record, had the dots been connected, there is a veritable blueprint where 9/11 might have been prevented and the best approach now is to work through the commission.

I ask unanimous consent that my letter be printed in the RECORD, and I thank my colleague from Connecticut and yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 24, 2002.

Senator BOB GRAHAM,
Chairman,
Senate Select Committee on Intelligence.
Senator RICHARD C. SHELBY,
Vice-Chairman,
Senate Select Committee on Intelligence.
Congressman PORTER J. GOSS,
Chairman,
Permanent Select Committee on Intelligence.
Congresswoman NANCY PELOSI,
Vice-Chairwoman,
Permanent Select Committee on Intelligence.

DEAR BOB, PORTER, RICHARD, AND NANCY. I have noted the press reports of Friday, June 21, 2002, that the two Congressional Intelligence Committees had asked Attorney General John Ashcroft to see if congressional sources were improperly releasing classified information. That article said: "Asked if lawmakers would be open to interviews and polygraph tests conducted by the bureau, Mr. Goss said, 'We will cooperate with the FBI in every way possible'."

For two important reasons, I urge you not to proceed in that manner; but instead to pursue a congressional inquiry, perhaps with outside counsel or through the House and Senate Ethics Committees.

My concerns are:

(1) I believe it is inappropriate and unwise to have the FBI investigate the Intelligence Committees when the Intelligence Committees are investigating the FBI. That approach raises the inevitable question as to whether there would be reciprocal pulling of punches to avoid a tough inquiry by the other investigators; and

(2) I believe it is undesirable and unwise from a "separation of powers" consideration to invite the Executive Branch to investigate the Legislative Branch. If there is a prima facie showing of wrongdoing by a member of the Senate or House, then the Department of Justice has the established authority to investigate; but this situation would invite a widespread, open-ended questioning of everybody who had access to the so-called leaked information. In such an inquiry, it might be very difficult for members to decline to be polygraphed; and if members agreed to be polygraphed, that would set a dangerous precedent for the future when the Executive Branch might seek retribution from or pressure on a member.

During the 104th Congress when I chaired the Intelligence Committee, the Committee conducted internal inquiries where concerns arose over improper disclosures of classified material. If such an internal inquiry is deemed insufficient, your Committees could proceed to hire outside independent counsel, as the Judiciary Committee did on leaks in the confirmation hearings of Justice Clarence Thomas where Judiciary Committee members were then questioned, or you could ask the House and Senate Ethics Committees to investigate.

I know Committee members face a difficult and touchy situation in this matter but I suggest you reconsider an investigation by the FBI with the attendant potential for polygraph tests.

Sincerely,

ARLEN SPECTER.

The PRESIDING OFFICER (Mr. CLELAND). The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, 3 months ago I would not have been on the floor supporting the establishment of a commission to look into our Government's failure to detect and prevent the attacks on September 11.

Three months ago I believed very strongly that the Intelligence Committees of the House and Senate were not only capable of examining our Government's failures and vulnerabilities but were obligated to do so.

I believed then that if we dedicated the necessary time and resources, we would be able to conduct a thorough and comprehensive inquiry. And I think we have made a lot of progress.

Now that we are rapidly approaching the end of the year and the end of this Congress, I am increasingly concerned that the joint effort of the House and Senate Intelligence Committees will not be able to complete such an inquiry.

Our scope is not broad enough. It is confined to the intelligence aspects—not to FAA, and not to immigration and other aspects.

We now know that our inability to detect and prevent the September 11 attacks was not only an intelligence failure of unprecedented magnitude, it was a failure of our entire Government to protect and defend the American people.

I am now convinced that an accounting on behalf of the victims, the families left behind, and the American people must include a comprehensive examination of how every relevant agency of our Government performed or failed to perform prior to the attacks.

The House and Senate Intelligence Committees have been at work for approximately 6 months. We are making progress, but we are far from done.

Our Committee began with high aspirations, but we soon stumbled. We had some early staffing difficulties along with some false starts on our hearing schedule.

Early on, our inquiry turned up only information that provided to us. Our separate joint staff was dependent upon the information provided by our intelligence agencies, which were reluctant to cooperate fully.

While our joint staff was working in the agencies, they were often isolated in rooms constantly monitored by agency staff. Agencies refused to circulate the joint staff's contact information and forbade them from meeting with anyone without agency supervision.

While our staff was allowed to view large quantities of documents, they were not allowed to make copies of all of them. Therefore, the process of documenting certain events became very onerous and time consuming.

Other agencies refused to allow the joint staff to interview key individuals. They were told that they could speak to supervisors and more senior personnel who often knew few, if any, details.

Many of these problems were ultimately worked out, but that took precious time, time we did not have. Some of the problems persist today. For example, we are often arguing with agencies about who may or may not appear before our committees as late as the day before they are scheduled to appear. Witnesses are requested, refused, requested again, granted and then, at the last minute, refused again.

There also remains a body of documents that the Director of Central Intelligence refuses to allow the committees to retain.

Much of the information that we gather is classified. The process of declassification has taken an inordinate amount of time. Often we are still in the process of determining what we can discuss publicly moments before a hearing.

It is this type of interaction that cannot be completely characterized as uncooperative but is, nonetheless, extremely counterproductive and has slowed the progress of this investigation. We are, however, making progress.

The staff has reviewed many thousands of documents, but they have many thousands yet to review.

They have interviewed many people, but there are many yet to interview.

In fact, it is still very difficult even to determine how far we have come, and almost impossible to tell how far we have yet to go.

I have been a part of many investigations in my career but none has been as important as this one. Almost 3,000 Americans have been murdered, and perhaps thousands more innocent lives hang in the balance every day. Our joint investigation must be thorough, comprehensive and complete. I want it to be a success.

To be a success, however, an inquiry needs time and resources. If you limit either one, your chances of success diminish significantly. Unfortunately, we have a short supply of both and I am afraid that we are beginning to reap the results.

From the outset, I argued strongly that our committees should avoid setting arbitrary deadlines. Deadlines are an invitation to stonewalling and foot-dragging, and we have seen some of both in our effort.

I have also said many times that agencies under the congressional microscope are generally not motivated to cooperate. To be thorough, we must be able to identify and locate relevant information, retrieve it, and then analyze it in the context of all of other information we have gathered. This is inevitably a difficult and time-consuming undertaking.

Because we have only one to three staffers actually focusing on any particular agency at any one time—and because so much of our joint inquiry staff resources are tied up in producing hearings—it has become exceedingly difficult to be as thorough and probing as we need to be.

At this point, I do not believe we will be able to complete the job the American people expect us to do. However, I expect us to do a credible job and to lay the predicate for future investigations.

While I continue to work on the joint effort, I believe ours must be a prelude to a more comprehensive inquiry. Therefore, I intend to support the creation of a commission, and I urge my colleagues to do the same this afternoon.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I know the Senator from Connecticut, Mr. LIEBERMAN, has more to say. I don't believe there is anyone speaking in opposition to this amendment. The Senator from Connecticut, Mr. DODD, was here earlier this morning to speak about STROM THURMOND. He was squeezed out by the majority leader, the Republican leader, Senator BYRD, Senator HOLLINGS, and others. I therefore ask unanimous consent that when the Senator from Connecticut finishes his few minutes, Senator DODD be recognized using the 7½ minutes in opposition to this amendment and 2½ minutes, for a total of 10 minutes, to speak as if in morning business prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I do not object to my colleague from Connecticut speaking. I want Senator REID to know I would not be surprised to see the Senator from Arizona, Mr. MCCAIN, a cosponsor of the amendment, on the floor hoping to say a few words. I will be mindful of that.

The creation of a Department of Homeland Security, in which we're now engaged, is an urgent investment in the present and future safety of America. We need to take this step, and we need to take it now.

But even as we do, we must recognize that we're acting on an incomplete picture of the problems that need to be fixed. We're relying on partial and sporadic reports about how the government failed to meet the challenge of securing our homeland pre-September 11.

When the new department gets up and running, we owe it to ourselves, and to the country we're striving to secure, to give it as complete and independent an assessment as possible of what went wrong before September 11 and why. If we don't come to terms with the whole truth by looking back at what happened, we can never move forward with the knowledge and confidence we need to set things right.

Since September 11, all of us, and particularly the families of the victims, have been subjected to the wrenching process of learning about their government's failures through a tortuous trickle of leaks and soundbites.

All of this has hurt the nation psychologically by increasing anxiety and feeding speculation, leaving doubts about whether our government has come to terms with the full scope of the failures that allowed those terrible attacks to succeed. It has also damaged our spirit by turning almost every revelation into a regrettable volley of charges and counter-charges. And it has hurt us practically by failing to give us a clear, clean picture—with perspectives, context, nuance and shades of gray—of what agencies failed, how they failed, and why. As we begin to build a Department of Homeland Security, we will need that picture to make sure we do it right.

I do want to pay tribute to the joint House-Senate Intelligence Committees, which have uncovered valuable and disturbing evidence of the intelligence community's failure to share and capitalize on information about the hijackers, in the months preceding September 11.

As Senator JOHN MCCAIN and I see it, a non-political, blue-ribbon commission would build on the joint committees' work—reviewing their findings and continuing to explore areas they touched on—as part of a sober, comprehensive inquiry into all our pre-September 11 institutional shortcomings.

I also must add that I was enormously gratified last Friday when the administration reversed its long-standing opposition to creating an independent commission. Last November, even before we began drafting a bill, Senator MCCAIN and I wrote the President inviting him to work with us. Since we never heard back, we introduced legislation in December. In the intervening months, we held an informative hearing on the proposal, reported it out of the Governmental Affairs Committee, which I am privileged to chair, and eventually won the backing of 22 co-sponsors from both parties. As was the case with creating a Department of Homeland Security, I welcome the administration's support—regardless of when it arrives.

Since Friday, we have entered into discussions with the administration, which requested a variety of changes. Assuming passage of the amendment today, we will gladly continue these talks.

This amendment is based on S. 1867, legislation I introduced with Senator MCCAIN on December 20 of last year. The legislation has been revised as it made its way through the legislative process. The Committee on Governmental Affairs heard from a distinguished panel of witnesses at a February hearing. The witnesses, all of whom had served on past commissions, recommended an inquiry by an independent commission into the September 11 terrorist attacks. The bill was reported out of committee by voice vote on March 21 of this year. I refer my colleagues to the committee's written report, No. 107-150, for a fuller explanation of the legislation's, and this amendment's, context, purposes and justification. The bill reported out of committee contained some changes from our original version. Several of those changes were the result of our discussions with Senator TORRICELLI, who had introduced a similar bill with Senator GRASSLEY and others. Others were the result of the recommendations of our hearing witnesses and extensive consultations with experts.

Last Thursday I described several ways in which the amendment we are voting on today differs from S. 1867, the bill that was reported out of committee. The amendment would ensure an even division between Republicans and Democrats in choosing commission members—with the majority parties in the Senate and the House receiving three picks each, while the minority parties in each house get two picks each. This is the configuration of an equivalent commission recently created by the House, and it has other notable precedent, in the form of the National Commission on Terrorism, created by Congress in 1999, and headed by former Ambassador Paul Bremer.

There are three other changes from the text of S. 1867. The amendment emphasizes that the Commission should build upon the work of Congressional committees and other inquiries, especially the joint inquiry of the Senate and House Intelligence Committees regarding the terrorist attacks. We do not by any means intend this change to suggest that the Commission should avoid looking at specific issues related to intelligence just because the Committees had investigated the same issues. Rather, the Commission should use the Committees' fine report as a resource, as it continues to review the role of the intelligence community.

The amendment also provides that the Vice Chairperson of the Commission, in addition to the Chairperson and others, can issue subpoenas. The amendment envisions a Vice-Chairperson with powers and responsibilities essentially equivalent to that of the Chair. This model worked very well in the case of the National Commission on Terrorism. Finally, the amendment makes technical improvements to the bill's alternative subpoena enforcement mechanism.

As Senator McCAIN and I envision it, the commission would have purview over a broad range of areas. Of course, it would examine intelligence shortcomings, which are at the very core of our failure to anticipate September 11th. But it could also scrutinize a variety of other factors—law enforcement, immigration and border control, foreign policy, commercial aviation, for example—before recommending reforms.

Commission members would be private citizens—not elected officials—with expertise in a range of subjects related to what went wrong on September 11th. And the commission would have subpoena power and the right to meet in private session. It would also have enough time, a top level staff, ample investigatory powers, and adequate funding to perform its job properly.

We are not interested in using this commission to point fingers across the room. I hope and believe that an independent commission will make the government as a whole look in the mirror. After all, it is our common security, and improving it is our common responsibility.

We have a history of learning from history. America's first day of infamy, Pearl Harbor, was followed both by congressional investigations and by an independent commission. In the wake of other national tragedies—the assassination of President Kennedy, for example, and the Challenger explosion—similar independent investigations were launched immediately.

In the last two decades, investigative panels were convened after devastating terrorist attacks against U.S. military and diplomatic facilities, including the Marine barracks in Beirut; Khobar Towers in Saudi Arabia; U.S. embassies in Kenya and Tanzania; and the USS Cole. In 1989—after months of pressure from Congress and families of victims—the first President Bush created a commission to investigate the Pan Am bombing over Lockerbie, Scotland.

Essential lessons were learned from each of these inquiries, and the inquiries represent a recognition in the value of immediately reviewing terrorist attacks, to provide vital information about possible vulnerabilities which could be corrected. The commission we propose would build on those examples.

I have heard the criticism that recommendations of commissions are not followed, and therefore the modest expense in establishing them is not justified. Yet past commissions, with a small investment of resources, have had a real impact. Just ask Donald Rumsfeld: the Commission to Assess the Ballistic Missile Threat to the United States, which he chaired, recast our assumptions about the ballistic missile threat. What better evidence can there be than the homeland security legislation we are debating today, modeled closely on the recommendations of the prescient Hart-Rudman Commission? The National Commission on Terrorism issued a litany of policy prescriptions ranging from domestic law enforcement to intelligence to foreign policy—a number of those immediately passed the Senate, and more have been implemented since the September 11 attacks. And if in the past we had been lulled into complacency that we were safe against terrorism within our borders, how can anyone doubt that the enormity of the September 11 attacks will not keep this nation focused on what needs to be done?

At our Governmental Affairs Committee hearing on the commission bill in February, Columbia University Professor Richard Betts, who served on the National Commission on Terrorism, said an independent commission is important because it would conduct a quote "sober investigation that the public could have confidence is as objective as humanly possible." This is our goal.

I have met with families of September 11th victims on several occasions, and their desire for this commission is the strongest argument I can present on its behalf. The persistent advocacy of Stephen Push, Kristen Breitweiser, Mary Fetchet, Beverly Eckert, Monica Gabrielle, and many others—despite their devastating loss—has inspired my profound respect.

Husbands, wives, and children were murdered on September 11th. Their survivors need to come to terms with what happened so that they may move on with their lives. The families want answers to questions that echo in my own mind and heart: Why was such a simple plan so successful in achieving its evil goals? What opportunities were missed to prevent the destruction?

At a June rally organized by family members in support of this legislation, Mindy Kleinberg, a mother of three who lost her husband, Alan, on September 11th, told the New York Times—"I want to be able to look into the eyes of my children, and tell them the evil is over there, that they are safe, and that their country is secure. Nine months have passed, and I still cannot do that. I do not have answers."

Let us help these families—and the nation they represent—find closure. Three thousand men, women, and children of America's family were murdered. We need definitive answers that force us to face what happened and why—answers that will ultimately lead to a stronger and better America, and an America less tortured by piecemeal speculations about what might have been.

President John F. Kennedy said, "In the long history of the world, only a few generations have been granted the role of defending freedom in its hour of maximum danger. I do not shrink from this responsibility; I welcome it."

We too must welcome it, with a strong vote in favor of creating this commission so that we might live well-informed and therefore safer lives in the future.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LIEBERMAN. Mr. President, I will stand by what I have said before in behalf of the commission.

I yield the floor at this point to my friend from Connecticut under the previous order.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will keep an eye on the door. If our friend from Arizona comes through the door, I will abbreviate my remarks.

(The remarks of Mr. DODD are printed in today's RECORD under "Morning Business.")

Mr. DODD. I see my colleague from Arizona on the floor. I know he wishes to be heard on this amendment.

I yield the floor to my colleague from Arizona.

Mr. McCAIN. I thank my colleague from Connecticut.

Mr. President, are we still going to vote at 2:15?

The PRESIDING OFFICER. All time has been extended by 2 minutes.

Mr. McCAIN. By 2 minutes. I will take about 3 minutes, if that is OK with my other friend from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Senator from Arizona, who has been such a leader in this effort, be allowed to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I thank the Chair and thank my friend from Connecticut, Senator DODD. And I hope he will always yield to me when I arrive on the floor. I appreciate it.

Mr. President, I rise today to urge my colleagues to vote to create a commission, composed of the most credible people in America, that will tell the American people the truth about how our Government was not prepared for the threat of catastrophic terrorism last September.

To question American policies and practices in the months and years before September 11 is not to engage in a political witch hunt intended to score partisan points against one administration or another. To probe deeply but fairly into American policies predating the terrorist attacks is to examine the scale of American leaders' failure to imagine and plan for a contingency that was not, in fact, unimaginable. By American leaders, I mean the Congress, as well as other branches of Government. A thorough, nonpartisan investigation would provide an informed basis for the current administration and the Congress to take all necessary measures to ensure that our country is prepared to meet the challenges of this age of terrorism.

On Friday, the White House announced its support for an independent commission to address "the panapoly of other important and related issues as they may relate to September 11" and "strengthen our ability to prevent and defend against terrorism and protect the security of the American public." We will continue to work with the administration to refine our legislation and appreciate their support. We look forward to continuing our dialogue with the White House as the homeland security bill moves through conference. We are also pleased to have the support of Senators SHELBY and GRAHAM, the Senate leaders of the joint congressional investigation into last year's attacks.

The attacks on September 11 represented more than a failure of intelligence. They highlighted a failure of national policy to respond to the development of a global terror network implacably hostile to American interests. In 1989, the United States walked away from Afghanistan after fighting a proxy war against occupying Soviet forces. The subsequent civil war created the conditions for the rise of the Taliban, as the Afghan people submitted to a totalitarian government that imposed order over the chaos of warlord rule. The United States stood by passively as the Taliban formed an alliance with Osama bin Laden that turned Afghanistan into a sovereign training camp for al-Qaida to prepare its attacks on America as it built a global network of terror. American leaders, including those of us in Congress, watched and knew all of this.

The United States declined to respond meaningfully to terrorist attacks against our interests throughout the previous decade—again, a failure of national policy over the course of successive administrations and many Congresses that encouraged our enemies to perceive us as weak and unwilling to defend our interests. The 1993 bombing of the World Trade Center; the 1995 and 1996 bombings of American targets in Saudi Arabia; the 1998 attacks on our Embassies in Kenya and Tanzania; the 2000 bombing of the USS *Cole*—all of these attacks were preludes of growing intensity to the attacks against New York and Washington, DC.

In retrospect, a pattern becomes clear, a period in which the preeminent threat to American national security arose from the ashes of war and chaos in Afghanistan while the United States preoccupied itself elsewhere. We need to absorb the lessons of our failure so that, as after other national tragedies such as Pearl Harbor and the Kennedy assassination, we can tell those we are privileged to lead that evil men will never perpetrate such horror again. This commission will help us do that.

I thank my dear friend and colleague, the Senator from Connecticut, Mr. LIEBERMAN, for his leadership, and I look forward to us completing this job.

I thank the Chair and yield the floor.

Mr. LIEBERMAN. Mr. President, is there time remaining?

The PRESIDING OFFICER. There are 2½ minutes remaining in opposition.

Mr. LIEBERMAN. I thank the Chair.

I wanted to say a personal word about the extraordinary way in which the families of so many of those who were lost on September 11 have taken their unspeakable losses and personal grief and turned it into remarkable, continuing acts of advocacy for action by our Government to guarantee, as best any human can, that no other families will suffer the losses that they have suffered.

These families have pushed relentlessly, and with such principle and purpose, for the creation of this commission to answer the question that they naturally ask, that we all ask but they ask it with a personal poignancy: How could this have happened?

Earlier this year, at a rally of family members in support of the creation of just such a commission as our amendment would provide, Mindy Kleinberg, a mother of three, who lost her husband, Alan, last September 11, said:

> I want to be able to look into the eyes of my children and tell them the evil is over there, that they are safe, and that their country is secure. . . . Months have passed, and I still cannot do that. I do not have answers.

The purpose of this commission is to provide those answers for Mrs. Kleinberg, for her children, for all the survivors and friends, and for all Americans, to make sure their Government is doing everything it humanly can to prevent anything like the tragic attacks of September 11 of 2001 from ever happening again.

I think this is our best way to do that. I urge the adoption of this amendment.

I yield back the remaining time that I have.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4694. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 8, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—90

Akaka
Allard
Allen
Bayh
Bennett
Biden
Bingaman
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—8

Bond
Cochran
Gramm
Gregg
Lott
Lugar
Thomas
Voinovich

NOT VOTING—2

Baucus
Inouye

The amendment (No. 4694) was agreed to.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding we are now on the homeland security legislation; is that correct?

The PRESIDING OFFICER. We are.

Mr. REID. Mr. President, I have spoken with the minority. I ask unanimous consent that the Senator from

West Virginia, the President pro tempore of the Senate, be recognized to speak for up to 1 hour as in morning business. I have spoken with Senator GRAMM, and he is not quite ready to offer his amendment. He said he would be ready at or about 3 o'clock. I ask unanimous consent that at 3:40 p.m. we return to this bill. At that time, Senator SANTORUM indicated he might be present in the Chamber to talk about legislation he has. At that time, we will move forward on the legislation, hoping Senator GRAMM is ready to offer his amendment.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

The Senator from West Virginia.

PROGRESS ON THE FISCAL YEAR 2003 APPROPRIATIONS BILLS

Mr. BYRD. Madam President, the appropriations process is stalled. To use an overused expression: It is dead in the water. Certain Members in the other body have asserted that progress on the 13 appropriations bills for the fiscal year that begins October 1 has been slowed because Senate Democrats want to have a spending spree. Nothing could be further from the truth.

Nearly 2 months ago, on July 25, the Senate Appropriations Committee reported the thirteenth and final appropriations bill for fiscal year 2003, the earliest this has been accomplished since 1988. All 13 bills are bipartisan, and all 13 bills are fiscally responsible. There was not a single vote in committee against any of the 13 bills. Republicans and Democrats on the committee voted for these bills.

The bills totaled $768.1 billion and are consistent with the committee allocation approved by a vote of 29 to 0 in June. The 13 bills are consistent with the $768.1 billion allocation that was approved by the Senate Budget Committee when it reported its budget resolution last March. The bills are consistent with the $768.1 billion allocation that was supported by 59 Members of the Senate when the allocation was voted on during floor debate on the Defense authorization bill on June 20.

The holdup in the appropriations process is because the White House is giving marching orders to the House of Representatives. Regrettably, the House Appropriations Committee has reported only 8 of the bills compared to the Senate Appropriations Committee's 13. The House has passed only 5 of those 8 bills.

I stress that the holdup is not the fault of the House Appropriations Committee chaired by Mr. YOUNG of Florida. It is not the fault of that committee. They have wanted to do their work.

The holdup is a result of the House Republican leadership decision to stop all House floor action on appropriations bills. Perhaps the decision is being handed down from on high to the House Republican leadership. The House has not adopted an appropriations bill since July 24. With only 1 week to go before the beginning of the fiscal year, the House has not passed an appropriations bill in almost 9 weeks.

For the record, let me state that there is no scheme in the Senate to explode spending—none. Surely I would have heard about it if there were such. The Senate Appropriations Committee has produced 13 bills that total $768.1 billion plus $2.2 billion in emergency spending for FEMA disaster relief, low-income home energy assistance, and funds to fight fires. The committee also approved an additional $2.2 billion of advance appropriations for programs to help educate disadvantaged and disabled children. No tricks. As Shakespeare said: There are no tricks in plain and simple faith. No hiding the ball; no hat trick here.

Our 13 bills have been available for all the world to see for 2 months. The House is not moving forward as a result of a political dispute over the ceiling for spending in fiscal year 2003. The House Republican leadership, in collaboration with the White House, is insisting on the level of $759.1 billion. Yet the House Appropriations Committee has not been able to stretch those dollars far enough to write their bills.

The House Republican leadership has been informed by many members of their own caucus that they cannot vote for the Labor-HHS-Education bill at the levels requested by the President because that bill shortchanges America's classrooms and ignores our pressing health care needs. Yet, inexplicably, instead of changing course, the House Republican leadership has shut the appropriations process down.

Could it be because, with an election looming some members of the House want to avoid certain votes? If the Republican leadership has forsaken its duty to make careful choices for the American people and is driving the Congress toward a long-term continuing resolution, that means putting the Government on auto-pilot. This is the worst possible way to govern. It allows for obfuscation and abuse. It ignores critical needs.

In order to cover the politics involved which are the real reasons for the delay, the administration characterizes the $13 billion of additional spending in the Senate bills as "wasteful spending." Frankly, this is just simplistic, political rhetoric.

The administration tries to point political fingers at the Senate charging that we are spending too much on domestic programs. But where is the real growth in spending? The President proposed a 13 percent, or $45 billion, increase in spending for our Nation's defense programs. Let us note that the $759 billion ceiling forced the House to cut the President's request for the Department of Defense by $1.6 billion. The $768 billion ceiling available in the Senate allowed the Senate to restore $1.2 billion of that cut in DoD and the funds are being used for military readiness programs, for essential military construction programs, and for counter terrorism projects. In addition, the Senate was able to add $375 million to the President's February request for nuclear programs at the Department of Energy.

The President proposed a 25 percent increase in domestic homeland security programs. The $768 billion Senate level permitted the Senate to fully fund essential homeland defense investments such as additional firefighting funds, additional funds for port security, State and local law enforcement, and border security. Unfortunately, the House ceiling on spending is so low that the House Appropriations Committee has not even been able to mark up the Veterans/HUD/Independent Agencies bill and the Commerce/Justice/State bill which provide funding for many homeland defense programs. Yet the White House requested these increases, and they are obviously critically important for the security of our people.

When it comes to domestic programs other than homeland defense, the President proposed to freeze spending at the FY 2002 levels. That is a hard freeze with no adjustment for inflation or for other factors such as a growing population or growing unemployment. The $768 billion Senate level permitted the Senate Appropriations Committee to increase domestic programs by 2.6 percent. Not 13 percent, not 25 percent, just 2.6 percent for the domestic programs that serve our Nation.

And for what did we use that 2.6 percent increase?

We used it to increase funding for veterans medical care by $1.1 billion above the President's request. There are currently over 280,000 veterans on waiting lists for VA medical care. The President's request just did not adequately fund veterans' needs.

If I ever saw a veteran, there sits one in the chair presiding over the Senate of the United States. There is a man who has given everything but his life for this country. I would be ashamed to run against him.

With war drums beating all around us, I think we ought to be very careful to send the message to our veterans that we will take care of their present and future needs.

Last year, Congress passed the No Child Left Behind Act with broad, bipartisan support. But, this law becomes nothing but an unfunded mandate on our local governments if the Federal funding is not there for States to implement the new act. It takes money to reduce class sizes, to provide teacher training, to invest in new technology and to develop meaningful assessment tools. The Senate Committee bill increases education funding by $3.2 billion, or 6.5 percent, six times the meager 1 percent increase proposed by the President. Rhetoric is fine, but when it comes to our children's education we have to put our money where our mouth is, as the old saying goes.

The Senate used the 2.6 percent increase to make sure that we could keep Amtrak operating. A bankrupt Amtrak would mean that 23,000 employees would be thrown on to the unemployment line. Some 500 communities served by Amtrak would lose intercity passenger rail service forever, including 130 communities that have no air service whatsoever, and 113 communities that don't even have intercity bus service. It means the termination not just of Amtrak service across the Nation but also the termination of commuter rail service from Boston to California because many of these services are either operated under contract by Amtrak or they run over railroad tracks that are owned by Amtrak. Some 1.7 million citizens that ride Amtrak each month will lose service. So will roughly 4.2 million citizens that use those commuter rail services each month. If you think the highways are crowded during the morning and evening commuting times, just wait until Amtrak and the commuter rail systems are terminated overnight.

Last, January, in the State of the Union, the President said, "When America works, America prospers, so my economic security plan can be summed up in one word: jobs." Yet his budget proposed to dramatically cut highway spending below last year's level. For every billion dollars we spend on highways, we create 42,000 jobs. The Senate bill provides an obligation limit that restores the $8.6 billion cut proposed by the President's request, saving over 350,000 jobs. The President talks about jobs but the modest increase in domestic spending contained in the Senate bills actually creates jobs.

We used the 2.6 percent increase to provide for a $184 million increase above the President's request for the Securities and Exchange Commission. If the Congress is serious about rooting out corporate fraud, the SEC needs the resources to hire investigators and to fund the newly established Public Company Accounting Oversight Board, as authorized in the Sarbanes-Oxley Corporate Accountability Act of 2002.

We used the 2.6 percent increase to increase funding for job-training programs by more than half a billion dollars over the President. This is at a time when more than 8 million Americans are unemployed and there has been an increase of more than one million unemployed persons in just the last 12 months.

We used the 2.6 percent increase to restore over $94 million in cuts proposed by the President in Fossil Energy Research and Development programs and provide for a $58 million increase.

If the administration wants to reduce the nation's dependence on foreign oil, it is not going to do so by cutting our investment in fossil fuels, as proposed by the President. At a time when a new war in the Gulf may have long-term implications for this nation's energy security, it is vitally important that the United States continue to explore and develop new technologies which allow us to tap our own abundant energy supplies. We should have been working on energy independence diligently for the last 20 years. But the oil interests that bankroll politicians have been too strong. Now we see the cost of bowing to King Oil.

We used the modest increase in domestic spending to increase funding by $200 million above the President's request for Head Start. In his State of the Union Address, the President stated that: "We need to prepare our children to read and succeed in school with improved Head Start and early childhood development programs." The Senate bill would result in 17,000 more low-income children being served.

We used the 2.6 percent increase to restore over $900 million of cuts proposed by the President in Justice Department programs for State and local law enforcement. With State and local governments cutting their budgets—and they are cutting them. We read about cuts in the budgets for the States of Maryland and Virginia. With State and local governments cutting their budgets in response to the recent recession, does the President think that we will make our Nation more secure by cutting law enforcement grants to State and local governments?

These are just a few examples of how the Senate used the modest $13 billion increase above the House allocation. Is that $13 billion increase excessive? No. Is it wasteful? No.

I believe it is prudent. It is thoughtful. It is the result of careful decision making, done on a bipartisan basis. And most of it has gone to fund either national defense or homeland security.

The choices we make in the Congress about how we allocate the people's money should be based on hard work and careful analysis. It should not be based on a simplistic review of the facts, nor should it be distorted by the save-your-hide mentality—the save-your-hide mentality—of an election year. Recently, the Congress approved a $5.1 billion emergency contingency fund, including $2.5 billion for homeland defense programs. Based on the recommendation of Office of Management and Budget Director Mitch Daniels, the President chose to cancel that funding, explaining that it was "wasteful spending." Yet, with one exception, he chose not to identify the "wasteful spending." Was it the airport security funding or the funding to secure our nation's nuclear weapons complex? Was it the funds to train and equip our Nation's firefighters? Was it the funding for veterans medical care or the funding to fulfill the President's commitment to fight the global AIDS epidemic? Which of these programs that protect American lives does the President consider to be "wasteful"?

The President never answered those questions. Instead, the one example of wasteful spending that the President chose to give was $2 million for a single project, which the President himself has chosen to fund in the 2003 budget. If it was wasteful spending in 2002, why is it not wasteful spending in 2003? If it is worth spending in 2003, why not spend it in 2002? The rest of the money he did not spend, he gave no reason for withholding. It was money for homeland security. It was money to make us safer here at home. Sometimes, I just have to question the sincerity of an effort on homeland security which seems based almost wholly on sound bites.

The President, through his Director of the Office of Management and Budget, is currently working with the House Republican leadership to force the funding of the entire domestic side of the Government into a long-term continuing resolution for nearly half the fiscal year. Something is going on. They want to put the education of our children, the care of our veterans, and our investments in homeland security on automatic pilot at last year's funding levels because we are in an election year.

Last week, the President's chief economic adviser, Lawrence Lindsey, was asked by a reporter for the Wall Street Journal what he thought the cost of the war in Iraq might be and what the impact of that cost might be on our Nation's economy. He responded by estimating that the cost would likely be between $100 billion and $200 billion. How about that. That is just pocket change—small. Oh, somewhere between $100 billion and $200 billion. When asked what the impact of that $100-$200 billion expenditure would be on the economy, the President's chief economic adviser said, "That's nothing." Nothing.

The administration believes that $100-$200 billion of spending on the war on Iraq will have no impact on the economy, but $13 billion more of needed spending on our nation's education, public health, veterans medical care and transportation systems is wasteful.

In just 2 years the projected $359 billion surplus for Fiscal Year 2003 has swung wildly to a projected deficit of $145 billion. The Senate Budget Committee estimates that of that $504 billion swing, $404 billion came from reduced revenues or interest payments on those reduced revenues. In other words, 80 percent of the lost surplus in Fiscal Year 2003 came from reduced revenues. Another 5 percent came from increased defense spending. Another 9 percent of the lost surplus came from expenditures related to the response to the attacks of September 11, 2001. Approximately 4 percent came from increased mandatory spending such as the farm bill. And, how about domestic spending? How much of the $504 billion swing in the surplus estimate came from domestic discretionary spending? Just 1 percent.

Just 1 percent of that dramatic swing in the surplus estimate for Fiscal Year 2003 came about from increased discretionary spending. Yet, this small portion of the budget is what the White House political manipulators will endeavor to highlight and blame for every blemish in our fiscal picture.

The game, of course, is to wrap the bills up, take them behind closed doors—aha, I have been behind those closed doors—take them behind closed doors, where this White House is most comfortable and do deals that benefit the White House. Never mind about the horrendous and irresponsible policy of government by continuing resolution. Never mind, never mind C.R.s.

Let me give you just a few examples of what will happen if we have a continuing resolution until March, compared to the levels in the bi-partisan Senate Appropriations Committee-reported bills. Now listen:

The number of farm operating loans, during the most important part of the growing season, will be cut from 6,643 to 3,435. That is not all.

The number of multi-family homes built in rural America will be reduced by 2,500.

The number of homes in rural America that will be rehabilitated for low-income families will be reduced by 8,243.

The funding to help State and local governments—hear me now. Can you hear me now, Governor Wise, down there in Charlestown, WV? Governor Wise, listen.

Funding to help State and local governments develop their capacity to respond to or prevent terrorist attacks would be reduced from $2 billion in the Senate bill to only $651 million under the continuing resolution.

The Immigration and Naturalization Service is at a critical juncture in developing a comprehensive entry/exit system to protect our Nation's borders. Only $13.3 million would be available under a CR compared to $362 million in the Senate bill, resulting in a significant delay in this system.

I should repeat that statement.

The Immigration and Naturalization Service is at a critical juncture in developing a comprehensive entry/exit system to protect our Nation's borders. Only $13.3 million would be available under a continuing resolution compared to $362 million in the Senate bill resulting in a significant delay in this system.

The Securities and Exchange Commission would have to terminate all hiring, including 100 additional staff funded in the last supplemental to investigate corporate fraud.

Hear this now. Nuclear plants in Tennessee and Texas will have to lay off 240 security guards.

Every 6 seconds another person is infected with the AIDS virus. Every 6 seconds—1, 2, 3, 4, 5, 6—another person is infected with the AIDS virus.

AIDS has killed more than 25 million people, and at the rate at which it is spreading, the number of people to die of AIDS-related causes may reach 65 million by the year 2020—just 18 years from now. Each year, mother-to-child transmission of the AIDS virus kills half a million children, and infects another 600,000. On June 19, President Bush announced, with considerable fanfare, a $500 million initiative to save children from AIDS. He said: "Today, I call on other industrialized nations and international organizations to join this crucial effort to save children from disease and death." Yet under a continuing resolution, international AIDS funding would be cut by $225 million.

Come, my western friends.

Critical funding for fighting fires that have been raging across the land would be eliminated;

$716 million worth of anti-terrorism, force protection projects sought by the Defense Department—projects that are designed to better protect our military installations at home and abroad from terrorist attack—would be put on hold.

More than $1 billion worth of family housing construction projects and another $1 billion worth of barracks construction would be stopped dead in their tracks. Military personnel and their families, already facing the strains of war, would be dealt further delays in what is their number one quality-of-life issue.

A long-term continuing resolution will severely undermine the ability of the new Transportation Security Administration to improve aviation security and security in all other transportation modes. Many of the requirements of the new Transportation Security Act are going to require large expenditures in the first quarter of fiscal year 2003. These expenditures involve continued purchases of explosive detection equipment to keep bombs from being placed on our airliners. Funds are also needed to hire new federal screeners and make our nation's seaports more secure.

A long-term continuing resolution will likely result in the bankruptcy of Amtrak. Amtrak is still just barely surviving, managing its available cash to survive on a day-to-day basis until Congress can provide it a major necessary cash infusion as part of the appropriations process for 2003. If we suspend the completion of the appropriations process until the third quarter of the year, Amtrak will be declaring bankruptcy before Christmas. Bye, bye, Santa Claus.

A long-term continuing resolution would seriously undermine air safety. Just this past summer, we came within weeks of seeing the FAA furlough air traffic controllers for lack of available funding. A long-term continuing resolution at current rates would result in not replacing the hundreds of air traffic controllers, safety inspectors and maintenance technicians that would retire or leave the agency during the first half of the fiscal year. The safety of our skies will be left to a continuously dwindling number of controllers. All this would be happening at a time when we are trying to get Americans to fly again after the events of September 11.

A long-term continuing resolution would result in the Customs Service having to defer the hiring of more than 628 inspectors and agents for posting at high-risk land and sea ports-of-entry.

Come on, now. Hasn't the President been out there talking about how we should ram through this homeland security bill?

A long-term continuing resolution would result, as I say again, in the Customs Service having to defer the hiring of more than 628 inspectors and agents for posting at high-risk land and sea ports of entry.

A long-term continuing resolution means thousands of FEMA fire grants, grants for interoperable communications equipment, grants to upgrade emergency operations centers, grants to upgrade search and rescue teams, grants for emergency responder training and grants to improve state and local planning would be delayed for at least 5 months.

Under a long-term CR, the VA health care system will be funded at a level that is $2.4 billion short of the level proposed in the Senate passed fiscal year 2003 VA-HUD bill. Without increased resources, VA may not be able to sustain open enrollment for all veterans.

Here it is. Friends, Romans, veterans, lend me your ears.

There are currently over 280,000 veterans on waiting lists for VA medical care. Under a long-term continuing resolution, the waiting list will more than double.

The VA will schedule 2.5 million fewer outpatient clinic appointments for veterans, and 235,000 fewer veterans will be treated in VA hospitals.

And these are only the items—I have just named a few—these are the only items which can be known and computed at this time. Only God knows—only God knows—what other nasty little problems will result from the

OMB's—the Office of Management and Budget's—interpretation of the continuing resolution.

If President George W. Bush is planning to take our Nation to war again in the Persian Gulf, the American people should not have to worry about whether we are securing our homeland, whether their children are in small classes, with qualified teachers, whether Amtrak will go bankrupt or whether our veterans are getting proper care. This President, so eager for war abroad, should pause for a moment, and lay aside the war plans long enough to work with the Congress on a prudent and responsible level of spending here at home for the American people.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DAYTON. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. I thank the Chair.

Madam President, I would like to ask the distinguished Senator from West Virginia, if he has a minute, a question.

The President took office saying he was going to change the tone of the debate in Washington. The Senator has served with a number of other Presidents—Democrat and Republican—in the past. I wonder if the Senator believes that the tone has been changed for the better or for the worse?

If I am not correct, hasn't the Senator attempted, on numerous occasions, to work in a constructive and cooperative fashion with the White House in fashioning this budget, this spending plan; and hasn't the Senator been rebuffed in those efforts?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. May I respond to the distinguished Senator from Minnesota. If the Senator is referring to the numerous occasions on which my dear colleague, Senator TED STEVENS—who sits across the other side of the aisle—and I sought to have the President send up to the Senate Appropriations Committee, as a witness, the distinguished former Governor of Pennsylvania, the Homeland Security Director, Mr. Tom Ridge, the answer is, yes, yes, yes. And we met with failure in all of our efforts.

We even wrote to the President, asking that he have Senator STEVENS and myself come down to the White House and appear before the President to make our case.

Mr. DAYTON. Madam President, may I also ask——

Mr. BYRD. May I say, Senator STEVENS and I weren't even shown the courtesy of a response from the President. Some of his underlings—I have great respect for them—some of his underlings responded: The answer is no.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I appreciate the Senator's candor with regard to the numbers that have been presented here today because it is my understanding—and I am glad the Senator refreshed my memory—that the spending proposals that the administration has sent to the Congress were, in fact, a significant increase, 9 percent, or I believe the Senator said a 13-percent increase in discretionary spending from this fiscal year over to the next, an unheard of increase in discretionary spending.

It is also my recollection—I believe the Senator pointed this out—that, with the change in the budget predictions, the country has gone from looking at surpluses over the next decade to looking at a string of deficits over the next decade.

It is this Senator's impression that the administration is trying to put the blame for this fiscal disarray on the Senate or on the House when, in fact, it is the administration's own tax and spending proposals which have created these deficits for this year and for next year, and for as far as the eye can see, and has caused this financial burden to be placed on future generations.

It seems to this Senator that this administration is trying, with these tiny little numbers, relatively speaking, to put the blame where it does not belong, which is on this body.

I wonder if the Senator will comment on that.

Mr. BYRD. Mr. President, the Senator is correct. The Senator from Minnesota is very perspicacious in his observations.

I am at a loss to understand why we should not be working on our appropriations bills. Here we have had one on this floor stalled for many days.

The distinguished Republican chairman of the House Appropriations Committee and the Democratic ranking minority member over there, and the ranking minority member over on this side of the Capitol, Senator STEVENS, and I have talked about it, moving our bills.

We had a meeting a few days ago, and the very able chairman of the House Appropriations Committee, Mr. YOUNG, from Florida, importuned me and my friend, Senator TED STEVENS, to please have a meeting with the able Speaker of the House and with the majority leader of the House and with the chairman of the House Appropriations Committee and the ranking member of the House Appropriations Committee—have a meeting and explain to them how necessary it is for us to move, get on these appropriations bills, have the conferences, bring back the conference reports, show some action, some progress on these appropriations bills.

And we got a turndown. We got a turndown, from what I understand through my staff. The House leadership, for whatever its reasons, did not want to have that meeting.

So here we are, marking time. Time is passing. We will soon be at the beginning of a new fiscal year, and the appropriations bills are dead in the water. Why?

Mr. DAYTON. Will the Senator yield for another question?

Mr. BYRD. Yes, I yield for a question.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I thank the Chair.

On that subject, I say to the Senator, I recall last year, with the new administration, there was considerable delay in the Senate receiving the administration's spending request, so there were delays in the process resulting from that. This year I believe the chairman of the Appropriations Committee took great measures to assure a timely disposition of these spending bills.

It is my understanding that the Senate Appropriations Committee reported these measures out in a very expeditious fashion so they could all be passed by the Senate and conferenced before the beginning of the new fiscal year.

Is that the record as the chairman has lived through it?

Mr. BYRD. Madam President, that is an accurate statement on the part of the able Senator from Minnesota. I believe the Appropriations Committee in the Senate completed our 13 appropriations bills almost 2 months ago—July 25, the earliest since 1988. If the world wants to see a committee that really operates in a bipartisan way, take a look at the Senate Appropriations Committee.

The Republican former chairman, Mr. STEVENS, and I and all of the members on that committee, Democrats and Republicans, work together. The subcommittee chairmen and the ranking members of those subcommittees work together. There is no bickering about politics in that committee.

Again, we have reported these 13 appropriations bills, and they have been just hanging out there. We can't get any movement. We can't get any work done. Why? Why all this holdup?

Why doesn't the White House, instead of pointing the finger at the Senate and saying, they are guilty of wasteful spending, or pointing to the Congress and saying, pass my homeland security bill, why doesn't the White House meet its responsibilities to the American people and provide homeland security by signing those appropriations bills?

No, the President apparently was advised by persons who seem to prefer to play politics over serving the American people by moving these appropriations bills and enhancing the homeland security of all Americans.

Mr. REID. Will the Senator yield for a question?

Mr. BYRD. I will gladly yield.

Mr. REID. Would the distinguished Senator from West Virginia explain to the American people what he and Senator STEVENS did so that all 13 appropriations bills would be within the so-called budget so that we would not exceed numbers that, if we had come here and passed a budget, it would have been the same?

Mr. BYRD. Madam President, the able Senator from Alaska, Mr. STEVENS—a man who is deserving of the title of "The Alaskan of the 20th Century"—and I always work together closely. Our subcommittee chairmen and our subcommittee ranking members are equally as determined to serve their country by moving these appropriations bills along.

Senator STEVENS and I take the position that if Senators offer an amendment that puts us over the spending level, over the point where there have to be offsets, there will be offsets. The Senator from Alaska and I take a stand together. We will oppose amendments that add up to reckless spending. We don't have that in our committee. It is a fine example, and I am so proud of the service of Senator STEVENS. But our subcommittee chairmen and ranking members are just the same.

The Senator from Nevada is the chairman of the Energy and Water Subcommittee of the Committee on Appropriations. He and Senator DOMENICI work together the same way in their subcommittee.

Mr. REID. Will the Senator yield for another question?

Mr. BYRD. Yes.

Mr. REID. All 13 subcommittees, under the direction of Senators BYRD and STEVENS, made sure that we brought our bills out under the so-called 302(b) allocations, even though we didn't have them; isn't that true?

Mr. BYRD. Absolutely true.

Mr. REID. So all the Senate bills we passed were not budget busters; is that a fair statement?

Mr. BYRD. None of them were budget busters.

Mr. REID. If someone came to the floor and said: The reason we can't pass appropriations bills is because we haven't passed a budget, would it be a fair statement to say that is without basis in fact?

I should say, we don't have a budget, but as far as being the reason we don't do appropriations bills, that wouldn't be a very good reason, would it?

Mr. BYRD. No. We agreed in the committee that we would have a certain top line. We voted for that top line. It was unanimous, Republicans and Democrats there, and Republicans and Democrats in the Senate voted for that $768 billion top line. Yet the administration insists on standing by the $759 billion figure. That is just a $9 billion difference, just $9 billion. We are hung up over that $9 billion.

Ask the chairman of the Appropriations Committee in the House. He knows what the problem is. He knows that the administration has its feet in concrete when it comes to that top line figure. He, the chairman on the House side of the Appropriations Committee, knows that we need that top line which we in the Senate have already agreed on, $768 billion, if we are to come close to meeting the needs of the American people, talking about homeland security also.

Mr. REID. What the Senator is saying is for the Defense appropriations bill, which was approximately $350 billion, you are saying the other 12 appropriations bills were $9 billion over what the Office of Management and Budget wanted; is that what the Senator is saying?

Mr. BYRD. I am saying that is the difference, $9 billion. That is all that is holding us from going forward. Yet Mr. Lawrence Lindsey, the President's economic adviser, says with respect to what the anticipated cost of the war in Iraq will be——

Mr. REID. Up to $200 billion.

Mr. BYRD. Somewhere between $100 billion and $200 billion, chicken feed. That is nothing, he says. That is nothing. Yet $9 billion is like a bone in the throat to this OMB Director down here, Mitch Daniels, and the President and the administration. They are hung up on $9 billion. But when it comes to Iraq, no; $100 billion, no, $200 billion, no.

Mr. REID. One last question to the Senator from West Virginia, if we passed all of our appropriations bills out of here, including the Defense bill, passed them and took them to the House, we still have to go to conference; is that not true?

Mr. BYRD. That is true.

Mr. REID. And maybe if the President made a good case in conference, we would come back with less than $9 billion over the OMB; is that right?

Mr. BYRD. Well, I suppose if there were a good case made. But the good case has already been made to the contrary that we need that $9 billion more.

Mr. REID. But my point is that the process has been going on for 215 years. The House does its work; the Senate does its work. We go to conference. There you work out differences. It is my understanding they are not letting us pass bills because they are not passing House bills that we can even go to conference.

Mr. BYRD. Absolutely. The House has not passed the appropriations bills. The House Appropriations Committee—no fault of the Republican chairman of that committee and others on the committee—has not passed, has not reported out all of the 13 bills in the House. The House has reported eight bills. The House Appropriations Committee has reported 8 of the 13 bills. I am just talking about the reporting out by the committee.

We haven't done very well over here, either, because we are stalled on the Interior appropriations bill which has been before the Senate now for many days.

Mr. DAYTON. Will the Senator yield for one more question?

Mr. BYRD. Madam President, I yield for a question.

Mr. DAYTON. From what I understand from the discussion, the Senate Appropriations Committee has come out on time and on budget, and yet we are hung up in these delays. The Senator who chairs that committee, who has done everything right in order to meet these deadlines, today is on the Senate floor expressing the catastrophic effects that will result across the country from the failure to meet these deadlines.

This Senator presides a great deal and has not heard anyone else come before the Senate to express his dismay at the human consequences of the failure to come to this agreement.

I thank the Senator for bringing these matters to the attention of the Senate and ask, as a final question: What can we do now to try to stave off these catastrophes?

Mr. BYRD. Madam President, I hope the administration will come to its senses and stop playing politics. What I say, I say with great respect personally and individually to the leadership of the House, but for political reasons the House has not passed an appropriations bill—not a single one—in 9 weeks.

I have been in Congress now 50 years this year, and I don't recall, may I say to the distinguished Senator from Pennsylvania over here, ever in any administration, Democratic or Republican, seeing the likes of this. The House will not move its appropriations bills. The House is getting orders from on high—from on Mount Olympus, up there with the gods. So there we are. We are stalled, dead in the water. Here we are, within a few days of the new fiscal year.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

Mr. BYRD. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Madam President, one quick comment about being stalled. I suggest that in defense of my colleagues in the House—and I try to be a defender of them in the Senate—I suspect one of the reasons is that we don't have a budget. It is very hard to mark up appropriations bills when you don't have an agreement between the two bodies. I think that is difficult.

The fact that the Senate has not passed a budget has put us in a situation where we have been unable to get conference reports—or even bills passed, in some cases—because of the uncertainty of what those numbers are.

Mr. BYRD. Will the Senator yield?

Mr. SANTORUM. I yield for a question.

Mr. BYRD. I will try to put a question mark after it. The House has a bill. We, on this side, agreed on it, and we had a vote in the Senate not too long ago. We got 59 votes; we lack 1 vote, or we would have had a budget. I hope we have another opportunity to vote.

Mr. SANTORUM. Madam President, yes, the House does have a budget, but the Senate does not. The Senate's top line number is higher than the House's. That is why we go through the budget process, so that we can have agreement between the two bodies on the top line number, and we can apportion the money accordingly. There is a discrepancy between the two bodies. That is what creates the problem for the House in being able to move their appropriations bills—that trap into which they may be entering.

That is not the reason I got up to talk. I know the good Senator has spent considerable time talking about this, and I respect his opinion. I wanted to very politely disagree with some of the conclusions in his discussion.

Mr. BYRD. Madam President, I didn't know the Senator disagreed with me.

Mr. SANTORUM. With the conclusion. My mother always told me to try to disagree without being disagreeable. I am trying to do that at this time.

Mr. BYRD. Well, the Senator is talking about mothers now.

Mr. SANTORUM. I figure I am on solid ground in that regard.

Mr. BYRD. Maybe.

THE CARE ACT

Mr. SANTORUM. Madam President, I rise to talk about an issue of grave importance. The Presiding Officer is from New York, and she knows of the great tragedy that has befallen her State as a result of 9/11, and the tremendous generosity that has been pouring out to the victims of terrorism in New York, northern Virginia, as well as Pennsylvania.

What I am sure Members know also is that, as a result of that tremendous outpouring of giving, in a lot of other areas of the country charitable giving is actually off between 20 and 25 percent. Overall, charitable giving is up, but it has been channeled—legitimately so—toward the victims of terror.

As a result of that, and for other reasons, too, Senator LIEBERMAN and I have been working diligently with the President and our colleagues in the House to try to get a bill through the Congress this year because of its timeliness. It is a 2-year bill to try to get emergency help to faith-based organizations—but, frankly, if you read the legislation, to all nonprofit organizations that are out there trying to improve our society. This is a bill targeted at charitable organizations in an attempt to get more resources to them at a time when we have economic distress, wartime distress, as the war on terror goes on, and the distress coming from the terrorist attacks in the United States.

We are trying to respond in a compassionate way with resources to the very organizations that really do meet the human services needs. We are working in the Senate on a strong, bipartisan basis to try to find a consensus.

Now, this issue of the President's faith-based initiative has attracted a lot of controversy. Basically, it is centered around the issue of employment discrimination for those who would receive Federal dollars, whether they would be allowed to—because they are religious organizations—discriminate in employment.

Senator LIEBERMAN and I have attempted to build a bipartisan consensus to try to move a bill through the Senate and have chosen to set that issue aside, basically. Probably Senator LIEBERMAN and I have different views, and there are different views probably on both sides of the aisle. We thought this issue was so important, getting these resources at a time of economic need, at a time of war, to the nonprofit organizations was so important that, even though I believe this hiring discrimination language for nonprofit organizations is important, I was willing to set it aside. The President has agreed to set this aside in order to get bipartisan consensus to really work in the sort of bare bones, or the nuts and bolts, of what the President's initiative was about—getting help to charitable organizations, or to the "armies of compassion," as he terms it.

Senator LIEBERMAN and I came up with the CARE Act, and I thank Senators BAUCUS and GRASSLEY. It has moved through the Finance Committee and has broad bipartisan support. It has the Presiding Officer's support and also the majority leader's support. He has announced his support for the legislation. It is, I believe, from most people's perspective, a noncontroversial bill.

There are some who I understand have some concerns about the legislation. We have some on our side, and I understand there are some on the Democratic side of the aisle with specific provisions of the bill. Over the past several months, Senator LIEBERMAN and I have been working with our leadership and the Democratic leadership trying to clear this legislation so we can get the bill considered on the floor, with some sort of time agreement, because we are close to wrapping up the session, and with some limitation on amendments.

I would be perfectly willing to allow for two, three, four, five, or whatever amendments are necessary to meet objections on both sides of the aisle. Frankly, I don't see many objections, per se, to the bill, although I understand there are some. I also know there are people—because this is a tax bill—who would like to see a variety of tax issues considered on this bill. I am willing, if that is how we will reach a consensus, and I think Senator LIEBERMAN will be willing to debate those.

We have been informed by the majority leader that he does not want that debate. He would like to limit this to one amendment on each side with a relatively tight time agreement. That was a little bit of a heavy lift from our side of the aisle, but I proceeded, with the help of the rest of our leadership team, to work through our side of the aisle to get some amendments in the managers' package, and from that side of the aisle also. Yet we came down here with, yes, we can whittle it down.

In fact, last week we cleared a unanimous consent request for one amendment on our side—the one by Senator GRAMM from Texas, who has an amendment to a provision that isn't in the CARE Act, but it is in the package on the floor. Senator GRAMM would like to have an amendment. We submitted that to the Finance Committee 2 weeks ago and to the Democratic leader 2 weeks ago. They have been able to review that amendment. We have been working on a managers' amendment, and last week we were able to get a consensus. I thank Senators GRASSLEY and BAUCUS and their staffs for working diligently in trying to run through and get the consensus managers' amendment, which has been shared with my Republican colleagues.

It is a rather voluminous amendment, I might add. It is 200-some pages. That amendment was shared—and I thank the Finance Committee staff—with the Republican leader and with the minority Finance Committee members. We have that amendment. It is my understanding that amendment has been cleared on both sides.

We are at a point now where we have an amendment that has been available for 2 weeks on our side of the aisle. We have been able to hold off all other amendments, and I guarantee I have a long list of Senators who would like to offer amendments to this bill. But in the spirit of trying to pass what I believe is very important legislation—and I think most Members would agree getting help to charitable organizations during a time of economic stress and war is a good thing to do. It is a short period. It is not a long and permanent change to the Tax Code. It is a short period of infusion of resources into the charitable community. We now are at a place where we can try to move forward.

I know the Senator from Nevada, who is in the Chamber, the Senator from Connecticut and the Senator from South Dakota, Mr. DASCHLE, have been trying to work on the Democratic side of the aisle to clear this amendment and this bill and try to get unanimous consent.

I will propound a unanimous consent request, and I am curious to hear the comments from the majority whip as to where we are in the state of play on the Democratic side of the aisle at this point. The reason I do so, I want to announce beforehand, is that last week when I came to the floor, having worked this now for several weeks, I said it is important we try to bring this issue to a head, and if we could not get a unanimous consent agreement offered by the leader that I would do so to attempt to provide to the Senate a better understanding of where this process stands and the likelihood for success in getting this done between now and the end of the session.

UNANIMOUS CONSENT REQUEST

Madam President, I ask unanimous consent that at a time determined by the majority leader, after consultation with the Republican leader, the Senate proceed to the consideration of Calendar No. 496, H.R. 7, which is the House-passed President's faith-based initiative, and that it be considered under the following limitation: That there be 1 hour for general debate on the bill equally divided between the two managers; that the only amendment in order, other than a managers' substitute, be the following: One first-degree amendment offered by Senator REED of Rhode Island regarding charitable choice; and one first-degree amendment to be offered by Senator GRAMM of Texas regarding land/water sales or exchanges; that the amendments be limited to 60 minutes each to be divided between the proponents and opponents.

Finally, I ask unanimous consent that following the disposition of the above amendments and expiration of debate, the bill be read for a third time and the Senate proceed to a vote on passage of the bill, with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, I think there is agreement by the vast majority of Senators on both sides of the aisle that this faith-based bill is important; that it is an important initiative we need to address. Fortunately, Senator LIEBERMAN, who has worked hand in hand with the Senator from Pennsylvania, is in the Chamber. I do not know of anyone better qualified to work on this issue than the Senator from Connecticut, who has devoted much of his life to issues such as this and sets an example on faith-based issues generally. We should listen to him, and certainly we will.

Senators LIEBERMAN and SANTORUM have crafted a bill that avoids many of the pitfalls some believe are contained in the House bill. As the Senator from Pennsylvania knows, we have also diligently worked to secure a unanimous consent agreement that would allow for consideration of this important legislation.

It is frustrating. We have not yet been able to work it out, but there is a lot of frustration on a lot of different issues in the Senate at this time.

We have been advised by a number of Senators, as late as this morning, that we need more time to work through some of the details of this unanimous consent request.

Again, I appreciate Senator SANTORUM's and Senator LIEBERMAN's commitment to this issue, but I object at this time.

The PRESIDING OFFICER. Objection is heard.

The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, if I may, objection has been heard, but I thank both my colleague from Pennsylvania and my colleague from Nevada for their statements. I share the frustration of the Senator from Pennsylvania and the disappointment with our inability to reach an agreement to allow for consideration of the CARE Act, which started out much broader. We have worked on it and really got it down to its essence and it is a good bill. It employs an expanding number of tax incentives to encourage charitable contributions.

The Senator from Pennsylvania said not just faith-based organizations but all charitable organizations. It is kind of a community-based or civic-based, nonprofit-based bill. It has the support of 22 cosponsors in the Senate. The occupant of the chair, the junior Senator from New York, is one of our original cosponsors. It is supported by the President, by the majority leader, Senator DASCHLE, as we said, and by 1,600—I repeat, 1,600—religious and community groups and social service providers, large and small, across the country.

We ought to pass this bill. It is one of the best bills we take up this year for not just faith-based groups but for our communities.

For reasons that are sometimes clear and sometimes not, some of our colleagues are holding up action on the CARE Act. Some who are objecting have not yet disclosed their identity. Given the fact that time is slipping away in this session, I appeal to my colleagues to not let this opportunity to help make our country as good as our values slip away, and let's particularly not squander the bipartisan consensus we have achieved on this method of transforming the good will in our country into more good work.

A lot of effort has gone into crafting this bill by people on both sides. I particularly thank Senator DASCHLE and his staff for the work they have done. Ideally, we can agree, as the Senator's unanimous consent proposal stated, to have one amendment on each side. Maybe we could agree on a couple more, if that is necessary. Let's have an open debate. Let's move the bill forward. Let's deliver this unique CARE package to its rightful destination, which is on the President's desk.

I hate to have Senator SANTORUM and me in a position where we start to look for a vehicle to which we can attach this as an amendment. We should not have to do that. I hope, working together, we can avoid that and get this legislation passed.

I thank my colleagues, and I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

LEGISLATIVE PROGRESS

Mr. NICKLES. Madam President, I will make a couple of comments concerning the budget and the appropriations process. A couple of days ago we heard the majority leader being very critical of the President, talking about his lack of working with Congress and it is his fault we have a budget deficit. Earlier today, we heard the chairman of the Appropriations Committee being critical of the President. It looks like a lot of people are throwing rocks at the White House. Maybe that is the easy thing to do, but we should be looking internally and saying: What have we done?

We have not passed a budget, and because we have not passed a budget for the first time since the Budget Act was passed in 1974, we do not have a budget that has the same figures with the House. Every other year—and I have been in the Senate for 22 years—we have always had a budget.

Basically, the House and the Senate agree on numbers and then we pass appropriations bills. Every year we have been able to do that, except for this year. We have less than a week to go. Next Monday the fiscal year expires, and we have passed 3 out of 13 appropriations bills. That is probably the worst record in Senate history—certainly since the Budget Act passed. Shame on us.

And then to say it is the administration's fault or it is the House's fault—I heard somebody say it is the House's fault because the House has not passed very many. That is not our constitutional responsibility. Our responsibility is to pass our bills. We do not have to wait for the House. The tradition is, the Senate waits on the House, but we do not have to wait on the House. We certainly do not have to spend 4 weeks on the Interior appropriations bill.

This is our fourth week on the Interior appropriations bill. The Interior bill can, could, and should be done in 1, 2 or, at most, 3 days. It is ridiculous to think we have been on the bill for 4 weeks, and we still do not have an end in sight.

Some have said the Republicans are filibustering the bill. No Republican is filibustering the Interior bill and no Republican is filibustering the homeland security bill; none, not one. We have offered an amendment. I noticed the Democrats offered an amendment. They are entitled to offer amendments. We are entitled to have votes on those amendments. For some reason, the majority has come to this conclusion to file cloture.

Filing cloture on the Interior bill does nothing. Even if cloture was granted, it does not prohibit somebody from offering an amendment. They filed cloture on an amendment, not on the bill. So that process is going nowhere fast.

Now we have another cloture vote scheduled on homeland security, as if that is going to deny us having a chance to vote on the President's homeland security bill. That is not going to happen. It should not happen.

My compliments to Senator GRAMM and Senator MILLER. They have put together the President's package. They have made some modifications to try and accommodate Members. They are entitled to a vote. This idea of we are going to have cloture on the bill so they will not be able to offer their amendment is absurd, and it is not going to happen. So people can file all the cloture motions they want, but it does not move the process of the Senate.

We can move it. We can pass these bills. On the Interior bill, all someone has to do is move to table the amendment. Let's find out where the votes are. That is what we used to do. If the managers of the amendment do not like it, they can move to table it. They do not need to file cloture. They do not need a supermajority; just move to table it. It may well have the votes.

Certainly the President is entitled to have a vote on homeland security. It would be absurd to invoke cloture so that amendment would not be allowed. It brings home the fact the Senate is dysfunctioning; the Senate is not working. We had a very important energy bill. Did it go through committee? No. Did Senators who have experience and expertise in the energy issues get to mark up the bill? No. It came on the floor of the Senate. We spent 6 or 7 weeks working on marking up the bill on the Senate floor, and now it is in the conference. Hopefully, something will come out of that.

Did the Senate pass a prescription drug bill? No. Was it marked up in the Finance Committee? No. Did we have a markup? Did Members on the Finance Committee, some of whom have experience and expertise on prescription drugs and Medicare—every major Medicare expansion has passed through the Finance Committee in a bipartisan vote. We did not have a markup this year. We did not even have a chance to offer amendments. Yet we spent 2, 3, 4 weeks on the floor trying to mark up something on the floor with no result, with no prescription drug benefit being offered. The House was able to pass it. We were not.

The same thing is true for the Medicare give-back bill. The House was able to do that, in conjunction with the prescription drugs. Some are saying let's put together a give-back bill and run that through.

We are going to give providers, hospitals, and doctors more money, but we are not going to give prescription drugs to seniors who really need them, who do not have them, or who are maybe low-income? I am not sure that is very fair.

The Senate is flat not working.

In the Finance Committee last week, we are going to have a small business bill. Two or three Senators put together a bill, $16 billion. There are some tax increases. There was no consensus whatsoever in doing it, except maybe to help somebody politically, but it was not a question of, is this really going to stimulate small business?

Most people realize it is a stalking horse for a person to offer a minimum wage increase which really would hurt small business.

I look at the number of judges, and we have confirmed 78 judges. Some say that is great. In President Bush's first 2 years, 78 judges have been confirmed, which is 61 percent of the judges that he has nominated. Maybe that sounds pretty good, but in looking at President Clinton, he got 129 judges in his first 2 years. He got 90 percent of his judges; President Bush has 61 percent. President Bush 1 got 71 judges. That was 93 percent of the judges he nominated. President Reagan got 89 judges, which was 98 percent of the judges he nominated in his first 2 years, but President Bush only has 61 percent.

When it comes to circuit court judges, the President only has 14 of 32. He has 43 percent of his circuit court judges confirmed. For whatever reason, it seems as if the majority, the Democrats on the Judiciary Committee, do not want circuit court judges to be appointed by President Bush, so they are holding up several outstanding, well-qualified nominees, for ages.

Miguel Estrada is finally going to get a hearing on Thursday. He was nominated a year ago May. He has argued 15 cases before the Supreme Court. He has outstanding qualifications, graduated the top of his class from Columbia and Harvard, was an assistant U.S. attorney, and an assistant solicitor. He finally gets to have a hearing.

Then there is John Roberts who was nominated a year ago May. He has argued 35 cases before the Supreme Court, and he is yet to get a hearing, probably will not get a hearing this year. What is fair about that?

When people are patting themselves on the back because we have confirmed 78 judges and they are saying that is a lot, well, not when Bill Clinton got 90 percent and President Bush gets 61 percent; not when the current President Bush gets 43 percent of his circuit court judges and President Clinton got 86 percent. President Bush 1 and President Reagan both got 95 percent of their circuit court judges.

All of a sudden, when it comes to circuit court judges, we are just going to go slow on those; they are going to have to wait a year and a half to get a hearing, if they get a hearing. I do not think that is fair.

If we add together the fact that we have not done a budget, we have not done appropriations bills, we have not been confirming the number of judges that we traditionally have for the previous three Presidents, when we have not done a prescription drug bill, when we have not marked up an energy bill through the committee so it is stuck in conference, this Congress, this Senate, has not been working.

For people to say it is the President's fault or it is the House's fault, I disagree. The House has been pretty productive in their legislative efforts. They passed a prescription drug bill. They passed a budget. They have passed more appropriations bills than we have, and they would have passed more had we passed a budget. If this Senate would have passed a budget—which, incidentally, 60 votes are not needed to pass a budget. Fifty-one votes are needed to pass a budget. If this Senate would have passed a budget, these appropriations bills could have gone forward.

To cast aspersions blaming the House or the President for not getting the work done, the blame belongs right here. The Senate has not done its work. We have not passed a budget. We have not passed appropriations bills. Next Monday is the end of the fiscal year. Shame on us. This is the first year I have been in the Senate that we have not gotten our work even close to being done. It is not as though the bills are stuck in conference and we have not resolved the differences. We have not gotten the bills out of the Senate, and that is really not very acceptable.

The Senate needs to work. We need to do our work. We have not done our work, certainly this past year.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Madam President, we have a number of Members on the minority side who wish to speak. The Senator from New Hampshire has been waiting for quite some time. He actually wants to offer an amendment on this bill. With the Gramm amendment pending, we would rather he didn't do that at this time. It is my understanding Senator DEWINE wishes to speak as in morning business.

Mr. DEWINE. Actually, it is on the bill.

Mr. REID. On the bill? You are not planning to offer an amendment or anything at this stage?

Mr. DEWINE. No, I am not offering an amendment.

Mr. REID. I see that the floor staff has returned. Could we have the ability to enter into an agreement at this stage?

Mr. GREGG. I suggest that I speak for 10 minutes with the understanding that no amendment be offered, and the Senator from Ohio be allowed to speak for 10 minutes with the understanding that no amendment will be offered.

Mr. REID. It is my understanding the Senator wishes more than 10 minutes.

Mr. GREGG. Twenty minutes?

Mr. DEWINE. Fifteen.

Mr. REID. Madam President, I ask unanimous consent that—we don't have the agreement yet worked out—the Senator from New Hampshire be recognized for up to 10 minutes to speak as in morning business and that the Senator from Ohio—it doesn't matter, you can speak on the bill if you would rather. We are on the bill, so the Senator from New Hampshire will be allowed to speak for up to 10 minutes on the bill, and then the Senator from Ohio will be allowed to speak for up to 15 minutes on the bill. There would be no amendments offered by the two Senators, and following the statement of the Senator from Ohio, the Senator from Nevada would be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, I thank the leader for his courtesy in orchestrating this so I can speak briefly. I hope to offer an amendment, and I want to outline what the amendment is. I understand that the parliamentary situation, or the order of events, is that Senator GRAMM has the first amendment and, until that is worked out, this amendment will not necessarily be in order.

This amendment will address a very significant issue. It is a sense-of-the-Senate amendment dealing with the question of how we are dealing with the national policy on the smallpox vaccination.

As many people in America are probably aware, smallpox is probably one of the most virulent potential biological weapons that can be used anywhere in the world. It had, however, been significantly contracted in its availability. There were only two sites that actually possessed the actual smallpox germ; one was in Russia and the other was in the United States. Both of those were considered to be very secure. There is, however, concern that other individuals in the world may be trying to develop a smallpox strain, and if they are able to do that, the potential for devastating biological attack would be overwhelming.

I think it is important that people understand, as a preface to this issue, that, if a smallpox epidemic—or even a single incident of smallpox—breaks out anywhere in the world, it is reasonable to assume today that it is breaking out because there is somebody who has possession over the smallpox strain and is willing to use it in an aggressive, violent way and is willing to use it in a terrorist act. In other words, there is no way today you could have a natural breakout of smallpox anywhere in the world.

If, for instance, a single case of smallpox were found somewhere on the North American continent, one could immediately presume that terrorists had possession of the smallpox disease and were willing to spread it. That has a huge potential for loss of life.

Smallpox is a disease that spreads extremely quickly and is hard to control. How do we address this? Essentially, because we thought we had beaten smallpox as a disease, we didn't have in place a large stockpile of vaccination as a nation, or even across the world. There is very little stockpile of vaccine. We did have some stockpile and it was quite old—approximately 15 to 30 years old. It was a small amount. But after determination, it is now thought that even that small amount can be subdivided and we can produce maybe as much as 70 million doses.

We are in the process of developing, on the production side of the agenda in the U.S., with the pharmaceutical companies—and not only here but overseas—the capacity to bring online large amounts of dosage of smallpox vaccine. We expect that we will have enough dosage of smallpox vaccine within a relatively short time that, if we desire to do so, we could vaccinate every individual in our Nation.

Why don't we immediately do that and make that our national policy? The reason the decision has not been made to go forward to vaccinate the entire country is that there is a downside to the smallpox vaccine as it is presently developed; that is, approximately 1 percent of the people vaccinated, we know, will be significantly harmed and possibly even die. If you vaccinate 260 million people, you are looking at a significant death toll—in the hundreds, at a minimum—as a result of that vaccination regime. We know who those people usually are. They are usually people suffering from certain types of allergies, and we know they are people who are aged, infirm, or who have other weaknesses in their immune systems.

What has been the policy decision so far? The first policy decision, on which I greatly congratulate this Congress and the administration, was to put in place the regime so we could produce an adequate amount of vaccine. The second policy put forward as the concept of how we will address the smallpox breakout is that we will do a concentric circular event. In other words, we will surround the incident of smallpox with a vaccination of everybody in the area in an expanding circle. It is a pebble in a pool approach. If somebody threw a pebble in the small pond, it spreads outward. In the event of a smallpox outbreak, we are going to vaccinate everybody around the people infected, hopefully, containing the output. That is the plan as it is presently proposed. In addition, the plan is to vaccinate all first responders in the country.

What is the problem with that plan? It is very unlikely that our public health capability would allow us to vaccinate enough people fast enough to make the concentric circle approach be absolutely secure. We would probably experience an expansive medical emergency that would lead to a fairly significant loss of life should a single case of smallpox break out in the United States.

I am not saying it is not a reasonable approach, but it is an approach that probably has a significant likelihood that it will not be totally successful. We will have a significant success rate, but the success rate will be limited. Therefore, the loss of life will still be significant.

What is America to do? Basically, I think we can place confidence in our public health community that the vaccines are being developed and brought online. In addition, I believe we should, as a national policy, be willing to say to any American, once we have the smallpox vaccine in place, that in order to vaccinate the population generally—and it will be in place certainly by next June, and maybe earlier—we should be able to say to any citizen who feels strongly that they want to be vaccinated that you may be vaccinated.

In addition to the concentric circle approach, which I endorse, we should be able to say, if you are an American citizen, you have the right to go to your medical practitioner and ask them for a smallpox vaccination. If the physician determines you are not in an adverse category and that it is appropriate for you, thus, limiting the loss of life as a result of the 1 percent problem, then you ought to be able to get that vaccination.

That is what this sense of the Senate says. It says that, once we have obtained the necessary dosage level, which has been federalized, in order to vaccinate our population generally, then any American citizen will have the right to go to their physician and obtain that vaccine and be vaccinated.

It makes great sense to do this because, as a practical matter, it will first bring a calmness to the circumstance, which is important. Secondly, should there be an outbreak, it will obviously mean that a large percentage of America has been vaccinated already. Many people, I suspect, will take advantage of that option if it is out there.

Thirdly, I think it is good public health policy. I also think it should be done at no charge. I believe we, as a government, have an obligation to protect our citizens as a primary responsibility and, therefore, the Federal Government should pick up the cost of the vaccine as it is distributed.

So that is what this sense of the Senate says. It doesn't say that the concentric circle approach isn't good. It says, in addition to that, we should give all Americans, once we have obtained the vaccine capability that we know we are going to obtain, we should give them, in consultation with their physician, the opportunity to be vaccinated. I believe that is good health policy.

Certainly, as we proceed down the road and debate this homeland security bill, I intend to take the opportunity to offer this sense-of-the-Senate amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, approximately 3 hours ago, the Senate passed the Lieberman-McCain amendment to create an independent national commission to investigate the events leading to and following the September 11 terrorist attacks. I voted in favor of that amendment. I come to the floor this afternoon to briefly explain why and explain what I hope that commission will do and what I hope it won't spend a lot of time doing.

I believe that commission should focus on what the joint Senate-House Intelligence Committee's investigation focused on in looking at the September 11 tragedy.

As a member of that committee, I have argued that we should be looking at not just what led up to September 11, not just finding out what the failures were, but also, and much more importantly, looking toward the future and trying to determine what we can do to change, what we can do to improve our intelligence operation, our intelligence network.

I believe that should be the same focus of the national commission. The national commission will inherit the work our joint committee has done. Shortly, we will be done with our work. The national commission will not only have our work, but it will have other information available to it. It will have the information that has been dug up by some very good reporters. It will have additional information, and so the foundation clearly will be laid.

The commission will not have to spend a lot of time rehashing the errors that were made. What I hope the commission will spend most of its time on, though, is the future. I would like to talk a little bit about that future this afternoon and what I think we need to do.

Knowing what failures have occurred in the past certainly is vital, but it is not enough. Knowing what we should do in the future is really what is important. The creation of this independent commission presents us with the opportunity to build on our current congressional intelligence investigation.

One of the reasons I did vote in favor of this commission is that I believe our Senate and House intelligence investigation stopped too early. We had a deadline. I thought the deadline was a mistake. I still think it is a mistake. Because we have that deadline, we have not been able to focus on the big picture issues of where we need to go in this country.

The language of the McCain-Lieberman amendment that was adopted this afternoon clearly provides the commission with the opportunity to get into these big picture issues.

I quote from that amendment. The amendment specifies the commission may

> . . . identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government.

There is more to that. Those are words that I think are very important because those words, if this becomes law, will give this commission a great opportunity to look at these big picture issues about which I am talking.

What am I talking about? Let me give some examples. I believe the commission should take a serious look at the role of the Director of Central Intelligence. I believe it is time to give the DCI the necessary authority and the ability to truly direct our overall intelligence operations. Quite simply, we need to empower the DCI to do the job.

We all know the facts. Currently, the DCI, while he is in charge of our intelligence, only controls about 15 to 20 percent of the budget. This is an issue that has to be examined, and it has to be looked at, no matter how people come down on this issue. I know it is a contentious issue, and it may divide this Senate, it may divide the commission, but we need to look at it.

We had the opportunity in our joint committee the other day to hear from Sandy Berger, Anthony Lake, and Brent Scowcroft on a panel. All three of them said with various degrees of language that we need to make a change in the DCI, we need to make the DCI more powerful, we need to enable him to get the job done. That is an issue at which we should look.

Second, I believe we must seriously examine the long-term resource issues that confront us, not just now but over the long haul—over the next decade, maybe over the next two decades, or three decades. Are we providing the resources we need for our intelligence community? And are we providing them in the right way? Do they know they are going to have the necessary resources, as much as anybody can ever know year to year with Congress? But do they have some indication those resources are going to be there so they can get the job done? How much resources do they, in fact, need to protect us?

Maybe a good way of looking at it is to say, if tomorrow we were struck again and we are all in shock again, what would be our reaction? What would we do to the budget then? Maybe we need to ask ourselves that question and go ahead and do it now.

The next question I hope the commission looks at is: Do we have the human resources available within the agencies themselves? Are we going to get the necessary people because ultimately it comes down to people. We have good people. They are doing a good job. They are working 14, 15, 16 hours a day, but there is only so much they can do. How many more people do we need? My guess is we need a lot more people based on what I have seen. In the counterterrorism center, for example, in the CIA, FBI, we need a lot more people.

Do we have the right technology is another question the commission should look at, and do we have enough of it to get the job done in the new world in which we live? The technology the FBI has is not good. If any major business in this country had that technology, somebody would be fired; a lot of people would be fired. It is shameful. It is wrong. It is not fair to the employees, and it is not fair to the American people. We are, frankly, responsible for that. We are responsible for that failure. We have an obligation to change that. That is another issue at which this commission should look.

The commission should ask us and the American people: What is our long-term commitment to intelligence?

Finally, I think the commission needs to examine the Foreign Intelligence Surveillance Act, the FISA statute, and determine what changes are necessary to make sure we are getting intelligence from this source to help prevent future attacks. We made improvements in FISA. The Patriot Act was an improvement. Quite frankly, Congress has been derelict in its duty over two decades to have good oversight over FISA. It has been a hidden court, as it was designed to be; a secret court, as it was designed to be. Yet we have not figured out some way through the Intelligence Committees to have good oversight to find out how the law we wrote as representatives of the American people is truly being interpreted.

For the first time we have a court decision that has come out of the FISA court. It is not public, but we can at least look at it. It is the first one, to my knowledge, that has been published in 2 decades. I do not happen to agree with the decision, but we can look at it. It is being appealed. We will have an opportunity to see what the court of appeals says about that, but at least that part of the debate is out there.

We must continue to look for ways to fulfill our oversight responsibility in the Congress. That is an issue that the commission should look at as well.

These are a few of the issues I think the commission needs to look at. Let me say, however, it is not just the commission's responsibility. I voted for this amendment, not because I felt it would be solely the commission's responsibility to look at these issues; I believe the Senate Intelligence Committee has an obligation to look at these big-picture issues in the months and years ahead. I believe the House has the same obligation. I simply believed that with an additional commission issuing reports in 6 months, 12 months, 18 months, that would be an added voice, an added set of eyes, more expertise, to look at some of these issues this country should be debating.

Ultimately, we need a serious national debate about all of these issues and so many more, even those that are outside the realm of the intelligence community. In examining the intelligence component, if we have learned anything from September 11, it is that our security, our safety, and the safety of our loved ones, is intrinsically linked to the quality of that intelligence. So we must do all we can to improve the quality of that intelligence. The ability to share that information with the appropriate agencies is involved with our national security. As Members of the House and Senate Intelligence Committees, as Members of this Senate, we have an obligation to examine these issues. We must debate them. The proposed commission can certainly play a productive role in these debates and in these investigations. Therefore, I was pleased this afternoon to support its creation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that following the cloture vote on the Lieberman amendment tomorrow, if cloture is not invoked, the Senate remain on the homeland defense bill and Senator GRAMM of Texas be recognized to offer an amendment; that there be two hours of debate equally divided between Senators GRAMM and LIEBERMAN or their designees; that at the conclusion of that time the amendment continue to be debatable and Senator DASCHLE or his designee be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the amendment we have been waiting for for some time will be offered in the morning, or as soon as the vote is completed, as the unanimous consent request indicated.

It appears the two managers have some amendments they can clear on this homeland security bill. That being the case, we will stay on the bill. When the amendments are cleared, we will go to a period for morning business until Senators have said all they wish to say, and then we will recess until tomorrow. We hope this is the beginning of the end of this bill. I think we have made progress to get to this point. As I have indicated, we have been trying to get this amendment now for about the second week, so finally we are there. This is a big amendment. We will determine how it is going to be disposed of sometime tomorrow.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Mr. President, Senator DORGAN is here and wishes to speak as if in morning business. I ask unanimous consent that he be recognized for up to 20 minutes, and that following his statement, we return to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

TERRORISM AND THE ECONOMY

Mr. DORGAN. Mr. President, I would like to speak about several important issues facing the Senate at the moment: namely, the situation with Iraq, and the state of our economy.

First, let me speak about Iraq. And let me begin by saying that I don't think there is any question that Saddam Hussein is not following the terms of surrender at the end of the gulf war. He has failed to live up to any one of those terms or conditions.

I was at the Incirlik Base in Turkey and visited with the pilots who are flying over the northern area of Iraq enforcing the no-fly zone. These pilots fly in harm's way. They are often shot at by the ground forces of the Iraqi Army. The fact is, Saddam Hussein has violated virtually everything to which he previously agreed.

I don't think there is any question that this is a bad person, who poses a real threat. He wants access to nuclear weapons. He has access, apparently, to chemical and biological weapons. And the President says we ought to do something about this threat posed by Saddam Hussein. I agree that we should. The question is, How?

The President went to the United Nations. And I think that was the right thing to do. The Secretary of State is now asking the Security Council to join us and pass another enforcement resolution so we can, with other countries, begin to enforce coercive inspections in Iraq to make sure that, if they have weapons of mass destruction, they are destroyed, and to make sure they are never able to acquire weapons of mass destruction, especially nuclear weapons.

But there are other avenues that we should also pursue. I have thought for 10 years, since the end of the gulf war, that this country should press for the formation of an international criminal tribunal at the United Nations to indict and try Saddam Hussein as a war criminal.

I don't know whether at the end of the day there is going to be a regime change in Iraq or not. I hope there is. I believe there ought to be a regime change, but I am not sure whether that is going to happen. If it doesn't happen, I still think we ought to push for the creation of an international war crimes tribunal, so that Saddam Hussein is indicted and convicted.

There is ample evidence—both in this country and also in the United Nations—to indict and convict this man of war crimes.

I spoke on the floor some years ago about a young boy and his family who lay dead on the ground in Iraq—victims of weapons of mass destruction unleashed by Saddam Hussein that killed thousands of those people. He is the only leader I know of in this world who has used weapons of mass destruction against his own citizens. So there is ample evidence for that and other reasons to indict, try, and convict Saddam Hussein for crimes against humanity.

I have never understood the reluctance of this Government to push ahead to do that. I have never understood that. Senator SPECTER from Pennsylvania and I offered a resolution—I think it was about 5 years ago in the Senate—calling on the State Department to go to the United Nations and attempt to get a war crimes tribunal so we could indict, try, and convict this man as a convicted war criminal. I think whenever we talk about Saddam Hussein, we should be talking about a convicted war criminal.

Had we done what we should have done 10 years ago and 5 years ago, that is what we would now call him, because the evidence is so substantial about what he has done to his own people, to people in the region, to his neighbors, the weapons he has used—there is just no question that this man, even in absentia, would be tried and found guilty as a war criminal.

I think even today our State Department should press that case, even as we are pressing for coercive inspections and contemplating taking action again against the country of Iraq.

I have asked my staff to talk to the staff of the Senator from Pennsylvania about offering that resolution once again in the Senate. It passed the Senate 4 or 5 years ago without a dissenting vote. Yet nothing has happened with respect to Saddam Hussein and Iraq and the creation of a war crimes tribunal at the United Nations to indict and to try him.

Let me turn to the economy for a moment. Because while the Iraq issue is vitally important, we have other very big challenges that are largely being ignored. The President and some in this Chamber don't want to talk about this, but the fact is our economy is in some significant trouble. We have some people whose responsibility it is to be involved in fiscal policy who say: What trouble? Things are going just fine. This is just a little bit of a correction. Things will be fine. Just wait and do nothing. Things will work their way out.

The fact is, we have come to an intersection in this country unlike any we have ever arrived at before. Just a year and a half ago, President Bush proposed a fiscal policy. He came to office, and said: What I see in this country is 10 years of surpluses, and big ones at that. That money belongs to the taxpayer. Let us give it back. Let us have a $1.7 billion tax cut.

I did not vote for that because I said I thought we ought to be a little more conservative. I don't think we can see 3 months ahead, let alone 10 years ahead. I think the conservative thing to do would be to attempt to be a little more moderate in how we deal with fiscal policy and not lock in a $1.7 billion reduction in revenue.

I lost that argument. The majority in this Chamber and the other Chamber voted for a $1.7 billion tax cut over 10 years. The President celebrated and his supporters celebrated. Everyone talked about how wonderful that was. Mr. Greenspan, down at the Federal Reserve Board, thought that was fine, too.

It wasn't very much past that—some months past that—when we discovered the country was in a recession. If we had been in a recession at the time we were talking about these expected 10 years of surpluses, would we have made a different decision? Maybe.

Not much more than a couple of months beyond that we had the terrorist attacks against our country on September 11. Had we known we were going to face a recession and the terrorist attacks on our country on September 11 that caused such a devastating loss of life, would we have said let us put in place a $1.7 billion tax cut? I think we might have made different decisions.

Then, on top of that, we had the technology bubble burst and the stock market began to act like a yo-yo with more down than up.

On top of all that, we had the corporate scandals in which we saw some of the largest corporations in this country—Enron, to name one. I chaired the hearings in the Commerce Committee investigating Enron. We saw the executives of that company and others run these companies into the ground. They cheated and lied to the investors and to the employees. The board of directors finally had their own investigation into their own company. Do you know what they said? They said: What we found inside our company was "appalling." They said: We found this corporation was reporting $1 billion in earnings that it didn't earn.

To give a small example of what was going on, the chief financial officer of that corporation invested $25,000 of his own money into a corporation, a partnership—a corporation in which he had a proprietary interest—and he took out $4.5 million 60 days later.

Let me say that again.

He invested $25,000 of his own money and then took out $4.5 million 60 days later.

I come from a town of 300 people. We call that stealing in my hometown.

In corporation after corporation, we see all of these corporations and the books being recalculated and company executives being led away in handcuffs.

There are a lot of great companies in this country, and a lot of great CEOs. Make no mistake about that. Some people say it is just a few bad apples. That is true. How big is the orchard with bad apples?

It is just too many corporations, too many accounting firms, and too many law firms that are the enablers that allowed all of this to happen and too many executives with larceny in their hearts who don't understand this wasn't their money. This was the investors' money.

What you have is an intersection of a recession, a terrorist attack, corporate scandal, the tech bubble bursting, and the stock market collapsing.

Yet, the Administration is telling us that they don't even want to talk about the economy, as if the circumstances had not changed at all.

When people sit around a supper table and talk about their lives, most families talk about some key things. Do we have good jobs? Do our jobs pay well? Do we have job security? Do our kids go to good schools? Do grandpa and grandma have access to good health care? Do we live in a safe neighborhood? Those are all the questions that affect the lives of America's families.

Do we have job security? Let me give you an example. A fellow wrote to me. He said: My life savings as an employee of the Enron Corporation—he worked for a pipeline corporation that was a subsidiary—were in Enron stock. It was worth $330,000. I saved for years to put together $330,000 in my 401(k) account in Enron stock. It is all that I have. That $330,000 is now worth $1,700.

Is that a problem? You bet your life it is a problem for that family, and so many other families across this country who have seen their life savings dissipate.

Now, people say: Well, that is just anecdotal information about this family or that family. But it is not that. The average 401(k) account in this country has lost one-third of its value. These are the life savings of people, the retirement savings of people. It has lost one-third of its value.

Do you think that is going to have an impact on our economy? Of course it is. Our economy is all about people's expectations about the future.

I used to teach economics. I overcame that, nonetheless, and have been able to go on and do some other things productively. The field of economics is not much more than psychology pumped up by helium. It is just people estimating what might or might not happen.

Our economy is very simple. If our future is a bright, rosy future, if people are confident about the future, then they do things that manifest that confidence. They buy a house, buy a car, take a trip; they do the things that represent people who are confident in their future. And that expands the economy.

When people lack confidence in the future, they do the exact opposite. They decide not to take the trip. They don't buy the car. They don't buy the house. They defer purchases they might have otherwise made. As a result, economy contracts.

So we are in a situation where we have an economy that is in some trouble. It is not growing. People are not confident about the future. They see corporate scandals. They are worried about investing in a corporation. They are worried about the method by which we ask people to invest in a share of stock in a company they never visited with executives they don't know, with accounting firms they are supposed to trust but now do not.

And still we have the Administration and some in the Senate saying: Well, what is the problem? We don't need to revisit any of these circumstances. We don't need to talk about fiscal policy. We don't need to talk about the economy.

They are wrong. We need to talk about jobs. What is happening in jobs? We need to talk about the economy, economic growth, and opportunity. We need to talk about this country's fiscal responsibility, its budget mess.

There isn't anyone in this Chamber who can get up and talk about how this budget adds up, because it does not. We have a fiscal policy that is sorely out of balance, and everybody knows it. Everyone wants to pretend that is not the case. And it starts with the President.

Now, what is the record?

Job losses. We are not expanding. We are losing jobs at this point. Private-sector jobs are down, down sharply.

Weak economic growth. In fact, some indicators suggest we may have almost no growth at the present time.

We have an anemic economy, there is no question about that.

Declining business investment.

A falling stock market. Just take a check over the last week or two; in fact, go back 6 years to find when the NASDAQ was as low as it was yesterday.

Shrinking retirement accounts. I have just described that. An average family having a 401(k) is losing a third of its value.

Eroding consumer confidence.

Rising health care costs. One of the issues we ought to talk about on the floor of the Senate is this: rising health care costs. It also explodes the Federal deficit, causes havoc with every State budget, especially causes chaos with the budgets of families.

We are trying to say to the American people and the pharmaceutical industry: The prices you are charging for prescription drugs are outrageous. You charge the American people the highest prices in the world for prescription drugs, and it is unfair.

Yet, when you take on that industry in this Chamber, asking, "how do you justify this; how do you justify to a woman who has breast cancer that the drug Tamoxifin is going to cost her 10 times as much in the United States as you charge for the identical drug in Canada; how do you justify that," there is no answer. It is a deafening silence.

But yet you can't get effective legislation through the Congress because we have too many here who support the pharmaceutical industry. The big, powerful, and strong make a great deal of money, and they like the status quo.

We are going to focus on an economic forum of sorts in the coming couple of weeks, to see if we can get together people who want to talk about the economy who have contrasting views about the economy, and to see if we can begin a debate about what ought to be done.

We have too many people out of work. We have too many people who have lost too much money in the market. We have an erosion of confidence. We have a budget deficit that is escalating.

We could not get appropriations bills through the floor of the Senate by the October first date. Why? We could not get a budget? Why? Because none of it adds up. And everyone in this Chamber knows it does not add up.

How do you add up a circumstance where you have less revenue coming in, and you decide you have to do $45 billion more for defense in 1 year, probably something close to $30 billion more for homeland security in 1 year? Add that additional spending on top of a fiscal policy in which you have either slow growth or a recession, and less money coming in, and therefore higher deficits, and then what is left for the things that represent domestic discretionary spending, including health care and education?

What is left to try to do something that says to kids: Your education matters because our future is in our schoolrooms? We believe that every young child ought to walk through the door of a schoolroom where their parents are able to say: We have sent our child to the best schoolroom in the world.

How do you do that when there is no money left for education or health care because we have a fiscal policy that does not add up because 18 months ago we said we were going to have surpluses for 10 straight years, and 18 months later—following a war, a recession, stock market collapse, corporate scandals, and more—we now have turned surpluses into big deficits.

I think it is time—long past the time—for this Congress to have an honest, real, aggressive, significant debate about this country's economy: what is wrong; how do we fix it; what has worked; what works; what is right; what does not work, and how do we repair it.

I began by talking about Iraq. The situation in Iraq is very important. But our economy is also vitally important. We have been the economic engine for this world. When the economy in Asia was soft, we still were the economic engine that provided strength. When the economies of Europe were soft, the American economy was still the economic engine. Take a look what is happening to the American economy today, and it is not working well.

This Congress has a responsibility to begin a thoughtful, sober, serious discussion about what works and what does not with our economy, and how we construct a new fiscal policy to fix that which is wrong. The President has a responsibility to join us as well. At the present time he talks only about foreign policy. Foreign policy is important, but it is not exclusive. This President has a responsibility to join us. It is his fiscal policy. He won 18 months ago. It is his fiscal policy that now helps create large deficits rather than large surpluses. He must join us in trying to determine what we can do to pull ourselves out of this morass.

This country can do better, but it needs good public policy coming from this Congress.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY ACT OF 2002—Continued

Mr. DASCHLE. Mr. President, I come to the floor at the end of the day to remind our colleagues that there will be two votes tomorrow morning. They will both be cloture votes. Those votes are ones we have cast before. This will be the third cloture vote on the drought and firefighting amendment that has been pending for weeks. It will be the second vote on homeland security.

I am troubled by the rhetoric I hear off the floor with regard to Democratic efforts to slow this legislation down. I find it quite ironic that while there are some who suggest it is Democrats holding up this legislation and criticize us for doing so, it is the Democrats voting virtually with unanimity in support of cloture to end debate on both bills.

This is the fourth week we will be on this legislation.

I don't know what agendas are being played out. Some may think maybe the longer we wait to vote on these things, the more advantageous it is for one side or the other. There is a lot of work left to be done. I know the American people expect us to complete our work on homeland defense, and our farmers and ranchers and firefighters certainly expect us to have acted by now on the assistance they need so desperately.

How cynical can it be for some to suggest, in the name of whatever, that we can hold up drought assistance, hold up firefighting assistance, hold up the extraordinary help this represents, in the name of whatever issue? I have said this before on the Senate floor, and I will say it again now. Just getting cloture on the Byrd amendment, which includes $5 billion or more in drought assistance, and almost a billion dollars in firefighter assistance—to get cloture on that amendment in no way precludes other amendments. It certainly doesn't preclude any Senator from offering the forest health amendment or anything else on the bill itself. It doesn't preclude that.

So there is absolutely no reason Senators should oppose cloture on the drought and firefighters amendment—unless they are not serious about providing help in the first place. You have to wonder, after the third cloture vote, if people are truly serious about providing help; if they are serious when they say they want to provide some response to firefighters and drought victims in the agricultural areas of our country.

You would have to believe if they were serious they would vote for cloture, they would send this amendment and this bill into conference, and we would get this job done. You would think that.

All of the machinations and explanations and all of the excuses ring very hollow to ranchers and farmers and firefighters when they note that we are now in the third week of this filibuster from the other side, depriving these very people the sustenance they need to survive.

Mr. President, there can be no explanation. So I hope the vote tomorrow will have a different result. I hope all these political strategies, as they play themselves out, have played their course. I hope we can say, on a bipartisan basis, that the time has come for us to send a clear message to ranchers and farmers and firefighters that we are going to get them that help. I hope we can do that.

Tomorrow is our chance because I will tell you if we don't get cloture tomorrow, we send just the opposite message—that in politics we can say anything we want and not be held accountable. We can say we are for you, but we can always think of a reason we are not at the end of the day.

There is a great deal of cynicism in ranch and farm country and the forests as we fight these fires right now. People are shaking their heads wondering what in Heaven's name could be holding up this help. I cannot explain it, and I don't think anybody else can satisfactorily. They can come to the floor and say they are not filibustering. They can come to the floor and say there are other issues that are more important. They can come to the floor and try to explain in a hundred different ways, but there is no explanation. There is no excuse. There is no way to look in the eyes of those farmers and ranchers or firefighters and say: Just wait another week, wait another month. You have waited long enough, but we are going to make you wait a little longer.

You cannot do that.

So tomorrow is a big test. Are we serious about drought assistance? Are we serious about firefighter assistance? Are we serious about getting this job done and sending the right message? We will know the answer by late morning.

The same could be said about homeland security. As I noted, we have already had one cloture vote. I am told the amendment offered by our Republican friends is germane. So there really is no reason to vote for cloture and bring this bill to a close. We have so much more work to be done. A day doesn't go by when three or four colleagues on both sides of the aisle come to me and say: When are we getting out? When are we going to be able to go home?

The answer to that rests, in part, on tomorrow. If we can support cloture and get this legislation passed, if we can move this agenda forward, with all the other things that have to be done, there is no reason we cannot meet our adjournment day.

Mr. President, I just come to the floor to urge my colleagues not to fall into the trap—the rhetoric trap—of attempting to explain why you are for homeland security, why you are for drought assistance, why you are for firefighting assistance, why you are for completing our work on time—and then turning around and voting against cloture, voting against bringing this debate to a close, after a month of legislative activity on the Senate floor.

I will be watching. I know the American people will be watching. Tomorrow is a very big day. Tomorrow is a day when we will see who is sincere and who is not; who is prepared to bring help to those needy farmers and ranchers and firefighters, and who is not; who is prepared to answer the President who said just yesterday that the Senate needs to get its act together to pass homeland security. Tomorrow is our chance.

So let's see whether we seize the moment and take that chance and do what we need to do to get the job done. I am sure on both sides of the aisle colleagues recognize the importance of doing just that. So we will have a chance to prove it tomorrow morning on the cloture vote.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, to respond to the majority leader, I totally disagree with many of the statements that were made. There is no one on this side of the aisle filibustering the Interior or homeland security bills. No one. None. I know. We are willing to vote. I am embarrassed that we have spent 3 weeks on the Interior bill. Cloture is not filed on the Interior bill; cloture is filed on one amendment. Even if cloture was invoked, the amendments can still be offered. Senators have a right to offer amendments. I just mention that.

If the majority leader wants to move forward on the bill, table the amendment. That is the way to do it. I know the majority leader knows that. I will table the amendment if that will help him. If I was managing the bill, I would try to move the bill. I used to be chairman of that subcommittee. It is embarrassing to me that the Senate has been on this and homeland security for now the fourth week. That is not the way to manage appropriations bills. I am embarrassed we haven't passed but three appropriations bills. I just mention that to my colleague.

Having a cloture vote on the Interior bill is a total waste of time. Even if it is invoked, you can waste 3 days, and then the sponsors of the amendment can still offer the amendment to the bill. That is correct. Cloture on homeland security is a waste of time. I tell the majority leader that because it would deny the Senator from Texas and the Senator from Georgia the chance to offer the President's substitute. I know the leader knows we have enough votes to make sure they know they are going to get enough votes on the substitute.

There is a tendency around here to file cloture thinking that will always expedite matters, but certainly it is not the case with the appropriations bills. It will not work, I am informing the majority leader.

I am also saying, with regard to filing a cloture motion on homeland security, we are not going to let that deny the President the opportunity to offer his proposal. We can have all the cloture votes you want, but it does not move us any quicker to passing drought relief or additional money for firemen. It will not happen.

If you want to dispose of that amendment, we can table it and find out where the votes are. The Senator from Idaho is entitled to have a vote on his amendment. There is money in it for fire. He is saying we should reform our processes in managing the forests. He has a right to do that.

I know Senator REID and I have managed bills in the past. Senators have offered amendments, and the ones we did not like, we would usually table, and if we were not successful, we would usually drop it in conference, but we would manage the bill. This bill is not being managed. Neither bill is being managed. So we are now on our fourth week on two bills when both should have been done in a relatively short period of time.

I mention that to the majority leader. File all the cloture motions you want, but if you want to move forward on the bill, I think we should just vote on these amendments and we can be done.

I mention that as friendly advice. I would like to see the Senate work and see the Senate work much better, but I did want to clarify—I have said this about four times—no one on the Republican side of the aisle is filibustering either of these two bills.

I think it is in our best interest for the Senate and for the Congress to pass both bills. I am willing to work with the majority leader to do that. I offer a suggestion: If people do not like the Craig amendment, move to table it or come up with an alternative where we vote side by side on different alternatives.

I had understood there was going to be a motion to table the Craig amendment, and then there was going to be a Bingaman amendment which is comparable. Ways can be worked out. Senator CRAIG is entitled to a vote on his amendment, and Senator BINGAMAN may be entitled to a vote on his amendment. We can dispose of that, finish the Interior bill, get it to conference, and hopefully work it out with the House.

I also hope we can do that with the remainder of the other appropriations bills. It is embarrassing for me not to have passed more appropriations bills through the Senate, through the House, and to the President. He is entitled to have an opportunity to sign or veto appropriations bills, and we are not giving that to him.

I make those comments and friendly suggestions to my friend. I do want to reemphasize that no one on the Republican side is filibustering either of these bills. I wanted to make sure that is clear. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, as always, I appreciate the friendly advice from my friend and colleague, the Senator from Oklahoma. He is a student of the legislative process. He has every right to be embarrassed. If he wants to come to the floor to express how embarrassed he is, I certainly would not want to keep him from doing that, and I appreciate his candor.

As to the appropriations bills, the House has sent us five. This is the fourth one that we have taken up. There are eight bills that are mired, that are languishing in the House of Representatives because the House Republican leadership cannot appear to find whatever wherewithal may be required to move the legislation forward. They have not sent them to the Senate so, obviously, we cannot bring them up. We are waiting patiently for additional legislative action on the part of the House. I am hopeful they will send it soon because they are the ones who should be embarrassed.

I must say the Senator from Oklahoma is certainly within his rights to express himself and in characterizing these votes against cloture in any way he sees fit. That is the right of every Senator. I do not blame him for not wanting to be accused of filibustering this legislation, but I think anyone, just an objective observer would be hard pressed to say: We are not filibustering, but we are going to vote against cloture.

What is cloture? Cloture is the means by which you bring an end to the debate on a particular bill or an amendment. That is what cloture is. I can read the rule. I can clearly, I am sure, share with my colleagues exactly what the rule says with regard to how one ends a filibuster, how one ends extended debate. How do you do that? You file cloture.

When our Republican colleagues were in the majority, they used to fill the tree. They used to load up the amendment tree and then file cloture so that not only would they end debate, they would keep it from beginning. We would not even start the debate when our colleagues would come to the floor and not end it but prevent it.

I have said I will not do that. We will have debates, but there comes a time, and I would say any objective observer would say at the end of 4 weeks, that is a pretty good time. I mean, just to pick a number—4 weeks of debate. We file cloture now for the third time on the Interior appropriations bill to end debate. That is what it will say tomorrow morning.

We will support it. Our colleagues are going to oppose it, and then they are going to say: But we are not against ending debate; we are not filibustering.

If you can convince anybody of that, you are a better speaker and a more persuasive person than I am. Bless your heart if you can do that. I am telling you, this is a filibuster, purely, simply, and without question. You vote against cloture for the third time, you vote to filibuster; you vote not to end debate; you vote to extend, and the bottom line is—forget all the parliamentary procedural gobbledygook—you are telling ranchers, and farmers, and firefighters they are going to wait a lot longer. That is what you are telling them.

Forget the filibuster. Just remember what it means to extend debate in this case. It means they wait longer. It means that regardless of whatever excuses you can come up with, you continue to deny these people the chance to get help. That is what it means, pure and simple. They understand that in South Dakota. I think they even understand that in Oklahoma. But regardless of whether they understand it in Washington, we will have the chance once more to demonstrate who is for getting that help and who is not. That is what that vote is tomorrow. I yield the floor.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. NICKLES. Mr. President, I compliment my colleague from South Dakota because he got his people some help. He was able to pass an amendment that would allow them to clean up their forests and maybe prevent forest fires, but the rest of the people in the country did not get the so-called Daschle amendment. He was able to get it. I do not know how. It went through. We did not have a vote on it. We did not have a lot of discussion because a lot of us would have said it should have been national. So Senator CRAIG offered an amendment that said we want part of the reforms—not all the reforms—Senator DASCHLE was successful in getting to help South Dakota.

We are saying, in forest management, because we have forest fires breaking out all across the country, we should be able to clean up some of the diseased and dead trees so we do not have kindling for further fires. That is the essence of the Craig amendment.

We are entitled to a vote on that amendment. We did not get to vote on Senator DASCHLE's amendment. We did not get a vote on that. We are not even saying we should have that policy nationally, but we should have part of it to reduce the cause and incidents of forest fires.

In the underlying bill, we have money for forest fires, and we have money for drought. Senator CRAIG says: Let's have improvement in forest management simultaneously. He has a right to offer that amendment. Cloture, as Senator DASCHLE is trying to invoke, would make it impossible for Senator CRAIG to offer that amendment on the firefighting money.

Interestingly enough, it would not prevent him from offering it to the rest of the bill. Senator DASCHLE is not offering cloture on the bill. He is offering it on one amendment. I am tempted to say we agree to cloture; that would be fine with me. And then Senator CRAIG can offer the amendment to the bill. So cloture is getting us nowhere fast. We do not need this.

I implore the majority leader: Let the Senate work. If you do not want the Craig amendment to pass, move to table it, and we move on. You roll with the punches. You win some, you lose some.

Evidently, some people on the Democratic side of the aisle do not want to vote on the Craig amendment. I hope people understand that is what it is about. I am protecting the right of the minority to offer an amendment.

I tell the majority, we are going to offer this amendment. Whether it is an amendment to Senator BYRD's amendment or someplace else on the bill, we are going to offer the amendment. We are not going to be denied the opportunity to offer an amendment. I have to protect my Members' rights, and I will do so aggressively.

So I urge the majority leader to withdraw the cloture vote. If he wants to have cloture, he is not going to get it. We are going to insist on the right to offer amendments.

The same thing would apply to homeland security. If cloture is invoked, then we do not even get to have a vote on the President's homeland security bill.

Senator GRAMM and Senator MILLER have a bipartisan bill, which the President has worked on. They have agreed upon it, they have adjusted it, they have worked on it, and they are entitled to offer their amendment. If cloture is invoked on homeland security, they do not even get to offer that amendment. So cloture is a tool not just to shut off the debate, it is a tool used to deny Members the right to offer their amendments.

This is the fourth week we have been on these two bills, and we have made very little progress. We have had very few votes because people do not want to vote? This side is willing to vote. We have been willing to vote on the Craig amendment for weeks. Let's vote. The way to bring a vote to a head if you cannot get somebody on this side ready to vote and that side is not ready to vote, you move to table it. That is a nondebatable motion. You get a vote. Let's find out where the votes are.

If somebody does not want to vote, why are they in the Senate? We are delaying one bill for weeks because some people do not want to vote on one amendment. It is ridiculous. We used to manage these bills in ways that if a Senator did not like the amendment and got beat on the floor, he might drop it in conference, or try and change it. But to just say we are going to keep filing cloture, as if that is trying to bring a filibuster, there is no filibuster. If there is a filibuster, it is on the Democrat side; it is not on the Republican side. We are ready to vote. I have heard the sponsors of this amendment say we are ready to vote, we are ready to vote. So to say this is going to risk drought assistance and fire assistance does not fly. We are ready to vote. Let's vote up or down on the amendment. Let's vote today. Let's vote tomorrow. Let's vote the next day. How many weeks do we need to be on it?

I am ready to win. I am ready to lose. We are exhausted on the debate, but we keep having it. This is about the fifth debate I have given, not on the substance but on cloture, because the majority keeps filing cloture. They are going to keep filing cloture. Why? It is to no avail.

We are not going to get cloture and deny Senator GRAMM and Senator MILLER the opportunity to offer the President's substitute or the President's proposal for national homeland security. That is not going to work. Everybody knows that. It is not going to work.

Why in the world would we adopt cloture and deny Senator CRAIG the amendment dealing with forest fire management? Senator DASCHLE was able to get in a management proposal that dealt with his forests. My compliments to him. I like people taking care of their States. I like people doing forest management in their States, working out agreements with environmentalists. Evidently, that happened in Senator DASCHLE's case so they can harvest some timber and get rid of some of the dead timber. That is great. Why can we not do that for the rest of the country? Are we not entitled to offer that amendment?

I believe Senator CRAIG's amendment is scaled down in comparison to what Senator DASCHLE was able to do in South Dakota. My compliments to Senator DASCHLE for helping his State, but I think other people are entitled to offer amendments that would protect their States. Their States are burning. Their States are not just asking us to give them more money for fire assistance, but they want to change the policy so we do not have so many fires next year and the next year.

They are entitled to offer that amendment, and if people disagree with that amendment, they are entitled to vote against it or they are entitled to table it. But to file what I think are frivolous cloture motions undermines the whole purpose of the Senate.

I am a student of the Senate. I love the Senate. Cloture should be used rarely, when there is a real extended debate. We have not had an extended debate. We are ready to vote. So it is a method where some people are trying to use it to stop amendments that are not liked and on which they do not want to vote.

Again, the Senator from Idaho, the Senators from the West, are entitled to say we want at least part of what the majority leader was able to do in his State. We are going to protect the rights of the minority to be able to offer amendments. We are going to protect the rights of Senator GRAMM and Senator MILLER to offer the President's proposal. Cloture on these two bills is not going to work. It would not work anyway.

I am tempted to say let's give cloture and then offer the amendment tomorrow after we wait 30 hours; waste a couple of days and then offer the amendment again. We can do that. Maybe we should do that. It might prove our point that cloture is not the way to go when filing amendments dealing with appropriations bills. It really does not let the Senate work. The Senate should work, but frankly the Senate is not working.

Fingers can be pointed at the House of Representatives, but the reason why the House has not done more bills is because there has not been a budget. The House has passed a budget and the Senate has not passed a budget.

When I say I am embarrassed for the Senate, I am embarrassed for the majority because they have not passed a budget. They did not even bring a budget resolution to the floor of the Senate. A budget does not take 60 votes to pass. It takes 51 votes to pass in the Senate. For the first time since 1974, the majority did not bring a budget to the floor of the Senate. Because we do not have a budget, we do not have like figures between the House and the Senate. We do not have figures in the Senate because we have not passed it.

So fingers can be pointed at the House and one can say the House has only passed so many appropriations bills, but they have passed more than the Senate has. There is nothing in the Constitution that says the Senate has to wait on the House to pass appropriations bills. That has been the tradition, but it is not mandatory. If the House is not doing its work, we should go ahead and pass our appropriations bills, period.

I mentioned this to Chairman BYRD, and I hope we will do that. The Senate should pass appropriations bills. If the House has not passed them, let us pass them.

The end of the fiscal year is next Monday. I cannot remember any time in my 22 years in the Senate that the Senate has done so little in the appropriations process with 1 week to go in the fiscal year. Shame on the Senate. People can point fingers at the President that he would not give us an extra $9 billion—really, I think the difference is closer to $13 billion. Between the Senate Democrats and the President of the United States, I believe it is about $13 billion. Why don't we pass everything we agree on or take the House figure and then if Senators want to pass another $9 billion, do that in a supplemental? We could do that.

So we could pass the bulk of the $759 billion and then for the additional $9 billion or $12 billion, that could be put in a supplemental and the President could sign or veto it. At least then we would have done our job and we would be able to have appropriations for the bulk of the Federal Government.

Right now we are not doing anything. We are not functioning. The Senate is becoming dysfunctional. To only pass three appropriations bills at this late stage is very irresponsible, and I do not get any comfort by having fingers pointed at the House or the White House. The Senate is the one that did not pass the budget, and the Senate has not passed its appropriations bills.

We are an equal branch to the White House. So why don't we do our work? We are an equal division to the House of Representatives. If the House is not doing its work, let's do our work. It goes back to the budget because if we have a budget, we have similar levels to work from, and then, since the House and the Senate are working from the same levels, they have something to go to conference with and come up with suitable compromises.

This should not be this difficult. I am flabbergasted this is our fourth week now on the Interior appropriations bill, a bill that has total spending of about $18 billion or $19 billion. The $18 billion is a very small amount in the total scheme of Federal appropriations, which is more like $760 billion. It should not take us 4 weeks to do that. If it is going to take us 4 weeks to do the Interior bill, we are never going to finish the larger bills.

If the majority leader wants to have more cloture votes, that is fine, but I think the managers of the bill should come down to the floor and say it is time for us to move on. Let's either vote up or down on the amendments or let's move to table the amendments, finish these appropriations bills, and get our work done as we have the constitutional responsibility to get our work done.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I am not going to spend a lot of time responding to my friend, the assistant Republican leader. But I say, no matter what you call a filibuster, it is still a filibuster. We are 4 weeks on two bills. Check the history of this body. How often do we spend 4 weeks on a bill? We do not unless there is a filibuster, and that is what we have here. The majority leader, Senator DASCHLE, is trying to stop debate so we can go ahead and finish these bills.

The President has told everybody he wants homeland security, but he sure is acting strangely if he really wants this legislation passed. There is simply nothing to show the President really wants this bill. In fact, what this is showing is that on this issue, Iraq, and anything else he can do to keep away from domestic policy, he is doing it. We have a stumbling, staggering, faltering economy, and we should do something about it.

We have in the dark holes of the other body, these conference committees, legislation that has been held up for months and months. There is terrorism insurance. Important? Of course it is. We have major construction projects—I will bet in Minneapolis and other places in Minnesota and in Las Vegas and other places—that are being held up because we don't have terrorism insurance. Why? They won't let us complete a bill. Election reform—we had another debacle in Florida—still no election reform, held up in conference; bankruptcy reform, held up in conference with the House; Patients' Bill of Rights, held up in conference with the House; generic drugs, held up in the House.

We haven't done our appropriations bills because they will not move them in the House. This is a filibuster. They are doing everything they can to keep away from the fact that the stock market is at its lowest in 6 years. The stock market drop is more than in the time of the Great Depression. There were 2 million unemployed persons in the last 2 years—additional unemployed people. We had a huge surplus, in the trillions of dollars, a year ago at this time. We are now broke.

So this is a filibuster. It is a filibuster. It is a filibuster.

Mr. President, are we on the homeland security bill at this time?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENTS NOS. 4515, 4568, AND 4565

Mr. REID. At this time I ask unanimous consent it be in order to consider the following amendments: No. 4515, No. 4568, and No. 4565.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent these amendments be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

(Purpose: To provide funding for the construction of the Automated Commercial Environment computer system and to ensure the continuation of certain functions of the Customs Service)

Section 131 is amended by adding at the end the following:

(f) CONTINUATION OF CERTAIN FUNCTIONS OF THE CUSTOMS SERVICE.—

(1) IN GENERAL.—

(A) PRESERVATION OF CUSTOMS FUNDS.—Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(1) through (8)) may be transferred for use by any other agency or office in the Department.

(B) CUSTOMS AUTOMATION.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(i) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).";

(ii) in paragraph (4), by striking "(other than the excess fees determined by the Secretary under paragraph (5))"; and

(iii) by striking paragraph (5) and inserting the following:

"(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

"(B) There is authorized to be appropriated from the Customs Commercial and Homeland Security Automation Account for each of fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

"(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Customs Commercial and Homeland Security Automation Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.".

(2) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—Section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 19 U.S.C. 2071 note) is amended—

(A) in paragraph (1), by inserting "in consultation with the Secretary of Homeland Security" after "Secretary of the Treasury";

(B) in paragraph (2)(A), by inserting "in consultation with the Secretary of Homeland Security" after "Secretary of the Treasury";

(C) in paragraph (3)(A), by inserting "and the Secretary of Homeland Security" after "Secretary of the Treasury"; and

(D) in paragraph (4)—

(i) by inserting "and the Under Secretary of Homeland Security for Border and Transportation" after "for Enforcement"; and

(ii) by inserting "jointly" after "shall preside".

(3) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107–210) is amended by striking paragraph (2).

(Purpose: To provide that the review of transportation security enhancements required by section 170 include motor carriers, motor coaches, pipelines, highways, and hazardous materials transportation)

Strike section 170 and insert the following:

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) Review of Transportation Vulnerabilities and Federal Transportation Security Efforts.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit facilities and equipment;

(2) review all available information on vulnerabilities of the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) Report.—

(1) Content.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report, without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible, the cost of implementing the steps.

(2) Format.—The Comptroller General may submit the report in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) Response of the Secretary.—

(1) In general.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) Formats.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) Reports Provided to Committees.—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, and the House of Representatives Committee on Transportation and Infrastructure.

(Purpose: To make changes to the Office for State and Local Government Coordination)

On page 103, strike line 17 and all that follows through page 112, line 4, and insert the following:

SEC. 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) Establishment.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs for and relationships with State and local governments.

(b) Responsibilities.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland;

(4) develop a process for receiving meaningful input from State and local government to assist the development of the Strategy and other homeland security activities; and

(5) prepare an annual report, that contains—

(A) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) Homeland Security Liaison Officers.—

(1) Designation.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) Duties.—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research, and technical support to assist local efforts at securing the homeland;

(B) provide coordination between the Department and State and local first responders, including—

(i) law enforcement agencies;

(ii) fire and rescue agencies;

(iii) medical providers;

(iv) emergency service providers; and

(v) relief agencies;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

(i) address shared vulnerabilities; and

(ii) identify opportunities to achieve efficiencies through interstate activities .

(d) Federal Interagency Committee on First Responders and State, Local, and Cross-Jurisdictional Issues.—

(1) In general.—There is established an Interagency Committee on First Responders and State, Local, and Cross-jurisdictional Issues (in this section referred to as the "Interagency Committee", that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement;

(iii) fire and rescue operations; and

(iv) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) Membership.—The Interagency Committee shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee.

(3) Administration.—The Department shall provide administrative support to the Interagency Committee and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) LEADERSHIP.—The members of the Interagency Committee shall select annually a chairperson.

(5) MEETINGS.—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) ADVISORY COUNCIL FOR THE INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an Advisory Council for the Interagency Committee (in this section referred to as the "Advisory Council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee.

(B) DUTIES.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) REPRESENTATION.—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) CHAIRPERSON.—The Advisory Council shall select annually a chairperson from among its members.

(4) COMPENSATION OF MEMBERS.—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) MEETINGS.—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

Mr. REID. Mr. President, I would say to all those within the sound of my voice, this action has been cleared by both Senators THOMPSON and LIEBERMAN, the two managers of this bill.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent we proceed to a period of morning business with Senators permitted to speak therein for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. MILITARY CONSTRUCTION IN EUROPE

Mrs. FEINSTEIN. Mr. President, as chair of the Military Construction Appropriations Subcommittee, I have the opportunity and responsibility to take a close look at our military's construction needs throughout the world.

During our August recess, I chose to take a closer look at an initiative recently implemented by the Army in Europe called "Efficient Basing". This initiative is a two part process that will streamline the Army's infrastructure needs in Germany and in Italy.

The plan will direct much needed funds to consolidate U.S. bases throughout Germany, and better position an airborne battalion south of the Alps in Vicenza, Italy to more quickly respond to the possibility of crisis in the Transcaucasus, the Balkans, the Middle East and Africa.

Although the costs for this initiative could total nearly $1 billion when complete, there is little doubt that it will both dramatically reduce the long term costs of basing our forces in Western Europe and provide better strategic positioning for regional conflicts and the global war on terrorism.

This aptly named "Efficient Basing" initiative is being guided by the U.S. Army's European Commander in Chief, Gen. Montgomery Meigs. General Meigs invited me to Europe to take a closer look at the work in progress and allow him the opportunity to justify the costs associated with the program. As a result, I went to Camp Ederle, in Vicenza, Italy, and was able to see first hand the real efficiency of this tremendously large task and recognize the actual savings to be gained.

I would like to take a few minutes to recognize the degree of dedication and service to our country that is often overlooked.

Whether fighting a war, or carrying out the daily administrative tasks necessary to provide protection for America at home and abroad, our military commanders and the soldiers within their command display a level of dedication, efficiency, and selflessness that is awe inspiring.

We ask a lot of our soldiers, sailors, Marines and airmen. And, without question, they are up to the task, whatever it might be.

Let me give just a couple of examples: In his nearly 35 years of military service, General Meigs and his wife, Mary-Ann have moved their family 24 times. That's not just soldier dedication, that's family dedication—all for the sake of our freedom. This sacrifice is recognized throughout the world, not only by Americans, but by our allies and partners as well.

In the wake of September 11, a strangely surprising and caring act took place on the part of our Italian allies. In less than 24 hours, the Carabinieri—Italian police—in a show of force protection, came out in large numbers to surround our Vicenza base, Camp Ederle.

The base didn't solicit their presence. It was given voluntarily.

Acts like this do not just happen—they take time and the creation of a rapport built on admiration and years of interaction with our commanders and soldiers. The actions of the Carabinieri was, in part, a response to a lasting friendship—a friendship forged by men like MG Robert Wagner, the Southern European Task Force, SETAF, Commander.

General Wagner, a shining example for all to follow, is one hundred percent engaged with the leaders of the community—the mayor, the director of the Carabinieri, and businesses leaders throughout northern Italy.

The relationships and mutual admiration did not just happen by virtue of his position. It was developed over time, by him and by his predecessors, who hosted dinners and got to know these leaders and their needs, as well as expressing his concerns for our soldiers and the community in which they live and work.

The relationship between General Wagner and the community is priceless, but the care and concern he expresses for his soldiers is even more evident.

I was pleasantly amazed by the spontaneously unsolicited comments by persons like the local base librarian, who takes pride in his facilities and the services that he is able to provide to some 750 daily visitors. The same type of pride was exhibited by the director of the commissary, who manages a clean, well stocked facility and therefore plays a critical role in the morale and welfare of those who defend us.

A long time concern of mine has been the high operational tempo, or more simply put, the rate at which our service members are deployed away from their home base, whether for training, or deployed in reaction to a crisis.

In Vicenza, Italy, I met an impressive young man—a Californian—1SG Noel Fernando. First Sergeant Fernando, a native of Salinas, California, talked to me about his highly trained Airborne unit's operational tempo.

Sergeant Fernando, a hard worker who achieved his very high enlisted rank at an early age, assured me that more organized planning and early notification to family members regarding deployment schedules has reduced the trauma experienced by younger soldiers and their loved ones. They are now better able to anticipate deployments and plan accordingly.

Another distinguished member of our military forces is Gen. Joe Ralston. General Ralston is the Commander in Chief, U.S. European Command and the NATO Supreme Allied Commander Europe.

As Commander in Chief of U.S. European Command, he is the senior U.S. military officer and commander of a unified combatant command with an area of responsibility, that includes 89 nations in Europe, Africa and the Middle East. General Ralston will be retiring soon, and just like many service members before, he and his family have sacrificed much of their lives for our freedom.

I was pleased to have been escorted by General Ralston to the sites of several upcoming military construction projects in the Mons, Belgium area.

The first is a barracks complex that will accommodate soldiers at the "one-plus-one" housing standard. Another project will add a classroom to the SHAPE, Supreme Headquarters Allied Powers Europe, elementary school.

While there, I had an opportunity to visit this site and visit with the students and teachers. I am pleased to report that the administrators of this and other military schools in Europe have been able to reduce the student to teacher ratio significantly, thus offering a quality education for our military dependents.

In summary, I would like to emphasize the important role that our officers, enlisted members, and their families play in creating good will around the world for the people of America.

As I have mentioned previously, all of these people dedicate their lives, and to a certain degree their personal freedom, to ensure our nation's remains free. These military service members and their families deserve quality facilities wherever they might be stationed.

This is why, I feel honored to sit as chair of the Appropriations Military Construction Subcommittee, because it allows me to make a difference in the living and working conditions for our troops who are willing to make the ultimate sacrifice on our nation's behalf. I am dedicated to providing first class facilities for them both at home and abroad.

Lastly, it is with great pride that I commend those service members like General Ralston, General Meigs, General Wagner and First Sergeant Fernando, who have for decades sought to ensure a better quality of life for our fighting force.

U.S. INTERNATIONAL TRADE POLICY

Mr. GRASSLEY. Mr President, this year marks an historic turning point for U.S. international trade policy. For the first time in over eight years the Congress renewed the President's authority to negotiate new trade agreements. This authority, called Trade Promotion Authority, reestablishes the traditional partnership on trade between the Congress and the Executive branch. It allows us to work together to open new markets for American exports, set fair rules of conduct for U.S. investors overseas, and help raise the standard of living for millions of people around the world.

The negotiating objectives and procedures laid out in the Bipartisan Trade Promotion Authority Act represent a very careful substantive and political balance on some very complex and difficult issues such as investment, labor and the environment, and the relationship between Congress and the Executive branch during international trade negotiations.

Because this balance is so delicate, I was somewhat dismayed to learn recently that some groups and Members of Congress are trying to push for interpretations of certain provisions of the TPA bill that do not comport with the negotiating objectives laid out in the Bipartisan Trade Promotion Authority Act. For example, an article in the September 18, 2002 edition of National Journal's CongressDaily noted that "a group of labor officials who were active in the fight against, TPA, are meeting in the offices of the AFL-CIO. At the top of their agenda: mapping a plan to ensure future trade agreements include strong provisions on labor rights and the environment. Labor officials plan to hold future agreements to standards set in an earlier free-trade agreement reached with Jordan, which they consider a model of backing up labor and environmental provisions with enforceable sanctions." Some Members of Congress are even arguing that future agreements must follow the "Jordan Standard" on labor and environment in order to meet the objectives laid out in the TPA bill. Perhaps even more ominous were the public remarks of the Chairman of the Senate Finance Committee who urged the administration to follow the model of the Jordan Free Trade Agreement "exactly" in implementing the labor and environment provisions of the Bipartisan Trade Promotion Authority Act.

On this issue, I respectfully disagree with my colleague from Montana. In fact, I think this would be a serious mistake. The negotiating objectives in the TPA bill set the parameters for future trade negotiations, not some past agreement like the Jordan FTA that was negotiated during the Clinton Administration. To follow the provisions of this past agreement "exactly" would ignore the clear will of Congress as set forth in the TPA bill. Even more disconcerting is that such a stark litmus test ignores that basic premise that the most appropriate mechanisms to improve labor and environment standards abroad differ from country to country and agreement to agreement. In short, one size does not fit all.

Trying to solve complex environmental and labor issues with rigid constructs will do nothing to actually improve environmental or labor standards abroad. At the same time, demanding that our trading partners accept specific language laid out in past agreements during trade negotiations will come at a heavy price for our farmers and workers, as our trading partners can demand significant concessions on other issues, such as agriculture, in exchange for our rigid insistence that they accept specific language from our trade negotiators. The Administration and Members of Congress need to remember that the underlying premise of the TPA Act is to provide the President and our trade negotiators with flexibility so they can negotiate the best trade agreements for the American people. It is not intended, nor should it be used, to try to tie the President's hands on any particular issue.

It is also troubling that some advocacy groups are pushing to ensure that future free trade agreements adhere to their version of so-called "Jordan Standard." I think it bears repeating that it is the negotiating objectives laid out in the Trade Promotion Authority bill that should guide the Administration in future trade negotiations, not a single free trade agreement that was concluded long before TPA became law.

I also believe it would be a political miscalculation to insist that new trade agreements must follow the "Jordan Standard" to gain support in Congress. First, no one really knows what the "Jordan Standard" is. In fact, when we held a hearing on the Jordan Free Trade Agreement on March 20, 2001 in the Senate Finance Committee, one of the most controversial issues raised was what the labor and environmental provisions of the Jordan Free Trade Agreement actually mean. For example, former United States Trade Representative Charlene Barshefsky testified that the labor and environment provisions in the Jordan FTA "while restating the existing commitment of both countries to environmental protection and the ILO's core labor standards, neither imposes new standards nor bars change or reform of national laws as each country sees fit."

Ambassador Michael Smith, former Deputy United States Trade Representative and the first American Ambassador to the General Agreement on Tariffs and Trade, testified that "Articles 5 and 6 [of the Jordan FTA] as written are largely fluff, open to widely differing, even if plausible, interpretations and, as such, causes for possible unfortunate differences between Jordan and the United States in the years ahead as the agreement is implemented. Articles 5 and 6 do not advance the "cause" of either international environmental or labor affairs and add only confusion to what should be a straightforward free trade agreement. Indeed, the only result I can foresee is countries adopting lower environmental and labor standards for fear of themselves being unable to effectively enforce higher standards hardly a desired result."

During the hearing it became clear that labor and environment provisions, and their relationship to the dispute settlement procedures established in the Jordan FTA, are highly controversial. A number of groups, including the American Farm Bureau Federation and the U.S. Chamber of Commerce, strongly opposed including the labor and environment provisions in the Jordan FTA without some clarification from the Administration that these provisions would not be implemented in a trade restrictive manner. Many members of the Republican party, including myself, shared these concerns. Had the U.S. Government not agreed to side letters with the Hashemite Kingdom of Jordan, clarifying that these and other provisions would not be implemented in a manner that results in blocking trade, it is highly likely that the agreement would not have gained the support of the Republican caucus in the Senate, and may not have passed the Senate at all. And, if the proposed agreement had not been with our good friend and ally Jordan, side letters may not have been enough.

I think this represents an important political reality which the Administration must gauge in entering into new free trade agreements. Almost 90 percent of the Republican Caucus in the House and Senate supported passage of Trade Promotion Authority. In contrast, only 12 percent of the House Democratic Caucus and 40 percent of the Senate Democratic Caucus supported the bill. And the price for that support was high. Clearly, if future free trade agreements are going to pass Congress, the strong support of the Republican caucus will be key.

In short, I am deeply concerned that some advocacy groups and Members of Congress are pushing the Administration to adhere to a highly controversial and vague "Jordan Standard" which does not have the strong support of the Congress and that is not clearly reflected in the Trade Promotion Authority negotiating objectives. While the labor, environment, and dispute settlement negotiating objectives in the Bipartisan Trade Promotion Authority Act are loosely based on provisions found in the Jordan Free Trade Agreement, there is clearly a distinction between the two. In implementing the will of Congress as embodied in the Trade Promotion Authority Act, it is critically important for the administration to keep this distinction in mind if future agreements are to gain the support of myself and other strong supporters of free trade in the Congress.

Before I conclude I would like to talk about another important development in U.S. trade policy. Last week, for the very first time, the bipartisan, bicameral Congressional Oversight Group, COG, met with Ambassador Zoellick to discuss pending and future trade agreements. The COG was created by the Trade Promotion Authority Act to provide an additional consultative mechanism for Members of Congress and to provide advice to the U.S. Trade Representative on trade negotiations.

The COG is comprised of: the Chairmen and Ranking Members of the Finance and Ways and Means Committees; three additional members from the Senate Finance Committee, no more than two of whom may be of the same political party; three additional Members of the House Ways and Means Committee, no more than two of whom may be of the same political party; and the chairman and ranking member or their designees of the committees of the House or Senate which would have, under the Rules of the House or Senate, "jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress."

The purpose of the COG is to "consult and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement." In addition, each member of the COG is to be accredited as an official adviser to the United States delegation in the negotiations. However, those Senators or Members who are Members of the COG because they are the chairman or ranking member of a Committee which has "jurisdiction over provisions of law affected by trade negotiations" are to be accredited as advisors only on those provisions which would fall under their Committee's jurisdiction.

The TPA bill makes it clear that the COG is a mechanism for enhanced consultations and that it is not designed to serve as a referendum on new agreements or on particular negotiating positions.

I am pleased to report that our first meeting was a great success. A number of Senators and Members of the House from both political parties attended the meeting, including the chairmen and ranking members of both the Senate Finance and House Ways and Means Committees. During the meeting Ambassador Zoellick expressed his strong support for enhanced consultations and his keen interest in meeting with the COG on a regular basis. I certainly would support his enthusiastic efforts.

The TPA bill also requires the chairmen and ranking members of both the Finance and Ways and Means Committees to establish guidelines for the exchange of information between the Congress and the Executive branch. I plan to work diligently to ensure that these guidelines are feasible and that the resulting exchange of information is meaningful.

With the passage of the Bipartisan Trade Promotion Authority Act of 2002, we begin a new phase in the history of U.S. trade policy. Although the bill contains some new buttons and bows, the underlying premise of the bill remains the same as it was decades ago to give the administration the tools it needs to liberalize trade and create new opportunities for America's farmers, ranchers and workers. As the Ranking Member of the Senate Finance Committee, I intend to ensure that the Trade Promotion Authority Act is implemented in a manner that does just that.

VISIT OF TAIWAN'S FIRST LADY CHEN WU SUE-JEN

Mr. ROCKEFELLER. Mr. President, Washington is graced this week by the visit of Madame Chen Wu Sue-Jen, the First Lady of Taiwan and a distinguished humanitarian and advocate for human rights. Mrs. Chen has worked tirelessly to promote human rights and democratization on Taiwan. In tandem with her husband, President Chen Shui-Bien, Mrs. Chen has worked to open up the Taiwanese political system and ensure that the Taiwan Government reflects all its citizens' views and interests. Taiwan's democracy serves as an model to Chinese-speaking people around the world, and as compelling evidence that human rights and democracy are truly universal aspirations.

The struggle for democratization is never quick or easy, and in Mrs. Chen's case, it led to very personal sacrifice. When leaving a campaign rally in 1985, she was hit by a vehicle that left her paralyzed from the waist down. While some might view that as a justification to withdraw from public life, in the case of Mrs. Chen, it only reinforced her commitment to public service, and she went on to serve with distinction in Taiwan's legislature. Her experience has also given her a profound sense of identification with the disabled, whom she has worked as First Lady to support. While here in Washington, Mrs. Chen will meet with the Red Cross and the National Rehabilitation Hospital to discuss the work she has done in Taiwan to promote the rights of the disabled.

It has been pointed out that Mrs. Chen's visit is the first visit by a First Lady of the Republic of China since Soong May-ling, better known here as Madame Chiang, traveled to Washington to ask for U.S. support in 1943. Since that turbulent period, America has maintained close ties with the Republic of China. The United States has had, and will continue to have, a unique partnership with Taiwan, and the people on Taiwan should remain assured that they have no better friend than the United States.

But this week's historic milestone also marks a good opportunity to reflect the vast distance the Republic of

China has traveled between 1943 and now. Today when Taiwan talks with the United States, it does so as a vibrant democracy, a flourishing economy, a major trading partner and investor in the United States, and an important partner of the U.S. in our efforts to preserve peace and stability in East Asia.

There is no better reflection of today's Taiwan than this dedicated woman who embodies so many of the positive changes that have occurred on the island. This week's visit will give Americans an opportunity to deepen their understanding of Taiwan by meeting with one of its most accomplished and articulate representatives. It gives me great pleasure to welcome my friend, Madame Chen Wu, to Washington. I urge my colleagues to take this opportunity to get to know her, you will be glad you did.

Mr. MURKOWSKI. Mr. President, I welcome Taiwan's First Lady, Madame Chen Wu Sue-jen, to Washington, D.C. and remark on her considerable accomplishments. As many of my colleagues are aware, Madame Chen Wu was paralyzed from the waist down after being hit by an automobile in 1985, and is permanently confined to a wheelchair. Despite this tragic event, Madame Chen Wu has persevered.

In 1986, when her husband, now President Chen Shui-bian, was imprisoned on political charges, Madame Chen Wu ran on her husband's behalf for a seat in the national legislature—and won. Since then, she has played a crucial role as confidant and supporter to President Chen as he progressed from legislator to Mayor of Taipei and now in this current office.

The courage and optimism Madame Chen Wu demonstrates, in spite of her physical limitation, serves as a source of inspiration for all. Continuously upbeat in life, Madame Chen provides tremendous support to all who know her. Her strength of character has done much to transform the role of Taiwan's First Lady.

So, it is with great pleasure that I welcome Madame Chen Wu to the United States, to Washington, D.C., and am confident that her visit will only serve to strengthen U.S.-Taiwan relations.

Mr. SMITH of New Hampshire. Mr. President, I rise to speak about Taiwan's First Lady, Madam Chen Wu Sue-jen, who is visiting Washington this week for the first time in her capacity as First Lady. As a dear friend of Taiwan, and on behalf of my colleagues in the United States Senate, I would like to welcome Madam Chen Wu to Washington. I hope her visit is pleasant and productive.

Mr. President, Madam Chen Wu is truly a delightful and remarkable lady. I am in awe of her courage in the face of adversary. I am especially moved by her refusal to allow being a victim of an automobile accident, which rendered her disabled, from ending her outspoken advocacy for democracy in Taiwan.

Madam Chen Wu successfully ran for office herself, becoming a lawmaker. She later focused her efforts to make her husband one of Taiwan's eminent political figures. Her dreams and hopes for him became fulfilled when Chen Shui-bian was elected president of the Republic of China in 2000.

Since taking office, President Chen has exhibited great leadership and courage in the face of the People's Republic of China's constant menace. President Chen has also shown his compassion and friendship to the American people in the wake of the tragic attacks on the citizens of the United States of America. I am certain these fine traits have been honed in part through the example Madam Chen Wu has played in his life.

To this day, First Lady, Madam Chen Wu has not changed. She is still the same Chen Wu Sue-jen of years ago: an innocent schoolgirl from Matou, Tainan County, Taiwan. She has retained all the charm and grace of a young Taiwanese girl who later became a wife, mother, politician and First Lady.

The United States of America welcomes you, Madam Chen Wu.

U.S.A. PATRIOT ACT

Mr. HATCH. Mr. President, I ask unanimous consent that on behalf of the listed Senators, a joint statement of myself, Senator THURMOND, Senator KYL, Senator DEWINE, Senator SESSIONS, and Senator MCCONNELL regarding the Committee on the Judiciary, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE U.S.A. PATRIOT ACT IN PRACTICE: SHEDDING LIGHT ON THE FISA PROCESS

Prior to the U.S.A. PATRIOT Act of 2001, the Foreign Intelligence Surveillance Act of 1978 authorized the government to gather intelligence on agents of foreign powers with less stringent requirements than those required for surveillance of domestic criminals. The courts interpreted FISA as requiring that gathering foreign intelligence be the "primary purpose" of the surveillance of the foreign agent. See United States v. Duggan, 743 F.2d 59, 77 (2nd Cir. 1984); United States v. Truong Dinh Hung, 629 F.2d 908 (4th Cir. 1980), cert. denied, 454 U.S. 1154 (1982).

This statutory regime worked well during the cold war for conducting surveillance on spies who were either foreign nationals employed by foreign government working under diplomatic cover at foreign embassies in the United States, or United States persons in this country who had been recruited to spy by foreign intelligence agencies. Both were clearly "agents of a foreign power," and gathering foreign intelligence on the activities of these targets was generally the "primary purpose," if not the only purpose, of the surveillance.

The statutory regime did not work as well with respect to terrorists, who did not work for a foreign government, who often financed their operations with criminal activities, such as drug dealing, and who began to target American interests. It was more difficult to determine if such terrorists were "agents of a foreign power" and it was difficult for the government to keep the appropriate types of investigators, intelligence or criminal, involved in the operation.

To determine what the "primary purpose" of a surveillance was, courts looked to what type of federal investigators were managing and directing the surveillance operation. If intelligence investigators managed and directed the surveillance, courts interpreted the primary purpose of the surveillance to be gathering foreign intelligence, thus requiring the government to comply with the less stringent FISA surveillance procedures. On the other hand, if criminal investigators managed and directed the surveillance, courts interpreted the primary purpose of the surveillance to be gathering criminal evidence, thus requiring the government to comply with the more stringent Title III wiretap procedures or to exclude the evidence from court. In short, the courts held that there could be only one primary purpose, and it was either gathering foreign intelligence or gathering criminal evidence. See, e.g., Truong, 629 F.2d at 912–13.

The attacks on September 11, 2001, appeared to be orchestrated by the Al Qaeda, an international terrorist organization, with no embassies or diplomats, and whose operatives were loosely associated small groups who often engaged in criminal activities. The intelligence agencies and criminal investigators were unable to analyze and disseminate information needed to detect and prevent the September 11th attacks partly because of restrictions on their ability to share information and coordinate tactical strategies in order to disrupt foreign terrorist activities. It was apparent that the existing court interpretation of the FISA requirement of "primary purpose" impeded the sharing and coordination of information between criminal and intelligence investigators on foreign terrorists.

Accordingly, Congress enacted the USA Patriot Act, in part, to replace the "primary purpose" requirement with a less stringent requirement, and to increase consultation and coordination efforts between intelligence and federal law enforcement officers to investigate and protect against foreign terrorist threats. See Sections 218 and 504. Three replacement standards were discussed for determining how large a purpose gathering foreign intelligence must be in order for a FISA warrant to issue: (1) a substantial purpose; (2) a significant purpose; and (3) a purpose. With multiple purposes in an investigation of an international terrorist, there could be only one "primary" purpose, but more than one "substantial", "significant," or "a" purposes. A "substantial" purpose of gathering foreign intelligence was viewed to be less than primary, but more than a de minimis purpose. A "significant" purpose of gathering foreign intelligence was deemed to be less than "significant," but more than a de minimis purpose. And "a purpose" of gathering foreign intelligence was deemed to include a de minimis purpose.

Congress chose the word "significant" purpose to replace the existing FISA requirement of a "primary" purpose. By this we intended that the purpose to gather intelligence could be less than the main or dominant purpose, but nonetheless important and not de minimis. Because a significant purpose of gathering foreign intelligence was not the primary or dominant purpose, it was clear to us that in a FISA search or surveillance involving multiple purposes, gathering criminal evidence could be the primary purpose as long as gathering foreign intelligence was a significant purpose in the investigation. See generally, e.g., United States v. Soto-Silva, 129 F.3d 340, 347 (5th Cir. 1997) (holding that a defendant who maintained a house for the "primary purpose" of taking care of a family member also maintained the house for a "significant purpose" of distributing marijuana).

The Department of Justice confirmed the meaning of the change from primary purpose to significant purpose in a letter supporting the amendment sent on October 1, 2001, to the Chairmen and Ranking Members of the House and Senate Judiciary and Intelligence Committees. The Department stated that the amendment would recognize that "the courts should not deny [the President] the authority to conduct intelligence searches even when the national security purpose is secondary to criminal prosecution."

The understanding of increased cooperation between intelligence and law enforcement was confirmed by voices in the House and the Senate in the days and weeks immediately following the new FISA standard. "This legislation authorizes the sharing of information between criminal investigators and those engaged in foreign intelligence-gathering. It provides for enhanced wiretap and surveillance authority. It brings the basic building blocks of a criminal investigation, pen registers and trap and trace provisions, into the 21st century to deal with e-mails and Internet communications." 147 Cong. Rec. H7196 (daily ed. Oct. 23, 2001) (statement of Rep. SENSENBRENNER). "The core provisions of the legislation we passed in the Senate 2 weeks ago remain firmly in place. For instance, in the future, our law enforcement and intelligence communities will be able to share information and cooperate fully in protecting our Nation against terrorist attacks." 147 Cong. Rec. S11016 (daily ed. Oct. 25, 2001) (statement of Sen. HATCH).

In addition, a news publication confirmed the general understanding on Capitol Hill during the consideration of the U.S.A. PATRIOT Act. The Congressional Quarterly reported separately on October 8, 9, and 23, 2001: "Under the measure, for example, law enforcement could carry out a FISA operation even if the primary purpose was a criminal investigation." Congr. Q., House Action Reports, Fact Sheet No: 107-33, at p. 3 (Oct. 9, 2001); see Cong. Q., House Action Reports, Legislative Week, at p. 3 (Oct. 23, 2001); Cong. Q., House Action Reports, Legislative Week, at p. 13 (Oct. 8, 2001). FISA may not be used "even if the primary purpose is a criminal investigation." Cong. Q. Billwatch Brief, H.R. 3162 (Oct. 23, 2001).

It was our intent when we included the plain language of Section 218 of the U.S.A. PATRIOT Act and when we voted for the Act as a whole to change FISA to allow a foreign intelligence surveillance warrant to be obtained when "a significant" purpose of the surveillance was to gather foreign intelligence, even when the primary purpose of the surveillance was the gathering of criminal evidence.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 22, 2002, in West Hollywood, CA. Two men brutally attacked a 55 year old gay man walking in West Hollywood, the second such attack in West Hollywood this month. The assailants beat the victim with a baseball bat and metal pipe while yelling anti-gay slurs. The attackers, who match the description of the men who attacked a 34 year old actor on September 1, fled when a cab driver stopped to help the victim. The victim received treatment at Cedars-Sinai Medical Center following the assault.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. ROBERT P. MAGGARD AND CHARLES MILBURN

• Mr. BURNS. Mr. President, I rise today to congratulate two outstanding Montanans, whose enthusiasm and work ethic exhibit the true spirit of our Nation.

Each year the Experience Works program salutes our Nation's senior workforce. This non-profit organization selects an Outstanding Older Worker from each of the 50 States and Puerto Rico to pay tribute to the contributions that our older individuals are making in the workforce as well as in their communities.

This year Montana will be saluting the 2001 Outstanding Worker, Dr. Robert P. Maggard and the 2002 Outstanding Worker, Mr. Charles E. Milburn.

Dr. Maggard, originally from Omaha, Nebraska, served in World War II, and then graduated from Creighton University where he studied dentistry. Dr. Maggard, moved to Yellowstone Valley, Montana and began his practice in the 1950's. He sold his practice in 1987 and began working with the Elite Denture Center, which allows dentistry service at a reasonable price to thousands who would not otherwise be able to afford it.

Charles Milburn retired from his long career in retail in New York City, to return home to his native State of Montana. After one year of retirement he began volunteering with the Computerized Books for the Blind. He quickly became the organization's most productive volunteer. He currently works at the Disability Services for Students and is now the president of Roxie M. Anderson Memorial fund which gives help to young teenage mothers.

These two men are truly worthy of the Outstanding Older Worker award. This award represents the dedication these men have exhibited throughout their lives, and both the State of Montana and I are proud of their hard work.•

IN MEMORY OF JAMIE CHRISTENSON AND ERIC HURST

• Mr. HARKIN. Mr. President, I rise today to offer my thoughts and prayers to the family of Jamie Christenson of Marshalltown, Iowa and Eric Hurst of Ventura, California. Bob and Debra Christenson suffered a terrible loss this summer when their young daughter, Jamie, died in a tragic swimming accident in Minnesota at the young age of 17. The Hurst family lost Eric, only 24, as he valiantly attempted to save Jamie's life.

Jamie Christenson was one of 53 campers from Trinity Lutheran Church in Marshalltown who were at Camp Vermillion, near Cook, Minnesota. While on a canoeing trip on the afternoon of July 30, Jamie and her friends took a break from carrying their canoes around the more treacherous falls and began cooling off in the waters near Upper Basswood Falls, in Minnesota's Boundary Waters Canoe Area Wilderness.

Beyond the falls, Jamie and a group of campers donned life preservers and entered the water. There, in what had appeared to be calm and shallow waters, Jamie was caught in a swift undercurrent and pulled below the river.

Several campers and boaters in the area rushed to her rescue, including Eric Hurst, who was working on the river as a canoe guide. Sadly, the river claimed both of their lives.

The State of Minnesota and Governor Jesse Ventura have each issued a posthumous certificate of commendation for heroism to the family of Eric Hurst. It is my hope that the Senate can act in some similar fashion, or, that there can be some other Federal recognition of Eric's efforts to save Jamie's life.

As the father of two daughters, I can think of no pain deeper than to lose a child. I offer my deepest condolences to Bob and Debra, their family, and to Jamie's many friends, as well as to the family and friends of Eric Hurst. In times of such pain, words fall far short of comfort we wish we could provide to those in mourning, but even words are we can offer.

So I offer the words of the Greek poet Aeschylus: "In our sleep, pain which cannot forget falls drop by drop upon the heart until, in our own despair, against our will, comes wisdom through the awful grace of God."

To the Christenson family and the Hurst family, I offer these words as a prayer for an end to their sorrow.●

LEO JOHN SWEENEY JR. AND CATHERINE EILEEN CLAFFEY SWEENEY'S 25TH WEDDING ANNIVERSARY

● Mr. CARPER. Mr. President, I rise today to congratulate John and Eileen Sweeney, who will celebrate their 25th wedding anniversary on November 25, 2002.

As they celebrate this milestone in their lives, they will surely reflect on the many changes, successes, and accomplishments they have experienced together over the last 25 years. Theirs is a journey of which they can be proud.

Leo John Sweeney Jr. is the son of the late Leo John Sweeney Sr. and Isabelle Moore Sweeney, and is a lifelong Wilmingtonian. He is a graduate of St. Elizabeth's Elementary School and Salesianum High School. His wife, Catherine Eileen Claffey Sweeney, is the daughter of the late John J. Claffey and Alice G. Rowan Claffey, and is also from Wilmington. She is a graduate of St. Paul's Elementary School and St. Paul's Commercial School.

John and Eileen met and began dating in early 1976 and became engaged in June 1977. They were married on November 25, 1977, at St. Joseph's on the Brandywine Roman Catholic Church in Wilmington. They made a welcoming home on South Broom Street.

A lieutenant, John has worked at the Wilmington Fire Department for 28 years. In 1961, he played in Delaware's Annual Blue and Gold All-Star Football Game, and, on the 25th anniversary of the Blue/Gold Game in 1980, John began umpiring these games. He continues to umpire high school football games today.

Eileen has worked for the Catholic Diocese for 30 years and has also served as Publicity Chair for the St. Patrick's Day Parade Committee. In 1994, she opened an Irish Shop in the Forty-Acres neighborhood. We have shared many laughs together at the Irish Culture Club of Delaware over the years.

Today, I congratulate John and Eileen on their 25th wedding anniversary. Both have shown great service and commitment to their family and their community. I know that their years together hold many beautiful memories. It is my hope that those ahead will be filled with continued joy and contentment. I wish them both the very best in all that lies ahead.●

HONORING ANNA MARIE O'LOUGHLIN

● Mr. CORZINE. Mr. President, I rise today to honor Anna Marie O'Loughlin, a woman who has dedicated more than a decade of her life to advocating and caring for children in the foster care and adoption system. Her boundless energy, courage, and commitment to children make her an outstanding parent and an asset to the State of New Jersey. I congratulate her on receiving of the 2002 Congressional Angel in Adoption Award.

In 1991, Anna Marie O'Loughlin and her husband, Frank, adopted their first child from the New Jersey Division of Youth and Family Services, DYFS. Jason, a toddler born drug and alcohol addicted, suffered multiple learning disabilities as a result of his unfortunate start in life.

Five years later, Anna Marie and Frank adopted another child, a 10-year-old boy with an attachment disorder. Later that same year, the O'Loughlins volunteered to serve as foster parents, receiving their first foster child, an infant girl, in January of 1997. Seven months later the infant girl's biological sister joined the family. Anna Marie and Frank adopted both girls in December 2000.

In January 2001, Anna Marie left a twenty-year career in order to be more consistently available to her children, and opened her home and heart, this time as an emergency placement foster home for older children and teenagers. Children aged 2 to 17 passed through her home, some in the middle of the night, and moved on when DYFS found a foster home. Anna Marie established a particularly special relationship with one of these children, a 16-year-old boy who had been in multiple homes and treatment facilities. He would soon be forced to leave the foster care system due to his age, and would have been left to face an uncertain future on his own. However, Anna Marie stepped in with her characteristic determination to change that outcome, and in January 2002, the O'Loughlin home became a permanent foster home for this young man.

Over the course of these years, Anna Marie also became an outspoken advocate for children in the foster care and adoption system. She has served on the board of Concerned Parents for Adoption in a variety of positions, including president from 1996 to 2000. Currently, Anna Marie works as a co-trainer for adoptive and foster parent applicants. She presents workshops at the Concerned Parents for Adoption conference on older child adoption and teenage issues, offering a wealth of experience and practical knowledge.

Anna Marie has said that she cannot help feeling that her work is making a difference. Indeed, she has reached out to children in desperate need to offer them a better life. As our nation reaffirms its commitment to service, Anna Marie is a shining example. Again, I congratulate Anna Marie on her well-deserved recognition, and I thank her for her tireless efforts on behalf of children.●

RICHARD I. BONG WORLD WAR II HERITAGE CENTER

● Mr. KOHL. Mr. President, it is my honor today to celebrate the opening of the Richard I. Bong World War II Heritage Center in Superior, WI.

The Richard I. Bong World War II Heritage Center honors World War II participants both on the home front and on the battle front. Named for America's Ace of Aces and Congressional Medal of Honor recipient, MAJ Richard Bong, the new center tells visitors of all ages about World War II through the eyes of those who participated in the war effort.

Major Bong, a native of Poplar, WI, fell in love with aviation as a small boy, watching mail planes fly over the family farm. In 1940, at the age of 20, he became a flying cadet in the U.S. Army Air Corps. Major Bong downed 40 enemy aircraft in the Pacific theater of war and made Poplar famous. Today would have been Major Bong's 82nd birthday. We celebrate by opening the Richard I. Bong World War II Heritage Center which not only honors Major Bong's war efforts but also pays tribute to all brave veterans who never saw themselves as heroes but truly embody the word.●

IN RECOGNITION OF DR. RICHARD RYAN'S RETIREMENT FROM DES MOINES UNIVERSITY

● Mr. HARKIN. Mr. President, one of Iowa's foremost leaders in medical and health sciences education, Dr. Richard M. Ryan Jr., has announced his retirement from Des Moines University at the end of this December. Today, I rise to acknowledge his many contributions to health care in the State of Iowa, the Nation and the world.

Dr. Ryan's career reflects his lifelong commitment to community and population-based medicine. He began his career with a doctoral degree in public health from Harvard University, and has continued to serve on numerous academic and health boards, professional organizations, committees, and task forces.

Harvard University, Boston University, and Tufts University have all been a part of Dr. Ryan's distinguished career in medical education and health services administration. Iowa was fortunate to attract Dr. Ryan in 1996, when he became president of Des Moines University.

Among his many accomplishments, Dr. Ryan created a new Public Health Program, significantly expanded the Des Moines University research enterprise, and laid the foundation for a campus revitalization plan. Under Dr. Ryan's leadership the University recently established a Geriatric Education Center on campus. Through all of these efforts, Dr. Ryan has helped to expand the reach and recognition of the University's medical and health sciences programs in Iowa and across the Nation.

Additionally Dr. Ryan has helped forge new partnerships within the community and state. The university's modern research laboratories welcome students from Iowa's public and private undergraduate institutions. Faculty and students from the University provide ongoing health care services and educational opportunities to students and teachers in the younger grade levels within the community.

A Navy veteran, Dr. Ryan has also distinguished himself through commitment to the welfare of veterans. He served as senior health consultant to the Chief of Health Services for the U.S. Coast Guard and as executive consultant to six medical directors of the Veterans Administration.

In addition to serving both public and private health care interests in the U.S., Dr. Ryan is highly regarded for his experience and expertise in international medicine. He has served as a consultant to ministries of health and education in Saudi Arabia, Yemen, Bahrain, Kuwait, Qatar, and Russia.

Although I am saddened to see this great man retire, he has assured me that he intends to remain active and available to serve where needed, helping to ensure access to health care for all.

I commend Dr. Ryan for his commitment to the health care needs of the people of Iowa and the Nation through his many years of visionary leadership and dedicated service.•

NATIONAL OVARIAN CANCER AWARENESS MONTH

• Mrs. CARNAHAN. Mr. President, September is National Ovarian Cancer Awareness Month, and I want to draw your attention to some sobering facts.

Ovarian cancer is very difficult to diagnose and even more challenging to treat. While it is encouraging that scientific reports have shown an improvement in survival rates for women with ovarian cancer in recent years, sadly, the 5-year survival rate remains barely 50 percent. The American Cancer Society estimates that over 25,500 women are diagnosed with ovarian cancer and 14,500 women die from the disease annually. Poor long-term survival rates are mostly due to the lack of a reliable method of detection, with less than one-third of all ovarian cancer cases detected at the critical early stages when the disease is most treatable.

Since Congress established the Department of Defense Ovarian Cancer Research Program, OCRP, in 1997, the program has addressed the urgent problem of early detection by funding comprehensive research initiatives. The OCRP promotes research in ovarian cancer prevention and engages experts from multiple disciplines in genuinely collaborative efforts. The innovative proposals funded through the program foster new directions in research and strengthen long-term ovarian cancer research capabilities and networking among institutions.

Last year, I was proud to join Senator LANDRIEU and several of my colleagues in sponsoring Senate Resolution 163 designating a week in September as "National Ovarian Cancer Awareness Week." This resolution passed the Senate unanimously.

On April 30, I along with many of my colleagues sent a letter to the Defense Appropriations Subcommittee leadership requesting that funding for the Department of Defense, DOD, Ovarian Cancer Research Program be increased to $15 million in fiscal year 2003. While the Senate-passed bill did not include this level of funding, it did include $10 million for this important project. The House version completely cut funding. This funding level is currently being worked out in conference.

We must remain steadfast in our quest to ultimately conquer this terrible disease. I urge my colleagues to heed the slogan of the National Ovarian Cancer Coalition: "Ovarian Cancer . . . It Whispers . . . So Listen." To the one woman in 55 who will develop this disease during her lifetime, let me assure you, I'm listening.•

ISRAEL'S HEBREW UNIVERSITY

• Mr. McCAIN. Mr. President, the civilized world was shocked and outraged when Palestinian militants planted a bomb on July 31, 2002 in a cafeteria at Hebrew University in Jerusalem. The bomb ultimately killed nine young people, including five young Americans, and injured an additional 80 people.

I agree with President George W. Bush, who condemned "in as strong as possible terms the attack that took place in Israel" and characterized those behind the bombings as "killers who hate the thought of peace."

What made the attack particularly heinous and unforgivable was the Hebrew University is an institution that constitutes an island of sanity and hope in a region that often seems to exemplify the opposite of those virtues.

Professor Menachem Magidor, President of Hebrew University, articulated these points in a letter published by The New York Times on August 9, 2002. He stated that this "was more than a murderous act. Specifically targeted against the heart of an academic campus, it was also an attack on what the university symbolizes and aspires to: understanding, tolerance and the quest for peace."

He went on to state that "The ethnic composition of the victims attests to the diversity and pluralism of our university family. The victims includes Jews and Palestinians, as well as citizens of the United States, France, Italy, South Korea, Turkey and Japan. Our university, where more than 10 percent of the 23,000 students are of Arab descent, is one of the very few places in which a meaningful dialogue between Jews and Arabs still takes place."

Hebrew University is, indeed, a unique and special institution. It is the oldest comprehensive institution of higher learning in Israel, and considered to be among the world's great universities.

The laying of the cornerstone for the university on Mt. Scopus in July 1918 was attended by Muslims, Jews and Christians. This set the tone for a university dedicated from its very beginnings to the pursuit of knowledge for the benefit not only of the then fledgling Jewish community of the land of Israel and for world Jewry, but also for all of the peoples of the region—including Muslims and Christians—and for humanity generally.

Seven years later, on April 1, 1925, the Hebrew University of Jerusalem was opened at a gala ceremony attended by leaders of world Jewry including the University's founding father, Chaim Weizmann, who would become in 1948 the first President of the new nation of Israel. Albert Einstein, one of the intellectual giants of the modern work, was also among the founding fathers of the institution.

As Palestine was then part of the British mandate, the British were represented by Lord Balfour, Viscount Allenby and Sir Herbert Samuel, all pivotal figures in the history of the region.

The University's first three research institutes were in microbiology, chemistry and Jewish studies, and the school began with a total of 33 faculty members and 141 students. The University awarded its first Master's degrees to 13 graduates in 1931.

By the time the British announced that they would leave Palestine in 1947, the University had grown into a well established research and teaching institution. As a result of the fighting in Jerusalem during the War of Independence in 1948, the University was cut off from the main Israeli-held sectors in the city. The University was forced to seek other quarters and its facilities were scattered throughout Jerusalem.

Construction began in 1953 on a new campus in the Givat Ram section of Jerusalem. Together with Hadassah Medical Organization, a few years later, Hebrew University began construction of a medical science campus in Ein Kerem in southwest Jerusalem.

By 1967, enrollment exceeded 12,500 at the two campuses in Jerusalem and Rehovot. The reunification of Jerusalem, as a result of the Six Day War in June 1967, enabled the university's leaders to restore and expand the original campus on Mt. Scopus. The Rothberg International School was opened there in 1971 and by 1981, Mt. Scopus was again the main campus for the university.

Thus, since its modest beginning, with its handful of students and staff, the university has grown remarkably to include an enrollment of some 23,000 students on four campuses, three of them in Jerusalem and another in Rehovot.

But this is a story of more than buildings. The university offers basic and advanced educational opportunities in virtually all fields of higher education, from humanities to the social sciences, chemistry, physics, life sciences, law, medicine, agriculture, engineering, social work, education and numerous other fields of study too numerous to mention. It offers degrees at all levels including B.A., B.S., Master's and Ph.D.

Although it attracts students of the front rank from all over Israel and abroad due to its reputation as a leading teaching institution, the university is also renowned internationally for the research carried out there in all of the sciences.

These research projects, numbering in the thousands, involve in many cases cooperative efforts with leading scientists and scholars, among them a substantial number of Americans. To get an idea of the quality of the research being pursued, one need only examine the leading scientific journals, such as Science or Nature, to see how often the names of Hebrew University researchers appear on their pages.

It is significant that scholars and researchers based at Hebrew University have competed for and received many grants from numerous American agencies and departments including NIH, NIST, DARPA, and USAID. Those in charge of reviewing such grant proposals have come to respect the substantive quality of the work done at Hebrew University. It is worth noting that many of these proposals are made in cooperation with American institutions, which has served to enhance the close relations between our people and especially our scientists. The results of these projects have benefitted Americans, Israelis and all mankind.

But it is more than the quality of its teaching and research that I wish to emphasize today in speaking about the special nature of the Hebrew University of Jerusalem.

Indeed, there are many outstanding universities in our own country and elsewhere that are making significant contributions to our knowledge and to the progress of our world.

What I really want to stress is the singularity of this university in its vigorous efforts towards meeting the desperate need for the furtherance of those human values which we so treasure in our own country and which we consider to be the foundation stones of decent societies everywhere.

Specifically, I am speaking of elements that to us seem basic and which we probably take for granted: the free and unfettered pursuit of information, freedom of expression, tolerance for people of different religious, races and ethnic origins and for those whose world views may be different from our own. In brief, I am speaking of an openness that—all too sadly—does not exist in many societies and in many parts of the world.

It is precisely this pluralistic and tolerant spirit which has characterized the Hebrew University since its earliest days and which has through the years attracted students and scholars from the four corners of the world.

The student body today is a diverse and pluralistic one, made up of Israelis—Jews and Arabs—as well as foreign students of all religions, races and ethnic origins.

These students study and live together within the university community, contributing in no small measure—perhaps unconsciously—to the development of a world based on informed coexistence and peace, rather than one grounded in ignorance and hatred, doomed to eternal conflict and purposeless death and suffering.

Long before anyone dreamed of dialogue between Israelis and Palestinians, the Hebrew University, through one of its institutes named for one of our great Presidents of the last century—the Harry S. Truman Research Institute for the Advancement of Peace—initiated and developed substantial cooperative academic and research projects involving scholars from Israel and from its Arab neighbors Egypt, Jordan, the West Bank and Gaza.

Nowhere were there so many Arab and Israeli researchers involved in cooperative ventures aimed at achieving a better and mutually beneficial future than at the Hebrew University. These projects involved numerous academic disciplines: the social and exact sciences, agriculture, medicine, dental medicine and others.

Scores of practically oriented plans and reports were drawn up by these teams as to how to proceed regarding the resolution of such difficult issues as the sharing of water resources, the delineation of borders, and the protection of the environment. In addition, the university has conducted numerous in-service training courses for Arab professionals.

It is precisely the yearning and searching for the solving of age-old conflicts, for peaceful resolution that the savage advocates of hate and murder sought to strike down in their despicable bombing attack at the Hebrew University. But the human spirit is not so easily discouraged or defeated.

In condemning the bombing attack on the Hebrew University, the president of the American Council on Education, David Ward, took note of this significant aspect of the university. He wrote that: "The Hebrew University of Jerusalem has played a critical role in promoting co-existence between Israelis and Palestinians—as well as among people of all nationalities, religions and cultures. The terrible act at the Mount Scopus campus was intended to prevent the type of human interaction and discourse that can facilitate peaceful change in a more complex and challenging world."

It is this kind of hopeful spirit that was so brutally and viciously assaulted in the murderous bombing attack that took place at the Hebrew University's Frank Sinatra Student Center cafeteria on July 31, 2002.

This was more than another senseless terror attack, aimed at killing and maiming innocent people. It was an attack—knowingly or unknowingly—against everything that not just the Hebrew University but all of the free world holds dear.

Just as the American people are firm in their resolve not to allow the perpetrators of September 11th to destroy our society or our commitment to decency and peace, so too the people of Israel, including the Hebrew University community, are determined not to lose heart because of those who would seek to destroy that spirit of humanity which has been so devotedly cultivated there over the years.

Hebrew University's President Magidor stated that this was "an attack on understanding, tolerance and the quest for peace. [It] is a crime not only against Israel or the Jewish people, it is a crime against the free and enlightened world."

In the wake of this tragedy, President Magidor then asked himself "whether it still makes sense to strive for a peaceful society based on reason and understanding." Given the circumstances, his conclusion is both remarkable and also a perfect summation for the ethos of this institution. He concluded his letter to The New York Times by stating that "the answer came to me clearly, and it is summarized by the Hebrew word 'davka'—'despite everything'. We must not let them kill our drive of peace."

A bridge of co-existence in the strife-torn Middle East, the Hebrew University of Jerusalem, has been damaged. But it has not been destroyed, neither physically nor spiritually. That bridge will be repaired. It will be stronger even than it was in the past. And it will continue to serve as a source of pride and inspiration to the people of Israel, the United States, and all people everywhere who treasure life and liberty as the supreme human values.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ENTITLED "PLAN COLOMBIA/ANDEAN COUNTERDRUG INITIATIVE SEMI-ANNUAL OBLIGATION REPORT" FOR FISCAL YEAR 2002: TO THE COMMITTEE ON FOREIGN RELATIONS—PM 112

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was transmitted, pursuant to law, the report entitled "Plan Colombia/Andean Counterdrug Initiative Semi-Annual Obligation Report" for Fiscal Year 2002: to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to section 3204(e), of Public Law 106-246, I am providing a report prepared by my Administration detailing the progress of spending by the executive branch during the first two quarters of Fiscal Year 2002 in support of Plan Colombia.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 23, 2002.*

NOTICE ENTITLED "CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO UNITA" THAT WAS DECLARED IN EXECUTIVE ORDER 12685—PM 113

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the National Union for the Total Independence of Angola (UNITA) is to continue in effect beyond September 26, 2002, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on September 25, 2001 (66 Fed. Reg. 49084).

The circumstances that led to the declaration on September 26, 1993, of a national emergency have not been resolved. The actions and policies of UNITA pose a continuing unusual and extraordinary threat to the foreign policy of the United States. United Nations Security Council Resolutions 864 (1993), 1127 (1997), and 1173 (1998) continue to oblige all member states to maintain sanctions. Discontinuation of the sanctions would have a prejudicial effect on the prospects for peace in Angola. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure on UNITA to reduce its ability to pursue its military operations.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 23, 2002.*

PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA (UNITA) DECLARED IN EXECUTIVE ORDER 12865 OF SEPTEMBER 26, 1993—PM 114

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I am providing a 6-month report prepared by my Administration on the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive Order 12865 of September 26, 1993.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 23, 2002.*

MESSAGE FROM THE HOUSE

At 6:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 486. An act for the relief of Barbara Makuch.

H.R. 487. An act for the relief of Eugene Makuch.

H.R. 4558. An act to extend the Irish Peace Process Cultural and Training Program.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-9092. A communication from the Assistant Secretary of Indian Affairs, transmitting, pursuant to law, the report of a rule entitled "Law and Order on Indian Reservations" (RIN1076-AE19) received on September 17, 2002; to the Committee on Indian Affairs.

EC-9093. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-9094. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "Debt Cancellation Contracts and Debt Suspension Agreements" (12 CFR Part 37) received on September 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9095. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Doc. No. FEMA-P-7614) received on September 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9096. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (Doc. No. FEMA-B-7429) received on September 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9097. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (Doc. No. FEMA-7791) received on September 20, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9098. A communication from the Acting Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Inmate Physical and Mental Health Records System" received on September 10, 2002; to the Committee on the Judiciary.

EC-9099. A communication from the Acting Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Flight Training Candidates File System submitted by Foreign Terrorist Tracking Task Force" received on September 10, 2002; to the Committee on the Judiciary.

EC-9100. A communication from the Acting Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Inmate Trust Fund Accounts and Commissary Record System" received on September 10, 2002; to the Committee on the Judiciary.

EC-9101. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, a Report on Minority Small Business and Capital Ownership Development for Fiscal Year 2001; to the Committee on Small Business and Entrepreneurship.

EC-9102. A communication from the Assistant Secretary for Water and Science, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Public Conduct on Bureau of Reclamation Lands and Projects" (RIN1006–AA44) received on September 20, 2002; to the Committee on Energy and Natural Resources.

EC–9103. A communication from the Assistant Secretary for Water and Science, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Law Enforcement Authority at Bureau of Reclamation Projects" (RIN1006–AA42) received on September 20, 2002; to the Committee on Energy and Natural Resources.

EC–9104. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role and a nomination confirmed for the position of Commissioner of Labor Statistics, received on September 20, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9105. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in acting role and a nomination confirmed for the position of Assistant Secretary for Disability Employment Policy, received on September 20, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9106. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Disability and Rehabilitation Research Projects (DRRP) Program" received on September 17, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9107. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on September 20, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9108. A communication from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Eligibility Requirements in Part 78 Regarding 12 GHz Cable Television Relay Service" (Doc. No. 99–250) received on September 17, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9109. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Triclopyr; Pesticide Tolerance" (FRL7196–7) received on September 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9110. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tolylfuanid; Pesticide Tolerance" (FRL7200–5) received on September 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9111. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Methoxyfednozide; Pesticide Tolerance" (FRL7198–5) received on September 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9112. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Indoxacarb; Pesticide Tolerance for Emergency Exemption" (FRL7274–9) received on September 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9113. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Halosulfuron-methyl; Pesticide Tolerance" (FRL7200–8) received on September 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9114. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fluroxypyr 1-methylheptyl ester; Pesticide Tolerances for Emergency Exemptions" (FRL7198–3) received on September 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9115. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Diflubenzuron; Pesticide Tolerances for Emergency Exemption" (FRL7273–7) received on September 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9116. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Diflubenzuron; Pesticide Tolerances" (FRL7200–4) received on September 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9117. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Azoxystrobin; Pesticide Tolerances" (FRL7198–9) received on September 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9118. A communication from the Trial Attorney, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "List of Nonconforming Vehicles Decided to be Eligible for Importation" (RIN2127–AI79) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9119. A communication from the Assistant Secretary for Communications and Information, Department of Commerce, transmitting, pursuant to law, the report of the Technology Opportunities Program (TOP) and the Public Telecommunications Facilities Program (PTFP) grants for Fiscal Year 2001; to the Committee on Commerce, Science, and Transportation.

EC–9120. A communication from the Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Crazy Horse Campground, Colorado River, Lake Havasu, AZ" ((RIN2115–AA97)(2002–0187)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9121. A communication from the Acting Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Liferaft Servicing Intervals" (RIN2115–AG28) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9122. A communication from the Attorney-Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of MARAD's Regulations Establishing and Administering Deposit Funds Authorized by Section 1109 of the Merchant Marine Act, 1936, as Amended" (RIN2133–AB47) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9123. A communication from the Deputy Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Licensing Jurisdiction for "Space Qualified" Items and Telecommunications Items for Use on Board Satellites" (RIN0694–AC49) received on September 19, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9124. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileria de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 Series Airplanes" ((RIN2120–AA64)(2002–0408)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9125. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of. Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Turbomeca S.A. Makila Models 1A, 1A1, and 1A2 Turboshaft Engines" ((RIN2120–AA64)(2002–0414)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9126. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls-Royce plc Models Spey 506–14A, 555–15, 555–15H, 555–15N, and 555–15P Turbojet Engines" ((RIN2120–AA64)(2002–0410)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9127. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model SA330F, SA330G, SA330J, AS332C, AS332L, and AS332L1 Helicopters" ((RIN2120–AA64)(2002–0413)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9128. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier-Rotax GmbH Type 912 F and 914 F Series Reciprocating Engines; Correction" ((RIN2120–AA64)(2002–0412)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9129. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Using Agency for Restricted Area 2534 A and B, Vandenburg Air Force Base, CA" ((RIN2120–

AA66)(2002–0152)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9130. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Springhill Airport, Springhill, LA" ((RIN2120–AA66)(2002–0149)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9131. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Scott Field Airport, Mangum, OK" ((RIN2120–AA66)(2002–0150)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9132. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D Airspace; Stillwater Municipal Airport, Stillwater, OK" ((RIN2120–AA66)(2002–0151)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9133. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: CFM International CFM56 Series Turbofan Engines" ((RIN2120–AA64)(2002–0411)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9134. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS332C, L, L1, and Model SA330F, G, and J" ((RIN2120–AA64)(2002–0415)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9135. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747SP, and 747SR Series Airplanes" ((RIN2120–AA64)(2002–0409)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9136. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace, Coppertown, MT" ((RIN2120–AA66)(2002–0153)) received on September 20, 2002; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KYL (for himself and Mr. MCCAIN):

S. 2992. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 2993. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN:

S. 2994. A bill to amend the Internal Revenue Code of 1986 to provide for the immediate and permanent repeal of the estate tax on family-owned businesses and farms, and for other purposes; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. CLELAND):

S. 2995. A bill to improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL (for himself, Mr. SESSIONS, and Mrs. FEINSTEIN):

S. 2996. A bill to amend title 11, United States Code, to limit the value of certain real and personal property that a debtor may elect to exempt under State or local law, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2997. A bill to designate the Department of Veterans Affairs outpatient clinic in New London, Connecticut, as the "John J. McGuirk Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

By Mr. DODD (for himself, Mr. GREGG, Mr. KENNEDY, Ms. COLLINS, Mr. WELLSTONE, and Mr. DEWINE):

S. 2998. A bill to reauthorize the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 2999. A bill to authorize the project for environmental restoration, Pine Flat Dam, Fresno County, California; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself, Mr. BROWNBACK, Mr. KENNEDY, and Mr. SPECTER):

S. 3000. A bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. LINCOLN:

S. Con. Res. 146. A concurrent resolution supporting the goals and ideas of National Take Your Kids to Vote Day; to the Committee on Rules and Administration.

By Mr. BURNS:

S. Con. Res. 147. A concurrent resolution encouraging improved cooperation with Russia on energy development issues; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 732

At the request of Mr. THOMPSON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 732, a bill to amend the Internal Revenue Code of 1986 to reduce the depreciation recovery period for certain restaurant buildings, and for other purposes.

S. 868

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 868, a bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage and group health plans provide coverage of cancer screening.

S. 917

At the request of Ms. COLLINS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 1304

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1304, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of oral drugs to reduce serum phosphate levels in dialysis patients with end-stage renal disease.

S. 1651

At the request of Mr. DORGAN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1651, a bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes.

S. 1967

At the request of Mr. KERRY, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1967, a bill to amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

S. 2053

At the request of Mr. FRIST, the name of the Senator from Georgia (Mr.

MILLER) was added as a cosponsor of S. 2053, a bill to amend the Public Health Service Act to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, and for other purposes.

S. 2268

At the request of Mr. MILLER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2544

At the request of Mr. LEVIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2544, a bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to make grants for remediation of sediment contamination in areas of concern, to authorize assistance for research and development of innovative technologies for such remediation, and for other purposes.

S. 2596

At the request of Mrs. BOXER, the names of the Senator from Nevada (Mr. REID), the Senator from Hawaii (Mr. INOUYE) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 2596, a bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund.

S. 2633

At the request of Mr. DURBIN, his name was withdrawn as a cosponsor of S. 2633, a bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purposes.

S. 2667

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2667, a bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

S. 2795

At the request of Mr. KERRY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2795, a bill to amend title XVIII of the Social Security Act to provide for payment under the prospective payment system for hospital outpatient department services under the medicare program for new drugs administered in such departments as soon as the drug is approved for marketing by the Commissioner of Food and Drugs.

S. 2821

At the request of Mr. FRIST, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2821, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 2869

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2892

At the request of Mr. KENNEDY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 2892, a bill to provide economic security for America's workers.

S. 2894

At the request of Mr. MCCONNELL, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2894, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 2896

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2896, a bill to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

S. 2953

At the request of Mr. CAMPBELL, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2953, a bill to redesignate the Colonnade Center in Denver, Colorado, as the "Cesar E. Chavez Memorial Building".

S. 2968

At the request of Mr. SARBANES, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2968, a bill to amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program.

S. RES. 266

At the request of Mr. ROBERTS, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. Res. 266, a resolution designating October 10, 2002, as "Put the Brakes on Fatalities Day".

S. RES. 270

At the request of Mr. CAMPBELL, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as "National Cystic Fibrosis Awareness Week".

S. RES. 307

At the request of Mr. TORRICELLI, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Res. 307, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 326

At the request of Mr. BIDEN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. Res. 326, a resolution designating October 18, 2002, as "National Mammography Day".

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

AMENDMENT NO. 4581

At the request of Mr. MURKOWSKI, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of amendment No. 4581 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4607

At the request of Mr. THOMAS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of amendment No. 4607 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4694

At the request of Mr. LEAHY, his name was added as a cosponsor of amendment No. 4694 proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself and Mr. MCCAIN):

S. 2992. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, on behalf of Senator McCAIN and myself I am introducing legislation today that would codify the largest water claims settlement in the history of Arizona. This bill represents the tremendous efforts of literally hundreds of people in Arizona and here in Washington over a period of five years. Looking ahead, this bill could ultimately be nearly as important to Arizona's future as was the authorization of the Central Arizona Project, CAP, itself.

Since Arizona began receiving CAP water from the Colorado River, litigation has divided water users over how the CAP water should be allocated and exactly how much Arizona was required to repay the Federal Government. This bill will, among other things, codify the settlement reached between the United States and the Central Arizona Water Conservation District over the State's repayment obligation for costs incurred by the United States in constructing the Central Arizona Project. It will also resolve, once and for all, the allocation of all remaining CAP water. This final allocation will provide the stability necessary for State water authorities to plan for Arizona's future water needs. In addition, approximately 200,000 acre-feet of CAP water will be made available to settle various Indian water claims in the State. The bill would also authorize the use of the Lower Colorado River Basin Development Fund, which is funded solely from revenues paid by Arizona entities, to construct irrigation works necessary for tribes with congressionally approved water settlements to use CAP water.

Title II of this bill settles the water rights claims of the Gila River Indian Community. It allocates nearly 100,000 acre-feet of CAP water to the Community, and provides funds to subsidize the costs of delivering CAP water and to construct the facilities necessary to allow the Community to fully utilize the water allocated to it in this settlement. Title III provides for long-needed amendments to the 1982 Southern Arizona Water Settlement Act for the Tohono O'odham Nation, which has never been fully implemented.

This bill will allow Arizona cities to plan for the future, knowing how much water they can count on. The Indian tribes will finally get "wet" water, as opposed to the paper rights to water they have now, and projects to use the water. In addition, mining companies, farmers, and irrigation delivery districts can continue to receive water without the fear that they will be stopped by Indian litigation.

While some minor issues remain, we have every confidence that these issues will be resolved before a hearing is scheduled. In addition, before the next Congress begins its work we hope that negotiations with the San Carlos Apache Tribe, the only party not yet included in the settlement, will move forward so that all claims can be resolved by this bill.

In summary, this bill is vital to the citizens of Arizona and will provide the certainty needed to move forward with water use decisions. Furthermore, the United States can avoid litigating water rights and damage claims and satisfy its trust responsibilities to the Tribes. The parties have worked many years to reach consensus rather than litigate, and I believe this bill represents the best opportunity to achieve a fair result for all the people of Arizona.

Mr. McCAIN. Mr. President, I am pleased to join my colleague, Senator KYL, as a co-sponsor of this important legislation, the Arizona Water Settlements Act of 2002, which would ratify negotiated settlements for Central Arizona Project, CAP, water allocations to municipalities, agricultural districts and Indian tribes, state CAP repayment obligations, and final adjudication of long-standing Indian water rights claims.

These settlements reflect five years of intensive negotiations by State, Federal, tribal, municipal, and private parties. I commend all those involved in these negotiations for their extraordinary commitment and diligence to reach this final stage in the settlement process. I also praise my colleague, Senator JON KYL, and Interior Secretary Gale Norton, for their leadership in facilitating these settlements. From my experience in legislating past agreements, I recognize the enormous challenge of these negotiations, and I appreciate their personal dedication to this settlement process.

This legislation is vitally important to Arizona's future because these settlements will bring greater certainty and stability to Arizona's water supply by completing the allocation of CAP water supplies. Pending water rights claims by various Indian tribes and non-Indian users will be permanently settled as well as the repayment obligations of the state of Arizona for construction of the CAP.

I join with Senator KYL today to express support for the agreements embodied in this bill and to encourage conclusion of this settlement process in the near future. Significant progress has been made in resolving key issues since we last sponsored a bill to facilitate this agreement in the 106th Congress. Some of these key issues pertain to the final apportionment of CAP water supplies, cost-sharing of CAP construction and water delivery systems, amendment of the 1982 settlement agreement with the Tohono O'odham Nation, mitigation measures necessitated by sustained drought conditions, and equitable apportionment of drought shortages.

While this bill reflects agreements reached on a host of issues after an intensive and extended effort by the numerous parties involved, it is important to emphasize that this bill does not represent the final settlement. All parties recognize that a very limited number of the provisions of this bill may be modified as the negotiations continue. We fully expect that the legislative process will culminate with a final agreement early in the next congressional session.

We introduce this bill today as an expression of our strong support of the various parties to successfully achieve conclusion to this process. The Arizona Water Settlements Act will be a historic accomplishment that will benefit all citizens of Arizona, the tribal communities, and the United States.

By Ms. LANDRIEU:

S. 2993. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, when the President gives the order to activate Reservists and National Guardsmen, the lives of those men and women are put on hold. Businesses, careers, and families are left behind so that America's interests may be served. Students make up a substantial part of our National Guard and Reserve forces. When these students are activated, it jeopardizes their academic standing, as well as their scholarships and grants. This bill would preserve their academic standing for the duration of their service as well as a 1-year period that follows that service. It would also preserve their scholarships and grants, as well as entitle them to a refund of unused tuition and fees. Federal laws already safeguards the employment status of activated Reservists and Guardsmen. It is time that we extend the same guarantee to students.

This legislation would require colleges, universities, and community colleges to grant National Guardsmen and Reservists a leave of military absence when they are called to active duty. This leave of absence would last while the student is serving on active duty and a 1-year period at the conclusion of active service. This bill would preserve the academic credits that the student had earned before being activated. It would also preserve the scholarships and grants awarded to the student before being activated. Under this legislation, students would be entitled to receive a refund of tuition and fees or credit the tuition and fees to the next period of enrollment after the student returns from military leave. If a student elects to receive a refund, it would allow them to receive a full refund, minus the percentage of time the student spent enrolled in classes.

The protections that are already afforded our Reservists and Guardsmen are appropriate considering the hardships they endure on the Nation's behalf. We need to acknowledge the many college students who are in the ranks of the Guard and Reserve and extend to them the protections they deserve. In this day of uncertainty on the world stage, our Reservists must be prepared to be called up at a moment's notice. Once they get to their duty station, they need to focus all of their attention on the mission. This legislation provides our student Reservists with the proper safeguards on their academic career which will allow them to accomplish their mission.

By Mrs. LINCOLN:

S. 2994. A bill to amend the Internal Revenue Code of 1986 to provide for the immediate and permanent repeal of the estate tax on family-owned businesses and farms, and for other purposes; to the Committee on Finance

Mrs. LINCOLN. Mr. President, just over one year ago, when budget surpluses reached over $5 trillion, Congress passed a tax cut bill that, in part, began the process providing estate and gift tax relief. Now, in 2002, the surpluses have disappeared, and Congress is making no progress on further estate tax relief. The reason for the stalemate is that some will vote only for complete repeal, while others offer targeted proposals based on prior tax laws that proved to be too complex and intrusive. In this environment, we are losing ground on coming to a fair resolution of this issue, and in the meantime, the current state of the law places many family-owned businesses in an uncertain and precarious position.

These are the same American-owned businesses that Congress initially sought to help when this effort began in the mid-1990's. Given these circumstances, I believe we must explore new ways to immediately and permanently target relief for these businesses, which are so important to our American economy. My bill does not seek to change current law to repeal the estate tax. It would leave in place the increases in the unified credit, the decreases in rates, and the repeal of the estate tax in 2010. My bill would only seek to rectify the special circumstances of family-owned businesses and farms, in an attempt, not to inflame the issue further, but to resolve this issue now and forever for those this effort was originally intended to help.

A serious problem for family-owned businesses is the rollercoaster-ride that current law places them on. Under the 2001 estate tax cut, family-owned businesses pay the estate tax until 2010 with modest reductions, and then the tax is completely repealed for one year. Then, in 2011, these businesses resume paying the tax at the high pre-2001 rates. Such a disparity in tax, depending on when one dies, causes great uncertainty for a business that must meet payroll, hire new people, make new capital investments, and service debt. Under this tax regime, we have made business planning virtually impossible. These family-owned businesses deserve better.

In fashioning a targeted approach for family-owned businesses, it is important to learn from the important lessons of the past. The Lincoln bill recognizes these lessons and seeks to reflect a thoughtful approach, which includes the good lessons learned and avoids the bad ones.

In 1995, Senator Dole and Senator Pryor introduced the Family Business Estate Relief Act, S. 1086. The government budget faced deficits, so the sponsors took a targeted approach to estate tax relief for family-owned businesses. Many in this body, on both sides of the aisle, supported Senators Dole and Pryor in this effort. The bill was an instant hit with overwhelming bipartisan support, and the support of most every small business trade association.

In 1997, the Qualified Family-Owned Business rules, in IRC Section 2057, were enacted into law. During the debate on these new rules, sponsors of the bill stated their concern that family farms and businesses are too often forced out of business at the death of a key family member. While this liquidity concern was all too real, it spawned an inadequate solution.

Over the years since enactment, the Family-Owned Business rules were roundly and rightly criticized for their unnecessary complexity, intrusiveness into family decisions, and paltry tax benefit. Finally, in 2001, Congress threw in the towel on the targeted approach of Section 2057, and repealed it after 2004. This experience, in many ways, poisoned the waters for estate tax relief for family-owned businesses, but I am confident we can do better.

So, I would like to propose an immediate and permanent plan for family-owned businesses. It is a targeted approach in times of budget deficits, and it is a conceptual approach, which, in the past, has garnered bipartisan support in times of political division. But given the hard lessons learned by Section 2057, my bill is not complex or intrusive. For those who don't believe a targeted approach can work, I urge you to take a look and study the Lincoln bill to immediately and permanently repeal the estate tax for family-owned farms and businesses.

Maybe one of the most important lessons learned is that the original goal was too limiting. So we have broadened our focus and we make clear our new goal. Simply put, the goal of the Lincoln bill that no family-owned farm or business will ever pay the estate tax, the same as publicly held businesses, which face no estate tax liability. If we focus merely on the liquidity of a family's estate, then we stop well short of treating American family farms and businesses the same as the GE's, Citigroups, and Ciscos of the world. We can do better. We must do better. And we must do better sooner than 2010. And we cannot afford to revert to pre-2001 law down the road. It is simply unacceptable.

With a new goal in mind, the Lincoln bill greatly simplifies the rules and delivers immediate and permanent repeal of the estate tax on family-owned businesses and farms. In doing so, the Lincoln bill throws away several troubling and burdensome provisions of Section 2057, including the 50-percent liquidity test, material participation rules for heirs, the passive income test, and recapture tax provisions. Further, the bill provides sensible working capital rules, to encourage family-owned businesses to grow, add new jobs, and make new capital investments.

I ask unanimous consent that the text of the bill be printed in the RECORD along with a detailed description of "What's Not in the Lincoln Bill", which contrasts this new proposal to Section 2057.

It is my hope that Americans who own family businesses will seriously consider my bill and not dismiss it out of hand because of past failures to target estate tax relief. I urge them to read my bill and consider the possibility for estate tax relief for them that can be done immediately and permanently.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

S. 2994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Estate Tax Repeal Acceleration (ExTRA) for Family-Owned Businesses and Farms Act".

SEC. 2. REPEAL OF ESTATE TAX ON FAMILY-OWNED BUSINESSES AND FARMS.

(a) REPEAL OF QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—Part IV of subchapter A of chapter 11 of the Internal Revenue Code of 1986 (relating to taxable estate) is amended by striking section 2057.

(b) CARRYOVER BUSINESS INTEREST EXCLUSION.—Part IV of subchapter A of chapter 11 of the Internal Revenue Code of 1986 (relating to taxable estate) is amended by inserting after section 2058 the following new section:

"SEC. 2059. CARRYOVER BUSINESS INTERESTS.

"(a) GENERAL RULES.—

"(1) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the carryover business interests of the decedent which are described in subsection (b)(2).

"(2) Application of carryover basis rules.—With respect to the adjusted value of the carryover business interests of the decedent which are described in subsection (b)(2), the rules of section 1023 shall apply.

"(b) Estates to Which Section Applies.—

"(1) In general.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the executor elects the application of this section under rules similar to the rules of paragraphs (1) and (3) of section 2032A(d) and files the agreement referred to in subsection (e), and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) the carryover business interests described in paragraph (2) were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent, a member of the decedent's family, or a qualified heir in the operation of the business to which such interests relate.

"(2) Includible carryover business interests.—The carryover business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (other than qualified spousal property with respect to which an aggregate spousal property basis increase is allocated under section 1023(c)),

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)), and

"(C) are subject to the election under paragraph (1)(B).

"(3) Rules regarding material participation.—For purposes of paragraph (1)(C)(ii)—

"(A) in the case a surviving spouse, material participation by such spouse may be satisfied under rules similar to the rules under section 2032A(b)(5),

"(B) in the case of a carryover business interest in an entity carrying on multiple trades or businesses, material participation in each trade or business is satisfied by material participation in the entity or in 1 or more of the multiple trades or businesses, and

"(C) in the case of a lending and finance business (as defined in section 6166(b)(10)(B)(ii)), material participation is satisfied under the rules under subclause (I) or (II) of section 6166(b)(10)(B)(i).

"(c) Adjusted Value of the Carryover Business Interests.—For purposes of this section—

"(1) In general.—The adjusted value of any carryover business interest is the value of such interest for purposes of this chapter (determined without regard to this section), as adjusted under paragraph (2).

"(2) Adjustment for previous transfers.—The Secretary may increase the value of any carryover business interest by that portion of those assets transferred from such carryover business interest to the decedent's taxable estate within 3 years before the date of the decedent's death.

"(d) Carryover Business Interest.—

"(1) In general.—For purposes of this section, the term 'carryover business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

For purposes of the preceding sentence, a decedent shall be treated as engaged in a trade or business if any member of the decedent's family is engaged in such trade or business.

"(2) Lending and finance business.—For purposes of this section, any asset used in a lending and finance business (as defined in section 6166(b)(10)(B)(ii)) shall be treated as an asset which is used in carrying on a trade or business.

"(3) Limitation.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time,

"(C) that portion of an interest in an entity transferred by gift to such interest within 3 years before the date of the decedent's death, and

"(D) that portion of an interest in an entity which is attributable to cash or marketable securities, or both, in any amount in excess of the reasonably anticipated business needs of such entity.

In any proceeding before the United States Tax Court involving a notice of deficiency based in whole or in part on the allegation that cash or marketable securities, or both, are accumulated in an amount in excess of the reasonably anticipated business needs of such entity, the burden of proof with respect to such allegation shall be on the Secretary to the extent such cash or marketable securities are less than 35 percent of the value of the interest in such entity.

"(4) Rules regarding ownership.—

"(A) Ownership of entities.—For purposes of paragraph (1)(B)—

"(i) Corporations.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) Partnerships.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) Ownership of tiered entities.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a carryover business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a carryover business interest.

"(C) Individual ownership rules.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(e) Agreement.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of this section with respect to such property.

"(f) Other Definitions and Applicable Rules.—For purposes of this section—

"(1) Qualified heir.—The term 'qualified heir' means a United States citizen who is—

"(A) described in section 2032A(e)(1), or

"(B) an active employee of the trade or business to which the carryover business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) Member of the family.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) Applicable rules.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(e)(10) (relating to community property).

"(C) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(D) Section 2032A(g) (relating to application to interests in partnerships, corporations, and trusts).

"(4) Safe harbor for active entities held by entity carrying on a trade or business.—For purposes of this section, if—

"(A) an entity carrying on a trade or business owns 20 percent or more in value of the voting interests of another entity, or such other entity has 15 or fewer owners, and

"(B) 80 percent or more of the value of the assets of each such entity is attributable to assets used in an active business operation,

then the requirements under subsections (b)(1)(C)(ii) and (d)(3)(D) shall be met with respect to an interest in such an entity.".

(c) Modification of Treatment of Marital Deduction; Limitation on Step-Up in Basis.—Section 2056 of the Internal Revenue Code of 1986 (relating to bequests, etc., to surviving spouses) is amended by adding at the end the following new subsection:

"(e) Application of Carryover Basis Rules.—With respect to the value of the interests of the decedent which are described in subsection (a), the rules of section 1023 shall apply.".

(d) Carryover Basis Rules for Carryover Business Interests and Spousal Property.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1022 the following new section:

"SEC. 1023. TREATMENT OF CARRYOVER BUSINESS INTERESTS AND SPOUSAL PROPERTY.

"(a) In General.—Except as otherwise provided in this section—

"(1) qualified property acquired from a decedent shall be treated for purposes of this subtitle as transferred by gift, and

"(2) the basis of the person acquiring qualified property from such a decedent shall be the lesser of—

"(A) the adjusted basis of the decedent, or

"(B) the fair market value of the property at the date of the decedent's death.

"(b) Qualified Property.—For purposes of this section, the term "qualified property' means—

"(1) the carryover business interests of the decedent with respect to which an election is made under section 2059(b)(1)(B), and

"(2) the qualified spousal property.

"(c) Additional Basis Increase for Property Acquired by Surviving Spouse.—

"(1) In general.—In the case of property to which this subsection applies and which is qualified spousal property, the basis of such property under subsection (a) shall be increased by its spousal property basis increase.

"(2) Spousal property basis increase.—For purposes of this subsection—

"(A) In general.—The spousal property basis increase for property referred to in paragraph (1) is the portion of the aggregate spousal property basis increase which is allocated to the property pursuant to this section.

"(B) Aggregate spousal property basis increase.—In the case of any estate, the aggregate spousal property basis increase is $3,000,000.

"(3) Qualified spousal property.—For purposes of this section, the term 'qualified spousal property' means any interest in property which passes or has passed from the decedent to the decedent's surviving spouse with respect to which a deduction is allowed under section 2056.

"(4) Definitions and special rules.—

"(A) Property to which subsection applies.—The basis of property acquired from a decedent may be increased under this subsection only if the property was owned by the decedent at the time of death.

"(B) Rules relating to ownership.—

"(i) Jointly held property.—In the case of property which was owned by the decedent and another person as joint tenants with right of survivorship or tenants by the entirety—

"(I) if the only such other person is the surviving spouse, the decedent shall be treated as the owner of only 50 percent of the property,

"(II) in any case (to which subclause (I) does not apply) in which the decedent furnished consideration for the acquisition of the property, the decedent shall be treated as the owner to the extent of the portion of the property which is proportionate to such consideration, and

"(III) in any case (to which subclause (I) does not apply) in which the property has been acquired by gift, bequest, devise, or inheritance by the decedent and any other person as joint tenants with right of survivorship and their interests are not otherwise specified or fixed by law, the decedent shall be treated as the owner to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants with right of survivorship.

"(ii) Revocable trusts.—The decedent shall be treated as owning property transferred by the decedent during life to a qualified revocable trust (as defined in section 645(b)(1)).

"(iii) Powers of appointment.—The decedent shall not be treated as owning any property by reason of holding a power of appointment with respect to such property.

"(iv) Community property.—Property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any State or possession of the United States or any foreign country shall be treated for purposes of this section as owned by, and acquired from, the decedent if at least one-half of the whole of the community interest in such property is treated as owned by, and acquired from, the decedent without regard to this clause.

"(C) Property acquired by decedent by gift within 3 years of death.—

"(i) In general.—This subsection shall not apply to property acquired by the decedent by gift or by inter vivos transfer for less than adequate and full consideration in money or money's worth during the 3-year period ending on the date of the decedent's death.

"(ii) Exception for certain gifts from spouse.—Clause (i) shall not apply to property acquired by the decedent from the decedent's spouse unless, during such 3-year period, such spouse acquired the property in whole or in part by gift or by inter vivos transfer for less than adequate and full consideration in money or money's worth.

"(D) Stock of certain entities.—This subsection shall not apply to—

"(i) stock or securities of a foreign personal holding company,

"(ii) stock of a DISC or former DISC,

"(iii) stock of a foreign investment company, or

"(iv) stock of a passive foreign investment company unless such company is a qualified electing fund (as defined in section 1295) with respect to the decedent.

"(E) Fair market value limitation.—The adjustments under this subsection shall not increase the basis of any interest in property acquired from the decedent above its fair market value in the hands of the decedent as of the date of the decedent's death.

"(d) Property Acquired From the Decedent.—For purposes of this section, the following property shall be considered to have been acquired from the decedent:

"(1) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent.

"(2) Property transferred by the decedent during his lifetime—

"(A) to a qualified revocable trust (as defined in section 645(b)(1)), or

"(B) to any other trust with respect to which the decedent reserved the right to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust.

"(3) Any other property passing from the decedent by reason of death to the extent that such property passed without consideration.

"(e) Coordination With Section 691.—This section shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 691.

"(f) Certain Liabilities Disregarded.—

"(1) In general.—In determining whether gain is recognized on the acquisition of property—

"(A) from a decedent by a decedent's estate or any beneficiary other than a tax-exempt beneficiary, and

"(B) from the decedent's estate by any beneficiary other than a tax-exempt beneficiary, and in determining the adjusted basis of such property, liabilities in excess of basis shall be disregarded.

"(2) Tax-exempt beneficiary.—For purposes of paragraph (1), the term 'tax-exempt beneficiary' means—

"(A) the United States, any State or political subdivision thereof, any possession of the United States, any Indian tribal government (within the meaning of section 7871), or any agency or instrumentality of any of the foregoing,

"(B) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by chapter 1,

"(C) any foreign person or entity (within the meaning of section 168(h)(2)), and

"(D) to the extent provided in regulations, any person to whom property is transferred for the principal purpose of tax avoidance.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(e) Clerical Amendments.—

(1) The table of sections for part IV of subchapter A of chapter 11 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 2057 and by inserting after the item relating to section 2058 the following new item:

"Sec. 2059. Carryover business exclusion.".

(2) The table of sections for part II of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1022 the following new item:

"Sec. 1023. Treatment of carryover business interests and spousal property.".

(f) Effective Dates.—The amendments made by this section shall apply to estates of decedents dying, and gifts made—

(1) after December 31, 2002, and before January 1, 2010, and

(2) after December 31, 2011.

COBI v. QFOBI—What's Not in the Lincoln Bill to Repeal the Estate Tax for Family-Owned Businesses

The Qualified Family-Owned Business rules, enacted in 1997, have been roundly, and rightly, criticized for their complexity and paltry tax benefit. Even more troubling, the rules have been criticized for their intrusiveness into a business owner's activities, and for their subjectivity, which allow for large areas of disagreement with the IRS. What went wrong with this effort to free family-owned businesses from the estate tax?

In 1997, the primary concern expressed by proponents of these rules was that family-owned farms and businesses are "too often forced out of businesses upon the death of a key owner." While this concern was, and is, all to real, it does not translate into a worthy goal on how we should treat American family-owned farms and businesses.

Sure, the government should not force these businesses to shut down, but the real point is that we must not stop there, we must encourage them to grow, add new jobs, and make new capital investments. In short, the 1997 qualified family-owned business rules were well intentioned, but they yielded a solution that is too limited and unworkable. So, we went back to the drawing board, taking with us the lessons learned from the qualified family-owned business rules.

The first task was to restate our concern and our goal. Simply put, the reformulated goal of the Lincoln bill is that no family-owned farm and business will ever pay the estate tax. It is often stated that family-owned businesses are subject to an estate tax that can reach over one-half the value of the business. This is true, but on top of this liability, a family-owned business is subject to estate tax liability each time that one generation passes the business to another generation. So, a family-owned business can pay the estate tax more than once over its lifetime.

In contrast, publicly held companies are never impacted by the estate tax. At the very least, we should treat family-owned businesses the same as publicly owned businesses life GE, IBM, and Cisco, which face no estate tax liability. Thus, our goal should be that no family-owned farm or business will ever pay the estate tax.

In pursuit of this goal, the Lincoln bill sheds many of the unnecessary and complex provisions under current law, and in doing so, it provides our best chance to enact immediate and permanent repeal of the estate tax for America's family owned farms and businesses.

The Lincoln bill includes the following improvements to current law:

1. Elimination of the Dollar Limitation on the Tax Benefit. Since the goal of the Lincoln bill is that no family-owned business will ever pay the estate tax, it places no arbitrary dollar or size limit on family-owned businesses. A deceased taxpayer's estate may elect to treat an unlimited portion of the decendent's estate as Carryover Business Interest, COBI. A COBI remains subject to all income and capital gain taxes with no basis adjustment.

Family-owned businesses, regardless of size, will be treated the same as their publicly held competitors, and thus, the economic disadvantage and distortion created by the estate tax on family-owned businesses would be eliminated.

2. Elimination of the 50-Percent Qualification Requirement. The principal argument in the past for repeal of the estate tax is its potential for forcing liquidation of a family-owned farm or business. Pursuant to this concern, the law, passed in 1997, created an extremely complex requirement that the value of the business must be at least 50 percent of the decedent's gross estate. Under this theory, it was presumed that a decedent's estate could afford to pay the tax if the business makes up 49 percent of the estate, but not if it is 50 percent of the estate. This example highlights the folly of this requirement, but it also demonstrates the importance of estate tax planning techniques in order to comply and receive the tax benefit. In the end, such a rule creates inequities among similarly situated taxpayers and benefits those with the best tax planning advise. Such incentives should be reduced whenever possible.

Under the Lincoln bill, this arbitrary requirement is eliminated, so that no family-owned farm or business would ever pay the estate tax, regardless of the portion of the estate that is comprised of the family-owned business. All family-owned businesses will no longer be required to shut down or plan to pay the estate tax. Instead, these businesses can increase working capital for expansion. The elimination of this requirement will also dramatically reduce complexity in the tax code and the subjectivity associated with the administration of the provision by the IRS.

3. Elimination of the Material Participation Requirements for Heirs. The material participation standard requires the IRS to measure a family member's activities on an hour-to-hour basis. This qualified family-owned business rules use this standard such that the IRS is required to monitor the activities of the heir for 10 years. This standard has been widely criticized as too intrusive. This may be the understatement of the year, and on top of that, it is an outrageous requirement the IRS could never effectively carry out if we wanted them to do so. Under the Lincoln bill, an heir is not required to participate in the business. Still, if he or she decides to sell or dispose of the COBI, capital gains and income taxes will continue to be payable and calculated using the decedent's carryover basis. But the estate tax will never put them out of business.

4. Elimination of the Recapture Provisions. Since the Lincoln bill does not require heirs to participate, recapture provisions are not necessary and therefore eliminated. The absence of these complex, arbitrary, and intrusive provisions eliminates the need for the IRS to monitor the daily activities of an heir for 10 years, a clearly intrusive requirement under current law.

5. Elimination of Passive Income Test. Under current law, a family owned business does not qualify for the tax benefit if more than 35 percent of its adjusted gross income is passive income in the tax year, which includes the decedent's date of death. This chance one-year arbitrary measurement of passive income is an insufficient and unreliable test of whether a family owned business has active business income. Further, the test is unnecessary in the face of a reasonable and workable passive asset test, as included in the Lincoln bill. See 6 below.

6. Modification of the Working Capital Rules. Under current law, a qualified family owned business may not hold cash or marketable securities in excess of the day-to-day working capital needs of the business. This rule does not recognize that family-owned businesses must retain liquid funds to expand by incurring debt or acquiring another business.

The Lincoln bill provides a standard that allows family owned businesses to retire debt and expand without facing the burden of the imposition of the estate tax. The standard under the Lincoln bill would allow the family owned business to own cash and securities "reasonably anticipated business needs." This standard is well established under current law, regulations, and IRS audit guidelines.

In any event, in order to prevent any predeath "stuffing," cash or marketplace securities shall be treated as passive assets if such cash or marketplace securities are transferred to the entity with 3 years of the decedent's date of death in any event. On the flip side, the IRS shall have the authority to increase the value of the COBI by that portion of those assets transferred from the COBI to the taxable estate within 3 years before the decedent's death.

By Mr. HOLLINGS (for himself and Mr. CLELAND):

S. 2995. A bill to improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes, to the Committee on Agriculture, Nutrition, and Forestry.

Mr HOLLINGS. Mr. President, I rise to introduce a bill that the distinguished Senator from Georgia, Mr. CLELAND, and I are sponsoring to assist rural farming communities that have become dependent on tobacco in finding ways to diversify.

Right to the point: The tobacco program as we know it today is not sustainable for tobacco producers or the communities that have become dependent on tobacco for their standard of living. For too many years, too many people in this Chamber ignored the problem of the tobacco program, while addressing every other farm issue under the sun, and we now run the risk of putting tobacco farmers out of business with no concern for the impacts on rural communities. It is in the best interest of not only tobacco farmers and their communities, but of the future health of Americans, to pass this legislation

South Carolina has about 2,000 honest, hard-working tobacco farmers who, of late, can't make ends meet because the demand for tobacco is down so far. It's not that everyone in the world has all of a sudden stopped using tobacco. It's that American companies are using foreign-grown tobacco. It's cheaper for corporations to go to Brazil, or China, or Vietnam, than to buy tobacco from South Carolina or Georgia. The same thing that happened to textile workers in this country is now happening to our farmers, who have bills to pay, and children to send to college, and everything else like that.

In addition to low demand, farmers are in trouble because of past Federal policies intended to encourage farmers to get out of this business, which have instead led them to totally rely on tobacco. At the recommendation of the President's Tobacco Commission, we need to kick the habit of quota subsidies for tobacco farmers or this charade will never end.

Any legislation that fails to focus on the tobacco problem as a community, is not dealing with the problem as a whole. We have to help tobacco communities diversify their economic base, or they will plummet into further economic distress. This legislation provides these communities with the tools to attract new industries and, thus, new and different kinds of jobs for the area. We can't expect to buy farmers out, try to take care of them with a short-term fix, and not take care of the communities' long-term future.

This legislation does just that by making quota buy outs for farmers mandatory, offering special incentives for growers who transition their land from tobacco production and providing meaningful community assistance to bring economic development and diversify the rural economy.

Obviously, every one in this Chamber will want to know: how will we pay for it? What will these buyouts cost a government that this year is running a $412 billion budget deficit? It will not cost the American taxpayer a single dime. I will be paid for by fees assessed on manufacturers based on market share. We used a similar funding mechanism in the LEAF Act that had the full support of tobacco growing states.

When you come right down to it, this is a balancing act to fix a broken farm program without decimating rural communities and without cost to the American taxpayer. This is as balanced a way as Senator CLELAND and I know how to deal with this. The legislation has the support of the health care community and the tobacco growers alike. We have received letters of support from the Alliance for Health Economic and Agriculture Development, the Campaign for Tobacco Free Kids, the South Carolina Tobacco Growers Association, the South Carolina Farm Bureau, Flue-Cured Tobacco Cooperative Stabilization Corporation, and the Burley Tobacco Growers Cooperative Association. We urge your support.

By Mr. KOHL (for himself, Mr. SESSIONS, and Mrs. FEINSTEIN):

S. 2996. A bill to amend title 11, United States Code, to limit the value of certain real and personal property that a debtor may elect to exempt under State or local law, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the Bankruptcy Abuse Reform Act of 2002. The Senate is very familiar with the issue of the homestead exemption. We have voted to close the homestead loophole in each of the past three Congresses. Each and every time, the Senate strongly supported our proposal to close the homestead loophole and prohibit wealthy debtors from moving to Florida or Texas to shield their multi-million dollar mansions from their creditors.

In practical terms, the unlimited homestead exemption means that a person can declare bankruptcy in Houston, for example, wipe out most of their debts, but shield from creditors a house worth an infinite amount. Our amendment will generously cap the homestead exemption at $125,000, that is, it permits a debtor to keep $125,000 of equity in his or her home after declaring bankruptcy.

This provision should be law by now. Unfortunately, the politics of the bankruptcy bill generally and this provision specifically have prevented the homestead loophole from being closed once and for all. During the course of this debate, we accepted a compromise that was weaker than we would have wanted, but would get at the worst abusers. It was not all that we wanted, nor was it that is needed, but is was a good first step.

To those that argue that the compromise that we agreed to is enough, we say it only got at some of the abusers who will use this provision in the law. Certainly, no matter how well we draft it, we will not be able to anticipate everything that some clever lawyer or devious debtor will think of to find a way around it. The only way to ensure that no debtor will be able to take advantage of this loophole is for the Congress to pass a hard cap. Only then can we be certain that the loophole would be closed once and for all.

It appears now, however, that the bankruptcy reform bill has stalled and may not be considered before the Congress adjourns for the year. It would be a miscarriage of justice to permit the year to end without addressing the most scandalous abuse of the bankruptcy laws in an era when numerous corporate executives will surely use the homestead exemption to protect millions of dollars from their creditors.

The country has been stunned recently by stories of corporate malfeasance, insider dealing, and fraud. And, not by fly-by-night companies, but rather the worst wrongdoing went on in companies that were entrusted with the nest eggs of millions of Americans in pension plans and mutant funds. Those investments have been lost. And, yet there is every chance that the people who caused these nightmares may walk away from their misdeeds and seek shelter in their luxury homes.

Whether we are discussing Ken Lay's $7.1 million, 13,000 square foot condominium or Andrew Fastow's newly built multi-million dollar home in one of Houston's swankiest neighborhoods, or Scott Sullivan's $15 million estate in Boca Raton, one thing is clear; these former executives must not be permitted to continue to live like kings in bankruptcy while their former employees are looking for their next paycheck.

Debtors should not be able to avoid their creditors through luck of geography or through strategic bankruptcy planning. The bottom line is that bankruptcy must be a refuge of last resort, not a financial planning tool for Ken Lay, Scott Sullivan or a host of others. It would be a shame if this Congress were not able to close the most egregious abuse of all in the bankruptcy laws. It is time to close the homestead exemption loophole once and for all.

I ask unanimous consent that the text of the Bankruptcy Abuse Reform Act of 2002 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2996

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bankruptcy Abuse Reform Act of 2002".

SEC. 2. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A), by inserting "subject to subsection (n)," before "any property"; and

(2) by adding at the end the following new subsection:

"(n)(1) As a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds, in the aggregate, $125,000 in value in—

"(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(C) a burial plot for the debtor or a dependent of the debtor.

"(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.".

By Mr. DODD (for himself, Mr. GREGG, Mr. KENNEDY, Ms. COLLINS, Mr. WELLSTONE, and Mr. DEWINE):

S. 2998. A bill to reauthorize the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today with my colleague from New Hampshire, Senator GREGG, to introduce the Keeping Children and Families Safe Act. We are pleased to be joined by Senators KENNEDY, COLLINS, WELLSTONE, and DEWINE.

Child abuse and neglect continue to be significant problems in the United States. Recent reports present startling indications of child maltreatment in the United States.

About 3 million referrals concerning the welfare of about 5 million children were made to Child Protection Services, CPS, agencies throughout the Nation in 2000. Of these referrals, about two-thirds, 62 percent, were "screened-in" for further assessment and investigation. Professionals, including teachers, law enforcement officers, social service workers, and physicians made more than half, 56 percent, of the screened-in reports. About 879,000 children were found to be victims of child maltreatment. About two-thirds, 63 percent, suffered neglect, including medical neglect; 19 percent were physically abused; 10 percent were sexually abused; and 8 percent were emotionally maltreated.

Many of these children fail to receive adequate protection and services. Nearly half, 45 percent, of these children failed to receive services.

The most tragic consequence of child maltreatment is death. The April maltreatment summary data released by the Department of Health and Human Services, HHS, shows that about 1,200 children died of abuse and neglect in 2000. Children younger than six years of age accounted for 85 percent of child fatalities and children younger than one year of age accounted for 44 percent of child fatalities.

Child abuse is not a new phenomenon. For more than a decade, numerous reports have called attention to the tragic abuse and neglect of our children and the inadequacy of our Child Protection Services, CPS, systems to protect our children.

In 1990, the U.S. Advisory Board on Child Abuse and Neglect concluded that "child abuse and neglect is a national emergency." In 1995, the U.S. Advisory Board on Child Abuse and Neglect reported that "State and local CPS caseworkers are often overextended and cannot adequately function under their current caseloads." The report also stated that, "in many jurisdictions, caseloads are so high that CPS response is limited to taking the complaint call, making a single visit to the home, and deciding whether or not the complaint is valid, often without any subsequent monitoring of the family."

A 1997 General Accounting Office, GAO, report found, "the CPS system is in crisis, plagued by difficult problems, such as growing caseloads, increasingly complex social problems and underlying child maltreatment, and ongoing systemic weaknesses in day-to-day operations." According to GAO, CPS weaknesses include "difficulty in maintaining a skilled workforce; the inability to consistently follow key policies and procedures designed to protect children; developing useful case data and record-keeping systems, such as automated case management; and establishing good working relationships with the courts."

According to the May 2001 "Report from the Child Welfare-Workforce Survey: State and County Data and Findings" conducted by the American Public Human Services Association, APHSA, the Child Welfare League of America, CWLA, and the Alliance for Children and Families, annual staff turnover is high and morale is low among CPS workers. The report found that CPS workers had an annual turnover rate of 22 percent, 76 percent higher than the turnover rate for total agency staff. The "preventable" turnover rate was 67 percent, or two-thirds higher than the rate for all other direct service workers and total agency staff. In some States, 75 percent or more of staff turnovers were preventable.

States rated a number of retention issues as highly problematic. In descending order they are: workloads that are too high and/or demanding; caseloads that are too high; too much worker time spent on travel, paperwork, courts, and meetings; workers not feeling valued by the agency; low salaries; supervision problems; and insufficient resources for families and children.

To prevent turnover and retain quality CPS staff, some States have begun to increase in-service training, increase education opportunities, increase supervisory training, increase or improve orientation, increase worker safety, and offer flex-time or changes in office hours. Most States, however, continue to grapple with staff turnover and training issues.

Continued public criticism of CPS efforts, continued frustration by CPS staff and child welfare workers, and continued abuse and neglect, and death, of our Nation's children, served as the backdrop as we sought to draft a CAPTA reauthorization bill this year.

The Child Protection System mission must focus on the safety of children. To ensure that the system works as intended, CPS needs to be appropriately staffed. The staff need to receive appropriate training and cross-training to better recognize substance abuse and domestic violence problems. Triage can help in communities with numerous abuse reports so that those reports where children are most at-risk of imminent harm can be prioritized. More collaborations in communities between CPS, health agencies, including mental health agencies, schools, and community-based groups can help to strengthen families. Prevention programs and activities to prevent child abuse and neglect for families at-risk can improve the likelihood that a child will grow up in a home without violence, abuse, or neglect.

Beyond the CAPTA title of this legislation, our bill reauthorizes the Family Violence Prevention and Services Act, including the creation of a new program to address the needs of children who witness domestic violence, the Adoption Opportunities Act, and the Abandoned Infants Assistance Act.

There is not much time before Congress adjourns for the session. And there are many outstanding issues for Congress to address. Child protection ought not be a partisan issue. I urge my colleagues to join us in supporting this bill and to strengthen child protection laws before we adjourn for the year.

I ask unanimous consent that a summary of the bill be printed in the Record, followed by the text of the bill.

There being no objection, the additional material was ordered to be printed in the Record, as follows:

Keeping Children and Families Safe Act

Brief Summary

The Child Abuse Prevention and Treatment Act, CAPTA, authorizes research and demonstration projects related to preventing and treating child abuse and neglect, grants to States to improve child protection systems and, grants to support community-based family resource and support services. Authorization for CAPTA expired with FY2001 but Congress has continued to fund its programs.

Reauthorizes CAPTA with increased funding. The bill would reauthorize CAPTA through FY2007 and authorized $200 million for CAPTA programs. The FY2002 appropriation for CAPTA programs was $81.6 million.

Encourages new training and better qualifications for child and family service workers. The bill would recommend grants for a variety of training programs and research activities designed to improve training to child protective services and other child and family service workers, including supervisors. Suggested projects include: training workers on how to best work with families from initial investigation through treatment; cross-training to better recognize neglect, domestic violence or substance abuse in a family; training to strengthen linkages between Child Protection Services (CPS) and health agencies including physical and mental health services; and to promote partnerships that offer creative approaches to meet the needs of abused children; as well as training for CPS workers on their legal duties. The bill would also encourage attention to staff recruitment and retention issues.

Encourages links between agencies to improve services to children. The bill would seek to create or improve links between child protection services and education, health, mental health, and judicial systems to ensure that children who are abused and neglected are properly identified and receive referrals to appropriate services. It would further encourage greater collaboration between child protective services and the juvenile justice system to ensure that children who move between these two systems do so smoothly and receive appropriate services. In addition, the bill would promote partnerships between public agencies and community-based organizations to provide child abuse and neglect prevention and treatment programs. The bill would also require States, as a condition of receiving State grant money, to have policies and procedures to have triage for the referral of a child not at imminent risk of harm to a community or voluntary child maltreatment prevention service; to improve the training, retention, and supervision of caseworkers; to address the needs of infants who have been prenatally exposed to illegal substances, including referral to CPS and other services; to have provisions requiring CPS workers to inform individuals of child maltreatment allegations made against them; and to perform background checks on all adults in prospective foster care households.

Strengths and expands the National Child Abuse Clearinghouse. The role of the National Child Abuse Clearinghouse would be strengthened and expanded to not only maintain information about effective child abuse prevention programs, but also to maintain information about best practices used for improving CPS and best practices for making referrals related to addressing the physical, developmental, and health needs of abused and neglected children.

Broadens access to technical assistance and grant funds. CAPTA currently authorize the Department of Health and Human Services, HHS, to fund certain kinds of child maltreatment related demonstration programs and to provide certain technical assistance. In general, grants or contracts may be made with public and nonprofit private entities. The bill would allow for-profit private entities to access technical assistance and to operate HHS-funded demonstration programs.

Strengthens local oversight. States are now required to appoint citizen review panels to oversee the policies and procedures of State and local child protection service agencies. The bill would require these panels to also study agency "practices," do public outreach and allow for public comment, and include recommendations for changes in an annual report to the State. States would be required to make a written response regarding whether or how they will incorporate the recommendations to improve the State and local child protection systems.

Requires new study. The bill would require HHS to conduct the 4th National Incidence Study of Child Abuse and Neglect and to report its findings within 4 years of enactment of the legislation. The last National Incidence Study was conducted in 1993.

Revises Title II Community-Based Family Resource and Support Grants. The bill revises Title II to support community-based efforts to develop, operate, expand, enhance, and where appropriate, to network, initiatives aimed at the prevention of child abuse and neglect and supports coordinated resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect.

Title II reauthorizes the Family Violence Prevention and Services Act (FVPSA), which provides assistance to states, Tribes, and Tribal organizations to assist in efforts to increase public awareness about family violence and provide immediate shelter and related assistance to victims of family violence and their children. The reauthorization: extends the authorization of existing programs to 2007; repeals three programs: The Family Member Abuse and Documentation Project, Model State Leadership Grants, and the Youth Education and Domestic Violence Program; increases the authorization for the National Domestic Violence Hotline to $5 million; carves out 10 percent of State Grant funds for State Domestic Violence Coalitions; allows for the Secretary to retain administrative funds to implement and evaluate FVPSA programs; establishes a highly secure electronic network to link domestic violence shelters and service providers and the National Domestic Violence Hotline on a confidential website. The website would provide a continuously updated list of shelter availability anywhere in the United States at any time and would provide comprehensive information describing the services each shelter provides such as medical, social and bilingual services. It would also provide internet access to shelters that do not have appropriate technology; creates the Children Exposed to Domestic Violence Program to provide funds for: shelters and other domestic violence service providers to run programs to address the physical, emotional and logistical needs of children who enter programs with their mothers who are abused; training of child welfare, and where appropriate, court and law enforcement personnel to assist them in addressing cases where child abuse and domestic violence intersect; and, nonprofit agencies to bring various service providers together to design and implement intervention programs for children who witness domestic violence.

Makes several technical corrections to the bill.

Title III of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as amended (Public Law 95-266) authorizes the Adoption Opportunities Program. The program is intended to eliminate barriers to adoption and to provide permanent homes for children who would benefit from adoption, particularly special needs children and disabled infants with life-threatening conditions.

Seeks to eliminate interjurisdictional barriers to adoption. As part of a revised and updated findings section, the bill would explicitly include the elimination of jurisdictional barriers to adoption. It notes that the Adoption and Safe Families Act of 1997 prohibited delay or denial of placement of a child across jurisdictional lines, where an appropriate adoptive family was available. The bill would require the Secretary of HHS to fund public or private entities, including States, to eliminate barriers to placing children for adoption across jurisdictional lines. Purposes of this funding would include: developing a uniform homestudy standard and protocols for acceptance of homestudies between States and jurisdictions; developing models of financing cross-jurisdictional placements; expanding capacity of all adoption exchanges to serve increasing numbers of children, including older children least likely to currently be adopted; developing training materials and training social workers on preparing and moving children across State lines; and developing and supporting models for networking among agencies, adoption exchanges, and parent support groups across jurisdictional boundaries.

Within one year of enactment, the bill would require HHS, in consultation with the General Accounting Office, to facilitate interjurisdictional adoption of foster children. Separately, the bill would also make interjurisdictional adoption issues, including financing and best practices, a part of a larger study HHS would be required to conduct on adoption placements. Current law generally allows HHS to fund services provided by public and nonprofit private agencies only. The bill generally allows HHS to include for-profit agencies among eligible grantees.

Increases funding for Adoption Opportunities grants. The current authorization for Adoption Opportunities is $20 million. The bill would increase the authorization to $40 million for FY2003 and such sums as necessary for FY2004–FY2007. (The Adoption Opportunities program received an appropriation of $27.4 million for FY2002.)

The Abandoned Infants Assistance Act of 1988, as amended, Public Law 100-505, authorizes demonstration grants to public and private nonprofit agencies for activities such as preventing the abandonment of infants, identifying and addressing the needs of abandoned infants, recruiting and training foster families for abandoned children, providing residential care for infants and young children who cannot live with their families or be placed in foster care, providing respite care for families and foster families, and recruiting and training health and social services personnel to work with abandoned children.

Broadens priority for services. Under current law grantees must ensure priority for their services is given to abandoned infants and young children who are HIV-infected, perinatally exposed to HIV, or perinatally drug-exposed. The bill would maintain priority service for these children but would also broaden the priority category to include abandoned infants and young children who have "life threatening illness[es]" or "other special medical need[s]."

Requires studies. The bill would require that HHS conduct a study that: estimates the number of infants and young children who are relinquished, abandoned or found deceased in the United States and the number of young children who are HIV positive, have a life-threatening illness or other special medical need, or have been perinatally exposed to HIV or a dangerous drug; estimates the annual number of infants and young children who are victims of homicide; determines the characteristics of parents who have abandoned a child within a year of the child's birth; and estimates the annual costs incurred by all levels of government to provide housing and care for abandoned infants and young children.

The bill would further require HHS to report findings of this study to Congress not later than 36 months after enactment of the legislation. Separately, HHS would be required to evaluate and report on effective intervention methods to prevent abandonment of children and effective ways of responding to the needs of abandoned children.

Increases funds for Abandonment Infants Assistance grants. The current authorization for Abandoned Infants Assistance is $35 million. The bill would increase authorization to $45 million for FY2003 and such sums as necessary for FY2004–FY2007. The Abandoned Infants Assistance program received an appropriation of $12.2 million for FY2002.

S. 2998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Keeping Children and Families Safe Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

Sec. 101. Findings.

Subtitle A—General Program

Sec. 111. National Clearinghouse for Information Relating to Child Abuse.
Sec. 112. Research and assistance activities and demonstrations.
Sec. 113. Grants to States and public or private agencies and organizations.
Sec. 114. Grants to States for child abuse and neglect prevention and treatment programs.
Sec. 115. Miscellaneous requirements relating to assistance.
Sec. 116. Authorization of appropriations.

Subtitle B—Community-Based Grants for the Prevention of Child Abuse

Sec. 121. Purpose and authority.
Sec. 122. Eligibility.
Sec. 123. Amount of grant.
Sec. 124. Existing grants.
Sec. 125. Application.
Sec. 126. Local program requirements.
Sec. 127. Performance measures.
Sec. 128. National network for community-based family resource programs.
Sec. 129. Definitions.
Sec. 130. Authorization of appropriations.

TITLE II—AMENDMENTS TO FAMILY VIOLENCE PREVENTION AND SERVICES ACT

Subtitle A—Reauthorization of Grant Programs

Sec. 201. State demonstration grants.
Sec. 202. Secretarial responsibilities.
Sec. 203. Evaluation.
Sec. 204. Information and technical assistance centers.
Sec. 205. General authorization of appropriations.
Sec. 206. Grants for State domestic violence coalitions.
Sec. 207. Evaluation and monitoring.
Sec. 208. Family member abuse information and documentation project.
Sec. 209. Model State leadership grants.
Sec. 210. National domestic violence hotline grant.
Sec. 211. Youth education and domestic violence.
Sec. 212. Demonstration grants for community initiatives.
Sec. 213. Transitional housing reauthorization.
Sec. 214. Technical and conforming amendments.

Subtitle B—National Domestic Violence Hotline
Sec. 221. National domestic violence hotline enhancement.
Subtitle C—Children Exposed to Domestic Violence Program
Sec. 231. Purpose.
Sec. 232. Services for children exposed to domestic violence.
TITLE III—ADOPTION OPPORTUNITIES
Sec. 301. Congressional findings and declaration of purpose.
Sec. 302. Information and services.
Sec. 303. Study of adoption placements.
Sec. 304. Authorization of appropriations.
Sec. 305. Adoption action plan.
TITLE IV—ABANDONED INFANTS ASSISTANCE
Sec. 401. Findings.
Sec. 402. Establishment of local programs.
Sec. 403. Evaluations, study, and reports by Secretary.
Sec. 404. Authorization of appropriations.
Sec. 405. Definitions.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 101. FINDINGS.

Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended—

(1) in paragraph (1), by striking "close to 1,000,000" and inserting "approximately 900,000";

(2) by redesignating paragraphs (2) through (11) as paragraphs (4) through (13), respectively;

(3) by inserting after paragraph (1) the following:

"(2)(A) more children suffer neglect than any other form of maltreatment; and

"(B) investigations have determined that approximately 63 percent of children who were victims of maltreatment in 2000 suffered neglect, 19 percent suffered physical abuse, 10 percent suffered sexual abuse, and 8 percent suffered emotional maltreatment;

"(3)(A) child abuse can result in the death of a child;

"(B) in 2000, an estimated 1,200 children were counted by child protection services to have died as a result of abuse or neglect; and

"(C) children younger than 1 year old comprised 44 percent of child fatalities and 85 percent of child fatalities were younger than 6 years of age;";

(4) by striking paragraph (4) (as so redesignated), and inserting the following:

"(4)(A) many of these children and their families fail to receive adequate protection and treatment;

"(B) slightly less than half of these children (45 percent in 2000) and their families fail to receive adequate protection or treatment; and

"(C) in fact, approximately 80 percent of all children removed from their homes and placed in foster care in 2000, as a result of an investigation or assessment conducted by the child protective services agency, received no services;";

(5) in paragraph (5) (as so redesignated)—

(A) in subparagraph (A), by striking "organizations" and inserting "community-based organizations";

(B) in subparagraph (D), by striking "ensures" and all that follows through "knowledge," and inserting "recognizes the need for properly trained staff with the qualifications needed"; and

(C) in subparagraph (E), by inserting before the semicolon the following: ", which may impact child rearing patterns, while at the same time, not allowing those differences to enable abuse";

(6) in paragraph (7) (as so redesignated), by striking "this national child and family emergency" and inserting "child abuse and neglect"; and

(7) in paragraph (9) (as so redesignated)—

(A) by striking "intensive" and inserting "needed"; and

(B) by striking "if removal has taken place" and inserting "where appropriate".

Subtitle A—General Program

SEC. 111. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

(a) Functions.—Section 103(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(b)) is amended—

(1) in paragraph (1), by striking "all programs," and all that follows through "neglect; and" and inserting "all effective programs, including private and community-based programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect and hold the potential for broad scale implementation and replication;";

(2) in paragraph (2), by striking the period and inserting a semicolon;

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting after paragraph (1) the following:

"(2) maintain information about the best practices used for achieving improvements in child protective systems;"; and

(5) by adding at the end the following:

"(4) provide technical assistance upon request that may include an evaluation or identification of—

"(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

"(B) ways to mitigate psychological trauma to the child victim; and

"(C) effective programs carried out by the States under this Act; and

"(5) provide for and disseminate information relating to various training resources available at the State and local level to—

"(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

"(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel.".

(b) Coordination With Available Resources.—Section 103(c)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(c)(1)) is amended—

(1) in subparagraph (E), by striking "105(a); and" and inserting "104(a);";

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

"(F) collect and disseminate information that describes best practices being used throughout the Nation for making appropriate referrals related to, and addressing, the physical, developmental, and mental health needs of abused and neglected children; and".

SEC. 112. RESEARCH AND ASSISTANCE ACTIVITIES AND DEMONSTRATIONS.

(a) Research.—Section 104(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) in the first sentence, by inserting ", including longitudinal research," after "interdisciplinary program of research"; and

(ii) in the second sentence, by striking "may" and inserting "shall primarily";

(B) in subparagraph (B), by inserting before the semicolon the following: ", including the effects of abuse and neglect on a child's development and the identification of successful early intervention services or other services that are needed";

(C) in subparagraph (C)—

(i) by striking "judicial procedures" and inserting "judicial systems, including multidisciplinary, coordinated decisionmaking procedures"; and

(ii) by striking "and" at the end; and

(D) in subparagraph (D)—

(i) in clause (viii), by striking "and" at the end;

(ii) by redesignating clause (ix) as clause (x); and

(iii) by inserting after clause (viii), the following:

"(ix) the incidence and prevalence of child maltreatment by a wide array of demographic characteristics such as age, sex, race, household relationship, family structure, school enrollment and education attainment, disability, grandparents as caregivers, labor force status, work status in previous year, and income in previous year; and";

(E) by redesignating subparagraph (D) as subparagraph (I); and

(F) by inserting after subparagraph (C), the following:

"(D) the evaluation and dissemination of best practices consistent with the goals of achieving improvements in the child protective services systems of the States in accordance with paragraphs (1) through (12) of section 106(a);

"(E) effective approaches to interagency collaboration between the child protection system and the juvenile justice system that improve the delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;

"(F) an evaluation of the redundancies and gaps in the services in the field of child abuse and neglect prevention in order to make better use of resources;

"(G) the nature, scope, and practice of voluntary relinquishment for foster care or State guardianship of low income children who need health services, including mental health services;

"(H) the information on the national incidence of child abuse and neglect specified in clauses (i) through (xi) of subparagraph (H); and";

(2) by redesignating paragraph (2) as paragraph (4);

(3) by inserting after paragraph (1) the following:

"(2) Research.—The Secretary shall conduct research on the national incidence of child abuse and neglect, including the information on the national incidence on child abuse and neglect specified in subparagraphs (i) through (ix) of paragraph (1)(I).

"(3) Report.—Not later than 4 years after the date of the enactment of the Keeping Children and Families Safe Act of 2002, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that contains the results of the research conducted under paragraph (2).".

(b) Provision of Technical Assistance.—Section 104(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(b)) is amended—

(1) in paragraph (1), by striking "nonprofit agencies and" and inserting "private agencies and community-based"; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(D) effective approaches being utilized to link child protective service agencies with health care, mental health care, and developmental services to improve forensic diagnosis and health evaluations, and barriers and shortages to such linkages.".

(c) Demonstration Programs and Projects.—Section 104 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended by adding at the end the following:

"(e) Demonstration Programs and Projects.—The Secretary may award grants to, and enter into contracts with, States or public or private agencies or organizations (or combinations of such agencies or organizations) for time-limited, demonstration projects for the following:

"(1) Promotion of safe, family-friendly physical environments for visitation and exchange.—The Secretary may award grants under this subsection to entities to assist such entities in establishing and operating safe, family-friendly physical environments—

"(A) for court-ordered, supervised visitation between children and abusing parents; and

"(B) to safely facilitate the exchange of children for visits with noncustodial parents in cases of domestic violence.

"(2) Education identification, prevention, and treatment.—The Secretary may award grants under this subsection to entities for projects that provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

"(3) Risk and safety assessment tools.—The Secretary may award grants under this subsection to entities for projects that provide for the development of risk and safety assessment tools relating to child abuse and neglect.

"(4) Training.—The Secretary may award grants under this subsection to entities for projects that involve innovative training for mandated child abuse and neglect reporters.

"(5) Comprehensive adolescent victim/victimizer prevention programs.—The Secretary may award grants to organizations that demonstrate innovation in preventing child sexual abuse through school-based programs in partnership with parents and community-based organizations to establish a network of trainers who will work with schools to implement the program. The program shall be comprehensive, meet State guidelines for health education, and should reduce child sexual abuse by focusing on prevention for both adolescent victims and victimizers.".

SEC. 113. GRANTS TO STATES AND PUBLIC OR PRIVATE AGENCIES AND ORGANIZATIONS.

(a) Demonstration Programs and Projects.—Section 105(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(a)) is amended—

(1) in the subsection heading, by striking "Demonstration" and inserting "Grants for";

(2) in the matter preceding paragraph (1)—

(A) by inserting "States," after "contracts with,";

(B) by striking "nonprofit"; and

(C) by striking "time limited, demonstration";

(3) in paragraph (1)—

(A) in subparagraph (A), by striking "education, social work, and other relevant fields" and inserting "law enforcement, judiciary, social work and child protection, education, and other relevant fields, or individuals such as court appointed special advocates (CASAs) and guardian ad litem,";

(B) in subparagraph (B), by striking "nonprofit" and all that follows through "; and" and inserting "children, youth and family service organizations in order to prevent child abuse and neglect;";

(C) in subparagraph (C), by striking the period and inserting a semicolon;

(D) by adding at the end the following:

"(D) for training to support the enhancement of linkages between child protective service agencies and health care agencies, including physical and mental health services, to improve forensic diagnosis and health evaluations and for innovative partnerships between child protective service agencies and health care agencies that offer creative approaches to using existing Federal, State, local, and private funding to meet the health evaluation needs of children who have been subjects of substantiated cases of child abuse or neglect;

"(E) for the training of personnel in best practices to promote collaboration with the families from the initial time of contact during the investigation through treatment;

"(F) for the training of personnel regarding their responsibilities to protect the legal rights of children and families;

"(G) for improving the training of supervisory and nonsupervisory child welfare workers;

"(H) for enabling State child welfare agencies to coordinate the provision of services with State and local health care agencies, alcohol and drug abuse prevention and treatment agencies, mental health agencies, and other public and private welfare agencies to promote child safety, permanence, and family stability;

"(I) for cross training for child protective service workers in recognizing situations of substance abuse, domestic violence, and neglect; and

"(J) for developing, implementing, or operating information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

"(i) professionals and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health care facilities; and

"(ii) the parents of such infants.";

(4) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(5) by inserting after paragraph (1), the following:

"(2) Triage procedures.—The Secretary may award grants under this subsection to public and private agencies that demonstrate innovation in responding to reports of child abuse and neglect, including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies, to allow for the establishment of a triage system that—

"(A) accepts, screens, and assesses reports received to determined which such reports require an intensive intervention and which require voluntary referral to another agency, program, or project;

"(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

"(C) provides further investigation and intensive intervention where the child's safety is in jeopardy.";

(6) in paragraph (3) (as so redesignated), by striking "(such as Parents Anonymous)";

(7) in paragraph (4) (as so redesignated)—

(A) by striking the paragraph heading;

(B) by striking subparagraphs (A) and (C); and

(C) in subparagraph (B)—

(i) by striking "(B) Kinship care.—" and inserting the following:

"(4) Kinship care.—

"(A) In general.—"; and

(ii) by striking "nonprofit"; and

(8) by adding at the end the following:

"(5) Linkages between child protective service agencies and public health, mental health, and developmental disabilities agencies.—The Secretary may award grants to entities that provide linkages between State or local child protective service agencies and public health, mental health, and developmental disabilities agencies, for the purpose of establishing linkages that are designed to help assure that a greater number of substantiated victims of child maltreatment have their physical health, mental health, and developmental needs appropriately diagnosed and treated.".

(b) Discretionary Grants.—Section 105(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) by inserting after paragraph (2) (as so redesignated), the following:

"(3) Programs based within children's hospitals or other pediatric and adolescent care facilities, that provide model approaches for improving medical diagnosis of child abuse and neglect and for health evaluations of children for whom a report of maltreatment has been substantiated."; and

(4) in paragraph (4)(D), by striking "nonprofit".

(c) Evaluation.—Section 105(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(c)) is amended—

(1) in the first sentence, by striking "demonstration";

(2) in the second sentence, by inserting "or contract" after "or as a separate grant"; and

(3) by adding at the end the following: "In the case of an evaluation performed by the recipient of a grant, the Secretary shall make available technical assistance for the evaluation, where needed, including the use of a rigorous application of scientific evaluation techniques.".

(d) Technical Amendment to Heading.—The section heading for section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended to read as follows:

"SEC. 105. GRANTS TO STATES AND PUBLIC OR PRIVATE AGENCIES AND ORGANIZATIONS.".

SEC. 114. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

(a) Development and Operation Grants.—Section 106(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(a)) is amended—

(1) in paragraph (3)—

(A) by inserting ", including ongoing case monitoring," after "case management"; and

(B) by inserting "and treatment" after "and delivery of services";

(2) in paragraph (4), by striking "improving" and all that follows through "referral systems" and inserting "developing, improving, and implementing risk and safety assessment tools and protocols";

(3) by striking paragraph (7);

(4) by redesignating paragraphs (5), (6), (8), and (9) as paragraphs (6), (8), (9), and (12), respectively;

(5) by inserting after paragraph (4), the following:

"(5) developing and updating systems of technology that support the program and track reports of child abuse and neglect from intake through final disposition and allow interstate and intrastate information exchange;";

(6) in paragraph (6) (as so redesignated), by striking "opportunities" and all that follows through "system" and inserting "including safety training opportunities and requirements for child protection workers";

(7) by inserting after paragraph (6) (as so redesignated) the following:

"(7) improving the skills, qualifications, and availability of individuals providing services to children and families, and the supervisors of such individuals, through the child protection system, including improvements in the recruitment and retention of caseworkers;";

(8) by striking paragraph (9) (as so redesignated), and inserting the following:

"(9) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

"(10) developing, implementing, or operating programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

"(A) existing social and health services;

"(B) financial assistance; and

"(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption;

"(11) developing and delivering information to improve public education relating to the role and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect;"; and

(9) in paragraph (12) (as so redesignated), by striking the period and inserting a semicolon;

(10) by adding at the end the following:

"(13) supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems; or

"(14) supporting and enhancing collaboration among public health agencies, the child protection system, and private community-based programs to provide child abuse and neglect prevention and treatment services (including linkages with education systems) and to address the health needs, including mental health needs, of children identified as abused or neglected, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports.".

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Section 106(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "provide notice to the Secretary of any substantive changes" and inserting the following: "provide notice to the Secretary—

"(i) of any substantive changes; and";

(ii) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(ii) any significant changes to how funds provided under this section are used to support the activities which may differ from the activities as described in the current State application.";

(B) in paragraph (2)(A)—

(i) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), and (xiii) as clauses (iii), (v), (vi), (vii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv) and (xvi), respectively;

(ii) by inserting after clause (i), the following:

"(ii) policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born and identified with illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure;";

(iii) in clause (iii) (as so redesignated), by inserting "risk and" before "safety";

(iv) by inserting after clause (iii) (as so redesignated), the following:

"(iv) triage procedures for the referral of a child not at risk of imminent harm to a community organization or voluntary preventive service;";

(v) in clause (vii)(II) (as so redesignated), by striking ", having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect" and inserting ", as described in clause (viii)";

(vi) by inserting after clause (vii) (as so redesignated), the following:

"(viii) provisions to require disclosures of confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;";

(vii) in clause (xii) (as so redesignated)—

(I) by inserting "who has received training appropriate to the role, and" after "guardian ad litem,"; and

(II) by inserting "who has received training appropriate to that role" after "advocate";

(viii) in clause (xiv) (as so redesignated), by striking "to be effective not later than 2 years after the date of enactment of this section";

(ix) in clause (xv) (as so redesignated)—

(I) by striking "to be effective not later than 2 years after the date of enactment of this section"; and

(II) by striking "and" at the end;

(x) in clause (xvi) (as so redesignated), by striking "clause (xii)" each place that such appears and inserting "clause (xv)"; and

(xi) by adding at the end the following:

"(xvii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

"(xviii) provisions and procedures for improving the training, retention, and supervision of caseworkers; and

"(xix) not later than 2 years after the date of enactment of the Keeping Children and Families Safe Act of 2002, provisions and procedures for requiring criminal background record checks for prospective foster and adoptive parents and other adult relatives and non-relatives residing in the household;"; and

(C) in paragraph (2), by adding at the end the following flush sentence:

"Nothing in subparagraph (A) shall be construed to limit the State's flexibility to determine State policies relating to public access to court proceedings to determine child abuse and neglect.".

(2) LIMITATION.—Section 106(b)(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)(3)) is amended by striking "With regard to clauses (v) and (vi) of paragraph (2)(A)" and inserting "With regard to clauses (vi) and (vii) of paragraph (2)(A)".

(c) CITIZEN REVIEW PANELS.—Section 106(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(c)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by striking "and procedures" and inserting ", procedures, and practices"; and

(II) by striking "the agencies" and inserting "State and local child protection system agencies"; and

(ii) in clause (iii)(I), by striking "State" and inserting "State and local"; and

(B) by adding at the end the following:

"(C) PUBLIC OUTREACH.—Each panel shall provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its obligations under subparagraph (A)."; and

(2) in paragraph (6)—

(A) by striking "public" and inserting "State and the public"; and

(B) by inserting before the period the following: "and recommendations to improve the child protection services system at the State and local levels. Not later than 6 months after the date on which a report is submitted by the panel to the State, the appropriate State agency shall submit a written response to the State and local child protection systems that describes whether or how the State will incorporate the recommendations of such panel (where appropriate) to make measurable progress in improving the State and local child protective system".

(d) ANNUAL STATE DATA REPORTS.—Section 106(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(d)) is amended by adding at the end the following:

"(13) The annual report containing the summary of the activities of the citizen review panels of the State required by subsection (c)(6).".

SEC. 115. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.

(a) IN GENERAL.—Section 108 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106d) is amended by adding at the end the following:

"(d) GAO STUDY.—Not later than February 1, 2003, the Comptroller General of the United States shall conduct a survey of a wide range of State and local child protection service systems to evaluate and submit to Congress a report concerning—

"(1) the current training (including cross-training in domestic violence or substance abuse) of child protective service workers in the outcomes for children and to analyze and evaluate the effects of caseloads, compensation, and supervision on staff retention and performance;

"(2) the efficiencies and effectiveness of agencies that provide cross-training with court personnel; and

"(3) recommendations to strengthen child protective service effectiveness to improve outcomes for children.

"(e) Sense of Congress.—It is the sense of Congress that the Secretary should encourage all States and public and private agencies or organizations that receive assistance under this title to ensure that children and families with limited English proficiency who participate in programs under this title are provided materials and services under such programs in an appropriate language other than English.

"(f) Annual Report on Certain Programs.—A State that receives funds under section 106(a) shall annually prepare and submit to the Secretary a report describing the manner in which funds provided under this Act, alone or in combination with other Federal funds, were used to address the purposes and achieve the objectives of section 105(a)(4)(B).".

(b) Opportunity Passports.—

(1) In general.—Section 105(a)(4) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(a)(3)) (as so redesignated) is amended by adding at the end the following:

"(B) Opportunity passports and other assistance.—

"(i) Grants.—The Secretary, in collaboration with the John H. Chafee Foster Care Independence Board (under section 477 of the Social Security Act), may make grants to eligible partnerships of public agencies or private nonprofit organizations in not more than 10 States to assist the partnerships in developing and implementing methods of providing long- and short-term financial security for youth in foster care and youth aging out of foster care. A partnership shall be eligible for a grant under this subparagraph if such partnership has a board of directors that includes representatives of youth in foster care and aging out of foster care.

"(ii) Use of funds.—

"(I) In general.—A partnership that receives a grant under clause (i) shall use the funds made available through the grant to carry out 1 or more of the activities described in subclauses (II) or (III).

"(II) Opportunity passports.—The partnership may use the funds to develop and provide, for youth in foster care and aging out of foster care, electronic opportunity passports, electronic cards or secure Internet databases that contain medical records, legal identification (analogous to a Social Security card or birth certificate), and school transcripts, to ensure that the youth can carry or readily access the vital information.

"(III) Individual development accounts.—The partnership may use the funds to establish and provide individual development accounts, to assist youth in foster care and aging out of foster care to obtain postsecondary education, pay for housing, pay for medical care, or operate a business. In establishing and providing such an account, the partnership shall provide a small amount of seed money and shall require the account holder to attend money management training and contribute to the account before receiving access to the account.

"(iii) Accounts maintained after adoption.—An account established for an individual under this subparagraph shall not terminate as a result of the adoption of the individual.

"(iv) Other federal assistance.—The amount of assistance provided to an individual under this subparagraph may be disregarded for purposes of determining the individual's eligibility for, or the amount of, any other Federal or Federally supported assistance, except that the total amount of assistance to an individual under this subparagraph and under other Federal and Federally supported programs shall not exceed the total cost of attendance, as defined in section 472 of the Higher Education Act of 1965, and except that the partnership shall take appropriate steps to prevent duplication of benefits under this and other Federal or Federally supported programs.

"(v) Privacy.—Information concerning an individual that is obtained by a partnership in the implementation of this subparagraph shall remain private and confidential and shall not be disclosed without the informed consent of the individual or otherwise in accordance with applicable Federal, State, or local laws relating to medical privacy. An entity that discloses information in violation of this clause shall be subject to applicable Federal, State or local laws relating to the unlawful disclosure of confidential information.

"(vi) Definition.—In this subparagraph, the term 'youth aging out of foster care' means children who are—

"(I) leaving foster care because such children have attained the maximum age for foster care eligibility in a State; and

"(II) transitioning to independent living, as determined by the Secretary.".

(2) Funding.—Section 112 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) in subsection (a)(1), by inserting "(other than section 105(a)(4)(B))" after "title"; and

(3) by inserting after subsection (a) the following:

"(b) Opportunity Passports.—There are authorized to be appropriated to carry out section 105(a)(4)(B) $10,000,000 for fiscal year 2003 and such sums as may be necessary for each subsequent fiscal year. Of the amount appropriated in each such fiscal year, not less than 75 percent of such amount shall be used as provided for under clause (ii)(II) of such section.".

SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

(a) General Authorization.—Section 112(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(1)) is amended to read as follows:

"(1) General authorization.—There are authorized to be appropriated to carry out this title $120,000,000 for fiscal year 2003 and such sums as may be necessary for each of the fiscal years 2004 through 2007.".

(b) Demonstration Projects.—Section 112(a)(2)(B) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(2)(B)) is amended—

(1) by striking "Secretary make" and inserting "Secretary shall make"; and

(2) by striking "section 106" and inserting "section 104".

Subtitle B—Community-Based Grants for the Prevention of Child Abuse

SEC. 121. PURPOSE AND AUTHORITY.

(a) Purpose.—Section 201(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116(a)(1)) is amended to read as follows:

"(1) to support community-based efforts to develop, operate, expand, enhance, and, where appropriate to network, initiatives aimed at the prevention of child abuse and neglect, and to support networks of coordinated resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect; and".

(b) Authority.—Section 201(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by striking "Statewide" and all that follows through the dash, and inserting "community-based and prevention-focused programs and activities designed to prevent child abuse and neglect (through networks where appropriate) that are accessible, effective, culturally appropriate, and build upon existing strengths that—";

(B) in subparagraph (F), by striking "and" at the end; and

(C) by striking subparagraph (G) and inserting the following:

"(G) demonstrate a commitment to meaningful parent leadership, including among parents of children with disabilities, parents with disabilities, racial and ethnic minorities, and members of other underrepresented or underserved groups; and

"(H) provide referrals to early health and developmental services;"; and

(2) in paragraph (4)—

(A) by inserting "through leveraging of funds" after "maximizing funding";

(B) by striking "a Statewide network of community-based, prevention-focused" and inserting "community-based and prevention-focused"; and

(C) by striking "family resource and support program" and inserting "programs and activities designed to prevent child abuse and neglect (through networks where appropriate)".

(c) Technical Amendment to Title Heading.—Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116) is amended by striking the heading for such title and inserting the following:

"TITLE II—COMMUNITY-BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT".

SEC. 122. ELIGIBILITY.

Section 202 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "a Statewide network of community-based, prevention-focused" and inserting "community-based and prevention-focused"; and

(ii) by striking "family resource and support programs" and all that follows through the semicolon and inserting "programs and activities designed to prevent child abuse and neglect (through networks where appropriate);"

(B) in subparagraph (B), by inserting "that exists to strengthen and support families to prevent child abuse and neglect" after "written authority of the State)";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "a network of community-based family resource and support programs" and inserting "community-based and prevention-focused programs and activities designed to prevent child abuse and neglect (through networks where appropriate)";

(B) in subparagraph (B), by striking "to the network";

(C) in subparagraph (C), by striking "to the network"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "Statewide network of community-based, prevention-focused, family resource and support programs" and inserting "community-based and prevention-focused programs and activities to prevent child abuse and neglect (through networks where appropriate)”;

(B) in subparagraph (B), by striking “Statewide network of community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities to prevent child abuse and neglect (through networks where appropriate)”;

(C) in subparagraph (C), by striking “and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs” and inserting “training, technical assistance, and evaluation assistance, to community-based and prevention-focused programs and activities to prevent child abuse and neglect (through networks where appropriate)”; and

(D) in subparagraph (D), by inserting “, parents with disabilities,” after “children with disabilities”.

SEC. 123. AMOUNT OF GRANT.

Section 203(b)(1)(B) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116b(b)(1)(B)) is amended—

(1) by striking “as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the” and inserting “as the amount of private, State or other non-Federal funds leveraged and directed through the currently designated”; and

(2) by striking “the lead agency” and inserting “the current lead agency”.

SEC. 124. EXISTING GRANTS.

Section 204 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5115c) is repealed.

SEC. 125. APPLICATION.

Section 205 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116d) is amended—

(1) in paragraph (1), by striking “Statewide network of community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities to prevent child abuse and neglect (through networks where appropriate)”;

(2) in paragraph (2)—

(A) by striking “network of community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities to prevent child abuse and neglect (through networks where appropriate)”; and

(B) by striking “, including those funded by programs consolidated under this Act,”;

(3) by striking paragraph (3), and inserting the following:

“(3) a description of the inventory of current unmet needs and current community-based and prevention-focused programs and activities to prevent child abuse and neglect, and other family resource services operating in the State;”;

(4) in paragraph (4), by striking “State's network of community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities designed to prevent child abuse and neglect”;

(5) in paragraph (5), by striking “Statewide network of community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities designed to prevent child abuse and neglect”;

(6) in paragraph (7), by striking “individual community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities designed to prevent child abuse and neglect”;

(7) in paragraph (8), by striking “community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities designed to prevent child abuse and neglect”;

(8) in paragraph (9), by striking “community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities designed to prevent child abuse and neglect”;

(9) in paragraph (10), by inserting “(where appropriate)” after “members”;

(10) in paragraph (11), by striking “prevention-focused, family resource and support program” and inserting “community-based and prevention-focused programs and activities designed to prevent child abuse and neglect”; and

(11) by redesignating paragraph (13) as paragraph (12).

SEC. 126. LOCAL PROGRAM REQUIREMENTS.

Section 206(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116e(a)) is amended—

(1) in the matter preceding paragraph (1), by striking “prevention-focused, family resource and support programs” and inserting “and prevention-focused programs and activities designed to prevent child abuse and neglect”;

(2) in paragraph (3)(B), by inserting “voluntary home visiting and” after “including”; and

(3) by striking paragraph (6) and inserting the following:

“(6) participate with other community-based and prevention-focused programs and activities to prevent child abuse and neglect in the development, operation and expansion of networks where appropriate.”.

SEC. 127. PERFORMANCE MEASURES.

Section 207 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116f) is amended—

(1) in paragraph (1), by striking “a Statewide network of community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities to prevent child abuse and neglect”;

(2) by striking paragraph (3), and inserting the following:

“(3) shall demonstrate that they will have addressed unmet needs identified by the inventory and description of current services required under section 205(3);”;

(3) in paragraph (4),

(A) by inserting “and parents with disabilities,” after “children with disabilities,”;

(B) by striking “evaluation of” the first place it appears and all that follows through “under this title” and inserting “evaluation of community-based and prevention-focused programs and activities to prevent child abuse and neglect, and in the design, operation and evaluation of the networks of such community-based and prevention-focused programs”;

(4) in paragraph (5), by striking “, prevention-focused, family resource and support programs” and inserting “and prevention-focused programs and activities designed to prevent child abuse and neglect”;

(5) in paragraph (6), by striking “Statewide network of community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities designed to prevent child abuse and neglect”; and

(6) in paragraph (8), by striking “community based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities designed to prevent child abuse and neglect”.

SEC. 128. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

Section 208(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116g(3)) is amended by striking “Statewide networks of community-based, prevention-focused, family resource and support programs” and inserting “community-based and prevention-focused programs and activities designed to prevent child abuse and neglect”.

SEC. 129. DEFINITIONS.

(a) CHILDREN WITH DISABILITIES.—Section 209(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116h(1)) is amended by striking “given such term in section 602(a)(2)” and inserting “given the term 'child with a disability' in section 602(3)”.

(b) COMMUNITY-BASED AND PREVENTION-FOCUSED PROGRAMS AND ACTIVITIES TO PREVENT CHILD ABUSE AND NEGLECT.—Section 209 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116h) is amended by striking paragraphs (3) and (4) and inserting the following:

“(3) COMMUNITY-BASED AND PREVENTION-FOCUSED PROGRAMS AND ACTIVITIES TO PREVENT CHILD ABUSE AND NEGLECT.—The term 'community-based and prevention-focused programs and activities to prevent child abuse and neglect' includes organizations such as family resource programs, family support programs, voluntary home visiting programs, respite care programs, parenting education, mutual support programs, and other community programs that provide activities that are designed to prevent or respond to child abuse and neglect.”.

SEC. 130. AUTHORIZATION OF APPROPRIATIONS.

Section 210 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116i) is amended to read as follows:

“SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this title $80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the fiscal years 2004 through 2007.”.

TITLE II—AMENDMENTS TO FAMILY VIOLENCE PREVENTION AND SERVICES ACT

Subtitle A—Reauthorization of Grant Programs

SEC. 201. STATE DEMONSTRATION GRANTS.

(a) UNDERSERVED POPULATIONS.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by striking “underserved populations,” and all that follows and inserting the following: “underserved populations, as defined in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2);”.

(b) REPORT.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following:

“(5) Upon completion of the activities funded by a grant under this title, the State grantee shall submit to the Secretary a report that contains a description of the activities carried out under paragraph (2)(B)(i).”.

SEC. 202. SECRETARIAL RESPONSIBILITIES.

Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10404(a)) is amended—

(1) by striking "an employee" and inserting "1 or more employees";

(2) by striking "of this title." and inserting "of this title, including carrying out evaluation and monitoring under this title."; and

(3) by striking "The individual" and inserting "Any individual".

SEC. 203. EVALUATION.

Section 306 of the Family Violence Prevention and Services Act (42 U.S.C. 10405) is amended in the first sentence by striking "Not later than two years after the date on which funds are obligated under section 303(a) for the first time after the date of the enactment of this title, and every two years thereafter," and inserting "Every 2 years,".

SEC. 204. INFORMATION AND TECHNICAL ASSISTANCE CENTERS.

Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended by striking subsection (g).

SEC. 205. GENERAL AUTHORIZATION OF APPROPRIATIONS.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $175,000,000 for each of fiscal years 2003 through 2007.".

SEC. 206. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

(a) FUNDING.—Section 311(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(g)) is amended to read as follows:

"(g) FUNDING.—Of the amount appropriated pursuant to the authorization of appropriations under section 310(a) for a fiscal year, not less than 10 percent of such amount shall be made available to award grants under this section.".

(b) REGULATIONS.—Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended by striking subsection (h).

SEC. 207. EVALUATION AND MONITORING.

Section 312 of the Family Violence Prevention and Services Act (42 U.S.C. 10412) is amended by adding at the end the following:

"(c) Of the amount appropriated under section 310(a) for each fiscal year, not more than 2 percent shall be used by the Secretary for evaluation, monitoring, and other administrative costs under this title.".

SEC. 208. FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION PROJECT.

Section 313 of the Family Violence Prevention and Services Act (42 U.S.C. 10413) is repealed.

SEC. 209. MODEL STATE LEADERSHIP GRANTS.

Section 315 of the Family Violence Prevention and Services Act (42 U.S.C. 10415) is repealed.

SEC. 210. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) DURATION.—Section 316(b) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(b)) is amended—

(1) by striking "A grant" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), a grant"; and

(2) by adding at the end the following:

"(2) EXTENSION.—The Secretary may extend the duration of a grant under this section beyond the period described in paragraph (1) if, prior to such extension—

"(A) the entity prepares and submits to the Secretary a report that evaluates the effectiveness of the use of amounts received under the grant for the period described in paragraph (1) and contains any other information the Secretary may prescribe; and

"(B) the report and other appropriate criteria indicate that the entity is successfully operating the hotline in accordance with subsection (a).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(f)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(f)(1)) is amended to read as follows:

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2003 through 2007.".

SEC. 211. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

Section 317 of the Family Violence Prevention and Services Act (42 U.S.C. 10417) is repealed.

SEC. 212. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

(a) IN GENERAL.—Section 318(h) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(h)) is amended to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 2003 through 2007.".

(b) REGULATIONS.—Section 318 of the Family Violence Prevention and Services Act (42 U.S.C. 10418) is amended by striking subsection (i).

SEC. 213. TRANSITIONAL HOUSING REAUTHORIZATION.

Section 319(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10419(f)) is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2003 through 2007.".

SEC. 214. TECHNICAL AND CONFORMING AMENDMENTS.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended as follows:

(1) In section 302(1) by striking "demonstrate the effectiveness of assisting" and inserting "assist".

(2) In section 303(a)—

(A) in paragraph (2)—

(i) in subparagraph (C), by striking "State domestic violence coalitions knowledgeable individuals and interested organizations" and inserting "State domestic violence coalitions, knowledgeable individuals, and interested organizations"; and

(ii) in subparagraph (F), by adding "and" at the end; and

(B) by aligning the margins of paragraph (4) with the margins of paragraph (3).

(3) In section 305(b)(2)(A) by striking "provide for research, and into" and inserting "provide for research into".

(4) In section 311(a)—

(A) in paragraph (2)(K), by striking "other criminal justice professionals,;" and inserting "other criminal justice professionals;" and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "family law judges,," and inserting "family law judges,";

(ii) in subparagraph (D), by inserting ", criminal court judges," after "family law judges"; and

(iii) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children" and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children".

Subtitle B—National Domestic Violence Hotline

SEC. 221. NATIONAL DOMESTIC VIOLENCE HOTLINE ENHANCEMENT.

The Family Violence Prevention and Services Act, as amended by section 211, is further amended by inserting after section 316 (42 U.S.C. 10416) the following:

"SEC. 317. NATIONAL DOMESTIC VIOLENCE HOTLINE ENHANCEMENT.

"(a) PURPOSES.—The purposes of this section are as follows:

"(1)(A) To provide a grant to develop a fully secure, continuously updated network of available domestic violence shelters and services across the United States.

"(B) To make the network available to entities consisting of the entity providing the National Domestic Violence Hotline, shelters nationwide, State and local domestic violence agencies, and other domestic violence organizations, to enable such entities to connect a victim of domestic violence to the most safe, appropriate, and convenient shelter, while the victim remains on the telephone line, or in the most efficient way possible.

"(2) To ensure that domestic violence victims get the help the victims need in a single phone call.

"(b) GRANTS AUTHORIZED.—The Secretary shall award a grant to a nonprofit organization to establish and operate, after consultation and collaboration with appropriate officials of the Department of Health and Human Services, an Internet website (referred to in this section as the 'Website') that shall—

"(1) link, to the greatest extent possible, entities consisting of the entity providing the National Domestic Violence Hotline, every domestic violence shelter in the United States, State and local domestic violence agencies, and other domestic violence organizations so that such entities will be able to connect a victim of domestic violence to the most safe, appropriate, and convenient domestic violence shelter, while the victim remains on the telephone line, or in the most efficient way possible;

"(2) be highly secure; and

"(3) contain continuously updated information as to available services and space in domestic violence shelters across the United States, to the maximum extent practicable.

"(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, a nonprofit organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. The application shall—

"(1) demonstrate the experience of the applicant in successfully developing and managing a technology-based network of domestic violence shelters;

"(2) demonstrate a record of success of the applicant in meeting the needs of domestic violence victims and their families; and

"(3) include a certification that the applicant will—

"(A) implement the highest level security system to ensure the confidentiality of the Website;

"(B) establish, within 5 years, a Website that links the entities described in subsection (b)(1);

"(C) consult with the entities described in subsection (b)(1) in developing and implementing the Website and providing Internet connections; and

"(D) otherwise comply with the requirements of this section.

"(d) USE OF GRANT AWARD.—The recipient of a grant award under this section shall—

“(1) collaborate with officials of the Department of Health and Human Services in a manner determined to be appropriate by the Secretary;

“(2) collaborate with the entity providing the National Domestic Violence Hotline in developing and implementing the network;

“(3) ensure that the Website is continuously updated;

“(4) ensure that the Website provides information describing the services of each domestic violence shelter to which the Website is linked, including information for individuals with limited English proficiency and information concerning access to medical care, social services, transportation, services for children, and other relevant services;

“(5) ensure that the Website provides up-to-the-minute information on available bed space in domestic violence shelters across the United States, to the maximum extent practicable;

“(6) provide training to the staff of the Hotline and to staff of the entities described in subsection (b)(1) regarding how to use the Website to best meet the needs of callers;

“(7) provide Internet access to domestic violence shelters in the United States that do not have the appropriate technology for such access, to the maximum extent practicable; and

“(8) ensure that after the third year of the Website project, the recipient will develop a plan to expand the sources of funding for the Website to include funding from public and private entities, although nothing in this paragraph shall preclude a grant recipient under this section from raising funds from other sources at any time during the 5-year grant period.

“(e) Rule of Construction.—Nothing in this Act shall be construed to require any shelter or service provider, whether public or private, to be linked to the website or to provide information to the entity receiving the grant or to the website.

“(f) Duration of Grant.—The term of a grant awarded under this section shall be 5 years.

“(g) Evaluation.—The Secretary shall annually—

“(1) conduct an evaluation of the grant program carried out under this section in a manner that shall be designed to derive information on—

“(A) the confidentiality of the Website;

“(B) the progress of the grant recipient in linking the entities described in subsection (b)(1) to the network described in subsection (c)(1);

“(C) the number of individuals served by the Website;

“(D) any decrease in the number of phone calls necessary to find shelter space for victims of domestic violence; and

“(E) other matters that the Secretary determines to be appropriate to ensure that the grant recipient is achieving the purposes of this section; and

“(2) submit to Congress a report on the results of that evaluation.

“(h) Oversight.—The Secretary shall have access to, monitor, and help ensure the security of the Website.

“(i) Authorization of Appropriations.—

“(1) In general.—There are authorized to be appropriated to carry out this section—

“(A) $5,000,000 for fiscal year 2003; and

“(B) such sums as may be necessary for each of fiscal years 2004 through 2007.

“(2) Administrative costs.—Of the amount made available to carry out this section for each fiscal year the Secretary may use not more than 2 percent for administrative costs associated with the grant program carried out under this section, of which not more than 5 percent shall be used to assist the entity providing the National Domestic Violence Hotline to participate in the establishment of the Website.”.

Subtitle C—Children Exposed to Domestic Violence Program

SEC. 231. PURPOSE.

It is the purpose of this subtitle to reduce the impact of exposure to domestic violence in the lives of children and youth.

SEC. 232. SERVICES FOR CHILDREN EXPOSED TO DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following:

“SEC. 320. SERVICES FOR CHILDREN EXPOSED TO DOMESTIC VIOLENCE.

“(a) Grants Authorized.—The Secretary may award grants on a competitive basis to eligible entities for the purposes and in the manner described in paragraphs (1), (2), and (3) of section (d) for the benefit of children exposed to domestic violence.

“(b) Eligibility.—To be eligible to receive a grant under this section, an entity shall, as part of the application of the entity submitted under paragraph (1), (2), or (3) of subsection (d), describe the policies and procedures that entity has or will adopt to—

“(1) enhance or ensure the safety and security of a battered parent and, as a result, the child involved;

“(2) ensure that all services under this section are provided in a developmentally, linguistically, and culturally competent manner; and

“(3) ensure the confidentiality of child and adult victims of domestic violence in a manner that is consistent with applicable Federal and State law, including exempting domestic violence victim service providers from requirements to share confidential information about families receiving services except as required by law or with the informed, written consent of the adult victim being served.

“(c) Grant Awards and Distribution.—

“(1) Grant awards.—The Secretary shall award grants under this section—

“(A) for periods of not more than 3 fiscal years; and

“(B) in amounts that are not less than $50,000 per fiscal year and not more than $300,000 per fiscal year.

“(2) Distribution.—In awarding grants under this section, the Secretary shall—

“(A) ensure a reasonable geographical distribution among grantees in rural, urban, and suburban areas throughout the United States; and

“(B) consider the needs of underserved populations, as defined in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

“(d) Use of Funds.—

“(1) Direct services for children exposed to domestic violence.—

“(A) In general.—An entity shall use amounts provided under a grant awarded for purposes of this paragraph to design or replicate, and implement, a program or provide services (in accordance with subparagraph (B)) using domestic violence intervention models to respond to the needs of children who—

“(i) are exposed to domestic violence; and

“(ii) have a parent or caregiver who is a victim of domestic violence and who is receiving services from such entity.

“(B) Program or services.—The program or services described in subparagraph (A)—

“(i) shall be a new program or new services, or a new component (that is not offered by the entity on the date on which the entity submitted an application for the grant) of an existing program or services;

“(ii) shall provide direct counseling or appropriate services or advocacy for children who have been exposed to domestic violence;

“(iii) may include early childhood and mental health services;

“(iv) may provide services to assist in legal advocacy efforts on behalf of children with respect to issues related directly to services the children are receiving from the program or services described in subparagraph (A);

“(v) may include respite care, supervised visitation, and specialized services for children; and

“(vi) may provide additional services and resources for children including child care, transportation, educational support, respite care, supervised visitation, and access to specialized services for children, so long as the grantee does not use more than 25 percent of the amounts made available through the grant to enter into a contract with another organization to provide such additional services and resources.

“(C) Grantee requirements.—

“(i) Application.—With respect to grants for the use of funds under this paragraph, an eligible entity (as described in clause (ii) and subsection (b)) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the intended uses of the grant funds consistent with subparagraphs (A) and (B).

“(ii) Eligibility.—To be eligible to receive a grant for the use of funds under this paragraph, an entity shall meet the requirements of section 303(a)(2)(A) or section 303(b)(1). Eligible entities may enter into partnerships with other agencies, organizations, or tribal entities to enhance the capacity of such entities to deliver effective services to children exposed to domestic violence.

“(2) Grants for training and collaboration among child welfare agencies, domestic violence victim service providers, courts, law enforcement, and other entities.—

“(A) In general.—An entity shall use amounts provided under a grant awarded for purposes of this paragraph to carry out a program or provide services to develop collaborative responses and provide cross-training to enhance community responses to cases where child abuse and neglect and domestic violence intersect.

“(B) Program or services.—The program or services described in subparagraph (A) shall—

“(i) encourage cross training, education, and collaboration among child welfare agencies, domestic violence victim service providers, and (as applicable) courts (including family, criminal, juvenile courts, or tribal courts), law enforcement agencies, and other entities, to identify, assess, and respond appropriately to—

“(I) domestic violence in homes where children are present and may be exposed to the violence;

“(II) domestic violence in child protection cases; and

“(III) the needs of both child and adult victims of such violence;

“(ii) establish and implement policies, procedures, programs, and practices for child welfare agencies, domestic violence victim service providers, and (as applicable) courts (including family, criminal, juvenile, or tribal courts), law enforcement agencies, and other entities, that are consistent with the principles of protecting and increasing the safety and well being of children by—

“(I) tending to their immediate and longer term needs for treatment and support;

“(II) increasing the safety, autonomy, capacity, and financial security of non-abusing parents, including developing service plans that provide resources and support to non-abusing parents;

“(III) protecting the safety, security, and well-being of children by preventing their unnecessary removal from a non-abusing parent, or, in cases where removal of the child is necessary to protect the child's safety, taking the necessary steps to provide appropriate services to the child and the non-abusing parent to promote the safe and appropriately prompt reunification of the child with the non-abusing parent;

“(IV) recognizing the relationship between child abuse or neglect (including child sexual abuse) and domestic violence in a family, as well as the impact of and danger posed by the perpetrators' behavior on both child and adult victims; and

“(V) holding adult perpetrators of domestic violence, not child and adult victims of abuse or neglect, accountable for stopping the perpetrators' abusive behaviors;

“(iii) increase cooperation and enhance linkages between child welfare agencies, domestic violence victim service providers, and (as applicable) courts (including family, criminal, juvenile courts, or tribal courts), law enforcement agencies, and other entities to provide more comprehensive community-based services (including health, mental health, social service, housing, and neighborhood resources) to protect and to serve both child and adult victims;

“(iv) identify, assess, and respond appropriately to domestic violence in child protection cases; and

“(v) provide appropriate referrals to community-based programs and resources, such as health and mental health services, shelter and housing assistance for adult victims and their children, legal assistance and advocacy for adult victims, assistance for parents to help their children cope with the impact of exposure to domestic violence, appropriate intervention and treatment for adult perpetrators of domestic violence whose children are the subjects of child protection cases, and other necessary supportive services.

“(C) GRANTEE REQUIREMENTS.—

“(i) APPLICATION.—With respect to grants for the use of funds under this paragraph, an eligible entity (as described in clause (ii) and subsection (b)) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

“(I) a description of the intended uses of the grant funds consistent with subparagraphs (A) and (B);

“(II) an outline and description of how training and other activities will be undertaken through the grant to promote collaboration;

“(III) an identification of the members of the partnership that will be responsible for carrying out the initiatives for which the partnership seeks the grant (including a description of roles of subcontractors and documentation of appropriate compensation of all partners, where relevant);

“(IV) documentation of any history of collaboration between child welfare agencies, domestic violence victim service providers, and (as applicable) courts (including family, criminal, juvenile courts, or tribal courts), law enforcement agencies, and other entities that have been involved in the development of the application; and

“(V) assurances that training and other activities described in subparagraph (B) will be provided to all levels of staff, will address appropriate practices for investigation, follow-up, screening, intake, assessment, and will provide services addressing the safety needs of child and adult victims in cases where child abuse and neglect and domestic violence intersect.

“(ii) ELIGIBILITY.—To be eligible to receive a grant for the use of funds under this paragraph, an entity shall be a partnership that—

“(I) shall include a State child welfare agency, a tribal organization that serves as a child welfare agency, or a local child welfare agency;

“(II) shall include a domestic violence victim service provider, such as a domestic violence victim service program, tribal domestic violence victim service program, or coalition or other private nonprofit organization carrying out a community-based domestic violence program that has a documented history of effective work concerning domestic violence and the impact that exposure to domestic violence has on children;

“(III) may include a State, tribal, or local court (including family, criminal, juvenile or tribal courts);

“(IV) may include a State or local law enforcement agency with responsibility for responding to reports of domestic violence and child abuse and neglect; and

“(V) may include any other such agencies or private nonprofit organizations with the capacity to provide effective help to the child and adult victims served by the partnership.

“(D) PRIORITY.—In awarding grants under this paragraph, the Secretary shall give priority to partnerships that include State or local courts (including family, criminal, juvenile, or tribal courts) and law enforcement agencies.

“(3) MULTISYSTEM INTERVENTIONS FOR CHILDREN EXPOSED TO DOMESTIC VIOLENCE.—

“(A) IN GENERAL.—An entity shall use amounts provided under a grant awarded for purposes of this paragraph to carry out a program or provide services to develop and implement multisystem intervention models to respond to the needs of children exposed to domestic violence.

“(B) PROGRAMS OR SERVICES.—The programs or services described in subparagraph (A) shall—

“(i) design and implement protocols and systems to identify and appropriately respond to the needs of children exposed to domestic violence who are participating in programs administered by the grantee;

“(ii) establish guidelines to evaluate the mental health needs of the children and make appropriate intervention recommendations;

“(iii) include the development or replication of an effective mental health treatment model to meet the needs of children for whom such treatment has been identified as appropriate;

“(iv) establish institutionalized procedures to enhance or ensure the safety and security of adult victims of domestic violence and, as a result, their children;

“(v) provide direct counseling or appropriate services or advocacy for adult victims of domestic violence and their children who have been exposed to domestic violence;

“(vi) establish or implement policies and protocols for maintaining the safety and confidentiality of the adult victims and their children;

“(vii) provide community outreach and training to enhance the capacity of professionals who work with children to appropriately identify and respond to the mental health needs of children who have been exposed to domestic violence;

“(viii) establish procedures for documenting interventions used for each child and family;

“(ix) establish plans to perform a systematic outcome evaluation to evaluate the effectiveness of the interventions;

“(x) ensure that all services are provided in a culturally competent manner; and

“(xi) provide appropriate remuneration to entities described in paragraph (2)(A) who participate in the partnership.

“(C) GRANTEE REQUIREMENTS.—

“(i) APPLICATION.—With respect to grants for the use of funds under this paragraph, an eligible entity (as described in clause (ii) and subsection (b)) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

“(I) a description of the intended uses of the grant funds consistent with subparagraphs (A) and (B);

“(II) an outline of how multisystem interventions will be designed and implemented by the applicant, including submitting signed memoranda of understanding executed by the any partners of the applicant, describing the roles of each participating entity and the amount of remuneration each participating entity will receive;

“(III) a demonstration, to ensure that children of all ages utilizing services provided under the grant will have access to appropriate mental health services, of—

“(aa) the applicant's recognized history of providing advocacy, health care, child mental health, or crisis services for children in domestic violence cases; or

“(bb) the applicant's partnerships with providers having expertise in child mental health services; and

“(IV) a memorandum of understanding with the appropriate State or tribal coalition against domestic violence, to ensure coordination of and dissemination of information about activities to be carried out under the grant.

“(ii) ELIGIBILITY.—To be eligible to receive a grant for the use of funds under this paragraph, an entity shall be a collaborative partnership that includes—

“(I) a local private nonprofit organization that—

“(aa) carry out a domestic violence victim service program that provides shelter or related assistance; or

“(bb) has expertise in the field of providing services to victims of domestic violence and an understanding of the effects of exposure to domestic violence on children; and

“(II) other partners, such as courts (including family, criminal, juvenile, or tribal courts), schools, social service providers, health care providers, law enforcement, early childhood agencies, entities carrying out Head Start programs under the Head Start Act (42 U.S.C.9831 et seq.), or entities carrying out child protection, financial assistance, job training, housing, or children's mental health programs.

“(e) ANNUAL REPORTS.—An entity receiving a grant under this section shall report to the Secretary annually, at a minimum—

“(1) what services and, where appropriate, what collaborative efforts were provided with funds under this section;

"(2) the extent to which underserved populations were served with funds received under this section; and

"(3) how children exposed to domestic violence and, where appropriate, adult victims of domestic violence benefited from such the activities conducted under the grant.

"(f) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to carry out this section, $20,000,000 for each of fiscal years 2003 through 2007. Amounts appropriated under this subsection shall remain available until expended.

"(2) Allocation of amounts.—Of the amount appropriated to carry out this section for each fiscal year, the Secretary shall—

"(A) make available not less than 33 percent of such amount for each of the programs described in subsection (d)(1);

"(B) make available not more than 3 percent of such amount for evaluation, monitoring, and other administrative costs associated with conducting activities under this section; and

"(C) make available not less than 10 percent of such amount for Indian tribes.".

TITLE III—ADOPTION OPPORTUNITIES

SEC. 301. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) through (4) and inserting the following:

"(1) the number of children in substitute care has increased by nearly 24 percent since 1994, as our Nation's foster care population included more than 565,000 as of September of 2001;

"(2) children entering foster care have complex problems that require intensive services, with many such children having special needs because they are born to mothers who did not receive prenatal care, are born with life threatening conditions or disabilities, are born addicted to alcohol or other drugs, or have been exposed to infection with the etiologic agent for the human immunodeficiency virus;

"(3) each year, thousands of children are in need of placement in permanent, adoptive homes;";

(B) by striking paragraph (6);

(C) by striking paragraph (7)(A) and inserting the following:

"(7)(A) currently, there are 131,000 children waiting for adoption;"; and

(D) by redesignating paragraphs (5), (7), (8), (9), and (10) as paragraphs (4), (5), (6), (7), and (8) respectively; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ", including geographic barriers," after "barriers"; and

(B) in paragraph (2), by striking "a national" and inserting "an Internet-based national".

SEC. 302. INFORMATION AND SERVICES.

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 203. INFORMATION AND SERVICES.";

(2) by striking "Sec. 203. (a) The Secretary" and inserting the following:

"(a) In General.—The Secretary";

(3) in subsection (b)—

(A) by inserting "Required Activities.—" after "(b)";

(B) in paragraph (1), by striking "nonprofit" each place that such appears;

(C) in paragraph (2), by striking "nonprofit";

(D) in paragraph (3), by striking "nonprofit";

(E) in paragraph (4), by striking "nonprofit";

(F) in paragraph (6), by striking "study the nature, scope, and effects of" and insert "support";

(G) in paragraph (7), by striking "nonprofit";

(H) in paragraph (9)—

(i) by striking "nonprofit"; and

(ii) by striking "and" at the end;

(I) in paragraph (10)—

(i) by striking "nonprofit"; each place that such appears; and

(ii) by striking the period at the end and inserting "; and"; and

(J) by adding at the end the following:

"(11) provide (directly or by grant to or contract with States, local government entities, or public or private licensed child welfare or adoption agencies) for the implementation of programs that are intended to increase the number of older children (who are in foster care and with the goal of adoption) placed in adoptive families, with a special emphasis on child-specific recruitment strategies, including—

"(A) outreach, public education, or media campaigns to inform the public of the needs and numbers of older youth available for adoption;

"(B) training of personnel in the special needs of older youth and the successful strategies of child-focused, child-specific recruitment efforts; and

"(C) recruitment of prospective families for such children.";

(4) in subsection (c)—

(A) by striking "(c)(1) The Secretary" and inserting the following:

"(c) Services for Families Adopting Special Needs Children.—

"(1) In general.—The Secretary";

(B) by striking "(2) Services" and inserting the following:

"(2) Services.—Services"; and

(C) in paragraph (2)—

(i) by realigning the margins of subparagraphs (A) through (G) accordingly;

(ii) in subparagraph (F), by striking "and" at the end;

(iii) in subparagraph (G), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

"(H) day treatment; and

"(I) respite care."; and

(D) by striking "nonprofit"; each place that such appears;

(5) in subsection (d)—

(A) by striking "(d)(1) The Secretary" and inserting the following:

"(d) Improving Placement Rate of Children in Foster Care.—

"(1) In general.—The Secretary";

(B) by striking "(2)(A) Each State" and inserting the following:

"(2) Applications; technical and other assistance.—

"(A) Applications.—Each State";

(C) by striking "(B) The Secretary" and inserting the following:

"(B) Technical and other assistance.—The Secretary";

(D) in paragraph (2)(B)—

(i) by realigning the margins of clauses (i) and (ii) accordingly; and

(ii) by striking "nonprofit";

(E) by striking "(3)(A) Payments" and inserting the following:

"(3) Payments.—

"(A) In general.—Payments"; and

(F) by striking "(B) Any payment" and inserting the following:

"(B) Reversion of unused funds.—Any payment"; and

(6) by adding at the end the following:

"(e) Elimination of Barriers to Adoptions Across Jurisdictional Boundaries.—

"(1) In general.—The Secretary shall award grants to, or enter into contracts with, States, local government entities, public or private child welfare or adoption agencies, adoption exchanges, or adoption family groups to carry out initiatives to improve efforts to eliminate barriers to placing children for adoption across jurisdictional boundaries.

"(2) Services to supplement not supplant.—Services provided under grants made under this subsection shall supplement, not supplant, services provided using any other funds made available for the same general purposes including—

"(A) developing a uniform homestudy standard and protocol for acceptance of homestudies between States and jurisdictions;

"(B) developing models of financing cross-jurisdictional placements;

"(C) expanding the capacity of all adoption exchanges to serve increasing numbers of children;

"(D) developing training materials and training social workers on preparing and moving children across State lines; and

"(E) developing and supporting initiative models for networking among agencies, adoption exchanges, and parent support groups across jurisdictional boundaries.".

SEC. 303. STUDY OF ADOPTION PLACEMENTS.

Section 204 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5114) is amended—

(1) by striking "of this Act" and inserting "of the Keeping Children and Families Safe Act of 2002";

(2) by striking "to determine the nature" and inserting "to determine—

"(1) the nature";

(3) by striking "not licensed" and all that follows through the period and inserting "for profit;"; and

(4) by adding at the end the following:

"(2) how interstate placements are being financed across State lines;

"(3) recommendations on best practice models for both interstate and intrastate adoptions; and

"(4) how State policies in defining special needs children differentiate or group similar categories of children.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 205(a) of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115(a)) is amended to read as follows:

"There are authorized to be appropriated $40,000,000 for fiscal year 2003 and such sums as may be necessary for fiscal years 2004 through 2007 to carry out programs and activities authorized under this subtitle.".

SEC. 305. ADOPTION ACTION PLAN.

(a) Findings.—Congress finds that—

(1) the Adoption and Safe Families Act of 1997 mandated that "the State shall not delay or deny the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child";

(2)(A) the policy and legal focus on expanding the pool of adoptive families for waiting children in foster care, as expressed by the Adoption and Safe Families Act of 1997, has brought attention to the need to improve interjurisdictional practice whether across State or county lines; and

(B) case workers, agency administrators, and State policy makers in many cases have resisted the use of interjurisdictional placements for children in their caseloads, citing practice, policy, legal, bureaucratic, and fiscal concerns;

(3) the National Conference of State Legislators has noted that among the many challenges 'interstate adoptions of special needs children has been complicated by a lack of familiarity with the Interstate Compact on the Placement of Children on the part of caseworkers and judges, the absence of a standard protocol for pre-placement home studies, delays in the Interstate Compact on the Placement of Children process, and similar issues'; and

(4) in its November 1999 report to Congress, the General Accounting Office found that public child welfare agencies have done little to improve the interjurisdictional adoption process.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services in consultation with the General Accounting Office shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Workforce of the House of Representatives a report that contains recommendations for an action plan to facilitate the interjurisdictional adoption of foster children.

TITLE IV—ABANDONED INFANTS ASSISTANCE

SEC. 401. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2)—

(A) by inserting "studies indicate that a number of factors contribute to" before "the inability of";

(B) by inserting "some" after "inability of";

(C) by striking "who abuse drugs"; and

(D) by striking "care for such infants" and inserting "care for their infants";

(3) by amending paragraph (5) to read as follows:

"(5) appropriate training is needed for personnel working with infants and young children with life-threatening conditions and other special needs, including those who are infected with the human immunodeficiency virus (commonly known as 'HIV'), those who have acquired immune deficiency syndrome (commonly know as 'AIDS'), and those who have been exposed to dangerous drugs;";

(4) by striking paragraphs (6) and (7);

(5) in paragraph (8), by inserting "by parents abusing drugs," after "deficiency syndrome,";

(6) in paragraph (9), by striking "comprehensive services" and all that follows through the semicolon at the end and inserting "comprehensive support services for such infants and young children and their families and services to prevent the abandonment of such infants and young children, including foster care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services; and";

(7) by redesignating paragraphs (2), (3), (4), (5), (8), (9), (10), and (11) as paragraphs (1) through (8), respectively.

(7) by adding at the end the following:

"(9) Private, Federal, State, and local resources should be coordinated to establish and maintain such services and to ensure the optimal use of all such resources.".

SEC. 402. ESTABLISHMENT OF LOCAL PROGRAMS.

Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 101. ESTABLISHMENT OF LOCAL PROGRAMS."; and

(2) by striking subsection (b) and inserting the following:

"(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to give priority to abandoned infants and young children who—

"(1) are infected with, or have been perinatally exposed to, the human immunodeficiency virus, or have a life-threatening illness or other special medical need; or

"(2) have been perinatally exposed to a dangerous drug.".

SEC. 403. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.

Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"SEC. 102. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.

"(a) EVALUATIONS OF LOCAL PROGRAMS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as a result of such projects.

"(b) STUDY AND REPORT ON NUMBER OF ABANDONED INFANTS AND YOUNG CHILDREN.—

"(1) IN GENERAL.—The Secretary shall conduct a study for the purpose of determining—

"(A) an estimate of the annual number of infants and young children relinquished, abandoned, or found deceased in the United States and the number of such infants and young children who are infants and young children described in section 223(b);

"(B) an estimate of the annual number of infants and young children who are victims of homicide;

"(C) characteristics and demographics of parents who have abandoned an infant within 1 year of the infant's birth; and

"(D) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for abandoned infants and young children.

"(2) DEADLINE.—Not later than 36 months after the date of the enactment of the Keeping Children and Families Safe Act of 2002, the Secretary shall complete the study required under paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

"(c) EVALUATION.—The Secretary shall evaluate and report on effective methods of intervening before the abandonment of an infant or young child so as to prevent such abandonments, and effective methods for responding to the needs of abandoned infants and young children.".

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—For the purpose of carrying out this Act, there are authorized to be appropriated $45,000,000 for fiscal year 2003 and such sums as may be necessary for fiscal years 2004 through 2007.

"(2) LIMITATION.—Not more than 5 percent of the amounts appropriated under paragraph (1) for any fiscal year may be obligated for carrying out section 224(a).";

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in paragraph (1), by inserting "AUTHORIZATION.—" after "(1)"; and

(B) in paragraph (2)—

(i) by inserting "LIMITATION.—" after "(2)"; and

(ii) by striking "fiscal year 1991." and inserting "fiscal year 2002."; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 405. DEFINITIONS

Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

"SEC. 103. DEFINITIONS.

"For purposes of this Act:

"(1) The terms 'abandoned' and 'abandonment', with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

"(2) The term 'acquired immune deficiency syndrome' includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

"(3) The term 'dangerous drug' means a controlled substance, as defined in section 102 of the Controlled Substances Act.

"(4) The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this subtitle.

"(5) The term 'Secretary' means the Secretary of Health and Human Services.".

Mr. KENNEDY. Mr. President, I welcome this opportunity to join my colleagues in introducing the Keeping Children and Families Safe Act of 2002.

This bipartisan bill authorizes funding and programs that support more than 870,000 children in this country who are victims of child abuse and neglect each year. It is essential to do all we can to see that these very vulnerable children are protected and feel safe, in spite of the abuse and neglect they have suffered.

Every year in America, local child protective service agencies respond to approximately 3 million reports of child abuse or neglect. According to Prevent Child Abuse America, this problem costs the U.S. over $9 billion a year in direct and indirect costs. We owe it to the Nation's children to provide more effective prevention and treatment services.

Often these children are caught up in a system that fails to protect them today. Nearly half of the children in substantiated cases of abuse receive no followup services. We can and must do better. Our bill will provide funding for grants to community-based and prevention-focused programs and activities to prevent child abuse and neglect.

In 2000, approximately 1,100 children died of abuse and neglect. Eight-five percent of these children were younger than 6. We know that early identification of risk and timely intervention can reduce abuse. One major prevention strategy shown to work is good parent education.

Effective action also means preparing those who investigate allegations of child abuse to assess the risk and ensure appropriate followup, so that children receive the medical and emotional treatment they need.

Included in this bill is Senator WELLSTONE's Children Who Witness Violence Act. This legislation is long overdue and very important in confronting the impact of domestic violence on children. It addresses the issue form multiple perspectives by supporting the development of intervention program for children who witness domestic violence. It takes advantage of local resources such as counselors, courts, schools, health care providers and battered women's programs to address the needs of children in violent homes.

Witnessing domestic violence directly affects school achievement. These children have higher levels of impaired concentration and poor school attendance. They are often labeled as underachievers and have difficulties in cognitive and academic functioning.

Research demonstrates that the effects of abuse can continue long after the bruises fade. We need to do much more to prevent abuse and help abused children find a way out of violence. I urge my colleagues to support this important legislation.

By Mr. HARKIN (for himself, Mr. BROWNBACK, Mr. KENNEDY, and Mr. SPECTER):

S. 3000. A bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes; to the Committee on Health, Education, Labor and Pensions.

Mr. HARKIN. Mr. President, I am pleased to be joined by Senators BROWNBACK, KENNEDY, and SPECTER today in introducing legislation that will provide hope to Americans living with paralysis.

Recent news reports about the medical miracle Christopher Reeve has experienced this past year are an inspiration for every American living with paralysis as a result of a spinal cord injury. When it was announced that, for the firs time since his accident in 1995, Chris was able to wiggle his fingers and toes, there was hope for some of the two million Americans living with paralysis.

Today, through the Christopher Reeve Paralysis Act of 2002, we seek to achieve two primary goals. First to further advance the science needed to help those living with paralysis take their next step. And second, to time build quality of life programs throughout the country that will further advance full participation, independent living, self-sufficiency and equality of opportunity for individuals with paralysis and other physical disabilities.

Chris' recovery and recent scientific evidence show that there is hope for those living with paralysis . At research centers in the United States, Europe and Japan, new techniques of rigorous exercise have helped an estimated 500 persons with paraplegic with limited sensations in their lower bodies walk for short distances, unassisted or using walkers.

While the results of these new methods are quite miraculous, the limits of what physical exercise can do for patients remains grossly understudied. While each person and each injury in unique, and some people recover spontaneously, an estimated 200,000 Americans are living with spinal cord injuries that have not improved. Which therapy or combination of therapies will work for each person is unknown. Today 2 million Americans are living with paralysis, including spinal cord injury, stroke, cerebral palsy, multiple sclerosis, ALS and spina bifida. We need research to see how these new interventions work on the entire population on individuals living with paralysis.

What we do know is the ordinary repetitive motions used in most rehabilitation centers, like squeezing a ball, are almost certainly not enough to appropriately address neurological injuries.

Patients are usually told that after one year, two at the most, they will never make further progress in their abilities to move or feel sensation. Yet seven years after his accident, through a rigorous exercise plan, Chris Reeve is finally seeking results.

Due to efforts led by the National Institutes of Health and the Christopher Reeve Paralysis Foundation, our nation stands on the brink of amazing breakthroughs in science for those living with paralysis. However, the biotech and pharmaceutical industries have not invested in paralysis research because they believe the market does not support the private investment. There is an urgent need for the federal government to further step up its commitment in this area. The Christopher Reeve Paralysis Act would do just that.

By establishing Paralysis Research Consortia at the National Institute on Neurological Disorders and Stoke, we can substantially increase our ability to capitalize on research advances in paralysis. These consortia would be formed to explore unique scientific expertise and focus across the existing research centers at NINDS in an effort to further advance treatments, therapies and developments on one or more forms of paralysis that result from central nervous system trauma and stroke.

Additional breakthrough are under way in rehabilitation research on paralysis. Federal funding for rehabilitation research at the National Center for Medical Rehabilitation Research at NIH is showing real potential to improve functional mobility; prevent secondary complications like bladder and urinary tract infections and ulcers; and to develop improved assistive technology. These rehabilitation interventions have the potential to greatly reduce pain and suffering for those suffering from neurological disorders and str9oke and, at the same time, save millions in health care expenditures.

Over the past 20 years, overall days in the hospital and rehabilitation centers for those living with paralysis have been cut in half. Those living with paralysis face astronomical medical costs, and our best estimates tell us that only one-third of those individuals remain employed after paralysis. At least one-third of those living with paralysis have income of $15,000 or less.

To date, there are no State-based programs at CDC that address paralysis and other physical disability with the goal of improving health outcomes and prevent secondary complications. This bill will, for the first time, ensure that individuals living with paralysis get the information they need; have access to public health programs; and support in their communities to navigate services. Ultimately these programs will help remove the barriers to community participation and help improve quality of life. The bill also establishes hospital-based registries on paralysis to collect needed data on the true numbers of individuals with these conditions, and it invests in population-based research to see how individuals are faring.

We are on the brink of major breakthroughs for individuals impacted by neurological disorders and stroke that result in paralysis. This bill will ensure that the federal government does it part to help more than 2 million Americans.

When Christopher Reeve was injured, he put a face on an issue that has been neglected for too long. Since then, his tireless efforts to walk again, coupled with his passion and commitment to improve quality of life for others living with paralysis, make him a role model for everyone.

It is a pleasure, and an honor to lead a bipartisan group of Senators, along with the support of number of disability groups, including the American Stroke Association, the American Heart Association, the Christopher

Reeve Paralysis Foundation, the National Family Caregivers Association, the National Spinal Cord Injury Association, Paralyzed Veterans of America and Eastern Paralyzed Veterans, in introducing this bill.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 146—SUPPORTING THE GOALS AND IDEAS OF NATIONAL TAKE YOUR KIDS TO VOTE DAY

Mrs. LINCOLN submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 146

Whereas voting is a civic duty and critical to democracy;

Whereas voting participation rates in the United States for all age groups have fallen dramatically since 1972;

Whereas voting participation rates are lower among young voters;

Whereas only 32 percent of individuals 18 through 24 years of age voted in the last Presidential election;

Whereas large numbers of young people feel disconnected from government;

Whereas many younger adults report that they do not know how to vote;

Whereas, according to a 2002 study by the Council for Excellence in Government, children who go to the polls with their parents are more likely to go to the polls and vote as adults than their peers;

Whereas parents should talk to their children about the importance of voting;

Whereas a number of businesses and organizations have designated November 5, 2002, as National Take Your Kids to Vote Day in order to encourage people to vote; and

Whereas many Americans will go to the polls on November 5, 2002, to elect a new Congress: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideas of National Take Your Kids to Vote Day;

(2) encourages all voting eligible parents with children who are younger than 18 years of age to talk to their children about the importance of voting and, if possible, take their children to the polls; and

(3) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to promote voting as a family tradition.

SENATE CONCURRENT RESOLUTION 147—ENCOURAGING IMPROVED COOPERATION WITH RUSSIA ON ENERGY DEVELOPMENT ISSUES

Mr. BURNS submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 147

Whereas Russia, with its vast oil and gas resources, a growing and diverse number of private sector companies, and a renewed commitment to investment by international energy companies, is in a unique position to provide stability to an often volatile and insecure world energy market;

Whereas on June 6, 2002, Russia was granted market economy status by the United States;

Whereas the granting of market economy status is mutually beneficial to both Russia and the United States, and both governments should continue to pursue other measures to promote long-term engagement and integration of Russia into the world economy;

Whereas mutual efforts by Russia and the United States to bring greater stability to world energy markets and to sustain economic growth in both nations is a key way to ensure further engagement and integration of Russia with the world economy;

Whereas, recognizing Russia's progress on religious freedom and human rights, and its broad range of mechanisms to address remaining concerns, the President has requested that Congress terminate application to Russia of chapter 1 of title IV of the Trade Act of 1974 (commonly referred to as "Jackson-Vanik") and authorize the extension of normal trade relations to Russia; and

Whereas both Russia and the United States can play a critical role in supporting regional energy development and energy transportation corridor projects: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) encourages the Governments of Russia and the United States—

(A) to engage in a dialogue on energy development; and

(B) to consult widely with the governments of other independent states of the former Soviet Union and with other interested parties to promote exchanges on energy development and to seek support from the broadest cross section of business and civil societies;

(2) is committed to terminating the application to Russia of chapter 1 of title IV of the Trade Act of 1974 (commonly referred to as "Jackson-Vanik") and to authorizing the extension of normal trade relations to Russia;

(3) supports the actions of the Russian Duma designed to strengthen international investment in the Russian energy sector, such as—

(A) actions to permit the full implementation of energy projects on Sakhalin Island and in the Timan-Pechora region, all of which offer unique opportunities to increase the petroleum supplies of the United States and the world; and

(B) actions to encourage a regulatory and investment framework in Russia to expand Russia's oil and gas export capacities;

(4) supports the accession of Russia to the World Trade Organization; and

(5) supports continued high level and sustained exchanges on energy development between the Governments of Russia and the United States and between businesses in the two countries.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4699. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4700. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4701. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4702. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4703. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4704. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4705. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4706. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4707. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4708. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4709. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4710. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. ALLEN, Mr. DOMENICI, Mrs. HUTCHISON, Mr. KOHL, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4711. Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4712. Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4713. Mr. JEFFORDS (for himself, Mr. SMITH, of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4714. Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4715. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4716. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4717. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4718. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4719. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4720. Mr. EDWARDS (for himself, Mr. SCHUMER, and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4721. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4722. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4723. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4724. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4725. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4726. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4727. Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4728. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4729. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2995, to improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes; which was referred to the Committee on Agriculture, Nutrition, and Forestry.

SA 4730. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4731. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA. 4699. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXCLUSION OF UNITED STATES PERSONS FROM DEFINITION OF FOREIGN POWER IN FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO INTERNATIONAL TERRORISM.

Paragraph (4) of section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a)) is amended to read as follows:

"(4) any person, other than a United States person, or group that is engaged in international terrorism or activities in preparation therefor;".

SA 4700. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, strike line 17 and all that follows through page 112, line 4, and insert the following:

SEC. 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland;

(4) develop a process for receiving meaningful input from State and local government to assist the development of the Strategy and other homeland security activities; and

(5) prepare an annual report, that contains—

(A) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) DESIGNATION.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) DUTIES.—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research, and technical support to assist local efforts at securing the homeland;

(B) provide coordination between the Department and State and local first responders, including—

(i) law enforcement agencies;

(ii) fire and rescue agencies;

(iii) medical providers;

(iv) emergency service providers; and

(v) relief agencies;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

(i) address shared vulnerabilities; and

(ii) identify opportunities to achieve efficiencies through interstate activities .

(d) FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS AND STATE, LOCAL, AND CROSS-JURISDICTIONAL ISSUES.—

(1) IN GENERAL.—There is established an Interagency Committee on First Responders and State, Local, and Cross-jurisdictional Issues (in this section referred to as the "Interagency Committee", that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement;

(iii) fire and rescue operations; and

(iv) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) MEMBERSHIP.—The Interagency Committee shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee.

(3) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) LEADERSHIP.—The members of the Interagency Committee shall select annually a chairperson.

(5) MEETINGS.—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) ADVISORY COUNCIL FOR THE INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an Advisory Council for the Interagency Committee (in this section referred to as the "Advisory Council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee.

(B) DUTIES.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) REPRESENTATION.—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) CHAIRPERSON.—The Advisory Council shall select annually a chairperson from among its members.

(4) COMPENSATION OF MEMBERS.—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) MEETINGS.—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

SA 4701. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 131, between lines 2 and 3, insert the following:

(d) REDUCTION OF AUTHORIZATIONS.—Each amount authorized by subsection (a)(1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized.

SA 4702. Mr. McCCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, line 20, strike "locomotives." and insert "locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes."

SA 4703. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, strike lines 18 through 20.

SA 4704. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security,.and for other purposes; which was ordered to lie on the table; as follows:

On page 130, beginning with line 3, strike through line 2 on page 131.

SA 4705. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(a) INVESTIGATION AND SURVEILLANCE ACTIVITIES.—Section 20105 of title 49, United States Code, is amended—

(1) by striking "Secretary of Transportation" in the first sentence of subsection (a) an inserting "Secretary concerned";

(2) by striking "Secretary" each place it appears (except the first sentence of subsection (a)) and inserting "Secretary concerned";

(3) by striking "Secretary's duties under chapters 203–213 of this title" in subsection (d) and inserting "duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)";

(4) by striking "chapter." in subsection (f) and inserting "chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)"; and

(5) by adding at the end the following new subsection:

"(g) DEFINITIONS.—In this section—

"(1) the term 'safety' includes security; and

"(2) the term 'Secretary concerned' means—

"(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary;' and

"(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.".

(b) REGULATIONS AND ORDERS.—Section 20103(a) of such title is amended by inserting after "1970," the following: "When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.".

(c) NATIONAL UNIFORMITY OF REGULATION.—Sction 20106 of such title is amended—

(1) by inserting "and laws, regulations, and orders related to railroad security" after "safety" in the first sentence;

(2) by inserting "or security" after "safety" each place it appears after the first sentence; and

(3) by striking "Transportation" in the second sentence and inserting "Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters),".

SEC. . HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.

(a) GENERAL REGULATORY AUTHORITY.—Section 5103 of title 49, United States Code, is amended—

(1) by striking "transportation" the first place it appears in subsection (b)(1) and inserting "transportation, including security,";

(2) by striking "aspects" in subsection (b)(1)(B) and inserting "aspects, including security,,"; and

(3) by adding at the end the following:

"(c) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.".

(b) PREEMPTION.—Section 5125 of that title is ame4nded—

(1) by striking "chapter or a regulation prescribed under this chapter" in subsection (a)(1) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issue by the Secretary of Homeland Security";

(2) by striking "chapter or a regulation prescribed under this chapter." in subsection (a)(2) inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security."; and

(3) by striking "chapter or a regulation prescribed under this chapter," in subsection (b)(1) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security,".

SA 4706. Mr. McCain submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, beginning with line 3, strike through line 2 on page 131, and insert the following:

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) Emergency Amtrak Assistance.—

(1) In General.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak—

(A) $375,000,000 for systemwide security upgrades, including the reimbursement of extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment;

(B) $778,000,000 to be used to complete New York tunnel life safety projects and rehabilitate tunnels in Washington, D.C., and Baltimore, Maryland; and

(C) $55,000,000 for the emergency repair, and returning to service, of Amtrak passenger cars and locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes.

(2) Availability of Appropriated Funds.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) Plan Required.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under paragraph (1)—

(A) for implementing systemwide security upgrades, including the emergency repair of passenger cars and locomotives, until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the Secretary of Homeland Security, a plan for such upgrades;

(B) for completing the tunnel life safety and rehabilitation projects until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, an engineering and financial plan for such projects; and

(C) Amtrak has submitted to the Secretary of Transportation such additional information as the Secretary may require in order to ensure full accountability for the obligation or expenditure of amounts made available to Amtrak for the purpose for which the funds are provided.

(4) Financial Contribution From Other Tunnel Users.—The Secretary of Transportation shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in paragraph (3)(B)—

(A) consider the extent to which rail carriers other than Amtrak use the tunnels;

(B) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(C) obtain financial contributions or commitments from such other rail carriers if feasible.

(5) 50-Percent to Be Spent Outside the Northeast Corridor.—The Secretary of Transportation shall ensure that up to 50 percent of the amounts appropriated pursuant to paragraph (1)(A) is obligated or expended for projects outside the Northeast Corridor.

(6) Assessment by DOT Inspector General.—

(A) Initial Assessment.—Within 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report—

(i) identifying any overlap between capital projects for which funds are provided under such funding documents, procedures, or arrangements and capital projects included in Amtrak's 20-year capital plan; and

(ii) indicating any adjustments that need to be made in that plan to exclude projects for which funds are appropriated pursuant to paragraph (1).

(B) Overlap Review.—The Inspector General shall, as part of the Department's annual assessment of Amtrak's financial status and capital funding requirements review the obligation and expenditure of funds under each such funding document, procedure, or arrangement to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are proved under this Act.

(7) Coordination With Existing Law.—Amounts made available to Amtrak under this subsection shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

(8) Reduction of Authorizations.—Each amount authorized by paragraph (1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized

---

SA 4707. Mr. McCain submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, beginning with line 8, strike through line 2 on page 131, and insert the following:

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) Emergency Amtrak Assistance.—

(1) In General.— There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak—

(A) $375,000,000 for systemwide security upgrades, including the reimbursement of extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment;

(B) $778,000,000 to be used to complete New York tunnel life safety projects and rehabilitate tunnels in Washington, D.C., and Baltimore, Maryland; and

(C) $55,000,000 for the emergency repair, and returning to service, of Amtrak passenger cars and locomotives, upon a determination by the Secretary of Transportation that such emergency repairs are necessary for safety and security purposes.

(2) Availability of Appropriated Funds.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) Plan Required.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under paragraph (1)—

(A) for implementing systemwide security upgrades, including the emergency repair of passenger cars and locomotives, until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the Secretary of Homeland Security, a plan for such upgrades;

(B) for completing the tunnel life safety and rehabilitation projects until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, an engineering and financial plan for such projects; and

(C) Amtrak has submitted to the Secretary of Transportation such additional information as the Secretary may require in order to ensure full accountability for the obligation or expenditure of amounts made available to Amtrak for the purpose for which the funds are provided.

(4) Financial Contribution From Other Tunnel Users.—The Secretary of Transportation shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in paragraph (3)(B)—

(A) consider the extent to which rail carriers other than Amtrak use the tunnels;

(B) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(C) obtain financial contributions or commitments from such other rail carriers if feasible.

(5) Review of Plan.—The Secretary of Transportation shall complete the review of the plan required by paragraph (3) and approve or disapprove the plan within 45 days after the date on which the plan is submitted by Amtrak. If the Secretary determines that the plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving a modified plan from Amtrak, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall approve the portions of the plan that are complete and sufficient, release associated funds, and Amtrak shall execute an agreement with the Secretary within 15 days thereafter on a process for completing the remaining portions of the plan.

(6) 50-Percent to Be Spent Outside the Northeast Corridor.—The Secretary of Transportation shall ensure that up to 50 percent of the amounts appropriated pursuant to paragraph (1)(A) is obligated or expended for projects outside the Northeast Corridor.

(7) Assessments by DOT Inspector General.—

(A) Initial Assessment.—Within 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report—

(i) identifying any overlap between capital projects for which funds are provided under such funding documents, procedures, or arrangements and capital projects included in Amtrak's 20-year capital plan; and

(ii) indicating any adjustments that need to be made in that plan to exclude projects for which funds are appropriated pursuant to paragraph (1).

(B) OVERLAP REVIEW.—The Inspector General shall, as part of the Department's annual assessment of Amtrak's financial status and capital funding requirements review the obligation and expenditure of funds under each such funding document, procedure, or arrangement to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are provided under this Act.

(8) COORDINATION WITH EXISTING LAW.—Amounts made available to Amtrak under this subsection shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

(9) REDUCTION OF AUTHORIZATIONS.—Each amount authorized by paragraph (1) shall be reduced by any appropriated amount used by Amtrak for the activity for which the amount is authorized.

SA. 4708. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —BAN ON PARTIAL-BIRTH ABORTIONS

SEC. 01. SHORT TITLE.

This title may be cited as the "Partial-Birth Abortion Ban Act of 2002".

SEC. 02. FINDINGS.

Congress finds the following:

(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion—an abortion in which a physician delivers an unborn child's body until only the head remains inside the womb, punctures the back of the child's skull with a sharp instrument, and sucks the child's brains out before completing delivery of the dead infant—is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women, and, in some circumstances, their lives. As a result, at least 27 States banned the procedure as did Congress, which voted to ban the procedure during the 104th, 105th, and 106th Congresses.

(3) In Stenberg v. Carhart, 530 U.S. 914, 932 (2000), the Supreme Court opined "that significant medical authority supports the proposition that in some circumstances, [partial birth abortion] would be the safest procedure" for pregnant women who wish to undergo an abortion. Thus, the Supreme Court struck down Nebraska's ban on partial-birth abortion procedures, concluding that it placed an "undue burden" on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the "health" of the mother.

(4) In reaching this conclusion, the Supreme Court deferred to the Federal district court's findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative abortion procedures.

(5) However, the great weight of evidence presented at the Stenberg trial and other trials challenging partial-birth abortion bans, as well as at extensive congressional hearings, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed, and is outside of the standard of medical care.

(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's findings because, under the applicable standard of appellate review, they were not "clearly erroneous". A finding of fact is clearly erroneous "when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed". Anderson v. City of Bessemer City, North Carolina, 470 U.S. 564, 573 (1985) (quoting United States v. U.S. Gypsum Co. 333 U.S. 364, 395 (1948)). Under this standard, "if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently". Id. at 573-74.

(7) Thus, in Stenberg, the Supreme Court was required to accept the very questionable findings issued by the district court judge—the effect of which was to render null and void the reasoned findings and policy determinations of Congress and at least 27 State legislatures.

(8) However, under well-settled Supreme Court jurisprudence, Congress is not bound to accept the same findings as the Supreme Court was bound to accept in Stenberg under the "clearly erroneous" standard. Rather, Congress is entitled to reach its own findings—findings that the Supreme Court accords great deference—and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

(9) In Katzenbach v. Morgan, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential standard of review of congressional findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965. Regarding Congress' finding that such section 4(e) would assist the Puerto Rican community in "gaining nondiscriminatory treatment in public services", the Supreme Court stated that "[i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations . . . . It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) in the application in question in this case.". Id. at 653.

(10) Katzenbach's highly deferential standard of review of Congress's findings was relied upon by the United States District Court for the District of Columbia when it upheld the "bail-out" provisions of the Voting Rights Act of 1965, stating that "congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose". City of Rome, Georgia v. United States, 472 F. Supp. 221 (D. D. C. 1979) aff'd City of Rome, Georgia v. United States, 446 U.S. 156 (1980).

(11) The Supreme Court continued its practice of deferring to findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992. See Turner Broad. Sys., Inc. v. Fed. Communications Comm'n, 512 U.S. 622 (1994) (referred to in this section as "Turner I") and Turner Broad. Sys., Inc. v. Fed. Communications Comm'n, 520 U.S. 180 (1997) (referred to in this section as "Turner II"). At issue in the Turner cases was Congress' finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be "seriously jeopardized". In Turner I, the Supreme Court recognized that, as an institution, "Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here". 512 U.S. at 665-66. Although the Supreme Court recognized that "the deference afforded to legislative findings does 'not foreclose our independent judgment of the facts bearing on an issue of constitutional law'", its "obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.". Id. at 666.

(12) Three years later in Turner II, the Supreme Court upheld the "must-carry" provisions based upon Congress' findings, stating the Supreme Court's "sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.'". 520 U.S. at 195. Citing its ruling in Turner I, the Supreme Court reiterated that "[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to "amass and evaluate the vast amounts of data" bearing upon' legislative questions" Id. at 195, and added that it "owe[d] Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power". Id. at 196.

(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a "health" exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care. Congress was informed by extensive hearings held during the 104th and 105th Congresses and passed a ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. The findings of these hearings reflect the very informed judgment of Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th and 105th Congresses, Congress finds and declares that:

(A)(i) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure.

(ii) Those risks include, among other things—

(I) an increased risk of suffering from cervical incompetence, a result of cervical dilation, making it difficult or impossible for a woman successfully to carry a subsequent pregnancy to term;

(II) an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting a child to a footling breech position, a procedure which, according to a leading obstetrics textbook, "there are very few, if any, indications for . . . other than for delivery of a second twin"; and

(III) a risk of lacerations and secondary hemorrhaging due to a doctor blindly forcing a sharp instrument into the base of the unborn child's skull while the child is lodged in the birth canal, an act that could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortion have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortion is superior in any way to established abortion procedures. Indeed, there are currently no medical schools that provide instruction on abortions that include instruction on partial-birth abortion in their curriculum, unlike other more commonly used abortion procedures.

(C) A prominent medical association has concluded that partial-birth abortion is "not an accepted medical practice", that it has "never been subject to even a minimal amount of the normal medical practice development", that "the relative advantages and disadvantages of the procedure in specific circumstances remain unknown", and that "there is no consensus among obstetricians about its use". The association has further noted that partial-birth abortion is broadly disfavored by both medical experts and the public, is "ethically wrong", and "is never the only appropriate procedure".

(D) Neither the plaintiff in Stenberg v. Carhart, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that the physician has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, that partial-birth abortion is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood v. Casey, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Supreme Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child "in a state of being born and before actual birth", was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a "person" under the Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a "person". Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This interest, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortion is "ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb". According to this medical association, the "'partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body".

(J) Partial-birth abortion also causes confusion among the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom the physician had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children—obstetricians who preserve and protect the life of the mother and the child—and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in a manner that purposefully seeks to kill the child after a child has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, a child will fully experience the pain associated with piercing the child's skull and sucking out the child's brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further make society indifferent to the humanity of not only newborns, but all vulnerable and innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting—indeed it must act—to prohibit this inhumane procedure.

(O) For these reasons, partial-birth abortion is never medically indicated to preserve the health of the mother, is in fact unrecognized as a valid abortion procedure by the mainstream medical community, poses additional health risks to the mother, blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth, causes confusion of the role of the physician in childbirth, and should, therefore, be banned.

SEC. 03. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.

"1531. Partial-birth abortions prohibited.

"§ 1531. Partial-birth abortions prohibited

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the date of enactment of the Partial-Birth Abortion Ban Act of 2002.

"(b) As used in this section—

"(1) the term 'partial-birth abortion' means an abortion in which—

"(A) the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

"(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

"(2) the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

“(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

“(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

“74. Partial-birth abortions .... 1531”.

SA 4709. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 8 and 9, insert the following:

SEC. 172. REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

(a) REQUIREMENT.—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing;

(C) tents, tarpaulins, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

(f) EXCEPTION FOR CERTAIN FOODS.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(g) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(h) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) GEOGRAPHIC COVERAGE.—In this section, the term “United States” includes the possessions of the United States.

SA 4710. Mr. GREGG (for himself Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. ALLEN, Mr. DOMENICI, Mrs. HUTCHISON, Mr. KOHL, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all nonterrorism emergency preparedness activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Carrying out all terrorism and other hazard response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(3) Creating a National Crisis Action Center to act as the focal point for—

(A) monitoring emergencies;

(B) notifying affected agencies and State and local governments; and

(C) coordinating Federal support for State and local governments and the private sector in crises.

(4) Managing and updating the Federal response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(5) Coordinating activities among private sector entities, including entities within the medical community, and animal health and plant disease communities, with respect to recovery, consequence management, and planning for continuity of services.

(6) Developing and managing a single response system for national incidents in coordination with all appropriate agencies.

(7) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(8) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(6).

(9) Consulting with the Under Secretary for Science and Technology, Secretary of Agriculture, and the Director of the Centers for Disease Control and Prevention in establishing and updating the list of potential threat agents or toxins relating to the functions of the Select Agent Registration Program transferred under subsection (c)(7).

(10) Developing a plan to address the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(11) Activate and coordinate the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(12) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department, except that those elements of the Office of National Preparedness of the Federal Emergency Management Agency that relate to terrorism shall be transferred to the Office of Domestic Preparedness established under this section.

(2) The National Office of Domestic Preparedness of the Federal Bureau of Investigation of the Department of Justice.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) Those elements of the Office of National Preparedness of the Federal Emergency

Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(5) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(6) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(7) The functions of the Select Agent Registration Program of the Department of Health and Human Services and the United States Department of Agriculture, including all functions of the Secretary of Health and Human Services and the Secretary of Agriculture under sections 201 through 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(d) OFFICE FOR DOMESTIC PREPAREDNESS.—

(1) ESTABLISHMENT.—There is established within the Directorate of Emergency Preparedness and Response the Office for Domestic Preparedness.

(2) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Emergency Preparedness and Response.

(3) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(A) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(B) in keeping with intelligence estimates, working to ensure adequate strategic and operational planning, equipment, training, and exercise activities at all levels of government;

(C) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(D) directing and supervising terrorism preparedness grant programs of the Federal Government for all emergency response providers;

(E) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(F) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(G) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States; and

(H) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(4) FISCAL YEARS 2003 AND 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

(5) REPORT.—Not later than the submission of the fiscal year 2005 budget request, the Secretary shall submit to Congress a detailed report containing a comprehensive, independent analysis, and recommendations addressing whether there should be a single office within the Department responsible for the domestic preparedness of the United States for all hazards, including terrorism and natural disasters. The analysis shall include an examination of the advantages, disadvantages, costs, and benefits of creating a single office for all hazards preparedness within the Department.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of a national medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

(f) PREEMPTED PROVISIONS.—Notwithstanding any other provision of this Act, including any effective date provision, section 134 shall not take effect.

SA 4711. Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 9 through 13, and insert the following:
homeland threats;

(D) minimize the damage, and assist in the recovery, from terrorist attacks or other natural or man-made crises that occur within the United States; and

(E) to the extent practicable, ensure the speedy, orderly, safe, and efficient flow of lawful traffic, travel, and commerce.

SA 4712. Ms. COLLINS (for herself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, between lines 11 and 12, insert the following:

(e) SPECIAL ASSISTANT TO THE SECRETARY.—

(1) RESPONSIBILITIES.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(A) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(B) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(C) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(D) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations;

(E) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; and

(F) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

(2) DUPLICATION OF FUNCTIONS.—The Special Assistant to the Secretary shall avoid duplication of functions performed by the Directorate of Science of Technology in accordance with section 135.

SA 4713. Mr. JEFFORDS (for himself, Mr. SMITH of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

Subtitle G—First Responder Terrorism Preparedness

SEC. 199A. SHORT TITLE.

This subtitle may be cited as the "First Responder Terrorism Preparedness Act of 2002".

SEC. 199B. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(3) to address issues relating to urban search and rescue task forces.

SEC. 199C. DEFINITIONS.

(a) MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

(b) Weapon of Mass Destruction.—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

"(11) Weapon of mass destruction.—The term 'weapon of mass destruction' has the meaning given the term in section 2302 of title 50, United States Code.".

SEC. 199D. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

"SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.

"(a) In General.—There is established in the Federal Emergency Management Agency an office to be known as the 'Office of National Preparedness' (referred to in this section as the 'Office').

"(b) Appointment of Associate Director.—

"(1) In general.—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) Compensation.—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) Duties.—The Office shall—

"(1) lead a coordinated and integrated overall effort to build, exercise, and ensure viable terrorism preparedness and response capability at all levels of government;

"(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

"(3) establish and coordinate an integrated capability for Federal, State, tribal, and local governments and emergency responders to plan for and address potential consequences of terrorism;

"(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

"(5) establish standards for a national, interoperable emergency communications and warning system;

"(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

"(7) carry out such other related activities as are approved by the Director.

"(d) Designation of Regional Contacts.—The Associate Director shall designate an officer or employee of the Federal Emergency Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

"(e) Use of Existing Resources.—In carrying out this section, the Associate Director shall—

"(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

"(2) consult with and use—

"(A) existing Federal interagency boards and committees;

"(B) existing government agencies; and

"(C) nongovernmental organizations.".

SEC. 199E. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) In General.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

"SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

"(a) Definitions.—In this section:

"(1) First responder.—The term 'first responder' means—

"(A) fire, emergency medical service, and law enforcement personnel; and

"(B) such other personnel as are identified by the Director.

"(2) Local entity.—The term 'local entity' has the meaning given the term by regulation promulgated by the Director.

"(3) Program.—The term 'program' means the program established under subsection (b).

"(b) Program To Provide Assistance.—

"(1) In general.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

"(2) Federal share.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

"(3) Forms of assistance.—Assistance provided under paragraph (1) may consist of—

"(A) grants; and

"(B) such other forms of assistance as the Director determines to be appropriate.

"(c) Uses of Assistance.—Assistance provided under subsection (b)—

"(1) shall be used—

"(A) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

"(B) to train first responders, consistent with guidelines and standards developed by the Director;

"(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

"(D) to develop, construct, or upgrade emergency operating centers;

"(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

"(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

"(G) to conduct exercises; and

"(H) to carry out such other related activities as are approved by the Director; and

"(2) shall not be used to provide compensation to first responders (including payment for overtime).

"(d) Allocation of Funds.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

"(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, $3,000,000; and

"(2) to each State (other than a State specified in paragraph (1))—

"(A) a base amount of $15,000,000; and

"(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

"(i) population;

"(ii) location of vital infrastructure, including—

"(I) military installations;

"(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

"(III) nuclear power plants;

"(IV) chemical plants; and

"(V) national landmarks; and

"(iii) proximity to international borders.

"(e) Provision of Funds to Local Governments and Local Entities.—

"(1) In general.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

"(2) Allocation of funds.—Under paragraph (1), a State shall allocate assistance to local governments and local entities within the State in accordance with criteria established by the Director, such as the criteria specified in subsection (d)(2)(B).

"(3) Deadline for provision of funds.—Under paragraph (1), a State shall provide all assistance to local government and local entities not later than 45 days after the date on which the State receives the assistance.

"(4) Coordination.—Each State shall coordinate with local governments and local entities concerning the use of assistance provided to local governments and local entities under paragraph (1).

"(f) Administrative Expenses.—

"(1) Director.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

"(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

"(B)(i) for fiscal year 2003, $75,000,000; and

"(ii) for each of fiscal years 2004 through 2006, $50,000,000.

"(2) Recipients of assistance.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

"(g) Maintenance of Expenditures.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

"(h) Reports.—

"(1) Annual report to the director.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

"(2) Exercise and report to congress.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

"(A) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

"(B) submit a report on the results of the exercise to—

"(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

"(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

"(i) COORDINATION.—

"(1) WITH FEDERAL AGENCIES.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

"(A) the Administrator of the United States Fire Administration in connection with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A–360));

"(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)); and

"(C) other appropriate Federal agencies.

"(2) WITH INDIAN TRIBES.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

"(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

"(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.".

(b) COST SHARING FOR EMERGENCY OPERATING CENTERS.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting "(other than section 630)" after "carry out this title"; and

(2) by inserting "(other than section 630)" after "under this title".

SEC. 199F. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199E(a)) is amended by adding at the end the following:

"SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

"(a) DEFINITIONS.—In this section:

"(1) FIRST RESPONDER.—The term 'first responder' has the meaning given the term in section 630(a).

"(2) HARMFUL SUBSTANCE.—The term 'harmful substance' means a substance that the President determines may be harmful to human health.

"(3) PROGRAM.—The term 'program' means a program described in subsection (b)(1).

"(b) PROGRAM.—

"(1) IN GENERAL.—If the President determines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major disaster area under this Act, the President shall carry out a program with respect to the area for the protection, assessment, monitoring, and study of the health and safety of first responders.

"(2) ACTIVITIES.—A program shall include—

"(A) collection and analysis of environmental and exposure data;

"(B) development and dissemination of educational materials;

"(C) provision of information on releases of a harmful substance;

"(D) identification of, performance of baseline health assessments on, taking biological samples from, and establishment of an exposure registry of first responders exposed to a harmful substance;

"(E) study of the long-term health impacts of any exposures of first responders to a harmful substance through epidemiological studies; and

"(F) provision of assistance to participants in registries and studies under subparagraphs (D) and (E) in determining eligibility for health coverage and identifying appropriate health services.

"(3) PARTICIPATION IN REGISTRIES AND STUDIES.—

"(A) IN GENERAL.—Participation in any registry or study under subparagraph (D) or (E) of paragraph (2) shall be voluntary.

"(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

"(4) COOPERATIVE AGREEMENTS.—The President may carry out a program through a cooperative agreement with a medical or academic institution, or a consortium of such institutions, that is—

"(A) located in close proximity to the major disaster area with respect to which the program is carried out; and

"(B) experienced in the area of environmental or occupational health and safety, including experience in—

"(i) conducting long-term epidemiological studies;

"(ii) conducting long-term mental health studies; and

"(iii) establishing and maintaining environmental exposure or disease registries.

"(c) REPORTS AND RESPONSES TO STUDIES.—

"(1) REPORTS.—Not later than 1 year after the date of completion of a study under subsection (b)(2)(E), the President, or the medical or academic institution or consortium of such institutions that entered into the cooperative agreement under subsection (b)(4), shall submit to the Director, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Environmental Protection Agency a report on the study.

"(2) CHANGES IN PROCEDURES.—To protect the health and safety of first responders, the President shall make such changes in procedures as the President determines to be necessary based on the findings of a report submitted under paragraph (1).".

SEC. 199G. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199F) is amended by adding at the end the following:

"SEC. 632. URBAN SEARCH AND RESCUE TASK FORCES.

"(a) DEFINITIONS.—In this section:

"(1) URBAN SEARCH AND RESCUE EQUIPMENT.—The term 'urban search and rescue equipment' means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

"(2) URBAN SEARCH AND RESCUE TASK FORCE.—The term 'urban search and rescue task force' means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

"(b) ASSISTANCE.—

"(1) MANDATORY GRANTS FOR COSTS OF OPERATIONS.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than $1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

"(2) DISCRETIONARY GRANTS.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

"(A) operations in excess of the funds provided under paragraph (1);

"(B) urban search and rescue equipment;

"(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

"(D) training, including training for operating in an environment described in subparagraph (C);

"(E) transportation;

"(F) expansion of the urban search and rescue task force; and

"(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

"(3) PRIORITY FOR FUNDING.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

"(c) GRANT REQUIREMENTS.—The Director shall establish such requirements as are necessary to provide grants under this section.

"(d) ESTABLISHMENT OF ADDITIONAL URBAN SEARCH AND RESCUE TASK FORCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

"(2) REQUIREMENT OF FULL FUNDING OF EXISTING URBAN SEARCH AND RESCUE TASK FORCES.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.".

SEC. 199H. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 632).

"(2) PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.—There are authorized to be appropriated to carry out section 630—

"(A) $3,340,000,000 for fiscal year 2003; and

"(B) $3,458,000,000 for each of fiscal years 2004 through 2006.

"(3) URBAN SEARCH AND RESCUE TASK FORCES.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out section 632—

"(i) $160,000,000 for fiscal year 2003; and

"(ii) $42,000,000 for each of fiscal years 2004 through 2006.

"(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.".

SA 4714. Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 8, strike "terrorism, natural disasters," and insert "terrorism".

On page 11, strike lines 6 through 13 and insert the following:

homeland threats within the United States; and

(C) reduce the vulnerability of the United States to terrorism and other homeland threats.

On page 12, line 23, strike "emergency preparedness and response,".

On page 13, strike lines 3 through 5 and insert the following:

transportation security and critical infrastructure protection.

On page 15, line 14, insert "and the Director of the Federal Emergency Management Agency" after "Defense".

On page 16, strike lines 13 through 16.

On page 16, line 17, strike "(15)" and insert "(14)".

On page 16, line 20, strike "(16)" and insert "(15)".

On page 16, line 24, strike "(17)" and insert "(16)".

On page 17, line 4, strike "(18)" and insert "(17)".

On page 17, line 8, strike "(19)" and insert "(18)".

Beginning on page 68, strike line 14 and all that follows through page 75, line 3.

On page 75, line 3, strike "**135**" and insert **134**".

On page 103, line 13, strike "**136**" and insert **135**".

On page 103, line 17, strike "**137**" and insert **136**".

On page 109, line 10, strike "of the Department".

On page 112, line 5, strike "**138**" and insert **137**".

On page 112, line 10, strike "**139**" and insert **138**".

On page 112, between lines 4 and 5, insert the following:

(f) COORDINATION WITH FEDERAL EMERGENCY MANAGEMENT AGENCY.—

(1) IN GENERAL.—In carrying out all responsibilities of the Secretary under this section, the Secretary shall coordinate with the Director of the Federal Emergency Management Agency.

(2) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

On page 114, line 6, strike "**140**" and insert **139**".

On page 114, strike lines 13 and 14.

On page 115, line 3, strike "in the Department" and insert "within the Federal Emergency Management Agency".

On page 116, line 21, strike "Department" and insert "Federal Emergency Management Agency".

Beginning on page 128, strike line 22 and all that follows through page 129, line 5, and insert the following:

(a) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this section.

(b) PUBLIC HEALTH EMERGENCY.—During the

On page 129, strike lines 15 and 16 and insert the following:

(c) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving,

On page 186, line 25, and page 187, line 1, strike "emergency preparation and response,".

On page 187, insert "emergency preparedness and response," after "assets,".

Beginning on page 161, strike line 19 and all that follows through page 162, line 2, and insert the following:

(b) BIENNIAL REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall submit to Congress a report assessing the resources and requirements of executive agencies relating to border security.

SA 4715. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, strike lines 14 through 23 and insert the following:

SEC. 134. FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) HOMELAND SECURITY DUTIES.—

(1) IN GENERAL.—The Federal Emergency Management Agency shall be responsible for the emergency preparedness and response functions of the Department.

(2) FUNCTION.—Except as provided in paragraph (3) and subsections (b) through (e), nothing in this Act affects the administration or administrative jurisdiction of the Federal Emergency Management Agency as in existence on the day before the date of enactment of this Act.

(3) DIRECTOR.—In carrying out responsibilities of the Federal Emergency Management Agency under all applicable law, the Director of the Federal Emergency Management Agency shall report—

(A) to the President directly, with respect to all matters relating to a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) to the Secretary, with respect to all other matters.

On page 69, strike lines 1 through 7 and insert the following:

(b) SPECIFIC RESPONSIBILITIES.—The Director of the Federal Emergency Management Agency shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities of the Department.

On page 69, line 23, strike "Creating a National Crisis Action Center to act" and inserting "Acting".

On page 72, line 4, strike "other".

On page 72, line 14, strike "Department" and insert "Federal Emergency Management Agency".

On page 72, strike lines 15 through 19.

On page 72, line 20, strike "(2)" and insert "(1)".

On page 72, line 23, strike "(3)" and insert "(2)".

On page 73, line 1, strike "(4)" and insert "(3)".

On page 73, line 17, strike "(5)" and insert "(4)".

On page 73, line 23, strike "(6)" and insert "(5)".

On page 74, strike lines 7 through 22 and insert the following:

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report.

On page 75, between lines 2 and 3, insert the following:

(f) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

On page 114, strike lines 13 and 14.

On page 128, line 24, strike "134(b)(7)" and insert "134(b)".

SA 4716. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

[Data not available at time of printing.]

SA 4717. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 156, line 8, strike all through page 158, line 18, and insert the following:

SEC. 189. USE OF APPROPRIATED FUNDS.

(a) APPLICABILITY OF THIS SECTION.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance, use, and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS TO CREATE DEPARTMENT.—There is authorized to be appropriated $160,000,000 for the Office of Homeland Security in the Executive Office of the President to be transferred without delay to the Department upon its creation by enactment of this Act, notwithstanding subsection (c)(1)(C) such funds shall be available only for the payment of necessary salaries and expenses associated with the initiation of operations of the Department.

(c) USE OF TRANSFERRED FUNDS.—

(1) IN GENERAL.—Except as may be provided in this subsection or in an appropriations Act in accordance with subsection (e), balances of appropriations and any other funds or assets transferred under this Act—

(A) shall be available only for the purposes for which they were originally available;

(B) shall remain subject to the same conditions and limitations provided by the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; and

(C) shall not be used to fund any new position established under this Act.

(2) TRANSFER OF FUNDS.—

(A) IN GENERAL.—After the creation of the Department and the swearing in of its Secretary, and upon determination by the Secretary that such action is necessary in the national interest, the Secretary is authorized to transfer, with the approval of the Office of Management and Budget, not to exceed $140,000,000 of unobligated funds from organizations and entities transferred to the new Department by this Act.

(B) LIMITATION.—Notwithstanding paragraph (1)(C), funds authorized to be transferred by subparagraph (A) shall be available only for payment of necessary costs, including funding of new positions, for the initiation of operations of the Department and may not be transferred unless the Committees on Appropriations are notified at least 15 days in advance of any proposed transfer and have approved such transfer in advance.

(C) NOTIFICATION.—The notification required in subparagraph (B) shall include a detailed justification of the purposes for which the funds are to be used and a detailed statement of the impact on the program or organization that is the source of the funds, and shall be submitted in accordance with reprogramming procedures to be established by the Committees on Appropriations.

(D) USE FOR OTHER ITEMS.—The authority to transfer funds established in this section may not be used unless for higher priority items, based on demonstrated homeland security requirements, than those for which funds originally were appropriated and in no case where the item for which funds are requested has been denied by Congress.

(d) NOTIFICATION REGARDING TRANSFERS.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(e) ADDITIONAL USES OF FUNDS DURING TRANSITION.—Subject to subsections (c) and (d), amounts transferred to, or otherwise made available to, the Department may be used during the transition period, as defined in section 801(2), for purposes in addition to those for which such amounts were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(f) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(g) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(h) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

SA 4718. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, between lines 20 and 21, insert the following:

(14) On behalf of the Secretary, subject to disapproval by the President, directing the agencies described under subsection (a)(1)(B) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Under Secretary for Intelligence determines necessary.

SA 4719. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was orderd to lie on the table; as follows:

At the end add the following:

DIVISION D—CARE

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the "CARE Act of 2002".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 1. Short title; etc.

TITLE I—CHARITABLE GIVING INCENTIVES

Sec. 101. Deduction for portion of charitable contributions to be allowed to individuals who do not itemize deductions.
Sec. 102. Tax-free distributions from individual retirement accounts for charitable purposes.
Sec. 103. Charitable deduction for contributions of food inventories.
Sec. 104. Charitable deduction for contributions of book inventories.
Sec. 105. Expansion of charitable contribution allowed for scientific property used for research and for computer technology and equipment used for educational purposes.
Sec. 106. Modifications to encourage contributions of capital gain real property made for conservation purposes.
Sec. 107. Exclusion of 25 percent of gain on sales or exchanges of land or water interests to eligible entities for conservation purposes.
Sec. 108. Tax exclusion for cost-sharing payments under Partners for Fish and Wildlife Program.
Sec. 109. Adjustment to basis of S corporation stock for certain charitable contributions.
Sec. 110. Enhanced deduction for charitable contribution of literary, musical, artistic, and scholarly compositions.
Sec. 111. Mileage reimbursements to charitable volunteers excluded from gross income.

TITLE II—DISCLOSURE OF INFORMATION RELATING TO TAX-EXEMPT ORGANIZATIONS

Sec. 201. Disclosure of written determinations.
Sec. 202. Disclosure of Internet web site and name under which organization does business.
Sec. 203. Modification to reporting capital transactions.
Sec. 204. Disclosure that Form 990 is publicly available.
Sec. 205. Disclosure to State officials of proposed actions related to section 501(c) organizations.

TITLE III—OTHER CHARITABLE AND EXEMPT ORGANIZATION PROVISIONS

Sec. 301. Modification of excise tax on unrelated business taxable income of charitable remainder trusts.
Sec. 302. Modifications to section 512(b)(13).
Sec. 303. Simplification of lobbying expenditure limitation.
Sec. 304. Expedited review process for certain tax-exemption applications.
Sec. 305. Clarification of definition of church tax inquiry.
Sec. 306. Expansion of declaratory judgment remedy to tax-exempt organizations.
Sec. 307. Definition of convention or association of churches.
Sec. 308. Charitable contribution deduction for certain expenses incurred in support of Native Alaskan subsistence whaling.
Sec. 309. Payments by charitable organizations to victims of war on terrorism.
Sec. 310. Treatment of bonds issued to acquire standing timber on land subject to conservation easement.
Sec. 311. Exemption from income tax for State-created organizations providing property and casualty insurance for property for which such coverage is otherwise unavailable.
Sec. 312. Modification of special arbitrage rule for certain funds.
Sec. 313. Matching grants to low-income taxpayer clinics for return preparation.
Sec. 314. Modification of scholarship foundation rules.
Sec. 315. Treatment of certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness.
Sec. 316. 10-year divestiture period for certain excess business holdings of private foundations.

TITLE IV—SOCIAL SERVICES BLOCK GRANT

Sec. 401. Restoration of funds for the Social Services Block Grant.
Sec. 402. Restoration of authority to transfer up to 10 percent of TANF funds to the Social Services Block Grant.
Sec. 403. Requirement to submit annual report on State activities.

TITLE V—INDIVIDUAL DEVELOPMENT ACCOUNTS

Sec. 501. Short title.
Sec. 502. Purposes.
Sec. 503. Definitions.
Sec. 504. Structure and administration of qualified individual development account programs.
Sec. 505. Procedures for opening and maintaining an individual development account and qualifying for matching funds.
Sec. 506. Deposits by qualified individual development account programs.
Sec. 507. Withdrawal procedures.
Sec. 508. Certification and termination of qualified individual development account programs.

Sec. 509. Reporting, monitoring, and evaluation.

Sec. 510. Authorization of appropriations.

Sec. 511. Matching funds for individual development accounts provided through a tax credit for qualified financial institutions.

Sec. 512. Account funds disregarded for purposes of certain means-tested Federal programs.

TITLE VI—REVENUE PROVISIONS

Subtitle A—Tax Shelter Transparency Requirements

PART I—TAXPAYER-RELATED PROVISIONS

Sec. 601. Penalty for failing to disclose reportable transaction.

Sec. 602. Accuracy-related penalties for listed transactions and other reportable transactions having a significant tax avoidance purpose.

Sec. 603. Modifications of substantial understatement penalty for nonreportable transactions.

Sec. 604. Tax shelter exception to confidentiality privileges relating to taxpayer communications.

PART II—PROMOTER AND PREPARER RELATED PROVISIONS

SUBPART A—PROVISIONS RELATING TO REPORTABLE TRANSACTIONS

Sec. 611. Disclosure of reportable transactions.

Sec. 612. Modifications to penalty for failure to register tax shelters.

Sec. 613. Modification of penalty for failure to maintain lists of investors.

Sec. 614. Modification of actions to enjoin specified conduct related to tax shelters and reportable transactions.

SUBPART B—OTHER PROMOTER AND PREPARER PROVISIONS

Sec. 621. Understatement of taxpayer's liability by income tax return preparer.

Sec. 622. Penalty on failure to report interests in foreign financial accounts.

Sec. 623. Frivolous tax submissions.

Sec. 624. Regulation of individuals practicing before the Department of Treasury.

Sec. 625. Penalty on promoters of tax shelters.

PART III—OTHER PROVISIONS

Sec. 631. Affirmation of consolidated return regulation authority.

Subtitle B—Tax Treatment of Inversion Transactions

Sec. 641. Tax treatment of inverted corporate entities.

Subtitle C—Reinsurance Agreements

Sec. 651. Reinsurance of United States risks in foreign jurisdictions.

Subtitle D—Extension of Internal Revenue Service User Fees

Sec. 661. Extension of Internal Revenue Service user fees.

Subtitle E—Imposition of Customs User Fees

Sec. 671. Customs user fees.

TITLE VII—EQUAL TREATMENT FOR NONGOVERNMENTAL PROVIDERS

Sec. 701. Nongovernmental organizations.

TITLE VIII—COMPASSION CAPITAL FUND

Sec. 801. Support for nonprofit community-based organizations; Department of Health and Human Services.

Sec. 802. Support for nonprofit community-based organizations; Corporation for National and Community Service.

Sec. 803. Support for nonprofit community-based organizations; Department of Justice.

Sec. 804. Support for nonprofit community-based organizations; Department of Housing and Urban Development.

Sec. 805. Coordination.

TITLE IX—MATERNITY GROUP HOMES

Sec. 901. Maternity group homes.

TITLE X—STATE AND LOCAL POLITICAL COMMITTEES

Sec. 1001. Exemption for certain State and local political committees from notification requirements.

Sec. 1002. Exemption for certain State and local political committees from reporting requirements.

Sec. 1003. Exemption from annual return requirements.

Sec. 1004. Notification of interaction of reporting requirements.

Sec. 1005. Waiver.

Sec. 1006. Modifications to section 527 organization disclosure provisions.

Sec. 1007. Effect of amendments on existing disclosures.

TITLE I—CHARITABLE GIVING INCENTIVES

SEC. 101. DEDUCTION FOR PORTION OF CHARITABLE CONTRIBUTIONS TO BE ALLOWED TO INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize deductions for any taxable year, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions, but only with respect to such contributions which exceed $250 ($500 in the case of a joint return), but do not exceed $500 ($1,000 in the case of a joint return).".

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 (defining taxable income) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the direct charitable deduction.".

(2) DEFINITION.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(m).".

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the direct charitable deduction.".

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall study the effect of the amendments made by this section on increased charitable giving and taxpayer compliance, including a comparison of taxpayer compliance by those who itemize their charitable contributions with those who claim a direct charitable deduction.

(2) REPORT.—By not later than December 31, 2003, the Secretary of the Treasury shall report on the study required under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001, and before January 1, 2004.

SEC. 102. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

"(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

"(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

"(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement account—

"(i) which is made directly by the trustee—

"(I) to an organization described in section 170(c), or

"(II) to a split-interest entity, and

"(ii) which is made on or after the date that the individual for whose benefit the account is maintained has attained—

"(I) in the case of any distribution described in clause (i)(I), age 70½, and

"(II) in the case of any distribution described in clause (i)(II), age 59½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such account is maintained, the spouse of such individual, or any organization described in section 170(c).

"(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph—

"(i) DIRECT CONTRIBUTIONS.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

"(ii) SPLIT-INTEREST GIFTS.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

"(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would be so includible if all amounts were distributed from all individual retirement accounts otherwise taken into account in determining the inclusion on such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

"(E) Special rules for split-interest entities.—

"(i) Charitable remainder trusts.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

"(ii) Pooled income funds.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

"(iii) Charitable gift annuities.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

"(F) Denial of deduction.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

"(G) Split-interest entity defined.—For purposes of this paragraph, the term 'split-interest entity' means—

"(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

"(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

"(iii) a charitable gift annuity (as defined in section 501(m)(5)).".

(b) Modifications Relating to Information Returns by Certain Trusts.—

(1) Returns.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

"SEC. 6034. RETURNS BY TRUSTS DESCRIBED IN SECTION 4947(a)(2) OR CLAIMING CHARITABLE DEDUCTIONS UNDER SECTION 642(c).

"(a) Trusts Described in Section 4947(a)(2).—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

"(b) Trusts Claiming a Charitable Deduction Under Section 642(c).—

"(1) In general.—Every trust not required to file a return under subsection (a) but claiming a charitable, etc., deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including:

"(A) the amount of the charitable, etc., deduction taken under section 642(c) within such year,

"(B) the amount paid out within such year which represents amounts for which charitable, etc., deductions under section 642(c) have been taken in prior years,

"(C) the amount for which charitable, etc., deductions have been taken in prior years but which has not been paid out at the beginning of such year,

"(D) the amount paid out of principal in the current and prior years for charitable, etc., purposes,

"(E) the total income of the trust within such year and the expenses attributable thereto, and

"(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

"(2) Exceptions.—Paragraph (1) shall not apply in the case of a taxable year if all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries. Paragraph (1) shall not apply in the case of a trust described in section 4947(a)(1).".

(2) Increase in penalty relating to filing of information return by split-interest trusts.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(C) Split-interest trusts.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

"(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

"(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

"(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.".

(3) Confidentiality of noncharitable beneficiaries.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: "In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).".

(c) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2002.

SEC. 103. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORIES.

(a) In General.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

"(7) Application of paragraph (3) to certain contributions of food inventory.—For purposes of this section—

"(A) Extension to individuals.—In the case of a charitable contribution of apparently wholesome food—

"(i) paragraph (3)(A) shall be applied without regard to whether the contribution is made by a C corporation, and

"(ii) in the case of a taxpayer other than a C corporation, the aggregate amount of such contributions from any trade or business (or interest therein) of the taxpayer for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's net income from any such trade or business, computed without regard to this section, for such taxable year.

"(B) Limitation on reduction.—

"(i) For taxable years 2009, 2010, and 2011.—With respect to taxable years beginning after December 31, 2008, and before January 1, 2012, in the case of a charitable contribution of apparently wholesome food, notwithstanding paragraph (3)(B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the greater of—

"(I) 25 percent of the fair market value of the contributed property, or

"(II) the amount by which the fair market value of such property exceeds twice the basis of such property.

"(ii) For taxable years after 2011.—With respect to taxable years beginning after December 31, 2011, in the case of a charitable contribution of apparently wholesome food, notwithstanding paragraph (3)(B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of such property exceeds twice the basis of such property.

"(C) Determination of basis.—If a taxpayer—

"(i) does not account for inventories under section 471, and

"(ii) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of paragraph (3)(B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

"(D) Determination of fair market value.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraph (A) of this paragraph) and which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

"(i) without regard to such internal standards or such lack of market and

"(ii) by taking into account the price at which the same or substantially the same food items are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

"(E) Apparently wholesome food.—For purposes of this paragraph, the term 'apparently wholesome food' has the meaning given such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this paragraph.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 104. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES.

(a) In General.—Section 170(e)(3) (relating to certain contributions of ordinary income and capital gain property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) Special rule for contributions of book inventory for educational purposes.—

"(i) Contributions of book inventory.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

"(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

"(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

"(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book (using the same printing and edition) published within 7 years preceding the contribution) exceeds twice the basis of such property.

"(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

"(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

"(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

"(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

"(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

"(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

"(II) the donee will use the books in its educational programs.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 105. EXPANSION OF CHARITABLE CONTRIBUTION ALLOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.

(a) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting "or assembled" after "constructed".

(2) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting "or assembling" after "construction".

(b) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(2) CONFORMING AMENDMENTS.—Subparagraph (D) of section 170(e)(6) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 106. MODIFICATIONS TO ENCOURAGE CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Section 170(h) (relating to qualified conservation contribution) is amended by adding at the end the following new paragraph:

"(7) ADDITIONAL INCENTIVES FOR QUALIFIED CONSERVATION CONTRIBUTIONS.—

"(A) IN GENERAL.—In the case of any qualified conservation contribution (as defined in paragraph (1)) made by an individual—

"(i) subparagraph (C) of subsection (b)(1) shall not apply,

"(ii) except as provided in subparagraph (B)(i), subsections (b)(1)(A) and (d)(1) shall be applied separately with respect to such contributions by treating references to 50 percent of the taxpayer's contribution base as references to the amount of such percentage of such base reduced by the amount of other contributions allowable under subsection (b)(1)(A), and

"(iii) subparagraph (A) of subsection (d)(1) shall be applied—

"(I) by substituting '15 succeeding taxable years' for '5 succeeding taxable years', and

"(II) by applying clause (ii) to each of the 15 succeeding taxable years.

"(B) SPECIAL RULES FOR ELIGIBLE FARMERS AND RANCHERS.—

"(i) IN GENERAL.—In the case of any such contributions made by an eligible farmer or rancher—

"(I) if the taxpayer is an individual, subsections (b)(1)(A) and (d)(1) shall be applied separately with respect to such contributions by substituting 'the taxpayer's contribution base reduced by the amount of other contributions allowable under subsection (b)(1)(A)' for '50 percent of the taxpayer's contribution base' each place it appears, and

"(II) if the taxpayer is a corporation, subsections (b)(2) and (d)(2) shall be applied separately with respect to such contributions, subsection (b)(2) shall be applied with respect to such contributions as if such subsection did not contain the words '10 percent of' and as if subparagraph (A) thereof read 'the deduction under this section for qualified conservation contributions', and rules similar to the rules of subparagraph (A)(iii) shall apply for purposes of subsection (d)(2).

"(ii) DEFINITION.—For purposes of clause (i), the term 'eligible farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is at least 51 percent of the taxpayer's gross income for the taxable year, and, in the case of a C corporation, the stock of which is not publicly traded on a recognized exchange.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2002.

SEC. 107. EXCLUSION OF 25 PERCENT OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

"SEC. 121A. 25-PERCENT EXCLUSION OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

"(a) EXCLUSION.—Gross income shall not include 25 percent of the qualifying gain from a conservation sale of a long-held qualifying land or water interest.

"(b) QUALIFYING GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying gain' means any gain which would be recognized as long-term capital gain, reduced by the amount of any long-term capital gain attributable to disqualified improvements.

"(2) DISQUALIFIED IMPROVEMENT.—For purposes of paragraph (1), the term 'disqualified improvement' means any building, structure, or other improvement, other than—

"(A) any improvement which is described in section 175(c)(1), determined—

"(i) without regard to the requirements that the taxpayer be engaged in farming, and

"(ii) without taking into account subparagraphs (A) and (B) thereof, or

"(B) any improvement which the Secretary determines directly furthers conservation purposes.

"(3) SPECIAL RULE FOR SALES OF STOCK.—If the long-held qualifying land or water interest is 1 or more shares of stock in a qualifying land or water corporation, the qualifying gain is equal to the lesser of—

"(A) the qualifying gain determined under paragraph (1), or

"(B) the product of—

"(i) the percentage of such corporation's stock which is transferred by the taxpayer, times

"(ii) the amount which would have been the qualifying gain (determined under paragraph (1)) if there had been a conservation sale by such corporation of all of its interests in the land and water for a price equal to the product of the fair market value of such interests times the ratio of—

"(I) the proceeds of the conservation sale of the stock, to

"(II) the fair market value of the stock which was the subject of the conservation sale.

"(c) CONSERVATION SALE.—For purposes of this section, the term 'conservation sale' means a sale or exchange which meets the following requirements:

"(1) TRANSFEREE IS AN ELIGIBLE ENTITY.—The transferee of the long-held qualifying land or water interest is an eligible entity.

"(2) QUALIFYING LETTER OF INTENT REQUIRED.—At the time of the sale or exchange, such transferee provides the taxpayer with a qualifying letter of intent.

"(3) NONAPPLICATION TO CERTAIN SALES.—The sale or exchange is not made pursuant to an order of condemnation or eminent domain.

"(4) CONTROLLING INTEREST IN STOCK SALE REQUIRED.—In the case of the sale or exchange of stock in a qualifying land or water corporation, at the end of the taxpayer's taxable year in which such sale or exchange occurs, the transferee's ownership of stock in such corporation meets the requirements of section 1504(a)(2) (determined by substituting '90 percent' for '80 percent' each place it appears).

"(d) LONG-HELD QUALIFYING LAND OR WATER INTEREST.—For purposes of this section—

"(1) IN GENERAL.—The term 'long-held qualifying land or water interest' means any qualifying land or water interest owned by the taxpayer or a member of the taxpayer's family (as defined in section 2032A(e)(2)) at all times during the 5-year period ending on the date of the sale.

"(2) QUALIFYING LAND OR WATER INTEREST.—

"(A) IN GENERAL.—The term 'qualifying land or water interest' means a real property interest which constitutes—

"(i) a taxpayer's entire interest in land,

"(ii) a taxpayer's entire interest in water rights,

"(iii) a qualified real property interest (as defined in section 170(h)(2)), or

"(iv) stock in a qualifying land or water corporation.

"(B) ENTIRE INTEREST.—For purposes of clause (i) or (ii) of subparagraph (A)—

"(i) a partial interest in land or water is not a taxpayer's entire interest if an interest in land or water was divided in order to create such partial interest in order to avoid the requirements of such clause or section 170(f)(3)(A), and

"(ii) a taxpayer's entire interest in certain land does not fail to satisfy subparagraph (A)(i) solely because the taxpayer has retained an interest in other land, even if the other land is contiguous with such certain land and was acquired by the taxpayer along with such certain land in a single conveyance.

"(e) Other Definitions.—For purposes of this section—

"(1) Eligible entity.—The term 'eligible entity' means—

"(A) a governmental unit referred to in section 170(c)(1), or an agency or department thereof operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A), or

"(B) an entity which is—

"(i) described in section 170(b)(1)(A)(vi) or section 170(h)(3)(B), and

"(ii) organized and at all times operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A).

"(2) Qualifying letter of intent.—The term 'qualifying letter of intent' means a written letter of intent which includes the following statement: 'The transferee's intent is that this acquisition will serve 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986, that the transferee's use of the property so acquired will be consistent with section 170(h)(5) of such Code, and that the use of the property will continue to be consistent with such section, even if ownership or possession of such property is subsequently transferred to another person.'

"(3) Qualifying land or water corporation.—The term 'qualifying land or water corporation' means a C corporation (as defined in section 1361(a)(2)) if, as of the date of the conservation sale—

"(A) the fair market value of the corporation's interests in land or water held by the corporation at all times during the preceding 5 years equals or exceeds 90 percent of the fair market value of all of such corporation's assets, and

"(B) not more than 50 percent of the total fair market value of such corporation's assets consists of water rights or infrastructure related to the delivery of water, or both.

"(f) Tax on Subsequent Transfers or Removals of Conservation Restrictions.—

"(1) In general.—A tax is hereby imposed on any subsequent—

"(A) transfer by an eligible entity of ownership or possession, whether by sale, exchange, or lease, of property acquired directly or indirectly in—

"(i) a conservation sale described in subsection (a), or

"(ii) a transfer described in clause (i), (ii), or (iii) of paragraph (4)(A), or

"(B) removal of a conservation restriction contained in an instrument of conveyance of such property.

"(2) Amount of tax.—The amount of tax imposed by paragraph (1) on any transfer or removal shall be equal to the sum of—

"(A) either—

"(i) 20 percent of the fair market value (determined at the time of the transfer) of the property the ownership or possession of which is transferred, or

"(ii) 20 percent of the fair market value (determined at the time immediately after the removal) of the property upon which the conservation restriction was removed, plus

"(B) the product of—

"(i) the highest rate of tax specified in section 11, times

"(ii) any gain or income realized by the transferor or person removing such restriction as a result of the transfer or removal.

"(3) Liability.—The tax imposed by paragraph (1) shall be paid—

"(A) on any transfer, by the transferor, and

"(B) on any removal of a conservation restriction contained in an instrument of conveyance, by the person removing such restriction.

"(4) Relief from liability.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1)—

"(A) with respect to any transfer if—

"(i) the transferee is an eligible entity which provides such person, at the time of transfer, a qualifying letter of intent,

"(ii) the transferee is not an eligible entity, it is established to the satisfaction of the Secretary, that the transfer of ownership or possession, as the case may be, will be consistent with section 170(h)(5), and the transferee provides such person, at the time of transfer, a qualifying letter of intent, or

"(iii) tax has previously been paid under this subsection as a result of a prior transfer of ownership or possession of the same property, or

"(B) with respect to any removal of a conservation restriction contained in an instrument of conveyance, if it is established to the satisfaction of the Secretary that the retention of the restriction was impracticable or impossible and the proceeds continue to be used in a manner consistent with 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A).

"(5) Administrative provisions.—For purposes of subtitle F, the taxes imposed by this subsection shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.

"(6) Reporting.—The Secretary may require such reporting as may be necessary or appropriate to further the purpose under this section that any conservation use be in perpetuity.".

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 121 the following new item:

"Sec. 121A. 25-percent exclusion of gain on sales or exchanges of land or water interests to eligible entities for conservation purposes.".

(c) Effective Date.—The amendments made by this section shall apply to sales or exchanges occurring after December 31, 2003, in taxable years ending after such date.

SEC. 108. TAX EXCLUSION FOR COST-SHARING PAYMENTS UNDER PARTNERS FOR FISH AND WILDLIFE PROGRAM.

(a) In General.—Section 126(a) (relating to certain cost-sharing payments) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following:

"(10) The Partners for Fish and Wildlife Program authorized by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.)."

(b) Effective Date.—The amendments made by this section shall apply to payments received in taxable years beginning after December 31, 2002.

SEC. 109. ADJUSTMENT TO BASIS OF S CORPORATION STOCK FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) In General.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

"The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property.".

(b) Effective Date.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2002.

SEC. 110. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.

(a) In General.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) Special rule for certain contributions of literary, musical, artistic, or scholarly compositions.—

"(A) In general.—In the case of a qualified artistic charitable contribution—

"(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and

"(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

"(B) Qualified artistic charitable contribution.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

"(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

"(ii) the taxpayer—

"(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

"(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

"(iii) the donee is an organization described in subsection (b)(1)(A),

"(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

"(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

"(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

"(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

"(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

"(C) Maximum dollar limitation; no carryover of increased deduction.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

"(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

"(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

"(D) Artistic adjusted gross income.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

"(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

"(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

"(E) Paragraph not to apply to certain contributions.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

"(F) Copyright treated as separate property for partial interest rule.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).".

(b) Effective Date.—The amendment made by this section shall apply to contributions made after December 31, 2002, in taxable years ending after such date.

SEC. 111. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) In General.—Part III of subchapter B of chapter 1 is amended by inserting after section 139 the following new section:

"SEC. 139A. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

"(a) In General.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that such reimbursement would be deductible under this chapter if section 274(d) were applied—

"(1) by using the standard business mileage rate established under such section, and

"(2) as if the individual were an employee of an organization not described in section 170(c).

"(b) Application to Volunteer Services Only.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

"(c) No Double Benefit.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

"(d) Exemption From Reporting Requirements.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a)."

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 and inserting the following new item:

"Sec. 139A. Mileage reimbursements to charitable volunteers.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE II—DISCLOSURE OF INFORMATION RELATING TO TAX-EXEMPT ORGANIZATIONS

SEC. 201. DISCLOSURE OF WRITTEN DETERMINATIONS.

(a) In General.—Section 6110(l) (relating to section not to apply) is amended by striking all matter before subparagraph (A) of paragraph (2) and inserting the following:

"(l) Section Not To Apply.—

"(1) In general.—This section shall not apply to any matter to which section 6104 or 6105 applies, except that this section shall apply to any written determination and related background file document relating to the tax-exempt status of an organization described under subsection (c) or (d) of section 501 (including any organization that has applied for tax-exempt status under such subsection) which is not required to be disclosed by section 6104(a)(1)(A) but which is within the scope of section 6104.

"(2) Additional matters.—This section shall not apply to any—".

(b) Effective Date.—The amendment made by this section shall apply to written determinations issued after December 31, 2002.

SEC. 202. DISCLOSURE OF INTERNET WEB SITE AND NAME UNDER WHICH ORGANIZATION DOES BUSINESS.

(a) In General.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Disclosure of Name Under Which Organization Does Business and Its Internet Web Site.—Any organization which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

"(1) any name under which such organization operates or does business, and

"(2) the Internet web site address (if any) of such organization.".

(b) Effective Date.—The amendments made by this section shall apply to returns filed after December 31, 2002.

SEC. 203. MODIFICATION TO REPORTING CAPITAL TRANSACTIONS.

(a) Requirement of Summary Report.—Section 6033(c) (relating to additional provisions relating to private foundations) is amended by adding at the end the following new sentence: "Any information included in an annual return regarding the gain or loss from the sale or other disposition of property which is required to be furnished in order to calculate the tax on net investment income shall also be reported in summary form with a notice that detailed information is available upon request by the public.".

(b) Disclosure Requirement.—Section 6104(b) (relating to inspection of annual information returns), as amended by this Act, is amended by adding at the end the following new sentences: "With respect to any private foundation (as defined in section 509(a)), any information regarding the gain or loss from the sale or other disposition of property which is required to be furnished in order to calculate the tax on net investment income but which is not in summary form is not required to be made available to the public under this subsection except upon the explicit request by a member of the public to the Secretary .".

(c) Public Inspection Requirement.—Section 6104(d) (relating to public inspection of certain annual returns, applications for exemptions, and notices of status) is amended by adding at the end the following new paragraph:

"(9) Application to private foundation capital transaction information.—With respect to any private foundation (as defined in section 509(a)), any information regarding the gain or loss from the sale or other disposition of property which is required to be furnished in order to calculate the tax on net investment income but which is not in summary form is not required to be made available to the public under this subsection except upon the explicit request by a member of the public to the private foundation in the form and manner of a request described in paragraph (1)(B).".

(d) Effective Date.—The amendments made by this section shall apply to returns filed after December 31, 2002.

SEC. 204. DISCLOSURE THAT FORM 990 IS PUBLICLY AVAILABLE.

(a) In General.—The Commissioner of the Internal Revenue shall notify the public in appropriate publications or other materials of the extent to which an exempt organization's Form 990, Form 990-EZ, or Form 990-PF is publicly available.

(b) Effective Date.—The amendments made by this section shall apply to publications or other materials issued or revised after the date of the enactment of this Act.

SEC. 205. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

(a) In General.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) Disclosure of proposed actions related to charitable organizations.—

"(A) Specific notifications.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

"(B) Additional disclosures.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) Procedures for disclosure.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any independent contractor.

"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

"(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any independent contractor.

"(4) USE IN JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general,

"(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

"(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the tax-exempt status of such organizations.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting "or section 6104(c)" after "this section" in paragraph (2), and

(B) by striking "or subsection (n)" in paragraph (3) and inserting "subsection (n), or section 6104(c)".

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by striking "(16) or any other person described in subsection (l)(16)" and inserting "(16), any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))", and

(B) in subparagraph (F), by striking "or any other person described in subsection (l)(16)" and inserting "any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))".

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting "FOR CHARITABLE ORGANIZATIONS".

(5) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(6) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(7) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

TITLE III—OTHER CHARITABLE AND EXEMPT ORGANIZATION PROVISIONS

SEC. 301. MODIFICATION OF EXCISE TAX ON UNRELATED BUSINESS TAXABLE INCOME OF CHARITABLE REMAINDER TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 664 (relating to exemption from income taxes) is amended to read as follows:

"(c) TAXATION OF TRUSTS.—

"(1) INCOME TAX.—A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle.

"(2) EXCISE TAX.—

"(A) IN GENERAL.—In the case of a charitable remainder annuity trust or a charitable remainder unitrust which has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust) for a taxable year, there is hereby imposed on such trust or unitrust an excise tax equal to the amount of such unrelated business taxable income.

"(B) CERTAIN RULES TO APPLY.—The tax imposed by subparagraph (A) shall be treated as imposed by chapter 42 for purposes of this title other than subchapter E of chapter 42.

"(C) TAX COURT PROCEEDINGS.—For purposes of this paragraph, the references in section 6212(c)(1) to section 4940 shall be deemed to include references to this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 302. MODIFICATIONS TO SECTION 512(b)(13).

(a) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

"(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

"(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

"(I) such excess determined without regard to any amendment or supplement to a return of tax, or

"(II) such excess determined with regard to all such amendments and supplements.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to payments received or accrued after December 31, 2000.

(2) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

SEC. 303. SIMPLIFICATION OF LOBBYING EXPENDITURE LIMITATION.

(a) REPEAL OF GRASSROOTS EXPENDITURE LIMIT.—Paragraph (1) of section 501(h) (relating to expenditures by public charities to influence legislation) is amended to read as follows:

"(1) GENERAL RULE.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year.".

(b) EXCESS LOBBYING EXPENDITURES.—Section 4911(b) is amended to read as follows:

"(b) EXCESS LOBBYING EXPENDITURES.—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year.".

(c) CONFORMING AMENDMENTS.—

(1) Section 501(h)(2) is amended by striking subparagraphs (C) and (D).

(2) Section 4911(c) is amended by striking paragraphs (3) and (4).

(3) Paragraph (1)(A) of section 4911(f) is amended by striking "limits of section 501(h)(1) have" and inserting "limit of section 501(h)(1) has".

(4) Paragraph (1)(C) of section 4911(f) is amended by striking "limits of section 501(h)(1) are" and inserting "limit of section 501(h)(1) is".

(5) Paragraphs (4)(A) and (4)(B) of section 4911(f) are each amended by striking "limits of section 501(h)(1)" and inserting "limit of section 501(h)(1)".

(6) Paragraph (8) of section 6033(b) (relating to certain organizations described in section 501(c)(3)) is amended by inserting "and" at the end of subparagraph (A) and by striking subparagraphs (C) and (D).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 304. EXPEDITED REVIEW PROCESS FOR CERTAIN TAX-EXEMPTION APPLICATIONS.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate (in this section, referred to as the "Secretary") shall adopt procedures to expedite the consideration of applications for exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 filed after December 31, 2002, by any organization that—

(1) is organized and operated for the primary purpose of providing social services;

(2) is seeking a contract or grant under a Federal, State, or local program that provides funding for social services programs;

(3) establishes that, under the terms and conditions of the contract or grant program, an organization is required to obtain such exempt status before the organization is eligible to apply for a contract or grant;

(4) includes with its exemption application a copy of its completed Federal, State, or local contract or grant application; and

(5) meets such other criteria as the Secretary deems appropriate for expedited consideration.

The Secretary may prescribe other similar circumstances in which such organizations may be entitled to expedited consideration.

(b) WAIVER OF APPLICATION FEE FOR EXEMPT STATUS.—Any organization that meets the conditions described in subsection (a) (without regard to paragraph (3) of that subsection) is entitled to a waiver of any fee for an application for exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 if the organization certifies that the organization has had (or expects to have) average annual gross receipts of not more than $50,000 during the preceding 4 years (or, in the case of an organization not in existence throughout the preceding 4 years, during such organization's first 4 years).

(c) SOCIAL SERVICES DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "social services" means services directed at helping people in need, reducing poverty, improving outcomes of low-income children, revitalizing low-income communities, and empowering low-income families and low-income individuals to become self-sufficient, including—

(A) child care services, protective services for children and adults, services for children and adults in foster care, adoption services, services related to the management and maintenance of the home, day care services for adults, and services to meet the special needs of children, older individuals, and individuals with disabilities (including physical, mental, or emotional disabilities);

(B) transportation services;

(C) job training and related services, and employment services;

(D) information, referral, and counseling services;

(E) the preparation and delivery of meals, and services related to soup kitchens or food banks;

(F) health support services;

(G) literacy and mentoring programs;

(H) services for the prevention and treatment of juvenile delinquency and substance abuse, services for the prevention of crime and the provision of assistance to the victims and the families of criminal offenders, and services related to the intervention in, and prevention of, domestic violence; and

(I) services related to the provision of assistance for housing under Federal law.

(2) EXCLUSIONS.—The term does not include a program having the purpose of delivering educational assistance under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) or under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 305. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

SEC. 306. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) which is exempt from tax under section 501(a), or".

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations made after December 31, 2001.

SEC. 307. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.".

SEC. 308. CHARITABLE CONTRIBUTION DEDUCTION FOR CERTAIN EXPENSES INCURRED IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by this Act, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) EXPENSES PAID BY CERTAIN WHALING CAPTAINS IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.—

"(1) IN GENERAL.—In the case of an individual who is recognized by the Alaska Eskimo Whaling Commission as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities and who engages in such activities during the taxable year, the amount described in paragraph (2) (to the extent such amount does not exceed $7,500 for the taxable year) shall be treated for purposes of this section as a charitable contribution.

"(2) AMOUNT DESCRIBED.—

"(A) IN GENERAL.—The amount described in this paragraph is the aggregate of the reasonable and necessary whaling expenses paid by the taxpayer during the taxable year in carrying out sanctioned whaling activities.

"(B) WHALING EXPENSES.—For purposes of subparagraph (A), the term 'whaling expenses' includes expenses for—

"(i) the acquisition and maintenance of whaling boats, weapons, and gear used in sanctioned whaling activities,

"(ii) the supplying of food for the crew and other provisions for carrying out such activities, and

"(iii) storage and distribution of the catch from such activities.

"(3) SANCTIONED WHALING ACTIVITIES.—For purposes of this subsection, the term 'sanctioned whaling activities' means subsistence bowhead whale hunting activities conducted pursuant to the management plan of the Alaska Eskimo Whaling Commission."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to expenses paid after December 31, 2002, in taxable years ending after such date.

SEC. 309. PAYMENTS BY CHARITABLE ORGANIZATIONS TO VICTIMS OF WAR ON TERRORISM.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986—

(1) payments made by an organization described in section 501(c)(3) of such Code to a member of the Armed Forces of the United States, or to an individual of such member's immediate family by reason of the death, injury, wounding, or illness of such member incurred as the result of the military response of the United States to the terrorist attacks against the United States on September 11, 2001, shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payments are made using an objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) EFFECTIVE DATE.—This section shall apply to payments made after the date of the enactment of this Act and before September 11, 2003.

SEC. 310. TREATMENT OF BONDS ISSUED TO ACQUIRE STANDING TIMBER ON LAND SUBJECT TO CONSERVATION EASEMENT.

(a) IN GENERAL.—Section 145 (defining qualified 501(c)(3) bond) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) BONDS ISSUED TO ACQUIRE STANDING TIMBER ON LAND SUBJECT TO CONSERVATION EASEMENT.—

"(1) IN GENERAL.—A bond to which this subsection applies shall not fail to be a qualified 501(c)(3) bond by reason of the sale, lease, or other use of standing timber if—

"(A) such sale, lease, or other use does not constitute an unrelated trade or business (determined by applying section 513(a)),

"(B) the bond is designated by the Secretary for purposes of this subsection, and

"(C) the bond otherwise meets the requirements of this subsection.

"(2) BONDS TO WHICH SUBSECTION APPLIES.—This subsection applies to bonds the proceeds of which are used to acquire both land and any standing timber associated with such land from an unrelated person if—

"(A) such land is subject to a conservation restriction which—

"(i) is granted in perpetuity to an unrelated person which is a qualified organization (as defined in section 170(h)(3)),

"(ii) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A), and

"(iii) obligates the owner of such land to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

"(B) the seller irrevocably elects not to exclude from income any gain on the sale under section 121A.

"(3) TREATMENT OF TIMBER, ETC.—

"(A) IN GENERAL.—For purposes of subsection (a), the cost of any standing timber acquired with proceeds of such bonds shall be treated as a cost of acquiring the land associated with the standing timber and such land shall not be treated as used for a private business use because of the sale or lease of the standing timber to, or other use of the standing timber by, an unrelated person to the extent that such sale, lease, or other use does not constitute an unrelated trade or business, determined by applying section 513(a).

"(B) APPLICATION OF BOND MATURITY LIMITATION.—For purposes of section 147(b), the land or standing timber acquired with proceeds of such bonds shall have an economic life of 35 years.

"(C) UNRELATED PERSON.—For purposes of this subsection, a person shall be treated as unrelated to—

"(i) an organization to which section 501 applies, if such person (or, if such person is an individual, a member of such person's family) controls directly or indirectly less than 20 percent of the governing body of such organization,

"(ii) a corporation, if such person owns directly or indirectly less than 20 percent of the value of the outstanding stock of such corporation, or

"(iii) a partnership, if such person owns directly or indirectly less than 20 percent of the capital interests or profit interests of such partnership.

"(4) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(A) IN GENERAL.—The aggregate amount of bonds (including any bond (or series of bonds) used to advance refund such bonds) which may be designated for purposes of this subsection under paragraph (1)(B) shall not exceed $2,000,000,000.

"(B) NO DESIGNATION AFTER 2005.—No bonds may be so designated after 2005.

"(C) ALLOCATION OF LIMITATION.—The limitation described in subparagraph (A) shall be allocated by the Secretary among 501(c)(3) organizations based on criteria established by the Secretary after consultation with appropriate Federal, State, and local officials.

"(D) TREATMENT OF CURRENT REFUNDING BONDS.—Any bond (or series of bonds) issued to refund a bond designated and issued before January 1, 2006, shall be treated as designated for purposes of this subsection under paragraph (1)(B) and shall not be taken into account in applying subparagraph (A) or (B) of this paragraph if—

"(i) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(ii) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

"(5) TERMINATION.—This subsection shall not apply to any bond (other than a refunding bond described in paragraph (4)(D)) issued after December 31, 2005.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to bonds issued after September 30, 2002.

SEC. 311. EXEMPTION FROM INCOME TAX FOR STATE-CREATED ORGANIZATIONS PROVIDING PROPERTY AND CASUALTY INSURANCE FOR PROPERTY FOR WHICH SUCH COVERAGE IS OTHERWISE UNAVAILABLE.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end the following new paragraph:

"(29)(A) Any association created before January 1, 1999, by State law and organized and operated exclusively to provide property and casualty insurance coverage for windstorm, hail, and fire damage to property located within the State for which the State determines, through appropriate State action, that such coverage in the authorized insurance market is not reasonably available to a substantial number of insurable real properties (and any successor association) if—

"(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual,

"(ii) except as provided in clause (v), no part of the assets of which may be used for, or diverted to, any purpose other than—

"(I) to satisfy, in whole or in part, the liability of the association for, or with respect to, claims made on policies written by the association,

"(II) to invest in investments authorized by applicable law,

"(III) to pay reasonable and necessary administration expenses in connection with the establishment and operation of the association and the processing of claims against the association, or

"(IV) to make remittances pursuant to State law to be used by the State to provide for the payment of claims on policies written by the association, purchase reinsurance covering losses under such policies, or to support governmental programs to prepare for or mitigate the effects of natural catastrophic events,

"(iii) the State law governing the association permits the association to levy assessments on insurance companies authorized to sell property and casualty insurance in the State, or on property and casualty insurance policyholders with insurable interests in property located in the State to fund deficits of the association, including the creation of reserves,

"(iv) the plan of operation of the association is subject to approval by the chief executive officer or other official of the State, by the State legislature, or both, and

"(v) the assets of the association revert upon dissolution to the State, the State's designee, or an entity designated by the State law governing the association, or State law does not permit the dissolution of the association.

"(B)(i) An entity described in clause (ii) (and any successor entity) shall be disregarded as a separate entity and treated as part of the association described in subparagraph (A) from which it receives remittances described in clause (ii) if an election is made within 30 days after the date that such association is determined to be exempt from tax.

"(ii) An entity is described in this clause if it is an entity or fund created before January 1, 1999, pursuant to State law and organized and operated exclusively to receive, hold, and invest remittances from an association described in subparagraph (A) and exempt from tax under subsection (a), to make disbursements to pay claims on insurance contracts issued by such association, and to make disbursements to support governmental programs to prepare for or mitigate the effects of natural catastrophic events.".

(b) UNRELATED BUSINESS TAXABLE INCOME.—Subsection (a) of section 512 (relating to unrelated business taxable income) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(c)(29).—In the case of an organization described in section 501(c)(29), the term 'unrelated business taxable income' means taxable income for a taxable year computed without the application of section 501(c)(29) if at the end of the immediately preceding taxable year the organization's net equity exceeded 15 percent of the total coverage in force under insurance contracts issued by the organization and outstanding at the end of such preceding year.".

(c) TRANSITIONAL RULE.—No income or gain shall be recognized by an association as a result of a change in status to that of an association described by section 501(c)(29) of the Internal Revenue Code of 1986, as amended by subsection (a).

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

SEC. 312. MODIFICATION OF SPECIAL ARBITRAGE RULE FOR CERTAIN FUNDS.

(a) IN GENERAL.—Paragraph (1) of section 648 of the Deficit Reduction Act of 1984 is amended to read as follows:

"(1) such securities or obligations are held in a fund—

"(A) which, except to the extent of the investment earnings on such securities or obligations, cannot be used, under State constitutional or statutory restrictions continuously in effect since October 9, 1969, through the date of issue of the bond issue, to pay debt service on the bond issue or to finance the facilities that are to be financed with the proceeds of the bonds, or

"(B) the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue,".

(b) CONFORMING AMENDMENT.—Section 648(3) of such Act is amended by striking "the investment earnings of" and inserting "distributions from".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 313. MATCHING GRANTS TO LOW-INCOME TAXPAYER CLINICS FOR RETURN PREPARATION.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. ASSISTANCE FOR RETURN PREPARATION FOR LOW-INCOME TAXPAYERS.

"(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds to not-for-profit organizations described in section 501(c) and exempt from taxation under section 501(a) which assist low-income taxpayers in tax return preparation.

"(b) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(c) REQUIREMENT OF MATCHING FUNDS.—A not-for-profit organization must provide matching funds on a dollar-for-dollar basis for all grants provided under this section. Matching funds may include—

"(1) the salary (including fringe benefits) of individuals performing tax return preparation services for the organization; and

"(2) the cost of equipment used by the organization.

Indirect expenses, including general overhead of the organization, shall not be counted as matching funds.".

(b) Clerical Amendment.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7527. Assistance for return preparation for low-income taxpayers.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 314. MODIFICATION OF SCHOLARSHIP FOUNDATION RULES.

In applying the limitations on the percentage of scholarship grants which may be awarded after December 31, 2002, to children of employees under Revenue Procedure 76–47, such percentage shall be increased to 35 percent of the eligible applicants to be considered by the selection committee and to 20 percent of individuals eligible for the grants, but only if the foundation awarding the grants demonstrates that, in addition to meeting the other requirements of Revenue Procedure 76–47, it provides a comparable number and aggregate amount of grants during the same program year to children who are not children of current or former employees.

SEC. 315. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS FOR PURPOSES OF DETERMINING ACQUISITION INDEBTEDNESS.

(a) In General.—Subparagraph (C) of section 514(c)(9) (relating to real property acquired by a qualified organization) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting "; or", and by adding at the end the following new clause:

"(iv) a qualified hospital support organization (as defined in subparagraph (I)).".

(b) Qualified Hospital Support Organizations.—Paragraph (9) of section 514(c) is amended by adding at the end the following new subparagraph:

"(I) Qualified hospital support organizations.—For purposes of subparagraph (C)(iv), the term 'qualified hospital support organization' means, with respect to any eligible indebtedness (including any qualified refinancing of such eligible indebtedness), a support organization (as defined in section 509(a)(3)) which supports a hospital described in section 119(d)(4)(B) and with respect to which—

"(i) more than half of its assets (by value) at any time since its organization—

"(I) were acquired, directly or indirectly, by testamentary gift or devise, and

"(II) consisted of real property, and

"(ii) the fair market value of the organization's real estate acquired, directly or indirectly, by gift or devise, exceeded 25 percent of the fair market value of all investment assets held by the organization immediately prior to the time that the eligible indebtedness was incurred.

For purposes of this subparagraph, the term 'eligible indebtedness' means indebtedness secured by real property acquired by the organization, directly or indirectly, by gift or devise, the proceeds of which are used exclusively to acquire any leasehold interest in such real property or for improvements on, or repairs to, such real property. A determination under clauses (i) and (ii) of this subparagraph shall be made each time such an eligible indebtedness (or the qualified refinancing of such an eligible indebtedness) is incurred. For purposes of this subparagraph, a refinancing of such an eligible indebtedness shall be considered qualified if such refinancing does not exceed the amount of the refinanced eligible indebtedness immediately before the refinancing.".

(c) Effective Date.—The amendments made by this section shall apply to indebtedness incurred after December 31, 2003.

SEC. 316. 10-YEAR DIVESTITURE PERIOD FOR CERTAIN EXCESS BUSINESS HOLDINGS OF PRIVATE FOUNDATIONS.

(a) In General.—Section 4943(c) (relating to excess business holdings) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) 10-year period to dispose of certain large gifts and bequests.—

"(A) In general.—Upon the election of a private foundation (at such time and in such form and manner as the Secretary may prescribe), paragraph (6) shall be applied by substituting '10-year period' for '5-year period' if—

"(i) it is established to the satisfaction of the Secretary that—

"(I) the excess business holdings (or increase in excess business holdings) in a business enterprise by the private foundation is the result of a gift or bequest the value of which exceeds $1,000,000,000, and

"(II) after such gift or bequest, the private foundation does not have effective control of such business enterprise to which such gift or bequest relates, and

"(ii) not later than the end of the taxable year following the taxable year during which such gift or bequest was made, the private foundation submits to the Secretary a reasonable plan for disposing of all of the excess business holdings related to such gift or bequest.

"(B) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 2003, the $1,000,000,000 amount under subparagraph (A)(i)(I) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting '2002' for '1992' in subparagraph (B) thereof. If the $1,000,000,000 amount as increased under this subparagraph is not a multiple of $100,000,000, such amount shall be rounded to the next lowest multiple of $100,000,000.".

(b) Effective Date.—The amendments made by this section shall apply to gifts and bequests made after the date of the enactment of this Act.

TITLE IV—SOCIAL SERVICES BLOCK GRANT

SEC. 401. RESTORATION OF FUNDS FOR THE SOCIAL SERVICES BLOCK GRANT.

(a) Findings.—Congress makes the following findings:

(1) On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105) was signed into law.

(2) In enacting that law, Congress authorized $2,800,000,000 for fiscal year 2003 and each fiscal year thereafter to carry out the Social Services Block Grant program established under title XX of the Social Security Act (42 U.S.C. 1397 et seq.).

(b) Restoration of Funds.—Section 2003(c)(11) of the Social Security Act (42 U.S.C. 1397b(c)(11)) is amended by inserting ", except that, with respect to fiscal year 2003, the amount shall be $1,975,000,000, and with respect to fiscal year 2004, the amount shall be $2,800,000,000" after "thereafter.".

SEC. 402. RESTORATION OF AUTHORITY TO TRANSFER UP TO 10 PERCENT OF TANF FUNDS TO THE SOCIAL SERVICES BLOCK GRANT.

(a) In General.—Section 404(d)(2) of the Social Security Act (42 U.S.C. 604(d)(2)) is amended to read as follows:

"(2) Limitation on amount transferable to title xx programs.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.".

(b) Effective Date.—The amendment made by subsection (a) applies to amounts made available for fiscal year 2003 and each fiscal year thereafter.

SEC. 403. REQUIREMENT TO SUBMIT ANNUAL REPORT ON STATE ACTIVITIES.

(a) In General.—Section 2006(c) of the Social Security Act (42 U.S.C. 1397e(c)) is amended by adding at the end the following: "The Secretary shall compile the information submitted by the States and submit that information to Congress on an annual basis.".

(b) Effective Date.—The amendment made by subsection (a) applies to information submitted by States under section 2006 of the Social Security Act (42 U.S.C. 1397e) with respect to fiscal year 2002 and each fiscal year thereafter.

TITLE V—INDIVIDUAL DEVELOPMENT ACCOUNTS

SEC. 501. SHORT TITLE.

This title may be cited as the "Savings for Working Families Act of 2002".

SEC. 502. PURPOSES.

The purposes of this title are to provide for the establishment of individual development account programs that will—

(1) provide individuals and families with limited means an opportunity to accumulate assets and to enter the financial mainstream,

(2) promote education, homeownership, and the development of small businesses,

(3) stabilize families and build communities, and

(4) support continued United States economic expansion.

SEC. 503. DEFINITIONS.

As used in this title:

(1) Eligible individual.—

(A) In general.—The term "eligible individual" means, with respect to any taxable year, an individual who—

(i) has attained the age of 18 but not the age of 61 as of the last day of such taxable year,

(ii) is a citizen or lawful permanent resident (within the meaning of section 7701(b)(6) of the Internal Revenue Code of 1986) of the United States as of the last day of such taxable year,

(iii) was not a student (as defined in section 151(c)(4) of such Code) for the immediately preceding taxable year,

(iv) is not an individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year of the other taxpayer ending during the immediately preceding taxable year of the individual,

(v) is not a taxpayer described in subsection (c), (d), or (e) of section 6402 of such Code for the immediately preceding taxable year,

(vi) is not a taxpayer described in section 1(d) of such Code for the immediately preceding taxable year, and

(vii) is a taxpayer the modified adjusted gross income of whom for the immediately preceding taxable year does not exceed—

(I) $18,000, in the case of a taxpayer described in section 1(c) of such Code,

(II) $30,000, in the case of a taxpayer described in section 1(b) of such Code, and

(III) $38,000, in the case of a taxpayer described in section 1(a) of such Code.

(B) INFLATION ADJUSTMENT.—

(i) IN GENERAL.—In the case of any taxable year beginning after 2004, each dollar amount referred to in subparagraph (A)(vii) shall be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section (1)(f)(3) of the Internal Revenue Code of 1986 for the calendar year in which the taxable year begins, by substituting "2003" for "1992".

(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A)(v), the term "modified adjusted gross income" means adjusted gross income—

(i) determined without regard to sections 86, 893, 911, 931, and 933 of the Internal Revenue Code of 1986, and

(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

(2) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term "Individual Development Account" means an account established for an eligible individual as part of a qualified individual development account program, but only if the written governing instrument creating the account meets the following requirements:

(A) The owner of the account is the individual for whom the account was established.

(B) No contribution will be accepted unless it is in cash, and, except in the case of any qualified rollover, contributions will not be accepted for the taxable year in excess of $1,500 on behalf of any individual.

(C) The trustee of the account is a qualified financial institution.

(D) The assets of the account will not be commingled with other property except in a common trust fund or common investment fund.

(E) Except as provided in section 507(b), any amount in the account may be paid out only for the purpose of paying the qualified expenses of the account owner.

(3) PARALLEL ACCOUNT.—The term "parallel account" means a separate, parallel individual or pooled account for all matching funds and earnings dedicated to an Individual Development Account owner as part of a qualified individual development account program, the trustee of which is a qualified financial institution.

(4) QUALIFIED FINANCIAL INSTITUTION.—The term "qualified financial institution" means any person authorized to be a trustee of any individual retirement account under section 408(a)(2) of the Internal Revenue Code of 1986.

(5) QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM.—The term "qualified individual development account program" means a program established upon approval of the Secretary under section 504 after December 31, 2002, under which—

(A) Individual Development Accounts and parallel accounts are held in trust by a qualified financial institution, and

(B) additional activities determined by the Secretary, in consultation with the Secretary of Health and Human Services, as necessary to responsibly develop and administer accounts, including recruiting, providing financial education and other training to Account owners, and regular program monitoring, are carried out by the qualified financial institution.

(6) QUALIFIED EXPENSE DISTRIBUTION.—

(A) IN GENERAL.—The term "qualified expense distribution" means any amount paid (including through electronic payments) or distributed out of an Individual Development Account or a parallel account established for an eligible individual if such amount—

(i) is used exclusively to pay the qualified expenses of the Individual Development Account owner or such owner's spouse or dependents,

(ii) is paid by the qualified financial institution—

(I) except as otherwise provided in this clause, directly to the unrelated third party to whom the amount is due,

(II) in the case of any qualified rollover, directly to another Individual Development Account and parallel account, or

(III) in the case of a qualified final distribution, directly to the spouse, dependent, or other named beneficiary of the deceased Account owner, and

(iii) is paid after the Account owner has completed a financial education course if required under section 505(b).

(B) QUALIFIED EXPENSES.—

(i) IN GENERAL.—The term "qualified expenses" means any of the following expenses approved by the qualified financial institution:

(I) Qualified higher education expenses.

(II) Qualified first-time homebuyer costs.

(III) Qualified business capitalization or expansion costs.

(IV) Qualified rollovers.

(V) Qualified final distribution.

(ii) QUALIFIED HIGHER EDUCATION EXPENSES.—

(I) IN GENERAL.—The term "qualified higher education expenses" has the meaning given such term by section 529(e)(3) of the Internal Revenue Code of 1986, determined by treating the Account owner, the owner's spouse, or one or more of the owner's dependents as a designated beneficiary, and reduced as provided in section 25A(g)(2) of such Code.

(II) COORDINATION WITH OTHER BENEFITS.—The amount of expenses which may be taken into account for purposes of section 135, 529, or 530 of such Code for any taxable year shall be reduced by the amount of any qualified higher education expenses taken into account as qualified expense distributions during such taxable year.

(iii) QUALIFIED FIRST-TIME HOMEBUYER COSTS.—The term "qualified first-time homebuyer costs" means qualified acquisition costs (as defined in section 72(t)(8)(C) of the Internal Revenue Code of 1986) with respect to a principal residence (within the meaning of section 121 of such Code) for a qualified first-time homebuyer (as defined in section 72(t)(8)(D)(i) of such Code).

(iv) QUALIFIED BUSINESS CAPITALIZATION OR EXPANSION COSTS.—

(I) IN GENERAL.—The term "qualified business capitalization or expansion costs" means qualified expenditures for the capitalization or expansion of a qualified business pursuant to a qualified business plan.

(II) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures normally associated with starting or expanding a business and included in a qualified business plan, including costs for capital, plant, and equipment, inventory expenses, and attorney and accounting fees.

(III) QUALIFIED BUSINESS.—The term "qualified business" means any business that does not contravene any law.

(IV) QUALIFIED BUSINESS PLAN.—The term "qualified business plan" means a business plan which has been approved by the qualified financial institution and which meets such requirements as the Secretary may specify.

(v) QUALIFIED ROLLOVERS.—The term "qualified rollover" means the complete distribution of the amounts in an Individual Development Account and parallel account to another Individual Development Account and parallel account established in another qualified financial institution for the benefit of the Account owner.

(vi) QUALIFIED FINAL DISTRIBUTION.—The term "qualified final distribution" means, in the case of a deceased Account owner, the complete distribution of the amounts in the Individual Development Account and parallel account directly to the spouse, any dependent, or other named beneficiary of the deceased.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

SEC. 504. STRUCTURE AND ADMINISTRATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) ESTABLISHMENT OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.—Any qualified financial institution may apply to the Secretary for approval to establish 1 or more qualified individual development account programs which meet the requirements of this title and for an allocation of the Individual Development Account limitation under section 45G(i)(3) of the Internal Revenue Code of 1986 with respect to such programs.

(b) BASIC PROGRAM STRUCTURE.—

(1) IN GENERAL.—All qualified individual development account programs shall consist of the following 2 components for each participant:

(A) An Individual Development Account to which an eligible individual may contribute cash in accordance with section 505.

(B) A parallel account to which all matching funds shall be deposited in accordance with section 506.

(2) TAILORED IDA PROGRAMS.—A qualified financial institution may tailor its qualified individual development account program to allow matching funds to be spent on 1 or more of the categories of qualified expenses.

(3) NO FEES MAY BE CHARGED TO IDAS.—A qualified financial institution may not charge any fees to any Individual Development Account or parallel account under a qualified individual development account program.

(c) COORDINATION WITH PUBLIC HOUSING AGENCY INDIVIDUAL SAVINGS ACCOUNTS.—Section 3(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(e)(2)) is amended by inserting "or in any Individual Development Account established under the Savings for Working Families Act of 2002" after "subsection".

(d) TAX TREATMENT OF PARALLEL ACCOUNTS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7525. TAX INCENTIVES FOR INDIVIDUAL DEVELOPMENT PARALLEL ACCOUNTS.

"For purposes of this title—

"(1) any account described in section 504(b)(1)(B) of the Savings for Working Families Act of 2002 shall be exempt from taxation,

"(2) except as provided in section 45G, no item of income, expense, basis, gain, or loss with respect to such an account may be taken into account, and

"(3) any amount withdrawn from such an account shall not be includible in gross income.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7525. Tax incentives for individual development parallel accounts.".

(e) COORDINATION OF CERTAIN EXPENSES.—Section 25A(g)(2) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) a qualified expense distribution with respect to qualified higher education expenses from an Individual Development Account or a parallel account under section 507(a) of the Savings for Working Families Act of 2002.

SEC. 505. PROCEDURES FOR OPENING AND MAINTAINING AN INDIVIDUAL DEVELOPMENT ACCOUNT AND QUALIFYING FOR MATCHING FUNDS.

(a) OPENING AN ACCOUNT.—An eligible individual may open an Individual Development Account with a qualified financial institution upon certification that such individual has never maintained any other Individual Development Account (other than an Individual Development Account to be terminated by a qualified rollover).

(b) REQUIRED COMPLETION OF FINANCIAL EDUCATION COURSE.—

(1) IN GENERAL.—Before becoming eligible to withdraw funds to pay for qualified expenses, owners of Individual Development Accounts must complete 1 or more financial education courses specified in the qualified individual development account program.

(2) STANDARD AND APPLICABILITY OF COURSE.—The Secretary, in consultation with representatives of qualified individual development account programs and financial educators, shall not later than January 1, 2004, establish minimum quality standards for the contents of financial education courses and providers of such courses described in paragraph (1) and a protocol to exempt individuals from the requirement under paragraph (1) in the case of hardship, lack of need, the attainment of age 65, or a qualified final distribution.

(c) PROOF OF STATUS AS AN ELIGIBLE INDIVIDUAL.—Federal income tax forms for the immediately preceding taxable year and any other evidence of eligibility which may be required by a qualified financial institution shall be presented to such institution at the time of the establishment of the Individual Development Account and in any taxable year in which contributions are made to the Account to qualify for matching funds under section 506(b)(1)(A).

(d) SPECIAL RULE IN THE CASE OF MARRIED INDIVIDUALS.—For purposes of this title, if, with respect to any taxable year, 2 married individuals file a Federal joint income tax return, then not more than 1 of such individuals may be treated as an eligible individual with respect to the succeeding taxable year.

SEC. 506. DEPOSITS BY QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) PARALLEL ACCOUNTS.—The qualified financial institution shall deposit all matching funds for each Individual Development Account into a parallel account at a qualified financial institution.

(b) REGULAR DEPOSITS OF MATCHING FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), the qualified financial institution shall deposit into the parallel account with respect to each eligible individual the following amounts:

(A) A dollar-for-dollar match for the first $500 contributed by the eligible individual into an Individual Development Account with respect to any taxable year of such individual.

(B) Any matching funds provided by State, local, or private sources in accordance with the matching ratio set by those sources.

(2) TIMING OF DEPOSITS.—A deposit of the amounts described in paragraph (1) shall be made into a parallel account—

(A) in the case of amounts described in paragraph (1)(A), not later than 30 days after the end of the calendar quarter during which the contribution described in such paragraph was made, and

(B) in the case of amounts described in paragraph (1)(B), not later than 2 business days after such amounts were provided.

(3) CROSS REFERENCE.—

For allowance of tax credit for Individual Development Account subsidies, including matching funds, see section 45G of the Internal Revenue Code of 1986.

(c) DEPOSIT OF MATCHING FUNDS INTO INDIVIDUAL DEVELOPMENT ACCOUNT OF INDIVIDUAL WHO HAS ATTAINED AGE 65.—In the case of an Individual Development Account owner who attains the age of 65, the qualified financial institution shall deposit the funds in the parallel account with respect to such individual into the Individual Development Account of such individual on the later of—

(1) the day which is the 1-year anniversary of the deposit of such funds in the parallel account, or

(2) the first business day of the taxable year of such individual following the taxable year in which such individual attained age 65.

(d) UNIFORM ACCOUNTING REGULATIONS.—To ensure proper recordkeeping and determination of the tax credit under section 45G of the Internal Revenue Code of 1986, the Secretary shall prescribe regulations with respect to accounting for matching funds in the parallel accounts.

(e) REGULAR REPORTING OF ACCOUNTS.—Any qualified financial institution shall report the balances in any Individual Development Account and parallel account of an individual on not less than an annual basis to such individual.

SEC. 507. WITHDRAWAL PROCEDURES.

(a) WITHDRAWALS FOR QUALIFIED EXPENSES.—

(1) IN GENERAL.—An Individual Development Account owner may withdraw funds in order to pay qualified expense distributions from such individual's—

(A) Individual Development Account, but only from funds which have been on deposit in such Account for at least 1 year, and

(B) parallel account, but only—

(i) from matching funds which have been on deposit in such parallel account for at least 1 year,

(ii) from earnings in such parallel account, after all matching funds described in clause (i) have been withdrawn, and

(iii) to the extent such withdrawal does not result in a remaining balance in such parallel account which is less than the remaining balance in the Individual Development Account after such withdrawal.

(2) PROCEDURE.—Upon receipt of a withdrawal request which meets the requirements of paragraph (1), the qualified financial institution shall directly transfer the funds electronically to the distributees described in section 503(6)(A)(ii). If a distributee is not equipped to receive funds electronically, the qualified financial institution may issue such funds by paper check to the distributee.

(b) WITHDRAWALS FOR NONQUALIFIED EXPENSES.—An Individual Development Account owner may withdraw any amount of funds from the Individual Development Account for purposes other than to pay qualified expense distributions, but if, after such withdrawal, the amount in the parallel account of such owner (excluding earnings on matching funds) exceeds the amount remaining in such Individual Development Account, then such owner shall forfeit from the parallel account the lesser of such excess or the amount withdrawn.

(c) WITHDRAWALS FROM ACCOUNTS OF NONELIGIBLE INDIVIDUALS.—If the individual for whose benefit an Individual Development Account is established ceases to be an eligible individual, such account shall remain an Individual Development Account, but such individual shall not be eligible for any further matching funds under section 506(b)(1)(A) for contributions which are made to the Account during any taxable year when such individual is not an eligible individual.

(d) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year of the individual for whose benefit an Individual Development Account is established, that individual uses the Account, the individual's parallel account, or any portion thereof as security for a loan, the portion so used shall be treated as a withdrawal of such portion from the Individual Development Account for purposes other than to pay qualified expenses.

SEC. 508. CERTIFICATION AND TERMINATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) CERTIFICATION PROCEDURES.—Upon establishing a qualified individual development account program under section 504, a qualified financial institution shall certify to the Secretary at such time and in such manner as may be prescribed by the Secretary and accompanied by any documentation required by the Secretary, that—

(1) the accounts described in subparagraphs (A) and (B) of section 504(b)(1) are operating pursuant to all the provisions of this title, and

(2) the qualified financial institution agrees to implement an information system necessary to monitor the cost and outcomes of the qualified individual development account program.

(b) AUTHORITY TO TERMINATE QUALIFIED IDA PROGRAM.—If the Secretary determines that a qualified financial institution under this title is not operating a qualified individual development account program in accordance with the requirements of this title (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such institution's authority to conduct the program. If the Secretary is unable to identify a qualified financial institution to assume the authority to conduct such program, then any funds in a parallel account established for the benefit of any individual under such program shall be deposited into the Individual Development Account of such individual as of the first day of such termination.

SEC. 509. REPORTING, MONITORING, AND EVALUATION.

(a) RESPONSIBILITIES OF QUALIFIED FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Each qualified financial institution that operates a qualified individual development account program under

section 504 shall report annually to the Secretary within 90 days after the end of each calendar year on—

(A) the number of individuals making contributions into Individual Development Accounts and the amounts contributed,

(B) the amounts contributed into Individual Development Accounts by eligible individuals and the amounts deposited into parallel accounts for matching funds,

(C) the amounts withdrawn from Individual Development Accounts and parallel accounts, and the purposes for which such amounts were withdrawn,

(D) the balances remaining in Individual Development Accounts and parallel accounts, and

(E) such other information needed to help the Secretary monitor the effectiveness of the qualified individual development account program (provided in a non-individually-identifiable manner).

(2) Additional reporting requirements.—Each qualified financial institution that operates a qualified individual development account program under section 504 shall report at such time and in such manner as the Secretary may prescribe any additional information that the Secretary requires to be provided for purposes of administering and supervising the qualified individual development account program. This additional data may include, without limitation, identifying information about Individual Development Account owners, their Accounts, additions to the Accounts, and withdrawals from the Accounts.

(b) Responsibilities of the Secretary.—

(1) Monitoring protocol.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop and implement a protocol and process to monitor the cost and outcomes of the qualified individual development account programs established under section 504.

(2) Annual reports.—For each year after 2003, the Secretary shall submit a progress report to Congress on the status of such qualified individual development account programs. Such report shall, to the extent data are available, include from a representative sample of qualified individual development account programs information on—

(A) the characteristics of participants, including age, gender, race or ethnicity, marital status, number of children, employment status, and monthly income,

(B) deposits, withdrawals, balances, uses of Individual Development Accounts, and participant characteristics,

(C) the characteristics of qualified individual development account programs, including match rate, economic education requirements, permissible uses of accounts, staffing of programs in full time employees, and the total costs of programs, and

(D) process information on program implementation and administration, especially on problems encountered and how problems were solved.

(3) Reauthorization report on cost and outcomes of IDAs.—

(A) In general.—Not later than July 1, 2008, the Secretary of the Treasury shall submit a report to Congress and the chairmen and ranking members of the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means, the Committee on Banking and Financial Services, and the Committee on Education and the Workforce of the House of Representatives, in which the Secretary shall—

(i) summarize the previously submitted annual reports required under paragraph (2),

(ii) from a representative sample of qualified individual development account programs, include an analysis of—

(I) the economic, social, and behavioral outcomes,

(II) the changes in savings rates, asset holdings, and household debt, and overall changes in economic stability,

(III) the changes in outlooks, attitudes, and behavior regarding savings strategies, investment, education, and family,

(IV) the integration into the financial mainstream, including decreased reliance on alternative financial services, and increase in acquisition of mainstream financial products, and

(V) the involvement in civic affairs, including neighborhood schools and associations, associated with participation in qualified individual development account programs,

(iii) from a representative sample of qualified individual development account programs, include a comparison of outcomes associated with such programs with outcomes associated with other Federal Government social and economic development programs, including asset building programs, and

(iv) make recommendations regarding the reauthorization of the qualified individual development account programs, including—

(I) recommendations regarding reforms that will improve the cost and outcomes of the such programs, including the ability to help low income families save and accumulate productive assets,

(II) recommendations regarding the appropriate levels of subsidies to provide effective incentives to financial institutions and Account owners under such programs, and

(III) recommendations regarding how such programs should be integrated into other Federal poverty reduction, asset building, and community development policies and programs.

(B) Authorization.—There is authorized to be appropriated $2,500,000, for carrying out the purposes of this paragraph.

(4) Use of accounts in rural areas encouraged.—The Secretary shall develop methods to encourage the use of Individual Development Accounts in rural areas.

SEC. 510. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $1,000,000 for fiscal year 2003 and for each fiscal year through 2010, for the purposes of implementing this title, including the reporting, monitoring, and evaluation required under section 509, to remain available until expended.

SEC. 511. MATCHING FUNDS FOR INDIVIDUAL DEVELOPMENT ACCOUNTS PROVIDED THROUGH A TAX CREDIT FOR QUALIFIED FINANCIAL INSTITUTIONS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45G. INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT CREDIT.

"(a) Determination of Amount.—For purposes of section 38, the individual development account investment credit determined under this section with respect to any eligible entity for any taxable year is an amount equal to the individual development account investment provided by such eligible entity during the taxable year under an individual development account program established under section 504 of the Savings for Working Families Act of 2002.

"(b) Applicable Tax.—For the purposes of this section, the term 'applicable tax' means the excess (if any) of—

"(1) the tax imposed under this chapter (other than the taxes imposed under the provisions described in subparagraphs (C) through (Q) of section 26(b)(2)), over

"(2) the credits allowable under subpart B (other than this section) and subpart D of this part.

"(c) Individual Development Account Investment.—For purposes of this section, the term 'individual development account investment' means, with respect to an individual development account program in any taxable year, an amount equal to the sum of—

"(1) the aggregate amount of dollar-for-dollar matches under such program under section 506(b)(1)(A) of the Savings for Working Families Act of 2002 for such taxable year, plus

"(2) $50 with respect to each Individual Development Account maintained—

"(A) as of the end of such taxable year, but only if such taxable year is within the 7-taxable-year period beginning with the taxable year in which such Account is opened, and

"(B) with a balance of not less than $100 (other than the taxable year in which such Account is opened).

"(d) Eligible Entity.—For purposes of this section, except as provided in regulations, the term 'eligible entity' means a qualified financial institution.

"(e) Other Definitions.—For purposes of this section, any term used in this section and also in the Savings for Working Families Act of 2002 shall have the meaning given such term by such Act.

"(f) Denial of Double Benefit.—

"(1) In general.—No deduction or credit (other than under this section) shall be allowed under this chapter with respect to any expense which—

"(A) is taken into account under subsection (c)(1)(A) in determining the credit under this section, or

"(B) is attributable to the maintenance of an Individual Development Account.

"(2) Determination of amount.—Solely for purposes of paragraph (1)(B), the amount attributable to the maintenance of an Individual Development Account shall be deemed to be the dollar amount of the credit allowed under subsection (c)(1)(B) for each taxable year such Individual Development Account is maintained.

"(g) Credit May Be Transferred.—

"(1) In general.—An eligible entity may transfer any credit allowable to the eligible entity under subsection (a) to any person other than to another eligible entity which is exempt from tax under this title. The determination as to whether a credit is allowable shall be made without regard to the tax-exempt status of the eligible entity.

"(2) Consent required for revocation.—Any transfer under paragraph (1) may be revoked only with the consent of the Secretary.

"(h) Regulations.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including

"(1) such regulations as necessary to insure that any credit described in subsection (g)(1) is claimed once and not retransferred by a transferee, and

"(2) regulations providing for a recapture of the credit allowed under this section (notwithstanding any termination date described in subsection (i)) in cases where there is a forfeiture under section 507(b) of the Savings for Working Families Act of 2002 in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.

"(i) Application of Section.—

"(1) In general.—This section shall apply to any expenditure made in any taxable year ending after December 31, 2003, and beginning on or before January 1, 2011, with respect to any Individual Development Account which—

"(A) is opened before January 1, 2011, and

"(B) as determined by the Secretary, when added to all of the previously opened Individual Development Accounts, does not exceed—

"(i) 100,000 Accounts if opened after December 31, 2003, and before January 1, 2007,

"(ii) an additional 100,000 Accounts if opened after December 31, 2006, and before January 1, 2009, but only if, except as provided in paragraph (4), the total number of Accounts described in clause (i) are opened and the Secretary determines that such Accounts are being reasonably and responsibly administered, and

"(iii) an additional 100,000 Accounts if opened after December 31, 2008, and before January 1, 2011, but only if the total number of Accounts described in clauses (i) and (ii) are opened and the Secretary makes a determination described in paragraph (2).

Notwithstanding the preceding sentence, this section shall apply to amounts which are described in subsection (c)(1)(A) and which are timely deposited into a parallel account during the 30-day period following the end of last taxable year beginning before January 1, 2011.

"(2) Determination with respect to third group of accounts.—A determination is described in this paragraph if the Secretary determines that—

"(A) substantially all of the previously opened Accounts have been reasonably and responsibly administered prior to the date of the determination,

"(B) the individual development account programs have increased net savings of participants in the programs,

"(C) participants in the individual development account programs have increased Federal income tax liability and decreased utilization of Federal assistance programs relative to similarly situated individuals that did not participate in the individual development account programs, and

"(D) the sum of the estimated increased Federal tax liability and reduction of Federal assistance program benefits to participants in the individual development account programs is greater than the cost of the individual development account programs to the Federal government.

"(3) Determination of limitation.—The limitation on the number of Individual Development Accounts under paragraph (1)(B) shall be allocated by the Secretary among qualified individual development account programs selected by the Secretary and, in the case of the limitation under clause (iii) of such paragraph, shall be equally divided among the States.

"(4) Special rule if smaller number of accounts are opened.—For purposes of paragraph (1)(B)(ii)—

"(i) In general.—If less than 100,000 Accounts are opened before January 1, 2007, such paragraph shall be applied by substituting "applicable number of Accounts' for '100,000 Accounts'.

"(ii) Applicable number.—For purposes of clause (i), the applicable number equals the lesser of—

"(I) 75,000, or

"(II) 3 times the number of Accounts opened before January 1, 2007.".

(b) Credit Treated as Business Credit.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the individual development account investment credit determined under section 45G(a).".

(c) No Carrybacks.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

"(11) No carryback of section 45G credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the individual development account investment credit determined under section 45G may be carried back to a taxable year ending before January 1, 2004.".

(d) Conforming Amendment.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45G. Individual development account investment credit.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 2003.

SEC. 512. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN MEANS-TESTED FEDERAL PROGRAMS.

Notwithstanding any other provision of Federal law (other than the Internal Revenue Code of 1986) that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount (including earnings thereon) in any Individual Development Account of such individual and any matching deposit made on behalf of such individual (including earnings thereon) in any parallel account shall be disregarded for such purpose with respect to any period during which such individual maintains or makes contributions into such Individual Development Account.

TITLE VI—REVENUE PROVISIONS

Subtitle A—Tax Shelter Transparency Requirements

PART I—TAXPAYER-RELATED PROVISIONS

SEC. 601. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) Imposition of Penalty.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) Listed transaction.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) Increase in penalty for large entities and high net worth individuals.—

"(A) In general.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) Large entity.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) High net worth individual.—The term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) Definitions.—For purposes of this section—

"(1) Reportable transaction.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) Listed transaction.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) Authority to Rescind Penalty.—

"(1) In general.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in his sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) Records.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the reasons for the rescission, and

"(B) the amount of the penalty rescinded.

"(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) Penalty Reported to SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction, or

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) Coordination With Other Penalties.—The penalty imposed by this section is in addition to any penalty imposed under section 6662."

(b) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement."

(c) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 602. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) Imposition of Penalty.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) Reportable Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) Items to which section applies.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) Higher Penalties for Nondisclosed Listed and Other Avoidance Transactions.—If the requirement of section 6664(d)(2)(A) is not met with respect to any portion of any reportable transaction understatement, then subsection (a) shall be applied by substituting—

"(1) '30 percent' for '20 percent' if such understatement is attributable to a listed transaction, and

"(2) '25 percent' for '20 percent' in the case of any other understatement.

"(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) Special rules.—

"(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), but

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

"(2) Coordination with fraud penalty.—

"(A) In general.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement.

"(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

"(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary."

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies."

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

"(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

"(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

"(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) Certain opinions may not be relied upon.—

"(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor is a material advisor (within the meaning of section 6111(b)(1)) who—

"(I) participates in the organization, management, promotion, or sale of the transaction or is related (within the meaning of section 267 or 707) to any person who so participates,

"(II) is compensated by another material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe."

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended

by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax."

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS."

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions."

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 603. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000."

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 604. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C))."

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

PART II—PROMOTER AND PREPARER RELATED PROVISIONS

Subpart A—Provisions Relating to Reportable Transactions

SEC. 611. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such advice or assistance.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section."

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions."

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with regard to such transaction."

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees."

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS."

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions."

(c) Effective Date.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 612. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(d) RESCISSION AUTHORITY.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section."

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 613. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 614. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708."

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS."

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

> "Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions."

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

Subpart B—Other Promoter and Preparer Provisions

SEC. 621. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "UNREALISTIC" in the heading and inserting "IMPROPER".

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 622. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 623. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law."

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A)."

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 624. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion."

SEC. 625. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

PART III—OTHER PROVISIONS

SEC. 631. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns."

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in *Rite Aid Corporation v. United States*, 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

Subtitle B—Tax Treatment of Inversion Transactions

SEC. 641. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

"(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

"(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

"(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) ACQUIRED ENTITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) APPLICABLE PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2002.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

The credit allowed by section 901 may be taken into account under the preceding sentence only to the extent of the product of such highest rate and the amount of taxable income from sources without the United States that is not inversion gain.

"(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) STATUTE OF LIMITATIONS.—

"(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

"(1) ANNUAL APPLICATION FOR AGREEMENTS ON RETURN POSITIONS.—

"(A) IN GENERAL.—Each acquired entity to which subsection (b) applies shall file with the Secretary an application for an approval agreement under subparagraph (D) for each taxable year which includes a portion of the applicable period. Such application shall be filed at such time and manner, and shall contain such information, as the Secretary may prescribe.

"(B) SECRETARIAL ACTION.—Within 90 days of receipt of an application under subparagraph (A) (or such longer period as the Secretary and entity may agree upon), the Secretary shall—

"(i) enter into an agreement described in subparagraph (D) for the taxable year covered by the application,

"(ii) notify the entity that the Secretary has determined that the application was filed in good faith and substantially complies with the requirements for the application under subparagraph (A), or

"(iii) notify the entity that the Secretary has determined that the application was not filed in good faith or does not substantially comply with such requirements.

If the Secretary fails to act within the time prescribed under the preceding sentence, the entity shall be treated for purposes of this paragraph as having received notice under clause (ii).

"(C) FAILURES TO COMPLY.—If an acquired entity fails to file an application under subparagraph (A), or the acquired entity receives a notice under subparagraph (B)(iii), for any taxable year, then for such taxable year—

"(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

"(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

"(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

"(D) APPROVAL AGREEMENT.—For purposes of subparagraph (A), the term 'approval agreement' means a prefiling, advance pricing, or other agreement specified by the Secretary which contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (a)(2)(A).

"(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met, such actions shall be treated as pursuant to a plan.

"(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies—

"(A) a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly substantially all of the properties of an acquired entity,

"(B) before such acquisition such domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with such entity, or any member of an expanded affiliated group including such entity, and

"(C) after such acquisition such acquired entity does not have such a relationship and was not under such common control with any member of the expanded affiliated group which before such acquisition included such entity,

then this section shall cease to apply to such entity.

"(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-through or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons."

(b) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) (relating to return information) is amended by striking "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any approval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement,".

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) is amended by striking "or (D)" and inserting ", (D), or (E)".

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) a report regarding approval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities."

Subtitle C—Reinsurance Agreements

SEC. 651. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle D—Extension of Internal Revenue Service User Fees

SEC. 661. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

"(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

"(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

"(2) other similar requests.

"(b) PROGRAM CRITERIA.—

"(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

"(A) shall vary according to categories (or subcategories) established by the Secretary,

"(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

"(C) shall be payable in advance.

"(2) EXEMPTIONS, ETC.—

"(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

"(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

"(i) made after the later of—

"(I) the fifth plan year the pension benefit plan is in existence, or

"(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

"(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

"(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

"(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

"(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

"(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	**Average Fee**
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

"(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after June 30, 2008."

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7527. Internal Revenue Service user fees.".

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

Subtitle E—Imposition of Customs User Fees

SEC. 671. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "October 31, 2008".

TITLE VII—EQUAL TREATMENT FOR NONGOVERNMENTAL PROVIDERS

SEC. 701. NONGOVERNMENTAL ORGANIZATIONS.

(a) GENERAL AUTHORITY.—For any social service program, a nongovernmental organization that is (or is applying to be) involved in the delivery of social services for the program shall not be required—

(1) to alter or remove art, icons, scripture, or other symbols, or to alter its name, because the symbols or name are religious;

(2) to alter or remove provisions in its chartering documents because the provisions are religious, except that no such charter provisions shall affect the application to a nongovernmental organization of any law that would (notwithstanding this paragraph) apply to the nongovernmental organization; or

(3) to alter or remove religious qualifications for membership on its governing boards.

(b) PRIOR EXPERIENCE.—A nongovernmental organization that has not previously been awarded a contract, grant, or cooperative agreement from an agency shall not, for that reason, be disadvantaged in a competition to secure a contract, grant, or cooperative agreement to deliver services under a social service program from the agency administering the program.

(c) INTERMEDIATE GRANTORS.—

(1) IN GENERAL.—An agency that administers a social service program, and that is authorized to award grants or cooperative agreements to nongovernmental organizations under the program, may award to a nongovernmental organization (referred to in this subsection as an "intermediate grantor") a grant or cooperative agreement, the terms of which authorize the intermediate grantor—

(A) to provide subgrants or subagreements to nongovernmental providers (referred to individually in this subsection as a "subrecipient"), to deliver social services for the program; and

(B) to manage the subgrants or subagreements.

(2) RESPONSIBILITIES AND RIGHTS OF SUBRECIPIENTS.—

(A) RESPONSIBILITIES.—Except for those administrative responsibilities that the intermediate grantor fully performs on behalf of the subrecipient, the subrecipient shall have the same responsibilities or duties with respect to the program as the subrecipient would have if it were the intermediate grantor.

(B) RIGHTS.—The subrecipient shall have the same rights or authorities under this section as the subrecipient would have if it were the intermediate grantor.

(3) RESPONSIBILITIES AND RIGHTS OF AGENCIES.—

(A) RESPONSIBILITIES.—Nothing in this subsection shall alter any of an agency's responsibilities or duties with respect to the program, the intermediate grantor, or the subrecipient.

(B) RIGHTS.—Nothing in this subsection shall alter any of an agency's rights or authorities with respect to the program, the intermediate grantor, or the subrecipient.

(d) COMPLIANCE.—To enforce the provisions of this section against a Federal agency or official, a nongovernmental organization may bring an action for injunctive relief in an appropriate United States district court. To enforce the provisions of this section against a State or local agency or official, a nongovernmental organization may bring an action for injunctive relief in an appropriate State court of general jurisdiction.

(e) DEFINITIONS.—In this section:

(1) FEDERAL FINANCIAL ASSISTANCE.—The term "Federal financial assistance" does not include a tax credit, deduction, or exemption.

(2) SOCIAL SERVICE PROGRAM.—

(A) IN GENERAL.—The term "social service program" means a program that—

(i) is administered by the Federal Government, or by a State or local government using Federal financial assistance; and

(ii) provides services directed at helping people in need, reducing poverty, improving outcomes of low-income children, revitalizing low-income communities, and empowering low-income families and low-income individuals to become self-sufficient, including—

(I) child care services, protective services for children and adults, services for children and adults in foster care, adoption services, services related to the management and maintenance of the home, day care services for adults, and services to meet the special needs of children, older individuals, and individuals with disabilities (including physical, mental, or emotional disabilities);

(II) transportation services;

(III) job training and related services, and employment services;

(IV) information, referral, and counseling services;

(V) the preparation and delivery of meals, and services related to soup kitchens or food banks;

(VI) health support services;

(VII) literacy and mentoring programs;

(VIII) services for the prevention and treatment of juvenile delinquency and substance abuse, services for the prevention of crime and the provision of assistance to the victims and the families of criminal offenders, and services related to the intervention in, and prevention of, domestic violence; and

(IX) services related to the provision of assistance for housing under Federal law.

(B) EXCLUSIONS.—The term does not include a program having the purpose of delivering educational assistance under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) or under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

TITLE VIII—COMPASSION CAPITAL FUND

SEC. 801. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Secretary of Health and Human Services (referred to in this section as "the Secretary") may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of nonprofit community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) SUPPORT FOR STATES.—The Secretary—

(1) may award grants to and enter into cooperative agreements with States and political subdivisions of States to provide seed money to establish State and local offices of faith-based and community initiatives; and

(2) shall provide technical assistance to States and political subdivisions of States in administering the provisions of this Act.

(c) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $85,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(f) DEFINITION.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 802. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Corporation for National and Community Service (referred to in this section as "the Corporation") may award grants to and enter into cooperative agreements with nongovernmental organizations and State Commissions on National and Community Service established under section 178 of the National and Community Service Act of 1990 (42 U.S.C. 12638), to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State Commission, State, or political subdivision shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 803. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF JUSTICE.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Attorney General may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of nonprofit community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Attorney General) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 804. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Secretary of Housing and Urban Development (referred to in this section "the Secretary") may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) DEFINITION.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 805. COORDINATION.

The Secretary of Health and Human Services, the Corporation for National and Community Service, the Attorney General, and the Secretary of Housing and Urban Development shall coordinate their activities under this title to ensure—

(1) nonduplication of activities under this title; and

(2) an equitable distribution of resources under this title.

TITLE IX—MATERNITY GROUP HOMES

SEC. 901. MATERNITY GROUP HOMES.

(a) PERMISSIBLE USE OF FUNDS.—Section 322 of the Runaway and Homeless Youth Act (42 U.S.C. 5714-2) is amended—

(1) in subsection (a)(1), by inserting "(including maternity group homes)" after "group homes"; and

(2) by adding at the end the following:

"(c) MATERNITY GROUP HOME.—In this part, the term 'maternity group home' means a community-based, adult-supervised group home that provides young mothers and their children with a supportive and supervised living arrangement in which such mothers are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.".

(b) CONTRACT FOR EVALUATION.—Part B of the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended by adding at the end the following:

"SEC. 323. CONTRACT FOR EVALUATION.

"(a) IN GENERAL.—The Secretary shall enter into a contract with a public or private entity for an evaluation of the maternity group homes that are supported by grant funds under this Act.

"(b) INFORMATION.—The evaluation described in subsection (a) shall include the collection of information about the relevant characteristics of individuals who benefit from maternity group homes such as those that are supported by grant funds under this Act and what services provided by those maternity group homes are most beneficial to such individuals.

"(c) REPORT.—Not later than 2 years after the date on which the Secretary enters into a contract for an evaluation under subsection (a), and biennially thereafter, the entity conducting the evaluation under this section shall submit to Congress a report on the status, activities, and accomplishments of maternity group homes that are supported by grant funds under this Act.".

(c) AUTHORIZATION OF APPROPRIATIONS.—(Section 388 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) in subsection(a)(1)—

(A) by striking "There" and inserting the following:

"(A) In general.—There";

(B) in subparagraph (A), as redesignated, by inserting "and the purpose described in subparagraph (B)" after "other than part E"; and

(C) by adding at the end the following:

"(B) Maternity group homes.—There is authorized to be appropriated, for maternity group homes eligible for assistance under section 322(a)(1)—

"(i) $33,000,000 for fiscal year 2003; and

"(ii) such sums as may be necessary for fiscal year 2004."; and

(2) in subsection (a)(2)(A), by striking "paragraph (1)" and inserting "paragraph (1)(A)".

TITLE X—STATE AND LOCAL POLITICAL COMMITTEES

SEC. 1001. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM NOTIFICATION REQUIREMENTS.

(a) Exemption From Notification Requirements.—Paragraph (5) of section 527(i) (relating to organizations must notify Secretary that they are section 527 organizations) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following:

"(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the amendments made by Public Law 106–230.

SEC. 1002. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM REPORTING REQUIREMENTS.

(a) In General.—Section 527(j)(5) (relating to coordination with other requirements) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) to any organization which is a qualified State or local political organization,".

(b) Qualified State or Local Political Organization.—Subsection (e) of section 527 (relating to other definitions) is amended by adding at the end the following new paragraph:

"(5) Qualified state or local political organization.—

"(A) In general.—The term 'qualified State or local political organization' means a political organization which—

"(i) does not engage in any exempt function other than solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization,

"(ii) is subject to State law which requires the organization to report (and it so reports)—

"(I) information regarding each separate expenditure from and contribution to such organization, and

"(II) information regarding the person who makes such contribution or receives such expenditure,

which would otherwise be required to be reported under this section, and

"(iii) with respect to which the reports referred to in clause (ii) are made public by the agency with which such reports are filed and are publicly available for inspection in a manner similar to that required by section 6104(d)(1).

"(B) Certain differences disregarded.—An organization shall not be treated as failing to meet the requirements of subparagraph (A)(ii) solely by reason of 1 or more of the following:

"(i) The minimum amount of any expenditure or contribution required to be reported under State law is not more than $300 greater than the minimum amount required to be reported under subsection (j).

"(ii) The State law does not require the organization to identify 1 or more of the following:

"(I) The employer of any person who makes contributions to the organization.

"(II) The occupation of any person who makes contributions to the organization.

"(III) The employer of any person who receives expenditures from the organization.

"(IV) The occupation of any person who receives expenditures from the organization.

"(V) The purpose of any expenditure of the organization.

"(VI) The date any contribution was made to the organization.

"(VII) The date of any expenditure of the organization.

"(iii) The organization makes de minimis errors in complying with State law requirements as long as the organization corrects the errors within a reasonable period after becoming aware of such errors.

"(C) Participation of federal candidate or office holder.—The term 'qualified State or local political organization' shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective public office or an individual who holds such office—

"(i) controls or materially participates in the direction of the organization,

"(ii) solicits contributions to the organization (unless the Secretary determines that such solicitations resulted in de minimis contributions and were made without the prior knowledge and consent, whether explicit or implicit, of the organization or its officers, directors, agents, or employees), or

"(iii) directs, in whole or in part, disbursements by the organization.".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by Public Law 106–230.

SEC. 1003. EXEMPTION FROM ANNUAL RETURN REQUIREMENTS.

(a) Income Tax Returns Required Only for Political Organization Taxable Income.—Paragraph (6) of section 6012(a) (relating to persons required to make returns of income) is amended by striking "or which has" and all that follows through "section)".

(b) Information Returns.—Subsection (g) of section 6033 (relating to returns required by political organizations) is amended to read as follows:

"(g) Returns Required by Political Organizations.—

"(1) In general.—This section shall apply to a political organization—

"(A) as defined by section 527(e)(1) which has gross receipts of $25,000 or more for the taxable year, or

"(B) as defined by section 527(e)(5) which has gross receipts of $100,000 or more for the taxable year.

"(2) Annual returns.—Political organizations described in paragraph (1) shall file an annual return—

"(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate so that only information which is necessary to carry out the purposes of section 527 is required, and

"(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

"(3) Mandatory exceptions from filing.—Paragraph (2) shall not apply to an organization—

"(A) which is a State or local committee of a political party, or political committee of a State or local candidate,

"(B) which is a caucus or association of State or local officials,

"(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

"(D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,

"(E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,

"(F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee, or

"(G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

"(4) Discretionary exception.—The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return where the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by Public Law 106–230.

SEC. 1004. NOTIFICATION OF INTERACTION OF REPORTING REQUIREMENTS.

(a) In General.—The Secretary of the Treasury, in consultation with the Federal Election Commission, shall publicize—

(1) the effect of the amendments made by this Act, and

(2) the interaction of requirements to file a notification or report under section 527 of the Internal Revenue Code of 1986 and reports under the Federal Election Campaign Act of 1971.

(b) Information.—Information provided under subsection (a) shall be included in any appropriate form, instruction, notice, or other guidance issued to the public by the Secretary of the Treasury or the Federal Election Commission regarding reporting requirements of political organizations (as defined in section 527 of the Internal Revenue Code of 1986) or reporting requirements under the Federal Election Campaign Act of 1971.

SEC. 1005. WAIVER.

(a) In General.—Section 527 is amended by adding at the end the following:

"(k) Authority To Waive.—The Secretary may waive all or any portion of the—

"(1) tax assessed on an organization by reason of the failure to comply with the requirements imposed by subsection (i), or

"(2) amount imposed under subsection (j) for the failure to comply with the requirements imposed by such subsection,

on a showing that such failure was due to reasonable cause and not due to willful neglect.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to any tax assessed or amount imposed after June 30, 2000.

SEC. 1006. MODIFICATIONS TO SECTION 527 ORGANIZATION DISCLOSURE PROVISIONS.

(a) UNSEGREGATED FUNDS NOT TO AVOID TAX.—Paragraph (4) of section 527(i) (relating to failure to notify) is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, the term 'exempt function income' means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.".

(b) PROCEDURES FOR ASSESSMENT AND COLLECTION.—Paragraph (1) of section 527(j) (relating to required disclosure of expenditures and contributions) is amended by adding at the end the following new sentence: "For purposes of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).".

(c) DUPLICATE WRITTEN FILINGS NOT REQUIRED.—Subparagraph (A) of section 527(i)(1) is amended by striking ", electronically and in writing," and inserting "electronically".

(d) APPLICATION OF FRAUD PENALTY.—Section 7207 (relating to fraudulent returns, statements, and other documents) is amended by striking "pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104" and inserting "pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527".

(e) CONTENTS AND FILING OF REPORT.—

(1) CONTENTS.—Section 527(j)(3) (relating to contents of report) is amended—

(A) by inserting ", date, and purpose" after "The amount" in subparagraph (A), and

(B) by inserting "and date" after "the amount" in subparagraph (B).

(2) ELECTRONIC FILING REQUIRED.—Section 527(j) is amended by adding at the end the following new paragraph:

"(7) ELECTRONIC FILING.—Any report required under paragraph (2) with respect to any calendar year shall be filed in electronic form if the organization has, or has reason to expect to have, contributions or expenditures exceeding $50,000 in such calendar year.".

(3) ELECTRONIC FILING AND ACCESS OF REQUIRED DISCLOSURES.—Section 527, as amended by section 1005(a), is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) PUBLIC ACCESSIBILITY TO NOTICES AND REPORTS.—

"(1) IN GENERAL.—The Secretary shall make any notice described in subsection (i)(1) or report described in subsection (j)(7) available for public inspection on the Internet not later than 48 hours after such notice or report has been filed (in addition to such public availability as may be made under section 6104(d)(7)).

"(2) ACCESS TO NOTICES AND REPORTS.—The Secretary shall make all notices and reports which are made available to the public under paragraph (1) searchable by the following items, to the extent such an item is required to be included in such notices or reports:

"(A) Name, State, zip code, custodian of records, directors, and general purpose of the organizations.

"(B) Entities related to the organizations.

"(C) Contributors to the organizations.

"(D) Employers of such contributors.

"(E) Recipients of expenditures by the organizations.

"(F) Ranges of contributions and expenditures.

"(G) Time period of the notices or reports.".

(f) CONTENTS OF NOTICE.—Section 527(i)(3) (relating to contents of notice) is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) whether the organization intends to claim an exemption from the requirements of subsection (j) or section 6033, and".

(g) TIMING OF NOTICE.—Section 527(i)(2) (relating to time to give notice) is amended by inserting "or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change" after "established".

(h) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to failures occurring on or after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect as if included in the amendments made by Public Law 106–230.

(3) SUBSECTIONS (d), (e)(1), AND (f).—The amendments made by subsections (d), (e)(1), and (f) shall apply to reports or notices filed on or after the date of the enactment of this Act.

(4) SUBSECTIONS (e)(2) AND (e)(3).—The amendments made by subsections (e)(2) and (e)(3) shall apply to reports filed on or after 60 days after the date of the enactment of this Act.

(5) SUBSECTION (g).—The amendments made by subsection (g) shall apply to material changes on or after the date of the enactment of this Act.

SEC. 1007. EFFECT OF AMENDMENTS ON EXISTING DISCLOSURES.

Notices, reports, or returns that were required to be filed with the Secretary of the Treasury before the date of the enactment of the amendments made by this title and that were disclosed by the Secretary of the Treasury consistent with the law in effect at the time of disclosure shall remain subject on and after such date to the disclosure provisions of section 6104 of the Internal Revenue Code of 1986.

SA 4720. Mr. EDWARDS (for himself, Mr. SCHUMER, and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, between lines 9 and 10, insert the following:

TITLE VI—COMMISSION ON ENHANCING SECURITY AND PRESERVING FREEDOM

SEC. 601. FINDINGS.

Congress makes the following findings:

(1) The terrorist attacks of September 11, 2001, and the continuing threat of further attacks, are an assault on the safety and security of all Americans.

(2) The threat of further acts of terrorism has necessitated an expansion of the authority of government to conduct surveillance and collect data.

(3) While recognizing the need for additional security measures, Americans remain deeply committed to the individual dignity, liberty, and privacy rooted in United States history and protected by the Constitution of the United States.

(4) Different investigative technologies and methods can achieve the same security goals in ways that have substantially different impacts on individual rights.

(5) The government should conduct investigations and surveillance in a manner that fully addresses law enforcement and national security needs in the manner that best preserves the personal dignity, liberty, and privacy of individuals within the United States.

SEC. 602. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the Commission on Enhancing Security and Preserving Freedom (in this title referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 17 members of whom—

(A) five shall be representatives of the Federal Government, including—

(i) the Attorney General, or the Attorney General's designee;

(ii) the Secretary of the Treasury, or the Secretary's designee;

(iii) the Secretary of Commerce, or the Secretary's designee;

(iv) the Director of Central Intelligence, or the Director's designee; and

(v) the Secretary of Homeland Security, or the Secretary's designee;

(B) four shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate;

(D) four shall be appointed by the Speaker of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives.

(2) LIMITATION ON DESIGNEES.—An individual may not be designated for membership on the Commission under paragraph (1)(A) unless the individual holds a position in the United States Government by appointment of the President, by and with the advice and consent of the Senate.

(3) APPOINTMENTS BY CONGRESSIONAL LEADERSHIP.—

(A) REQUIREMENTS.—(i) One of the individuals appointed under subparagraph (B) of paragraph (1) shall be an officer or employee of a State law enforcement agency.

(ii) One of the individuals appointed under subparagraph (D) of paragraph (1) shall be an officer or employee of a local law enforcement agency.

(B) LIMITATION.—No individual may be appointed under subparagraphs (B) through (E) of paragraph (1) if the individual is an officer or employee of the Federal Government or an active member of the uniformed services.

(C) SENSE OF CONGRESS.—It is the sense of Congress that in making appointments to the Commission under subparagraphs (B) through (E) of paragraph (1) the Members of Congress referred to in such subparagraphs should seek to appoint individuals with varying viewpoints on and areas of expertise in the matters to be covered by the Commission, including individuals from the technology industry, non-profit entities, and academia.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) SECURITY CLEARANCES.—

(1) IN GENERAL.—Each individual appointed to the Commission under subparagraphs (B) through (E) of subsection (b)(1) shall possess a security clearance appropriate for the work of the Commission under this title.

(2) FAILURE TO SECURE CLEARANCE.—

(A) INITIAL APPOINTMENTS.—If an individual initially appointed under subparagraphs (B) through (E) of subsection (b)(1) without a security clearance does not secure a security clearance by the commencement of the work of the Commission, the appointment shall be deemed vacant.

(B) APPOINTMENTS TO VACANCIES.—If an individual appointed to a vacancy in a position under subparagraphs (B) through (E) of subsection (b)(1) without a security clearance does not secure a security clearance within a reasonable period (as determined by the Commission), the appointment shall be deemed vacant.

(3) PROCESSING OF CLEARANCES.—The Attorney General shall seek to ensure the timely processing of any applications for security clearances for purposes of this subsection.

(e) CHAIRMAN.—The Commission shall select a Chairman from among its members.

(f) INITIAL MEETING.—Not later than 30 days after the date on which nine members of the Commission have been appointed, the Commission shall hold its first meeting.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman.

(h) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 603. DUTIES OF COMMISSION.

(a) INVESTIGATION.—The Commission shall conduct a thorough investigation of the following:

(1) Standards for using, selecting, and operating investigative and surveillance technologies to meet law enforcement and national security needs in the manner that best preserves the personal dignity, liberty, and privacy of individuals within the United States.

(2) The advisability of establishing within the Government one or more entities or procedures to ensure that the Government uses investigative and surveillance technologies to meet law enforcement and national security needs in the manner that best preserves the personal dignity, liberty, and privacy of individuals within the United States.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of the initial meeting of the Commission, the Commission shall submit to the President and Congress a report which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) FORM OF REPORT.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) INVESTIGATIVE AND SURVEILLANCE TECHNOLOGIES DEFINED.—In this section, the term "investigative and surveillance technologies" means technologies that may be used by the Federal Government, and by State and local governments, to monitor and collect information about individuals in the absence of reasonable, articulable suspicion of criminal activity, including—

(1) Internet surveillance technologies;

(2) data mining technologies;

(3) surveillance camera technologies;

(4) x-ray body scan technologies;

(5) biometric technologies; and

(6) other technologies identified by the Commission for purposes of this title.

SEC. 604. POWERS OF COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this title—

(A) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials,

as the Commission or such subcommittee or member considers advisable.

(2) PUBLIC MEETINGS.—To the maximum extent practicable, the meetings of the Commission shall be open to the public.

(3) CLOSED MEETINGS.—

(A) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(B) ADDITIONAL AUTHORITY.—In addition to the authority under subparagraph (A), paragraphs (1) and (3) of section 10(a) of the Federal Advisory Committee Act shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(4) PUBLIC SUMMARY OF CLOSED PROCEEDINGS.—Whenever practicable, the Commission shall maintain and make available for public inspection an unclassified summary of any classified information considered by the Commission and of any classified meeting or proceeding conducted by the Commission.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (a) shall bear the signature of the Chairman of the Commission and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of court.

(c) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(d) PROCEDURES.—The Commission may adopt procedures for the work of the Commission under this title. Any portion of such procedures relating to the treatment of confidential or classified information shall not go into effect until jointly approved by the Attorney General and the Director of Central Intelligence.

(e) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 605. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation for their service as members of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) SECURITY CLEARANCES.—The executive director and any other personnel of the Commission shall possess security clearances appropriate for the work of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 606. TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 603(b).

SEC. 607. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2003, 2004, and 2005 such sums as may be necessary for the Commission to carry out this title in such fiscal year.

(b) TRANSFER OF FUNDS.—If no funds are appropriated to the Commission by the end of the session of Congress ending in a fiscal year specified in subsection (a), the Secretary of Commerce shall, from amounts appropriated or otherwise available to the Secretary for such fiscal year, transfer to the Commission an amount necessary to permit the Commission to carry out this title in such fiscal year.

(c) AVAILABILITY.—Any amounts appropriated to the Commission under subsection (a), or transferred to the Commission under subsection (b), shall remain available, without fiscal year limitation, until expended.

SA 4721. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE . TRANSFER OF THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS TO THE DEPARTMENT OF JUSTICE

SEC. 01. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice the Bureau of Alcohol, Tobacco, and Firearms (in this title referred to as the "Bureau").

(2) DIRECTOR.—The Bureau shall be headed by the Director, Bureau of Alcohol, Tobacco, and Firearms (in this title referred to as the "Director"), who shall perform such duties as assigned by the Attorney General. The Director shall occupy a career-reserved position within the Senior Executive Service.

(3) CHIEF COUNSEL.—The Bureau shall have as its chief legal officer a Chief Counsel, who shall occupy a career-reserved position within the Senior Executive Service.

(b) RESPONSIBILITIES.—Subject to the direction of the Attorney General, the Bureau shall be the primary agency within the Department of Justice for—

(1) the criminal enforcement of the Federal firearms, explosives, arson, alcohol, and tobacco laws;

(2) the regulatory enforcement and revenue collections functions of the firearms, explosives, alcohol, and tobacco laws;

(3) the functions transferred by subsection (c); any

(4) any other function related to the investigation of violent crime that is delegated to the Bureau by the Attorney General.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT OF JUSTICE.—Notwithstanding any other provision of law, there are transferred to the Department of Justice the authorities, functions, personnel (including all Senior Executive Positions), and assets of the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury, which shall be maintained as a distinct entity within the Department of Justice, including the related functions of the Secretary of the Treasury.

SEC. 02. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Chapter 40 of title 18, United States Code, is amended—

(1) by striking section 841(k) and inserting the following:

"(k) 'Attorney General' means the Attorney General of the United States."; and

(2) by striking "Secretary" each place it appears and inserting "Attorney General".

(b) Chapter 44 of title 18, United States Code, is amended—

(1) in section 921(a)(4)(B), by striking "Secretary" and inserting "Attorney General";

(2) in the undesignated clause following section 921(a)(4)(C), by striking "Secretary of the Treasury" and inserting "Attorney General";

(3) in section 921(a)(18), by striking "The term 'Secretary' or 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate" and inserting "The term 'Attorney General' means the Attorney General of the United States";

(4) in section 923(1), by striking "Secretary of the Treasury" and inserting "Attorney General"; and

(5) except in sections 921(a)(4) and 922(p)(5), by striking the term "Secretary" each place it appears, and inserting the term "Attorney General".

(c) Section 1261(a) of title 18, United States Code, is amended to read as follows:

"(a) The Attorney General—

"(1) shall enforce the provisions of this chapter; and

"(2) has the authority to issue regulations to carry out the provisions of this chapter.".

(d) Section 1952(c) of title 18, United States Code, is amended by striking "Secretary of the Treasury" and inserting "Attorney General".

(e) Chapter 114 of title 18, United States Code, is amended—

(1) by striking section 2341(5), and inserting the following:

"(5) the term 'Attorney General' means the Attorney General of the United States"; and

(2) by striking "Secretary" each place it appears and inserting "Attorney General".

(f) Section 7801(a) of the Internal Revenue Code of 1986 (relating to the authority of the Department of the Treasury) is amended—

(1) by striking "SECRETARY.—Except" and inserting "SECRETARY.—

"(1) IN GENERAL.—Except"; and

(2) by adding at the end the following:

"(2) ADMINISTRATION AND ENFORCEMENT OF CERTAIN PROVISIONS BY ATTORNEY GENERAL.—

"(A) IN GENERAL.—The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term 'Secretary' or 'Secretary of the Treasury' shall, when applied to those provisions, means the Attorney General; and the term 'internal revenue officer' shall, when applied to those provisions, means any officer of the Bureau of Alcohol, Tobacco, and Firearms so designated by the Attorney General:

"(i) Sections 4181 and 4182.

"(ii) Subchapters F and G of chapter 32, to the extent such subchapters relate to sections 4181 and 4182.

"(iii) Chapters 51, 52, and 53.

"(iv) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clauses (i), (ii), and (iii).

"(B) USE OF EXISTING RULINGS AND INTERPRETATIONS.—The Attorney General shall adopt all rulings and interpretations of the Bureau of Alcohol, Tobacco, and Firearms in effect on the effective date of the Homeland Security Act of 2002 which concern the provisions of this title referred to in subparagraph (A) and shall consult with the Secretary to achieve uniformity and consistency in administering such provisions.

(g) Chapter 1 of title 27, United States Code, is amended by adding a new section 1 to read as follows:

"§ 1. Administration

"The administration and enforcement of this title shall be performed by or under the supervision of the Attorney General; and the term "Secretary" or "Secretary of the Treasury" shall, when applied to those provisions, mean the Attorney General.".

(h) Section 2006 of title 28, United States Code, is amended by inserting ", the Attorney General," after "the Secretary of the Treasury".

(i) Section 9703 of title 31, United States Code, is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii)(III), by inserting "and" before the semicolon;

(B) in clause (iv), by striking "; and" and inserting a period; and

(C) by striking clause (v);

(2) by striking subsection (o);

(3) by redesignating existing subsection (p) as subsection (o); and

(4) in subsection (o)(1), as redesignated by paragraph (3), by striking ", the Bureau of Alcohol, Tobacco, and Firearms".

(j) Section 32401(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921(a)) is amended by striking "Secretary of the Treasury" each place it appears and inserting "Attorney General".

(k) Section 80303 of title 49, United States Code, is amended—

(1) by inserting "or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General" after section 80304 of this title."; and

(2) by inserting ", the Attorney General," after "by the Secretary".

(l) Section 80304 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "(b) and (c)" and inserting "(b), (c), and (d)";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c), the following:

"(d) ATTORNEY GENERAL.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco, and Firearms, Department of Justice designated by the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302 (a)(2) or (a)(5).".

(m) Section 103 of the Gun Control Act of 1968 (Public Law 90–618; 82 Stat. 1226) is amended by striking "Secretary of the Treasury" and inserting "Attorney General".

SEC. 03. POWERS OF AGENTS OF THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS.

Chapter 203 of title 18, United States Code, is amended by adding the following new section:

"§ 3051. Powers of Agents of the Bureau of Alcohol, Tobacco, and Firearms.

"(a) Special agents of the Bureau of Alcohol, Tobacco, and Firearms whom the Attorney General charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws of the United States, may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make attests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

"(b) Any special agent of the Bureau of Alcohol, Tobacco, and Firearms may, in respect to the performance of his or her duties, make seizures of property subject to forfeiture to the United States.

"(c)(1) Except as provided in paragraphs (2) and (3), and except to the extent that such provisions conflict with the provisions of section 983 of title 18, United States Code, insofar as section 983 applies, the provisions of the Customs laws relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property;

"(B) the disposition of such property;

"(C) the remission or mitigation of such forfeiture; and

"(D) the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable provision of law enforced or administered by the Bureau of Alcohol, Tobacco, and Firearms.

"(2) For purposes of paragraph (1), duties that are imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Attorney General.

"(3) Notwithstanding any other provision of law, the disposition of firearms forfeited by reason of a violation of any law of the United States shall be governed by the provisions of section 5872(b) of the Internal Revenue Code of 1986.".

SEC. 04. EXPLOSIVES TRAINING AND RESEARCH FACILITY.

(a) ESTABLISHMENT.—There is established within the Bureau an Explosives Training and Research Facility at Fort AP Hill, Fredericksburg, Virginia.

(b) PURPOSE.—The facility established under subsection (a) shall be utilized to train Federal, State, and local law enforcement officers to—

(1) investigate bombings and arsons;

(2) properly handle, utilize, and dispose of explosive materials and devices;

(3) train canines on explosive detection; and

(4) conduct research on explosives and arson.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to establish and maintain the facility established under subsection (a).

(2) AVAILABILITY OF FUNDS.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 05. PERSONAL PAY MANAGEMENT SYSTEM.

Notwithstanding any other provision of law, the Personal Pay Management System Program established under section 102 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Public Law 105–277; 122 Stat. 2681) shall be transferred to the Attorney General of the United States for the Bureau of Alcohol, Tobacco, and Firearms.

TITLE —EXPLOSIVES

SEC. 01. SHORT TITLE.

This title may be referred to as the "Safe Explosives Act".

SEC. 02. PERMITS FOR PURCHASERS OF EXPLOSIVES.

(a) DEFINITIONS.—Section 841 of title 18, United States Code, is amended—

(1) by striking subsection (j) and inserting the following:

"(j) 'Permittee' means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited user permit under the provisions of this chapter."; and

(2) by adding at the end the following:

"(r) 'Alien' means any person who is not a citizen or national of the United States.

"(s) 'Intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabits or has cohabited with the person.

"(t)(1) Except as provided in paragraph (2), 'misdemeanor crime of domestic violence' means an offense that—

"(A) is a misdemeanor under Federal or State law; and

"(B) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

"(2) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

"(A) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

"(B) in the case of a prosecution for an offense described in this subsection for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either—

"(i) the case was tried by a jury; or

"(ii) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

"(u) 'Responsible person' means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.".

(b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Section 842 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking "and" at the end;

(2) by striking subsection (a)(3) and inserting the following:

"(3) other than a licensee or permittee knowingly—

"(A) to transport, ship, cause to be transported, or receive any explosive materials; or

"(B) to distribute explosive materials to any person other than a licensee or permittee; or

"(4) who is a holder of a limited user permit—

"(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

"(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited user permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited user permit holder."; and

(3) by striking subsection (b) and inserting the following:

"(b) It shall be unlawful for any licensee or permittee knowingly to distribute any explosive materials to any person other than—

"(1) a licensee;

"(2) a holder of a user permit; or

"(3) a holder of a limited user permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.".

(c) LICENSES AND USER PERMITS.—Section 843(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "or limited user permit" after "user permit"; and

(B) by inserting before the period at the end the following: ", including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person";

(2) in the second sentence, by striking "$200" and inserting $50"; and

(3) by striking the third sentence and inserting "Each license or user permit shall be valid for no longer than 3 years from the date of issuance and each limited user permit shall be valid for no longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.".

(d) CRITERIA FOR APPROVING LICENSES AND PERMITS.—Section 843(b) of title 18, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person who is prohibited from receiving, distributing, transporting, or possessing explosive materials under subsection (d) or (i) of section 842;";

(2) by striking paragraph (4) and inserting the following:

"(4) the applicant has a place of storage for explosive materials that meets such standards of public safety and security against theft as the Secretary shall prescribe by regulations, which the Secretary may verify by inspection or such other means as the Secretary determines to be appropriate, and no license or permit shall remain valid for more than 3 years without an inspection;"

(3) in paragraph (5), by striking the period at the end; and

(4) by adding at the end the following:

"(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is a person whose possession of explosives would be unlawful under section 842(i); and

"(7) in the case of a limited user permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited user permit is valid.".

(e) APPLICATION APPROVAL.—Section 843(c) of title 18, United States Code, is amended by striking "forty-five days" and inserting "45 days for limited user permits and 90 days for licenses and user permits,".

(f) INSPECTION AUTHORITY.—Section 843(f) of title 18, United States Code, is amended in the second sentence, by striking "permittee" the first time it appears and inserting "holder of a user permit".

(g) POSTING OF PERMITS.—Section 843(g) of title 18, United States Code, is amended by inserting "user" before "permits".

(h) BACKGROUND CHECKS; CLEARANCES.—Section 843 of title 18, United States Code, is amended by adding at the end the following:

"(h)(1) If the Secretary receives from an employer the name and other identifying information with respect to a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether possession of explosives by the responsible person or the employee, as the case may be, would be unlawful under section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

"(2)(A) If the Secretary determines that possession of explosives by the responsible person or the employee would not be unlawful under section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a letter of clearance which confirms the determination.

"(B) If the Secretary determines that possession of explosives by the responsible person or the employee would be unlawful under section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

"(i) confirms the determination;

"(ii) explains the grounds for the determination;

"(iii) provides information on how the disability may be relieved; and

"(iv) explains how the determination may be appealed.".

(i) Effective Date.—

(1) In general.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

(2) Exception.—Notwithstanding any provision of this title, a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act, shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.

SEC. 03. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVE MATERIALS.

(a) Distribution of Explosives.—Section 842(d) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "or who has been committed to a mental institution;"; and

(3) by adding at the end the following:

"(7) is an alien, other than an alien who—

"(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act); or

"(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

"(i) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement;

"(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

"(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

"(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence;

"(8) has been discharged from the armed forces under dishonorable conditions;

"(9) having been a citizen of the United States, has renounced the citizenship of that person;

"(10) is subject to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

"(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

"(11) has been convicted in any court of a misdemeanor crime of domestic violence.".

(b) Possession of Explosive Materials.—Section 842(i) of title 18, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) by inserting after paragraph (4) the following:

"(5) who is an alien, other than an alien who—

"(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act); or

"(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

"(i) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement;

"(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

"(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

"(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence;

"(6) who has been discharged from the armed forces under dishonorable conditions;

"(7) who, having been a citizen of the United States, has renounced the citizenship of that person;

"(8) who is subject to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

"(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

"(9) who has been convicted in any court of a misdemeanor crime of domestic violence."; and

(3) by inserting "or affecting" before "interstate" each place that term appears..

SEC. 04. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.

Section 843 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

"(i) Furnishing of Samples.—

"(1) In general.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

"(A) samples of such explosive materials or ammonium nitrate;

"(B) information on chemical composition of those products; and

"(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

"(2) Reimbursement.—The Secretary may, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.".

SEC. 05. DESTRUCTION OF PROPERTY OF INSTITUTIONS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting before the word "shall" the following: "or any institution or organization receiving Federal financial assistance,".

SEC. 06. RELIEF FROM DISABILITIES.

Section 845(b) of title 18, United States Code, is amended to read as follows:

"(b) Relief From Disabilities.—

"(1) Prohibited persons.—

"(A) In general.—Except as provided in paragraph (2), a person who is prohibited from engaging in activity under section 842 may make application to the Secretary for relief from the disabilities imposed by Federal law with respect to a violation of that section, and the Secretary may grant that relief, if the Secretary determines that—

"(i) the circumstances regarding the disability, and the record and reputation of the applicant are such that the applicant will not be likely to act in a manner dangerous to public safety; and

"(ii) that the granting of the relief will not be contrary to the public interest.

"(B) Petition for judicial review.—Any person whose application for relief from disabilities under this section is denied by the Secretary may file a petition with the United States district court for the district in which that person resides for a judicial review of the denial.

"(C) Additional evidence.—The court may, in its discretion, admit additional evidence where failure to do so would result in a miscarriage of justice.

"(D) Further operations.—A licensee or permittee who conducts operations under this chapter and makes application for relief from the disabilities under this chapter, shall not be barred by that disability from further operations under the license or permit of that person pending final action on an application for relief filed pursuant to this section.

"(E) Notice.—Whenever the Secretary grants relief to any person pursuant to this section, the Secretary shall promptly publish in the Federal Register, notice of that action, together with reasons for that action.

"(2) Waiver for lawful nonimmigrants.—

"(A) Conditions for waiver.—Any individual who has been admitted to the United States in a lawful nonimmigrant status may receive a waiver from the requirements of subsection (d)(7) or (i)(5) of section 842, if—

"(i) the individual submits to the Secretary a petition that meets the requirements of subparagraph (C); and

"(ii) the Secretary approves the petition.

"(B) Petition.—Each petition submitted in accordance with this subsection shall—

"(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire explosives and certifying that the alien would not, absent the application of subsection (d)(7) or (i)(5) of section 842, otherwise be prohibited from such an acquisition under that subsection (d) or (i).

"(C) Approval of petition.—The Secretary may approve a petition submitted in accordance with this paragraph if the Secretary determines that waiving the requirements of subsection (d)(7) or (i)(5) of section 842 with respect to the petitioner—

"(i) would not jeopardize the public safety; and

"(ii) will not be contrary to the public interest.".

SEC. 07. THEFT REPORTING REQUIREMENT.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(p) Theft Reporting Requirement.—

"(1) In general.—A holder of a license or permit who knows that explosive materials have been stolen from that licensee, user permittee, or limited user permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

"(2) Penalty.—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than $10,000, imprisoned not more than 5 years, or both.".

SEC. 08. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this title and the amendments made by this title.

SA. 4722. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CONGRESSIONAL APPROVAL REQUIREMENT FOR TIPS.

Any and all activities of the Federal Government to implement the proposed component program of the Citizens Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited, unless expressly authorized by statute.

SA 4723. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, strike lines 10 and 11 and insert the following:

TITLE VI—LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2002

SEC. 601. SHORT TITLE.

This title may be cited as the "Law Enforcement Officers Safety Act of 2002".

SEC. 602. EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) In General.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

"§ 926B. Carrying of concealed firearms by qualified law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified law enforcement officer' means an employee of a governmental agency who—

"(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

"(2) is authorized by the agency to carry a firearm;

"(3) is not the subject of any disciplinary action by the agency;

"(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm; and

"(5) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is, or was, employed as a law enforcement officer.".

(b) Clerical Amendment.—The table of sections for such chapter is amended by inserting after the item relating to section 926A the following:

"926B. Carrying of concealed firearms by qualified law enforcement officers.".

SEC. 603. EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) In General.—Chapter 44 of title 18, United States Code, is further amended by inserting after section 926B the following:

"§ 926C. Carrying of concealed firearms by qualified retired law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified retired law enforcement officer' means an individual who—

"(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

"(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

"(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

"(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

"(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

"(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms; and

"(6) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is photographic identification issued by the agency for which the individual was employed as a law enforcement officer.".

(b) Clerical Amendment.—The table of sections for such chapter is further amended by inserting after the item relating to section 926B the following:

"926C. Carrying of concealed firearms by qualified retired law enforcement officers.".

SA 4724. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 13 and 14, insert the following:

SEC. 173. JOINT INTERAGENCY TASK FORCE.

(a) Establishment..—The Secretary may establish and operate a permanent Joint Interagency Homeland Security Task Force composed of representatives from military and civilian agencies of the United States Government for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.

(b) Structure.—It is the sense of Congress that the Secretary should model the Joint

Interagency Homeland Security Task Force on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida, and Alameda, California, to the maximum extent feasible and appropriate.

SA 4725. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ____. EXCLUSION OF CERTAIN OVERSEAS PAY OF MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 112 the following new section:

"SEC. 113. CERTAIN OVERSEAS PAY OF MEMBERS OF THE ARMED FORCES.

"(a) IN GENERAL.—Gross income does not include compensation received for covered service as a member in the Armed Forces of the United States.

"(b) COVERED SERVICE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered service', with respect to a member, means service outside the United States in an assignment that is a permanent change of station for which travel, transportation, and housing of dependents at Government expense would generally not be authorized under policies of the Secretary concerned that are applicable to that assignment, except in the case of service in such an assignment for which such travel, transportation, and housing is actually authorized as an exception to the applicable policy.

"(2) SECRETARY CONCERNED.—The term 'Secretary concerned' has the meaning given the term in section 101(a)(9) of title 10, United States Code."

(b) CONFORMING AMENDMENT.—Section 3401(a) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by adding at the end the following new paragraph:

"(22) as compensation described in section 113."

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 112 the following new item:

"Sec. 113. Certain overseas pay of members of the Armed Forces."

(d) CUSTOMS USER FEES.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "October 31, 2008".

(e) EFFECTIVE DATE.—The amendments made by this section (other than subsection (d)) shall apply to remuneration paid in taxable years beginning after the date of the enactment of this Act.

SA 4726. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 173. REPORT ON ESTABLISHMENT OF CIVILIAN LINGUIST RESERVE CORPS.

(a) REPORT.—

(1) PREPARATION.—The Secretary of Defense, acting through the Director of the National Security Education Program, shall prepare a report on the feasibility of various methods for improving the foreign language capability of the Federal Government, including the establishment of a Civilian Linguist Reserve Corps comprised of individuals with advanced levels of proficiency in foreign languages who are United States citizens who would be available upon a call of the President to perform such service or duties with respect to such foreign languages in the Federal Government as the President may specify.

(2) CONSULTATION.—In preparing the report, the Secretary shall consult with such organizations having expertise in training in foreign languages as the Secretary determines appropriate.

(b) MATTERS CONSIDERED.—

(1) IN GENERAL.—In conducting the study, the Secretary shall develop a proposal for the structure and operations of the Civilian Linguist Reserve Corps. The proposal shall establish requirements for performance of duties and levels of proficiency in foreign languages of the members of the Civilian Linguist Reserve Corps, including maintenance of language skills and specific training required for performance of duties as a linguist of the Federal Government, and shall include recommendations on such other matters as the Secretary determines appropriate.

(2) CONSIDERATION OF USE OF DEFENSE LANGUAGE INSTITUTE AND LANGUAGE REGISTRIES.—In developing the proposal under paragraph (1), the Secretary shall consider the appropriateness of using—

(A) the Defense Language Institute to conduct testing for language skills proficiency and performance, and to provide language refresher courses; and

(B) foreign language skill registries of the Department of Defense or of other agencies or departments of the United States to identify individuals with sufficient proficiency in foreign languages.

(3) CONSIDERATION OF RESERVE COMPONENTS OF ARMED FORCES AS MODEL.—In developing the proposal under paragraph (1), the Secretary shall consider the provisions of title 10, United States Code, establishing and governing service in the Reserve Components of the Armed Forces, as a model for the Civilian Linguist Reserve Corps.

(c) COMPLETION OF REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the report prepared under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Defense $300,000 to carry out this section.

SA 4728. Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike line 3, p. 131 thru line 25, p. 132.

At line 3, p. 131, insert the following:

SEC. ____. GRANTS FOR FIREFIGHTING PERSONNEL.

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

"(c) PERSONNEL GRANTS.—

"(1) IN GENERAL.—In addition to the grants authorized under subsection (b)(1), the Director may award grants to fire departments of a State for the purpose of hiring 'employees engaged in fire protection' as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203).

"(2) DURATION.—Grants awarded under this subsection shall be for a 3-year period.

"(3) MAXIMUM AMOUNT.—The total amount of grants awarded under this subsection shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

"(4) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of a grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

"(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

"(5) APPLICATION.—An application for a grant under this subsection, shall—

"(A) meet the requirements under subsection (b)(5);

"(B) include an explanation for the applicant's need for Federal assistance; and

"(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

"(6) MAINTENANCE OF EFFORT.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources."; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

"(3) $1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).".

SA 4728. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. SENSE OF THE SENATE CONCERNING THE AVAILABILITY OF THE SMALLPOX VACCINE.

(a) FINDINGS.—The Senate finds that—

(1) the smallpox virus has killed more people than any other infectious disease in human history, and is estimated to have killed approximately 400,000,000 people in the 20th century;

(2) Congress and the Administration have determined that a bioterrorist attack utilizing the smallpox virus is a present threat to the nation's public health and safety;

(3) the Secretary of Health and Human Services has contracted with private manufacturers to purchase approximately 300,000,000 doses of smallpox vaccine, of which 100,000,000 doses have already been delivered;

(4) the Smallpox Response Plan and Guidelines released by the Centers for Disease Control and Prevention on September 23, 2002, calls for vaccinating the entire population of the United States against smallpox within 5 days of an outbreak of the disease;

(5) the plan would make the vaccine available to the general public only in the event of an outbreak of the disease;

(6) the strategy adopted by the Centers for Disease Control and Prevention is an important step forward but it is short of what is needed to adequately protect and defend against a possible attack using the disease;

(7) because the initial symptoms of smallpox are flu-like, the disease may go undetected or undiagnosed for up to 2 weeks, and could spread to and kill thousands before the first vaccinations could be administered;

(8) the more people who receive prompt vaccination against smallpox, the lower the rate of transmission of the disease and the greater the likelihood that such an outbreak could be contained; and

(9) because there are known health risks associated with the smallpox vaccine, the decision to be vaccinated should be made by the individual, or parent or guardian, in consultation with a doctor, and not the Federal Government.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the Secretary of Health and Human Services, at the request of any individual, or such individual's parent or guardian, and in consultation with such individual's physician, should make available to that individual vaccine sufficient to inoculate such individual from the smallpox virus;

(2) such vaccine should be provided at no cost or at nominal cost to the individual;

(3) such vaccine should be provided to the individual if the individual resides in the United States or any commonwealth, possession, or territory of the United States or the individual is an American citizen who resides outside of the United States; and

(4) such vaccine should be provided only if it is Federally licensed.

SA 4729. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2995, to improve economic opportunity and development in communities that are dependent on tobacco production, and for other purposes; which was referred to the Committee on Agriculture, Nutrition, and Forestry; as follows:

At the end of subtitle B of title I, add the following new section:

SEC. . TAX TREATMENT OF PAYMENTS UNDER TOBACCO EQUITY REDUCTION PROGRAM.

(a) In General.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically included in gross income) is amended by adding at the end the following:

"SEC. 91. TOBACCO EQUITY REDUCTION PROGRAM PAYMENTS.

"(a) General Rule.—Gross income includes amounts received under section 380j of the Agricultural Adjustment Act of 1938.

"(b) Exception for Amounts Transferred During Reinvestment Period.—

"(1) In general.—Subsection (a) shall not apply to any amount if during reinvestment period such amount is—

"(A) used to make a qualified debt repayment, or

"(B) transferred to a tobacco farmer individual retirement account established under section 522.

"(2) Qualified debt repayment.—For purposes of paragraph (1), the term 'qualified debt repayment' means the payment of debt incurred directly by the taxpayer to produce tobacco before the marketing year for the 2004 crop of each kind of tobacco.

"(c) Character of Income.—For purposes of this subtitle, any amount received under section 380j of the Agricultural Adjustment Act of 1938 and included in gross income under this section shall be treated as long-term capital gain.".

(b) Tobacco Farmer Individual Retirement Accounts.—Part IV of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to farmers' cooperatives) is amended by adding at the end the following:

"SEC. 522. TOBACCO FARMER INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) General Rule.—Except as provided in this section, a tobacco farmer individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) Definitions and Special Rules.—For purposes of this title—

"(1) Tobacco farmer individual retirement account.—The term 'tobacco farmer individual retirement account' means an individual retirement plan (as defined in section 7701(a)(37)) other than a Roth IRA which is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as a tobacco farmer individual retirement account.

"(2) Treatment of contributions.—

"(A) Cash only.—No contribution will be accepted unless it is in cash.

"(B) Source of contributions.—The only contributions which will be accepted are—

"(i) payments under section 380j of the Agricultural Adjustment Act of 1938, and

"(ii) trustee-to-trustee transfers to such trust from another tobacco farmer individual retirement account of the account beneficiary.

"(C) No deduction allowed.—No deduction shall be allowed under section 219 for a contribution to a tobacco farmer individual retirement account.

"(D) No rollover contributions allowed.—No rollover contribution may be made to or from a tobacco farmer individual retirement account.

"(3) Tax treatment of distributions.—Any amount distributed from a tobacco farmer individual retirement account attributable to payments made under section 380j of the Agricultural Adjustment Act of 1938 (including earnings thereon) shall be includible in the gross income of the distributee under the rules described in section 91(c).

"(4) Coordination with individual retirement accounts.—Section 408(d)(2) shall be applied separately with respect to tobacco farmer individual retirement accounts and other individual retirement plans.".

(c) Conforming Amendments.—

(1) The table of sections for part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 91. Tobacco equity reduction program payments.".

(2) The table of sections for part IV of subchapter F of chapter 1 of such Code is amended by adding at the end the following:

"Sec. 522. Tobacco farmer individual retirement accounts.".

(3) The heading for part IV of subchapter F of chapter 1 of such code is amended by striking **"FARMERS' COOPERATIVES"** and inserting **"CERTAIN FARMER ENTITIES"**.

(4) The table of parts for subchapter F of chapter 1 of such Code is amended by striking "FARMERS' COOPERATIVES" and inserting "CERTAIN FARMER ENTITIES".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SA 4730. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, between lines 14 and 15, insert the following:

(20) To provide for border and transportation security.

On page 25, after line 25, add the following new subsection:

(c) Chief of Immigration Policy.—

(1) In general.—There shall be within the office of the Deputy Secretary of Homeland Security a Chief of Immigration Policy, who, under the authority of the Secretary, shall be responsible for—

(A) establishing national immigration policy and priorities; and

(B) coordinating immigration policy between the Directorate of Immigration Affairs and the Directorate of Border and Transportation security.

(2) Within the senior executive service.—The position of Chief of Immigration Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

On page 43, between lines 2 and 3, insert the following:

(7) Carrying out the border patrol function.

(8) Administering and enforcing the functions of the Department under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

On page 43, line 3, strike "(7)" and insert "(9)".

On page 43, between lines 23 and 24, insert the following:

(6) So much of the functions of the Immigration and Naturalization Service as relate to the responsibilities described in paragraphs (7) and (8) of subsection (b).

On page 112, strike line 10 and all that follows through page 114, line 5 and insert the following:

SEC. 139. BORDER SECURITY AND IMMIGRATION WORKING GROUP.

(a) Establishment.—The Secretary shall establish a border security and immigration working group (in this section referred to as the "Working Group"), composed of the Secretary or the designee of the Secretary, the Under Secretary for Immigration Affairs, and the Under Secretary for Border and Transportation Security.

(b) Functions.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements in the coverage and geographic distribution of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly,

and efficient flow of lawful traffic, travel and commerce, and enhanced scrutiny for high-risk traffic, travel, and commerce;

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems; and

(6) coordinate the enforcement of all immigration laws.

(c) Relevant Agencies.—The Secretary shall consult with representatives of relevant agencies with respect to deliberations under subsection (b), and may include representatives of such agencies in Working Group deliberations, as appropriate.

On page 215, lines 15 and 16, strike "policy, administration, and inspection" and insert "policy and administration".

On page 215, line 20, before the period at the end of the line insert the following: ", but does not include the functions described in paragraphs (7) and (8) of section 131(b).

On page 219, line 18, insert "with respect to any function within the jurisdiction of the Directorate" after "States".

On page 220, line 1, strike "section 1111(c)" and insert "section 111(c)".

On page 220, strike lines 8 through 14.

On page 223, strike lines 9 through 25.

On page 224, line 1, strike "(f)" and insert "(e)".

On page 233, strike line 23.

On page 233, line 24, strike "(B)" and insert "(A)".

On page 234, line 1, strike "(C)" and insert "(B)".

On page 234, line 2, strike "(D)" and insert "(C)".

On page 234, line 3, strike "(E)" and insert "(D)".

On page 243, line 10, strike "All functions" and insert "Except as provided in subsection (c), all functions".

On page 243, line 19, strike "All functions" and insert "Except as provided in subsection (c), all functions".

On page 244 between lines 18 and 19, insert the following:

(c) Special Rule for Border Patrol and Inspection Functions.—

(1) In general.—Notwithstanding subsections (a) and (b), the border patrol function, and primary and secondary immigration inspection functions, vested by statute in, or exercised by, the Attorney General, the Commissioner of Immigration and Naturalization, or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Under Secretary for Border and Transportation in accordance with paragraphs (7) and (8) of section 131(b).

(2) References.—With respect to the border patrol function and primary and secondary immigration inspection functions, references in this subtitle to—

(A) the Directorate shall be deemed to be references to the Directorate of Border and Transportation Security; and

(B) the Under Secretary shall be deemed to be references to the Under Secretary for Border and Transportation.

On page 245, lines 13 and 14, strike "Under the direction of the Secretary, the Under Secretary" and insert "The Secretary".

On page 245, strike lines 20 through 24 and insert the following:

(A) immigration policy and administration functions;

(B) immigration service functions;

(C) immigration enforcement functions (excluding the border patrol function and primary and secondary immigration inspection functions); and

(D) the border patrol function and primary and secondary immigration inspection functions; and

Beginning on page 246, strike line 12 and all that follows through line 20 on page 247 and insert the following:

(a) Delegation to the Directorates.—The Secretary shall delegate—

(1) through the Under Secretary and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103)—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement; and

(2) the border patrol function and primary and secondary immigration inspection functions to the Under Secretary for Border and Transportation.

(b) Nonexclusive Delegations Authorized.—Delegations made under subsection (a) may be made on a nonexclusive basis as the Secretary may determine may be necessary to ensure the faithful execution of the Secretary's responsibilities and duties under law.

(c) Effect of Delegations.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary for Immigration Affairs, and the Enforcement Bureau of the Directorate for Border and Transportation Security, respectively, as the Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

On page 254, strike lines 14 through 19 and insert the following:

Border Affairs (except for the border patrol function and primary and secondary immigration inspection functions);

(iii) the transfer to the Directorate of Border and Transportation Security of the border patrol function and primary and secondary immigration inspection functions; and

(iv) the transfer of such other functions as are required to be made under this division; and

---

SA 4731. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 338, insert between lines 2 and 3 the following:

SEC. 2205. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (i) and subsection (j) as subsections (j) and (k), respectively; and

(2) by adding at the end the following:

"(l) In the case of any annuity computation under this section that includes, in the aggregate, at least 1 year of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percentage point."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, September 24, 2002, at 9 a.m. to conduct a hearing to look at the Federal Government's response to September 11th and the continuing role of the Federal Government in the recovery efforts. The hearing will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 24, 2002 at 2:30 p.m. to hold a Members; Briefing on Iraq.

AGENDA

Briefers: The Honorable George J. Tenet, Director of Central Intelligence, Washington, DC; The Honorable Carl W. Ford, Jr., Assistant Secretary for Intelligence and Research, Department of State, Washington, DC; RADM Lowell E. Jacoby, Acting Director, Defense Intelligence Agency, Department of Defense, Washington, DC; and Dr. Rhys. Williams, Director, Nuclear Non-Proliferation Division, Office of Intelligence, Department of Energy, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions and Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet for a joint hearing on West Nile Fever. Challenges for Public Health during the session of the Senate on Tuesday, September 24, 2002, at 10 a.m. in SD–342.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, September 24, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on the Role of the Special Trustee within the Department of Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 24, 2002 at 10:00 a.m. to hold a joint hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2002.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on "The DC Circuit: The Importance of Balance on the Nation's Second Highest Court" on Tuesday, September 24, 2002, at 10:00 a.m. in Room 226 of the Dirksen Senate Office Building.

Tentative Witness List

The Honorable Abner Mikva, University of Chicago Law School, Chicago, IL; Mr. Fred Fielding, Wiley Rein, and Fielding, Washington, DC; Professor Christopher Schroeder, Duke University School of Law, Durham, NC; Professor Brad Clerk, George Washington University Law School, Washington, DC; Professor Michael Gottesman, Georgetown University Law Center, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia and the Committee on Health, Education, Labor, and Pensions be authorized to meet on Tuesday, September 24, 2002 at 10:00 a.m. for a joint hearing entitled, "Responding to the Threat of West Nile Virus."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Madam President, I ask unanimous consent that Jeffrey Scholder and Robert Kerr, a fellow, be granted the privilege of the floor during the debate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL MAMMOGRAPHY DAY

Mr. REID. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from consideration of S. Res. 326, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 326) designating October 18, 2002, as "National Mammography Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 326) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 326

Whereas according to the American Cancer Society, in 2002, 203,500 women will be diagnosed with breast cancer and 39,600 women will die from this disease;

Whereas it is estimated that about 2,000,000 women were diagnosed with breast cancer in the 1990s, and that in nearly 500,000 of those cases, the cancer resulted in death;

Whereas the risk of breast cancer increases with age, with a woman at age 70 years having twice as much of a chance of developing the disease as a woman at age 50 years;

Whereas at least 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide safe screening and early detection of breast cancer in many women;

Whereas mammography is an excellent method for early detection of localized breast cancer, which has a 5-year survival rate of more than 97 percent;

Whereas the National Cancer Institute and the American Cancer Society continue to recommend periodic mammograms; and

Whereas the National Breast Cancer Coalition recommends that each woman and her health care provider make an individual decision about mammography: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 18, 2002, as "National Mammography Day"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the day with appropriate programs and activities.

ORDER FOR PRINTING STATEMENTS OF TRIBUTE

Mr. REID. Mr. President, I ask unanimous consent the Members have until Friday, October 4, at 12 noon to submit statements of tribute to Senator Strom Thurmond and the tributes then be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, SEPTEMBER 25, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow morning, September 25; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 10:30 a.m. with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; that at 10:30 the Senate resume consideration of the Interior Appropriations Act and vote on cloture on the Byrd amendment to the Interior Appropriations Act regarding firefighting and drought; that, if cloture is not invoked, the Senate immediately vote on cloture on the Lieberman substitute amendment to the Homeland Security Act; further, that Senators have until 10 a.m. tomorrow in order to file second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, the next rollcall vote will occur at 10:30 a.m., on cloture on the Byrd amendment to the Interior Appropriations Act.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, I know of no further business to come before the Senate. Therefore, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:36 p.m., adjourned until Wednesday, September 25, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 24, 2002:

THE JUDICIARY

ALAN G. LANCE, SR., OF IDAHO, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS FOR THE TERM OF THIRTEEN YEARS, VICE FRANK QUILL NEBEKER, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271 AND TO SERVE AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C. SECTION 53:

To be rear admiral (lower half)

REAR ADM. (SELECTEE) ROBERT J. PAPP, 7417

THE FOLLOWING NAMED OFFICERS OF THE COAST GUARD PERMANENT COMMISSIONED TEACHING STAFF FOR APPOINTMENT IN THE GRADE INDICATED IN THE

UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 188:

To be captain

KURT J. COLELLA, 5773
LUCRETIA FLAMMANG, 9588

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be commander

ALAN N ARSENAULT, 2819
KEVIN M BALDERSON, 2966
WEBSTER D BALDING, 6259
STEVEN A BANKS, 7286
KIRK A BARTNIK, 3695
MARK D BERKELEY, 0240
KEITH R BILLS, 6985
BYRON L BLACK, 5727
WILLIAM J BOEH, 7624
JOHN E BORIS, 1826
SCOTT W BORNEMANN, 4284
LARRY D BOWLING, 1201
GARY L BRUCE, 3369
SEAN M BURKE, 2645
TINA L BURKE, 7607
JONATHAN C BURTON, 9437
SCOTT A BUTTRICK, 8219
THOMAS E CAFFERTY, 3508
CHARLES S CAMP, 4677
JAMES CARLSON, 6941
MICHAEL P CAROSOTTO, 1091
ALAN W CARVER, 6539
CHARLES L CASHIN, 2275
ERIC P CHRISTENSEN, 3453
DAVID A CINALLI, 0412
BRADFORD CLARK, 6833
THOMAS D COMBS, 7032
PAULINE F COOK, 0150
CALEB CORSON, 1845
DONNA L COTTRELL, 7744
DANIEL S CRAMER, 8721
MATTHEW K CREELMAN, 0203
DAVID P CROWLEY, 3147
EDWARD J CUBANKSI, 7319
DONALD E CULKIN, 3201
STEPHEN P CZERWONKA, 4515
PAT DEQUATTRO, 4861
DAVID M DERMANELIAN, 3435
JOEL D DOLBECK, 4540
ROBERT R DUBOIS, 4526
BRIAN C EMRICH, 6613
JANET R FLOREY, 3061
RICHARD T GATLIN, 8150
FRANCIS E GENCO, 9830
AUSTIN J GOULD, 7186
BRUCE E GRAHAM, 6680
MARC A GRAY, 7045
DARCY D GUYANT, 4357
BRIAN P HALL, 1428
JAMES E HANZALIK, 8265
DAVID L HARTLEY, 9679
BEVERLY A HAVLIK, 6621
ROBERT P HAYES, 6558
JOHN A HEALY, 9979
TIMOTHY J HEITSCH, 6801
JOSEPH F HESTER, 8302
JOHN E HURST, 3840
VICTORIA A HUYCK, 3706
JAMES D JENKINS, 6042
GWYN R JOHNSON, 3706
KELLY L KACHELE, 5224
JOSEPH P KELLY, 4508
WILLIAM R KELLY, 2703
LARRY R KENNEDY, 2329
HAN KIM, 6674
ROGER R LAFERRIERE, 3645
MARC P LEBEAU, 6418
STUART L LEBRUSKA, 0346
ROCKY S LEE, 0145
ANTHONY S LLOYD, 9302
MICHAEL J LOPEZ, 6826
JOSEPH J LOSCIUTO, 5449
JASON LYUKE, 6201
ROBERT T MCCARTY, 6587
STEPHEN P MCCLEARY, 7152
PATRICK J MCGUIRE, 2209
BRIAN T MCTAGUE, 9068
CHRISTOPHER J MEADE, 6526
WILLIAM R MEESE, 7835
MICHAEL A MEGAN, 3808
MICHAEL A MOHN, 3027
JESSE K MOORE, 0421
JOHN F MORIARTY, 4156
JIM L MUNRO, 8574
CAMERON T NARON, 2408
THOMAS G NELSON, 2922
CHRISTOPHER D NICHOLS, 6193
LAURA H OHARE, 5830
ANDREW C PALMIOTTO, 3391
FRANK R PARKER, 1845
DAWAYNE R PENBERTHY, 4594
JOHN J PLUNKETT, 7464
STEVEN W POORE, 6935
LAURENCE J PREVOST, 4908
CHARLES E RAWSON, 1007
JOHN C RENDON, 3516
CHARLES A RICHARDS, 3618
KEITH A RUSSELL, 0513
MICHAEL P RYAN, 3982
STEPHEN M SABELLICO, 6890
RICHARD A SANDOVAL, 4274
GREGORY J SANIAL, 3490
ADAM J SHAW, 2846
PHILIP J SKOWRONEK, 7768
JOEL D SLOTTEN, 1964
KEITH M SMITH, 8854
MATTHEW C STANLEY, 6268
JANET E STEVENS, 4829
CYNTHIA L STOWE, 1662
GLENN M SULMASY, 8582
JAMES TABOR, 6081
TROY K TAIRA, 3540
THOMAS TARDIBUONO, 1614
JOHN G TURNER, 6650
DAVID A WALKER, 7962
JAMES H WHITEHEAD, 3359
KEITH T WHITEMAN, 2946
ROBERT C WILSON, 9927
JOHN D WOOD, 0061
MATTHEW J ZAMARY, 6859

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. THOMAS B. GOSLIN JR., 2970

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. THOMAS F. DEPPE, 3181

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. KEVIN P. BYRNES, 7639

HOUSE OF REPRESENTATIVES—*Tuesday, September 24, 2002*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 24, 2002.

I hereby appoint the Honorable JOHN ABNEY CULBERSON to set as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. SMITH) for 5 minutes.

THE FEDERAL DEBT

Mr. SMITH of Michigan. Mr. Speaker, tonight I and some others are going to do a one hour special order, on some of the problems, the misconceptions about the debt of the Federal Government. The policy committee that I serve on, the Republican Policy Committee, met with Art Laffer, who I consider an esteemed economist in this country. One of my questions to Art was what is worse as far as being a downside to economic growth—the debt and going deeper into debt in this country or having tax increases, and he said they are both about the same. They take private money out of circulation that could be used to expand businesses and jobs.

And that brings a question that this body must consider. How big should the Federal Government be in terms of a percentage of gross domestic product? How fast should the expenditures of this Congress grow compared to inflation? We have been growing from 2 to 4 times the rate of inflation every year for the last 20 years. The elections of politicians to come up with new programs, to come up with pork barrel projects to take back to their districts probably enhances the chances that they are going to be reelected. So the tendency has been to have government grow faster than the economy, faster than the ability of the American taxpayer to pay, and certainly faster than what is good for us in terms of increasing taxes and debt.

Politicians, Members of Congress, Members of the Senate, the President have tended to say, well, we can expand government and not have it quite so visible in terms of the American worker digging into their pockets, if we pay for some of that increased spending with increased debt.

When I was first elected to Congress 10 years ago the debt of the Federal Government was four trillion dollars. Today guess what the debt is in just under 10 years? The current debt of the Federal Government is $6.2 trillion. A 50 percent increase in 10 years. So we can imagine if we project that kind of debt increase for the next 20 years we are leaving our kids and our grandkids a tremendous indebtedness burden because we think the expenditures today are so important that it justifies higher taxes and more debt for our kids to pay.

I think there is a misunderstanding about debt. We have said we have paid the debt down. Actually, the total debt of this country over the last 20 years has continued to increase, and so has the obligation of our kids to pay off our overzealous spending. I am a farmer from Michigan. Our tradition has been to try to pay off the mortgage on the farm to give our kids a little better chance. In Congress we are doing the opposite. We are increasing that obligation.

Tune in tonight to the special orders and we will talk more on the problems of going deeper and deeper into debt and the increased downside for the economy.

UNFINISHED BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Missouri (Mr. GEPHARDT) is recognized during morning hour debates for 30 minutes.

Mr. GEPHARDT. Mr. Speaker, I rise to urge the Republican leadership to address the unfinished business of the American people's agenda. The House has a lot of work to do and not a lot of time in which to do it. In America today millions of hard working families face challenges in their daily lives.

Since January, 2001, our Nation's economy has deteriorated dramatically and this House has failed to provide real relief to the families who need it most. We have seen the most anemic period of economic growth since Dwight Eisenhower was President. In 18 months the stock market has lost $4.5 trillion in value. More than 2 million people have lost their jobs. A wave of corporate scandals has eroded people's fundamental faith in our Nation's free markets and scores of corporations have become bankrupt.

Consumer confidence dropped in each of the last 4 months and is at the lowest level since November, 2001. Our Nation's retirement security system has also been undermined and in great difficulty. In 18 months Republican economic policies have taken $2 trillion from the Social Security Trust Fund. Baby boomers' retirement benefits have been jeopardized.

In each of the last few years, prescription drug prices have soared more than 10 percent. Reliable prescription drug coverage eludes almost two-thirds of all Medicare recipients. On a daily basis, senior citizens face a choice between buying food, paying the rent, or buying their medicine. Senior citizens actually slice pills into halves because they cannot afford their full prescriptions.

Faced with these challenges, the House Republican leadership has failed to address people's kitchen table concerns. In the last 18 months this leadership passed an agenda that satisfied the special interests, misled the American people, and dismissed the interest of America's hard working families. But for bipartisan action after the September 11 terrorist attacks, Republicans amassed a record of nonachievement in this 107th Congress and failed to make a difference, a real difference, in people's lives.

On the economy Republicans have demonstrated a devotion to special interest-driven tax cuts. In 2001, in a mammoth tax cut giveaway, Republicans gave the lion's share of the breaks to those who least needed tax relief. The Republican economic plan turned record surpluses into deep deficits for the decade ahead. The only surplus that is left is after they have squandered most of the Social Security surplus.

The Republican economic agenda rejected the fundamental values that in

---

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the 1990s propelled the longest economic expansion ever recorded: Opportunity, responsibility, and community. In a so-called stimulus bill, the Republican agenda even tried to give Enron a $254 million tax break. For the economic victims of the September 11 attacks, the Republican agenda blocked the extension of unemployment benefits legislation for 5 months. For people who had lost jobs in this Republican recession, the Republican agenda blocked the extension of health care benefits legislation. This ideological agenda has blocked a modest, very modest, minimum wage increase even though in the 5 years since the last increase the minimum wage's real value has fallen 11 percent.

This agenda has done almost nothing positive for Americans. It has instead led to large layoffs, weakened America's manufacturing sector, and helped produce big losses in people's pensions, IRAs, and mutual funds across the board. Faced with this mounting tide of bad economic news, Republicans continue to support more special interest tax cuts for the wealthiest individuals. In April, in the middle of a recession, they voted to extend provisions in the spring 2001 tax cut bill that would not take effect until 2011. Think about it. As families face financial hardships, the Republican majority wasted valuable time trying to cut taxes for the wealthiest individuals starting 10 years from now, in 2011.

In recent weeks they have wasted the House's time and people's money, passing the exact same tax cut all over again. Republicans sliced their 10-year enrichment plan for the wealthy into individual tax cut pieces in order to distract attention from the absence of a real agenda that would address America's real problems.

The sole passion of House Republicans has been to reward their wealthy political clientele for the next decade and beyond at the expense of every other need of the American people. Republicans pass one press release after the next and abdicate their responsibility to lead America. They seek to create the illusion of real life legislative progress on America's real problems where none exists. Perhaps more telling about their inability to carry out their responsibility to govern is that to date not a single spending bill has been sent to the President, just one week before the new fiscal year begins. In fact, since the August recess, this House has failed to pass a single spending bill and it is the House that must originate this important budgetary legislation.

Republicans are failing at this most basic task because their misguided economic plan is starving important investments we can and must make in our families' futures, especially in educating our children. Their budget plan would force 50,000 kids from afterschool programs that keep children safe. Republicans will leave children trailing behind in America. In fact, because some Republican moderates understand cuts will have to be made, they have been unable to bring key bills to the floor and now their strategy appears to be delay, delay, delay until after the November elections to avoid voters' wrath.

This week the House will have to pass the first of what will probably be several continuing resolutions to try to fund the Federal Government. Republicans are simply kicking the can down the road, looking ahead to a possible lame duck session to fix their budgetary problems while they continue to deny the consequences of this deeply misguided economic plan.

A lame duck session deprives voters of the legislative information to make an informed decision, and by delaying key spending decisions, Republicans are depriving critical resources to public schools, hospitals, homeland security, among other priorities.

The House should not adjourn before holding a full debate on all of these spending bills and priorities. People deserve common sense solutions to the challenges that confront them. That is why I hope Republicans will at least accept our offer to convene a bipartisan economic growth summit to put together a plan that will cut the budget deficits, bring back responsibility and discipline, and get us back on the path to long-term economic growth and opportunity.

Even now as we consider a resolution to go to war, there is an unwillingness to reconsider Republican economic and budgetary decisions made more than 1 year ago, before September, 11, 2001. Furthermore, Democrats support a 21st century energy agenda that creates jobs, protects the environment, and expands the economic pie for all of us; education investments to create the most trained and most highly skilled work force on the planet; a minimum wage increase for hard-working families; and a second round of extended unemployment benefits because for over 1 million people their benefits have been exhausted, and by December, 1.5 million people will be in this position.

Second, this House must have a free and fair debate about our Nation's Social Security future. Despite repeated promises to safeguard the surplus, the Republican leadership passed an economic plan that diverted $2 trillion from Social Security into other non-Social Security initiatives. Putting special interest tax cuts first, second, third, fourth, fifth, and sixth, Republicans broke our commitment to save Social Security first and jeopardized the baby boomers' Social Security benefits.

Social Security is the greatest retirement security program ever conceived. Social Security puts food on people's table, shelter over people's head. It spells the difference between poverty and dignity in the lives of millions of senior citizens, surviving spouses, and people with disabilities. It represents the largest, most reliable income source for middle-income seniors.

Republicans have at least five plans to privatize and cut Social Security benefits. These schemes make it clear: Either Republicans will have to cut benefits, divert trillions of dollars from other as yet unspecified programs, or they will have to do both things. According to one study, senior citizens, surviving spouses, and people with disabilities would see benefit cuts between 30 and 46 percent annually if the Republican privatization proposals get enacted. Therefore, I can think of few more crucial priorities than a full Social Security debate with a spotlight shining on Republican's privatization schemes.

I am deeply disappointed that House Republicans seemingly do not want this debate and they do not want this vote. The Republican leadership is doing everything in its power to sweep Social Security under the carpet until after the November election. They understand just how unpopular the privatization agenda has become, especially since the near record drop in the stock market of the last months. The American people have a right to know the consequences that flow from this decision. They deserve a frank, honest discussion about all of the Republicans' Social Security privatization proposals. As elected leaders, it is our obligation and our responsibility to hold this discussion before the November elections so the people, the people, can decide Social Security's future.

In addition, Republicans must complete the unfinished business of the American people's prescription drugs agenda. Right now they are trying to run out the clock on the crucial challenge of prescription drug prices. I have talked to hundreds of senior citizens who have urged the Congress to cut prescription drug prices down so hardworking families can afford them. In this Congress Republicans have failed these families while protecting the profits of the biggest drug makers that support their campaigns.

In July Republicans passed a sham bill written by the prescription drug lobby. They refused even to let us vote on our Democratic alternative. They rejected a real Medicare prescription drug benefit rooted in the right values, a benefit available and affordable to all, and 100 percent available, reliable and guaranteed. The Republican bill represented a fraud and a farce. It was not worth the paper it was written on. It covered barely a fraction of America's senior citizens, put the benefit in the hands of private insurance companies, and took a dangerous first step toward privatizing Medicare. On a party-line vote, it passed the House. Days later I was in Missouri and I saw commercials underwritten by the pharmaceutical lobby. The spots praised Republican candidates for supporting the Republican prescription drug bill fraud. That bill secured the profit priorities of our Nation's drug makers over, and at the expense of, our Nation's senior citizens. It is the same special interest Republican story line on the issue of prescription drug prices.

This summer the Senate, 78 to 21, passed a good, bipartisan bill that will close loopholes used by drug makers to stifle competition, keep prescription drug prices high, and maximize industry profits. This simple legislative step could cut prescription drug prices by about 60 percent. According to the nonpartisan Congressional Budget Office, it would save consumers $60 billion in prescription drug prices each year. In the House, Democrats are circulating a petition to discharge the Senate-passed bill because Republicans also refuse to debate this. Not surprisingly, the pharmaceutical lobby is starting an advertising blitz attacking the Senate bill, scaring people with the canard that if this bill is enacted, somehow, magically, medical and pharmaceutical advances will come to a grinding halt. The drug companies continue to fund Republican campaigns as a reward for Republican actions and inactions on this high-priority agenda item.

The special interests can afford to pay for this largess. Since January the big drug makers earned more than $37 billion in prescription drug sales. On this issue the special interests have seized and controlled the agenda.

Before adjournment we must make this the people's House again. We must not let it be the pharmaceutical companies' subsidiary corporate interest. We should and we must vote in this Congress to try to lower prescription drug prices for all Americans. Preventing more corporate scandals and bringing corporate criminals to justice is the fourth piece of unfinished business here in the House. Again, the reality, the sad reality, is that special interests have guided the Republican response to the whole basket of corporate accountability issues.

Under Republican leadership thousands of Americans have lost jobs due to corporate misbehavior. In recent months Arthur Andersen fired 7,000 employees, Global Crossing fired over 9,000 employees, WorldCom fired over 20,000, and Enron fired over 4,500. This is not part of a normal business cycle, to say the least. In recent months people's pensions lost $210 billion and State pensions lost $4 billion combined when WorldCom and Enron stock plummeted because their books had been cooked.

In response to these awful mind-numbing developments, House Republicans passed watered-down special interest legislation to create the appearance of action when the truth was a failed Republican deregulatory agenda. Republicans blocked accounting industry reform for months until the pressure became so great they had no choice but capitulation. But they refused to impose stiff penalties on employers who mislead employees about the value of company stock. They failed to punish CEOs who run their companies into the ground. They blocked our efforts to eliminate tax breaks and Federal contracts that corporations still today receive by relocating overseas to avoid paying American taxes.

In April Republicans passed a pension reform bill that failed to protect pensions from corporate abuse and indiscretions. One House Republican even acknowledged that the bill "does little to protect people's pensions." It failed to give employees control over their nest eggs and retirement plans. It treated executive pensions better than employee pensions, maintaining two sets of rules. It offered employees no legal remedies when companies abused people's 401(k)s.

I believe America has the greatest, most vibrant free enterprize system on the face of this planet. But for the sake of every consumer, every CEO, every employee and every investor, we must create one set of rules for all, reward hard work with fair play and ensure that corporate criminals pay the price. I will continue to stand on this floor and fight for comprehensive business, employees' and investors' bills of rights. Let us get it done today and restore people's faith after what has happened to their precious savings.

Sadly, the Republican response to all these challenges is to "run out the clock" on the Congress, as one newspaper wrote over the weekend. I saw a headline just yesterday calling the Republican agenda an "Avoidance Agenda." I quote Bob Novak: "Apart from the war on terrorism, the Republican party," he says, "flinches from standing for much of anything in the 2002 election."

To retain their majority, Republican leaders have created a playbook that reveals the failed Republican agenda and mocks the priorities of their constituents. In recent weeks even with misguided bills, Republicans seem incapable of taking any action.

Republicans pulled an education tax bill, pulled the bankruptcy conference report. Now they waste time and over $100,000 a day of the people's money, according to one calculation, passing press release bills, one more obvious than the next. The nonsense of the House resolutions, as I would like to call them, will make zero impact on people's actual lives. The same can be said of other well-meaning resolutions that represent the lion's share of the legislative agenda with House Republicans in the majority.

In this session the House has passed at least 40 suspension bills to bestow names on post offices. Under Republican leadership this House has considered the following resolutions, among others: Supporting the Goals of the Year of the Rose; Honoring the Invention of Modern Air Conditioning; recognizing the Significant Contributions of Paul Ecke, Jr. to the Poinsettia Industry, and for other purposes; Ensuring Continuity for the Design of the 5-cent Coin, Establish the Coin Design Advisory Committee, and for other purposes.

At the rate we are going nobody is going to have any coins to redesign if we do not get this economy straightened out. This House is becoming irrelevant because people's kitchen table priorities are not being addressed on a constructive and bipartisan basis. Instead of wasting time on empty, meaningless gestures and then voting to allow the President's plans to privatize Social Security to take effect; sheltering unpatriotic offshore corporate tax havens from paying their fair share of taxes; blocking campaign reform; passing the largest gift to the wealthy in the history of this Nation in the form of massive tax breaks, without even considering a new economic plan; passing a gift to Enron and other oil and gas interests through a dirty energy bill; delaying and bending to corporate interest in addressing the corporate scandals and protecting pensions; delaying and then undoing the strong air safety rules Congress enacted to safeguard the public in the aftermath of September 11, Republicans should have been working with Democrats to address the American people's unfinished and important business.

The American people want us to raise the minimum wage, protect investor rights, enact job training, pass Medicare prescription drugs, cut prescription drug prices, and extend unemployment benefits. People also want us to reform our elections and voting apparatus to ensure that every vote counts and that what happened in 2000 and 2002 in Florida and elsewhere never ever happens again.

People want us to enact a real Patients' Bill of Rights with teeth and effectiveness and not the sham Republican legislation that is languishing and waiting in going to conference. They want us to help school districts across America get class size down to 18 students in each classroom. They want us to pass school construction to promote safety in every public school, create a stable learning environment and meet the staggering backlog of unmet school construction needs.

People want us to close the pay gap between men and women. They want us to overturn new White House rules and restore real medical privacy protections to every American patient. They want us to make polluters, not taxpayers, foot the cleanup bill and maintain the Super Fund program that cleans up toxic waste. They want us to enhance our hate crimes law and provide more resources to States and local jurisdictions to help investigate and prosecute these heinous crimes. They want us to reinstate worker safety protections to prevent repetitive stress injuries in the workplace, just to name a few.

This agenda is worthy of the American people's highest dreams and hopes for their family. It is worthy of people's real concerns that are there on a day-to-day basis. It is incumbent upon us all to stop wasting time in this House, to stop being irrelevant to the people's real agenda, and to get about the business of the American people's domestic security agenda. Let us do it on a bipartisan basis, let us enact an agenda that creates opportunity for all to fulfill their potential and let us not adjourn before it is done. Let us get to work.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 3 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord of all creation and Wisdom for the ages, we turn to You in prayer. To turn to You is to humble one's self as a person, as a Nation. Although we often approach You with hesitancy, it is only because of our sins or weakness of faith, for You are always present and ever faithful, for You alone are God.

To step into Your holy presence, O Lord, is to be boldly revealed, as in a hall of piercing mirrors. Before You all our fears, resentments of the past and deepest fault lines come to light. But receive us once again as Your very own.

Guide us as Your people. Accomplish in us Your righteous purpose. Shape the body of this House to shoulder its proper responsibilities so to bring forth justice across our land and peace to the world. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Georgia (Mr. ISAKSON) come forward and lead the House in the Pledge of Allegiance.

Mr. ISAKSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PUBLIC LANDS DAY

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, on Saturday, September 28, in honor of National Public Lands Day, a 3,000-mile trek crossing six states and 14 national forests will end in Salt Lake City, Utah.

Last July 31, two teams began this unique journey with one group departing from New Mexico and the other from Montana. Their travels were solely on public lands and consisted of hiking, horseback riding, mountain biking, canoeing, boating and driving SUVs.

Those Americans making this trek also worked to educate people, especially our youth, on the importance of public lands. Public lands are a tremendous source for clean air, clean water and open space, and they provide important natural resources, such as minerals, coal, gas, oil, forage and timber.

It is my hope that National Public Lands Day will remind all of America of the important role public lands play in protecting ecosystems, as well as contributing to our national economy and our national defense.

For these reasons, Mr. Speaker, Congress must enact responsible public land policies.

GIVE PEACE A CHANCE

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I am so glad that the people of the Seventh District, like many people throughout America, have no compunctions letting you know where they stand. For the last week I have been getting telephone calls, e-mails, i-mails, people stopping me on the street, and they are saying, let us give peace a chance. Let us go slow on this war business. Let us let the inspectors inspect. Let us let them do their job.

Mr. Speaker, I agree with them.

MIDSHIPMAN EDWIN JOSEPH O'HARA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, 60 years ago, on September 27, 1942, Midshipman Edwin Joseph O'Hara saw two enemy surface raiders suddenly appear out of the morning mist to attack the vessel he was on. Heavy guns of one raider pounded his ship, and machine guns fired from the other, spraying the decks for one-half hour at close quarters.

The heroic gun crew of O'Hara's ship exchanged shot for shot with the enemy, placing 35 shells into the waterline of one of the raiders, until its crew was forced to abandon their sinking ship. All of the gun crew were killed or wounded when an enemy shell exploded the magazine of their gun.

At the explosion, Midshipman O'Hara ran aft and single-handedly served and fired the damaged gun with five live shells remaining in the ready box, scoring direct hits near the waterline of the second raider. O'Hara was mortally wounded in this action.

With boilers blown up, engines destroyed, masts shot away, and ablaze from stem to stern, the ship finally went under, carrying O'Hara and several of his shipmates with her.

O'Hara was awarded the Merchant Marine Distinguished Service Medal for his bravery, bravery we should never forget.

TOURING THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, yesterday a group of staffers for Members who are part of the Congressional Caucus on Missing and Exploited children took part of a tour and briefing at the National Center for Missing and Exploited Children, and I want to thank them today for taking the time to see firsthand the amazing work that the National Center does.

One of the things that I did after the abduction and murder of Laura Kate Smither was to go to the National Center to see the work that they do there, to meet with Ernie Allen, the President and CEO of the National Center. Seeing the Center and the people who work there proved absolutely inspiring to me and helped me to found that Congressional caucus that so many of our Members now participate in.

I hope that the Members of your staff, those of you who hear me and all of us who visited the center yesterday, were just as inspired and will bring that inspiration back to your offices. There is so much that we can do together to prevent the abduction and exploitation of America's children, if we but take the first step.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on motions to suspend the rules ordered prior to 6:30 p.m. may be taken today.

Record votes on remaining motions to suspend the rules will be taken tomorrow.

RECOGNIZING 100TH ANNIVERSARY OF 4-H YOUTH DEVELOPMENT PROGRAM

Mr. ISAKSON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 472) recognizing the 100th anniversary of the 4-H Youth Development Program.

The Clerk read as follows:

H. CON. RES. 472

Whereas the 4-H Youth Development Program celebrates its 100th anniversary in 2002;

Whereas members of the 4-H Youth Development Program pledge their Heads to clearer thinking, their Hearts to greater loyalty, their Hands to larger service, and their Health to better living for the club, the community, the country, and the world;

Whereas the 4-H Youth Development Program sponsors clubs in rural and urban areas throughout the world;

Whereas 4-H Clubs have grown to over 5,600,000 annual participants ranging from 5 to 19 years of age;

Whereas 4-H Clubs strengthen families and communities;

Whereas 4-H Clubs foster leadership and volunteerism for youth and adults;

Whereas 4-H Clubs build internal and external partnerships for programming and resource development;

Whereas today's 4-H Clubs are very diverse, offering projects relating to citizenship and civic education, communications and expressive arts, consumer and family sciences, environmental education and earth sciences, healthy lifestyle education, personal development and leadership, plants, animals, and science and technology; and

Whereas the 4-H Youth Development Program continues to make great contributions toward the development of well-rounded youth: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the 100th anniversary of the 4-H Youth Development Program and commends the program for service to the youth of the world; and

(2) urges the President to issue a proclamation calling on the people of the United States to observe a "National 4-H Youth Development Program Week" with appropriate ceremonies and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. ISAKSON) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. ISAKSON).

GENERAL LEAVE

Mr. ISAKSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 472.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. ISAKSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in strong support of H. Con. Res. 472, recognizing the 100th anniversary of the 4-H Youth Development Program and commends the program's contributions toward the development of well-rounded youth.

The 4-H program is the youth education branch of the Cooperative Extension Service, a program of the United States Department of Agriculture. Members can range from age 5 to 21 and the 4-H experience enables its members to have fun, meet new people, learn new life-skills, build self-confidence, learn responsibility and set and achieve goals. It is a program that builds the leaders of tomorrow at the local, county, district, state, national and international level.

Parents, volunteers, community leaders and staff share their time and talents with 4-H youth, thereby aiding in the development of these young people to reach their fullest potential. The life skill and leadership development is accomplished through hands-on learning and by utilizing the knowledge of the country's land-grant university system.

4-H projects are in-depth, hands-on learning experiences for their members. Training pets, making clothes, repairing computers, growing plants and building rockets are just a few examples of 4-H projects. A wide range of projects is offered in each state. Additionally, 4-H Members across the country are assisting in closing the gap between the technology haves and have-nots. The Access the Future Coalition was created to coordinate the efforts of 4-H youths and adults working in partnership with organizations across the United States to bridge the digital divide.

I am very pleased to recognize the 100th anniversary of the 4-H Youth Development Program, and I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the opportunity to join the gentleman from Georgia and the gentleman from Illinois (Mr. DAVIS), and am particularly pleased to join my Congressional neighbor, the chief sponsor of the resolution, the gentlewoman from Virginia (Mrs. DAVIS), in formally recognizing the 100th anniversary of the 4-H Youth Development Program.

The 4-H program originally began as a number of separate farm programs for youth. In Illinois, the programs consisted of corn growing clubs. In Ohio, they consisted of soil experiments. In Virginia, the programs began as corn growing boys and tomato canning clubs for girls. In the early 1900s, the U.S. Department of Agriculture organized these various youth groups throughout the country into the 4-H program.

The 4-H program began as a way to involve heads, hearts and hands of farm youth in practical hands-on education in agriculture. A fourth H, for health, was added on later because of that important issue. Early extension agents and educators were able to introduce new technology and improved ways of doing things to rural communities through work with youth.

Today, 4-H has grown well beyond its original roots. It involves at least 28 percent of U.S. youth during one or more of their K through 12 grade years, and there are approximately 60 million 4-H alumni. Last year, nearly 7 million young men and women participated in 4-H programs. More than half of them were from cities and their suburbs. Over 30 percent are from racial or ethnic minorities.

In Virginia, 4-H clubs can be found in each of the State's 107 cities and counties, and through its 4-H education centers, Virginia has the second largest camping program in the Nation.

As the 4-H has grown in size, it has also grown in focus. Although working with plants and animals is still a major focus of 4-H, participants can also choose projects in personnel development and leadership, environmental education, science and technology or communications. National 4-H initiatives also include workforce preparation programs dedicated to helping young people acquire basic skills, explore career opportunities and gain experience in the workplace.

All in all, 4-H programs provide opportunities, relationships and support for youth to help them acquire the life skills necessary to meet the challenges of adolescence and adulthood.

Mr. Speaker, I am pleased to join my colleague from Virginia, the chief sponsor of the resolution, and salute her for introducing the resolution, and also want to salute the 4-H Youth Development Program as it celebrates its 100th anniversary in 2002, and ask that my colleagues support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ISAKSON. Mr. Speaker, I am pleased to yield such time as she may consume to the distinguished gentlewoman from Virginia (Mrs. DAVIS), the author of H. Con. Res. 472.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, it is my privilege to urge my colleagues today to support House Concurrent Resolution 472, urging the President to issue a proclamation calling on the people of the United States to observe a national 4–H Youth Development Program Week in recognition of the 100 years of contributions to America's youth.

As a mom of two sons who have participated in 4–H programs and having been enriched by the experience, I commend this program for motivating young people to pledge their heads to clearer thinking, their hearts to greater loyalty, their hands to larger service and their health to better living for the club, the community, the country and the world.

☐ 1415

Mr. Speaker, 4–H is the youth education branch of the Cooperative Extension Service, a program of the United States Department of Agriculture. Each State and each county has access to a county extension office for both youth and adult programs, and 4–H programs are available to youth with ages ranging from 5 to 21, depending on the State.

As my colleague previously said, 4–H programs originated in Illinois and Ohio, with corn-growing clubs for boys and tomato-canning clubs for girls; and they have developed into a full range of activities for children and youth, ranging from animal sciences to computer technology. In Virginia, one of the highlights of 4–H participation is the opportunity to display your work and your skill and compete for awards at the State fair. We did that for many years with our sons, and it was a rewarding experience for the whole family.

Young people in Virginia can display their skills in dairy, livestock, horses, and a variety of other agricultural-related programs at the State fair and exhibit to the public their achievements and their skills.

Experiential education is at the heart of 4–H, and it provides young people with opportunities of learning and accomplishments that go beyond a classroom education. In the 100th anniversary of the program, 4–H clubs have grown to 5.6 million annual participants and continue to provide experiences and opportunities that can impact a child for a lifetime. In an age where young people are confronted with many negative and destructive influences, 4–H provides them with an opportunity to spend their time constructively, cultivating a talent, learning a new skill, learning a responsibility, or working with others to accomplish a project.

I urge my colleagues today to join me in commemorating the 100th anniversary of the 4–H Youth Development Program by supporting this concurrent resolution.

Mr. SCOTT. Mr. Speaker, prior to recognizing the gentleman from Illinois, I ask unanimous consent that the gentlewoman from California (Ms. SOLIS) be able to control the remaining time on this side.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time. I also want to commend my colleague from Virginia for introducing this matter to the House. I was not around 100 years ago for the beginning of the 4–H club movement, but I was around 50 years ago; and 50 years ago, I was an active member of a 4–H club. As I remember those days of my youth, I remember the pledge: "I pledge my head to clearer thinking, my heart to greater loyalty, my hands for larger service, and my health for better living for my club, my community, and my country," and now we add "the world."

But I also remember the glee of participation, the projects that we had. One year it was my project to grow 100 Rhode Island red chickens, and I managed to bring the 100 in. I broke one's neck one day; I stepped on his neck as they were coming to be fed, and I wanted to save him. I did not know much about medicine, but I just made myself a splint and put some coal oil on the neck and tied it together and the poor chicken lived and always walked like this, because it was crooked. A great project, though. I learned about electricity one year when I worked on another project.

I simply want to commend all of those individuals who have been instrumental in the development of 4–H activity. It does indeed provide an opportunity for young people to be actively engaged.

I remember another motto that they taught us. It had to do with good, better and best. Never rest until your good becomes better and your better becomes best.

So I want to thank all of those 4–H club leaders. I also want to commend the University of Illinois, which is one of the outstanding leaders of the Nation in agricultural extension and in 4–H club work and have expanded that to include urban communities. It is a great program; it is a great movement. I look forward to visiting 4–H club meetings and groups, talking with the young people, looking at their projects, hearing what they are doing.

So again, I commend the gentlewoman from Virginia for introducing this matter, and I urge its swift passage.

Mr. ISAKSON. Mr. Speaker, I am pleased to yield 1½ minutes to the distinguished gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is with great pleasure that I join with my colleagues today in celebration of the 100th anniversary of the 4–H Youth Development Program. I commend the gentlewoman from Virginia (Mrs. JO ANN DAVIS) for introducing this resolution and for her strong support of this wonderful organization.

For the past 100 years, 4–H has taught young Americans to grow through their accomplishments. They have developed our youth, including my daughters and some of my staff members, into responsible, civic-minded citizens through their fun and rewarding educational programs.

Next to church, 4–H has probably had the most influence of any organization in my own family. I was honored to serve as a member of the 4–H advisory board in Tenton County, Arkansas; and all three of my daughters were members of the program that taught them skills from sewing to cooking to raising cattle. I do not have any chicken stories to tell, but we have countless stories to tell in everything from learning how to cook and sew to raising rabbits, sheep, whatever.

As we recognize the 100th anniversary of the 4–H Youth Development Program today, I believe it is important to reflect on what the organization stands for: dedication to our youth and communities. The 4–H motto simply states, "To make the best better." I think they have done an excellent job working to make the best better over the past 100 years, and I wish them continued success in the future.

Ms. SOLIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise here today to recognize the long-time achievements of the 4–H Youth Development Program. I recall the program being instituted at one of my local public high schools where I attended. Unfortunately, not every student got to be a part of that program, but I know that there are over 6 million members worldwide that participate in this program that helps to provide support to our young children and young adults, teaching them respect and appreciation of the world in which they live.

But I find it ironic, Mr. Speaker, that today, as we celebrate today's generation of agricultural enthusiasts, the Republican leadership continues to ignore the advocates who fight day in and day out for safer working conditions for farm workers who toil in our fields to put food on our tables. Specifically, I am talking about one of my friends and colleagues, Dolores Huerta, who was cofounder of the United Farm

Workers Union. A legend of her own time, she is an advocate for all people who seek justice and fair treatment in our country.

Each year, between September 15 and October 15, we celebrate in this great Capitol National Hispanic Heritage Month. It is fitting, therefore, Mr. Speaker, for us to recognize the multitude of accomplishments that Latinos have made over the span of the history of our country. Whether they were helping to fight freedom back in the Civil War, or whether it is defending our Nation's shores at this time, we need to make a commendation of those Latinos that helped to provide support for this great country.

But in contemporary Hispanic culture, one of the most respected national community leaders is none other than Dolores Huerta, who has fought for decades to protect farm workers and women from pesticides, unrealistically-long work schedules, and inadequate pay that oftentimes violate our own labor and State laws. Dolores Huerta continues to be a strong voice for working men and women; and regrettably, the administration, or the Republican leadership of this body, rather, has repeatedly blocked our attempts to formally recognize her many accomplishments.

Last year, nearly 15 months ago, I introduced House Concurrent Resolution 177, a resolution to honor Dolores Huerta for her tireless commitment to our Nation's farm workers and the Latino community. Although the measure had 94 cosponsors and, may I add, two Republican cosponsors, and the other body unanimously approved its companion piece in May, this body still has not yet considered that measure.

Mr. Speaker, I support the 4-H resolution and will vote in favor of it because I believe in its merits, but I ask that House Concurrent Resolution 177 be treated with the same respect and be brought forth on its own merits and not held back because of partisan bickering.

Nearly 13 percent of the people in the United States are of Hispanic backgrounds; 33 million in total. Many in the Latino community care about this resolution and, trust me, I believe some of your constituents will too. I urge the leadership to do the right thing and pass House concurrent resolution 177 for a floor vote.

Mr. Speaker, I yield back the balance of my time.

Mr. ISAKSON. Mr. Speaker, I yield myself such time as may be remaining.

Mr. Speaker, I want to commend the gentlewoman from California for, first of all, her cooperative spirit in supporting the resolution, even though she has a concern over a resolution of her own which has not yet come to the floor. One of the life skills that is taught in 4-H is working together; and her concurrence in supporting this resolution, while expressing her regret that her resolution has not yet come to the floor, is to me commendable, and I commend the gentlewoman. That really is what the 4-H is all about, teaching our young people life skills that are essential in working together and being productive, and I commend the gentlewoman from California.

I would make a point, however, as to the gentlewoman's point about this leader from the Hispanic community, that the Hispanic community receives tremendous benefits from the 4-H program. In my State of Georgia, which is an agricultural State, 4-H is an essential program in many parts of rural Georgia and in which many of its participants are Hispanic. I am proud that we are making this recommendation today in House Concurrent Resolution 472, and I believe the reason for the gentlewoman's concurrence in supporting it is because of the tremendous benefit this program brings to children of every ethnicity and all regions and all States.

I commend the gentlewoman from Virginia for her introduction of the resolution, and I urge my colleagues to vote for the resolution.

Mr. RODRIGUEZ. Mr. Speaker, I rise today in recognition of the 100th anniversary of the 4–H Youth Development Program.

Mr. Speaker, over the past 100 years, the 4–H Youth Development Program has helped our Nation's young people become more involved in leadership, citizenship, and community service. The program has also provided youth with valuable life-skills and a safe, educational after school environment.

4–H program in my home state of Texas began in 1908 with a small "corn club" of 25 young boys. Under the Texas Cooperative Extension Service, the Program has grown into a modern youth organization with over 80 project areas. These projects areas include not only agriculture, but also non-agricultural interests such as photography, music, sports, consumer studies, science, and safety.

In and around the district I am privileged to represent, the 28th District of Texas, more than 72,000 young people are enrolled in 12 county 4–H programs. In addition, 4–H youth from the entire state of Texas come to the City of San Antonio, in my district, each February to compete at the San Antonio Livestock Show and Rodeo.

In addition to its 100th birthday, the 4–H Youth Development Program will celebrate National 4–H Week October 6–12, 2002. National 4–H Week is a week of community service, 4–H promotion, and celebration that has been held annually since 1942.

Mr. Speaker, I commend the 4–H Youth Development Program for its dedication to developing and educating our nation's young people, and I congratulate the organization on its 100th anniversary.

Mr. KIND. Mr. Speaker, I rise today in support of H. Con. Res. 472, recognizing the 100th anniversary of the 4–H Youth Development Program. As a proud former 4–H member of my hometown La Crosse Wisconsin, I appreciate and recognize what a difference this excellent program makes in our youth's lives.

4–H in Wisconsin. 4–H was founded in 1902, and established in my home state of Wisconsin in 1914. There are currently over 2,000 4–H clubs in my state alone, with more than 150,000 young people as members. 4–H is Wisconsin's largest animal science education program for youth, teaching these thousands of people ethical approaches to animal care for both pets and production animals.

4–H Mission and Vision. Mr. Speaker, 4–H is a dynamic organization whose mission is to foster innovation and shared learning for America's youth, aged 5 to 19. Its vision is to draw upon the combined power of youth and adults, so that we can learn together in order to address the challenges and opportunities critical to youth in our communities.

4–H Pledge. While many people associate 4–H with rural communities and agricultural issues, kids from cities and suburbs and from all backgrounds belong to 4–H clubs. Through 4–H they study citizenship and civics, communications and arts, consumer and family issues, earth and environmental science, technology and personal leadership. 4–H stresses three fundamental values: Treat others with mutual trust and respect and open and honest communication; assume personal leadership and responsibility for our actions; and Celebrate our differences as well as our similarities and always realize that working with youth as partners is the key to our success.

Since September 11 of last year our country faces new challenges and responsibilities, which is why it is so important for Congress to recognize an outstanding organization that promotes civic duty and community responsibility. By pledging "their heads to clearer thinking, their hearts to greater loyalty, their heads to larger services, and their health to better living, our young people do work to strengthen their clubs and their communities, their countries, and their world."

Mr. Speaker, I am pleased to recognize 4–H for its Centennial Anniversary. This is an exceptional program that lives up to its motto "To Make the Best Better". I know from my own personal experience that the skills I learned as a 4–H member remain with me today and I will continue to live up to the program's motto "To Make the Best Better" throughout "my community, my country, and my world."

Mr. PUTNAM. Mr. Speaker, today we celebrate the centennial of 4–H in America. After a century of inclusion and collaboration, has spanned the nation from family farms to urban cityscapes. 4–H brings together youth and adults to build a nation of stronger communities.

More than 6.8 million youth, ages 5 to 19, across the Nation are involved in 4–H programs from aerospace to zoology. 4–H members are still rooted in the historic base of rural America but more than 35 percent of today's 4–H youth live in our major urban centers and suburbs.

The Florida 4–H program is active in all of Florida's 67 counties and on the Seminole Tribes reservations in south Florida. The total number of youth participating in Florida 4–H last year was 287,156 youth.

Florida's children and youth began enjoying educational activities provided in cooperation with the state's land-grant institutions as early as 1909. Leadership for the Florida 4–H program was found in three major academic institutions. State 4–H club agents were housed at the University of Florida and Florida State University. In addition, District Extension agents working with 4–H programs for black youth were housed at Florida A&M University. This long-standing relationship brings academic excellence to youth development as strategies and curriculum are created for the coming century.

Florida 4–H type programs were first established in the north Florida area. The boys participated in corn clubs, and the girls were active in tomato clubs.

County and regional fairs in Florida have a long tradition of providing opportunities for 4–H'ers to publicly show their projects and compete for awards.

Agricultural judging teams, organized in many counties, participated in regional, state and national contests. These teams provided a way for youth to travel and meet people from outside their communities, and learn more about the world around them.

Camping has always been a key component in the Florida 4–H program with Camp Timpoochee in northwest Florida being one of the first 4–H residential camps in the country, established in 1926.

One of the most successful programs is Florida 4–H Legislature, founded in 1973, and annually held in the State Capital of Tallahassee. The youth participants conduct a mock legislature in the State Capitol building by filling the roles of legislators, lobbyists, reporters and legislative staff.

Over 45 million 4–H alumni, including myself, and 4–H members are celebrating the centennial of the 4–H youth development movement. 4–H provides a positive environment, a relationship with caring adults, and exciting educational experiences for today's youth.

Thanks, 4–H for molding and shaping so many great Americans. Here's to another 100 years of outstanding youth development and leadership growth.

Mr. SKELTON. Mr. Speaker, I am pleased that the House is taking time today to recognize the 100th anniversary of the 4–H Youth Development Program, which has spent a century helping young people develop skills to improve their lives and contribute to their communities.

In Missouri, more than 200,000 children and teenagers are involved in the 4–H program, which is coordinated by University Outreach and Extension, a partnership of the University of Missouri, Lincoln University, the U.S. Department of Agriculture, and county governments. 4–H is often associated with rural communities, but today more than 1,000 Missouri 4–H clubs serve as many young people from suburban and urban areas as from farms and small towns.

During this centennial year, members of 4–H throughout Missouri have participated in events honoring the 100th anniversary of this outstanding organization. They have continued their unwavering commitment to community service throughout the Show Me State.

In May, 4–H and the U.S. Army teamed up to benefit American youth. 4–H faculty and staff from the University of Missouri worked with staff at Fort Leonard Wood to coordinate the Teen Discovery program for more than 30 teenagers from 16 Army installations across the nation. These teens received training in team building activities, opportunity for Army youth to focus on leadership training.

In July, nine 4–H members from across the state led Missouri 4–H into the technology age. They formed the first Missouri 4–H Technology Leadership Team and competed for a chance to attend the National 4–H Technology Conference in Maryland. The primary focus of the team has been to provide leadership and community service within the context of using and learning information technology skills. In a technology-driven era, opening up these new doors to 4–H members is more important than ever.

This month, 4–H'ers helped Missouri youth prepare for the troubling anniversary of last year's terrorist attacks. ParentLink, part of the 4–H youth development office in Missouri, provided support to parents, childcare providers, and communities. The ParentLink service creates educational programs and offers resources on parenting and working with children. During a time when our youth may be confused about the terrifying events of September 11, 4–H has taken a lead role in helping parents and children cope.

Mr. Speaker, Missouri 4–H, not unlike their counterparts throughout the United States, has distinguished itself in this anniversary year. As we celebrate 100 years since the inception of this outstanding community service program, I encourage anyone who is interested in joining or volunteering for 4–H to get involved in this worthwhile initiative.

Mr. BACA. Mr. Speaker, I would like to express my support and deep concern for H. Con. Res. 177, a resolution honoring Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farmworker families. As a community leader, civic activist, and lobbyist, Dolores Huerta has struggled to bring justice and equal opportunity to immigrant farmworkers and their families for nearly three-quarters of a century.

Mr. Speaker, I have to question why House Concurrent Resolution 177 has not been brought to the floor when there are 91 cosponsors including myself who believe it is time to pay tribute to Dolores Huerta, especially during Hispanic Heritage Month. So far this month the House has heard and passed 3 Concurrent Resolutions that have had no more than 8 co-sponsors combined. In one case, a concurrent resolution was introduced and passed in a matter of months. And this week alone we are scheduled to hear another 6 concurrent resolutions, two of which have only 1 co-sponsor. All the while House Concurrent Resolution 177 has been waiting since June of 2001 with overwhelming support to be heard.

Mr. Speaker, it is time for us to show our support for this resolution and bring it to the floor. Let us not delay any longer in paying tribute to Dolores Huerta. Her story deserves to be told and her contribution to Hispanic American culture celebrated.

Mr. ISAKSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. ISAKSON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 472.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ISAKSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

☐ 1430

SENSE OF CONGRESS REGARDING AMERICAN GOLD STAR MOTHERS, INCORPORATED, BLUE STAR MOTHERS OF AMERICA, INCORPORATED, THE SERVICE FLAG, AND THE SERVICE LAPEL BUTTON

Mr. WATTS of Oklahoma. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 301) expressing the sense of Congress regarding American Gold Star Mothers, Incorporated, Blue Star Mothers of America, Incorporated, the service flag, and the service lapel button.

The Clerk read as follows:

H. CON. RES. 301

Whereas section 901 of title 36, United States Code, authorizes members of the immediate family of individuals serving in the Armed Forces to display a service flag approved by the Secretary of Defense in a window of their place of residence during any period of war or hostilities in which the Armed Forces are engaged;

Whereas such section also authorizes members of the immediate family of individuals serving in the Armed Forces to wear a service lapel button approved by the Secretary of Defense during any period of war or hostilities in which the Armed Forces are engaged;

Whereas the traditions of displaying the service flag and wearing the service lapel button have not been widely practiced since the end of World War II; and

Whereas reinvigorating the traditions of displaying the service flag and wearing the service lapel button would foster patriotism and express support for the members of the Armed Forces during the war on terrorism: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) the members of American Gold Star Mothers, Incorporated, and Blue Star Mothers of America, Incorporated, should be recognized for their sacrifices and for their dedicated and patriotic support of the United States;

(2) during the period in which the Armed Forces are engaged in the war on terrorism,

members of the immediate family of individuals serving in the Armed Forces should be encouraged to display a service flag approved by the Secretary of Defense under section 901 of title 36, United States Code, in the window of their place of residence and wear a service lapel button approved under such section; and

(3) the President should issue a proclamation calling on members of the immediate family of individuals serving in the Armed Forces to display a service flag approved by the Secretary of Defense under section 901 of title 36, United States Code, in the window of their place of residence and wear a service lapel button approved under such section during the period in which the Armed Forces are engaged in the war on terrorism.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the American Gold Star Mothers, Incorporated, and the Blue Star Mothers of America, Incorporated.

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to the rule, the gentleman from Oklahoma (Mr. WATTS) and the gentlewoman from California (Mrs. TAUSCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. WATTS).

GENERAL LEAVE

Mr. WATTS of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WATTS of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as America's war on terrorism continues, the men and women who serve in our Armed Forces, like the veterans before them, help bring freedom and democracy to the world. In obscure, remote parts of the globe, the airmen, soldiers, sailors, and Marines stand tall. In some remote location, a sailor will miss his anniversary, an airman will miss his daughter's birthday, and a Marine will be absent for yet another family reunion, all in an effort to help make the world a safer place to live, work, and play.

As demonstrated by military casualties in Afghanistan, America's patriots sometimes pay the ultimate price in support and defense of democracy. The family members they leave behind especially feel the sacrifice. The American Gold Star and Blue Star Mothers of America deserve our special thanks and appreciation.

The tradition of the Blue Star dates back to World War I, symbolizing a mother who had her pride and joy serve in the Armed Forces. The traditional Gold Star recognized a mother who had lost a child during any period of war or hostilities.

During World War I, the Blue Star flag flown in a family's window was a symbol of both hope and yet grave concern for their son and others who were serving in the military and fighting for their country. It served as recognition of what Americans at home could do to support military family members, and also symbolized a pride in the commitment of America's youth, and a reminder of the gravity of the entire war effort.

During this time, there was the all-too-constant fear that the Blue Star would change its color to become a Gold Star days, weeks, or months later.

Mr. Speaker, the tradition of immediate family members displaying the service flag in their home or wearing a Blue Star or Gold Star service lapel button have not been widely practiced since the end of World War II.

As Americans, and at this historic juncture in our history, when America will indefinitely continue its war on terrorism, let us not forget the sacrifices of the families of the military members who make the world a safer place. Mr. Speaker, when we see Blue Star or Gold Star flags flying in a window or family members wearing lapel buttons, we should take the time to thank them for their sacrifice, and let them know that America stands behind them.

On behalf of a grateful Nation, I urge my colleagues to vote for this resolution, and let us not forget the families who have also sacrificed on behalf of freedom, liberty, and democracy.

Mr. Speaker, I reserve the balance of my time.

Mrs. TAUSCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 301, introduced by my colleague and friend, the gentleman from Oklahoma (Mr. WATTS).

House Concurrent Resolution 301 urges the President to issue a proclamation on behalf of the members of the American Gold Star Mothers and Blue Star Mothers of America for their sacrifices and dedicated and patriotic support.

The bill also calls upon family members of American service members to display an approved service flag and wear a service lapel button in support of members of the Armed Forces.

Army captain Robert L. Queissner of the Fifth Ohio Infantry created the blue star flag in 1917 during World War I. The blue star flag quickly became a symbol that a family member was serving in the armed services. The blue star symbolizes the hope and pride of families who have loved ones in uniform.

During World War I, a blue star was replaced with a gold star if a service member was killed or died while on active duty. The idea for a gold star is believed to have been developed from the Women's Committee on the Council of National Defenses on May 28, 1918. The Women's Committee recommended a gilt star on a black band on the left arm for mourning the loss of a family member in wartime. The gold was to signify the sacrifice of a loved one for the cause of liberty and freedom.

Grace Darling Seibold, who lost her son George Vaughn Seibold during World War I, established the American Gold Star Mothers. When George left for service, his mother began to do community service by visiting returning servicemen in hospitals. On Christmas Eve, Grace Seibold received word that her son had been killed. In her sorrow, she reached out to other mothers who lost a child, and organized a group of special mothers. The group provided comfort to each other, and also provided loving support to hospitalized veterans confined in hospitals far from home. But it was not until January 5, 1929, that the American Gold Star Mothers, Incorporated, was officially established.

On June 12, 1984, the American Gold Star Mothers received a congressional charter. Army Captain George H. Maines founded the Blue Star Mothers of America in the 1940s. On January 22, 1942, he ran a newspaper article in the Flint News Advertiser requesting information about children in the Armed Forces. Over 1,000 mothers responded, and chapters of Blue Star Mothers began forming across the United States. Blue Star Mothers also began to volunteer for the war effort, visiting hospitals, providing hospitality areas in buses and train stations, preparing packages for shipment overseas, and comforting families who lost loved ones.

I want to commend the blue star mothers and gold star mothers who have dedicated themselves in support of our service members and families. As our Nation continues its war on terrorism, it is only fitting that we call upon the families of service members to reinvigorate the tradition of displaying a service flag in the windows of their homes, and that all Americans recognize the sacrifices of families of those who volunteer to defend our country.

Mr. Speaker, I reserve the balance of my time.

Mr. WATTS of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Speaker, I thank the gentleman from Oklahoma for yielding time to me, and I thank him for his sponsorship of House Concurrent Resolution 301, which expresses support of the Congress for the American Gold Star Mothers, for the Blue Star Mothers of America, and for our Armed Forces. I also commend the American Legion for its support of the Blue Star program.

We have heard, Mr. Speaker, that during World War I and during other conflicts, it was the custom for citizens in our country to hang a blue star banner in the windows of their homes or in the windows of their places of business to commemorate the fact that a family member or an employee of that business was serving in uniform overseas in difficult and dangerous circumstances.

We have also heard of the tragic news that when a family or a business would learn that that loved one or that employee was killed in the line of duty or died as a result of wounds, that blue star would then become a gold star, and that mother, that mother would lose her son or her husband or her loved one.

The blue star program is a program whose time has come for us here in America. It is a time for this program to be reinvigorated. That is what this resolution does.

In my home district of eastern Connecticut, we have a Blue Star Highway and we also have a Gold Star Highway and a Gold Star Bridge. Not every State or every district can honor the gold star mothers and the blue star mothers with a bridge or a highway, but something that we can all do, we can all do, is present a blue star banner to those constituents who have a family member or an employee serving in uniform.

Recently, I had the opportunity to honor several constituents who were serving in the Armed Forces. They would be Jason Tinelle, who currently serves in Bosnia as an infantry platoon sergeant with the U.S. Army, and also Torpedoman First Class Richard Messick, who currently serves aboard the USS *Hartford*.

When I presented these banners to their family members, to their spouses and to their children, there were literally tears in their eyes, tears in their eyes because this Congress recognized the sacrifice of their loved ones, and also the burden of those families.

This is an important resolution. This is a resolution which conveys this Congress' support for the men and women of our Armed Forces and for the mothers who wait at home, hoping beyond hope that that blue star does not turn into a gold star.

Mr. WATTS of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Mrs. TAUSCHER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I applaud the gentleman from Oklahoma (Mr. WATTS) for this resolution. I think that all of us find ourselves in the 20th century in a time of asymmetrical warfare, unidentified enemies, and very troubling times. I think that it is very emblematic of a country that has been the shining beacon of freedom to have a volunteer military.

Unlike the Second World War, before we were born, when many, many of our fighting men and women came from our neighborhoods, we have a small military right now, one that is, I think, the best in the world, but is not necessarily represented in every community. I think that anonymity has created a lack of support for military families who find themselves disconnected in many ways, and unappreciated.

I think that the resolution of the gentleman from Oklahoma (Mr. WATTS) is a good way for us to reknit together the community of Americans; to find a way to recognize those families that have provided our fighting men and women; and to give them a sense of support, a sense of pride, and a sense of the ability to recognize them.

So I am really encouraging my colleagues to vote for this resolution. I think it is very timely.

Mr. Speaker, I yield back the balance of my time.

Mr. WATTS of Oklahoma. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to thank my colleague, the gentleman from Connecticut (Mr. SIMMONS), and my friend, the gentlewoman from California (Mrs. TAUSCHER), for being here on the floor today to help recognize the blue and gold star moms. My colleague, the gentlewoman from California, said it very well: We have moms and dads around the country, all over the Nation, that have made tremendous sacrifices in giving a loved one, giving a son or a daughter or a husband, in defense of the values and the freedoms and the many things that we hold dear in this Nation. I again would hope that we would never forget that sacrifice.

We have some blue and gold star moms here with us today. We are going to go and take some pictures with them, and have an opportunity to have a little fellowship with them.

So I want to say for them on behalf of a grateful Nation, we are appreciative of the sacrifices that they have made over the years in allowing this country to be the country that we know it to be this day.

Mr. ISRAEL. Mr. Speaker, I strongly support H. Con. Res. 301, which recognizes the American Gold Star Mothers, Inc., and Blue Star Mothers of America, Inc., for their sacrifices and patriotic support of the United States. I join my colleagues in urging the families of those serving in the armed forces to display a service flag in the window of their homes and to wear a service lapel button approved by the Secretary of Defense.

At a time when our military men and women are putting their lives on the line of our safety, we all recognize the importance of displaying a service flag. In times of war, these flags symbolize the love and pride that we have for the young men and women in the Armed Forces. They are a poignant reminder just how much America's greatness depends on their bravery.

The patriotic tradition of the service flag dates back to World War I, when mothers of young soldiers hand stitched red, white, and blue flags to hang in their windows as a sign that a loved one had gone to fight in the war. This tradition was later extended to the wives and families of servicemen serving during the war. This tradition encountered a huge resurgence in World War II and again during the Korean War. Even during Desert Storm some U.S. ships sent service flags to the families of everyone aboard.

As we face this new threat to our country, it is only fitting that we take the time to recognize that America's mothers may once again suffer the supreme sacrifice of motherhood, the loss of a son or daughter. To everyone with a family member in the Armed Services we offer our humble appreciation and respect.

Mr. WATTS of Oklahoma. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. WATTS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 301.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. WATTS of Oklahoma. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMENDING INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT TO PROVIDE FOR APPLICABILITY TO THE EUROPEAN CENTRAL BANK

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3656) to amend the International Organizations Immunities Act to provide for the applicability of that Act to the European Central Bank.

The Clerk read as follows:

H.R. 3656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF THE EUROPEAN CENTRAL BANK UNDER THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT.

The International Organizations Immunities Act (22 U.S.C. 288 et seq.) is amended by adding at the end the following new section:

"SEC. 15. The provisions of this title may be extended to the European Central Bank in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this measure is a minor but symbolically important bill designed to underscore support for the establishment of the European Union by according its central bank legal rights within the United States that are accorded the central banks of individual Nation states.

The European Central Bank is an independent legal entity owned by the central banks of the European Union member states, and was established in 1998 in accordance with the provisions of the treaty creating the European Union itself.

☐ 1445

Significant portions of the ECB's foreign reserves are held at the Federal Reserve Bank of New York as well as private banks in the United States.

While the Foreign Sovereign Immunities Act extends immunity to foreign central banks, the ECB's immunities under this act are not assured because of the ECB's unique status resulting from its multinational ownership. Although the International Organizations Act extends to international organizations the same immunity enjoyed by foreign governments, for the purpose of this act, the reference to "international organizations" only includes organizations to which the United States is a member; and of course, the United States is not a member of the EU.

In January of this year, I introduced this legislation to protect the legal security of the ECB's foreign reserves by amending the IOIA by designating the ECB, all of which is a mouthful, as an international organization for the purposes of this act. A significant number of other organizations of which the United States is not a member have been designated in this way, including the Organization of African Unity, the European Space Agency, and the International Committee of the Red Cross.

The extension of immunity provided by the IOIA to the ECB would assure the protection of their foreign reserves equivalent to that enjoyed by other foreign central banks. If we refuse the ECB request, we would, in effect, penalize monetary unions exercising sovereign Central Bank functions by, among other things, making the ECB vulnerable to private litigation. In this context, providing the ECB this status is entirely equitable and reasonable and amounts to the kind of mutual accommodation that we should be emphasizing at a time when so much friction is building between the United States and the European Union on a host of commercial and political issues.

Indeed, in a historical context, the United States, in effect, created a monetary union when we replaced the original Articles of Confederation with a Constitution that restricted the capacity of individual States to tax each other. The European Union wisely matched this step 2 centuries later, and the newly created European Central Bank is an emanation of this daring initiative. It is incumbent on those on this side of the Atlantic to express our support and respect for this historical movement and for the institutions necessary to make it a cohesive success.

The Committee on International Relations approved H.R. 3656 by a voice vote on March 20. The Federal Reserve, the Treasury Department, and the Department of State are in strong support of the legislation. I recommend an "aye" vote.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker I rise in strong support of this bill.

This is a very straightforward measure to provide the European Central Bank the same immunity from judicial process that we routinely provide to foreign central banks under the Foreign Services Immunities Act. I want to commend the gentleman from Iowa (Mr. LEACH), and also chairman of our Subcommittee on East Asia and the Pacific, for his authorship of this bill.

The ECB was established in June of 1998 in accordance with the treaty establishing the European Union. The ECB is an independent legal entity owned by the central banks of the EU member states. Like any central banks, its role is to define and implement the monetary policy of the European Union and to maintain price stability. It also conducts foreign exchange operations and holds the official foreign reserves of the EU states.

Given the nature of the ECB, it makes absolute sense to extend to it the same legal treatment we routinely provide to other foreign central banks.

Unfortunately, since the ECB is a new type of central bank, it does not fit the definition of a foreign central bank under the Foreign Sovereign Immunities Act; and it is, therefore, not granted the immunities provided by that act.

The ECB is likewise excluded from the judicial process immunities normally provided to the international organizations by the International Organizations Immunities Act because the IOIA only extends its immunities to international organizations of which the United States is a member.

Therefore, H.R. 3656 amends the IOIA to include its provisions to the European Central Bank in the same manner, to the same extent, and subject to the same conditions as they may be extended to a public international organization in which the United States participates.

This extension of the IOIA will simply provide the ECB with the same immunity we routinely grant to foreign central banks.

This is a good bill, Mr. Speaker; and I urge my colleagues to support it. Again, I commend my good friend from Iowa for his sponsorship of the bill.

Mr. Speaker, I have no further speakers; and I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

I would just conclude with my appreciation for the gentleman from American Samoa (Mr. FALEOMAVAEGA) and his thoughtful approach to all issues of the day.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the bill, H.R. 3656.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Evans, one of his secretaries.

WELCOMING MADAME CHEN WU SUE-JEN, THE FIRST LADY OF TAIWAN, TO WASHINGTON, D.C.

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 533) welcoming Madame Chen Wu Sue-jen, the first lady of Taiwan, to Washington, D.C.

The Clerk read as follows:

H. RES. 533

Whereas Taiwan's First Lady Chen Wu Sue-jen, wife and political partner to her husband President Chen Shui-bian, has been unwaveringly and courageously striving for justice, human rights, and democracy in Taiwan and has herself held a seat in the Legislative Yuan;

Whereas Taiwan is now a model vibrant democracy and one of the top ten trading partners of the United States;

Whereas supporting democracy, human rights, and free market economies has been a longstanding policy of the United States;

Whereas the Government and people in Taiwan have consistently provided tremendous support and generous contributions to the United States after the terrorist attacks against the United States that occurred on September 11, 2001;

Whereas First Lady Chen Wu was one of the main forces behind Taiwan's charity and humanitarian assistance for the victims of the terrorist attacks;

Whereas First Lady Chen Wu will visit the United States beginning on September 22, 2002, and will bring with her a strong message from her husband and the people of Taiwan that Taiwan's cooperation with the United States in this joint anti-terrorism campaign will continue and be further strengthened;

Whereas First Lady Chen Wu, on behalf of President Chen Shui-bian, visited France in November 2001 to receive the International Human Rights Award; and

Whereas First Lady Chen Wu, confined to a wheelchair due to a tragic traffic accident during a political campaign, is a strong and effective advocate for Taiwan's physically challenged citizens: Now, therefore, be it

Resolved, That the House of Representatives extends its warmest welcome to Taiwan's First Lady Chen Wu Sue-jen during her visit to Washington, D.C., in September 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 533, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume, and I would like to thank the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS), our good ranking minority member, for expediting consideration of H. Res. 533, a resolution welcoming Madame Chen Wu Sue-jen of Taiwan to Washington.

Madame Chen's visit comes at an important moment in our Nation's relationship with Taiwan and the People's Republic of China. Although the United States has repeatedly asked Beijing to resolve its difficulties with Taiwan through peaceful means, the Communist Chinese military has placed hundreds of ballistic missiles on the coast of China aimed at Taiwan. To make matters worse, Communist China is building more and more of those missiles.

The Communist authorities portray the peaceful cause of Taiwan independence as a terrorist movement. Nothing could be further from the truth. Taiwan threatens no one. On the contrary, Taiwan has been 100 percent supportive of the war against terrorism; and it has, for example, given generously to the humanitarian effort in Afghanistan and trying to help the Afghan Government in this very pivotal moment. China, on the other hand, has helped the Taliban. While the Taiwanese has been helping those people trying to create a more democratic society in Afghanistan, trying to create a more peaceful environment, the Communist Chinese, on the other hand, have been helping the Taliban. They have helped them build a 14,000 secure-line telephone system; and I might add that on September 11, the Communist Chinese authorities flew in to Kabul and signed a trade agreement with the Taliban.

China has also assisted Iraq in building a fiber optic communications network that is used for the Iraqi military. So it is clear who supports terrorism and who does not.

First Lady Chen Wu will be bringing with her a strong message from her husband and the people of Taiwan that Taiwan's cooperation with the United States in its anti-terrorism campaign will continue and will strengthen in the future. This is the sort of mature behavior that the world has come to expect from Taiwan.

We hope that Beijing will soon follow in Taiwan's footsteps and become a truly constructive member of the world community. The threats that it is making against a peaceful Taiwan, the threats of military action, are irresponsible; and we should take note that the rest of the world should take note of Communist China's behavior. Such a change in behavior on the part of Communist China toward the people of Taiwan should be also noted. We would invite the Communist Chinese to take a second look at their policies.

In the meantime, I urge my colleagues to vote for H. Res. 533 and welcome the First Lady of Taiwan, Madame Chen to the United States. Madam Chen and her husband represent democratically elected leaders. Her husband was elected President of Taiwan. No one has elected in a free election those so-called leaders in Beijing who threaten Taiwan with violence and military action.

Let us take this moment to tip our hat respectfully to the wife of an elected President of a country, and that is what Americans should be doing instead of kowtowing and being afraid to anger tyrants overseas.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Illinois (Mr. HYDE), the chairman of our Committee on International Relations, for his support and leadership in bringing this legislation to the forefront. I also want to commend the gentleman from New York (Mr. GILMAN) for his authorship of this resolution, and of course, the gentleman from California (Mr. ROHRABACHER) and his management of this legislation.

Mr. Speaker, I rise in strong support of this resolution. I would first like to commend, as I said earlier, the gentleman from New York (Mr. GILMAN) for introducing this important resolution. As the ranking Democrat on the Subcommittee on East Asia and the Pacific, I was very pleased to join the gentleman from California (Mr. LANTOS), the ranking member of our side of the Committee on International Relations, as an original cosponsor of this measure.

Mr. Speaker, the economic and political transformation of Taiwan over the past decades is truly remarkable. From the depths of poverty in the 1950s, Taiwan has turned into an economic power house which is now one of America's top 10 trading partners.

Turning away from one-party rule, Taiwan has become a vibrant democracy, serving as a beacon to those across the Asia-Pacific region who yearn for freedom and showing that democracy can thrive in a Chinese context, especially within the context of meeting with the people of China.

Mr. Speaker, the election of Chen Shui-bian to the presidency in March of 2000 further demonstrates the depth and strength of Taiwan's democracy, as President Chen is the first member of the opposition to serve as President.

As a result of these positive developments, the relations between the United States and Taiwan have never been closer. There is no better example of this close relationship than the visit to the United States this week of Taiwan's First Lady, Madame Chen Wu Sue-jen.

First Lady Chen Wu has long fought for democracy and human rights and humanitarian causes in Taiwan. The First Lady previously served in Taiwan's legislature. She has provided critical assistance to her husband in his political efforts.

Maybe not known to the Members of our body, Mr. Speaker, but First Lady Chen Wu was seriously injured in a traffic accident years ago; and as a result, she has become a paraplegic, but what is more important is the tremendous courage and her fortitude in continuing to support her husband, not only to stand as a symbol, a beacon for democracy to the people of Taiwan but certainly an example of someone who has that determination as First Lady Chen Wu has demonstrated, not only to the people in Taiwan but certainly to the people here in America.

□ 1500

Mr. Speaker, since the horrendous tragedy of September 11, the First

Lady has also been a driving force behind Taiwan's charity and humanitarian assistance for the victims of the terrorist attacks. The First Lady will be on Capitol Hill tomorrow to meet Members of Congress, and I do strongly urge my colleagues to take this opportunity to meet her. I have no doubt that they will be impressed by her strength, her sense of compassion, and her commitment to building stronger ties between the United States and Taiwan.

Mr. Speaker, I strongly urge support from my colleagues for this House Resolution 533. Again I could not have asked for a greater advocate and champion of freedom and democracy in the Asia Pacific region than the gentleman from California (Mr. ROHRABACHER) and I commend his leadership and management of this legislation.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield myself just a few moments to close this debate.

Mr. Speaker, the gentleman from American Samoa (Mr. FALEOMAVAEGA) and I visited many hot spots around the world in our time together, and he has always demonstrated a love of liberty and justice, and I think that today this resolution demonstrates that in a democratic society even where there are some disagreements, and we all understand people have disagreements on various issues, that fundamental values that this body represents cross party lines.

The gentleman from California (Mr. LANTOS), the gentleman from American Samoa (Mr. FALEOMAVAEGA) and others who have been so active on the Committee on International Relations, sometimes we have heated debates, but quite often those debates are not about the fundamentals but are instead about details, and today we are talking about something that is very fundamental, and that is showing respect to a country that has a democratically elected government. We show our respect to that country by tipping our hat and greeting the First Lady of that country who is visiting with us, a lady who has herself endured many, many crises and challenges in her life and demonstrates a courage, and a lady who is married to a man who was elected the first really democratically elected leader of a Chinese people and a man now who represents the republic there in Taiwan and is a good friend to the United States.

So I would urge my colleagues to join me in voting for H. Res. 533.

Mr. WU. Mr. Speaker, I rise today to welcome Ms. Wu Sue-jen, Taiwan's First Lady, in her visit to Washington, DC, and in strong support of H. Res. 533, a resolution welcoming Madam First Lady to the Capitol of the United States.

Throughout her life, Ms. Wu has been a reliable partner for President Chen Shui-bien and a determined fighter for democratic development in Taiwan. While she has been paralyzed from the waist down since 1985, Ms. Wu has nonetheless remained politically engaged and continued to play a key role in Taiwanese politics. She was elected and served as a member of Taiwan's Legislative Yuan in 1986, and has played a great role in President Chen's ascension first to the Mayor of Taipei, and later, Taiwan's presidency.

While I am not able to welcome President Chen in Washington, DC today, it is a great pleasure to welcome Ms. Wu to our nation's capital. I believe it is critically important to America's commitment to democracy for the U.S. Congress to welcome representatives of a democratic and free people to our capital, and I look forward to future opportunities to welcome democratically elected leaders of the Taiwanese people.

Mr. GILMAN. Mr. Speaker, I rise in strong support for H. Res. 533, a resolution welcoming Madame Chen Wu Sue-jen, the first lady of Taiwan, to Washington, D.C.

First Lady Chen has sacrificed so much for the freedom of her countrymen and women. Her efforts to establish political pluralism in Taiwan led to a botched assassination attempt that left her permanently paralyzed from the waist down. Yet she continues to work tirelessly for the ideals that she so strongly believes in—self determination, the rule of law and human rights.

Self-determination is a right that the Taiwanese should not be deprived of, and it is in our interests to demand that communist China immediately stop threatening Taiwan when its leaders simply state a fact of truth . . . Taiwan is independent and it should be a full-fledged member of the United Nations. Taiwan's courageous leaders have every right to express their people's desire to be independent . . . especially from the gruesome dictatorship in Beijing. As President Chen so bravely articulated: "Taiwan's future and destiny can only be decided by the 23 million people living on the island."

We support the efforts of the Bush Administration to clearly articulate a policy on Taiwan that places more emphasis on Taiwan's interests and less on our concerns with the People's Republic of China. Accordingly, it was disappointing to learn that our U.S. representative to Taiwan recently criticized the government there for viewing "the mainland through the prism of economic threat." It makes no sense to shrug aside Taiwan's fears that their businessmen may be inadvertently assisting the communists to build up their military resources.

We need to work closely with our Administration so that there is a single strong focused unambivalent message from the United States that our government understands the aspirations and the fears of the people of Taiwan. Madame Chen is an inspiration to all of us and we heartily welcome her here to the United States.

Mr. ROHRABACHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and agree to the resolution, H. Res. 533.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ROHRABACHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HONORING HEROISM AND COURAGE DISPLAYED BY AIRLINE FLIGHT ATTENDANTS

Mr. MICA. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 110) honoring the heroism and courage displayed by airline flight attendants on a daily basis.

The Clerk read as follows:

S. CON. RES. 110

Whereas over 100,000 men and women in the United States serve as flight attendants;

Whereas flight attendants dedicate themselves to serving and protecting their passengers;

Whereas flight attendants react to dangerous situations as the first line of defense of airline passengers;

Whereas safety and security are the primary concerns of flight attendants;

Whereas flight attendants evacuate passengers from an airplane in emergency situations;

Whereas flight attendants defend passengers against hijackers, terrorists, and abusive passengers;

Whereas flight attendants handle in-flight medical emergencies;

Whereas flight attendants perform routine safety and service duties on board the aircraft;

Whereas 25 flight attendants lost their lives aboard 4 hijacked flights on September 11, 2001;

Whereas 5 flight attendants helped to prevent United Flight 93 from reaching its intended target on September 11, 2001;

Whereas flight attendants provided assistance to passengers across the United States who had their flights diverted on September 11, 2001;

Whereas flight attendants on American Airlines Flight 63 helped to subdue Richard Reid on December 22, 2001, thereby preventing him from detonating an explosive device in his shoe intended to bring down the airplane and kill all 185 passengers and 12 crew members on board; and

Whereas flight attendants helped to prevent Pablo Moreira, a Uruguayan citizen, from breaking into the cockpit on February 7, 2002, during United Flight 855 from Miami to Buenos Aires: Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) expresses its profound gratitude for the faithful service provided by flight attendants to make air travel safe;

(2) honors the courage and dedication of flight attendants;

(3) supports all the flight attendants who continue to display heroism on a daily basis,

as they had been doing before, during, and after September 11, 2001; and

(4) shall send a copy of this resolution to a family member of each of the flight attendants killed on September 11, 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Utah (Mr. MATHESON) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this afternoon we take up as a body Senate Concurrent Resolution 110. That resolution addresses a long overdue requirement of this House, and that is to honor the heroism and also the courage displayed by our flight attendants not only on September 11 but on a daily basis.

Mr. Speaker, on September 11, 2001, more than 3,000 innocent people lost their lives. This devastating number includes some 25 flight attendants who were on board the four hijacked aircraft on that day. As a result of the tragic events of that fateful day, the vital role that these men and women play as a very first line of defense became painfully evident. Flight attendants react and they also provide essential guidance to passengers during emergency situations. Flight attendants are in fact responsible and primarily concerned with passenger safety. Once the aircraft door is closed, they not only provide safety for the traveling public but also become our very first line of defense in aircraft security. They also guarantee that there are in fact additional eyes and ears on guard for suspicious and threatening behavior.

Examples of their acts of heroism and service include the actions of the 25 flight attendants who lost their lives on September 11 in the four aircraft that were hijacked that day. Mr. Speaker, we have honored firefighters, police, pilots, and ordinary citizens. Today it is fitting that we take some time to recognize those flight attendants who served both the aviation industry, the public, and America so well. It is also important to note that we also have the remarkable assistance that these flight attendants provide every day and particularly on the day that those flights around the Nation and around the world were diverted.

The flight attendants on American Airlines Flight 63 last December recognized the terrible threat that that aircraft faced. It was not security guards. It was not air marshals. It was not a large force. It was flight attendants who helped subdue the attempted and now somewhat infamous shoe bomber, Richard Reid. They acted. They saved the lives of countless passengers on that aircraft. We are indebted to those flight attendants.

Also flight attendants helped prevent another tragedy on a flight. United Flight 855 in February of this year, a deranged individual attempted to break into a cockpit. I believe that was on a flight from South America to Miami. They also acted with heroism.

In recognition of their vital role as a first line of defense, the House voted in July to strengthen the flight attendant training program, and those reforms are long overdue because sometimes these flight attendants are left at bay to fight these terrorist acts and other disruptions on aircraft. H.R. 4635, which is primarily devoted to arming pilots and allowing pilots to defend themselves, also requires that flight attendants receive much needed hands-on training in self-defense so they too can defends themselves, the passengers, the aircraft, and again serve as a first line of defense.

As H.R. 4635 demonstrates, the House supports these brave men and women and wants to ensure their safety and their security along with that of the flying public.

So today we are considering Senate Concurrent Resolution 110. The House passed a similar version of this concurrent resolution earlier this month. The concurrent resolution recognizes the over 100,000 airline flight attendants who have dedicated themselves to serving and protecting our passengers, the flying public, on a daily basis. It also recognizes the courage and heroism of those who lost their lives on September 11. It expresses Congress' profound gratitude to airline flight attendants and it rightfully honors their courage and dedication. For all these reasons and many more, I encourage my colleagues in the House to pass the Senate concurrent resolution so rightfully honoring our flight attendants.

Mr. Speaker, I reserve the balance of my time.

Mr. MATHESON. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from Florida (Mr. MICA), our subcommittee chairman. I have enjoyed serving on the Subcommittee on Aviation under his leadership, and I appreciate his leadership on this bill today.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 110. It is such an appropriate thing for us to be doing in terms of recognizing the service and honor and courage of over 100,000 flight attendants that fly in the skies above this country. It is important that we acknowledge their service. And something that has helped us focus on this service is the actions that took place on September 11 and actions that took place subsequent to September 11.

As was mentioned, 25 flight attendants lost their lives that day. That same day let us not forget that all the other planes that were up in the sky were ordered down on the ground by the FAA and a number of flight attendants on all those flights on that day faced some real challenges. They faced the fear that we all felt that day, but they also faced the job of having to work with a number of passengers on all those airplanes that were being diverted and asked to land on emergency notice, and the flight attendants in this country served us well that day in terms of dealing with that difficult situation, and that applies to the days following September 11. We had a public that was nervous, and the flight attendants represented the face of courage. They were the first line of defense, quite frankly, in maintaining security on those airplanes.

We know the stories about how they caught the shoe bomber, Richard Reid. We know that the flight attendants are keeping their eyes open.

So it is appropriate that we honor them in this context, but we ought to honor them also for all the work they have done. Let us face it. When they get on that airplane, they are the face of the airline for which they work. The traveling public at times experiences some frustrations maybe through delays, maybe through the weather or what not. Sometimes those frustrations are unfairly directed towards flight attendants because they are the ones who are there interacting with the public, and I think that as a profession they deal with that situation so well and they certainly deserve our gratitude and our respect.

It is important that we do not forget the folks who lost their lives September 11, those 25 flight attendants, and we owe them a lot. We owe them this resolution today to honor what they have done but we owe them more. We owe them the commitment that we are going to continue to move forward and try to encourage as good a security situation as we can get in our aviation industry. That is the commitment we need to make to the flight attendants as well. They are on the front lines, and we are going to do whatever we can do to back them up to make sure this is a secure situation in our aviation industry.

So it is with great pleasure that I advocate support of Senate Concurrent Resolution 110.

Mrs. McCARTHY of New York. Mr. Speaker, I rise in support of S. Con. Res 110. The women and men who make up America's flight attendant workforce deserve recognition for their role as safety professionals. As the eyes and ears of the aircraft cabin, flight attendants have historically provided detailed information on countless safety issues.

Flight attendants are a highly-trained, highly-skilled workforce, charged with the safety and security of passengers, other crewmembers, and the aircraft itself.

On September 11, 2001, twenty-five flight attendants onboard the four hijacked flights provided the government with vital information, and with little more than their own ingenuity and bravery, fought the armed hijackers and performed their duties as safety professionals to the end.

Since that day, safety in the air is of paramount concern to millions. We now understand the vulnerability that flight crews have felt for years. But today, more than 12 months after the attacks on our nation, flight attendants are no more prepared to defend the flying public today than they were on the morning of September 11, 2001.

Air Tran flight attendant Susan Cosby began developing her airline's voluntary defense training program within days of September 11. In a visit to my office, Cosby posed this question, "Flight attendants have always been expected to save lives in emergencies. Why should defending the flying public from the threat of terrorism be any different?'"

Now more than ever, it is crucial for us to recognize the importance of flight attendants. It is my hope of America's 100,000 flight attendants, that the Congress will quickly pass meaningful security training legislation.

Mr. MATHESON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 110.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on Senate Concurrent Resolution 110.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1515

TIMPANOGOS INTERAGENCY LAND EXCHANGE ACT OF 2002

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1240) to provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to America Fork Canyon, Utah, and for other purposes, as amended.

The Clerk read as follows:

S. 1240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TIMPANOGOS INTERAGENCY LAND EXCHANGE

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the facility that houses the administrative office of the Pleasant Grove Ranger District of the Uinta National Forest can no longer properly serve the purpose of the facility;

(2) a fire destroyed the Timpanogos Cave National Monument Visitor Center and administrative office in 1991, and the temporary structure that is used for a visitor center cannot adequately serve the public; and

(3) combining the administrative office of the Pleasant Grove Ranger District with a new Timpanogos Cave National Monument visitor center and administrative office in one facility would—

(A) facilitate interagency coordination;

(B) serve the public better; and

(C) improve cost effectiveness.

(b) PURPOSES.—The purposes of this title are—

(1) to authorize the Secretary of Agriculture to acquire by exchange non-Federal land located in Highland, Utah as the site for an interagency administrative and visitor facility;

(2) to direct the Secretary of the Interior to construct an administrative and visitor facility on the non-Federal land acquired by the Secretary of Agriculture; and

(3) to direct the Secretary of Agriculture and the Secretary of the Interior to cooperate in the development, construction, operation, and maintenance of the facility.

SEC. 102. DEFINITIONS.

In this title:

(1) FACILITY.—The term "facility" means the facility constructed under section 106 to house—

(A) the administrative office of the Pleasant Grove Ranger District of the Uinta National Forest; and

(B) the visitor center and administrative office of the Timpanogos Cave National Monument.

(2) FEDERAL LAND.—The term "Federal land" means the parcels of land and improvements to the land in the Salt Lake Meridian comprising—

(A) approximately 237 acres located in T. 5 S., R. 3 E., sec. 13, lot 1, SW¼, NE¼, E½, NW¼ and E½, SW¼, as depicted on the map entitled "Long Hollow-Provo Canyon Parcel", dated March 12, 2001;

(B) approximately 0.18 acre located in T. 7 S., R. 2 E., sec. 12, NW¼, as depicted on the map entitled "Provo Sign and Radio Shop", dated March 12, 2001;

(C) approximately 20 acres located in T. 3 S., R. 1 E., sec. 33, SE¼, as depicted on the map entitled "Corner Canyon Parcel", dated March 12, 2001;

(D) approximately 0.18 acre located in T. 29 S., R. 7 W., sec. 15, S½, as depicted on the map entitled "Beaver Administrative Site", dated March 12, 2001;

(E) approximately 7.37 acres located in T. 7 S., R. 3 E., sec. 28, NE¼, SW¼, NE¼, as depicted on the map entitled "Springville Parcel", dated March 12, 2001; and

(F) approximately 0.83 acre located in T. 5 S., R. 2 E., sec. 20, as depicted on the map entitled "Pleasant Grove Ranger District Parcel", dated March 12, 2001.

(3) NON-FEDERAL LAND.—The term "non-Federal land" means the parcel of land in the Salt Lake Meridian comprising approximately 37.42 acres located at approximately 4,400 West, 11,000 North (SR–92), Highland, Utah in T. 4 S., R. 2 E., sec. 31, NW¼, as depicted on the map entitled "The Highland Property", dated March 12, 2001.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 103. MAPS AND LEGAL DESCRIPTIONS.

(a) AVAILABILITY OF MAPS.—The maps described in paragraphs (2) and (3) of section 102 shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the date on which the land depicted on the maps is exchanged under this title.

(b) TECHNICAL CORRECTIONS TO LEGAL DESCRIPTIONS.—The Secretary may correct minor errors in the legal descriptions in paragraphs (2) and (3) of section 102.

SEC. 104. EXCHANGE OF LAND FOR FACILITY SITE.

(a) IN GENERAL.—Subject to subsection (b), the Secretary may, under such terms and conditions as the Secretary may prescribe, convey by quitclaim deed all right, title, and interest of the United States in and to the Federal land in exchange for the conveyance of the non-Federal land.

(b) TITLE TO NON-FEDERAL LAND.—Before the land exchange takes place under subsection (a), the Secretary shall determine that title to the non-Federal land is acceptable based on the approval standards applicable to Federal land acquisitions.

(c) VALUATION OF NON-FEDERAL LAND.—

(1) DETERMINATION.—The fair market value of the land and the improvements on the land exchanged under this title shall be determined by an appraisal that—

(A) is approved by the Secretary; and

(B) conforms with the Federal appraisal standards, as defined in the publication entitled "Uniform Appraisal Standards for Federal Land Acquisitions".

(2) SEPARATE APPRAISALS.—

(A) IN GENERAL.—Each parcel of Federal land described in subparagraphs (A) through (F) of section 102(2) shall be appraised separately.

(B) INDIVIDUAL PROPERTY VALUES.—The property values of each parcel shall not be affected by the unit rule described in the Uniform Appraisal Standards for Federal Land Acquisitions.

(d) CASH EQUALIZATION.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), the Secretary may, as the circumstances require, either make or accept a cash equalization payment in excess of 25 percent of the total value of the lands or interests transferred out of Federal ownership.

(e) ADMINISTRATION OF LAND ACQUISITION BY UNITED STATES.—

(1) BOUNDARY ADJUSTMENT.—

(A) IN GENERAL.—On acceptance of title by the Secretary—

(i) the non-Federal land conveyed to the United States shall become part of the Uinta National Forest; and

(ii) the boundaries of the national forest shall be adjusted to include the land.

(B) ALLOCATION OF LAND AND WATER CONSERVATION FUND MONEYS.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–099), the boundaries of the national forest, as adjusted under this section, shall be considered to be boundaries of the national forest as of January 1, 1965.

(2) APPLICABLE LAW.—Subject to valid existing rights, the Secretary shall manage any land acquired under this section in accordance with—

(A) the Act of March 1, 1911 (16 U.S.C. 480 et seq.) (commonly known as the "Weeks Act"); and

(B) other laws (including regulations) that apply to National Forest System land.

SEC. 105. DISPOSITION OF FUNDS.

(a) DEPOSIT.—The Secretary shall deposit any cash equalization funds received in the land exchange in the fund established under Public Law 90-171 (16 U.S.C. 484a) (commonly known as the "Sisk Act").

(b) Use of Funds.—Funds deposited under subsection (a) shall be available to the Secretary, without further appropriation, for the acquisition of land and interests in land for administrative sites in the State of Utah and land for the National Forest System.

SEC. 106. CONSTRUCTION AND OPERATION OF FACILITY.

(a) Construction.—

(1) In general.—Subject to paragraph (2), as soon as practicable after funds are made available to carry out this title, the Secretary of the Interior shall construct, and bear responsibility for all costs of construction of, a facility and all necessary infrastructure on non-Federal land acquired under section 104.

(2) Design and specifications.—Prior to construction, the design and specifications of the facility shall be approved by the Secretary and the Secretary of the Interior.

(b) Operation and Maintenance of Facility.—The facility shall be occupied, operated, and maintained jointly by the Secretary (acting through the Chief of the Forest Service) and the Secretary of the Interior (acting through the Director of the National Park Service) under terms and conditions agreed to by the Secretary and the Secretary of the Interior.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE II—UTAH PUBLIC LANDS ARTIFACT PRESERVATION

SEC. 201. FINDINGS.

Congress finds that—

(1) the collection of the Utah Museum of Natural History in Salt Lake City, Utah, includes more than 1,000,000 archaeological, paleontological, zoological, geological, and botanical artifacts;

(2) the collection of items housed by the Museum contains artifacts from land managed by—

(A) the Bureau of Land Management;

(B) the Bureau of Reclamation;

(C) the National Park Service;

(D) the United States Fish and Wildlife Service; and

(E) the Forest Service;

(3) more than 75 percent of the Museum's collection was recovered from federally managed public land; and

(4) the Museum has been designated by the legislature of the State of Utah as the State museum of natural history.

SEC. 202. DEFINITIONS.

In this title:

(1) Museum.—The term "Museum" means the University of Utah Museum of Natural History in Salt Lake City, Utah.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 203. ASSISTANCE FOR UNIVERSITY OF UTAH MUSEUM OF NATURAL HISTORY.

(a) Assistance for Museum.—The Secretary shall make a grant to the University of Utah in Salt Lake City, Utah, to pay the Federal share of the costs of construction of a new facility for the Museum, including the design, planning, furnishing, and equipping of the Museum.

(b) Grant Requirements.—

(1) In general.—To receive a grant under subsection (b), the Museum shall submit to the Secretary a proposal for the use of the grant.

(2) Federal share.—The Federal share of the costs described in subsection (a) shall not exceed 25 percent.

(c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $15,000,000, to remain available until expended.

TITLE III—SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE BOUNDARY ADJUSTMENT

SEC. 301. BOUNDARY ADJUSTMENT.

The first sentence of section 103(b) of the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992 (16 U.S.C. 410tt-1(b)) is amended to read as follows: "The park shall consist of approximately 1015 acres of lands, waters, and interests in lands as generally depicted on the map entitled 'Salt River Bay National Historical Park and Ecological Preserve, St. Croix, U.S.V.I.', numbered 141/80002, and dated May 2, 2002.".

The SPEAKER pro tempore (Mr. Jeff Miller of Florida). Pursuant to the rule, the gentleman from Utah (Mr. Hansen) and the gentleman from West Virginia (Mr. Rahall) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. Hansen).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1240 would authorize the exchange of 266 acres of National Forest System land within the Uinta and Wasatch-Cache National Forests in Utah for 37 acres of private land at the mouth of American Fork Canyon. The bill would also require the Secretary of Interior to construct a joint visitor center for the Mount Timpanogos National Monument, administered by the National Park Service, and the Uinta National Forest, administered by the U.S. Forest Service.

The visitor center would replace the center that was burned down in 1991. Since that time, the park has been in the position of attempting to house its visitors and administrative offices in a double-wide trailer. On days of high visitation, the trailer is easily overwhelmed.

This bill also contains the text of H.R. 3928, passed previously by the House under suspension of the rules. This legislation would direct the Secretary of Interior to assist the University of Utah by making a grant to the University of Utah Museum of Natural History in Salt Lake City, Utah, to help pay for the Federal share of the costs of construction of a new natural history museum. The Federal share, however, would not exceed 25 percent of the total cost. It is important to note that more than 75 percent of the museum's vast collection comes from Federal lands in Utah and the surrounding States in the Intermountain West. The poor condition of the current building poses serious threats to the preservation of these artifacts and must be replaced.

Finally, the bill contains the text of H.R. 5097, which would adjust the boundaries of the Salt River Bay National Historic Park and Ecological Preserve located in St. Croix, Virgin Islands, to include the site of a two-story, 4,800 square foot house at the site that can easily be converted to a visitor station, museum and operation center and 15.4 acres of land that has been offered as a donation to the park. This park includes the only known place in present-day U.S. territory where members of Christopher Columbus' expedition landed. This is a good bill. I urge Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1240 is a package consisting of three free-standing bills which have already been explained.

For my part, I would simply note that our colleague, the gentleman from Utah (Mr. Matheson), was the original sponsor of the legislation to provide assistance to the University of Utah, and we appreciate very much the gentleman from Utah (Mr. Hansen) moving this measure forward.

I would like to highlight the fact that the text of H.R. 5097, a bill introduced by the gentlewoman from the Virgin Islands (Mrs. Christensen) is included in this measure. This important legislation would expand the boundaries of the Salt River Bay National Historical Park and Ecological Preserve, located on the island of St. Croix in the U.S. Virgin Islands.

The people of the U.S. Virgin Islands have a strong and effective advocate in the gentlewoman. It has been my pleasure to work with the gentlewoman on many issues where she has taken a leadership role in advancing the well-being of her constituents and the American public.

In particular, I want to commend the gentlewoman for the distinguished work she has done as the ranking member of the Subcommittee on National Parks, Recreation and Public Lands. In that role the gentlewoman has assumed that responsibility not just in this Congress but in many others as well and has taken hold of that responsibility and helped shepherd numerous pieces of legislation that affect the very fabric of this great Nation. Her leadership has made possible the preservation and careful use of many of the natural and historical resources that we are blessed with across this country.

Mr. Speaker, I commend the gentleman from Utah (Mr. Hansen) as well, and salute him for his leadership on a number of important issues we will be addressing today.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the Virgin Islands (Mrs. Christensen).

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of S. 1240 as well, and urge Members to support its passage. This bill includes my bill, H.R. 5097, to expand the boundaries of the Salt River National Historical Park and Ecological Preserve located on St. Croix, Virgin Islands.

I would like to express my gratitude to the gentleman from Utah (Mr. HANSEN), to the ranking member, the gentleman from West Virginia (Mr. RAHALL), and the gentleman from California (Mr. RADANOVICH) for their support of my bill, which will make it possible for the National Park Service to establish an official presence at Salt River for the first time since the park was established more than 10 years ago.

Salt River Bay is located approximately 3.5 miles west of Christiansted on the north central coast of St. Croix. It became a part of the National Park System when President Bush signed H.R. 2927 into law on February 24, 1992. Salt River and its surrounding land areas comprise an important ecosystem continuum, the only one of its kind in the Virgin Islands and one of the few left in the West Indies. This unique chain of habitats functions as an intact ecosystem from the dry tropical forested hillsides down to the wetlands, streams, marshes, mangroves, salt ponds, and sea grass beds to the magnificent coral reefs and superb submarine canyon containing deep water sponges and corals.

Salt River Bay and its surrounding areas support the highest diversity of bird life known in the Virgin Islands. Twenty-four out of 110 bird species recorded within Salt River system are locally or federally listed as threatened or endangered species. In addition, seven species of endangered vertebrates occur here: The leatherback; green and hawksbill sea turtles; the brown pelican; the least and roseate tern and the peregrine falcon.

In addition to these incredible natural resources, the historical and archeological significance of Salt River is also remarkable. Salt River Bay is the first, and best-documented, site where Christopher Columbus made landfall on his second voyage to the New World in 1493.

From other archeological findings on St. Croix, experts believe Salt River was likely home to pre-ceramic peoples living more than 3,000 years ago. The site contains evidence of the only ceremonial ball court of the Carib Indian culture ever to be discovered in the Lesser Antilles.

In order to provide better service and a more rewarding experience for park visitors, it is important for the Park Service to have a place where visitors can come to learn about the park and receive assistance from the Park Service personnel. There is currently no such facility at the park. The Park Service recently identified a house at the site that can be easily converted to a visitor station, museum and operation center that will house enforcement and maintenance personnel, and many other functions.

Because this facility is presently outside of the current park boundaries, H.R. 5097 was introduced to expand the boundaries of the park to include the site of the new facility, as well as include 15.4 acres of land that has been offered as a donation to the park.

In conclusion, I thank my colleagues on the Committee on Resources and thank majority subcommittee staff Tod Hull and Rob Howarth, as well as Rich Healy and David Watkins on the minority staff for their assistance on H.R. 5097.

Mr. CANNON. Mr. Speaker, I rise in support of the Timpanogos Interagency Land Exchange Act of 2001. This legislation authorizes a land exchange between the United States Forest Service and a private citizen in my district and provides for the construction of an interagency administrative and visitor facility at the entrance of American Fork Canyon. I want to thank my colleague and fellow Utahan, Senator ROBERT BENNETT, for introducing this bill in the Senate and for his hard work in helping this bill become law.

The Timpanogos Interagency Land Exchange Act of 2001 authorizes the exchange of 266 acres of United States Forest Service land for 37 acres of private land. This exchange is being done with a willing private landowner. The values for the exchange will be equal. The exchange requires the approval of the Secretary of Agriculture and must conform to the "Uniform Appraisal Standards for Federal Land Acquisitions."

The newly acquired Forest Service land will serve as the site for a new visitor center and administrative office of the Pleasant Grove Ranger District of the Uinta National Forest and the Timpanogos Cave National Monument. This new facility will greatly benefit the visiting public and result in better coordination between the NPS and the USFS.

The original visitor center at Timpanogos Cave burned down in 1991. Since then, a 20 by 60 foot double-wide trailer has served as the make-shift visitor center. This trailer is far from adequate for the monument's annual visitation of 120,000 people. It is simply too small and outdated. Additionally, the center suffers from occasional rock-falls that cause significant damage to the roof of the trailer and raises obvious public safety concerns.

The new facility will meet the space needs of the ranger district and be more technology friendly and will also be in a safer location. Furthermore, the public now will be able to visit one conveniently located office to inquire about NPS and USFS activities.

The Timpanogos Interagency Land Exchange Act of 2001 is long overdue. Its passage today will help correct a decade old problem and will help both the National Park Service and the United States Forest Service serve the public better.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass Senate bill, S. 1240, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ALEUT CORPORATION AND UNITED STATES OF AMERICA LAND EXCHANGE

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1325) to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.

The Clerk read as follows:

S. 1325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that:

(1) Adak Island is an isolated island located 1,200 miles southwest of Anchorage, Alaska, between the Pacific Ocean and the Bering Sea. The Island, with its unique physical and biological features, including a deep water harbor and abundant marine-associated wildlife, was recognized early for both its natural and military values. In 1913, Adak Island was reserved and set aside as a Preserve because of its value to seabirds, marine mammals, and fisheries. Withdrawals of portions of Adak Island for various military purposes date back to 1901 and culminated in the 1959 withdrawal of approximately half of the Island for use by the Department of the Navy for military purposes.

(2) By 1990, military development on Adak Island supported a community of 6,000 residents. Outside of the Adak Naval Complex, there was no independent community on Adak Island.

(3) As a result of the Defense Base Closure and Realignment Act of 1990 (104 Stat. 1808), as amended, the Adak Naval Complex has been closed by the Department of Defense.

(4) The Aleut Corporation is an Alaskan Native Regional Corporation incorporated in the State of Alaska pursuant to the Alaska Native Claims Settlement Act (ANCSA), as amended (43 U.S.C. 1601, et seq.). The Aleut Corporation represents the indigenous people of the Aleutian Islands who prior to the Russian exploration and settlement of the Aleutian Islands were found throughout the Aleutian Islands which includes Adak Island.

(5) None of Adak Island was available for selection by The Aleut Corporation under section 14(h)(8) of ANCSA (43 U.S.C. 1613(h)(8)) because it was part of a National Wildlife Refuge and because the portion comprising the Adak Naval Complex was withdrawn for use by the United States Navy for military purposes prior to the passage of ANCSA in December 1971.

(6) The Aleut Corporation is attempting to establish a community on Adak and has offered to exchange ANCSA land selections and entitlements for conveyance of certain lands and interests therein on a portion of Adak formerly occupied by the Navy.

(7) Removal of a portion of the Adak Island land from refuge status will be offset by the acquisition of high quality wildlife habitat in other Aleut Corporation selections within the Alaska Maritime National Wildlife Refuge, maintaining a resident human population on Adak to control caribou, and making possible a continued U.S. Fish and Wildlife Service presence in that remote location to protect the natural resources of the Aleutian Islands Unit of the Alaska Maritime National Wildlife Refuge.

(8) It is in the public interest to promote reuse of the Adak Island lands by exchanging certain lands for lands selected by The Aleut Corporation elsewhere in the Alaska Maritime National Wildlife Refuge. Experience with environmental problems associated with formerly used defense sites in the State of Alaska suggests that the most effective and efficient way to avoid future environmental problems on Adak is to support and encourage active reuse of Adak.

SEC. 2. RATIFICATION OF AGREEMENT.

The document entitled the "Agreement Concerning the Conveyance of Property at the Adak Naval Complex" (hereinafter "the Agreement"), and dated September 20, 2000, executed by The Aleut Corporation, the Department of the Interior and the Department of the Navy, together with any technical amendments or modifications to the boundaries that may be agreed to by the parties is hereby ratified, confirmed, and approved and the terms, conditions, procedures, covenants, reservations, indemnities and other provisions set forth in the Agreement are declared to be obligations and commitments of the United States and The Aleut Corporation: *Provided*, That modifications to the maps and legal descriptions of lands to be removed from the National Wildlife Refuge System within the military withdrawal on Adak Island set forth in Public Land Order 1949 may be made only upon agreement of all Parties to the Agreement and notification given to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate: *Provided further*, That the acreage conveyed to the United States by The Aleut Corporation under the Agreement, as modified, shall be at least 36,000 acres.

SEC. 3. REMOVAL OF LANDS FROM REFUGE.

Effective on the date of conveyance to the Aleut Corporation of the Adak Exchange Lands as described in the Agreement, all such lands shall be removed from the National Wildlife Refuge System and shall neither be considered as part of the Alaska Maritime National Wildlife Refuge nor be subject to any laws pertaining to lands within the boundaries of the Alaska Maritime National Wildlife Refuge, including the conveyance restrictions imposed by section 22(g) of the ANCSA, 43 U.S.C. 1621(g), for land in the National Wildlife Refuge System. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands and land rights, surface and subsurface, received by The Aleut Corporation in accordance with this Act and the Agreement.

SEC. 4. ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Lands and interests therein exchanged and conveyed by the United States pursuant to this Act shall be considered and treated as conveyances of lands or interests therein under the Alaska Native Claims Settlement Act, except that receipt of such lands and interests therein shall not constitute a sale or disposition of land or interests received pursuant to such Act. The public easements for access to public lands and waters reserved pursuant to the Agreement are deemed to satisfy the requirements and purposes of Section 17(b) of the Alaska Native Claims Settlement Act.

SEC. 5. REACQUISITION OF LANDS.

The Secretary of the Interior is authorized to acquire by purchase or exchange, on a willing seller basis only, any land conveyed to The Aleut Corporation under the Agreement and this Act. In the event any of the lands are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

SEC. 6. GENERAL.

(a) Nothwithstanding the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483–484) and the Defense Base Closure and Realignment Act of 1990, as amended (10 U.S.C. 2687), and for the purposes of the transfer of property authorized by this Act, Department of Navy personal property that remains on Adak Island is deemed related to the real property and shall be conveyed by the Department of the Navy to The Aleut Corporation at no additional cost when the related real property is conveyed by the Department of the Interior.

(b) The Secretary of the Interior shall convey to the Aleut Corporation those lands identified in the Agreement as the former landfill sites without charge to the Aleut Corporation's entitlement under the Alaska Native Claims Settlement Act.

(c) Any property, including, but not limited to, appurtenances and improvements, received pursuant to this Act shall, for purposes of section 21(d) of the Alaska Native Claims Settlement Act, as amended, and section 907(d) of the Alaska National Interest Lands Conservation Act, as amended, be treated as not developed until such property is actually occupied, leased (other than leases for nominal consideration to public entities) or sold by The Aleut Corporation, or, in the case of a lease or other transfer by The Aleut Corporation to a wholly owned development subsidiary, actually occupied, leased, or sold by the subsidiary.

(d) Upon conveyance to The Aleut Corporation of the lands described in Appendix A of the Agreement, the lands described in Appendix C of the Agreement will become unavailable for selection under ANCSA.

(e) The maps included as part of Appendix A to the Agreement depict the lands to be conveyed to The Aleut Corporation. The maps shall be left on file at the Region 7 Office of the U.S. Fish and Wildlife Service and the offices of Alaska Maritime National Wildlife Refuge in Homer, Alaska. The written legal descriptions of the lands to be conveyed to The Aleut Corporation are also part of Appendix A. In case of any discrepancies, the maps shall be controlling.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.

S. 1325 is sponsored by Senator MURKOWSKI of Alaska. The bill ratifies a land exchange agreement between the Aleut Corporation and the United States of America. The Aleut Corporation is an Alaska Native regional corporation.

The purpose of this land exchange is to ensure the economic reuse of a major Cold War base that has closed, and to add pristine lands to the National Wildlife Refuge System.

Under the bill, the Federal Government will transfer to the Aleut Corporation about 47,000 acres of Federal lands comprising the former Adak Naval Complex, which closed in 1997 under the Base Realignment and Closure Procedure.

In return for this asset, the corporation will relinquish its entitlement to about 47,000 acres of high quality wildlife habitat within the Alaska Maritime National Wildlife Refuge. These lands will be made a part of the Refuge System. The Department of Interior, the Navy, the State of Alaska and the Aleut Corporation deserve ours thanks for hammering out a major land exchange that is, in my opinion, totally noncontroversial. It benefits the American public, a Native corporation, and the conservation of fish and wildlife.

Mr. Speaker, I should note that substantially identical legislation is contained in the Defense authorization bill which is currently in conference. The House and Senate have not resolved their differences over the retention of this legislation in the conference report. I have grown very concerned over the status of the language in the Defense bill, and failure to pass this bill today could preclude our best opportunity to ratify this land exchange. The administration supports enactment of S. 1325, and I strongly urge that we suspend the rules and pass the bill so that the long-awaited land exchange can be completed to benefit so many people. I urge Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman has fully explained the bill. We have no problems with it.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 1325.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

VICKSBURG NATIONAL MILITARY PARK BOUNDARY MODIFICATION ACT OF 2002

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass Senate bill (S. 1175) to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes.

The Clerk read as follows:

S. 1175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vicksburg National Military Park Boundary Modification Act of 2002".

SEC. 2. BOUNDARY MODIFICATION.

The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton's Headquarters, as generally depicted on the map entitled "Boundary Map, Pemberton's Headquarters at Vicksburg National Military Park", numbered 306/80015A, and dated August, 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

SEC. 3. ACQUISITION OF PROPERTY.

(a) PEMBERTON'S HEADQUARTERS.—The Secretary of the Interior is authorized to acquire the properties described in section 2 and 3(b) by purchase, donation, or exchange, except that each property may only be acquired with the consent of the owner thereof.

(b) PARKING.—The Secretary is also authorized to acquire not more than one acre of land, or interest therein, adjacent to or near Pemberton's Headquarters for the purpose of providing parking and other facilities related to the operation of Pemberton's Headquarters. Upon the acquisition of the property referenced in this subsection, the Secretary add it to Vicksburg National Military Park and shall modify the boundaries of the park to reflect its inclusion.

SEC. 4. ADMINISTRATION.

The Secretary shall administer any properties acquired under this Act as part of the Vicksburg National Military Park in accordance with applicable laws and regulations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1175 would authorize the Secretary of the Interior to acquire the property known as Pemberton's headquarters and to modify the boundaries of Vicksburg National Military Park to include that property.

The home, located in the heart of Vicksburg's historic district, served as the headquarters for the military operations of Lt. General John C. Pemberton of the Confederate Army during the Civil War. The inclusion of this historical property would draw many of the 1.2 million annual visitors into the historic district of Vicksburg and allow for greater interpretation of the important historical events that took place there during the critical military confrontations between General Ulysses S. Grant and General Pemberton during the Civil War.

This bill mirrors H.R. 3307, introduced by the gentleman from Mississippi (Mr. THOMPSON) and approved unanimously by the Committee on Resources. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has adequately explained this measure and we on this side of the aisle support it as well.

While we are considering the Senate bill today, it should be noted that the gentleman from Mississippi (Mr. THOMPSON) has worked diligently to move a House companion measure through the legislative process. The gentleman's efforts on behalf of this park unit, and our entire National Park Service, are to be commended.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass Senate bill, S. 1175.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

☐ 1530

EXTENDING PERIODS OF AUTHORIZATION TO IMPLEMENT PROJECTS FOR UPPER COLORADO AND SAN JUAN RIVER BASINS

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5099) to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins.

The Clerk read as follows:

H.R. 5099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO EXISTING PROVISIONS.

Public Law 106-392 (114 Stat. 1602) is amended as follows:

(1) Section 2(1) is amended by inserting "and extended by the Extension of the Cooperative Agreement dated December 6, 2001," after "September 29, 1987,".

(2) Section 3(a)(2) is amended by striking "fiscal year 2005" and inserting "fiscal year 2008".

(3) Section 3(a)(3) is amended by striking "fiscal year 2007" and inserting "fiscal year 2008".

(4) Section 3(b) is amended—

(A) in paragraph (1) by striking "fiscal year 2005" and inserting "fiscal year 2008"; and

(B) in paragraph (2) by striking "fiscal year 2007" and inserting "fiscal year 2008".

(5) Section 3(c)(1) is amended by striking "with" and inserting "within".

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5099 amends the Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Act of 2000 by extending the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs in the basins to fiscal year 2008.

H.R. 5099 does not increase the total amount authorized to be expended to complete the fish recovery program.

I urge the bill's adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

We in the minority support this bill. It is sponsored by the gentleman from Utah (Mr. HANSEN), our committee chairman. He has explained it eloquently. He is a true poet, and I cannot add any more to what he had to say.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 5099.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TUPELO, OKLAHOMA, LAND CONVEYANCE

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5109) to direct the Secretary of Energy to convey a parcel of land at the facility of the Southwestern Power Administration in Tupelo, Oklahoma, as amended.

The Clerk read as follows:

H.R. 5109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, TUPELO, OKLAHOMA.

(a) CONVEYANCE REQUIRED.—Except as required by subsection (d), the Secretary of Energy shall convey, at fair market value, to Rural Enterprises of Oklahoma, Incorporated, all right, title, and interest of the United States in and to a parcel of land, and any improvements thereto, consisting of approximately 6.3 acres of the facility of the Southwestern Power Administration in Tupelo, Oklahoma, for use in economic development within the service area of the Tri-County Indian Nations Community Development Corporation.

(b) DESCRIPTION OF PARCEL.—The exact acreage and description of the parcel to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary and to Rural Enterprises of Oklahoma, Incorporated.

(c) CONDITIONS OF CONVEYANCE.—As conditions of the conveyance under subsection (a), the Secretary shall require that Rural Enterprises of Oklahoma, Incorporated—

(1) agree to honor the terms of any lease of the parcel or portion thereof that is in existence on the date of the conveyance; and

(2) agree to bear the costs of the conveyance, including the cost of the survey required by subsection (b) and the appraisal required by subsection (f).

(d) EASEMENT.—Under the terms of the conveyance of the parcel under subsection (a), the Secretary shall retain an easement to the parcel for the purpose of maintaining a sewage connection to the electrical substation and lagoon facility located adjacent to the parcel. Such easement shall include telephone and telegraph rights.

(e) UNDEPRECIATED VALUE.—The Southwestern Power Administration is authorized to remove the undepreciated value of the facilities conveyed under subsection (a) from its repayable investment obligation.

(f) VALUATION OF LAND TO BE CONVEYED.—The fair market value of the land to be conveyed under subsection (a) shall be determined by an appraisal acceptable to the Secretary that is conducted by an appraiser agreed upon by the Secretary and Rural Enterprises of Oklahoma, Incorporated, and conducted in accordance with—

(1) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601; Public Law 91-646);

(2) the Uniform Appraisal Standards for Federal Land Acquisition; and

(3) the Uniform Standards of Professional Appraisal Practice.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5109, authored by the gentleman from Oklahoma (Mr. WATKINS), authorizes the Secretary of Energy, acting through the Southwestern Power Administration, to convey a 6.3 acre parcel of land in Tupelo, Oklahoma. The conveyance will be at fair market value. The parcel has three buildings on the site: an office building, an open-ended garage, and a storage building. The Rural Enterprises of Oklahoma, which currently leases the parcel on a temporary basis, plans to begin incubator businesses utilizing the land and facilities to be transferred.

The bill is noncontroversial and will help bring economic development to one of the poorest counties in the State. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5109 is a simple fair market value conveyance of a small parcel of land and facilities in Tupelo, Oklahoma. We have no objection to the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS of Oklahoma. Mr. Speaker, I thank the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL), my classmate, by the way, for their action on H.R. 5109.

This is my district. I worked a number of years ago with putting together a facility, working with the Southwest Power Administration, which is no longer being used and is being leased out. This is transferring it to Rural Enterprises, which manages about a dozen business industrial incubators in my district and in the State of Oklahoma, in order to help build jobs and the economy.

I might just add that Coal County, where this is located, is a 25 percent or more poverty area with a high rate of underemployment and unemployed. This could be a stimulus that would help us try to diversify and build jobs. I just want to thank the gentleman from Utah and the gentleman from West Virginia for their great work.

Mr. Speaker, I rise today in support of H.R. 5109, legislation that would transfer a building owned by the Department of Energy under the control of the Southwest Power Administration in Tupelo, Oklahoma to Rural Enterprises of Oklahoma, a 501 (c)(3) non-profit economic development organization.

The Tupelo facility was built for use by the Southwest Power Administration in the mid 1980's and was actively used until 1999. Since then the building has been vacant. The Southwest Power Administration has asked me to help them transfer the building to a group that will put it to good use. I have worked with the Southwest Power Administration to draft this legislation so that we can use this vacant building to help build economic and job opportunities for our citizens. Rural Enterprises currently leases the building and plans to use it as a business incubator.

Tupelo, Oklahoma is a small community in rural Coal County, Oklahoma. According to the U.S. Census data Coal County has 25% of the population below the poverty level and 35% of children live in poverty. For many years I have worked to create greater economic job opportunities for the future children and grandchildren of my district. I know this transfer will allow for Rural Enterprises to put the facility into active use as a business and industrial Incubator which will in turn build jobs which this community desperately needs.

Rural Enterprises is a non-profit group that has experience managing business incubators. They are presently operating incubators in 10 communities in the rural areas of my state. One of the incubators run by Rural Enterprises is in Bennington, Oklahoma. This incubator for several years housed a company that made hammer dulcimers. The hammer dulcimer company brought about 10 jobs to a small town of about 200 people. Within the last two years this company graduated from the incubator, and moved their business to a more spacious location. These musical instruments have been sold all over the world.

Mr. Speaker, I believe with the passage of H.R. 5109 we can repeat the successes we have had with other incubators. This bill will allow for the transfer a currently vacant building to a group that will put it into good use as a business incubator.

I ask for the support of my colleagues and urge passage of H.R. 5109.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 5109, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT BOUNDARY ADJUSTMENT ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3449) to revise the boundaries of the George Washington Birthplace National Monument, and for other purposes.

The Clerk read as follows:

H.R. 3449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION TO NATIONAL MONUMENT.

The boundaries of the George Washington Birthplace National Monument (hereinafter referred to as the "National Monument") are hereby modified to include the area comprising approximately 115 acres, as generally depicted on the map entitled "George Washington Birthplace National Monument Boundary Map", numbered 332/80.023 and dated October 2001, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 2. ACQUISITION OF LANDS.

Within the boundaries of the National Monument, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands, or interests therein, from willing owners by donation, purchase with donated money or appropriated funds, or exchange.

SEC. 3. ADMINISTRATION OF NATIONAL MONUMENT.

In administering the National Monument, the Secretary shall take actions necessary to preserve and interpret the history and resources associated with George Washington, the generations of the Washington family who lived in the vicinity and their contemporaries, and 18th century plantation life and society.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3449, introduced by the gentlewoman from Virginia (Mrs. JO ANN DAVIS), would authorize the Secretary of the Interior to revise the boundaries of the George Washington Birthplace National Historic Monument in Westmoreland County, Virginia, by purchasing up to 115 acres from a single willing owner, the Muse family. Currently, Mr. Speaker, the Muse property divides the historic site in half and has become attractive to local developers. By authorizing the boundary adjustment, the National Park Service will have the authority to work with the Muse family to purchase the land and protect the historic site from future residential development.

Mr. Speaker, this bill is noncontroversial. It is supported by the administration, the majority and the minority of the Committee on Resources, and the Muse family.

I urge my colleagues to support H.R. 3449.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

The chairman has fully explained this bill. Make no mistake about it, we on this side of the aisle support George Washington as well, just like the Republicans.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, it is my privilege to urge my colleagues to support H.R. 3449, which would authorize the National Park Service to revise and expand the boundaries of the George Washington Birthplace National Monument in Westmoreland County, Virginia.

I appreciate Chairman RADANOVICH and Chairman HANSEN for their dedication in bringing this measure before the House in an effort to realize a long standing effort by the National Park Service, Westmoreland County and the surrounding community to preserve this undisturbed land for future generations to enjoy and learn of the Washington's way of life during our nation's formative years.

(As stated) George Washington was born on this property on February 22, 1732, and lived on the farm for three and a half years, and again for several years in his teens. The modern location includes a Memorial House designed to recreate the original birthsite as revealed by excavations. The Memorial House was finished in time for George Washington's 200th birthday in 1932, and is one of the center pieces of the National Monument.

George Washington's great-grandfather, immigrated to America and acquired this property in 1664. His father, grandfather, and great-grandfather are buried in the family cemetery located on the National Monument property.

Because of the Monument's current boundary configuration, over 100 acres of private land outside the Monument's boundary are sandwiched between two units of the monument and the Potomac River. Willing sellers, the Muse family, are amenable to transferring the property to the National Park Service, and Congress needs to consequently act so that this opportunity will not be lost.

H.R. 3449 is a fitting tribute to a man who has long been revered as our greatest founding father, a man of high moral integrity and character, a man with distinct leadership capabilities, and above all a man who guided Americans to freedom and led them to union. I urge your support of this measure.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 3449.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECOGNIZING 100TH ANNIVERSARY OF FOUNDING OF INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 419) requesting the President to issue a proclamation in observance of the 100th Anniversary of the founding of the International Association of Fish and Wildlife Agencies.

The Clerk read as follows:

H. CON. RES. 419

Whereas on September 17, 1902, when Theodore Roosevelt was President, 8 wildlife managers and game wardens from 6 States met in West Yellowstone, Montana, on behalf of the country's beleaguered fish and wildlife populations, and established the National Association of Game and Fish Wardens and Commissioners, which later became the International Association of Fish and Wildlife Agencies (IAFWA);

Whereas 100 years later, IAFWA represents the fish and wildlife agencies of all 50 States and enjoys the membership of several Federal natural resource agencies, the Federal and provincial fish and wildlife agencies of Canada, and the Federal natural resource agency of Mexico;

Whereas IAFWA has been a significant force in the enactment of fish and wildlife conservation treaties and Federal statutes too numerous to enumerate, including the Migratory Bird Treaty Act; the Pittman-Robertson Wildlife Restoration Act; the Dingell-Johnson Sportfish Restoration Act; all farm bills enacted since 1985; the North American Wetlands Conservation Act; the National Wildlife Refuge System Improvement Act of 1997, and the Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000, to mention but a few;

Whereas IAFWA continues to promote the sustainable use of natural resources; to encourage cooperation and coordination of fish and wildlife conservation and management at all levels of government; to encourage professional management of fish and wildlife; to develop coalitions among conservation organizations to promote fish and wildlife interests; and to foster public understanding of the need for conservation; and

Whereas the State fish and wildlife agencies have successfully restored healthy fish and wildlife populations enjoyed by all Americans largely using Federal excise taxes paid by hunters and anglers into the Federal trust funds known as the Pittman-Robertson, Dingell-Johnson, and Wallop-Breaux trust funds, and using State hunting and fishing license fees: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the significance of the centennial of the establishment of the entity that became the International Association of Fish and Wildlife Agencies;

(2) acknowledges the outstanding contributions of its member agencies to fish and wildlife conservation; and

(3) requests the President to issue a proclamation observing the 100th anniversary of the founding of the International Association of Fish and Wildlife Agencies.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to present this resolution, introduced by the gentleman from Alaska (Mr. YOUNG) and the gentleman from Michigan (Mr. DINGELL), which recognizes the International Association of Fish and Wildlife Agencies for the dedicated service that they have rendered over the past 100 years and the invaluable contributions they have made to fish and wildlife management.

On September 17, 1902, eight wildlife managers from six States met together in West Yellowstone, Montana, to form an organization which became known as the International Association of Fish and Wildlife Agencies. This month they will celebrate their 100th anniversary, and it is appropriate to reflect upon the fine work that our State fish and wildlife agencies perform on a daily basis. This organization has played a key role in conserving and managing thousands of fish and wildlife species and their essential habitats throughout the United States.

This resolution recognizes the importance of the centennial establishment of this organization, acknowledges the outstanding contributions of its member agencies to conservation, and requests the President to issue a proclamation commemorating its 100th anniversary.

This is a good resolution, it is bipartisan, it should be noncontroversial; and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

I too rise in support of this concurrent resolution which recognizes the 100th anniversary of the establishment of the International Association of Fish and Wildlife Agencies. It is cosponsored by two very distinguished Members of this body, on our side of the aisle the dean of the House, the gentleman from Michigan (Mr. DINGELL), and on the majority side the former chairman of the Committee on Resources and the current chairman of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. YOUNG). I commend these gentlemen for bringing this resolution before us, and I urge its support.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 419.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FREMONT-MADISON CONVEYANCE ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4708) to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District, as amended.

The Clerk read as follows:

H.R. 4708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FREMONT-MADISON IRRIGATION FACILITIES CONVEYANCE

SEC. 101. SHORT TITLE.

This title may be cited as the "Fremont-Madison Conveyance Act".

SEC. 102. CONVEYANCE OF FACILITIES.

(a) CONVEYANCE REQUIREMENT.—The Secretary of the Interior shall convey to the Fremont-Madison Irrigation District, Idaho, as soon as practicable after the date of enactment of this Act and in accordance with all applicable law and pursuant to the terms of the memorandum of agreement between the District and the Secretary (Contract No. 1425-01-MA-10-3310). The Secretary shall include in the facilities conveyed under this section all right, title, and interest of the United States in and to the canals, laterals, drains, and other components of the water distribution and drainage system that is operated or maintained by the District for delivery of water to and drainage of water from lands within the boundaries of the District as they exist upon the date of enactment of this Act, consistent with section 107.

(b) REPORT.—If the Secretary has not completed any conveyance required under this title by September 13, 2003, the Secretary shall, by no later than that date, submit a report to the Congress explaining the reasons that conveyance has not been completed and stating the date by which the conveyance will be completed.

SEC. 103. COSTS.

(a) IN GENERAL.—The Secretary shall require, as a condition of the conveyance under section 102, that the District pay the administrative costs of the conveyance and related activities, including the costs of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as described in Contract No. 1425-01-MA-10-3310.

(b) VALUE OF FACILITIES TO BE TRANSFERRED.—In addition to subsection (a) the Secretary shall also require, as condition of the conveyance under section 102, that the District pay to the United States the lesser of the net present value of the remaining obligations owed by the District to the United States with respect to the facilities conveyed, or $280,000. Amounts received by the United States under this subsection shall be deposited into the reclamation fund.

SEC. 104. TETON EXCHANGE WELLS.

(a) CONTRACTS AND PERMIT.—In conveying the Teton Exchange Wells under section 102, the Secretary shall also convey to the District—

(1) Idaho Department of Water Resources permit number 22-7022, including drilled wells under the permit, as described in Contract No. 1425-01-MA-10-3310; and

(2) all equipment appurtenant to such wells.

(b) EXTENSION OF WATER SERVICE CONTRACT.—The water service contract between the Secretary and the District (Contract No. 7-07-10-W0179, dated September 16, 1977) is hereby extended and shall continue in full force and effect until all conditions described in this title are fulfilled.

SEC. 105. NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.

Prior to conveyance the Secretary shall complete all actions as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable laws.

SEC. 106. LIABILITY.

Effective on the date of the conveyance of the facilities described in section 102, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section may be deemed to increase the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act.

SEC. 107. WATER SUPPLY TO DISTRICT LANDS.

The Secretary shall increase the number of acres within the District that are eligible to receive water from the Minidoka Project and the Teton Basin Projects to reflect the number of acres within the District as of the date of enactment of this Act, which includes lands annexed into the District prior to enactment of this Act as intended by the Teton Basin Project. This section does not in any way authorize the use of any additional Federal Reclamation project water beyond that which is currently authorized under their existing water storage contracts and as allowed by State water law.

SEC. 108. EXISTING RIGHTS NOT AFFECTED.

Nothing in this title affects the rights of any person except as provided in this title. Any conveyance under this title shall not affect or abrogate any provision of any contract executed by the United States or State law regarding any irrigation district's right to use water developed in the facilities conveyed.

SEC. 109. DEFINITIONS.

In this title:

(1) DISTRICT.—The term "District" means the Fremont-Madison Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

TITLE II—HUMBOLT PROJECT CONVEYANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Humboldt Project Conveyance Act".

SEC. 202. DEFINITIONS.

For purposes of this title:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means the State of Nevada.

(3) PCWCD.—The term "PCWCD" means the Pershing County Water Conservation District, a public entity organized under the laws of the State of Nevada.

(4) PERSHING COUNTY.—The term "Pershing County" means the Pershing County government, a political subunit of the State of Nevada.

(5) LANDER COUNTY.—The term "Lander County" means the Lander County government, a political subunit of the State of Nevada.

SEC. 203. AUTHORITY TO CONVEY TITLE.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act and in accordance with all applicable law, the Secretary shall convey all right, title, and interest in and to the lands and features of the Humboldt Project, including all water rights for storage and diversion, to PCWCD, the State, Pershing County, and Lander County, consistent with the terms and conditions set forth in the Memorandum of Agreement between PCWCD and Lander County dated January 24, 2000, the Conceptual Agreement between PCWCD and the State dated October 18, 2001, the Letter of Agreement between Pershing County and the State dated April 16, 2002, and any agreements between the Bureau of Reclamation and PCWCD.

(b) COMPLIANCE WITH AGREEMENTS.—All parties to the conveyance under subsection (a) shall comply with the terms and conditions of the agreements cited in subsection (a).

(c) REPORT.—If the conveyance required by this section has not been completed within 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that describes—

(1) the status of the conveyance;

(2) any obstacles to completion of the conveyance; and

(3) the anticipated date for completion of the conveyance.

SEC. 204. PAYMENT.

(a) In General.—As consideration for any conveyance required by section 203, PCWCD shall pay to the United States the net present value of miscellaneous revenues associated with the lands and facilities to be conveyed.

(b) Withdrawn Lands.—As consideration for any conveyance of withdrawn lands required by section 203, the entity receiving title shall pay the United States (in addition to amounts paid under subsection (a)) the fair market value for any such lands conveyed that were withdrawn from the public domain pursuant to the Secretarial Orders dated March 16, 1934, and April 6, 1956.

(c) Administrative Costs.—Administrative costs for conveyance of any land or facility under this title shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility, except costs identified in subsections (d) and (e).

(d) Real Estate Transfer Costs.—As a condition of any conveyance of any land or facility required by section 203, costs of all boundary surveys, title searches, cadastral surveys, appraisals, and other real estate transactions required for the conveyance shall be paid by the entity receiving title to the land or facility.

(e) NEPA Costs.—Costs associated with any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for conveyance of any land or facility under section 203 shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility.

(f) State of Nevada.—The State shall not be responsible for any payments for land or facilities under this section. Any proposal by the State to reconvey to another entity land conveyed by the Secretary under this title shall be pursuant to an agreement with the Secretary providing for fair market value to the United States for the lands, and for continued management of the lands for recreation, wildlife habitat, wetlands, or resource conservation.

SEC. 205. COMPLIANCE WITH OTHER LAWS.

Following the conveyance required by section 203, the district, the State, Pershing County, and Lander County shall, with respect to the interests conveyed, comply with all requirements of Federal, State, and local law applicable to non-Federal water distribution systems.

SEC. 206. REVOCATION OF WITHDRAWALS.

Effective on the date of the conveyance required by section 203, the Secretarial Orders dated March 16, 1934, and April 6, 1956, that withdrew public lands for the Rye Patch Reservoir and the Humboldt Sink, are hereby revoked.

SEC. 207. LIABILITY.

Effective on the date of the conveyance required by section 203, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the Humboldt Project, except for damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance. Nothing in this section shall be considered to increase the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act.

SEC. 208. NATIONAL ENVIRONMENTAL POLICY ACT.

Prior to any conveyance under this title, the Secretary shall complete all actions as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable laws.

SEC. 209. FUTURE BENEFITS.

Upon conveyance of the lands and facilities by the Secretary under this title, the Humboldt Project shall no longer be a Federal reclamation project and the district shall not be entitled to receive any future reclamation benefits with respect to that project, except those benefits that would be available to other nonreclamation districts.

TITLE III—JICARILLA APACHE RESERVATION RURAL WATER SYSTEM

SEC. 301. SHORT TITLE.

This title may be cited as the "Jicarilla Apache Reservation Rural Water System Act".

SEC. 302. PURPOSES.

The purposes of this title are as follows:

(1) To ensure a safe and adequate rural, municipal, and water supply and wastewater systems for the residents of the Jicarilla Apache Reservation in the State of New Mexico in accordance with Public Law 106-243.

(2) To authorize the Secretary of the Interior, through the Bureau of Reclamation, in consultation and collaboration with the Jicarilla Apache Nation—

(A) to plan, design, and construct the water supply, delivery, and wastewater collection systems on the Jicarilla Apache Reservation in the State of New Mexico; and

(B) to include service connections to facilities within the town of Dulce and the surrounding area, and to individuals as part of the construction.

(3) To require the Secretary, at the request of the Jicarilla Apache Nation, to enter into a self-determination contract with the Jicarilla Apache Nation under title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) under which—

(A) the Jicarilla Apache Nation shall plan, design, and construct the water supply, delivery, and wastewater collection systems, including service connections to communities and individuals; and

(B) the Bureau of Reclamation shall provide technical assistance and oversight responsibility for such project.

(4) To establish a process in which the Jicarilla Apache Nation shall assume title and responsibility for the ownership, operation, maintenance, and replacement of the system.

SEC. 303. DEFINITIONS.

As used in this title:

(1) BIA.—The term "BIA" means the Bureau of Indian Affairs, an agency within the Department of the Interior.

(2) Irrigation.—The term "irrigation" means the commercial application of water to land for the purpose of establishing or maintaining commercial agriculture in order to produce field crops and vegetables for sale.

(3) Reclamation.—The term "Reclamation" means the Bureau of Reclamation, an agency within the Department of the Interior.

(4) Report.—The term "Report" means the report entitled "Planning Report/Environmental Assessment, Water and Wastewater Improvements, Jicarilla Apache Nation, Dulce, New Mexico", dated September 2001, which was completed pursuant to Public Law 106-243.

(5) Reservation.—The term "Reservation" means the Jicarilla Apache Reservation in the State of New Mexico, including all lands and interests in land that are held in trust by the United States for the Tribe.

(6) Rural Water Supply Project.—The term "Rural Water Supply Project" means a municipal, domestic, rural, and industrial water supply and wastewater facility area and project identified to serve a group of towns, communities, cities, tribal reservations, or dispersed farmsteads with access to clean, safe domestic and industrial water, to include the use of livestock.

(7) State.—The term "State" means the State of New Mexico.

(8) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation.

(9) Tribe.—The term "Tribe" means the Jicarilla Apache Nation.

SEC. 304. JICARILLA APACHE RESERVATION RURAL WATER SYSTEM.

(a) Construction.—The Secretary, in consultation and collaboration with the Tribe, shall plan, design, and construct the Rural Water Supply Project to improve the water supply, delivery, and wastewater facilities to the town of Dulce, New Mexico, and surrounding communities for the purpose of providing the benefits of clean, safe, and reliable water supply, delivery, and wastewater facilities.

(b) Scope of Project.—The Rural Water Supply Project shall consist of the following:

(1) Facilities to provide water supply, delivery, and wastewater services for the community of Dulce, the Mundo Ranch Development, and surrounding areas on the Reservation.

(2) Pumping and treatment facilities located on the Reservation.

(3) Distribution, collection, and treatment facilities to serve the needs of the Reservation, including, but not limited to, construction, replacement, improvement, and repair of existing water and wastewater systems, including systems owned by individual tribal members and other residents on the Reservation.

(4) Appurtenant buildings and access roads.

(5) Necessary property and property rights.

(6) Such other electrical power transmission and distribution facilities, pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the Reservation, including, but not limited to, water storage tanks, water lines, maintenance equipment, and other facilities for the Tribe on the Reservation.

(c) Cost Sharing.—

(1) Tribal Share.—Subject to paragraph (3) and subsection (d), the tribal share of the cost of the Rural Water Supply Project is comprised of the costs to design and initiate construction of the wastewater treatment plant, to replace the diversion structure on the Navajo River, and to construct raw water settling ponds, a water treatment plant, water storage plants, a water transmission pipeline, and distribution pipelines, and has been satisfied.

(2) Federal Share.—Subject to paragraph (3) and subsection (d), the Federal share of the cost of the Rural Water Supply Project

shall be all remaining costs of the project identified in the Report.

(3) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of the Rural Water Supply Project shall continue to be available for operation and maintenance in accordance with the Indian Self-Determination Act, as set forth in this title.

(d) OPERATION, MAINTENANCE, AND REPLACEMENT AFTER COMPLETION.—Upon determination by the Secretary that the Rural Water Supply Project is substantially complete, the Tribe shall assume responsibility for and liability related to the annual operation, maintenance, and replacement cost of the project in accordance with this title and the Operation, Maintenance, and Replacement Plan under chapter IV of the Report.

SEC. 305. GENERAL AUTHORITY.

The Secretary is authorized to enter into contracts, grants, cooperative agreements, and other such agreements and to promulgate such regulations as may be necessary to carry out the purposes and provisions of this title and the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450 et seq.).

SEC. 306. PROJECT REQUIREMENTS.

(a) PLANS.—

(1) PROJECT PLAN.—Not later than 60 days after funds are made available for this purpose, the Secretary shall prepare a recommended project plan, which shall include a general map showing the location of the proposed physical facilities, conceptual engineering drawings of structures, and general standards for design for the Rural Water Supply Project.

(2) OM&R PLAN.—The Tribe shall develop an operation, maintenance, and replacement plan, which shall provide the necessary framework to assist the Tribe in establishing rates and fees for customers of the Rural Water Supply Project.

(b) CONSTRUCTION MANAGER.—The Secretary, through Reclamation and in consultation with the Tribe, shall select a project construction manager to work with the Tribe in the planning, design, and construction of the Rural Water Supply Project.

(c) MEMORANDUM OF AGREEMENT.—The Secretary shall enter into a memorandum of agreement with the Tribe that commits Reclamation and BIA to a transition plan that addresses operations and maintenance of the Rural Water Supply Project while the facilities are under construction and after completion of construction.

(d) OVERSIGHT.—The Secretary shall have oversight responsibility with the Tribe and its constructing entity and shall incorporate value engineering analysis as appropriate to the Rural Water Supply Project.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as may be necessary to the Tribe to plan, develop, and construct the Rural Water Supply Project, including, but not limited to, operation and management training.

(f) SERVICE AREA.—The service area of the Rural Water Supply Project shall be within the boundaries of the Reservation.

(g) OTHER LAW.—The planning, design, construction, operation, and maintenance of the Rural Water Supply Project shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(h) REPORT.—During the year that construction of the Rural Water Supply Project begins and annually until such construction is completed, the Secretary, through Reclamation and in consultation with the Tribe, shall report to Congress on the status of the planning, design, and construction of the Rural Water Supply Project.

(i) TITLE.—Title to the Rural Water Supply Project shall be held in trust for the Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $45,000,000 (January 2002 dollars) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved for the planning, design, and construction of the Rural Water Supply Project as generally described in the Report dated September 2001.

(b) CONDITIONS.—Funds may not be appropriated for the construction of any project authorized under this title until after—

(1) an appraisal investigation and a feasibility study have been completed by the Secretary and the Tribe; and

(2) the Secretary has determined that the plan required by section 306(a)(2) is completed.

(c) NEPA.—The Secretary shall not obligate funds for construction until after the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Rural Water Supply Project.

SEC. 308. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Rural Water Supply Project may be used to plan or construct facilities used to supply water for the purposes of irrigation.

SEC. 309. WATER RIGHTS.

The water rights of the Tribe are part of and included in the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102-441). These rights are adjudicated under New Mexico State law as a partial final judgment and decree entered in the Eleventh Judicial District Court of New Mexico. That Act and decree provide for sufficient water rights under "historic and existing uses" to supply water for the municipal water system. These water rights are recognized depletions within the San Juan River basin and no new depletions are associated with the Rural Water Supply Project. In consultation with the United States Fish and Wildlife Service, Reclamation has determined that there shall be no significant impact to endangered species as a result of water depletions associated with this project. No other water rights of the Tribe shall be impacted by the Rural Water Supply Project.

TITLE IV—TOM GREEN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 REPAYMENT CONTRACT EXTENSION

SEC. 401. TOM GREEN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1; REPAYMENT PERIOD EXTENDED.

The Secretary of the Interior may revise the repayment contract with the Tom Green County Water Control and Improvement District No. 1 numbered 14-06-500-369, by extending the period authorized for repayment of reimbursable constructions costs of the San Angelo project from 40 years to 50 years.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4708, the Fremont-Madison Conveyance Act of 2002, directs the Secretary of the Interior to transfer all right, title and interest of the United States in and to all components of the water system that are operated and maintained by the Fremont-Madison Irrigation District to the district. This title transfer must take place pursuant to a memorandum of agreement between the Secretary of the Interior and Fremont-Madison Irrigation District dated September 13, 2001.

The second component of this bill is H.R. 5039, the Humboldt Project Conveyance Act of 2002. H.R. 5039, the Humboldt Project Conveyance Act of 2002, directs the Secretary of the Interior to transfer the title and interest of the United States in and to certain irrigation project property in the Humboldt Project, Nevada, that are operated and maintained by the Pershing County Water Conservation District to the district. This title transfer must take place pursuant to a memorandum of agreement between the Secretary of the Interior acting through the Bureau of Reclamation and Pershing County Water Conservation District.

The third component is H.R. 3223, Jicarilla Apache Reservation Rural Water System Act of 2001. H.R. 3222, the Jicarilla Apache Reservation Rural Water System Act of 2001, will allow the Jicarilla Apache Nation to work with the Bureau of Reclamation to plan, design and construct a water supply delivery and wastewater collection system which would bring the water quality up to Federal water quality standards and allow for continued development in the area by expanding the quality of potable water available.

The fourth component is H.R. 4910, to revise the repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas. H.R. 4910 authorizes the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1 in Texas. Due to the ongoing drought in the area, the district has had very limited quantities of water to deliver to their constituents and limited revenues to repay their required repayment obligation. This bill will authorize the Secretary to extend the repayment period to allow the annual payments to remain constant and allow for the repayment of the remaining obligation over a longer period of time.

All of these measures are noncontroversial bills. I urge their passage.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

The majority has already explained this bill, which would address water management needs in four western States. It is important to mention that certain conditions must be met before local project sponsors take over any project facilities now owned by the United States. Prior to completing the project conveyances authorized in title I and II of this bill, the Secretary of the Interior is directed to comply with all applicable statutes. This includes the National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, and any other laws that apply to the transfer.

The Congress recognizes that there may be ways to condition the transfers to mitigate any issues raised during the environmental reviews conducted prior to conveyance. But compliance with applicable laws prior to conveyance is not optional; it is required by the bill.

I extend my compliments to the gentleman from New Mexico (Mr. UDALL) for his hard work on title III of this bill, which will literally change the lives of the people who live in the affected area of the State of New Mexico. The gentleman from New Mexico is a very distinguished and hardworking representative for his people and deserves a great deal of praise for what has gone into this particular legislation.

In addition, I would note that title IV of this bill includes legislation sponsored by the gentleman from Texas (Mr. STENHOLM). His leadership in sponsoring this worthy legislation will assist farmers in his district as they cope with the continuing drought. I commend the gentleman from Texas for his superb leadership.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Mexico (Mr. UDALL).

□ 1545

Mr. UDALL of New Mexico. Mr. Speaker, I thank the ranking member, the gentleman from West Virginia (Mr. RAHALL), and the gentleman from Utah (Chairman HANSEN), for all of their hard work and leadership on this bill.

I rise today to speak to title III of H.R. 4708, which contains the Jicarilla Apache Rural Water System Act which I introduced on November 1, 2001, and which the Committee on Resources reported to the House on September 4, 2002.

I would like to thank the 12 bipartisan cosponsors of this legislation, and I am thankful to the committee for including these provisions in this overall bill.

The Jicarilla Apache Rural Water System Act will greatly improve the quality of safe and reliable drinking water to the reservation. It will also support an adequate wastewater treatment system. This legislation addresses critical public health issues for the tribe and for North-Central New Mexico.

For over 2 decades, the current system, the Dulce municipal water system, has deteriorated due to a lack of funds and capital improvements made by the Federal trustee. The Jicarilla Nation has invested $14 million in their efforts to improve the quality of its municipal water and waste water system. The Jicarilla's investment of over $14 million is roughly 25 percent of the total project cost.

The lack of investment and rehabilitation in the municipal water system constructed by the BIA in the 1920s and expanded in the 1960s has led to the delivery of inadequate water to the residents of the reservation and surrounding communities. The completion of this project will allow tribal development, such as building additional housing, schools, medical facilities and elderly care facilities, just to name a few.

This legislation will enable the Jicarilla Apache Nation to work with the Bureau of Reclamation to plan, design and construct the water supply, delivery and waste water collection system. These improvements would bring the water quality up to Federal water quality standards.

In addition, the legislation will allow for continued development in the area of expanding the quantity of potable water. The Bureau of Reclamation will be responsible for the construction costs of this project, while the Jicarilla Apache Nation will assume the annual operation, maintenance and replacement costs of the project.

I would also like to thank Lori Sonken, Steve Lanich and Marie Howard of the Committee on Resources minority staff, as well as Josh Johnson and Doug Yoder of the Committee on Resources majority staff for working closely with my office on this important legislation.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, my bill, H.R. 5039, would direct the Secretary of Interior to convey title to certain irrigation project property in the Humboldt Project, Nevada, to the Pershing County Water Control District, the State of Nevada and to Lander and Pershing Counties.

The Pershing County Water Conservation District will receive the Rye Patch Reservoir along with specific lands along the reservoir and title for acquired passage lands. The State of Nevada will receive all the withdrawn lands above the high water mark at Rye Patch to be added to existing State park and withdrawn lands in the Humboldt Sink area and in Lander County to be managed as wetlands.

All lands being conveyed to the State will be used for recreation, wildlife habitat, wetlands or resource conversation, pursuant to the agreement between the State of Nevada and the Pershing County Water Conservation District. Lander County will receive title to designated pasture lands and Pershing County will acquire lands immediately adjacent to Derby Airport for maintenance and future expansion purposes.

Over the past 5 years, the Pershing County Water Conservation District has undergone an extensive consensus-based process with the Federal Government, the counties and the State of Nevada. They have also conducted outreach with local representatives of environmental organizations.

As a result of public comments received through scoping meetings and in their other convenient views, the Pershing County Water Conservation District has continued to reformulate their proposal in a sincere attempt to address all concerns. They should be commended for their efforts.

Mr. Speaker, this bill ratifies agreement between the Bureau of Reclamation and the Pershing County Water Conservation District, the State and the counties. It has the support of the Governor of Nevada, the Humboldt River Basin Water Authority and the counties of Lander and Pershing in Nevada as well. The Department of Interior and the Bureau of Reclamation are on record as supporters of transferring title to the reclamation project to the local entities.

This is the third and hopefully final attempt to obtain title to Humboldt Project facilities since it repaid its original project loan back in 1978. The Pershing County Water Conservation District operates and maintains the project and its constituents are the sole beneficiaries of the project. Local control is the logical choice.

Mr. Speaker, I encourage my colleagues to pass this legislation.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of H.R. 4708, which includes legislation I introduced to extend a repayment period for the Tom Green County Water Control and Improvement District No. 1.

The Tom Green County Water Control and Improvement District No. 1 has an outstanding loan with the Department of Interior for the construction of an irrigation canal. The remaining balance is approximately $2.4 million. The farmers in the District have made diligent efforts to make timely payments on the contract. They have paid 38 percent (about $1.5 million) of the original debt owed to the Department of Interior despite the fact that they have yet to receive a fair return on their investment.

In West Texas, there is virtually nothing of a higher daily concern than the availability of water. In recent years, Texas has been devastated by drought. As a result, the farmers have received a full year's allocation of irrigation water only 50 percent of the time. Moreover, for the other 50 percent of the time, they received either less than the annual allocation or no irrigation water at all.

Payment on the debt has never been forgiven, even in years when the District received no water. Deferments have been granted seven times; however, those payments still have to be made. They are added to the remaining balance and the payments continue to get higher annually because the original contract end date does not change.

To make matters worse, the concrete lining placed in the canal in 1960 has started to deteriorate after forty-two years and repairs are necessary. These repairs are very expensive. Farmers simply cannot sustain paying the costs of the annual operation and maintenance costs due to the irrigation district, the bureau of Reclamation annual payment, and extensive repair costs when little or no water is available.

The Bureau of Reclamation has stated that the increased payments, as a result of continued deferments due to the drought conditions, are making it increasingly difficult on the farmers' ability to repay the annual payments. The increased annual payments place additional financial burdens on the District and increasing these payments further will only lead to future difficulty that the Bureau of Reclamation cannot remedy. Only Congress can remedy the long-term problem, which is why I have introduced H.R. 4910 to get this loan restructured.

This legislation would allow the Secretary of Interior to revise the repayment contract (No. 14–06–500–369) by extending the period authorized for repayment of reimbursable construction costs of the canal from 40 to 50 years.

These Tom Green County farmers have been doing their part to meet their responsibilities. When year-after-year the water was unavailable, their only recourse was to ask for an extension on the loan. I'm glad Tom Green County Commissioner Clayton Friend brought this to my attention and I'm very appreciative of the speedy Resources Committee action. I have high hopes that we will be able to get this bill to the President within the next few weeks.

On behalf of the farmers in my district, I urge you to support H.R. 4708.

Mr. SIMPSON. Mr. Speaker, I rise today to thank you for considering H.R. 4708, the Freemont Madison Conveyance Act. Under H.R. 4708, the Cross-cut Diversion Dam, Cross-cut Canal and five wells with associated water rights would be owned and operated by the FMID. The district has operated and maintained these facilities since they were constructed.

In July the Resources Committee held a hearing on H.R. 4708. During this hearing the Bureau of Reclamation expressed concern over capping the costs for the required NEPA study and administrative costs associated with the transfer.

After the hearing I worked with the Bureau and Freemont Madison Irrigation District to find a solution that is acceptable. The Resources Committee marked up an amended version of H.R. 4708. The amendment in the nature of the substitute was agreed up by all interested parties and was subsequently reported out of the Committee by unanimous consent.

This bill is the culmination of many years of hard work by the members of the Freemont-Madison Irrigation District. In fact, it is one of the first issues I was approached with when I was elected to my first term in the House almost four years ago. I know the members of the Freemont-Madison will continue to provide quality service and remain the good stewards of the natural resources that are at their disposal upon transfer of this title and I look forward to the passage of H.R. 4708.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4708, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title is amended so as to read: "A bill to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District, and for other purposes.".

A motion to reconsider was laid on the table.

WEST BUTTE ROAD RIGHT-OF-WAY ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4953) to direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road, as amended.

The Clerk read as follows:

H.R. 4953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COUNTY RIGHT-OF-WAY TO WEST BUTTE ROAD IN THE STATE OF OREGON.

(a) DEFINITIONS.—In this Act:

(1) WEST BUTTE ROAD.—The term "West Butte Road" means the unpaved Bureau of Land Management road in the State of Oregon identified on the map as BLM Road 6520.

(2) COUNTY.—The term "County" means each of Crook County and Deschutes County in the State of Oregon.

(3) MAP.—The term "map" means the map entitled "West Butte Road Right of Way" dated July 17, 2002.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(b) GRANT TO COUNTIES.—Notwithstanding any other Act, and subject to subsection (d), the Secretary shall grant to each County a right-of-way to the West Butte Road.

(c) BOUNDARIES.—

(1) IN GENERAL.—Subject to paragraph (2), the rights-of-way granted under subsection (b) shall—

(A) extend in length from Reservoir Road in Crook County to United States Route 20 in Deschutes County, Oregon; and

(B) shall extend in width 100 feet on each side of the centerline of West Butte Road.

(2) MODIFICATIONS.—

(A) STATE ROADS.—

(i) IN GENERAL.—The Secretary shall amend the existing rights-of-way of each of the Counties as contained in their respective road case files to include the rights-of-way granted under subsection (b).

(ii) EFFECT.—The rights-of-way amended under clause (i) shall be subject to the common terms, conditions, and stipulations identified in the Counties' rights-of-way grants that apply on the date of enactment of this Act.

(iii) CONSIDERATION OF ENVIRONMENTAL CONCERNS.—Environmental concerns associated with any development of the West Butte Road shall be addressed by the County in meeting compliance requirements associated with State and Federal highway projects and the National Environmental Policy Act of 1969 as administered by the Federal Highway Administration.

(B) WEST BUTTE ROAD.—Notwithstanding any other Act, the Secretary shall provide for adjustment to the right-of-way width and alignment granted under subsection (b) in portions of the West Butte Road necessary for the road to meet applicable State and Federal highway standards.

(d) RELINQUISHMENT OF RIGHT-OF-WAY.—The right-of-way granted to each County under subsection (b) shall be contingent upon the Counties relinquishing any right, title, or interest in and to any RS 2477 right-of-way claim held by the Counties to the portion of the road known as George Millican Road that is located in the area described in subsection (c)(1).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. WALDEN), the author of the bill, to explain the legislation.

Mr. WALDEN of Oregon. Mr. Speaker, I rise in support of H.R. 4953. This is a bill that would promote important transportation infrastructure improvements to an economically depressed area of central Oregon.

Rapid population growth among the Bend and Redmond corridor in central Oregon has created a perpetual bottleneck along Highway 97, a vital north-south right-of-way and highway in central Oregon. H.R. 4953 would authorize the relinquishment of rights-of-way between Crook and Deschutes Counties and the Bureau of Land Management, in effect a swap. The BLM would simply relinquish their management right to the West Butte Road, transferring that right to the counties. The counties, in turn, would relinquish their management rights to the George Millican Road, transferring those rights to the Bureau of Land Management.

West Butte Road extends from Reservoir Road in Crook County to U.S. Route 20 in Deschutes County. This legislation would allow the counties to make improvements to West Butte Road, thereby providing real and meaningful access to U.S. Highway 20, which is a major transportation route in central Oregon. Improvements to the road would provide an alternative route for trucks and other vehicles that now travel on a very busy and congested U.S. Highway 97.

A recent survey conducted by the Oregon Department of Transportation estimated that 25 percent of the trucks that now past through Bend from Highway 20 would use this alternative route, which would save an estimated 1 hour in travel time and reduce air pollutants as a result.

Mr. Speaker, not only does H.R. 4953 alleviate traffic congestion in central Oregon, but it also spurs economic growth in Crook County, a county with a current unemployment rate of 8.2 percent. This unemployment rate is due to the dismantling of the timber industry and the exodus of industries linked to that industry. This legislation would divert the excess traffic on Highway 97, transferring to Highway 20, providing incentives to businesses, enticing them to move to Crook County. It also gives businesses currently located in Crook County a reason to stay, due to the long-term viability of its transportation infrastructure. The long-term effect would be to provide family-wage jobs, to increase economic development, reduce pollutants, reduce commute times and trucking times, and free up access on Highway 97.

This legislation is supported by both Crook and Deschutes Counties, the cities of Prineville, Bend and Redmond, the Oregon Department of Transportation and Central Oregon Area Transportation Committee.

I would especially like to thank my friend and commend Judge Scott Cooper, who has worked tirelessly to make passage of this bill a reality.

Mr. Speaker, H.R. 4953 is a perfect opportunity for us to step up our efforts in alleviating the County's traffic congestion problems, provide additional commerce routes in central Oregon and work to reduce unemployment. I urge passage of H.R. 4953.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

The minority has reviewed this bill and we support the majority's explanation of it.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4953, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MNI WICONI RURAL WATER SUPPLY PROJECT REAUTHORIZATION ACT OF 2002

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4638) to reauthorize the Mni Wiconi Rural Water Supply Project.

The Clerk read as follows:

H.R. 4638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MNI WICONI RURAL WATER SUPPLY PROJECT, SOUTH DAKOTA.

Section 10(a) of the Mni Wiconi Project Act of 1988 (Public Law 100–516; 102 Stat. 2571), as amended by section 813 of the Mni Wiconi Act Amendments of 1994 (Public Law 103–434; 108 Stat. 4545), is amended—

(1) in the first sentence, by inserting “(based on October 1, 1992, price levels) and $58,800,000 (based on October 1, 1997, price levels)” after “$263,241,000”;

(2) in the second sentence, by striking “2003” and inserting “2008”; and

(3) in the last sentence, by inserting “(with respect to the $263,241,000), and October 1, 1997 (with respect to the $58,800,000)” after “1992”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4953, the Mni Wiconi Rural Water Supply Authorization Act of 2002, will extend the completion date of the Mni Wiconi Rural Water Supply Project to 2008 and increase the appropriation ceiling by $58.8 million.

The Mni Wiconi project was originally authorized under Public Law 100–516 to construct a municipal, rural and industrial water system to serve the Pine Ridge, Rosebud and Lower Brule Indian Reservations and seven counties in southwestern South Dakota. The project was developed to overcome the shortage of good quality drinking water in the region.

While the overall appropriation ceiling for the project has not been reached, two of the primary components have reached their individual allocations. Without additional funding, these two project components will not be completed.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I read an article in today's CQ Daily Monitor with the following headline: “Dakota Water Project Marked by November Election Overtones.”

My purpose in supporting this legislation, however, is marked by the pressing need to keep our promise to Native Americans in South Dakota who need and deserve a safe and reliable water supply. That is my motive here, pure and simple. Native Americans deserve no less.

Mr. HANSEN. Mr. Speaker, I am happy to yield such time as he may consume to the gentleman from South Dakota (Mr. THUNE), the author of this legislation.

Mr. THUNE. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I want to thank the gentleman from Utah (Chairman HANSEN), the gentleman from California (Chairman CALVERT) and all the members of the Committee on Resources for their support of H.R. 4638, to extend the authorization of the Mni Wiconi Rural Water Supply Project, which I introduced earlier this year.

This legislation is absolutely essential to the completion of this critical project, which is now over 50 percent finished. H.R. 4638 will increase the authorization ceiling of the project by $58.8 million and extend the authorization of the project to 2008.

Mr. Speaker, Mni Wiconi translates into “water is life,” and I believe this is a fitting name for this project. Currently, many communities within the area of the Mni Wiconi project suffer from poor quality drinking water, which has been the cause of waterborne illnesses. The need for this project is simple: Clean, safe water.

The Mni Wiconi Rural Water Supply Project is also a great symbol of cooperation and compromise. The project is made up of four separate rural water supply systems: Oglala, Rosebud, Lower Brule and West River/Lyman-Jones.

This project will bring healthy, safe drinking water and the potential for greater prosperity to over 52,000 South Dakotans, many of whom live in some of the most economically depressed counties in America.

When complete, Mni Wiconi will cover more than 12,500 square miles, making it the largest water project in the Bureau of Reclamation in North America. To service an area of this size, the project includes 4,500 miles of new pipeline, 60 booster stations and 35 water storage reservoirs. I am pleased to report the water treatment facility is fully operational and able to treat over 13 million gallons of water per day.

Mr. Speaker, Mni Wiconi is not just a water project, it is a unique partnership between the Oglala, Rosebud and Lower Brule Sioux Tribes and non-tribal communities in Lyman, Jones, Stanley, Haakon, Jackson, Bennett and Pennington Counties.

During a hearing on H.R. 4638 in late May, each of the four project sponsors were represented in the audience and at the witness table. Their attendance illustrated the unified support this project has from the American Indian and the non-tribal communities through the Mni Wiconi tribal area and their willingness to put differences aside to fix a common problem, poor quality water.

□ 1600

Mr. Speaker, I want to again thank the Committee on Resources for their work to consider this critically important legislation. I would like to thank the gentleman from West Virginia for his work as well in making this possible and getting this legislation to the floor and enacted into law.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JEFF MILLER of Florida). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4638.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SANTEE SIOUX TRIBE OF NEBRASKA WATER FEASIBILITY STUDY

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4938) to direct the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the Santee Sioux Tribe of Nebraska, and for other purposes.

The Clerk read as follows:

H.R. 4938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY; REPORT.

(a) STUDY.—Pursuant to reclamation laws, the Secretary of the Interior (hereafter in this section referred to as the "Secretary"), through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (hereafter in this section referred to as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this section, the Secretary shall transmit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $500,000 to carry out this section.

The SPEAKER pro tempore (Mr. BASS). Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, H.R. 4938 is authored by the gentleman from Nebraska (Mr. OSBORNE), our colleague on the Committee on Resources. I yield to him such time as he may consume to explain this legislation.

Mr. OSBORNE. Mr. Speaker, I thank the chairman for his support and for the support of the ranking member for this small, but critically important $500,000 feasibility study to address water quality and quality needs on the Santee Sioux reservation. This reservation is located on the Nebraska-South Dakota border of northeastern Nebraska; and as has been the case in many previous bills, what we have found is that the water quality on the reservation has really been degraded.

Currently, the system is antiquated and is not working well. It is dependent upon a great number of small wells and water treatment systems; and at times, the water quality is either terrible or the water supply is relatively nonexistent.

Currently, the water distribution systems are at maximum capacity, which limits housing expansion and deters economic development. In this particular case, this small tribe needs all of the housing and all of the economic development that they can possibly secure. So this is critical as far as they are concerned.

The feasibility study authorized by H.R. 4938 would be administered by the U.S. Bureau of Reclamation and the Santee Sioux Tribe through a cooperative agreement. The study will identify safe, domestic water sources, water treatment requirements, water distribution renovations, and engineering recommendations based on a 40-year projection. A revitalized tribal water treatment and distribution system will serve the tribal communities and adjacent communities and will incorporate population growth and economic development activities in an area where economic development is desperately needed.

This bill addresses a critical need of the Santee Sioux reservation, and it has been allowed to go on far too long. I urge the House to pass this important measure for the people of the Santee Sioux Tribe, and I again thank the chairman for his support. I urge passage of H.R. 4938.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

The minority has reviewed the legislation and agrees with the majority's explanation of it. We are glad to support the legislation by the gentleman from Nebraska (Mr. OSBORNE).

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4938.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BURNT, MALHEUR, OWYHEE, AND POWDER RIVER BASIN WATER OPTIMIZATION FEASIBILITY STUDY ACT OF 2001

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 238) to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

The Clerk read as follows:

S. 238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Burnt, Malheur, Owyhee, and Powder River Basin Water Optimization Feasibility Study Act of 2001".

SEC. 2. STUDY.

The Secretary of the Interior may conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

SEC. 3. AUTHORIZATION OF APPROPRATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 238 is similar to the House-passed bill H.R. 1883 introduced and authored by the gentleman from Oregon (Mr. WALDEN).

I yield such time as he may consume to the gentleman from Oregon (Mr. WALDEN) to explain this legislation.

Mr. WALDEN of Oregon. Mr. Speaker, I appreciate the opportunity to speak in favor of S. 238.

This legislation would authorize the Secretary of the Interior to engage in feasibility investigations for the Burnt, Malheur and Owyhee River basins in eastern Oregon. It is the next step in the United States Bureau of Reclamation process now that their initial study has been completed. The U.S. Bureau of Reclamation's earlier studies examined problems associated with such use as excess nutrients and surface water, sedimentation, high water temperatures, degraded fish habitat, low stream flows, and lack of adequate stream-side vegetation.

The feasibility studies that S. 238 authorizes would help find the most logical approaches to address these issues.

Mr. Speaker, the farmers and ranchers are the driving force behind this legislation and its companion that I sponsored here in the House, as they have proven over and over again that it is the farmers and ranchers who are some of our strongest conservationists. They care deeply about the land and water that they will use to grow the crops and raise the livestock that feed us all. This bill will set a process in motion that will allow the farmers to leave more water in-stream while maintaining their current yields.

The bill is supported by the Burnt River Irrigation District, the Powder Valley Water Control District, the Baker Valley Irrigation District, the Owyhee Irrigation District, the Owyhee Ditch Company, the Vale Oregon Irrigation District, and the Warm Springs Irrigation District. It is a simple, straightforward bill that deserves the support of my colleagues, and I ask for that.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objections to this measure, but it is our hope that an equally important water resource measure for Austin, Texas, will also be considered by the House in the near future.

My colleagues on the Committee on Resources may recall that when we met on July 10 to consider Senator WYDEN's bill for these river basins in Oregon, we also supported the bill of our colleague, the gentleman from Texas (Mr. DOGGETT), H.R. 4739. He works hard for his constituents and is to be commended for his leadership on this issue as well. The Doggett bill would authorize Federal financial assistance for a water recycling project in the Austin, Texas, area.

As I recall, the committee approved the Doggett bill without amendment and by unanimous consent. I have no doubt that S. 238 is meritorious. I hope my colleagues on the other side of the aisle might be able to now schedule this other equally important water legislation in the foreseeable future.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 238.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 640) to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes.

The Clerk read as follows:

Senate amendment:

Page 2, lines 16 and 17, strike out "numbered 80,047, and dated February 2001" and insert "numbered 80,047-C and dated August 2001".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, H.R. 640 was introduced by the gentleman from California (Mr. GALLEGLY), our colleague on the Committee on Resources.

I yield to him such time as he may consume to explain this legislation.

Mr. GALLEGLY. Mr. Speaker, I would like to thank the Committee on Resources chairman, the gentleman from Utah (Mr. HANSEN), and subcommittee chairman, the gentleman from California (Mr. RADANOVICH), for bringing this bill before the floor today.

Mr. Speaker, this legislation passed the House of Representatives on June 6 of last year by a voice vote and passed the Senate with an amendment by unanimous consent on August 1 of this year.

This bill, which I introduced with my colleague, the gentleman from California (Mr. SHERMAN), would adjust the boundaries of the Santa Monica Mountains Recreation Area to enhance and protect the principal wildlife corridor between the Simi Hills in my district and the Santa Monica Mountains in Mr. SHERMAN's district. It adds nearly 3,492 acres of private land in the recreational area at no cost to the taxpayer.

Of that, 2,797 acres that were previously donated to the Santa Monica Mountains Conservancy, a State agency, will be transferred to the Park Service. Another 362 acres is publicly and privately owned open space. The rest, about 330 acres, is comprised of developed residential areas in the cities of Calabasas and Agoura Hills.

The changes made by the Senate exclude three parcels of private property whose owners wish not to have their property included within the boundary adjustment. The changes were made by Senator DIANE FEINSTEIN and Senator JEFF BINGAMAN at my request. I thank the Senators for helping ensure that the rights of these individuals are protected. All the other property owners impacted by this legislation have agreed to be within the proposed boundaries of the recreation area.

Mr. Speaker, I ask my colleagues to support these changes and this bill.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

We support the measure on this side of the aisle. I would also like to note the work of our colleague, the gentleman from California (Mr. SHERMAN), who has been very supportive and worked hard for this legislation as well.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and concur in the Senate amendment to H.R. 640.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

LOS PADRES NATIONAL FOREST LAND EXCHANGE ACT OF 2002

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4917) to provide for an exchange of lands with the United Water Conservation District of California to eliminate private inholdings in the Los Padres National Forest, and for other purposes.

The Clerk read as follows:

H.R. 4917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Los Padres National Forest Land Exchange Act of 2002".

SEC. 2. LAND EXCHANGE, LOS PADRES NATIONAL FOREST, CALIFORNIA.

(a) EXCHANGE AUTHORIZED.—

(1) IN GENERAL.—If the United Water Conservation District of California (in this section referred to as the "District") conveys to the Secretary of Agriculture (in this section referred to as the "Secretary") all of right, title, and interest of the District in and to the lands described in subsection (b)(1), the Secretary shall convey to the District, in exchange for such lands, all right, title, and interest of the United States in and to the National Forest System lands described in subsection (b)(2).

(2) EXISTING RIGHTS.—The conveyance of National Forest System lands under this section shall be subject to valid existing rights and to such terms, conditions, and reservations as may be required by this section or considered necessary by the Secretary.

(3) TIME FOR EXCHANGE.—The Secretary and the District shall endeavor to complete the exchange in a timely manner.

(b) EXCHANGE LANDS.—

(1) LANDS TO BE CONVEYED BY DISTRICT.—The lands to be conveyed by the District under this section consist of approximately 340 acres as follows:

(A) "Tract A"—Approximately 40 acres, located in township 5 north, range 18 west, section 16, NE¼SE¼, San Bernardino base and meridian.

(B) "Tract B"—Approximately 40 acres, located in township 5 north, range 18 west, section 16, SE¼NE¼, San Bernardino base and meridian.

(C) "Tract C"—Approximately 80 acres, located in township 5 north, range 18 west, section 16, S½SE¼, San Bernardino base and meridian.

(D) "Tract D"—Approximately 160 acres, located in township 5 north, range 18 west, section 21, NE¼, San Bernardino base and meridian.

(E) "Tract E"—Approximately 20 acres, located in township 5 north, range 18 west, section 15, N½SW¼SW¼, San Bernardino base and meridian.

(2) LANDS TO BE CONVEYED BY SECRETARY.—The National Forest System lands to be conveyed by the Secretary under this section consist of approximately 420 acres as follows:

(A) "Tract 1"—Approximately 80 acres, located in township 5 north, range 18 west, section 10, E½SW¼, San Bernardino base and meridian.

(B) "Tract 2"—Approximately 40 acres, located in township 5 north, range 18 west, section 15, NE¼NW¼, San Bernardino base and meridian.

(C) "Tract 3"—Approximately 40 acres, located in township 5 north, range 18 west, section 15, SW¼SE¼, San Bernardino base and meridian.

(D) "Tract 4"—Approximately 10 acres, located in township 5 north, range 18 west, section 22, SW¼SW¼NE¼, San Bernardino base and meridian.

(E) "Tract 5"—Approximately 20 acres, located in township 5 north, range 18 west, section 22, W½NW¼SE¼, San Bernardino base and meridian.

(F) "Tract 6"—Approximately 40 acres, located in township 5 north, range 18 west, section 22, SW¼SE¼, San Bernardino base and meridian.

(G) "Tract 7"—Approximately 80 acres, located in township 5 north, range 18 west, section 22, E½SW¼, San Bernardino base and meridian.

(H) "Tract 8"—Approximately 20 acres, located in township 5 north, range 18 west, section 22, N½NW¼SW¼, San Bernardino base and meridian.

(I) "Tract 9"—Approximately 80 acres, located in township 5 north, range 18 west, section 27, W½NE¼, San Bernardino base and meridian.

(J) "Tract 10"—Approximately 10 acres, located in township 5 north, range 18 west, section 27, NE¼SW¼NW¼, San Bernardino base and meridian.

(3) CORRECTIONS TO LEGAL DESCRIPTIONS.—By mutual agreement, the Secretary and the District may adjust the legal descriptions contained in this subsection to correct errors or to make minor adjustments in the lands to be exchanged.

(c) PROCESSING OF LAND EXCHANGE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary shall process the land exchange under this section in accordance with Forest Service land exchange regulations in subpart A of part 254 of title 36, Code of Federal Regulations.

(2) TITLE STANDARDS.—The Secretary shall require that title to the District lands acquired by the Secretary under this section is in conformity with the title standards of the Attorney General of the United States.

(d) EASEMENTS AND ACCESS.—

(1) RESERVATION.—In the conveyance of the National Forest System lands authorized by this section, the Secretary shall reserve easements for all roads and trails that the Secretary considers to be necessary or desirable to provide for administrative purposes and to ensure public access to National Forest System lands. In particular, the Secretary shall reserve perpetual unrestricted rights of pedestrian access to the Potholes trailhead of the Los Padres National Forest.

(2) ACCESSIBILITY.—In the case of the District lands acquired by the Secretary under this section, the Secretary shall provide reasonable access to privately owned inholdings consistent with section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210(a)).

(3) CONSTRUCTION OF PARKING LOT.—As a condition on the receipt of National Forest System lands under this section, the District shall agree to construct a gravel parking area upon District lands for the Potholes trailhead of the Los Padres National Forest, subject to the following requirements:

(A) The District may reasonably regulate vehicular access to the trailhead in accordance with rules and regulations promulgated in accordance with applicable law.

(B) Foot traffic to the trailhead shall be perpetual and unrestricted.

(e) SPECIAL USE AUTHORIZATION AND EASEMENTS.—All special use authorizations and term easements issued by the Secretary with respect to the National Forest System lands described in subsection (b)(2) shall not be renewed or reauthorized after the date of enactment of this Act.

(f) WATER RIGHTS.—The land exchange authorized by this section does not include any water rights owned by the District or the United States.

(g) CASH EQUALIZATION.—

(1) LIMITS WAIVED.—The District or the Secretary, as appropriate, may equalize the values of the lands to be exchanged under this section by a cash payment without regard to any statutory limit on the amount of such a cash equalization payment.

(2) DISPOSITION AND USE OF FUNDS.—Any cash equalization payment received by the Secretary under this section shall be deposited into the fund established by Public Law 90-171 (commonly known as the Sisk Act; 16 U.S.C. 484a). The payment shall be available to the Secretary for expenditure, without further appropriation, for the acquisition, construction, or improvement of administrative or recreational facilities for the Los Padres National Forest in Ventura County, Santa Barbara County, and San Luis Obispo County, California, or for the acquisition of land or interests in land in such counties.

(h) MANAGEMENT OF ACQUIRED LANDS.—The District lands acquired by the Secretary under this section shall be added to and administered as part of the Los Padres National Forest in accordance with the laws and regulations applicable to that national forest.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4917, which provides for an exchange of lands between the United States Water Conservation District of California and the U.S. Forest Service, was authored by the gentleman from California (Mr. GALLEGLY); and I yield such time as he may consume to him to explain this legislation.

Mr. GALLEGLY. Mr. Speaker, I would like to again thank the gentleman from Utah (Mr. HANSEN), the full committee chairman, and the gentleman from Colorado (Mr. MCINNIS), the subcommittee chairman, for helping bring this bill to the floor today.

Mr. Speaker, H.R. 4917, the Los Padres National Forest Land Exchange Act, will facilitate a land exchange between the U.S. Forest Service and the United Water Conservation District, a local public agency.

Under this legislation, the U.S. Forest Service will convey 420 acres to United Water. Of that total, 290 acres are mud-flats surrounded by Lake Piru, 80 acres are campground, and 50 acres are primarily two separate sections of Blue Point Road. United Water will convey to the Forest Service 340 acres. The land is open space within the Los Padres National Forest previously leased for grazing.

Both the Forest Service and United Water benefit from the exchange. The Blue Point Campground, which has been closed by the Forest Service since 1995, will be opened on a limited basis by United Water. This will provide additional recreational opportunities for families and outdoor enthusiasts for frequent trips to the forest. In addition, United Water has pledged to increase patrols around the campground's arroyo toad habitat, which the Forest Service admits does not have the resources necessary to adequately patrol and maintain.

In addition, United Water will own all of the land surrounding Lake Piru. This will allow the United Water district to better manage its operations with less bureaucracy. The Forest Service will gain ownership over the entire western part of the Lisk Ranch, which is within the boundaries of the Los Padres and open space.

The cost of this exchange would be minimal. Both United Water and the Forest Service have agreed to share the cost of the appraisals and land surveys to be done after enactment. I believe this exchange is a win/win for the public, the Los Padres National Forest, and the United Water Conservation District; and I urge the House to adopt this measure.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume. We on the minority side have no problems with the legislation and we support it.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4917.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1615

TONTO AND COCONINO NATIONAL FORESTS LAND EXCHANGE ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4919) to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tonto and Coconino National Forests Land Exchange Act".

TITLE I—TONTO AND COCONINO NATIONAL FORESTS LAND EXCHANGE

SEC. 101. FINDINGS; PURPOSE.

(a) Findings.—Congress finds the following:

(1) Certain private lands adjacent to the Montezuma Castle National Monument in Yavapai County, Arizona, are desirable for Federal acquisition to protect important riparian values along Beaver Creek and the scenic backdrop for the National Monument.

(2) Certain other inholdings in the Coconino National Forest are desirable for Federal acquisition to protect important public values near Double Cabin Park.

(3) Approximately 108 acres of land within the Tonto National Forest, northeast of Payson, Arizona, are currently occupied by 45 residential cabins under special use permits from the Secretary of Agriculture, and have been so occupied since the mid-1950s, rendering such lands of limited use and enjoyment potential for the general public. Such lands are, therefore, appropriate for transfer to the cabin owners in exchange for lands that will have higher public use values.

(4) In return for the privatization of such encumbered lands the Secretary of Agriculture has been offered approximately 495 acres of non-Federal land (known as the Q Ranch) within the Tonto National Forest, east of Young, Arizona, in an area where the Secretary has completed previous land exchanges to consolidate public ownership of National Forest lands.

(5) The acquisition of the Q Ranch non-Federal lands by the Secretary will greatly increase National Forest management efficiency and promote public access, use, and enjoyment of the area and surrounding National Forest System lands.

(b) Purpose.—The purpose of this title is to authorize, direct, facilitate, and expedite the consummation of the land exchanges set forth herein in accordance with the terms and conditions of this title.

SEC. 102. DEFINITIONS.

As used in this title:

(1) DPSHA.—The term "DPSHA" means the Diamond Point Summer Homes Association, a nonprofit corporation in the State of Arizona.

(2) Federal land.—The term "Federal land" means land to be conveyed into non-Federal ownership under this title.

(3) FLPMA.—The term "FLPMA" means the Federal Land Policy Management Act of 1976.

(4) MCJV.—The term "MCJV" means the Montezuma Castle Land Exchange Joint Venture Partnership, an Arizona Partnership.

(5) Non-federal land.—The term "non-Federal land" means land to be conveyed to the Secretary of Agriculture under this title.

(6) Secretary.—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified.

SEC. 103. MONTEZUMA CASTLE LAND EXCHANGE.

(a) Land Exchange.—Upon receipt of a binding offer from MCJV to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to MCJV all right, title, and interest of the United States in and to the Federal land described in subsection (c).

(b) Non-Federal.—The land described in this subsection is the following:

(1) The approximately 157 acres of land adjacent to the Montezuma Castle National Monument, as generally depicted on the map entitled "Montezuma Castle Contiguous Lands", dated May 2002.

(2) Certain private land within the Coconino National Forest, Arizona, comprising approximately 108 acres, as generally depicted on the map entitled "Double Cabin Park Lands", dated September 2002.

(c) Federal Land.—The Federal land described in this subsection is the approximately 222 acres in the Tonto National Forest, Arizona, and surveyed as Lots 3, 4, 8, 9, 10, 11, 16, 17, and Tract 40 in section 32, Township 11 North, Range 10 East, Gila and Salt River Meridian, Arizona.

(d) Equal Value Exchange.—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and MCJV and performed in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of the FLPMA (43 U.S.C. 1716(d)). If the values are not equal, the Secretary shall delete Federal lots from the conveyance to MCJV in the following order and priority, as necessary, until the values of Federal and non-Federal land are within the 25 percent cash equalization limit of 206(b) of FLPMA:

(1) Lot 3.

(2) Lot 4.

(3) Lot 9.

(4) Lot 10.

(5) Lot 11.

(6) Lot 8.

(e) Cash Equalization.—Any difference in value remaining after compliance with subsection (d) shall be equalized by the payment of cash to the Secretary or MCJV, as the circumstances dictate, in accordance with section 206(b) of FLPMA (43 U.S.C. 1716(b)). Public Law 90–171 (16 U.S.C. 484a; commonly known as the "Sisk Act") shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

SEC. 104. DIAMOND POINT—Q RANCH LAND EXCHANGE.

(a) In General.—Upon receipt of a binding offer from DPSHA to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to DPSHA all right, title, and interest of the United States in and to the land described in subsection (c).

(b) Non-Federal Land.—The land described in this subsection is the approximately 495 acres of non-Federal land generally depicted on the map entitled "Diamond Point Exchange—Q Ranch Non-Federal Lands", dated May 2002.

(c) Federal Land.—The Federal land described in this subsection is the approximately 108 acres northeast of Payson, Arizona, as generally depicted on a map entitled "Diamond Point Exchange—Federal Land", dated May 2002.

(d) Equal Value Exchange.—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and DPSHA and in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of FLPMA (43 U.S.C. 1716(d)). If the values are not equal, they shall be equalized by the payment of cash to the Secretary or DPSHA pursuant to section 206(b) of FLPMA (43 U.S.C. 1716(b)). Public Law 90–171 (16 U.S.C. 484a; commonly known as the "Sisk Act") shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

(e) Special Use Permit Termination.—Upon execution of the land exchange authorized by this section, all special use cabin permits on the Federal land shall be terminated.

SEC. 105. MISCELLANEOUS PROVISIONS.

(a) Exchange Timetable.—Not later than 6 months after the Secretary receives an offer under section 103 or 104, the Secretary shall execute the exchange under section 103 or 104, respectively, unless the Secretary and MCJV or DPSHA, respectively, mutually agree to extend such deadline.

(b) Exchange Processing.—Prior to executing the land exchanges authorized by this title, the Secretary shall perform any necessary land surveys and required preexchange clearances, reviews, and approvals relating to threatened and endangered species, cultural and historic resources, wetlands and floodplains and hazardous materials. If 1 or more of the Federal land parcels or lots, or portions thereof, cannot be transferred to MCJV or DPSHA due to hazardous materials, threatened or endangered species, cultural or historic resources, or wetland and flood plain problems, the parcel or lot, or portion thereof, shall be deleted from the exchange, and the values of the lands to be exchanged adjusted in accordance with subsections (d) and (e) of section 103 or section 104(d), as appropriate. In order to save administrative costs to the United States, the costs of performing such work, including the appraisals required pursuant to this title, shall be paid by MCJV or DPSHA for the relevant property, except for the costs of any such work (including appraisal reviews and approvals) that the Secretary is required or elects to have performed by employees of the Department of Agriculture.

(c) Federal Land Reservations and Encumbrances.—The Secretary shall convey the Federal land under this title subject to valid existing rights, including easements, rights-of-way, utility lines and any other valid encumbrances on the Federal land as of the date of the conveyance under this title. If applicable to the land conveyed, the Secretary shall also retain any right of access as may be required by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)) for remedial or corrective action relating to hazardous substances as may be necessary in the future.

(d) ADMINISTRATION OF ACQUIRED LAND.—The land acquired by the Secretary pursuant to this title shall become part of the Tonto or Coconino National Forest, as appropriate, and be administered as such in accordance with the laws, rules, and regulations generally applicable to the National Forest System. Such land may be made available for domestic livestock grazing if determined appropriate by the Secretary in accordance with the laws, rules, and regulations applicable thereto on National Forest System land.

(e) TRANSFER OF LAND TO PARK SERVICE.—Upon their acquisition by the United States, the "Montezuma Castle Contiguous Lands" identified in section 103(d)(1) shall be transferred to the administrative jurisdiction of the National Park Service, and shall thereafter be permanently incorporated in, and administered by the Secretary of the Interior as part of, the Montezuma Castle National Monument.

TITLE II—MENDOCINO NATIONAL FOREST LAND CONVEYANCE

SEC. 201. LAND CONVEYANCE, FARAWAY RANCH, MENDOCINO NATIONAL FOREST, CALIFORNIA.

(a) CONVEYANCE REQUIRED.—Subject to subsection (b), the Secretary of Agriculture shall convey to the owner of the property known as the Faraway Ranch in Lake County, California (in this section referred to as the "recipient"), by quitclaim deed, all right, title, and interest of the United States in and to the following National Forest System lands in Mendocino National Forest in Lake County, California:

(1) "Faraway Ranch, Tract 39" (approximately 15.8 acres) consisting of a portion of lot 6 of section 4, township 18 north, range 10 west, Mount Diablo base and meridian, as generally depicted on the map entitled "Faraway Ranch, Tracts 39 and 40" and dated June 30, 2002.

(2) "Faraway Ranch, Tract 40" (approximately 105.1 acres) consisting of a portion of the N½SW¼ and lot 7 of section 4, and a portion of lots 15 and 16 of section 5, township 18 north, range 10 west, Mount Diablo base and meridian, as generally depicted on the map entitled "Faraway Ranch, Tracts 39 and 40" and dated June 30, 2002.

(b) TIME FOR CONVEYANCE.—The Secretary shall make the conveyance under subsection (a) not later than 120 days after the date on which the recipient deposits sufficient funds with the Bureau of Land Management, California State Office, Branch of Geographic Services, to cover survey work costs and with the Forest Service, Mendocino National Forest, to cover Forest Service direct transaction costs described in subsection (e).

(c) CORRECTIONS.—With the agreement of the recipient, the Secretary may make minor corrections to the legal descriptions and map of the lands to be conveyed pursuant to this section.

(d) CONSIDERATION.—As consideration for the conveyance under subsection (a), the recipient shall pay to the Secretary an amount equal to the fair market value of the National Forest System lands conveyed under such subsection. The fair market value of such lands shall be determined by an appraisal that is acceptable to the Secretary and conforms with the Federal appraisal standards, as defined in the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference.

(e) PAYMENT OF COSTS.—All direct transaction costs associated with the conveyance under section (a), including the costs of appraisal, title, and survey work, shall be paid by the recipient.

(f) USE OF PROCEEDS.—

(1) DEPOSIT.—The Secretary shall deposit the amounts received by the Secretary as consideration under subsection (d) in the fund established by Public Law 90–171 (commonly known as the Sisk Act; 16 U.S.C. 484a).

(2) USE.—Funds deposited under paragraph (1) shall be available to the Secretary until expended, without further appropriation—

(A) for the acquisition of land and interests in land for National Forest System purposes in the State of California; and

(B) for reimbursement of costs incurred by the Forest Service in making the conveyance under subsection (a).

(3) STATUS OF ACQUIRED LAND.—Notwithstanding Public Law 85–862 (16 U.S.C. 521a), any lands acquired under paragraph (2)(A) shall be managed as lands acquired under the March 1, 1911 (commonly known as the Weeks Act; 16 U.S.C. 480, 500, 515 et seq.), regardless of whether any of the lands conveyed under subsection (a) were reserved from the public domain.

(g) WITHDRAWAL.—Subject to valid existing rights, the lands to be conveyed under subsection (a) are hereby withdrawn from all forms of location, entry, and patent under the public land laws and the mining and mineral leasing laws of the United States.

The SPEAKER pro tempore (Mr. BASS). Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill directs the Secretary of Agriculture to conduct two land exchanges, the Montezuma Castle land exchange in the Coconino National Forest, and the Diamond Point land exchange in the Tonto National Forest.

In the Montezuma Castle land exchange, the National Park Service will acquire some riparian areas which are part of the viewshed for the Montezuma Castle National Monument, and the Forest Service will acquire Double Cabin Park. In exchange, 122 acres of National Forest System land adjacent to the town of Payson Municipal Airport will be transferred to private ownership.

In the Diamond Point land exchange, the Forest Service will receive a 495-acre parcel known as the Q Ranch in an area where they have completed previous acquisitions and consolidated Federal lands. In exchange, the Diamond Point Summer Homes Association will acquire 108 acres of Federal land which has been occupied by the association's 45 residential cabins since the 1950s. The Tonto National Forest plan specifically recommends conveyance of the Federal land to the cabin owners.

The second part of this bill authorizes the Secretary of Agriculture to convey certain lands in the Mendocino National Forest in California to correct recently discovered errors in the original survey. In the last few years, we have discovered many problems with surveys conducted in the late 1800s. In this case, the faulty survey has allowed unintentional encroachment of ranch structures into nearby national forest lands. This bill remedies outstanding encroachment issues by authorizing the transfer of 120 acres of adjacent national forest land in exchange for payment of the fair market value of these lands.

The payments will be deposited into the Sisk Act and used to purchase non-Federal lands adjacent to national forest lands in California. This is the text of H.R. 5032, authored by the gentleman from California (Mr. THOMPSON), and ordered reported from the Committee on Resources on September 12.

Mr. Speaker, I urge adoption of these measures, and I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I initially had some minor problems with H.R. 4919 when it was considered in committee, our colleague, the gentleman from Arizona (Mr. PASTOR), came and spoke to me. In no uncertain terms he made it clear he would like to see this legislation passed. Therefore, I decided it would be a good idea to move it forward.

I would also note that the inclusion by our colleague, the gentleman from California (Mr. THOMPSON), of his legislation in this legislation is facilitating its consideration on the floor today. The gentleman from California is to be commended for his leadership, and is a very capable and effective representative of his constituents. I salute him for his work on this particular bill.

Mr. HAYWORTH. I am grateful for the opportunity to speak today about my bill, H.R. 4919, the Tonto and Coconino National Forests Land Exchange.

This legislation authorizes two commonsense land exchanges that will benefit not only my constituents, but the U.S. Forest Service. Most importantly, this bill will authorize a land exchange that will allow the Town of Payson to purchase a portion of the conveyed property to create private sector business development and job opportunities. Payson is totally surrounded by national forest lands, virtually land-locking the community. Local officials feel that the lack of land for industry and affordable housing is the major obstacle to economic development in the region.

The legislation also authorizes the Forest Service to acquire a 495-acre parcel known as the Q Ranch, which is currently owned by The Conservation Fund. In exchange, the Diamond Point Summer Homes Association will acquire 108 acres of federal land that has been occupied by the group's 45 residential cabins since the 1950's.

The Tonto National Forest Plan has specifically recommended conveyance of the federal land. The exchange will transfer land of limited public use to the association in exchange for private lands that will increase management efficiency and enhance public access, use and enjoyment of the surrounding national forest lands.

In summary, the bill contains commonsense legislation that accomplishes goals that the Forest Service has stated are a priority. These land exchanges are endorsed by the Gila County Board of Supervisors, the Rim County Regional Chamber of Commerce, the Town of Payson, the Payson Regional Economic Development Corporation, and the National Park Service, among others.

I have been honored to serve the community of Payson in the House of Representatives for eight years. Due to redistricting, I will no longer have the opportunity to directly represent this beautiful part of Arizona. Nevertheless, even as congressional lines change, the issues remain the same, and I hope to convey to my friends in Payson that I will remain a strong advocate of their interests.

With that, I urge an "aye" vote on H.R. 4919.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4919, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MIAMI CIRCLE PARK FEASIBILITY STUDY

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1894) to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of the Biscayne National Park, and for other purposes, as amended.

The Clerk read as follows:

S. 1894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MIAMI CIRCLE SITE SPECIAL RESOURCE STUDY

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Tequesta Indians were one of the earliest groups to establish permanent villages in southeast Florida;

(2) the Tequestas had one of only two North American civilizations that thrived and developed into a complex social chiefdom without an agricultural base;

(3) the Tequesta sites that remain preserved today are rare;

(4) the discovery of the Miami Circle, occupied by the Tequesta approximately 2,000 years ago, presents a valuable new opportunity to learn more about the Tequesta culture; and

(5) Biscayne National Park also contains and protects several prehistoric Tequesta sites.

(b) PURPOSE.—The purpose of this title is to direct the Secretary to conduct a special resource study to determine the national significance of the Miami Circle site as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park.

SEC. 102. DEFINITIONS.

In this title:

(1) MIAMI CIRCLE.—The term "Miami Circle" means the Miami Circle archaeological site in Miami-Dade County, Florida.

(2) PARK.—The term "Park" means Biscayne National Park in the State of Florida.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 103. SPECIAL RESOURCE STUDY.

(a) IN GENERAL.—Not later than one year after the date funds are made available, the Secretary shall conduct a special resource study as described in subsection (b). In conducting the study, the Secretary shall consult with the appropriate American Indian tribes and other interested groups and organizations.

(b) COMPONENTS.—In addition to a determination of national significance, feasibility, and suitability, the special resource study shall include the analysis and recommendations of the Secretary with respect to—

(1) which, if any, particular areas of or surrounding the Miami Circle should be included in the Park;

(2) whether any additional staff, facilities, or other resources would be necessary to administer the Miami Circle as a unit of the Park; and

(3) any impact on the local area that would result from the inclusion of Miami Circle in the Park.

(c) REPORT.—Not later than 30 days after completion of the study, the Secretary shall submit a report describing the findings and recommendations of the study to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the United States House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE II—GATEWAY COMMUNITIES COOPERATION

SEC. 201. IMPROVED RELATIONSHIP BETWEEN FEDERAL LAND MANAGERS AND GATEWAY COMMUNITIES TO SUPPORT COMPATIBLE LAND MANAGEMENT OF BOTH FEDERAL AND ADJACENT LANDS.

(a) FINDINGS.—The Congress finds the following:

(1) Communities that are adjacent to or near Federal lands, including units of the National Park System, units of the National Wildlife Refuge System, units of the National Forest System, and lands administered by the Bureau of Land Management, are vitally impacted by the management and public use of these Federal lands.

(2) These communities, commonly known as gateway communities, fulfill an integral part in the mission of the Federal lands by providing necessary services, such as schools, roads, search and rescue, emergency, medical, provisioning, logistical support, living quarters, and drinking water and sanitary systems, for both visitors to the Federal lands and employees of Federal land management agencies.

(3) Provision of these vital services by gateway communities is an essential ingredient for a meaningful and enjoyable experience by visitors to the Federal lands because Federal land management agencies are unable to provide, or are prevented from providing, these services.

(4) Gateway communities serve as an entry point for persons who visit the Federal lands and are ideal for establishment of visitor services, including lodging, food service, fuel and auto repairs, emergency services, and visitor information.

(5) Development in these gateway communities affect the management and protection of these Federal lands, depending on the extent to which advance planning for the local development is coordinated between the communities and Federal land managers.

(6) The planning and management decisions of Federal land managers can have unintended consequences for gateway communities and the Federal lands, when the decisions are not adequately communicated to, or coordinated with, the elected officials and residents of gateway communities.

(7) Experts in land management planning are available to Federal land managers, but persons with technical planning skills are often not readily available to gateway communities, particularly small gateway communities.

(8) Gateway communities are often affected by the policies and actions of several Federal land agencies and both the communities and the agencies would benefit from greater interagency coordination of those policies and actions.

(9) Persuading gateway communities to make decisions and undertake actions in their communities that would also be in the best interest of the Federal lands is most likely to occur when such decisionmaking and actions are built upon a foundation of cooperation and coordination.

(b) PURPOSE.—It is the purpose of this title to require Federal land managers to communicate, coordinate, and cooperate with gateway communities in order to—

(1) improve the relationships among Federal land managers, elected officials, and residents of gateway communities;

(2) enhance the facilities and services in gateway communities available to visitors to Federal lands, when compatible with the management of these lands; and

(3) result in better local land use planning and decisions by Federal land managers.

(c) DEFINITIONS.—In this section:

(1) GATEWAY COMMUNITY.—The term "gateway community" means a county, city, town, village, or other subdivision of a State, or a federally recognized American Indian tribe or Alaska Native village, that—

(A) is incorporated or recognized in a county or regional land use plan; and

(B) a Federal land manager (or the head of the tourism office for the State) determines is significantly affected economically, socially, or environmentally by planning and management decisions regarding Federal lands administered by that Federal land manager.

(2) FEDERAL LAND AGENCIES.—The term "Federal land agencies" means the National Park Service, United States Forest Service, United States Fish and Wildlife Service, and the Bureau of Land Management.

(3) FEDERAL LAND MANAGER.—The term "Federal land manager" means—

(A) the superintendent of a unit of the National Park System;

(B) the manager of a national wildlife refuge;

(C) the field office manager of a Bureau of Land Management area; or

(D) the supervisor of a unit of the National Forest System.

(d) PARTICIPATION IN FEDERAL PLANNING AND LAND USE.—

(1) PARTICIPATION IN PLANNING.—The Federal land agencies shall provide for meaningful public involvement at the earliest possible time by elected and appointed officials of governments of local gateway communities in the development of land use plans, programs, land use regulations, land use decisions, transportation plans, general management plans, and any other plans, decisions, projects, or policies for Federal public lands under the jurisdiction of these agencies that will have a significant impact on these gateway communities. To facilitate such involvement, the Federal land agencies shall provide these officials, at the earliest possible time, with a summary in nontechnical language of the assumptions, purposes, goals, and objectives of such a plan, decision, project, or policy and a description of any anticipated significant impact of the plan, decision, or policy on gateway communities.

(2) EARLY NOTICE OF PROPOSED DECISIONS.—To the extent practicable, the Federal land agencies shall provide local gateway communities with early public notice of proposed decisions of these agencies that may have a significant impact on gateway communities.

(3) TRAINING SESSIONS.—The Federal land agencies shall offer training sessions for elected and appointed officials of gateway communities at which such officials can obtain a better understanding of—

(A) agency planning processes; and

(B) the methods by which they can participate most meaningfully in the development of the agency plans, decisions, and policies referred to in paragraph (1).

(4) TECHNICAL ASSISTANCE.—At the request of the government of a gateway community, a Federal land agency shall assign, to the extent practicable, an agency employee or contractor to work with the community to develop data and analysis relevant to the preparation of agency plans, decisions, and policies referred to in paragraph (1).

(5) REVIEW OF FEDERAL LAND MANAGEMENT PLANNING.—At the request of a gateway community, and to the extent practicable, a Federal land manager shall assist the gateway community to conduct a review of land use, management, or transportation plans of the Federal land manager likely to affect the gateway community.

(6) COORDINATION OF LAND USE.—To the extent consistent with the laws governing the administration of the Federal public lands, a Federal land manager may enter into a cooperative agreement with a gateway community to provide for coordination between—

(A) the land use inventory, planning, and management activities for the Federal lands administered by the Federal land manager; and

(B) the land use planning and management activities of other Federal agencies, agencies of the State in which the Federal lands are located, and local and tribal governments in the vicinity of the Federal lands.

(7) INTERAGENCY COOPERATION AND COORDINATION.—To the extent practicable, when the plans and activities of two or more Federal land agencies are anticipated to have a significant impact on a gateway community, the Federal land agencies involved shall consolidate and coordinate their plans and planning processes to facilitate the participation of the gateway community in the planning processes.

(8) TREATMENT AS COOPERATING AGENCIES.—When a proposed action is determined to require the preparation of an environmental impact statement, the Federal land agencies shall, as soon as practicable, but not later than the scoping process, actively solicit the participation of gateway communities as cooperating agencies under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) GRANTS TO ASSIST GATEWAY COMMUNITIES.—

(1) GRANTS AUTHORIZED; PURPOSES.—A Federal land manager may make grants to an eligible gateway community to enable the gateway community—

(A) to participate in Federal land planning or management processes;

(B) to obtain professional land use or transportation planning assistance necessary as a result of Federal action;

(C) to address and resolve public infrastructure impacts that are identified through these processes as a likely result of the Federal land management decisions and for which sufficient funds are not otherwise available; and

(D) to provide public information and interpretive services about the Federal lands administered by the Federal land manager and the gateway community.

(2) ELIGIBLE GATEWAY COMMUNITIES.—To be eligible for a grant under this subsection, a gateway community may not have a population in excess of 10,000 persons.

(f) FUNDING SOURCES.—

(1) GENERAL AGENCY FUNDS.—A Federal land agency may use amounts available for the general operation of the agency to provide funds to Federal land managers of that agency to make grants under subsection (e).

(2) OTHER PLANNING OR PROJECT DEVELOPMENT FUNDS.—Funds available to a Federal land manager for planning, construction, or project development may also be used to fund programs under subsection (d) and make grants under subsection (e).

(3) COMBINATION OF FUNDS.—Federal land managers from different Federal land agencies may combine financial resources to make grants under subsection (e).

TITLE III—MOUNT NEBO WILDERNESS BOUNDARY ADJUSTMENTS

SEC. 301. BOUNDARY ADJUSTMENTS, MOUNT NEBO WILDERNESS, UTAH.

(a) LANDS REMOVED.—The boundary of the Mount Nebo Wilderness is adjusted to exclude the following:

(1) MONUMENT SPRINGS.—The approximately 8.4 acres of land depicted on the Map as "Monument Springs".

(2) GARDNER CANYON.—The approximately 177.8 acres of land depicted on the Map as "Gardner Canyon".

(3) BIRCH CREEK.—The approximately 5.0 acres of land depicted on the Map as "Birch Creek".

(4) INGRAM CANYON.—The approximately 15.4 acres of land depicted on the Map as "Ingram Canyon".

(5) WILLOW NORTH A.—The approximately 3.4 acres of land depicted on the Map as "Willow North A".

(6) WILLOW NORTH B.—The approximately 6.6 acres of land depicted on the Map as "Willow North B".

(7) WILLOW SOUTH.—The approximately 21.5 acres of land depicted on the Map as "Willow South".

(8) MENDENHALL CANYON.—The approximately 9.8 acres of land depicted on the Map as "Mendenhall Canyon".

(9) WASH CANYON.—The approximately 31.4 acres of land depicted on the Map as "Wash Canyon".

(b) LANDS ADDED.—Subject to valid existing rights, the boundary of the Mount Nebo Wilderness is adjusted to include the approximately 293.2 acres of land depicted on the Map for addition to the Mount Nebo Wilderness. The Utah Wilderness Act of 1984 (Public Law 94-428) shall apply to the land added to the Mount Nebo Wilderness pursuant to this subsection.

SEC. 302. MAP.

(a) DEFINITION.—In this title, the term "Map" means the map entitled "Mt. Nebo Wilderness Boundary Adjustment", numbered 531, and dated May 29, 2001.

(b) MAP ON FILE.—The Map and the final document entitled "Mount Nebo, Proposed Boundary Adjustments, Parcel Descriptions (See Map #531)" and dated June 4, 2001, shall be on file and available for inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) CORRECTIONS.—The Secretary of Agriculture may make technical corrections to the Map.

SEC. 303. TECHNICAL BOUNDARY ADJUSTMENT.

The boundary of the Mount Nebo Wilderness is adjusted to exclude the approximately 21.26 acres of private property located in Andrews Canyon, Utah, and depicted on the Map as "Dale".

TITLE IV—BAINBRIDGE ISLAND JAPANESE-AMERICAN MEMORIAL SPECIAL RESOURCE STUDY

SEC. 401. FINDINGS.

The Congress finds the following:

(1) During World War II on February 19, 1942, President Franklin Delano Roosevelt signed Executive Order 9066, setting in motion the forced exile of more than 110,000 Japanese Americans.

(2) In Washington State, 12,892 men, women and children of Japanese ancestry experienced three years of incarceration, an incarceration violating the most basic freedoms of American citizens.

(3) On March 30, 1942, 227 Bainbridge Island residents were the first Japanese Americans in United States history to be forcibly removed from their homes by the U.S. Army and sent to internment camps. They boarded the ferry Kehloken from the former Eagledale Ferry Dock, located at the end of Taylor Avenue, in the city of Bainbridge Island, Washington State.

(4) The city of Bainbridge Island has adopted a resolution stating that this site should be a National Memorial, and similar resolutions have been introduced in the Washington State Legislature.

(5) Both the Minidoka National Monument and Manzanar National Historic Site can clearly tell the story of a time in our Nation's history when constitutional rights were ignored. These camps by design were placed in very remote places and are not easily accessible. Bainbridge Island is a short ferry ride from Seattle and the site would be within easy reach of many more people.

(6) This is a unique opportunity to create a site that will honor those who suffered, cherish the friends and community who stood beside them and welcomed them home, and inspire all to stand firm in the event our Nation again succumbs to similar fears.

(7) The site should be recognized by the National Park Service based on its high degree of national significance, association with significant events, and integrity of its location and setting. This site is critical as an anchor for future efforts to identify, interpret, serve, and ultimately honor the Nikkei-persons of Japanese ancestry- influence on Bainbridge Island.

SEC. 402. EAGLEDALE FERRY DOCK LOCATION AT TAYLOR AVENUE STUDY AND REPORT.

(a) STUDY.—The Secretary of the Interior shall carry out a special resource study regarding the national significance, suitability, and feasibility of designating as a unit of the National Park System the property commonly known as the Eagledale Ferry Dock at Taylor Avenue and the historical events associated with it, located in the town of Bainbridge Island, Kitsap County, Washington.

(b) REPORT.—Not later than 1 year after funds are first made available for the study under subsection (a), the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the findings, conclusions, and recommendations of the study.

(c) REQUIREMENTS FOR STUDY.—Except as otherwise provided in this section, the study under subsection (a) shall be conducted in accordance with section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1894 went to the Subcommittee on National Parks, Recreation and Public Lands, chaired by the gentleman from California (Mr. RADANOVICH).

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I thank the gentleman from Utah for yielding time to me, and I appreciate the opportunity to come to the floor and speak in favor of S. 1894, as amended.

Mr. Speaker, this bill would study the feasibility of including the Miami Circle archeological site within Biscayne National Park. This is a good bill, and deserves the support and endorsement of the House.

S. 1894 also contains a title that incorporates the text of H.R. 4622, which I introduced and which was passed in the Committee on Resources back in July. This title would help facilitate and improve the working relationship between gateway communities and Federal land management agencies.

Too often, Federal land management agencies take for granted local gateway communities in their planning and decision-making processes, and this bill would go a long way toward engaging gateway communities as meaningful partners in the planning process. The bill would also provide important assistance to these communities in order to allow them to be meaningful participants in the planning process.

Numerous examples have been provided throughout the country of how cooperative efforts have resulted in positive results, including valuable and important environmental benefits. These are real environmental benefits that would not have been realized if the Federal agencies had not consulted with the local gateway community. Some have made the inaccurate accusation that this bill would provide veto power to gateway communities to prevent Federal agencies from taking a particular action. This is simply not true. There is nothing in this bill that would do that.

However, the premise of the bill is that, just as Federal agencies formally consider impacts upon wildlife, issues of habitat, and natural resource and environmental issues before taking a proposed action, that they should also consider and include gateway communities in their decision-making process. Congress has repeatedly passed laws based upon the supposition that informed decision-making is good decision-making. This bill would simply ensure that that takes place. Cooperation and coordination ought to be the standard operating procedure, rather than simply anecdotal stories of where Federal agencies are doing what they ought to be doing anyway.

Ultimately, the Federal lands and their visitors will benefit from these requirements. For example, transportation plans for Federal lands will be vastly improved when Federal agencies understand, through coordination that has taken place from the earliest stages, where that community plans to direct its own resources and its own traffic outside the park.

It is also interesting to me that some have expressed concern that this bill is flawed because it does not impose new requirements upon a gateway community that would prevent them from going forward with an action unless they have certified that it would not impact a park unit. What this amounts to is that they would like to have veto authority over what takes place outside Federal lands if it is perceived to have an impact upon those lands, but at the same time refuse to allow that simple coordination that must take place with a community as part of the decision-making process.

I believe communities are most likely to take actions that are also in the best interests of the Federal lands when their decision-making rests upon a foundation of cooperation and coordination. Our public lands will be better served by a process that ensures that cooperation and coordination are a standard part of the process.

I am particularly pleased that the ranking Democrat member of the Subcommittee on National Parks, Recreation and Public Lands, the gentlewoman from the Virgin Islands (Ms. CHRISTENSEN), has offered her strong support for this legislation. I appreciate the strong working relationship that we have had with the gentlewoman, and commend her for her efforts in fostering this working relationship. I also appreciate the strong support of the administration for this legislation.

Mr. Speaker, I urge support for this bill.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as amended, S. 1894 is a package of four pieces of unrelated legislation. The underlying vehicle, S. 1894, authorizes a special resource study to determine the national significance of the Miami Circle, as well as the feasibility of including the site in Biscayne National Park.

In this body, the sponsor of this bill is our dear and departing colleague, the gentlewoman from Florida (Mrs. MEEK). She has worked tirelessly, and I mean tirelessly, on behalf of the House companion to this legislation, and we are eager to see this study move forward as a small part of the huge legacy that will remain once the gentlewoman from Florida retires after this Congress.

We shall miss the gentlewoman in this body, but we know we shall always have her friendship and wisdom as we continue to tackle the issues of this Nation.

Also included in S. 1894 is the text of H.R. 3747, introduced by our colleague on the Committee on Resources, the gentleman from Washington (Mr. INSLEE). This provision would provide for a special resource study of the Eagledale Ferry Dock located on Bainbridge Island in Washington State.

This package also includes the text of H.R. 4622, legislation sponsored by our colleague, the gentleman from California (Mr. RADANOVICH). I remain unconvinced that H.R. 4622 is ready to be enacted. However, we support passage of S. 1894, as amended.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, I want to thank my colleague, the gentleman from West Virginia (Mr. RAHALL), and I want to thank the committee as well. I certainly want to thank him for the very kind remarks he made about me and about my tenure here in the Congress.

Mr. Speaker, I rise in support of the Senate bill, S. 1894, which directs the Secretary of the Interior to conduct a feasibility study on the inclusion in Biscayne National Park, Florida, of the archeological site known as the Miami Circle. I am pleased to be a sponsor of the companion bill, H.R. 3630.

I want to thank the gentleman from Utah (Chairman HANSEN) and the ranking member, the gentleman from West Virginia (Mr. RAHALL), the gentleman from California (Chairman RADANOVICH), and the ranking member, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), of the subcommittee, and their respective staffs, for the assistance and cooperation we received in getting this bill to the floor.

I also want to thank the south Florida delegation for their help toward this effort.

Mr. Speaker, to give just a little history on this particular site, in September of 1998, workers were preparing land for development at the mouth of the Miami River and they noticed this mysterious circular formation in the limestone bedrock that forms the foundation of the City of Miami.

Then the archeologists came and looked at this site, and they revealed that this particular site was utilized by the Tequesta civilization 2,000 years ago, perhaps serving as an astronomical tool or as a cultural center for their complex maritime society.

So we in Florida are very pleased to be a part of this archeological finding, bringing about the rediscovering of what happened with the ancient Tequesta Indians over 2000 years ago. I think we have a responsibility to preserve and study remains of our heritage, and S. 1894 would be an important step.

If the National Park Service will conduct a feasibility of this Miami Circle as part of the Biscayne National Park, it will be another fulfillment of what the Park Service should be doing to preserve this historically significant site.

Furthermore, the Miami Circle is not only a site of local and regional significance, but also of national significance. It is believed to be the only cut-in-rock prehistoric structural footprint ever found in North America. This archeological site, which potentially qualifies to be included in the National Register of Historic Places, connects all Americans in a special way to the first inhabitants of our continent. Thus, it is very appropriate, Mr. Speaker, that we study its inclusion to our National Park System. We must take seriously our responsibility as guardians of this cultural landmark.

Mr. Speaker, we need to get this important bill to the President's desk for signature before this Congress adjourns. After all, this is my last Congress, Mr. Speaker. I am disappointed that this amendment that is being placed on it is being proposed. All of these amendments are very good, of course. I would like to see this bill go forward as soon as possible. The inclusion of this other legislation I hope will add to it and not compromise the chances of getting this bill to the President.

I urge the chairman to find a way to get this noncontroversial Miami Circle bill to the President as soon as possible. I thank the chairman and the leadership for scheduling S. 1894.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 1894, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1630

GOLDEN GATE NATIONAL RECREATION AREA

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 941) to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to extend the term of the advisory commission for the recreation area, and for other purposes, as amended.

The Clerk read as follows:

S. 941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GOLDEN GATE NATIONAL RECREATION AREA

SEC. 101. BOUNDARY ADJUSTMENT.

Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking "(a)" and inserting "(a) RECREATION AREA LANDS.—";

(2) by striking "The recreation area shall comprise" and inserting the following:

"(1) IN GENERAL.—The recreation area shall comprise"; and

(3) by striking "The following additional lands are also" and all that follows through the period at the end of the paragraph and inserting the following:

"(2) ADDITIONAL LAND.—In addition to the land described in paragraph (1), the recreation area shall include—

"(A) the parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10;

"(B) land and water in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG–80,000–A, and dated May 1980;

"(C) land acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 10–299);

"(D) land generally depicted on the map entitled 'Additions to Golden Gate National Recreation Area', numbered NPS–80–076, and dated July 2000/PWR–PLRPC; and

"(E) land generally depicted on the map entitled 'Rancho Corral de Tierra Additions to the Golden Gate National Recreation Area', numbered NPS–80,079A and dated July 2001.

"(3) ACQUISITION AUTHORITY.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.".

TITLE II—ADVISORY COMMISSIONS

SEC. 201. GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION.

Section 5 of Public Law 92–589 (16 U.S.C. 460bb–4) is amended—

(1) in subsection (b)—

(A) by striking "(b) The Commission" and inserting the following:

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Commission";

(B) by striking "Provided, That the" and all that follows through the period; and

(C) by inserting after paragraph (1) (as designated by subparagraph (A)) the following:

"(2) CONSIDERATIONS.—In appointing members to the Commission, the Secretary shall ensure that the interests of local, historic recreational users of the recreation area shall be represented."; and

(2) in subsection (g), by striking "thirty years after the enactment of this Act" and inserting "on December 31, 2012".

SEC. 202. MANZANAR NATIONAL HISTORIC SITE ADVISORY COMMISSION.

Section 105(h) of Public Law 102–248 (16 U.S.C. 461 note) is amended by striking "10 years after the date of enactment of this title" and inserting "on December 31, 2012".

TITLE III—YOSEMITE NATIONAL PARK

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The three elementary schools serving the children of employees of Yosemite National Park are served by the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District.

(2) The schools are in remote mountainous areas and long distances from other educational and administrative facilities of the two local educational agencies.

(3) Because of their remote locations and relatively small number of students, schools serving the children of employees of the Park provide fewer services in more basic facilities than the educational services and facilities provided to students that attend other schools served by the two local educational agencies.

(4) Because of the long distances involved and adverse weather and road conditions that occur during much of the school year, it is impractical for the children of employees of the Park who live within or near the Park to attend other schools served by the two local educational agencies.

(b) PURPOSE.—The purpose of this title is to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park.

SEC. 302. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) AUTHORITY TO PROVIDE FUNDS.—For fiscal years 2003 through 2007, the Secretary may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District for educational services to students who are dependents of persons engaged in the administration, operation, and maintenance of the Park or students who live at or near the Park upon real property of the United States.

(b) LIMITATION ON USE OF FUNDS.—Payments made by the Secretary under this section may not be used for new construction, construction contracts, or major capital improvements, and may be used only to pay public employees for services otherwise authorized by this title.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of $750,000 in any fiscal year or the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) ADJUSTMENT OF PAYMENTS.—Subject to subsection (c), the Secretary is authorized to adjust payments made under this section if the

State of California or the appropriate local educational agencies do not continue to provide funding for educational services at Park schools at per student levels that are equivalent to or greater than those provided in the fiscal year prior to the date of enactment of this title.

(e) SOURCE OF PAYMENTS.—

(1) AUTHORIZED SOURCES.—Except as provided in paragraph (2), in order to make payments under this section, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) EXCEPTIONS.—Funds from the following sources may not be used to make payments under this section:

(A) Fees authorized and collected under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq,).

(B) The recreational fee demonstration program under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (as contained in section 101(c) of Public Law 104–134; 16 U.S.C. 460l–6a note).

(C) The national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(D) Emergency appropriations for Yosemite flood recovery.

(f) DEFINITIONS.—For the purposes of this title, the following definitions apply:

(1) LOCAL EDUCATIONAL AGENCIES.—The term "local educational agencies" has the meaning given that term in section 9101(26) of the Elementary and Secondary Education Act of 1965.

(2) EDUCATIONAL SERVICES.—The term "educational services" means services that may include maintenance and minor upgrades of facilities and transportation to and from school.

(3) PARK.—The term "Park" means Yosemite National Park.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 303. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the first sentence—

(A) by inserting "and Yosemite National Park" after "Zion National Park"; and

(B) by inserting "transportation systems and" before "the establishment of"; and

(2) by striking "park" each place it appears and inserting "parks".

TITLE IV—ESTABLISHMENT OF GOLDEN CHAIN HIGHWAY AS A NATIONAL HERITAGE CORRIDOR STUDY

SEC. 401. STUDY; REPORT.

(a) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date that funds are first made available for this section, the Secretary of the Interior, in consultation with the affected local governments, the State government, State and local historic preservation offices, community organizations, and the Golden Chain Council, shall complete a special resource study of the national significance, suitability, and feasibility of establishing Highway 49 in California, known as the "Golden Chain Highway", as a National Heritage Corridor.

(2) CONTENTS.—The study shall include an analysis of—

(A) the significance of Highway 49 in American history;

(B) options for preservation and use of the highway;

(C) options for interpretation of significant features associated with the highway; and

(D) private sector preservation alternatives.

(3) BOUNDARIES OF STUDY AREA.—The area studied under this section shall be comprised of Highway 49 in California extending from the city of Oakhurst in Madera County to the city of Tuttletown in Tuolumne County, and lands, structures, and cultural resources within the immediate vicinity of the highway.

(b) REPORT.—Not later than 30 days after completion of the study required by subsection (a), the Secretary shall submit a report describing the results of the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

TITLE V—JOHN MUIR NATIONAL HISTORIC SITE BOUNDARY ADJUSTMENT

SEC. 501. BOUNDARY ADJUSTMENT.

(a) BOUNDARY.—The boundary of the John Muir National Historic Site is adjusted to include the lands generally depicted on the map entitled "Boundary Map, John Muir National Historic Site" numbered PWR–OL 426–80,044a and dated August 2001.

(b) LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire the lands and interests in lands identified as the "Boundary Adjustment Area" on the map referred to in subsection (a) by donation, purchase with donated or appropriated funds, exchange, or otherwise.

(c) ADMINISTRATION.—The lands and interests in lands described in subsection (b) shall be administered as part of the John Muir National Historic Site established by the Act of August 31, 1964 (78 Stat. 753; 16 U.S.C. 461 note).

TITLE VI—SAN GABRIEL RIVER WATERSHEDS STUDY

SEC. 601. AUTHORIZATION OF STUDY.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall conduct a special resource study of the following areas:

(1) The San Gabriel River and its tributaries north of and including the city of Santa Fe Springs.

(2) The San Gabriel Mountains within the territory of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (as defined in section 32603(c)(1)(C) of the State of California Public Resource Code).

(b) STUDY CONDUCT AND COMPLETION.—Section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) shall apply to the conduct and completion of the study required by this section.

(c) CONSULTATION WITH FEDERAL, STATE, AND LOCAL GOVERNMENTS.—In conducting the study authorized by this section, the Secretary shall consult with the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and other appropriate Federal, State, and local governmental entities.

(d) CONSIDERATIONS.—In conducting the study authorized by this section, the Secretary shall consider regional flood control and drainage needs and publicly owned infrastructure, including, but not limited to, wastewater treatment facilities.

SEC. 602. REPORT.

Not later than 3 years after funds are made available for this title, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report on the findings, conclusions, and recommendations of the study.

The SPEAKER pro tempore (Mr. BASS). Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 941, as ordered reported by the Committee on Resources, not only authorizes the expansion of the Golden Gate National Recreation Area and a 10-year extension of the Manzanar National Historic Site Commission, but it also incorporates the following four new titles:

title III is the text of H.R. 3421 as passed by the House of Representatives authorizing financial assistance for Yosemite National Park schools;

title IV is the amended text of H.R. 3425 as approved by the Committee on Resources authorizing a National Park Service suitability study on a portion of Highway 49 in California;

title V is the text of H.R. 3942 as adopted by the Committee on Resources authorizing a boundary adjustment for the John Muir National Historic Site; and

title VI is the text from H.R. 2534 as adopted by the Committee on Resources authorizing a National Park Service special resource study of the San Gabriel River Watershed in California.

Mr. Speaker, this bill is supported by the majority and minority of the committee as well as the administration. I urge my colleagues to support S. 941 as reported.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 23, 2002.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 941, an act to revise the boundaries of the Golden Gate National Recreation Area in the state of California, to extend the term of the advisory commission for the recreation area, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis and Megan Carroll, who can be reached at 226-2860.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 941—An act to revise the boundaries of the Golden Gate National Recreation Area in the state of California, to extend the term of the advisory commission for the recreation area, and for other purposes

Summary: S. 941 would adjust the boundaries of two units of the National Park System, require the National Park Service (NPS) to conduct two studies of potential additions to the park system or its affiliated areas, and authorize the NPS to make payments to certain school districts in California. Assuming appropriation of the necessary or authorized amounts, CBO estimates that implementing the legislation would cost about $21 million over the next five years. Because enactment of title III could increase direct spending, pay-as-you-go procedures would apply, but we estimate that any such increase would be less than $500,000 a year.

Title V of the legislation may contain an intergovernmental or private-sector mandate as defined in the Unfunded Mandates

Reform Act (UMRA), but CBO estimates that the costs of any such mandate would not be significant and would fall well below the thresholds established in UMRA. The thresholds in 2002 are $58 million and $115 million per year, respectively, for intergovernmental and private-sector mandates, adjusted annually for inflation.

Estimated Cost to the Federal Government: The estimated budgetary impact of S. 941 is summarized in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION [1]					
Estimated authorization level	17	1	1	1	1
Estimated outlays	9	9	1	1	1

[1] Enacting S. 941 could also affect direct spending, but CBO estimates that such effects would be less than $500,000 a year.

Basis of estimate

Most of the legislation's budgetary effects would stem from changes in discretionary spending. In total, we estimate that implementing those changes would cost about $21 million over the 2003–2007 period.

Golden Gate National Recreation Area (GGNRA) Boundary Adjustment

Title I would expand the boundary of the GGNRA in California to include the 4,262-acre Rancho Corral de Tierra and the 500-acre Devil's Slide area.

Based on information provided by the NPS and assuming appropriation of the necessary amounts, CBO estimates that one-time costs to implement this title would be $15.5 million over the next few years. Of this amount, we estimate that the federal government would spend $15 million to purchase the Rancho Corral de Tierra from a local nonprofit organization. CBO estimates that acquisition of the Devil's Slide area would not have any impact on federal spending because we expect that this acreage would be donated to the NPS by California. The balance of one-time costs—about $0.5 million—would be incurred to develop the property acquired. Finally, we estimate that annual costs to administer the new lands would be between $0.1 million and $0.2 million (or about $1 million in total over the next five years), also assuming appropriation of the necessary amounts.

Yosemite National Park Education Improvement

For each of fiscal years 2003 through 2007, title III would authorize the NPS to pay a total of up of $750,000 to two California school districts that serve the families of Yosemite National Park employees. To make those payments, the title would authorize the agency to use appropriated funds, donations, or offsetting receipts from certain fees that it collects.

Assuming that the NPS would principally rely on appropriated funds to make the authorized payments (because very few collections and donations are available to spend on new activities), CBO estimates that implementing title III would cost $750,000 a year over the next five years, assuming the availability of appropriated funds. That annual discretionary amount could be lower if the NPS would choose to use funds from other authorized sources (such as fees and donations) to make the payments; if so, direct spending could increase. According to the NPS, the agency already has authority to spend nearly all such collections; hence, we estimate that any increase in direct spending of such fees under the legislation would be less than $500,000 a year.

Highway 49 Study

Title IV would require the NPS to prepare a special resource study of Highway 49, in California, to determine the suitability and feasibility of establishing it as a national heritage corridor. The legislation would require the agency to complete the study within one year of receiving funding and to report to the Congress on its findings 30 days later. Based on information provided by the NPS and assuming the availability of appropriated funds, CBO estimates that completing the required study and report would cost the federal government $200,000, mostly in 2003.

John Muir National Historic Site Boundary Adjustment

Title V would adjust the boundary of the John Muir National Historic Site and authorize the NPS to acquire the added 0.2-acre parcel of land by purchase, donation, or exchange. Based on information provided by the NPS, we expect the agency to condemn the small tract to establish its current ownership, which is unknown. Depending on the outcome of the condemnation proceeding, CBO expects that the NPS would then: (1) annex the property without further cost to the government (if no owner is located), (2) accept donation of the tract (if the owner is another government agency), or (3) purchase the property (if a private owner is located). In any event, CBO estimates that the cost of acquiring the property (including legal expenses) would be less than $50,000, assuming the availability of appropriated funds.

San Gabriel River Watersheds Study

Title VI would direct the NPS to conduct a study of two areas to determine the suitability and feasibility of establishing them collectively as a unit of the National Park System. The study areas are composed of certain segments of the San Gabriel Mountains and the San Gabriel River and tributaries in California. The bill would require the department to report findings and recommendations within three years of receiving funding for the study.

Assuming the availability of appropriated funds, CBO estimates that implementing title VI would cost the federal government less than $500,000 over the next three years to complete the required study and report.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Title III of this legislation, which would authorize the NPS to make payments to certain school districts from available donations or fees, could result in additional direct spending. CBO expects, however, that most of the funding would come from appropriations because very few receipts would be available for this purpose. In any case, we estimate that any increase in direct spending would be less than $500,000 a year.

Intergovernmental and private-sector impact: Title IV of S. 941 may contain an intergovernmental or private-sector impact as defined in UMRA, but CBO estimates that the costs of any such mandate would not be significant and would fall well below the thresholds established in that act. The annual thresholds in 2002 are $58 million and $115 million, respectively, for intergovernmental and private-sector mandates, adjusted annually for inflation.

Title IV would authorize the NPS to acquire a 0.2-acre parcel of land. Because the owner of this parcel cannot be found, condemnation may be the only course of action for the NPS to gain title. CBO has generally found that when legislation is expected to result in condemnation of property, it contains a mandate. The cost of such a mandate generally is equal to the value of the property. However, because in this case the NPS cannot identify the current owner of the parcel, CBO cannot determine whether this mandate would fall on a government, on the private sector, or on both. In any event, based on information provided by the NPS, CBO estimates that the value of the property is less than $50,000.

The other titles of this act contain no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: CBO has prepared cost estimates for legislation nearly identical to all six titles of S. 941. On August 21, 2001, we submitted an estimate for S. 941 as ordered reported by the Senate Committee on Energy and Natural Resources on August 2, 2001. The Senate version of S. 941 contained language very similar to titles I and II of the House version, and the estimated costs for the two versions are identical. We have also prepared cost estimates for four bills as ordered reported by the House Committee on Resources: H.R. 3421, the Yosemite National Park Education Improvement Act, as ordered reported on March 20, 2002 (cost estimated transmitted on April 8, 2002); H.R. 3425, a bill to direct the Secretary of the Interior to study the suitability and feasibility of establishing Highway 49 in California, known as the "Golden Chain Highway," as a National Heritage Corridor, as ordered reported on March 20, 2002 (transmitted on March 28, 2002); H.R. 3942, the John Muir National Historic Site Boundary Adjustment Act, as ordered reported on May 22, 2002 (transmitted on June 14, 2002), and the San Gabriel River Watersheds Study Act of 2002, as ordered reported on July 24, 2002 (transmitted on July 31, 2002). The estimated costs of these earlier versions of legislation are the same as the provisions included in S. 941.

Estimate prepared by: Federal costs: Deborah Reis and Megan Carroll (226–2860); impact on state, local, and tribal governments: Marjorie Miller (225–3220); impact on the private sector: Lauren Marks (226–2940).

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. RADANOVICH), the chairman of the Subcommittee on National Parks, Recreation and Public Lands to explain the bill further.

Mr. RADANOVICH. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, S. 941, as reported by the Committee on Resources, incorporates a number of legislative initiatives affecting California, as just described by the gentleman from Utah (Mr. HANSEN). For me and my constituents, however, S. 941 is very important for it includes language authorizing the Secretary of the Interior to provide supplemental funding and other educational services for Yosemite Valley, El Portal Elementary, and Wawona Elementary Schools located in or within Yosemite National Park.

Since the devastating 1997 Merced River flood, there has been a dramatic reduction in park employees, and thus, fewer school children attending these schools, and fewer State dollars are committed. The result is that the superintendent for Yosemite National Park and the concessionaire serving park visitors cannot attract first-class candidates to work in the parks because families are not provided adequate schools.

Also included in S. 941 is language authorizing the Secretary of the Interior to locate facilities, including transportation systems, outside the boundaries of Yosemite National Park. This important provision will help continue the successful operations of the Yosemite Area Rapid Transit System, otherwise known as YARTS, which operates in three counties surrounding Yosemite National Park and provides visitors with a convenient alternative transportation system to and from Yosemite National Park.

Finally, Mr. Speaker, the other important part of S. 941 is language authorizing the Secretary of the Interior to conduct a feasibility and suitability study of a portion of State Highway 49 in Madera, Mariposa, and Tuolumne Counties, also known as the Golden Chain Highway, as a national heritage corridor.

I urge my colleagues to support S. 941, as amended. I also want to thank Senator FEINSTEIN for her work on this bill in the other body, and again I thank the chairman for yielding me the time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

The measure has already been explained by the majority, but I simply want to note that this important legislation is sponsored by our colleagues, the gentlewoman from California (Ms. SOLIS) and the gentleman from California (Mr. GEORGE MILLER).

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SOLIS) for her comments and commend her for her excellent leadership on this legislation.

Ms. SOLIS. Mr. Speaker, I rise today in support of Senate bill 491, the Rancho Corral De Tierra Golden Gate National Recreation Area Boundary Adjustment Act; and in particular, I am very pleased at the efforts made to include my bill, H.R. 2534, the San Gabriel River Watersheds Study Act, to be included in this package.

If passed, the bill directs the Department of Interior to study ways for the more than 2 million people to benefit from a potential recreational and rehabilitated area in the San Gabriel Valley along the San Gabriel River.

I want to personally thank the gentleman from Utah (Mr. HANSEN), the gentleman from West Virginia (Mr. RAHALL), the gentleman from California (Mr. GEORGE MILLER), and the gentleman from California (Mr. RADANOVICH) and also the committee staff and in particular my staff person, Heather Taylor, for working tirelessly on this issue. I know that this took a lot of discussion and time, working with the ranking member and the different members of the committee, but it is something that I truly believe will help provide environmental justice to those communities that are currently underserved and would like to see a bit more of open space made available to those communities that are currently underserved.

I encourage Members to support Senate bill 941.

Mr. Speaker, I rise today in support of Senate bill 941, the Rancho Corral De Tierra Golden Gate National Recreation Area Boundary Adjustment Act.

In particular, I am very pleased of the efforts to include my bill, H.R. 2534, the San Gabriel River Watersheds Study Act to this important legislation.

If passed, this bill directs the Department of Interior to study ways for the more than 2 million people that reside in the San Gabriel Valley to preserve, restore and create recreational space along the San Gabriel River.

With more people and less space, we have to start planning so that we don't look around one day and realize that all we see are concrete buildings and unwanted development encroaching upon our open space.

This would not only be detrimental to the environmental landscape, it would also hurt the health of the surrounding communities and future generations.

It is time for us to look at ways to make sure that everyone has access to open and recreational space regardless of their socioeconomic background and ethnicity.

This bill is a community effort and benefits an area that is desperately in need of a restored and healthy environmental landscape.

As we move forward with this study, we realize that the road to restore our environment in the San Gabriel Valley will be a long one.

But the destination will be well worth the trip.

I'd like to thank Chairman HANSEN, Ranking Member RAHALL, Congressmen MILLER and RADANOVICH for helping me advance this bill in the interest of my community.

I also thank Senators BOXER and FEINSTEIN for their support of this measure and the people of San Gabriel Valley.

In addition, I'd like to thank my personal staff, Heather Taylor and Yvette Martinez and the Committee Staff—particularly Jim Zoia, Rick Healy, and David Watkins.

And community members like Lara Blakely of the San Gabriel Rivers and Mountains Conservancy and many other leaders that have stepped forward in support of this bill.

I encourage members to support S. 941 and reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. Mr. Speaker, I want to thank my friend for yielding me the time.

Mr. Speaker, I would just like to make a few comments about this legislation.

My legislation adds about 5,000 acres to the Golden Gate National Recreation Area. The beauty of this region is beyond description. A person's soul will soar when they see it. It is stunning panoramic scenery containing flora and ecosystems found nowhere else on the face of this planet.

The legislation will provide recreational opportunities for millions of our Bay Area citizens and visitors. It will link existing county, State, and Federal parklands into a 6,700 acre contiguous, publicly-accessible land. It will link miles of public hiking trails. It will protect four sensitive watersheds containing steelhead trout and coho salmon. It will protect rare and endangered plant and animal species. It will prevent development along our uniquely scenic California coastline, and it will protect sweeping panoramic coastal views and stunning headland scenery.

The legislation will be financed through a public-private partnership: 50 percent Federal funding, 50 percent private and State funding.

It is widely supported throughout our region. Our entire Bay Area congressional delegation are cosponsors of my legislation, as are both California United States Senators.

The legislation is endorsed by the National Park Service, the San Mateo County Board of Supervisors, the Golden Gate National Recreation Area, and Point Reyes National Seashore Advisory Commission and national and local environmental, conservation and civic groups.

I want to express my deep appreciation to my good friend from Utah, the chairman, and to my good friend who is the ranking member; and they have been so helpful in bringing this legislation forward. I want to thank all of my colleagues who have played a role in making this a reality.

Mr. Speaker, I rise today in support of S. 941, the Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act. I am the principal sponsor of companion legislation introduced in the U.S. House of Representatives (H.R. 1953) which adds approximately 5,000 acres of pristine natural lands to one of our nation's most visited national parks, the Golden Gate National Recreation Area (GGNRA). The legislation is sponsored in the U.S. Senate by both California Senators DIANNE FEINSTEIN and BARBARA BOXER and has the strong and enthusiastic cosponsorship of the entire Bay Area Congressional Delegation.

Mr. Speaker, the GGNRA is a true national treasure. It provides open space and recreation in the midst of a densely populated urban area. The new addition to the GGNRA covered by this legislation will be accessible to more than 6 million people who live within a one hour's drive of the park and will provide national park programs and experiences to millions of national and international visitors.

The Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act will adjust the boundary of the GGNRA to permit the inclusion of breathtakingly beautiful lands along the Pacific Ocean. When combined with already existing state and county parkland it will create 6,700 contiguous acres of publicly accessible land for recreational use. These lands are marked by topographical extremes. They include a dramatic ascent from the Pacific Ocean, 2000 feet high in just over 1 mile—a spectacular sight not duplicated anywhere else in the Park and in few other places on the California coast. The upper parcels of land offer spectacular vistas, sweeping coastal and bay views and stunning headland scenery. On a clear day you can see the San Francisco Bay, the Marin headlands, Mt. Tamalpais, Mt. Diablo, Mt. Hamilton, the Farrallon Islands, Pillar Point and Pigeon Point. Inclusion of these lands would also protect the important habitats of several species of rare, threatened or endangered plants and animals.

This legislation contains three important additions to the GGNRA. The largest parcel, the Rancho Corral de Tierra addition, is one of the largest undeveloped parcels on the San Mateo coast. It is comprised of the four main peaks of Montara Mountain and rises 2,000 feet from sea level. This 4,262-acre property includes a panorama of amazing views, important watersheds, miles of public trails, and an incredible array of wildlife and plantlife. The Rancho Corral de Tierra shares three miles of boundary with the GGNRA. Its relatively untouched upper elevations preserve rare habitat for several threatened and endangered plant and animal species. The property also contains four important coastal watersheds, which proved riparian corridors for steel head trout, coho salmon and other aquatic species.

This legislation also authorizes the National Park Service to include within the GGNRA the Martini Creek-Devil's Slide Bypass right-of-way, which was purchased by the California Department of Transportation (Caltrans) to build a highway across Montara Mountain. When San Mateo voters overwhelmingly decided in a local referendum in favor of building the Devil's Slide tunnel rather than the Martini Creek Bypass, this right-of-way became obsolete. This property covers approximately 300 acres and divides the Rancho Corral de Tierra property and connects the proposed additions to the GGNRA to existing State parkland, creating a seamless belt of parkland. Once the GGNRA boundary is adjusted through this legislation to include this right-of-way, Caltrans will be able to donate the property to the National Park Service.

The legislation authorizes the National Park Service to include within the GGNRA boundaries approximately 500 acres of land along the Devil's Slide section of Coastal Highway 1, the scenic highway that winds its way along the entire California coast. These properties will make a logical addition to the park by filling in gaps to adjacent and existing State and Federal parkland. Caltrans either already owns or will acquire these lands when it builds the Devil's Slide tunnel and will then donate these properties for open space use after the tunnel is built. It is not the intention of this legislation, Mr. Speaker, to interfere with Caltran's responsibility for building the tunnel at Devil's Slide. This legislation will simply make it possible for Caltrans or any other state or local agency to donate these properties to the National Park Service when the Devil's Slide tunnel is completed and when the National Park Service has determined that the acquisition of these lands is appropriate.

Mr. Speaker, the Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act provides the federal government a unique opportunity to place approximately 5,000 acres of pristine land under permanent protection for the enjoyment of Bay Area residents and visitors. The Peninsula Open Space Trust (POST) acquired the 4,262 acre Rancho Corral de Tierra site for $29.75 million to save the site from development and to preserve it as a natural area. POST is a local land conservancy trust in the San Francisco Bay Area and has a remarkable track record in working with and assisting the federal government with the protection of other important open space in the Bay Area. In 1994, POST negotiated the acquisition and inclusion of the 1,300 acre second-growth redwood-forest Phleger Estate within the GGRNA. POST provided one-half the purchase price of the Phleger Estate through private donations. POST also assisted the federal government with the protection and acquisition of Bair Island, an important wildlife refuge in San Francisco Bay that is now managed by the US Fish and Wildlife Service.

Mr. Speaker, we can accomplish permanent protection of these lands through a unique public-private partnership. Under this legislation, Rancho Corral de Tierra will be preserved through a tripartite partnership between the National Park Service, California State Parks and the Peninsula Open Space Trust. For the Rancho Corral de Tierra property, we will seek 50% of the acquisition from the federal government and 50% through state and private contributions. POST has offered to donate a significant amount towards the federal acquisition of the Rancho Corral de Tierra property through private donations.

Mr. Speaker, the inclusion of these lands on the San Mateo Coastside enjoys strong local support. The Golden Gate National Recreation Area and Point Reyes National Seashore Citizens Advisory Commission adopted a resolution endorsing this legislation after holding a public hearing and receiving public comment from local residents. The San Mateo County Board of Supervisors also passed a resolution supporting enactment of this legislation. The legislation also has the strong support of local environmental advocacy and preservation groups. The proposed additions were studied by POST in accordance with National Park Service criteria and in consultation with National Park Service staff. The study found that the three tracts of land meet the criteria for additions to units of the National Park Service. The study found that the properties will preserve significant natural, scenic and recreational resources that are equal to or unparalleled in the Golden Gate National Recreation Area. The National Park Service testified before Congress that it supports adjusting the boundary of the GGRNA to include these lands.

This legislation will also reauthorize the Golden Gate National Recreation Area and Point Reyes National Seashore Citizens Advisory Commission for an additional 10 years. The Advisory Commission has been an invaluable resource for park management since its inception in 1972. It provides an important forum for the gathering and receipt of public input, public opinion and public comment and allows the park to maintain constructive and informal contacts with both the private sector and other federal, state and local public agencies. The Advisory Commission aids in strengthening the spirit of cooperation between the National Park Service and the public, encourages private cooperation with other public agencies, and assists in developing and ensuring that the park's general management plan is implemented.

Mr. Speaker, preserving our country's unique natural areas must be one of our highest national priorities, and it is one of my highest priorities as a Member of Congress. We must preserve and protect these unique and rare areas for our children and grandchildren today or they will be lost forever. Adding these news lands to the GGNRA will provide greater recreational opportunities for the public to enjoy and will allow us to protect these fragile natural areas from encroaching development or other inappropriate uses which would destroy the scenic beauty and natural character of this key part of the California coast. The California coast is a true national treasure and passage of this important legislation will preserve it for the generations that follow us. I urge my colleague's support of S. 941, the Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act of 2001.

Ms. ESHOO. Mr. Speaker, I rise in support of S. 941, the Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act, which will add approximately 5,000 acres to the Golden Gate National Recreation Area, also known as the GGNRA.

First, I thank Chairman RADANOVICH for his work in moving this bill along.

As I've told him any times, this bill is very important to my constituents and all residents of the San Francisco Bay Area.

The strong local support is reflected by the fact that every member of the Bay Area delegation has cosponsored the House companion measure, H.R. 1953, introduced by Representative LANTOS whom I thank for bringing this bill to the floor.

As the Bay Area has grown, our constituents have recognized how precious open, recreational spaces are to the community. Our past leaders had the foresight to create the GGNRA for this purpose.

These ventures don't just happen. It takes people of vision at the local level to recognize the need, to develop a response, and rally support. I'm proud that we have the best . . . Audrey Rust, the President of the Peninsula Open Space Trust (POST). I've had the privilege of working with Ms. Rust on two other major land acquisitions in the Bay Area—the Phleger Estate and Bair Island.

This bill, like the other efforts, is the result of Audrey's leadership and initiative. She spurred the effort to negotiate a deal to purchase land from willing sellers and she gathered community support. She deserves our commendation and our lasting gratitude.

Today, we have the relatively simple task of approving a boundary extension for the Golden Gate recreation area because the hard work was done at the local level.

It's critical that we do so. When we do, we will ensure that adequate recreational space is provided for the public because more than 6 million Bay Area residents live within an hour of the GGNRA.

It's also important to the local environment to acquire this land which is a habitat for ten threatened, endangered, and rare species. With this bill, we can do that. We need to seize this chance or risk losing it, perhaps forever.

Lastly, I note that a number of extraneous provisions, including one regarding Yosemite National Park, have been added to this bill. This means that the bill must go back to the Senate once more. I hope that these new provisions will not mar the laudable Golden Gate provisions.

I'm very pleased, Mr. Speaker, that this bill has been brought to the floor today and I urge all my colleagues to join me in voting for it.

Mr. RAHALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 941, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

VICTIMS OF TERRORIST ATTACKS MEMORIAL ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2982) to authorize the establishment of a memorial within the area in the District of Columbia referred to in the Commemorative Works Act as "Area I" or "Area II" to the victims of terrorist attacks on the United States, to provide for the design and construction of such a memorial, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF MEMORIAL.

(a) IN GENERAL.—The Advisory Board established in section 2(a) is authorized to establish a memorial (referred to hereafter in this Act as the "Memorial") in accordance with this Act on Federal lands administered by the National Park Service in the District of Columbia and its environs (as defined in section 2(e) of the Commemorative Works Act (40 U.S.C. 1002(e)) to victims who died as a result of terrorist acts against the United States or its people, at home or abroad, except those individuals identified by the Attorney General of the United States as participating or conspiring in terrorist-related activities.

(b) DETAIL OF EMPLOYEES.—The Secretary of the Interior (referred to hereafter in this Act as the "Secretary") shall detail to the Advisory Board such support staff as are necessary to assist the members of the Advisory Board in carrying out its responsibilities.

(c) RELATIONSHIP TO THE COMMEMORATIVE WORKS ACT.—The Commemorative Works Act (40 U.S.C. 1001 et seq.) shall apply to the Memorial, with the exception of section 3(c) of that Act which shall not apply to the Memorial.

SEC. 2. ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established an advisory board to be known as the "Victims of Terrorism Memorial Advisory Board" (referred to hereafter in this Act as the "Advisory Board").

(b) MEMBERS.—The Advisory Board shall consist of 13 members who shall be appointed, not later than 3 months after the date of the enactment of this Act, by the President (in consultation with the Secretary of the Interior and the Secretary of Defense) from interested persons, including representatives of organizations dedicated to assisting victims of terrorism and their families.

(c) CHAIRPERSON.—The Chairperson of the Advisory Board shall be one of its Members elected by a majority of the Members at the first meeting of the Advisory Board.

(d) TERMS; VACANCIES.—Members of the Advisory Board shall serve for the life of the Advisory Board. The President shall make appointments to fill any vacancies that occur.

(e) DUTIES.—The Advisory Board shall—

(1) raise necessary funds to establish, design, construct, and maintain the Memorial; and

(2) begin consultation under section 7 of the Commemorative Works Act not later than 1 year after the date of the enactment of this Act.

(f) DONATIONS.—The Advisory Board may accept donations on behalf of the United States for the establishment, design, construction, and maintenance of the Memorial.

(g) TERMINATION.—The Advisory Board shall terminate not later than 120 days after completion of the Memorial.

(h) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

SEC. 3. DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the Memorial (including the maintenance and preservation amount provided for in section 8(b) of the Commemorative Works Act), or upon expiration of the authority for the Memorial under section 10(b) of that Act, there remains a balance in the funds received under section 3(f) for maintenance of the Memorial, the Chairperson of the Advisory Board shall transfer the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2982, introduced by the gentleman from Texas (Mr. TURNER), who has worked so tirelessly on this legislation, and sponsored by myself and over 121 Members of the House of Representatives, would establish a memorial to the victims who died as a result of terrorist acts against the United States or its people.

The gentleman from Texas (Mr. TURNER) went out of his way to do an exceptionally fine job on this legislation. One of the most interesting hearings we have had in the Committee on Resources was put on by him. It included Lisa Beamer whose husband Todd was part of Flight 93 that crashed in Pennsylvania and coined that phrase, "Let's roll," with the President standing there in front of the Chair where he sat.

Mr. Brady Howell, whose wife, Liz, works for us in the Committee on Resources. Brady was the all-American boy. He was an Eagle Scout. He was a four-point student. He was the quarterback. He was the student body president. He was a missionary for his church. He did everything one can imagine and had a great sense of humor.

Mr. Joe Finley, a New York firefighter, who, with most of his squadron was killed on that tragic day.

Lieutenant Colonel Terry Andersen, who went into the Pentagon and saved many people and worked diligently. So many illustrations of honor.

This bill would authorize a memorial to victims who died as a result of terrorism against the United States or its people at home or abroad, except those individuals identified as participating or conspiring on terrorist-related activities.

Mr. Speaker, the great memorials that dot the landscape of our Nation's capital reflect the course of American history and are a constant reminder of our commitment to freedom, justice and democracy. We see these shared values in our monuments to great leaders, and we see them in our memorials to the soldiers who died in great wars fought in Europe, in the Pacific, in Korea and in Vietnam.

The new war of the 21st century, this war on terrorism, will not be marked by one geographic location. It is a global war that has been, is being, and will be fought at home and abroad. Already thousands of people have lost their lives to terrorist attacks on the United States. These victims of terrorist attacks deserve solemn tribute, for they died at the hands of enemies of America because they were simply Americans.

Mr. Speaker, H.R. 2982 would authorize the establishment of an advisory board to raise funds for the design, construction, and maintenance of a living memorial, and to work with the National Capital Memorial Commission and the Secretary of the Interior on the placement of the memorial.

H.R. 2982 will honor those Americans whose lives have been lost to terrorism and will symbolize the great struggle in which we are now engaged. Someday this memorial will mark the time and the course of history when freedom and respect for the dignity of man overcame tyranny and hate and evil. Indeed, it will stand for the age when America faced its greatest challenge.

I urge my colleagues to support H.R. 2982, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the text of this legislation refers to a memorial intended to honor anyone who has ever been the victim of a terrorist attack on the United States, our hearings on this measure focused on the victims of the September 11 hijackings and attacks on the World Trade Center and the Pentagon. Those events are the catalysts for this legislation.

While it has been said often, it cannot be said often enough: our thoughts and prayers continue to go out to those affected by the events of that awful day. While we as a nation have attempted to go on with our lives, the tragedy and loss of that day are never far from our hearts or minds.

The scope and severity of that terrible tragedy make it difficult to know how best to memorialize those who were lost.

Mr. TURNER's bill is one approach and we will support it, but there may be others.

It is our hope that, over time, we may all gain the wisdom and perspective to devise a memorial, or series of memorials, that will tell the story of these attacks, the people who were lost, their families and our resulting efforts to end the threat of terrorism, in such a way that future generations will never forget these events.

Better yet, if we do it right, perhaps such a memorial could, in some small way, reduce the chance that a future generation will have to endure such a tragedy.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. TURNER), who is the author of this legislation, who has worked so hard; and I commend him for bringing this legislation to us today.

Mr. TURNER. Mr. Speaker, it is indeed an occasion when we all would join together in remembrance of those who lost their lives on September 11, as well as those who have lost their lives in other incidences to the acts of terrorism, and I want to thank the gentleman from Utah (Mr. HANSEN) for joining with me in sponsoring this bill. We have had numerous Members who have joined together with us and who contributed to the product that we have before us today.

I particularly want to thank the gentleman from West Virginia (Mr. RAHALL), the ranking Democrat, for his leadership. I want to thank the subcommittee chairman, the gentleman from California (Mr. RADANOVICH), and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the ranking member of the subcommittee. Each of them contributed to the product that we have before us today, along with the 121 cosponsors who have joined with us.

I also want to acknowledge the help of some outstanding staffers, the majority staff member Ron Howarth who has worked so hard to be sure that this bill was in the proper form because of many complex issues that we deal with when we establish a memorial here in Washington. I also want to thank Trent Ashby and Amy Valentine of my staff for their work.

We know that 2 weeks ago we observed the one-year anniversary of the September 11 attacks on our Nation. It was on that date in 2001 that our Nation was made acutely aware of the threats posed by those who seek to destroy our way of life.

□ 1645

Since then we have come together as a Nation and remembered those who lost their lives and we have pledged jointly an unwavering resolve to win the war on terrorism no matter what the cost and no matter how long it takes. This legislation which was introduced by the gentleman from Utah (Mr. HANSEN) and me would authorize the establishment of a national memorial to all the victims of terrorism in attacks against the United States or its people including those who died on September 11.

It has been said that the war on terrorism may be known as the first war of the 21st century. It will not be marked by any specific geographic location because it is global. It has been and will be fought at home and abroad. This national memorial created by this bill will be dedicated to the memory of those victims who lose their lives and have lost their lives at the hands of terrorists. The memorial will reflect, in my view, the history of the struggle in which we are engaged, and it will remind future generations of the challenges that we faced and the challenges that we have overcome through courage and bravery of the American people.

As the gentleman from Utah (Mr. HANSEN) mentioned, this legislation creates a 13-member advisory board appointed by the President and includes representatives from organizations dedicated to assisting the victims of terrorism. The advisory board is charged with the duty of raising the funds from private sources to establish, design, construct and maintain this memorial. In accordance with the Commemorative Works Act, the advisory board will consult with the appropriate commissions already provided by existing law regarding the site selection and design of this memorial.

When the House Committee on Resources held its hearing on this bill, we were honored, as the gentleman from Utah (Mr. HANSEN) mentioned, to hear from several outstanding Americans whose lives, like so many Americans, were personally and forever changed on September 11. Their testimony spoke eloquently of the significance of a national memorial to the victims of terrorism.

Liz Howell, who is on the staff of the Committee on Resources, whose husband, Brady, died at the Pentagon, said so eloquently "I believe a national monument to terrorism would become a hallowed place for the people of this generation to remember and grieve. Perhaps even more importantly, it will teach future generations about the heroism, the sacrifice, and the patriotism that surrounded the deaths of people who simply died because they were Americans." That quote from Liz Howell represents, I think, so very eloquently the purposes embodied in this legislation.

We heard from Lisa Beamer, whose husband Todd was among the heroes of flight 93. We had Joe Finley, a New York firefighter, who testified on behalf of this legislation, who lost many in his fire house who sacrificed their lives at the World Trade Center. Lt. Col. Ted Anderson, who rushed into the fiery flames of the Pentagon, saving many of his friends and colleagues there, spoke of a need for a national memorial. They all shared their hopes that this memorial would not only be a tribute to those who lost their lives but a constant reminder to the American people of the importance of courage, bravery, and patriotism.

It is my hope that at some point in the future this memorial will mark a time in the course of our history when freedom and respect for the dignity of man overcame hate and evil. It will stand for the period in our history when our country stood tall, persevered and protected peace and civility for all mankind.

Mr. Speaker, we hope that the House will join us in unanimously supporting this legislation to create this memorial to the victims of terrorism.

Mr. HANSEN. Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to offer my thanks to the gentleman from Utah (Mr. HANSEN), who is a cosponsor of this bill with the gentleman from Texas (Mr. TURNER), and of course to the gentleman from West Virginia (Mr. RAHALL) for bringing this bill forward. I think we owe special thanks to the gentleman from Texas (Mr. TURNER), whose initial idea this was. I owe particular thanks to the gentleman.

First, let me say that this was not just a bright idea. Memorializing the victims of the war on terrorism is the least we can do. But I very much appreciate the spirit in which the gentleman from Texas (Mr. TURNER) has approached this bill unintentionally in the beginning largely because most Members do not deal with the Commemorative Works Act. This bill came forward in the way one might expect, but inherent in it were three violations of the Commemorative Works Act and now two of three of those violations are gone because the gentleman from Texas (Mr. TURNER) in fact has diligently consulted with the National Capital Planning Commission, with other Members of Congress.

Initially there was a violation of the 25-year rule, had Congress approving the location, and the legislation had a specified area. All that may seem reasonable to Members of Congress, but Congress in its wisdom, because it knew that bills would come forward all of the time like this and that somebody had to referee where on the limited space the memorial should go, gave that responsibility over to an agency that could look at the whole mall, the National Capital Planning Commission, the Fine Arts Commission. The reason the monumental presence is monumental is because we do not micromanage it.

I am going to support this bill with some reservation that it continues to violate the 25-year rule. I want to give Members some context for that. A bill was brought forward early in this Congress to establish a Ronald Reagan memorial on the mall. The Bush administration did not support it because it did not want to set that precedent and it is sufficient to say did not support violating the 25-year rule. Nobody who remembers the tenure of Ronald Reagan both in this city and out of the country can doubt that his legacy will withstand the 25-year rule. The World War II memorial is going up now, more than 25 years after World War II. No one has pressed forward an Oklahoma City memorial though that was one of America's great tragedies of the 20th century. The Martin Luther King memorial could not be built until 25 years after his death.

I say all this because the House needs to understand the context and why it is this way. We lost a number of residents in 9/11. A number of those working in the Pentagon came right from the District of Columbia. The most visible ones were three children and their three teachers. I certainly want to see them memorialized on the mall. The context, though, we have to understand is what is happening to the mall. We literally are in danger in one generation of using up virtually all the prime space of the mall. Yet the mall was meant for eternity. That is why there is a 25-year rule. We must not get to where London is now. London is having to tear down memorials in order to allow memorials to go up. That is not the only reason Commemorative Works Act has a 25-year rule that says to Congress step back, and the reason that Congress has stepped back in each and every occasion, the pain of a memorial may be fresh, the reputation of a personage needs time to gel. History needs to inform us and see in context what it is we want to do.

The Chair of the National Capital Planning Commission, John Cogbill, III, appointed by President Bush, did send to the House a letter in which he took exception to the bill on the basis of the three violations I have noted. I am very, very pleased that most serious of the exceptions that the bill initially put forward have been rectified. We know that memorials are best when there is a nationwide competition, when people who have looked at memorials over time can look and bring their expertise to bear, and that is going to happen here. We know that we cannot sit here and say where a memorial should be built, that we have got to trust those with whom we have delegated this responsibility. That is gone.

I will submit for the RECORD the letter of Mr. Cogbill so that the RECORD can be fully informed with respect to these three problems that the initial bill has.

Mr. Speaker, I want to once again express my appreciation to the gentleman from Utah (Mr. HANSEN) and certainly to the gentleman from Texas (Mr. TURNER) for the great sensitivity they both have shown in designing this bill. I support the bill with the reservations I have noted.

The letter previously referred to is as follows:

NATIONAL CAPITAL PLANNING COMMISSION
Washington, DC, March 19, 2002.

Re Terrorism Memorial
Hon. JAMES V. HANSEN,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR CHAIRMAN HANSEN I am writing to express the concerns of the National Capital Planning Commission with regard to H.R. 2982, a bill that would authorize a memorial in Washington, D.C. to victims of terrorist attacks on the United States.

The Commission mourns the tragic loss of life resulting from terrorist attacks on the United States, including the atrocities committed on September 11th, when terrorists orchestrated the most devastating attack on American soil in our nation's history. We share the desire to find appropriate ways to remember and honor the victims, but we urge that, consistent with the Commemorative Works Act (CWA), sufficient time be allowed to pass so that these tragic events are put in proper historical perspective before commencing the process of locating and designing such an important national memorial.

As you are aware, the process for establishing memorials in the Nation's Capital is governed by the CWA. By setting forth criteria for the subject matter, location, and design of memorials, the CWA is intended to preserve the integrity of the L'Enfant and McMillan Plans for the Nation's Capital, while protecting and maintaining the limited amount of open space available on and around the Mall.

The Commission is concerned that H.R. 2982 circumvents one of the key provisions of the CWA, the 25-year waiting period for the authorization of new memorials in the Nation's Capital. The purpose of this provision, which states that a memorial "shall not be authorized" by Congress until at least 25 years after the death of the individual or event, is to ensure that enough time passes following an event for policymakers and historians to gain an appropriate historical perspective before establishing a permanent memorial in the Nation's Capital.

Just as with other tragedies in American history—from Gettysburg to Pearl Harbor to Oklahoma City—a more meaningful and appropriate place to honor victims at this time might be at the sites of the tragedies themselves. Congress has already authorized legislation for a memorial at the Pentagon, and permanent memorials at the World Trade Center and at the Pennsylvania crash site are currently being considered.

Other provisions of H.R. 2982 are also inconsistent with the CWA. In order to help preserve the limited number of sites available in area I (sites on or near the Mall), the CWA requires passage of a separate act of Congress, following a recommendation by the National Capital Memorial Commission, before locating a memorial in this prominent area. Yet this bill directly authorizes the memorial to locate in area I, overriding the requirement for a second round of consideration by Congress. In addition, the bill suggests that any specific location for the memorial be "approved by the Congress," again contrary to the CWA, which delegates to the federal land-holding and review agencies decisions as to the specific location and design of new memorials.

The Monumental Core of our Nation's Capital has evolved over the centuries into a powerful expression of our nation's values, achievements, losses, and challenges. By respecting the process established by the CWA, we can ensure that the victims of terrorist acts against our country are properly memorialized and, at the same time, the historical integrity of our grand Monumental Core is preserved.

Sincerely,

JOHN V. COGBILL, III,
Chairman.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 2982, the Victims of Terrorist Attacks Memorial Act which will establish a memorial in Washington, DC to honor those Americans whose lives were tragically taken as a result of terrorism.

At the Murrah Building in Oklahoma, the World Trade Center, the Pentagon, and in the fields of Pennsylvania, our Nation has witnessed the best and the worst of humanity. These despicable and cowardly terrorist acts were valiantly countered with the incredible heroism and courage of not only our firefighters, law enforcement officers, and emergency personnel but also our fellow citizens.

Accordingly, it is incumbent upon our Nation to honor those departed heroes. Establishing a memorial in honor of those deserving men and women will be a fitting tribute to their memory and their contribution to our Nation's freedom. Moreover, it will act as a permanent reminder to our Nation and the world that our Nation is engaged in an ongoing battle in the name of those who were taken from us to rid the world of these most heinous of crimes. Accordingly, I urge my colleagues to support this important measure.

Mr. ISRAEL. Mr. Speaker, I rise today in strong support of H.R. 2982. This legislation will authorize a memorial in Washington, DC, to commemorate American victims of terrorist attacks. The desire to memorialize the victims of the September 11th terrorist attacks was the driving force behind this bill, and as an original cosponsor, I applaud my colleagues bringing this bill to the floor today.

I have met with families in my district who lost loved ones in the attack on the World Trade Center and the Pentagon, and I have tried to help them with legislation that will ease their financial burden. I am hopeful that this bill will help them in a different way. I want them to know that the American people support them, and this memorial will show them that their husbands, wives, sons, daughters, brothers and sisters will never be forgotten.

This memorial, however, is not only for the victims of terrorist attacks and their families. It is a memorial for every person in our nation. It will give the people of the United States a site to pay their respects to the victims. It will serve as an area for mourning. It will also be a place to remember. I am hopeful that the memorial will also be a space were people can see the American spirit, which cannot be defeated, to take comfort in America's resolve and the inevitable triumph of freedom.

The September 11, 2001 attacks changed every American life. It was the saddest and most enraging day in many of our lives. It is appropriate that we build this memorial to commemorate not the attacks, not response, not the war, but the victims of the attacks.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 2982, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TURNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ALLEGHENY PORTAGE RAILROAD NATIONAL HISTORIC SITE BOUNDARY REVISION ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4682) to revise the boundary of the Allegheny Portage Railroad National Historic Site, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Allegheny Portage Railroad National Historic Site Boundary Revision Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) HISTORIC SITE.—The term "historic site" means the Allegheny Portage Railroad National Historic Site in Blair and Cambria Counties, Pennsylvania, established pursuant to Public Law 88–546 (78 Stat. 752; 16 U.S.C. 461 note).

(2) MAP.—The term "Map" means the map entitled "Allegheny Portage Railroad National Historic Site, Blair and Cambria Counties, Pennsylvania", numbered NERO 423/80,014 and dated May 01.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 3. REVISION OF HISTORIC SITE BOUNDARIES.

(a) LANDS EXCLUDED FROM AND ADDED TO HISTORIC SITE.—The boundary of the historic site is hereby revised—

(1) by deleting—

(A) the approximately 3.09 acres depicted on the Map as tracts 105–21 and 105–15; and

(B) the approximately 7.26 acres depicted on the Map as tract 102–42; and

(2) by adding—

(A) the approximately 42.42 acres depicted on the map as tract 101–09; and

(B) the approximately 15 acres depicted on the map as tract 104–07.

(b) AUTHORIZATION FOR ACQUISITIONS.—

(1) ACQUISITION 1.—

(A) IN GENERAL.—The Secretary is authorized to acquire, from willing owners only, the approximately 98 acres depicted on the Map as tract 103–07 in exchange for the approximately 108 acres depicted on the Map as tracts 102–38 and 103–04.

(B) EQUALIZATION OF VALUES.—If the values of the tracts to be exchanged under subparagraph (A) are not equal, the difference may be equalized by donation, payment using donated or appropriated funds, or the conveyance of additional land.

(2) ACQUISITION 2.—The Secretary is authorized to acquire by exchange or donation, from willing owners only, the lands included within the boundary of the tract described in subsection (a)(2)(B).

(c) REVISION OF BOUNDARIES AFTER ACQUISITIONS.—Upon completion of the exchange under subsection (b)(1), the boundaries of the historic site shall be revised, as appropriate—

(1) by, adding the land acquired by the United States; and

(2) by deleting the land that is no longer owned by the United States.

SEC. 4. AVAILABILITY OF MAP.

A copy of the Map shall be on file and available for inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 5. ADMINISTRATION OF ACQUIRED LANDS.

Lands and interests in lands added to the historic site under this Act shall be administered by the Secretary as part of the historic site in accordance with applicable laws and regulations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4682, introduced by the gentleman from Pennsylvania (Mr. MURTHA) would revise the boundary of the Allegheny Portage Railroad National Historic Site. The Allegheny Portage Railroad, located in southwestern Pennsylvania, was the first railroad constructed over the Allegheny Mountains. The railroad helped to facilitate trade in the area and open the interior of the United States to settlement and was considered a technological wonder of its day because of its unique construction. The bill authorizes the acquisition of approximately 98 acres in exchange for nearly 108 acres. This will help facilitate access for a property owner that had previously been landlocked.

The bill authorizes the Secretary to acquire a tract from the State of Pennsylvania Game Lands Commission to help facilitate the development of the Harrisburg to Pittsburgh Millennium Trail. The bill comes to the floor with an amendment correcting some technical errors.

This is a good bill and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

This bill sponsored by my colleague, the gentleman from Pennsylvania (Mr. MURTHA), that alone makes it worthy of consideration by this body. I commend the gentleman from Pennsylvania for his excellent effort on behalf of this important national historic site, and I urge passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4682, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 1700

CLARIFYING TAX TREATMENT OF BONDS AND OTHER OBLIGATIONS ISSUED BY GOVERNMENT OF AMERICAN SAMOA

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1448) to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa, as amended.

The Clerk read as follows:

H.R. 1448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF TAX TREATMENT OF BONDS AND OTHER OBLIGATIONS ISSUED BY GOVERNMENT OF AMERICAN SAMOA.

(a) EXEMPTION OF ALL BONDS FROM INCOME TAXATION BY STATE AND LOCAL GOVERNMENTS.—Subsection (b) of section 202 of Public Law 98-454 (48 U.S.C. 1670) is amended to read as follows:

"(b) EXEMPTION OF ALL BONDS FROM INCOME TAXATION BY STATE AND LOCAL GOVERNMENTS.—

"(1) IN GENERAL.—The interest on any bond or other obligation issued by or on behalf of the Government of American Samoa shall be exempt from taxation by the Government of American Samoa and the governments of any of the several States, the District of Columbia, any territory or possession of the United States, and any subdivision thereof.

"(2) EXEMPTION APPLICABLE ONLY TO INCOME TAXES.—The exemption provided by paragraph (1) shall not apply to gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.".

(b) EFFECTIVE DATE.—This Act shall apply to obligations issued after the date of the enactment of this Act.

The SPEAKER pro tempore (Mr. BASS). Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1448, a bill to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa. This bill, introduced by the gentleman from American Samoa (Mr. FALEOMAVAEGA), permits interest earned on bonds issued by the American Samoa Government to be exempt from both State and local taxation. Passage of H.R. 1448 will provide American Samoa parity in the tax treatment of their bonds with all of the other U.S. territories.

The bill was considered by both the Committee on Resources and the Committee on the Judiciary, which both reported out the identical text which is before the House today. I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his cooperation in scheduling this bill today, and I ask Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the gentleman from American Samoa (Mr. FALEOMAVAEGA) to explain the legislation, and commend the gentleman for his leadership.

Mr. FALEOMAVAEGA. Mr. Speaker, this legislation has taken a roundabout journey through our committee system, particularly because the issue involves the issuance of bonds. As such, the bill was referred concurrently to the Committee on Ways and Means, as well as to the Committee on the Judiciary. But I am extremely happy and gratified that H.R. 1448 has received the approval and referral from the Committee on Ways and Means and the Committee on the Judiciary to the Committee on Resources, and I thank the gentleman from California (Mr. THOMAS) and the ranking member, the gentleman from New York (Mr. RANGEL), for their approval and referral of H.R. 1448 to the Committee on Resources.

Mr. Speaker, I also thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the ranking member, the gentleman from Michigan (Mr. CONYERS), of the Committee on the Judiciary for their support and referral of this legislation.

In particular, Mr. Speaker, I want to thank the gentleman from Georgia (Mr. BARR) and the gentleman from North Carolina (Mr. WATT) of the Subcommittee on Commercial and Administrative Law for the comprehensive work they have done to ensure that H.R. 1448 will not conflict with other Federal laws relative to bond issues.

I want to commend these gentlemen and their staffs for all of the work that they have done to bring this bill not only before the Committee on Resources, but now for House consideration.

Mr. Speaker, under U.S. law, the territories of the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico and the U.S. Virgin Islands currently have the authority to issue municipal bonds to foster a broad range of economic activity. These bonds are exempt from income taxation by the Federal Government, State governments, territorial governments, municipal governments and the District of Columbia government.

However, the U.S. Territory of American Samoa also has the authority to issue bonds, but the interest earned from American Samoa bonds is subject to taxation by State and municipal governments. H.R. 1448 amends U.S. law and provides parity and equity for American Samoa by allowing interest earned on bonds issued by the American Samoa Government to be exempt from State, local and territorial taxation. In other words, H.R. 1448 will grant to American Samoa the same authority already held by the Northern Mariana Islands, Guam, Puerto Rico and the U.S. Virgin Islands. This legislation will make American Samoa bonds more attractive to investors, and can provide an additional source of funds for the American Samoa Government.

The Governor of the Government of American Samoa has indicated that the local government could have saved hundreds of thousands of dollars in interest costs if the interest on the bonds the government issued in 2000 would have been tax exempt.

The local power authority, a semi-autonomous government agency, would also like to sell bonds to purchase new diesel generator sets to accommodate the territory's growing population and utility needs. This legislation will lower the interest costs of these prospective sales, and will enable the local government to address deficiencies in its current infrastructure.

Mr. Speaker, H.R. 1448 is an early step toward providing the Government of American Samoa with additional assistance in improving the government's financial condition, which will have a direct and positive impact on the people of American Samoa.

Mr. Speaker, this legislation deserves support of this body, and I ask my colleagues to vote in favor of this legislation.

Mr. Speaker, we have an expression on the islands, and this may be the last time I have a chance to say a few words in this body, and the saying is "aua e te seluselu mai a'u," which means do not try to comb my hair or do not try to butter me up. I realize that this may not be the last piece of legislation that the gentleman from Utah (Mr. HANSEN) will be chairing or managing on the floor of the House, but I want to say to my colleagues, for almost 14 years, serving as a member of the Committee on Resources, it has been my privilege and personal honor to have known the gentleman from Utah (Mr. HANSEN). The gentleman from Utah served previously as the chairman of the Subcommittee on National Parks and Public Lands, and having served as the ranking member at that time, I enjoyed tremendously not only the gentleman's outstanding leadership qualities, but also that he was always fair with me on many, many series of hearings and deliberations that were held when the gentleman served as the subcommittee chairman.

Even in the gentleman's capacity as full committee chairman, I want to say that the gentleman from Utah has always been willing to assist members with their proposed bills, and his demonstrated leadership in this institution will certainly be missed, certainly by this Member, and I am sure that the same feeling exists among all Members.

Mr. Speaker, I am sorry that I have no more alumni from the University of Utah to pick on, especially when Utah always loses to the BYU Cougars. I want to say on behalf of this Member, Mr. Speaker, we are certainly going to miss the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1448, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VANCOUVER NATIONAL HISTORIC RESERVE AUTHORIZATION

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2099) to amend the Omnibus Parks and Public Lands Management Act of 1996 to provide adequate funding authorization for the Vancouver National Historic Reserve, as amended.

The Clerk read as follows:

H.R. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AUTHORIZATION FOR RESERVE.

Section 502(d) of division I of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 461 note; 110 Stat. 4154) is amended by striking "$5,000,000" and all that follows through the period and inserting "$15,000,000 for development costs associated with capital projects consistent with the cooperative management plan, except that the Federal share of such development costs shall not exceed 50 percent of the total costs.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2099, introduced by the gentleman from Washington (Mr. BAIRD) and amended by the Committee on Resources, increases the funding authorization for the Vancouver National Historic Reserve to $15 million for development costs associated with capital projects consistent with the cooperative management plans for the site, and the Federal share of such costs will not exceed 50 percent of the total costs. The changes made by the committee concur with the actions by the other body on S. 1649.

Mr. Speaker, H.R. 2099, as amended, is supported by both the majority and the minority. I urge Members to support H.R. 2099, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has already explained this legislation. We support it. I urge its passage, and I commend the gentleman from Washington (Mr. BAIRD) for the gentleman's leadership in bringing this bill to our attention.

Mr. BAIRD. Mr. Speaker, I rise in strong support of H.R. 2099, legislation that would increase by $10 million the authorization for federal spending on preserving and rehabilitating the Vancouver National Historic Reserve.

Fort Vancouver, located on the banks of the Columbia River, is perhaps the most significant historic site in the Pacific Northwest. It is rich in national historic and cultural significance, pre-dating the arrival of Lewis and Clark through the mid-20th century. Before the arrival of the American traders and well before the Lewis and Clark expedition arrived, this site on the shore of the Columbia River was home to a variety of Native American Indian tribes for over 10,000 years, including the Cascades, Chehalis, Chinook, Clallam, Cowlitz, Klickitat, Nisqually, Tillamook, and Shasta tribes. Fort Vancouver was also headquarters for the Hudson's Bay Company's Columbia Department, embracing present-day British Columbia, Washington, Oregon and Idaho. The trading post, which was the center of the region's fur trading enterprise, represented Britain's business and governmental interests in competition with the United States. The 1846 treaty between Great Britain and the United States established today's northernmost boundary at the 49th parallel.

The Vancouver Barracks was established in 1849 when the first contingent of U.S. Army troops arrived in the newly acquired American lands. From 1849 until World War I, during which time some of the Army's most promising officers (including Ulysses S. Grant, Phillip Sheridan, George McClellan and George C. Marshall) were stationed at Vancouver, the barracks was the principal military headquarters for the Pacific Northwest. As a result of its national significance, the site was designated by Congress as a National Historic Monument in 1948, and later as a National Historic Site. The 55-acre Vancouver Barracks contains 32 structures, many of which have been determined to be eligible for listing on the National Register of Historic Places, including several rare examples of military architecture.

The Vancouver National Historic Reserve was designated by Congress in 1996 for the coordinated preservation, public use and management of historic sites within the Vancouver area. The Reserve was established as a partnership among the landowners in the Reserve, which include the National Park Service, the City of Vancouver, the U.S. Army and the Washington State Office of Archaeology and Historic Preservation. The 366 acre Historic Reserve contains the Fort Vancouver National Historic Site, Vancouver Barracks, Officers Row, Pearson Field, the Water Resources Center and portions of the Columbia river waterfront.

H.R. 2099 seeks to preserve the Vancouver Barracks for future generations. The 1996 Act that created the Historic Reserve provided an initial $5 million authorization for capital projects, which has been fully appropriated. It is important to note that a provision was included in the Fiscal Year 2002 Interior Appropriations bill which essentially says there would be no further federal appropriations for capital projects within the Vancouver National Historic Reserve unless and until a new "authorization" for capital projects is approved by Congress. Of great importance to my congressional district, to the Pacific Northwest and our nation, H.R. 2099, as amended by the House Resources Committee, would increase from $5 million to $15 million the authorization of appropriations for development costs associated with capital projects at the Vancouver National Historic Reserve.

For over half a century local, state and federal government agencies, along with numerous private individuals and organizations, have been collaborating to preserve and interpret the history of the Vancouver area and the region. During the past 15 years, in excess of $30 million has been invested in property improvements and projects within the present Historic Reserve boundaries. The federal government has provided approximately 25% of the capital funds for these efforts. The remaining 75% has been provided by local and state governments, foundations such as the locally based Vancouver National Historic Trust, and numerous other individuals, businesses and not-for-profit organizations.

The Vancouver Barracks adaptive Reuse and Economic Analysis completed in early 2000 determined the need for additional rehabilitation of buildings and adaptations necessary for new uses in the West Barracks area. The City of Vancouver has committed $6 million for infrastructure improvements, the state of Washington has committed $6 million for educational uses, and private donations will make up an additional $8 million for building preservation efforts. The increase in federal authorization of $10 million that is contained in H.R. 2099 will be used to match nonfederal funding for the West Barracks project. This federal funding has been deemed key to successful private fund-raising efforts, securing tenants for the property, minimizing the impact of inflation and avoiding additional serious property deterioration.

Finally, I would like to give a word of thanks to our partners who have helped us get to this point. I would be remiss if I did not thank Chairmen HANSEN and RADANOVICH and Representatives RAHALL and CHRISTENSEN for their assistance in bringing this bill to the House floor for consideration. On behalf of all the community leaders who have worked on this project. I want to especially thank Vancouver Mayor Royce Pollard and Bruce Hagensen, the former Mayor and current Board Member of the Vancouver National Historic Reserve Trust.

Mr. Speaker, I encourage passage of H.R. 2099.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 2099, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GRAND TETON NATIONAL PARK LAND EXCHANGE

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1105) to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National

Park, and for other purposes, as amended.

The Clerk read as follows:

S. 1105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GRAND TETON NATIONAL PARK LAND EXCHANGE

SEC. 101. DEFINITIONS.

As used in this title:

(1) FEDERAL LANDS.—The term "Federal lands" means public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(2) GOVERNOR.—The term "Governor" means the Governor of the State of Wyoming.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE LANDS.—The term "State lands" means lands and interest in lands owned by the State of Wyoming within the boundaries of Grand Teton National Park as identified on a map titled "Private, State & County Inholdings Grand Teton National Park", dated March 2001, and numbered GTNP/0001.

SEC. 102. ACQUISITION OF STATE LANDS.

(a) AUTHORIZATION TO ACQUIRE LANDS.—The Secretary is authorized to acquire approximately 1,406 acres of State lands within the exterior boundaries of Grand Teton National Park, as generally depicted on the map referenced in section 101(4), by any one or a combination of the following—

(1) donation;

(2) purchase with donated or appropriated funds; or

(3) exchange of Federal lands in the State of Wyoming that are identified for disposal under approved land use plans in effect on the date of enactment of this Act under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) that are of equal value to the State lands acquired in the exchange.

(b) IDENTIFICATION OF LANDS FOR EXCHANGE.—In the event that the Secretary or the Governor determines that the Federal lands eligible for exchange under subsection (a)(3) are not sufficient or acceptable for the acquisition of all the State lands identified in section 101(4), the Secretary shall identify other Federal lands or interests therein in the State of Wyoming for possible exchange and shall identify such lands or interests together with their estimated value in a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives. Such lands or interests shall not be available for exchange unless authorized by an Act of Congress enacted after the date of submission of the report.

SEC. 103. VALUATION OF STATE AND FEDERAL INTERESTS.

(a) AGREEMENT ON APPRAISER.—If the Secretary and the Governor are unable to agree on the value of any Federal lands eligible for exchange under section 102(a)(3) or State lands, then the Secretary and the Governor may select a qualified appraiser to conduct an appraisal of those lands. The purchase or exchange under section 102(a) shall be conducted based on the values determined by the appraisal.

(b) NO AGREEMENT ON APPRAISER.—If the Secretary and the Governor are unable to agree on the selection of a qualified appraiser under subsection (a), then the Secretary and the Governor shall each designate a qualified appraiser. The two designated appraisers shall select a qualified third appraiser to conduct the appraisal with the advice and assistance of the two designated appraisers. The purchase or exchange under section 102(a) shall be conducted based on the values determined by the appraisal.

(c) APPRAISAL COSTS.—The Secretary and the State of Wyoming shall each pay one-half of the appraisal costs under subsections (a) and (b).

SEC. 104. ADMINISTRATION OF STATE LANDS ACQUIRED BY THE UNITED STATES.

The State lands conveyed to the United States under section 102(a) shall become part of Grand Teton National Park. The Secretary shall manage such lands under the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") and other laws, rules, and regulations applicable to Grand Teton National Park.

SEC. 105. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this title.

TITLE II—JAMES V. HANSEN SHOSHONE NATIONAL TRAIL

SEC. 201. SHOSHONE NATIONAL TRAIL.

(a) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

(1) APPROPRIATE SECRETARY.—The term "appropriate Secretary" means—

(A) the Secretary of Agriculture when referring to land under the jurisdiction of that Secretary; and

(B) the Secretary of the Interior when referring to any land except that under the jurisdiction of the Secretary of Agriculture.

(2) MAP.—The term "Map" means the map entitled "James V. Hansen Shoshone National Trail" and dated April 5, 2002.

(3) TRAIL.—The term "Trail" means the system of trails designated in subsection (b) as the James V. Hansen Shoshone National Trail.

(b) DESIGNATION.—The trails that are open to motorized use pursuant to applicable Federal and State law and are depicted on the Map as the Shoshone National Trail are hereby designated as the "James V. Hansen Shoshone National Trail".

(c) MANAGEMENT.—

(1) IN GENERAL.—Except as otherwise provided in this title, the appropriate Secretary shall manage the Trail consistent with the requirements of a national recreation trail in accordance with—

(A) the National Trails System Act (16 U.S.C. 1241 et seq.); and

(B) other applicable laws and regulations for trails on Federal lands.

(2) COOPERATION; AGREEMENTS.—The Secretary of the Interior and the Secretary of Agriculture shall cooperate with the State of Utah Department of Natural Resources and appropriate county governments in managing the Trail. The appropriate Secretary shall make every reasonable effort to enter into cooperative agreements with the State of Utah Department of Natural Resources and appropriate county governments (separately, collectively, or in an any combination, as agreed by the parties) for management of the Trail.

(3) PRIMARY PURPOSE.—The primary purpose of this title is to provide recreational trail opportunities for motorized vehicle use on the Trail. The Trail shall be managed in a manner that is consistent with this purpose, ensures user safety, and minimizes user conflicts.

(4) ADDITION OF TRAILS.—

(A) IN GENERAL.—The appropriate Secretary may add trails to the Trail in accordance with the National Trails System Act and this title. The Secretary shall consider the Trail a national recreation trail for the purpose of making such additions.

(B) REQUIREMENT FOR ADDITION OF TRAILS ON NON-FEDERAL LAND.—If a trail to be added to the Trail is located on non-Federal land, the appropriate Secretary may add the trail only if the owner of the land upon which the trail is located has—

(i) consented to the addition of the trail to the Trail; and

(ii) entered into an agreement with the appropriate Secretary for management of the additional trail in a manner that is consistent with this title.

(5) NOTICE OF OPEN ROUTES.—The Secretary of the Interior and the Secretary of Agriculture shall ensure that the public is adequately informed regarding the routes open for the Trail, including by appropriate signage along the Trail.

(d) NO EFFECT ON NON-FEDERAL LAND AND INTERESTS IN LAND.—Nothing in this section shall be construed to affect ownership, management, or other rights related to any non-Federal land or interests in land, except as provided in an agreement related to that land entered into by the landowner under subsection (c)(4)(B)(ii).

(e) ACQUISITION OF LAND AND INTERESTS IN LAND.—The appropriate Secretary may acquire land and interests in land for the purposes of the Trail only from willing owners.

(f) MAP ON FILE; UPDATED.—The Map shall be—

(1) kept on file at the appropriate offices of the Secretary of the Interior and the Secretary of Agriculture; and

(2) updated by the appropriate Secretary whenever trails are added to the Trail.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE III—MCLOUGHLIN HOUSE PRESERVATION

SEC. 301. DEFINITIONS.

For the purposes of this title, the following definitions shall apply:

(1) ASSOCIATION.—The term "Association" means the McLoughlin Memorial Association, an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(2) CITY.—The term "City" means Oregon City, Oregon.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 302. FINDINGS.

Congress finds the following:

(1) On June 27, 1941, Acting Assistant Secretary of the Interior W.C. Mendenhall, under the authority granted the Secretary under section 2 of the Historic Sites, Buildings and Antiquities Act (16 U.S.C. 461 et seq.), established the McLoughlin Home National Historic Site located in the City.

(2) Since January 16, 1945, the site has been known as McLoughlin House National Historic Site.

(3) The McLoughlin House National Historic Site includes both the McLoughlin House and Barclay House, which are owned and managed by the Association.

(4) The McLoughlin House National Historic Site is located in a Charter Park on Oregon City Block 40, which is owned by the City.

(5) A cooperative agreement was made in 1941 among the Association, the City, and the United States, providing for the preservation and use of the McLoughlin House as a national historic site.

(6) The Association has had an exemplary and longstanding role in the stewardship of the McLoughlin House National Historic Site but is unable to continue that role.

(7) The McLoughlin House National Historic Site has a direct relationship with Fort Vancouver National Historic Site due to Dr. John McLoughlin's importance as the Chief Factor of the Hudson Bay Company's Fort Vancouver, the headquarters for the Hudson Bay Company's Columbia Department, and his subsequent role in the early history of the settlement of the Oregon Territory to the extent that he is known as the "Father of Oregon".

(8) The McLoughlin House National Historic Site has been an affiliated area of the National Park System and is worthy of recognition as part of the Fort Vancouver National Historic Site.

SEC. 303. BOUNDARY OF FORT VANCOUVER NATIONAL HISTORIC SITE.

In recognition of the Secretary's role and responsibilities since June 27, 1941, and in order to preserve the McLoughlin House National Historic Site, the Secretary is authorized to acquire the McLoughlin House, consisting of approximately 1 acre, as generally depicted on the map entitled "McLoughlin National Historic Site", numbered 007/80,000, and dated 12/01/01, as an addition to the Fort Vancouver National Historic Site. The map shall be on file and available for inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 304. ACQUISITION AND ADMINISTRATION.

(a) ACQUISITION.—The Secretary is authorized to acquire the McLoughlin House from willing owners only, by donation, purchase with donated or appropriated funds, or exchange, except that lands or interests in lands owned by the City may be acquired by donation only.

(b) ADMINISTRATION.—The Secretary shall administer the McLoughlin House as an addition to Fort Vancouver National Historic Site in accordance with the provisions of law generally applicable to units of the National Park System.

TITLE IV—PRESIDENTIAL HISTORIC SITE STUDY

SEC. 401. PRESIDENTIAL HISTORIC SITE STUDY.

(a) STUDY AND REPORT.—Not later than 2 years after the date funds are made available, the Secretary of the Interior shall—

(1) carry out a study on the suitability and feasibility of designating the William Jefferson Clinton birthplace home located in Hope, Arkansas, as a national historic site; and

(2) submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the findings, conclusions, and recommendations of the study.

(b) REQUIREMENTS FOR STUDY.—Except with regard to deadline for completion provided in subsection (a), the study under subsection (a) shall be conducted in accordance with section 8(c) Public Law 91-383 (16 U.S.C. 1a-5(c)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1105 would provide for the expeditious completion of the acquisition of the State of Wyoming lands in the Grand Teton National Park.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Wyoming (Mrs. CUBIN) to explain this legislation.

Mrs. CUBIN. Mr. Speaker, the Grand Teton National Park Land Exchange Act was introduced by Senator THOMAS and cosponsored by Senator ENZI, and is supported by all five of the Wyoming State elected officials, along with the National Park Service and the local communities. The measure passed the Senate on October 17, 2001, by unanimous consent.

This bill presents a very unique opportunity regarding Federal land management in our national parks that will greatly benefit the American people, as well as Wyoming school children. Grand Teton National Park was established in Congress on February 29, 1929, to protect the natural resources of the Teton range and the Jackson Hole area's unique beauty. On March 15, 1943, President Franklin Delano Roosevelt established the Jackson Hole National Monument, which is adjacent to the Grand Teton National Park. The Grand Teton National Park was expanded to its present size by Congress on September 14, 1950, to include a portion of the land from Jackson Hole National Monument, which is probably a little more than Members wanted to know.

Now comes the important part. The park currently encompasses about 310,000 acres of wilderness and some of the most amazing mountains anywhere in our country. However, when Wyoming received its statehood in 1890, sections of land were set aside for school revenue purposes. All income from the State lands, rents and grazing fees, sales or other sources, is placed in a special trust fund for the benefit of the public schools in Wyoming. The establishment of these sections predates the creation of most national parks in the United States.

Currently, over 1,406 acres of State surface and mineral lands are held by the State of Wyoming in isolated plots within Grand Teton National Park itself.

This legislation would allow the State of Wyoming to trade or sell these precious State lands locked up inside the park for other Federal lands, minerals or appropriated dollars to address public school funding needs. Further, the American public can then consolidate under the National Park Service all of the lands within the Grand Teton National Park's borders and protect them from development pressures. There are still some inholdings in Grand Teton National Park that are privately owned, and I think we can all agree we need to buy those or get easements on those privately held lands that are within the park, too, to prevent development.

Mr. Speaker, this is a win/win situation for all of the groups involved. Basically, S. 1105 identifies approximately 1,406 acres of State lands and mineral interests within the park and makes them eligible for exchange for other Federal assets such as mineral royalties, appropriated dollars, or Federal lands set aside for disposal under FLPMA. It can even be a combination of all three of these elements.

Within 90 days after this bill is signed, the land would be valued through an agreement by the Wyoming Governor and the Secretary of Interior. If there is no agreement, then an appraisal process would start so that the value of the minerals or the lands in question would be assured fairness in all cases. There would also be an appeals process on the value to ensure fairness if any of the parties feel that it is not the right price. Within 100 days after the land value is determined, the Secretary of Interior, in consultation with the Governor, will exchange the Federal assets of equal value for the State lands.

Mr. Speaker, I respectfully request that the House of Representatives act favorably upon the Grand Teton National Park Land Exchange Act. I think this body has an incredible opportunity to allow the consolidation within Grand Teton National Park borders, and to allow the State of Wyoming to capture fair market value for their property to benefit their schools.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has already been noted, S. 1105, as amended, is a package of bills which have been previously approved by the Committee on Resources. I would like to take this opportunity to make note of the fact that the Grand Teton National Park provisions in this bill have been advanced by our colleague, the gentlewoman from Wyoming (Mrs. CUBIN).

□ 1715

Her Senator passed this bill out of the other body and she has greatly assisted the movement of this legislation in this body. The gentlewoman from Wyoming is a wonderful person to work with. I appreciate her willingness to work with me on issues of mutual concern. She is indeed a distinguished Representative of the State of Wyoming. I appreciate her leadership.

Another provision of this bill would establish the James V. Hansen Shoshone National Trail in honor of our distinguished chairman, the gentleman from Utah. I sponsored the amendment in committee to name the trail after the gentleman from Utah. He resisted at first. He was willing to settle on having some outhouse in Glacier National Park named after him, but I insisted on my amendment instead.

I would further note that this measure includes the text of H.R. 3434 sponsored by the gentlewoman from Oregon

(Ms. HOOLEY) which authorizes the Secretary of the Interior to acquire the McLoughlin House National Historic Site in Oregon and to administer it as part of the existing Fort Vancouver National Historic Site. Her leadership has been invaluable on this. I appreciate her working with us as well.

The legislation also includes the text of H.R. 3815 introduced by the gentleman from Arkansas (Mr. ROSS) to authorize a study of the suitability and feasibility of designating the William Jefferson Clinton birthplace home located in Hope, Arkansas, as a national historic site.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

I appreciate my good friend from West Virginia, who has been a joy to work with over the years in explaining the other parts of this bill which are very important. He did amend the Shoshone bill to somehow put my name on it. I explained to him another piece of legislation that I had my heart set on but, bless his heart, he was able to do that. I appreciate very much his kindness and his understanding. I appreciate the gentlewoman from Wyoming and all the work she has done on our committee, especially on this piece of legislation and many others.

Mrs. CUBIN. Mr. Speaker, will the gentleman yield?

Mr. HANSEN. I yield to the gentlewoman from Wyoming.

Mrs. CUBIN. I would just like to make the offer, Mr. Chairman, in exchange for the Martin's Cove issue that was quite controversial in my State, we are building a new maximum security prison. If the gentleman from West Virginia wanted to amend his amendment, we would probably be happy to name our new maximum security prison after him.

Mr. HANSEN. If I may ask, is the gentlewoman suggesting that I may spend time there?

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I rise in support of this legislation and specifically the amended version of S. 1105 that includes H.R. 3434, the McLoughlin House Preservation Act. The McLoughlin House Preservation Act will extend the boundaries of Fort Vancouver to include the McLoughlin House National Historic Site to be managed and maintained by the National Park Service. Fort Vancouver and the McLoughlin House have a long and storied history that goes back to the early 1800s and the early settlement of the Oregon Territory.

Since the early 1900s, the McLoughlin House has been maintained and managed by a nonprofit McLoughlin Memorial Association. For almost 100 years, the association has done yeoman's work to preserve and maintain this historic treasure so that thousands of people could tour the site. By extending the boundaries of Fort Vancouver to include the McLoughlin House, we will continue to build on a relationship that began over 180 years ago; and we will preserve in perpetuity the cultural, educational and historical benefits of this historic site for future generations.

In closing, I would like to convey my sincere appreciation to the gentleman from Utah (Mr. HANSEN), the gentleman from California (Mr. RADANOVICH), and the gentleman from West Virginia (Mr. RAHALL) for so generously agreeing to work with me on this bill and in helping to move it forward. I would also like to extend my gratitude to all the staff that helps out here, Luke Johnson and David Watkins of the Committee on Resources for their tireless efforts on behalf of this bill, thanks to John Salisbury and the McLoughlin Memorial Association for all of their hard work to preserve this Oregon treasure; and lastly I would like to thank Tracy Fortmann for her advocacy on behalf of the McLoughlin House over the years. She has done a fantastic job. We are extremely lucky to have her at Fort Vancouver.

I urge my colleagues to support this legislation.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 1105, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC PRESERVATION AMENDMENTS ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1606) to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for Historically Black Colleges and Universities, to decrease the matching requirement related to such appropriations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECREASED MATCHING REQUIREMENT FOR HISTORIC BUILDING RESTORATION AND PRESERVATION AT HISTORICALLY BLACK COLLEGES AND UNIVERSITIES; AUTHORIZATION OF APPROPRIATIONS.

(a) DECREASED MATCHING REQUIREMENT.—Section 507(c) of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 16 U.S.C. 470a note) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may obligate funds made available under subsection (d) for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places only if the grantee agrees to provide, from funds derived from non-Federal sources, an amount that is equal to 30 percent of the total cost of the project for which the grant is provided."; and

(2) by striking "(2) The Secretary" and inserting the following:

"(2) WAIVER.—The Secretary".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 507(d) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 470a note) is amended—

(1) by striking "Pursuant to" and inserting the following:

"(1) 1996 AUTHORIZATION.—Pursuant to"; and

(2) by adding at the end the following new paragraph:

"(2) ADDITIONAL AUTHORIZATION.—In addition to amounts made available under paragraph (1), pursuant to section 108 of the National Historic Preservation Act, there is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

(c) APPLICATION OF AMENDMENT.—Subsection (c)(1) of section 507 of the Omnibus Parks and Public Lands Management Act of 1996, as amended by subsection (a), shall apply with respect to—

(1) funds made available under subsection (d)(2) of such section, as added by subsection (b); and

(2) funds made available under subsection (d)(1) of such section, as amended by subsection (b), that remain unobligated as of the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume. H.R. 1606, introduced by the gentleman from South Carolina (Mr. CLYBURN), will authorize appropriations for the restoration and renovation of Historically Black Colleges and Universities. In addition, it would decrease matching requirements.

Many of the buildings at these schools are listed on the National Register and, because of their age, are in immediate need of remodeling and renovation. GAO identified in a report to Congress the buildings needing attention and the estimated cost. This estimate provides the foundation for the authorized level prescribed in the legislation. While funds have been previously appropriated to help meet restoration needs at some of these schools, the matching requirement has proved to be a difficult barrier to meet. This bill would lower that barrier by lowering the matching requirement and enable these schools to take advantage of these restoration opportunities. The historic quality of these buildings makes it important that we aid in their preservation.

The bill contains an amendment to extend the new matching requirement to schools where funds have already been appropriated but have been left unobligated due to a failure to raise enough funds to meet the matching requirement.

Mr. Speaker, this legislation has significant support on both sides of the aisle. I urge my colleagues to support this worthy piece of legislation. I appreciate the gentleman from South Carolina for all the excellent work he has done on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1606, introduced by my good friend and colleague Representative JIM CLYBURN, is an important initiative that builds upon the work started in 1996 with the passage of the historically black colleges and universities' historic preservation program.

The program has been the catalyst for the preservation of historic structures at these institutions of higher education. Unfortunately, the program has used up all of its existing authorization of funds and while its accomplishments to date have been great, the work that still needs to be done is even greater.

Many of the buildings that have been and will be assisted by this program are integral elements of the school campus and their preservation will not only preserve buildings but also the history and spirit of these pioneering institutions.

In hearings before the Resource Committee on H.R. 1606 last November we received moving testimony from Representative CLYBURN and others on the importance of this program in furthering historic preservation at institutions that have played a vital role in the advancement of African Americans and others.

I want to commend in particular my colleague Representative JIM CLYBURN for his strong leadership and vision on this legislation. Representative CLYBURN has been a tireless champion of H.R. 1606. As a former educator himself, he well understands importance of this program not only to the schools themselves but to the entire nation.

Last week this House passed H. Res. 523 recognizing the contributions Historically Black Colleges and Universities have made and continue to make in the education of African-Americans. However, H. Res. 523 just talked the talk, but it is H.R. 1606 that walks the walk.

Mr. Speaker, H.R. 1606 is a substantive measure that will benefit these institutions and the nation at large. I strongly support the measure and urge its adoption by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. CLYBURN) whose determination, dedication and true vision have brought this legislation to the floor today. He is a good friend to all of us and a former educator himself. We realize the importance of this legislation not only to Historically Black Colleges and Universities but to the Nation.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman for yielding the time and for his kind words.

Mr. Speaker, I want to express my gratitude to the gentleman from Utah (Mr. HANSEN), the gentleman from West Virginia (Mr. RAHALL), the gentleman from California (Mr. RADANOVICH), and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for the tremendous bipartisan support H.R. 1606 has received to date. I very much appreciate the opportunity to speak today on behalf of my legislation to extend authorization of the Historically Black Colleges and Universities Historic Preservation program. This is a day that has been several years in the making.

As a former high school teacher, I have always possessed an acute appreciation for history and have enjoyed its study for many years. It was part of what motivated me to introduce legislation establishing the South Carolina National Heritage Corridor, and I thank the gentleman from South Carolina (Mr. GRAHAM) for joining me in support of that legislation which Congress authorized in the 1995 Omnibus Parks Act. It is also what motivated me to work to appropriate funds for a 3-year study of the Gullah culture along the sea islands of South Carolina and Georgia. This is a culture very unique and very much at threat of extinction. Hopefully this study will give us recommendations on how to preserve and interpret what most scholars say is the closest African roots of any native-born Americans.

I have worked very closely for many years and on many issues with Dick Moe of the National Trust for Historic Preservation and was overjoyed when the national trust, acting on the nomination of the Southeast Regional African American Preservation Alliance, listed the 103 HBCU campuses as a category on its 1998 list of the 11 most endangered historic sites in the country.

I say these things to explain how important historic preservation is to me personally. But of all the things I have worked on in preservation, I am most proud of this HBCU historic preservation program. Many of these campuses today date back for a century or more. The history contained within the hallowed halls of these institutions is as rich and diverse as the students who passed through them.

The HBCU historic preservation program has had a profound impact on three universities in South Carolina's sixth district. But I want to tell you what it meant to me as a student of history to see a treasure such as Arnett Hall on Allen University's campus in Columbia, South Carolina, saved from the brink of destruction. This structure, which had been boarded up for almost 40 years, was designed by an African American architect, built by the students themselves, and completed in June 1891. At the time we were authorizing the original $29 million for this program, the South Carolina Department of Archives and History, our State's SHPO, listed Arnett Hall as the most endangered historic site in South Carolina. I am happy to report today the building has been saved, preserved to the Secretary of the Interior's standards, and shines as a beacon in that part of Columbia. The same is true for two other historic buildings in my district that have benefited from this program, Ministers Hall on Claflin University's campus in Orangeburg and Massachusetts Hall on the campus of Voorhees College in Denmark.

In 1997, the Congressional Black Caucus requested the GAO conduct a study to determine the projected cost of preserving all threatened historic sites on the 103 HBCU campuses. I was asked to coordinate that study with the GAO. The study took one solid year to complete, but it was very comprehensive and very objective. The GAO identified 712 historic sites on those campuses with a projected preservation cost of $755 million. That is a lot of money, even in this town. But the need has been documented, and over time I believe the schools and this body will respond appropriately and adequately.

The vast majority of these colleges have had a very difficult time raising the required dollar for dollar match which the previous legislation required. Consequently, many of them would like to have a grant. But I believe it is important for the schools themselves to feel vested in the project. So my bill requires a 30 percent match. The Park Service allows 70 percent of funding for planning and survey projects funded from the historic preservation fund, so there is a precedent for this ratio and it is a formula that is sorely needed.

Mr. Speaker, this authorization will allow the campuses with structures identified for preservation to do strategic planning. If these schools were able to point to the Federal Government's commitment to cover 70 percent of the preservation costs, alumni and potential donors would be more amenable to contributing the matching funds for the projects.

Mr. Speaker, should this bill become law, it will take many years and a strong commitment to meet the need the GAO has documented. But without this bill becoming law, we cannot even begin.

Mr. Speaker, I know this body has shown strong support for preservation, and I pledge to do all I can for the historic preservation community. There is no issue regarding cultural or historic preservation that is more important to our Nation's fabric, the Congressional Black Caucus, and to me personally than H.R. 1606.

☐ 1730

Mr. HANSEN. Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I thank the gentleman for yielding me time and for everything he has done over the years as a great member on the Committee on Resources and also a great colleague and member on the Committee on Transportation and Infrastructure, because he has truly made a difference.

Mr. Speaker, I want to say to my good friend, the gentleman from South Carolina (Mr. CLYBURN), it has been a pleasure over the years working with him. He sure has done a lot of things to make things happen when it comes to supporting our Historically Black Colleges and Universities. I appreciate very much the gentleman from Utah (Chairman HANSEN) and the gentleman from California (Mr. RADANOVICH) for being so helpful and always being there to listen and be supportive.

I have been involved in this cause for a long time because I am a former college President myself at Cumberland University, a small, private, independent college in the State of Tennessee. I am proud to be able to say that we have six colleges and universities that fall in this category when we talk about Historically Black Colleges and Universities in the great State of Tennessee, and that is Fisk University, Meharry Medical College and Tennessee State University, all located in Nashville, Tennessee. Then we have Lane College in Jackson, Tennessee; Lemoyne Owen College in Memphis; and Knoxville College in Knoxville, Tennessee.

For well over a century, Historically Black Colleges and Universities have made their mark as vital institutions of higher learning. Generations of African American educators, physicians, lawyers, scientists and other professionals have found the knowledge, the experience and encouragement they needed to reach their full potential at these Historically Black Colleges and Universities. They have compiled an enviable record of achievement, educating almost 40 percent of our Nation's black college graduates. They have educated millions of young people and have prepared African American students for the challenges and opportunities of this new century.

I might say also that what the gentleman from South Carolina (Mr. CLYBURN) said a while ago is very true: A lot of them have had a lot of difficulty struggling for those dollars to make a difference. That first impression at a college or university is so vitally important. When they see a college or university that is run down, they are not going to give. They are not going to be able to raise any private gifts for the university. But if they see a university where their buildings are in good shape and good condition, it really does make a real difference. I found that at Cumberland University where I was president, and I sure have found that at the other colleges and universities in the State of Tennessee and around the country that have fallen into that category.

I will never forget when I first got here, Dr. Henry Ponder, who was then president of Fisk University, we used to walk those halls, and this is before some of you even were here, and we walked those halls and tried to get people interested in our Historically Black Colleges and Universities. Now we have a lot of new help, and I appreciate that, both Democrats and Republicans alike, that realize the importance and significance of what I call seed money, and that is what it is, seed money, because those are dollars that we are able to share now and those are dollars we are able to utilize in order for these colleges and universities to keep educating our young people; but not just young people, but our working adults that want to go back to our colleges and universities.

I commend our Historically Black Colleges and Universities for their dedication to academic excellence and commitment to educational opportunity for all.

Mr. HANSEN. Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, my colleague and fellow freshman, the gentleman from South Carolina (Mr. CLYBURN), and I came to the Congress together. Since then he has been the driving force behind a movement to improve our Historically Black Colleges and Universities. For that he is to be strongly commended.

HBCUs, as we call them, remain a critical part of our education system. These institutions have significantly increased educational access for thousands of economically and socially disadvantaged Americans, particularly among young African Americans. Yet our Historically Black Colleges and Universities need to maintain and improve their facilities in order to continue to meet the needs of their students.

I bet you, Mr. Speaker, if a poll were taken, each Member of this House would have an historically black college or university somewhere near their district or in some way they have helped an historically black college or university. That is extremely important.

Mr. Speaker, as I noted last week when we passed H. Res. 524 recognizing the contributions of Historically Black Colleges and Universities, it is critical that we honor Historically Black Colleges and Universities with our deeds, not just our words, by taking such steps as funding them properly in our appropriations process. That is what the gentleman from South Carolina (Mr. CLYBURN) is talking about. By passing this bill, we make good on our commitment to our Historically Black Colleges and Universities and honor them with our deeds by making it easier for them to preserve their facilities and thereby serve their students and their communities.

I commend the gentleman from South Carolina (Mr. CLYBURN) for this excellent bill, ask for our continued effort in this regard, and urge all of my colleagues to support it.

Mr. RAHALL. Mr. Speaker, I yield 6½ minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from West Virginia (Mr. RAHALL) for yielding me time, and I also want to commend the chairman of the committee, the gentleman from Utah (Mr. HANSEN) and the ranking member of this committee for the outstanding work they do all the time on the Committee on Resources. I am not a member of this committee, but I often watch its deliberations and pay attention to what it is doing, and I think that they, obviously, do an outstanding job. I especially want to commend them for bringing this legislation to the floor.

I also want to commend the gentleman from South Carolina (Mr. CLYBURN), a man who has almost singlehandedly in terms of his zest and seal, who has been tremendously focused on the problems, attributes and contributions of Historically Black Colleges and Universities. As a matter of fact, he talked so passionately about those in South Carolina until sometimes I wish that I had been a South Carolinian and had the opportunity to attend one of them.

I did not attend one in South Carolina, but I did grow up in Arkansas, and I attended what is now the University of Arkansas at Pine Bluff. The bell tower on that campus, which is the tallest structure in that area, they do not have tall buildings in Arkansas, but the bell tower is probably the tallest structure in that community, and, for as long as I can remember, it has stood as a symbol of educational opportunity for African Americans, especially in that area. The alumni association is currently trying to replace it, brick by brick.

As a matter of fact, when I was there we had an outstanding President that we fondly called "Prexy," President Lawrence Arnett Davis, Sr., whose son now is the chancellor, Chancellor Lawrence Arnett Davis, Jr. They both have become institutions.

So I say to the gentleman from South Carolina (Mr. CLYBURN), when you help preserve these institutions, which are indeed struggling but have one of the greatest histories and one of the greatest legacies in this Nation, and to think that the leaders of many of them were newly-freed slaves, individuals who had just come out of slavery when the Moral Act was passed and then its subsequent amendments, so, yes, they have done exceedingly well. But, again, I commend all of those who have had a hand in and who have spoken so passionately about their impact.

Again I commend the gentleman from South Carolina (Mr. CLYBURN) and commend the chairman and ranking member of this committee.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1606, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the 22 bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

RECOGNIZING HISTORICAL SIGNIFICANCE OF 100 YEARS OF KOREAN IMMIGRATION TO UNITED STATES

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 297) recognizing the historical significance of 100 years of Korean immigration to the United States.

The Clerk read as follows:

H. CON. RES. 297

Whereas missionaries from the United States played a central role in nurturing the political and religious evolution of modern Korea;

Whereas in December 1902, 56 men, 21 women and 25 children left Korea and traveled across the Pacific Ocean on the S.S. Gaelic and landed in Honolulu, Hawaii on January 13, 1903;

Whereas the early Korean-American community was united around the common goal of obtaining independence from their colonized mother country;

Whereas members of the Korean-American community have served with distinction in the Armed Forces of the United States during World War I, World War II, and the Korean Conflict;

Whereas on June 25, 1950, Communist North Korea invaded South Korea with approximately 135,000 troops, thereby initiating the involvement of approximately 5,720,000 personnel, both military and civilian from South Korea and the United States, who worked to stem the spread of communism in Korea;

Whereas casualties in the United States Armed Forces included 54,260 dead, of whom 33,665 were battle deaths, 92,134 wounded, and 8,176 listed as missing in action or prisoners of war;

Whereas in the early 1950s, thousands of Koreans, fleeing from war, poverty, and desolation, came to the United States seeking opportunities;

Whereas Korean-Americans, like waves of immigrants that came to the United States before them, have taken root and thrived in the United States through strong family ties, community support, and hard work;

Whereas Korean immigration has invigorated businesses, churches, and academic communities in the United States;

Whereas according to the 2000 United States Census, Korean-Americans own and operate 135,571 businesses across the United States that have gross sales of $46,000,000,000 annually, and employ 333,649 individuals;

Whereas the contributions of Korean-Americans to the United States include the development of the first beating heart operation for coronary artery disease, the development of several varieties of the nectarine, and achievements in engineering, architecture, medicine, acting, singing, sculpture, and writing;

Whereas Korean-Americans play a crucial role in maintaining the strength and vitality of the United States-Korean relationship;

Whereas the partnership of the United States and South Korea helps maintain peace and stability in the Asia-Pacific region and provides economic benefits to the people of both nations and to the rest of the world; and

Whereas beginning in 2003, more than 100 communities throughout the United States will celebrate the 100th anniversary of Korean immigration to the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the achievements and contributions of Korean-Americans to the United States over the past 100 years; and

(2) requests that the President issue a proclamation calling on the people of the United States and interested organizations to observe the anniversary with appropriate programs, ceremonies, and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 297.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 297 recognizes the contributions of Korean Americans during the past 100 years, and it asks the President to issue a proclamation calling on the people of the United States and interested organizations to observe this anniversary. I commend the gentleman from Michigan (Mr. HOEKSTRA) for introducing this important resolution.

January 2003 will mark the 100th anniversary of the arrival of 56 men, 21 women and 25 children from the Korean Peninsula to Honolulu, Hawaii. These brave people left Korea and traveled across the Pacific Ocean on the SS *Gaelic* on January 13, 1903. This trip initiated a century of Korean immigration to the United States, and America has benefited tremendously from the hard work and loyalty of Korean immigrants and their sons and daughters.

Korean Americans have served in the United States Armed Forces with distinction during World War I, World War II, and the Korean conflict in the early 1950s. In particular, the U.S. and South Korea worked together to keep communism from covering the Korean peninsula during those difficult times.

Korean Americans have made many contributions to the United States and have had a lasting impact on their communities. Hard work, strong families and cultural influence are just a few of the qualities that Korean Americans are known for and continue to thrive today. Korean Americans have played a crucial role in advancing the United States-Korea partnership, which helps provide peace and stability in the Asia Pacific region.

Among the many contributions of Korean Americans are the first beating heart operation for coronary artery disease, the development of several varieties of the nectarine, and achievements in engineering, architecture, medicine, acting, singing, sculpture and writing.

According to the 2000 census, over 135,000 American businesses are owned and operated by Korean Americans across the country, with gross sales and receipts of $46 billion. These businesses employ over 330,000 individuals.

Mr. Speaker, the Korean community is alive and well in my Congressional District out in Northern Virginia, at Bailey's Crossroads, Annandale, Fairfax and Woodbridge.

☐ 1745

These immigrants have chosen America for the freedom and opportunity this country offers, and they are making lasting contributions to our community and communities across the country.

Mr. Speaker, I ask for adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to join with the gentleman from Virginia in consideration of this resolution honoring the significance of Korean immigration.

Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from California (Ms. WATSON).

Ms. WATSON of California. Mr. Speaker, I am proud to join my colleagues today in honoring the contributions of Korean Americans to our national heritage.

On January 13, 1903, the S.S. Gaelic arrived in Honolulu, marking the beginning of the documented history of the Korean-American experience. Mr. Speaker, 102 Korean immigrants walked off that ship almost 100 years ago. Many of them probably expected that they would spend a few years in Hawaii and then return home. In the 100 years since then, the Korean-American population has grown to over 1 million and has become a vital and dynamic part of our American family.

No account of Korean-American heritage would be complete without listing the accomplishments of several American heroes of Korean descent, like Colonel Young Oak Kim, the first Asian American to command a combat battalion. To date, Colonel Kim is also the most decorated Asian-American soldier, earning two Purple Hearts, a Silver Star, and the Distinguished Service Cross. Or Dora Yum Kim, a pioneer in developing social services for California's poor and disadvantaged citizens. And Dr. Sammy Lee, Olympic diver and swimming coach, physician and veteran. Dr. Lee was not only the first Asian-American to win an Olympic gold medal, but also the first American to win two Olympic gold diving medals, the oldest person to win a gold in diving, and the first male to win back-to-back gold medals in diving as well.

I am proud to represent a congressional district with a vibrant Korean-American community. My congressional district is also home to a number of institutions that stand as a testament both to the determination and success of Korean-Americans, but also to the richness of Korean-American heritage.

The Korean-American Museum presents exhibitions that serve to bring the role of Korean-Americans in our history to the public at large. The Korean Heritage Library at the University of Southern California holds a wealth of history of Korean-American life. And one cannot forget the many churches, community groups, and businesses that make up the fabric of everyday life in the Korean-American community.

The Korean-American story is above all an American story, a story of our country, our communities, and our neighborhoods. I urge my colleagues to support this resolution to celebrate 100 years of Korean-American contributions to our Nation.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for his helping in moving this bill to the floor and getting it up for a vote today.

Mr. Speaker, H. Con. Resolution 297 recognizes the contributions of Korean-Americans and the contributions that they have made over the last 100 years. Since that first day when Korean-Americans immigrated and landed in Honolulu, they have become an integral part of the diverse fabric that makes up American society. They have contributed economically; but beyond economic contributions, they have eagerly embraced our commonly held American ideals.

The first Korean-Americans were united in the cause of achieving freedom for their annexed homeland and for her people. And in this present day, Korean-Americans remain united in their hopes for the reunification of their ancestral homeland and the reunification of families torn apart by war and for an end to the dictatorial oppression of their fellow Koreans in North Korea.

By organizing through churches, associations, and other groups, Korean-Americans have built strong mutual-support networks and strong communities. Perhaps most importantly, at the center of Korean-American life are strong family ties and hard work. This has allowed Korean-Americans to prosper and make innumerable contributions to American life and society.

In January of 2003, there will be more than 100 communities across America celebrating the 100th anniversary of Korean-American immigration. It is both deserving and important that Congress recognize the significance of this fact, and encourage schools, civic groups, and all levels of government to take part in planning activities and events surrounding this major milestone.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the pioneers of the Korean community in the United States were a small group of political and social reformers, expelled from Korea following an unsuccessful attempt to overthrow the government, who arrived as exiles in San Francisco. Among them was Suh Jae-pil, who later adopted the American name Philip Jaisohn. Mr. Jaisohn became the first Korean to become an American citizen and the first Korean-American to receive an American medical degree.

In 1886, 4 years after getting his medical degree, Mr. Jaisohn established the first Korean newspaper. He became involved in the fight to keep Korea independent of China and, after 1910, to liberate it from Japan. Dr. Jaisohn devoted the majority of his life to the cause of Korean independence. His work in medical research and pathology and for Korean causes gained respect in both his homeland and in the United States.

Mr. Jaisohn, like thousands of other Koreans who immigrated to the United States, played a central role in nurturing the political and religious evolution of modern Korea.

Members of the Korean-American community have served with distinction in the Armed Forces, have helped the development of the first beating heart operation for coronary artery disease, and own and operate more than 135 businesses in the United States with gross sales of $46 billion annually.

Korean-Americans play a vital role in maintaining the strength and vitality of United States-Korean relationships. The partnership between the United States and South Korea has helped to maintain peace and stability in the Asia-Pacific region.

This year, 100 communities throughout the United States will celebrate the 100th anniversary of Korean immigration to the United States, including a large Korean community on the north side of the city of Chicago and in other areas spread throughout the city.

Mr. Speaker, my former legislative director is Korean. Her name is Courtni Pugh. She and her twin sister were featured on the cover of a Korean magazine about 3 years ago as premier young Korean or Asian activists in the United States. So I take this opportunity to convey greetings to them and all of my Korean friends throughout the metropolitan area of Chicago. Again, I commend the gentleman for introducing this resolution, and I am pleased to share its movement with my colleague, the gentleman from Virginia (Mr. TOM DAVIS).

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution appropriately recognizes Korean-Americans and their contributions to this country. It seeks to celebrate 100 years of immigration by supporting events and ceremonies by marking this important date in 2003, and I am proud to support this resolution.

Mr. WU. Mr. Speaker, I rise to honor support House Resolution 297 recognizing the historical significance of 100 years of Korean immigration to the United States. In 1902, 102 Koreans arrived in Hawaii after a month-long journey across the Pacific Ocean. Since that time, the Korean-American presence has grown to more than 100 communities with a population of about 1.1 million people, and has made immense contributions to our nation.

Abroad, members of the Korean-American community served with valor and distinction in the Armed Forces of the United States, notably during World War I, World War II, and the Korean Conflict, where they helped defend South Korea from Communist North Korea's invasion. Their sacrifices helped to preserve the freedom and democracy that we have today.

At home, Korean-Americans, like other waves of immigrants to America, have spurred the growth of new businesses, churches, and academic communities. They have also made tremendous contributions in areas such as athletics, literature, the arts, medicine, architecture, and engineering.

As Chair of the Congressional Asian Pacific American Caucus, and as an immigrant, I am proud to recognize these achievements.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 297.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TOM DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING AND COMMENDING MARY BAKER EDDY'S ACHIEVEMENTS AND THE MARY BAKER EDDY LIBRARY FOR THE BETTERMENT OF HUMANITY

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 458) recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity.

The Clerk read as follows:

H. CON. RES. 458

Whereas the Mary Baker Eddy Library for the Betterment of Humanity will officially open on September 29, 2002, in Boston, Massachusetts, thereby making available to the public the Mary Baker Eddy Collections, one of the largest collections of primary source material by and about an American woman;

Whereas the namesake of the Library, Mary Baker Eddy, achieved international prominence during her lifetime (1821–1910) as the founder of Christian Science and was the first woman in the United States to found and lead a religion that became an international movement with members in 139 countries;

Whereas historians compare Mary Baker Eddy to nineteenth-century women reformers like Elizabeth Cady Stanton and Susan B. Anthony, who took leadership roles at a time when women infrequently did so;

Whereas Mary Baker Eddy founded and served as the pastor of her own church, the First Church of Christ, Scientist, in Boston, and established a publishing organization that produces numerous publications, including "The Christian Science Monitor", an international daily newspaper that has won seven Pulitzer Prizes;

Whereas in recognition of the numerous achievements of Mary Baker Eddy, the Women's National Hall of Fame inducted her into its membership in 1995 for having made "an indelible mark on society, religion, and journalism";

Whereas the Mary Baker Eddy Library, a facility of 81,000 square feet, provides a place for people to come together to explore ideas and offers on-site and online educational experiences, programs, and exhibits;

Whereas the Mary Baker Eddy Collections consist of more than 100,000 documents, artifacts, photographs, and other media that chronicle the development of Mary Baker Eddy's ideas and offer an unequalled resource to scholars in women's history and mind-body medicine;

Whereas the Library's initiative to make the previously unpublished materials in the Mary Baker Eddy Collections available to the public is exemplary of, and in full accord with, the intent of the provisions of title 17, United States Code, relating to the publication of previously unpublished materials; and

Whereas the Mary Baker Eddy Library will establish an Institute for the Rediscovery and Preservation of the History of Women in Seneca Falls, New York, the birthplace of the first Women's Rights Convention, in order to showcase new research on the forgotten histories of women and offer educational programs for students: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress recognizes and commends—

(1) Mary Baker Eddy for her outstanding achievements and contributions, particularly her contributions to the advancement of women's rights as a public figure and role model in the early stages of the women's rights movement; and

(2) the Mary Baker Eddy Library for the Betterment of Humanity, which will open to the public on September 29, 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 458.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Virginia for yielding me this time.

I think it is appropriate to point out that the acting Speaker pro tempore now is the gentleman from New Hampshire (Mr. BASS), the State where Mary Baker Eddy was born.

Mr. Speaker, I support House Concurrent Resolution 458, recognizing and commending Mary Baker Eddy's life and achievements and the opening of the Mary Baker Eddy Library for the Betterment of Humanity.

Mary Baker Eddy was a notable 19th century public figure and role model in the early stages of the women's rights movement. Historians often compare her to other 19th century reformers, like Elizabeth Cady Stanton and Susan B. Anthony, women who took leadership roles at a time when women infrequently did so.

Mary Baker Eddy was an author, a successful businesswoman, a publisher and editor of monthly and weekly magazines, the president and founder of a teaching college, and the founder and leader of a worldwide church, the First Church of Christ, Scientist, which today has congregations in 139 countries.

Remarkably, at age 87, Mary Baker Eddy founded an international daily newspaper, the Christian Science Monitor, which has won seven Pulitzer Prizes.

The Mary Baker Eddy Library in Boston, which opens on September 29, will make available to the public one of the largest collections of primary-source material by and about American women. The library will provide opportunities to explore the ideas and life of this 19th century pioneer and will showcase her previously unpublished writings.

Mr. Speaker, I urge all Members of the House to support this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the ranking member of the Subcommittee on Civil Service, Census, and Agency Organization, I am pleased to support H. Con. Res. 458, a bill recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity, and I want to commend the gentleman from Texas for his introduction of this legislation.

Mr. Speaker, Mary Baker Eddy is regarded as a major religious speaker and as a notable example of the emergence of women in significant leadership roles.

□ 1800

When Mrs. Eddy was inducted into the National Women's Hall of Fame in

1955, it was noted that she had made an indelible mark on religion, society, and journalism.

Born in 1821 on a farm in Bow, New Hampshire, Mary Baker Eddy spent most of her youth in ill health. Although raised with Puritan values, daily Bible reading, and the talk of God's healing power, she spent years looking for healing in the many remedial methods available at her time.

In 1866, Mary Baker Eddy, through reading Jesus's healings in the New Testament, came to discover the science of Christianity which she named "Christian Science."

In 1875, she first wrote and published "Science and Health With Key to the Scriptures," the textbook of Christian Science. It is published in 17 languages and Braille; and in audiocassette, CD, and computerized form. Over 9 million copies have been sold, and it remains a bestseller each year.

In 1879, Mrs. Eddy established the Church of Christ, Scientist, and subsequently founded its various periodicals and activities. In 1895, she published the first edition of the Manual of the Mother Church. One of her last and greatest accomplishments was founding the Christian Science Monitor in 1908.

In 1992, the Women's National Book Association named "Science and Health" as one of 75 books by women, and I quote, "whose words have changed the world."

Before Mrs. Eddy died in 1910, the religion she established had spread around the world, and she had become one of the most recognized public figures in America; a truly great woman.

Mr. Speaker, I urge adoption of this resolution, and I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the House consider House Concurrent Resolution 458, introduced by my distinguished colleague, the gentleman from Texas (Mr. SMITH). This resolution recognizes and commends the achievements of Mary Baker Eddy, founder of the Church of Christ, Scientist, and the opening of the Mary Baker Eddy Library for the Betterment of Humanity in Boston, Massachusetts.

Mr. Speaker, on September 29, 2002, the Mary Baker Eddy Library for the Betterment of humanity will officially open in Boston. The opening of this library will allow the public access to the Mary Baker Eddy collections, one of the largest collections of primary-source material by and about an extraordinary American woman.

Born in 1821, Mary Baker Eddy was a reformer and a woman who introduced bold new concepts to 19th century society and beyond. Mrs. Eddy achieved international prominence as the founder of Christian Science. She has the distinction of being the first woman in the United States to found and lead a religion that became an international movement. The Church of Christ, Scientist, has members in 139 countries.

In an era when women faced severe limits, Mary Baker Eddy rose from obscurity, poverty, and illness to become a renowned author, healer, thinker, religious leader, and publisher.

In 1866, she was healed of a serious injury as she read the account of one of Jesus' healings in the New Testament. This led her to discover what she came to understand as the science of Christianity, which she named Christian Science.

In 1875, she wrote and published "Science and Health With Key to the Scriptures." It is published in 17 languages and Braille, and in audiocassette, CD, and computerized form. Over 9 million copies have been sold, and it remains a bestseller each year.

In 1879, Mrs. Eddy established the Church of Christ, Scientist. In 1895, she published the first edition of the "Manual of the Mother Church." One of her last and greatest accomplishments was founding the Christian Science Monitor in 1908.

I urge my colleagues to support the resolution, and I commend the gentleman from Texas (Mr. SMITH) for introducing this important resolution. Mary Baker Eddy had a profound impact on American life and religion. Her life as healer, thinker, and reformer is remarkable.

I urge my colleagues to support the resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 458.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO THE NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I am providing a 6-month report prepared by my Administration on the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive Order 12865 of September 26, 1993.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 23, 2002.*

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmit to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the National Union for the Total Independence of Angola (UNITA) is to continue in effect beyond September 26, 2002, to the Federal Register for publication. The most recent notice continuing this emergency was published in the Federal Register on September 25, 2001 (66 Fed. Reg. 49084).

The circumstances that led to the declaration on September 26, 1993, of a national emergency have not been resolved. The actions and policies of UNITA pose a continuing unusual and extraordinary threat to the foreign policy of the United States. United Nations Security Council Resolutions 864 (1993), 1127 (1997), and 1173 (1998) continue to oblige all member states to maintain sanctions. Discontinuation of the sanctions would have a prejudicial effect on the prospects for peace in Angola. For these reasons, I have determined that it necessary to maintain in force the broad authorities necessary to apply economic pressure on UNITA to reduce its ability to pursue its military operations.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 23, 2002.*

PLAN COLOMBIA/ANDEAN COUNTER DRUG INITIATIVE, SEMI-ANNUAL OBLIGATION REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-267)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 3204(e), of Public Law 106-246, I am providing a report prepared by my Administration detailing the progress of spending by the executive branch during the first two quarters of Fiscal Year 2002 in support of Plan Colombia.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 23, 2002.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 6 o'clock and 7 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 6 o'clock and 31 minutes p.m.

REPORT ON H.R. 5431, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2003

Mr. CALLAHAN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107-681) on the bill (H.R. 5431) making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. BASS). All points of order are reserved on the bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H. Con. Res. 472, by the yeas and nays;

H. Con. Res. 301, by the yeas and nays;

H. Res. 533, by the yeas and nays.

Proceedings on the following measures will resume tomorrow:

H.R. 2982, by the yeas and nays;

H. Con. Res. 297, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

RECOGNIZING 100TH ANNIVERSARY OF 4-H YOUTH DEVELOPMENT PROGRAM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 472.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. ISAKSON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 472, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 25, as follows:

[Roll No. 404]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—25

Blagojevich
Borski
Condit
Doolittle
Ehrlich
Gilchrest
Hilleary
LaFalce
LaHood
Lewis (CA)
Lewis (GA)
Maloney (NY)

Mascara
McKinney
Mink
Mollohan
Riley

Roukema
Sabo
Smith (WA)
Stark
Stump

Thurman
Towns
Woolsey

☐ 1856

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

SENSE OF CONGRESS REGARDING AMERICAN GOLD STAR MOTHERS, INCORPORATED, BLUE STAR MOTHERS OF AMERICA, INCORPORATED, THE SERVICE FLAG, AND THE SERVICE LAPEL BUTTON

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 301.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. WATTS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 301, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 21, as follows:

[Roll No. 405]

YEAS—411

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry

Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon

Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley

Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter

Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup

Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney

Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey

Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman

Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—21

Blagojevich
Borski
Brown (OH)
Condit
Doolittle
Ehrlich
Gilchrest

Hilleary
LaFalce
LaHood
Lewis (CA)
Maloney (NY)
Mascara
Mink

Mollohan
Roukema
Smith (WA)
Stark
Stump
Thurman
Towns

☐ 1905

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WELCOMING MADAME CHEN WU SUE-JEN, THE FIRST LADY OF TAIWAN, TO WASHINGTON, D.C.

The SPEAKER pro tempore (Mr. BASS). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 533.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and agree to the resolution, H. Res. 533, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 410, nays 0, not voting 22, as follows:

[Roll No. 406]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry

Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp

Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers,
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw

Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—22

Blagojevich
Borski
Condit
Doolittle
Ehrlich
Everett
Ganske
Gilchrest
Hilleary
LaFalce
LaHood
Lewis (CA)
Maloney (NY)
Mascara
Mink
Mollohan
Roukema
Smith (WA)
Stark
Stump
Thurman
Towns

□ 1915

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BASS). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CAN WE AFFORD THIS WAR?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, a casual analysis of the world economy shows it rapidly deteriorating into recession, with a possible depression on the horizon. Unemployment is sharply rising with price inflation rampant, despite official government inflationary reports. The world's stock markets continue to collapse, even after trillions of dollars in losses have been recorded in the past 2 years. These losses already have set historic records.

With government revenues shrinking at all levels, we find deficits exploding. Our national debt is currently rising at a $450 billion per year. Confidence in corporate America has shrunk to levels usually reserved for governments alone.

Government spending in all areas is skyrocketing, much of it out of the control of the politicians, who show little concern. Yet we are expected to believe our government leaders who say that we are experiencing a recovery and that a return to grand prosperity is just around the corner. The absence of capital formation, savings and corporate profits are totally ignored.

Evidence abounds that our $350 billion DOD budget and the $40 billion spent on intelligence gathering and our immigration policies have failed miserably in protecting our homeland. In spite of the rhetoric and new legislation attacking our civil liberties, we are as vulnerable to outside attack as before.

Our military is drastically smaller than a decade ago, and we are spread around the world and involved in world conflicts more than we have ever been before.

We have run a huge current account deficit for 15 years and massively expanded our money supply. No one should be surprised that the dollar is weakening and the commodity, natural resources and precious metal prices are rising.

Oil prices are over $31 a barrel, and predictions are that they can easily go up another $15 to $20 if international tensions grow.

But the only talk here in the Nation's Capital is about when, not if, we must initiate a war that even the administration admits could cost $200 billion. Some are not even embarrassed to gloat about the political benefits for those who preach war over those who prefer negotiations, diplomacy and containment. The fact that the Arab nations are overwhelmingly opposed to an attack on Iraq and are joined by the European Community is of no concern to those who demand war regardless of any circumstance.

Eighty percent of the American people now report that they believe that a war with Iraq will increase the chances of our suffering from a new terrorist attack. If this is true, we become less secure with an attack on Iraq, since little has been done to correct the deficiencies in the intelligence gathering agencies and our immigration policies.

No credible evidence has been produced that Iraq has or is close to having nuclear weapons. No evidence exists to show that Iraq harbors al Qaeda terrorists. Quite to the contrary, experts on this region recognize Hussein as an enemy of the al Qaeda and a foe to Islamic fundamentalism. Many other nations pose much greater threats to world peace. Yet no one is clamoring for war against them. Saddam Hussein is now weaker than ever.

Reports are now appearing that we are negotiating with allies to share in the oil bounty once Iraq is occupied in order to get support for our invasion from various countries around the world.

Our national debt is over $6 trillion and is increasing by nearly half a trillion dollars a year. Since Social Security funds are all placed in the general revenues and spent and all funds are fungible, honest accounting, of which there has been a shortage lately, dictates that a $200 billion war must jeopardize Social Security funding. This is something the American people deserve to know.

Since there are limits to borrowing and taxing, but no limits to the Fed printing money to cover our deficit, we can be assured this will occur. This guarantees that Social Security checks will never stop coming, but it also guarantees that the dollars that all retired people receive will buy less. We have already seen this happening in providing medical services. A cheap dollar; that is, an inflated dollar, is a sinister and deceitful way of cutting benefits.

Rest assured, a $200 billion hit on the economy will have economic consequences, and the elderly retirees on fixed incomes, and especially Social Security beneficiaries, will suffer the greatest burden of policy, reflecting a belief that our country is so rich that it can afford both guns and butter. Remember, we have tried that before.

The tragedy is that once the flaw in policy is discovered, it is too late to prevent the pain and suffering, and only finger pointing occurs. Now is the only time we can give serious attention to the true cost of assuming the burden of an endless task of being the world's policeman and starting wars that have nothing to do with defense or national security.

A nation suffering from recession can ill afford a foreign policy that encourages unnecessary military action that will run up huge deficits. Congress ought to pause a moment, and carefully contemplate the consequences of the decisions we are about to make in the coming days.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 3295, HELP AMERICA VOTE ACT OF 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, pursuant to clause 7(c) of the rule XXII, I hereby announce my intention to offer a motion to instruct conferees on H.R. 3295 tomorrow.

The form of the motion is as follows:

Mrs. EDDIE BERNICE JOHNSON moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 3295 be instructed to take such actions as may be appropriate to ensure that a conference report is filed on the bill prior to October 1, 2002.

PAYING ATTENTION TO ECONOMIC PROBLEMS IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, there is an old saying about whether people are able to walk and chew gum at the same time. We are chewing on a lot of war, but we certainly are not walking with our economy.

I have come to the floor, in case one does not know it, to announce that the Dow Jones Industrial Average reached its lowest level in 4 years, down 189 points today. Let us pay attention. Even more serious, the Fed's Open Market Committee had two dissenters, something that rarely happens, two dissenters from the decision to hold the Fed funds rate steady.

The Fed repeated its concerns about the slow pace of the recovery of the economy, and it went so far as to indicate that there was a concern about war in Iraq. I am going to quote from that concern: "Considered uncertainty persists about the extent and time of the expected pickup in production and employment owing in part to the emergence of heightened geopolitical risks. You stand forewarned," we stand forewarned.

At the middle and lower end of the income spectrum, the Annual Report of the Census Bureau came out today, and the Census Bureau reported that 1.3 million people slipped below the government's official poverty line. We know that that official poverty line is 20 years old and all the analysts say it is outdated, so there are obviously more than 1.3 million.

Perhaps of greatest importance to the Members of this body, because most of our constituents are middle income, the Census Bureau reported that the median household income, median, fell 2.2 percent last year, and that that was the first decline in median income in our country since 1991.

Everybody lost, my friends. All but the top 5 to 10 percent of households by income lost. The only Americans to gain last year were those with incomes above $150,000.

Why are we not paying any attention to the American economy? Why is the only attention of this body and of this administration on Iraq, thousands of miles away? Can we not talk about Iraq and talk about what the American people talk about every day as well, how their own household income is plunging and going down?

Watch your constituents; watch your district. If you are from the Midwest, your median income fell 3.7 percent. If you are from the West, it fell 2.3 percent. Are my colleagues paying attention to what is happening in their face, in their districts, to their own constituents? Is there not something we can do for them before this House recesses?

I am as worried about war as the next person. I am in a city that has every reason to worry about war. But there are a lot of worries on my mind.

Another worry needs the attention of this body at least as much, and that is the economy of our country and the living standards of our constituents. That, my friends, is getting no attention from this body. That, my friends, is getting all the attention at home after they turn off all of the war talk.

I hope that the pressure that I feel, the pressure of the economy, the decline of the Dow Jones today, the rise in the number of Americans falling below the poverty line, the reduction, the worst reduction in more than a decade, in the median income of American families, I hope that is enough to get our attention before it is too late.

□ 1930

One has to be able to walk and chew gum if one is a Member of Congress. If all we can do is talk about one subject, if all we are worried about is Iraq and not around the corner from where we live, then when we go home, those of us who insist upon a single focus will be punished and should be punished. Let us listen to what most worries the American people. Let us listen to household incomes.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1646, FOREIGN RELATIONS AUTHORIZATION ACT FOR FISCAL YEARS 2002 AND 2003

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–682) on the resolution (H. Res. 545) waiving points of order against the conference report to accompany the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4691, ABORTION NON-DISCRIMINATION ACT OF 2002

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–683) on the resolution (H. Res. 546) providing for consideration of the bill (H.R. 4691) to prohibit certain abortion-related discrimination in governmental activities, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. Res. 540, EXPRESSING THE SENSE OF THE HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 3762, THE PENSION SECURITY ACT OF 2002, AND H. RES. 544, EXPRESSING THE SENSE OF THE HOUSE ON PERMANENCY OF PENSION REFORM PROVISIONS, AND H. RES. 543, EXPRESSING THE SENSE OF THE HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 4019, MAKING MARRIAGE TAX RELIEF PERMANENT

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 107–684) on the resolution (H. Res. 547) providing for consideration of the resolution (H. Res. 540) expressing the sense of the House of Representatives that Congress should complete action on H.R. 3762, the Pension Security Act of 2002; for consideraton of the resolution (H. Res. 544) expressing the sense of the House of Representatives on permanency of pension reform provisions; and for consideration of the resolution (H. Res. 543) expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage tax relief permanent, which was referred to the House Calendar and ordered to be printed.

THE RAMIFICATIONS OF INCREASING THE PUBLIC DEBT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Mr. Speaker, we are in a predicament in Congress right now, and that is finishing the appropriations bills. The appropriations process goes from fiscal year to fiscal year, that is, October 1 to October 1. So in just another week we are hitting the new fiscal year. So tomorrow, what we are going to do is pass what is referred to as a CR; it stands for a "continuing resolution." We are now sort of arguing and trying to decide whether continuing spending for the next few weeks should be at the level it was this current fiscal year or whether it should be increased somewhat in terms of spending to accommodate inflation.

The problem is that there are a lot of people in Congress, in the House and in the Senate, that want to spend more money. So what has happened in this Congress, in this government, is spending has been going up faster than inflation. I brought this chart and made up this chart quickly, and we can see how the spending line tremendously has increased over the past 5 or 6 years in terms of spending.

Spending has some consequences in terms of its effect on the economy. The Republican Policy Committee met with Art Laffer, who I consider a very good economist in this country. We met last week. One of my questions to Art was, What is worse as far as its negative effect on economic growth, would it be increasing the debt or having tax increases? He said, in his opinion, they are both about the same kind of negative effect. Tax increases maybe have a greater economic effect in the short run; but in the long run, increasing the debt, that means we are going to take a lot of money out of circulation which, eventually, has just a negative effect on the economy.

A lot of people are saying, well, look, we should be paying more attention to the economy. One way this Congress can pay more attention to allowing the economy to operate the way it should is be a little less overzealous in terms of regulation on business, in terms of our taxes on individuals and business, and when I say taxes on individuals, most of the businesses, the small businesses in the United States pay that individual income tax. So as we become more intrusive in that tax, it has a tendency of discouraging small economic growth, which is really the backbone, the mainstay of employment in the United States.

That brings to mind a question I think that this body must deal with and must consider, and that is how big should the government be in terms of a percentage maybe of gross domestic product. How fast should expenditures rise? Is it reasonable to have the budget of the Federal Government increase three and four times as fast as inflation increases?

And the conclusion is, as we are concerned about the economy, the answer is no, that we should hold the line on spending so we do not have to increase taxes and so we do not have to increase the Federal debt. Politicians have found out, however, that it ends up being to their advantage politically, it increases their chances of being reelected, if they spend more money, so they go home with more pork barrel projects; and they get on television and in the newspaper cutting the ribbon for the new pork that they brought home to their district, or they come up with more social programs to help relieve some problem in the United States. No one can say there are not a lot of problems, no one can say that the spending in the Federal Government probably does not do some good for somebody, but the tendency has been to expand government spending.

Tonight I want to talk a little bit about the ramifications of increasing our public debt. What is the public debt? We have heard people brag that we have paid down part of the debt to the public in the last few years. The fact is that the total debt of the Federal Government has continued to increase every year. The debt can be divided into two portions. It is the Wall Street debt, the amount of money that we borrow from individuals that are at weekly Treasury auctions, and it is the money that we borrow from the trust funds, Social Security being the biggest one. So the money coming in from Social Security when we were pretty overzealous in the amount of increase in the Social Security taxes that we passed in 1983. We now are bringing in from that FICA tax, that 12.4 percent that we charge on everybody's wages for Social Security, we are bringing in $515 billion a year. Out of that $515 billion, this current year, in Social Security benefits, it is immediately sent out, that is, it comes in one week and it is out the next; and Social Security benefits are costing $452 billion, so there is a little extra money.

What we did for a couple of years when we had the balanced budget, when the budget balanced, we used that little extra money to pay down some of the debt held by the public. But since we were borrowing that money from Social Security to pay down another debt, it is sort of like using one credit card to pay down some of the debt of another credit card; the total debt, the total obligation of this country continued to increase.

The tendency has been to have government grow much faster than inflation, and if we project that increase out over several years, it is going to result in government getting way too big.

Let me review a couple of the statistics. In 2001, the debt as a percentage of GDP, gross domestic product, was 33.1 percent, in 2002 it was 33.9 percent, and the projection for 2003 is 34.1 percent. So the Federal debt, even in terms of a percentage of our economy in this country, is growing. That means that we are leaving less money in the pockets of the American worker, the people who earned that money. Somehow, Congress is convincing more and more people that it must be good for them if we are coming up with more social programs, if we are coming up with more government programs to help them out, but the fact is that it is tremendously inefficient taking money away from my home State of Michigan or your home State of wherever, bringing it to Washington, running it through this bureaucracy, this political maze, and then what is left we send back to help out some social program of people that need help.

When I am asked what projects or programs would I cut, it is difficult, because that is the predicament Congress now finds itself in, is arguing how big the appropriations bills should be. An election is coming up November 5, and the big spenders are going to criticize those who want to put a lid on spending and try to spend not more than what the President has recommended; they are going to go back to some of those special interests and say, well, look, those guys on that side of the aisle, probably it is the Democrats saying the Republicans, did not want to give you any more money for your very good project. So politics has come into the picture in terms of trying to get a handle on spending. Like I said earlier, most Members of Congress that come up with more pork barrel spending, that come up with more programs to help out some problem some place, probably have a greater tendency to be reelected. So there is really a lesser of a safeguard on increased spending than there should be.

Here is another problem that we have developed as far as the progressivity of our tax system. Right now, 50 percent of Federal Government benefits go to individuals that pay less than 1 percent of the Federal income tax. So here is 50 percent of the people that are getting a lot of benefits for a little effort in terms of the percentage of the income tax that they pay; and so there are a lot of people in this country who say, well, a little bigger government, a few more programs that might help me would not be all that bad. That is the contest that we are running into as far as the Federal Government.

Mr. Speaker, a few weeks ago, we went up to the Federal Hall in New York City, the first time in over 200 years that Congress has moved a session of this body or the Senate out of the location of Washington, D.C. We met at Federal Hall where the Bill of Rights was passed; in 1789 where the first Congress met, where they passed the Bill of Rights, where George Washington was sworn in as our first President. It is my guess as I review the Constitution that our forefathers felt that government should be minimal, that mostly what was passed into law should be at the State level and not the Federal level, so there was some very precise language limiting what the Federal Government could do. We have sort of circumvented that effort, and we have passed more laws and more bills as we have claimed that more and more things are really involved in interstate commerce and, therefore, are a proper role of the Federal Government.

Let me review for my colleagues the interest on the Federal debt. The interest on the Federal debt is becoming one of our largest expenditures. The interest on the Federal debt this year is $331 billion. In 2012 the projection is that the interest on the Federal debt is going to be $513 billion. The problem I think that bothers me and maybe the gentleman from Maryland (Mr. BARTLETT) the most is the hoodwinking of the American people in confusing the American people about what the Federal debt really is.

☐ 1945

So as we talk and brag sometimes about the fact that we are paying down the debt, this chart represents the total Federal debt. It represents the fact that the total Federal debt, that what we owe, whether we owe it to Social Security, we have to pay it back; or whether we owe it to somebody that bought a bond on the weekly market of Treasury, it is a debt and obligation of this country. Even more than this, we do not discuss unfunded liabilities.

Mr. Speaker, I yield to my colleague, the gentleman from Maryland (Mr. BARTLETT), for some comments on trying to be honest with what the Federal debt is.

Mr. BARTLETT of Maryland. Mr. Speaker, I thank the gentleman for yielding to me.

In a former life I was a teacher for 24 years, Mr. Speaker. An old adage in teaching is that repetition is the soul of learning. So, at risk of repeating something that the gentleman said, I want to go through just a brief explanation of the debt as I understand it.

The total debt owed by our country is called the national debt. That is made up of two parts. That is roughly $6 trillion. That is made up of two parts. One part is the public debt. We have heard a lot about the public debt, and I will come back to that in a couple of minutes.

The other part of it is the trust fund debt. Lockboxes and paying down the debt, let us talk about that for a moment and see what really happened.

We put a lockbox first on Social Security, and then we decided, since that was such a great idea, we would put one on Medicare. I have had people who ought to know better say that somehow we secured or protected Social Security and Medicare by putting a lockbox on them. Let me explain what that lockbox did.

What the lockbox did was simply to say that if we have a surplus, and we do, for the moment, have a surplus, Mr. Speaker, in these two funds, if we have a surplus, we cannot use that surplus for ordinary spending; we must use it to pay down the public debt.

Now, all of the trust funds are invested in nonnegotiable U.S. securities. We need to understand what happens when monies come into the trust fund. They come into the trust fund. In this day of big computers and instantaneous moving of information around, it probably stays there a nanosecond or two, and then the computer takes it out and replaces it with a nonnegotiable U.S. security. It is nonnegotiable because we cannot cash it in, and it just represents a debt that the collective taxpayers owe to the trust fund.

Now, that is debt. It is going to have to be paid. That money is taken and paid down with the lockbox, and then pays down the public debt. So for every dollar that the public debt goes down, the trust fund debt goes up a dollar.

So if we are looking at the total of these two debts, which is the national debt, it has not changed at all. But there are trust funds for which we have no lockbox. There are 50 or so trust funds. Two of them have a lockbox. Many of them do not have a lockbox, and we happily took that money and spent it, so the total debt, the national debt, kept going up.

Way back a number of years ago, it started with Lyndon Johnson with his guns and butter. He was running such horrific deficits that he wanted to hide the magnitude of the deficits, so he put the trust funds on budget and then coined the perfectly silly statement that the Social Security surplus offsets the deficit. What that means is that when we were told what the deficit was, they did not include in that number the monies that were borrowed from the trust funds. That is about $200 billion a year.

Mr. SMITH of Michigan. They came up with this phrase "unified budget" when the gentleman and I came to Congress.

Mr. BARTLETT of Maryland. That is correct. The budget that was balanced was the unified budget. That is all the money that comes into Washington and all the money that leaves Washington, but about 10 percent of the money that comes into Washington should not be Washington's money to spend because they have taken it from the citizens, presumably to put in trust fund for them, but they take and spend that money anyway, and make the silly statement that the Social Security surplus and the other surpluses offset the deficit.

They did offset the advertised deficit, but they did not bother telling us that what this amounted to was a monumental intergenerational debt transfer. Our kids and our grandkids are going to have to pay this.

Now, we cannot run the government today on current revenues; we cannot do it. For all the while, these last 3 or 4 years, that we were told that the budget was balanced, the budget which was balanced was the unified budget, but they were taking about $200 billion a year of trust fund monies that we owe to the trust funds, they are going to have to be paid back by our children and our grandchildren, and they were using those to run the government.

I talked with OMB. If the government keeps its books on an accrual basis, and if a person is a businessperson and has more than $1 million a year going through his company, he has to keep his books on the accrual basis; and we handle more than $1 million in the Federal Government, so presumably we ought to keep our books that way; and if they kept the books on an accrual basis, there never was a moment in time when in fact the national debt went down. Now, it is true that the public debt went down, but for every dollar the public debt went down, the trust fund debt went up

$1, so the collective debt, the national debt, went up.

I kept telling people who would listen that surely their sin will find them out, because what will they tell the people when we have to raise the debt limit ceiling?

See, all the while we were telling the American people that the budget was balanced and we were paying down the debt, and we were paying down the public debt; but all the while, the trust fund debt was going up even faster, which meant that there was an increase in the national debt. All the time we were telling them that, the debt was in fact getting bigger, and soon it reached the debt limit ceiling; so then the government, in order to borrow money to run the government, it would have to raise the debt limit ceiling.

Then we had an interesting day and a half with that, and we were here all night, because we put language in one of the bills that said that they should protect the good faith and credit of the United States. That was a euphemism for "please raise the debt limit ceiling." Those folks on the other side of the aisle, pretty bright people, found that out pretty quickly and they harangued for about a day and a half on that. We finally settled. I got home at 4:30 in the morning.

The reason I am so concerned that the American people understand this is I do not think they want us to run a deficit. I think they want the budget balanced, and I do not think they want us to balance the budget by increasing taxes.

Mr. SMITH of Michigan. In fact, if the gentleman will yield, that is what was decided: The only way we can increase the deficit is by increasing by congressional action the debt ceiling. So the idea was to make it difficult, and for us to have to think through, do we really want to increase the debt on our kids and our grandkids, to make them pay back what we think should be our standard of living now?

Just how fast this has grown, when the gentleman from Maryland and I, we came into Congress the same year in 1993, and at that time the Federal debt was $4 trillion. Today, the Federal debt is $6.2 trillion, almost a 50 percent increase. Ten years from now, the Congressional Budget Office estimates that the way we are going by covering some of these overexpenditures with increased borrowing, it will increase by 50 percent again, and the debt will be $9 trillion.

What do we do? How do we hold the line? We start out by being honest with the public, with the American people, on what this debt really is, and that it has a very negative effect on their lives, because here is government taking this money out of circulation. Here is money being bid up, if you will, whatever the bid is on interest rate, and saying, look, whatever the bid is, we will up it one because we have to have this money to satisfy the overzealous spending of Congress.

Mr. BARTLETT of Maryland. That is an interesting thing that happened as a result of the fiscal responsibility that we had, not enough to really balance the budget, but enough so that we could make do largely with monies from the trust fund surpluses.

What happened was we were not going to the marketplace for dollars, as we were before, so interest rates went down. That is a positive for borrowing from the trust funds to pay down the public debt.

But the negative of that is that the reality is that we cannot run this government on current revenues, so what we are doing is borrowing from our children and our grandchildren's futures. When it comes their turn to run the government, they are not only going to have to run it on current revenues, they are going to have to pay back all the money that we borrowed from their generation.

When I ran for Congress, and I started running 11 years ago, I said I was going to conduct myself in Congress so my kids and my grandkids were not going to come and spit on my grave because of what I have done to their country. Mr. Speaker, I am still trying to do that.

Mr. SMITH of Michigan. Mr. Speaker, it was Adam Smith, who I consider another great economist, that in trying to figure out what was prudent, what was the right thing to do fiscally in government, said, what is prudent in one's own personal life is the prudent thing to do as far as running government.

In our personal lives, the gentleman from Maryland (Mr. BARTLETT) and I are both sort of farmers, and the tradition in farming where we grew up was we tried to pay down the mortgage to give our kids a little better chance.

We are doing just the opposite: We are adding more burden to our kids and grandkids, and jeopardizing their future because somehow we think our spending and our needs today must be greater than what their needs are going to be 20, 30, 40 years from now.

That is ridiculous, it is not fair, and it is something that eventually the American people have to realize when they go to the ballot box this November or whatever November. Some of the questions they have to be asking their candidates are: How deep do you want to go in debt? How much taxes do you want to raise? How much are you going to increase government spending? So do not stand there and brag to me all of the things you are going to do for me with my money as it is filtered through the bureaucracy in Washington.

Mr. BARTLETT of Maryland. Milton Friedman made the observation that the government spends all the money we give it, plus as much more as it can get away with. What the American people need to do is to make it very difficult for Congress to spend more money.

When we are told what deficits are going to be and when we will turn the corner and finally have a surplus, this is all on the basis of the unified budget. So add roughly $200 billion a year to all of the deficit figures, and push into the future, and I do not know how far into the future, push into the future the date that we will in fact balance the budget.

I think that the American people want us to have a balanced budget. I do not think they want us to balance the budget by raising taxes; I think they want us to balance the budget by cutting spending. That is what we do in our family: We look at where the money is going and where we can cut expenses so we can live within our budget.

Mr. SMITH of Michigan. And especially in an emergency. If we have an emergency in our business or family, then we cover that emergency and cut down on spending. Right now we have an emergency in the Federal Government. When we have a war on our hands, a war on terror, a war to make sure that we have security in this country, if there is ever a time when it is reasonable to hold the line on other spending, to start prioritizing a little on where we spend the money, it is now.

Let us spend the money. Let us make sure that, to the best of our ability, that we have the security. Let us beef up our military where we are comfortable with that level. But with the rest of the spending, let us not demand, like we have in past years, that we just continue to spend as if there is no emergency facing us, and that is what we are doing.

What was just handed me, and I do not know if the gentleman can see it, it is the line that projects the increased debt up through 2012. We will see from the 1940s on the debt stayed relatively flat. Traditionally, even the so-called liberal Democrats did not want to increase the debt. In fact, we did not have a fixed debt limit. Every time they increased the debt up until 1983, they said that this was going to be temporary, and at some point it was going to revert back to the previous level of debt, because they did not want to permanently increase the obligation of their kids and their grandkids and great grandkids.

But in 1983, they said, well, maybe we have to increase it permanently. Back in 1970, just 30 years ago, the debt of this country was $380 billion. So after the world wars, the Korean War, the Vietnam War, the Civil War, the War of 1812, the Great Depression, many financial hardships, 32 years later we have gone by what is prudent in the way we handle our personal affairs, and the way we handle our congressional affairs is to the point where we now pay $330 billion every year just on servicing that debt, just on the interest of that debt.

So to hoodwink the American people and suggest that we are paying down the debt to the public when really we are borrowing more money, if you will, from another credit card as we borrow from the trust funds, maybe, I say to the gentleman from Maryland (Mr. BARTLETT), it would be good to help everybody understand what these trust funds are.

Mr. BARTLETT of Maryland. The trust funds are money that are taken from the American people for such things as Social Security, and we now do not need all the money we collect. In the future, we will need a whole lot more than we will be collecting then.

□ 2000

In fact, the second biggest trust fund is the Civil Service Retirement trust fund, and then there is the Medicare trust fund. There is the Transportation trust fund, and there are about fifty of these trust funds, and collectively, the current surpluses in those trust funds are about $200 billion a year; and as I mentioned previously, the only thing that can be done under law by those moneys is to invest them in nonnegotiable U.S. securities, and we are not going to bury that out in the back forty or put it under our mattress. We are going to spend it.

The present law really needs to be changed, and we have got to have something else to do with trust fund surpluses or we will always be running deficits because that law prescribed that the only thing we can do with a surplus is to invest it in nonnegotiable U.S. securities which assures that the debt will increase.

I would just like to note that the interest on the debt now is nearly as large as our budget for the military.

Mr. SMITH of Michigan. That is correct, $331 billion is the national debt; and now we have upped the military spending to about $360 billion.

Mr. BARTLETT of Maryland. Mr. Speaker, every year that we fail to balance the budget and the debt goes up and the interest goes up makes it that much more difficult to balance the budget the next year because now we have got bigger interest payments. By and by, it will be impossible to really balance the budget if this keeps on going forever, and it cannot.

At some point we have to draw a line and say enough is enough. Government spending cannot continue to increase two or three times faster than the rate of inflation. Ultimately that will bury our economy, and now we are taking from the average American worker 52 percent of all the money they make.

I have not seen it this year but a year ago tax freedom day was May 10. That was the day we finish paying all our State, Federal and local taxes but do not rest easy that on May 11 we can work to make some money for our families because for the next 7 weeks last year, it will be a little different this year, every American worked full time to pay the cruelest tax of all. It is the most regressive tax, the favorite of my liberal friends, by the way. It is the tax for which the poorest of the poor get no exemption or no deduction. They have to pay just as certainly as the richest of the rich, and this is unfunded Federal mandates.

What that is is laws that the Federal Government passes that require a State or a school district or a city or a business to do something that costs money but the Federal Government does not provide the money for it. Last year, July 6 was Government Freedom Day. Fifty-two percent of the working time of every American goes to support the Federal Government. I do not think it is unconscionable to talk about raising taxes.

Mr. SMITH of Michigan. Mr. Speaker, the property taxes throughout the United States, the people have demanded that their property tax be lowered, and I think part of that is because every year they have to reach into their pockets and come up with the money to pay the property tax. So it has been shifted in Michigan, for example, to an increase in the sales tax. If we had a system where people had to reach into their pockets to pay their Federal income tax rather than having it deducted from their paycheck that they never see, the people would be outraged.

Mr. Speaker, I call on every worker in America to look at the stub of their paycheck for their next paycheck and look at this 52 percent-odd in and out that is being deducted from the money they earn. So at what point do the American people rise up and say, look, enough is enough, Congress, get your act together?

Let me just add to my colleague's comment in terms of the unfunded mandates that we put on States and that is trying to pass off and we say we want to do this good thing and then go home and brag about it but we make local jurisdictions pay the costs. We pass a bill that says you have got to do all these things, but you are going to pay for it.

Added to that is the unfunded liabilities, what we owe from promises we have made on Social Security, on Medicare, on the retirement for public service; and let me just read these unfunded liabilities for the next 75 years: $15 trillion more money that we are going to have to come up with for Medicare, and that does not take into consideration expanding Medicare coverage for prescription drugs; $9 trillion we are going to have to come up with extra from someplace to pay Social Security benefits; $800 billion for the public service retirement system.

If we change the system to say we are going to have a unified budget and what we owe the trust funds does not make any difference, then what we are going to see Members of Congress do, politicians do, is sort of increase the FICA tax a little bit, increase what the Army and Navy and civil service have deducted from their paychecks so there is more money coming in that is being used that will be spent by the Federal Government so the Federal Government can brag and say, look, we have a balanced budget.

We only have a balanced budget if we consider the unfunded liabilities, if we consider the obligations that we have from the trust funds because that money going into the trust funds is going to help solve the long-term demographic problems in both Medicare and Social Security.

Just a footnote here, that the money in the Social Security trust fund would cover Social Security benefits for about 2 years. So for somebody to suggest that if government would pay back that money, everything would be okay, it is going to take more than that. It is going to take some dramatic changes in Social Security to try to get a better return on that money than the 1.7 percent. It has got to be optional.

We will probably take it up after the first of the year, but it is easy to demagogue on the campaign trail. So many campaigns are saying, well, my opposing candidate wants to ruin Social Security. So it is a scare tactic, and seniors that depend on this program sometimes do get nervous and do get scared. Some say deficits do not matter; that is not true. The spiralling debt will lead to eventual economic disaster. We need to deal with it.

Mr. BARTLETT of Maryland. Mr. Speaker, when my colleague noted the unfunded liability for Social Security, that depends on when we put the money into the system. The earlier we put the money in, the longer it will collect interest and the less we have to put in; but I have seen some data which indicates that Social Security, if we put no money in, it will run in the red something like $100 trillion during the retirement of the baby boomers. These are big, big numbers. Neither Medicare nor Social Security are solvent for the long haul. We must address both of those.

The encouraging thing is that today we can talk about Social Security. Five years ago to mention Social Security was interpreted by seniors as being a threat to Social Security and they would vote against you. So we could not even talk about it 6 years ago, but now we are talking about Social Security.

We have not done anything about it, and I am sorry that some people believe that the lockbox had anything to do with Social Security. The only thing it could possibly have to do with it is we have paid down something of the public debt which might make us more debt worthy so that we could more easily borrow money, but I have not noticed we had any problem borrowing money. That is the only possible link we could make between the trust fund lockboxes and Social Security.

Mr. SMITH of Michigan. Mr. Speaker, what it was, probably, is a gimmick and it was. It was Democrats and Republicans. Vice-President Gore in some of his speeches said the lockbox is great, but Republicans did the same thing. The lockbox was a gimmick to make people believe that somehow we were making Social Security more secure is just not the case. The money was borrowed from Social Security. The money will be paid back, but the consequences of coming up with that money to pay back.

My colleague mentioned $120 trillion; $120 trillion is the extra money that we are going to have to come up with over the next 75 years to meet Social Security benefits, what we have promised over and above what is coming in from the Social Security, or FICA, tax. If we put $9 trillion in an investment fund today, drawing 5 percent, then that $9 trillion that we put from that trust fund into an investment fund today would accommodate the $120 trillion over the next 75 years.

The challenge is to reduce spending now, to hold the line on spending now so that we do not increase taxes, so we do not increase the debt. Maybe we should have a law that says we only can spend what we tax, and therefore, we would have to have a balanced budget. There have been several attempts to put a constitutional amendment in for a balanced budget. I think if we have to increase taxes and take away money out of the American workers' pockets, as Congress wanted, to spend more there would be more of a public outrage in understanding that big government and the expansion of government, as fast as it is growing, is coming at the sacrifice of money being taken away from families in America.

Mr. BARTLETT of Maryland. Mr. Speaker, my colleague's suggestion that if we stopped withholding, that the citizens, when they sat down at the end of the month to make their mortgage payment and the payment on their car, they would also have to write a check to the tax collector, that they would be a whole lot more aware of the size of the tax bite, we are probably not going to get that through Congress.

Let me tell my colleague something that might get through that might have a beneficial effect. What I would like to do is to move tax day to the day before election. Pay taxes on the first Monday in November and vote on the first Tuesday after the first Monday in November. Does my colleague think that if we paid our taxes on Monday and voted on Tuesday that more people might vote and they might vote differently?

Mr. SMITH of Michigan. Mr. Speaker, as my colleague said earlier, I encourage everybody to look at their payroll stub of how much is being taken out for Social Security, how much is being taken out for Medicare, how much is being taken out for local taxes, city taxes, how much is being taken out for the mammoth Federal tax bite that we reach into the American workers' pockets to accommodate expanded Federal Government.

We have got some basic responsibilities. We are in a war and are going to pay for that war. There has been comments from the other side of the aisle that if we just had not had that tax cut, then maybe we would have had enough money to do all of the spending for the war on terrorism plus all of the increased spending that this body has been accustomed to. The fact is that the tax cut only represented 13 percent of the deficit problem this particular year, and according to most economists the positive effect on the economy of having tax reductions more than offset what we lost from simply projecting what the taxes might have been if there was no positive effect on the economy.

The fact is, and Art Laffer said it very dramatically, tax cuts help stimulate the economy. So we cannot say we have got to have more government spending, more government services and someone over, with the other hand, saying Congress has got to deal with encouraging economic expansion and economic recovery.

Mr. BARTLETT of Maryland. Mr. Speaker, there never has been a time in history when a tax increase has stimulated the economy.. If that were true, we have got to believe that a tax decrease does stimulate the economy. It is called dynamic scoring and we cannot do that by law. We really need to change that law. For instance, capital gains tax, every time we have reduced the rate on capital gains tax, the revenues from capital gains taxes have gone up, but we cannot score it dynamically. We have always got to score it as a loser, and the same thing is true of a general tax cut. We have always got to score it as revenue loss, when in reality what my colleague said is exactly true. Tax cuts stimulate the economy and there could be a larger revenue stream as a result of the tax cut and we cannot roll back the hands of time to prove to those who think otherwise; we cannot do history two times, but history tells us that tax increases depress the economy.

If we had a 100 percent tax, how much tax does my colleague think we would collect? Of course, it would be zero because nobody would work. If we have a zero percent tax, we also are going to collect no taxes. Somewhere between zero and 100 percent is the optimum level of taxation where the level of taxation is not going to so suppress the economy, discourage people from working, that they are just going to say I would rather play golf than work because the government is going to take 80 percent of my money.

A man the other day told me that 79.8 percent of all the estate that he has accumulated is going to be taken and he cannot pass it to his grandchildren. This concerns him very much, and I know we have had jobs lost in this country because people have looked at where they are, looked at the enormous tax burdens, looked at how little of their estate they are going to be able to pass on to their children and grandchildren, and they just quit. They are tired of working, they are tired of the responsibility and there is no reward for it and so they quit, and so lots of good jobs have been lost because of that.

The American people do not need more taxation.

□ 2015

The gentleman from Michigan (Mr. SMITH) talked about the possibility of raising the FICA tax. On many pay stubs that is now the biggest tax item. It is going to be really tough to convince the American people we need to raise that tax.

Mr. SMITH of Michigan. As a matter of fact, almost 70 percent more American workers now pay more in the FICA tax than they do in the income tax. I mentioned earlier that we went to New York a few weeks ago to the Federal Hall where the Bill of Rights was developed and our first Congress met. Our Constitution gave the incentive that has made this country so great over the last 226 years. It was a system where those individuals that worked hard, that tried, that learned, that applied that learning, that saved and invested were better off than those that did not. So that kind of an incentive was what made this country great, and we have been redistributing income; so as our taxes have been more progressive and saying, well, if one is successful or if they are a young couple and they want to work another 8 hours to do better for their family, we have a system now that says we are not only going to continue to tax them at the same rate but if they go out with a second job and earn more, we are going to tax them at a higher rate. So like the 100 percent, the more we tax, the more it discourages that kind of saving, that kind of investment. It is a challenge that this country is going to have to face up to.

And the demographics are startling. As we look at the demographics, as we look at more and more people, the so-called baby boomers going out of the working, production, paying-their-taxes mode and apply for Social Security and Medicare to the taking-out position, we are faced with dramatic challenges of the survival of Social Security, Medicare, Medicaid. So the result without some real responsibility in spending is going to increase taxes on everybody else. So when I go to high school classes, I tell them, look, they are the generation at risk. They should be yelling and screaming. They should be going to these political meetings. They should be asking those candidates what they intend to do as far as holding the line on spending and therefore holding the line on taxes that they are going to have to pay, holding the line on debt that they are going to have to pay the interest on every year but eventually they are going to have to pay off that debt.

Mr. BARTLETT of Maryland. Mr. Speaker, I would like to make two observations. One is that about the time of the Reagan administration, there were a lot of bumper stickers I saw out there that said "no trillion dollar debt." Now it is more than six times that big, and we have not had any six-fold inflation since that time, and where is the outrage? Where is the outrage that we are passing this heritage on to our children and our grandchildren? I thought I had remembered that during the Eisenhower years that our government first reached a $100 billion budget, I thought, gee, $100 billion is a lot of money. So I had the staff go back and check, and it was a couple of years after Eisenhower actually before we spent $100 billion. Look at America then and America now; and we are spending what now, over $2 trillion.

Mr. SMITH of Michigan. $2 trillion.

Mr. BARTLETT of Maryland. More than 20 times as much. And our country is not 20 times bigger. Our needs are not 20 times bigger. What has happened to us since those Eisenhower years when we were spending less than $100 billion and we are now spending 20 times that amount of money? We really need to stop and take a long look at where we are and where we are going, and we cannot continue to have this kind of a debt increase. We cannot continue to have this kind of an increasing debt that we are passing on to our children and our grandchildren. We are a rich country, but there is a limit to what we can do; and I really would like to see tax day moved to the day before election. There was an interesting little song several years ago, "We'll remember in November, when I go in that booth, I'm going to vote for anyone but you," and the gentleman from Michigan (Mr. SMITH) may have noted that tax day is about as far on the other side of the calendar as they can get it from election day, is it not? Not very many people remember from April 15 clear around to November, but if it was the day before election, almost everybody has a memory that long; and I think a lot more people would vote and they would vote very differently, and I think we would quickly come to grips with this budgetary problem in our country.

Mr. SMITH of Michigan. Mr. Speaker, winding this up, there are some real obligations of the Federal Government. It is the defense, it is the security, it is the health, it is education; but now we have expanded into so many social programs that in many ways take away the incentive of working hard and saving and investing and doing for themselves. We discourage investment. We say, look, if they earn some money and invest it in something and the value goes up, we are going to tax them again.

It is interesting. Our system says to a person, look, after they have earned this money, if they go to Las Vegas and live it up with wine, women, song, gambling, and spend all that money in gambling and waste and expenditures, we are not going to tax them anything; but if they give some of that money to their kids and their grandkids to help in their education, to help in their success, help their development to contribute to this economy, we are going to tax the heck out of them.

Our system of taxation needs to be reviewed, especially when we compare it to other countries, other countries that do not have a capital gains tax, other countries that encourage savings and investment more than we do. The challenge is before us, and it is not going to be an easy road. And I compliment the gentleman from Maryland (Mr. BARTLETT) for his willingness to stand up against the easy road to say, look, we are going to be okay, we are going to pay everybody's benefits, we are going to come up with all these programs that do everything they want us to do. The fact is that sometimes it is very difficult to say, look, that should not be a Federal Government responsibility, that should be a State government responsibility, a local government responsibility, or an individual's responsibility. So it is hard choices in a situation where everybody is running for political office and the tendency is to try to please everybody.

Mr. BARTLETT of Maryland. Mr. Speaker, the Bible says it is more blessed to give than to receive, and the government has largely usurped the role of philanthropist. Several years ago in our church, our kids did not go trick or treat. They would go out before and they would leave a bag; then they would go pick it up and the ladies would help them make food baskets to give to poor families on Thanksgiving. So one of our ladies called the local welfare people and said, We would like the names of some poor families that need food so that we can give them some food.

And the welfare worker was indignant. What do you mean poor families that need food? What do you think we are here for? There are not any poor families that need food. Of course that is not true. There are some who fall through the cracks. But this was just evidence of how broad the role of the Federal Government has gotten.

When I look back at those Eisenhower years, $100 billion budget, 62 percent of that budget, 16 percent of GDP, went for defense. Today it is 15 percent of our Federal budget and less than 3 percent of GDP that goes for defense. Now relatively we are spending only one-fifth as much on defense today, but we are spending 20 times as much as that Eisenhower budget in our total government.

And the gentleman from Michigan (Mr. SMITH) is right. Here in this Congress we vote on only about one-third of all the money that is spent. The rest is called entitlements. It runs on auto pilot and every year it goes up and up, and we need to address both the entitlements and the discretionary spending, and America will not be solvent and our children will not look forward to a bright future until we have done that.

Mr. SMITH of Michigan. A wise man once said that "if you are in debt, you are not free." So whether one is an individual or a business or the Federal Government, we have got to pay attention to debt and eventually have some kind of a plan to pay that debt off.

Again, I would thank the gentleman from Maryland (Mr. BARTLETT).

THE NEED FOR A NEW BUDGET PLAN

The SPEAKER pro tempore (Mr. PLATTS). Under the Speaker's announced policy of January 3, 2001, the gentleman from Illinois (Mr. PHELPS) is recognized for 60 minutes as the designee of the minority leader.

Mr. PHELPS. Mr. Speaker, I represent the 19th district of Illinois. I am honored to be here in my second term in Washington, D.C.; and, Mr. Speaker, tonight as one who is honored to be a member of the Blue Dog Democratic Coalition, we will be joined by hopefully several other members of the Blue Dog Coalition tonight; and we want to focus our time on discussing the budget situation, the negative consequences of a return to deficits and debt, and the Blue Dog message about the need for a new budget plan.

It is one thing to have a budget plan as we started this session and this budget year and as the President outlined in his budget plan. It is one thing to head in the direction we intend to go and meant to go, but then unanticipated obstacles, unfortunate happenings and incidents, dreadful experiences deter the plans and get us off the path and the goals in which we intended when we outlined our first intentions. Part of that we know was the recession, deeper than any wanted to acknowledge or to accept; and of course September 11, the impact that it has had we are still feeling and will for some time: tax cuts, spending. All that goes together in affecting that original plan that the President set forth in the budget resolution.

So part of our job as elected people is to make sure, at least in my estimation, that we are flexible enough to adjust to situations that get us off that direction that we started. And our discussion tonight, at least from the Blue Dogs' perspective, hopefully will be to point out how far we have gotten off that path and to hopefully make suggestions as to how we can modify our direction and stay within the confines of a balanced budget, which, by the way, has not had any discussion in the 4 years I have been here, soon to be. I have not seen a balanced budget resolution brought to the floor, and I would think that we, as near a bipartisan group as one can almost get, meaning that one party does not have a super majority over another in either Chamber, that should mean that we are working together more because we have to, and the numbers dictate that. However, I have not seen that happening in the last few months, in a couple of years at least.

Mr. Speaker, to get started on our focus and discussion of the budget situation and the negative consequences of a return to deficits and debt, our message is about a new budget plan and why we need to usher in as quickly as possible to make sure we acknowledge some of the things that happened that are not necessarily the fault of anyone and we should not be pointing our fingers at each other at this time. That is for sure. We can debate and talk about what happened, but we need to acknowledge that it is a different situation now than it was September 11, 2001.

So we, as Members of Congress, try to depend and must depend on authentic numbers, sound numbers that tell us how much resources we have to work with, what is in the bank, what we owe, what we can anticipate to come in from various sources of revenue, and what we know are going to be expenses that we are obligated to pay and as we go through a budget year in trying to reach a budget agreement before we adjourn for this session, trying to anticipate what the costs will be in this budget agreement. So we have a general outline. How we reach the end of that process depends on how much we work together and all the facts that come to us that were not there in the beginning of the presentation such as I alluded to with the President's budget resolution.

□ 2030

So we find ourself in a new time, new day, new circumstances. Our plea as Blue Dogs is we would acknowledge this as a body which has been elected from every State in the country, and even within my own State the great diversity that we face should help us instead of prevent us in coming to a reasonable agreement.

We have fiscal reporting offices, bureaucracies, and departments to give us an idea of our situation in the past few months, what we thought we had and could depend on, what we have presently to depend on with revenues and outlook, and what our plans should embrace depending on the information we can best conjure up for the future, the short term as well as the long-term future.

So most of the discussion about the budget, the tax cuts, the receipts, the revenues and everything in the last 4 or 5 years has been about a 10-year projection, which I personally feel is a false premise to begin with. How in the world would anybody have anticipated September 11 or the recession making as much impact as it did on our economy?

So we need to weigh all those things now in a different light. So we do have the Congressional Budget Office, which confirms what we have to work with as Members of Congress so we can relate to our constituents, the voters, the taxpayers, the citizens, just exactly how we should be guided through the process that we were elected to do to arrive at a financial, sound way of managing the resources that this country produces and gives to the government sector, to give back through the process of which we decide priorities that are outlined by everyone's discussion here, the input that comes from individual Members. That is why we are in the greatest deliberative body in the world right here in the House of Representatives.

So the nonpartisan Congressional Budget Office, that is the fiscal reporting group that should not be swayed or influenced and was put in place by one party or the other, or leadership or those that are more powerful to the seniority years. Those things are very important for us to take into consideration when we receive the information from the Congressional Budget Office.

So the Congressional Budget Office confirms that the surpluses projected last year have been replaced by deficits and growing debt. The CBO, which I will refer to the Congressional Budget Office as, has released updated economic and budget projections for the next 10 years. There again we are on this 10-year kick which I feel is shaky ground.

The report documents the continuing deterioration in the 10-year budget outlook. Last year the CBO projected that the government would run a budget surplus of $3.4 trillion, excluding the Social Security surplus, meaning the Social Security revenue, FICA, that comes in from those who work every day, coming from their earnings to pay into the Social Security and Medicare Trust Fund.

That surplus was excluded from the $3.4 trillion surplus. The CBO now projects that the government will run a non-Social Security, that means not counting the Social Security receipts and revenues, budget deficit of $1.5 trillion. That is reversal of nearly $5 trillion in a year and a half.

The CBO projections do not include costs of additional tax cuts or increased spending proposed by the President or being considered here in Congress. Extending the expiring provisions of the 2001 tax cut law would add more than $600 billion to the deficit projections over the next decade, in which this Congress has chosen to choose the way to project budget, give tax cuts, obligate spending and look at debt.

The first major violation occurred in our agreements over the last several years when we broke the lock on the lockbox and raided Social Security. For the past couple of years the other side has made promises to protect Social Security. This budget is far from protecting Social Security, and I defy any Member to prove to me otherwise. Many of my constituents depend on Social Security as a means of comfort after they have worked hard all their life, over the many years that they have labored in their occupation.

This budget calls for tapping the Social Security Trust Fund to support other government programs every year for the next 10 years for a total of $1.5 trillion. Now, I am concerned about that, and that is why I am spending my time trying to communicate the situation to the American people and those who I represent in the 19th Congressional District of Central and Southern Illinois.

Our Nation cannot afford to put our Social Security system at risk when it is depended on by so many of our citizens. Social Security and Medicare are the two crown jewels of social programs in the history of our Nation. They have been very successful, but yet we have not managed them properly, and we are about to get to that breaking point where it is going to be unmanageable.

Let me just talk about running up the national debt before I introduce my colleague. During the budget debate last year, Republicans in Congress claimed there was a danger that the government would pay off the debt held by the public too quickly, something I laughed at and thought, my, what a great fortune that would be. Little more than 1 year later, the Congressional Budget Office now projects that the publicly held debt will increase from $3.32 trillion at the end of fiscal year 2001 to $3.865 trillion by the end of 2006, a $545 billion increase in the debt.

As a former teacher, as a father and a grandfather, I have always tried my best to do what is right for the next generation, the future generations even beyond the next generation. We cannot afford to leave our children in a mess that they cannot clean up. The administration says the publicly held debt will begin to gradually decline in 2005. Even if that is true and even if the debt does start to decline and the government does its part in beginning to pay it down, we still need to remember the impact this is having on our system of Social Security. This is where our children are going to be impacted the most.

From my understanding, the total debt of our Nation is going to continue to increase. That is right. Even though the administration suggests that the publicly held debt will begin to decline, the fact is that the total debt will continue to rise due to the fact that we have not kept the commitment to save the Social Security Trust Fund surplus. We all made that commitment. We have broken that commitment. That is just fact. That is just the truth.

The statutory debt limit, which has increased by $450 billion to $6.4 trillion just 2 months ago, will need to be increased again next year. I would gather that is why we are probably going to find ourselves in a lame duck session because too many of these facts are too severe for some of us to want to face and to tell the American people the truth about the situation we face. So it is time to regroup. It is time to go back to the table and say let us acknowledge what has happened. Before it is too late, let us look at another plan. The Blue Dogs presented that several months ago, and we have yet to receive or be responded to in a serious nature from the other side of the aisle or from the administration or from leadership here in the House.

Mr. Speaker, let me introduce a member of the Blue Dog Coalition who came to Congress the same year I did, is a member of my same Congressional class, and is one of my closest friends, the gentleman from Indiana (Mr. HILL).

Mr. HILL. Mr. Speaker, I thank the gentleman from Illinois (Mr. PHELPS) for his leadership on this particular issue. I have come to know the gentleman from Illinois (Mr. PHELPS) now in the last 4 years, and he is in fact a dear friend of mine and we have shared a lot of stories together. I have also come to respect his honesty and integrity. When the gentleman says something, you can put it in the bank that the facts have not been massaged and it is the truth. What the gentleman said a few minutes ago is right on the mark and I applaud the gentleman and what he does for his constituents back home in Illinois.

Mr. Speaker, I had an opportunity and challenge to get elected to the Indiana legislature back in 1982, and during that time I will never forget it, we went into a special session right away. In that special session the legislature raised taxes to overcome budget deficits that they were having in the State of Indiana.

Here in Washington during that time there was a new President who was advocating tax cuts and increased military spending. In the process of doing that, huge budget deficits occurred. It seems to me that we are in that same situation now because if we look around the Nation, all over America, State governments are increasing their taxes while Congress is cutting Federal taxes, increasing the military spending dramatically, and in many ways justified because of the war on terrorism, and we are starting to run up huge deficits all over again. It is deja vu all over again, just like it was in the 1980s. These are policies that have been put in place that are getting in my view undesired results because deficits are a problem.

During the 1990s, we changed course from the 1980s and we adopted new economic policies. Our emphasis was on debt reduction. We were largely successful in the 1990s for reversing those policies of the early 1980s.

□ 2045

In the late 1990s when the gentleman from Illinois and I came to Congress, we actually experienced budget surpluses for the first time in many, many years. Then there was a Presidential race, of course, in the year 2000. This Congress and this administration has returned to the policies of the 1980s which again are resulting in huge budget deficits. Some called it supply side economics. At one time it was called voodoo economics. I do not know what to call it, but all I know is we are running up huge deficits once again.

The Blue Dogs are a group of 33 Members of Congress, the gentleman from Illinois and I are two of those 33, that believe that we ought to be fiscally responsible and try to get us back on a path where we do pay our debts just like every American family does all across America.

I have been back in the district for the last several weekends, and I have discovered that people are hurting. The economy is not doing so well. The families back in the ninth district in Indiana who are not doing so well are changing their budgets to reflect the bad economic times that they are having. They know, the good folks of southern Indiana, just like the good folks in south central Illinois, that when you fall upon hard times, you have got to readjust your budgets in order to pay your bills. That is the honest way to do things. That is the forthright thing for people to do. By and large, the good people of southern Indiana that I have the fortune to represent redo their budgets to reflect the times.

Congress for some reason feels like it does not have to do that. As a matter of fact, we are spending money like it is growing on trees again. The Blue Dogs are a group of 33 that thinks that we ought to sit down as Democrats and Republicans in a bipartisan fashion and try to come up with a plan to get us out of this deficit, just like families back in southern Indiana do; they come up with a plan to get us out of these deficits. Congress needs to do the same thing. The Blue Dogs have been a strong voice calling for a budget summit, for us to come down as Republicans and Democrats to figure out a way how we are going to get out of this budget crisis that we are in.

I would like to cite some statistics. Last year, CBO, the Congressional Budget Office, projected that the government would run a budget surplus of $3.4 trillion excluding the Social Security surplus. The Congressional Budget Office now projects that the government will run a non-Social Security budget deficit of $1.513 trillion, a reversal of nearly $5 trillion in only a year and a half. So those huge budget surpluses that we experienced in the late 1990s are gone in a year and a half, and we are accumulating a $1.513 trillion reversal.

The Congressional Budget Office projects the government will run a unified deficit of $157 billion in the current fiscal year. When the Social Security surplus is excluded, CBO projects an on-budget deficit of $314 billion, $162 billion higher than that projected in January. For fiscal year 2003, the CBO projects a unified budget deficit of $145 billion and an on-budget deficit of $315 billion when Social Security is excluded. The government is projected to borrow virtually all of the Social Security surpluses to finance deficits in the rest of this budget.

The gentleman from Illinois was talking about how many of us, myself included, pledged to put a lockbox around Social Security and not spend the Social Security surpluses, to use Social Security for only what it is supposed to be used for, and that is Social Security. If you ask your people back home if that is the right thing to do, I guarantee you overwhelmingly people will say that is the right thing to do. We should not be using these Social Security surpluses to finance the debt that we are incurring. It is irresponsible. Nearly $1 trillion, $964 billion to be exact, over the next 5 years and more than $2 trillion by the end of this decade will be used from Social Security surpluses. That is wrong.

During the budget debate last year, some Members of Congress actually came to this microphone and claimed that there was a danger that the government would pay off the debt held by the public too quickly. As we think about that today, that was just plain laughable. Little more than 1 year later, CBO projects that the publicly held debt will increase from $3.32 trillion at the end of fiscal year 2001 to $3.865 trillion by the end of 2006, a $545 billion increase.

I would assume that most people who are listening to these budgetary figures, their eyes have got to be glazing over now. These are numbers that nobody understands. So let me try to put it in perspective a little bit better. If this holds true, if these deficits hold true, it will be the largest increase in debt in the history of this country in one year, the largest increase in the history of this country. So we have returned to the early 1980s and those economic theories, where you cut taxes here, the States have to raise taxes back in our homes, we increase funding for military spending and we run up huge deficits again. It is deja vu all over again.

The real problem is that the budget is projected to continue to run on-budget deficits requiring the government to raid Social Security and Medicare trust funds even after the economy recovers and returns to strong growth. We face long-term budget problems that go far beyond the impact of the war on terrorism or the downturn in the economy. Running deficits and increasing the debt over the next decade and leaving in place long-term fiscal shortfalls will make it even harder to meet our commitments to workers who will retire in the next decade and beyond. Higher debt means higher spending on interest payments. You want a tax cut? Pay down the debt so that we can reduce interest, so that people can buy their homes and their cars and make their loans more cheaply. That is money in everybody's pocket.

The government will spend nearly $2 trillion paying interest on the debt over the next 10 years. We will spend $170 billion in interest payments just this year. And spending on interest will continue to increase through 2007. Spending on interest on the debt is the most wasteful use of taxpayer dollars. The amount of the budget consumed by spending on interest takes away resources that could be used for other priorities, such as defense, health care, education, et cetera.

More than $1 trillion of the national debt, roughly one-third of the publicly held debt, is held by foreign investors. In 1998, the U.S. Government paid $91 billion in interest payments to foreign investors. The national debt places a drag on the economy and a burden on the family budget by keeping interest rates higher than they would otherwise be. Budget deficits and a large national debt have a major negative impact on the economy and the finances of American families by keeping interest rates high. Continuing to allow the national debt to grow will impose an increasing tax burden on future generations to pay for the current consumption. The President must work with Congress to put its fiscal house back in order, just as families back in Indiana facing financial problems must work with the bank to establish a financial plan in order to get approved to refinance their debts.

In short, we need a budget summit, as the gentleman from Illinois has already outlined. We need to reach out, Republicans and Democrats, within the Congress of the United States and to the President, to try to come up with a plan like families back in Indiana do themselves, coming up with a plan to try to get us out of the problem that we face, and it is a problem.

Mr. Speaker, our young men and women are fighting terrorism all over the world right now as I speak. Of course we need to support them. It is immoral for us to require them to fight these wars and then to come home and in the later years when they are in the Congress of the United States, be responsible for somehow figuring out how we pay this debt off that we, our generation, has incurred. It behooves me and this Congress and the people who might be listening, certainly the people of southern Indiana, to get our fiscal house in order by calling a summit, asking Republicans and Democrats to come together to figure out a way how we are going to return to fiscal responsibility.

Mr. PHELPS. I thank the gentleman from Indiana. Let me just say, knowing this gentleman for the last 4 years, we came in, as I said, the same year. You would think as very enthusiastic freshmen, honored to be elected and serve in this great body, naturally we shared some of the same commitments and priorities as education and health care, those things that are basic to our well-being and our communities and our families, both of us, as well as all the Blue Dogs.

But as freshmen Members, I remember having the discussion how important Social Security and Medicare protection was to us as freshmen. As far beyond any other thing that we were concerned about, that was at the top of the list. It was not rehearsed. It was not something we conjured up. That is the way we felt when we first entered this body. Now we find ourselves in this situation, and we have seen it decline; As I said before, some of it is not our fault. It is out of our own power that things have happened, and circumstances.

But it is within our power to recognize and acknowledge a problem and say, what can we do together from here knowing this situation happened 9–11, the recession was deeper, we want to acknowledge or at least accept; and the tax cuts, how much impact did all of that have and the projections of 10 years being too rosy, painting a rosy picture, downplaying the liabilities. That is what has got us in this situation. So it is not time, even though it is right before the election, to start pointing fingers and say that it is your fault, it is your fault, but it is our fault if we do not recognize it is time to come together and acknowledge and embrace a new plan that will reflect what has happened to us.

With that let me thank the gentleman. If he would like to interject anything from now to the end of our time allotted, feel free. We can have open discussion, but it is my honor to now introduce, I started to say the oldest Blue Dog, but I will just say the most senior of the Blue Dogs who actually was instrumental in forming this coalition which, I think, has had its impact on the Nation and someone who has been a mentor to me, even though we come from extreme distances away, from Texas to Illinois, believe me, it is scary how close our thinking is on line together, my dear friend, the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. I thank my friend from Illinois, and I thank my friend from Indiana for their discussions tonight. I want to begin by building on the major points that they made in their conclusions. We are here tonight not for fingerpointing, but in an offer to work in a bipartisan way for a solution. We offered ours last year in the budget debates and we were turned down. That is perfectly the prerogative of this body. The majority can ignore the minority anytime you would like. You passed your economic plan. We thought it was poorly conceived, but you did not. And now we have the results. Today the stock market reached the lowest point that it has been in 6 or 7 years. Unemployment is beginning to move up. We have a lot of concerned people around this country, concerned about whether or not their jobs are secure, their savings are secure; and we still have the very real concern about Social Security, because we can talk all about, we can blame all we want to, and I am a little bit perturbed with both sides regarding the Social Security arguments that are taking place today, but the one thing we cannot say is that anybody is doing anything about it.

If you are perfectly satisfied with running the largest deficit in the history of our country, then continue to come to this floor and demand to continue to follow the economic game plan that we are now under and that is a perfectly honest position to take and then assume the responsibility for what that policy brings. Because that is what is happening today. We cannot undo it, what has happened to this point; but we can make a difference in what is going to happen from this day forward.

□ 2100

That is where I think the market is crying out for some direction and leadership and for us in this body to quit the finger pointing.

We had two sense of Congress resolutions on the floor last week that were, with all due respect, ridiculous; us, we in the House of Representatives, who have only passed five appropriations bills, blaming the Senate because they have not passed a budget, and the only thing that divides us is $9 billion. $9 billion is what the finger pointing is all about, and this body and the wonderful leadership we have here is saying it is all the Senate's fault.

Now, that is laughable. From where I come from in Texas and from where I think the gentlemen from Illinois and Indiana come from, if you are going to finger point, my people want me to say okay, then what would you do differently?

Well, here we have offered and we will continue to offer what we would do differently. We need a summit on the budget. We need to sit down and put everything on the table and work ourselves out of a very difficult situation this country finds itself in, very difficult. But there seems to be no interest in that.

You know, here we had some safeguards, some policy procedures, that were put into effect in the 1997 budget, even going back to the 1990 budget, in which we suggested that having caps on spending agreed to would be helpful to resolving our budget differences. Now, this year the Blue Dog Democrats said, in agreement with the majority, that the $759 billion number is a good number and we are prepared to support our colleagues on that number, or at least some of us are.

Pay-go, we have had a pretty good little budget process in which if you are going to propose increasing spending, then pay for it. If you are going to propose additional tax cuts, pay for it. Do not borrow it on our children's and grandchildren's future. That expires September 30. I am told, and I hope I am wrong, and I would love to be proven wrong and have someone come to the floor of the House and say right now, Charlie, you are wrong; we are going to reimpose the pay-go rules. We are going to have those rules, and, by the way, instead of ignoring them, as this body has done for the last 2 years, we are going to live up to them.

It is kind of amusing to me sometimes, we are out here arguing for pay-go rules, and we waive them every time a rule comes to the floor that has something to do with sense of Congress resolutions, or with spending resolutions, or the favorite is tax cutting resolutions. If we are going to have a rule of the House, live by it.

We are prepared to back the majority party, and we will propose on the CR tomorrow, or the next day, when we have the continuing resolution, which is an indication of a failure of this body to do our work, when we cannot pass 13 appropriations bills and send them to the other body. If we passed our 13 and sent them to the other body and the other body did not act, then we would have the right to criticize the other body. But the gall of my friends on the majority side who will stand up and be critical of the other body when we have not done our work, it just defies my imagination.

Mr. Speaker, we increased the debt ceiling earlier this year, and at the rate we are borrowing money now and with the projected additional spending over and above what is in current law, the gentleman from Indiana a moment ago stated it correctly, this Congress is going to preside over the largest single increase in our Nation's debt in the history of this country, and yet the majority claims they are conservative.

Now, that, with all due respect, is argumentative, and I would love to see a serious debate on some of these issues, other than just the stone-walling and the blaming and the finger pointing that is going on and trying to blame the other body because of inability of this side to pass appropriations bills.

Whatever happened to the legislative process in which you have differences of opinion and you sit down and work them out together? If you have got the votes, you pass them, and, if you do not have the votes, you fail them. That is kind of what the majority is doing today, I suppose. But yet you seem to not be willing to assume the responsibility of the actions that you continually vote out of this body, and you seem to be wanting to blame the other body.

I do not understand that. I do not understand the logic of that. That is why the Blue Dogs are going to be on the floor day after day after day until we are adjourned asking the simple question, what is wrong with a budget summit? What is wrong with sending a message to the investment community, the investors of this Nation, saying we are going to sit down and actually work on some new solutions, or come to the floor and say we have the perfect solution and we want to continue and we want the results to be our responsibility.

Social Security: I have been in this body now for almost 24 years. When I was first elected in 1978, 2011 was a long time away. Today, 2011 is 9 years away. 2011 is when the baby-boomers, the greatest generation, those that we rightfully pay homage to on a regular basis for their tremendous patriotism and support in the winning of World War II, it is when the baby-boomers begin to retire, that the largest single drain on the economy of the United States in paying off the debt to the trust funds that we must honor will begin to come due.

Instead of us dealing with that as the Blue Dogs asked and pleaded last year when we were talking about a $5.6 trillion projected surplus, we were emphasizing that is projected; do not spend money that is not there. But we were not heeded.

We suggested taking half of that projected surplus and paying down the debt, then the other half of that surplus divided equally between tax cuts targeted for purposes that will benefit the economy and the other one-fourth or half of the remaining projected surplus, increased spending in priority areas which started with defense and then veterans and then healthcare and then education and then rural America. That was our priorities.

But we also said before we do any of that, let us sit down as a body, Democrats and Republicans, and work out the answers to the future of the Social Security system and the Medicare system and the Medicaid system. We have got a crisis out there in our nursing homes all across this Nation, in my home state and in every other state, and instead of us dealing responsibly with trying to come up with policies that will answer the nursing shortage and the tort reform and the malpractice reform and all of the things we need to be doing, what are we doing? We are going to pass a CR, a continuing resolution, and we are going to punt into the next election, and we are going to poison the well on all of these issues that will make it even more difficult to deal with it next year.

We said, let us deal with it last year, but, again, the majority said, no, we have got a better idea. And that is the prerogative, Mr. Speaker, of the majority. Many times I come to the floor and I will get a few calls that will come in and say, you Democrats are just spouting sour grapes. Well, if that is your opinion, I respect everybody's opinion. But we are sincerely here tonight, as we were last week, as we will be tomorrow, saying we have got a problem.

No one, no one in the entire United States today, argues that there is not a problem with the Social Security System, in the future. No one. We all agree. We have got different solutions. I have got mine. I worked with the gentleman from Arizona (Mr. KOLBE) for the last 6 years on a proposal. We know what we are for, or what we think we are for.

But I respect anyone that has got an opinion. If we would just spend some time in this body in the committees dealing with that problem, instead of bringing sense of the Congress resolutions to the floor of the House saying that it is really all the other body's fault, and doing that with a clear, unsmiling face.

We are this body. We are the House of Representatives. We are the people's House. We are the ones that are elected by a majority of the people within our district. And, just as my colleague from Indiana said a moment ago, the people in Indiana are asking us to come up with a solution.

Why are we not? What is it about politics today that has all been turned over to our promoters and issues, and no one ever, ever asks us to be accountable for our actions except the blame game?

Well, Social Security and the trust fund and the trust fund problem are very, very real, and I venture to say that not a single one of the 435 of us in this body tonight, both sides of the aisle, would disagree with that very calm statement. But when you are in the minority, you cannot effectuate the direction of policy. Only the majority can determine what can come to the floor and how it comes to the floor.

Yes, we are a little bit testy on the Blue Dog side, because when we come to the Committee on Rules and ask to have some of our ideas considered and voted upon, we have been denied and denied and denied. What is it that the majority party of this body today that calls itself conservative is suddenly afraid of ideas and letting ideas come to the floor and be voted upon? What is it? I do not know. But I am a little bit frustrated. But that comes with being in the minority, I am told, and that is the way our system is supposed to work.

We are living in some very trying times, and I will predict that there is going to be tremendous support for our President when we deal with matters of tremendous importance and seriousness regarding international affairs. We certainly will find strong bipartisan support for standing with the young men and women that were mentioned a moment ago that we will send perhaps into harm's way, as we already have in Afghanistan. And, yes, there is a cost, a tremendous cost. War is not something that should ever be taken for granted or expressed in simplistic terms. It is one of the most serious matters to come before this body, and we will deal with it in this body, and I have every confidence that this is one issue that will have adequate airing and discussion in the people's House.

But tonight we talk about the lack, the lack, of allowing serious debate of a change of economic policy for this country. Again, if we are wrong and we do not need this change and we do not need a summit, then so be it. Obviously that is the answer coming from the majority side. That is obviously the answer. "We like the game plan we are under and we are perfectly willing to stand up to that game plan because it is working."

Well, that is the kind of debate that we ought to have in a little more open way, instead of the blame game. I hope tomorrow and the day after that that we will get away from these sense of the Congress resolutions, trying to blame somebody else for the inability of this House to deal with our own problems. I will not call us a do-nothing House, because we have done something. We have passed some resolutions. We have done some good. But it is the big undone good that we have tonight that we focus on as Blue Dogs, because by not facing up to the economic problems of this country, by not facing up to the ticking time bomb of 2011, by ignoring the interests of those who cannot vote, our children and grandchildren, those who do not have a vote today, by continuing to insist that the economic plan that we are under is good and that they should be the ones to pay for the debt that we are building up today, and standing on the floor as some are tempted to do and saying the debt really has not gone up, when we know it has gone up and will go up this year, the largest single increase in the Nation's debt in one year in the history of our country, is coming under the economic game plan that we seem unwilling or unable to make any changes in.

The gentleman from Illinois, I thank him for taking this time tonight, and I look forward to hopefully in the days ahead joining in a spirited debate. Tonight, since we cannot seem to do it in the regular hours of the day, we cannot seem to find it in our heart to be in legislative session on anything but after 6:30 on Tuesdays and going home on Thursdays, and yet we are blaming the other body for not doing their work, that maybe we could have a little time in these hours at night to have a serious discussion, and perhaps maybe some of our friends from the other side of the aisle, and we have many, and there are many more agreements in this body than there are disagreements, but it is the call of the leadership that determines the manner in which we debate it. That is my frustration.

So if we get another hour tomorrow night, I hope maybe we will be joined by some of our colleagues, and we can have a good discussion as to why it is somebody else's fault that we are not doing our job.

□ 2115

Mr. PHELPS. Mr. Speaker, there is not a more aggressive leader in terms of how we deal with the budgetary challenges in this body than the gentleman from Texas (Mr. STENHOLM). Both sides of the aisle will tell us in the corridors of this Chamber that the gentleman from Texas (Mr. STENHOLM) has provided leadership that is unique, courageous; and the greatest compliment that one can have here is when they say that someone tells the truth. Even when we are into debate openly, many will not give credit for those terms; but the gentleman from Texas has earned that right, and I thank him very much, my friend and colleague, for his input and for his leadership to those of us who are new in the Blue Dog Coalition in terms of telling us how to communicate the urgencies at hands. I thank the gentleman for his input and for allowing me this time to manage the time tonight. It is a great honor for me.

I will continue on my points that I was outlining before I turned it over to my colleagues, and the third point is that the deterioration of the budget outlook demonstrates the danger of making commitments based on uncertain budget projections, as I began my remarks tonight of how we have embraced this 10-year projected outlook of budgets, debts, obligations, priorities and everything else which I think is a false promise to begin with.

But when Congress considered the budget last year, the Blue Dogs warned then about the danger of making long-term commitments for tax cuts or new spending programs based on projected surpluses and proposed setting aside of half of the on-budget surplus for a cushion to protect against unforeseen changes. The President and the Republicans here in Congress promised that we could afford to fund priorities such as defense, prescription drugs, agriculture, education, and many other priorities, and enact the President's tax cuts, and save the Social Security surpluses, and pay off the national debt. Well, the new budget reports indicate that the government will return to deficit spending and raid the Social Security trust fund, confirming that the warnings made by the Blue Dogs last year about the dangers of making expensive budgetary commitments based on these uncertain projections now are taking place. With the new budget outlook, any increases to fund the war on terrorism or other priorities will result in additional borrowing from the Social Security trust fund and increase the debt.

While deficits may be inevitable in the short term, the real problem is what has happened to the long-term budget outlook.

The primary source of the deterioration of the budget outlook in the short term is the economic downturn and spending for the war on terrorism. I completely understand, and united we stand behind this President on the war against terrorism and the need for spending what is necessary to win the war on terrorism and ensure the protection of our fellow Americans here at home. However, we need to work together in developing a plan that will fight the war on terrorism, but will also protect the Social Security trust fund and benefit our future generations. We really need to start thinking about our children's future.

The real problem is that the budget is projected to continue to run on budget deficits, requiring the government to raid the Social Security and

Medicare trust funds, even after the economy recovers, hopefully, when it does, and returns to strong growth. We face long-term problems that go far beyond the impact of the war on terrorism or the downturn of the economy. The CBO, the Congressional Budget Office, estimated that the estimated budgetary impact of September 11 plus associated interest costs represents only about 11 percent of the more than $5 trillion total deterioration of the surplus since last year.

Similarly, the CBO found that the economic downturn is responsible for just 10 percent of the deterioration of the budget projections and that the deficits will continue long after the economy is projected to return to strong growth. Running deficits and increasing the debt over that decade and leaving in place long-term fiscal shortfalls will make it even harder to meet our commitments to workers who will retire in the next decade and beyond.

Higher debt means higher spending on interest payments. The most wasteful spending possible is spending on interest payments on the debt. The government will spend nearly $2 trillion paying on interest on the debt over the next 10 years. We will spend $170 billion in interest payments this year alone, and spending on interest will continue to increase through 2007. Spending on interest on the debt is the most wasteful, as I said, use of the taxpayers' dollars. The amount of the budget consumed by spending on interest takes away resources that could be used for our priorities such as defense, health care, education, et cetera.

More than $1.2 trillion of the national debt, roughly one-third of the publicly held debt, is held by foreign investors. In 1998, the U.S. Government paid $91 billion in interest payments to foreign investors.

The national debt places a drag on the economy and a burden on the family budget by keeping interest rates higher than they otherwise would be. Budget deficits and a large national debt have a major negative impact on the economy and the finances of American families by keeping interest rates high. Congress must also enact rules or extend rules enforcing budget discipline. Strong budget enforcement rules are important, as the gentleman from Texas (Mr. STENHOLM) said, as a component of restoring fiscal discipline and making sure that the budget remains in balance.

Mr. Speaker, having the privilege to go back to my home district every weekend since I have been a Member of Congress is one of those things that just maintains one's sanity, and I am sure the gentleman from Texas agrees; going back to the real world where the real problems are discussed. Just this weekend, where I direct the music in my home church, Sunday evening we had a church-wide groundbreaking for a new building project of a Christian life center. Less than 9 years ago, we broke ground for a new auditorium that seats nearly 500 people, the third building program we have had since I have been a member and known anything about that program, and building a church, the Star General Baptist Church there in North Eldorado, Illinois, where my grandfather was pastor way before I was born.

And at that groundbreaking, the best news that we all, as Democrats, Republicans, Independents, and we do not even know party affiliations and most do not care, all those who I grew up with and know and worship with and serve in the community with and live with, that night we celebrated the fact that we would start several $100,000 building programs with a debt-free building program behind us. Debt-free. We even purchased a parsonage in the last couple of years, paid off, debt-free. We did not do that by fooling ourselves, knowing that the mortgages and the debts that we created were incurred and that we would not be foolish enough to take on a new project, knowing that we could compromise our debt that we have at our local bank. That is integrity. That is about family values. We are teaching our children there. One does not start something bigger than what one already has that one has to pay for.

Now, I realize in this body it may not be quite that easy, at least it has not appeared to be. But surely, as a group of reasonable elected people, we can acknowledge the magnitude of the problem. It is funny that the gentleman from Texas mentioned the blame game, because my pastor mentioned that Sunday morning, the blame game, shirking your responsibility, side-stepping, telling someone else it is their fault what has happened. Well, I do not think so. My son just turned 21 a couple of weeks ago, and he knows by now life's hardest lessons, to accept your own destiny, make your own decisions, and live by them. That is what we are doing now.

I hope, Mr. Speaker, that we can come to grips with coming together and fashioning a Federal budget in the face of an economy that has been impacted in ways in which we did not anticipate, which is no one's fault; but let us acknowledge it is time to come to an agreement with a new plan to save Social Security and Medicare, pay down our debt, and still finance the priorities of the war on terrorism, education, health care, and those things that we have all promised, prescription drugs, and everything else that we would said that we would do.

IMPORTANT ISSUES FACING CONGRESS

The SPEAKER pro tempore (Mr. WILSON of South Carolina). Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, as I was sitting here preparing my remarks, I listened to the remarks of my colleagues; and it is encouraging, to say the least, to think that there are people on both sides of the aisle who have concern about the fiscal house that we try to keep in order around here. It is discouraging to think about the fact that regardless of who happens to run this place, the Republicans or the Democrats, it appears to me, anyway, as we look over the numbers over the last couple of decades, that it really hardly matters most of the time; that we are spending certainly more than we should and that our deficits are a result of our inability as a body, not as a party, but as a body, to control our appetites, to control the willingness, the desire, the need to respond to a plethora of programs and supporters of programs throughout the Nation that constantly demand more. Nonetheless, I am glad to hear it, and I am always hopeful that we will be able to actually change the situation around here when it comes to spending. I do not hold much hope out for it, but I have that spark of hope that does remain alive.

Mr. Speaker, before I get on to the issue that usually brings me to the floor of the House, which is, of course, immigration and immigration-related issues, I would like to just for a few moments talk about something that I am also very, very concerned about and also, I think, should be a concern of the Members of the body, and that is the situation in Sudan, a country that has experienced at least a decade, actually 2 decades of incredible internal conflict, a country that has experienced more casualties of its population, 2 million dead at the present time, more than 4 million displaced. These are numbers that are far higher and far more significant, frankly, than any other country since the Second World War.

□ 2130

Yet, little is known about the situation in Sudan. Unfortunately, relatively few people seem to care. But there are folks who do care. Since this past Wednesday, people have been gathering in Galvez Park here in Washington, D.C. to pray and stand for the people of Sudan, who are subjects of a brutal, genocidal campaign.

Saturday, September 21, high school and college students led an all-day vigil. These young people represent the best of American ideals. They are acting on behalf of the people that they have never met, but whom they know are being oppressed. We should marvel at their commitment, but more so, we should join them.

I stand here today to talk about what has brought these young people from across the country here to the Nation's capital, and to talk about how the government of the Sudan, the National Islamic Front, has for years and continues today mercilessly to drive back Christians and animists from their homes, starve them, kill them because they are not Arab Muslims.

I want to tell the Members about the bombing. The government of Sudan has converted Russian cargo planes into primitive bombers called Antonovs. These planes regularly fly over villages and towns in southern Sudan, far from the front lines of the fighting. These villages have no military value, the only people who live there are civilians; yet, still the bombers come. Sometimes they drop bombs; sometimes they do not. That is part of the terror campaign the government is waging. No one in southern Sudan knows if they will be next.

When the planes drop bombs, they are not precision weapons, like we used in Afghanistan, to avoid civilian casualties. Rather, they are crude homemade bombs, sometimes 55-gallon drums packed with explosives and nails, designed to maximize civilian casualties.

These primitive bombs are rolled out of the back of planes, falling at random on those below. These bombs maim and kill, they destroy crops and homes, they fall on hospitals and churches. No one in southern Sudan is immune from their reach, and it may be only a matter of the shifting winds whether you or your neighbor is hit by a bomb.

The first country I visited as a Member of Congress, and I had only been here as a Member of this body for a few months, and this was a little over 3½ years ago, the first country I ever visited was Sudan. I went there with a delegation led by Senator BROWNBACK.

I will never forget, we went into a little town called Yei. When we got there, all the kids in the village gathered around us very closely, and they would hardly move. As we tried to move through the village, they were almost stuck to us. They were yelling something. Of course, I did not understand it. I asked our guide to interpret for me, what was going on; why were they clustering around us so closely. He said, it is because they believe that because you are an American Congressman, they won't be bombed; they cannot be hit by a bomb, if one flies over; that they won't bomb you because you are here from the United States. Of course, I was hoping the same thing, to tell you the truth.

The reality is, of course, there was no such discrimination, and there were bombs that fell, even while we were there. They destroyed hospitals and they destroyed schools and they destroyed people.

The government targets churches, relief compounds, hospitals, markets, fields, and homes. It rains bombs down on villages with no military value except to further the government's campaign of terror. The barbaric bombing is going on as we speak.

On September 9, the bombs came down on the town of Yabus, killing two children, ages 4 and 7, and wounding eight. Yabus has no military value, but is one of the major staging areas for the relief workers in Sudan.

Last Thursday, the government bombed the town of Lui, the site of no military installations, but of a large hospital run by Samaritan's Purse, a Christian relief organization headed by the Reverend Franklin Graham. This is the only hospital serving approximately 400,000 people. Yet, the town has been bombed repeatedly. These attacks are appalling, and they are plainly directed at killing civilians, either directly, or by denying them food and medical aid. It is an unimaginable horror.

The people in Galvez Park prayed all week for the victims of these bombings. We must join with them. We cannot tolerate the Khartoum regime's brutal actions. We must stand firm with the people of Sudan in their quest for peace and for life.

Mr. Speaker, this House passed a bill that I sponsored called the Sudan Peace Act. It went to the Senate, where it has languished. Senator BROWNBACK has introduced an amendment to the bill that I hope will be the thing that actually does allow it to move forward. I believe that will happen relatively soon. I hope it will happen in time to save the lives of the people who are now so directly affected by this campaign of terror, the most recent campaign of terror.

Only a few days ago, really, I had the opportunity to meet with some representatives of the Khartoum government in Sudan. They assured me that there was no such action; that they were being cautious in the way they advanced the efforts on the part of the military, and that the bombing of civilians and the strafing of civilians was absolutely prohibited. But, of course, that is apparently not true.

I do hope that the good Lord hears the prayers of the people that have been gathered here in Washington all week for those in the Sudan who hunger for nothing but peace, but who, for now a generation, have heard nothing but war and seen nothing but war.

I hope that the Sudan Peace Act quickly comes back to the House and we are able, in a conference committee, we are able to address this issue as a body, as a Congress, I should say; and that the President will sign it, and that will affect the outcome of this war, that it will bring it to a quick close.

Let me now talk about another issue that of course is of great concern to me, and is oftentimes an issue that is not very well addressed, or not very well amplified, either in the media or even here in the House. That is the issue of immigration and immigration reform.

In my own district, Mr. Speaker, over the last week or so, a little over a week now, we have had the most extraordinary discussion, I guess I should put it that way, public discussion in the press and in the media in general. Of course, on the radio and talk shows everybody is talking about a couple of things that I want to address tonight, address to the Members tonight.

As a matter of fact, the issues have spread beyond my district. They are now being discussed, as I see the clips coming into my office, they are being discussed in cities all over the country. These are two events in Denver, Colorado. Let me briefly review them.

A little over 1½ months ago, the Denver Post, which is the major newspaper in Colorado, printed a story, a front-page story, about a family, the Apodaca family. It was a story, according to the author of that particular piece, that was brought to the Post by the Mexican consulate in Denver. The name of the family was provided by the consul, and the purpose of this collaboration was to set the stage for a more general debate on an issue of state politics.

In this particular case, we are talking about whether or not people in the State of Colorado and in the United States, for that matter, illegally, that is to say, people who came into this country without our permission, whether they should be given the same opportunities for subsidized educational expenses, in this case, higher education, as a citizen of the State of Colorado and as a citizen of the United States of America.

This is not unique to Colorado, this is happening all over the country. Legislatures in Utah, Texas, and California are dealing with this. Some have dealt with it already, and passed laws that will allow people who are here illegally to attend institutions of higher education and have their education subsidized by the taxpayers of the State.

This is being pushed by immigration advocates, immigration advocate groups all over the country. It is being pushed even by representatives of the Mexican government; as I say, the Mexican consul.

The story focused, as I say, on one family, the Apodaca family; in particular, the oldest boy of this family, who wanted to go to the University of Colorado, but could not afford it if he did not have that experience paid for by the taxpayers of the State. It presented them in a very sympathetic light.

They are, apparently, by all accounts very fine people, a nice family. The father is employed in some business that was not identified in Greeley, Colorado. They have, I think, maybe four or five kids. This particular young man that wanted to go on to school was an A student. So certainly, the story appealed to the emotional side and said, look, here are folks who have been here, they are hard-working, the kids have been in school. Why should we not give them access to higher education at taxpayer expense?

This goes along with the agenda or this is part of an agenda throughout the country to obtain all kinds of benefits for people who are here illegally: driver's licenses, welfare, tuition payments, and the like. The hope or the desire is that eventually we will eliminate all of those things in this Nation that would distinguish one as being here illegally.

That is to say, if they can come into the country illegally but have their children educated, as they can today; go through the public school system at our expense, at taxpayer expense; if they can have access to all of the social services that any other citizen of the United States has access to; if they can obtain a driver's license as their sort of passport into society, which a driver's license is in our country; if they can have all of these things, then there is very little, if anything, that can distinguish them as someone here illegally. They are just here. They are just simply in the United States, and therefore, they have all the rights and privileges of a citizen of the United States.

That is the desire of the folks who push this agenda. They used the Apodaca family perhaps willingly; that is to say that, for all I know, the Apodaca family was quite willing to expose themselves to the public as being here illegally, as having entered this country without our permission. But they did not really have, or it did not seem from the story that they had a very big concern about that.

In a way, of course, we can understand why they could have been encouraged to come forward without some great fear of repercussions. There are 9 million to 13 million people living in this country illegally. The INS has done little if anything about it. This government has done little if anything about it.

There are many reasons why we have shirked our responsibility as a Federal government to assure the sanctity and integrity of our own borders, but for all the reasons that exist that have caused this situation to occur, we now see, as I say, people willing to come forward in the press and say, I am here illegally; essentially, what are you going to do about it?

I do not know about the Speaker, but here is what I thought when I read that article. I thought, is it not amazing? I am sure the Speaker, like every other Member of this body, is confronted by people in his office who is asking us to help them adjust their status in the United States; to obtain some sort of INS recognition that would allow them to stay legally.

□ 2145

We all know that there are literally millions of people around the country trying to come to the United States legally. We know there are people that have spent years in the process, filling out the forms, taking language courses, doing everything that we ask them to do to become American citizens legally. They do it. God bless them for doing it.

I speak to these folks as often as I get a chance. I have spoken to groups that have become citizens of the United States when they are taking their oath of citizenship; and I tell them, first of all, welcome to the United States, almost. Secondly, I thank them for doing this the right way, for coming here and working through the process to become an American citizen even though I know it is challenging, it is onerous; but I thank them for doing it the right way.

It was ironic in a way that several days after this story appeared, there was a very small story that appeared in both papers in Denver about all of the immigrants that were being sworn in as legal citizens of the United States, a small story relative to what this family, who chose not to come that route, but to come here illegally, small, small story compared to what the Apodacas got.

I thought that was unfair, simply and basically unfair. If a person comes to this country legally and they go through the process to have the newspapers showcase a family who has done it the other way, snuck into the country, albeit these folks are I am sure fine people, I have nothing against them. They seem like, from what I read in the paper, to be people we would be happy to have as neighbors and friends, but that is irrelevant to the situation. The situation is they came here illegally, and they are being showcased; and we are being asked to give them a special advantage, an advantage that we give usually to citizens.

So we are telling all of the people who have come here the right way that they are nothing but suckers and that really they could have saved themselves a lot of time and money and certainly a lot of brain damage going through the bureaucratic hoops that they are put through to come here legally by simply sneaking into the country, staying under the radar screen, eventually we will give them all the same amenities, all of the privileges of citizenship. That is what that story said to me. It was unfair.

About a month after the story appeared, I called the INS in Denver, the head of the INS, a gentleman by the name of Mr. Comfort; and I said to Mr. Comfort, I have a question for you, a hypothetical question, and that is, What would you do if somebody came up to you on the street today, as you were exiting your building, and said you know, I am a good guy, I have a wife and family and a job and everything but I am here illegally and so is my family, what would you do about that if they confronted you with it? Well, of course, I would have to take them into custody, and I said, Really? He said, Yes. I said, Then what would happen? He said, Then we would have to go through a hearing process and if they were determined to be here illegally then, of course, we would set up deportation arrangements.

I said, Well, that is interesting. What did you do about the family that told you that in the paper about a month ago, the Apodaca family? He said, Well, we have not done anything about it. He said, We really do not have the resources; it is really not the same because it is not coming up to me on the street, even though, yes, it is on the front page of the Denver Post, and they tell you the name and where they are. He said, It is not the same. He said, And I do not have the resources to go after them. I said, I am not really asking you to send in the SWAT team or devote any resources away from the very important tasks with which you are involved, catching terrorists and felons who are here illegally; but I do wonder whether or not you would not just send a letter, why would you not just send a letter maybe to the family and ask them to come in and talk to you because they are saying that they are here illegally and you want to talk about the status.

He agreed that that could be done and that that would be done, and I hung up the phone.

The next day, the Denver Post printed another story and the headline was "Congressman Tancredo Demands Deportation of Jesus Apodaca." Although I never mentioned him nor did I demand anything, that is the way the Post chose to portray this story; and they ran a picture of this young man, again a very sympathetic figure in this whole thing. He came here, of course, as a young kid with his parents. He had no choice in the matter, and I can certainly understand his plight.

This grew into a huge, huge debate in Colorado with everybody taking sides and the media getting involved and that sort of thing, the media actually promoting it certainly, because here we had set up this interesting debate; and it was worthy, I think, of the interest of the media, not to mention the way in which a portion of the media, in this case the Denver Post, chose to spin the story.

I assure my colleagues, Mr. Speaker, that if the Apodaca family is here illegally as they claim to be, of course I do not know whether they are or not. I do not know whether they were put up to this or not. They may be perfectly legal, but they were used in order to advance this agenda that I was talking about of getting tuition and driver's licenses and all the rest of it; but if they are, in fact, here illegally, as they claim to be, then the law says they should face deportation hearings, and if the judge says that they should be deported, they should be deported. I am absolutely in support of that process.

I have no great hope that the INS will diligently pursue this, knowing the INS; but I think they should at least do what they told me they would do, that is, to write a letter to the family, ask them to come in and discuss this issue with them.

This, as I say, was playing out in the paper over several days when all of the sudden another story appeared. This was a front page, above-the-fold story again in the Denver Post. This was, I think, last Thursday or Friday. Apparently, according to the Post, two people came into the Post, the Denver Post, and identified themselves as being here illegally, in and of itself an interesting situation. I mean, do people really just advance that? Of course they do because they were put on the front page of the paper and no big deal; but they went one step further, and they said not only are we here illegally, but we are felons. We falsified the documents that we supplied to our employer so that we could get hired. That is a felony. They said we were hired by a company, a construction company that eventually did work in Congressman TANCREDO'S basement. They put in a home theater and finished our basement.

So the above-the-fold headline, banner headline in the Denver Post, remember this story took precedent over the situation we were in with Iraq, the economy, a variety of things that I actually consider to be even more important, but the Post did not. The Post thought this was deserving of that kind of placement, and the headline was something like Tancredo Hires Illegal Aliens to Finish His Basement.

Of course, no one knows the truth of that story and the reality is, Mr. Speaker, that that story could not have passed the discretion of a high school newspaper editor because, of course, what do we have here? We have an allegation made by two people who were not identified about their relationship to a company that I hired to finish my basement, a situation over which, of course, I have absolutely no control. I did not hire the folks that actually did the labor. I hired the contractor. It is a reputable firm in Denver. According to the newspaper, they have all of the documentation necessary by the law to confirm that these people were here illegally.

What do we have? What is this story? This is a fascinating thing. The story is that two people alleged, and they are themselves alleged to exist. I do not know that they exist. I do not know even if two people came to the Denver Post and claimed that they, in fact, were ever in my home. Let us face it, Mr. Speaker, this is a very, very emotional issue. It is possible that people would even make up something like that in order to advance a particular agenda. It is possible. I am not saying it happened. It is possible. I do not know what happened. Neither would I suggest does the Denver Post.

Of course, there is no way to tell. No one can judge the merit, the truth of this matter because they will not tell who these people are. They are withholding their names because the Post said they fear that these people will then be prosecuted. So the Denver Post, if they believe these people, they are harboring felons who have given false information in order to be hired.

Again, I do not know whether the people who worked in my basement, who were employees of the company that I did hire, were here legally or not. I have not the foggiest idea, to tell my colleagues the truth. It is not my responsibility to try and do that.

As a matter of fact, Mr. Speaker, if I were to go to them and ask them after they were hired, let us say they are working in my basement and I heard them down there and said I am just going to go down there and find out if these folks are here illegally, and if I went down there and said, hey, stop for a second, are you legal, I want to see your papers, of course, I would be sued. Of course, I can be sued under the Civil Rights Act because you cannot ask people like that. Only the employer can request that kind of documentation. Even the employer cannot say things like, are you here legally. They can say I need the documentation that you are a citizen. I have to fill out an I-9 and need Social Security and driver's license. If you are presented with that as the employer, that is what you keep on file, which according to the newspaper, this particular company I hired, has on file.

So what is the story? What is the story here that commanded front page, above-the-fold attention? Fascinating.

I do not where this will go. I have no idea. Will the INS investigate? I cannot get them to. I have a hard time getting them to actually do anything about people who are here illegally and that have been absconders; 360,000 people so far have been ordered deported already from the United States for various violations from rape, robbery, murder, just name it. They have been ordered to be deported. They have simply walked away from the courtroom, and the INS has never found them or gone after them.

So I doubt very much whether the INS is going to get too involved in either of these two cases; and as I say, I certainly do not want them and I do not rank these cases on the same level as the potential terrorists that are here, the felons that are here. I want them to devote a lot of time to that; but they should not ignore this case, either one really now because this is such big news. They certainly should not ignore the Apodacas.

□ 2200

I have not yet seen in the paper any company that comes and says, I would like you to showcase me because I hire illegal aliens, but they are all nice guys; so we should change the law. I have not seen that. I assure you, Mr. Speaker, that should that be on the front page of the Post, I will call the INS and I will say, I would like to know, what are you going to do about this? I cannot demand anything because frankly I cannot. It is an executive branch agency. But I can inquire and I would inquire if some company did what the Apodacas did. I would inquire. I would say here are people that are blatantly claiming their status as illegal and/or claiming to have violated the law by knowingly hiring people who are here illegally. Either of those two cases, I think, demands a little bit of attention, if it is nothing more than a letter.

But the Post has written in the last 10 days, I think 28 articles so far. There have been 28 articles, editorials and/or commentary about this. I have never seen really anything command so much attention as long as I have been in political life, which has been a long time, and I am a very controversial figure; but I do not remember anything like this. That is just that newspaper. The Rocky Mountain News has also written story after story. It has been on the news. I get clips from California and Texas and Chicago and calls from all over the country about these two stories, the Apodaca case and my basement.

The issue of course is not the Apodacas. The issue that we should be really debating and discussing is not just the companies out here that are alleged to have hired illegal aliens or the companies that do, because of course we all know there are plenty of them. I do not doubt for a moment that I have had dinner at a restaurant and been served by or had my meal prepared by someone who was in fact here illegally. I would bet any money that has happened. I would bet that I have gotten in a cab in this city and have been driven to a location by someone who is here illegally. We all know this happens.

The issue is not just the individual who has done that. The issue is the whole concept of immigration, immigration reform, and the integrity of borders. That is what we have to talk about tonight, and I hope night after night after night after night and day after day that is what we have to talk about because the ramifications of illegal immigration into this country, massive immigration, both legal and illegal, are enormous. As I have said on many occasions, they will determine not just what kind of country we are, that is to say, balkanized, factionalized, or united; but it will also determine if we will be a country. That is why I devote as much time and attention to this issue as I do.

It is not an issue that is easy for us to talk about. The stories that I have just described that were in the paper have caused a lot of people a lot of pain. The company that I hired was identified. It has received calls from people who have threatened them and left messages of the most vial nature. Families, a lot of people have been affected by it. Certainly I guarantee that our office has received a similar type of response along with, of course, an overwhelming number of people who are supportive of our efforts in this regard.

This is an issue America is talking about whether we want to talk about it or not. It is an issue that Americans care about whether we care about it or not. It is an issue that Americans want us to deal with whether we want to deal with it or not. Poll after poll after poll tells us that the American people want us to crack down on illegal immigration, want us to crack down on employers who are employing these people, want us to reduce the number of people coming into the country even legally because they know there is something happening in the United States that needs discussion and warrants their concern. We choose not to deal with it because we are fearful of the consequences. We are fearful of the kind of response that the stories in the Denver Post and Rocky Mountain News have elicited, the vitriolic antagonistic sort of communications that we get when we start talking about this. Nobody likes this stuff, Mr. Speaker. Certainly I do not. Nobody likes being called names. Nobody likes being vilified in the press or anywhere else, I assume. And I assure that if I did not think that this issue merited the attention of this body and of this government, I would not bring it up. There are other things that I also believe are important; but this issue has, as I say, an overwhelming importance I think to the American public and to me, and it has got nothing to do with race and it has got nothing to do with ethnicity, although that is always the card that is played when one talks about it.

But what is interesting, Mr. Speaker, is that I went on a television station in Denver, I think it was yesterday morning, as a matter of fact, and did just a 2- or 3-minute explanation of this issue, and as I was leaving, a young man came up to me who was evidently a staff person there, who had on a little microphone thing and earphones. He came up to me as I was leaving and he spoke with a bit of an accent, and he said to me, Congressman, I want to tell you that I absolutely agree with you, 100 percent agree with you. You know what I had to go through to get here legally, and I just got my papers a little bit ago.

And I thought this guy speaks for millions of people who do not get publicized by the Denver Post. His picture will not be on the front of the Denver Post. He did it the right way. But there are millions of people out there who recognize the injustice here, the unfairness of a system that in fact sets up these huge barriers and tells people that if they come to the United States and they want to be a citizen, here is what they have got to do. It is a very heavy responsibility, and here are all of the things that one must do to become a citizen and here are all the papers one has to fill out to become a citizen, and we will have to wait for years and we will go through processes, and one might have to go to court and might have to spend thousands and thousands of dollars to become a citizen, to come here legally; and yet people do it. While at the same time, the same government turns a blind eye to all of the folks coming across that border at their will?

Am I the only person who sees the injustice here, the unfairness of it? I guarantee I am not because I guarantee, Mr. Speaker, that we have heard from thousands of people in my office over the course of time who feel exactly the same way, and I know there are millions of people out there who also feel the same way. But we ignore it; we pretend it does not exist because there are all kinds of political pressures here. The Democratic Party does not want to deal with this issue because they know it means votes and the more folks they can bring in here, legally or illegally, the more folks will eventually end up in the camp of the Democratic Party. That is their experience; that is what they believe.

On the other hand, the Republican Party is loath to discuss this issue because there are of course workers, laborers who come here and compete for jobs and therefore keep wages low; and so as long as we can ensure the flow of low-skilled, low-wage workers, we will have the Denver Post and certainly the New York Times and the Wall Street Journal pressing for more and more immigration, both legal and illegal. We have the administration that wants to make it a wedge issue in the next election; and, Mr. Speaker, even though we have gone through all of the debates in this body in the last several months over things like amnesty for people who are here illegally and we have been able to stop it from happening, I assure that after this next election when things quiet down and we have 2 more years before we have to face our electorate, there will be another push to provide amnesty for people who are here illegally and to essentially open the borders.

Here is what I suggest that we all do. I suggest that we have a larger debate on the topic of borders: whether or not they should exist, whether or not we should have them. What is the purpose? What purpose do borders serve? Are they anachronisms as some of our colleagues would suggest? Are they simply impediments to the free flow of goods and services? Or are they meaningful? Do they distinguish nation states? Do they indicate and actually give as an example what sovereignty is all about?

I think borders are important, but I may be in the minority, Mr. Speaker. Maybe a majority of the people in this House and the President of the United States believe that borders are of no significance. That could be. If that is the case and my side of this debate comes up short of the votes to sustain our position, so be it. That is the Nation in which we live. That is the democracy we all here take an oath to support. But let us at least have a debate. Let us at least have the bill. I want to see people go on record. I want to see people stand up and make a vote as to whether or not they want borders or they do not. Because, Mr. Speaker, if we have them, if we decide to have them, then that means something. It means they have to have integrity. It means they have to be defended and not in the halfway measures that we are presently doing, not just putting some folks down on the border putting their lives in peril as we are doing.

One young man a little over a month ago, Kris Eggle, 28 years old, a park ranger in Arizona, Organ Pipe Cactus National Park. Mr. Eggle and a border patrol agent interdicted a couple of people coming across the border from Mexico who had just killed four people in Mexico as a result of some drug war-type of thing. And Mr. Eggle got out of his car to go over and stop these people to put them under arrest. They got out of their car with automatic weapons and killed him. Mr. Eggle's face has not appeared on any newspaper that I know of, and his story has not been told by any major newspaper of which I am aware, but he died in the line of service to this country. He died because we told him to go down there along with his comrades in the border patrol and the custom agents and the U.S. Forest Service. We told him to protect our borders, protect the sovereignty of the Nation. But, Mr. Speaker, we do not believe in that war. We sacrificed Kris Eggle. And 2 weeks ago, two FBI agents were dragged across the border into Mexico and beaten almost to death with rocks. They are now in a hospital in Texas, both of whom, as I understand, in critical condition in a coma.

□ 2215

Their faces have not appeared on any major newspapers that I have seen. The story has not been told. May 27, a Mexican vehicle from the Mexican Army, a Mexican Humvee comes across into the United States, is confronted by a border patrol agent and is fired upon by Mexican military. The bullet goes through the rear window of the vehicle and ricochets off the metal screen that separates the cab and the back and goes out the right window.

A foreign power, the military of a military power comes into the United States, and what they are doing, frankly, is protecting drug shipments. Many of the people on that border, many of the Mexican military and Mexican police are actually working for the drug cartels and protecting drug shipments into the United States.

On the northern border, we have drug shipments coming across in huge proportions. There are cartels up there that are run by Muslim individuals. There are 25,000 Muslims living in Calgary, Canada. A portion of them are involved with a drug trade into the United States, according to Mr. HUTCHINSON, our drug czar. A portion are involved with smuggling drugs into the United States, mostly methamphetamine components, which are cooked down here, sold down here, the funds go back up there, and they support terrorist activities throughout the world.

Both of our borders are places of warfare. The Denver Post and newspapers all over this land want to portray the face of illegal immigration as the Apodaca family, benign, good citizens, sympathetic in every respect. That is what they want Americans to believe is the face of illegal immigration. But the face of illegal immigration on the borders is something much uglier. It is the face of murder, of rape, of robbery, of drug cartels, drug smuggling, and of people coming into this country for the purpose of doing us great harm, terrorist infiltration. Go to the southern borders and the northern borders, see what I have seen. Look in the faces of the Border Patrol who know that they have been asked to hold back a flood, and have been given a sieve. They know that their lives are in danger, and we do not give them any support.

We do not really want to close those borders because it would mean the end of the flow of cheap labor, and the end of the flow of potential voters for the Democratic Party. How vile the motive. That is why we do not do it.

If people cared about these folks, if people really cared about the safety and security of even the people coming across illegally, they would stand with me to try and stop that illegal immigration. It is a dangerous thing for these folks. They hire people, called coyotes, who bring them up to the United States, and sneak them in. Often the women are raped, the men are robbed and they are pushed into the United States into some desert area where they perish. Hundreds have perished. They are abused on the way, they are abused when they get to the border, and they are abused many times by unscrupulous employers in the United States who take advantage of them. Knowing that they are here illegally, they will pay them less, and not give them the benefits that they deserve, and they are cast aside.

If we cared about them, we would do something about our borders and we would do something about our immigration policy. We would create a guest worker program that would allow people to come into the United States legally to take the jobs that, quote, no one else will take, which we have heard and which I will challenge. If there are such jobs, fine. There are ways in which people can come into this country legally, that their rights can be protected. They do not have to hire coyotes. They do not have to come up here and be abused by employers. We can tell who they are, how long they are here, who they are working for, and when they return. But no, that program will not be adopted. I have a bill for that purpose. It will not be heard because it is easier, of course, to simply ignore the folks coming across illegally.

It is easier to hire them. People do not have to go through all of the paperwork. Just open your door and say where is your green card, where is your work permit, and those things are purchasable at just about any flea market in America. You can buy your Social Security card and any other kind of identification you want. So employers would just as soon not have that kind of burden.

Of course as I have stated already, there are a lot of people here who want to simply abolish the borders. If we have a true guest worker program, then you need borders. Borders mean something then because then you are distinguishing who can come across them and who cannot. But if you do not want borders, then why would you want a guest worker program. You would not. What you want is to allow as many people as possible into the country, then chip away at every single law in the country that distinguishes someone as a citizen, that confers some right on them as a citizen. There are municipalities in this Nation, in this city, as a matter of fact, that are pushing for voting privileges for people here illegally.

Okay, as I say, Mr. Speaker, if that is where we are going, fine. Just make a decision. Make a conscious decision as to the direction this Nation is going. Abandon the borders or protect them. That is really and truly the choice we have. As long as we ignore it and as long as we maintain this half-baked posture, we are abandoning them. That is exactly what is happening. We are doing that, I think, to our peril.

I have a dear friend by the name of Hugh Fowler. Hugh and Shirley Fowler have been friends of ours for 30 years or more. They gave me a great book. It is called "Crowded Land of Liberty" by Dirk Chase Elderidge, and I certainly recommend it to anyone. It talks about the impact of massive immigration.

There are all kinds of ramifications, as I mentioned, Mr. Speaker. Certainly just in terms of the numbers, the growth in our population, and everyone wonders how it is in Colorado we have this huge number of people coming into the State every year. Growth has gone wild. We are building highways and schools and hospitals. California has to build a school a day to keep up with the numbers. Where are they coming from? Is this the natural birth rate of the country? No, of course not. Our natural birth rate is almost replenishment level. It is almost 2.1. The increase in population in this country is as a result of immigration. Immigrants coming in, immigrants having children. That is the population increase. There are ramifications. Crowded conditions, crowded public lands. Rocky Mountain National Park, Yellowstone, which you cannot get to any more. You have to wait in long lines. Pretty soon you will have to have reservations to go to scenic spots in America, and there are not that many scenic spots left any more because houses are popping up where there once was pristine grasslands. This is happening because of population pressure, population growth. Where is it coming from? It is coming from immigration.

Now, it could be okay. That may be absolutely all right with everybody, but it should be a condition that we establish in this country followed by an honest debate over a controversial issue.

Mr. Speaker, these are difficult issues. There is certainly no two ways about it, and difficult for us to discuss and deal with. I just want to say from a personal standpoint, it is good for us all to kind of stand back once in a while and think about things that put everything in perspective because we have a tendency for all of us to get wrapped up in this stuff.

A little over a week ago my youngest son and his wife had a baby. My daughter-in-law gave birth to a little boy named Gabriel. I went out to California the Saturday before last to see him. When my son walked out of the delivery room carrying him and handed him to me and I took him in my arms, I thought, This does put the world in perspective. It is for Gabriel and it is for Thomas, my oldest grandson, and for William, his brother, that we do all of these things, that we try all of us, not just Members of Congress, everyone I know, that is what we labor for. It is the future. And it is for them, Mr. Speaker, that I do in fact try to advance this issue. I believe it is an important one. I want to leave them a country as good if not better than the one I grew up in. That is why we labor here.

WAGING THE PEACE

The SPEAKER pro tempore (Mr. AKIN). Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, how we wage peace should be the agenda priority as we close out the 107th Congress. To attack or not to attack Iraq should not be the issue which dominates the final work of this Congress. To attack or not to attack should not be the question which overwhelms the minds of America at this critical hour as we move toward very important elections on November 5.

If September 11, 2001, has made the American people preoccupied with security and safety from terrorism, then let us examine all of the components and elements of a program to make our Nation more secure and more safe: Action involving Iraq, whether it is United Nations inspections or military offensive, at the conclusion of either one, we will still face major questions of security and safety from terrorism.

Only serious attention to the full agenda of the Congress can accomplish our continuing mission to make this Nation secure and safe. Our Nation is most secure not when we wage war but when we mount a sustained peace offensive. We must pass laws, we must appropriate money which supports the increase of prosperity and peace. Security and safety are enhanced when we have a foreign policy and a foreign aid program which promotes peace.

Our Nation's security is threatened when we conduct silly and wasteful sessions of Congress like the present session. The present session includes days like today when we voted on three resolutions. One was Recognizing the 100th Anniversary of the 4-H Youth Development Program, another was on the Sense of Congress Regarding American Gold Star Mothers, and another was Welcoming Madame Chen Wu Sue-Jen, the First Lady of Taiwan, three resolutions that got all 435 votes, three resolutions which could have been handled with a voice vote of no substance, and we have been doing this for the last 3 or 4 weeks as we close out this Congress.

☐ 2230

We need to focus on vital programs, such as senior prescription drug benefits, an increase in the minimum wage, minimum funding for school repairs, pension reform which stops corporate stealing and retrieves the millions of dollars swindled from ordinary workers. If we spend the remaining weeks and days of this Congress with a total focus on Iraq instead, we will engage in a major betrayal of our constituents.

I think the Iraq question is very important. I think we cannot escape a conclusion on the matter as soon as possible. But to attack or not to attack Iraq should not be the issue which obliterates all other discussion of all other issues, all of the other issues all very much related to the question of security and safety from terrorism.

We should have learned from the past the lessons of the Vietnam War and previous wars. We should understand certain important matters that need to be put back on the table. We cannot have too much discussion. People have chosen to forget that there was a Marshall Plan which waged the peace where we took the initiative against forces that were gathering after World War II, forces that would have made for chaos and a lot of conflict between nations, forces that might have paved the way for a Communist takeover of bankrupt economies in Europe; and we waged peace and we won. If we wage the peace instead of waging war at this particular time, we might find we are more secure and we are more safe from terrorism.

Let us just take two examples. If we focus instead of on the nation of Iraq and the need to attack Iraq because some say it poses some kind of danger to us, and I will come back to that later, if we focus instead on Pakistan, another Muslim nation, and looked at the fact that Pakistan, the leadership there, has taken a great chance in agreeing to serve as our allies in the fight against terrorism. Instead of spending 60 billion or more dollars in a war with Iraq, why do we not spend more money to improve the democracy in Pakistan? Pakistan already has nuclear weapons. Pakistan has, by the most conservative estimate, 150 million people, some say 180 million people. Pakistan has already declared as our allies in the war against terrorism as they were our allies in the war in Afghanistan against the Soviet Union, as they have been in the Cold War over the years.

So why not approach the present problem with an overwhelming embrace of a Muslim nation like Pakistan; and by doing great things for Pakistan, improving the education and a number of other things, we would do far more to secure the world against Islamic fanaticism than we will by attacking Saddam Hussein in Iraq.

I have gotten quite a number of letters, as most of us have, communications from various constituents; and I want to read some of those tonight as well as talk about the need to wage the peace as an answer to those who want to wage war. I want to talk a little bit about who is going to fight the war if the war has to be fought. It is the young men and women out there who need the minimum-wage increase. Wars in America have always been fought by people in the low-income brackets. They are the ones who go out and die. We ought to take care of their minimum-wage needs. We ought to take care of their needs for safe places to work in. We ought to deal with the corporate empires that have been cheating them out of their pension funds. We ought to deal with the fact that many of our veterans are now suffering greatly because they do not have adequate health care. And among the items they need is some help with their prescription drugs. I am going to come back to that and talk about how we wage the peace, how we deal with making ourselves safe and secure from terrorism by waging that peace.

I have no illusions about the menace that Saddam Hussein represents. I think Saddam Hussein has a lot in common with Hitler. Since he does not possess a German war machine behind him, however, he does not pose an overt military threat to America as Hitler did. But the same brutal egomaniacal mind-set is at work in Saddam Hussein and we can see that, so I think we need to find ways to deal with Saddam Hussein, but I do not think that going to war as is being proposed by our President is the way to do it. I think we run the risk of making matters worse. We could cause the evil that this tyrant represents to actually mushroom. An action against Saddam Hussein might unleash the dogs of chaos in a new world order of disorder. Any well-armed nation could target a weaker nation and charge them with menacing action before launching a preemptive preventive military attack. That would be the worst kind of world to live in.

Before I go on, I would like to recognize the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman for yielding, and I thank him for this opportunity to have an exchange with him on some very vital issues and engage our colleagues in a debate that I think is enormously important. You mentioned something as I was coming to the floor and was listening to why are we here and why are we here in this Congress and what are the important issues. And particularly on the issue of going to war with Iraq, you captured the sentiment of many of my constituents.

This weekend I held a citizens forum on Iraq with an enormous amount of participation from my district but more importantly very wise and informed experts that we had from a number of our academic institutions, Texas Southern University, the University of Houston and St. Thomas University; but one of the things that came out of the audience is the fact that the young men and women that will go to war are our children and that in large numbers, a war with Iraq as it seems to be intended by this administration will be a bloody war with a great deal of loss of life, of American lives. At the same time, of course, it will compound the loss of lives of women and children and men, families, in Iraq. The question becomes, how do we deal with the prominence that the United States has gotten as the only and singular world power? Does it in any way diminish the United States to engage in diplomacy?

And so the question has to go to the administration as to why we are rushing so fast to war. What is the entrance and exit strategy that we would have if we engaged in a war in Iraq? What is the answer to the question the American public will ask, is it 75,000 or 300,000 men and women on the ground in Iraq? We are already paying $12 billion a month in Afghanistan. Many of us joined with the President to support going after the terrorists and I stand by that resolve because we were attacked on our soil. The representation that we need to go to war with Iraq because there is an imminent danger has not been proven. Even today in Prime Minister Blair's remarks, and it is a long document, which I have read and reviewed, and he spoke before the Parliament and he gives the case made by the British Joint Intelligence group, the BJI, who for over 60 years has worked on behalf of the British Government. There is a long list of statements about weapons of mass destruction and having to go back in. I agree with that. We need United Nations inspectors to go in unfettered.

But the one thing that the Prime Minister said is that I think we should listen. Our case, he says, is simply this, not that we take military action come what may, but that the cause for ensuring Iraqi disarmament as the U.N. has stipulated is overwhelming.

And to utilize the position of Britain and the Prime Minister as war-war-war seems to be incorrect based upon his remarks. He documents that he believes that there are weapons of mass destruction, but at the same time he also acknowledges that intelligence is often open to question. And so what we really need to have happen is that the United Nations inspectors need to go in unfettered, and the better route for the United States to take is the diplomatic route which is the route of saying, let us join in with the United Nations, let us adhere to the provision 51 in the charter that says that striking first preemptively, making the first strike, is illegal; and let us not violate, if you will, the international law.

Mr. OWENS. Is my colleague implying that the British Prime Minister does not agree with the President? I think the Chancellor of Germany has gotten into serious trouble by not agreeing. Is it likely that there is going to be a falling out between the British Prime Minister and the President?

Ms. JACKSON-LEE of Texas. I appreciate the distinguished gentleman's question. I hope that the President will listen and actually read the text of the remarks made by the Prime Minister. He lays out a case. But in two simple lines, he says our case is simply this, not that we take military action.

So I believe that where the Prime Minister now stands is almost where we have just heard former Vice President Al Gore stand. Multilateral actions, working with your allies, and working with the United Nations, which many in this Congress, we do not all agree, Democrats and Republicans, but we heard a collective voice of suggesting that if we are going to be part of the world family, then we need to not undermine the United Nations, we need to shore it up and to be part of it.

Some people have argued, we don't have the United Nations telling us what to do. You are absolutely right. If there was a cause that we felt that we were about to be imminently attacked, then obviously we have a right to defend ourselves and provision 51 under the U.N. charter provides that leeway. But we are using individuals who are saying one thing, but in fact I believe the Prime Minister has probably heard a lot from his party members to realize that we need to be deliberate, not that we have not acknowledged and the distinguished gentleman from New York said it very eloquently. You described who Saddam Hussein is. We do not make the point of putting him up as a saint, but the real question is disarmament, avoiding destabilization of the world in the region because we have Syria and Turkey and Iran and Saudi Arabia surrounding Iraq. We have no response, if you will, to what happens if we destabilize that area.

Let me pose a question to you, as I indicated. We are already spending $1 billion a month in Afghanistan. That is to fight the war. That is not necessarily to rebuild the country. Afghanistan some 20 years ago was maybe, not the most prosperous and technologically, if you will, competent nation; but it certainly was a nation that was standing on its feet, I would say more than 20 years ago, in its own way. It is now a mere semblance of a nation which we have to rebuild. The question is, who will rebuild Iraq? What is the upcoming government that will take over if we are talking about, one, an attack; two, a destruction of the government and destruction of the infrastructure and destruction of the country itself? I believe it would be just foolish to suggest that in fact we are talking about Iraq rebuilding itself. We would have to be engaged in rebuilding it.

Mr. OWENS. I think my colleague has made a very good comparison of Afghanistan versus Iraq. Afghanistan, versus Iraq, you might say, is a rather primitive country. It was when the Soviet Union attacked Afghanistan. But the Soviet Union found after 9 years that it could not subdue the people of Afghanistan. It had to give up. It lost a lot of lives. It brought the government down in the Soviet Union, also. Iraq has far more sophistication, is far more densely populated, will be impossible to occupy. The problem is not can you wipe out Saddam Hussein, can you wipe out his Republican Guard, his immediate military machine. That could be accomplished fairly quickly. But what do you do after that? Occupying the country is where you would have to draft thousands of American men to go in there. You are talking about hundreds of thousands who would be there for a long time and who would face guerilla warfare and all kinds of menacing situations from some of the governments and populations around Iraq as well as in Iraq itself. So you have no choice after fighting the war and losing lives but to try to finish it. Whether you are talking about nation-building or just occupying the territory, either way it will drain resources and it will drain lives away for a long, long time. It is going to be no easy matter.

Ms. JACKSON-LEE of Texas. I think you have captured it well. You are absolutely right. First of all, if we look at our maps, we realize that Iraq is huge. It would require massive occupation by either U.S. troops or allies. That is one of the reasons that it would certainly be misdirected and wrongheaded to talk about any kind of unilateral effort. As you well know, I think to this point the administration has not moved from its position that if the U.N. does not act, we will act. I think I would say to my colleagues and certainly what I said to my constituents, is that we are no wimps here, that I call everyone a patriot, because we have all rallied to unify behind the administration on the fighting of terrorism and we have been grateful for the fact that our allies have joined us as well.

□ 2245

They realize the new wars of the 21st century will be fought differently from World War II. In fact, there will be probably more wars of terrorism. The question is, have we finished the job on fighting terrorism with our allies? Have we found Osama bin Laden? Have we stabilized Afghanistan with the jeopardy the new President is in in Afghanistan every day?

Then we turn our attention to Iraq, $100 billion to be spent immediately if we begin a war, with no case being made on the imminence of their attacking the United States, with evidence suggesting that they do not have any missiles that would reach the continental area of the United States, and that the United Nations is prepared under the present resolutions to go in and Iraq has suggested that they can come in unfettered.

I just want to offer, you mentioned the Soviet Union. It is interesting for those of us who either read it in the history books or were here to talk about the Cold War, many of the young people today do not know about that. But just imagine if everybody at that time said let us just do a preemptive unilateral strike on the Soviet Union.

Mr. OWENS. There were people that counseled that, I am sure.

Ms. JACKSON-LEE of Texas. There were people who I understand advised that. But I guess cooler heads prevailed, as we heard our good colleague and friend, former Member Dellums, give us a really detailed explanation on some of these issues, and we have a situation now that we did not go to war and in essence we saved ourselves from the immediacy of a third world war at that time.

Why not now have disarmament and containment, getting allies? Diplomacy and dealing with the United Nations seems to be the better direction of the day. Because I do not see with respect to the President's position any way that we can be victorious in winning this war in a limited short period of time with a minimal loss of life. I just truly believe that with better study, we would have a resolution of this question.

Mr. OWENS. You offer very strong and glaring examples. If we outlasted the Soviet Union and we outlasted China, all of these evil empires that it appeared we were going to inevitably have military conflict with are now, if not our allies, then certainly civil partners or neighbors. If we outlasted the threats that they posed, then surely we can outlast the threat that Iraq poses also.

Yes, we are going to have to learn in this world to live with a new kind of threat, a new kind of risk. And getting rid of Saddam Hussein and Iraq will not free us from having to live with that risk, because there are nations like Pakistan, a friendly nation at this point, possessing nuclear weapons, and on very shaky grounds in terms of the turmoil in that nation could lead to an overthrow of the government. It could be in unfriendly hands tomorrow, so you could have the possibility of nuclear weapons being stolen from there or transmitted from there.

Even if a nation does not have nuclear weapons, the possibility of a rogue nation selling it to them that we do not even know about, or the possibility of being stolen. The Soviet Union has lost a lot of nuclear materials through theft, or Russia, since the Soviet Union was dismantled. All these things exist. We have some threats and some risks that we are going to have to live with. So why do we suddenly consider Saddam Hussein an imminent threat that must be taken care of in an unlawful use of force?

Ms. JACKSON-LEE of Texas. Immediately. If the gentleman would yield, you raise several very important points that could be part of the solution, and that is whether they are rogue nations or others, how is Saddam Hussein getting some of this so-called material for a so-called creation of a nuclear bomb on the black market?

Would it not be better for us to address some of these issues, of countries that may be our allies or we are engaged with who are actually providing this material to Iraq for them to function with materials from the black market?

Mr. OWENS. I thank the gentlewoman for making part of my speech unnecessary. I was going to deal with the question of have we done enough to confront diplomatically our allies and the people in the world who are furnishing Saddam Hussein with what he needs? The sanctions have not been carried out. We should have confronted France, the Russians and a number of other nations for not cooperating with the United Nations imposed sanctions. Iraq has continued to sell oil on the black market. Everybody knows it.

Ms. JACKSON-LEE of Texas. Absolutely.

Mr. OWENS. Somebody is buying it. It is not just small countries, it is large countries. We have not confronted them. The rule of law, which we think is so important, the rule of international law is just as important as any other rule of law, but they are just thumbing their noses at the rule of law as far as the United Nations is concerned. We have not confronted these nations and demanded that they stop doing what they are doing.

There is a lot of talk about children dying in Iraq because of the U.S.-imposed or UN-imposed sanctions. That is a lot of nonsense. Saddam Hussein is selling oil. He has billions of dollars to spend as he wishes to spend. He is spending it on trying to acquire weapons materials. He could buy medicine, he could buy food. If children are dying in Iraq, people are dying for lack of medicine, it is Saddam Hussein's fault, nobody else's, because he certainly has the money and resources, because the rest of the world has not bothered to enforce the law or to try to enforce the law as they should, the sanctions and the conditions that Iraq agreed to that were imposed on Iraq.

Why is Iraq special and not different from any other nation with an evil regime, with a dictator? Because they agreed in order to save themselves to certain items and signed an agreement with the United Nations, and they have proceeded not to abide by that agreement. That makes them different and a special case. But the case has not been made for a military attack on Iraq.

Ms. JACKSON-LEE of Texas. If the gentleman would yield, you are absolutely right, and that is where we have faltered and made great mistakes diplomatically, is we have not insisted that our allies enforce the sanctions. We have not insisted that the United Nations remain strong on some of the resolutions that they have passed.

You can contain and isolate Saddam Hussein, and, frankly, we have not done that. We have given him great latitude. Of course, with everyone's eyes on his oil reserves, he has had a certain degree of freedom.

Our unilateral attack is not going to help the situation. In fact, it is going to make the region more volatile. It is going to again take away from us the high moral ground. So who are we to stop any incursion or any sort of conflict between India and Pakistan, between China and Taiwan? Who are we to say to Israel if they are attacked during the time we start a unilateral war, if they are attacked by Iraq, who are we to say, even though we were successful in doing that in 1991, because we asked in advance and had the allies, and by the way, let me distinguish in the 1991 resolution, I was not here, but obviously everyone knows Iraq attacked Kuwait.

On the limited premise that an ally was attacked, you could argue that we went in to aid our ally, Kuwait. We have no such circumstance here.

Mr. OWENS. We did not go in alone. That was a resolution of the United Nations.

Ms. JACKSON-LEE of Texas. The gentleman is absolutely right. We had the allies. Who are we to begin this whole new metamorphical change or 180 degree change, if you will, to suggest now that our policy is totally regime change, and that we can go anywhere as the United States and say we do not like our neighbor and we want them to change? I believe that is a path that we do not want to take.

We did not take it under Democratic or Republican Presidents, to suggest that we, the most powerful Nation in the world, can now go around and attack any regime we so desire, even those that are ugly, that we do not like, and that should be moving toward a path of change. But we must follow international law and begin to look ahead as to what will happen, and people, other nations, allies, foes and friends, will begin to say, you did it, why can we not do it?

That is, I think, the deliberations that I have not heard debated here, that I have not heard the administration make its case. And I might simply say, though I hear of pending resolutions coming, that is why it would be more appropriate for us to hold a special session and for this debate to be carried on singularly with nothing else on the Congress' agenda. It is so crucial, it is wrapped with so many major changes for this Nation, that I frankly believe the American people are done a disservice if we do not give them all of the facts.

I have heard, as the gentleman has heard, not only e-mails and letters, but

I am hearing there is a growing sense of opposition, irrespective of political party or political philosophy or region, as people begin to understand the facts. And they see what the gentleman stated earlier, what I have joined in to say, that thousands upon thousands of young lives will be lost, and might I say young men and women who will go anywhere to defend this Nation. It is not them. Our military men and women are superb, as our veterans are. They will go anywhere to defend our freedoms. But the question is, have we thought about the thousands upon thousands of lives, young men and women, our children, whose lives will be lost, and who by our vote, the singular vote that any Member makes, can cast them into harm's way, and for what reason? What imminency? What international law will they be abiding by? What solution will they provide, if you will? How will they bring closure to this?

We had closure in World War II. We went on to the Marshall Plan and we had the moral high ground. Many think we should have started earlier with the allies. Out of that came NATO.

But what do we have now that would suggest that this is the right direction to take, rather than, as the gentleman indicated, and I have totally agreed, the enforcing of the UN sanctions, the going in with the inspectors, the building up of allies, the containing and disarming of him? That is the approach to do, and then we will find our way on the moral ground and also with our allies making an actual difference as opposed to, I believe, doing what we are intending to do at this point.

Mr. OWENS. I thank my colleague from Texas for joining me and emphasizing again that we cannot have too much debate on this subject.

When we talk about going to war, we say we are going to war, we mean not just the decisionmakers in the White House or decisionmakers here in Congress. We mean all of America is going to war. So we cannot take too much time to discuss this issue and look at all the ramifications. We cannot take too much time and review history, because some obvious lessons of history are being forgotten right now.

We seem to have forgotten the lessons of Vietnam. We seem to have forgotten a lot of lessons of all the wars fought in America in terms of who fights them, who goes to war, who are the ones who die.

Perhaps we should stimulate the discussion by making a whole new set of rules related to Selective Service, because inevitably there is going to have to be a draft. If you occupy Iraq, thousands and thousands of men and women will be needed. There will have to be a draft.

We should make rules that nobody gets exempted from the draft except people who physically are disabled. Everybody else has to go. We should make a rule that everybody who is in the military must do a year in the combat zone. We should learn from the past lessons and not drop the burden of a war that is questionable on the backs of the people who have the least amount to say about it or do anything. We should not drop the war on the backs of people that we will not get passed the minimum wage increase for.

If you look at the Vietnam Wall, and among the war monuments in the world there is none nothing greater than the Wall of the Vietnam Memorial. That wall lists every person who died, every soldier who died in Vietnam. There are no more unknown soldiers. You talk about the Tomb of the Unknown Soldier, wondering who the soldier is. Everyone gets listed. Let us name them one by one. They deserve to be listed, in order to develop habits which do not encourage war. If we have to see them named one by one, we understand that this is what war means. 57,000 almost are listed on that wall.

In the Civil War we lost 600,000, more or less, on both sides. More lives were lost in the Civil War in America than any other. We lost enormous amounts of lives in World War II and World War I. All of the statistics will show when you break them out that the overwhelming majority of the lives lost were poor, rural, big city, young men who had to be the cannon fodder for the war. They deserve more than to have us callously make decisions about how their lives are going to be lost, and they deserve us to pay more attention to their needs right now on the domestic agenda of the Congress.

□ 2300

We should deal with working conditions, we should deal with the economy, we should deal with the fact that the pension funds are cheating workers out of their rights.

But let us get back to the war for a moment and hear the voices of some of my constituents. I think it is very important that, like many others who have received communications, mail, e-mail, and telephone calls is becoming overwhelming about this matter, and they will continue. But I like the quality of some of the communications that I received so much that I thought I would share a couple of them tonight. Here is one that is very simple. It is handwritten, but it gets right to the point, and I am going to read it and submit it for the RECORD when I finish.

DEAR CONGRESSMAN OWENS: As a constituent of your district, I urge you to oppose the war on Iraq. A strike on Baghdad is unjustified, illegal, and immoral. The issue of weapons inspectors can be handled by the U.N. in a peaceful and lawful manner. With a sinking economy, the American people cannot bear the burden of another war. Please focus on investing in people, not war.

This is written by Michael Feldman and Jeanette Feldman, who are constituents in my district. A very simple statement, and I will enter the entire letter for the RECORD.

One other letter which is not so simple, but written by one of my constituents and obviously she has given a great deal of thought to this letter, and I appreciate the thinking here; and I want my colleagues to hear the connection here with September 11 and how she weaves all of this together and understands very clearly the mood of America. The mood of America is anger; the mood of America is hurt; the mood of America is fear. But we should not let the mood of anger, hurt, and fear drive us into reckless actions that will make matters worse.

DEAR REPRESENTATIVE OWENS: I am writing to you because I feel so helpless to stop what seems to be inevitable: war with Iraq. Like you and every New Yorker, I tasted war on September 11. It wasn't pleasant, and I am not eager to experience it again. For hours I could not find my husband who worked across the street from One World Trade Center. Fortunately, he returned home safely after witnessing unspeakable carnage. But many of our friends and neighbors weren't so lucky. That evening I walked down 7th Avenue in Park Slope, Brooklyn, to get a handle on the losses. The stench from burning buildings, computers and bodies was pervasive and the smoke cast an erie haze over our little community. Everywhere I went I learned of more losses. Twelve firemen from squad one on my block, loved ones of students, and a teacher at the Park Slope Dance Studio, parents with kids at 321, Berkeley Carol, and St. Ann's School, members from church, a former colleague, and many of our neighbors were all among the missing. At 7 p.m. that day, we foolishly held out hope that some would be found in area hospital's, but unfortunately, they weren't.

Weeks later I attended the memorial service for my friend Jeff Hardy, who was killed because he happened to be working on the 101st floor of Tower 1. Hours after I attended Jeff's service, a woman at 7th Avenue and Carroll approached me and asked me to sign a petition opposing the war in Afghanistan. I refused. I supported the war in Afghanistan and have been grateful that our allies have worked with us to round up terrorists worldwide.

However, I have seen absolutely no evidence that Iraq had anything to do with this attack. The rumor that Mohamed Atta met with an Iraqi intelligence agent has been denied by the Czech government. I am not aware of one Iraqi who fought with the Taliban,, although I know the citizens of many of our allies fought with the Taliban or members of al Qaeda and were on those planes on September 11, and continue to threaten America and other foreigners every day, particularly in Pakistan.

My hope is to destroy al Qaeda and stop the spread of Islamic religious fundamentalism and hatred for the United States, for Christians, for Jews. To fight the Islamists, we need the cooperation of all of our allies and all countries in the Middle East. I am afraid that this fragile alliance will dissolve if we attack Iraq without provocation and we may not get the help we need. Invading Iraq will only inflame anti-American rhetoric and could even jeopardize our friends in the Middle East. I am deeply worried about the welfare of President Musharraf and concerned that if anything happens to him, religious fanatics could take control of Pakistan, which

> we know has both nuclear weapons and al Qaeda members. Musharraf is already under attack in his country because of his support of the U.S., and the New Yorker reported this week that a recent car bomb that killed 12 people was intended for him. I truly think declaring war on Iraq will put more U.S. citizen in harm's way.

This is a letter from a constituent of mine.

I would like to conclude the letter which I think is very thorough and thoughtful.

> Following the tragedies of September 11, we were a city in mourning. We spent months going to funerals in neighborhoods completely shut down when funerals for firefighters were held. The physical and emotional damage contributed to the economic downturn here. I run a small but successful public relations firm and I booked 93 percent of my revenues in 2001 on projects that were completed before September 11, and only 7 percent after September 11. My situation was not unusual. Small businesses, graphic designers, contractors, beauticians, photographers, everywhere in the metropolitan area, they suffered from the same fate. Large companies like my husband's were evacuated from lower Manhattan, never to return. His company had to rebuild complete systems within days to be able to compete with the markets open the following Monday and use AOL and other carriers to communicate by e-mail because the company's service was destroyed. We all limped along. Our woeful city tax revenues are enduring evidence of the economic damage we experienced. This country and especially this city have not yet digested the economic and emotional fallout from September 11. New York City is still struggling to get back on its feet and continues to get hammered by low tax revenues, the recession, stock market volatility and corporate scandals. The economy cannot take another shot like a war with Iraq and its unknown consequences. We have so much unfinished international business that to go forward with a war with Iraq right now would be irresponsible. I share the same concerns that King Abdullah of Jordan has that invading Iraq will lead to a further destabilization of the Middle East, including possibly a civil war, at a time when we need to be rebuilding Afghanistan and seeking a solution to the Israeli-Palestinian war. Even the Kurds are begging us not to invade. We still haven't found Osama bin Laden and Mullah Omar yet. How are we going to round up Saddam Hussein and his secret weapons, particularly without the support of our allies? It's suicidal. I'm reminded of our many unsuccessful attempts to oust Fidel Castro. Besides the economic and diplomatic problems of a war with Iraq, I have a serious moral problem with killing innocent people in that country. I know what it feels like when innocent lives are lost. Even Representative Dick Armey was quoted today in the times as saying that an unprovoked attack would violate international law. However, this administration will not listen to its allies and is only fueling anti-Americanism worldwide.

Mr. Speaker, I will place the entire letter from Gail Donovan in the RECORD.

Mr. Speaker, my message is that we should wage peace instead of being overwhelmed by concerns with war. In this country we have a lot of mechanisms of war. We have West Point, we have several military universities, we have the Naval War College and the Army War College and several mechanisms for preparing the best minds in the world to wage war, and maybe that is as it should be. A great Nation leading the world should have the best minds and the best equipment, the best Armed Forces. But on the other hand, we do very little to prepare our population to wage peace. We have no equivalent to West Point where we train people in diplomacy and in ways in which to wage peace.

□ 2310

We do not even bother to look closely at our successes in the world, like the Marshall Plan. With the expenditure of money that could have been spent fighting wars, we were able to stop the spread of communism in Europe and to rebuild prosperous economies in the nations of Europe.

If we had a peace college or a peace university, peace universities, maybe they would look at questions like the relationship between war and those who make the decisions about war and those who fight the wars. It is worth examining. I have studied it and I have made speeches on this floor before offering the statistics related to the Civil War, World War I, World War II, the Korean War, the Vietnam War in terms of the number of people who died and where they came from.

The pattern is clear. In the Civil War, if one was drafted or scheduled to be drafted, one could buy one's way out and somebody else, a poorer person, would take your place and die for you in that war. We lost the largest number of Americans in the Civil War, approximately 600,000. Modern weapons were not invented at that time, so more people got killed as cannon fodder in face-to-face, bayonet-to-bayonet contact, so on.

In World War I, the same pattern: The people who died came from the rural areas and the big cities, the poorest populations in the big cities. In World War II, the same as in World War I; and in Korea, and in Vietnam. The names on that wall over there, two-thirds of them are from low-income communities. A disproportionate number on the Vietnam Wall are also minorities.

The people who are going to die deserve to be included in this debate. If we attack Iraq, if we are successful, as we will be, in destroying their military forces, we will have to occupy Iraq. That is where large numbers of men and women will be needed to carry out such an occupation. We will have to have a draft, eventually.

Let us take a look at that and see in a democracy how we might improve upon the process of making war by examining the process by which we draft people to go off and fight the wars. Maybe we should start talking, now, about changes in the Selective Service approach. If we reinstitute the draft, maybe there should be a definite qualification that nobody gets exempted, except only those who are physically disabled. Everybody who is eligible, who is in the category to be drafted, should be drafted. They all should serve the same amount of time in a combat zone.

In Vietnam, the latter part of the Vietnam War, a man had to spend only a year, and after a year he was allowed to go home out of the combat zone. There should be some kind of understanding that one's life is at risk, and those kinds of rules and practices maybe should be made up ahead of time. Congress should take a close look at it. Everybody goes. The grandsons and great-grandsons of the people who make decisions to go to war must be on the front lines as well as the rest of the population.

Also, the way we treat our population: If we are going to have a draft, then certainly the issues that are not being dealt with in this Congress are important for consideration. If we are going to have a draft, we have no right to draft men and women that we do not want to provide job opportunities for.

Our minimum wage is such now that, at $5.15 an hour, one can work a 40-hour week all year long and make less than $12,000. No family of four or even three, barely two, can live off of that small amount of money. Yet, large amounts of Americans make only the minimum wage. This Congress has refused to address any consideration of raising the minimum wage.

If we cannot raise the minimum wage for those young men and women who are going to have to go to war, if we cannot provide decent working conditions in their places of work, instead of attacking OSHA as the first act of a the new administration, and eliminating the ergonomics regulations, we should have been bolstering the safety and health conditions of the workplace, because those are the men and women who are, in the ultimate defense of the country, going to be the ones on the front lines.

We should pay homage to them. We should at least guarantee that when they grow old, as veterans of World War II and Vietnam are now old, they should not have to worry about prescription drugs. Why should a veteran who risked his life in Vietnam or Korea or World War II, why should they have to worry about having to not eat, to forgo a meal, in order to get the prescription they need to stay alive?

A great nation should address the full agenda of items. We should not shut down this Congress and fail to address that agenda because we are considering a war that might secure us against terrorism and make the Nation safe. We are safe only when we do all of these things. We have to walk, chew gum, dance, and do a lot of other things at the same time. We are not secure unless we mount a sustained peace offensive. Our peace offensive must consist of passing laws and appropriating money which supports the increase of prosperity and peace.

Let us just take the Muslim nation of Iraq versus the Muslim nation of Pakistan for a moment. Pakistan has always been our ally, always been our ally. In the Cold War, in the Afghanistan war against the Soviet Union, always Pakistan has been there. Again, in this very controversial and dangerous situation, the Pakistan administration has chosen to ally itself with the United States.

We have given Musharraf and the government of Pakistan I think something like $800 million, not even $1 billion, but $800 million in aid. Pakistan has a population of no less than 150 million people, some say up to 180 million, but no less than 150 million people. If we were to make Pakistan a firm ally and make certain that everything is done that can be done to prop up that administration, to help our ally, to make sure that Musharraf and his government will survive, to make certain that a communication goes out to the whole Muslim world that we are not into fighting a religious war, we are not anti-anybody because they are Muslim. We can have strong Muslim allies as we have Muslim enemies, those who chose to make themselves our enemies.

But instead, we are going to expend billions of dollars in the war against Iraq, instead of billions to help Pakistan. For very tiny amounts of money, more aid to Pakistan to help it get its economy on the feet, to help it provide a more legitimate education system, a lot of their youngsters were drained off into the al-Qaeda movement. They went off to Afghanistan and became part of the terrorist movement because they were hungry, and they were given three meals a day and fed hate and taught how to fight, and given some purpose in life. They should not have that as the only alternative.

I happen to have a large Pakistani community in my district, so I am personally familiar with Pakistan. I went there and visited 2 years ago. Pakistan is not at all a backward Nation, backward-thinking Nation in any way. The fact that it is Muslim does not mean that it does not appreciate its women. I saw or visited several girls' schools. In one class, girls were taking a math exam. They were not just learning minor matters, they were learning science and engineering, just as the men were. It is a nation that needs more schools, and they need more help with their education system.

So let us wage peace by getting closer to Pakistan, by embracing Pakistan. We have given the Pakistani-American population a very difficult time here in this country. They have rounded them up. A lot of Pakistanis have been put in detention as a result of immigration problems, and they have been treated as if they are enemies of the people.

Not a single Pakistani has been identified at this point as a terrorist. They have not found a single Pakistani terrorist. They have found some al-Qaeda people in Pakistan, but they are not Pakistani. They have found no Pakistani-American who was involved in any way with money laundering or any aspect of terrorism; yet, the Pakistani community in America is under great pressure right now.

We should embrace them, instead. We should wage peace by understanding who our allies are and by rewarding our allies, by appreciating our allies. I think we ought to have some kind of amnesty for the Pakistani-Americans who have problems with immigration.

□ 2320

I think we ought to show some sort of special concern with respect to exchange students from Pakistan. We ought to go all out. Pakistan is not the largest Muslim nation; Indonesia is. Indonesia has more Muslims than Pakistan. Pakistan is in a transitional situation where it is receptive. Their graduate students, students of science and engineering, come here. I am certain the nuclear scientists who created the nuclear bomb in Pakistan went to American universities. We know who some of them are. They have the nuclear weapons capability now, Pakistan.

The great danger is that if we do not embrace them, if we do not prop them up, if we are not capable of waging the peace by making them special allies, we may lose control of Pakistan, and the nuclear weapons that they have would fall into the hands of unfriendly people. We would have a clear and imminent danger then that we would have to deal with.

So I want to conclude by saying that this debate deserves to continue and to include as many people as possible. The American people, those who lived through the war in Vietnam, some are still around from World War I, certainly World War II, the Korean war, we should not take their wisdom lightly. We should look at their contributions and listen to their voices. A war in Iraq would not be fought in the quagmires and jungles like a war in Vietnam, but it would be the worst human quagmire that we could possibly contemplate.

We would not be going to war against Iraq. It would eventually be a war against the entire Muslim world. Through the gates that are open in Pakistan we could become allies, have allies and friends from the entire Muslim world. Why close that gate down and suffer from excessive preoccupation for the use of military force in Iraq? We have the United Nations. We have deliberations going on there. There is no great hurry. There is no imminent threat from Saddam Hussein. However monstrous Saddam Hussein might be, he does not have the capacity to inflict any great hurt on America at this point. We have time. We have time to wage peace instead of rushing into war. I hope we will listen to the wiser voices among us and not rush into a war with Iraq.

Mr. Speaker, the letters mentioned previously are as follows:

BROOKLYN, NY,
September 3, 2002.

DEAR CONGRESSMAN OWEN: As a constituent of your district, I urge you to oppose a war on Iraq. A strike on Baghdad is unjustified, illegal, and immoral. The issue of weapons inspectors can be handled by the U.N. in a peaceful and lawful manner. With a sinking economy, the American people cannot bear the burden of another war. Please focus on investing in people, not war.

Sincerely,

MICHAEL FELDMAN.
JEANETTE FELDMAN.

BROOKLYN, NY,
August 9, 2002.

Rep. MAJOR OWENS,
House of Representatives,
Brooklyn, NY.

DEAR REP. OWENS: I am writing to you, because I feel so helpless to stop what seems to be inevitable—War with Iraq.

Like you and every New Yorker, I tasted war on September 11. It wasn't pleasant and I'm not eager to experience it again. For hours I couldn't find my husband who worked across the street from 1 World Trade Center. Fortunately he returned home safely after witnessing unspeakable carnage, but many of our friends and neighbors weren't so lucky. That evening, I walked down 7th Avenue in Park Slope, Brooklyn, to get a handle on the losses. The stench from burning buildings, computers, and bodies was pervasive and the smoke cast an eerie haze over our little community. Everywhere I went I learned of more losses—12 firemen from Squad 1 on my block, loved ones of students and a teacher at the Park Slope Dance Studio, parents with kids at 321, Berkeley Carroll, and St. Ann's, members from church, a former colleague, and many of our neighbors were all among the missing. At 7 p.m. that day, we foolishly held out hope that some would be found in area hospitals, but unfortunately there weren't.

Weeks later I attended the memorial service for my friend, Jeff Hardy, who was killed because he happened to be working on the 101st Floor of Tower 1. Hours after I attended Jeff's service, a woman at 7th Avenue and Carroll approached me and asked me to sign a petition opposing the war in Afghanistan. I refused. I supported the war in Afghanistan and have been grateful that our allies have worked with us to round up terrorists worldwide

However, I have seen absolutely no evidence that Iraq had anything to do with this attack. The rumor that Mohamed Atta met with an Iraqi intelligence agent has been denied by the Czech government. I am not aware of one Iraqi who fought with the Taliban, although I know the citizens of many of our allies fought with the Taliban, are members of Al Qaeda, were on those planes September 11, and continue to threaten Americans and other foreigners every day, particularly in Pakistan.

My hope is to destroy Al Qaeda and stop the spread of Islamic religious fundamentalism and hatred for the United States, Christians, and Jews. To fight the Islamists, we need the cooperation of all of our allies and all countries in the Middle East. I am afraid that this fragile alliance will dissolve if we attack Iraq without provocation and we may not get the help we need. Invading Iraq will only inflame anti-American rhetoric and could even jeopardize our allies in the Middle East. I'm deeply worried about the welfare of President Musharraf and concerned that if anything happens to him, religious fanatics could take control of Pakistan, which we know has both nuclear weapons and Al Qaeda members. Musharraf is already under attack in his country because of his support of the U.S. and the New Yorker reported this week that a recent car bomb that killed 12 people was intended for him. I truly think declaring war on Iraq will put more U.S. citizens in harm's way than containment.

To me this administration's warmongering is further evidence of the "Kremlinization" of Washington under Bush. This administration thrives on secrecy. In the beginning of the term we saw cronyism and secret agreements among the elites in government and business. Now there is lavish federal spending in Florida where the president's brother happens to be running for re-election. According to a recent New Republic article, even questionable SBA loans are being made in Florida at a time when several businesses with which I have worked that were located at or near ground zero have been denied SBA assistance.

After September 11, we had secret arrests and detentions of more than 1,000 individuals. Even Reagan-appointed, federal judges have been appalled by this. We have seen civil rights being applied arbitrarily with some American citizens who happen to be poor and of color like Jose Padilla being denied the right to legal counsel and the American justice system, while prosperous Americans like John Walker Lingh, who actually fought American soldiers, received them. No investigation has been allowed into the intelligence failures before September 11. Time magazine this week has a scathing article about how this administration ignored terrorist threats prior to the attacks, but we can't examine this. Free speech has been chilled because any elected official who dares criticize or stand in the way of the administration has been called unpatriotic and obstructionist and in some cases compared to Saddam Hussein in newspaper ads. The government is asking ordinary citizens to spy on one another, reminiscent of something out of a Solzhenitsyn novel. The attorney general has ignored the Supreme Court's 1939 opinion on the Second Amendment and has decided to apply his own, wildly different interpretation and also won't allow gun checks on suspected terrorists. I won't even get into what started all of this, the election of 2000 and how the voter registration lists were "scrubbed" and the failure of the Supreme Court to honor a presidential candidate's request to count votes as allowed under Florida law. Now this administration is invading countries without adequate discussion or support.

Following the tragedies of September 11, we were a city in mourning. We spent months going to funerals and neighborhoods completely shut down when funerals for firefighters were held. The physical and emotional damage contributed to economic downturn here. I run a small, but successful public relations firm and I booked 93 percent of my revenues in 2001 on projects completed before September 11 and only 7 percent after September 11. My situation was not unusual. Small businesses—graphic designers, contractors, beauticians, photographers, etc.—everywhere in the metropolitan area suffered the same fate. Large companies like my husband's were evacuated from lower Manhattan never to return. His company had to rebuild complete systems within days to be able to compete when the markets opened the following Monday and use AOL or other carriers to communicate by email because the company's servers were destroyed. We all limped along. Our woeful city tax revenues are enduring evidence of the economic damage we experienced.

This country and especially this city have not yet digested the economic and emotional fallout from September 11. New York City is still struggling to get back on its feet and continues to get hammered by low tax revenues, the recession, stock market volatility, and corporate scandals. The economy can't take another shock like a war with Iraq and its unknown consequences.

We have so much unfinished international business that to go forward with a war with Iraq right now would be irresponsible. I share the same concerns that King Abdullah of Jordan has that invading Iraq could lead to a further destabilization of the Middle East, including possibly a civil war, at a time when we need to be rebuilding Afghanistan and seeking a solution to the Israeli/Palestinian War. Even the Kurds are begging us not to invade. We still haven't found Osama bin Laden and Mullah Omar yet, how are we going to round up Saddam Hussein and his secret weapons, particularly without the support of our allies? It's suicidal. I'm reminded of our many unsuccessful attempts to oust Fidel Castro. Besides the economic and diplomatic problems of a war with Iraq, I have a serious moral problem with killing innocent people in the country. I know what it feels like when innocent lives are lost. Even Rep. Dick Armey was quoted today in the Times as saying that an unprovoked attack would violate international law. However, this administration will not listen to its allies and is only fueling anti-Americanism worldwide.

I am a conservative Democrat and was highly supportive of President Clinton and particularly his economic policies because he gave everyone a seat at the table of opportunity, cut budget deficits, and supported free trade. (Unlike Bush who has caved to special political interests on steel, the farm bill, tax cuts, energy, the environment, etc.) I don't trust these people in the White House now. Unfortunately, they seem to be unstoppable. Please help stop them.

Sincerely,

GAIL DONOVAN.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MASCARA (at the request of Mr. GEPHARDT) for today and September 25 on account of illness in the family.

Mrs. MINK of Hawaii (at the request of Mr. GEPHARDT) for today and the balance of the week on account of illness.

Mrs. THURMAN (at the request of Mr. GEPHARDT) for today and September 25 on account of a birth in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Ms. NORTON) to revise and extend their remarks and include extraneous material:

Ms. NORTON, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Member (at the request of Mr. PAUL) to revise and extend his remark and include extraneous material:)

Mr. PAUL, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 486. An act for the relief of Barbara Makuch.

H.R. 487. An act for the relief of Eugene Makuch.

H.R. 4558. An act to extend the Irish Peace Process Cultural and Training Program.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 24 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 25, 2002, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and an amended report concerning the foreign currencies and U.S. dollars utilized for official foreign travel during the first and second quarters of 2002, by Committees of the House of Representatives, pursuant to Public Law 95–384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Howard P. "Buck" McKeon[4]	1/8	1/11	Germany		948.00		[3]				948.00
	1/11	1/11	Belgium				147.48				147.48
	1/11	1/13	France		1,047.00						1,047.00
	1/14	1/17	England		1,576.00		2,346.66				3,922.66
Hon. George Miller[5]	3/23	3/24	Siem Reap, Cambodia		135.00		[6] 7,540.17				7,675.17
	3/23	3/24	Siem Reap, Cambodia				[7] 5.00				5.00
	3/24	3/26	Phnom Penh, Cambodia		450.00						450.00
	3/26	3/28	Hanoi, Vietnam		410.00						410.00
	3/28	3/29	Hue, Vietnam		185.00						185.00
	3/29	3/30	Hanoi, Vietnam		205.00						205.00
John Lawrence[5]	3/23	3/24	Siem Reap, Cambodia		135.00		[6] 9,946.47				10,081.47
	3/23	3/24	Siem Reap, Cambodia				[7] 5.00				5.00
	3/24	3/26	Phnom Penh, Cambodia		450.00						450.00
	3/26	3/28	Hanoi, Vietnam		410.00						410.00
	3/28	3/29	Hue, Vietnam		185.00						185.00
	3/29	3/30	Hanoi, Vietnam		205.00						205.00
Committee total					6,341.00		19,990.78				26,331.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] To participate in Congressional delegation of Hon. Joe Knollenberg.
[5] To participate in Congressional delegation of Hon. George Miller.
[6] Roundtrip airfare.
[7] Van.

JOHN BOEHNER, Chairman, Sept. 10, 2002.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES

Please note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

F. JAMES SENSENBRENNER, JR., Chairman, Sept. 13, 2000.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2002

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

FOR HOUSE COMMITTEES

Please note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOEL HEFLEY, Chairman, Sept. 3, 2000.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9323. A letter from the Administrator, Rural Utilities Service, Departmentof Agriculture, transmitting the Department's final rule — Mergers and Consolidations of Electric Borrowers (RIN: 0572-AB63) received September 13, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9324. A letter from the Comptroller General, General Accounting Office, transmitting a report of deferrals of budget authority, pursuant to 2 U.S.C. 685; (H. Doc. No. 107—265); to the Committee on Appropriations and ordered to be printed.

9325. A communication from the President of the United States, transmitting a report pursuant to section 3204 (f) of Public Law 106-246; to the Committee on Armed Services.

9326. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of General William F. Kernan, United States Army, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

9327. A letter from the Under Secretary, Department of Defense, transmitting the Department's FY 2001 Environmental Quality Program Annual Report; to the Committee on Armed Services.

9328. A letter from the Assistant Secretary, Department of Education, transmitting Final Priority — Disabilities and Rehabilitation Research Projects programs, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

9329. A communication from the President of the United States, transmitting a six month periodic report on the national emergency with respect to persons who commit, threaten to commit, or support terrorism that was declared in Executive Order 13224 of September 23, 2002, pursuant to 50 U.S.C. 1641(c) and 50 U.S.C. 1703(c); (H. Doc. No. 107—264); to the Committee on International Relations and ordered to be printed.

9330. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the annual report on proliferation of missiles and essential components of nuclear, biological, and chemical weapons, pursuant to 22 U.S.C. 2751 nt.; to the Committee on International Relations.

9331. A communication from the President of the United States, transmitting the semiannual report detailing payments made to Cuba by United States persons as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses, pursuant to 22 U.S.C. 6032; to the Committee on International Relations.

9332. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9333. A communication from the President of the United States, transmitting a report, consistent with the War Powers Resolution and Public Law 107-40 to keep the Congress informed on U.S. efforts in the global war on terrorism; (H. Doc. No. 107—266); to the Committee on International Relations and ordered to be printed.

9334. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9335. A letter from the Director, Office of Personnel Policy, Department of the Interior, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9336. A letter from the Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting the Department's final rule — Law and Order on Indian Reservations (RIN: 1076-AE19) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9337. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Class E Airspace; Cordova, AK [Airspace Docket No. 02-AAL-1] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9338. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace: Gordonvile, VA [Airspace Docket No. 02-AEA-11] received September 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9339. A letter from the Chief, Regulations Division, ATF, Department of the Treasury, transmitting the Department's final rule — Expansion of Lodi Viticultural Area (2000R-436P) [T.D. ATF-482; Re: Notice No. 891] (RIN: 1512-AC92) received September 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9340. A letter from the Chief, Regulations Division, ATF, Department of the Treasury, transmitting the Department's final rule — Addition of Tannat as a Grape Variety Name for American Wines (2001R-207P) [T.D. ATF-481; Ref Notice No. 934] (RIN: 1512-AC50) received September 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9341. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Domestic asset/liability and investment yield percentages (Rev Proc 2002-58) September 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9342. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Taxation of fringe benefits (Rev Rul 2002-56) received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9343. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev Proc 2002-56) received September 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9344. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Notice permitting earlier use of Rev Proc 2002-41 [Notice 2002-55] received September 10, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9345. A letter from the Secretary, Department of Agriculture, transmitting the Department's draft bill entitled, "Omnibus Marketing Enforcement Act of 2002"; jointly to the Committees on Agriculture and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 5099. A bill to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins (Rept. 107-672). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 5109. A bill to direct the Secretary of Energy to convey a parcel of land at the facility of the Southwestern Power Administration in Tupelo, Oklahoma; with an amendment (Rept. 107-673). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4919. A bill to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes; with an amendment (Rept. 107-674). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3630. A bill to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida and the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes; with an amendment (Rept. 107-675). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4874. A bill to direct the Secretary of the Interior to disclaim any Federal interest in lands adjacent to Spirit Lake and Twin Lakes in the State of Idaho resulting from possible omission of lands from an 1880 survey (Rept. 107-676). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4910. A bill to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes; with an amendment (Rept. 107-677). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 5032. A bill to authorize the Secretary of Agriculture to convey certain National Forest System lands in the Mendocino National Forest, California, to authorize the use of the proceeds from such conveyances for National Forest purposes, and for other purposes; with an amendment (Rept. 107-678). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 5108. A bill to authorize leases for terms not to exceed 99 years on lands held in trust for the Yurok Tribe and the Hopland Band of Pomo Indians (Rept. 107-679). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. S. 1907. An act to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon (Rept. 107-680). Referred to the Committee of the Whole House on the State of the Union.

Mr. CALLAHAN: Committee on Appropriations. H.R. 5431. A bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes (Rept. 107-681). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 545. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes (Rept. 107-682). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 546. Resolution providing for consideration of the bill (H.R. 4691) to prohibit certain abortion-related discrimination in governmental activities (Rept. 107-683). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 547. Resolution providing for consideration of the resolution (H. Res. 540) expressing the sense of the House of Representatives that Congress should complete action on H.R. 3762, the Pension Security Act of 2002; for consideration of the resolution (H. Res. 544) expressing the sense of the House of Representatives on permanency of pension reform provisions; and for consideration of the resolution (H. Res. 543) expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage tax relief permanent (Rept. 107-684). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FOLEY:

H.R. 5430. A bill to amend title XVIII to revise the payment methodology under the Medicare Program for extra-depth shoes with inserts or custom molded shoes with inserts for individuals with diabetes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MATSUI (for himself, Mr. Gephardt, Mr. Rangel, Mr. George Miller of California, Mr. Stark, Mr. Coyne, Mr. McDermott, Mr. Neal of Massachusetts, Mr. Doggett, Ms. Lofgren, and Mr. Jefferson):

H.R. 5432. A bill to amend the Internal Revenue Code of 1986 to require the same holding period for company stock acquired upon exercise of options as is applicable to company stock in its 401(k) plan, to require disclosure to shareholders of the amount of corporate perks provided to retired executives, and to provide parity for secured retirement benefits between the rank and file and executives; to the Committee on Ways and Means.

By Mr. BARCIA:

H.R. 5433. A bill to amend the Clean Air Act to ensure reasonable emissions standards for highway motorcycles, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DeFAZIO:

H.R. 5434. A bill to establish an Emergency Malpractice Liability Insurance Commission; to the Committee on Energy and Commerce.

By Mr. DeFAZIO:

H.R. 5435. A bill to establish an Office of Health Care Competition within the Department of Health and Human Services to administer the National Practitioner Data Bank and to collect and make available to the public more information on medical malpractice insurance under that Data Bank; to the Committee on Energy and Commerce.

By Mr. DeFAZIO:

H.R. 5436. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Oregon; to the Committee on Energy and Commerce.

By Mr. DeFAZIO:

H.R. 5437. A bill to modify the antitrust exemption applicable to the business of insurance; to the Committee on the Judiciary.

By Mr. DOOLEY of California:

H.R. 5438. A bill to require the Securities and Exchange Commission to report to the Congress on accounting for intangible assets; to the Committee on Financial Services.

By Mr. GILLMOR:

H.R. 5439. A bill to designate the facility of the United States Postal Service located at 111 West Washington Street in Bowling Green, Ohio, as the "Delbert L. Latta Post Office Building"; to the Committee on Government Reform.

By Mr. HANSEN (for himself, Mr. Kingston, Mr. Aderholt, Mr. Barr of Georgia, Mr. Brown of South Carolina, Mr. Calvert, Mr. Chambliss, Mr. Collins, Mrs. Cubin, Mr. Deal of Georgia, Ms. Dunn, Mr. English, Mr. Green of Wisconsin, Mr. Grucci, Mr. Hastings of Washington, Mr. Sam Johnson of Texas, Mr. Jones of North Carolina, Mr. Kennedy of Minnesota, Mr. Kerns, Mr. Jeff Miller of Florida, Mr. Gary G. Miller of California, Mr. Peterson of Pennsylvania, Mrs. Roukema, Mr. Royce, Mr. Schrock, and Mr. Wilson of South Carolina):

H.R. 5440. A bill to amend the Immigration and Nationality Act concerning loss of nationality for treason or terrorism against the United States; to the Committee on the Judiciary.

By Mr. HASTINGS of Florida:

H.R. 5441. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide Federal grants to first responders to enhance their ability to respond to incidents of terrorism, including incidents involving weapons of mass destruction, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HAYWORTH:

H.R. 5442. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to include private firefighters and rescue squad and ambulance crew members for certain benefits; to the Committee on the Judiciary.

By Mr. HAYWORTH (for himself, Mr. Kolbe, Mr. Pastor, and Mr. Flake):

H.R. 5443. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; to the Committee on Resources.

By Mr. HAYWORTH (for himself and Mr. Pomeroy):

H.R. 5444. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program; to the Committee on Ways and Means.

By Mr. HERGER (for himself, Mr. Tanner, Mr. Kingston, Mr. Blunt, Mr. Foley, Mr. McIntyre, Mr. McNulty, Mr. Ford, Mr. Graham, Mr. Ryan of Wisconsin, Mr. Simmons, Mr. Manzullo, Mr. Gibbons, Mr. Smith of Michigan, Mr. Calvert, Mr. Jeff Miller of Florida, Mr. Gordon, Mr. Hall of Texas, Mr. Tiberi, and Mr. Pickering):

H.R. 5445. A bill to amend the Internal Revenue Code of 1986 to provide that an employer shall be liable for Social Security taxes on unreported tips paid to an employee only after the Internal Revenue Service establishes the amount of tips received by that employee; to the Committee on Ways and Means.

By Mr. JOHN (for himself and Mr. Cooksey):

H.R. 5446. A bill to provide economic disaster assistance to producers of the 2002 crop of rice in the State of Louisiana; to the Committee on Agriculture.

By Ms. McKINNEY:

H.R. 5447. A bill to express the remorse of Congress for the policy of the Department of Defense in effect until 1976 providing for involuntary separation of female members of the Armed Forces who became pregnant while in service and to take certain steps to make amends for the effects of that policy; to the Committee on Armed Services, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OWENS:

H.R. 5448. A bill to provide compensation for the families of noncombatants killed in United States military actions in Afghanistan after September 11, 2001; to the Committee on International Relations.

By Mr. RODRIGUEZ (for himself, Mr. Reyes, Mrs. Napolitano, Ms. Solis, Mr. Baca, Ms. Roybal-Allard, Mr. Menendez, Mr. Hinojosa, and Mr. Gonzalez):

H.R. 5449. A bill to provide for programs and activities to improve the health of Hispanic individuals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SHAW:

H.R. 5450. A bill to amend title XVIII of the Social Security Act to provide for equitable payments for health care services furnished to Medicare beneficiaries in hospital outpatient departments, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida:

H.R. 5451. A bill to amend title XVIII of the Social Security Act to modernize and reform payments and the regulatory structure of the Medicare Program to assure access to health care for senior citizens, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 5452. A bill to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; to the Committee on Resources.

By Mr. SESSIONS (for himself and Mrs. Capps):

H. Con. Res. 477. Concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce; to the Committee on Education and the Workforce.

By Mr. PAYNE (for himself and Mr. Wolf):

H. Con. Res. 478. Concurrent resolution condemning the National Islamic Front (NIF) Government of Sudan for its genocidal war against the people of southern Sudan and expressing support for the Vigil for Sudan being held at Galvez Park in Washington, D.C.; to the Committee on International Relations.

By Mr. CROWLEY (for himself, Ms. Ros-Lehtinen, Mrs. Maloney of New York, Mr. Pallone, Ms. Lee, Mr. Hinchey, Mr. Ackerman, Mr. Visclosky, Mr. Blagojevich, Mr. Capuano, Mr. McGovern, and Mr. Sherman):

H. Con. Res. 479. Concurrent resolution expressing the sense of Congress regarding Greece's contributions to the war against terrorism and its successful efforts against the November 17 terrorist organization; to the Committee on International Relations.

By Mr. LANGEVIN (for himself, Mr. Acevedo-Vilá, Mr. Akin, Mr. Baird, Mr. Baldacci, Mr. Bartlett of Maryland, Ms. Berkley, Mr. Brown of Ohio, Mr. Carson of Oklahoma, Mrs. Christensen, Mrs. Clayton, Mr. Cramer, Mr. Davis of Illinois, Mr. Doolittle, Mr. Frost, Mr. Grucci, Mr. Hefley, Mrs. Jones of Ohio, Mrs. Kelly, Mr. Kennedy of Rhode Island, Mr. McNulty, Mr. Manzullo, Ms. Millender-McDonald, Mrs. Napolitano, Mr. Pascrell, Mr. Peterson of Pennsylvania, Mr. Phelps, Ms. Ros-Lehtinen, Mr. Ross, Ms. Schakowsky, Mr. Skelton, Mr. Smith of Washington, Mr. Tancredo, Mr. Udall of Colorado, Mr. Udall of New Mexico, and Ms. Velázquez):

H. Con. Res. 480. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued honoring our Nation's small business concerns; to the Committee on Government Reform.

By Mr. MARKEY:

H. Con. Res. 481. Concurrent resolution expressing the sense of the Congress that there should be established a National Visiting Nurse Associations Week; to the Committee on Government Reform.

By Mr. WELDON of Pennsylvania:

H. Con. Res. 482. Concurrent resolution encouraging improved cooperation with the Russian Federation on energy development issues, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELLER (for himself and Mr. Hastert):

H. Res. 543. A resolution expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage tax relief permanent; to the Committee on Ways and Means.

By Mr. SULLIVAN:

H. Res. 544. A resolution expressing the sense of the House of Representatives on permanency of pension reform provisions; to the Committee on Ways and Means.

By Mr. BLUMENAUER (for himself, Mr. Shays, Mrs. Myrick, Mr. Doggett, Ms. Kilpatrick, Mr. Holt, Mrs. Tauscher, Mr. Moran of Virginia, Mr. Bentsen, Mr. Wamp, Ms. DeLauro, Mrs. Johnson of Connecticut, Ms. Pryce of Ohio, Mr. Wicker, Mr. McNulty, Mr. Frost, Mr. Etheridge, Mr. Oberstar, Mr. Waxman, Ms. Brown of Florida, Mr. Hoyer, Ms. Lee, Mr. Tancredo, Mr. Sweeney, and Mr. George Miller of California):

H. Res. 548. A resolution congratulating Lance Armstrong for winning the 2002 Tour de France; to the Committee on Government Reform.

By Mr. GRAVES:

H. Res. 549. A resolution expressing appreciation for the Prime Minister of Great Britain for his loyal support and leadership in the war on terrorism and reaffirming the strong relationship between the people of the United States and Great Britain; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

364. The SPEAKER presented a memorial of the House of Representatives of the State of Missouri, relative to House Concurrent Resolution No. 7 memorializing the United States Congress and the Department of Health and Human Services to provide financial support for each state, particularly at the local health district level which would likely be the line of first response in the event of an act of bioterrorism; to the Committee on Energy and Commerce.

365. Also, a memorial of the General Assembly of the State of Colorado, relative to House Joint Resolution No. 02-1051 memorializing the United States Congress that the Recreational Fee Demonstration Program be abolished and funding be restored to the public land agencies within Colorado, and that no recreational fees be imposed on federal lands within the State of Colorado under the Recreational Fee Demonstration Program; to the Committee on Resources.

366. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 124 memorializing the United States Congress to include accelerated highway investments in any short-term economic stimulus package that is passed in Washington D.C.; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. OTTER introduced a bill (H.R. 5453) for the relief of the heirs and assigns of Hattie Davis Rogers of the Nez Perce Indian Reservation, Idaho; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 116: Mr. Neal of Massachusetts.

H.R. 218: Mr. Hill.

H.R. 267: Mrs. Davis of California and Mr. Larson of Connecticut.

H.R. 369: Mr. Souder.

H.R. 488: Mrs. Jones of Ohio.

H.R. 512: Mr. Pastor, Mr. Meehan, Mr. Carson of Oklahoma, and Mr. Neal of Massachusetts.

H.R. 513: Mr. Meehan and Mr. Neal of Massachusetts.

H.R. 536: Mr. Bachus, Mr. Lynch, and Mr. Lampson.

H.R. 632: Mr. Toomey, Mr. Platts, Mr. Clement, and Mr. Baldacci.

H.R. 638: Mr. Pascrell.

H.R. 854: Mr. McNulty, Mrs. Lowey, Mr. Sabo, and Ms. Norton.

H.R. 912: Mr. Hefley, Ms. Harman, Mr. McInnis, and Mr. Becerra.

H.R. 1217: Mr. Rodriguez.

H.R. 1296: Mr. Boehlert, Mr. McNulty, Mr. Walden of Oregon, and Mr. Andrews.

H.R. 1368: Mr. Armey and Mr. Burr of North Carolina.

H.R. 1522: Mr. Crowley.

H.R. 1604: Mr. Oberstar, Mr. Wu, and Mr. Bereuter.

H.R. 1609: Mr. Rehberg.

H.R. 1704: Mr. Royce.

H.R. 1724: Mr. Pastor, Mr. Strickland, Mr. Neal of Massachusetts, and Mr. Hinchey.

H.R. 1786: Mr. Baca and Mr. LaTourette.

H.R. 1862: Ms. Lee, Mr. Kanjorski, Mr. Schiff, Ms. Baldwin, and Mrs. Maloney of New York.

H.R. 1904: Mr. Andrews.

H.R. 2071: Mr. Allen.

H.R. 2073: Mr. Edwards.

H.R. 2161: Mr. Collins.

H.R. 2173: Ms. McCarthy of Missouri.

H.R. 2178: Mr. Clay.

H.R. 2290: Mr. Sam Johnson of Texas.

H.R. 2357: Mr. Camp and Mr. Clement.

H.R. 2422: Mr. Conyers.

H.R. 2592: Ms. Roybal-Allard and Ms. Norton.

H.R. 2709: Mr. Hefley.

H.R. 2974: Mr. Moran of Virginia.

H.R. 3006: Mr. Pickering.

H.R. 3132: Ms. DeLauro, Mr. Smith of Washington, Mr. Fattah, Mr. Israel, Mrs. Maloney of New York, Mr. Platts, Mr. Payne, and Mr. Sanders.

H.R. 3183: Mr. Kind.

H.R. 3193: Mrs. Cubin.

H.R. 3413: Mr. Crowley.

H.R. 3430: Mr. Edwards.

H.R. 3464: Mr. Borski.

H.R. 3710: Mr. Sanders, Mr. Pomeroy, Mr. Fattah, and Mr. Hobson.

H.R. 3729: Ms. Norton.

H.R. 3804: Ms. Lee, Mr. Sabo, and Mr. Udall of New Mexico.

H.R. 3831: Mrs. Mink of Hawaii.

H.R. 3834: Mrs. Morella.

H.R. 3974: Mr. Grucci.

H.R. 3992: Mrs. Meek of Florida and Mr. Frank.

H.R. 4075: Mr. Lipinski and Mr. Brown of Ohio.

H.R. 4210: Ms. Kaptur.

H.R. 4483: Mr. Ehrlich, Mr. Cardin, and Mr. Dicks.

H.R. 4582: Mr. Spratt.

H.R. 4667: Mr. Isakson.

H.R. 4668: Mr. Spratt.

H.R. 4675: Mr. Cox.

H.R. 4691: Mr. Gary G. Miller of California, Mr. Camp, Mr. Thune, Mr. Goodlatte, Mr. Paul, Mr. DeMint, Mr. Ryan of Wisconsin, and Mr. Osborne.

H.R. 4693: Mr. Cardin.

H.R. 4706: Mr. Levin.

H.R. 4720: Mr. Bartlett of Maryland.

H.R. 4738: Mr. Thompson of California and Mr. Cannon.

H.R. 4804: Mr. Norwood, Mr. Deal of Georgia, Mr. Goode, Mr. Dan Miller of Florida, Mr. Jeff Miller of Florida, and Mr. Toomey.

H.R. 4889: Mr. Portman.

H.R. 5089: Mr. Moran of Virginia, Mr. Doyle, Mr. DeFazio, and Mr. Andrews.

H.R. 5105: Mr. DeFazio.

H.R. 5130: Mr. Engel, Mr. Payne, Mr. Platts, Mr. Doyle, Mr. Evans, and Mr. Kennedy of Minnesota.

H.R. 5137: Mr. Cunningham.

H.R. 5151: Mr. Hall of Texas.

H.R. 5153: Mr. Menendez.

H.R. 5213: Mr. Blumenauer, Mr. Sanders, and Mr. Owens.

H.R. 5241: Ms. Berkley, Mr. Doyle, Mr. Skelton, Mr. Frank, Ms. Norton, Mr. Evans, Ms. Baldwin, Mr. Abercromobie, Mrs. Johnson of Connecticut, and Mr. Brown of Ohio.

H.R. 5251: Mr. Smith of Washington.

H.R. 5253: Mr. Hinchey.

H.R. 5268: Mr. Barrett.

H.R. 5270: Ms. McCollum, Mr. Ferguson, Mr. McGovern, Ms. Lee, Mr. Baird, Mrs. McCarthy of New York, Mr. Etheridge, Mr. Lantos, and Mr. Gilchrest.

H.R. 5272: Mr. Barcia, Ms. McCollum, Mr. Kildee, Mr. Schiff, Mr. Baird, Mr. Barrett, Mr. Frank, Mrs. Thurman, and Mrs. Maloney of New York.

H.R. 5280: Mr. Pitts, Mr. Platts, Mr. Gekas, Ms. Hart, and Mr. Toomey.

H.R. 5285: Mrs. Davis of California, Ms. Pryce of Ohio, Mr. Underwood, and Mr. Hastings of Washington.

H.R. 5317: Mr. Gallegly and Mr. Graves.

H.R. 5323: Mr. Armey, Mr. Brown of South Carolina, Mr. Burton of Indiana, Mr. Cantor, Mrs. Jo Ann Davis of Virginia, Mr. DeMint, Mr. Duncan, Mr. Ehrlich, Mr. English, Mr. Flake, Mr. Gallegly, Mr. Herger, Mr. Hyde, Mr. Kolbe, Mr. Pence, Mr. Petri, Mr. Schaffer, Mr. Shadegg, Mr. Shuster, Mr. Souder, Mr. Sweeney, and Mr. Weldon of Florida.

H.R. 5326: Mr. Kildee, Mr. Rodriguez, Mrs. Jones of Ohio, and Mrs. Wilson of New Mexico.

H.R. 5334: Ms. Brown of Florida, Mr. Wilson of South Carolina, Mr. McGovern, Ms. DeLauro, Mr. Walsh, Mr. Platts, Mr. Simmons, Mrs. Kelly, Mr. Doyle, Mr. Davis of Illinois, Mr. Clay, and Mr. Lipinski.

H.R. 5346: Mr. Israel, Mr. Hoyer, Mr. Hinojosa, Mr. Clyburn, Mr. Kind, Ms. Watson, Mr. Kildee, Mr. Hastings of Florida, and Mrs. Meek of Florida.

H.R. 5348: Mr. Davis of Illinois.

H.R. 5358: Ms. Baldwin and Mr. Moran of Virginia.

H.R. 5359: Mr. Faleomavaega, Mr. Gilchrest, Mr. Paul, and Mr. Peterson of Minnesota.

H.R. 5376: Mr. Schaffer, Mr. Radanovich, Mr. Issa, Mr. Peterson of Pennsylvania, and Mr. Young of Alaska.

H.R. 5380: Mr. Kolbe, Mr. Cannon, and Mr. Bartlett of Maryland.

H.R. 5383: Mr. LaHood, Mr. Evans, Mr. Peterson of Minnesota, Mr. Costello, Mr. Horn, Mr. McGovern, Mr. Kildee, Mr. Shimkus, Mr. Rush, Mr. Hefley, Mr. Moran of Kansas, Mr. Blagojevich, Mr. Osborne, Mr. Weller, and Mr. Carson of Oklahoma.

H. Con. Res. 297: Mr. Ehlers and Ms. Harman.

H. Con. Res. 349: Mr. Andrews.

H. Con. Res. 406: Mr. Lantos.

H. Con. Res. 450: Mr. ANDREWS, Mr. WILSON of South Carolina, Mr. FORBES, Mr. RODRIGUEZ, and Mr. LUTHER.

H. Con. Res. 459: Mr. SABO and Mrs. JONES of Ohio.

H. Con. Res. 473: Mr. HONDA and Mr. BROWN of Ohio.

H. Res. 190: Mr. PALLONE.

H. Res. 265: Mr. PLATTS.

H. Res. 468: Mr. ENGEL, Mr. KILDEE, Mr. LEACH, and Mr. GILMAN.

H. Res. 499: Mr. LEVIN.

H. Res. 505: Mr. CALVERT.

H. Res. 533: Mr. WEXLER and Ms. BERKLEY.

H. Res. 540: Mr. PORTMAN.

SENATE—*Wednesday, September 25, 2002*

The Senate met at 9:30 a.m. and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation and Lord of our lives, in each period of history, You have blessed us with great leaders who have exemplified love for You and dedication to our country. Today we celebrate such a man. Thank You for Senator STROM THURMOND.

By Your providential care, on May 25, 1997, he became the longest serving Senator in our Nation's history. Yet, it is not just the quantity, but also the quality of these years service motivate our admiration. So today we join with all Americans in thanking You for his outstanding service to the Senate, to his beloved South Carolina and to the Nation.

Thank You for the enrichment of our lives by this man. He has shown us the courage of firm convictions, the patriotism of love for this Nation, and true commitment to the Senate. We praise You for the personal ways he has inspired each of us. He is an affirmer who spurs us on with words of encouragement. Your Spirit of caring and concern for individuals shines through this remarkable man.

Gracious God, may Senator THURMOND know of our affirmation, feel our love, and be encouraged by Your blessing. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 25, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REED thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, this morning there will be a period of morning business until 10:30 a.m., with the time equally divided between the two leaders or their designees. At 10:30 a.m., the Senate will vote on the Byrd amendment regarding firefighting and drought on the Interior Appropriations Act. If cloture is not invoked, there will be an immediate vote on cloture on the Lieberman substitute amendment to the Homeland Security Act. If cloture is not invoked on the Lieberman amendment, the Senate will remain on the Homeland Security Act, and Senator GRAMM will be recognized to offer an amendment.

Mr. President, I would also say the vote is scheduled at 10:30, and I have been asked by a number of Senators to keep it that way. There are important committee hearings going on and which need to go on. So if there is a request to extend the time, if I am not on the floor, I would hope the Presiding Officer would object in his capacity as a Senator from the State of Rhode Island because it is important to keep the time for the vote at 10:30.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, and the time to be equally divided between the two leaders or their designees.

The Senator from Minnesota.

Mr. DAYTON. Mr. President, I ask unanimous consent that I be permitted 15 minutes, if necessary, to complete my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ECONOMIC SECURITY OF THE AMERICAN PEOPLE

Mr. DAYTON. Mr. President, as a member of the Senate Armed Services Committee, I have spent many hours in the last few weeks looking at matters of national security.

As the Presiding Officer knows—he is also a member of that committee—the hearings we have held, thanks to our outstanding chairman, Senator LEVIN of Michigan, have been invaluable. I also thank the administration for providing us with briefings and meetings to give us the best possible understanding of the situation we face.

I also serve as a member of the Governmental Affairs Committee. I have spent the last couple months on the legislation creating the Department of Homeland Security. I pay tribute to the chairman of that committee, Senator LIEBERMAN, who is also the author of that legislation. I think it is tragic that legislation has been hung up here in the Senate for matters of political grandstanding rather than substantive disagreement.

But there has been very little attention paid on the Senate floor or in Washington recently to the economic security of the American people. Frankly, if this administration has its way, I think there will be no attention paid to economic security at all over the next 6 weeks. If you look at the condition of the economic security of this Nation, for most Americans, you can understand why the White House wants to do anything possible to change the subject.

Yesterday's papers, alone, had one day of economic news that would say we ought to put the economic security of this country on the highest level of alert, a code red, for disaster, disaster, disaster.

As the papers reported yesterday, the Nasdaq exchange fell to its lowest level in 6 years, 77 percent below its high in the year 2000; a 39-percent drop in this year alone.

The S&P 500 dropped near its 5-year low, 45 percent below its high just a couple years ago, and a 27-percent drop in this year alone.

The newspapers yesterday said the stocks were surging in July and August of this summer. There was hope, optimism for an economic recovery being underway. But what happened? War scare happened. The Dow Jones has dropped almost 1,400 points since August 22 of this year, a 14-percent drop in its entire value in just 1 month.

Why? Well, yesterday's Washington Times said: "On concerns about the economy and a war."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The Washington Post said: Uncertainty in the economy and a possible war in Iraq. The Times and the Post agree.

According to the chief strategist for Lehman Brothers, the stock market is now heading toward its third consecutive down year, which would be the first time since World War II—the first time in over half a century—that the stock market has dropped for 3 consecutive years.

That means the 401(k) account or the IRA or the private savings accounts of many Americans are worth half, or even less than half, of their value when President Bush took office.

Unfortunately, Mr. President and Members, it is more likely to get worse than better.

A Wall Street Journal headline yesterday said: "Is Your Portfolio Ready for War?—Iraq Attack Could Slash S&P 500 by 10%." That is another 10 percent in addition to what has happened already.

Crude oil prices were reported yesterday as topping $30 a barrel, the highest level in 19 months. The number of Americans out of work in this country since February of 2001 has increased by 2,300,000 of our fellow citizens. Let me say that again. The number of Americans out of work in this Nation has gone up since February of 2001 by 2,300,000; and we can't get an extension of unemployment benefits passed in the Senate to protect those who have lost their jobs and are suffering the drastic financial consequences.

Unfortunately, it is not likely to get any better, because the leading economic indicators fell in August for the third straight month.

The Wall Street Journal said their consensus economic forecast for the last quarter of this calendar year—2002—has dropped 16 percent, and it also has been revised downward for the beginning of next year.

The chief economist for Wells Fargo Bank—a good Minnesotan, Mr. Suysoh said a war with Iraq could bring oil prices to over $40 a barrel and cause a major recession.

Some have said the administration decided to make the possibility of a war with Iraq the main topic this fall, because the economic condition of this country was so bad. Well, they have succeeded in making the war with Iraq the main topic, and they have succeeded in making the state of our Nation's economy even worse.

Those comments about orchestrating the timing are not mine. They are the words of the White House Chief of Staff, Mr. Andrew Card, reported on September 7 that the White House waited on its PR offensive about the possibility of war until after Labor Day. He said:

> From a marketing point of view, you don't introduce a new product in August.

That is one heck of a product. This Senator's judgment, as a member of the Senate Armed Services Committee, is that Mr. Card is being honest.

I have seen no new information and I am aware of no imminent threat to this country. The war scare that is going on now. The hurry-up-and-vote pressure on the Senate right now. The pressure to OK the first preemptive attack in this Nation's 213-year history. They are the first installment of a doctrine which the President announced in June, the right to a preemptive strike by the United States of America.

What would happen in this world if every other nation followed suit with a preemptive strike against a possible future threat? What about India and Pakistan, who both possess nuclear weapons? What about Israel and the Palestinians, China and Taiwan, or North Korea and South Korea?

Does anyone stop to think whether this doctrine of preemptive strike would make the world more or less secure?

Mr. Card, the White House Chief of Staff, is right. This new product has caused quite a PR sensation. It is taking over the headlines—it has replaced the stock market with Saddam Hussein. Talk about going from bad to worse. The trouble is that the stock market is also going from bad to worse.

The number of unemployed in America has gone from bad to worse. The economic outlook of this Nation has gone from bad to worse. The Federal budget forecast has gone from bad to worse. The economic security for most Americans has gone from bad to worse.

I can understand why the White House might not be aware of all this, because the contributions to the Republican political committees are at record highs.

Yesterday's headline again: "GOP Committees See a 40-Percent Increase in Soft Money." Their bank accounts outweigh the Democrats by more than 2 to 1. Their contributors have good reasons to be grateful.

The Brookings Institute reports that the top 1 percent of American taxpayers—the wealthiest 1 percent of the people in this country—got 37 percent of last year's tax cut. They pay 26 percent of the taxes, and they got 37 percent of the tax cut. The average tax cut for the wealthiest 1 percent of the people in this Nation under last year's bill was over $45,000. The average pretax earnings of the top 1 percent is over $1.1 million, and they got an average tax cut of over $45,000.

I have to say that this administration does have an economic recovery plan. The trouble is it is limited to the wealthiest 1 percent of Americans. For the rest of America, we are in a real-life survival show. They lose their jobs. The losers lose their health insurance. They lose their retirement investments. And the winner of the show is someone like Jack Walsh, former chairman of General Electric. He has an annual pension of $9 million. I hope that was indexed to inflation.

General Electric shareholders, which include retirees whose portfolios, as I said earlier, dropped by 50 percent in the last 2 years, also pay for Mr. Walsh's car and driver and for his floor seats at the New York Knicks basketball games. They pay for his boxes at both the Boston Red Sox and New York Yankees baseball games. They pay his fees to four country clubs, and more.

I tell you, some corporate executives are no longer satisfied with golden parachutes. They take the whole airplane.

American taxpayers ought to be asking themselves: Why does this guy need a tax cut? Why did this administration insist on squandering over $2.2 trillion over the next 10 years on tax cuts where over one-third of the benefits go to the wealthiest 1 percent of the people in this country? It will cost the Federal Government $500 billion more over the next 10 years just on the higher interest payments on the Federal debt. That is $500 billion more in taxes to pay for fiscal irresponsibility. That provides nothing for homeland security. That provides nothing for special education; nothing for anything that benefits the people of America.

In 1 year, the non-Social Security budget of this country has gone from a 10-year forecast a $3.1 trillion surplus to a $700 billion deficit. That is an almost a $4 trillion drop in 1 year. Not even Arthur Andersen can hide that number.

Yesterday's paper reported that the Vice President is indignant about suggestions that this war scare, this "warphoria" has been timed for political benefits this fall.

I wouldn't be indignant. I would be outraged, if the White House Chief of Staff is correct in what he said—that the White House waited to introduce its "new product" until the fall of a midterm election. Only the people who were responsible for those decisions know why they made them.

But the American people will ultimately hold them responsible for those decisions. The war scare has wiped the economy off the headlines. It has also wiped any economic recovery for this country off the map. It has wiped many Americans' jobs out of existence, and wiped many Americans' prosperity from comfort to despair. If all of this is absolutely necessary, it is unfortunate. If it is not, it is unforgivable.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President. I will be very brief. I was going to ask the Senator from Minnesota a question.

I will be brief because I know my colleague from Wyoming is waiting.

I wanted to first compliment him for his remarks and pose a thought and a question. I would be interested in what he has to say.

The President thinks strongly that Saddam Hussein must go, and go quickly. All of us are thinking about that and wrestling with that. I am not going to comment yes or no on that. The President should be spending time and effort focusing on it. It is a very important issue. I don't begrudge him for doing that. He is spending maybe half of his time on it. It seems to me the other half of his time is spent on going around the country campaigning—half his time on the war effort, and half his time going around the country campaigning for candidates, and the economy is not getting any of the President's attention.

As my friend from Minnesota has correctly laid out, it is going down, down, down. Every day there is a new headline. We have one in New York. The securities industry is going to lay off many more people at a time when we can't afford it. In every part of the country, you see this down, that down, and this down.

I make a plea to the President. Spend your time focusing on Saddam Hussein, but what about spending the rest of the time—instead of traveling around the country going to political events—focusing on the economy. We are a great Nation. We can do both. We can examine what we ought to do in Iraq. At the same time, we can start focusing on the economy and things such as getting people back to work, extending unemployment insurance, and lowering the cost of prescription drugs.

The President has been absent on every one of those issues. One doesn't exclude the other.

I ask my colleague: Does he agree with those sentiments? Am I not correct when we read that the President is spending one-half of the week going to different parts of the country simply campaigning, and that I haven't heard him pronounce a thing about the economy and what we are going to do about it in all too long a period of time? Then, when he says with sort of verbiage and nothing substantive, I do not know if they have a single plan.

I don't know if they have a single plan, even though they withdrew the tax cuts they proposed for the very wealthy. I ask my colleague, in light of his excellent remarks, would he agree with me that all Americans, Democrats and Republicans, Independents, want the President to come back home and spend some time focusing on the economy; that he can do both, we can do both, deal with the war issue and focus on the economy?

Mr. DAYTON. I absolutely agree with the Senior Senator from New York. What I find particularly disturbing is, as I know from experience in Minnesota, where the President has been to my State three times in the last year in the midst of my colleague's very difficult election campaign, the President has come in, raised a couple million dollars, and has charged part of the cost of this trip to the American taxpayers. He gives one 20-minute policy speech somewhere and then goes on to raise millions of dollars for campaigns, and the American taxpayer is paying the bill.

I agree with the Senator, the President ought to stay at home. He should focus on the economy, in addition to Iraq. And if he does travel for political reasons, the American taxpayer should not be paying the bill.

Mrs. BOXER. Will the Senator yield for a question?

Mr. SCHUMER. I am happy to yield to my friend from California.

Mrs. BOXER. I was astounded to see some of the recent news coming out on the economic front, the gap between the middle class and the wealthy, the gap between the rich and the poor, the fact we see in many categories the worst economy in 50 long years in terms of jobs lost in the private sector, in terms of the sluggish growth of the GDP, the number of foreclosures. It is stunning. One has to be concerned that this administration is giving this no attention whatsoever, which was my friend's point.

We look at a President who is spending half his time on foreign policy; that is fine. This Congress is going to help in that area because we have a lot of ideas on how to meet the threat Iraq poses. On our side of the aisle, there will be different opinions on how to meet that threat, which will show the strength of our democracy, and that this party is, in fact, a broad umbrella, which is healthy in the long run for the country.

The other half of the time seems to be spent on the road campaigning. I agree with my friend. Given the economic statistics—the stock market, we are looking at maybe a $4, $5 trillion loss, the worst in 50 years, and the fact pensions are down—does my friend believe we ought to perhaps come up with something specific to ask the President?

For example, he keeps calling us to talk about foreign policy. Why doesn't he call us to the White House to talk about this economy, to get the best ideas of Republican Presidents and Democratic Presidents? This isn't partisan. People are suffering out there, Republicans and Democrats, Independents, young and old, for different reasons. So would my friend think that might be a good way for this President to show he cares as much about the everyday issues our people are facing as he does about electing Republicans, and perhaps this would be a way to break through on this economy?

Consumer confidence is down. Perhaps that would give a spur to our people and bring us together just as we get together on foreign policy.

Mr. SCHUMER. I thank my colleague for her question and comments. She is right on the money. It is a great idea. We are called, our Democratic leadership, along with Republican leadership, to the White House on numerous occasions to discuss the war effort. That is good. That is how America should work, particularly when it comes to wartime. But in a sense we have an economic war here at home, as my good friend from California has enumerated: people losing income; people losing jobs; people worried about the future; pensions way down.

Why are we not being called to the White House for an economic summit on what to do there? I speak for all of us: We would be happy to meet the President halfway or a good part of the way in terms of doing things because the people are languishing. To ignore the economy and spend all this time running around the country campaigning is a dereliction of duty. He is not even up for election.

I thank my colleague for the question.

Ms. STABENOW. Will the Senator yield?

Mr. SCHUMER. I am happy to yield for the last time.

Mr. THOMAS. Could the Chair tell me what the system is this morning? Are we going to have one side have all the time?

The ACTING PRESIDENT pro tempore. The Senator from New York has the floor. There are 10 minutes allotted to each Senator. The Senator from New York has the floor.

Mr. THOMAS. How much time remains?

The ACTING PRESIDENT pro tempore. He has 1 minute remaining.

Mr. THOMAS. I thank the Chair.

Mr. SCHUMER. I yield the 1 minute to the Senator from Michigan.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I thank the Senator from New York.

Every economic indicator we want to go up is going down, and every one we want to go down is going up. The Senator and I have worked together on one of the most critical issues that affect Americans, their pocketbook and quality of life, which is access to prescription drugs. I share the concern that we do not see the focus on the economy and what needs to happen in the economy. The Schumer-McCain bill, now in the House of Representatives, which would lower prices for prescription drugs, is one very important piece of that economic puzzle. When we see that more people are lower income, their health care costs are rising, I appreciate his leadership on that issue.

Mr. SCHUMER. I thank the Senator for her leadership as well.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

SENATE AT A STANDSTILL

Mr. THOMAS. Mr. President, it is interesting. I wanted to visit a little bit about where we are on the floor and the fact we are not moving. We have been in the same place for 4 weeks.

I understand the frustration of the folks on the other side of the aisle. I recognize, too, that we are in the full swing of an election year. It is blame-game time, where we all stand up and blame the President for what is going on when there is no effort on the other side of the aisle to move off where we are and take up some of the issues we ought to be addressing.

We talk about prescription drugs. Prescription drugs is not on the floor because the leadership has not moved from where we are to make time to get it up here. I get a little exasperated, using all this time for political comments when there are no ideas of what to do coming from the other side of the floor.

Actually, that wasn't why I came here, but I have to tell you it is pretty frustrating to continue to hear that sort of thing—blaming the President when these folks have no idea what they want to do and no suggestions, no leadership coming from the Senate. What are we going to do about it?

What we have done is continue to work on two bills for about 4 weeks now. Homeland defense is one of the most important issues we have before us, and it has been stalled. Although we have differing views on how it ought to proceed, that is fine, that is part of the system here. We ought to take a vote on those views and move forward, but instead of that, we have had stalling on the other side, no chance to vote on amendments, simply wanting to always vote on cloture, which is what we are faced with today.

The unwillingness of the majority leadership to allow votes on certain amendments has created a standoff. We keep hearing about what else you want to talk about over there, but we won't move off where we are. It is pretty frustrating. It seems as though that is the political moment. We have to really get down to what it is.

The same thing is true of Interior appropriations. It has been on the floor for 4 weeks. Yet we can't seem to move it to get some of the things done. For those of us in the West, it is very important—public land fees and, so on, in which we are so involved. Maybe even more important than that, the more immediate issue, there is some drought relief in this bill. There is something on forest fire suppression. We can do those things. But have we moved? No.

We continue to stall and to have votes on cloture, which does not resolve the issue. All we need to do is have a vote on the amendments. If you don't like the amendments, have a vote to table them. That is where we ought to be. That is the system.

To get up and start spending all of our time blaming the President for an economic slowdown that began under the Clinton administration, according to all the people who are familiar and knowledgeable about it, is to be a little tiresome, when we have an opportunity to move forward. There are a lot of things we ought to be doing in the relatively short time we have left.

Obviously, homeland defense is one that has to be done.

We need to debate the Iraq resolution, which is going to take some time. We need a CR if we are going to adjourn on the 19th of October. We have an energy bill which we ought to move forward. We talked about pharmaceuticals and Medicare. We could have done something in our committee, but the majority leader pulled it out of the committee. We will not have time to accomplish these items as long as we remain on the pending bills.

It seems to me it would be very frustrating to want to spend the time blaming the President for the economy when the Senate is not doing what we can and moving forward.

I will not take any more time. We ought to look at what we are accomplishing instead of trying to put the blame on everybody else when we have not succeeded in doing what we ought to be doing. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I understand the distinguished Senator from Michigan would like 5 minutes so she can then assume the Chair. I will be happy to defer to her for 5 minutes, if I can then be recognized after her and have the attention of the body. I will be happy to accommodate her.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Michigan.

THE ECONOMY

Ms. STABENOW. Mr. President, I thank my friend for his courtesy this morning, and I appreciate the opportunity to speak for a few moments before assuming the Chair. I did want to follow up on the discussion this morning on the economy. A few minutes ago, I indicated that every economic indicator that should be going down is going up: job losses; health care costs; foreclosures; national debt; interest rate costs; Social Security trust fund raid. Every part of the economy we wish to be going up is going down: economic growth, down; business investment, down; the stock market, down; retirement accounts, down; consumer confidence; minimum wage.

We have a very disturbing situation. I wish to speak for a moment about one piece of the economy that is so critical in the quality of life of American families and American businesses which are struggling to pay the costs. Let me speak to one piece of the economic record of the last 18 months, and that is that workers' payments for health insurance is soaring.

We are seeing that the cost of insurance to cover a family has gone up 16 percent, and the cost of an individual has gone up 27 percent, over one-fourth increase in their costs. The costs are going up. Their savings are down, their investments are down, and at the same time, we are seeing the biggest part of the reason for that health care cost going up as a result of the cost of prescription drugs.

We are seeing overall prescription drugs going up over three times the rate of inflation. This is a critical part of the economic pie, the costs for consumers right now. It is not inconsequential. It is not like buying a new pair of tennis shoes or "Gee, I would like to have a new coat." This is lifesaving medicine, the difference between life and death, or whether a person goes into a nursing home or is able to live at home. I am very concerned about this. What is the response?

We in the Senate have been focused on Medicare prescription drug coverage and lowering prices for everyone. We have been successful in passing a bill that, in fact, lowers prices and creates more competition in the marketplace once a patent expires. But what is the response of the pharmaceutical industry within this context, with the struggles that are going on for families, businesses, and farmers across the country? What is their response right now? A new PR campaign, not putting the millions of dollars into lower prices and making prescription medications available, lowering the premiums for small businesses. They have gone on a huge PR campaign.

We are seeing ads that I find, I have to say, absolutely outrageous. One says: "Pray for a Miracle." It uses the picture of a child who, obviously, is deathly ill. It says: "Pray for a Miracle," because they say generic drugs will never cure him.

In the small print it says: "They don't do research." Of course they do not do research. They do not do research. They do not have to do research. The idea of generic drugs is to take the formulas and the patents after the research has been done, after the American people have helped to pay for that research through NIH funding, tax deductions, and supporting the companies with a 20-year patent so they do not have competition in recovering their costs.

The whole point of generics is the American public made a deal that, once the 20 years is up, once those subsidies are up, they will have that formula available so generic companies can manufacture those drugs and lower the prices.

Instead of working with us to have a system that works both for brand name companies to develop these new brand name drugs and also for the American people to get the bargain they are supposed to get, which is lower prices, the companies are putting millions of dollars into a front senior citizen group, ads on the air, getting involved in elections and running ads scaring people that somehow if we let the system work as we created it over the years in a bipartisan way, if we let the system work, this child, who is obviously seriously ill, will somehow be hurt. I find that absolutely outrageous.

I am concerned in the context of this economy and the debate and the American people trying to figure out when they sit down in the morning what they are going to pay for—are they going to be able to afford the health care premium? Is that senior going to be able to afford their medicine? Are they going to be able to pay for the clothes kids need for school? Are they going to be able to do the other things they need for their family?

Instead of working with us, the companies have chosen an outrageous PR propaganda campaign. I urge them to work with us to do the right thing. I thank the Chair.

The PRESIDING OFFICER (Mr. EDWARDS). The time of the Senator has expired.

The Senator from Missouri is recognized.

INTERIOR APPROPRIATIONS

Mr. BOND. I thank the Chair.

Mr. President, I have been listening to some of my colleagues on the other side of the aisle saying the economic problems we have are somebody else's fault. They blame the President. Unfortunately, in this instance, the President cannot pass legislation. The President was successful in working with us to pass the beginning of tax relief which took effect in 2001, and most responsible economists I know suggest that helped lessen the impact of the downturn which began in 2000, beginning as early as the first quarter of 2000 and hitting its peak the end of 2000 and the beginning of 2001.

We could do some things in this body. We could pass some laws that would make a difference and help the economy get going. Frankly, one of the great frustrations I feel is we cannot get about the business that we are supposed to do on the Senate floor. If the majority leadership had allowed the Senate Energy Committee to work its will on an energy bill, the committee would have reported out a proposal to allow drilling on 2,000 acres in the barren northlands above the Arctic Circle in Alaska. That is called ANWR.

ANWR not only has the potential to replace the oil we must now buy from the malevolent, deadly dictator Saddam Hussein, ANWR could put up to three-quarters of a million people to work throughout the country, not just in the drilling and work in ANWR, but providing the materials, making the steel and turning it into equipment, pipelines, providing the infrastructure through the private sector that we need to bring that oil down from ANWR.

I am still hoping we can get ANWR in the energy bill, a tremendous boost for the economy. Where else do we need a boost for the economy? In large construction projects. There are construction projects shut down all around the country because they cannot get insurance against terrorism.

Terrorism risk insurance was dealt with in the Banking Committee on a bipartisan basis. I understand they reported out a good bill to provide that the Federal Government would be a backstop, on a sharing basis, for the reinsurance of terrorism risk.

The majority leadership took it away. We cannot get a terrorism risk insurance bill through this body because the majority leadership has changed it into something that provides great new opportunities to sue the victims of terrorist attacks for punitive damages. Punitive damages are not a way to build the economy. Those are two pieces of legislation we could have gotten finished to help the economy get going. Making the tax cut permanent would be a third way of doing it.

I came to the floor to express what I believe is a great sense of frustration by all of us. The Senate is stuck in neutral.

I have only been in the Senate 16 years, and by some standards that is a pretty short time. We honored our distinguished senior colleague from South Carolina yesterday, and we know of the record of great service of others in this body, but in the short time I have been here I have never seen this body so dysfunctional. It is time we talked about why we are dysfunctional. What is happening? What has gone wrong? Why are we here? Quite simply, it is because some do not want to let us vote. This is the basic motivation and it is cloaked with all the talk about cloture and filibuster, but we are still on an Interior bill amendment which was offered 3 weeks ago. We are stuck because the majority leadership does not want us to vote on that amendment.

There is plenty of time to vote, but for some reason some are apparently afraid to vote. It is no more complicated than that. If we vote, we could get to the remaining amendments, pass the bill, and move on in the next day or two. If the majority does not like it, they could move to table it and we could have a vote; might win, might lose. We could at least have a vote.

I have worked a long time on appropriations bills. I have worked very diligently with the Senator from Maryland, the excellent chairman of the VA/HUD Committee. We have a bill we would like to present to the Senate because it deals with some very important things for veterans, for housing, for the environment, for economic development in our communities, for science, for space, for emergency management. We are ready and willing, and there are nine other bills that are ready, but when we spend more than 3 weeks on one appropriations bill, we are not going anywhere. We cannot get there until the Senate does what it is paid to do, which is to vote up or down, win or lose, and let the will of the Senate prevail.

Some are suggesting—and this, I believe, is truly outrageous—the sponsors of the amendment should pull the amendment so some do not have to cast a difficult vote. Yes, this is a political season and it is tough, but that is what we get paid to do. We have cast 223 votes this year, and I do not believe another one will make or break or overburden any of us.

The Senator from South Carolina and the Senator from West Virginia each have cast over 15,000 votes. They have shown they are not afraid to make hard decisions, and the hard decisions they have made have not taken them away. The sponsors of the Craig-Domenici amendment have had people die in their States. They have had millions of acres of trees, including old-growth trees, habitat, and wildlife, ruined by fire. Houses have burned. A sound and responsible solution has been put forward based on good science and sound forestry management. The Senate should have the courtesy, if not the common sense, to vote on it.

How poorly are we willing to treat the Senators from these Western States? I believe these Senators and their constituencies deserve a vote. If Senators want to vote against them, vote against them. They will have to explain it if they vote for them or if they vote against them.

Senator CRAIG does not have an opportunity to slip this provision into a conference report, so he is doing what the Senate should allow him to do and what we are paid to do, which is to offer amendments and have an up-or-down vote. Maybe they want a commitment to drop the amendment in a conference report. Why can't we vote?

There are a lot of reasons why appropriations bills are difficult to resolve, but this should not be one of them. This is not a question of how much money we have available. We should have voted 3 weeks ago. We could have completed four or more bills in this time, but we are at a stalemate.

Given the choices, this should be an easy call. Should the sponsors be asked to ignore their burning States, the danger of horrific, catastrophic forest fires, and set their amendments aside, or should the people who are preventing a vote decide they should let the Senate do what we are here to do, what our constitutional responsibility is to do, which is to make decisions on hard choices and then vote?

We have been in session for over 3 weeks, since Labor Day, and we have cast a whooping 16 votes. Six of these votes were unanimous. So we have cast 10 votes on contentious issues, which is less than 1 vote per day. That is not exactly heavy lifting. This time of year, we could probably do two, three, or even four votes a day and not work up a sweat, but we are not able to do that. We cast 5 unanimous votes, and we cast a unanimous vote on procedure in 16 days, which leaves 10 votes.

Some are saying maybe we ought to come in on Saturdays. Unless we are permitted to vote, what good is that going to do? If we cannot vote on Wednesday, what makes my colleagues think we could vote on Saturday, unless the objection to voting was lifted?

I do not want to shut off any debate, but when the debate is over, we should vote. If anyone has anything to add after 3½ weeks of debate, then I think they may have missed their opportunity.

I have spoken a couple of times. Obviously I have not moved many souls or they would all be stampeding to say, let's restore sound forestry management. Maybe they were not listening, maybe I was not persuasive, but I have had my shot. I think it is time we get on with it.

I compliment the Senator from South Dakota for figuring out a way to protect his State. What he did was sound forestry management. I simply want to see other people who live around the forests have the same opportunity as the people in South Dakota, which is to be free from the danger of catastrophic forest fires.

I have farmers who want farm aid. South Dakota has an interest, I am sure. I voted on farm aid. It was not germane or relevant to the bill, but I voted for it. Why can't the Senators whose States are on fire have a vote on something that is directly relevant to the Interior bill before us? I have not heard one substantive, rational explanation as to why Senators whose States are on fire should not be entitled to vote, even a negative vote.

I say to our distinguished leadership, explain to the people of the Western States that are on fire why they do not deserve a vote. The amendment is pending. Let's vote up or down; table it or not. South Dakota got special protection. Are Colorado, California, Montana, or Utah any less important than South Dakota? I think not.

Have the national interest groups gotten so powerful—and let me say, when we are talking national interest groups, I will let everyone in on a secret. It is the Sierra Club. Have the national interest groups and the Sierra Club gotten so powerful they can prevent Senators from standing up for the safety of people in their own States?

I note that the groups that oppose this amendment are very important and powerful, but until now I did not think they were powerful enough to shut down the Senate. I understand why the authors of the amendment would not want to pull their amendment because their States are on fire and in danger of being on fire. Given all the important matters funded in Interior, given that $5.9 billion in drought assistance for fire suppression money, I do not understand why we cannot vote. Substantively or politically, what is more important than assistance to prevent fires and assistance for drought-stricken ranchers? It is clear to those who follow the Senate, there is bad politics for some who may not want to vote.

I appreciate some activists do not want this passed—that is their right—but we are not obliged to skip votes because an outside group does not want to see a vote on it. They have their right to voice their opposition on the amendment, but they should not have the power to stop the Senate from voting. That is a shame. This matter should be resolved in the way it should be resolved, with a vote; move to table and vote up or down. I think Senator CRAIG's effort to prevent forest fires is worth the Senate's time.

We have lots of forests the size of New Jersey. Firefighters and innocent citizens in South Dakota are protected. But Idaho, New Mexico, Montana, and Missouri should be, too.

I plead with those objecting to voting to permit us to do what the people have sent us here to do.

Before I conclude, I call to the attention of my colleagues in the Senate an editorial from yesterday's Wall Street Journal. It says the Democratic leadership is:

> . . . now blaming Republicans for stalling the appropriations bill. In fact, the bill would clear quickly if he'd just hold a vote on the Craig amendment. But the Majority Leader knows a vote would force his party either to side with Mr. Craig (thereby alienating greens), or repudiate forest cleanup (thereby alienating voters this fall). We think it was a famous Democrat, JFK, who once said that to govern is to choose.

I ask unanimous consent that this article from the Wall Street Journal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DASCHLE'S BURNING SENATORS

If you want to know why Senate Majority Leader Tom Daschle can't get a spending bill for the Interior Department passed this year, look no further than his home state's Black Hills.

Those South Dakota mountains are at the center of a growing political debate over forest fires. All summer Senator Tim Johnson, also a South Dakota Democrat, had been taking heat from the state's rural communities for allowing green groups to stymie forest cleanup, a recipe for fires. So in July, to give Mr. Johnson a boost in his tight reelection fight against Republican John Thune, Mr. Daschle slipped a rider into a bill exempting his state from the very environmental regulations he'd long championed.

It took about a nanosecond for Western Senators, their own states in flames, to seize on this flip-flop and demand equal treatment. Idaho Republican Larry Craig offered an amendment to the Interior bill that would enact much of President Bush's new fire plan, as well as a South Dakota-style legal exemption for 10 million at-risk acres of forestland. Mr. Daschle—now trying to get back in green good graces—has tried twice to close Senate debate without considering Mr. Craig's amendment, and has lost both times.

And no wonder. This year's fires, and Mr. Daschle's rider, have become an enormous political liability for Western Democrats. They've had to explain to angry constituents why Chainsaw Tom was allowed to save his state's forests, while theirs were left to burn. And, with 6.5 million acres in ashes and more than 25 people dead this year, none of them want to oppose Mr. Craig's much-needed forest cleanup plan. California's Dianne Feinstein and Oregon's Ron Wyden, both Democrats, had even been trying to work out a compromise with Mr. Craig.

Mr. Daschle is now blaming Republicans for stalling the appropriations bill. In fact, the bill would clear quickly if he'd just hold a vote on the Craig amendment. But the Majority Leader knows a vote would force his party either to side with Mr. Craig (thereby alienating greens), or repudiate forest cleanup (alienating voters this fall). We think it was a famous Democrat, JFK, who once said that to govern is to choose.

Mr. BOND. I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Montana.

FIREFIGHTING FUNDS

Mr. BURNS. Madam President, I rise today to address this third vote on cloture on the Byrd amendment directing the replenishing of firefighting funds for the Departments of Agriculture and Interior.

This vote really hinges on our desire to get drought relief to the West.

In my opinion, that is not what this debate is about. Drought relief has already been agreed to almost unanimously by this body. In other words, there were 69 votes for it. There is strong support in the Senate. I am a strong supporter for that relief.

What is happening here is the majority is saying it is our way, or the highway. America's farmers and ranchers know that is not the way we do business, or get business done. Solving problems takes compromise. I worked with the majority to get the ball rolling. I worked with the administration to get the ball rolling. We worked with the administration and the other side—not only the other side—for release last week of money for livestock producers in drought-stricken areas. But now we see no compromise for realistic solutions. Every American has watched our forests burning every night on television. Yet the other side is reluctant to do anything about it—they have no conscience.

It does not change any law. It allows us to manage forest lands for the prevention of the disasters that we have had since 1998.

Come to my State and talk to the farmers and ranchers who have had drought for 4 years. Then, turn around and talk with people who love those forests. They have seen the forests burn for the last 4 years. And then tell me we should not have a vote in order to clean them up.

Have people lost their senses? They do not understand what happens in this biological world when we grow a renewable product—a renewable product. Have we had nothing in our schools that teach us?

I am like the old preacher who walked by a ranch one day. It was a nice Sunday morning. He said: Nice looking ranch you have got here.

The old rancher says: Yes, it is. You should have seen it while the Lord had it to himself.

We have people in this ecosystem.

These little groups, I might add, that have very little dirt under their fingernails—very little—are telling us to leave it alone, and Mother Nature will take care of it. The American people have seen that kind of management for the last 25 years. They have seen the results of it. It burned.

What is being denied here is a vote. We are being denied a vote on an issue that, sort of tongue in cheek, burns in the hearts of Americans. They don't like this. They do not want to see their forests go up in flames and have a renewable resource wasted when it can be prevented. That is what it is about.

We will reject cloture until the majority is willing to work on a compromise that will actually make a difference to Americans.

I want to associate myself with the words of our assistant leader on our side. Cloture is a terrible arrow in the quiver during these times on appropriations bills. It seems as though when we struck the deal for South Dakota less than 3 or 4 months ago, it was the right thing to do. It exempted all the laws.

Do we have a double standard here? Should those of us in other States who represent public lands which produce a renewable product not be afforded the same standard? We are not even asking for that much change. We are not exempting any law. We are not exempting anything.

What we are saying is make your case. Invoke a double standard, and then premise the argument that this is a vote against drought aid for American agriculture? It is absolutely absurd.

Any clear-thinking American who has watched the deterioration of our forests and who has seen the results can stand there, and who in this body can look them in the eye and say, well, that is the way it is?

I will tell you how many votes they will get against their proposal. I have heard maybe three or four will come down and give the reasons they are opposed to it to justify their vote, and to answer some of the questions we have.

It is not right. It is not only not right, but it is not fair.

I have real people living in my State, too, just like everywhere else. But the unwillingness to give us a vote, which is our right and a constitutional need to get the House of Representatives and the President a vote to actually pass laws, has brought us to a standstill in this body.

It is not right. It is not fair.

Mr. NICKLES. Will the Senator yield?

Mr. BURNS. I am happy to yield.

Mr. NICKLES. You mentioned drought aid. Am I not correct that drought aid cannot pass unless the bill passes?

Mr. BURNS. That is correct.

Mr. NICKLES. If one wanted to get drought aid to farmers, would it make sense, since that has been agreed to in the underlying bill, to have a vote on the Craig amendment, and it could be an up-or-down vote or a motion to table, dispose of the Craig amendment one way or another, and pass the bill?

Mr. BURNS. And move on. That is correct.

Mr. NICKLES. And every Member on this side of the aisle is willing to do that. No one on this side of the aisle is filibustering this bill.

Mr. BURNS. That is right. No preconditions. No either/or. If we are really serious about it, give us a vote. That is what we are fighting for, the privilege of voting. That is all. Defeat us if your conscience allows. But give us a vote.

I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent for 1 additional minute on each side. Our side is up.

The PRESIDING OFFICER (Mr. FEINGOLD). Without objection, it is so ordered.

Mr. REID. I have listened to my friend from Montana and my dear friend from Oklahoma. You cannot change the Senate rules. They can say all they want that they are not filibustering this bill. This is the fourth week we are on the bill. If they want to get disaster aid to the farmers, they should allow us to go forward on this legislation. We can offer their amendment on other matters, if they really care about the farmers; 79 Senators said they did. Those people are waiting for relief as we speak. They should go ahead and allow us to pass this bill. In the meantime, the farmers get nothing.

It is not as if we are not fighting fires. There is $800 million that Senator BYRD and Senator STEVENS put in this bill for fighting fires. It is a question of their wanting to do away with judicial review, which we are unwilling to do.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. If people want to pass this bill, the way to pass the bill is to do it the way Senator REID and I used to manage the bill, and that is to vote. We get paid to vote.

For whatever reason, some people are afraid to vote on the Craig amendment. If we get on the bill, maybe someone will move to table the Craig amendment. We need to vote. The Senators from Montana, North Dakota, Colorado, Oklahoma, Texas, and other States that have fires are entitled to have forest management improvements just like South Dakota. What the Craig amendment is asking for is not as much as South Dakota received.

We are entitled to a vote. You can file cloture all you want, but we are going to have a vote. We are going to have a vote. To file cloture, so we do not even get a vote on the Craig amendment, will not happen. If cloture is invoked, we can still offer the amendment, so we are getting nowhere fast. We are not going to finish this bill until we get a vote.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5093, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

Pending:

Byrd amendment No. 4472 in the nature of a substitute.

Byrd amendment No. 4480 (to amendment No. 4472), to provide funds to repay accounts from which funds were borrowed for emergency wildfire suppression.

Craig/Domenici amendment No. 4518 (to amendment No. 4480), to reduce hazardous fuels on our national forests.

Byrd/Stevens amendment No. 4532 (to amendment No. 4472), to provide for critical emergency supplemental appropriations.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close the debate on the Byrd amendment No. 4480, as amended, to H.R. 5093, the Department of Interior Appropriations bill, 2003.

Debbie Stabenow, Harry Reid, Charles Schumer, Evan Bayh, Mark Dayton, Jeff Bingaman, Jim Jeffords, Joseph Lieberman, Bill Nelson of Florida, Blanche L. Lincoln, Byron L. Dorgan, Jack Reed, Patrick Leahy, Robert C. Byrd, Mary Landrieu, Max Baucus.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the Byrd amendment No. 4480 to H.R. 5093, the Interior appropriations bill, shall be brought to a close? The yeas and nays are required under rule XXII, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The yeas and nays resulted—yeas 51, nays 47, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—51

Akaka
Allard
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Campbell
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wellstone
Wyden

NAYS—47

Allen
Bennett
Bond
Brownback
Bunning
Burns
Chafee
Cochran
Collins
Craig
Crapo
Daschle
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Helms
Torricelli

The PRESIDING OFFICER. On this vote, the yeas are 51. The nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. BYRD. Mr. President, can we have order?

The PRESIDING OFFICER. The Senate will come to order. The majority leader.

Mr. DASCHLE. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on the Byrd amendment No. 4480, as amended.

The PRESIDING OFFICER. The Senator has that right. The motion is entered.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Lieberman substitute amendment No. 4471 for H.R. 5005, the Homeland Security bill.

Debbie Stabenow, Harry Reid, Charles Schumer, Evan Bayh, Mark Dayton, Jeff Sessions, John Edwards, Jim Jeffords, Joseph Lieberman, Bill Nelson of Florida, Blanche L. Lincoln, Byron L. Dorgan, Jack Reed, Patrick Leahy, Robert C. Byrd, Mary Landrieu, Max Baucus.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the Lieberman amendment No. 4471 to H.R. 5005, an act to establish the Department of Homeland Security and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The result was announced—yeas 49, nays 49, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—49

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wellstone
Wyden

NAYS—49

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
Daschle
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—2

Helms
Torricelli

The PRESIDING OFFICER (Mr. NELSON of Nebraska). On this vote, the yeas are 49, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. DASCHLE. Mr. President, I enter a motion to reconsider the vote by which cloture has not been invoked on the Lieberman substitute amendment No. 4471 to H.R. 5005, the homeland security legislation.

The PRESIDING OFFICER. The motion is entered.

Mr. DASCHLE. I thank the Chair.

AMENDMENT NO. 4738

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate on the Gramm amendment, with the time to be equally divided between the Senator from Texas and the Senator from Connecticut or their designees.

The Senator from Texas.

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Texas, Mr. GRAMM, for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, and Mr. HAGEL, proposes an amendment numbered 4738.

Mr. GRAMM. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I wanted to take a few minutes of leader time this morning, before we get into the debate on the amendment offered by the Senator from Texas, to talk about a concern that I have wanted to avoid talking about for weeks. I am very saddened by the fact that we have debated homeland security now for 4 weeks. I have noted on several occasions that there is no reason, on a bipartisan basis, this body cannot work together to overcome our differences and to pass a meaningful and substantive bill dealing with homeland security.

Some have suggested that the delay has been politically motivated, and I have said: I am not willing to believe that. In fact, yesterday I said: We intend to give the President the benefit of the doubt.

Over the course of the last several weeks, as we have debated national security, the issue of war in Iraq has become more and more prominent. And again, as I go back to my experience in 1991 and 1992, during a similar period—the fall and winter prior and after an election—I expressed the concern that our politics in this climate could easily create a politicized environment and, in so doing, diminish, minimize, degrade the debate on an issue as grave as war.

No one here needs to be reminded of the consequences of war. No one here should have to be admonished about politicizing the debate about war. But, Mr. President, increasingly, over the course of the last several weeks, reports have surfaced which have led me to believe that indeed there are those who would politicize this war.

I was given a report about a recommendation made by Matthew Dowd, the pollster for the White House and the Republican National Committee. He told a victory dinner not long ago—I quote—"The No. 1 driver for our base motivationally is this war."

Dowd said war could be beneficial to the GOP in the 2002 elections. And then I quote: "When an issue dominates the landscape like this one will dominate the landscape, I think through this election and probably for a long time to come, it puts Republicans on a very good footing."

I thought: Well, perhaps that is a pollster. Perhaps pollsters are paid to say what is best regardless of what other considerations ought to be made. Pollsters are paid to tell you about the politics of issues. And were it left with pollsters, perhaps I would not be as concerned.

But then I read that Andy Card was asked: Well, why did this issue come before Washington and the country now? Why are we debating it in September? Where were we last year? Where were we last spring? And Mr. Card's answer was: "From a marketing point of view, you don't introduce new products in August."

New products? War?

And then I listen to reports of the Vice President. The Vice President comes to fundraisers, as he did just recently in Kansas. The headline written in the paper the next day about the speech he gave to that fundraiser was: CHENEY talks about war: electing Taff would aid war effort.

And then we find a diskette discovered in Lafayette Park, a computer diskette that was lost somewhere between a Republican strategy meeting in the White House and the White House.

Advice was given by Karl Rove, and the quote on the disk was: "Focus on war."

I guess, right from the beginning, I thought: Well, first it was pollsters, and then it was White House staff, and then it was the Vice President. And all along I was asked: Are you concerned about whether or not this war is politicized? And my answer, on every occasion, was: Yes. And then the followup question is: Is the White House politicizing the war? And I said: Without question, I can't bring myself to believe that it is. I can't believe any President or any administration would politicize the war. But then I read in the paper this morning, now even the President—the President is quoted in the Washington Post this morning as saying that the Democratic-controlled Senate is "not interested in the security of the American people."

Not interested in the security of the American people?

You tell Senator INOUYE he is not interested in the security of the American people. You tell those who fought in Vietnam and in World War II they are not interested in the security of the American people.

That is outrageous—outrageous.

The President ought to apologize to Senator INOUYE and every veteran who has fought in every war who is a Democrat in the Senate. He ought to apologize to the American people.

That is wrong. We ought not politicize this war. We ought not politicize the rhetoric about war and life and death.

I was in Normandy just last year. I have been in national cemeteries all over this country. And I have never seen anything but stars—the Star of David and crosses on those markers. I have never seen "Republican" and "Democrat."

This has to end, Mr. President. We have to get on with the business of our country. We have to rise to a higher level.

Our Founding Fathers would be embarrassed by what they are seeing going on right now.

We have to do better than this. Our standard of deportment ought to be better. Those who died gave their lives for better than what we are giving now.

So, Mr. President, it is not too late to end this politicization. It is not too late to forget the pollsters, forget the campaign fundraisers, forget making accusations about how interested in national security Democrats are; and let's get this job done right.

Let's rise to the occasion. That is what the American people are expecting. And we ought to give them no less.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I commend the distinguished Democratic leader for the position he has taken here today. I commend him for the restraint he has shown in his remarks.

I, too, was astounded upon reading this story in the Washington Post this morning. It reads as follows in part:

> As he seeks to boost Republican candidates in the midterm elections, President Bush is increasing his emphasis on terrorism and national security, shedding his previous determination to demonstrate his concern about the flagging economy.
>
> Four times in the past two days, Bush has suggested that democrats do not care about national security, saying on Monday that the Democratic-controlled Senate is "not interested in the security of the American people." His remarks, intensifying a theme he introduced last month, were quickly seconded and disseminated by House Majority Whip Tom DeLay (R–Tex.).
>
> At a fundraiser for GOP House candidate Adam Taff in Kansas Monday, Vice President Cheney said security would be bolstered if Taff were to defeat Rep. Dennis Moore (D–Kan.). "Cheney talks about Iraq at congressional fundraiser/Electing Taff would aid war effort," read the headline in the Topeka Capital-Journal.

Mr. President, are we to believe this? Are we to believe that this President said what I have just quoted? This is the President who was going to change the tone in Washington.

I am terribly disappointed. We are entering an election. War clouds loom over this country. Yet the President would say the Democratic-controlled Senate is "not interested in the security of the American people."

What about MAX CLELAND? Is he interested in the security of the American people? What about DANNY INOUYE? Is he interested in the security of the American people?

I am disgusted by the tenor of the war debate that has seemingly overtaken this capital city. Here is the President of the Senate, the Vice President of the United States, out campaigning. The President is campaigning using war talk to win the election. The Vice President of the United States is barnstorming for Republican candidates. There, in at least one instance, he was telling voters that electing Republicans would aid the war effort.

Is the President determined to make his party—that great party of Abraham Lincoln—the war party? What would Abraham Lincoln have to say if he were here?

This war strategy seems to have been hatched by political strategists intent on winning the midterm election at any cost, even if that cost places this Nation on the brink of battle and the Nation's sons and daughters there on that brink. It is despicable. The distinguished majority leader used the word "outrageous." He is exactly right. It is despicable that any President would attempt to use the serious matter of impending war as a tool in a campaign war.

I am not going to continue to be silent. The blood of our sons and daughters, our soldiers, sailors, and airmen, has far more value than a few votes in a ballot box.

There is nothing more sobering than a decision to go to war, but the administration has turned the decision into a bumper sticker election theme. That is what I felt I saw in the beginning of this war on terrorism. It was being used politically also. It is clear now. It is out in the open. There it is.

For the President to suggest the Senate is not interested in the security of the American people is outrageous. It is insulting. It is wrong, wrong, wrong. To suggest that one is unpatriotic simply because one is affiliated with a certain party and may oppose a war that may have horrendous consequences is irresponsible—irresponsible. It is the worst kind of political opportunism.

I have been in this Congress 50 years. I have never seen a President of the United States or a Vice President of the United States stoop to such low level. It is your blood, your sons and daughters. Those who are looking at the Senate through the electronic lenses, it is your blood, your treasure.

For the first time in the history of the Republic, the Nation is considering a preemptive strike against a sovereign state. I will not be silenced. I have no brief for Iraq, but I am not going to be silenced. I will not give the benefit of the doubt to the President. I will give the benefit of the doubt to the Constitution. I will give the benefit of the doubt to the American people who will soon be called upon, if this President has his way, to give their sons and daughters, the blood of this country.

I do not defend the Iraqi regime. I do not justify its actions. But I also do not want to commit our sons and daughters to battle without a thorough understanding and a thorough debate. You silence me, if you can. There are others in this body who are going to speak up for their people.

This administration is making the war their battle cry. That is their bumper sticker politics. They are putting it front and center. They don't want to talk about domestic issues. They don't want to talk about those things. So they choose to make the war center stage. OK.

"Lay on, McDuff. And damn'd be him that first cries, "Hold, enough!""

My people in West Virginia expect me to speak out. If the Lord lets me live, I shall do that.

I also do not want to commit our sons and daughters to battle without a thorough understanding of the motivations, the strategies, the repercussions of that battle.

America fights wars, but America does not begin wars. This is my battle cry. This is yours. Each of you has sworn to support and defend the Constitution of the United States against all enemies foreign and domestic. There it is. That doesn't give this President, that doesn't give this Nation, a right to launch an unprovoked attack on a sovereign nation. America fights wars, but America does not start wars.

The American people have serious questions. The Nation's allies have serious questions. Members of this body have serious questions. These must be answered before going to war, and it is not now, nor was it ever, unpatriotic to ask questions.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The majority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that Senator INOUYE have 5 minutes of my leader time.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, I certainly do not object to any time Senator INOUYE wants, but we have come to debate an amendment on the homeland security bill, and I would like to have an opportunity to speak on it. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senator INOUYE.

Mr. INOUYE. Mr. President, the gentleman who resides at 1600 Pennsylvania Avenue is the President of the United States of America, and although the Constitution does not specifically state it, his most important chore is to keep our people united, to keep our Nation united.

Accordingly, this morning I am saddened by the reports of my leader, the majority leader, and my leader, Senator BYRD of West Virginia, because it appears that our administration and our President are making statements that only serve to divide our people.

I have been honored to serve as chairman of the Defense Appropriations Subcommittee. Four weeks ago, this subcommittee reported a bill unanimously. It is a Democratically controlled subcommittee, but it reported a measure unanimously. It went to the full committee, chaired by the Senator from West Virginia, and the committee reported that measure unanimously. It was reported to this floor, and by an almost unanimous vote—three Members had questions—it passed the Senate. That was 4 weeks ago. That was carried out by a Democratically controlled Senate.

There are a few footnotes in history that I think we should recall. I listened to all the talk shows on Sunday. I am a good listener. I very seldom speak on the floor. One statement was made that some of us in the early 1990s questioned the war in the Persian Gulf. I was one of those. This spokesperson said: They questioned the war because they said a lot of body bags would be returning, and just a few returned. But we should recall that the war ended at the border of Iraq. If we had gone into Baghdad, we would have had many body bags, unless the United States had decided to do the most inhuman thing and wipe out Baghdad—men, women, and children.

Some have now suggested: The war in Afghanistan has resulted in 100 casualties. That is not a war.

There is another footnote in history that we should recall. In that ancient war we engaged in 60 years ago, World War II, in the U.S. Army, 95 percent of the men in uniform had no spouses; there were no children. Five percent had spouses and children. In my regiment, 4 percent had spouses and children; 96 percent were young men, 18, 19, 20. We were ready. We had no strings attached.

Today, in the U.S. Army, over 77 percent of our men and women have spouses; they have children. We should be concerned about their sensitivities.

It is not easy going into combat. No one enters battle planning to become a hero. You just happen to be in the wrong place at the wrong time. If you stepped one foot to the right, the bullet would have missed you.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senator may have 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, there are those who plan war, and there are those who engage in war. As we have always said in the subcommittee and in the Appropriations Committee, in order to avoid war, we should be prepared for war. We voted for a bill to spend over $356 billion. Does that suggest we are not concerned about the security of our people? And when we passed it unanimously—bipartisan, united—does that suggest we are not concerned about the security of this country?

I am concerned about the security of this country. I am concerned about what history will say about this Nation 50 years from now. Did we brutalize people or did we carry on ourselves as a civilized people? As my leader from West Virginia stated, to attack a nation that has not attacked us will go down in history as something of which we should not be proud.

Mr. President, I can assure you that this Democratically controlled Senate, and especially the Defense Appropriations Subcommittee, will support the President of the United States because that man is my President also. Certainly, I did not vote for him, but he is my President, and it grieves me when my President makes statements that divide this Nation.

I can assure you this is not a time for Democrats and Republicans to say I have more medals than you, and I have lost more limbs than you, and we have shed more blood than you. This is not the time for that. This is a time in which we should be working together, debating this issue. As the Senator from West Virginia said, it is American to question the President. It is American to debate the issues. I stand before you as a proud member of the Democratically controlled Senate.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. KERRY. Will the Senator from Texas yield?

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Texas has been recognized. The Senator controls 1 hour.

Mr. KERRY. Madam President, I ask if the Senator from Texas will allow me to speak about 5 minutes before he begins.

Mr. GRAMM. Madam President, the pending business is homeland security. I came over to offer an amendment with the Senator from Georgia. The majority leader has made a statement. The distinguished President pro tempore of the Senate has made a statement.

Our distinguished and beloved colleague from Hawaii has made a statement, and we are here to debate a war which we have an opportunity to do something about now. We are here to debate an issue where we have an opportunity to prevent anybody's blood from being spilled by having an effective homeland security program, and I want to exercise my right to speak on that issue.

I want to be brief on the subject, but accusing a President of starting a war for political reasons is a pretty serious accusation. This Senate, on several occasions, has passed resolutions that in the strongest terms called on the President, if he so decided, to use force against Iraq.

The United Nations has passed resolution after resolution that Saddam Hussein has rejected. So the idea that somehow this is a new problem and has suddenly been created out of whole cloth as we face the election simply will not bear up to scrutiny.

Secondly, there has been a confusion between two wars, and I think this is a very important issue. In listening to all of those quotes, most of what has been said has had to do with a force resolution which we are not debating today, which we will be debating next week or the week after.

As Jefferson said so long ago, good men with the same facts are prone to disagree. Based on our history in dealing with Saddam Hussein, based on the threat he poses, based on the new information on that threat which was made available by the British Intelligence Service and by the Prime Minister in today's paper, I reach a totally different conclusion than many of my Democrat colleagues in that I believe the President should be supported, and I believe a resolution of that support should pass in the Senate.

As clearly as I can say, I think internationalism is important, I think the United Nations has a role, but when we are talking about the lives and safety of Americans, I am not going to turn those lives and that safety over to the U.N.

As much as I love our allies, especially the British, I am not going to turn those lives and that safety over to our allies either. When we are talking about American lives, the buck stops with us. No matter what the United Nations decides, we are never, ever, under any circumstances, going to delegate to the United Nations the protection of American lives.

Hopefully, the United Nations is going to come to their senses and support the President, but the idea that we ought to change this resolution, when we do debate it, to say we should work within the U.N. I am not willing to put American lives at risk based on what the U.N. may or may not do.

A final point, in response to the debate we just had, we have a commingling of two different wars. The first war is with Iraq, and we are going to debate that in 2 weeks. Everybody will have a chance to state their position. I wanted to make mine clear today. The second war, however, is the war on terrorism. That is the war we are fighting today. That is the debate we are having today.

When we started this debate as to giving the President the power to protect America from the horror we saw on September 11, it never crossed my mind we would end up with a Senate that was almost perfectly divided, where Republicans were on one side and Democrats, in the preponderance, were on the other.

There is one exception, apparently, on each side at the moment. I have not looked into people's hearts. We have not had a vote. I do not know where people are down to the individual Senator, but it certainly appears at the moment that we find ourselves in the extraordinary circumstance that we are almost perfectly divided along party lines over the issue of giving the President the power he has asked for to defend the American homeland and to defend our people.

Maybe this should not be a partisan issue, but if one defines a partisan issue as an issue that ends up being split along party lines then by that definition the debate we are engaged in right now, has become divided along partisan lines. The point I want to be sure people understand is the last statement quoted by the President was not about Iraq. It was about defending the American homeland.

Why has this become a political issue? I do not believe Iraq is going to be a political issue, despite the fact some of our colleagues today have expressed reservations about Iraq. I believe in the end the President is going to get a much stronger vote on a force resolution on Iraq today than we got in 1991. In the end, I do not believe Iraq is going to be a partisan political issue.

Why has homeland security divided the Senate right down the middle along partisan lines? The reason is, it involves a very tough choice. Government is about making tough choices. When one gets outside the civics class, it is not about black and white, right and wrong. It is about tough choices. It is about give and take. It is about giving up some things to have others. In fact, this whole idea that everything can be broken down into all positive and all negative completely misrepresents the reality of the world.

There seems to be no objection to taking all of these Government agencies and putting them into one agency. So far as I know, 100 Senators are willing to do that. But remarkably, roughly half the Members of the Senate seem intent on taking away emergency powers the President had on September 11, but that would be taken away by the Lieberman bill that is before us.

I wonder how many Americans who are listening to this debate understand the proposal made by Senator LIEBERMAN, on behalf of the vast majority of Democrats, would actually weaken the President's ability to use national security powers to protect America. I do not think people understand that.

Our Nation has been attacked. Thousands of our citizens have been killed. The lives of countless thousands have been altered forever. We are debating homeland security. We have a proposal before the Senate that says we want to take powers away from President Bush, powers that President Clinton had, that Bush 41 had, that President Reagan had, that President Carter had, and powers they used.

Now, why are we debating such a proposal? How could it possibly make any sense that we were perfectly content to give every President since President Carter the ability to declare a national emergency and set aside business as usual in the Federal bureaucracy to respond to an emergency? But suddenly, as we are creating this Department, the majority proposes we take these powers away from President Bush.

In other words, we will put everybody in the Department, but the price the President would have to pay is less ability to use emergency powers than four of his predecessors have had. The President has rejected that. Does anyone blame him? Can anybody believe that any President, especially this President, would sit idly by while the Congress takes away powers that his four predecessors had?

I don't think anybody would think that is realistic. Why are we doing it? Why is the Senate almost evenly divided along partisan lines on this issue? The reason is, we are down to a tough choice. The tough choice is the following: To give the President the power to put the right person in the right place at the right time to do the right job in protecting lives, we have to change the way the Government operates. But there are powerful political interests that are opposed to making that change. And there are people who are committed to that system, the system we call the civil service system.

I remind my colleagues we have had study after study after study, studies headed by Paul Volcker, appointed by President Clinton to be head of the Federal Reserve bank. We have had studies by Lee Hamilton, a Democrat in the House, and Warren Rudman, our beloved colleague from the Senate. In study after study concerning national security, they have concluded the following, and this is the Volcker Commission: "The current system is slow. It is legally trammeled and intellectually confused. It is impossible to explain to potential candidates. It is almost certainly not fulfilling the spirit of our mandate to hire the most meritorious candidates."

That is not President Bush talking. That is not Senator GRAMM talking. That is Paul Volcker talking. The Rudman-Hamilton bipartisan commission on national security concluded that we needed an agile, flexible personnel system. And then they wrote: "Today's civil service has become a drag on our national security. The morass of rules, regulation, and bureaucracy prevent the Government from hiring and retaining the workforce that is required to combat the threats of the future."

What the President has proposed is that he have the ability to streamline the process, and when it comes to a choice between national security and the status quo in the Government system, the status quo must yield. When it comes down to union work rules, business as usual, or the life and safety of our citizens, the President says that the system has to yield. Civil service rights are important, but they are not as important as the right of Americans to life and freedom. When our people's lives are at stake, business as usual in Washington has to yield.

The substitute that Senator MILLER and I have offered prohibits the ability to discriminate on the basis of race, color, creed, national origin, and arbitrary and capricious factors, but allows the President the flexibility to hire without waiting 6 months, to fire without waiting 18 months, to eliminate a system where 99 percent of Government employees get pay raises whether they received good evaluations or not.

I am not saying one side is right and one side is wrong. Obviously, I believe the President is right, and I believe my Democrat colleagues, other than Senator MILLER—and maybe some I don't know about—are wrong. Obviously, I believe that or I would not be standing up here. My opinion does not make their position morally inferior to my position. The division is about what is more important.

That is what the division is about. You have powerful concerns on both sides. You have the concern of national security and you have the concern of Government employees, one of the most powerful political constituencies in America.

I am not saying they are wrong and we are right. I am saying we disagree and we disagree almost perfectly along party lines and we have to make a choice. You cannot be for the primacy of existing work rules of the Federal Government and be for the primacy of national security. You have to make a decision.

I have made my choice. My choice is, when Government work rules impede the protection of American lives, they have to yield. That is my choice. Many of my colleagues appear to have made a different choice.

What are we talking about when we are talking about changing union work rules? I have heard over and over and over again that we are eliminating merit and unions.

First, the substitute Senator MILLER and I have introduced is a substitute which strictly constrains the President to make decisions based on merit, and it limits it strictly to those areas where lives are at stake. I will give some concrete examples. In 1987, the Customs Service at Logan Airport in Boston tried to change the inspection facility to make it safer and more efficient. But there was a union work rule that said the inspection facility could not be changed in any significant way without a renegotiation of the union contract. So guess what. The Treasury employee labor union went to the FLRA and they overruled Customs. And Customs was not able to change the inspection facility.

Look, maybe when you are talking about trying to keep drugs out of the country or illegal aliens, those work rules are more important. But when you are talking about lives, are they more important? If we can increase the probability of keeping chemical or biological or nuclear weapons from coming in through an airport in America by changing the inspection facility, are we supposed to wait around 18 months to negotiate with the union about the ability to change the room in which the workers are working? Some of our colleagues think so, but I do not think so. I do not believe the American people think so.

Let me give another example. You all remember Barry McCaffrey, the general who was appointed by President Clinton to be drug czar. He made note in the San Francisco Examiner about the different work rules of the different Government agencies that were protecting America's borders:

> Officials at one agency were actually forbidden to open the trunks of cars, a policy well known to drug dealers.

Look, maybe it makes sense to some people that a union work rule says people working for this agency or in this classification can not open a trunk at a border inspection, and so dope gets into the country or an illegal alien gets into the country. But if it is a nuclear weapon, does it make sense? Do we really think preserving that work rule that General McCaffrey pointed out was being gamed by drug dealers—do we really believe that is more important than keeping a nuclear weapon from getting into the United States?

That is the issue we are debating. I could go down the list and go on and on. In terms of deployment of the Border Patrol special task forces, the union work rule says you cannot deploy somebody where there is not a barber shop, a place of worship, or a dry cleaners. If we are just trying to keep dope out of the country, or keep out illegal aliens, maybe that is not so unreasonable. I do not agree with that, but maybe I am wrong.

But when you are trying to keep weapons of mass destruction that can kill thousands of our people out of the country, do we really want to go to the FLRA and spend months and months and months trying to renegotiate this? Or do we want to give the President the power to say: Lives are at stake. As long as that is the case, under the emergency powers as President I am going to send the Border Patrol where there is no dry cleaner.

That is what we are talking about. That is what this issue is about—the ability to deploy on merit, when lives are at stake, instead of seniority. We are talking about the ability of agencies to set gun policies—something today they cannot do because of union work rules—and search policies. When we are worried about drugs getting into the country or contraband of various kinds, maybe we want to say the union work rules are more important than the search policy. So you have to go to FLRA to renegotiate with the union and spend 18 months doing it. But if lives are at stake, and we are talking about a nuclear weapon getting into New York Harbor, surely people see the difference. These are the kinds of things we are talking about.

Let me try to sum up where we are and what the issue is. We are divided almost perfectly along partisan lines with the exception of one Member on each side. Is preserving this old horse-and-buggy system from the 1950s—that was designed primarily to protect workers, not to get the job done—more important than enhancing the probability that we can protect lives? I say no. Some others say yes. That is the issue.

It ends up being contentious because we cannot have it both ways. You can't serve two masters. You have to make a choice, and the choice I choose is national security.

Madam President, how much time have I used?

The PRESIDING OFFICER. The Senator has used 27 minutes.

Mr. GRAMM. Madam President, I ask for 10 minutes off the leader time.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. GRAMM. This time would not count toward our hour.

Madam President, Senator MILLER and I have spent 4 weeks listening and participating in this debate. We have looked at the House bill, a bill that the President says he would sign. We have looked at the President's proposal, a bill the President would sign. And we have looked at the bill before us, a bill the President has said he would veto. I do not know how we promote homeland security by giving the President a bill he would veto.

We have made some 25 changes in the President's proposal. Quite frankly, the President has compromised more than I would have compromised had I been in his position. But the President wants to try to work on a bipartisan basis, and he wants this bill because lives are at stake.

We have limited, very narrowly limited, the President's power to use his emergency waiver in civil service. We have limited it by setting out parameters which he cannot violate in terms of his personnel flexibility. We have adopted some 95 percent of the Lieberman bill. We have adopted provisions of the House bill that represented bipartisan consensus. And we have talked to some 25 Members of the Senate and we have adopted some 18 measures that have been influenced by Members. The President has said this is as far as he can go.

What does that mean? Is it as far as he can go because he is mad about something? Is it as far as he can go because he is tired of the Democrats being successful, the Democrat leadership being successful in stopping him from doing what he wants? No. The President has said this is as far as he can go because he does not believe that he can effectively do the job if he gives up any more power. He doesn't believe if he gives up more power that he is getting the tools he needs to fight and win the war on terrorism. And I agree with him. I think he is right.

What are the issues we come to? The biggest issue we come down to is the issue I have already talked about at great lengths, and that is the issue of letting the President keep the powers that every President since Jimmy Carter has had. The Lieberman bill takes away power to declare a national emergency and to take extraordinary action that President Carter had, that President Reagan had, that President Bush had, and that President Clinton had. The President has said he is not going to let power that he had on September 11 be taken away in a bill that is supposed to be responding to September 11.

Interestingly enough, the President has offered a compromise where he will do things that President Clinton did not have to do when he used that power. He will have to notify Congress in advance, he will have to make public a declaration as to why he did what he did and his justification, something that President Clinton did not have to do. That is how much our President wants to get this job done. But has that been met by reasonable compromise on the other side? No.

We have a bill before us that takes that power away from the President. That is not going to happen. It is just not going to happen. We are not going to let it happen. The world may come to an end, but we are not going to take powers away from this President that four other Presidents have had when we are trying to fight and win a war on terrorism. It is just not going to happen.

The idea that it should be asked for is an idea that I would hate to have to defend. I would hate to have to go back to Mexia and stand up in front of the print shop of my dear friend Dicky Flatt and explain to people that we are going to take some of power the President has to protect us and we are going to do it in a bill that is supposed to be responding to the death of thousands of our citizens in Washington and New York.

Maybe you can make that sale in Mexia. But I cannot. I am not that good at it. I am talking about political ability. I could not make that sale, and I don't believe anybody else can make that sale in Mexia. Maybe they can make that somewhere else. I don't think they can make that sale in Young and Harris Counties, either.

But that is the first issue. What we have gotten from our colleagues on the other side of this issue is a series of proposals that all boil down to one thing: The power of the unions, and the power of doing it the same old way it has been done since the 1950s will be preserved, and the power of the President in the name of national security will be reduced.

That is the first major issue where we are at an impasse. We have language now that was written by the Public Employee Labor Union. It was offered in the House. It was rejected in the House. Yet that is being proposed once again. The answer is no. I don't know what part of that old country and western song they do not understand. What part of "no" don't you understand? But the answer is no.

The second issue is: When lives are on the line, should the President have the ability to hire people and have the flexibility to do it without waiting 6 months? Should he have the power if somebody comes to work drunk in a national security department to fire him without having to go through 18 months of rigmarole? I think the answer is yes. I think the answer is yes. But, obviously, the people on the other side of this issue think the answer is no.

Those are the two issues. You might say this is a great big, old, thick bill, and you sent a great big, old, thick amendment.

Let me make it clear. I sent that amendment for myself, for Senator MILLER, for Senator THOMPSON, for the President, and for some 40 Members of the Senate. That was our best effort at a real compromise where the President gave up powers he really, honestly to God, believes he needs. But he did it to try to solve this problem and to get this Department established and to get on with defending national security.

The terrorists are not waiting for this debate. I don't know what they are doing. But it scares me.

When you look at these great big, thick bills, we are really apart only on two issues. What should come first? Business as usual, or national security? And should the President have the power when lives are at stake to hire, to promote, and to operate in the most efficient manner possible this part of the Federal Government when the goal is to protect the lives and safety of our people? That, I think, is the choice.

Final point: Senator MILLER and I have worked hard with the White House for 4 weeks to provide what we believe is a compromise. It is the first real compromise that has been proposed, in my opinion. We want a vote on it. There is going to be an effort later by people on the other side of the issue to defy us that vote by amending our bill in these two critical areas so we never get an up-or-down vote on the President's program.

I am not crying foul by saying it is against the Senate rules to do that. I am not saying it is wrong to do it in terms of the way the Senate operates. I am saying I think the President deserves an up-or-down vote on his program. If you want to vote no, you have the right to vote no. But don't you think we ought to let the President have an opportunity to have his program voted on in the way he would like to see it voted on?

When that amendment is offered, we are going to use our rights under the Senate rules to hold out for a vote on our substitute. I believe in the end we will get it. I am sure some people on the other side of the aisle will stand up and say, you are delaying, you are delaying, you are doing this, you are doing that.

All we want is to vote. We have about 40 Members of the Senate who want to speak on it. They want to be heard. They will be heard. But, in the end, the President is going to be heard. In the end, the people are going to be heard. We want an up-or-down vote on the President's program.

I hope we are going to win. If we don't win, then we are going to be in a situation of trying to pass a bill the President will veto, and maybe we will have to wait until after the election and try again. That will mean that for 3 months we are not going to have the program in effect to protect national security. I think that is a risk. As a result, I want us to pass a bill.

I don't think any Member of the Senate can stand up and say they wanted to talk about this issue but Senator MILLER, Senator THOMPSON, or I have not been willing to try to work this thing out. But so far, we have seen no effort to work it out. So far it has been that we are going to take power away from the President, and if you don't like it, that is all right. Well, we don't like it, and it is not all right. It is not going to happen.

Ultimately, the debate ends here and the public has to make a decision. Is this a partisan issue? God knows that it should not be partisan. But, if you define partisan as being divided roughly along party lines, it is a partisan issue. It shouldn't be. I don't want it to be. There are many people on the other side of the aisle who don't want it to be, but it is.

In saying that, it is simply telling the truth. It is a terrible indictment of us, a terrible indictment of the Senate, but it is telling the truth.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Madam President, I yield to the Senator from Illinois such time as he requires.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Madam President. And I thank the chairman of the Governmental Affairs Committee, Senator LIEBERMAN.

Let me say for the record, this bill—the creation of a Department of Homeland Security—is a bill that has had two births.

It was first born in our committee under Senator LIEBERMAN's leadership before President Bush proposed its creation. We worked for the creation of this Department—believing the concept was sound—to bring together, in reorganization, agencies that are necessary to protect America.

When we had a vote in the Governmental Affairs Committee on Senator LIEBERMAN's proposal, I was happy to support it, but not a single Republican member of the committee supported it.

Not 2 weeks later, President Bush came forward and said: I now support a Department of Homeland Security. And Senator LIEBERMAN said: We will work with you. Let us put together a plan to bring it forward in a bipartisan fashion because, harkening back to an earlier statement on this floor: There is no partisanship when it comes to protecting America or its security or its freedom.

Senator LIEBERMAN, working with Senator THOMPSON, tried to bring out a bill, a bipartisan bill, to address the President's concern about a Department of Homeland Security. I think we have done a good job. I think we have brought this bill to the floor in good faith. We had a lengthy hearing, many witnesses. Amendments were considered; some adopted and some rejected. The orderly process of Congress was followed. My hat is off to Senator LIEBERMAN for his leadership.

But to think we have spent 4 straight weeks on the floor of this Senate unable to bring this bill to closure is clear evidence that there are people on this floor who do not want to see this bill passed in any form.

When the Senator from Texas comes up and says: Well, you have to understand, we are going to bring an amendment, and a few of our colleagues would like to speak on it on the floor, perhaps 40 Senators would like to speak on it on the floor—well, be prepared, that just means a filibuster by another name.

It means, frankly, there are forces at work on this floor that do not want to see this bill passed. They want to drag it out not 4 weeks or 6 weeks but 8 weeks and beyond. They have some other agenda other than giving the President a Department of Homeland Security. That is unfortunate.

I think Senator LIEBERMAN and the members of the committee have shown good faith from the start. We have come to the floor day after weary day, many times with absolutely nothing happening, except the threat of another filibuster. And here we stand. Here we stand this day without the Department of Homeland Security bill passing the Senate. I think it is unfortunate. I think it is sad.

Earlier, the Senator from Texas said: Now, some of those who spoke earlier, such as Senator DASCHLE, Senator BYRD, and Senator INOUYE, about their concern over the President's statements that raised a question as to whether the Democrat-controlled Senate was, in fact, committed to the security of America—the Senator from Texas said: Understand, he was not referring to the war on Iraq. He was only referring to this bill, the Department of Homeland Security.

Well, I am glad the Senator from Texas made the distinction. But it does not allay my fears that what we have emerging is partisanship when it comes to the security of America and the rhetoric that is coming out of the campaign forces, the campaign machine of the White House. It is no comfort to me to be told: Oh, they are just questioning your patriotism when it comes to the war on terrorism, not on the war on Iraq. I am sorry, that is unacceptable.

When September 11 occurred last year, President Bush did not even have to make the appeal to Congress. Within hours, Congress came together on a bipartisan basis. We came together and not only sang "God Bless America," we also came together, within a few days, to give this President the authority and resources he needed to wage the war on terrorism.

There was never any question that this Nation would stand together—Democrats, Republicans, and Independents—and we did, as did Capitol Hill. We have stood with this President.

For those who are trying to fire up the campaign rhetoric for this coming election, questioning the patriotism of anyone in the Senate who would even offer an amendment to the Department of Homeland Security bill goes too far. Whether this questioning of patriotism is over the war on terrorism or the war on Iraq, it is entirely inappropriate. It is an afront to the many veterans in this Senate on both sides. It is an afront to many of us who believe this country is something we hold dear, and who try, in every single vote we cast, to keep that in mind.

Mr. REID. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield to the Senator for a question.

Mr. REID. Did the Senator hear the statement of Senator DASCHLE, the majority leader, today?

Mr. DURBIN. Yes, I did.

Mr. REID. Did the Senator hear the statement of the Presidential pollster, and also that of Karl Rove? And did the Senator hear, as I did, the direct quotes that they wanted a strategy for the campaigns that dealt with the war? Did the Senator hear that?

Mr. DURBIN. Yes, I did.

Mr. REID. That didn't seem to say anything about homeland security, did it?

Mr. DURBIN. Not a bit. It suggested to me, I say to the Senator from Nevada, coming back to this bill, when we go to the merits of this debate, let's be very honest about what this concerns.

This is a question about moving some 150,000 or 170,000 employees of the Federal Government under a new roof called the Department of Homeland Security. I support it. I supported it when Senator LIEBERMAN offered it. I supported it when the President suggested it. I still support it.

But the question before us today is, for 40,000 or 50,000 of these employees, when they come under that new roof, will they bring with them collective bargaining rights that they have had, have earned, have worked for, perhaps, all of their adult lives?

There are those who argue—and you have heard it from the Senator from Texas—once they come into this new Department, we can't afford to run the risk that someone who belongs to a labor union can really rise to the challenge of defending America.

Pardon me, Madam President. Do I recall correctly those profiles in courage of September 11, 2001, of which so many of us are so proud? Did you stop and think for a moment that those New York firefighters, going up those stairs in those burning buildings to rescue people did not know—complete strangers—doing their duty to their country, meeting the duty of their profession—did we stop and reflect, for a moment, that they were carrying, perhaps in their wallet, next to the picture of their family, a union card? Did anyone question their patriotism, their loyalty to our country, their devotion to so many people?

Oh, and yet today we hear speech after speech: We just can't run the risk of letting people who are members of labor unions in this situation, public employees——

Mr. GRAMM. Will the Senator yield? If the Senator is going to quote me, he ought to do it accurately.

Mr. DURBIN. Madam President, I ask that order be restored in the Senate.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. REID. Will the Senator yield for a question?

Mr. DURBIN. I yield to the Senator from Nevada for a question.

Mr. REID. The Senator would agree, would he not, that the debate over this labor issue is one that we should have, and it has nothing to do with patriotism? I see on the floor one of the sponsors of the amendment, the Senator from Georgia, who is a distinguished American. He has written a book about the Marine Corps. No one can question his patriotism, his qualifications.

Wouldn't you agree a debate on labor-management relations is something we should have, and it has nothing to do with patriotism?

I have listened to the Senator from Georgia and how strongly he feels about Federal employees, and how we have to change, in his opinion, the way employees are treated. But that is an issue, would the Senator agree, that has nothing to do with patriotism?

Mr. DURBIN. I agree completely with the Senator from Nevada. For the Vice President, the President, or their campaign advisers to suggest that if we disagree on a labor-management issue in this new Department, we really are not committed to the freedom and security of America goes way too far. And I am afraid that is the point that was raised on the floor today and needs to be revisited.

I will yield to the Senator from Texas, if he has a question.

Mr. GRAMM. Yes. The only point I was going to make is, never in my remarks did I say anything about people being a member of a union. And if I am going to be quoted—and I like to be quoted; and I think it improves the Senator's speech to quote me—I would like him to do it accurately.

I never said anything about a member of a union. I simply said that when you have work rules that prevent you from deploying more patrol agents where there is no laundry, or where you are not able to change an inspection room without renegotiating a union contract, and lives are at stake, there needs to be some give. That is all I said. I did not say anything about joining a union or never mentioned a union in terms of the right of people to belong to it or their union membership or lack thereof having any relevance to do with this whatsoever.

Mr. DURBIN. I thank the Senator from Texas, but that is a distinction without a difference. To say, on one hand, I am not against labor unions, I am just against collective bargaining rights, is to get to the heart of the issue.

Let me give you an illustration that makes my point.

After September 11, 2001, we discovered that most of the terrorists responsible for the World Trade Center were coming over the northern border of the United States from Canada. We said that we were going to beef up efforts at the border to check people coming in so that others did not come in to threaten the United States. This administration said it. The Border Patrol said it. And do you know what. We did not do it. Two Border Patrol agents came forward and testified before a committee of Congress that it was all talk, we weren't putting the resources and the manpower in the right place to protect America after September 11, 2001.

These were Federal employees, members of labor unions with collective bargaining rights. Do you know what happened to them, I ask the Senator from Texas? Do you have any idea? They were fired from their jobs for testifying before Congress, terminated from their employment. Of course, there was a hearing because they had collective bargaining rights, and these whistleblowers were restored to their positions.

If we are going to talk about what is at stake, let me tell you this.

Mr. GRAMM. Will the Senator yield on that?

Mr. DURBIN. I will after I have made my point. The point I am making at this juncture is that collective bargaining rights make a difference. It is not a question about how bright the light is over the coffee pot for the employees taking their break and what color uniforms they are wearing. That is, I am afraid, a ridiculous extreme when we look at collective bargaining rights. It is the right of an individual employee at our Border Patrol to be able to stand before a committee of Congress and say: I don't care what my boss is telling you; I don't care what they are saying in their press release; they are not doing the job to protect America.

For these Border Patrol agents to stand up and tell us the truth under oath before a committee of Congress should not be grounds for termination. But they were. Thank goodness they had collective bargaining rights and their jobs were restored. I don't believe being a member of a labor union automatically qualifies you to be ready to fight for our Nation's security and be involved in intelligence gathering, but it certainly does not disqualify you. There are good, loyal, patriotic Americans who have collective bargaining rights.

Make no mistake, the bill reported to the Senate gives this President the authority, which he needs; if any individual employee, because of their new job assignments or because of the sensitivity of their assignments, needs to be removed from a bargaining unit, there is a way to do it, a legitimate, honest way. That is the point we are debating. To suggest that that has something to do with love of America and patriotism—I don't see it.

What we have, before us and what concerns the Senator from Texas is, we have a bipartisan group that has come together and said: We have come up with a compromise. Let's deal with it.

As Senator Bumpers of Arkansas used to say: The Senator from Texas hates this bipartisan compromise like the devil hates holy water. He is afraid if we bring this to the floor and get a vote supporting the bipartisan position, all of his arguments and the President's arguments are weakened and disappear. That is what concerns him about this process and why he is promising 40 Senators who will speak interminably and drag this bill on for another 4 weeks.

If the President needs a Department of Homeland Security—and I believe he does—let's have this up-or-down vote.

Let's decide where the will of the Senate is going. Don't be afraid of the will of Senate. Don't be afraid of the will of the people. Don't be afraid to say that collective bargaining does not disqualify people from defending America and from serving their Nation proudly.

Many of the people in these agencies are veterans who have served this Nation with pride and have risked their lives for the flag. To say as they come to a new Department that they somehow have to give up their rights to collective bargaining is unfair.

It has been said that it takes up to a year to fire an employee under civil service. That is a total myth. During their first year, employees can be terminated without notice, and 36 percent of new employees were removed during their probationary period in the year 2001. Any employee can be terminated with 30 days' notice.

Incidentally, in fiscal year 2000, it was said that out of 1.8 million Federal employees, only 6 were fired because they were found incapable of doing their job; and in 2001, only 3 out of 1.8 million were fired. These statistics grossly underestimate the number of Federal employees fired each year. The Republican claim that only three people were fired in 2001 refers to the three employees who were immediately removed for national security reasons only. In fiscal year 2001, 8,920 Federal employees were terminated and removed for disciplinary reasons.

The fact is, under civil service, employees can be removed. The fact is, under the bill that came out of the Governmental Affairs Committee, there is a procedure in national security for the President to make that determination. That is an issue.

I respect the Senator from Texas and the Senator from Georgia for what they are bringing as a substitute measure. Let me tell you this: They are leaving out some very critical elements of the bill brought out of the Governmental Affairs Committee.

After September 11 of last year, I focused on one particular issue that troubled me. I learned in the months leading up to it of the gross inadequacy of the information technology of the agencies of our Government relating to law enforcement and intelligence, the FBI being the classic example of an agency dealing with the most primitive technology.

I have worked for over a year to try to bring modernization of computers and information technology into intelligence gathering and law enforcement. I have spoken to everyone—Attorney General Ashcroft, FBI Director Mueller, the Vice President, as well as the President of the United States—about what I consider to be one of the glaring examples of our inability to deal with terrorism.

As a result, I prepared and offered an amendment which was on the Governmental Affairs bill that came to the floor and is still pending today. This amendment establishes that at the Federal Government level, we will start blending together the computer architecture of different agencies of the Federal Government so that they are not only modern but they are interoperable, so they can communicate with one another, pass information along. If the FBI has a most wanted list or danger list, they can pass that along to the Federal Aviation Administration and the Immigration and Naturalization Service.

I am sorry to report that does not exist today. I worked long and hard on this amendment. It had the support of all of my colleagues on the Governmental Affairs Committee. They believe, as I do, that this is a critical element in the defense of America.

But the substitute amendment being offered by the Senator from Texas doesn't include this provision. They have decided it is unnecessary, or at least they have not addressed it. I sincerely hope they will at least reconsider that if we do bring this forward and this substitute becomes the bill we are going to amend, they could introduce a motion of cloture, for example, raise germaneness questions.

If we don't include it, some element of information technology in a Department of Homeland Security, we are fooling ourselves. We are saying we are creating a new Department that has a brandnew nameplate on the door with 170,000 employees but with computers that are inadequate to the job.

When I spoke to Gov. Tom Ridge about this amendment, he said: I support this. It is a force multiplier. That means it takes the existing resources of our Government and makes them that much more effective in fighting terrorism.

The substitute offered by the Senator from Texas does not include that. That is sad.

Frankly, it may be a political victory for his substitute to prevail, but it will not be a victory in the war against terrorism. We should put the weapons in place, the arsenal we need to protect America on a bipartisan basis, looking not only to employees of the Department but also the resources and technology available in the Department.

It has been made clear on this floor that when it comes to the security of the Nation, there should not be any partisanship whatsoever. We can stand here as Americans and Members of the Senate and debate the provisions of this bill and others, and no one should call into question our patriotism.

There is no reason we should take the roles and lives of 40,000 or 50,000 new employees of this Department and say it is basically going to be impossible for them to serve their Nation and to have their rights as employees respected. We can do both. They have already proven we can do both. To try to eliminate their rights to collective bargaining or to reduce them dramatically to a point where they are meaningless is unfair to the men and women who have served us so well in so many different ways, who are proud to have these collective bargaining rights and be members of labor unions.

Before we adopt this substitute, consider the elements it does not include. One of the elements is the fact that it does not deal with the information technology that is essential to fighting a war on terrorism in the 21st century. Their bill is silent on what I consider to be one of the most important elements of this war and one of the most important weapons we can use to bring it to a successful conclusion.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Madam President, I yield myself a moment or two or as much time as I require. I will yield in a moment so Senator MILLER may speak.

While he was on the floor, I wanted to thank Senator DURBIN for the substantial contribution he made to the committee's proposal for a Department of Homeland Security overall and the specific, unique, very valuable proposal he made regarding information technology.

This is really a key to all sorts of activities in our world today, including homeland security; the ability to interconnect levels of our government, different agencies that will be part of the new Department and Federal, State, county, and local governments. I appreciate it.

Senator GRAMM and I have had discussions, and at some point, as the most controversial parts of this discussion work their way to either an agreement or the Senate works its will, I hope we can sit and talk about sections of our committee bill, such as Senator DURBIN's, which are not partisan; they are good Government, with a capital G, good. We ought to be able to reach a bipartisan agreement to include that in whatever Department of Homeland Security we create.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. GRAMM. Madam President, will the Senator yield for 2 minutes? I do not want the Senator to lose the floor.

Mr. MILLER. I yield.

Mr. GRAMM. Madam President, I would like to make a couple responses. First, let me give you the actual figures of people being fired from the Federal Government. There are 1.8 million people on the Federal payroll. In the year 2001, three of them were fired outright. The previous administration, the Clinton administration, found that 64,340 Federal workers were poor performers.

Mr. DURBIN. Will the Senator yield for a question?

Mr. GRAMM. Let me finish my point. Only 434 of them went through the removal process, and that process takes as long as 18 months, and many of them remained on the payroll. That is the first point.

The second point, the Senator talks about INS. In 1990, at the Honolulu Airport, the Immigration and Naturalization Service was worried about a surge in flights and the long lines, and they wanted to hire more INS agents to enforce the law.

The American Federation of Government Employees filed a complaint with the National Labor Relations Board saying, under their contract, INS could not hire more agents without renegotiating its union contract. Guess what. The National Labor Relations Board ruled in favor of the union, prohibiting the people from being hired.

The Senator talks about a vote. I ask unanimous consent that on Friday morning at 10 o'clock, we have an up-or-down vote on the substitute I have offered with Senator MILLER. That way, there will be no doubt about the fact we are ready to bring it to a vote at that point. We would like an up-or-down vote on our amendment at 10 o'clock.

Mr. LIEBERMAN. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAMM. Madam President, the point I want to make—and I am sorry I had to put our colleague in a position like that to object.

Mr. DURBIN. Will the Senator yield?

Mr. GRAMM. I will yield, but the point I want to make is we want an up-or-down vote on our amendment. This is the President's substitute, and the President's supporters should have a chance to speak on it. We have gone on for 4 weeks on this bill, not because of what supporters of the President have done, but because we have had amendments offered, probably 90 percent of that time taken up by people who do not support the President's position. That is where we are.

I will be happy to yield to the Senator.

Mr. LIEBERMAN. Will the Senator yield for a question?

Mr. GRAMM. Yes.

Mr. LIEBERMAN. Madam President, of course, we want to have a vote on the substitute amendment. What is the basis for denying Senators the normal privilege, which the Senator from Texas has exercised and utilized on so many occasions, to offer a second-degree amendment to his substitute so the Senate can work its will, dispose of it, and then go to an up-or-down vote?

Mr. GRAMM. The question is a totally fair question. As I said earlier, people have a right to offer amendments, but the point is, this is the President's best effort to reach a compromise with the Senator and with those who oppose his proposal, and he would like to have an up-or-down vote on his compromise as we have written it, not as it would be rewritten by others. The Senator has every right to offer an amendment. We have every right to resist it and not let the Senator have a vote on it. But we would like at some point to have people vote yes or no on the President's proposal. That is all.

Mr. LIEBERMAN. Madam President, in responding, I want the record to show—and I yield myself a moment more—we are fully prepared to have an up-or-down vote on Senator GRAMM's substitute, but after we have the right to offer an amendment. That is the way the Senate works. That is why I objected.

Mr. GRAMM. There is the rub. I yield to the Senator.

Mr. DURBIN. Madam President, I thank the Senator from Texas. Is the Senator from Texas aware of the fact he is mistaken again in saying only 3 Federal employees out of 1.8 million were terminated, when the official figures show in fiscal year 2001, 8,920 Federal employees were terminated, and in fiscal year 2000, 8,400 Federal employees were fired for reasons related to poor performance? Is the Senator aware of those numbers?

Mr. GRAMM. Let me respond—

Mr. DURBIN. Let me complete my question and then I will sit down. Is he aware, as he continues to use the INS example at the Honolulu Airport, that after the ruling he referred to, they did work out differences with the workers and established the 9 p.m. to 5 a.m. graveyard shift once they worked out negotiations?

Mr. GRAMM. Does the Senator know how long it took to work it out?

Mr. DURBIN. I am sure the time it took for the lawsuit. It took a long time.

Mr. GRAMM. While they were working it out, what if somebody brought a chemical weapon in to Hawaii where my kinfolk live. What if they had been killed?

I am constantly capable of misstating facts and figures. I always tell my children: Do not get into a debate about facts, look them up. All I am saying is, the facts I have—and I do have as much faith in mine as anybody else's—say the Clinton administration found 64,340 Federal workers to be poor performers; 434 went through the process to be terminated, and that can take as long as 18 months.

Maybe it does not matter unless somebody's life is at stake. That is all I am saying. If somebody's life is at stake, you do not do business as usual. You can defend business as usual, but when it puts somebody's life at stake, when a man, woman, or child has their life at stake, business as usual is not usual. I think there is some urgency here. That is all I am saying. I am not trying to indict any of these work rules or say they are crazy. I would hate to have to run my business under these work rules. I would go broke. All I am saying is, when people's lives are at stake, there is some urgency. I yield back to the Senator from Georgia.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Georgia.

Mr. MILLER. Madam President, how much time is remaining for our side of the argument?

The PRESIDING OFFICER. The Senator has 23½ minutes.

Mr. MILLER. I thank the Chair.

Madam President, I rise to speak not on the subject of the war against Iraq—that is for another day—but I rise to speak on the homeland security substitute that Senators GRAMM, THOMPSON, and I, and about 40 other Senators, have sponsored that the President says he supports and will sign.

We do not teach our children the lessons of Aesop's Fables as much anymore. The wisdom of Sesame Street and the Cat in the Hat have taken their place. There is one fable I learned at my mother's knee, sitting around an open fireplace, that I believe is pertinent to this debate on homeland security that has so divided this Senate along party lines.

It goes like this: A certain man had several sons who were always quarreling with one another, and try as he might, he could not get them to live together in harmony. So he was determined to convince them of their folly. Bidding them fetch a bundle of sticks, he invited each in turn to break it across his knee. All tried and all failed. Then he undid the bundle and handed them the sticks one at a time, which they had no difficulty at all in breaking.

There, my boys, said he. United you will be more than a match for your enemies, but if you quarrel and separate, your weakness will put you at the mercy of all those who attack you.

That is a lesson for today. That is a lesson for the ages. That is a lesson for this Senate and the House, for Democrats and Republicans, for the executive and legislative branches of Government. I am one of the most junior Members of this body. I do not have the experience and I have not seen the number of bills most other Members have, so my historical perspective, admittedly, is limited. But in the short time I have been here, I have never seen such a clear choice as there is on this issue.

For me, there are no shades of gray. It is clear cut. Why, in the name of homeland security, do we want to take the power away from the President that he possessed on 9/11? It is power Jimmy Carter had, power Ronald Reagan had, power the first President Bush had, and power Bill Clinton had. Do we really want to face the voters with that position, that vote written large on our foreheads like a scarlet letter, and even larger on a 36-inch television ad two weeks before the election?

We must give the President the flexibility to respond to terrorism on a moment's notice. He has to be able to shift resources, including personnel, at the blink of an eye. When the Civil Service was created well over a century ago, it had a worthy goal, to create a professional workforce free of cronyism. Back then, it was valid. But all too often in Government, we pass laws to fix the problems of the moment and then we keep those laws on the books for years without ever following up to see if they are still needed.

The truth of the matter is a solution for the 19th century is posing a problem for the 21st century, especially when this country is threatened in such a different and sinister way.

I do not want to belabor the point about how long it takes to hire a person or how long it takes to fire a person. I just know it is too long. I also know that a Federal worker can be caught knee-walking drunk and he cannot be fired for 30 days, and then he has endless appeals. Productivity should be the name of the game, and we lose productivity when we have such a law. That is no way to wage a war.

Do we not realize there is another disaster looming just around the corner, where American lives are going to be lost? And another one after that? And that those attacks against Americans and against our country will occur for the rest of our lives? Would anyone dare suggest that is not going to happen? Would anyone suggest 9/11 was some kind of isolated phenomenon never to happen on American soil again? Surely no one, even the most naive optimist, believes that. Surely no one in this body believes that.

Over 60,000 terrorists worldwide have already been identified. Terrorist cells in some unlikely places, such as Lackawanna, NY, have been discovered. They are all around us, they are everywhere, and when these other attacks come, as certainly they will, do you not think Americans throughout this great land are going to look back at what went on at this time in the Senate? And when they do, do you not think some hard questions and some terrible second-guessing will take place?

I can hear them now. The talk show lines will be clogged, and the blame will be heaped on this body. Why was the Senate so fixated on protecting jobs instead of protecting lives?

The Senate's refusal to grant this President and future Presidents the same power four previous Presidents have had will haunt those who do so, like Marley's ghost haunted Ebenezer Scrooge. They will ask: Why did they put workers' rights above Americans' lives? Why did that 2002 Senate, on the 1-year anniversary of 9/11, with malice and forethought, deliberately weaken the powers of the President in time of war? And then, why did this Senate, in all its vainglory, rear back and deliver the ultimate slap in the face of the President by not even giving him the decency to have an up-or-down vote on his own proposal? This is unworthy of this great body. It is demeaning, ugly, and over the top.

What were they thinking of, they will ask? What could have possessed them? Do not ask then for whom the bell tolls. It will toll for us.

Few leaders have understood the lessons of history as well as Winston Churchill because he was not only a soldier and a politician, but he was also a Nobel Prize-winning historian. Perhaps then at this time we should remember the question Churchill framed to the world when he made that famous Iron Curtain speech at Fulton, MO, at Westminster College in 1946. He first reminded the audience:

> War and tyranny remain the great enemies of mankind.

Then he asked this question:

> Do we not understand what war means to the ordinary person? Can you not grasp its horror?

Some of the remarks earlier this morning on this floor reminded me of something else about that speech and its aftermath. Churchill, being so blunt, did not go over very well. The American media and others did not want to hear that kind of talk. They called Winston Churchill a warmonger, and even the usually gutsy Harry Truman denied knowing in advance what was in the speech and even suggested that Churchill should not give it.

The old soldier went on and said some other very sensible and thought-provoking things in that speech, like war used to be squalid and glorious, but now war is only squalid.

I want to repeat that line that is at the heart of what I want to say today: Do we not understand what war means to the ordinary person? Can we not grasp its horror? Has scoring points with some labor boss become more important than the safety of our citizens? Can you not grasp its horror?

I wonder if you would feel the same way if the Golden Gate Bridge was brought down and 95 cars plunged into the San Francisco Bay. Could we then not grasp its horror? Would we then in the name of homeland security still want to take powers away from the President?

Or would you feel the same way if that beautiful little city of New Roads, LA, on the False River, with the Spanish moss dangling on those live oaks, were to go up in a mushroom cloud? Could you then not grasp its horror?

We rev up our emotions so easily to fight superhighways from leveling ethnic neighborhoods. So it would seem to me we should be able to get up the same kind of rage when terrorists want to level entire cities such as Baltimore or Atlanta or the manicured mansions of Newport, RI. If those beautiful cities were the target of a terrorist attack, could you then not grasp its horror? Or the Space Needle in Seattle, filled with tourists, crashing to the ground. Or a smallpox epidemic, in days, wiping out completely the Twin Cities of Minnesota or spreading across the forest plains of South Dakota. From the great Atlantic Ocean to the wide Pacific shore, from the Blue Ridge of Tennessee to Beacon Hill in Massachusetts, I guarantee then the country would grasp that war is horror. And as sure as night follows the day, when catastrophes occur, the Senate, us, we will be held accountable if we fail to give the President the tools to do his job.

Why are people back home always ahead of the politicians? Because most politicians, most at our level, do not get out among them anymore. We think we do. And some of us do. A town hall meeting here, a senior center there, a focus group or two, but we don't really. We do not talk to real people anymore. We are too busy in that room dialing up dollars. The only horror we can grasp from that experience is some fat cat telling us that he is already maxed out.

Why are we even in this debate? How will it be recorded in years to come when the historians write their accounts of the days of a Senate in September of 2002? How will our actions be judged by the people who go to the polls this year on November 5? Frankly, I think it will be one of our sorriest chapters, certainly the worst time in my short time here, a chapter where special interests so brazenly triumphed national interests.

Herodotus, who lived in Athens in the 4th century B.C., is usually called the father of history. He wrote about the Persian wars, and about the Battle of Marathon, which later historians called the seminal event in the history of freedom. Herodotus wrote that the Persians lost that battle, even though their army was bigger and better equipped, because the Persians committed the sin of hubris; hubris, best defined as outrageous arrogance. If you study the lessons of history, especially the lessons of the history of freedom, you will find that hubris would time and time again bring down many other powerful civilizations.

Hubris, outrageous arrogance, is so prevalent in this debate. The hubris of some labor bosses and their purchased partridges in a pear tree. Outrageous arrogance. What else can you call it when the interests of the few are put above the welfare of the whole country?

For the rest of our lives, we will have to live with what we do on this issue.

Will we choose to protect the special interests or will we choose to protect the lives of Americans? Will we hog-tie the hands of our President or give him the same unfettered flexibility other Presidents have had before him? Do not let this be one of those votes you will look back on and ask yourselves for the rest of your lives, what was I thinking? For as we are reminded in the "Rubaiyat" of Omar Khayyam: The moving finger writes, and having writ, moves on. All your piety nor wit shall lure it back to cancel half a line, nor all your tears wash out a word of it.

I ask one last time, do we not understand what war means to the ordinary person? Can we not grasp its horror?

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I yield myself up to 5 minutes from my time.

I will answer the question the Senator from Georgia has raised. Of course we understand what war means to our country and average citizens. That is why our committee has labored so long and so hard to bring forth this bill creating a Department of Homeland Security, consulting with Members on both sides, working with the White House, to have what is, for the most part, a bipartisan piece of legislation.

Senators have spoken this morning about the Senate being divided on this bill. The fact is, the Senate is not divided on this bill. The Gramm-Miller substitute, by Senator GRAMM's own reckoning, is 95 percent the same as our Senate Governmental Affairs Committee bill. And it ought to be. We have a common ground desire to go ahead and create a Department of Homeland Security.

We have a few areas we disagree on, the most significant of which, the most controversial of which, is the one that the Senator from Georgia has focused on. But I cannot let stand the question that somehow the committee bill, supported by nine Democrats and three Republicans—Senator STEVENS, Senator VOINOVICH, Senator COLLINS—somehow puts the protection of Federal workers ahead of national security. We have a different way we have tried to achieve fairness for Federal workers. We can debate that. There is a compromise achieved by Senator BEN NELSON, Senator CHAFEE, Senator BREAUX, that we will have a chance to vote on, the amendment we want to put on this bill. However, there has been so much misstatement and mythology that has no relationship to reality.

Let me state it clearly, national security always must trump and prevail over any other aspect of law in the cases that are described. Let me be very specific why I say that. I will quote the law, United States Code, Title 5, collective bargaining law, section 7106(a)(2)(A) which says, first:

> Nothing in a collective-bargaining law shall effect the authority of any management official of any agency in accordance with applicable laws to assign and direct employees in the agency.

Second, section 7106(a)(2)(B) says:

> Collective bargaining shall not effect managers' authority to assign work and determine the personnel by which agency operations shall be conducted.

This is the directly relevant statute section of law which will continue to prevail and expresses the clear desire—I presume the desire of every Member of the Senate—to give maximum authority, latitude, to managers at a time of national emergency; section 7106(a)(2)(D) of the United States Code, Title 5, provides that collective bargaining shall not affect the authority of managers "to take whatever actions may be necessary to carry out the agency mission during emergencies."

In an emergency situation, the agency has statutory authority to act immediately. It does not have to take any time to collectively bargain. The agency actually has authority to act, even if a collective bargaining agreement would ordinarily require some other course of action. All the agency head has to do is to invoke a national emergency.

Therefore, the claims we have heard in the Senate today about how union contracts tie the hands of managers with "silly union work rules" and about how managers cannot order employees to do what is necessary to protect the security of the American people in an emergency are simply not true.

In a Federal agency, there is no such thing as a union work rule that impairs a managers' authority to assign work, to direct employees, or to take whatever action that manager deems necessary in an emergency. That is the law. That is not my opinion; that is United States Code Title 5. When lives are at stake in the kinds of circumstances the Senator from Georgia has described, a Federal manager can impose any changes in assignments immediately, without dealing with unions at all. And the unions get to bargain over ways, if they choose to, to affect the impact of those decisions long after the fact.

So we have some disagreements about the specific wording of civil service protections, management flexibility, collective bargaining rights. But, please, make no mistake about it, in a case of national emergency, the law of the United States, unchanged by the committee's proposal, makes clear that national security prevails over any other section of the law and over any provision of a collective bargaining agreement.

I yield up to 10 minutes to the Senator from Maryland.

Mr. GRAMM. Madam President, are we going back and forth? We do not have to, but we normally have.

Mr. LIEBERMAN. In this case, because I have used very little time, I want to hold it to allow the Senators from Maryland both to have the chance to speak.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Parliamentary inquiry: How much time remains on either side?

The PRESIDING OFFICER. The Senator from Connecticut has 32 minutes. The Senator from Texas has 7 minutes.

Mr. SARBANES. So there are 7 minutes on the other side and 32 minutes left with the Senator from Connecticut?

The PRESIDING OFFICER. The Senator is correct.

Mr. LIEBERMAN. So I yield up to 10 minutes—let's say I yield up to 20 minutes for both Senators from Maryland as they wish to use that time.

Ms. MIKULSKI. I thank the Senator from Connecticut. I know others are anxious to speak.

Madam President, I rise in opposition to the Gramm-Miller amendment. I rise to support the efforts of Senator JOE LIEBERMAN to create a framework for homeland security. I had hoped, when we were working on this legislation, we were not going to be Democrats or Republicans, we were going to be the red, white, and blue party. And I really deeply regret that this argument has been so deeply politicized.

I am here to stand up to protect America and vote for a Department of Homeland Security. But I also have to stand up for those who are protecting the United States of America, our brave, our gallant Federal employees who are out there every day on the front line wanting to do their job, whether they are Customs workers, in the Coast Guard, the FBI, or the G men at the Department of Treasury, trying to do their job. I resent that my standing up for them, to have their constitutional right to organize, have freedom of assembly, would be called arrogant and hubris.

I listened to an argument that said: Battle? You don't know about it.

You are exactly right. I have never gone into battle. I do not bear the permanent wounds of war like some of our dear colleagues, names such as Dole and INOUYE. But I do know this. When we are going to send people into battle, I know we are going to think long and hard about it, because I know what it means. When I stand up for America, I also want to stand up, not for a Department, but for what America believes in.

Why was it OK to have a union in Poland that brought down the whole Communist empire and not to have a union here?

When our firefighters ran up into that burning building at the World Trade Center nobody asked if they were in the union. They didn't look at their clock and wonder if they were working to the rule.

When our emergency workers from Maryland dashed over to be part of the mutual aid at the Pentagon, they were mission driven. They weren't there because they were union members—Oops. I am wrong. They were there because they were union members. They belonged to a union. They belonged to a union called the United States of America. That is the union that they belong to, and that is the union they put first.

Why are we abusing them as if they are the enemy? I hope we will start to be as hard on terrorists as we are on these union members. It has been over 1 year—where is Bin Laden? We haven't found Bin Laden, but we are going to nitpick over whether or not you have a union.

We had an anthrax killer who attacked the Senate and used the post office as a weapon. I have Marylanders dead and I have Marylanders permanently ill because of the anthrax killer. Let's make sure that our workers can go out and do the manhunt they need to do, or to do the money hunt for those who fund them. Let's not worry about whether they belong to a union or they don't. They don't hide behind the union not to do their job. But I tell you, there are those hiding behind a right-wing agenda to get rid of unions in this country or to make unions the problem.

The words "labor boss," what do they mean? It is OK to be a CEO and have more perks than a potentate—that is OK, we can have the imperial CEO. But when people organize, they are called labor bosses, as though somehow or another it is the goon squad? I really resent that. I resent that for my customs workers. I resent it for the postal workers after what happened at Brentwood. The postal workers didn't sit down and go on strike because we failed to protect them. They showed up every day, and because they showed up every day and did their job, as I say, two are dead and many are sick. And we are sick at heart because it happened to them.

So I am kind of tired of this. I am tired of the politicization of the process. I am tired of the cynical manipulation of this process. I feel as though I am being set up. If we stand up for the workers, we are somehow or another slowing down the debate on homeland security.

This national leader, JOE LIEBERMAN, the Senator from Connecticut, has been working on homeland security and an agency to do it long before the White House has. Just like he was calling for a national commission to look at what went wrong on September 11 long before the White House. We have been ahead of the White House, but now we are going to work with the White House.

I think we have to defeat the Gramm-Miller amendment—put that aside and no hard feelings. I think we have to then move on to the Lieberman bill, pass it expeditiously to show the world we can organize and mobilize to protect America, and then let's get on to the other debate related to Iraq. And then let's also get back on another debate, such as what is happened to the economy.

The stock market has plummeted. It is about as bad as it was when Gerald Ford was President, in 1974. We do not want to go there again and then need a Democrat to bail us out—or maybe we will need a Democrat to bail us out, but I don't want to go there. I want to stand up for this country, but I want to stand up for the people who built this country, and it is the trade union movement. If we don't start protecting the protectors, to make sure they have the right equipment, the right training, and also have the right legislative framework where they can have their constitutional rights, then we have other issues.

I want to go back to the bill JOE LIEBERMAN is presenting. I think it is an excellent framework. I will go back to being part of the red, white, and blue party. Let's put the politics of hard feelings behind us, let's get Iraq together, and let's show America we can govern, and let's show the bullies of the world we are going to take them on.

God bless the Federal employees who stand sentry every day to protect America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I rise, first of all, to commend the very able chairman of the committee, the distinguished Senator from Connecticut, for the very fine work he has done on this legislation, particularly on this issue of Federal employees, and the care and sensitivity with which he has struck the balance.

Obviously, on the one hand we have national security concerns. But as the Senator indicated in the quotes he took right from the legislation, the actual words of the legislation, the flexibility that is necessary to deal with national security questions or emergency situations is contained in this legislation. Those would be stripped out by the amendment. The Gramm-Miller proposal would then move the balance. Really, it would eliminate the balance. It would provide no significant or meaningful protections for the Federal employees.

In one sense it raises the question: What is the nature of the society we are trying to protect? What is the nature of the society we are trying to protect? How far are we prepared to go in denying the essential freedoms and essential protections in the name of national security? Not in the reality of national security because the Senator from Connecticut has protected that reality.

Their proposal would give unfettered authority to the Executive in dealing with their employees—the very employees we have to draw upon to protect the Nation and to respond to the challenges we face.

I want to assert in unequivocal terms that, in my judgment, our Federal employees are loyal and committed workers who are dedicated to providing a high level of service. Legislation creating the new Department of Homeland Security should protect the rights of those workers to engage in collective bargaining and to protect their rights under the current civil service system unless critical questions of national security or emergency are presented. And those questions have been dealt with carefully, skillfully, and thoughtfully by the able Senator from Connecticut. I commend him for those efforts.

I don't understand why some are engaged in beating up on the Federal employees. Why is this happening? Have the terrorist strikes driven some to this point? Do they not recall the Federal office building in Oklahoma that was blown up by a terrorist, albeit a domestic terrorist? Do they not recall that, and those dedicated lives that were lost? People all across the country who were working in similar office buildings went back in the next morning to do their job on behalf of the country to serve the public interest—all across America—despite the fact that some of their colleagues had just suffered this grievous blow.

Why do we have this assault taking place? The Federal managers have much of this flexibility. The legislation has the emergency flexibility in it. The civil service law was originally put in place to protect against politicizing the public service. It has been adjusted and amended over the years.

These arguments that it impedes productivity have been addressed again and again by the chairman's committee. Adjustments have been made in the light of changing circumstances. But no one has ever come before the committee and said we ought to take away all of those protections which have given us a public service with some integrity to it, and which is not subject to political whim.

How are you going to call upon people to serve above and beyond the basic requirements of their job description if you do not treat them with some dignity and respect?

I don't know. Some around here may find that they draw the best out of those who work for them by sort of beating up on them; that if you are sort of whipping them all the time and driving them without any protections, completely at your whim, that enables you to bring out of them the best response. That has never been my experience. I don't know of any labor-management text or treatises by noted experts in the field who say that is the best way to get a stellar performance out of your workers. I haven't seen that treatise yet. In fact, the ones I have looked at say that is exactly the wrong thing to do if you want to draw out a quality and stellar performance from your workers.

There are a lot of very dedicated employees across the country. I think employee rights and the civil service protections which we have are essential to the effective workings of our Government.

Some come and try to portray this as some special interest. The public interest is served by having these arrangements because those arrangements enable us to get better people into the public service, and to draw on them and their full capabilities.

I rise in very strong opposition to the provisions in this amendment that have been offered by Senator GRAMM and Senator MILLER which would strip away from our Federal employees these important collective bargaining rights and these important civil service protections. In my judgment, given the balance which the chairman has already struck on important national security questions, to do what this amendment does—taking away those bargaining rights and those civil service protections—will harm our national security, not help our national security. It will harm our national security.

For that reason, I very strongly oppose the provisions that are contained in this amendment that deal with our committed and dedicated Federal employees.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank my colleagues from Maryland, Senators MIKULSKI and SARBANES, for their very eloquent and passionate and compassionate statements. I appreciate the way Senator SARBANES and Senator MIKULSKI talked about the impulse of the people who are working for the Federal Government.

I cited the law before which talked about the primary status of national security. But the people, the loyal patriotic Americans, does anybody really think in a case of national emergency they are going to be citing subsections of the collective bargaining agreement? They are going to do what any American did. In fact, that is what they did on September 11.

I was in a meeting of a group of Federal employees who happened to be from FEMA. They rushed from where they were to the Pentagon. A whole group of them were flown up to New York. They worked long hours. They got very little sleep for days and days. Obviously, the firefighters in New York are unionized. It is a remarkable story. I don't remember the exact number. I talked to a battalion commander of a unit of New York firefighters a couple of weeks ago. He said on September 11, when they heard about the planes hitting the World Trade Center, several hundred firefighters who were off duty just rushed to the scene to help. They weren't thinking about a collective bargaining agreement. They were thinking about America and their duty. These are public servants in the best meaning of the term.

Mr. SARBANES. Will the Senator yield?

Mr. LIEBERMAN. I would be happy to yield.

Mr. SARBANES. Given this display of dedication on the part of these public employees, why now all of a sudden are we seeking to take away from them these basic rights and protections?

If someone came in and said what a dismal performance we have, and, therefore, we ought to give the management more leeway to sort of beat on these people or something of that sort, I don't know that I would buy that argument. But at least it would be something of an argument.

Instead, you have this exemplary performance, this manifestation of real dedication. And despite that, some now are coming along and, in effect, wanting to beat on people who have behaved in the most extraordinary, dedicated, and selfless fashion.

Mr. LIEBERMAN. The Senator from Maryland is absolutely right. There is no justification for it. At some level, it is not only wrong, it is offensive. And I thank the Senator for his substantial contribution to this debate.

May I ask the Chair how much time is remaining on our side?

The PRESIDING OFFICER. The Senator has 12½ minutes.

Mr. LIEBERMAN. Madam President, I am very pleased to see in the Chamber my friend from Hawaii, Senator AKAKA, a very significant member of our committee, who has contributed substantially, in so many ways, to our legislation that came out of committee. I yield the Senator up to 10 minutes for his statement.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. I thank the Senator from Connecticut.

Madam President. I rise to address the amendment offered by Senators GRAMM and MILLER as it relates to whistleblower protections. Contrary to press accounts, the Gramm-Miller amendment, as well as the House-passed bill and the President's initial bill, do nothing—do nothing—to protect whistleblowers. As Congress debates the creation of the new Department of Homeland Security, we must remember the role that whistleblowers play in protecting this great Nation. We commend the courage of FBI Special Agent Coleen Rowley, who blew the whistle on the serious institutional problems at the FBI which impacted the agency's ability to effectively investigate and prevent terrorism. We commend Federal Border Patrol Agents Mark Hall and Bob Lindemann, who risked their careers by alerting Congress to Border Patrol and INS policies that compromised the security of our borders.

Their actions alerted us to flaws in the current system and allow us to fix such problems in order to have a more secure Nation. Because whistleblowers play such an important role in protecting our country, we must do our part to protect them from retaliation for disclosing Government waste, fraud, and abuse. The Lieberman substitute is the only amendment before us that provides real whistleblower protection.

During the Committee on Governmental Affairs hearings on the creation of the proposed Homeland Security Department, I asked Governor Tom Ridge about whistleblower protections for Federal employees in the Department of Homeland Security. He said that all employees in the new Department would have whistleblower protections because the bill would require the new personnel system to be grounded in the public employment principles of merit and fitness.

However, requiring that a human resources system be grounded in the public employment principles does not equate to whistleblower protection. Congress has worked hard, and continues to work, to provide real whistleblower protection to Federal employees. Claiming that whistleblower protection will be provided based on such principles does nothing to assure Federal employees of their rights and protections or assure Congress that their bipartisan efforts on behalf of whistleblowers would not be frustrated.

Adding to my concern over the lack of protections afforded to employees in the new Department, H.R. 5005 and the amendment offered by Senators GRAMM and MILLER fail to provide the same level of whistleblower protection that Federal employees have in most Federal agencies. Although the House bill and the Gramm-Miller amendment allegedly maintain whistleblower protections and other merit system principles for employees of the new Department, both allow the Secretary to waive due process procedures and the remedies an employee needs to assert those rights.

The Gramm-Miller amendment bars the Secretary from waiving the applicability of several chapters of title 5 covering a variety of civil service issues. The list of nonwaivable chapters conspicuously fails to include protections against unwarranted disciplinary actions and performance appraisals, access to third party investigations by the Office of Special Counsel, or independent hearings at the Merit Systems Protection Board. Those agencies provide vital third party review and transparent enforcement for whistleblower and other merit system rights.

When Federal employees allege that they have been subject to a prohibited personnel practice, including violations of the Whistleblower Protection Act, OSC has authority to receive and investigate such allegations. If the special counsel finds reasonable grounds to believe that a violation has occurred and corrective action is required, she must report the determination to the MSPB, the affected agency, and the Office of Personnel Management, OPM. If the agency fails to act to correct the prohibited personnel practice, the special counsel may petition the MSPB for corrective action.

Since these procedures are not specifically included in H.R. 5005, it is doubtful that the protections afforded to other employees are available to Homeland Security employees.

In 1995, Congress gave wide latitude to the Federal Aviation Administration to create its own personnel system. Although this system was to afford whistleblower protections, the Justice Department found that Congress incorporated only selected provisions of title 5 into the FAA personnel management system, thus leaving OSC without authority to investigate or otherwise pursue cases of whistleblower retaliation alleged by FAA employees.

The reasoning of the Justice Department is supported by Supreme Court precedent, which states that:

> [w]here Congress explicitly enumerates certain exceptions to a general prohibition, additional exceptions are not to be implied.

Moreover, Congress has repeatedly demonstrated that if its intention is to exempt certain entities generally from title 5, but to apply the substantive whistleblower protections and all the ancillary enforcement procedures, it knows how to do so unambiguously. For example, when Congress applied only selected provisions of title 5 to the Panama Canal Commission, it provided for application of the whistleblower protection provisions as follows:

> Section 2302(b)(8) (relating to whistleblower protection) and all provisions of Title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.

It is fair to conclude that whistleblowers in the new Department do not have the same protections as other employees in the Federal Government due to the absence of any similar reference to the whistleblower protection enforcement provisions of title 5 in the House bill or in the Gramm-Miller amendment.

The Lieberman substitute, however, maintains all of the title 5 protections for whistleblowers to ensure that they have the needed protection to come forward and alert us to serious problems in the Federal Government that can hamper our efforts to secure our homeland. It also ensures the continuation of union representation which allows third party arbitration for whistleblowers. The Lieberman substitute also contains two provisions, sponsored by myself and Senator LEVIN, which enhance the protections afforded to Federal employees.

The Akaka-Levin provisions grandfather the whistleblower rights of employees transferred into the new Department and provide full whistleblower protections for TSA baggage screeners. Whistleblower protections for TSA employees had unanimous bipartisan support from the Governmental Affairs Committee and the provision mirrors the language of S. 2686 which was introduced by Senator GRASSLEY. Despite such widespread support, the Gramm-Miller "compromise" amendment does not include this bipartisan protection for whistleblowers.

Under the terms of the Aviation and Transportation Security Act that we passed last year, the Under Secretary of Transportation for Security has the authority to employ, terminate, and fix the conditions of employment for the Federal screening workforce while the rest of the employees of the Transportation Security Agency are governed by the personnel system established by the Federal Aviation Administration.

While the FAA personnel system now provides full whistleblower protection to employees, TSA security screeners are denied such protection. In May, TSA and OSC reached an agreement to provide limited whistleblower protection to TSA baggage screeners. Under this nonstatutory agreement, security screeners were not afforded appeal rights. However, the right to appeal to an independent third party is a necessary part of providing real whistleblower protection. Such protection is necessary to ensure that screeners feel secure in coming forward with information of government waste, fraud, and actions that are dangerous to public health and safety.

Recognizing the need for full whistleblower rights, Congress resolved to provide OSC enforcement authority and full whistleblower rights to FAA employees in 2000.

I urge my colleagues to once again protect our Federal whisleblowers by providing full and explicit whistleblower protection to employees in the Department of Homeland Security. I urge my colleagues to oppose the Gramm-Miller amendment and support the Lieberman substitute.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Madam President, could the Chair indicate how much time is remaining on each side?

The PRESIDING OFFICER. One minute to the Senator from Connecticut, and 7 minutes to the Senator from Texas.

Mr. LIEBERMAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Madam President, let me conclude in the moment I have remaining. I have the feeling this will not be the last moment I or other Members will have to discuss the Graham-Miller substitute or the question of protections for Federal workers.

There is a significant disagreement about the protections for homeland security workers. I do think, as we talk about the Nelson-Chafee-Breaux compromise, which I support, that it will be seen that it not only gives some protection to Federal workers, particularly those who are currently unionized and will be transferred to the new building, but it leaves the President with the last word on matters of national security. Let not the debate on that matter obscure the fact that, as Senator GRAMM himself has said, 95 percent of his substitute is the same as our committee bill. So let's settle the small point of disagreement and get the rest that we agree on done.

I believe my time has expired.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Madam President, I have a unanimous consent request which I have informed the minority I am going to propound at this time. Senator NELSON has been designated as Senator DASCHLE's designee. I ask unanimous consent that following my unanimous consent request—and I understand there will be an objection—Senator NELSON be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1140

Mr. REID. Madam President, I ask unanimous consent, on behalf of Senator DASCHLE, that the Senate proceed to the immediate consideration of Calendar No. 210, S. 1140, the motor vehicle franchise contracts bill; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Madam President, I have no objection to this request, but I understand there is a Senator on this side who wants to review it further, and on his behalf I object at this time.

The PRESIDING OFFICER. Objection is heard.

HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

AMENDMENT NO. 4740 TO AMENDMENT NO. 4738

(Purpose: To modify certain personnel provisions, and for other purposes)

Mr. NELSON of Nebraska. Madam President, I call up my amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Nebraska [Mr. NELSON], for himself, Mr. CHAFEE, and Mr. BREAUX, proposes an amendment numbered 4740 to amendment No. 4738.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. NELSON of Nebraska. Madam President, I am pleased to join with my friends, Senator JOHN BREAUX of Louisiana and Senator LINCOLN CHAFEE of Rhode Island, in helping break the stalemate on the labor-management issues that have held up the homeland security legislation. We need to move forward and pass a bill that provides real security for all Americans without the distractions of labor-management issues.

This legislation is a huge undertaking, and the reorganization will certainly not be accomplished overnight.

That being said, we need to get to it right now because the later we come back to try to do this, the more difficult it will be. We need to do it right because unscrambling the eggs is impossible.

The new Department will not begin well if it begins with a staff who feels their concerns have been ignored. We now have the opportunity to break that logjam. This compromise addresses the concerns of both sides. The agreement preserves the Presidential authority to exempt union employees from collective bargaining as employees of the Department of Homeland Security. It also grants the President historic personnel flexibility, giving him the authority to hire, fire, promote, demote, and to rewrite civil service laws in the area of performance appraisals, classifications, pay rates and systems, and adverse action.

The agreement provides binding arbitration on personnel flexibility. All sides will have a seat at the table during the development of the new personnel rules and any disagreements over the rules will be referred to the Federal Service Impasse Panel, which will have the authority to set the rules and resolve disputes. This is modeled after the IRS Restructuring and Reform Act of 1998, which is current law.

The Federal Service Impasse Panel has discretion to impose new rules to break this agreement. This is existing law. It is the way in which we ought to proceed.

I know this amendment will receive broad bipartisan support, and I hope those of us who seek to complete action on this important legislation will support this effort to clear one of the major hurdles that has been currently blocking our progress so we can move forward on this important and vital security matter currently before us.

I ask for the support of my colleagues, and I hope we will move forward on this as soon as we possibly can. There is no reason to delay this legislation any longer.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Madam President, I support the amendment to the Gramm-Miller amendment which has been offered by our good friend and colleague Senator NELSON; and by my colleague Senator LINCOLN CHAFEE. It is very clear the Senate, as we debate homeland security, has reached a point where we are at a logjam. I, for one, and I think the vast majority of our colleagues, strongly support the creation of a Homeland Security Department, and why is very simple.

In light of today's terrorist threat to this country, we can no longer continue to operate and protect our Nation's security in the way we always have. In the past, too often the right hand did not know what the left hand was doing, and vice versa. It is clear, from the evidence that has now been presented, we have agencies within our own Government that had certain amounts of information that was important information, but information they did not adequately share with other Departments and agencies within our Government.

It is nice to have individual agencies know a little bit about the intelligence of an international threat, but if they do not share that information with other Departments within our Government, and they do not put all of the information gathered into one single place where people can look at it and analyze it, it is really not very effective information. It is certainly not as effective as if we have the collective wisdom of all of the various intelligence-gathering agencies within our Government.

The point has very accurately been made if the CIA has information the FBI does not have, if the Immigration Service has some information neither one of the other agencies has, that is not a very effective situation. If you throw in information that agencies such as the Drug Enforcement Administration, the Immigration and Naturalization Service, and local police and State police have, if each one of them keeps that information to themselves, we are not providing the service we should to the American people. For the first time, the creation of a Homeland Security Agency is going to say to all of these collecting agencies that gather the information that is so important, we should absolutely share it and involve each other in what that information is all about, and that is what the Homeland Security Agency does very effectively.

All of those, Republicans and Democrats together, who have worked very hard to bring this legislation to the floor have done a good job. This is good legislation. It is important legislation. What this legislation does is simply say to the American people after 9/11, we are going to create a new agency in our Federal Government to ensure our ability to better protect the rights and freedoms of all American citizens than we have in the past.

There are actions that have to be taken in times of national emergencies that are not normal, such as during this period of special concern. One of the powers that is necessary for a President to have is the ability to move agencies, departments, and individuals as quickly as possible, to the best position to serve the American public.

The President currently has the authority to say if it is important for national security that some of the collective bargaining rights of some of these employees of the Federal Government have to be temporarily set aside. He can exercise that authority now, and he has exercised it in the past. It has not been only this President but it has gone back, I think, all the way to President John Kennedy. We are in that type of a situation.

With the creation of a new Homeland Security Agency, however, we are talking for the first time about creating a new agency where thousands of employees may be taken out of one position and put into the Homeland Security Agency.

Somewhere between 40,000 and 50,000 who have collective bargaining rights where they are currently working, if they are transferred to a new Homeland Security Agency, for the first time may have those collective bargaining rights taken away.

How ironic it would be if the agency we are creating to protect the rights and freedoms of Americans is the agency that is utilized to take away the rights of American citizens to collectively bargain without the appropriate justification for doing so. I do not think anyone would want to say that is their desire.

This Homeland Security Agency is designed to protect the rights and freedoms Americans have gained. Some may argue about the wisdom of having collective bargaining rights, but it is a right American citizens have. So the question before this body now is: How do we give the President the authority to do what is necessary in this new Homeland Security Agency, which I support very strongly, while at the same time ensuring while we take rights away from American citizens, it is only done under the most unusual circumstances, and if it is necessary it be done, it be done very carefully so everyone will understand how this transaction is taking place?

What brings us to the floor today is this suggestion my good friends, Senator NELSON and Senator CHAFEE, and myself, have worked on to try to say, yes, we support homeland security, but we also want to make sure we protect the rights and freedoms of our own American citizens.

It is interesting to note, if people would only take the time—and I have said this so many times. I have said this to my good friend, the chairman, Senator LIEBERMAN—if all of us had the time to read the legislation and see the actual differences between the two versions, they would find the differences are far less than the similarities, particularly when it comes to this very issue which is causing this problem right now.

If we look at the current authority of the President of the United States with respect to what he can do to remove collective bargaining rights of American workers when he transfers them, it is almost similar, if not identical, to what our suggestion is to break the logjam. For instance, under the current law of the United States, under 5 U.S.C. section 7103, this is what people are saying, do not take away the President's authority. The current law says the President may issue an order excluding any agency or subdivision thereof from coverage under this chapter—meaning take away their collective bargaining—if the President determines, first, that the agency or subdivision has as a primary function intelligence, counterintelligence, investigative or national security work; and, second, the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations. What that says is the President can take away their collective bargaining rights now only if he makes a determination that these two things are present.

How do we handle it in our amendment, which I think can generate more than a majority? Simple. Our legislation says no agency can have their collective bargaining rights taken away, unless it is shown that the mission and responsibilities of the agency or subdivision materially change, and, second, that a majority of the employees within the agency have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

I will argue with anyone who wants to say that this somehow hampers the ability of the President to take away collective bargaining rights. Under our suggestion, the President, as under current law, has to make a determination that these people are important to intelligence gathering. That is easy for the President. And also that the mission and responsibilities of the agency from which he wants to take these rights away have materially changed. I think that is a very easy thing, under the circumstances that exist today for the President to be able to reach that standard.

It is interesting that under the current law there is no appeal from the workers to go to the NLRB or any kind of labor agency. But there is no appeal under our provision to go to any kind of NLRB or agency at all.

Some of my friends on the Republican side say, yes, but those workers could take the agency to court. That is true. But that is also true under current law. If someone under current law thinks the President has not made this determination correctly, they have the right to go to court. I don't know that it has ever been done. If so, I think maybe once it was not successful. But they have that right today. It is not appropriate to say we are going to create this new agency but we are going to give workers less rights than they have today.

Some have also suggested they show that mission and responsibilities of the agency have materially changed. That would never fit today's circumstances. The example they give is, we may have an immigration agency working in south Texas that is all of a sudden going to be transferred to the new agency to look after immigrants who are coming from suspected terrorist areas of the world and that their mission will not materially change. They will be doing the same work in a different agency and, therefore, not meet the test of having their work materially change because they will be doing the same type of work.

That does not create a problem. It is the intent of the authors of this to clearly say it is our intent when you are transferring people who are doing immigration work in border towns, protecting our States under normal circumstances, that they have to do that type of work to stop international terrorists at a time we have been attacked by terrorists from other countries is materially changing what they are doing. They are now looking out after foreign terrorists who are trying to attack the United States and do grave harm to this country. Their work has materially changed. The President makes this determination under our amendment, as he does under current circumstances. There is no appeal from the workers to be able to go to any NLRB-type of organization and plead their case.

I plead with folks at the White House who have looked at this, take another look at it. Read what the current law says. Read what our suggestion is on collective bargaining. You will find there is not any difference that is worth objecting to if we are able to get this through the Senate with a large majority. It is not a good idea, I suggest, to have a 50/50 vote on homeland security and have to ask the Vice President of the United States to come to this Chamber to break the tie, to barely get this through the Senate. What type of unanimity does that show the American people as we pass homeland security? This amendment should pass with 75, 80, or 90 votes at least. Our suggestion in the Nelson-Chafee-Breaux amendment would allow us to have a huge vote in support of this proposition.

The second area we have addressed in our amendment is important. The question is, Do you give the President flexibility to move people around, to change, perhaps, how they get paid, or to change their functions because now there is a question of national security? We have done that in our amendment. We have clearly spelled out the fact that they have the authority to have management flexibility. We have taken the larger part of the so-called Portman-Quinn amendment offered in the House which gives management flexibility to the President.

I happen to think he should have management flexibility, but certainly not unlimited. He should have it in the areas he needs it. We have offered that. The Portman language in the Senate gave him management flexibility in six different categories. We have said that we will take four of those six categories and give him the flexibility he needs to make the decisions he would like to make in moving these people around.

The President should have that in terms of the national emergency. We give him the authority that he needs, like in Portman-Quinn. The only suggestion is, you should not be able to do it, like you cannot today, without some involvement of the workers. You ought to at least sit down with them and discuss with them as you do in other agencies—such as the IRS, the FAA. Under current law, you sit down and talk with the people you are going to be moving around to get their support, to get their ideas, to get their suggestions about how it can be made to work in a more efficient manner.

What type of managers want to dictate to the employees that he will do this, that, and the other, and oh, by the way, I want you to be a loyal worker after I do this? Our legislation requires that in making these management changes, they shall be worked out with the representatives of the workers and the Secretary, that they would enter into a written agreement to approve the management flexibility that the Secretary thinks he needs.

The point is, if they do not reach an agreement, do the workers have a veto? Absolutely not. As under current Federal law, as under the Internal Revenue Service when we gave them management flexibility, this body and the other body voted and approved when they cannot agree on management flexibility, you bring in the Federal Service Impasse Panel and they will have the authority under the Federal Service Impasse Panel—if the parties cannot arrive at an agreement, they have the authority under our amendment, as under current law, to take whatever action is necessary to resolve the impasse. That means if they want management flexibility, they sit down with both sides and discuss it. If the two sides cannot agree, they bring in the Federal Service Impasse Panel and they make the decision. It is a binding decision.

What is this Federal Service Impasse Panel? Is this an arm of the AFL-CIO? A new creation? No, it exists in Federal law today. There are seven people on it. Guess who appoints the seven. The President of the United States. He appoints every single member of the Federal Service Impasse Panel that will look at what the President is trying to do, and if the people cannot agree, his appointees, all seven of his appointees, unanimously appointed by the President of the United States, put into effect what they think is appropriate and improper. I don't think that is something that is bad at all. That is current law for the Federal service workers right now when they are being moved around.

I suggest if we could adopt the Nelson-Chafee-Breaux amendment we could put this aside. This bill has to go to conference with the other body. There will be further negotiations on this issue. Hopefully, we can come back with something that leaves the Senate, first, with a very large vote, instead of 50/50, and then come back in a fashion that will also generate the type of support that I think is critically important.

I ask for a "yes" vote on my amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, creating the Department of Homeland Security is an enormous undertaking. In fact, it is the largest Federal undertaking since the creation of the Department of Defense. Senator BREAUX, Senator NELSON, and I offer this amendment to address the concerns, not only of the President, of course, but also concerns of the many thousands of Federal employees to whom we are entrusting our national security. As Senator BREAUX and Senator NELSON have pointed out aspects of this amendment, I think it is important to note that what we have done is taken Republican amendments, I say to my colleagues on this side of the aisle, we have taken Republican amendments from the House, the Republican amendment offered by Representative MORELLA from Maryland, Republican amendments offered by Representative PORTMAN and Representative QUINN, from Ohio and New York, and offered them into this amendment. This is an honest attempt at bipartisanship.

Most important, as Senator NELSON has said, this amendment will finally enable the Senate to move the process forward by getting this bill to conference with the House. Without this compromise, there will be no Senate bill. There will be no Department of Homeland Security. But with this compromise we can empower the conference committee to work with the administration to finalize a bill that will meet the President's legitimate concerns and protect employees' legitimate rights. I do urge passage of this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. I ask unanimous consent the quorum call be rescinded.

Mr. REID. Reserving the right to object, Madam President—I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. LOTT. Madam President, I renew my request the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Just to clarify my intent, Madam President, this is not to get recognition to try to offer an amendment or affect the procedure on the pending issue. Talking with Senator REID, he wanted to make sure that at the conclusion of my remarks there would be an opportunity for someone to seek recognition on the other side. I am sure that would be the case, although Senator BUNNING is here and wishes to speak on the amendment at hand.

I would like, rather than just to speak on the amendment, to use leader time, as was done by Senator DASCHLE this morning, to speak on this critical area.

The PRESIDING OFFICER. The Senator has that right.

Mr. LOTT. Madam President, the Senate now has been on this important issue over 3 weeks. The creation of the Homeland Security Department, something that clearly is very important, needs to be done. Perhaps it needed to be done earlier—without being critical of anybody. There needs to be some way to bring these different groups together and get a focus, get some direction, to give them the directions they need and the funds and the people to deal here at home with the threat by terrorists and by others. We need this Homeland Security Department.

I had thought we could probably do a Homeland Security Department in a few days—probably less than a week. But here we are, now. Obviously, we are going to take a month on this issue.

What is at stake? What has delayed this issue is the President's authority to impose national security interests, the security of the American people in their homes and their streets and their businesses, innocent men, women, and children here at home—for the President to be able to act in the national security interest, to have some flexibility in management authority to make sure this Department runs efficiently. Yet we see we are still arguing over work rules in the workplace. We are still arguing over whether the President should have the authority to say, for national security reasons: I am going to be able to move people and money around, and we are going to be able to override work rules to look after the security of the American people.

I think it is ridiculous that we have come to this point. I oppose the pending amendment because, once again, this is an effort to try to find a way to make it difficult or even impossible for the President of the United States—and not just this President, Presidents—to be able to do the job on homeland security.

The President has said that the Senate needs to act on homeland security. There is beginning to be doubt about the Senate's commitment in this area because we are putting special interests of certain groups over homeland security. That is a legitimate debate. The debate has been gentlemanly. We have not had many amendments because we have had more talk than we have had amendments. But now we have the President's proposal that has been offered by Senator GRAMM and Senator MILLER—a bipartisan bill with some changes that have been agreed to. And now we have an amendment that will be offered. That is all well and good. That is fine.

Then there is the separate issue of the Iraq resolution. What are we going to do about Saddam Hussein? Let me read to you what the President of the United States said on that issue.

> I want to thank Members of both parties of the U.S. Congress for working to develop a strong resolution and a strong signal to the world that this Nation is determined.

That is what the President actually said. Now, I am deeply saddened by the tenor and the tone of the remarks of my friend, the majority leader, this morning on the administration's conduct and Iraq. We live in grave times, when this body should be carefully and deliberately debating the threat that Iraq's weapons of mass destruction pose against the United States. Instead we heard accusations that a President of the United States is using the possibility of war for political purposes.

Who is the enemy here? The President of the United States or Saddam Hussein? That is who was attacked this morning here on the floor of the Senate. I think we would be better served debating Saddam Hussein and the threat he poses for the world. He is a brutal dictator. He has already used chemical and biological weapons against his own people.

We know he has the ability to deliver these weapons. We know he has invaded his neighbors.

We had better be asking ourselves what we are going to do about this tyrant. He has for 11 years ignored 16 U.N. resolutions and has been involved in the killing of thousands of innocent people.

For anyone who seems surprised that we are engaged in this debate, I ask a very simple question. Where were you, 9 months ago, when the President of the United States came before a Joint Session of Congress and said, "Iraq continues to flaunt its hostility toward America and to support terror. The Iraqi regime has plotted to develop anthrax and nerve gas, and nuclear weapons for over a decade. This is a regime that has already used poison gas to murder thousands of its own citizens—leaving the bodies of mothers huddled over their dead children. This is a regime that has something to hide from the civilized world?"

Where were you, 9 months ago, when the President continued, "States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. They could attack our allies or attempt to blackmail the United States. In any of these cases, the price of indifference would be catastrophic"?

Where were you 6 months ago, on the half year anniversary of September 11, when the President said, "Here is what we already know: some states that sponsor terror are seeking or already possess weapons of mass destruction; terrorist groups are hungry for these weapons, and would use them without a hint of conscience. And we know that these weapons, in the hands of terrorists, would unleash blackmail and genocide and chaos"?

The President continued, "These facts cannot be denied, and must be confronted. In preventing the spread of weapons of mass destruction, there is no margin of error, and no chance to learn from mistakes. Our coalition must act deliberately, but inaction is not an option."

Again in May, the President said:

> The evil that has formed against us has been termed the "new totalitarian threat." The authors of terror are seeking nuclear, chemical and biological weapons. Regimes that sponsor terror are developing these weapons and the missiles to deliver them. If these regimes and their terrorist allies were to perfect these capabilities, no inner voice of reason, no hint of conscience would prevent them.

The President of the United States has been actively laying out the case against Iraq in a deliberate and focused way for nearly 1 year.

Just a month ago, Democrats in the Senate and Republicans in Congress were saying to the President: Mr. President, make your case to the American people. Come to the Congress. Make your case to us. Let us be engaged in the dialog and the debate, have some resolution prepared, and vote. Go to the United Nations. Make your case to the world community. Reach out to our allies around the world, and those not necessarily our allies, and show them the danger. Talk to them. Have a dialog.

The President did that. He has been going to the American people. So has his administration. He came to the Congress and said: You are right. I am going to consult with you and communicate with you.

Let us have a dialog. Let us have a debate. Let us have a vote.

A number of Democrats have stood up and said: Yes, this problem is serious, and we must address it. We must address it now.

The President went to the United Nations. He showed commitment and leadership. He turned the whole debate there around and put pressure on the United Nations to decide if they were just going to be a League of Nations or if they were going to really enforce their resolutions that had passed several times.

The President gave a bill of particulars about why we must act, and we must act now, because with ever passing day, week, month, and year, the threat grows, it doesn't diminish.

This is about the people in Iraq who are being oppressed and who have been killed. This is about security in the region. This is about security here at home.

Some people have said: He can't deliver nuclear weapons yet. He may not have them.

He has the delivery systems. He is working to make them longer range. We know that. He is trying to get materials he needs to have these nuclear weapons. But put aside the nuclear weapons. We know he has biological and chemical weapons right now. We know that. Some of these weapons can be delivered with an aerosol can—right here; not somewhere else; right here.

Have we forgotten the events of 9/11 so soon, which was so catastrophic and so big? Are we ignoring what we are learning from the hearings that are underway and from the realities of the threats from terrorists all over the world, and particularly from Saddam Hussein?

Once the President came to the Congress, some people said: Wait. We didn't mean now. Some people said: Let us do it instantly. Now some people say it is being politicized; we shouldn't do that. We should reduce the shrill of rhetoric. We should try to find a way to do this in the right way and in a broad bipartisan way.

But let us go beyond the situation right here at home. Is somebody going to accuse Prime Minister Tony Blair of politicizing the issue? He is not up for reelection. In fact, he is going against a lot of the people in his own party. I think the British people support what he is doing. But he has shown real courage. He went before the House of Commons this week and laid out the information he had. He deliberately pointed out the danger and why we need to act now. Nobody can accuse him of politicizing the issue.

This is what he said.

> [The British Joint Intelligence Committee] concludes that Iraq has chemical and biological weapons, that Saddam has continued to produce them, that he has existing and active military plans for the use of chemical and biological weapons, which could be activated within 45 minutes, including against his own Shia population; and that he is actively trying to acquire nuclear weapons capability.

The Prime Minister continues:

> Since the departure of the inspectors in 1998, Saddam has bought or attempted to buy: specialized vacuum pumps of the design needed for the gas centerfuge cascade to enrich uranium . . . an entire magnet production line . . . and has attempted, covertly to acquire 60,000 or more specialized aluminum tubes which are subject to strict controls due to their potential use in the construction of gas centerfuges.

All this, and Iraq has no civil nuclear powerplants. So they are not doing it for that purpose.

The Prime Minister concluded:

> Two things about Saddam stand out. He has used these weapons, thousands dying in chemical weapons attacks in Iraq itself. He used them in the Iran-Iraq war, started by him, in which one million people died. And his is a regime with no moderate elements to appeal to. Read the chapter on Saddam and human rights. Read not just about the one million dead in the war with Iran, not just about the 100,000 Kurds brutally murdered in northern Iraq, not just the 200,000 Shia Muslims driven from the marshlands in southern Iraq; not just the attempt to subjugate and brutalize the Kuwaitis in 1990 which led to the Gulf War. Read about the routine butchering of political opponents; the prison "cleansing" regimes in which thousands die; the torture chambers and hideous penalties supervised by him and his family and detailed by Amnesty International. Read it all again and I defy anyone to say that this cruel and sadistic dictator should be allowed any possibility of getting his hands on more chemical, biological or even nuclear weapons.

That was the British Prime Minister.

This is not about politicizing the issue. We shouldn't do that. But it is a very important issue. The American people's security is at stake.

I think what maybe has happened here is a desire to try to find some way to put this issue off or to in fact make it political.

But let me correct the Record just in case some of the comments here were inspired by misinformation.

Today's Washington Post story on President Bush and Vice President CHENEY has remarks in it that are flat wrong. The partial quote cited in the Post was specifically referencing the current debate over management flexibility of the Department of Homeland Security—not the war on terror in Iraq. I think that is a very important and critical difference.

I took the time to look at the Vice President's remarks. I know DICK CHENEY. I have the utmost respect for him. I have heard him speak to several different groups—political meetings and nonpolitical. He is always low key, very studied in what he says, very careful, and it is never inflammatory. He does talk about the need for the right actions in the economy, national and homeland security, and trade promotion authority. He has talked about the things we have done.

Then he said:

> President Bush and I are very grateful for the opportunity to serve our country. We thank you for your support, not just for our efforts, but for good candidates like Adam Taff, who will make a fine partner for us in the important work ahead.

What is the problem with that?

When I looked at what was said today, I must confess, I was shocked and even horrified. I have taken a moment here to talk to some of the colleagues on the floor about the important work ahead of us.

At a press conference this very morning, I was saying: We are going to work this language out. We are going to find language that will give the President the authority he needs but language that will have broad bipartisan support in both bodies. We can find a way to do that.

But the accusations leveled against the President of the United States today cannot stand. This is not about unity. That is the worst kind of division. I am going to try to remain calm and attribute the reaction I heard today to perhaps misunderstanding. We are not going to question anybody's patriotism here, but we are going to question the commitment and what we need to do to protect the American people.

It is not about questioning it; it is about doing it. We are not going to pass a homeland security bill that ties the President's hands. It is not going to happen. And he will not sign it.

We are going to take action against Iraq to make sure their weapons of mass destruction are located and destroyed. If it takes regime change, this Congress, this Senate is already on record saying we support that.

I think it is time we get a grip on things. We have a lot of work to do. Here in the Senate, we are not moving anything. We are becoming totally dysfunctional. And now we are going to add to that the type of accusations we had here this morning?

We have 2 weeks and 2 days or so to do a lot of important work: the defense of our country, homeland security, economic security issues that we need to address—terrorism insurance. There is so much we need to do. I hope we will find a way to do those issues and get this discussion back on the right track.

I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, we have been hoping to move this process along. And I would hope that we would continue to have debate throughout the day on the Gramm and the Nelson amendments.

The Senator from Texas had noted earlier that he was desirous of an up-or-down vote. I would be prepared to provide that up-or-down vote. I am going to propound a unanimous consent request to accommodate that, so I will do so at this time.

I ask unanimous consent that the Senate vote on Senator NELSON's amendment at 10 o'clock in the morning, tomorrow, and that immediately after it has been disposed of, Senator GRAMM be recognized to offer a further second-degree amendment that is the text of amendment No. 4738, and that the Senate then vote immediately in relation to Senator GRAMM's amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, reserving the right to object, all we have asked for, from the very beginning, is to have an opportunity to have an up-or-down vote on the President's proposal, not having an up-or-down vote on it as amended by somebody else.

The Senator has every right to amend it. It just seems to me, in a wartime situation, when the President has proposed a compromise and has asked that we vote on it, that we ought to do that. And on that basis, I will object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. DASCHLE. Mr. President, I have a hard time understanding the basis for the Senator's objection. We have offered him an up-or-down vote on his amendment, just as he has suggested.

Mr. NICKLES. Will the majority leader yield?

I am going to help the majority leader.

Mr. DASCHLE. I will yield in just a moment.

MOTION TO COMMIT

Mr. President, I do not see that we have any other option, then.

To ensure that we keep in place the current parliamentary circumstances that we have legislatively, I move to commit the bill to the Governmental Affairs Committee and that it be reported back forthwith with the Lieberman amendment No. 4471, as amended, pending. And I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is before the Senate.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4742 TO THE INSTRUCTIONS OF THE MOTION TO COMMIT H.R. 5005 TO THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DASCHLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 4742 to the instructions of the motion to commit H.R. 5005 to the Committee on Governmental Affairs.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment there is not a sufficient second.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4743 TO AMENDMENT NO. 4742

(Purpose: To modify certain personnel provisions, and for other purposes.)

Mr. DASCHLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 4743.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. I yield the floor,

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I ask unanimous consent to be listed as a cosponsor of the bipartisan Gramm-Miller substitute and rise to speak in favor of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4738

Mr. BUNNING. Mr. President, I believe the proposal of Senator GRAMM and Senator MILLER represents our best hope of passing legislation this year to put a new Homeland Security Department in place.

The Gramm-Miller substitute addresses the legitimate policy concerns of many Senators on both sides of the aisle while also giving the President the flexibility and the authority he needs to put together and run a Homeland Security Department that fulfills its primary mission—defending our people and our Nation.

This amendment is a good, bipartisan compromise. It contains a number of provisions from the original bill reported out of the Governmental Affairs Committee. It also contains the bulk of what the President has asked.

As a member of the Governmental Affairs Committee, I would like to take a few minutes to talk about what I see as the strengths of this proposal as well as the weaknesses of the Democratic proposal and why it is imperative that we pass Gramm-Miller now.

One of the most important things this bipartisan amendment does not do is, it does not take away important Presidential national security authority when this country is in the middle of a war. Going back to the markup of the homeland security bill in committee, many of us argued that the President needs to have the maximum flexibility to effectively administer a Homeland Security Department. We are fighting a new type of war. The Department is going to have to be nimble. Officials there are going to have to be able to react to events at home and abroad on a moment's notice. The President must have the ability to make decisions and move resources around to fight an enemy that has spread throughout the world and could attack us from any point.

Every President since Jimmy Carter has had more discretion in running agencies that were involved in national security. For instance, over the past 30 years, every single President, Republican or Democrat, has been able to declare, and actually has declared, that some civil servants are exempt from collective bargaining rules that apply to other agencies. The Democratic bill would change that when it comes to homeland security.

Let me be clear: The employees at the new Department are going to have a very important job to do. They deserve our respect and our support. But to go as far as to give the President less authority over them and to put more bureaucratic rules into place is to distract from the reason we are debating this legislation in the first place.

We need to make sure these employees have the resources to do the job. We need to make sure the President has the same ability. To give him less authority is the exact opposite of what we need to do.

In short, that means the Democratic proposal would actually give the President less flexibility than he already has under current law. That is crazy. There is no reason to have this debate if we are only going to talk about making it harder, not easier, for the President to lead us in the war on terrorism.

This debate is supposed to be about crafting rules and building a new Department to help fight the war on terrorism. It is not supposed to be a debate about rolling back the clock to an outdated way of thinking about labor and management relationships.

I have said throughout this debate that if the choice comes down to national security versus more redtape and rules, national security must win every time.

Instead, what the Gramm-Miller proposal would do is give the President necessary management and personnel flexibility to allow him to integrate the pieces of many standing agencies into a new Homeland Security Department. This is going to be an awesome task we are undertaking. We are talking about taking bits and pieces from literally dozens of current agencies and quickly fitting them together into an effective unit called the Department of Homeland Security.

That job is going to be an even harder one if we continue to focus on old rules and redtape instead of how to fashion a new and flexible agency to fight a war in the 21st century.

Another reason to support Gramm-Miller and to oppose the Democratic bill or any substitute for it is the forward-thinking parts of the bipartisan bill when it comes to civil service and personnel issues. For instance, Gramm-Miller gives the President flexibility when it comes to management decisions relating to hiring, evaluating, and compensating. Democratic opponents look at this and see the glass is half empty. They claim it is a pretext for cracking down on workers. I see the glass as half full and view these reforms as a way for the President and the others to reward those employees who do a good job and provide the flexibility to hire the best and brightest for this new Department. After all, we are talking about defending our Nation and our people. Employees who do a good job as part of that should be rewarded. Those who do not should either be disciplined or fired.

At the same time, Gramm-Miller also retains whistleblower protection and a full range of employee benefits and protections. I understand it might not be everything the Government unions want, but it is still a very good deal.

Gramm-Miller is also on the right track when it gives the President extra authority to transfer funding and responsibilities to the Homeland Security Department. Right now his hands are often tied by redtape, but if we were to have another 9/11 disaster, if we were to see another attack, the President would need more authority to act quickly when it comes to moving around funds and responsibilities to make sure we respond as rapidly as possible.

I know some of my colleagues worry about this new authority. They think we are going too fast and that Congress would be giving away some of its constitutional authority. I totally disagree. Gramm-Miller specifically says that as to the biggest changes, the President would ask Congress for permission by submitting a resolution to the House and to the Senate and that we would have 90 days to act. That is the type of consultation with which I am comfortable.

Obviously, we have to respect the separation of powers as well as

Congress's power of the purse and our powers to declare what role they are going to play. We can do this while at the same time giving the President more tools to effectively administer the Federal bureaucracy.

My friends on the other side of the aisle who oppose Gramm-Miller have also thrown out a couple of other red herrings when it comes to labor and personnel issues. They have tried to fall back on the notion that the proposal would undercut the Davis-Bacon rules covering prevailing wage on Government construction projects. But the fact is that Gramm-Miller is neutral on this issue and explicitly does not address it.

They also try to make the claim that supporters of Gramm-Miller are using it as some devious way to undercut, in a broad manner, rights under the Federal Labor Relations Act. Again, this just is not true.

The President does have the right under Gramm-Miller to exempt applications of the rules on a limited basis but only—but only—if national security is involved. That sounds reasonable, and I believe most of the American people, if given a choice between tying the President's hands with labor negotiations or giving him the ability to act for national security, would give him the benefit of the doubt.

When you get beyond the debate about broad policies and personnel issues, Gramm-Miller also makes sense when it comes to the nuts and bolts of making changes to specific departments and agencies.

For example, when reorganizing the Customs Service under the new Homeland Security Department, the Democratic bill would provide for the transfer of Customs to the Homeland Security Department but at the same time also requires it to be maintained as a distinct entity within the Border and Transportation Security Directorate.

That also makes no sense. Customs cannot be in two places at one time. It is either a part of homeland security or it is not. There is no other way I can see how it can function effectively by splitting its resources and focusing among two agencies.

The only reason I can see that the Democratic bill does it this way is to protect turf, but all this would do is to protect the same old stovepipe system and personnel we have now, but under different names. If anything, moving Customs into two different agencies might make things worse.

Instead, Gramm-Miller would transfer Customs to homeland security and reserve at Treasury the limited right to issue regulations covering some of the Customs' revenue functions. That seems like a much more sensible and workable solution to me.

I know it might not be popular in the bureaucracy, and there might be some at Treasury and Customs who are resisting this change, but if it is a choice between keeping the status quo or some sort of warped version of it to save the bureaucratic face to protect turf, then I have no problem in upsetting the applecart and supporting a new streamlined approach to Government.

Another example of what I am talking about is how the competing proposal deals with FEMA. The Democratic bill moves FEMA to a new Department as a "distinct entity" that cannot be reorganized or merged.

The Gramm-Miller bill simply moves FEMA to the Homeland Security Department.

I do not even understand what the Democrat bill is trying to do here. It claims to move FEMA to Homeland and to give the Secretary some authority over it. But at the same time it says that FEMA cannot be reorganized or improved.

This is a distinction without a difference. Either FEMA is part of Homeland or it isn't.

Either the new Secretary has the authority over FEMA and the ability to put its resources to work or he doesn't.

The Democrat bill tries to tiptoe around the issue so that it does not step on toes. But when it comes to war and fighting terrorists, it is time to step boldly.

Instead of talking about shades of gray and playing word games, we need to start looking at the world in black and white and acting boldly.

In other areas, Senator GRAMM and Senator MILLER have gone out of their way to adopt workable sections of the Democrat bill and to compromise.

For instance, Gramm-Miller adopts the Democrat bill's language when it comes to Freedom of Information Act issues and the law enforcement powers of inspector agents.

These might seem small, but especially with FOIA I know that many of my colleagues were worried about accountability of the new Department, and I appreciate the bipartisan efforts to reach across the aisle from Senator GRAMM and Senator MILLER.

Gramm-Miller also borrows from the Democrat bill when it comes to provisions covering Federal workforce improvement and adopting reforms worked out in the Governmental Affairs Committees by Senator VOINOVICH and Senator AKAKA.

It accepts all of the Democrat proposal when it comes to emergency procurement authority.

On the subject of Administration of the Centers for Disease Control, it also accepts all of the Democrat proposal.

Gramm-Miller proposes effective immigration reforms by adopting the Democrat bill's proposal to create an Immigration Affairs directorate within the new Department and to transfer the Immigration and Naturalization Service to it.

Senator GRAMM and Senator MILLER also accept, with only minor changes, the Democrat's proposal to modify the Coast Guard's mission and reforms the rules that cover how we issue visas.

In short, Gramm-Miller has tried to take the best and most acceptable parts of the Democrat bill while also maintaining the flexibility and some of management proposals that the President says he needs.

For instance, the President's plan provides for unified intelligence analysis and infrastructure protection in one organization.

This would have a single agency responsible for providing both threat assessments and vulnerability analysis. Nowhere in the Government does this currently take place. This plan would fill that gap.

As the current Joint Intelligence Committee hearings have shown the last several days, our intelligence community needs some work.

Most importantly, information about what is going on in this country needs the most work, and information about what our own weaknesses are is largely nonexistent. This amendment would allow these two types of analysis to come together and provide the most accurate information about what we need to do as a Nation to protect ourselves domestically.

This flexibility and reform is not part of the Democrat bill.

We have been at loggerheads on this legislation for almost 4 weeks now.

I think we know it is getting down to crunch time and it is time to compromise. That is what Gramm-Miller does.

No one is going to get everything of what they want and the time before adjournment is shrinking rapidly.

I think it is time to move beyond confrontation and toward a workable compromise that will allow us to put an effective Homeland Security Department into place now.

I know that some Members think we are moving too fast and they want to spend more time debating the bill.

I think that is the wrong way to look at this situation.

Obviously, we have to get things right in building the new Department. But at the same time, we all know that if we can come up short we come back and fix things down the road. I do not think anyone seriously doubts that if we pass a bill that needs to be tweaked down the road that the Congress is going to drag its feet on such an important national security issue.

We owe it to ourselves and the American people to finish work on this bill. We have been debating it for close to a month. Before that, it was subject to some public debate during the August recess and during the Government Affairs Committee markup in July. We have had over 15 hearings on this bill.

We are not reinventing the wheel. We have had a good debate. I think we have a good handle on this bill and now it is time to vote.

If we are worried about making mistakes or not passing a perfect bill we will be here until doomsday—literally.

This is a complicated issue. There are bound to be mistakes. But I think we are on the verge of getting much of it right, and on many levels we will not know for sure how to make the Department work until we get it up and running and see where the shortcomings are.

So let's get started. The people who will staff this new Department are already out there, trying their best to protect America.

They are dedicated public servants who make many sacrifices to serve this Nation and their fellow citizens, but right now they are spread throughout the Government.

It is time to bring them together and to harness their collective talents for the national good.

There is an old phrase that says one should either leads, follow, or get out of the way. Right now we are doing none of those things. We in Congress need to start leading

The President has been pretty clear about what he needs to administer the new Department.

He has told us what he can accept and what he has to veto.

The House has acted, and now I think a bipartisan majority in the Senate ought to be ready to act.

We can continue talking or try to pass a political bill that the President will send right back to us.

Instead, we should adopt Gramm-Miller. It is a good starting point—a solid, consensus bill.

It borrows the ideas from competing bills, and as the only bipartisan bill it offers common sense solutions when it comes to building the Department of Homeland Security.

I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. REID. Mr. President, before the Senator from Kentucky leaves the floor, I, as all Senators, I am sure, feel very fortunate to be able to serve in the Senate. One reason is the associations we develop with our fellow Senators. One of the things I haven't had a chance to say publicly, or even privately, to the Senator from Kentucky is how much I enjoy serving with him.

As a boy, I used to listen to baseball games—no television; we used to listen to the games. Of course, JIM BUNNING was one of the people who pitched those great ball games. Then, of course, I watched him do all the great things he did later on. And now, to serve in the Senate with a member of the Baseball Hall of Fame, for somebody who wanted to be a baseball player—that was what I wanted to be until I found out I wasn't good enough—is really one of the pleasures of my life—to say I served with somebody who is in the Baseball Hall of Fame.

Mr. President, I will send a cloture motion to the desk.

Mr. BUNNING. Will the Senator yield?

Now you have switched your allegiance to a fellow who lives in your home State?

Mr. REID. I have to admit I did give a statement on the floor the day before yesterday about another great pitcher who certainly will be a member of the Hall of Fame, Greg Maddux. In my statement, I said Greg Maddux is less than 6 feet tall, weighs maybe 10 pounds more than I do—not very big, clearly not as big as the Senator from Kentucky. The Senator from Kentucky hasn't gained much weight, if any, from the time he pitched. Greg Maddux is one of the great ones. On Sunday he won his 272nd game. He has an ERA lifetime of about 2.5. He tied Cy Young's record of winning 15 games 15 years in a row.

One of the interesting things I learned was that, as a 20-year-old, when he came up to the majors, the second game he won, he pitched against his brother Mike, and beat him. Mike played for the Cincinnati Reds at the time when he beat him.

I haven't switched my allegiance. I can have allegiance for more than one great baseball player.

Mr. BUNNING. I thank the Senator.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under Rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

> CLOTURE MOTION
>
> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Gramm-Miller amendment No. 4738 to H.R. 5005, the Homeland Security legislation.
>
> Harry Reid, Ben Nelson of Nebraska, Hillary Rodham Clinton, Debbie Stabenow, Mark Dayton, Patrick Leahy, John Breaux, Tom Carper, Tom Daschle, Byron L. Dorgan, Jack Reed, Jim Jeffords, Tim Johnson, Mary Landrieu, Max Baucus, Daniel K. Inouye.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Because of the parliamentary matters we have been going through this afternoon, a number of Senators have come to the floor and have wanted to speak and have been prevented from doing that. Therefore, I hope things will run a little more smoothly this afternoon.

I ask unanimous consent the Senator from Utah, Mr. HATCH, be recognized for up to 15 minutes, Senator NELSON be then recognized for up to 10 minutes, and Senator NICKLES for 10 minutes. He told me that is what he wanted. Then, Senator VOINOVICH waited here all morning and part of the afternoon. I ask that he then be recognized for up to 35 minutes to speak and that then Senator LIEBERMAN, the manager of this bill, be recognized after that for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. In that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

Mr. HATCH. Mr. President, I personally want to express my regard for the distinguished Senator from Kentucky and his excellent remarks today. I think he covered the problems quite well. I personally appreciate the friendship we have together and the great leadership he provides in the Senate. I think he did a very good job. I agree with him.

Mr. President, every Member of this body, and every citizen in this country, knows that the most critical issue facing our Nation today is the task of securing our homeland and protecting our country from further terrorist attacks. The enormousness of this task cannot be overstated; and its implementation is equal measures vexing and daunting. But we must rise to the challenge. And we must do so together. No less than the lives of our citizens and the security of our nation hangs in the balance.

With regard to this, I pay my compliments to the distinguished Senator from Georgia who gave a speech this morning that was really very good. Senator MILLER, it seems to me, has made a real effort to bridge the gap between Democrats and Republicans on the floor and otherwise. His remarks were just absolutely right on the money. I personally express my regards for his remarks and express my love and affection for him as a Senator. He is a good man, and we ought to listen to him.

I speak today out of a spirit of bipartisanship. I am proud of the way that Congress has come together on issues of national security since the horrific attacks of September 11. In the wake of these tragic events, members of the Judiciary Committee and Congress worked tirelessly to provide the Attorney General with the tools necessary to fight terrorism worldwide and protect our country. Specifically, we passed the PATRIOT Act, a critical set of reforms needed to unleash our government's ability to detect and prevent terrorist attacks, by an near-unanimous vote of 99–1. It is my hope that enough of that robust bipartisan spirit remains today as we consider the landmark legislation to create the Department of Homeland Security. As we have just passed the anniversary of the terrorist attacks that killed thousands of innocent Americans, such a sentiment is not just sorely welcome; it is also fundamental and necessary and appropriate.

Today, we face a significant new type of military threat, one far different than post-World War II communism. We face today the danger of numerous, well-financed, well-trained and completely ruthless terrorist groups who will stop at nothing to cross our borders and attack our institutions, infrastructures, people and freedoms with all types of weapons. They engage in unconventional warfare and are bound by no rules. I speak not of just al-Qaida but many other terrorist groups. The creation of the new Homeland Security Department is a massive task precisely because the terrorist threat is so pressing and pernicious.

The proposal to create a new Homeland Security Department is the next logical and necessary step in our country's war against terrorism. In my view, there are several components that are critical to ensuring its success.

One of these involves our intelligence practices. In the aftermath of September 11, it is abundantly clear that we must improve the gathering, sharing, and analyzing of information within and among our Federal, State and local agencies. Our nation clearly needs to have a centralized office that is responsible for reviewing all of the terrorism-related information that collected by any agency, be it the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, or one of the others. The Homeland Security Department is a critical step to ensuring that intelligence information is comprehensively collected, analyzed and disseminated. We must be sure not to handcuff the new Department's ability to do its job in this area. In particular, we must take pains to ensure that we do not unnecessarily limit the use of this intelligence within the new Department. The stakes are simply too high to place artificial constraints on this important function.

Another critical area involves managerial flexibility. The new Department of Homeland Security must be given the ability to hire and retain the very best people to do the work of keeping our country safe. We need to give the Secretary of Homeland Security such fundamental management powers as the ability to remove poor performers and reward exemplary employees with merit-based pay raises. Believe it or not, under our antiquated system of Federal employment rules, it can take five months to hire a new employee and 18 months to fire a terrible worker. Most Federal employees also get annual pay raises based on how long they have worked for the government, not how well they do their jobs. The vast majority of ordinary Americans don't have such outdated rules in their workplaces. There is absolutely no sound reason to move such inefficiencies to the new Department of Homeland Security. That is the current law. The bill before us even expands that.

Let me be clear: I am convinced that the vast majority of Federal workers do an outstanding job for our country. That is why I am not concerned with giving the Department of Homeland Security more managerial flexibility. Indeed, because most Federal workers do great work, they have nothing to fear and everything to gain from an improved system that allows their work to be rewarded through merit-based bonuses and raises. Only poor workers need be concerned, and they should be. Frankly, there is no place for underperforming or incompetent workers in the agency charged with protecting our safety. The new Department has the Herculean task of preventing terrorist attacks and keeping our country safe. I cannot imagine any reason why we would handicap it by imposing a system of rules that protect bad Federal workers at the expense of good ones and, more importantly, at the expense of our nation's safety. That is what the amendment to the bill by Senator GRAMM and Senator MILLER changes.

The need for flexibility, in my view, must run through every corner of the Department of Homeland Security. The very nature of our enemy is quick and deliberate action; terrorists are quick to change their members, associations, plans, training bases, and destructive methods. Terrorists, moreover, come in many different shapes, colors and ideological bents. We must equip our security forces with the ability to be similarly adaptable. The Department simply must have the ability to adapt itself to a constantly changing enemy threat. We will fail our task miserably if all we end up doing is reorganizing dozens of inflexible agencies into a new titular Department of Homeland Security. If the Secretary of Homeland Security is required to keep intact within the Department each of the individual agency's personnel, components, budgets and rules, then we don't have a new department—just a hodgepodge of independent agencies. We will have created just another layer of bureaucracy. That cannot be our goal. That cannot constitute effective governance. For this reason, I think it is absolutely essential that we give the Secretary of Homeland Security the ability to move personnel, assets and money to best meet the rapidly shifting terrain of terrorist threats.

We all recognize that the war against terrorism cannot be won simply by reorganizing existing government agencies into a Department of Homeland Security. That Department must be equipped with the tools to complete its task. Moreover, it is essential that we tap into the resources and expertise of America's private sector. The new Department must enlist the aid and expertise of America's businesses to enhance our nation's security, and I am committed to making sure that the new Department is able to receive the uninhibited advice and counsel of our business leaders. It is private businesses which own and operate most of our infrastructure—our telecommunications, energy and financial systems. Our government cannot effectively fight this war against terrorism without their support. We must arm our agencies with the best technologies available, and our private sector is a critical player in this process, as it has been in our national defense and military. Our war against terrorism would be hopeless without the active innovation and support of private industries. We must also recognize that the private sector cannot realistically step up to help wage our fight against terrorism without some reasonable protection from frivolous tort litigation.

Congress must act and must do so quickly and carefully without political gamesmanship. Our task is too important; we cannot afford to sacrifice our country's safety in the process. The threat of terrorist attacks on our homeland, as well as abroad, is here to stay. Our response to this threat requires a singleness of focus. All of us in Government have a duty to do all we can to protect the American people from future terrorist attacks.

I have spent considerable time considering the tools that the new Department of Homeland Security simply must have to create an effective system of protecting our borders from terrorism. Having done so, I have reluctantly concluded that I cannot support Senator LIEBERMAN's proposal, which simply cobbles together dozens of disparate agencies without any mechanism for adapting their personnel and missions to meet the challenge of the new Department. On the other hand, I find myself in great agreement with the central proposals of the Gramm-Miller bill. It is a bipartisan measure. And, as all bipartisan bills, it represents a series of compromises. But, I am convinced. the compromises will not, in my view, detract from the core ability of the Department to do its job and protect American lives. Critically, the Gramm-Miller bill provides enough flexibility for the President and the Secretary of Homeland Security to respond to an ever-changing, multi-headed threat.

The task of guarding against terrorism is immense; the risk of failure is enormous. We simply cannot be bound by partisan interest groups in this time of war and crisis. Let us join together to pass the bipartisan Gramm-Miller bill so that we can feel certain that we have done all we possibly could to protect the mothers, fathers and children for whom each of us work.

The same considerations that compel me to support the Gramm-Miller bill cause me to oppose the Nelson-Chafee-Breaux amendment. While this amendment is a slight improvement from the Lieberman substitute, it still ties the President's hands much too much. Like the Lieberman substitute, the proposal cuts back on the President's existing authority to decertify the union affiliation for workers in the new Department in the interests of national security. This would be a step back under any circumstances; it certainly is not a forward-thinking way of creating a successful new Department of Homeland Security. Moreover, the amendment allows the unions to arbitrate any attempt by the President to loosen the civil service rules governing promotions and dismissals. I think I need to be entirely candid on this issue: how many members of this body would feel good about these rules if it took us 5 months to hire a staffer and 18 months to fire an incompetent one? How many of us would stand up and support such a system if it affected the way we do business?

There is not one of us who would do that. And that is what we will get if we have the underlying bill.

In all honesty, I think it is time to bring this matter to a close.

I personally have seen how the majority has loaded up the tree with a bunch of Democrat amendments in an attempt to prevent a vote on the Gramm-Miller amendment. We intend to have a vote on the Gramm-Miller amendment, and the sooner the better. It may be that the majority will win on that amendment; it may be that they won't. But that is the nature of the process around here. We can't keep playing parliamentary games with homeland security. That is what is going on around here. That is the reason I have come to the floor. I don't come to the floor that often to raise Cain. And I am not raising Cain here, I am just speaking frankly.

I think it is time for us to get about voting on these two different aspects of the bill. We ought to vote on the Gramm-Miller bill. There will have to be a vote on it. We ought to vote on the underlying bill, if that is the case—the Lieberman bill. I am not objecting to that. I don't think our side is objecting, nor is our side filibustering. We just want to be treated in a decent, honorable fashion; that is, give us a vote on the Gramm-Miller amendment, or the Gramm-Miller substitute, to put it in better terms.

I get a little tired of politics around here, especially now that we are dealing with homeland security. That is what the President was criticizing. I hate to say this, but I saw the remarks of the distinguished majority leader earlier. It was on all three cable networks, as far as I could tell. Those remarks implied that the President was politicizing Democrats. That is not the case. The President did say we are muddling around here. He didn't say it in those terms. I will put it in these terms—muddling around with this homeland security bill instead of voting up or down and getting the job done.

That is what we need to do. We don't need to have any distortions of what the President said or what Vice President CHENEY said.

That is what I think, unfortunately—I am sure it was sincere and well intentioned—was a distortion, but it is still a distortion.

I think it is time we get rid of those types of attempts to have political games at the expense of a bill of this importance. That is what the President is driven by.

After seeing all the weeks that we have been on this bill, I think the President is justified in his criticism.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I appreciate the opportunity to rise in support of the Nelson-Breaux-Chafee amendment which is a bipartisan compromise on homeland security.

I believe perhaps some clarification is in order because there seems to be some misinformation or misunderstanding about what this bill does.

My good friend from Utah said the amendment ties the President's hands. We have looked very carefully at existing authority that the President has in similar circumstances at this very moment. And it doesn't tie the President's hands.

I must say Nebraska is going to be playing Texas at Texas A&M. My good friend from Texas is my hunting partner. Senator GRAMM is not going to move the goalposts down in Texas when we play A&M. We are not going to move the goalposts on Texas when Texas plays in Lincoln. I don't think it is about moving goalposts in athletic events. But I believe on this amendment we have had the goalposts moved on us.

Just recently, while I was presiding, Senator GRAMM, in talking about the Lieberman bill, referred to the fact that it was too restrictive on the President's authority in the area of collective rights and bargaining rights, or in terms of civil service protection. At that point, he believed it tied the President's hands in dealing with these very important issues when it comes to national security.

It was partly as a result of his comments at that time that I thought we would try to find a compromise that could deal with the situation.

Let me read from some of Senator GRAMM's comments that he made on the floor, I believe, just last week.

He was talking about the fact that when we decided to federalize inspectors at airports, in that bill we gave the President power in terms of personnel flexibility to hire and fire, and we gave him the ability to get around the normal procedures that require up to 6 months to hire somebody. Then he goes on to say we have done that same sort of thing in the Federal Aviation Administration.

Then he goes on and references the Internal Revenue Service. I quote:

> I ask my colleagues: If we believed that the current system was failing us in the Internal Revenue Service and that we had a problem which required a different approach and more flexibility with regard to our sensitivity at the Internal Revenue Service with people who know our intimate financial information and who look at our tax returns. If we believed that flexibility to administer that Department was necessary—and we did, and we adopted it and it is the law of the land today—I wonder what people back home would think when we said we thought flexibility was required at the Internal Revenue Service. . . .

In other words, he says what we did in the Internal Revenue Service reorganization was OK.

That is what he said last week.

Well, lo and behold, because of his commitment to that particular flexibility, that is exactly the kind of language and that is the reference we have in this amendment.

If it was good enough for last week, it seems to me it ought to still be good enough for this week and next week and the week thereafter.

So if this isn't moving the goalposts, it is at least shifting around on the answers. And I believe that what was good enough last week, and what is good enough for the Internal Revenue Service to deal with flexibility, is good enough for homeland security.

Then the White House, through various spokespersons, has raised a question about whether the President's hands would be tied with what we are proposing.

But lo and behold, Governor Ridge—who took advantage of me with a bet on the Penn State-Nebraska game, which I shall pay him very vividly for—went ahead and said something in his letter to Senator LIEBERMAN that I thought was important.

This is in his letter dated September 5, 2002:

> Senator, the President seeks for this new Department the same management prerogatives that Congress has provided other departments and agencies throughout the Executive Branch. For example:
>
> . . . personnel flexibility is currently enjoyed by the Federal Aviation Administration—

And guess what—

> the Internal Revenue Service, and the Transportation Security Administration.

I do not know what has changed since September 3 or last week, because we thought this would be acceptable, given the fact that the President needs the kind of historic personnel flexibility he is seeking.

So for those who said we are changing the laws, or we are somehow restricting the Presidential authority, or tying the President's hands by changing the law, apparently they have not focused on what the current status of the law is because they are asking for what we are trying to provide them at the present time.

Now, I don't know whether someone hasn't read the amendment, but some of the criticisms I have heard of the amendment would indicate they saw a previous iteration. It seems to me the current state of affairs with our amendment would be directly on point or on all fours with what has been asked.

So I am very anxious to see if we can get a clarification because I think it has to be some sort of a simple mistake. I cannot believe that we have been asked to do something, or it has been suggested that this would be OK, and then, when we offer it, that somebody cannot take yes for an answer. I hope this will be clarified.

It is also important to say that binding arbitration and personnel flexibility is part of the IRS Restructuring and Reform Act of 1998, which both Governor Ridge and Senator GRAMM have suggested was OK. So it seems to me that whether it was binding arbitration, personnel flexibility, or, in the case of Presidential authority, in terms of exempting union membership, union employees, from collective bargaining membership, we have done exactly what others have been asking us to do.

So it seems to me that if the people are as anxious as they seem to be, both in the administration and on the other side of the aisle, to get the Gramm-Miller amendment considered, the first step is to pass or at least have a vote on Nelson-Breaux-Chafee because it will, in fact, give us an opportunity to have that vote, and I think another vote shortly thereafter, if necessary, on Gramm-Miller.

I do not know what more a person can do today than give the other side the kind of answers they are seeking and the kind of solution for which they have been asking. I hope this will be clarified. If there are some misunderstandings—as I think it may be a simple misunderstanding—I hope some other people will show up and respond to what we have put out there at this point in time.

Very often, misinformation, a lack of information, mischaracterizations, and things such as that can drive the day. I hope they do not drive this day. National security is too important, and passing this homeland security legislation is of the utmost importance.

So for those who are suggesting there is any effort to delay it or in some way tie the President's hands, this simply does not do it. It is consistent with existing law, and it gives the President ample authority to do what the President needs to do for personnel, for collective bargaining, and for breaking the logjam in the homeland security debate, which is so important to the future of our country.

Passion runs deep: passion about Iraq, passion about homeland security, passion about getting something done as quickly as possible. I hope we can use that passion as a basis to accomplish something.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I rise to speak for a little bit of time until Senator NICKLES from Oklahoma arrives, and ask unanimous consent that he then be permitted to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I simply want to respond, very briefly, to what I saw this morning on the television when I was observing the activity on the floor.

I saw the majority leader come to the floor and give what I thought were very intemperate remarks suggesting that—not suggesting—demanding that the President of the United States apologize, allegedly for politicizing the war effort.

My belief, after looking at all of the transcripts of the comments that were attributed to the President and the Vice President—and I have them all right here, as well as the newspaper accounts of the same—it suggests to me that it is not the President but the distinguished majority leader who needs to apologize.

I say that because it is very clear the President has not politicized anything with respect to this war. The comments in which he criticized the Senate—and I believe rightly so—have to do with our failure to adopt a homeland security bill. And he referred to the special interests that have been involved in impeding action on the bill, and complained about the fact that the Senate has not followed the leadership of the House and passed a bill.

As a matter of fact, earlier today the Senate precluded a vote on the President's plan. When Senator GRAMM sought to have an opportunity to vote on the President's plan, that was turned down.

So we have a situation in which the Senate, for the fourth week now, is debating the homeland security bill—has not passed it, will not even let the President have a vote on his proposal—and the majority leader suggests the President is politicizing national security.

The President is right to complain about that. But what the President did not do was to connect any activity of the Senate, or Democrats in the Senate—or anybody else, for that matter—to the war effort, as was inferred by the majority leader.

The majority leader attempted to take quotations that dealt with homeland security and transform them somehow or other into criticism of Democrats in the policy with respect to Iraq. And that simply is not true. It did not happen. For that reason, as I say, it seems to me the majority leader ought to be the one offering the apology, not the President.

I had been talking, just before watching this, about the damage that was being done to the attempts by the President to reach an international consensus in developing a plan for dealing with Iraq by the comments of German Chancellor Gerhard Schroeder during his election. And both Dr. Rice and Secretary Rumsfeld have noted the fact that those comments were not helpful and poisoned the atmosphere.

They poisoned the atmosphere internationally by, in effect, confirming what Saddam Hussein is saying, that the President is acting out of political motives rather than out of a desire to achieve peace in the world. When the distinguished majority leader comes to the Senate floor and seemingly validates those same criticisms of the President, he is further poisoning the atmosphere.

That is another reason why he owes the President an apology. He is literally politicizing the issue in a way that is destructive to the President's attempt to achieve an international consensus.

I find it ironic because it is the other party that has sought to assure the President would gain that consensus internationally, many of them suggesting that is necessary before we act, and then that very attempt is being undermined as a result of the comments made here.

Mr. ROBERTS. Will the Senator yield?

Mr. KYL. I am happy to yield.

Mr. ROBERTS. I ask the Senator from Arizona if he is aware, along the same vein of comments that were made by the distinguished majority leader in reference to the Vice President—I share the same concern he has mentioned—is the Senator aware when the Vice President was in Kansas, basically they are accusing the Vice President of politics in regard to the Iraq debate in urging an audience in Kansas to vote for a GOP congressional candidate?

Mr. KYL. I am aware of the fact the majority leader alluded to that. But he was only looking at a headline in a newspaper. I know the Senator from Kansas was actually at the event.

Mr. ROBERTS. I would respond to the Senator by simply indicating, there is nothing that hurts the truth more than stretching it.

I understand if somebody reads a headline and gets upset about it. I would, too. But the headlines I have from the Kansas press—and the Senator is correct; I was at the meeting and introduced the candidate. The candidate introduced Lynne Cheney, the wife of the Vice President. The Vice President gave a very standard speech. Here is the headline, "Cheney Talks About Iraq at Congressional Fundraiser." He said that our candidate would be "an effective voice for Kansas, a fine addition to your State delegation, which is already one of the best in the country," which I appreciated. But I find nothing here that has anything to do with politics.

And then here is another one, "Fundraiser for Taff Draws 500." From the Kansas City Star, "Cheney Talks Tough at Taff Fundraiser." But the two things were separated. It was a very sobering discussion on the policy of preemption and what we face in Iraq.

As a matter of fact, the Vice President, in a private session, said the Congress ought to be asking tough questions, which we are, and urged bipartisan support. I heard every word. For the life of me, I just did not hear that kind of inference at all. I wanted to come to the floor—I thank the Senator for yielding to me—to indicate that simply was not the case. If we are into a situation where we are inferring we are trying to politicize this effort, that is not the case with the Vice President. We can't be in the business of the security of the American people and sending wrong messages to Saddam Hussein unless we get the facts straight.

In doing that, I am not trying to perjure the intent or the concern of the distinguished majority leader. It just did not happen. I wanted to set the record straight.

Mr. KYL. I appreciate that from the Senator from Kansas. I know the majority leader this morning a little bit later, in talking to reporters in response to a question, said he was relying upon the newspaper accounts of what had been said. But I suggest that while that might ordinarily be all right, the press can make mistakes, and when you are accusing the President of politicizing a war effort, you better be correct. We have gone back and actually looked at the stories, and the Senator from Kansas makes a point, too. The Vice President is a very careful person. He is not prone to politicizing things.

I will conclude by saying it is very important for us to keep our eye on who the enemy is. The enemy is the terrorists. The enemy is Saddam Hussein. The enemy for none of this is President Bush. I don't think we should be raising questions or throwing around allegations that undercut what ought to be a common effort from everybody in this country as well as this body to ensure we have the kind of consensus that will enable us to prosecute whatever war we prosecute in a way that enjoys both support in the United States and abroad. The kind of tirade entered into here this morning undercuts that effort. It does not assist.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I ask unanimous consent to add 10 minutes to the time allocated to me under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I rise today to talk about the Lieberman homeland security bill, the Gramm-Miller amendment, and the Nelson-Chafee-Breaux amendment to that amendment.

Before I do that, I will comment on the fact I am really disturbed at what I see going on here in the Senate in terms of the President of the United States. Our President has more on his plate than perhaps any President in my memory. He has the Middle East situation. I have been studying that for 20 years. That is more fragile than I have ever seen it during my lifetime.

We are in Afghanistan. We have forgotten we are there. That is a major undertaking. We are trying to work diplomatically to make sure Pakistan does not go after India and India after Pakistan, which could embroil us in a nuclear situation.

We have a problem with Saddam Hussein in Iraq. We have a domestic economy in bad shape today. People in this country are losing faith in our financial markets. We are in a very fragile, shaky period.

What we should be doing in the Senate is rallying to the cause to try and be as supportive as we can of the President, who is trying to rally the world and the United Nations and our allies in dealing in a responsible way with Saddam Hussein, who has thumbed his nose at us for so many years and has set up a new paradigm in terms of the United Nations where they will work together to make it very clear they will not tolerate people such as Saddam Hussein.

I was going to say it is business as usual in the Senate; I just wish it were business as usual. I hope my colleagues on both sides of the aisle will start to understand the American people are watching what we are doing here, and it is important that we behave in a way that gives them confidence that we are more interested in moving our country ahead than we are in partisan politics.

HUMAN CAPITAL AND THE FEDERAL WORKFORCE

Mr. VOINOVICH. Mr. President, since my election to the Senate in 1998, I have given top priority to a public policy issue that seldom gets the attention it deserves: The challenges of our Federal Government's civil service system.

For nearly 4 years, I have used my position as a member of the Governmental Affairs Committee and chairman and ranking member of the Oversight of Government Management Subcommittee, to focus the spotlight on this critically important issue. As I learned more about the condition of our Federal Government's personnel system, it became crystal clear we are in the midst of a human capital crisis in the United States Government, one which will only get worse unless this Congress acts decisively to address it.

What is it? Is it real? Why do we have it? The human capital crisis is, simply stated, the inability of the Federal Government to properly manage its workforce. Robust personnel management includes the ability to recruit the best candidates, hire people in a timely manner, award performance bonuses and other motivational tools to encourage retention, provide training and professional development opportunities, and the flexibility to shape a balanced workforce.

Good management includes the flexibility to act quickly and to compete as an employer of choice in the fast-paced 21st century knowledge economy.

Unfortunately, at present, the Federal Government's ability to use such tools is not what it could be. By now, we have all heard the statistics, and maybe some of my colleagues have not heard them. The average Federal employee is 47 years old. By 2005, more than 50 percent of the 1.8 million person Federal workforce will be eligible for early or regular retirement.

Even more incredible is the fact that by 2005, 67 percent of the Senior Executive Service will be eligible for regular retirement, and an additional 21 percent will be able to retire early. This is an astounding 88 percent of our top-level workers, managers, department heads, and division chiefs.

I was talking to businesspeople this morning, and they said: "Explain to us what this is about."

I said: "Consider your own businesses. Say during the last 10 years you were eliminating employees without any regard for how that would affect your mission, or how high-tech manufacturing and information technology has changed your business. Then imagine half the remaining people working in your plant are going to retire soon. Then imagine that about 88 percent of your top managers are going to retire also. Where would you be today?" They got it.

I remind my colleagues, this dire predicament refers to what could happen in the next 2 to 3 years, but it is virtually impossible to predict accurately the amount of experience and institutional knowledge that is literally going to walk out the door at the end of this decade.

Some may ask: Is the human capital situation really that important? Is it really a crisis in the Federal Government?

Consider some additional evidence we have learned from officials in some of the agencies that handle national security and finances, such as the CIA, FBI, FEMA, Social Security Administration, and Department of Commerce.

CIA Director George Tenet, in recent congressional testimony, said within 3 years, between 30 and 40 percent of his workforce will have been there for less than 5 years.

According to a recent GAO report, more than 70 agencies have foreign language needs, and staff shortages at those agencies, such as the FBI, "have adversely affected agency operations and hindered U.S. military, law enforcement, intelligence, counterterrorism, and diplomatic efforts."

Mr. President, do you remember after 9/11? The call went out: We need people who can speak Arabic and Farsi. Incredible. Ten years after the Persian Gulf war, we remain actively involved in the Middle East, yet we do not have enough people who speak Farsi and Arabic in the FBI, the State Department, or the CIA.

At FEMA, retirements have accelerated since 9–11–2001 as employees have reevaluated priorities, and nearly 50 percent of the remaining workforce will be eligible for retirement in the next 18 months.

According to a recent Federal Times survey of more than 2,200 managers at our Social Security Administration, dramatic downsizing in the ranks of managers and front-line employees has hurt training, caused burnout, strained resources, reduced managers' effectiveness, and created disconnects between headquarters and field offices, all at a time when the agency's workload is skyrocketing.

According to GAO, the Department of Commerce is unable to effectively monitor U.S. trade laws with foreign countries due to a shortage of staff with the right expertise.

Mr. President, the evidence is clear. The Federal Government has a serious human capital crisis. That is why I have sought information from some of the best minds in the country over the past few years in public policy and management, and why I have spent so much time listening to the people closest to the problem.

Furthermore, Mr. President, I believe that if a Federal agency or department is important enough to receive the hard-earned tax dollars of my constituents and yours, we have a moral responsibility to see to it that the people's money is spent wisely. Outdated personnel practices and lack of training not only put agencies at risk of not being able to fulfill their mission and provide needed services to the American people, this also represents wasteful Federal spending. We simply must provide the flexibility agencies need and give them the right tools to do their work.

I have sought to attract attention to this issue at every opportunity. My subcommittee held 10 hearings from July 1999 to March of 2002. Two of those hearings were held by Chairman DURBIN, and I thank him for his willingness to work with me on this issue.

Earlier this year, Senator AKAKA held 2 days of legislative hearings on civil service reform. I also recognize his leadership and partnership on this issue. I sincerely appreciate their assistance in raising the profile of our pressing human capital challenges.

Also, in December of 2000, just before our new President took office, I released a comprehensive report on this subject "The Report to the President: The Crisis in Human Capital" which summarized our subcommittee's activities during the 106th Congress and made recommendations to the incoming administration on how to address the Government's human capital challenges.

Mr. President, I want you to know I have not been alone in my assessment of the situation. In 2001, Comptroller General of the United States David Walker designated human capital on the General Accounting Office's "High-Risk List." In the past, other areas that were on the list, such as the Y2K problem, the 2000 census, the Superfund Program, and the Department of Agriculture's farm loan programs, received attention and priority, and they no longer threaten the operations of the Federal Government. As Congress did with these issues, we must prioritize human capital; otherwise, this crisis will persist.

Dr. Joseph Nye, Dean of Harvard University's Kennedy School of Government, one of the top public policy schools in the Nation, also identified the Federal Government's human capital crisis as a critical issue. The problem truly hit home for his academic institution. During the nineties, increasing numbers of Kennedy School graduates, despite their top-notch graduate level training in public policy, chose employment in the private and nonprofit sectors rather than work for the Federal Government.

Dr. Nye noted he did not want the Kennedy School to be known as the second best business school in Cambridge! As a result, he organized a series of executive sessions during the 2001–2002 academic year, bringing together approximately 30 leaders on human capital management from the public, private, and nonprofit sectors: For example, professors from Harvard, Stanford, Wharton, CEOs, and former senior officials at the Departments of Treasury, Labor, Office of Federal Procurement Policy, and Office of Management and Budget. I attended three of the four sessions and found them productive and insightful.

In addition, the U.S. Commission on National Security in the 21st Century, a bipartisan group chaired by former Senators Gary Hart and Warren Rudman, released a series of reports providing a comprehensive evaluation of our national security posture.

We have been talking a lot about national security, haven't we? Their reports included many recommendations on homeland security which we are considering in this bill that is before the Senate. The Commission's final report concluded as follows:

> As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in Government.

Unprecedented crisis.

> The maintenance of American power in the world depends on the quality of the U.S. Government's personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure the United States can meet future challenges.

Furthermore, in his testimony before our committee, former Defense Secretary and member of the Commission James Schlesinger added:

> It is the Commission's view that fixing the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy.

Mr. President, yet another poignant illustration was offered by FEMA Director Joe Allbaugh when he testified before a Senate committee earlier this year. I note FEMA is one of the key agencies in the proposed Homeland Security Department. In describing his workforce needs, Director Allbaugh said:

We have not been spending enough time internally on our employees. Before 9/11, retention was a problem and there was essentially no recruitment. Over the next 18 months, nearly 50 percent of our agency is eligible for retirement, and since 9/11, retirements have accelerated. The people who worked at Ground Zero came to my office with a different perspective on life. They want to spend more time with their kids, grandkids, and spouses.

I think these comments represent the feelings of many Federal employees, and Director Allbaugh's testimony calls attention not only to the urgent need for reform of our civil service laws, but also for a completely new mindset for considering the Federal Government's personnel requirements and workforce culture.

Mr. President, if that is not a compelling call to address this issue, I do not know what is. Despite all the evidence that significant human capital challenges exist in the Federal Government, this issue has not received the attention it deserves. To its credit, the Bush administration has taken steps to raise the profile of this issue. In fact, strategic human capital management is one of the five governmentwide issues targeted for reform in the President's management agenda, which was released in August of 2001.

Having recently marked the 1-year anniversary of the horrendous and unprecedented terrorist attacks on the United States on September 11, the Senate is considering legislation designed to reorganize our Federal Government in a way that will help our Nation prevent future such attacks.

Suddenly, in the context of this debate, civil service reform is the issue du jour. It is an issue which for years has not been substantively addressed except when agencies become dysfunctional. It is now front and center in the consideration of the most important Government reorganization to take place in our Nation in half a century. It is about time.

In the debate over homeland security, we have backed into this personnel issue that has demanded attention for so many years. At least we are finally taking the first step to address the problem by having a debate on the subject. We are talking about personnel practices and the people who make a difference for the Government and deliver the services.

Unfortunately, however, this debate is limited to the proposed Department and not to the needs of the entire Federal Government. The entire Federal Government needs new flexibilities. Congress last enacted major civil service legislation for the entire Federal Government 24 years ago in 1978. In today's fast-paced, high-tech world, the 1970s represent almost prehistoric times when people were still using typewriters and the only computers were mainframes. To operate effectively, the Federal Government cannot afford to revise its personnel laws only every quarter or half century. The basic classification and compensation system for the Federal Government dates back to World War II, when the professionals in the civil service had jobs as clerks and typists and were at GS levels 2 and 3. Today's civil service professionals are typically GS-12s and GS-13s. So much has changed over the years, and changing times require new thinking and new laws—policies that allow flexibility in our Federal Government civil service system.

The intellectual basis for one of the areas I have sought to reform, competitive hiring, dates back to the Grant administration! Back then, our soldiers were using single-shot, repeating rifles, the telegraph was cutting-edge communications technology, and the primary mode of transportation was the horse! That was when we started the "rule of three."

I know of no successful business anywhere in the world that is using a personnel system based on management theory that is more than 50 years old, or which dates from the Industrial Age.

During the 107th Congress, I have worked with some of the Nation's premier experts on public management to determine what new flexibilities are necessary to create a world-class 21st century workforce, and to draft legislation based on their insights. These individuals include some of our colleagues in Congress, including Senator AKAKA; officials of the Bush administration such as OPM Director Kay Coles James; former OMB Director Sean O'Keefe, who now heads up NASA; Clinton administration appointees who spent a lot of time on this, including Steve Kelman, the former Administrator of the Office of Federal Procurement Policy; and Elaine Kamarck, a domestic policy adviser to then-Vice President Gore—this is a bipartisan effort; Federal employee unions such as the American Federation of Government Employees, with their president, Bobby Harnage, and the National Treasury Employees Union, NTEU, and their president, Colleen Kelley; representatives of public policy organizations such as the Council for Excellence in Government, Partnership for Public Service, Private Sector Council, Brookings Institution, National Academy of Public Administration, and the Volcker Commission; and subject experts in some of our country's top educational institutions, including Dr. Jack Donahue of Harvard's Kennedy School of Government.

I was especially attentive to the concerns of unions, making several significant changes to my draft legislation since last summer to allay their uneasiness with some of its flexibilities. I felt it was important. As someone who dealt with 25 unions when I was mayor, and with 5 unions when I was governor, I know it is important that unions be at the table and that their input be taken into consideration.

We made changes that include new language to clarify that the intent of my proposed early retirement and buyout authority is workforce reshaping, not the downsizing of the 90s; as well as the revision of removal of provisions that enjoyed strong support from other stakeholders, including the establishment of a public/private exchange program to cross-pollinate good management ideas between sectors of the economy.

In other words, we tried to accommodate the concerns of our union representatives.

Finally, Mr. President, I note that my bill was the subject of a letter to Chairman LIEBERMAN and other members of the Governmental Affairs Committee, a letter of support for the legislation was signed by 29 Kennedy School executive session participants. By combining my reform proposals with those of the administration, both of which I introduced last fall, I was able to develop a package of consensus human capital reforms that I believe will have a positive impact on the Federal Government's personnel management.

On June 20, along with Senators THOMPSON and COCHRAN, I introduced that consolidated bill, S. 2651, the Federal Workforce Improvement Act, a measure that is designed to get the right people with the right skills in the right jobs at the right time.

In July, during its consideration by the Governmental Affairs Committee, working with Senator AKAKA, I successfully amended key provisions of this bill to the homeland security legislation, and I really appreciate the bipartisan support we received for those changes. I am grateful to Senator AKAKA for that. I only wish we had put more of S. 2651 into the homeland security bill.

I hope as we wrap up homeland security—at least I hope we wrap it up, my colleagues will conclude we should adopt the rest of the provisions of S. 2651 in this important legislation.

Let us get it done all at once. The provisions we have already included will have an impact not only on the new Department but on all Federal agencies. The Voinovich-Akaka language will help the Federal Government begin to address its human capital challenges, challenges that extend far beyond the corridors of the proposed Department of Homeland Security. These flexibilities are not as comprehensive as what we were proposing for the new Department, but they represent a good start on the path of reform in this critical area that has not received adequate attention by past administrations or Congress.

It does the following: Creates Chief Human Capital Officers at the Federal Government's 24 largest departments and agencies, officials who have responsibility for selecting, developing, training and managing a high-quality workforce; establishes an Interagency Chief Human Capital Officers Council chaired by the OPM Director, to advise and coordinate the personnel functions of each agency and meet with union representatives at least annually; requires OPM to design a set of systems, including metrics, for assessing agencies' human capital management, something that has been largely ignored; reforms the competitive service hiring process, allowing agencies, consistent with merit principles, to use an alternative category ranking method for selecting new employees instead of the "Rule of 3," making the process more efficient and fair, a practice that has been very successful at the Department of Agriculture for the past decade; provides governmentwide authority for offering voluntary separation incentive payments and voluntary early retirement, buyouts and early-outs, for the purposes of workforce reshaping, not downsizing. This authority, which I was able to secure with legislation 3 years ago, is currently being used effectively on a limited basis for civilian employees at the Department of Defense.

It also lifts the total annual compensation cap for senior executives, allowing performance bonuses to be paid in full in a single year; and it reduces restrictions on providing academic degree training to federal employees, thereby emphasizing the importance of individual professional development.

In light of the fact that there has not been government-wide civil service reform in a quarter century and, as the Hart-Rudman Commission noted, personnel is the basis for maintaining national security, it is absolutely appropriate that this legislation be included in the bill to create the Department of Homeland Security.

I thank Senators GRAMM and MILLER of their willingness to consider my proposals which represent extensive efforts to address the Federal Government's personnel challenges during my 4 years in the Senate, and for including the Voinovich-Akaka language in their substitute amendment. I believe it is a strong addition that also has the administration's support.

As I said, I hope we'll be able to add the balance of S. 2651 to the homeland security bill before we conclude this debate, because these reforms are badly needed.

The Homeland Security Department is not the first, and not the last, agency that needs to have greater flexibility. Even more comprehensive flexibilities and reforms, similar to those proposed in the Gramm-Miller substitute for the Department of Homeland Security, which I will describe in a moment, are needed at other agencies as well, including the Department of Defense and NASA. These agencies may provide the impetus for Congress to return to this issue next year.

In fact I asked Senator WARNER and Senator LEVIN, when they were considering the Defense Authorization bill, to give consideration to accepting some personnel flexibilities that the Department of Defense wanted. I know from Secretary Rumsfeld that they will be coming back asking for those flexibilities.

It is my hope that the incremental provisions I have developed with my colleagues and a diverse group of stakeholders over the course of the last year will assist the rest of the federal government while we consider next steps.

I would like to take a few moments now to discuss the personnel provisions in the Gramm-Miller substitute that apply specifically to the new department. I have worked with Senators GRAMM and MILLER on these provisions and believe this language will provide the Department with the tools it needs to get the job done, and at the same time respects the rights of those union workers being transferred into the new department.

I say this because I am close to the leadership in both of our major unions. They have some concerns. I tried to get the administration to sign an Executive order continuing partnerships between unions and the Federal Government. Unfortunately, this did not happen. The administration also included competitive sourcing on the President's Management Agenda, setting targets that each department had to meet in order to receive a green light on the Management Scorecard. I said, if you tell an agency head that he must outsource 10 percent, 15 percent, 20 percent—instead of trying to shape his department with the people he has and give them training, he will spend all his time figuring out how he is going to outsource those jobs.

The proposed Department of Homeland Security will merge nearly 170,000 employees from more than 20 Federal agencies. This is a momentous undertaking. Although the creation of the Department of Defense in 1947 combined a larger number of civilian and military employees, the consolidation we are now contemplating would require more than a score of different workplace cultures and personnel systems to be effectively harmonized, all while the Nation entrusts this new department with the one of Federal Government's most urgent and important missions: to preserve the homeland and protect American citizens from harm. In order to accomplish this very tall order, the President and the new Secretary of Homeland Security will need new flexibility, and I believe Congress should authorize it.

In recent years, however, Congress has engaged in management by scandal, only granting more flexibilities when agencies under-perform! For example, the FAA, IRS and SEC each received special personnel authorities over the last decade, but only after each of these agencies was singled out for its failure to achieve its mission.

The Bush Administration has correctly pointed out that we cannot wait for a similar occurrence at the Department of Homeland Security, and it has justifiably sought broad flexibility for the new department before any mission failures occur.

On a related matter, Mr. President, it is interesting to note that the recommendations of the Hart-Rudman Commission form the intellectual basis for large portions of the underlying legislation we are debating today. Yet, while we are paying close attention to the Commission's recommendation to establish a new Department of Homeland Security, we are not seriously considering its recommendations to modernize the civil service system. We simply must take these necessary steps now.

The personnel provisions in the Gramm-Miller substitute represent a good-faith effort to modernize the personnel system for the new department.

The Quinn-Portman amendment would preserve employee rights, including hiring and promotion based on merit and equal pay for equal work, and would protect employees from improper political influence and reprisal for whistle-blowing. Employees would still be protected from prohibited personnel practices, such as illegal discrimination, politicization of the hiring or promotion processes, and violation of veterans' preference requirements. I notice my friend, Senator AKAKA was talking about the fact that whistle blowing is not involved in the amendment. We specifically talk about protection of employees against reprisal for whistle blowing.

Furthermore, employees would still have the right to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions that affect them.

First, the substitute features House-passed language proposed by Representatives JACK QUINN and ROB PORTMAN. In June, the President sent to Congress a blueprint for the personnel system he envisioned at the new department. The President realized that Congress would flesh out many of the issues in his proposal, and that is just what happened. The House-passed version is less flexible than what the Administration originally requested—it is really important to understand that—but it is designed to deal with the personnel flexibility sought by the President, and to address the collective bargaining rights that many of our colleagues seek to protect.

The Quinn-Portman amendment retains most of title V's provisions. This is not as broad as Transportation Security Administration to which Congress gave blanket exemptions from title V last November.

The language also requires that the new department collaborate with unions and other employee organizations in creating its personnel system. In addition, it includes procedures to ensure that exclusive bargaining units are represented by individuals designated by the union itself. It also provides certain safeguards for employees as the proposed department develops a new system for employee appeals.

In order to ensure that the new human resources management system is developed in collaboration with the unions, the Quinn-Portman amendment provides for direct involvement by employee representatives in three stages of the development process.

In the first stage, as the human resources management system is being designed, the Secretary and OPM Director must provide a written description of the proposed system or adjustment to the system; allow each employee representative at least 60 days to review and make recommendations on the proposal; and give any such recommendations full and fair consideration in deciding whether or how to proceed with the proposal.

At the second stage, when the Secretary and OPM Director decide to implement a human resources management proposal, they must, prior to implementation: give each employee representative details of the decision along with information upon which the decision was based; give each employee representative an opportunity to make recommendations; and give such recommendations full and fair consideration. If any employee representatives' recommendations are not proposed to be implemented, the Secretary and Director must explain why.

During the third stage, once a human resource management system proposal is implemented, the Secretary and OPM Director must develop a method for each employee representative to participate in any further planning or development.

The Quinn-Portman amendment also fleshes out the Administration's original proposal by providing necessary flexibilities in six key areas: performance appraisals, classification, pay rates and systems, labor-management relations, adverse actions, and appeals. Each of these areas would be open to modernization, subject to the explicit limitations included in the language to protect employees, which, as I have just delineated, are comprehensive, and rooted in current civil service law.

We currently have pending a second-degree amendment to the Gramm-Miller amendment from Senators BEN NELSON, CHAFEE and BREAUX.

They would like to reduce the six areas of flexibility to four. I happen to believe that the administration, in order to create this new Department, is going to need those six areas of flexibility to get the job done.

Based on my experience as mayor and Governor, I thought it also would be a good idea to have the Secretary negotiate as opposed to consult with union representatives in the six areas in which the administration is seeking flexibility. My belief in that regard comes about as a result of my experience over the years. In other words, after the consultation and the negotiation occurred, there would be an impasse panel that could be appealed to for a final decision.

I thought that would be helpful because it would make the negotiation more robust and there would be fewer areas of disagreement. Once it was over, the parties could say the matter was taken to a third party and decided. That is the way it should be decided.

In other words, and I want to point out to my colleagues, the success or failure of the administration to get the job done is going to depend on the relationship they develop with our labor unions and other Federal employee organizations. If there is consensus, if there is openness and a sense of fairness, this will be a great success. On the contrary, if it is an adversarial relationship, one that is not open, one where we don't have the discourse that we need, it will be a failure.

I have reorganized as Governor. I have combined departments as Governor. And I have found that the only way you can be successful is to work with organized labor on a consensus basis and work things out. Without working things out, it will not be a success. I have brought this to the attention of the administration several times. I am confident that with the process that is in the Gramm-Miller amendment, the process will be open and fair.

I have talked to Kay Coles James, Director of the Office of Personnel Management; I have talked to Mark Everson, Deputy Director for Management at OMB, and many other people. They understand that they have to build trust with the unions if they expect to have a successful Department. If they don't work together and achieve a consensus, we are in big trouble.

Finally, the Gramm-Miller substitute includes the House-passed language proposed by Representatives CONNIE MORELLA and CHRIS SHAYS—with an additional provision that I have recommended. This language would, for the first time, limit the current authority of the President to exclude an agency or agency subdivision from participation in a collective bargaining unit.

Under current law, the President may exclude participation in a collective bargaining unit upon determining that the entity has a primary function of intelligence, counterintelligence, investigative or national security work, and that permitting the entity to have union organization would be inconsistent with national security requirements and considerations.

I want to make this clear to my colleagues.

The Morella-Shays language would limit the President's current authority only with regard to the new department. It would prohibit the President from using the exclusionary authority unless the mission and responsibilities of a transferred agency materially change and a majority of the employees within such an agency have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism.

The language does provide, however, that the President could waive the above limitations on his authority if he determines in writing that their use would have a substantial adverse impact on the department's ability to protect homeland security.

Senators GRAMM and MILLER have agreed to add language that I proposed requiring that, when the President executes his authority under the Morella-Shays language, he must notify Congress of the reasons for his determination at least 10 days prior to the issuance of his written order.

What our unions are worried about is arbitrary and capricious action on the part of the President exempting members from membership in their unions.

This language basically says that we, for the first time, in the Homeland Security Department, will limit that power of the President, and if he exercises it under Morella-Shays, it means his decisionmaking will be subject to a filing in Federal court as to whether he has abused his discretion in exercising that power.

This is very important. If he decides to waive it and says, no, I don't want to do it by Morella-Shays, I want to go ahead and exercise my power, that basically says the President has to put it in writing, and send it to Congress. The unions will see it, the majority will see it, the minority will see it, the media will see it, and public personnel experts will see it. I have tried to convince some of my colleagues that this process is open to public scrutiny.

I have to say to my colleagues, how can you ask this President of the United States—at a time when we have a national security crisis—to give up the same authority held by all other Presidents since 1962—when we create this new Department of Homeland Security?

The fact that this administration has agreed to set up criteria and limit the President's authority to certain specific reasons for exercising it—to then say to the President, by the way, you can't do that now. To say, 'you have to send it to Congress 10 days in advance' is more than enough limitation on this historic executive authority. I say to my friends on the other side of the aisle, I say to my friends in the unions, that, first of all, I don't believe this President is anti-labor or trying to short-change or treat our employees improperly.

Second of all, even if he thought of doing something like that, or somebody recommended it, he would have to explain the rationale in writing, and allow it to be held up to public scrutiny 10 days prior to his order taking effect.

Mr. President, I have been one of the leaders on civil service reform during the last two sessions of Congress. I believe I have probably dedicated more time than any Senator to addressing the Federal Government's personnel interests. I have tried to raise the profile of this issue and then work in good faith with all interested parties to develop solutions. Based on my work, I want my colleagues to know I believe the personnel provisions in the Gramm-Miller substitute can go a long way towards putting personnel management in the executive branch back on track.

I just hope that somehow in the next couple of days we can work something out on both sides of the aisle so that people feel comfortable that we can protect the rights of organized labor and at the same time give the President of the United States the authority and the flexibilities he needs to get the job done.

I hope that after this debate is over, the well is not so poisoned that when the administration and the unions begin to sit down and talk with each other, they can work together to arrive at a consensus so that this reorganization can be successful and fruitful, and we can achieve what we all want to achieve to secure our homeland.

Thank you, Mr. President. I yield the floor.

Mr. REID. Mr. President, I say to my friend from Ohio, who I think is such a good legislator——

Mr. VOINOVICH. Could the Senator speak a little louder? I am wearing a hearing aid.

Mr. REID. I was saying nice things about the Senator. I will be happy to speak louder.

I was telling my friend from Ohio, who is such a good legislator, I would like to at a subsequent time today make a unanimous consent request that we vote on cloture on Gramm-Miller tomorrow. It is now set for Friday. We want to move this legislation along. I think that is what we need to do.

The Senator doesn't need to respond to that at all. I just wanted to let him know that we hope to work something out in the next couple of days. I hope we can work something out tomorrow. We want to move this legislation along.

I have to say this: Having been on this bill for the fourth week, I am concerned that maybe people down on Pennsylvania Avenue don't want this bill. We have done everything we can to move this legislation. It doesn't appear that people on the other side of the aisle want it moved.

For example, Senator BYRD's amendment was pending for several days. At any time, Senator BYRD's amendment was subject to a motion to table. Everyone knew there were enough votes to table that amendment. But for days, the minority chose not to do that.

So I hope that I am wrong. I hope that I am wrong. I hope that there are as many on your side of the aisle as on our side of aisle who want this legislation to pass. But I have the feeling now, I say to my friend from Ohio, is that the minority does not want to move the homeland security bill.

We will see in the next——

Mr. VOINOVICH. Mr. President, I say to the Senator, I beg to differ with the Senator from Nevada. We do want to move forward with this homeland security bill. We do want it to pass. We know how necessary it is for the President to have this new Department, with the flexibility he needs to merge more than 20 agencies.

From my perspective, I cannot figure out why the Majority has been filing cloture motions on some of these amendments, when I think they could make a motion to table instead. I am still trying to figure that out. I may need to get the Parliamentarian to explain what this is all about.

But I can assure you, that after the time I have spent on this issue with many of my colleagues, including many on the other side of the aisle, we want this to move forward.

We would like to have a vote up or down on the President's amended proposal, which is contained in the Gramm-Miller amendment. We would like to have a vote on the recommendations from Senators NELSON, BREAUX, and CHAFEE, and see where the Senate stands on that amendment.

We have to move this along. We cannot go home, I think, without getting this done. I know this has gotten to be pretty partisan. But I honestly believe that if we can sit down and start talking about some of this a little bit more, we could work something out and move ahead.

I assure the distinguished Senator from Nevada that we are not delaying this. We want to move forward. And I will certainly do anything I can to help cooperate in this regard.

But we want a vote on the Gramm-Miller amendment. We also want a vote on the amendment of Senators NELSON and CHAFEE and BREAUX.

Mr. REID. I would simply say—the majority leader is here, and I don't want to take a lot of time—the majority of the Senators over here want a bill. I am confident a majority of the Senators want a bill. This is the fourth week we have tried to do it.

We are trying very hard. We should be able to do it. It appears to me that some people cannot take yes for an answer. We are willing to give a vote on the amendment offered by the Senator from Texas, but he says he does not want a vote unless he can have the first vote. It is just a lot of what appears to me, and I am sure to the people in Nevada and the public, to be a lot of silliness.

We want to move forward with this legislation. As the Senator from Ohio has said, you want it passed. We want it passed. Hopefully, we can do something. But it appears we are not getting impetus from the leadership on your side of the aisle and the White House to get this done.

I am sorry to have taken the leader's time.

The PRESIDING OFFICER (Mr. MILLER). The majority leader.

Mr. DASCHLE. Mr. President, parliamentary inquiry. Who controls the floor?

The PRESIDING OFFICER. Nobody controls the floor at this time.

The majority leader is recognized.

Mr. DASCHLE. Mr. President, I do not want to interrupt the statement of the Senator from Ohio.

Mr. VOINOVICH. Mr. President, I don't see anybody else seeking recognition on my side of the aisle. I yield the floor.

Mr. DASCHLE. Mr. President, I came to the floor for a couple of reasons. One was to reiterate what I think I heard the assistant Democratic leader say with regard to our desire to have a vote. As we have indicated publicly and privately, we are prepared for an up-or-down vote. We want a vote on the Nelson-Breaux amendment. And once that vote is taken, we are more than willing to vote on the Gramm amendment. So there should be no question about that.

I think I heard the Senator from Nevada say that there are some who cannot take yes for an answer. We are prepared to offer that vote any time. I would hope that our colleagues on the other side of the aisle would take our offer in the manner in which it was intended. We hope to have a vote up or down on that particular amendment.

NO "CONTEXT" JUSTIFIES QUESTIONING THE PATRIOTISM OF OTHERS

Mr. DASCHLE. Mr. President, the other matter I wanted to come to the floor to discuss is the reaction to some of the comments that I made this morning.

A number of our colleagues have come to the floor and, as I understand it, the administration has stated that if I had understood the context in which the President made those remarks—the remarks that Senate Democrats are not concerned about national security—that I probably would not have been so critical. In fact, they criticized me for having criticized the President.

Mr. President, what context is there that legitimizes an accusation of that kind? I don't care whether you are talking about homeland security, I don't think you can talk about Iraq, you can't talk about war, you can't talk about any context that justifies a political comment like that.

This is politicization, pure and simple. I meant it this morning and I mean it now. I don't know what may have motivated those in the White House to make the decision to politicize this debate, but it has to stop. There is no context within which anybody can make that accusation about people on this side of the aisle on an issue relating to homeland security, or Iraq, or defense, or anything else.

So let's get that straight. I would hope that we can finally bring this debate to a level that it deserves.

I can recall in 1991 and 1992—especially in 1992—when President Bush made the decision he did. I can recall several of my staff coming to me, suggesting that we say this or that. But never once did I have someone on my staff, someone here in the Senate, refer to the politics of the war with Iraq.

I remember sitting at my desk, handwriting my speech, explaining to my people in South Dakota, and to whomever else might be listening, why I made the decision I did. I did not make that decision for political reasons. And I don't think there is a person in this Chamber who did.

We need that same level of debate this time if we are going to have a debate, if we are going to do it this close to an election.

So I want all the apologies at the other side of Pennsylvania Avenue, all of these explanations about "context" to be taken for what they are worth. They are not worth the paper they are printed on.

The time has come for us to quit the explanations, to quit the rationalizations, to quit the politicization, and do what we should do as Americans: Make our statement, make our judgment, have a debate, and send as clear a message to Saddam Hussein as we can. We are not going to tolerate his actions. And we, as a country, will build on a coalition to do the right thing.

I hope this will be the last word. I look forward to talking directly with those in the White House, those on this side of the aisle, as we fashion our response, as we take this matter as seriously as we should, as we do it in a way that lives up to the expectations of the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, in many ways, this has been a very hard day. I thank the majority leader of the Senate, TOM DASCHLE, for the remarks he just made and for the remarks he made earlier today. He actually spoke in defense of the Senate.

Anyone who knows TOM DASCHLE—and I think most people around here do—knows that TOM DASCHLE is a very soft spoken man. They know that TOM DASCHLE does not rise to anger or fights, if ever, very often. Therefore, one has to really look at why this occurred.

In my mind, this is not an isolated example of what has been happening. It is a continuum of what has been happening, starting with Andrew Card, the President's chief of staff, who, when asked, why didn't you start discussing this this summer, if you were ready to move such a resolution in October or September, answered, in essence: You don't roll out a new product in the summer.

This kind of thing just seems to continue. We have the Vice President campaigning and essentially saying to the campaigns of the Republican candidates: Gee, we really need you because the Democrats won't help our war effort.

I don't know where this President has been, but I have heard many Democrats, including, for example, the individual presiding in the chair, indicating their support. We are an umbrella party. We do represent different views. Frankly, it makes our party stronger. Everyone wants to go after Saddam Hussein. Everyone wants to get rid of those weapons of mass destruction. We may have a different path to get there. Some of us may want to go it alone and give the President the authority he asks for. Some may want to go with our allies. Some may want to see more U.N. resolutions, as the British have said they want.

The bottom line is, this makes us a strong party. Frankly, it makes us a strong Nation. I have heard members of the President's party express some concerns.

What TOM DASCHLE did was essentially come to the floor and defend the honor of the Senate and this democracy. Why did he have to do it? In today's paper, and also on television, we have seen this quote reiterated over and over. We have the President of the United States saying that the Senate is "not interested in the security of the American people."

I know of no one in the Senate, Republican or Democrat, who has slept well after 9/11. I know of no colleague on either side who doesn't think about it every day: How do we protect our people; how do we make the airlines safer; how do we protect this country from chemical warfare; how do we protect ourselves from a possible smallpox epidemic; how do we protect our nuclear powerplants; how do we protect our people night, day, in the air, on the ground? I don't know many Members in this Chamber on either side who have ever slept as well as they did before 9/11, who don't wake up in the middle of the night thinking about it or turn on the radio at 6 or 7 a.m. and pray that there isn't something there.

This kind of statement, that the Senate "is not interested in the security of the American people," is very hurtful. It is hurtful to this institution. It is hurtful to our democracy. It is, in particular, very hurtful because I have talked to my colleagues who served in Vietnam or who served in World War II or even some in Korea. Nobody asks in the military, Are you registered Democrat or Republican?

This is a horrible turn of events. If we don't express ourselves, it is dangerous for our country to put partisanship ahead of being unified as a nation, standing for the rule of law, for free debate, for discussion, for tough debate. That is good for this country. We have a lot of points of view out there. Everyone in this country needs to know that somehow, some way, somewhere their voice is being heard, not being stifled. Because if you dare to say something that questions anything, whether it is this homeland bill, which is a major reshuffling, the biggest reshuffling of the Federal Government in many years, since the creation of the Department of Defense, if you dare say, are we doing the right thing, are we taking our time, if you dare say that, you will find yourself being criticized in the middle of a campaign.

That isn't right. Of course, we will disagree on certain issues. That is the strength of this Nation. People died for that right. When Senator DASCHLE came down here and said he thought it was important to get an apology, I believed that apology should have been given. Not saying, well, we didn't mean this had to do with Iraq. It had to do with something else.

The statement stands on its own—it could be applied to anything—"the Senate is not interested in the security of the American people." That is why Senator DASCHLE came to the floor. That is why Senator DASCHLE for a moment even lost his voice, because he was so filled with emotion.

He looked behind him at Senator INOUYE who lost a limb in World War II. He thought of other colleagues who lost their limbs fighting for this country, who faced the posttraumatic stress of Vietnam, who came home and had to deal with that. Are the Vietnam vets Democrats? Are they Republicans? Are they Independents? I can't tell you that. But some of them are homeless. We need to stand united because they faced a war at a time that our country was divided. We need to make sure we give full debate, not some open-ended resolution.

I sat through a hearing today at the Foreign Relations Committee. It was a very important hearing. We had Ambassador Holbrooke there and Robert McFarlane. We had a Democrat and a Republican. We had a very important debate.

Many different viewpoints were reflected on both sides of the aisle. Some were saying: We are ready. They were ready to give the President whatever he needed, whatever he wanted, now, ready, today, go. Others on both sides of the aisle said, as I said: Where are our allies? Would we be in better shape to go in after another U.N. resolution? I asked: Is there a path to peace? Is there some way we can avoid the bloody war that may ensue? Is there a path to that peace? Let's talk about it. If we must have a war, what is this President's intention following that war? These are important questions.

One question that never was raised by anyone in that committee was: Is anyone on this committee motivated by anything other than patriotism and wanting to do what is right for this country, whether they support the resolution or they do not; whether they support the resolution of the White House or a resolution that may be written by some other Republican or Democrat? No one ever suggested that anyone of either party sitting in that hearing did not have the best motivation at heart for our country.

It is extremely disheartening when we hear the statement of Andrew Card that basically says: We did not want to roll out our new product—meaning resolution—in the summer, talking about it as if it was toothpaste or a new car. It is about life and death.

If anyone says: Excuse me, what is it going to cost us in lives, in blood, in treasure, that person ought to be respected, not told they do not believe in the security of the people, whether it is questioning the homeland security bill or maybe a better way to do that or questioning an open-ended, blank-check resolution which I think has come over and I personally cannot support. The people in my State are telling me they do not want me to support it. They do not want me or Senator DASCHLE to come here and not speak what is in our hearts, in our souls, in our minds.

Senator DASCHLE did a very brave thing today. He did something I believe we do not see often enough in politics today. He spoke from his heart. He spoke the truth, unvarnished. He did not go through a committee. He did not bring it to a political adviser.

Mr. SCHUMER. Will the Senator yield for a question?

Mrs. BOXER. Yes.

Mr. SCHUMER. I thank the junior Senator from California for her remarks which I think are right on point.

Mr. President, I would like to ask the Senator a couple questions. First, she was there, as I recall, as I was, when Senator DASCHLE came into our meeting this morning—there were maybe seven or eight Senators—and read the remarks. All of us were stunned and furious. We were just so upset that not a policy debate but, rather, a sort of below-the-belt hit was being made not only by political operatives but by the President himself when he said people are not for national security.

I have been asked by reporters: Was this a calculated move?

I said: No; you should have been there and just seen the reaction.

I remember the junior Senator from California, the senior Senator from New York, and some others of us urged him to go to the floor and to just speak his mind. He was saying to others: Maybe I ought to reflect on it. No, you should speak what you think.

I think it is clear, and I have been talking with people in my State, that the President has stepped over the line with these remarks. This weekend, I was asked by many people way to the left of me: Isn't the President, when he wants to go into Iraq, using politics?

I said: No, I don't think so. I think he has been wanting to go into Iraq from the very beginning.

Then for him to accuse Democrats of using politics, in my judgment—and I wonder what the Senator from California thinks because she has spoken in a heartfelt, compassionate way—I think the American people are fundamentally fair, and ugly tactics like that will backfire on their own, but I also believe it has to be pointed out because war is serious stuff and we need unity. We do not need political games.

Senator INOUYE said it best. I just ask the Senator if she is finding the same thing in her State as mine; that people are not sure, they want some questions asked before we go into war, and people do not like one party accusing the other of not being patriotic or being less concerned about national security simply because they ask questions. I wonder what the Senator's opinion is.

Mr. REID. Will the Senator from California yield for a parliamentary request?

Mrs. BOXER. I certainly will.

Mr. REID. Mr. President, we are on H.R. 5005; is that right?

The PRESIDING OFFICER. That is correct.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate go off the homeland security bill and proceed to a period for morning business, with Senators allowed to speak for a period not to exceed 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. My understanding is the Senator from California wishes to speak for how long?

Mrs. FEINSTEIN. Twenty minutes.

Mr. REID. The Senator from California, Mrs. FEINSTEIN, for 20 minutes following the statement of the Senator from California, Mrs. BOXER.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY

Mrs. BOXER. Mr. President, let me respond to my friend from New York. The phone calls, letters, and e-mails we have been getting have been one-sided against an open, blank-check resolution, as they are phrasing it, as was sent over. They are very much against what the President sent over.

More importantly are my conversations with my constituents. They clearly are very pleased that Senator FEINSTEIN has made remarks regarding Iraq, and I have spoken out. I have received calls now because I raised a number of questions in the Foreign Relations Committee regarding working with our allies, working through the U.N., asking: Is there a path to peace here?

What I pointed out is in recent years, I have voted for two resolutions to go to war: One was to stop the genocide by Milosevic, that was with a Democratic President, and one with current President Bush to respond to the brutal, inhumane terrorist attack on 9/11 for which every single Democrat in this particular body voted.

To me, it is not a question of will I ever vote for such action. It is a question of what is the best way to proceed. My constituents want to hear what I am thinking. I have been in Congress for 20 years. They do not want to see debates where one party is saying to another: You do not care about the American people. My friend is so correct. They look to us to engage in a rational debate, not to have one-line zingers as the President put out. This is not what they want.

Then Ari Fleischer, who is the press secretary for the President, said this today:

> It's time for everyone to work well together to protect our national security.

That was his remark after he was questioned about the President's statement.

That is the point that Senator DASCHLE was making, but not as rhetoric, as fact. There is an expression, I believe it was John Adams said: Facts are stubborn things. The facts are this President said very clearly: The Democrat-controlled Senate "is not interested in the security of the American people." My people at home are appalled at that.

Mr. CORZINE. Mr. President, will the Senator yield?

Mrs. BOXER. Yes, I will continue to yield to both my colleagues.

Mr. CORZINE. I want to reinforce what the Senator from New York said. By the way, this statement about not being interested in the security of the American people was made in Trenton, NJ, on Monday at a political rally. It is hard for me to understand what special interests are being reflected in the President's comments and its repeated nature.

I wonder if the junior Senator from California actually knew this was made in Trenton, NJ, at a political rally for the competitor to our side of the aisle? Is that not political in and of itself?

Mrs. BOXER. I say to my friend, I learned of this quote reading the front page today of the Washington Post, and I am going to read what it says. It says four times in the past 2 days Bush has suggested that Democrats do not care about national security, saying on Monday that the Democratic-controlled Senate is "not interested in the security of the American people."

His remarks, intensifying the theme he introduced last month, were quickly seconded and disseminated by Republican House majority whip TOM DELAY of Texas.

I was unaware of this, although it is interesting to me, because that particular race, of course, in New Jersey, which is pivotal to the future of this Senate, and adds to the political nature of this comment.

Mr. SCHUMER. Will the junior Senator from California continue to yield?

Mrs. BOXER. Yes.

Mr. SCHUMER. I believe my friend was here when I was back in 1991. There was a long debate. I think it was a debate on the merits.

Mrs. BOXER. Yes.

Mr. SCHUMER. Both sides debated strongly in a heartfelt way. The Nation voted to go to war. Whatever side you were on, it seemed to me by having the debate, by keeping the invective aside—I do not remember the previous President George Bush ever using lines like that. After the debate, the vote was close, I believe, in both bodies. It certainly was in the House. The American people were more unified. There was a feeling that everyone had their point of view, that everything was explored.

I would say to my friend from California, at every townhall meeting about Iraq, and I have had a bunch of them around the State, they say you must know something we do not know. There must be some secret.

I have attended a few of the classified briefings and obviously would not want to disclose what is in there, but I say to them, no, as to the basic broad facts, not any kind of detail that would involve security, but the basic broad facts are known to every American because they are in the newspapers. There are no hidden, deep, dark secrets, at least that I am aware of. Maybe there are that we do not know about. But in a democracy, you cannot go to war this way. You cannot say if you are a leader of the country, I know something you do not know, when you are sending the sons and daughters of America to be put in harm's way.

I do not know how I would come out if we had to vote today, but whether I would end up voting yes or no—and I do not know what the resolution would look like—I sure would feel bad if we did not have a debate, if we did not have a discussion, if a whole variety of questions were not asked.

I would like to hear my friend's opinions on this. This is the most awesome, humbling decision that a Member of the Senate or the other body can make, because you are putting the beautiful young people of America in harm's way. You have to be careful.

I am not a pacifist. I can think of a whole number of wars in our country's history where I would have enlisted. I would have been lined up the next day.

I would not say that first strikes should always be ruled out, but I sure want to ask some questions and I sure want to know some answers. This idea of trying to impugn the patriotism, in the interest of helping the American people, of anyone who wants to ask questions, I find, well, too low for words.

I ask the junior Senator from California if she has the same feeling. I come from New York. I know what terrorism does. I knew people who were lost. I put this flag on September 12, and I have worn it every day since then in memory of those who were lost. God willing, I am going to wear it every day for the rest of my life.

I know what terrorism is all about. Nobody wants to beat back terrorism more than I do, but I want to make sure we do it and we do it right. I want to make sure if we go to war in Iraq we are not going to ignore or take resources away from, for example, fighting al-Qaida or other terrorist groups. Perhaps we can do both, but I have not had a chance yet to get all the answers about that. I wonder what the Senator thinks.

Mrs. BOXER. I say to my friend, he is absolutely right.

I want to say for the benefit of my senior Senator for California, I will be talking another 5 minutes and then I will yield.

I want to underscore that what the Senator says is so right. After that debate that took place on the first gulf war, about 80 percent of the American people said they were so proud. Clearly, they may not have agreed with my position, your position, or any other Senator on the other side of the debate, but they saw debate free and open, respectful debate, among colleagues, asking questions, posing ideas, other solutions, other paths to resolve the issue.

In some cases, there was strong support for the President. They realized then that we are a representative democracy. They were calm.

When I went home this past weekend, I found out the people in my State are not calm. They are very agitated, and it is because they are worried that debate is being stifled. They are worried that a resolution is——

Mr. MILLER. The Senator has used her 10 minutes.

Mrs. BOXER. When Senator REID made the request, he did not apply the 10 minutes to this speaker, but I ask unanimous consent to continue for 5 additional minutes before Senator FEINSTEIN proceeds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. The people at home are agitated, I say to my friend, because they expect to see this respect go both ways between the parties and even, frankly, within the parties. We have Republicans who are asking questions and others who are not. We have Democrats who are ready to vote today for the Bush resolution and others, such as myself, who frankly could not because I believe it is a blank check.

I thank my friend for his engagement in this colloquy. Let me conclude in this way: I have thought to myself, why is this happening? I believe there is a political decision that has been made to keep this country focused on the foreign policy questions and not focused on the everyday kitchen table issues, the domestic issues that need to be addressed. I am going to go to some charts very quickly.

We have seen long-term unemployment more than doubling since this administration came in. We have seen the worst performance of the stock market since Hoover. That means pensions are going down the tubes, as well as 401(k)s, and people's hopes and dreams for their retirement. We have seen an average rate change in the real gross domestic product, which is the worst in generations. It is the worst of all Presidents from Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, Reagan, the first George Bush, and President Clinton. It is the worst growth rate. That is what we have seen.

In summing up the economic record, we have seen record job losses, weak economic growth, declining business investment, falling stock market, shrinking retirement accounts, eroding consumer confidence, rising health care costs, escalating foreclosures, vanishing surpluses, higher interest rates on the horizon, raiding Social Security, record executive pay and a stagnating minimum wage.

So I believe that a decision was made to deal with a foreign policy issue at the exclusion of what is happening on the ground with our families. Mr. President, that is distressing. We need to do both.

We need to rise to the foreign policy challenges we face. On the war against terrorism, we have a long way to go. In Afghanistan, in Pakistan, right here, with the cells that exist in our country, we have a long way to go. We need to step to the plate on that fight. We need to step to the plate on the Iraq challenge and handle it correctly with our allies, with a plan that will lead us perhaps to a peaceful end without having to shed blood. Maybe there is a chance. We should at least explore it. We have to step to the plate on the economic issues and we need to do that across party lines. We have to do it with the Republicans, with the Independents, with the Democrats—together.

One course we do not want is for one party to say about the other: They don't care about the security of the American people. If one party does that, as the Republicans did today, as the President did, as reported today, we will lose all these other battles. We will have a divided country. We will not be able to work together in good will.

My leader, TOM DASCHLE, the leader of the Senate, was right to say what he said, was right to express himself in the way he did. I hope the answer will be that in the future we will join hands as Americans and, even where we might disagree on a strategy, on an amendment, on a bill, work together as Americans. That is when the people are most proud of us.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized for 20 minutes.

IRAQ

Mrs. FEINSTEIN. Mr. President, I thank my friend and colleague, Senator BOXER, for her excellent remarks, and those Senators from New Jersey and New York who joined her. She has made a very impassioned message. It is a correct message. I hope people listen.

I also am deeply saddened by recent comments made by the President and Vice President which imply that Democrats are not protective of our Nation's security. Nothing is further from the truth.

There is no shortage of courage and bravery and patriotism on this side of the aisle. We, too, have our heroes who prove that: Senator MAX CLELAND, Senator DANIEL INOUYE, former Senator Bob Kerrey, and Senator JOHN KERRY, people who fought with bravery and distinction in major conflicts this Nation has had.

Even to imply the Democrats are not interested in the security of the American people is not only wrong, but in the present pre-election period I believe it is also base.

Last night, it was reported the Vice President went so far as to state that American security would be enhanced if a certain GOP candidate was elected to the House of Representatives. This very statement, carried by major newspapers, jaundiced any fair discussion in this pre-election period.

One might ask why? The reason is both the President and the Vice President have an extraordinary bully pulpit with a very long reach. It makes up about 95 percent of everything that reaches the American public; the remaining 5 percent is scattered among whoever is able to receive it.

If this debate is politicized in the heat of an election and the decision is made for the wrong reasons—out of fear; if we do not carry out the public trust that is invested in us and make the decision for the right reasons, then we betray our trust. And no election is worth doing that.

I share the concern of the majority leader, and I hope it is not too late to end this politicization. But there is only one way. Shortly, we in Congress will begin debate on whether to authorize the President the authority to use force against Iraq. It is, in effect, a declaration of war. The President has sent a draft resolution. He made his case before the United Nations. Today he seeks the support of the international community. Now it is our job, our constitutional duty, to debate this resolution. But we must do so in an atmosphere that is true. The decision to go to war is perhaps the most grave and significant decision any nation makes. It is a decision that must be made on its own merits, with a timetable determined by the cause and the case and not based on political considerations and upcoming elections. I believe that deeply.

A declaration of war against Iraq is the most serious decision many Members will ever make as Senators. It is a life or death decision for the American men and women we put into harm's way, for the innocent Iraqi people who will be killed, for the repercussions it will have throughout the Persian Gulf, the Middle East and the Arab world, and throughout our own country and the rest of the world.

Congress must not rush to judgment before it has had ample opportunity to answer the many questions that still remain regarding why a war, a preemptive war, should be fought at this time against Iraq. For example, what is the immediate threat to American security to justify an attack on another sovereign nation? How would such a war be conducted? How would we respond to Iraq's use of chemical or biological weapons, to an attack on Israel, or to a ricochet of terrorist incidents in our country and around the world? And what are our responsibilities for postwar stability once Saddam Hussein is ousted? How do we prevent civil war between the Sunnis and the Shias?

No one questions that Saddam Hussein is an evil man, or the potential of Iraq acquiring the nuclear capability within the next 5 to 7 years is a possibility. We believe it is. There is reason to believe that Saddam Hussein has squirreled away biological and chemical weapons. But they are most likely close to civilians: in tunnels, under mosques, around schools and hospitals, and inside palaces or in mobile vehicles.

This is not sufficient reason to preemptively attack another sovereign nation—for the first time in this Nation's history—without first being provoked by an attack against our homeland, our people, or our interests. It is not sufficient reason to put our service men and women in harm's way when there are real, viable options short of war left on the table. There is no question this country should take steps to disarm Iraq. Saddam Hussein, with chemical and biological weapons, represents a real threat to his own people, to the Middle East region, and to the international security. The question is, Is use of force the first option or the last option? In my view, it should be the last. In my view, working with the international community, doing all we can to disarm Iraq before jumping to military force, remains an option.

If Saddam Hussein balks at inspectors, if he starts playing games, if he continues to thwart the will of the international community, then the use of force by the United States has a moral imprimatur and is the only remaining viable answer.

There is no question that Iraq is in direct violation of international law, numerous U.N. Security Council resolutions, and that he poses a threat in the region. Nobody debates that. But there is no persuasive evidence that Iraq is prepared to unleash its biological or chemical weapons today. Although he used them against the Kurds in 1987 and 1988, and against Iran in their decade-long war, he has not used them in over 10 years, and he knows what will happen to him if he does. He may be homicidal but he is not suicidal.

Likewise, there is no persuasive evidence that he possesses nuclear weapons today. He may be trying to gain these weapons, but he remains years away. So instead of rushing to war, I believe we should proceed in a calm, methodical, and nonpolitical manner. The United States should work through the United Nations Security Council—as the President himself suggested in a September 12 speech to the United Nations and as Secretary of State Colin Powell is now trying to do to obtain full and unconditional access for arms inspectors, and hopefully accompanied by a United Nations military force.

We should seek the complete destruction of Iraqi weapons of mass destruction and the means to deliver them. This approach should be our first option, not window dressing or an option to be dismissed out-of-hand. And we should do this not for idealistic reasons but because it is in our national security interests to do so.

Indeed, the benefit of pursuing a multilateral approach was seen clearly when Saudi Arabia suggested that, if the United States were working through the United Nations, it would grant U.S. forces access to its bases. Action against Iraq becomes much more complicated, from a military perspective, if there are no landing or flyover rights in other Arab countries; and managing the aftermath becomes much more difficult if we find the entire Arab world against us.

So I believe that if the United States fails in its efforts to compel Iraqi compliance with a United Nations inspection, verification, and destruction regime—either because other countries threaten a veto in the Security Council or the United Nations is unable to muster the muscle and will to enforce its own resolutions—then the United States, with or without willing partners in the international community, must be prepared to go it alone.

But we must be clear. If we go to war, it should be to force Iraq to disarm.

This time, too, it is critical that the United States stays the course on the war on terror.

In every book you read on Osama bin Laden, you see that he believed that we would never stay the course in a war against him. We would hit a camp once and then disappear. As happened before, we would go to Somalia, get into trouble in Mogadishu, and we would turn tail and run. Bin Laden bet on that. He cannot be right about that. We have much to do to win this war.

Many of those who perpetrated the September 11 terrorist attacks remain at large, including two-thirds of the al-Qaida leadership; the Taliban and its leader, Mullah Omar; not to mention thousands of terrorists sympathetic to al-Qaida worldwide, including in our own country.

Afghanistan remains a fragile and unstable country. The United States must continue our efforts to rebuild this country. We cannot repeat what was done to it since 1979. We must continue our efforts to rebuild Afghanistan, the Afghan economy, to assure that the Taliban and al-Qaida do not return to power there—because they will if they can. We must protect and stabilize the Government of Hamid Karzai. And any effort in Iraq must not detract from our war on terror.

The President has rightly pointed out that the war on terror will be a long and hard-fought battle, and it is not just against al-Qaida. It is Hezbollah, which equals al-Qaida in its reach, in its viciousness, in its malevolence, and its evil. We must not take our eye off this ball. The President must come forward to explain not only how we fight this two-front war without allowing one front to jeopardize our interests in the other, but also what we would do in the event of a major strike against Israel.

I have come to this floor before and indicated that there is ample evidence that rockets are being shipped out of Iran, through Syria and into southern Lebanon—Katyusha rockets with extended range anywhere from 8,000 to 10,000, to hit Israel's industrial zone north of Haifa, should we attack Iraq.

What do we do then? What is our commitment, and what will the other Arab States do? I think we ought to know this. I think as prudent leaders, as part of a debate in the greatest deliberative body in the world, we ought to know these things before going into it, so there are no surprises.

Finally, it is critical that if and as we consider any use of force against Iraq that we have a clear understanding of the aftermath. Who would do the rebuilding? Who would pay for it? Who would run any new government? And could that government provide security? Could it prevent a bigger and more brutal battle between the Sunni and the Shia.

That is not a question to overlook. Read the history on Iraq. You will see the brutality and the viciousness, the attack of one tribe on the other that has characterized Iraqi history from the time of ancient Mesopotamia. There are a lot of grievances out there to be settled, big grievances between the Shia majority and the ruling Sunni Baath party minority.

As General Shalikashvili made clear in his recent testimony before the Senate Armed Services Committee, planning for a post-conflict situation, winning the peace, is every bit as important as planning for the conflict itself.

And until the planning for post-war Iraq is in place—and it is not now—we should not rush to initiate combat. In fact, every general with whom I have talked—and I have talked with several—has urged caution. Every general with whom I have talked, privately, believes this war could end up being much more difficult than some expect it to be.

So to simply rush ahead and authorize the President to use force now, before these questions are answered, and without an imminent threat—save what some hope to gain from this issue in the elections—would be a grave error.

Congress must debate these issues fully, thoroughly, on a schedule, and with a timetable driven only by the merits of the issues. We must then move forward to pass a resolution tailored to the specific circumstances and giving the President the proper authority he needs to safeguard U.S. national interests.

So much is at stake here. American lives are at stake. We do not know how many, but I know one thing: It is not going to be like the gulf war. This war will be in cities. This will be street to street and house to house. We might send in the B-2s, the B-52s and the 117s, and they might drop huge numbers of laser-guided missiles and precision bombs. We will kill a lot of people. And then do we risk what may happen with the chemical and biologicals squirreled away? Do they go up in those attacks? Or are they released over innocent people? I have never heard one person discuss this, and it is time that we do so.

We are not a mercenary nation. This is not our heart. It is not our soul. And we have never engaged in a preemptive attack on another sovereign nation.

It may well be that untold numbers of lives are at stake elsewhere in the Persian Gulf, in the Middle East, and yes, right here in the USA.

Matters of war and peace, of life and death, must not be held in the grip of shortsighted, partisan rancor. I for one refuse to make them so. I respectfully suggest the Administration do the same. The stakes are simply too high.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BROWNBACK. Thank you, Mr. President.

THE VICE PRESIDENT'S SPEECH IN KANSAS

Mr. BROWNBACK. Mr. President, I rise to discuss an issue that has been in the press much today, and I think there is a great deal of misinterpretation taking place about the President's and the Vice President's comments regarding homeland security and the war on terrorism.

I make specific reference to a speech that Vice President CHENEY gave in Kansas on Monday. I was at that event. I heard the speech. I was there supporting the candidate for whom the speech was given. Adam Taff, a fine candidate, is running for Congress in the Third Congressional District in Kansas. I want to make it very clear—and I want to enter into the RECORD a copy of the Vice President's words verbatim.

I ask unanimous consent that a copy of the Vice President's speech which he gave on Monday in Kansas be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY THE VICE PRESIDENT AT LUNCH FOR CONGRESSIONAL CANDIDATE ADAM TAFF, SEPTEMBER 23, 2002, KANSAS CITY, KANSAS

THE VICE PRESIDENT: Well, thank you very much, Adam. And thanks for the kind words, and for the opportunity to be here with all of you today. It's good to be back in Kansas, and standing next to the next Congressman from the Third District. (Applause.)

I'm also delighted today to get the opportunity to spend a little bit of time with Sam Brownback and Pat Roberts, two great United States senators. (Applause.) I know—of course; Pat was up here talking before we came on, and somebody came in and said, you know, you've got to get right down there, Senator Roberts is running out of things to say. (Laughter.) I knew better. (Laughter.)

It's always fun to get a chance to travel with my bride, and spend a little bit of time out on the campaign trail, doing important work. I often explain to people that we have a Republican marriage, that if it hadn't been for that great Republican victory in 1952, when Dwight Eisenhower was elected President, that our lives would have come out very differently. In 1952, when Eisenhower got elected, I was living in Lincoln, Nebraska, with my parents, just a youngster of some, I guess 11 years old at the time. But he came in and reorganized the Agriculture Department—my dad worked for the U.S. Soil Conservation Service. Dad got transferred to Casper, Wyoming. We moved to Wyoming. I met Lynn—we went to high school together, grew up together, got married, celebrated our 38th wedding anniversary last August. (Applause.)

But I explained to a group of people the other night that if it hadn't been for that Republican election victory, that Lynne would have married somebody else. She said, right, and now he'd be Vice President of the United States. (Laughter.) There's no doubt in my mind that what that's true. (Laughter.)

Of course, my job now as Vice President—my only job, actually, as Vice President—is to preside over the Senate. And when they wrote the Constitution they decided they needed a Vice President, somebody to backup the President in case something happened to him. But at the end of the constitutional convention they realized they hadn't really given the Vice President anything to do. So, finally, they settled on making him the President of the Senate, so that he could preside over the Senate and gave him floor privileges, as well.

And John Adams, of course, was our first Vice President, the first President of the Senate. And he presided and he also used those floor privileges—got up and could actually participate in the debate and speak to the issues of the moment and argue for and against the majors on the floor. And then he did that a couple of times and they withdrew his floor privileges. (Laughter.) And they've never been restored. (Laughter.)

But one of the things I do get to do is to swear in the new Senate every January. And I'm enthusiastically looking forward to next January, when I can swear-in Pat Roberts and the new members of a Republican-led Senate in January.) (Applause.)

We've got a lot of races here in Kansas this year. Of course, a new Secretary of State, Ron Thornburgh, I think will do very well. Congressman Jerry Moran, who has proved to be a great member of the House of Representatives. And, of course, the next Governor of Kansas, Tim Shallenburger. (Applause.)

And I bring greetings to the people of Kansas from President George W. Bush.

We're all here today because there's an important race for Congress in the third district—and we've got a tremendous candidate. This seat belonged for many years to a great lady and a close friend of Lynne's and mine. We all admire Jan Meyers for her integrity and devotion to duty. (Applause.)

I served for ten years in the House, most of that time with Jan and explained to people, of course—it was a special kind of arrangement to be the congressman from Wyoming, since there was only one congressman from Wyoming. It was a small delegation. (Laughter.) But it was quality. (Laughter.)

But our nominee that we have for the third district today follows very much in the tradition that January established for this district. Adam is a first-class candidate; a distinguished Naval aviator who has carried out missions in many parts of the globe; a citizen actively involved in the life of his community; and a person who understands the need for limited and effective government.

He'll be an effective voice for Kansas, and a fine addition to your Republican delegation—already one of the most talented we have in Washington. The election is just six weeks away, and there's a lot of work ahead. And I am here today to make absolutely certain that Adam Taff is the next congressman from the third district in Kansas. (Applause.)

The President and I look forward to welcoming Adam to the nation's capital come January. He'll be vital in helping us meet the key priorities for the nation—in terms of winning the war on terror, strengthening the economy, and defending our homeland.

For the economy, this administration's goal is for faster growth and for more jobs for American workers. Even in the face of the major challenges—from the terrorist attacks to recession—the economic picture is nonetheless promising. Worker productivity has grown. Interest rates remain low. Inflation is under control. Personal income has continued to rise. And the economy continues to expand.

All of these factors set us on a path for long-term growth and prosperity. And if we continue the positive direction President Bush has set for the nation—with solid, pro-growth, pro-job reforms—Americans will enjoy even greater prosperity in the years ahead. But we will not be satisfied until every sector of the economy—from agriculture to high-tech—is vigorous and growing. And we will not rest until every person in America who wants to work can find a job.

We'll see more growth and new jobs when Congress passes the President's energy policy—a policy that encourages efficient technology and conservation, and increases production here at home. Especially in times like these, we must pass a comprehensive energy bill, and reduce America's dependence on foreign oil.

We'll see more growth and new jobs when people around the world have more opportunities to buy things that are made and grown here in America. Under President Bush's leadership, Congress has passed trade promotion authority, signed into law just recently. The President will use that tool to open up new markets to our country's farmers, ranchers, and manufacturers.

Congress has also followed the President's lead in passing a new law to protect investors, to bring more accountability to corporations, and to ensure tougher oversight in the accounting profession. Our country has the most productive, creative, and promising economic system the world has ever known. The President's reforms will bring out the best in that system, and make it even stronger and better than ever before.

Americans can also count on President George W. Bush to continue working to reduce the federal tax burden. Last year we passed the biggest taxpayer relief package in a generation. As enacted, however, those reductions stay in place only for a time, and then expire in the year 2011. Even the death tax is scheduled to rise from the dead that year. For the health of the economy—and for the well-being of every taxpayer—we need to make the Bush tax cut permanent, and enforce spending discipline in Washington, D.C. (Applause.)

Some in that city need reminding that every dime the government spends was earned and sent in by someone else. And we have a responsibility to help keep spending under control. In a time of war and recession-induced deficits, we need to show extra care in our spending priorities, and the discipline that fits the times. The President's budget commits most new spending to national security and to homeland defense, and seeks to hold the rest of government to an increase of two percent. Were spending to grow without restraint, billions more would be diverted from families and entrepreneurs, limiting the economy's ability to expand in the future. President Bush is going to insist on spending discipline in Washington—and, if necessary, he'll use the veto power to protect the American taxpayer.

Another responsibility the President takes very seriously is the job of placing qualified, common-sense judges on the federal bench. (Applause.) The Senator has a responsibility of its own—to give every nominee a prompt hearing and a vote. The Democratic leadership has refused to do so. Dozens of judgeships sit empty, while many of the President's judicial nominees have waited for more than a year for the Senate Judiciary Committee to even give them the courtesy of a hearing.

In nominating judges President Bush chooses men and women of experience, judicial temperament, and good judgment—people who respect the Constitution, and understand the limits of judicial power. The Senate should move to confirm the President's nominees for the federal courts, and they should do so without wasting another day. (Applause.)

As we look to the agenda for the fall, we are keeping first things first. The most important responsibility we have, as Adam mentioned, is to protect the American people against future attack and to win the war that started on September 11, 2001.

This has been a period of testing for the United States. The American people have met that test. We are united. We understand the threats that have formed against us. We are determined to protect our country. And we will prevail.

In the past year, we have captured many terrorists, and frozen the assets of many terror groups and front organizations. Our people in law enforcement and intelligence, working under the most urgent and sometimes dangerous circumstances, have disrupted terrorist plots here and abroad. At home, we are reorganizing the federal government to strengthen our ability to guard against further attacks. And of course in Afghanistan—where so many terrorists were housed, armed, and trained—we have shut down the camps, and liberated an entire nation from the Taliban regime. In the case of Osama bin Laden—as the President said recently—"If he's alive, we'll get him. If he's not alive—we already got him." (Laughter.) That's a Texas phrase, I guess. (Laughter.)

Every bit or progress we've achieved, all of us appreciate that we are still closer to the beginning of this conflict than to its end. The President and I begin each day with a briefing on the threats facing the country. There is little doubt that our enemies are determined to do further significant harm to the American people. Nine-eleven and its aftermath have given us a clear picture of the true ambitions of the global terror network, as well as the growing danger of weapons of mass destruction.

In that changing environment, as always, we must take the facts as they are, not as we wish they were, and we must think anew about the requirements of national security. In the days of the Cold War, we were able to manage the threat with strategies of deterrence and containment. But it is a lot tougher to deter enemies who have no country to defend. And containment is not possible when dictators obtain weapons of mass destruction and are prepared to share them with terrorists.

We have already found confirmation that the al Qaeda terrorists are seriously interested in nuclear, chemical and biological weapons. At the same time, there is a danger of terror groups joining together with regimes that have or are seeking to building weapons of mass destruction. In the case of Saddam Hussein, we have a dictator who is clearly pursuing these capabilities—and has used them previously, both in his own against Iran and against his own people.

The government of the United States must not look the other way as threats gather against the American people. We are consulting with Congress and with our friends and allies around the world about the course of action. In his speech to the United Nations General Assembly, President Bush made clear to the international community the kind of challenges we must face together.

The President reminded the U.N. that Saddam Hussein made a series of commitments after his defeat in Desert Storm—and that he has broken every one of them. Saddam agreed to cease at once his repression of his people—yet the systematic violation of human rights continues in Iraq to this day. He agreed to return all prisoners from Kuwait and other lands—yet more than 600 are still unaccounted for, and one American pilot—a Kansan named Scott Speicher—is among them.

Saddam Hussein agreed to renounce all involvement with terrorism, and to permit no terrorist organizations to operate in Iraq. Yet Iraq continues to shelter and support terrorist organizations. Dissidents abroad are targeted for murder. The Iraqi regime has attempted to assassinate the Emir of Kuwait and a former President of the United States.

Saddam Hussein promised the United Nations that he would destroy and cease further development of weapons of mass destruction and long-range missiles—and that he would submit to unrestricted inspections. He has flatly broken these pledges, producing chemical and biological weapons—aggressively pursuing a nuclear weapons program—and working to develop long-range missiles. And for four years now, he has refused to admit U.N. inspectors—four years during which he has been able to plan, to build and to test in secrecy.

Last week's letter from the Iraqi government to the United Nations, now pledging to allow inspectors back into the country, is another attempt to avoid strong action by the Security Council. We have seen this kind of tactic before. In the letter, the regime says it has no weapons of mass destruction. We know this is a lie. The entire world knows, beyond dispute, that Saddam Hussein holds weapons of mass destruction in large quantities, and is seeking to acquire more. This is not a matter of inspections. The only issue is the disarmament of Iraq, the elimination of the weapons of mass destruction, as required by Security Council resolutions.

False statements from the Iraqi regime will not cause us to ignore history or reality. Saddam Hussein has spent more than a decade in complete defiance of all the demands of the United Nations.

The question for the international community is whether the Security Council resolutions will be enforced, or disregarded without consequence—whether the United Nations will be effective, or irrelevant. As for the United States, the President has made our position abundantly clear: we want to work with the United Nations to meet the common challenge. The Security Council resolutions are to be enforced, or action will be unavoidable. We must, and we will, take whatever steps are necessary to defend our freedom and our security. (Applause.)

In the challenges to America we will be expecting a lot from our military—and those who serve have a right to expect a lot from us. If we're going to ask young men and women to defend our country, our allies, and our freedom, if we're going to send them into harm's way, on dangerous missions to fight determined enemies—they deserve the best tools, the best training, and the best support we can possibly give them.

We are investing in our military so that we can deploy swift and agile forces—any place, any time they're needed. We are building precision weapons that can spare the lives of American soldiers, and innocent civilians in foreign lands. We will multiply every advantage in order to prevail over any enemy. And to have this capability, President Bush has asked for the most significant increase in defense spending since Ronald Reagan lived in the White House.

The conduct of our military does more than bring credit to the country; it reflects the basic character of the American people. This is a good, and decent, and generous land. We fight not for revenge against our enemies, but for the freedom and security of our own people—and for the peace of the world. At times in our history the price of freedom has been very high, but Americans have always been willing to pay that price—even when the odds weighed heavily against us.

I was reminded of this the other day as I read David McCullough's biography of our first Vice President, John Adams. When Adams and his fellow delegates voted to approve the Declaration of Independence, they knew precisely what kind of trouble they were bringing on themselves. To sign the Declaration, one of the founders said, was like signing your own death warrant. As of July 4, 1776, they would be considered traitors to the king, at war with the army of an empire.

Large numbers of enemy soldiers were already positioned on American soil, intent on crushing the rebellion in short order. In mid-August, 32,000 British troops landed at Staten Island—an army greater in size than the entire population of our then-largest city, Philadelphia. The American force was far smaller, had very little in the way of equipment and supplies, and was comprised almost entirely of poorly-trained volunteers. All they had was the courage of human beings determined to live in freedom.

Before they prevailed the Americans endured not weeks, not months, but years of hardship and struggle. The American victory at Yorktown didn't come until the fall of 1781. The Treaty of Paris, which John Adams helped negotiate and which ended the Revolution, was finally concluded in September of 1783—more than seven long, difficult years after the Declaration was signed.

From that day to this, the people of the United States have understood that the freedom that we enjoy did not come easily—and we have no intention of letting it slip away. History has called generations of Americans to defend our country and to defeat some of the gravest threats known to mankind. We have accepted that duty once again, because we know the cause is just—we understand that the hopes of the civilized world depend on us—and we are certain of the victory to come.

In this critical time I have the honor to stand beside a President who has united our nation behind great goals. For all the challenges we face, the United States of America has never been stronger than we are today—and even better days are ahead of us. President Bush and I are very grateful for the opportunity to serve our country. We thank you for your support—not just for our efforts, but for good candidates like Adam Taff, who will make a fine partner for us in the important work ahead.

Thank you very much. (Applause.)

Mr. BROWNBACK. Mr. President, I think it is important that we work off actual words and not headlines, off actual words and not interpretations, and off actual words and not feelings towards words.

That is the reason I wanted to enter into the RECORD the specific wording the Vice President used in the speech that is being commented upon a great deal by a number of Members. The headline that was out was not something that was said by the Vice President. I think it is important we get the actual words he used on Monday.

I want to also make something very clear. The Vice President did not at all challenge the patriotism of any Member of Congress—House or Senate, Republican, Democrat, or Independent. He did not challenge any of that. He didn't mention any member by name other than the one he is supporting, and who is running for the House of Representatives.

He spoke at length about Saddam Hussein, about the need for homeland security, and about the need to move these bills forward.

There was no accusation whatsoever about any lack of patriotism on anybody's part. He is supporting, in this case in Kansas, the Third District candidate, Adam Taff, a man who is a former military man, an F–18 pilot, who fought in the gulf war the first time around, and who is running for Congress. This particular individual actually served as an F–18 pilot in the military when Vice President CHENEY was then Secretary of Defense.

Here is a person, a candidate, Adam Taff, who actually worked for the Vice President when he was Secretary of Defense, in a military capacity, and he does push forward his military credentials, as any candidate for office would push forward his credentials for office. And Adam Taff claims his military credentials. I think that is fully laudable and appropriate.

I think it is important to make clear that the Vice President didn't challenge any patriotism whatsoever and did not reference the Senate in any of his comments. Again, as I stated, I have here his actual comments that have been submitted for the RECORD.

I think there has been far too much protesting about this when what we really need to do is get homeland security passed and get an Iraqi resolution dealt with and I hope passed. I hope we can get a resolution, work together in a bipartisan fashion, and get an overwhelming majority for the Iraqi resolution. If we need to adjust words on it, I think that is fully appropriate because we need to show to the world a united front and that this distraction today is just that—a distraction.

Homeland security we should have passed some time ago. We have been on it now for 3 weeks. We have been on it primarily because of special interest issues and not because of interests for the country. I think we need to get that bill posted and cleared in this Congress. It would be an important thing for us to do. It is the time for us to get that done. We have dawdled too long on it.

But these allegations coming forward today that somehow there has been a challenge to the patriotism of other Members of this body are simply not supported by the facts. They are not supported by the facts anywhere. They are not supported by what the Vice President said in Kansas.

We clearly need to deal with the facts instead of trying to divert attention by saying there is an accusation going on which is not built upon the facts—allegations that are coming forward challenging the patriotism of people who have served in the military and in this body. Nobody is challenging that.

There is a clear challenge that we are not getting homeland security passed. We have been 3 weeks at it. There is a clear challenge that we have to get an Iraqi resolution passed before this body goes out for the election period—possibly an extended recess, or coming back in a lame duck session, whichever actually takes place.

We really should get this bill moved forward. I think if people want to do away with these accusations, the best thing we can do is pass the homeland security bill and pass an Iraqi resolution that we work and mold together here as a body, and get that passed by an overwhelming majority in this body.

I urge my colleagues; I think it would be wise for us to lower our decibel level on this, look at the factual material, and not go after misleading headlines but actually examine the record and move forward with these two very serious pieces of business. It is important that we do that.

The Vice President has not—and I don't think in the future will—challenged anyone's patriotism. People disagree on political issues. They disagree on issues of policy. That is clear. That is why we have a body that debates these issues.

Some people view homeland security one way, and some people think we ought to support giving the President the authority to take whatever means necessary to remove Saddam Hussein. The former Vice President articulated a couple of days ago, saying no, that this is something we don't need to do and shouldn't do at this time. That is the former Vice President's opinion. Others have a different opinion on that.

But we would be wise to debate what those issues are, and the specifics, and not allege issues of character which are not being challenged by the President or by the Vice President.

I yield the floor.

COMMERCIAL OPERATIONS OF THE CUSTOMS SERVICE

Mr. BAUCUS. Mr. President, I am very pleased that the Senate agreed last night, by unanimous consent, to adopt an amendment that Senator GRASSLEY and I offered to the homeland security bill. Our amendment will reinforce the commercial operations of the Customs Service within the new Department of Homeland Security.

A key objective of the homeland security bill is to create coherence in law enforcement at our nation's borders. The Customs Service is vital to that endeavor. For the vast majority of people entering the United States, their first encounter with the U.S. Government is when they are cleared by a Customs officer.

The Customs Service is the principal U.S. Government agency at most ports of entry. It enforces a multitude of commercial and other laws on behalf of itself and some 40 other Federal agencies. In addition to collecting duties, fees, and taxes on imports, Customs assists the Census Bureau in collecting trade data; enforces our environmental laws by ensuring that products of endangered species are not brought into this country; protects U.S. intellectual property owners and consumers by barring entry to counterfeit and "gray market" goods; prohibits illegal drugs and other contraband from coming into the United States; and enforces numerous other laws.

It was a Customs inspector who apprehended the so-called millennium bomber in Port Angeles, WA in December 1999. Customs also has played a major role in putting an end to the scourge of child pornography on the Internet and to fighting the war on drugs. Unquestionably, Customs is an essential player in law enforcement at our borders and, for this reason, ought to be integrated into a new Department of Homeland Security. At the same time, we must not forget that the core mission of the Customs Service is a commercial mission. Customs is first and foremost responsible for the collection of duties, taxes and fees on imports. This is one of the oldest functions of the Federal Government. It was authorized by the second act of Congress, in July 1789.

Today, duties collected by Customs constitute the second most important source of federal revenues, after the income tax. In fiscal year 2001, Customs processed over 25 million formal entries of cargo, worth over $1 trillion. Duties, fees, and taxes on that cargo amounted to about $20 billion. Thus, Customs' performance of its core commercial function is critical as a source of revenue to the U.S. Government. Customs' performance of its core commercial functions also is extremely important to the U.S. businesses that rely on imports and exports. The approximately 25 million formal entries that Customs processed in fiscal 2001 represented a 60 percent increase from only 5 years earlier. The volume of international trade is increasing significantly. To keep that trade flowing, Customs must perform its job with ever greater efficiency.

For these reasons, we must ensure that in moving from the Department of Treasury to a new Department of Homeland Security, Customs is able to do its commercial job as capably as it does today. I commend Chairman LIEBERMAN for recognizing this imperative and for working with the Finance Committee to secure the Commercial side of Customs within the new Department. I would like to point out that in mid-July, the Finance Committee held a very enlightening hearing on the issue of Customs' integration into a Department of Homeland Security. Following the hearing, Senator GRASSLEY and I transmitted a set of recommendations to Chairman LIEBERMAN and Ranking Member THOMPSON. I am very pleased that a number of the key recommendations are part of the pending bill. In particular: The bill preserves the Customs Service as a "distinct entity" in the new Department. The bill provides that appointments required to be made by the President, by and with the advice and consent of the Senate shall continue to be subject to that requirement. I understand that this will include the Commissioner of Customs. The bill preserves for the Secretary of the Treasury certain legal authorities regarding "customs revenue functions." Thus, even though Customs will move to the Department of Homeland Security, the Secretary of the Treasury will remain the ultimate decision maker in issuing most commercial regulations administered by Customs. this is important, because it ensures that the national economic interest will guide the issuance of regulations affecting Customs' commercial operations.

We must bear in mind that this bill will move a commercial agency—Customs—from a Department whose primary focus is on the national economic interest, to a Department whose primary focus is on national security. The provisions I cited will help ensure that Customs' commercial mission does not get diluted in that process. The amendment accepted yesterday bolsters that objective.

The amendment contains three provisions.

First, it makes clear that certain user fees that Customs collects from passengers and conveyances entering the United States will be available for use by the Customs Service exclusively.

Second, it sets up a special account at the Treasury to support development and implementation of Customs' Automated Commercial Environment, known as "ACE." ACE is a modern computer system that will replace Customs' antiquated system for the processing of imports. Of the fees collected by Customs for processing merchandise, $350 million per year will be deposited into the ACE account.

Third, the amendment makes clear that the Advisory Committee on Commercial Operations of the United States Customs Service—known as the "COAC"—will remain in existence following Customs' move to the new Department. The COAC was created by statute in 1987. It is a bipartisan group of 20 representatives of individuals and firms affected by commercial operations of Customs. Over the years, it has provided valuable advice to the Secretary of the Treasury. Under this amendment, ti will continue to do so, and will advise the Secretary of Homeland Security as well.

I firmly believe that these provisions, along with the customs-related provisions in the underlying bill will ensure that Customs remains a strong and effective trade agency, as well as a strong and effective law enforcement agency, in the new Department.

Finally, I would like to say a word about another aspect of the Lieberman bill for which the Chairman should be commended. I am referring to the provisions protecting the rights of employees in the new Department. The most valuable resource of our government is the people who work for it. We must give every incentive for the best and the brightest to serve and to continue serving.

I understand that the President has asked for enhancement "flexibility" in dealing with employees of the new Department. However, it is not at all clear to me that depriving federal workers of collective bargaining rights, merit systems protections, and whistle-blower protections, among other protections, is necessary to achieve improved homeland security. In fact, I believe that just the opposite is true. To improve homeland security, we need a top-notch workforce. Getting and keeping that top-notch workforce means assuring employees that they will be treated fairly and enjoy the same protections that other federal employees enjoy. I applaud Chairman Lieberman for recognizing this and embedding it in the bill.

I thank the Chair.

EXPLANATION OF VOTES

Mr. BAUCUS. Mr. President, I rise today to discuss my intent on four rollcall votes where I was necessarily absent due to my required presence in my home State of Montana. These votes are directly important to Montana and the Nation. I would like the opportunity to further the debate on these timely issues.

The cloture vote on Senator BYRD's amendment to the fiscal year 2003 Interior Appropriations legislation has a direct and fundamental impact on Montana for three reasons. First, the amendment reimburses the United States Forest Service for funding expended fighting fires this year. This funding is essential because of the high fire danger that still exists in the West due to the prolonged drought and funding already spent on fires cannot be used for existing USFS obligations and duties on our national forests.

Second, my good friend from West Virginia's amendment has already been modified to include the most important funding that could be dispersed this year for Montana's economy. I'm speaking, of course, about natural disaster funding for our farmers and ranchers. Montana is suffering through its fourth year of drought and conditions could not be worse. If we do not move forward with a disaster package, there will simply be fewer family farms and ranches around next year. Period. This is a debate that has gone on far too long and the House and President Bush need to come to the table and accept the work of the Senate. A natural disaster proposal has now passed the Senate twice by a large bipartisan margin. Now is the time to get this funding out to the people who need it, who need certainty about their future.

Finally, the reason that a cloture vote is required stems from the controversial nature of the pending amendment of Senator CRAIG regarding forest health. The issue of forest health is a huge problem in the West and has the most direct of conditions with not only the increased fire risk, but the drought that this legislation addresses. While the proposals vary, forest health is an issue that needs to be dealt with immediately. Further delay in the Senate does not serve Montanans or anyone in the West that is trying to make a living and a life under these conditions.

Because we need to deal with all three of these issues as soon as possible, I fully support cloture on Senator BYRD's amendment. I am disappointed that it did not pass.

With regards to the amendment proposed by my colleagues from Connecticut, Senators DODD and LIEBERMAN, I am forced to disagree with the basis of their amendment. My colleagues from Connecticut have represented their amendment as only codifying existing procedures. But, from what I understand based on the hearing held in the Indian Affairs Committee on September 18, this amendment in fact requires the implementation of new procedures, including adversarial hearings at the request of any interested party, raises the burden of proof that a petitioning group must satisfy in meeting the seven mandatory criteria, and requires the Department to provide notice to officials of every State and local government and municipality where a tribal group may have ever been historically located or any geographic area a tribal group may have ever occupied.

In my home State of Montana, the Little Shell Band of the Chippewa Indians have been battling for over a decade for their Federal recognition. They have had to jump through many hoops as it is and they have yet to receive their official recognition. My Colleague's amendment would not only prolong the Little Shell's recognition, but would only add to the burden they have already carried for over a decade. Based on the outcome of the Indian Affairs hearing and the impact on my tribe at home, I respectfully disagree with my colleagues on this matter and believe it is in the best interest of the recognition process that their amendment was rejected.

Moving on to the Homeland Security votes, I would like to address the amendment introduced by my esteemed colleague from West Virginia once again. Senator BYRD has urged that the Senate take its time to thoroughly debate and analyze the proposed legislation to create the Department of Homeland Security. He has introduced an amendment to ensure that the Congress continues to play a role in the creation of a new Federal Department of Homeland Security. I agree with the good Senator that Congress should debate and analyze this proposal, but I disagree with his proposal on how that debate should proceed.

The Byrd amendment would require that the department be established in three phases. Each phase would be initiated by a proposal sent to the Congress by the President. Each proposal sent to Congress would be referred to the appropriate congressional committees. The appropriate Congressional Committees should be involved in this process. But there are no deadlines or fast track procedures for legislative consideration and no guarantee the proposals would ever emerge from Congress and be signed into law.

This amendment would force Congress to reopen every battle over which agencies should be transferred into the new Department and on what terms they would be transferred. Moreover, by dividing the development into five separate legislative proposals, this amendment makes it impossible for legislators to consider the Department as a whole.

I regret to say that I cannot support my colleague's amendment and believe it was in the Nation's best interest that the amendment was not agreed to.

Finally, ever since the devastating attacks of September 11, Americans have been asking how the attacks happened, why they weren't prevented, and what corrective measures could be taken to prevent similar tragedies from ever occurring again. The American people deserve answers to these very legitimate questions. It's important that we find out just what happened through a non-partisan commission.

The amendment introduced by Senator LIEBERMAN represents a bipartisan initiative to help answer the many remaining questions in a constructive, methodical, and nonpartisan way. I support the amendment and am pleased that it passed.

SALUTE TO TAIWAN'S FIRST LADY

Ms. LANDRIEU. Mr. President, I take great pleasure in welcoming Taiwan's First Lady, Wu Shu-chen, to Capitol Hill. Madam Wu Shu-chen is a unique and remarkable woman. She is the Republic of China's youngest first lady, yet she has the poise and charm equal to those much older than she is. Men and women of all political parties admire her as a genuine person, totally unaffected in manners. When she addresses an audience, she speaks from her heart and writes her own speeches in a simple and direct style. She is what you see, a natural gem, without artificial polish.

Like her husband, Chen Shui-bian, Madame Wu, has overcome a great deal of adversity. And like her husband, they have both been strengthened by their struggles. In 1985, Madame Wu was struck by a hit and run driver. Her injuries left her permanently paralyzed from the waste down and confined to a wheel-chair. Soon after Madame Wu was tragically wounded, her husband was imprisoned for political reasons. Madame Wu did not shrink from her duties to her family or her country. While her husband was in jail, she not only served as a pillar for her family, but she ran for a seat in the national legislature and won. No obstacle affecting her body or her heart could deter her.

Such a woman deserves our praise. Madame Wu is a natural leader; a matriarch in her family; and a matriarch to her country. I salute her for her selfless devotion to the people of Taiwan. We can all take strength from Madame Wu, and she is a role model for young women everywhere.

Mr. HELMS. Mr. President, I extend my warmest welcome to the First Lady of Taiwan, Chen Wu Sue-jen, wife of President Chen Shui-bian, who is in Washington this week to visit with some of her and her husband's many friends here.

I am among the many admirers of President Chen. He is a courageous leader of his country at a very difficult time. The courage of his wife has earned for her great respect. In 1985, while supporting one of her husband's campaigns, Mrs. Chen Wu was hit by a vehicle that left her paralyzed from the waist down. That regrettable episode, believed by many to have been politically motivated, left this dear lady permanently confined to a wheelchair.

The following year when her husband was imprisoned by his political foes, Mrs. Chen Wu sought election on his behalf for a seat in the national legislature. She won and served in the legislature in spite of her serious injury. This courageous lady thereby kept Chen Shui-bian's political cause in the public eye.

Both before and after these events in their lives, Mrs. Chen Wu provided indispensable encouragement and support as Chen Shui-bian progressed from legislator to Taipei Mayor to President. He has called his wife his "most important source of strength."

First Lady Chen Wu Sue-jen was instrumental in building Taiwan's early, unequivocal and generous support for the United States and American people following the attacks on September 11, 2001. She comes to the United States this week with a message of Taiwan's continuing strong support in the war against terrorism.

I know that Senators will share my appreciation for her country's friendship and solidarity. I also hope they will join in welcoming Taiwan's First Lady on the occasion of her historic visit to the United States.

Mr. BOND. Mr. President, today I would like to recognize Madame Chen We Sue-jen, the first lady of Taiwan, and welcome her to Washington, DC.

Madame Chen We Sue-jen has displayed exemplary character and strength in her endeavors to promote justice, human rights, and democracy in Taiwan. Overcoming both personal and professional hardships with grace, she has remained steadfast in her support of these principles.

Although Madame Chen We Sue-jen has overcome obstacles throughout her public career, never has she let it overcome her. She is described as optimistic, cheerful and friendly-noted for her sense of human and laughter. She continues to act as a strong and effective advocate for Taiwan's physically challenged citizens. Throughout all her trials, she has remained solid in her support for her family and the people of Taiwan. This strength of character has contributed much to the First Lady's greatness.

First Lady Chen Wu is here today to bring a message from her husband and the people of Taiwan. Her message is one of cooperation and support from the Taiwanese in our joint antiterrorism campaign. Already, with support of Madame Chen We Sue-jen, Taiwan has demonstrated charity and humanitarian assistance to the victims of the terrorist attacks on September 11, 2001. As mentioned in the House Resolution, the Government and people of Taiwan have consistently provided tremendous support and generous contributions to the United States after those attacks.

Madame Chen We Sue-jen is a woman of great character and strength. I wish to offer my warmest welcome to her as she visits the Capitol. I extend my gratitude to her for all the important work she has done and I wish her well in her pursuits of justice and democracy.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 17, 2001 in Helena, MT. A gay college student was beaten unconscious in his dorm room. The attacker struck the student in the head with a bottle, beat him while he was unconscious, and wrote "Die Fag" on his body with an ink marker. The victim withdrew from school two weeks after the attack.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CRANE CONSERVATION ACT OF 2002

Ms. LANDRIEU. Mr. President, I rise today to express my support for S. 2847, which I recently joined as a cosponsor.

Cranes, the tallest flying birds on Earth and among the most graceful, inhabit wide expanses of wetlands and grasslands and exert a charismatic appeal reflected in many cultures.

Our Whooping Crane, the rarest of the world's cranes, is shared with Canada and has survived only because of close cooperation between the United States and Canada. If the species is to survive, however, those magnificent birds need more intensive conservation efforts. This bill would provide such help, all up and down the Mississippi River Flyway, while also applying our conservation techniques on behalf of nine more endangered species of cranes in Africa and Asia.

This bill would support organizations with expertise in crane conservation by funding projects in areas such as habitat protection and restoration, research and monitoring of crane populations, community participation and outreach, and reintroduction of cranes to the wild. The projects will be asked to promote long-term conservation by eliciting matching funds from government agencies, local communities, NGOs or others in the private sector.

Whether in Louisiana, elsewhere in the United States, or overseas, protecting cranes' ecosystems benefits thousands of other animal and plant species at the interface between aquatic and terrestrial habitats.

Louisiana is important to cranes because of the spectacular wetlands along our southwest coast. Sandhill cranes, which had disappeared from the state, already have returned as a wintering species. In a natural area near New Orleans, the Audubon Nature Institute has established a Species Survival Center which is rearing the endangered Mississippi subspecies of the sandhill crane, for release in the Mississippi Sandhill Crane National Wildlife Refuge near Biloxi. That Center also recently received eight Whooping Cranes and plans to expand to ten breeding pairs as the core of a plan to restore Whooping Cranes to Louisiana's coast.

Funding would flow through a new "Crane Conservation Fund" in Interior's Multinational Species Conservation Fund. In covering cranes, this bill would for the first time provide such protection for a species of bird.

I ask other Senators to join me in supporting the Crane Conservation Act of 2002.

FALUN GONG

Mr. BOND. Mr. President, today I would like to recognize the determination and perseverance of the Falun Gong, a peaceful movement seeking the basic freedoms to think as they wish and believe as they choose that we as Americans hold so dear.

Three principles of Truth, Compassion, and Tolerance lie at the core of Falun Gong. Those who practice Falun Gong do so to become better, healthier people through living by these principles.

Despite Falun Gong's peaceful principles and teachings, violations of human rights have occurred in China against Falun Gong practitioners. Human rights is an important goal as recognized by the United Nations Universal Declaration of Human Rights which sets forth certain basic rights such as the right to life, to liberty, and to the freedom of expression. The Senate has ratified a series of international treaties such as International Covenant of Civil and Political Rights, 1976, and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1987. The Senate's approval of these and other treaties highlights the progress made towards human rights.

In direct response to the recent human rights violations against Falun Gong practitioners, the Senate, on November 19, 1999, unanimously approved Senate Resolution 217. This resolution, "recognizing the plight of many Chinese citizens," calls on the Government of the People's Republic of China to: 1. release all prisoners of conscience and put an immediate end to the harassment, detention, physical abuse, and imprisonment of Chinese citizens exercising their legitimate rights to free belief, expression, and association; and 2. demonstrate its willingness to abide by internationally accepted norms of freedom of belief, expression, and association by repealing or amending laws and decrees that restrict those freedoms and proceeding promptly to ratify and implement the International Covenant on Civil and Political Rights.

We must embrace the opportunity to continue to support the principles of Falun Gong to realize freedom and I wish them well in their quest for freedom and justice.

ADDITIONAL STATEMENTS

NEW JERSEY TASK FORCE ONE

• Mr. TORRICELLI. Mr. President, I rise today to bring to the attention of the Senate the outstanding efforts and contributions of the New Jersey Task Force One Urban Search and Rescue Team.

On September 11, 2001 at approximately 9:00 a.m. New Jersey Task Force One was activated and deployed to the World Trade Center Attack. Requested by New York City's Office of Emergency Management, New Jersey Task Force One had an advance team in New York City by 11:15 a.m. The team's entire equipment cache, along with 140 members was set up at the Jacob Javits Center by 2:00 p.m. that same day. They deployed search assets to search for survivors during the afternoon and evening of the 11th and for the next 10 days, they worked continuously as part of the urban search and rescue effort.

In a short period of time, New Jersey Task Force One became an integral part of the rescue efforts. The team was integrated into the FEMA Urban Search and Rescue System and was included in the FEMA Urban Search and Rescue Action Planning. The well-equipped New Jersey Task Force One had the ability to lend critical equipment to some of the responding FEMA teams and developed an excellent working relationship with many of these teams. Structural engineers and planners from New Jersey Task Force One were used by the FEMA Incident Support Team to brief the incoming FEMA teams as they rotated into New York City.

FEMA gave an operational performance evaluation to New Jersey Task Force One for their participation related to the World Trade Center Operations. New Jersey Task Force One was rated as superior in six out of nine categories. Those categories included attitude, initiative, consideration for personnel welfare, obtain necessary equipment and supplies, physical ability for the job, and safety.

With valor and honor, the members of New Jersey Task Force One have proven themselves as one of the finest Urban Search and Rescue teams in the country. It is for these reasons that my colleague, Senator CORZINE and I introduced S. 2618 to designate New Jersey Task Force One as the 29th National Urban and Search Rescue Team.

New Jersey Task Force One was formed in 1997 and they have used the FEMA Urban Search and Rescue guidelines in its development. The team is organized under the New Jersey State Police Office of Emergency Management Domestic Preparedness and Hazardous Material Planning and Emergency Response Unit. The State provides an annual budget of $1.5 million to support New Jersey Task Force One.

The team consists of 180 members from over one hundred different fire, police and EMS agencies throughout the State. Over the past few years, New Jersey Task Force One has purchased the necessary cache of equipment, based on the FEMA equipment list, and has trained its members to FEMA Urban Search and Rescue Standards. New Jersey Task Force One is in the process of purchasing weapons of mass destruction response equipment.

The 180 courageous men and women of New Jersey Task Force One have dedicated their lives to saving others. They have proven themselves to be highly qualified to join FEMA's Urban Search and Rescue System. I strongly believe that New Jersey Task Force One would enhance FEMA's Urban Search and Rescue program. I urge the FEMA Director to include New Jersey Task Force One as the 29th FEMA Urban Search and Rescue team. •

TRIBUTE TO MR. BOB HAYES

• Mr. NELSON of Florida. Mr. President, I rise today to mark the passing of a truly exceptional friend and athlete, Mr. Bob Hayes. On September 18, 2002, the State of Florida and the world lost a trailblazing athlete who broke records on the track field and set the standard for speed and agility in the National Football League.

Bob was a native of Jacksonville, where he attended Gilbert High School. While at Gilbert High, Bob displayed his athletic talents on the football and baseball fields, and on the basketball court. The honors he won in these athletic pursuits afforded him the opportunity to attend Florida Agricultural and Mechanical University on scholarship, where he played half-back and returned kicks for legendary coach Jake Gaither. In his illustrious career as a FAMU Rattler, he led the team in kick-off returns, held the team's touchdown record in 1963, and averaged over 26 yards per punt return in 1962 and 1963. In his senior season, Bob became the first African-American to play in the Senior, North-South, Bowl, a game in which he caught a touchdown pass from former NFL-great Joe Namath and was also named the South's Most Valuable Player.

Bob was also a premier track star. In his junior year at Florida A&M, Bob competed in the Tokyo Olympic Games. He earned the title "World's Fastest Human" for record-breaking performances in which he won the 100 meters in a world-record time of 10.5 seconds and anchored the 400-meter relay, finishing in 39.0 seconds. Both performances earned him Olympic Gold medals. His performance in the 400-meter is widely regarded as the greatest relay leg in track history.

In 1963, the Dallas Cowboys drafted Bob in the seventh round as a receiver. As a rookie, Bob had 46 catches for 1,003 yards and 12 touchdowns. Several past NFL players, including Roger Staubach and Calvin Hill, have commented on how Bob's speed and agility forced the NFL to begin to design defenses to counter his phenomenal plays. Indeed, Bob established the standard, in terms of speed and quickness, which present players now emulate. Bob spent 10 years in Dallas, where he was part of two Super Bowl teams. At the end of his career, Bob had 371 catches for 7,414 yards and 71 touchdowns, still a Cowboys receiving record.

At his death, Bob remains the only athlete to have won a Super Bowl ring and Olympic Gold Medals. His amazing achievements on both the football and track field truly give meaning to his nickname—"The Bullet". He is enshrined in the USA Track and Field Hall of Fame and similar Halls of Fame in Florida, Texas and at Florida A&M. In September 2001, Bob was inducted as the 11th member of the Cowboys' Ring of Honor at Texas Stadium.

Bob's achievements stand as a testament to hard work, dedication and perseverance. In his later years, he sought to pass these ideals on to aspiring high school track stars through the Bob Hayes Invitational Track and Field Meet. Truly, it can be said that he touched many lives and inspired future generations of athletes. While it is with great sadness that I mark his passing, I am happy to recognize Bob's legacy for the great State of Florida and the entire world.•

TRIBUTE TO DR. BERNARD S. ARONS

• Mr. WELLSTONE. Mr. President, I rise today to join my colleagues Senator EDWARD KENNEDY, Congressman PATRICK KENNEDY, and many others to recognize the extraordinary achievements of Dr. Bernard S. Arons as Director of the Center for Mental Health Services at the Substance Abuse and Mental Health Services Administration, and to acknowledge his departure as he moves forward to become Senior Science Advisor to the new Director of the National Institute of Mental Health. As we strive to pass critically important mental health legislation in this Congress, we know how fortunate we have been to have Bernie's extraordinary leadership at CMHS during these past nine years. His expertise and remarkable ability to integrate mental health services with evidence-based practices and scientific research made him an outstanding national leader who directed our country's mental health agenda through many years of challenge and crisis.

When Bernie first came to CMHS in 1993, he faced an enormous challenge: heading a new Federal Center whose mission was to lead our country in the delivery of mental health services. To do this, he faced the reality of inadequate resources at the federal, state, and local level for those with mental illness. The lack of mental health parity in private and public health care systems leaves many states struggling with how to help. Yet he was undaunted. He and his extraordinary staff at CMHS led the way on making mental health a major priority for this country. For these last 9 years, he has clearly taken our country forward and helped to restore hope to the millions of Americans with mental illness. Bernie's extraordinary talents as an administrator, scientist, and communicator, have made him a major force in advancing the public's awareness of the ways in which mental illness affects the lives of so many. Although stigma still exists, there are very few who dare to challenge the fact that mental disorders are real, that they are treatable, that there are effective national and community programs that can help, and that we must do more to ensure that all get the treatment they need.

During his tenure at CMHS, Bernie worked closely with former Surgeon General David Satcher to publish the first-ever Surgeon General's Report on Mental Health, which continues to enhance national awareness of mental health issues. He led CMHS in addressing many critical mental health issues that traditionally impede access to quality services, such as stigma and lack of community services. His commitment to making a difference fueled the work on a National Strategy for Suicide Prevention, which continues to bring together researchers, providers, advocates and consumers in developing a prevention plan to reduce suicide in the United States. Bernie also guided CMHS in providing a national response to recent terrorist threats, based in science and best practices. From studies on parity in mental health coverage to initiatives on school violence, CMHS has become a leading national voice on mental health issues under his leadership.

We are particularly pleased that Bernie was at the forefront of the efforts to shape the future of mental health services as our country faced the crisis of terrorism. More than ever, his efforts to include the voices of patients and families in the overall planning process at CMHS was needed. We too rely on those whose lives are touched by mental disorders to be the true experts in our work to shape public policy.

With his thoughtful, wise, and gentle manner, Bernie is truly a man who has the ability to bring together people with diverse responsibilities and missions to address the serious mental health crisis. Through his efforts, and with minimal resources, he shaped CMHS into an institution that has brought us so much further in the struggle to provide decent mental health services, reduce stigma, and to recognize as a society that mental disorders are real and treatable.

As he departs from the Center for Mental Health Services, we wish him well and thank him for all he has done to improve mental health care in our country. We are confident that Bernie has placed CMHS on a course that promises to build on these remarkable achievements, one that will meet the extraordinarily challenging mental health needs ahead. Dr. Bernie Arons will be sorely missed, but we know he will continue to be a major force for the improvement of mental health care in our country.•

MESSSAGES FROM THE HOUSE

At 3:41 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill with an amendment:

S. 941. An act to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to extend the term of the advisory commission for the recreation area, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment:

S. 1105. An act to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park, and for other purposes.

The message further announced that the House has passed the following bill, with an amendment:

S. 1240. An act to provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to American Fork Canyon, Utah, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment:

S. 1894. An act to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes.

The message further announced that the House has passed the following bills, without amendment:

S. 1175. An act to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes.

S. 1325. An act to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests in Adak Island, and for other purposes.

S. 238. An act to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1448. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 1606. An act to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the matching requirement related to such appropriations, and for other purposes.

H.R. 2099. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to provide adequate funding authorization for the Vancouver National Historic Reserve.

H.R. 3449. An act to revise the boundaries of the George Washington Birthplace National Monument, and for other purposes.

H.R. 3656. An act to amend the International Organizations Immunities Act to provide for the applicability of that Act to the European Central Bank.

H.R. 4638. An act to reauthorize the Mni Wiconi Rural Water Supply Project.

H.R. 4682. An act to revise the boundary of the Allegheny Portage Railroad National Historic Site, and for other purposes.

H.R. 4708. An act to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District.

H.R. 4917. An act to provide for an exchange of lands with the United Water Conservation District of California to eliminate private inholdings in the Los Padres national Forest, and for other purposes.

H.R. 4919. An act to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes.

H.R. 4938. An act to direct the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the Santee Sioux Tribe of Nebraska, and for other purposes.

H.R. 4953. an act to direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road.

H.R. 5099. An act to extend the period of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins.

H.R. 5109. An act to direct the Secretary of Energy to convey a parcel of land at the facility of the Southwestern Power Administration in Tupelo, Oklahoma.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 110. Concurrent resolution honoring the heroism and courage displaced by airline flight attendants on a daily basis.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 419. Concurrent resolution requesting the President to issue a proclamation in observance of the 100th Anniversary of the founding of the International Association of fish and Wildlife Agencies.

H. Con. Res. 458. Concurrent resolution recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity.

H. Con. Res. 472. Concurrent resolution recognizing the 100th anniversary of the 4-H Youth Development Program.

H. Con. Res. 301. Concurrent resolution expressing the sense of Congress regarding American Gold Star Mothers, Incorporated, Blue Star Mothers of America, Incorporated, the service flag, and the service lapel button.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 640) to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes.

At 4:00 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes.

At 5:47 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 483. Concurrent resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1646.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today, September 25, 2002, by the President pro tempore (Mr. BYRD):

H.R. 486. An act for the relief of Barbara Makuch.

H.R. 487. An act for the relief of Eugene Makuch.

H.R. 4558. An act to extend the Irish Peace Process Cultural and Training Program.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1448. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa; to the Committee on Finance.

H.R. 1606. An act to amend section 507 of the Omnibus Parks and public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the matching requirement related to such appropriations, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3656. An act to amend the International Organizations Immunities Act to provide for the applicability of that Act to the European Central Bank; to the Committee on Foreign Relations.

H.R. 4682. An act to revise the boundary of the Allegheny Portage Railroad National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4708. An act to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District; to the Committee on Energy and Natural Resources.

H.R. 4917. An act to provide for an exchange of lands with the United Water Conservation District of California to eliminate private inholdings in the Los Padres National Forest, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4919. An act to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4938. An act to direct the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the Santee Sioux Tribe of Nebraska, and for other purposes; to the Committee on Indian Affairs.

H.R. 5099. An act to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins; to the Committee on Energy and Natural Resources.

H.R. 5109. An act to direct the Secretary of Energy to convey a parcel of land at the facility of the Southwestern Power Administration in Tupelo, Oklahoma; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 301. Concurrent resolutions expressing the sense of Congress regarding American Gold Star Mothers, Incorporated, Blue Star Mothers of America, Incorporated, the service flag, and the service lapel button; to the Committee on Armed Services.

H. Con. Res. 419. Concurrent resolution requesting the President to issue a proclamation in observance of the 100th Anniversary of the founding of the International Association of Fish and Wildlife Agencies; to the Committee on the Judiciary.

H. Con. Res. 472. Concurrent resolution recognizing the 100th anniversary of the 4-H Youth Development Program; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2099. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to provide adequate funding authorization for the Vancouver National Historic Reserve.

H.R. 3449. An act to revise the boundaries of the George Washington Birthplace National Monument, and for other purposes.

H.R. 4638. An act to reauthorize the Mni Wiconi Rural Water Supply Project.

H.R. 4953. An act to direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*Michelle Guillermin, of Maryland, to be Chief Financial Officer, Corporation for National and Community Service.

*Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

*Milton Aponte, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2003.

*Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

*Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

*Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

*David Wenzel, of Pennsylvania, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*Coast Guard nomination of Rear Adm. (Selectee) Robert J. Papp.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

*(Coast Guard nominations beginning Kurt J. Colella and ending Lucretia Flammang, which nominations were received by the Senate and appeared in the Congressional Record on September 24, 2002.)

*(Coast Guard nominations beginning Alan N Arsenault and ending Matthew J Zamary, which nominations were received by the Senate and appeared in the Congressional Record on September 24, 2002.)

*(Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. GREGG, Mrs. CLINTON, Mr. ROBERTS, Mr. DODD, Mr. FRIST, Mr. JEFFORDS, Ms. COLLINS, and Mr. TORRICELLI):

S. 3001. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU:

S. 3002. A bill to provide for the preservation and restoration of historic buildings and structures at historically black colleges and universities; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 3003. A bill to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HELMS:

S. 3004. A bill to eliminate the Federal quota and price support programs for certain tobacco, to compensate quota owners and holders for the loss of tobacco quota asset value, to establish a tobacco community reinvestment program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. AKAKA:

S. 3005. A bill to revise the boundary of the Kaloko-Honokohau National Historical Park in the State of Hawaii, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON:

S. 3006. A bill to prohibit Internet gambling; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 710

At the request of Mr. SMITH of Oregon, his name was added as a cosponsor of S. 710, a bill to require coverage for colorectal cancer screenings.

S. 732

At the request of Mr. THOMPSON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 732, a bill to amend the Internal Revenue Code of 1986 to reduce the depreciation recovery period for certain restaurant buildings, and for other purposes.

S. 776

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 776, a bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2002.

S. 858

At the request of Mr. HUTCHINSON, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 858, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small business with respect to medical care for their employees.

S. 885

At the request of Mr. CLELAND, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 917

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 940

At the request of Mr. DODD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 1115

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1115, a bill to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

S. 1304

At the request of Mr. KERRY, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1304, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of oral drugs to reduce serum phosphate levels in dialysis patients with end-stage renal disease.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1626

At the request of Mr. BINGAMAN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1626, a bill to provide disadvantaged children with access to dental services.

S. 1651

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1651, a bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes.

S. 1746

At the request of Mr. REID, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1746, a bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities.

S. 2499

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2499, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food, and for other purposes.

S. 2573

At the request of Mr. REED, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2573, a bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes.

S. 2750

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2750, a bill to improve the provision of telehealth services under the medicare program, to provide grants for the development of telehealth networks, and for other purposes.

S. 2758

At the request of Mr. DODD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2758, a bill entitled "The Child Care and Development Block Grant Amendments Act".

S. 2790

At the request of Ms. CANTWELL, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2790, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 2844

At the request of Mr. ROCKEFELLER, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2844, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching Standards, and for other purposes.

S. 2847

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2847, a bill to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes.

S. 2855

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2855, a bill to amend title XIX of the Social Security Act to improve the qualified medicare beneficiary (QMB) and special low-income medicare beneficiary (SLMB) programs within the medicaid program.

S. 2892

At the request of Mr. KENNEDY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2892, a bill to provide economic security for America's workers.

S. 2965

At the request of Mr. KENNEDY, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2965, a bill to amend the Public Health Service Act to improve the quality of care for cancer, and for other purposes.

S. 2990

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2990, a bill to provide for programs and activities to improve the health of Hispanic individuals, and for other purposes.

S. RES. 239

At the request of Mr. ALLEN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Res. 239, a resolution recognizing the lack of historical recognition of the gallant exploits of the officers and crew of the S.S. Henry Bacon, a Liberty ship that was sunk February 23, 1945, in the waning days of World War II.

S. RES. 270

At the request of Mr. CAMPBELL, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as "National Cystic Fibrosis Awareness Week".

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 145

At the request of Mr. KENNEDY, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Connecticut (Mr. DODD), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. Con. Res. 145, a concurrent resolution recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity.

AMENDMENT NO. 4543

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of amendment No. 4543 intended to be proposed to H.R. 5093, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

AMENDMENT NO. 4544

At the request of Mr. WELLSTONE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of amendment No. 4544 intended to be proposed to H.R. 5093, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

AMENDMENT NO. 4545

At the request of Mr. WELLSTONE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of amendment No. 4545 intended to be proposed to H.R. 5093, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

AMENDMENT NO. 4546

At the request of Mr. WELLSTONE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of amendment No. 4546 intended to be proposed to H.R. 5093, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

AMENDMENT NO. 4699

At the request of Mr. KYL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 4699 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4731

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of amendment No. 4731 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. GREGG, Mrs. CLINTON, Mr. ROBERTS, Mr. DODD, Mr. FRIST, Mr. JEFFORDS, Ms. COLLINS, and Mr. TORRICELLI):

S. 3001. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I am pleased today to join my colleagues Senator GREGG, Senator CLINTON, Senator ROBERTS, Senator DODD, Senator FRIST and others in introducing legislation to improve the labeling of allergens in food.

American families deserve to feel confident that the food they eat is safe. The Food Allergen Labeling and Consumer Protection Act will allow the seven million Americans with food allergies to identify more easily a product's ingredients, avoid foods that may harm them, and stay healthy. One hundred fifty Americans die each year from ingesting allergenic foods, and this legislation will greatly reduce that number.

The Food Allergen Labeling and Consumer Protection Act will require that food ingredient statements on food packages identify in common language when an ingredient, including a flavoring, coloring, or other additive, is itself, or is derived from, one of the eight main food allergens.

The Food Allergen Labeling and Consumer Protection Act will require the Food and Drug Administration to provide for “gluten-free” labeling on foods, to help people with celiac disease avoid the glutens that cause their disease. It will require FDA to report to Congress about how manufacturers can minimize cross-contact with food allergens between foods produced in the same facility or on the same production line, and about when manufacturers should use “may contain” or other advisory language in food labeling.

The Food Allergen Labeling and Consumer Protection Act will also require the Centers for Disease Control and Prevention to track deaths related to food allergies, and it will direct the National Institutes of Health to develop a plan for research activities concerning food allergies.

I urge my colleagues in the Senate to support this legislation that will do so much to improve the lives of those with food allergies and celiac disease. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Food Allergen Labeling and Consumer Protection Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) it is estimated that—

(A) approximately 2 percent of adults and about 5 percent of infants and young children in the United States suffer from food allergies; and

(B) each year, roughly 30,000 individuals require emergency room treatment and 150 individuals die because of allergic reactions to food;

(2)(A) Eight major foods or food groups—milk, eggs, fish, Crustacean shellfish, tree nuts, peanuts, wheat, and soybeans—account for 90 percent of food allergies;

(B) at present, there is no cure for food allergies; and

(C) a food allergic consumer must avoid the food to which the consumer is allergic;

(3)(A) in a review of randomly selected manufacturers of baked goods, ice cream, and candy in Minnesota and Wisconsin in 1999, the Food and Drug Administration found that 25 percent of sampled foods failed to list peanuts or eggs as ingredients on the food labels; and

(B) nationally, the number of recalls because of unlabeled allergens rose to 121 in 2000 from about 35 a decade earlier;

(4) a recent study shows that many parents of children with a food allergy were unable correctly to identify in each of several food labels the ingredients derived from major food allergens;

(5)(A) current regulations of the Food and Drug Administration require that ingredients in foods be listed by their “common or usual name”;

(B) in some cases, the common or usual name of an ingredient may be unfamiliar to consumers, and many consumers may not realize the ingredient is derived from, or contains, a major food allergen; and

(C) current regulations of the Food and Drug Administration exempt spices, flavorings, and certain colorings and additives from ingredient labeling requirements that would allow consumers to avoid those to which they are allergic; and

(6)(A) celiac disease is an immune-mediated disease that causes damage to the gastrointestinal tract, central nervous system, and other organs;

(B) the current recommended treatment is avoidance of glutens in foods that are associated with celiac disease; and

(C) a multicenter, multiyear study estimated that the prevalence of celiac disease in the United States is 0.5 to 1 percent of the general population.

SEC. 3. FOOD LABELING; REQUIREMENT OF INFORMATION REGARDING ALLERGENIC SUBSTANCES.

(a) IN GENERAL.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

“(t)(1) If it is not a raw agricultural commodity and it is, or it intentionally bears or contains, a major food allergen, unless either—

“(A) ‘Contains’, which statement is followed by the name of the food source as described in section 201(ll)(1) from which the major food allergen is derived, follows immediately after or is adjacent to (in a type size no smaller than the type size used in the list of ingredients) the list of ingredients required under subsections (g) and (i); or

“(B) the common or usual name of the major food allergen in the list of ingredients required under sections (g) and (i) is followed in parentheses by the name of the food source as described in section 201(ll)(1) from which the major food allergen is derived, except that the name of the food source is not required when—

“(i) the common or usual name of the ingredient is the term used to describe a major food allergen in section 201(ll)(1), or

“(ii) the name of the food source as described in section 201(ll)(1) has appeared previously in the ingredient list; and

“Provided all major food allergens are labeled in a consistent manner either as specified in clause (A) or as specified in clause (B).

“(2) The information required under this subsection may appear in labeling other than the label only if the Secretary finds that such other labeling is sufficient to protect the public health. A finding by the Secretary under this subparagraph is effective upon publication in the Federal Register as a notice (including any change in an earlier finding under this subparagraph).

“(3) Notwithstanding subsection (g), (i), or (k), or any other law, a spice, flavoring, coloring, or incidental additive that is, or that intentionally bears or contains, a major food allergen shall be subject to the labeling requirements of this subsection.

“(4) The Secretary may by regulation modify the requirements of subparagraph (A) or (B) of paragraph (1), or eliminate either the requirement of subparagraph (A) or the requirement of subparagraph (B), if the Secretary determines that the modification or elimination of the requirement is necessary to protect the public health.

“(u) Notwithstanding subsection (g), (i), or (k), or any other law, a spice, flavoring, coloring, or incidental additive that is, or that intentionally bears or contains, a food allergen (other than a major food allergen), as determined by the Secretary by regulation, shall be disclosed in a manner specified by the Secretary by regulation.”.

(b) EFFECT ON OTHER AUTHORITY.—This section does not alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) to require the labeling of other food allergens.

(c) CONFORMING AMENDMENT.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(ll) The term ‘major food allergen’ means any of the following:

“(1) Milk, egg, fish, Crustacean shellfish, tree nuts, wheat, peanuts, and soybeans.

“(2) A proteinaceous substance derived from a food specified in paragraph (1) (unless the Secretary determines that the substance does not cause an allergic response that poses a risk to human health).”.

(d) EFFECTIVE DATE.—A food that is labeled on or after January 1, 2006, and that is, or that intentionally bears or contains, a major food allergen (as defined in the amendment made by subsection (c)) shall be labeled in compliance with the requirements of the amendment made by subsection (a).

SEC. 4. REPORT ON FOOD ALLERGENS.

Not later than June 30, 2004, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that—

(1)(A) analyzes—

(i) the ways in which foods, during manufacturing and processing, can be unintentionally contaminated with major food allergens, including contamination caused by the use by manufacturers of the same production line to produce both products for which major food allergens are intentional ingredients and products for which major food allergens are not intentional ingredients; and

(ii) the ways in which foods produced on dedicated production lines might nonetheless become unintentionally contaminated with major food allergens; and

(B) estimates how common those practices are in the food industry, with breakdowns by food type as appropriate;

(2) recommends methods that can be used to reduce or eliminate cross-contact of foods with the major food allergens;

(3) describes—

(A) the various types of advisory labeling (such as use of the words "may contain") used by food producers;

(B) the conditions of manufacture of food that are associated with the various types of advisory labeling; and

(C) the extent to which advisory labels are being used on food products;

(4) determines how consumers with food allergies or the caretakers of consumers would prefer information about the risk of cross-contact be communicated on food labels by using appropriate survey mechanisms; and

(5) identifies the circumstances, if any, under which advisory labeling could appropriately be used.

SEC. 5. INSPECTIONS RELATING TO FOOD ALLERGENS.

(a) In General.—The Secretary of Health and Human Services shall give priority to increasing the number of inspections under section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) of facilities in which foods are manufactured, processed, packed, or held—

(1) to ensure that the foods comply with practices to reduce or eliminate cross-contact of a food with major food allergen residues that are not intentional ingredients of the food; and

(2) to ensure that major food allergens are properly labeled on foods.

(b) Report.—On October 1, 2003, and biennially thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that—

(1) states the number of inspections conducted in the previous year and the numbers of facilities and food labels that were found to be in compliance or out of compliance;

(2) describes the nature of the violations found;

(3) includes the number of voluntary recalls, and their classifications, requested by the Secretary of foods with undeclared major food allergens;

(4) assesses the extent of use of advisory language found and the appropriateness of that use; and

(5) assesses the extent to which the Secretary and the food industry have effectively addressed cross-contact issues.

SEC. 6. LABELING OF GLUTENS AND CELIAC DISEASE.

(a) Contract With Institute of Medicine.—The Secretary of Health and Human Services (in this section, the "Secretary") shall enter into a contract with the Institute of Medicine for—

(1) the conduct of a review of the science relating to—

(A) the glutens in food that are associated with celiac disease;

(B) the means of preventing and treating celiac disease; and

(C) the methodologies for detecting such glutens in foods; and

(2) the submission to the Secretary, the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, not later than 2 years after the date of enactment of this Act, of a report concerning the review conducted under paragraph (1).

(b) Requirements of Expertise.—The Institute of Medicine shall conduct the review under subsection (a)(1) and make the report under subsection (a)(2) in conjunction with experts in celiac disease, including experts in the pathogenesis, epidemiology, and biochemistry of celiac disease, the sensitivity to, and tolerance of, the glutens in food that are associated with celiac disease, and the clinical aspects of celiac disease, including prevention and treatment.

(c) Gluten Labeling.—Considering the review conducted under paragraph (a)(1), the Secretary shall, not later than 4 years after the date of enactment of this Act, issue a proposed rule to define, and permit use of, the term "gluten-free" on the labeling of foods. Not later than 6 years after the date of enactment of this Act, the Secretary shall issue a final rule to define, and permit use of, the term "gluten-free" on the labeling of foods.

(d) Report.—Not later than 2 years after submission to the Secretary of the report under subsection (a)(2), the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that assesses whether additional requirements for the labeling of gluten are warranted and necessary to better inform individuals with celiac disease, and if other labeling is warranted and necessary, identifies the types of such labeling.

SEC. 7. DATA ON FOOD-RELATED ALLERGIC RESPONSES.

(a) Study.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary"), in consultation with consumers, providers, State governments, and other relevant parties, shall complete a study for the purposes of—

(1) determining whether existing systems for the reporting, collection and analysis of national data accurately capture information on—

(A) the prevalence of food allergies;

(B) the incidence of clinically significant or serious adverse events related to food allergies; and

(C) the use of different modes of treatment for and prevention of allergic responses to foods; and

(2) identifying new or alternative systems or enhancements to existing systems (including by educating physicians and other health care providers), for the reporting collection and analysis of national data on—

(A) the prevalence of food allergies;

(B) the incidence of clinically significant or serious adverse events related to food allergies; and

(C) the use of different modes of treatment for and prevention of allergic responses to foods.

(b) Improvement and Publication of Data.—On completion of, and consistent with the findings of, the study conducted under subsection (a), the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Commissioner of Foods and Drugs, shall improve the collection of, and publish as it becomes available, national data on—

(1) the prevalence of food allergies;

(2) the incidence of clinically significant or serious adverse events related to food allergies; and

(3) the use of different modes of treatment for and prevention of allergic responses to foods.

(c) Report to Congress.—Not later than 30 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the progress made with respect to subsections (a) and (b).

(d) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

SEC. 8. FOOD ALLERGIES RESEARCH.

(a) In General.—The Secretary of Health and Human Services, through the National Institutes of Health, shall convene a panel of nationally recognized experts to review current basic and clinical research efforts related to food allergies. The panel shall develop a plan for expanding, intensifying, and coordinating research activities concerning food allergies.

(b) Report to Congress.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a plan under subsection (a) to the Committee on Energy and Commerce in the House of Representatives and the Committee on Health, Education, Labor, and Pensions in the Senate.

SEC. 9. FOOD ALLERGENS IN THE FOOD CODE.

The Secretary of Health and Human Services shall, in the Conference for Food Protection, as part of its cooperative activities between the States under section 311 of the Public Health Service Act (42 U.S.C. 243), pursue revision of the Food Code to provide guidelines for preparing allergen-free foods in food establishments, including in restaurants, grocery store delicatessens and bakeries, and elementary and secondary school cafeterias. The Secretary shall consider public and private guidelines and recommendations for preparing allergen-free foods in pursuing this revision.

SEC. 10. RECOMMENDATIONS REGARDING RESPONDING TO FOOD-RELATED ALLERGIC RESPONSES.

The Secretary of Health and Human Services shall, in providing technical assistance relating to trauma care and emergency medical services to State and local agencies under section 1202(b)(3) of the Public Health Service Act (42 U.S.C. 300d-2(b)(3)), include technical assistance relating to the use of different modes of treatment for and prevention of allergic responses to foods.

By Ms. LANDRIEU:

S. 3002. A bill to provide for the preservation and restoration of historic buildings an structures at historically black colleges and universities; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, I rise today to introduce the "Historically Black Colleges and Universities Historic Preservation Act of 2002," legislation to revise and extend certain provisions of the Omnibus Parks and Public Lands Management Act of 1996.

I want to begin by acknowledging the important role played by the Nation's Historically Black Colleges and Universities, HBCUs, in educating young people of all races and nationalities in America. HBCUs are in the vanguard of providing access and some measure of choice in higher education, and of opening the doors to educational opportunity for all students, regardless of family income and traditional measures of academic readiness for college study. In Louisiana, we have a strong family of HBCUs: Grambling State University in Grambling, Southern University's three campuses in Baton Rouge, Shreveport and New Orleans, as well as Dillard and Xavier universities in New Orleans.

While similar bills have been introduced this Congress, my bill takes a different and, I believe, a necessarily strategic approach in identifying, prioritizing and providing the funds necessary to restore all of the historic buildings and sites on black colleges and campuses. This historic preservation bill provides an orderly process for identifying and assessing the degree of deterioration of all properties; for determining the capacity of the HBCU to provide "matching" funds to assist in the cost of restoration; and for prioritizing Congressional funding and the Interior Department's determination of properties eligible for restoration funding.

This legislation is not only needed, it is also timely. In 1998, the National Trust for Historic Preservation placed the historic buildings of the nation's HBCUs on its list of "11 Most Endangered Historic Places". The Trust cited a General Accounting Office study that found that the estimated cost of restoring and preserving the 712 historic properties, including dormitories, chapels, gymnasiums and classroom buildings, owned by the schools is $755 million, of which a mere $60 million, or 8 percent, has been set aside in school budgets. If we in Congress fail to help, the cost of restoration will only continue to rise while these historic buildings continue to deteriorate.

I urge my colleagues to co-sponsor this important legislation. Without it, we may not be able to ensure that these buildings will survive into the new millennium and beyond to welcome future generations of scholars.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 3003. A bill to authorize a land conveyance between the United States and the City of Craig, Alaska; and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Mr. President, I rise today to introduce an important bill that will facilitate Forest Service land management on Prince of Wales Island and help community expansion and development. The City of Craig is one of the fastest growing cities in the State of Alaska. It is the economic center of Prince of Wales Island, the third largest island in the United States and home to a vibrant population of rural Alaskans. The only clinic or hospital on the island is located in Craig. The town contains the major retail shopping and service outlets on the island and Prince of Wales residents drive up to a hundred miles round trip to come to town for medical services and shopping.

One of the Forest Service's main administrative facilities, the Craig Ranger District Office is located in Craig and the Craig District Ranger has management authority over much of the island. It is critical that the Forest Service has the tools it needs to provide good management for that part of the island. One of these tools is the presence of some Federal land near the Craig Ranger Station. Right now, there is no Forest Service land near the Ranger Station. In an unusual situation for Alaska, the Ranger Station is an inholding in private, State, and City owned land. This legislation would provide for a three-way conveyance process which would result in a parcel of land now owned by the City being conveyed into the National Forest and a private inholding now owned by a private owner being acquired by the City.

This is one of those situations people like to describe as "win-win." Providing a new recreational opportunity in the Tongass National Forest at Craig benefits the public, and the residents of Craig would obtain land vital to future community development.

What this legislation does, is authorize the Federal Government to accept conveyance of land from the City of Craig which will enable the City to acquire a private inholding near the City. The City would convey to the Federal Government up to 348.68 acres of land it now owns to the National Forest. This land is highly prized for local recreation and would provide the Craig Ranger District with a missing piece of its management scheme by providing a recreation site within short walking distance of the Ranger Station.

Right now, visitors to the Forest come to the Craig Ranger Office to orient themselves to the Forest. One of the things they look for is onsite recreation in the Forest from the Ranger Station. But presently there is no such opportunity. Because of the land conveyance status directly around Craig, there is no Forest land in that area. Visitors are disappointed that they must arrange transportation for at least a 20 mile trip before they can take even a short walk on the Forest.

However, the City of Craig owns almost 350 acres of prime recreational land including a dedicated trail from the Ranger Station. The object of this legislation would be for that land to be conveyed by the City to the Forest and for the City to obtain a much smaller 10 acres site in the town now owned by a private party. That property is a cannery site dating from the early 1900's which has not been used since the early 1980's. It is prime land for the city to develop to improve its community management plan and to provide economic development in Craig. The parcel include both uplands and tidelands and could be used by Craig to develop a good port and harbor and to provide first class locations for retail merchants and other community services.

I strongly support meeting the needs of Craig in developing its local economy. The entire island is in transition. When I was first elected to the Senate in 1980, Craig and Prince of Wales Island were the center of a vibrant timber based economy that provided thousands of direct and indirect jobs to the Island. Much of that is now gone as a result of unfortunate Federal policies which have devastated the timber economy on Prince of Wales Island and much of Southeastern Alaska.

The Congress must help Craig in its transition to another economy. The City leaders are dynamic and visionary people who have provided real leadership on the island. They have worked hard to help maintain the remaining timber plant at Klawock which provides year round employment to city and island residents. They have organized, along with their neighbors, the Prince of Wales Community Council, an association of municipalities and Native and non Native communities to work as a team on islandwide projects.

The most recent product of this effort is the InterIsland Ferry Authority composed of members from Wrangell, Petersburg, Ketchikan, Craig, Throne Bay, and Coffman Cove. The Authority has built and put into service a day ferry from Hollis, a neighboring community to Craig, and my home town of Ketchikan. This ferry replaces the State ferry, which has been forced to cut back its service. The InterIsland Ferry service will increase to twice a day during the summer and will provide a terrific boost to the local economy of Craig and the island.

Passage of this legislation is critical to the future of the City of Craig. It will increase recreational opportunities for the local and visiting public. I urge my colleagues to join me in moving forward on this legislation. All the conveyances will be subject to appraisals as required by this Act. The Federal Government will receive equal value in land from the City for any funding which it provides under this Act. The passage of this Act is good for the public and for the residents of Craig. I yield the floor.

By Mr. AKAKA:

S. 3005. A bill to revise the boundary of the Kaloko-Honokōhau National Historical Park in the State of Hawaii, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce the Kaloko-Honokohau National Historical Park Addition Act of 2002. This bill provides for the adjustment of Park boundaries to permit the development of permanent Park operational facilities for administrative purposes and to provide the public with a visitor's center and interpretative facilities.

Kaloko-Honokōhau National Historical Park is located along the Kona coast on the island of Hawaii. It was designated as a National Historic Landmark in 1962 and was established as a National Historical Park in 1978. The Park was created to preserve, interpret, and perpetuate traditional Native Hawaiian culture. The ocean makes up over half of this 1160-acre Park, and the boundaries include the culturally significant Kaloko and ʻAimakapa fishponds and ʻAiʻopio fish trap. There are also several heiau, or Hawaiian religious sites, found in the Park.

The Kaloko-Honokōhau National Historical Park is currently leasing office space outside the Park to carry out its necessary administrative, interpretive, resource management and maintenance functions. This office space is woefully inadequate. The amount of visitor parking available is limited to four spaces, and its location presents a challenge for visitor access.

The National Park Service has considered the possibility of constructing new operational facilities within the Park boundaries. However, such action would be inconsistent with current National Park Service management policies because of its adverse impacts on Park resources and values. Building within the boundary of Kaloko-Honokōhau Park would intrude on the Park's historic setting and has the potential to harm the fishponds, which are considered to be some of the Park's most valuable resources.

Acquiring an additional two parcels of land adjacent to the Park makes sense. An existing two-story building will provide an easy and inexpensive retrofit for use as Park headquarters. The building has never been occupied, and contains offices, lab and storage areas, as well as a reception lobby that would be ideal to host visitor orientation and interpretive programs. The building has the capacity for artifact storage that meets curatorial standards for historical and archaeological items. More than 90 percent of the two acres remains undeveloped, thereby providing enough space for visitor parking and future Park operations. It is important to note that no additional staffing would be required to support the proposed expansion.

Last year, 54,000 people visited Kaloko-Honokōhau National Historical Park. We need a facility there that offers administrative personnel the resources they need to carry out their management functions, and visitors the opportunity to learn about this important part of Hawaiian history. I look forward to working with my colleagues and the Park Service to make this possible.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3005

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kaloko-Honokōhau National Historical Park Addition Act of 2002."

SEC. 2. ADDITIONS TO KALOKO-HONOKŌHAU NATIONAL HISTORICAL PARK.

Section 505(a) of P.L. 95-625 (16 U.S.C. 396D(a)) is amended—

(1) by striking "(a) In order" and inserting "(a)(1) In order";

(2) by striking "1978," and all that follows and inserting "1978."; and

(3) by adding at the end the following new paragraphs: comprised of Parcels 1 and 2 totaling 2.14 acres, identified as 'Tract A' on the map entitled 'Kaloko-Honokōhau National Historical Park Proposed Boundary Adjustment', numbered PWR (PISO) 466/82,043 and dated April 2002.

"(3) The maps referred to in this subsection shall be on file and available for public inspection in the appropriate offices of the National Park Service.".

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4732. Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4733. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4734. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4735. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4736. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4737. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4738. Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4739. Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4740. Mr. NELSON, of Nebraska (for himself, Mr. CHAFEE, and Mr. BREAUX) proposed an amendment to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4741. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4742. Mr. DASCHLE proposed an amendment to the bill H.R. 5005, supra.

SA 4743. Mr. DASCHLE (for himself, Mr. NELSON, of Nebraska, Mr. CHAFEE, and Mr. BREAUX) proposed an amendment to amendment SA 4742 proposed by Mr. DASCHLE to the bill H.R. 5005, supra.

SA 4744. Mr. DASCHLE submitted an amendment intended to be proposed to the language proposed to be stricken by amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H .R. 5005, supra; which was ordered to lie on the table.

SA 4745. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 4744 submitted by Mr. DASCHLE and intended to be proposed to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4746. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4747. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4748. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4749. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4750. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4751. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4752. Mr. HOLLINGS (for Mr. GRAHAM) proposed an amendment to the bill S. 2506, to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

TEXT OF AMENDMENTS

SA 4732. Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

"(2) EXCEPTIONS.—Portions of a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—

"(A) and with the consent of the alien, to preserve the confidentiality of applications for—

"(i) asylum;

"(ii) withholding of removal;

"(iii) relief under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, done at New York December 10, 1984;

"(iv) relief under the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1902); or

"(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence; or

"(B) to protect the national security by preventing the disclosure of—

"(i) classified information; or

"(ii) the identity of a confidential informant.".

SA 4733. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page , strike line and all that follows through page , line , and insert the following:

SEC. . CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. . PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. . INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SEC. . REPEAL OF IMMUNITY FOR CUSTOMS OFFICERS IN CONDUCTING CERTAIN SEARCHES.

(a) IN GENERAL.—Section 3061 of the Revised Statutes is amended—

(1) in subsection (a), by striking "(a)"; and

(2) by striking subsection (b).

(b) TRADE ACT OF 2002.—The Trade Act of 2002 is amended—

(1) by striking section 341; and

(2) in the table of contents, by striking the item relating to section 341.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in chapter 4 of title III of the Trade Act of 2002.

SEC. . STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

"(2) EXCEPTIONS.—Portions of a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—

"(A) and with the consent of the alien, to preserve the confidentiality of applications for—

"(i) asylum;

"(ii) withholding of removal;

"(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

"(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1902); or

"(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence; or

"(B) to protect the national security by preventing the disclosure of—

"(i) classified information; or

"(ii) the identity of a confidential informant.".

SA 4734. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page ___, strike line ___ and all that follows through page ___, line ___, and insert the following:

SEC. ___. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. . PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. . INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SEC. . REPEAL OF IMMUNITY FOR CUSTOMS OFFICERS IN CONDUCTING CERTAIN SEARCHES.

(a) IN GENERAL.—Section 3061 of the Revised Statutes is amended—

(1) in subsection (a), by striking "(a)"; and

(2) by striking subsection (b).

(b) TRADE ACT OF 2002.—The Trade Act of 2002 is amended—

(1) by striking section 341; and

(2) in the table of contents, by striking the item relating to section 341.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in chapter 4 of title III of the Trade Act of 2002.

SA 4735. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page , strike line and all that follows through page , line , and insert the following:

SEC. . CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. . PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. . INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4736. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page , strike line and all that follows through page , line , and insert the following:

SEC. . CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. . PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. . INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve the national security; or

"(C) prevent significant impairment to the national interests of the United States.

"(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

"(A) the President of the Senate;

"(B) the Speaker of the House of Representatives;

"(C) the Committee on Governmental Affairs of the Senate;

"(D) the Committee on Government Reform of the House of Representatives; and

"(E) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SA 4737. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page , strike line and all that follows through page , line , and insert the following:

SEC. . CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. . PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal informatfon;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. . INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) Additional Provisions With Respect to the Inspector General of the Department of Homeland Security.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"Sec. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) Technical and Conforming Amendments.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) Definition.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SEC. . STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) Standards for Closing Removal Hearings.—

"(1) In general.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

"(2) Exceptions.—Portions of a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—

"(A) and with the consent of the alien, to preserve the confidentiality of applications for—

"(i) asylum;

"(ii) withholding of removal;

"(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

"(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1902); or

"(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence; or

"(B) to protect the national security by preventing the disclosure of—

"(i) classified information; or

"(ii) the identity of a confidential informant.".

SA 4738. Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

Strike all after the first word in amendment #4471 and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Homeland Security Act of 2002".

(b) Divisions.—This Act is organized into three divisions as follows:

(1) Division A.—Homeland Security.

(2) Division B.—Immigration Reform, Accountability, and Security Enhancement Act of 2002.

(3) Division C.—Federal Workforce Improvement.

(c) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Construction; severability.
Sec. 4. Effective date.

DIVISION A—HOMELAND SECURITY

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Sec. 101. Executive department; mission.
Sec. 102. Secretary; functions.
Sec. 103. Other officers.
Sec. 104. Office of International Affairs.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Sec. 201. Directorate for Information Analysis and Infrastructure Protection.
Sec. 202. Access to information.
Sec. 203. Protection of voluntarily furnished confidential information.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

Sec. 301. Under Secretary for Science and Technology.
Sec. 302. Responsibilities and authorities of the Under Secretary for Science and Technology.
Sec. 303. Functions transferred.
Sec. 304. Conduct of certain public health-related activities.
Sec. 305. Research in conjunction with the Department of Health and Human Services and other departments.
Sec. 306. Homeland Security Advanced Research Projects Agency.
Sec. 307. Miscellaneous authorities relating to national laboratories.
Sec. 308. Homeland Security Institute.
Sec. 309. Utilization of Department of Energy national laboratories and sites in support of homeland security activities.
Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture.
Sec. 311. Clearinghouse.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

Sec. 401. Under Secretary for Border and Transportation Security.
Sec. 402. Responsibilities.
Sec. 403. Functions transferred.
Sec. 404. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 405. Coordination of information and information technology.
Sec. 406. Visa issuance.
Sec. 407. Border security and immigration working group.
Sec. 408. Information on visa denials required to be entered into electronic data system.
Sec. 409. Study on use of foreign national personnel in visa processing.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.
Sec. 502. Responsibilities.
Sec. 503. Functions transferred.
Sec. 504. Nuclear incident response.
Sec. 505. Conduct of certain public health-related activities.
Sec. 506. Definition.

TITLE VI—MANAGEMENT

Sec. 601. Under Secretary for Management.
Sec. 602. Responsibilities.
Sec. 603. Chief Financial Officer.
Sec. 604. Chief Information Officer.
Sec. 605. Chief Human Capital Officer.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

Sec. 701. Responsibilities.

Subtitle B—Inspector General

Sec. 710. Authority of the Secretary.
Sec. 711. Law enforcement powers of Inspector General Agents.

Subtitle C—United States Secret Service

Sec. 720. Functions transferred.

Subtitle D—General Provisions

Sec. 730. Establishment of Human Resources Management System.
Sec. 731. Labor-management relations.
Sec. 732. Advisory committees.
Sec. 733. Acquisitions.
Sec. 734. Reorganization authority.
Sec. 735. Miscellaneous provisions.
Sec. 736. Authorization of appropriations.
Sec. 737. Regulatory authority.
Sec. 738. Use of appropriated funds.
Sec. 739. Future Year Homeland Security Program.
Sec. 739A. Bioterrorism Preparedness and Response Division.
Sec. 739B. Coordination with the Department of Health and Human Services under the Public Health Service Act.

Subtitle E—Risk Sharing and Indemnification for Contractors Supplying Anti-Terrorism Technology and Services

Sec. 741. Application of indemnification authority.
Sec. 742. Application of indemnification authority to State and local government contractors.
Sec. 743. Procurements of anti-terrorism technologies and anti-terrorism services by State and local governments through Federal contracts.
Sec. 744. Congressional notification.
Sec. 745. Definitions.

Subtitle F—Federal Emergency Procurement Flexibility

Sec. 751. Definition.
Sec. 752. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 753. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
Sec. 754. Increased micro-purchase threshold for certain procurements.
Sec. 755. Application of certain commercial items authorities to certain procurements.
Sec. 756. Use of streamlined procedures.
Sec. 757. Review and report by Comptroller General.
Sec. 758. Identification of new entrants into the Federal marketplace.

Subtitle G—Coast Guard

Sec. 761. Preserving Coast Guard mission performance.

TITLE VIII—TRANSITION

Sec. 801. Definitions.
Sec. 802. Transfer of agencies.
Sec. 803. Transitional authorities.
Sec. 804. Savings provisions.
Sec. 805. Terminations.
Sec. 806. Incidental transfers.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

Sec. 901. Inspector General Act.
Sec. 902. Executive schedule.
Sec. 903. United States Secret Service.
Sec. 904. Coast Guard.
Sec. 905. Strategic National Stockpile and smallpox vaccine development.
Sec. 906. Select agent registration.
Sec. 907. National Bio-Weapons Defense Analysis Center.
Sec. 908. Military activities.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

Sec. 1001. Short title.
Sec. 1002. Definitions.
Sec. 1003. Transfer of Immigration and Naturalization Service functions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

Sec. 1101. Abolition of Immigration and Naturalization Service.
Sec. 1102. Establishment of Directorate of Immigration Affairs.
Sec. 1103. Under Secretary of Homeland Security for Immigration Affairs.
Sec. 1104. Bureau of Immigration Services.
Sec. 1105. Bureau of Enforcement.
Sec. 1106. Office of the Ombudsman within the Directorate.
Sec. 1107. Office of Immigration Statistics within the Directorate.
Sec. 1108. Clerical amendments.

Subtitle B—Transition Provisions

Sec. 1111. Transfer of functions.
Sec. 1112. Transfer of personnel and other resources.
Sec. 1113. Determinations with respect to functions and resources.
Sec. 1114. Delegation and reservation of functions.
Sec. 1115. Allocation of personnel and other resources.
Sec. 1116. Savings provisions.
Sec. 1117. Interim service of the Commissioner of Immigration and Naturalization.
Sec. 1118. Other authorities not affected.
Sec. 1119. Transition funding.

Subtitle C—Miscellaneous Provisions

Sec. 1121. Funding adjudication and naturalization services.
Sec. 1122. Application of Internet-based technologies.
Sec. 1123. Alternatives to detention of asylum seekers.

Subtitle D—Effective Date

Sec. 1131. Effective date.

TITLE XII—UNACCOMPANIED ALIEN JUVENILE PROTECTION

Sec. 1201. Unaccompanied alien juveniles.

TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Sec. 1301. Legal status of EOIR.
Sec. 1302. Authorities of the Attorney General.
Sec. 1303. Statutory construction.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

Sec. 2101. Short title.
Sec. 2102. Agency Chief Human Capital Officers.
Sec. 2103. Chief Human Capital Officers Council.
Sec. 2104. Strategic human capital management.
Sec. 2105. Effective date.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 2201. Inclusion of agency human capital strategic planning in performance plans and programs performance reports.
Sec. 2202. Reform of the competitive service hiring process.
Sec. 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 2204. Student volunteer transit subsidy.

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

Sec. 2301. Repeal of recertification requirements of senior executives.

Sec. 2302. Adjustment of limitation on total annual compensation.

TITLE XXIV—ACADEMIC TRAINING

Sec. 2401. Academic training.
Sec. 2402. Modifications to National Security Education Program.
Sec. 2403. Compensation time off for travel.
Sec. 2404. Customs User Fees Extension

DIVISION D—NATIONAL COMMISSION

SEC. 2. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this Act:

(1) AMERICAN HOMELAND OR HOMELAND.—Each of the terms "American homeland" or "homeland" mean the United States, in a geographic sense.

(2) CRITICAL INFRASTRUCTURE.—The term "critical infrastructure" means systems and assets, whether physical or virtual, so vital to the United States that the incapacitation or destruction of such systems or assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(3) ASSETS.—The term "assets" includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(5) EMERGENCY RESPONSE PROVIDERS.—The term "emergency response providers" includes Federal, State, and local government emergency public safety, law enforcement, emergency response, emergency medical, and related personnel, agencies, and authorities.

(6) EXECUTIVE AGENCY.—The term "Executive agency" means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(7) FUNCTIONS.—The term "functions" includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(8) KEY RESOURCES.—The term "key resources" means structures, monuments or items of exceptional historical, social, cultural, or symbolic significance to the United States.

(9) LOCAL GOVERNMENT.—The term "local government" has the meaning given in section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288).

(10) MAJOR DISASTER.—The term "major disaster" has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288).

(11) PERSONNEL.—The term "personnel" means officers and employees.

(12) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(13) UNITED STATES.—The term "United States", when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288)), any possession of the United States, and any waters within the jurisdiction of the United States.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect thirty days after the date of enactment or, if enacted within thirty days before January 1, 2003, on January 1, 2003.

DIVISION A—HOMELAND SECURITY

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) PRIMARY MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism; and

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States.

(2) RESPONSIBILITIES.—In carrying out the mission described in paragraph (1), and as further described in this Act, the Department's primary responsibilities shall include—

(A) information analysis and infrastructure protection;

(B) research and development, including efforts to counter chemical, biological, radiological, nuclear, and other emerging threats;

(C) border and transportation security;

(D) emergency preparedness and response; and

(E) coordination (including the provision of training and equipment) with other executive agencies, with State and local government personnel, agencies, and authorities, with the private sector, and with other entities.

(3) OTHER RESPONSIBILITIES.—The Department shall also be responsible for carrying out other functions of entities transferred to the Department as provided by law, and the enumeration of the primary homeland security missions and responsibilities in this section does not impair or diminish the Department's non-homeland security missions and responsibilities.

SEC. 102. SECRETARY; FUNCTIONS.

(a) SECRETARY.—

(1) APPOINTMENT.—There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) HEAD OF DEPARTMENT.—The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) VESTED FUNCTIONS.—All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) may, except as otherwise provided in this Act, delegate any of his functions to any officer, employee, or organizational unit of the Department;

(2) shall have such functions, including the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out his responsibilities under this Act or otherwise provided by law; and

(3) may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of chapter 33, subchapter 3, of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) An Under Secretary for Management.

(7) An Under Secretary for Immigration Affairs.

(8) Not more than 16 Assistant Secretaries.

(9) A General Counsel, who shall be the chief legal officer of the Department.

(b) CHIEF OF IMMIGRATION POLICY.—

(1) IN GENERAL.—There shall be within the office of the Deputy Secretary of Homeland Security a Chief of Immigration Policy, who, under the authority of the Secretary, shall be responsible for—

(A) establishing national immigration policy and priorities; and

(B) coordinating immigration policy between the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security.

(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Immigration Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

(c) INSPECTOR GENERAL.—To assist the Secretary in the performance of his functions, there is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(d) COMMANDANT OF THE COAST GUARD.—To assist the Secretary in the performance of his functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code.

(e) OTHER OFFICERS.—To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President:

(1) A Director of the Secret Service.

(2) A Chief Financial Officer.

(3) A Chief Information Officer.

(4) A Chief Human Capital Officer.

(f) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for his office or prescribed by the Secretary.

SEC. 104. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, an Office of International Affairs. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall have the following responsibilities:

(1) To promote information and education exchange with foreign nations in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include—

(A) joint research and development on countermeasures;

(B) joint training exercises of first responders; and

(C) exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage activities under this section and other international activities within the Department in consultation with the Department of State and other relevant Federal officials.

(5) To initially concentrate on fostering cooperation with countries that are already highly focused on homeland security issues and that have demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

SEC. 201. DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.—

(1) In general.—There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection headed by an Under Secretary for Information Analysis and Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Responsibilities.—The Under Secretary shall assist the Secretary in discharging the responsibilities under section 101 (b)(2)(A) and (d).

(b) Assistant Secretary for Information Analysis; Assistant Secretary for Infrastructure Protection.—

(1) Assistant secretary for information analysis.—There shall be in the Department an Assistant Secretary for Information Analysis, who shall be appointed by the President.

(2) Assistant secretary for infrastructure protection.—There shall be in the Department an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(3) Responsibilities.—The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this section.

(c) Discharge of Information Analysis and Infrastructure Protection.—The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

(d) Responsibilities of Under Secretary.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, intelligence-related information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to—

(A) identify and assess the nature and scope of threats to the homeland;

(B) detect and identify threats of terrorism against the United States and other threats to homeland security; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective measures and to support protective measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government agencies, and from State and local governments and private sector entities (pursuant to memoranda of understanding or other agreements entered into for that purpose).

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States.

(6) To take or seek to effect measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To administer the Homeland Security Advisory System, including—

(A) exercising primary responsibility for public threat advisories; and

(B) in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

(8) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

(9) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

(10) To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(11) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

(12) To ensure that—

(A) any material received pursuant to this section is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information shared under this section is transmitted, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(13) To request and obtain additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility under section 101, including the entry into cooperative agreements through the Secretary to obtain such information.

(14) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(15) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(16) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(17) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(18) To provide intelligence and information analysis and support to other elements of the Department.

(19) To perform such other duties relating to such responsibilities as the Secretary may provide.

(e) Staff.—

(1) In general.—The Secretary shall provide the Directorate with a staff of analysts having appropriate expertise and experience

to assist the Directorate in discharging responsibilities under this section.

(2) Private sector analysts.—Analysts under this subsection may include analysts from the private sector.

(3) Security clearances.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) Detail of Personnel.—

(1) In general.—In order to assist the Directorate in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) Covered agencies.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) Cooperative agreements.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) Basis.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) Functions Transferred.—In accordance with title VIII, there shall be transferred to the Secretary, for assignment to the Under Secretary for Information Analysis and Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The Computer Security Division of the National Institute of Standards and Technology, including the functions of the Secretary of Commerce relating thereto.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy and the energy security and assurance program and activities of the Department, including the functions of the Secretary of Energy relating thereto.

(6) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(h) Study of Placement Within Intelligence Community.—Not later than 90 days after the effective date of this Act, the President shall submit to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a report assessing the advisability of the following:

(1) Placing the elements of the Department concerned with the analysis of foreign intelligence information within the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) Placing such elements within the National Foreign Intelligence Program for budgetary purposes.

SEC. 202. ACCESS TO INFORMATION.

(a) In General.—

(1) Threat and vulnerability information.—Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence and intelligence-related information, relating to threats of terrorism against the United States and to other areas of responsibility described in section 101 and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any agency of the Federal Government.

(2) Other information.—The Secretary shall also have access to other information relating to matters under the responsibility of the Secretary that may be collected, possessed, or prepared by an agency of the Federal Government as the President may further provide.

(b) Manner of Access.—Except as otherwise directed by the President, with respect to information to which the Secretary has access pursuant to this section—

(1) the Secretary may obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis, including requests or arrangements involving broad categories of material, access to electronic databases, or both; and

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all agencies of the Federal Government shall promptly provide to the Secretary—

(A) all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against the United States and to other areas of responsibility under section 101;

(B) all information concerning the vulnerability of the infrastructure of the United States, or other vulnerabilities of the United States, to terrorism, whether or not such information has been analyzed;

(C) all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed; and

(D) such other information or material as the President may direct.

(c) Treatment Under Certain Laws.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be provided with all information from law enforcement agencies that is required to be given to the Director of Central Intelligence, under any provision of the following:

(1) The USA PATRIOT Act of 2001 (Public Law 107–56).

(2) Section 2517(6) of title 18, United States Code.

(3) Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(d) Access to Intelligence and Other Information.—

(1) Access by elements of federal government.—Nothing in this title shall preclude any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), or other any element of the Federal Government with responsibility for analyzing terrorist threat information, from receiving any intelligence or other information relating to terrorism.

(2) Sharing of information.—The Secretary, in consultation with the Director of Central Intelligence, shall work to ensure that intelligence or other information relating to terrorism to which the Department has access is appropriately shared with the elements of the Federal Government referred to in paragraph (1), as well as with State and local governments, as appropriate.

SEC. 203. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) Definitions.—In this section:

(1) Critical infrastructure.—The term "critical infrastructure" has the meaning given that term in section 1016(e) of the USA PATRIOT Act of 2001 (42 U.S.C. 5195(e)).

(2) Furnished voluntarily.—

(A) Definition.—The term "furnished voluntarily" means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) Benefit.—In this paragraph, the term "benefit" does not include any warning, alert, or other risk analysis by the Department.

(b) In General.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) Records Shared With Other Agencies.—

(1) In general.—

(A) Response to request.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) Segregable portion of record.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) Disclosure of independently furnished records.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) WITHDRAWAL OF CONFIDENTIAL DESIGNATION.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) PROCEDURES.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

There shall be in the Department a Directorate of Science and Technology headed by an Under Secretary for Science and Technology.

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

In assisting the Secretary with the responsibility specified in section 101(b)(2)(B), the primary responsibilities of the Under Secretary for Science and Technology shall include—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;

(2) supporting all elements of the Department in research, development, testing, evaluation and deployment of science and technology that is applicable in the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism;

(3) to support the Under Secretary for Information Analysis and Infrastructure Protection, by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting a national scientific research and development program to support the mission of the Department, including developing national policy for and coordinating the Federal Government's civilian efforts to identify, devise, and implement scientific, technological, and other countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including directing, funding and conducting research and development relating to the same;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems—

(A) for preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) for detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to federal, state, local government, and private sector entities;

(7) entering into joint sponsorship agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401);

(9) collaborating with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a); and

(10) supporting United States leadership in science and technology.

SEC. 303. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program.

(B) The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program. The programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department.

(E) The Environmental Measurements Laboratory.

(F) The advanced scientific computing research program and activities at Lawrence Livermore National Laboratory.

(2) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

(3) The Plum Island Animal Disease Center of the Department of Agriculture, including the functions of the Secretary of Agriculture relating thereto, as provided in section 310.

(4)(A) Except as provided in subparagraph (B)—

(i) the functions of the Select Agent Registration Program of the Department of Health and Human Services, including all functions of the Secretary of Health and Human Services under title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188); and

(ii) the functions of the Department of Agriculture under the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(B)(i) The Secretary shall collaborate with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a).

(ii) The Secretary shall collaborate with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401).

(C) In promulgating regulations pursuant to the functions described in subparagraph (A), the Secretary shall act in collaboration with the Secretary of Health and Human Services and the Secretary of Agriculture.

SEC. 304. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—Except as the President may otherwise direct, the Secretary shall carry out his civilian human health-related biological, biomedical, and infectious disease defense research and development (including vaccine research and development) responsibilities through the Department of Health and Human Services (including the Public Health Service), under agreements with the Secretary of Health and Human Services, and may transfer funds to him in connection with such agreements.

(b) ESTABLISHMENT OF PROGRAM.—With respect to any responsibilities carried out through the Department of Health and Human Services under this subsection, the Secretary, in consultation with the Secretary of Health and Human Services, shall have the authority to establish the research and development program, including the setting of priorities.

SEC. 305. RESEARCH IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND OTHER DEPARTMENTS.

With respect to such other research and development responsibilities under this title, including health-related chemical, radiological, and nuclear defense research and development responsibilities, as the Secretary may elect to carry out through the Department of Health and Human Services (including the Public Health Service) (under agreements with the Secretary of Health and Human Services) or through other Federal agencies (under agreements with their respective heads), the Secretary may transfer funds to the Secretary of Health and Human Services, or to such heads, as the case may be.

SEC. 306. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term "Fund" means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.

(2) HOMELAND SECURITY RESEARCH AND DEVELOPMENT.—The term "homeland security research and development" means research and development of technologies that are applicable in the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) HSARPA.—The term "HSARPA" means the Homeland Security Advanced Research Projects Agency established under this section.

(4) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Science and Technology or the designee of that Under Secretary.

(b) PURPOSES.—The purposes of this section are to—

(1) establish the Homeland Security Advanced Research Projects Agency to prioritize and fund homeland security research and development using the acceleration fund; and

(2) establish a fund to leverage existing research and development and accelerate the deployment of technology that will serve to enhance homeland defense.

(c) FUND.—

(1) ESTABLISHMENT.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies.

(2) USE OF FUND.—The Fund may be used to—

(A) accelerate research, development, testing and evaluation, and deployment of critical homeland security technologies; and

(B) support homeland security research and development.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 to the Fund for fiscal year 2003, and such sums as may be necessary in subsequent years.

(4) TRANSITION OF FUNDS.—With respect to such research, development, testing, and evaluation responsibilities under this section as the Secretary may elect to carry out through agencies other than the Department (under agreements with their respective heads), the Secretary may transfer funds to such heads. Of the funds authorized to be appropriated under paragraph (3) for the Fund, not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways, and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways, and coastal security mission.

(d) RESPONSIBILITIES OF THE HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.—The Homeland Security Advance Research Project Agency shall have the following responsibilities:

(1) To facilitate effective communication among departments, agencies, and other entities of the Federal Government, with respect to the conduct of research and development related to homeland security.

(2) To identify, by consensus and on a yearly basis, specific technology areas for which the Fund shall be used to rapidly transition homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities. The identified technology areas shall, as determined by the Homeland Security Advanced Research Projects Agency, be areas in which there exist research and development projects that address identified homeland security vulnerabilities and can be accelerated to the stage of prototyping, evaluating, transitioning, or deploying.

(3) To administer the Fund, including—

(A) issuing an annual multiagency program announcement soliciting proposals from government entities, federally funded research and development centers, industry, and academia;

(B) competitively selecting, on the basis of a merit-based review, proposals that advance the state of deployed technologies in the areas identified for that year;

(C) at the discretion of the HSARPA, assigning 1 or more program managers to oversee, administer, and execute a Fund project as the agent of HSARPA; and

(D) providing methods of funding, including grants, cooperative agreements, joint sponsorship agreements, or any other transaction.

(4) With respect to expenditures from the Fund, exercise acquisition authority consistent with the authority described under section 2371 of title 10, United States Code, relating to authorizing cooperative agreements and other transactions.

(5) In hiring personnel to assist in the administration of the HSARPA, have the authority to exercise the personnel hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105-261) with the stipulation that the Secretary shall exercise such authority for a period of 7 years commencing on the date of enactment of this Act, that a maximum of 100 persons may be hired under such authority, and that the term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

(6) Develop and oversee the implementation of periodic homeland security technology demonstrations, held at least annually, for the purpose of improving contact between technology developers, vendors, and acquisition personnel associated with related industries.

SEC. 307. MISCELLANEOUS AUTHORITIES RELATING TO NATIONAL LABORATORIES.

(a) IN GENERAL.—The limitation of the number of employees of the Department of Energy national laboratories assigned to Washington, D.C. shall not apply to those employees who, at the request of the Secretary, are assigned, on a temporary basis, to assist in the establishment of the Department.

(b) DIRECT TASKING.—Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept direct tasking from the Secretary or his designee, consistent with resources provided, and perform such tasking on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

SEC. 308. HOMELAND SECURITY INSTITUTE.

Within the Directorate of Science and Technology there shall be established a Homeland Security Institute as a separate federally funded research and development center under the direction of the Under Secretary to perform policy and systems analysis, assist in the definition of standards and metrics, assist agencies with evaluating technologies for deployment, proposing risk management strategies based on technology developments, and performing other appropriate research and analysis to improve policy and decisionmaking as it relates to the mission of the Department. The Homeland Security Institute shall utilize the capabilities of the National Infrastructure Simulation and Analysis Center.

SEC. 309. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.

(a) OFFICE FOR NATIONAL LABORATORIES.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(b) JOINT SPONSORSHIP.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

(c) ARRANGEMENTS.—The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

(d) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement entered into under subsection (a) or (b).

(e) LEAD AGENT.—

(1) IN GENERAL.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship agreement between the Department and a Department of Energy national laboratory or site for work on homeland security.

(2) FEDERAL ACQUISITION REGULATION.—Any work performed by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017(a) (4) of the Federal Acquisition Regulation.

(f) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of subsection (b).

(g) Authorities of Secretary and Under Secretary.—In connection with work involving the Department of Energy national laboratories or sites, the Secretary or Under Secretary for Science and Technology—

(1) may enter into joint sponsorship agreements with Department of Energy national laboratories or sites;

(2) may directly fund, task, and manage work at the Department of Energy national laboratories and sites; and

(3) may permit the director of any Department of Energy national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of such Act (15 U.S.C. 3710, 3710a).

SEC. 310. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) In General.—In accordance with title VIII, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) Continued Department of Agriculture Access.—On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

(c) Direction of Activities.—The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

(d) Notification.—

(1) In general.—At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

(2) Limitation.—No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 801(2)).

SEC. 311. CLEARINGHOUSE.

(a) In General.—The Secretary, acting through the Under Secretary for Science and Technology, shall provide for a clearinghouse as a central, national point of entry for individuals or companies seeking guidance on how to pursue proposals to develop or deploy products that would contribute to homeland security. Such clearinghouse shall refer those seeking guidance on Federal funding, regulation, acquisition, or other matters to the appropriate unit of the Department or to other appropriate Federal agencies.

(b) Screenings and Assessments.—The Under Secretary for Science and Technology shall work in conjunction with the Technical Support Working Group (organized under the April 1982, National Security Decision Directive Numbered 30) to—

(1) screen proposals described in subsection (a), as appropriate;

(2) assess the feasibility, scientific and technical merits, and estimated cost of proposals screened under paragraph (1), as appropriate; and

(3) identify areas where existing technologies may be easily adapted and deployed to meet the homeland security agenda of the Federal Government.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

There shall be in the Department a Directorate for Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

SEC. 402. RESPONSIBILITIES.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(C), the primary responsibilities of the Under Secretary for Border and Transportation Security shall include—

(1) preventing the entry of terrorists and the instruments of terrorism into the United States;

(2) securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating governmental activities at ports of entry;

(3) administering the immigration and naturalization laws of the United States, including the establishment of rules, in accordance with section 406, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not citizens or lawful permanent residents thereof;

(4) administering the customs laws of the United States;

(5) in carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce;

(6) carrying out the border patrol function; and

(7) administering and enforcing the functions of the Department under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

SEC. 403. FUNCTIONS TRANSFERRED.

(a) In General.—In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto; and

(4) the Federal Law Enforcement Training Center of the Department of the Treasury.

(b) Exercise of Customs Revenue Authorities.—

(1) In general.—

(A) Authorities not transferred.—Notwithstanding subsection (a)(1), authority that was vested in the Secretary of the Treasury by law to issue regulations related to customs revenue functions before the effective date of this section under the provisions of law set forth under paragraph (2) shall not be transferred to the Secretary by reason of this Act. The Secretary of the Treasury, with the concurrence of the Secretary, shall exercise this authority. The Commissioner of Customs is authorized to engage in activities to develop and support the issuance of the regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.

(B) Report.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under paragraph (2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

(C) Liability.—Neither the Secretary of the Treasury nor the Department of the Treasury shall be liable for or named in any legal action concerning the implementation and enforcement of regulations issued under this paragraph after the effective date of this Act.

(2) Applicable laws.—The provisions of law referred to under paragraph (1) are those sections of the following statutes that relate to customs revenue functions:

(A) The Tariff Act of 1930.

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised States of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974.

(J) The Trade Agreement Act of 1979.

(K) The North American Free Trade Area Implementation Act.

(L) The Uruguay Round Agreements Act.

(M) The Caribbean Basin Economic Recovery Act.

(N) The Andean Growth and Opportunity Act.

(O) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) Definitions of customs revenue functions.—In this subsection, the term "customs revenue functions" means—

(A) assessing, collecting, and refunding duties (including any special duties), excise taxes, fees, and any liquidated damages or penalties due on imported merchandise, including classifying and valuing merchandise and the procedures for "entry" as that term is defined in the United States Customs laws;

(B) administering section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordation for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

SEC. 404. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) Transfer of Agricultural Import and Entry Inspection Functions.—There shall be transferred to the Secretary the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) Covered Animal and Plant Protection Laws.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading "Bureau of Animal Industry" in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) The first section of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Health Protection Act (subtitle E of title X of Public Law 107-171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) Exclusion of Quarantine Activities.—For purposes of this section, the term "functions" does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) Effect of Transfer.—

(1) Compliance with department of agriculture regulations.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) Rulemaking coordination.—The Secretary of Agriculture shall coordinate with the Secretary whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the laws specified in subsection (b) at the locations referred to in subsection (a).

(3) Effective administration.—The Secretary, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department to carry out the functions transferred pursuant to subsection (a).

(e) Transfer Agreement.—

(1) Agreement required; revision.—Before the end of the transition period, as defined in section 801(2), the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

(2) Required terms.—The agreements required by this subsection shall provide for the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Department to carry out the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary under subsection (f).

(C) Authority under which the Secretary may perform functions that are delegated to the Animal and Plant Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary pursuant to subsection (a).

(D) Authority under which the Secretary of Agriculture may use employees of the Department to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) Periodic Transfer of Funds to Department of Homeland Security.—

(1) Transfer of funds.—Subject to paragraph (2), out of any funds collected as fees under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall periodically transfer to the Secretary, in accordance with the agreement under subsection (e), funds for activities carried out by the Secretary for which the fees were collected.

(2) Limitation.—The proportion of fees collected under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a) that are transferred to the Secretary under paragraph (1) may not exceed the proportion that—

(A) the costs incurred by the Secretary to carry out activities funded by those fees; bears to

(B) the costs incurred by the Federal Government to carry out activities funded by those fees.

(g) Transfer of Department of Agriculture Employees.—Not later than the completion of the transition period (as defined in section 801(2)), the Secretary of Agriculture shall transfer to the Department not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) Protection of Inspection Animals.—Title V of the Agricultural Risk Protection Act of 2002 (7 U.S.C. 2279e, 2279f) is amended—

(1) in section 501(a)—

(A) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(B) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture";

(2) by striking "Secretary" each place it appears (other than in sections 501(a) and 501(e)) and inserting "Secretary concerned"; and

(3) by adding at the end of section 501 the following:

"(i) Secretary Concerned Defined.—In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

(j) Conforming Amendments.—

(1) Section 501 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e) is amended—

(A) in subsection (a)—

(i) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(ii) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture"; and

(B) by striking "Secretary" each place it appears (other than in subsections (a) and (e)) and inserting "Secretary concerned".

(2) Section 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8411) is repealed.

SEC. 405. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) Definition of Affected Agency.—In this section, the term "affected agency" means—

(1) the Department;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary.

(b) Coordination.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall ensure that appropriate information (as determined by the Secretary) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) Report and Plan.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

SEC. 406. VISA ISSUANCE.

(a) Definition.—In this subsection, the term "consular office" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(b) In General.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) of this section, the Secretary—

(1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien;

(2) may delegate in whole or part the authority under subparagraph (A) to the Secretary of State; and

(3) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(c) Authority of the Secretary of State.—

(1) In general.—Notwithstanding subsection (b), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the foreign policy or security interests of the United States.

(2) Construction regarding authority.—Nothing in this section shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country adoption).

(C) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(D) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(E) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(F) Section 212(a)(3(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(G) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(H) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(I) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(J) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(K) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104–114).

(L) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105–277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999); 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106–553.

(M) Section 103(f) of the Chemical Weapon Convention Implementation Act of 1998 (112 Stat. 2681–865).

(N) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106–113.

(O) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(P) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(d) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—

(1) IN GENERAL.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(2) CONSTRUCTION REGARDING DELEGATION OF AUTHORITY.—Nothing in this section shall be construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(e) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(1) IN GENERAL.—The Secretary is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) FUNCTIONS.—Employees assigned under paragraph (1) shall perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.

(3) EVALUATION OF CONSULAR OFFICERS.—The Secretary of State shall evaluate, in consultation with the Secretary, as deemed appropriate by the Secretary, the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary for these procedures.

(4) REPORT.—The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.

(5) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in paragraph (2) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(6) TRAINING AND HIRING.—

(A) IN GENERAL.—The Secretary shall ensure, to the extent possible, that any employees of the Department assigned to perform functions under paragraph (2) and, as appropriate, consular officers, shall be provided the necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in subparagraph (A).

(7) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(8) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(f) NO CREATION OF PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

SEC. 407. BORDER SECURITY AND IMMIGRATION WORKING GROUP.

(a) ESTABLISHMENT.—The Secretary shall establish a border security and immigration working group (in this section referred to as the "Working Group"), composed of the Secretary or the designee of the Secretary, the Under Secretary for Immigration Affairs, and the Under Secretary for Border and Transportation protection.

(b) FUNCTIONS.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements in the coverage and geographic distributions of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced security for high-risk traffic, travel, and commerce;

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems; and

(6) coordinate the enforcement of all immigration laws.

(c) RELEVANT AGENCIES.—The Secretary shall consult with representatives of relevant agencies with respect to deliberations under subsection (b), and may include representative of such agencies in working group deliberations, as appropriate.

SEC. 408. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM.

(a) IN GENERAL.—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) PROHIBITION.—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

SEC. 409. STUDY ON USE OF FOREIGN NATIONAL PERSONNEL IN VISA PROCESSING.

The Secretary shall conduct a study on the use of foreign national personnel in visa processing to determine whether such uses are consistent with secure visa processing. The study shall review and make recommendations with respect to—

(1) the effects or possible effects on national security of the use of foreign national personnel in individual countries to perform data entry, process visas or visa applications, or in any way handle visas or visa application documents; and

(2) each United States mission abroad to determine whether United States consular services performed at the United States mission require different regulations on the use of foreign national personnel.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

SEC. 502. RESPONSIBILITIES.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(D), the primary responsibilities of the Under Secretary for Emergency Preparedness and Response shall include—

(1) helping to ensure the preparedness of emergency response providers for terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 503. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of the Assistant Secretary for Public Health Emergency Preparedness (including the Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System) of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

(a) IN GENERAL.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 506. DEFINITION.

In this title, the term "Nuclear Incident Response Team" means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

TITLE VI—MANAGEMENT

SEC. 601. UNDER SECRETARY FOR MANAGEMENT.

There shall be in the Department a Directorate for Management, headed by an Under Secretary for Management.

SEC. 602. RESPONSIBILITIES.

In assisting the Secretary with the management and administration of the Department, the primary responsibilities of the Under Secretary for Management shall include, for the Department—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 603. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 604. CHIEF INFORMATION OFFICER.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 605. CHIEF HUMAN CAPITAL OFFICER.

The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

(1) participating in the 2302(c) Certification Program of the Office of Special Counsel;

(2) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

(3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

SEC. 701. RESPONSIBILITIES.

In discharging his responsibilities relating to coordination (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, the responsibilities of the Secretary shall include—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public;

(3) directing and supervising grant programs of the Federal Government for State and local government emergency response providers; and

(4) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

Subtitle B—Inspector General

SEC. 710. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector

General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) Prohibition of Completion of Audit or Investigation.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) Notification.—The Secretary shall notify in writing the President of the Senate, the Speaker of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and other appropriate committees of Congress within thirty days of any exercise of his authority under this section stating the reasons for such exercise.

SEC. 711. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) In General.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) seek and execute warrants for arrest, search of a premises, or seizures of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

"(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

"(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

"(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

"(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

"(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

"(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

"(5) Powers authorized for an Office of Inspector General under paragraph (1) shall be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

"(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

"(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.".

(b) Promulgation of Initial Guidelines.—

(1) Definition.—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) In general.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) Minimum requirements.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) No lapse of authority.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) Effective Dates.—

(1) In general.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) Initial guidelines.—Subsection (b) shall take effect on the date of enactment of this Act.

Subtitle C—United States Secret Service

SEC. 720. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—General Provisions

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) Authority.—

(1) Sense of congress.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) In general.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.

"9701. Establishment of human resources management system.

"§9701. Establishment of human resources management system

"(a) In General.—Notwithstanding any other provision of this part, the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department.

"(b) System Requirements.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) Other Nonwaivable Provisions.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

"(d) Limitations Relating to Pay.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) Provisions To Ensure Collaboration With Employee Representatives.—

"(1) In general.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) Notice of proposal.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Preimplementation requirements.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) Continuing collaboration.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) Procedures.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(f) Provisions Relating to Appellate Procedures.—

(1) Sense of congress.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) Requirements.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) Sunset Provision.—Effective 5 years after the conclusion of the transition period defined under section 801 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) Clerical amendment.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) Effect on Personnel.—

(1) Nonseparation or nonreduction in grade or compensation of full-time personnel and part-time personnel holding permanent positions.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) Positions compensated in accordance with executive schedule.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) Coordination rule.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 731. LABOR-MANAGEMENT RELATIONS.

(a) Limitation on Exclusionary Authority.—

(1) In general.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) Exclusions allowable.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) Provisions Relating to Bargaining Units.—

(1) Limitation relating to appropriate units.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) Limitation relating to positions or employees.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) Homeland Security.—Subsection (a), (b), and (d) of this section shall not apply in circumstances where the President determines in writing that such application would have a substantial adverse impact on the Department's ability to protect homeland security. Whenever the President makes a determination specified under this subsection, the President shall notify the Senate and the House of Representatives of the reasons for such determination not less than 10 days prior to its issuance.

(d) Coordination Rule.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SEC. 732. ADVISORY COMMITTEES.

The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92-463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

SEC. 733. ACQUISITIONS.

(a) Research and Development Projects.—

(1) In general.—When the Secretary carries out basic, applied, and advanced research and development projects, he may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (h) of such section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) Prototype projects.—The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) Procurement of Temporary and Intermittent Services.—The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 734. REORGANIZATION AUTHORITY.

(a) Reorganization Plan.—

(1) In general.—Whenever the President determines that changes in the organization of the Department are necessary to carry out any policy set forth in this Act, the President shall prepare a reorganization plan specifying the reorganizations that the President determines are necessary. Any such plan may provide for—

(A) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of the Department;

(B) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, from the Department;

(C) the abolition of all or a part of an agency within the Department;

(D) the creation of a new agency or a new part of an agency within the Department; or

(E) the consolidation or coordination of the whole or a part of an agency within the Department, or of the whole or a part of the functions thereof, with the whole or a part of another agency within the Department.

(2) Transmittal.—

(A) In general.—The President shall transmit the reorganization plan to Congress together with the declaration that, with respect to each organization included in the plan, the President has found that the reorganization is necessary to carry out any policy set forth in this Act.

(B) Timing.—The reorganization plan shall be delivered to both Houses on the same day and to each House while it is in session, except that no more than 2 plans may be pending before Congress at 1 time.

(3) Content.—

(A) In general.—The transmittal message of the reorganization plan shall—

(i) specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function;

(ii) include an estimate of any reduction or increase in expenditures (itemized so far as practicable);

(iii) include detailed information addressing the impacts of the reorganization on the employees of any agency affected by the plan, and what steps will be taken to mitigate any impacts of the plan on the employees of the agency;

(iv) describe any improvements in management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan; and

(v) in the case of a transfer to or from the Department, address the impact of the proposed transfer on the ability of the affected agency to carry out its other functions and to accomplish its missions.

(B) Implementation.—In addition, the transmittal message shall include an implementation section which shall—

(i) describe in detail—

(I) the actions necessary or planned to complete the reorganization; and

(II) the anticipated nature and substance of any orders, directives, and other administrative and operations actions which are expected to be required for completing or implementing the reorganization; and

(ii) contain a projected timetable for completion of the implementation process.

(C) Background information.—The President shall also submit such further background or other information as Congress may require for its consideration of the plan.

(4) Amendments to plan.—Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any resolution has been ordered reported in either House, the President, or the designee of the President, may make amendments or modifications to the plan, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section. The President, or the designee of the President, may withdraw the plan any time prior to the conclusion of 90 calendar days of continuous session of Congress following the date on which the plan is submitted to Congress.

(b) Additional Contents of Reorganization Plan.—A reorganization plan—

(1) may change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and 1 or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan containing provisions authorized by paragraph (2) may provide that the head of an agency be an individual or a commission or board with more than 1 member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than 4 years, the pay may not be at a rate in excess of that found to be applicable to comparable officers in the executive branch, by and with the advice and consent of the Senate. Any reorganization plan containing provisions required by paragraph (4) shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

(c) Effective Date and Publication of Reorganization Plans.—

(1) Effective date.—Except as provided under paragraph (3), a reorganization plan shall be effective upon approval by the President of a resolution (as defined in subsection (f)) with respect to such plan, only if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress.

(2) Session of congress.—For the purpose of this chapter—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(3) Later effective date.—Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective.

(4) Publication of plan.—A reorganization plan which is effective shall be printed—

(A) in the Statutes at Large in the same volume as the public laws; and

(B) in the Federal Register.

(d) Effect On Other Laws; Pending Legal Proceedings.—

(1) Effect on laws.—

(A) Definition.—In this paragraph, the term "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) Effect.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) Pending legal proceedings.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in the officer's official capacity or in relation to the discharge of the officer's official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(e) Rules of Senate and House of Representatives On Reorganization Plans.—Subsections (f) through (i) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions with respect to any reorganization plans transmitted to Congress (in accordance with subsection (a)(3) of this section); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(f) Terms of Resolution.—For the purposes of subsections (e) through (i), "resolution" means only a joint resolution of Congress, the matter after the resolving clause of which is as follows: "That Congress approves the reorganization plan transmitted to Congress by the President on , 20 .", and includes such modifications and revisions as are submitted by the President under subsection (a)(4). The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than 1 reorganization plan.

(g) Introduction and Reference of Resolution.—

(1) Introduction.—No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under subsection (a), a resolution, as defined in subsection (f), shall be—

(A) introduced (by request) in the House by the chairman of the Government Reform Committee of the House, or by a Member or Members of the House designated by such chairman; and

(B) introduced (by request) in the Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

(2) Referral.—A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 75 calendar days of continuous session of Congress following the date of such resolution's introduction.

(h) Discharge of Committee Considering Resolution.—If the committee to which is referred a resolution introduced pursuant to subsection (g)(1) has not reported such a resolution or identical resolution at the end of 75 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(i) Procedure After Report or Discharge of Committees; Debate; Vote on Final Passage.—

(1) Procedure.—When the committee has reported, or has been deemed to be discharged (under subsection (h)) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(3) Vote on final passage.—Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(5) Prior passage.—If, prior to the passage by 1 House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

SEC. 735. MISCELLANEOUS PROVISIONS.

(a) Seal.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) Participation of Members of the Armed Forces.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(c) Redelegation of Functions.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 736. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 737. REGULATORY AUTHORITY.

Except as specifically provided in this Act, this Act vests in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act. This Act does not alter or diminish the regulatory authority of any other executive agency, except to the extent that this Act transfers such authority from the agency.

SEC. 738. USE OF APPROPRIATED FUNDS.

(a) Applicability of This Section.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance, use, and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act.

(b) Authorization of Appropriations To Create Department.—There is authorized to be appropriated $160,000,000 for the Office of Homeland Security in the Executive Office of the President to be transferred without delay to the Department upon its creation by enactment of this Act, notwithstanding subsection (c)(1)(C) such funds shall be available only for the payment of necessary salaries and expenses associated with the initiation of operations of the Department.

(c) Use of Transferred Funds.—

(1) In general.—Except as may be provided in this subsection or in an appropriations Act in accordance with subsection (e), balances of appropriations and any other funds or assets transferred under this Act—

(A) shall be available only for the purposes for which they were originally available;

(B) shall remain subject to the same conditions and limitations provided by the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; and

(C) shall not be used to fund any new position established under this Act.

(2) Transfer of funds.—

(A) In general.—After the creation of the Department and the swearing in of its Secretary, and upon determination by the Secretary that such action is necessary in the national interest, the Secretary is authorized to transfer, with the approval of the Office of Management and Budget, not to exceed $140,000,000 of unobligated funds from organizations and entities transferred to the new Department by this Act.

(B) Limitation.—Notwithstanding paragraph (1)(C), funds authorized to be transferred by subparagraph 2(A) shall be available only for payment of necessary costs, including funding of new positions, for the initiation of operations of the Department and may not be transferred unless the Committees on Appropriations are notified at least 15 days in advance of any proposed transfer and have approved such transfer in advance.

(C) Notification.—The notification required in subparagraph 2(B) shall include a detailed justification of the purposes for which the funds are to be used and a detailed statement of the impact on the program or organization that is the source of the funds, and shall be submitted in accordance with reprogramming procedures to be established by the Committees on Appropriations.

(D) Use for other items.—The authority to transfer funds established in this section may not be used unless for higher priority items, based on demonstrated homeland security requirements, than those for which funds originally were appropriated and in no case where the item for which funds are requested has been denied by Congress.

(d) Notification Regarding Transfers.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(e) Additional Uses of Funds During Transition.—Subject to subsections (c) and (d), amounts transferred to, or otherwise made available to, the Department may be used during the transition period, as defined in section 801(2), for purposes in addition to those for which such amounts were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(f) Disposal of Property.—

(1) Strict compliance.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) Deposit of proceeds.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(g) Gifts.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(h) Budget Request.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

SEC. 739. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) In General.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.

(b) Contents.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) Effective Date.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department's fiscal year 2005 budget request is submitted to Congress.

SEC. 739A. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472-4) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b), the following:

"(c) Bioterrorism Preparedness and Response Division.—

"(1) Establishment.—There is established within the Office of the Director of the Centers for Disease Control and Prevention a Bioterrorism Preparedness and Response Division (in this subsection referred to as the 'Division').

"(2) Mission.—The Division shall have the following primary missions:

"(A) To lead and coordinate the activities and responsibilities of the Centers for Disease Control and Prevention with respect to countering bioterrorism.

"(B) To coordinate and facilitate the interaction of Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, in so doing, serve as a major contact point for 2-way communications between the jurisdictions of homeland security and public health.

"(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

"(3) Responsibilities.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

"(A) The Bioterrorism Preparedness and Response Program.

"(B) The Strategic National Stockpile.

"(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

"(4) Director.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

"(5) Staffing.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

"(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

"(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.".

SEC. 739B. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) In General.—The annual Federal response plan developed by the Secretary under sections 102(b)(14) and 134(b)(7) shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

Subtitle E—Risk Sharing and Indemnification for Contractors Supplying Anti-Terrorism Technology and Services

SEC. 741. APPLICATION OF INDEMNIFICATION AUTHORITY.

(a) IN GENERAL.—The President may exercise the discretionary authority to indemnify contractors and subcontractors under Public Law 85-804 (50 U.S.C. 1431 et seq.) for a procurement of an anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(b) EXERCISE OF AUTHORITY.—In exercising the authority under subsection (a), the President may include, among other things—

(1) economic damages not fully covered by private liability insurance within the scope of the losses or damages of the indemnification coverage;

(2) a requirement that an indemnification provision included in a contract or subcontract be negotiated prior to the commencement of the performance of the contract;

(3) the coverage of information technology used to prevent, detect, identify, otherwise deter, or recover from acts of terrorism; and

(4) the coverage of the United States Postal Service.

SEC. 742. APPLICATION OF INDEMNIFICATION AUTHORITY TO STATE AND LOCAL GOVERNMENT CONTRACTORS.

(a) IN GENERAL.—Subject to the limitations of subsection (b), the President may exercise the discretionary authority to indemnify contractors and subcontractors under Public Law 85-804 (50 U.S.C. 1431 et seq.) for a procurement by a State or unit of local government of an anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(b) EXERCISE OF AUTHORITY.—The authority of subsection (a) may be exercised only—

(1) for procurements of a State or unit of local government that are made by the Secretary under contracts awarded by the Secretary pursuant to the authorities of section 743;

(2) with written approval from the Secretary, or any other official designated by the President, for each procurement in which indemnification is to be provided; and

(3) with respect to—

(A) amounts of losses or damages not fully covered by private liability insurance and State or local government-provided indemnification; and

(B) liabilities arising out of other than the contractor's willful misconduct or lack of good faith.

SEC. 743. PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES AND ANTI-TERRORISM SERVICES BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL CONTRACTS.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program under which States and units of local government may procure through contracts entered into by the Secretary anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(2) AUTHORITIES.—For the sole purposes of this program, the Secretary may, but shall not be required to, award contracts using the same authorities provided to the Administrator of General Services under section 309(b)(3) of the Federal Property and Administrative Services Act, 41 U.S.C. 259(b)(3).

(3) OFFERS NOT REQUIRED TO STATE AND LOCAL GOVERNMENTS.—A contractor that sells anti-terrorism technology or anti-terrorism services to the Federal Government shall not be required to offer such technology or services to a State or unit of local government.

(b) RESPONSIBILITIES OF THE SECRETARY.—In carrying out the program established by this section, the Secretary shall—

(1) produce and maintain a catalog of anti-terrorism technologies and anti-terrorism services suitable for procurement by States and units of local government under this program; and

(2) establish procedures in accordance with subsection (c) to address the procurement of anti-terrorism technologies and anti-terrorism services by States and units of local government under contracts awarded by the Secretary.

(c) REQUIRED PROCEDURES.—The procedures required by subsection (b)(2) shall implement the following requirements and authorities:

(1) SUBMISSIONS BY STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each State desiring to participate in a procurement of anti-terrorism technologies or anti-terrorism services through a contract entered into by the Secretary shall submit to the Secretary in such form and manner and at such times as the Secretary prescribes, the following:

(i) REQUEST.—A request consisting of an enumeration of the technologies or services, respectively, that are desired by the State and units of local government within the State.

(ii) PAYMENT.—Advance payment for each requested technology or service in an amount determined by the Secretary based on estimated or actual costs of the technology or service and administrative costs incurred by the Secretary.

(B) AWARD BY SECRETARY.—The Secretary may award and designate contracts under which States and units of local government may procure anti-terrorism technologies and anti-terrorism services directly from the contract holders. No indemnification may be provided under the authorities set forth in section 742 for procurements that are made directly between contractors and States or units of local government.

(2) PERMITTED CATALOG TECHNOLOGIES AND SERVICES.—A State may include in a request submitted under paragraph (1) only a technology or service listed in the catalog produced under subsection (b)(1).

(3) COORDINATION OF LOCAL REQUESTS WITHIN STATE.—The Governor of a State (or the Mayor of the District of Columbia) may establish such procedures as the Governor (or the Mayor of the District of Columbia) considers appropriate for administering and coordinating requests for anti-terrorism technologies or anti-terrorism services from units of local government within the State.

(4) SHIPMENT AND TRANSPORTATION COSTS.—A State requesting anti-terrorism technologies or anti-terrorism services shall be responsible for arranging and paying for any shipment or transportation costs necessary to deliver the technologies or services, respectively, to the State and localities within the State.

(d) REIMBURSEMENT OF ACTUAL COSTS.—In the case of a procurement made by or for a State or unit of local government under the procedures established under this section, the Secretary shall require the State or unit of local government to reimburse the Department for the actual costs it has incurred for such procurement.

(e) TIME FOR IMPLEMENTATION.—The catalog and procedures required by subsection (b) of this section shall be completed as soon as practicable and no later than 210 days after the enactment of this Act.

SEC. 744. CONGRESSIONAL NOTIFICATION.

(a) IN GENERAL.—Notwithstanding any other law, a Federal agency shall, when exercising the discretionary authority of Public Law 85-804, as amended by section 742, to indemnify contractors and subcontractors, provide written notification to the Committees identified in subsection (b) within 30 days after a contract clause is executed to provide indemnification.

(b) SUBMISSION.—The notification required by subsection (a) shall be submitted to—

(1) the Appropriations Committees of the Senate and House;

(2) the Armed Services Committees of the Senate and House;

(3) the Senate Governmental Affairs Committee; and

(4) the House Government Reform Committee.

SEC. 745. DEFINITIONS.

In this subtitle:

(1) ANTI-TERRORISM TECHNOLOGY AND SERVICE.—The terms "anti-terrorism technology" and "anti-terrorism service" mean any product, equipment, or device, including information technology, and any service, system integration, or other kind of service (including a support service), respectively, that is related to technology and is designed, developed, modified, or procured for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(2) ACT OF TERRORISM.—The term "act of terrorism" means a calculated attack or threat of attack against any person, property, or infrastructure to inculcate fear, or to intimidate or coerce a government, the civilian population, or any segment thereof, in the pursuit of political, religious, or ideological objectives.

(3) INFORMATION TECHNOLOGY.—The term "information technology" has the meaning such term in section 11101(6) of title 40, United States Code.

(4) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(5) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or any agency of the District of Columbia Government or the United States Government performing law enforcement functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

Subtitle F—Federal Emergency Procurement Flexibility

SEC. 751. DEFINITION.

In this title, the term "executive agency" has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 752. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 753. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 752 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $250,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $500,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term "simplified acquisition threshold definitions" means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 754. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 752, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $10,000.

SEC. 755. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 752 without regard to whether the property or services are commercial items.

(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 756. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 752, including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 752.

SEC. 757. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) REQUIREMENTS.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) CONTENT OF REPORT.—The report under subsection (a)(2) shall include the following matters:

(1) ASSESSMENT.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) RECOMMENDATIONS.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) CONSULTATION.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

SEC. 758. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

Subtitle G—Coast Guard

SEC. 761. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (e.g., fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) Homeland security missions.—The term "homeland security missions" means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) Transfer.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) Maintenance of Status of Functions and Assets.—Notwithstanding any other provision of this Act, the authorities, functions, assets, organizational structure, units, personnel, and non-homeland security missions of the Coast Guard shall be maintained intact and without reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts. Nothing in this paragraph shall prevent the Coast Guard from replacing or upgrading any asset with an asset of equivalent or greater capabilities.

(d) Certain Transfers Prohibited.—

(1) In general.—None of the missions, functions, personnel, and assets (including ships, aircraft, helicopters, and vehicles) of the Coast Guard may be transferred to the operational control of, or diverted to the principal and continuing use of, any other organization, unit, or entity of the Department.

(2) Applicability.—The restrictions in paragraph (1) shall not apply—

(A) to any joint operation of less than 90 days between the Coast Guard and other entities and organizations of the Department; or

(B) to any detail or assignment of any individual member or civilian employee of the Coast Guard to any other entity or organization of the Department for the purposes of ensuring effective liaison, coordination, and operations of the Coast Guard and that entity or organization, except that the total number of individuals detailed or assigned in this capacity may not exceed 50 individuals during any fiscal year.

(e) Changes to Non-Homeland Security Missions.—

(1) Prohibition.—The Secretary may not make any substantial or significant change to any of the non-homeland security missions of the Coast Guard, or to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, without the prior approval of Congress as expressed in a subsequent Act. With respect to a change to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, the restrictions in this paragraph shall not apply when such change shall result in an increase in those capabilities.

(2) Waiver.—The President may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the President to Congress that a clear, compelling, and immediate state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively to the national emergency if the restrictions under paragraph (1) are not waived.

(f) Annual Review.—

(1) In general.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) Report.—The Inspector General shall submit the detailed results of the annual review and assessment required by paragraph (1) not later than March 1 of each year directly to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) Direct Reporting to Secretary.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) Operation as a Service in the Navy.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

TITLE VIII—TRANSITION

SEC. 801. DEFINITIONS.

In this title:

(1) Agency.—The term "agency" includes any entity, organizational unit, or function; and

(2) Transition period.—The term "transition period" means the 12-month period beginning on the effective date of this Act.

SEC. 802. TRANSFER OF AGENCIES.

The transfer of an agency to the Department shall occur when the President so directs, but in no event later than the end of the transition period. When an agency is transferred, the President may also transfer to the Department any agency established to carry out or support adjudicatory or review functions in relation to the agency.

SEC. 803. TRANSITIONAL AUTHORITIES.

(a) Provision of Assistance by Officials.—Until the transfer of an agency to the Department, any official having authority over, or functions relating to, the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) Services and Personnel.—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable or nonreimbursable basis, provide services or detail personnel to assist with the transition.

(c) Acting Officials.—

(1) In general.—

(A) Designation.—During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act.

(B) Compensation.—While serving as an acting officer under subparagraph (A), that officer shall receive compensation at the higher of the rate provided—

(i) by this Act for the office in which that officer acts; or

(ii) for the office held at the time of designation.

(2) Rule of construction.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose—

(A) agency is transferred to the Department under this Act; and

(B) duties following such transfer are germane to those performed before such transfer.

(d) Transfer of Personnel, Assets, Liabilities, and Functions.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and liabilities held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget; and

(2) the Secretary shall have all functions—

(A) relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer; and

(B) vested in the Secretary by this Act or other law.

SEC. 804. SAVINGS PROVISIONS.

(a) Completed Administrative Actions.—

(1). In general.—Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) Included actions.—For purposes of paragraph (1), the term "completed administrative actions" includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) Pending Proceedings.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) Pending Civil Actions.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) References.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions.

(e) Statutory Reporting Requirements.—Any statutory reporting requirement that applied to an agency, transferred to the Department under this Act, immediately before the effective date of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

(f) Employment Provisions.—Except as otherwise provided in this Act, or under authority granted by this Act, the transfer under this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

SEC. 805. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred under this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 806. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held,, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as the Director may determine necessary to accomplish the purposes of this Act.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 901. INSPECTOR GENERAL ACT.

Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in paragraphs (1) and (2)—

(1) by inserting "Homeland Security," after "Transportation," each place it appears;

(2) by striking "; and" each place it appears and inserting a semicolon;

(3) by striking ",," and inserting a coma; and

(4) by striking ";;" each place it appears and inserting a semicolon in each such place.

SEC. 902. EXECUTIVE SCHEDULE.

Chapter 53 of title 5, United States Code, is amended—

(1) in section 5312, by inserting after the item relating to the Secretary of Veterans Affairs the following:

"Secretary of Homeland Security.";

(2) in section 5313, by inserting after the item relating to the Deputy Secretary of Transportation the following:

"Deputy Secretary of Homeland Security.";

(3) in section 5314, by inserting after the item relating to the Under Secretary for Memorial Affairs, Department of Veterans Affairs the following:

"Under Secretaries, Department of Homeland Security."; and

(4) in section 5315, by inserting at the end the following:

"Assistant Secretaries, Department of Homeland Security.

"General Counsel, Department of Homeland Security.

"Chief Financial Officer, Department of Homeland Security.

"Chief Information Officer, Department of Homeland Security.

"Inspector General, Department of Homeland Security.".

SEC. 903. UNITED STATES SECRET SERVICE.

(a) Uniformed Division.—Section 202 of title 3, United States Code, is amended by striking "Secretary of the Treasury" and inserting "Secretary of Homeland Security".

(b) Reimbursement of State and Local Governments.—Section 208 of title 3, United States Code, is amended by striking "Secretary of Treasury" each place it appears and inserting "Secretary of Homeland Security" in each such place.

(c) Powers, Authorities, and Duties.—Section 3056 of title 18, United States Code, is amended by striking "Secretary of the Treasury" each place it appears and inserting "Secretary of Homeland Security" in each such place.

(d) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 904. COAST GUARD.

(a) Title 14, U.S.C.—Title 14 of the United States Code is amended—

(1) in sections 1, 3, 53, 95, 145, 516, 666, 669, 673 (as added by Public Law 104-201), 673 (as added by Public Law 104-324), 674, 687, and 688, by striking "of Transportation", each place it appears, and inserting "of Homeland Security"; and

(2) after executing the other amendments required by this subsection, by redesignating the section 673 added by Public Law 104-324 as section 673a.

(b) Title 10, U.S.C.—Section 801(1) of title 10, United States Code, is amended by striking "the General Counsel of the Department of Transportation" and inserting "an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security".

(c) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) In General.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended—

(1) in subsection (a)(1)—

(A) by striking "Secretary of Health and Human Services" and inserting "Secretary of Homeland Security";

(B) by inserting "the Secretary of Health and Human Services and" after "in coordination wfth"; and

(C) by inserting "of Health and Human Services" after "as are determined by the Secretary"; and

(2) in subsections (a)(2) and (b), by inserting "of Health and Human Services" after "Secretary" each place it appears.

(b) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 906. SELECT AGENT REGISTRATION.

(a) Public Health Service Act.—The Public Health Service Act is amended—

(1) in section 351A(a)(1)(A), by inserting "(as defined in subsection (l)(9))" after "Secretary";

(2) in section 351A(h)(2)(A), by inserting "Department of Homeland Security, the" before "Department of Health and Human Services";

(3) in section 351A(l), by inserting after paragraph (8) the following:

"(9) The term 'Secretary' means the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services."; and

(4) in section 352A(i)—

(A) by striking "(1)" the first place it appears; and

(B) by striking paragraph (2).

(b) Public Health Security and Bioterrorism Preparedness and Response Act of 2002.—Section 201(b) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended by striking "Secretary of Health and Human Services" and inserting "Secretary of Homeland Security".

(c) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the select agent registration enforcement programs and activities of the Department of Health and Human Services to the Department.

SEC. 907. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 908. MILITARY ACTIVITIES.

Except as specifically provided in this Act, nothing in this Act shall confer upon the Secretary any authority to engage in war fighting, the military defense of the United States, or other traditional military activities.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

SEC. 1001. SHORT TITLE.

This division may be cited as the "Immigration Reform, Accountability, and Security Enhancement Act of 2002".

SEC. 1002. DEFINITIONS.

In this division:

(1) Enforcement bureau.—The term "Enforcement Bureau" means the Bureau of Enforcement established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) Function.—The term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) Immigration enforcement functions.—The term "immigration enforcement functions" has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.

(4) Immigration laws of the united states.—The term "immigration laws of the United States" has the meaning given the term in section 111(e) of the Immigration and Nationality Act, as added by section 1102 of this Act.

(5) Immigration policy, administration, and inspection functions.—The term "immigration policy, administration, and inspection functions" has the meaning given the term in section 112(b)(3) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(6) Immigration service functions.—The term "immigration service functions" has the meaning given the term in section 113(b)(2) of the Immigration and Nationality Act, as added by section 1104 of this Act.

(7) Office.—The term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(8) Secretary.—The term "Secretary" means the Secretary of Homeland Security.

(9) Service bureau.—The term "Service Bureau" means the Bureau of Immigration Services established in section 113 of the Immigration and Nationality Act, as added by section 1104 of this Act.

(10) Under secretary.—The term "Under Secretary" means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of the Immigration and Nationality Act, as added by section 1103 of this Act.

SEC. 1003. TRANSFER OF IMMIGRATION AND NATURALIZATION SERVICE FUNCTIONS.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the Immigration and Naturalization Service of the Department of Justice, including the functions of the Attorney General relating thereto, to be restructured so as to separate enforcement and service functions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

SEC. 1101. ABOLITION OF INS.

(a) In General.—The Immigration and Naturalization Service is abolished.

(b) Repeal.—Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service), is repealed.

SEC. 1102. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

(a) Establishment.—Title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) by inserting **"CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES"** after "**TITLE I—GENERAL**"; and

(2) by adding at the end the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"SEC. 111. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

"(a) Establishment.—There is established within the Department of Homeland Security the Directorate of Immigration Affairs.

"(b) Principal Officers.—The principal officers of the Directorate are the following:

"(1) The Under Secretary for Immigration Affairs appointed under section 112.

"(2) The Assistant Secretary for Immigration Services appointed under section 113.

"(3) The Assistant Secretary for Enforcement appointed under section 114.

"(c) Functions.—Under the authority of the Secretary of Homeland Security, the Directorate shall perform the following functions:

"(1) Immigration policy and administration functions, as defined in section 112(b).

"(2) Immigration service and adjudication functions, as defined in section 113(b).

"(3) Immigration enforcement functions, as defined in section 114(b), but does not include the functions described in paragraphs (7) and (8) of section 131(b).

"(d) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out the functions of the Directorate.

"(2) Availability of funds.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

"(e) Immigration Laws of the United States Defined.—In this chapter, the term 'immigration laws of the United States' shall have the same meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).".

(b) Conforming Amendments.—(1) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) by striking section 101(a)(34) (8 U.S.C. 1101(a)(34)) and inserting the following:

"(34) The term 'Directorate' means the Directorate of Immigration Affairs established by section 111.";

(B) by adding at the end of section 101(a) the following:

"(51) The term 'Secretary' means the Secretary of Homeland Security.

"(52) The term 'Department' means the Department of Homeland Security.";

(C) by striking "Attorney General" and "Department of Justice" each place it appears (other than the proviso in section 103(a)(1) of the Immigration and Nationality Act) and inserting "Secretary" and "Department", respectively;

(D) in section 101(a)(17) (8 U.S.C. 1101(a)(17)), by striking "The" and inserting "Except as otherwise provided in section 111(e), the; and

(E) by striking "Immigration and Naturalization Service", "Service", and "Service's" each place they appear and inserting "Directorate of Immigration Affairs", "Directorate", and "Directorate's", respectively.

(2) Section 6 of the Act entitled "An Act to authorize certain administrative expenses for the Department of Justice, and for other purposes", approved July 28, 1950 (64 Stat. 380), is amended—

(A) by striking "Immigration and Naturalization Service" and inserting "Directorate of Immigration Affairs";

(B) by striking clause (a); and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) References.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security of the Department of Homeland Security, as appropriate, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary for Immigration Affairs and the Under Secretary for Border and Transportation Security, as appropriate.

SEC. 1103. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

"SEC. 112. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

"(a) Under Secretary of Immigration Affairs.—The Directorate shall be headed by an Under Secretary of Homeland Security for Immigration Affairs who shall be appointed in accordance with section 103(c) of the Immigration and Nationality Act.

"(b) Responsibilities of the Under Secretary.—

"(1) In general.—The Under Secretary shall be charged with any and all responsibilities and authority in the administration of the Directorate and of this Act which are conferred upon the Secretary as may be delegated to the Under Secretary by the Secretary or which may be prescribed by the Secretary.

"(2) Duties.—Subject to the authority of the Secretary under paragraph (1), the Under Secretary shall have the following duties:

"(A) Immigration policy.—The Under Secretary shall develop and implement policy under the immigration laws of the United States with respect to any function within the jurisdiction of the Directorate. The Under Secretary shall propose, promulgate, and issue rules, regulations, and statements of policy with respect to any function within the jurisdiction of the Directorate.

"(B) Administration.—The Under Secretary shall have responsibility for—

"(i) the administration and enforcement of the functions conferred upon the Directorate under section 111(c) of this Act; and

"(ii) the administration of the Directorate, including the direction, supervision, and coordination of the Bureau of Immigration Services and the Bureau of Enforcement.

"(3) Activities.—As part of the duties described in paragraph (2), the Under Secretary shall do the following:

"(A) Resources and personnel management.—The Under Secretary shall manage the resources, personnel, and other support requirements of the Directorate.

"(B) Information resources management.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including the maintenance of records and databases and the coordination of records and other information within the Directorate, and shall ensure that the Directorate obtains and maintains adequate information technology systems to carry out its functions.

"(4) Definition.—In this chapter, the term 'immigration policy and administration' means the duties, activities, and powers described in this subsection.

"(c) General Counsel.—

"(1) In general.—There shall be within the Directorate a General Counsel, who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary.

"(2) Function.—The General Counsel shall—

"(A) serve as the chief legal officer for the Directorate; and

"(B) be responsible for providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Under Secretary with respect to legal matters affecting the Directorate, and any of its components.

"(d) Financial Officers for the Directorate of Immigration Affairs.—

"(1) Chief financial officer.—

"(A) In general.—There shall be within the Directorate a Chief Financial Officer. The position of Chief Financial Officer shall be a career reserved position in the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Directorate. For purposes of section 902(a)(1) of such title, the Under Secretary shall be deemed to be an agency head.

"(B) Functions.—The Chief Financial Officer shall be responsible for directing, supervising, and coordinating all budget formulas and execution for the Directorate.

"(2) Deputy chief financial officer.—The Directorate shall be deemed to be an agency for purposes of section 903 of such title (relating to Deputy Chief Financial Officers).

"(e) Chief of Congressional, Intergovernmental, and Public Affairs.—

"(1) In general.—There shall be within the Directorate a Chief of Congressional, Intergovernmental, and Public Affairs. Under the authority of the Under Secretary, the Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

"(A) providing to Congress information relating to issues arising under the immigration laws of the United States, including information on specific cases;

"(B) serving as a liaison with other Federal agencies on immigration issues; and

"(C) responding to inquiries from, and providing information to, the media on immigration issues.

"(2) Within the senior executive service.—The position of Chief of Congressional, Intergovernmental, and Public Affairs shall be a Senior Executive Service position under section 5382 of title 5, United States Code.".

(b) Compensation of General Counsel and Chief Financial Officer.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel, Directorate of Immigration Affairs, Department of Homeland Security.

"Chief Financial Officer, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) Repeals.—The following provisions of law are repealed:

(1) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(2) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of assistant commissioners and district directors).

(3) Section 1 of the Act of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(d) Conforming Amendments.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:

"(8) The term 'Under Secretary' means the Under Secretary for Immigration Affairs who is appointed under section 103(c).".

(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(i) by striking "The Commissioner of Immigration and Naturalization" and "The Commissioner" each place they appear and inserting "The appropriate Under Secretary of the Department of Homeland Security"; and

(ii) except as provided in paragraph (1), by striking "Commissioner of Immigration and Naturalization" and "Commissioner" each place they appear and inserting "appropriate Under Secretary of the Department of Homeland Security".

(C) The amendments made by subparagraph (B) do not apply to the references to the "Commissioner of Social Security" in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

(2) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended—

(A) in subsection (c), by striking "Commissioner" and inserting "Under Secretary";

(B) in subsection (d), by striking "Commissioner" and inserting "Under Secretary"; and

(C) in subsection (e), by striking "Commissioner" and inserting "Under Secretary".

(3) Sections 104 and 105 of the Immigration and Nationality Act (8 U.S.C. 1104, 1105) are amended by striking "Director" each place it appears and inserting "Assistant Secretary of State for Consular Affairs".

(4) Section 104(c) of the Immigration and Nationality Act (8 U.S.C. 1104(c)) is amended—

(A) in the first sentence, by striking "Passport Office, a Visa Office," and inserting "a Passport Services office, a Visa Services office, an Overseas Citizen Services office,"; and

(B) in the second sentence, by striking "the Passport Office and the Visa Office" and inserting "the Passport Services office and the Visa Services office".

(5) Section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Immigration and Naturalization, Department of Justice.".

(e) References.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Commissioner of Immigration and Naturalization shall be deemed to refer to the Under Secretary for Immigration Affairs or the Under Secretary for Border and Transportation Security, as appropriate.

SEC. 1104. BUREAU OF IMMIGRATION SERVICES.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"SEC. 113. BUREAU OF IMMIGRATION SERVICES.

"(a) Establishment of Bureau.—

"(1) In general.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the 'Service Bureau').

"(2) Assistant secretary.—The head of the Service Bureau shall be the Assistant Secretary for Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services'), who—

"(A) shall be appointed by the Secretary, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) Responsibilities of the Assistant Secretary.—

"(1) In general.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Services shall administer the immigration service functions of the Directorate.

"(2) Immigration service functions defined.—In this chapter, the term 'immigration service functions' means the following functions under the immigration laws of the United States:

"(A) Adjudications of petitions for classification of nonimmigrant and immigrant status.

"(B) Adjudications of applications for adjustment of status and change of status.

"(C) Adjudications of naturalization applications.

"(D) Adjudications of asylum and refugee applications.

"(E) Adjudications performed at Service centers.

"(F) Determinations concerning custody and parole of asylum seekers who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, including determinations under section 236B.

"(G) All other adjudications under the immigration laws of the United States.

"(c) Chief Budget Officer of the Service Bureau.—There shall be within the Service Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Service Bureau shall be responsible for monitoring and supervising all financial activities of the Service Bureau.

"(d) Quality Assurance.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to the immigration service functions of the Directorate are properly implemented; and

"(2) ensure that Service Bureau policies or practices result in sound records management and efficient and accurate service.

"(e) Office of Professional Responsibility.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Service Bureau and for receiving and investigating charges of misconduct or ill treatment made by the public.

"(f) Training of Personnel.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.".

(b) Service Bureau Offices.—

(1) In general.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Services, shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consider the location's proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.

(2) Transition provision.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1105. BUREAU OF ENFORCEMENT.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103 and 1104, is further amended by adding at the end the following:

"SEC. 114. BUREAU OF ENFORCEMENT.

"(a) Establishment of Bureau.—

"(1) In general.—There is established within the Directorate a bureau to be known as the Bureau of Enforcement (in this chapter referred to as the 'Enforcement Bureau').

"(2) Assistant secretary.—The head of the Enforcement Bureau shall be the Assistant Secretary for Enforcement (in this chapter referred to as the 'Assistant Secretary for Immigration Enforcement'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) Responsibilities of the Assistant Secretary.—

"(1) In general.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Enforcement shall administer the immigration enforcement functions of the Directorate.

"(2) Immigration enforcement functions defined.—In this chapter, the term 'immigration enforcement functions' means the following functions under the immigration laws of the United States:

"(A) The detention function, except as specified in section 113(b)(2)(F).

"(B) The removal function.

"(C) The intelligence function.

"(D) The investigations function.

"(c) Chief Budget Officer of the Enforcement Bureau.—There shall be within the Enforcement Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Enforcement Bureau shall be responsible for monitoring and supervising all financial activities of the Enforcement Bureau.

"(d) Office of Professional Responsibility.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Enforcement Bureau and receiving charges of misconduct or ill treatment made by the public and investigating the charges.

"(e) Office of Quality Assurance.—There shall be within the Enforcement Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to immigration enforcement functions are properly implemented; and

"(2) ensure that Enforcement Bureau policies or practices result in sound record management and efficient and accurate recordkeeping.

"(f) Training of Personnel.—The Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Enforcement Bureau.".

(b) Enforcement Bureau Offices.—

(1) In general.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Enforcement, shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall make selections according to trends in unlawful entry and unlawful presence, alien smuggling, national security concerns, the number of Federal prosecutions of immigration-related offenses in a given geographic area, and other enforcement considerations. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Enforcement Bureau offices adequately serve enforcement needs.

(2) Transition provision.—In determining the location of Enforcement Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1106. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 115. OFFICE OF THE OMBUDSMAN FOR IMMIGRATION AFFAIRS.

"(a) In General.—There is established within the Directorate the Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

"(b) Ombudsman.—

"(1) Appointment.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

"(2) Compensation.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of Homeland Security so determines, at a rate fixed under section 9503 of such title.

"(c) Functions of Office.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

"(1) to assist individuals in resolving problems with the Directorate or any component thereof;

"(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

"(3) to propose changes in the administrative practices or regulations of the Directorate, or any component thereof, to mitigate problems identified under paragraph (2);

"(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

"(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

"(d) Personnel Actions.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems.

"(e) Annual Report.—Not later than December 31 of each year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

"(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

"(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

"(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action;

"(4) an accounting of the items described in paragraphs (1) and (2) for which action remains to be completed;

"(5) an accounting of the items described in paragraphs (1) and (2) for which no action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction;

"(6) recommendations as may be appropriate to resolve problems encountered by the public;

"(7) recommendations as may be appropriate to resolve problems encountered by the public, including problems created by backlogs in the adjudication and processing of petitions and applications;

"(8) recommendations to resolve problems caused by inadequate funding or staffing; and

"(9) such other information as the Ombudsman may deem advisable.

"(f) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to the Office of the Ombudsman such sums as may be necessary to carry out its functions.

"(2) Availability of funds.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.".

SEC. 1107. OFFICE OF IMMIGRATION STATISTICS WITHIN THE DIRECTORATE.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 116. OFFICE OF IMMIGRATION STATISTICS.

"(a) Establishment.—There is established within the Directorate an Office of Immigration Statistics (in this section referred to as the 'Office'), which shall be headed by a Director who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Office shall collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Directorate and the Executive Office for Immigration Review.

"(b) Responsibilities of Director.—The Director of the Office shall be responsible for the following:

"(1) Statistical information.—Maintenance of all immigration statistical information of the Directorate of Immigration Affairs.

"(2) Standards of reliability and validity.—Establishment of standards of reliability and validity for immigration statistics collected by the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review.

"(c) Relation to the Directorate of Immigration Affairs and the Executive Office for Immigration Review.—

"(1) Other authorities.—The Directorate and the Executive Office for Immigration Review shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review, respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

"(2) Databases.—The Director of the Office, under the direction of the Secretary, shall ensure the interoperability of the databases of the Directorate, the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review to permit the Director of the Office to perform the duties of such office.".

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Directorate of Immigration Affairs for exercise by the Under Secretary through the Office of Immigration Statistics established by section 116 of the Immigration and Nationality Act, as added by subsection (a), the functions performed by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service, and the statistical functions performed by the Executive Office for Immigration Review, on the day before the effective date of this title.

SEC. 1108. CLERICAL AMENDMENTS.

The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to the heading for title I the following:

"CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES";

(2) by striking the item relating to section 103 and inserting the following:

"Sec. 103. Powers and duties of the Secretary of Homeland Security and the Under Secretary of Homeland Security for Immigration Affairs.";

and

(3) by inserting after the item relating to section 106 the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"Sec. 111. Establishment of Directorate of Immigration Affairs.
"Sec. 112. Under Secretary of Homeland Security for Immigration Affairs.
"Sec. 113. Bureau of Immigration Services.
"Sec. 114. Bureau of Enforcement.
"Sec. 115. Office of the Ombudsman for Immigration Affairs.
"Sec. 116. Office of Immigration Statistics.".

Subtitle B—Transition Provisions

SEC. 1111. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—

(1) FUNCTIONS OF THE ATTORNEY GENERAL.—Except as provided in subsection (c) and title XIII, all functions under the immigration laws of the United States vested by statute in, or exercised by, the Attorney General, immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Secretary through the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(2) FUNCTIONS OF THE COMMISSIONER OR THE INS.—Except as provided in subsection (c), all functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Directorate of Immigration Affairs on such effective date for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Directorate of Immigration Affairs under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

(c) SPECIAL RULE FOR BORDER PATROL AND INSPECTION FUNCTIONS.—

(1) IN GENERAL.—Notwithstanding subsections (a) and (b), the border patrol function, and primary and secondary immigration inspection functions, vested by statute in, or exercised by, the Attorney General, the Commissioner of Immigration and Naturalization, or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Under Secretary for Border and Transportation in accordance with paragraphs (7) and (8) of section 131(b).

(2) REFERENCES.—With respect to the border patrol function and primary and secondary immigration inspection functions, references in this subtitle to—

(A) the Directorate shall be deemed to be references to the Directorate of Border and Transportation Security; and

(B) the Under Secretary shall be deemed to be references to the Under Secretary for Border and Transportation Security.

SEC. 1112. TRANSFER OF PERSONNEL AND OTHER RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the appropriate Under Secretary for appropriate allocation in accordance with section 1115—

(1) the personnel of the Department of Justice employed in connection with the functions transferred under this title; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title.

SEC. 1113. DETERMINATIONS WITH RESPECT TO FUNCTIONS AND RESOURCES.

The Secretary shall determine, in accordance with the corresponding criteria set forth in sections 1112(b), 1113(b), and 1114(b) of the Immigration and Nationality Act (as added by this title)—

(1) which of the functions transferred under section 1111 are—

(A) immigration policy and administration functions;

(B) immigration service functions;

(C) immigration enforcement functions (excluding the border patrol function and primary and secondary immigration inspection functions); and

(D) the border patrol function and primary and secondary immigration inspection functions; and

(2) which of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112 were held or used, arose from, were available to, or were made available, in connection with the performance of the respective functions specified in paragraph (1) immediately prior to the effective date of this title.

SEC. 1114. DELEGATION AND RESERVATION OF FUNCTIONS.

(a) DELEGATION TO THE DIRECTORATES.—The Secretary shall delegate—

(1) through the Under Secretary and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103)—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement; and

(2) the border patrol function and primary and secondary immigration inspection functions to the Under Secretary for Border and Transportation Security.

(b) NONEXCLUSIVE DELEGATIONS AUTHORIZED.—Delegations made under subsection (a) may be made on a nonexclusive basis as the Secretary may determine may be necessary to ensure the faithful execution of the Secretary's responsibilities and duties under law.

(c) EFFECT OF DELEGATIONS.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary for Immigration Affairs, and the Under Secretary for Border and Transportation Security, respectively, as the Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

(d) STATUTORY CONSTRUCTION.—Nothing in this division may be construed to limit the authority of the Under Secretary, acting directly or by delegation under the Secretary, to establish such offices or positions within the Directorate of Immigration Affairs, in addition to those specified by this division, as the Under Secretary may determine to be necessary to carry out the functions of the Directorate.

SEC. 1115. ALLOCATION OF PERSONNEL AND OTHER RESOURCES.

(a) AUTHORITY OF THE UNDER SECRETARY.—

(1) IN GENERAL.—Subject to paragraph (2) and section 1114(b), the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the performance of the respective functions, as determined under section 1113, in accordance with the delegation of functions and the reservation of functions made under section 1114.

(2) LIMITATION.—Unexpended funds transferred pursuant to section 1112 shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) AUTHORITY TO TERMINATE AFFAIRS OF INS.—The Attorney General in consultation with the Secretary, shall provide for the termination of the affairs of the Immigration and Naturalization Service and such further measures and dispositions as may be necessary to effectuate the purposes of this division.

(c) TREATMENT OF SHARED RESOURCES.—The Under Secretary is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau. The Under Secretary shall maintain oversight and control over the shared computer databases and systems and records management.

SEC. 1116. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits,

grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) Proceedings.—

(1) Pending.—Sections 111 through 116 of the Immigration and Nationality Act, as added by subtitle A of this title, shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred under this title, but such proceedings and applications shall be continued.

(2) Orders.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) Discontinuance or modification.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) Suits.—This title, and the amendments made by this title, shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title, and the amendments made by this title, had not been enacted.

(d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) Continuance of Suit With Substitution of Parties.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and such function is transferred under this title to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) Administrative Procedure and Judicial Review.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred under this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred.

SEC. 1117. INTERIM SERVICE OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

The individual serving as the Commissioner of Immigration and Naturalization on the day before the effective date of this title may serve as Under Secretary until the date on which an Under Secretary is appointed under section 112 of the Immigration and Nationality Act, as added by section 1103.

SEC. 1118. OTHER AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Basic Authorities Act of 1956, or under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to the issuance and use of passports and visas;

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(3) except as otherwise specifically provided in this division, any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

SEC. 1119. TRANSITION FUNDING.

(a) Authorization of Appropriations for Transition.—

(1) In general.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—

(A) to effect—

(i) the abolition of the Immigration and Naturalization Service;

(ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement (except for the border patrol function and primary and secondary immigration inspection functions);

(iii) the transfer to the Directorate of Border and Transportation Protection of the border patrol function and primary and secondary immigration inspection functions; and

(iv) the transfer of such other functions as are required to be made under this division; and

(B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) Activities supported.—Activities supported under paragraph (1) include—

(A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security, as appropriate, including the preparation of any reports and implementation plans necessary for such transfer;

(B) the division, acquisition, and disposition of—

(i) buildings and facilities;

(ii) support and infrastructure resources; and

(iii) computer hardware, software, and related documentation;

(C) other capital expenditures necessary to effect the transfer of functions described in this paragraph;

(D) revision of forms, stationery, logos, and signage;

(E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and

(F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) Availability of Funds.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) Transition Account.—

(1) Establishment.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the "Directorate of Immigration Affairs Transition Account" (in this section referred to as the "Account").

(2) Use of account.—There shall be deposited into the Account all amounts appropriated under subsection (a) and amounts reprogrammed for the purposes described in subsection (a).

(d) Report to Congress on Transition.—Beginning not later than 90 days after the effective date of division A of this Act, and at the end of each fiscal year in which appropriations are made pursuant to subsection (c), the Secretary of Homeland Security shall submit a report to Congress concerning the availability of funds to cover transition costs, including—

(1) any unobligated balances available for such purposes; and

(2) a calculation of the amount of appropriations that would be necessary to fully fund the activities described in subsection (a).

(e) Effective Date.—This section shall take effect 1 year after the effective date of division A of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1121. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

(a) Level of Fees.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants" and inserting "services".

(b) Use of Fees.—

(1) In general.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refugee applicants.

(2) Prohibition.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of operation.

(c) Refugee and Asylum Adjudication Services.—

(1) Authorization of appropriations.—In addition to such sums as may be otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.

(2) Availability of funds.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) Separation of Funding.—

(1) In general.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other collections available for the Bureau of Immigration Services and the Bureau of Enforcement.

(2) Fees.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under

paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(3) Fees not transferable.—No fee may be transferred between the Bureau of Immigration Services and the Bureau of Enforcement for purposes not authorized by section 286 of the Immigration and Nationality Act, as amended by subsection (a).

(e) Authorization of Appropriations for Backlog Reduction.—

(1) In general.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out the Immigration Services and Infrastructure Improvement Act of 2000 (title II of Public Law 106–313).

(2) Availability of funds.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) Infrastructure improvement account.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvements Account established by section 204(a)(2) of title II of Public Law 106–313.

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) Establishment of On-Line Database.—

(1) In general.—Not later than 2 years after the effective date of division A, the Secretary, in consultation with the Under Secretary and the Technology Advisory Committee, shall establish an Internet-based system that will permit an immigrant, nonimmigrant, employer, or other person who files any application, petition, or other request for any benefit under the immigration laws of the United States access to on-line information about the processing status of the application, petition, or other request.

(2) Privacy considerations.—The Under Secretary shall consider all applicable privacy issues in the establishment of the Internet system described in paragraph (1). No personally identifying information shall be accessible to unauthorized persons.

(3) Means of access.—The on-line information under the Internet system described in paragraph (1) shall be accessible to the persons described in paragraph (1) through a personal identification number (PIN) or other personalized password.

(4) Prohibition on fees.—The Under Secretary shall not charge any immigrant, nonimmigrant, employer, or other person described in paragraph (1) a fee for access to the information in the database that pertains to that person.

(b) Feasibility Study for On-Line Filing and Improved Processing.—

(1) On-line filing.—

(A) In general.—The Under Secretary, in consultation with the Technology Advisory Committee, shall conduct a study to determine the feasibility of on-line filing of the documents described in subsection (a).

(B) Study elements.—The study shall—

(i) include a review of computerization and technology of the Immigration and Naturalization Service (or successor agency) relating to immigration services and the processing of such documents;

(ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and

(iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.

(2) Report.—Not later than 2 years after the effective date of division A, the Under Secretary shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the findings of the study conducted under this subsection.

(c) Technology Advisory Committee.—

(1) Establishment.—Not later than 1 year after the effective date of division A, the Under Secretary shall establish, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Under Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

(2) Composition.—The Technology Advisory Committee shall be composed of—

(A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and

(B) representatives of persons or entities who may use the tracking system described in subsection (a) and the on-line filing system described in subsection (b)(1).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) Assignments of Asylum Officers.—The Under Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take steps to ensure that asylum officers participate in the inspections process.

(b) Amendment of the Immigration and Nationality Act.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 236A the following new section:

"SEC. 236B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

"(a) Development of Alternatives to Detention.—The Under Secretary shall—

"(1) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and

"(2) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

"(b) Specific Alternatives for Consideration.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):

"(1) Parole from detention.

"(2) For individuals not otherwise qualified for parole under paragraph (1), parole with appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-secure shelter care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(4) Noninstitutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(c) Regulations.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

"(d) Definition.—In this section, the term 'asylum seeker' means any applicant for asylum under section 208 or any alien who indicates an intention to apply for asylum under that section.".

(b) Clerical Amendment.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236A the following new item:

"Sec. 236B. Alternatives to detention of asylum seekers.".

Subtitle D—Effective Date

SEC. 1131. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect one year after the effective date of division A of this Act.

TITLE XII—UNACCOMPANIED ALIEN JUVENILE PROTECTION

SEC. 1201. UNACCOMPANIED ALIEN JUVENILES.

(a) Custody Determinations.—

(1) In general.—

(A) Initial custody and care.—The custody and care of an unaccompanied alien juvenile shall be the responsibility of the Under Secretary of Immigration Affairs in the Department of Homeland Security or the Under Secretary of Border and Transportation Security, as determined under guidelines to be promulgated by the Secretary.

(B) Transfer of custody and care.—Unless the juvenile is described in subsection (b), the Department of Homeland Security shall transfer custody and care of that juvenile to the Office of Refugee Resettlement of the Department of Health and Human Services.

(2) Exception.—Notwithstanding paragraph (1), the Directorate of Immigration Affairs shall retain or assume the custody and care of an unaccompanied alien juvenile—

(A) who has been charged with a felony;

(B) who has been convicted of a felony;

(C) who exhibits a violent or criminal behavior that endangers others; or

(D) with respect to whom the Secretary of Homeland Security has a substantial evidence to conclude that such juvenile endangers the national security of the United States.

(b) Functions.—

(1) In general.—Pursuant to subsection (a)(2), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the custody and care of unaccompanied alien juveniles who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to the Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such juvenile, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act;

(B) ensuring that the interests of the juvenile are considered in decisions and actions relating to the custody and care of an unaccompanied alien juvenile;

(C) making placement determinations for all unaccompanied alien juveniles who are in Federal custody by reason of their immigration status;

(D) implementing placement determinations for such unaccompanied alien juveniles;

(E) implementing policies with respect to the care and placement of unaccompanied alien juveniles;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien juveniles;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien juveniles are housed;

(H) reuniting unaccompanied alien juveniles with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien juveniles;

(J) maintaining statistical information and other data on unaccompanied alien juveniles for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a juvenile's name, sex, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the juvenile came into Federal custody by reason of his or her immigration status;

(iii) information relating to the juvenile's placement, removal, or release from each facility in which the juvenile has resided;

(iv) in any case in which the juvenile is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the juvenile is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien juveniles; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien juveniles reside.

(2) Coordination with other entities; no release on own recognizance.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of Immigration Affairs of the Department of Homeland Security to ensure that the unaccompanied alien juveniles with respect to whom the placement determinations are made—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitative activity; and

(iii) are placed in a setting in which they not likely to pose a danger to themselves or others; and

(B) shall not release such juveniles upon their own recognizance.

(3) Duties with respect to foster care.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to consider the use of the refugee children foster care system established pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien juveniles.

(c) Appropriate Conditions for Detention of Unaccompanied Alien Juveniles.—

(1) In general.—An unaccompanied alien juvenile described in subsection (a)(2) may be placed in a facility appropriate for delinquent juveniles under conditions appropriate to the behavior of such juvenile.

(2) Restriction on detention in adult detention facilities.—To the maximum extent practicable, and consistent with the protection of the juvenile and others, an unaccompanied alien juvenile shall not be placed in an adult detention facility.

(d) Rule of Construction.—Nothing in this section may be construed to transfer the responsibility for adjudicating benefit determinations or making enforcement determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State, as the case may be.

(e) Transfer of Functions.—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration and nationality laws of the United States with respect to the custody and care of unaccompanied alien juveniles that were vested by statute in, or performed by, the Commissioner of the Immigration and Naturalization Service (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (i).

(f) Other Transition Matters.—

(1) Exercise of authorities.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in subsection (i).

(2) Savings provisions.—Subsections (a), (b), and (c) of section 812 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) Transfer and allocation of appropriations.—The assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(g) References.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(h) Definitions.—In this section:

(1) Lawfully present in the United States.—The term "lawfully present in the United States" means, with respect to an alien, an alien who is—

(A) an alien who is lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act);

(B) an alien who is a nonimmigrant alien described in section 101(a)(15) of the Immigration and Nationality Act;

(C) an alien who is a special immigrant described in section 101(a)(27) of the Immigration and Nationality Act;

(D) an alien who is granted asylum under section 208 of that Act;

(E) a refugee who is admitted to the United States under section 207 of that Act;

(F) an alien who is paroled into the United States under section 212(d)(5) of that Act; or

(G) an alien whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect before April 1, 1997) or section 241(b)(3) of the Immigration and Nationality Act.

(2) Placement.—The term "placement" means the placement of an unaccompanied alien juvenile in either a detention facility or an alternative to such a facility.

(3) Unaccompanied alien juvenile.—The term "unaccompanied alien juvenile" means an alien who—

(A) is not lawfully present in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(i) Effective Date.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 411 takes effect.

TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

SEC. 1301. LEGAL STATUS OF EOIR.

(a) Existence of EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1302.

SEC. 1302. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

"POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY, AND THE ATTORNEY GENERAL";

(2) in subsection (a)—

(A) by inserting "Attorney General," after "President,"; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104–208), and (9) (as added by section 372 of Public Law 104–208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

"(g) Attorney General.—

"(1) In general.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

"(2) Powers.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.".

SEC. 1303. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1302, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

SEC. 2101. SHORT TITLE.

This title may be cited as the “Chief Human Capital Officers Act of 2002”.

SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) In General.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

“CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

“Sec.

“1401. Establishment of agency Chief Human Capital Officers.

“1402. Authority and functions of agency Chief Human Capital Officers.

“§ 1401. Establishment of agency Chief Human Capital Officers

“The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

“(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

“(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

“(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

“§ 1402. Authority and functions of agency Chief Human Capital Officers

“(a) The functions of each Chief Human Capital Officer shall include—

“(1) setting the workforce development strategy of the agency;

“(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

“(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

“(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

“(5) identifying best practices and benchmarking studies, and

“(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

“(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

“(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

“(A) are the property of the agency or are available to the agency; and

“(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

“(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.”.

(b) Technical and Conforming Amendment.—The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

“14. Agency Chief Human Capital Officers .... 1401”.

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) Establishment.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) Functions.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) Employee Labor Organizations at Meetings.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) Annual Report.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

“(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

“(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

“(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

“(ii) integrating those strategies into the budget and strategic plans of those agencies;

“(B) closing skill gaps in mission critical occupations;

“(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

“(D) sustaining a culture that cultivates and develops a high performing workforce;

“(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

“(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.”.

SEC. 2105. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this division.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) Performance Plans.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

“(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.”;

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

“(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).”.

(b) Program Performance Reports.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking “and” after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

“(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and”.

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) In General.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking “and” after the semicolon;

(B) in paragraph (2), by striking the period and inserting “; and”; and

(C) by adding at the end of the following:

“(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

“(A) public notice has been given; and

“(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.”; and

(2) by inserting after section 3318 the following:

“§ 3319. Alternative ranking and selection procedures

“(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

“(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS-9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

"(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

"(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

"(1) the number of employees hired under that system;

"(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

"(3) the way in which managers were trained in the administration of that system.

"(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisfons of this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

"3319. Alternative ranking and selection procedures.".

SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"§ 3521. Definitions

"In this subchapter, the term—

"(1) 'agency' means an Executive agency as defined under section 105; and

"(2) 'employee'—

"(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

"(i) is serving under an appointment without time limitation; and

"(ii) has been currently employed for a continuous period of at least 3 years; and

"(B) shall include—

"(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government.

"(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

"(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

"(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

"(vi) any employee who—

"(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

"(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

"(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

"§ 3522. Agency plans; approval

"(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

"(b) The plan of an agency under subsection (a) shall include—

"(1) the specific positions and functions to be reduced or eliminated;

"(2) a description of which categories of employees will be offered incentives;

"(3) the time period during which incentives may be paid;

"(4) the number and amounts of voluntary separation incentive payments to be offered; and

"(5) a description of how the agency will operate without the eliminated positions and functions.

"(c) The Director of the Office of Personnel Management shall review each agency's plan an may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive of the Office of Personnel Management.

"§ 3523. Authority to provide voluntary separation incentive payments

"(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

"(b) A voluntary incentive payment—

"(1) shall be offered to agency employees on the basis of—

"(A) 1 or more organizational units;

"(B) 1 or more occupational series or levels;

"(C) 1 or more geographical locations;

"(D) skills, knowledge, or other factors related to a position;

"(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

"(F) any appropriate combination of such factors;

"(2) shall be paid in a lump sum after the employee's separation;

"(3) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c)if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

"(B) an amount determined by the agency head, not to exceed $25,000;

"(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

"(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

"(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other separation; and

"(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

"§ 3524. Effect of subsequent employment with the Government

"(a) The term 'employment'—

"(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

"(2) in subsection (c) does not include employment under such a contract.

"(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to he agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§ 3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT";

and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.
"3522. Agency plans; approval.
"3523. Authority to provide voluntary separation incentive payments.
"3524. Effect of subsequent employment with the Government.
"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors.".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 State. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 2302. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), the total payment referred to under such paragraph with respect to an employee paid under section 5372, 5376, or 5383 of title 5 or section 332(f), 603, or 604 of title 28 shall not exceed the total annual compensation payable to the Vice President under section 104 of title 3. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.".

TITLE XXIV—ACADEMIC TRAINING

SEC. 2401. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§ 4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.—Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and".

SEC. 2403. COMPENSATION TIME OFF FOR TRAVEL.

Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) An employee shall receive 1 hour of compensatory time off for each hour spent by the employee in travel status away from the official duty station of the employee, to the extent that the time spent in travel status is not otherwise compensable.

"(b) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

SEC. 2404. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "December 31, 2007".

TITLE XXXI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 3101. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 3102. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 3103. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 3104. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation; and

(vii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 3105. POWERS OF THE COMMISSION.

(a) In General.—

(1) Hearings and evidence.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) Subpoenas.—

(A) Issuance.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the vice chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) Enforcement.—

(i) In general.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) Additional enforcement.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) Closed Meetings.—

(1) In general.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) Additional authority.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) Contracting.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) Information From Federal Agencies.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) Assistance From Federal Agencies.—

(1) General services administration.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) Other departments and agencies.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 3106. STAFF OF THE COMMISSION.

(a) In General.—

(1) Appointment and compensation.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) Personnel as federal employees.—

(A) In general.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) Members of commission.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) Detailees.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) Consultant Services.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 3107. COMPENSATION AND TRAVEL EXPENSES.

(a) Compensation.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) Travel Expenses.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 3108. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 3109. REPORTS OF THE COMMISSION; TERMINATION.

(a) Initial Report.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) Additional Reports.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) Termination.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

TITLE XXXII

SEC. . PRESERVATION OF THE PRESIDENTIAL NATIONAL SECURITY POWER.

"Notwithstanding any other provision in this Act, nothing in this Act shall be construed to take away the statutory authority of the President to act in a manner consistent with national security requirements and considerations as existed on the day of the terrorist attacks on September 11, 2001."

SA 4739. Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . GRANTS FOR FIREFIGHTING PERSONNEL.

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

"(c) PERSONNEL GRANTS.—

"(1) IN GENERAL.—In addition to the grants authorized under subsection (b)(1), the Director may award grants to fire departments of a State for the purpose of hiring 'employees engaged in fire protection' as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203).

"(2) DURATION.—Grants awarded under this subsection shall be for a 3-year period.

"(3) MAXIMUM AMOUNT.—The total amount of grants awarded under this subsection shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

"(4) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of a grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

"(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

"(5) APPLICATION.—An application for a grant under this subsection, shall—

"(A) meet the requirements under subsection (b)(5);

"(B) include an explanation for the applicant's need for Federal assistance; and

"(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

"(6) MAINTENANCE OF EFFORT.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources."; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

"(3) $1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).".

SA 4740. Mr. NELSON of Nebraska (for himself, Mr. CHAFFEE, and Mr. BREAUX) proposed an amendment to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes, as follows:

On page 96, strike line 2 and all that follows through page 109, line 13, and insert the following:

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.

"9701. Establishment of human resources management system.

"§9701. Establishment of human resources management system

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department.

"(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 71, 72, 73, 77, and 79, and this chapter.

"(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) NOTICE OF PROPOSAL.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) PREIMPLEMENTATION REQUIREMENTS.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(3) WRITTEN AGREEMENT.—Notwithstanding any other provision of this part, employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any system provided under this section unless the exclusive representative and the Secretary have entered into a written agreement, which specifically provides for the inclusion of such employees within such system. Such written agreement may be imposed by the Federal Service Impasses Panel under section 7119, after negotiations consistent with section 7117.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 801 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 731. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of title 5, United States Code, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(d) SAVINGS CLAUSE.—Notwithstanding any other provision of this Act, Title XXXII is null and void.

SA 4741. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

( ) SEC.—.

Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386; 114 Stat. 1542) is amended—

(1) in subsection (a)(2)(A)(ii)—

(A) by striking "February 17, 1999," and inserting "May 17, 1996, May 7, 1997, February 17, 1999, December 15, 1999 (or who has or could have been subsequently joined in a suit filed on December 15, 1999 pursuant to Fed. R. Civ. P. 20(a))," and

(B) by striking "or July 27, 2000" and inserting "April 3, 2000, October 27, 2000, or July 27, 2000";

(2) by amending subsection (b)(1) to read as follows:

"(b)(1) JUDGMENTS AGAINST DESIGNATED STATE SPONSORS OF TERRORISM.—For purposes of funding the payments under subsection (a) in the case of judgments and sanctions entered against a government of a designated state sponsor of terrorism or its entities, the President shall vest and liquidate up to and not exceeding the amount of property of such government (including the agencies or instrumentalities controlled in fact by such government or in which such government owns directly or indirectly controlling interest) and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 5(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1707-1702), or any other proclamation, order, or regulation issued thereunder."

(3) by amending subsection (b)(2)(B) to read as follows:

"(B) the Iran Foreign Military Sales Program Account within the Foreign Military Sales Fund on the date of enactment of this Act (less amounts therein as to which the United States has an interest in subrogation arising prior to the date of enactment of this Act);"; and

(4) in subsection (c)—

(A) by inserting after the phrase "to the extent of the payments" the phrase "made prior to the date of enactment of this Act".

SA 4742. Mr. DASCHLE proposed an amendment to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

Strike all after the first word in amendment contained in the motion's instructions and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeland Security Act of 2002".

(b) DIVISIONS.—This Act is organized into three divisions as follows:

(1) DIVISION A.—Homeland Security.

(2) DIVISION B.—Immigration Reform, Accountability, and Security Enhancement Act of 2002.

(3) DIVISION C.—Federal Workforce Improvement.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Construction; severability.

Sec. 4. Effective date.

DIVISION A—HOMELAND SECURITY

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Sec. 101. Executive department; mission.

Sec. 102. Secretary; functions.

Sec. 103. Other officers.

Sec. 104. Office of International Affairs.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Sec. 201. Directorate for Information Analysis and Infrastructure Protection.

Sec. 202. Access to information.

Sec. 203. Protection of voluntarily furnished confidential information.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

Sec. 301. Under Secretary for Science and Technology.

Sec. 302. Responsibilities and authorities of the Under Secretary for Science and Technology.

Sec. 303. Functions transferred.

Sec. 304. Conduct of certain public health-related activities.

Sec. 305. Research in conjunction with the Department of Health and Human Services and other departments.

Sec. 306. Homeland Security Advanced Research Projects Agency.

Sec. 307. Miscellaneous authorities relating to national laboratories.

Sec. 308. Homeland Security Institute.

Sec. 309. Utilization of Department of Energy national laboratories and sites in support of homeland security activities.

Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture.

Sec. 311. Clearinghouse.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

Sec. 401. Under Secretary for Border and Transportation Security.

Sec. 402. Responsibilities.

Sec. 403. Functions transferred.

Sec. 404. Transfer of certain agricultural inspection functions of the Department of Agriculture.

Sec. 405. Coordination of information and information technology.

Sec. 406. Visa issuance.

Sec. 407. Border security and immigration working group.

Sec. 408. Information on visa denials required to be entered into electronic data system.

Sec. 409. Study on use of foreign national personnel in visa processing.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.

Sec. 502. Responsibilities.

Sec. 503. Functions transferred.

Sec. 504. Nuclear incident response.

Sec. 505. Conduct of certain public health-related activities.

Sec. 506. Definition.

TITLE VI—MANAGEMENT

Sec. 601. Under Secretary for Management.

Sec. 602. Responsibilities.

Sec. 603. Chief Financial Officer.

Sec. 604. Chief Information Officer.

Sec. 605. Chief Human Capital Officer.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

Sec. 701. Responsibilities.

Subtitle B—Inspector General

Sec. 710. Authority of the Secretary.

Sec. 711. Law enforcement powers of Inspector General Agents.

Subtitle C—United States Secret Service

Sec. 720. Functions transferred.

Subtitle D—General Provisions

Sec. 730. Establishment of Human Resources Management System.

Sec. 731. Labor-management relations.

Sec. 732. Advisory committees.

Sec. 733. Acquisitions.

Sec. 734. Reorganization authority.

Sec. 735. Miscellaneous provisions.

Sec. 736. Authorization of appropriations.

Sec. 737. Regulatory authority.

Sec. 738. Use of appropriated funds.

Sec. 739. Future Year Homeland Security Program.

Sec. 739A. Bioterrorism Preparedness and Response Division.

Sec. 739B. Coordination with the Department of Health and Human Services under the Public Health Service Act.

Subtitle E—Risk Sharing and Indemnification for Contractors Supplying Anti-Terrorism Technology and Services

Sec. 741. Application of indemnification authority.

Sec. 742. Application of indemnification authority to State and local government contractors.

Sec. 743. Procurements of anti-terrorism technologies and anti-terrorism services by State and local governments through Federal contracts.

Sec. 744. Congressional notification.

Sec. 745. Definitions.

Subtitle F—Federal Emergency Procurement Flexibility

Sec. 751. Definition.

Sec. 752. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.

Sec. 753. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.

Sec. 754. Increased micro-purchase threshold for certain procurements.

Sec. 755. Application of certain commercial items authorities to certain procurements.

Sec. 756. Use of streamlined procedures.

Sec. 757. Review and report by Comptroller General.

Sec. 758. Identification of new entrants into the Federal marketplace.

Subtitle G—Coast Guard

Sec. 761. Preserving Coast Guard mission performance.

TITLE VIII—TRANSITION

Sec. 801. Definitions.

Sec. 802. Transfer of agencies.

Sec. 803. Transitional authorities.

Sec. 804. Savings provisions.

Sec. 805. Terminations.

Sec. 806. Incidental transfers.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

Sec. 901. Inspector General Act.

Sec. 902. Executive schedule.

Sec. 903. United States Secret Service.

Sec. 904. Coast Guard.

Sec. 905. Strategic National Stockpile and smallpox vaccine development.

Sec. 906. Select agent registration.

Sec. 907. National Bio-Weapons Defense Analysis Center.

Sec. 908. Military activities.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

Sec. 1001. Short title.

Sec. 1002. Definitions.

Sec. 1003. Transfer of Immigration and Naturalization Service functions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

Sec. 1101. Abolition of Immigration and Naturalization Service.

Sec. 1102. Establishment of Directorate of Immigration Affairs.

Sec. 1103. Under Secretary of Homeland Security for Immigration Affairs.

Sec. 1104. Bureau of Immigration Services.

Sec. 1105. Bureau of Enforcement.

Sec. 1106. Office of the Ombudsman within the Directorate.

Sec. 1107. Office of Immigration Statistics within the Directorate.

Sec. 1108. Clerical amendments.

Subtitle B—Transition Provisions
Sec. 1111. Transfer of functions.
Sec. 1112. Transfer of personnel and other resources.
Sec. 1113. Determinations with respect to functions and resources.
Sec. 1114. Delegation and reservation of functions.
Sec. 1115. Allocation of personnel and other resources.
Sec. 1116. Savings provisions.
Sec. 1117. Interim service of the Commissioner of Immigration and Naturalization.
Sec. 1118. Other authorities not affected.
Sec. 1119. Transition funding.
Subtitle C—Miscellaneous Provisions
Sec. 1121. Funding adjudication and naturalization services.
Sec. 1122. Application of Internet-based technologies.
Sec. 1123. Alternatives to detention of asylum seekers.
Subtitle D—Effective Date
Sec. 1131. Effective date.
TITLE XII—UNACCOMPANIED ALIEN JUVENILE PROTECTION
Sec. 1201. Unaccompanied alien juveniles.
TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
Sec. 1301. Legal status of EOIR.
Sec. 1302. Authorities of the Attorney General.
Sec. 1303. Statutory construction.
DIVISION C—FEDERAL WORKFORCE IMPROVEMENT
TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS
Sec. 2101. Short title.
Sec. 2102. Agency Chief Human Capital Officers.
Sec. 2103. Chief Human Capital Officers Council.
Sec. 2104. Strategic human capital management.
Sec. 2105. Effective date.
TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT
Sec. 2201. Inclusion of agency human capital strategic planning in performance plans and programs performance reports.
Sec. 2202. Reform of the competitive service hiring process.
Sec. 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 2204. Student volunteer transit subsidy.
TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE
Sec. 2301. Repeal of recertification requirements of senior executives.
Sec. 2302. Adjustment of limitation on total annual compensation.
TITLE XXIV—ACADEMIC TRAINING
Sec. 2401. Academic training.
Sec. 2402. Modifications to National Security Education Program.
Sec. 2403. Compensation time off for travel.
Sec. 2404. Customs User Fees Extension
DIVISION D—NATIONAL COMMISSION

SEC. 2. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this Act:

(1) AMERICAN HOMELAND OR HOMELAND.—Each of the terms "American homeland" or "homeland" mean the United States, in a geographic sense.

(2) CRITICAL INFRASTRUCTURE.—The term "critical infrastructure" means systems and assets, whether physical or virtual, so vital to the United States that the incapacitation or destruction of such systems or assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(3) ASSETS.—The term "assets" includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(5) EMERGENCY RESPONSE PROVIDERS.—The term "emergency response providers" includes Federal, State, and local government emergency public safety, law enforcement, emergency response, emergency medical, and related personnel, agencies, and authorities.

(6) EXECUTIVE AGENCY.—The term "Executive agency" means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(7) FUNCTIONS.—The term "functions" includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(8) KEY RESOURCES.—The term "key resources" means structures, monuments or items of exceptional historical, social, cultural, or symbolic significance to the United States.

(9) LOCAL GOVERNMENT.—The term "local government" has the meaning given in section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288).

(10) MAJOR DISASTER.—The term "major disaster" has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288).

(11) PERSONNEL.—The term "personnel" means officers and employees.

(12) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(13) UNITED STATES.—The term "United States", when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288)), any possession of the United States, and any waters within the jurisdiction of the United States.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect thirty days after the date of enactment or, if enacted within thirty days before January 1, 2003, on January 1, 2003.

DIVISION A—HOMELAND SECURITY

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) PRIMARY MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism; and

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States.

(2) RESPONSIBILITIES.—In carrying out the mission described in paragraph (1), and as further described in this Act, the Department's primary responsibilities shall include—

(A) information analysis and infrastructure protection;

(B) research and development, including efforts to counter chemical, biological, radiological, nuclear, and other emerging threats;

(C) border and transportation security;

(D) emergency preparedness and response; and

(E) coordination (including the provision of training and equipment) with other executive agencies, with State and local government personnel, agencies, and authorities, with the private sector, and with other entities.

(3) OTHER RESPONSIBILITIES.—The Department shall also be responsible for carrying out other functions of entities transferred to the Department as provided by law, and the enumeration of the primary homeland security missions and responsibilities in this section does not impair or diminish the Department's non-homeland security missions and responsibilities.

SEC. 102. SECRETARY; FUNCTIONS.

(a) SECRETARY.—

(1) APPOINTMENT.—There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) HEAD OF DEPARTMENT.—The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) VESTED FUNCTIONS.—All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) may, except as otherwise provided in this Act, delegate any of his functions to any officer, employee, or organizational unit of the Department;

(2) shall have such functions, including the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out his responsibilities under this Act or otherwise provided by law; and

(3) may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of chapter 33, subchapter 3, of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) An Under Secretary for Management.

(7) An Under Secretary for Immigration Affairs.

(8) Not more than 16 Assistant Secretaries.

(9) A General Counsel, who shall be the chief legal officer of the Department.

(b) CHIEF OF IMMIGRATION POLICY.—

(1) IN GENERAL.—There shall be within the office of the Deputy Secretary of Homeland Security a Chief of Immigration Policy, who, under the authority of the Secretary, shall be responsible for—

(A) establishing national immigration policy and priorities; and

(B) coordinating immigration policy between the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security.

(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Immigration Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

(c) INSPECTOR GENERAL.—To assist the Secretary in the performance of his functions, there is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(d) COMMANDANT OF THE COAST GUARD.—To assist the Secretary in the performance of his functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code.

(e) OTHER OFFICERS.—To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President:

(1) A Director of the Secret Service.

(2) A Chief Financial Officer.

(3) A Chief Information Officer.

(4) A Chief Human Capital Officer.

(f) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for his office or prescribed by the Secretary.

SEC. 104. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, an Office of International Affairs. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall have the following responsibilities:

(1) To promote information and education exchange with foreign nations in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include—

(A) joint research and development on countermeasures;

(B) joint training exercises of first responders; and

(C) exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage activities under this section and other international activities within the Department in consultation with the Department of State and other relevant Federal officials.

(5) To initially concentrate on fostering cooperation with countries that are already highly focused on homeland security issues and that have demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

SEC. 201. DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) UNDER SECRETARY OF HOMELAND SECURITY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—

(1) IN GENERAL.—There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection headed by an Under Secretary for Information Analysis and Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Under Secretary shall assist the Secretary in discharging the responsibilities under section 101 (b)(2)(A) and (d).

(b) ASSISTANT SECRETARY FOR INFORMATION ANALYSIS; ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—

(1) ASSISTANT SECRETARY FOR INFORMATION ANALYSIS.—There shall be in the Department an Assistant Secretary for Information Analysis, who shall be appointed by the President.

(2) ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—There shall be in the Department an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(3) RESPONSIBILITIES.—The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this section.

(c) DISCHARGE OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

(d) RESPONSIBILITIES OF UNDER SECRETARY.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, intelligence-related information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to—

(A) identify and assess the nature and scope of threats to the homeland;

(B) detect and identify threats of terrorism against the United States and other threats to homeland security; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective measures and to support protective measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government agencies, and from State and local governments and private sector entities (pursuant to memoranda of understanding or other agreements entered into for that purpose).

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States.

(6) To take or seek to effect measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To administer the Homeland Security Advisory System, including—

(A) exercising primary responsibility for public threat advisories; and

(B) in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

(8) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

(9) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

(10) To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(11) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information,

including law enforcement-related information, relating to threats of terrorism against the United States.

(12) To ensure that—

(A) any material received pursuant to this section is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information shared under this section is transmitted, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(13) To request and obtain additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility under section 101, including the entry into cooperative agreements through the Secretary to obtain such information.

(14) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(15) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(16) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(17) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(18) To provide intelligence and information analysis and support to other elements of the Department.

(19) To perform such other duties relating to such responsibilities as the Secretary may provide.

(e) Staff.—

(1) In general.—The Secretary shall provide the Directorate with a staff of analysts having appropriate expertise and experience to assist the Directorate in discharging responsibilities under this section.

(2) Private sector analysts.—Analysts under this subsection may include analysts from the private sector.

(3) Security clearances.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) Detail of Personnel.—

(1) In general.—In order to assist the Directorate in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) Covered agencies.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) Cooperative agreements.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) Basis.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) Functions Transferred.—In accordance with title VIII, there shall be transferred to the Secretary, for assignment to the Under Secretary for Information Analysis and Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The Computer Security Division of the National Institute of Standards and Technology, including the functions of the Secretary of Commerce relating thereto.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy and the energy security and assurance program and activities of the Department, including the functions of the Secretary of Energy relating thereto.

(6) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(h) Study of Placement Within Intelligence Community.—Not later than 90 days after the effective date of this Act, the President shall submit to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a report assessing the advisability of the following:

(1) Placing the elements of the Department concerned with the analysis of foreign intelligence information within the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) Placing such elements within the National Foreign Intelligence Program for budgetary purposes.

SEC. 202. ACCESS TO INFORMATION.

(a) In General.—

(1) Threat and vulnerability information.—Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence and intelligence-related information, relating to threats of terrorism against the United States and to other areas of responsibility described in section 101 and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any agency of the Federal Government.

(2) Other information.—The Secretary shall also have access to other information relating to matters under the responsibility of the Secretary that may be collected, possessed, or prepared by an agency of the Federal Government as the President may further provide.

(b) Manner of Access.—Except as otherwise directed by the President, with respect to information to which the Secretary has access pursuant to this section—

(1) the Secretary may obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis, including requests or arrangements involving broad categories of material, access to electronic databases, or both; and

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all agencies of the Federal Government shall promptly provide to the Secretary—

(A) all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against the United States and to other areas of responsibility under section 101;

(B) all information concerning the vulnerability of the infrastructure of the United States, or other vulnerabilities of the United States, to terrorism, whether or not such information has been analyzed;

(C) all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed; and

(D) such other information or material as the President may direct.

(c) Treatment Under Certain Laws.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be provided with all information from law enforcement agencies that is required to be given to the Director of Central Intelligence, under any provision of the following:

(1) The USA PATRIOT Act of 2001 (Public Law 107–56).

(2) Section 2517(6) of title 18, United States Code.

(3) Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(d) Access to Intelligence and Other Information.—

(1) Access by elements of federal government.—Nothing in this title shall preclude any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), or other any element of the Federal Government with responsibility for analyzing terrorist threat information, from receiving any intelligence or other information relating to terrorism.

(2) Sharing of information.—The Secretary, in consultation with the Director of

Central Intelligence, shall work to ensure that intelligence or other information relating to terrorism to which the Department has access is appropriately shared with the elements of the Federal Government referred to in paragraph (1), as well as with State and local governments, as appropriate.

SEC. 203. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) Definitions.—In this section:

(1) Critical infrastructure.—The term "critical infrastructure" has the meaning given that term in section 1016(e) of the USA PATRIOT Act of 2001 (42 U.S.C. 5195(e)).

(2) Furnished voluntarily.—

(A) Definition.—The term "furnished voluntarily" means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) Benefit.—In this paragraph, the term "benefit" does not include any warning, alert, or other risk analysis by the Department.

(b) In General.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) Records Shared With Other Agencies.—

(1) In general.—

(A) Response to request.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) Segregable portion of record.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) Disclosure of independently furnished records.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) Withdrawal of Confidential Designation.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) Procedures.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) Effect on State and Local Law.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) Report.—

(1) Requirement.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) Committees of congress.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) Form.—The report shall be submitted in unclassified form, but may include a classified annex.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

There shall be in the Department a Directorate of Science and Technology headed by an Under Secretary for Science and Technology.

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

In assisting the Secretary with the responsibility specified in section 101(b)(2)(B), the primary responsibilities of the Under Secretary for Science and Technology shall include—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;

(2) supporting all elements of the Department in research, development, testing, evaluation and deployment of science and technology that is applicable in the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism;

(3) to support the Under Secretary for Information Analysis and Infrastructure Protection, by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting a national scientific research and development program to support the mission of the Department, including developing national policy for and coordinating the Federal Government's civilian efforts to identify, devise, and implement scientific, technological, and other countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including directing, funding and conducting research and development relating to the same;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems—

(A) for preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) for detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to federal, state, local government, and private sector entities;

(7) entering into joint sponsorship agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401);

(9) collaborating with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a); and

(10) supporting United States leadership in science and technology.

SEC. 303. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program.

(B) The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program. The programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department.

(E) The Environmental Measurements Laboratory.

(F) The advanced scientific computing research program and activities at Lawrence Livermore National Laboratory.

(2) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

(3) The Plum Island Animal Disease Center of the Department of Agriculture, including the functions of the Secretary of Agriculture relating thereto, as provided in section 310.

(4)(A) Except as provided in subparagraph (B)—

(i) the functions of the Select Agent Registration Program of the Department of Health and Human Services, including all functions of the Secretary of Health and Human Services under title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188); and

(ii) the functions of the Department of Agriculture under the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(B)(i) The Secretary shall collaborate with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a).

(ii) The Secretary shall collaborate with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401).

(C) In promulgating regulations pursuant to the functions described in subparagraph (A), the Secretary shall act in collaboration with the Secretary of Health and Human Services and the Secretary of Agriculture.

SEC. 304. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) In General.—Except as the President may otherwise direct, the Secretary shall carry out his civilian human health-related biological, biomedical, and infectious disease defense research and development (including vaccine research and development) responsibilities through the Department of Health and Human Services (including the Public Health Service), under agreements with the Secretary of Health and Human Services, and may transfer funds to him in connection with such agreements.

(b) Establishment of Program.—With respect to any responsibilities carried out through the Department of Health and Human Services under this subsection, the Secretary, in consultation with the Secretary of Health and Human Services, shall have the authority to establish the research and development program, including the setting of priorities.

SEC. 305. RESEARCH IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND OTHER DEPARTMENTS.

With respect to such other research and development responsibilities under this title, including health-related chemical, radiological, and nuclear defense research and development responsibilities, as the Secretary may elect to carry out through the Department of Health and Human Services (including the Public Health Service) (under agreements with the Secretary of Health and Human Services) or through other Federal agencies (under agreements with their respective heads), the Secretary may transfer funds to the Secretary of Health and Human Services, or to such heads, as the case may be.

SEC. 306. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.

(a) Definitions.—In this section:

(1) Fund.—The term "Fund" means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.

(2) Homeland security research and development.—The term "homeland security research and development" means research and development of technologies that are applicable in the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) HSARPA.—The term "HSARPA" means the Homeland Security Advanced Research Projects Agency established under this section.

(4) Under secretary.—The term "Under Secretary" means the Under Secretary for Science and Technology or the designee of that Under Secretary.

(b) Purposes.—The purposes of this section are to—

(1) establish the Homeland Security Advanced Research Projects Agency to prioritize and fund homeland security research and development using the acceleration fund; and

(2) establish a fund to leverage existing research and development and accelerate the deployment of technology that will serve to enhance homeland defense.

(c) Fund.—

(1) Establishment.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies.

(2) Use of fund.—The Fund may be used to—

(A) accelerate research, development, testing and evaluation, and deployment of critical homeland security technologies; and

(B) support homeland security research and development.

(3) Authorization of appropriations.—There are authorized to be appropriated $500,000,000 to the Fund for fiscal year 2003, and such sums as may be necessary in subsequent years.

(4) Transition of funds.—With respect to such research, development, testing, and evaluation responsibilities under this section as the Secretary may elect to carry out through agencies other than the Department (under agreements with their respective heads), the Secretary may transfer funds to such heads. Of the funds authorized to be appropriated under paragraph (3) for the Fund, not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways, and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways, and coastal security mission.

(d) Responsibilities of the Homeland Security Advanced Research Projects Agency.—The Homeland Security Advance Research Project Agency shall have the following responsibilities:

(1) To facilitate effective communication among departments, agencies, and other entities of the Federal Government, with respect to the conduct of research and development related to homeland security.

(2) To identify, by consensus and on a yearly basis, specific technology areas for which the Fund shall be used to rapidly transition homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities. The identified technology areas shall, as determined by the Homeland Security Advanced Research Projects Agency, be areas in which there exist research and development projects that address identified homeland security vulnerabilities and can be accelerated to the stage of prototyping, evaluating, transitioning, or deploying.

(3) To administer the Fund, including—

(A) issuing an annual multiagency program announcement soliciting proposals from government entities, federally funded research and development centers, industry, and academia;

(B) competitively selecting, on the basis of a merit-based review, proposals that advance the state of deployed technologies in the areas identified for that year;

(C) at the discretion of the HSARPA, assigning 1 or more program managers to oversee, administer, and execute a Fund project as the agent of HSARPA; and

(D) providing methods of funding, including grants, cooperative agreements, joint sponsorship agreements, or any other transaction.

(4) With respect to expenditures from the Fund, exercise acquisition authority consistent with the authority described under section 2371 of title 10, United States Code, relating to authorizing cooperative agreements and other transactions.

(5) In hiring personnel to assist in the administration of the HSARPA, have the authority to exercise the personnel hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261) with the stipulation that the Secretary shall exercise such authority for a period of 7 years commencing on the date of enactment of this Act, that a maximum of 100 persons may be hired under such authority, and that the term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

(6) Develop and oversee the implementation of periodic homeland security technology demonstrations, held at least annually, for the purpose of improving contact between technology developers, vendors, and acquisition personnel associated with related industries.

SEC. 307. MISCELLANEOUS AUTHORITIES RELATING TO NATIONAL LABORATORIES.

(a) In General.—The limitation of the number of employees of the Department of Energy national laboratories assigned to Washington, D.C. shall not apply to those employees who, at the request of the Secretary, are assigned, on a temporary basis, to assist in the establishment of the Department.

(b) Direct Tasking.—Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept direct tasking from the Secretary or his designee, consistent with resources provided, and perform such tasking on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

SEC. 308. HOMELAND SECURITY INSTITUTE.

Within the Directorate of Science and Technology there shall be established a

Homeland Security Institute as a separate federally funded research and development center under the direction of the Under Secretary to perform policy and systems analysis, assist in the definition of standards and metrics, assist agencies with evaluating technologies for deployment, proposing risk management strategies based on technology developments, and performing other appropriate research and analysis to improve policy and decisionmaking as it relates to the mission of the Department. The Homeland Security Institute shall utilize the capabilities of the National Infrastructure Simulation and Analysis Center.

SEC. 309. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.

(a) OFFICE FOR NATIONAL LABORATORIES.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(b) JOINT SPONSORSHIP.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

(c) ARRANGEMENTS.—The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

(d) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement entered into under subsection (a) or (b).

(e) LEAD AGENT.—

(1) IN GENERAL.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship agreement between the Department and a Department of Energy national laboratory or site for work on homeland security.

(2) FEDERAL ACQUISITION REGULATION.—Any work performed by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017(a) (4) of the Federal Acquisition Regulation.

(f) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of subsection (b).

(g) AUTHORITIES OF SECRETARY AND UNDER SECRETARY.—In connection with work involving the Department of Energy national laboratories or sites, the Secretary or Under Secretary for Science and Technology—

(1) may enter into joint sponsorship agreements with Department of Energy national laboratories or sites;

(2) may directly fund, task, and manage work at the Department of Energy national laboratories and sites; and

(3) may permit the director of any Department of Energy national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of such Act (15 U.S.C. 3710, 3710a).

SEC. 310. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—In accordance with title VIII, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) CONTINUED DEPARTMENT OF AGRICULTURE ACCESS.—On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

(c) DIRECTION OF ACTIVITIES.—The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

(d) NOTIFICATION.—

(1) IN GENERAL.—At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

(2) LIMITATION.—No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 801(2)).

SEC. 311. CLEARINGHOUSE.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall provide for a clearinghouse as a central, national point of entry for individuals or companies seeking guidance on how to pursue proposals to develop or deploy products that would contribute to homeland security. Such clearinghouse shall refer those seeking guidance on Federal funding, regulation, acquisition, or other matters to the appropriate unit of the Department or to other appropriate Federal agencies.

(b) SCREENINGS AND ASSESSMENTS.—The Under Secretary for Science and Technology shall work in conjunction with the Technical Support Working Group (organized under the April 1982, National Security Decision Directive Numbered 30) to—

(1) screen proposals described in subsection (a), as appropriate;

(2) assess the feasibility, scientific and technical merits, and estimated cost of proposals screened under paragraph (1), as appropriate; and

(3) identify areas where existing technologies may be easily adapted and deployed to meet the homeland security agenda of the Federal Government.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

There shall be in the Department a Directorate for Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

SEC. 402. RESPONSIBILITIES.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(C), the primary responsibilities of the Under Secretary for Border and Transportation Security shall include—

(1) preventing the entry of terrorists and the instruments of terrorism into the United States;

(2) securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating governmental activities at ports of entry;

(3) administering the immigration and naturalization laws of the United States, including the establishment of rules, in accordance with section 406, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not citizens or lawful permanent residents thereof;

(4) administering the customs laws of the United States;

(5) in carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce;

(6) carrying out the border patrol function; and

(7) administering and enforcing the functions of the Department under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

SEC. 403. FUNCTIONS TRANSFERRED.

(a) IN GENERAL.—In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto; and

(4) the Federal Law Enforcement Training Center of the Department of the Treasury.

(b) EXERCISE OF CUSTOMS REVENUE AUTHORITIES.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—Notwithstanding subsection (a)(1), authority that was vested in the Secretary of the Treasury by law to issue regulations related to customs revenue functions before the effective date of this section under the provisions of law set forth under paragraph (2) shall not be transferred to the Secretary by reason of this Act. The Secretary of the Treasury, with the concurrence of the Secretary, shall exercise this authority. The Commissioner of Customs is authorized to engage in activities to develop and support the issuance of the regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.

(B) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under paragraph (2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

(C) Liability.—Neither the Secretary of the Treasury nor the Department of the Treasury shall be liable for or named in any legal action concerning the implementation and enforcement of regulations issued under this paragraph after the effective date of this Act.

(2) Applicable laws.—The provisions of law referred to under paragraph (1) are those sections of the following statutes that relate to customs revenue functions:

(A) The Tariff Act of 1930.

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised States of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974.

(J) The Trade Agreement Act of 1979.

(K) The North American Free Trade Area Implementation Act.

(L) The Uruguay Round Agreements Act.

(M) The Caribbean Basin Economic Recovery Act.

(N) The Andean Growth and Opportunity Act.

(O) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) Definitions of customs revenue functions.—In this subsection, the term "customs revenue functions" means—

(A) assessing, collecting, and refunding duties (including any special duties), excise taxes, fees, and any liquidated damages or penalties due on imported merchandise, including classifying and valuing merchandise and the procedures for "entry" as that term is defined in the United States Customs laws;

(B) administering section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordation for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

SEC. 404. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) Transfer of Agricultural Import and Entry Inspection Functions.—There shall be transferred to the Secretary the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) Covered Animal and Plant Protection Laws.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading "Bureau of Animal Industry" in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) The first section of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Health Protection Act (subtitle E of title X of Public Law 107-171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) Exclusion of Quarantine Activities.—For purposes of this section, the term "functions" does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) Effect of Transfer.—

(1) Compliance with department of agriculture regulations.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) Rulemaking coordination.—The Secretary of Agriculture shall coordinate with the Secretary whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the laws specified in subsection (b) at the locations referred to in subsection (a).

(3) Effective administration.—The Secretary, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department to carry out the functions transferred pursuant to subsection (a).

(e) Transfer Agreement.—

(1) Agreement required; revision.—Before the end of the transition period, as defined in section 801(2), the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

(2) Required terms.—The agreements required by this subsection shall provide for the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Department to carry out the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary under subsection (f).

(C) Authority under which the Secretary may perform functions that are delegated to the Animal and Plant Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary pursuant to subsection (a).

(D) Authority under which the Secretary of Agriculture may use employees of the Department to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) Periodic Transfer of Funds to Department of Homeland Security.—

(1) Transfer of funds.—Subject to paragraph (2), out of any funds collected as fees under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall periodically transfer to the Secretary, in accordance with the agreement under subsection (e), funds for activities carried out by the Secretary for which the fees were collected.

(2) Limitation.—The proportion of fees collected under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a) that are transferred to the Secretary under paragraph (1) may not exceed the proportion that—

(A) the costs incurred by the Secretary to carry out activities funded by those fees; bears to

(B) the costs incurred by the Federal Government to carry out activities funded by those fees.

(g) Transfer of Department of Agriculture Employees.—Not later than the completion of the transition period (as defined in section 801(2)), the Secretary of Agriculture shall transfer to the Department not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) Protection of Inspection Animals.—Title V of the Agricultural Risk Protection Act of 2002 (7 U.S.C. 2279e, 2279f) is amended—

(1) in section 501(a)—

(A) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(B) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture";

(2) by striking "Secretary" each place it appears (other than in sections 501(a) and 501(e)) and inserting "Secretary concerned"; and

(3) by adding at the end of section 501 the following:

"(i) Secretary Concerned Defined.—In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

(j) Conforming Amendments.—

(1) Section 501 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e) is amended—

(A) in subsection (a)—

(i) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(ii) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture"; and

(B) by striking "Secretary" each place it appears (other than in subsections (a) and (e)) and inserting "Secretary concerned".

(2) Section 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8411) is repealed.

SEC. 405. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) Definition of Affected Agency.—In this section, the term "affected agency" means—

(1) the Department;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary.

(b) Coordination.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall ensure that appropriate information (as determined by the Secretary) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) Report and Plan.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

SEC. 406. VISA ISSUANCE.

(a) Definition.—In this subsection, the term "consular office" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(b) In General.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) of this section, the Secretary—

(1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien;

(2) may delegate in whole or part the authority under subparagraph (A) to the Secretary of State; and

(3) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(c). Authority of the Secretary of State.—

(1) In general.—Notwithstanding subsection (b), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the foreign policy or security interests of the United States.

(2) Construction regarding authority.—Nothing in this section shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country adoption).

(C) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(D) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(E) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(F) Section 212(a)(3(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(G) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(H) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(I) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(J) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(K) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104–114).

(L) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105–277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999); 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106–553.

(M) Section 103(f) of the Chemical Weapon Convention Implementation Act of 1998 (112 Stat. 2681–865).

(N) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106–113.

(O) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(P) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(d) Consular Officers and Chiefs of Missions.—

(1) In general.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(2) Construction regarding delegation of authority.—Nothing in this section shall be construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(e) Assignment of Homeland Security Employees to Diplomatic and Consular Posts.—

(1) In general.—The Secretary is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) Functions.—Employees assigned under paragraph (1) shall perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.

(3) Evaluation of consular officers.—The Secretary of State shall evaluate, in consultation with the Secretary, as deemed appropriate by the Secretary, the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary for these procedures.

(4) Report.—The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.

(5) Permanent assignment; participation in terrorist lookout committee.—When appropriate, employees of the Department assigned to perform functions described in paragraph (2) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(6) Training and hiring.—

(A) In general.—The Secretary shall ensure, to the extent possible, that any employees of the Department assigned to perform functions under paragraph (2) and, as appropriate, consular officers, shall be provided the necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) Use of center.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in subparagraph (A).

(7) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(8) Effective date.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(f) No Creation of Private Right of Action.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

SEC. 407. BORDER SECURITY AND IMMIGRATION WORKING GROUP.

(a) Establishment.—The Secretary shall establish a border security and immigration working group (in this section referred to as the "Working Group"), composed of the Secretary or the designee of the Secretary, the Under Secretary for Immigration Affairs, and the Under Secretary for Border and Transportation protection.

(b) Functions.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements in the coverage and geographic distributions of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced security for high-risk traffic, travel, and commerce;

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems; and

(6) coordinate the enforcement of all immigration laws.

(c) RELEVANT AGENCIES.—The Secretary shall consult with representatives of relevant agencies with respect to deliberations under subsection (b), and may include representative of such agencies in working group deliberations, as appropriate.

SEC. 408. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM.

(a) IN GENERAL.—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) PROHIBITION.—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

SEC. 409. STUDY ON USE OF FOREIGN NATIONAL PERSONNEL IN VISA PROCESSING.

The Secretary shall conduct a study on the use of foreign national personnel in visa processing to determine whether such uses are consistent with secure visa processing. The study shall review and make recommendations with respect to—

(1) the effects or possible effects on national security of the use of foreign national personnel in individual countries to perform data entry, process visas or visa applications, or in any way handle visas or visa application documents; and

(2) each United States mission abroad to determine whether United States consular services performed at the United States mission require different regulations on the use of foreign national personnel.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

SEC. 502. RESPONSIBILITIES.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(D), the primary responsibilities of the Under Secretary for Emergency Preparedness and Response shall include—

(1) helping to ensure the preparedness of emergency response providers for terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 503. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of the Assistant Secretary for Public Health Emergency Preparedness (including the Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System) of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

(a) IN GENERAL.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 506. DEFINITION.

In this title, the term "Nuclear Incident Response Team" means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

TITLE VI—MANAGEMENT

SEC. 601. UNDER SECRETARY FOR MANAGEMENT.

There shall be in the Department a Directorate for Management, headed by an Under Secretary for Management.

SEC. 602. RESPONSIBILITIES.

In assisting the Secretary with the management and administration of the Department, the primary responsibilities of the Under Secretary for Management shall include, for the Department—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 603. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 604. CHIEF INFORMATION OFFICER.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 605. CHIEF HUMAN CAPITAL OFFICER.

The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

(1) participating in the 2302(c) Certification Program of the Office of Special Counsel;

(2) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

(3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

SEC. 701. RESPONSIBILITIES.

In discharging his responsibilities relating to coordination (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, the responsibilities of the Secretary shall include—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public;

(3) directing and supervising grant programs of the Federal Government for State and local government emergency response providers; and

(4) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

Subtitle B—Inspector General

SEC. 710. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) PROHIBITION OF COMPLETION OF AUDIT OR INVESTIGATION.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) NOTIFICATION.—The Secretary shall notify in writing the President of the Senate, the Speaker of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and other appropriate committees of Congress within thirty days of any exercise of his authority under this section stating the reasons for such exercise.

SEC. 711. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) seek and execute warrants for arrest, search of a premises, or seizures of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

"(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

"(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

"(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

"(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

"(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

"(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

"(5) Powers authorized for an Office of Inspector General under paragraph (1) shall be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

"(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

"(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.".

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the

Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LAPSE OF AUTHORITY.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

Subtitle C—United States Secret Service

SEC. 720. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—General Provisions

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

“CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

“Sec.

“9701. Establishment of human resources management system.

“§9701. Establishment of human resources management system

“(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department.

“(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

“(1) be flexible;

“(2) be contemporary;

“(3) not waive, modify, or otherwise affect—

“(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

“(B) any provision of section 2302, relating to prohibited personnel practices;

“(C)(i) any provision of law referred to in section 2302(b)(1); or

“(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

“(I) providing for equal employment opportunity through affirmative action; or

“(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

“(D) any other provision of this part (as described in subsection (c)); or

“(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

“(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

“(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

“(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

“(1) subparts A, B, E, G, and H of this part; and

“(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

“(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

“(1) to modify the pay of any employee who serves in—

“(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

“(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

“(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

“(3) to exempt any employee from the application of such section 5307.

“(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

“(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

“(A) NOTICE OF PROPOSAL.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

“(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

“(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

“(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

“(B) PREIMPLEMENTATION REQUIREMENTS.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

“(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

“(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

“(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

“(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

“(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

“(ii) give each employee representative adequate access to information to make that participation productive.

“(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

“(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

“(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

“(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

“(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

“(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

“(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

“(i) should ensure that employees of the Department are afforded the protections of due process; and

“(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

“(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

“(A) shall be issued only after consultation with the Merit Systems Protection Board;

“(B) shall ensure the availability of procedures which shall—

“(i) be consistent with requirements of due process; and

“(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) Sunset Provision.—Effective 5 years after the conclusion of the transition period defined under section 801 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) Clerical amendment.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) Effect on Personnel.—

(1) Nonseparation or nonreduction in grade or compensation of full-time personnel and part-time personnel holding permanent positions.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) Positions compensated in accordance with executive schedule.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) Coordination rule.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 731. LABOR-MANAGEMENT RELATIONS.

(a) Limitation on Exclusionary Authority.—

(1) In general.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) Exclusions allowable.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) Provisions Relating to Bargaining Units.—

(1) Limitation relating to appropriate units.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) Limitation relating to positions or employees.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) Homeland Security.—Subsection (a), (b), and (d) of this section shall not apply in circumstances where the President determines in writing that such application would have a substantial adverse impact on the Department's ability to protect homeland security. Whenever the President makes a determination specified under this subsection, the President shall notify the Senate and the House of Representatives of the reasons for such determination not less than 10 days prior to its issuance.

(d) Coordination Rule.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SEC. 732. ADVISORY COMMITTEES.

The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92-463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

SEC. 733. ACQUISITIONS.

(a) Research and Development Projects.—

(1) In general.—When the Secretary carries out basic, applied, and advanced research and development projects, he may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (h) of such section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) Prototype projects.—The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) Procurement of Temporary and Intermittent Services.—The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 734. REORGANIZATION AUTHORITY.

(a) Reorganization Plan.—

(1) In general.—Whenever the President determines that changes in the organization of the Department are necessary to carry out any policy set forth in this Act, the President shall prepare a reorganization plan specifying the reorganizations that the President determines are necessary. Any such plan may provide for—

(A) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of the Department;

(B) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, from the Department;

(C) the abolition of all or a part of an agency within the Department;

(D) the creation of a new agency or a new part of an agency within the Department; or

(E) the consolidation or coordination of the whole or a part of an agency within the Department, or of the whole or a part of the functions thereof, with the whole or a part of another agency within the Department.

(2) Transmittal.—

(A) In general.—The President shall transmit the reorganization plan to Congress together with the declaration that, with respect to each organization included in the plan, the President has found that the reorganization is necessary to carry out any policy set forth in this Act.

(B) Timing.—The reorganization plan shall be delivered to both Houses on the same day and to each House while it is in session, except that no more than 2 plans may be pending before Congress at 1 time.

(3) Content.—

(A) In general.—The transmittal message of the reorganization plan shall—

(i) specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function;

(ii) include an estimate of any reduction or increase in expenditures (itemized so far as practicable);

(iii) include detailed information addressing the impacts of the reorganization on the employees of any agency affected by the plan, and what steps will be taken to mitigate any impacts of the plan on the employees of the agency;

(iv) describe any improvements in management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan; and

(v) in the case of a transfer to or from the Department, address the impact of the proposed transfer on the ability of the affected agency to carry out its other functions and to accomplish its missions.

(B) Implementation.—In addition, the transmittal message shall include an implementation section which shall—

(i) describe in detail—

(I) the actions necessary or planned to complete the reorganization; and

(II) the anticipated nature and substance of any orders, directives, and other administrative and operations actions which are expected to be required for completing or implementing the reorganization; and

(ii) contain a projected timetable for completion of the implementation process.

(C) Background information.—The President shall also submit such further background or other information as Congress may require for its consideration of the plan.

(4) Amendments to plan.—Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any resolution has been ordered reported in either House, the President, or the designee of the President, may make amendments or modifications to the plan, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section. The President, or the designee of the President, may withdraw the plan any time prior to the conclusion of 90 calendar days of continuous session of Congress following the date on which the plan is submitted to Congress.

(b) Additional Contents of Reorganization Plan.—A reorganization plan—

(1) may change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and 1 or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan containing provisions authorized by paragraph (2) may provide that the head of an agency be an individual or a commission or board with more than 1 member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than 4 years, the pay may not be at a rate in excess of that found to be applicable to comparable officers in the executive branch, by and with the advice and consent of the Senate. Any reorganization plan containing provisions required by paragraph (4) shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

(c) Effective Date and Publication of Reorganization Plans.—

(1) Effective date.—Except as provided under paragraph (3), a reorganization plan shall be effective upon approval by the President of a resolution (as defined in subsection (f)) with respect to such plan, only if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress.

(2) Session of congress.—For the purpose of this chapter—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(3) Later effective date.—Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective.

(4) Publication of plan.—A reorganization plan which is effective shall be printed—

(A) in the Statutes at Large in the same volume as the public laws; and

(B) in the Federal Register.

(d) Effect On Other Laws; Pending Legal Proceedings.—

(1) Effect on laws.—

(A) Definition.—In this paragraph, the term "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) Effect.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) Pending legal proceedings.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in the officer's official capacity or in relation to the discharge of the officer's official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(e) Rules of Senate and House of Representatives On Reorganization Plans.—Subsections (f) through (i) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions with respect to any reorganization plans transmitted to Congress (in accordance with subsection (a)(3) of this section); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(f) Terms of Resolution.—For the purposes of subsections (e) through (i), "resolution" means only a joint resolution of Congress, the matter after the resolving clause of which is as follows: "That Congress approves the reorganization plan transmitted to Congress by the President on , 20 .", and includes such modifications and revisions as are submitted by the President under subsection (a)(4). The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than 1 reorganization plan.

(g) Introduction and Reference of Resolution.—

(1) Introduction.—No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under subsection (a), a resolution, as defined in subsection (f), shall be—

(A) introduced (by request) in the House by the chairman of the Government Reform Committee of the House, or by a Member or Members of the House designated by such chairman; and

(B) introduced (by request) in the Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

(2) Referral.—A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 75 calendar days of continuous session of Congress following the date of such resolution's introduction.

(h) Discharge of Committee Considering Resolution.—If the committee to which is referred a resolution introduced pursuant to subsection (g)(1) has not reported such a resolution or identical resolution at the end of 75 calendar days of continuous session of

Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(i) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEES; DEBATE; VOTE ON FINAL PASSAGE.—

(1) PROCEDURE.—When the committee has reported, or has been deemed to be discharged (under subsection (h)) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(5) PRIOR PASSAGE.—If, prior to the passage by 1 House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

SEC. 735. MISCELLANEOUS PROVISIONS.

(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(c) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 736. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 737. REGULATORY AUTHORITY.

Except as specifically provided in this Act, this Act vests in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act. This Act does not alter or diminish the regulatory authority of any other executive agency, except to the extent that this Act transfers such authority from the agency.

SEC. 738. USE OF APPROPRIATED FUNDS.

(a) APPLICABILITY OF THIS SECTION.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance, use, and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS TO CREATE DEPARTMENT.—There is authorized to be appropriated $160,000,000 for the Office of Homeland Security in the Executive Office of the President to be transferred without delay to the Department upon its creation by enactment of this Act, notwithstanding subsection (c)(1)(C) such funds shall be available only for the payment of necessary salaries and expenses associated with the initiation of operations of the Department.

(c) USE OF TRANSFERRED FUNDS.—

(1) IN GENERAL.—Except as may be provided in this subsection or in an appropriations Act in accordance with subsection (e), balances of appropriations and any other funds or assets transferred under this Act—

(A) shall be available only for the purposes for which they were originally available;

(B) shall remain subject to the same conditions and limitations provided by the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; and

(C) shall not be used to fund any new position established under this Act.

(2) TRANSFER OF FUNDS.—

(A) IN GENERAL.—After the creation of the Department and the swearing in of its Secretary, and upon determination by the Secretary that such action is necessary in the national interest, the Secretary is authorized to transfer, with the approval of the Office of Management and Budget, not to exceed $140,000,000 of unobligated funds from organizations and entities transferred to the new Department by this Act.

(B) LIMITATION.—Notwithstanding paragraph (1)(C), funds authorized to be transferred by subparagraph (A) shall be available only for payment of necessary costs, including funding of new positions, for the initiation of operations of the Department and may not be transferred unless the Committees on Appropriations are notified at least 15 days in advance of any proposed transfer and have approved such transfer in advance.

(C) NOTIFICATION.—The notification required in subparagraph (B) shall include a detailed justification of the purposes for which the funds are to be used and a detailed statement of the impact on the program or organization that is the source of the funds, and shall be submitted in accordance with reprogramming procedures to be established by the Committees on Appropriations.

(D) USE FOR OTHER ITEMS.—The authority to transfer funds established in this section may not be used unless for higher priority items, based on demonstrated homeland security requirements, than those for which funds originally were appropriated and in no case where the item for which funds are requested has been denied by Congress.

(d) NOTIFICATION REGARDING TRANSFERS.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(e) ADDITIONAL USES OF FUNDS DURING TRANSITION.—Subject to subsections (c) and (d), amounts transferred to, or otherwise made available to, the Department may be used during the transition period, as defined in section 801(2), for purposes in addition to those for which such amounts were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(f) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(g) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(h) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

SEC. 739. FUTURE YEAR HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department's fiscal year 2005 budget request is submitted to Congress.

SEC. 739A. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472–4) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b), the following:

"(c) Bioterrorism Preparedness and Response Division.—

"(1) Establishment.—There is established within the Office of the Director of the Centers for Disease Control and Prevention a Bioterrorism Preparedness and Response Division (in this subsection referred to as the 'Division').

"(2) Mission.—The Division shall have the following primary missions:

"(A) To lead and coordinate the activities and responsibilities of the Centers for Disease Control and Prevention with respect to countering bioterrorism.

"(B) To coordinate and facilitate the interaction of Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, in so doing, serve as a major contact point for 2-way communications between the jurisdictions of homeland security and public health.

"(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

"(3) Responsibilities.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

"(A) The Bioterrorism Preparedness and Response Program.

"(B) The Strategic National Stockpile.

"(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

"(4) Director.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

"(5) Staffing.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

"(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

"(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.".

SEC. 739B. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) In General.—The annual Federal response plan developed by the Secretary under sections 102(b)(14) and 134(b)(7) shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) Disclosures Among Relevant Agencies.—

(1) In general.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) Public health emergency.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) Potential public health emergency.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

Subtitle E—Risk Sharing and Indemnification for Contractors Supplying Anti-Terrorism Technology and Services

SEC. 741. APPLICATION OF INDEMNIFICATION AUTHORITY.

(a) In General.—The President may exercise the discretionary authority to indemnify contractors and subcontractors under Public Law 85–804 (50 U.S.C. 1431 et seq.) for a procurement of an anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(b) Exercise of Authority.—In exercising the authority under subsection (a), the President may include, among other things—

(1) economic damages not fully covered by private liability insurance within the scope of the losses or damages of the indemnification coverage;

(2) a requirement that an indemnification provision included in a contract or subcontract be negotiated prior to the commencement of the performance of the contract;

(3) the coverage of information technology used to prevent, detect, identify, otherwise deter, or recover from acts of terrorism; and

(4) the coverage of the United States Postal Service.

SEC. 742. APPLICATION OF INDEMNIFICATION AUTHORITY TO STATE AND LOCAL GOVERNMENT CONTRACTORS.

(a) In General.—Subject to the limitations of subsection (b), the President may exercise the discretionary authority to indemnify contractors and subcontractors under Public Law 85–804 (50 U.S.C. 1431 et seq.) for a procurement by a State or unit of local government of an anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(b) Exercise of Authority.—The authority of subsection (a) may be exercised only—

(1) for procurements of a State or unit of local government that are made by the Secretary under contracts awarded by the Secretary pursuant to the authorities of section 743;

(2) with written approval from the Secretary, or any other official designated by the President, for each procurement in which indemnification is to be provided; and

(3) with respect to—

(A) amounts of losses or damages not fully covered by private liability insurance and State or local government-provided indemnification; and

(B) liabilities arising out of other than the contractor's willful misconduct or lack of good faith.

SEC. 743. PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES AND ANTI-TERRORISM SERVICES BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL CONTRACTS.

(a) In General.—

(1) Establishment of program.—The Secretary shall establish a program under which States and units of local government may procure through contracts entered into by the Secretary anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(2) Authorities.—For the sole purposes of this program, the Secretary may, but shall not be required to, award contracts using the same authorities provided to the Administrator of General Services under section 309(b)(3) of the Federal Property and Administrative Services Act, 41 U.S.C. 259(b)(3).

(3) Offers not required to state and local governments.—A contractor that sells anti-terrorism technology or anti-terrorism services to the Federal Government shall not be required to offer such technology or services to a State or unit of local government.

(b) Responsibilities of the Secretary.—In carrying out the program established by this section, the Secretary shall—

(1) produce and maintain a catalog of anti-terrorism technologies and anti-terrorism services suitable for procurement by States and units of local government under this program; and

(2) establish procedures in accordance with subsection (c) to address the procurement of anti-terrorism technologies and anti-terrorism services by States and units of local government under contracts awarded by the Secretary.

(c) Required Procedures.—The procedures required by subsection (b)(2) shall implement the following requirements and authorities:

(1) Submissions by states.—

(A) In general.—Except as provided in subparagraph (B), each State desiring to participate in a procurement of anti-terrorism technologies or anti-terrorism services through a contract entered into by the Secretary shall submit to the Secretary in such form and manner and at such times as the Secretary prescribes, the following:

(i) Request.—A request consisting of an enumeration of the technologies or services, respectively, that are desired by the State and units of local government within the State.

(ii) Payment.—Advance payment for each requested technology or service in an amount determined by the Secretary based on estimated or actual costs of the technology or service and administrative costs incurred by the Secretary.

(B) Award by Secretary.—The Secretary may award and designate contracts under which States and units of local government may procure anti-terrorism technologies and anti-terrorism services directly from the contract holders. No indemnification may be provided under the authorities set forth in section 742 for procurements that are made directly between contractors and States or units of local government.

(2) Permitted catalog technologies and services.—A State may include in a request submitted under paragraph (1) only a technology or service listed in the catalog produced under subsection (b)(1).

(3) Coordination of local requests within state.—The Governor of a State (or the Mayor of the District of Columbia) may establish such procedures as the Governor (or

the Mayor of the District of Columbia) considers appropriate for administering and coordinating requests for anti-terrorism technologies or anti-terrorism services from units of local government within the State.

(4) SHIPMENT AND TRANSPORTATION COSTS.—A State requesting anti-terrorism technologies or anti-terrorism services shall be responsible for arranging and paying for any shipment or transportation costs necessary to deliver the technologies or services, respectively, to the State and localities within the State.

(d) REIMBURSEMENT OF ACTUAL COSTS.—In the case of a procurement made by or for a State or unit of local government under the procedures established under this section, the Secretary shall require the State or unit of local government to reimburse the Department for the actual costs it has incurred for such procurement.

(e) TIME FOR IMPLEMENTATION.—The catalog and procedures required by subsection (b) of this section shall be completed as soon as practicable and no later than 210 days after the enactment of this Act.

SEC. 744. CONGRESSIONAL NOTIFICATION.

(a) IN GENERAL.—Notwithstanding any other law, a Federal agency shall, when exercising the discretionary authority of Public Law 85–804, as amended by section 742, to indemnify contractors and subcontractors, provide written notification to the Committees identified in subsection (b) within 30 days after a contract clause is executed to provide indemnification.

(b) SUBMISSION.—The notification required by subsection (a) shall be submitted to—

(1) the Appropriations Committees of the Senate and House;

(2) the Armed Services Committees of the Senate and House;

(3) the Senate Governmental Affairs Committee; and

(4) the House Government Reform Committee.

SEC. 745. DEFINITIONS.

In this subtitle:

(1) ANTI-TERRORISM TECHNOLOGY AND SERVICE.—The terms "anti-terrorism technology" and "anti-terrorism service" mean any product, equipment, or device, including information technology, and any service, system integration, or other kind of service (including a support service), respectively, that is related to technology and is designed, developed, modified, or procured for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(2) ACT OF TERRORISM.—The term "act of terrorism" means a calculated attack or threat of attack against any person, property, or infrastructure to inculcate fear, or to intimidate or coerce a government, the civilian population, or any segment thereof, in the pursuit of political, religious, or ideological objectives.

(3) INFORMATION TECHNOLOGY.—The term "information technology" has the meaning such term in section 11101(6) of title 40, United States Code.

(4) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(5) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or any agency of the District of Columbia Government or the United States Government performing law enforcement functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

Subtitle F—Federal Emergency Procurement Flexibility

SEC. 751. DEFINITION.

In this title, the term "executive agency" has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 752. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 753. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 752 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $250,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $500,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term "simplified acquisition threshold definitions" means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 754. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 752, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $10,000.

SEC. 755. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 752 without regard to whether the property or services are commercial items.

(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 756. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 752, including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 752.

SEC. 757. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) Requirements.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) Content of Report.—The report under subsection (a)(2) shall include the following matters:

(1) Assessment.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) Recommendations.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) Consultation.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

SEC. 758. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

Subtitle G—Coast Guard

SEC. 761. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) Definitions.—In this section:

(1) Non-homeland security missions.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (e.g., fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) Homeland security missions.—The term "homeland security missions" means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) Transfer.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) Maintenance of Status of Functions and Assets.—Notwithstanding any other provision of this Act, the authorities, functions, assets, organizational structure, units, personnel, and non-homeland security missions of the Coast Guard shall be maintained intact and without reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts. Nothing in this paragraph shall prevent the Coast Guard from replacing or upgrading any asset with an asset of equivalent or greater capabilities.

(d) Certain Transfers Prohibited.—

(1) In general.—None of the missions, functions, personnel, and assets (including ships, aircraft, helicopters, and vehicles) of the Coast Guard may be transferred to the operational control of, or diverted to the principal and continuing use of, any other organization, unit, or entity of the Department.

(2) Applicability.—The restrictions in paragraph (1) shall not apply—

(A) to any joint operation of less than 90 days between the Coast Guard and other entities and organizations of the Department; or

(B) to any detail or assignment of any individual member or civilian employee of the Coast Guard to any other entity or organization of the Department for the purposes of ensuring effective liaison, coordination, and operations of the Coast Guard and that entity or organization, except that the total number of individuals detailed or assigned in this capacity may not exceed 50 individuals during any fiscal year.

(e) Changes to Non-Homeland Security Missions.—

(1) Prohibition.—The Secretary may not make any substantial or significant change to any of the non-homeland security missions of the Coast Guard, or to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, without the prior approval of Congress as expressed in a subsequent Act. With respect to a change to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, the restrictions in this paragraph shall not apply when such change shall result in an increase in those capabilities.

(2) Waiver.—The President may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the President to Congress that a clear, compelling, and immediate state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively to the national emergency if the restrictions under paragraph (1) are not waived.

(f) Annual Review.—

(1) In general.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) Report.—The Inspector General shall submit the detailed results of the annual review and assessment required by paragraph (1) not later than March 1 of each year directly to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) Direct Reporting to Secretary.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) Operation as a Service in the Navy.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

TITLE VIII—TRANSITION

SEC. 801. DEFINITIONS.

In this title:

(1) Agency.—The term "agency" includes any entity, organizational unit, or function; and

(2) Transition period.—The term "transition period" means the 12-month period beginning on the effective date of this Act.

SEC. 802. TRANSFER OF AGENCIES.

The transfer of an agency to the Department shall occur when the President so directs, but in no event later than the end of the transition period. When an agency is transferred, the President may also transfer to the Department any agency established to carry out or support adjudicatory or review functions in relation to the agency.

SEC. 803. TRANSITIONAL AUTHORITIES.

(a) Provision of Assistance by Officials.—Until the transfer of an agency to the Department, any official having authority over, or functions relating to, the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) Services and Personnel.—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable or nonreimbursable basis, provide services or detail personnel to assist with the transition.

(c) Acting Officials.—

(1) In general.—

(A) Designation.—During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act.

(B) Compensation.—While serving as an acting officer under subparagraph (A), that officer shall receive compensation at the higher of the rate provided—

(i) by this Act for the office in which that officer acts; or

(ii) for the office held at the time of designation.

(2) Rule of construction.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose—

(A) agency is transferred to the Department under this Act; and

(B) duties following such transfer are germane to those performed before such transfer.

(d) Transfer of Personnel, Assets, Liabilities, and Functions.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and liabilities held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget; and

(2) the Secretary shall have all functions—

(A) relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer; and

(B) vested in the Secretary by this Act or other law.

SEC. 804. SAVINGS PROVISIONS.

(a) Completed Administrative Actions.—

(1) In general.—Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) Included actions.—For purposes of paragraph (1), the term "completed administrative actions" includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) Pending Proceedings.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) Pending Civil Actions.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) References.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions.

(e) Statutory Reporting Requirements.—Any statutory reporting requirement that applied to an agency, transferred to the Department under this Act, immediately before the effective date of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

(f) Employment Provisions.—Except as otherwise provided in this Act, or under authority granted by this Act, the transfer under this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

SEC. 805. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred under this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 806. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as the Director may determine necessary to accomplish the purposes of this Act.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 901. INSPECTOR GENERAL ACT.

Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in paragraphs (1) and (2)—

(1) by inserting "Homeland Security," after "Transportation," each place it appears;

(2) by striking "; and" each place it appears and inserting a semicolon;

(3) by striking ",," and inserting a coma; and

(4) by striking ";;" each place it appears and inserting a semicolon in each such place.

SEC. 902. EXECUTIVE SCHEDULE.

Chapter 53 of title 5, United States Code, is amended—

(1) in section 5312, by inserting after the item relating to the Secretary of Veterans Affairs the following:

"Secretary of Homeland Security.";

(2) in section 5313, by inserting after the item relating to the Deputy Secretary of Transportation the following:

"Deputy Secretary of Homeland Security.";

(3) in section 5314, by inserting after the item relating to the Under Secretary for Memorial Affairs, Department of Veterans Affairs the following:

"Under Secretaries, Department of Homeland Security."; and

(4) in section 5315, by inserting at the end the following:

"Assistant Secretaries, Department of Homeland Security.

"General Counsel, Department of Homeland Security.

"Chief Financial Officer, Department of Homeland Security.

"Chief Information Officer, Department of Homeland Security.

"Inspector General, Department of Homeland Security.".

SEC. 903. UNITED STATES SECRET SERVICE.

(a) Uniformed Division.—Section 202 of title 3, United States Code, is amended by striking "Secretary of the Treasury" and inserting "Secretary of Homeland Security".

(b) Reimbursement of State and Local Governments.—Section 208 of title 3, United States Code, is amended by striking "Secretary of Treasury" each place it appears and inserting "Secretary of Homeland Security" in each such place.

(c) Powers, Authorities, and Duties.—Section 3056 of title 18, United States Code, is amended by striking "Secretary of the Treasury" each place it appears and inserting "Secretary of Homeland Security" in each such place.

(d) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 904. COAST GUARD.

(a) Title 14, U.S.C.—Title 14 of the United States Code is amended—

(1) in sections 1, 3, 53, 95, 145, 516, 666, 669, 673 (as added by Public Law 104-201), 673 (as added by Public Law 104-324), 674, 687, and 688, by striking "of Transportation", each place it appears, and inserting "of Homeland Security"; and

(2) after executing the other amendments required by this subsection, by redesignating the section 673 added by Public Law 104-324 as section 673a.

(b) Title 10, U.S.C.—Section 801(1) of title 10, United States Code, is amended by striking "the General Counsel of the Department of Transportation" and inserting "an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security".

(c) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) In General.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended—

(1) in subsection (a)(1)—

(A) by striking "Secretary of Health and Human Services" and inserting "Secretary of Homeland Security";

(B) by inserting "the Secretary of Health and Human Services and" after "in coordination with"; and

(C) by inserting "of Health and Human Services" after "as are determined by the Secretary"; and

(2) in subsections (a)(2) and (b), by inserting "of Health and Human Services" after "Secretary" each place it appears.

(b) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 906. SELECT AGENT REGISTRATION.

(a) Public Health Service Act.—The Public Health Service Act is amended—

(1) in section 351A(a)(1)(A), by inserting "(as defined in subsection (l)(9))" after "Secretary";

(2) in section 351A(h)(2)(A), by inserting "Department of Homeland Security, the" before "Department of Health and Human Services";

(3) in section 351A(l), by inserting after paragraph (8) the following:

"(9) The term 'Secretary' means the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services."; and

(4) in section 352A(i)—

(A) by striking "(1)" the first place it appears; and

(B) by striking paragraph (2).

(b) PUBLIC HEALTH SECURITY AND BIOTERRORISM PREPAREDNESS AND RESPONSE ACT OF 2002.—Section 201(b) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended by striking "Secretary of Health and Human Services" and inserting "Secretary of Homeland Security".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the select agent registration enforcement programs and activities of the Department of Health and Human Services to the Department.

SEC. 907. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 908. MILITARY ACTIVITIES.

Except as specifically provided in this Act, nothing in this Act shall confer upon the Secretary any authority to engage in war fighting, the military defense of the United States, or other traditional military activities.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

SEC. 1001. SHORT TITLE.

This division may be cited as the "Immigration Reform, Accountability, and Security Enhancement Act of 2002".

SEC. 1002. DEFINITIONS.

In this division:

(1) ENFORCEMENT BUREAU.—The term "Enforcement Bureau" means the Bureau of Enforcement established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) FUNCTION.—The term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) IMMIGRATION ENFORCEMENT FUNCTIONS.—The term "immigration enforcement functions" has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.

(4) IMMIGRATION LAWS OF THE UNITED STATES.—The term "immigration laws of the United States" has the meaning given the term in section 111(e) of the Immigration and Nationality Act, as added by section 1102 of this Act.

(5) IMMIGRATION POLICY, ADMINISTRATION, AND INSPECTION FUNCTIONS.—The term "immigration policy, administration, and inspection functions" has the meaning given the term in section 112(b)(3) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(6) IMMIGRATION SERVICE FUNCTIONS.—The term "immigration service functions" has the meaning given the term in section 113(b)(2) of the Immigration and Nationality Act, as added by section 1104 of this Act.

(7) OFFICE.—The term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(8) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(9) SERVICE BUREAU.—The term "Service Bureau" means the Bureau of Immigration Services established in section 113 of the Immigration and Nationality Act, as added by section 1104 of this Act.

(10) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of the Immigration and Nationality Act, as added by section 1103 of this Act.

SEC. 1003. TRANSFER OF IMMIGRATION AND NATURALIZATION SERVICE FUNCTIONS.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the Immigration and Naturalization Service of the Department of Justice, including the functions of the Attorney General relating thereto, to be restructured so as to separate enforcement and service functions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

SEC. 1101. ABOLITION OF INS.

(a) IN GENERAL.—The Immigration and Naturalization Service is abolished.

(b) REPEAL.—Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service), is repealed.

SEC. 1102. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

(a) ESTABLISHMENT.—Title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) by inserting "**CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES**" after "**TITLE I—GENERAL**"; and

(2) by adding at the end the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"SEC. 111. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

"(a) ESTABLISHMENT.—There is established within the Department of Homeland Security the Directorate of Immigration Affairs.

"(b) PRINCIPAL OFFICERS.—The principal officers of the Directorate are the following:

"(1) The Under Secretary for Immigration Affairs appointed under section 112.

"(2) The Assistant Secretary for Immigration Services appointed under section 113.

"(3) The Assistant Secretary for Enforcement appointed under section 114.

"(c) FUNCTIONS.—Under the authority of the Secretary of Homeland Security, the Directorate shall perform the following functions:

"(1) Immigration policy and administration functions, as defined in section 112(b).

"(2) Immigration service and adjudication functions, as defined in section 113(b).

"(3) Immigration enforcement functions, as defined in section 114(b), but does not include the functions described in paragraphs (7) and (8) of section 131(b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out the functions of the Directorate.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

"(e) IMMIGRATION LAWS OF THE UNITED STATES DEFINED.—In this chapter, the term 'immigration laws of the United States' shall have the same meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).".

(b) CONFORMING AMENDMENTS.—(1) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) by striking section 101(a)(34) (8 U.S.C. 1101(a)(34)) and inserting the following:

"(34) The term 'Directorate' means the Directorate of Immigration Affairs established by section 111.";

(B) by adding at the end of section 101(a) the following:

"(51) The term 'Secretary' means the Secretary of Homeland Security.

"(52) The term 'Department' means the Department of Homeland Security.";

(C) by striking "Attorney General" and "Department of Justice" each place it appears (other than the proviso in section 103(a)(1) of the Immigration and Nationality Act) and inserting "Secretary" and "Department", respectively;

(D) in section 101(a)(17) (8 U.S.C. 1101(a)(17)), by striking "The" and inserting "Except as otherwise provided in section 111(e), the"; and

(E) by striking "Immigration and Naturalization Service", "Service", and "Service's" each place they appear and inserting "Directorate of Immigration Affairs", "Directorate", and "Directorate's", respectively.

(2) Section 6 of the Act entitled "An Act to authorize certain administrative expenses for the Department of Justice, and for other purposes", approved July 28, 1950 (64 Stat. 380), is amended—

(A) by striking "Immigration and Naturalization Service" and inserting "Directorate of Immigration Affairs";

(B) by striking clause (a); and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security of the Department of Homeland Security, as appropriate; and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary for Immigration Affairs and the Under Secretary for Border and Transportation Security, as appropriate.

SEC. 1103. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

"SEC. 112. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

"(a) UNDER SECRETARY OF IMMIGRATION AFFAIRS.—The Directorate shall be headed by an Under Secretary of Homeland Security for Immigration Affairs who shall be appointed in accordance with section 103(c) of the Immigration and Nationality Act.

"(b) RESPONSIBILITIES OF THE UNDER SECRETARY.—

"(1) IN GENERAL.—The Under Secretary shall be charged with any and all responsibilities and authority in the administration of the Directorate and of this Act which are conferred upon the Secretary as may be delegated to the Under Secretary by the Secretary or which may be prescribed by the Secretary.

"(2) DUTIES.—Subject to the authority of the Secretary under paragraph (1), the Under Secretary shall have the following duties:

"(A) IMMIGRATION POLICY.—The Under Secretary shall develop and implement policy under the immigration laws of the United States with respect to any function within the jurisdiction of the Directorate. The Under Secretary shall propose, promulgate, and issue rules, regulations, and statements of policy with respect to any function within the jurisdiction of the Directorate.

"(B) ADMINISTRATION.—The Under Secretary shall have responsibility for—

"(i) the administration and enforcement of the functions conferred upon the Directorate under section 111(c) of this Act; and

"(ii) the administration of the Directorate, including the direction, supervision, and coordination of the Bureau of Immigration Services and the Bureau of Enforcement.

"(3) ACTIVITIES.—As part of the duties described in paragraph (2), the Under Secretary shall do the following:

"(A) RESOURCES AND PERSONNEL MANAGEMENT.—The Under Secretary shall manage the resources, personnel, and other support requirements of the Directorate.

"(B) INFORMATION RESOURCES MANAGEMENT.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including the maintenance of records and databases and the coordination of records and other information within the Directorate, and shall ensure that the Directorate obtains and maintains adequate information technology systems to carry out its functions.

"(4) DEFINITION.—In this chapter, the term 'immigration policy and administration' means the duties, activities, and powers described in this subsection.

"(c) GENERAL COUNSEL.—

"(1) IN GENERAL.—There shall be within the Directorate a General Counsel, who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary.

"(2) FUNCTION.—The General Counsel shall—

"(A) serve as the chief legal officer for the Directorate; and

"(B) be responsible for providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Under Secretary with respect to legal matters affecting the Directorate, and any of its components.

"(d) FINANCIAL OFFICERS FOR THE DIRECTORATE OF IMMIGRATION AFFAIRS.—

"(1) CHIEF FINANCIAL OFFICER.—

"(A) IN GENERAL.—There shall be within the Directorate a Chief Financial Officer. The position of Chief Financial Officer shall be a career reserved position in the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Directorate. For purposes of section 902(a)(1) of such title, the Under Secretary shall be deemed to be an agency head.

"(B) FUNCTIONS.—The Chief Financial Officer shall be responsible for directing, supervising, and coordinating all budget formulas and execution for the Directorate.

"(2) DEPUTY CHIEF FINANCIAL OFFICER.—The Directorate shall be deemed to be an agency for purposes of section 903 of such title (relating to Deputy Chief Financial Officers).

"(e) CHIEF OF CONGRESSIONAL, INTERGOVERNMENTAL, AND PUBLIC AFFAIRS.—

"(1) IN GENERAL.—There shall be within the Directorate a Chief of Congressional, Intergovernmental, and Public Affairs. Under the authority of the Under Secretary, the Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

"(A) providing to Congress information relating to issues arising under the immigration laws of the United States, including information on specific cases;

"(B) serving as a liaison with other Federal agencies on immigration issues; and

"(C) responding to inquiries from, and providing information to, the media on immigration issues.

"(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Congressional, Intergovernmental, and Public Affairs shall be a Senior Executive Service position under section 5382 of title 5, United States Code.".

(b) COMPENSATION OF GENERAL COUNSEL AND CHIEF FINANCIAL OFFICER.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel, Directorate of Immigration Affairs, Department of Homeland Security.

"Chief Financial Officer, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) REPEALS.—The following provisions of law are repealed:

(1) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(2) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of assistant commissioners and district directors).

(3) Section 1 of the Act of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(d) CONFORMING AMENDMENTS.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:

"(8) The term 'Under Secretary' means the Under Secretary for Immigration Affairs who is appointed under section 103(c).".

(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(i) by striking "The Commissioner of Immigration and Naturalization" and "The Commissioner" each place they appear and inserting "The appropriate Under Secretary of the Department of Homeland Security"; and

(ii) except as provided in paragraph (1), by striking "Commissioner of Immigration and Naturalization" and "Commissioner" each place they appear and inserting "appropriate Under Secretary of the Department of Homeland Security".

(C) The amendments made by subparagraph (B) do not apply to references to the "Commissioner of Social Security" in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

(2) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended—

(A) in subsection (c), by striking "Commissioner" and inserting "Under Secretary";

(B) in subsection (d), by striking "Commissioner" and inserting "Under Secretary"; and

(C) in subsection (e), by striking "Commissioner" and inserting "Under Secretary".

(3) Sections 104 and 105 of the Immigration and Nationality Act (8 U.S.C. 1104, 1105) are amended by striking "Director" each place it appears and inserting "Assistant Secretary of State for Consular Affairs".

(4) Section 104(c) of the Immigration and Nationality Act (8 U.S.C. 1104(c)) is amended—

(A) in the first sentence, by striking "Passport Office, a Visa Office," and inserting "a Passport Services office, a Visa Services office, an Overseas Citizen Services office,"; and

(B) in the second sentence, by striking "the Passport Office and the Visa Office" and inserting "the Passport Services office and the Visa Services office".

(5) Section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Immigration and Naturalization, Department of Justice.".

(e) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Commissioner of Immigration and Naturalization shall be deemed to refer to the Under Secretary for Immigration Affairs or the Under Secretary for Border and Transportation Security, as appropriate.

SEC. 1104. BUREAU OF IMMIGRATION SERVICES.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"SEC. 113. BUREAU OF IMMIGRATION SERVICES.

"(a) ESTABLISHMENT OF BUREAU.—

"(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the 'Service Bureau').

"(2) ASSISTANT SECRETARY.—The head of the Service Bureau shall be the Assistant Secretary for Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services'), who—

"(A) shall be appointed by the Secretary, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

"(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Services shall administer the immigration service functions of the Directorate.

"(2) IMMIGRATION SERVICE FUNCTIONS DEFINED.—In this chapter, the term 'immigration service functions' means the following functions under the immigration laws of the United States:

"(A) Adjudications of petitions for classification of nonimmigrant and immigrant status.

"(B) Adjudications of applications for adjustment of status and change of status.

"(C) Adjudications of naturalization applications.

"(D) Adjudications of asylum and refugee applications.

"(E) Adjudications performed at Service centers.

"(F) Determinations concerning custody and parole of asylum seekers who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, including determinations under section 236B.

"(G) All other adjudications under the immigration laws of the United States.

"(c) CHIEF BUDGET OFFICER OF THE SERVICE BUREAU.—There shall be within the Service Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Service Bureau shall be responsible for monitoring and supervising all financial activities of the Service Bureau.

"(d) QUALITY ASSURANCE.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to the immigration service functions of the Directorate are properly implemented; and

"(2) ensure that Service Bureau policies or practices result in sound records management and efficient and accurate service.

"(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Service Bureau and for receiving and investigating charges of misconduct or ill treatment made by the public.

"(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.".

(b) SERVICE BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Services, shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consider the location's proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.

(2) TRANSITION PROVISION.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1105. BUREAU OF ENFORCEMENT.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103 and 1104, is further amended by adding at the end the following:

"SEC. 114. BUREAU OF ENFORCEMENT.

"(a) ESTABLISHMENT OF BUREAU.—

"(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Enforcement (in this chapter referred to as the 'Enforcement Bureau').

"(2) ASSISTANT SECRETARY.—The head of the Enforcement Bureau shall be the Assistant Secretary for Enforcement (in this chapter referred to as the 'Assistant Secretary for Immigration Enforcement'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

"(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Enforcement shall administer the immigration enforcement functions of the Directorate.

"(2) IMMIGRATION ENFORCEMENT FUNCTIONS DEFINED.—In this chapter, the term 'immigration enforcement functions' means the following functions under the immigration laws of the United States:

"(A) The detention function, except as specified in section 113(b)(2)(F).

"(B) The removal function.

"(C) The intelligence function.

"(D) The investigations function.

"(c) CHIEF BUDGET OFFICER OF THE ENFORCEMENT BUREAU.—There shall be within the Enforcement Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Enforcement Bureau shall be responsible for monitoring and supervising all financial activities of the Enforcement Bureau.

"(d) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Enforcement Bureau and receiving charges of misconduct or ill treatment made by the public and investigating the charges.

"(e) OFFICE OF QUALITY ASSURANCE.—There shall be within the Enforcement Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to immigration enforcement functions are properly implemented; and

"(2) ensure that Enforcement Bureau policies or practices result in sound record management and efficient and accurate recordkeeping.

"(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Enforcement Bureau.".

(b) ENFORCEMENT BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Enforcement, shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall make selections according to trends in unlawful entry and unlawful presence, alien smuggling, national security concerns, the number of Federal prosecutions of immigration-related offenses in a given geographic area, and other enforcement considerations. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Enforcement Bureau offices adequately serve enforcement needs.

(2) TRANSITION PROVISION.—In determining the location of Enforcement Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1106. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 115. OFFICE OF THE OMBUDSMAN FOR IMMIGRATION AFFAIRS.

"(a) IN GENERAL.—There is established within the Directorate the Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

"(b) OMBUDSMAN.—

"(1) APPOINTMENT.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

"(2) COMPENSATION.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of Homeland Security so determines, at a rate fixed under section 9503 of such title.

"(c) FUNCTIONS OF OFFICE.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

"(1) to assist individuals in resolving problems with the Directorate or any component thereof;

"(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

"(3) to propose changes in the administrative practices or regulations of the Directorate, or any component thereof, to mitigate problems identified under paragraph (2);

"(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

"(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

"(d) PERSONNEL ACTIONS.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems.

"(e) ANNUAL REPORT.—Not later than December 31 of each year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

"(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

"(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

"(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action;

"(4) an accounting of the items described in paragraphs (1) and (2) for which action remains to be completed;

"(5) an accounting of the items described in paragraphs (1) and (2) for which no action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction;

"(6) recommendations as may be appropriate to resolve problems encountered by the public;

"(7) recommendations as may be appropriate to resolve problems encountered by the public, including problems created by backlogs in the adjudication and processing of petitions and applications;

"(8) recommendations to resolve problems caused by inadequate funding or staffing; and

"(9) such other information as the Ombudsman may deem advisable.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Office of the Ombudsman such sums as may be necessary to carry out its functions.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.".

SEC. 1107. OFFICE OF IMMIGRATION STATISTICS WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 116. OFFICE OF IMMIGRATION STATISTICS.

"(a) ESTABLISHMENT.—There is established within the Directorate an Office of Immigration Statistics (in this section referred to as the 'Office'), which shall be headed by a Director who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Office shall collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Directorate and the Executive Office for Immigration Review.

"(b) RESPONSIBILITIES OF DIRECTOR.—The Director of the Office shall be responsible for the following:

"(1) STATISTICAL INFORMATION.—Maintenance of all immigration statistical information of the Directorate of Immigration Affairs.

"(2) STANDARDS OF RELIABILITY AND VALIDITY.—Establishment of standards of reliability and validity for immigration statistics collected by the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review.

"(c) RELATION TO THE DIRECTORATE OF IMMIGRATION AFFAIRS AND THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.—

"(1) OTHER AUTHORITIES.—The Directorate and the Executive Office for Immigration Review shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review, respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

"(2) DATABASES.—The Director of the Office, under the direction of the Secretary, shall ensure the interoperability of the databases of the Directorate, the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review to permit the Director of the Office to perform the duties of such office.".

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Directorate of Immigration Affairs for exercise by the Under Secretary through the Office of Immigration Statistics established by section 116 of the Immigration and Nationality Act, as added by subsection (a), the functions performed by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service, and the statistical functions performed by the Executive Office for Immigration Review, on the day before the effective date of this title.

SEC. 1108. CLERICAL AMENDMENTS.

The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to the heading for title I the following:

"CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES";

(2) by striking the item relating to section 103 and inserting the following:

"Sec. 103. Powers and duties of the Secretary of Homeland Security and the Under Secretary of Homeland Security for Immigration Affairs.";

and

(3) by inserting after the item relating to section 106 the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"Sec. 111. Establishment of Directorate of Immigration Affairs.
"Sec. 112. Under Secretary of Homeland Security for Immigration Affairs.
"Sec. 113. Bureau of Immigration Services.
"Sec. 114. Bureau of Enforcement.
"Sec. 115. Office of the Ombudsman for Immigration Affairs.
"Sec. 116. Office of Immigration Statistics.".

Subtitle B—Transition Provisions

SEC. 1111. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—

(1) FUNCTIONS OF THE ATTORNEY GENERAL.—Except as provided in subsection (c) and title XIII, all functions under the immigration laws of the United States vested by statute in, or exercised by, the Attorney General, immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Secretary through the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(2) FUNCTIONS OF THE COMMISSIONER OR THE INS.—Except as provided in subsection (c), all functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Directorate of Immigration Affairs on such effective date for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Directorate of Immigration Affairs under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

(c) SPECIAL RULE FOR BORDER PATROL AND INSPECTION FUNCTIONS.—

(1) IN GENERAL.—Notwithstanding subsections (a) and (b), the border patrol function, and primary and secondary immigration inspection functions, vested by statute in, or exercised by, the Attorney General, the Commissioner of Immigration and Naturalization, or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Under Secretary for Border and Transportation in accordance with paragraphs (7) and (8) of section 131(b).

(2) REFERENCES.—With respect to the border patrol function and primary and secondary immigration inspection functions, references in this subtitle to—

(A) the Directorate shall be deemed to be references to the Directorate of Border and Transportation Security; and

(B) the Under Secretary shall be deemed to be references to the Under Secretary for Border and Transportation Security.

SEC. 1112. TRANSFER OF PERSONNEL AND OTHER RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the appropriate Under Secretary for appropriate allocation in accordance with section 1115—

(1) the personnel of the Department of Justice employed in connection with the functions transferred under this title; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title.

SEC. 1113. DETERMINATIONS WITH RESPECT TO FUNCTIONS AND RESOURCES.

The Secretary shall determine, in accordance with the corresponding criteria set forth in sections 1112(b), 1113(b), and 1114(b) of the Immigration and Nationality Act (as added by this title)—

(1) which of the functions transferred under section 1111 are—

(A) immigration policy and administration functions;

(B) immigration service functions;

(C) immigration enforcement functions (excluding the border patrol function and primary and secondary immigration inspection functions); and

(D) the border patrol function and primary and secondary immigration inspection functions; and

(2) which of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112 were held or used, arose from, were available to, or were made available, in connection with the performance of the respective functions specified in paragraph (1) immediately prior to the effective date of this title.

SEC. 1114. DELEGATION AND RESERVATION OF FUNCTIONS.

(a) DELEGATION TO THE DIRECTORATES.—The Secretary shall delegate—

(1) through the Under Secretary and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103)—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement; and

(2) the border patrol function and primary and secondary immigration inspection functions to the Under Secretary for Border and Transportation Security.

(b) NONEXCLUSIVE DELEGATIONS AUTHORIZED.—Delegations made under subsection (a) may be made on a nonexclusive basis as the Secretary may determine may be necessary to ensure the faithful execution of the Secretary's responsibilities and duties under law.

(c) EFFECT OF DELEGATIONS.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary for Immigration Affairs, and the Under Secretary for Border and Transportation Security, respectively, as the Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

(d) Statutory Construction.—Nothing in this division may be construed to limit the authority of the Under Secretary, acting directly or by delegation under the Secretary, to establish such offices or positions within the Directorate of Immigration Affairs, in addition to those specified by this division, as the Under Secretary may determine to be necessary to carry out the functions of the Directorate.

SEC. 1115. ALLOCATION OF PERSONNEL AND OTHER RESOURCES.

(a) Authority of the Under Secretary.—

(1) In general.—Subject to paragraph (2) and section 1114(b), the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the performance of the respective functions, as determined under section 1113, in accordance with the delegation of functions and the reservation of functions made under section 1114.

(2) Limitation.—Unexpended funds transferred pursuant to section 1112 shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Authority To Terminate Affairs of INS.—The Attorney General in consultation with the Secretary, shall provide for the termination of the affairs of the Immigration and Naturalization Service and such further measures and dispositions as may be necessary to effectuate the purposes of this division.

(c) Treatment of Shared Resources.—The Under Secretary is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau. The Under Secretary shall maintain oversight and control over the shared computer databases and systems and records management.

SEC. 1116. SAVINGS PROVISIONS.

(a) Legal Documents.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) Proceedings.—

(1) Pending.—Sections 111 through 116 of the Immigration and Nationality Act, as added by subtitle A of this title, shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred under this title, but such proceedings and applications shall be continued.

(2) Orders.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) Discontinuance or modification.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) Suits.—This title, and the amendments made by this title, shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title, and the amendments made by this title, had not been enacted.

(d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) Continuance of Suit With Substitution of Parties.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and such function is transferred under this title to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) Administrative Procedure and Judicial Review.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred under this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred.

SEC. 1117. INTERIM SERVICE OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

The individual serving as the Commissioner of Immigration and Naturalization on the day before the effective date of this title may serve as Under Secretary until the date on which an Under Secretary is appointed under section 112 of the Immigration and Nationality Act, as added by section 1103.

SEC. 1118. OTHER AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Basic Authorities Act of 1956, or under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to the issuance and use of passports and visas;

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(3) except as otherwise specifically provided in this division, any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

SEC. 1119. TRANSITION FUNDING.

(a) Authorization of Appropriations for Transition.—

(1) In general.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—

(A) to effect—

(i) the abolition of the Immigration and Naturalization Service;

(ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement (except for the border patrol function and primary and secondary immigration inspection functions);

(iii) the transfer to the Directorate of Border and Transportation Protection of the border patrol function and primary and secondary immigration inspection functions; and

(iv) the transfer of such other functions as are required to be made under this division; and

(B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) Activities supported.—Activities supported under paragraph (1) include—

(A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security, as appropriate, including the preparation of any reports and implementation plans necessary for such transfer;

(B) the division, acquisition, and disposition of—

(i) buildings and facilities;

(ii) support and infrastructure resources; and

(iii) computer hardware, software, and related documentation;

(C) other capital expenditures necessary to effect the transfer of functions described in this paragraph;

(D) revision of forms, stationery, logos, and signage;

(E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and

(F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) Availability of Funds.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) Transition Account.—

(1) Establishment.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the "Directorate of Immigration Affairs Transition Account" (in this section referred to as the "Account").

(2) Use of account.—There shall be deposited into the Account all amounts appropriated under subsection (a) and amounts reprogrammed for the purposes described in subsection (a).

(d) Report to Congress on Transition.—Beginning not later than 90 days after the effective date of division A of this Act, and at the end of each fiscal year in which appropriations are made pursuant to subsection (c), the Secretary of Homeland Security shall submit a report to Congress concerning the availability of funds to cover transition costs, including—

(1) any unobligated balances available for such purposes; and

(2) a calculation of the amount of appropriations that would be necessary to fully fund the activities described in subsection (a).

(e) Effective Date.—This section shall take effect 1 year after the effective date of division A of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1121. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

(a) Level of Fees.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants" and inserting "services".

(b) Use of Fees.—

(1) In general.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refugee applicants.

(2) Prohibition.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of operation.

(c) Refugee and Asylum Adjudication Services.—

(1) Authorization of appropriations.—In addition to such sums as may be otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.

(2) Availability of funds.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) Separation of Funding.—

(1) In general.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other collections available for the Bureau of Immigration Services and the Bureau of Enforcement.

(2) Fees.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(3) Fees not transferable.—No fee may be transferred between the Bureau of Immigration Services and the Bureau of Enforcement for purposes not authorized by section 286 of the Immigration and Nationality Act, as amended by subsection (a).

(e) Authorization of Appropriations for Backlog Reduction.—

(1) In general.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out the Immigration Services and Infrastructure Improvement Act of 2000 (title II of Public Law 106-313).

(2) Availability of funds.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) Infrastructure improvement account.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvements Account established by section 204(a)(2) of title II of Public Law 106-313.

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) Establishment of On-Line Database.—

(1) In general.—Not later than 2 years after the effective date of division A, the Secretary, in consultation with the Under Secretary and the Technology Advisory Committee, shall establish an Internet-based system that will permit an immigrant, nonimmigrant, employer, or other person who files any application, petition, or other request for any benefit under the immigration laws of the United States access to on-line information about the processing status of the application, petition, or other request.

(2) Privacy considerations.—The Under Secretary shall consider all applicable privacy issues in the establishment of the Internet system described in paragraph (1). No personally identifying information shall be accessible to unauthorized persons.

(3) Means of access.—The on-line information under the Internet system described in paragraph (1) shall be accessible to the persons described in paragraph (1) through a personal identification number (PIN) or other personalized password.

(4) Prohibition on fees.—The Under Secretary shall not charge any immigrant, nonimmigrant, employer, or other person described in paragraph (1) a fee for access to the information in the database that pertains to that person.

(b) Feasibility Study for On-Line Filing and Improved Processing.—

(1) On-line filing.—

(A) In general.—The Under Secretary, in consultation with the Technology Advisory Committee, shall conduct a study to determine the feasibility of on-line filing of the documents described in subsection (a).

(B) Study elements.—The study shall—

(i) include a review of computerization and technology of the Immigration and Naturalization Service (or successor agency) relating to immigration services and the processing of such documents;

(ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and

(iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.

(2) Report.—Not later than 2 years after the effective date of division A, the Under Secretary shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the findings of the study conducted under this subsection.

(c) Technology Advisory Committee.—

(1) Establishment.—Not later than 1 year after the effective date of division A, the Under Secretary shall establish, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Under Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

(2) Composition.—The Technology Advisory Committee shall be composed of—

(A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and

(B) representatives of persons or entities who may use the tracking system described in subsection (a) and the on-line filing system described in subsection (b)(1).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) Assignments of Asylum Officers.—The Under Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take steps to ensure that asylum officers participate in the inspections process.

(b) Amendment of the Immigration and Nationality Act.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 236A the following new section:

"SEC. 236B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

"(a) Development of Alternatives to Detention.—The Under Secretary shall—

"(1) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and

"(2) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

"(b) Specific Alternatives for Consideration.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):

"(1) Parole from detention.

"(2) For individuals not otherwise qualified for parole under paragraph (1), parole with appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-secure shelter care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(4) Noninstitutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(c) Regulations.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

"(d) Definition.—In this section, the term 'asylum seeker' means any applicant for asylum under section 208 or any alien who indicates an intention to apply for asylum under that section.".

(b) Clerical Amendment.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236A the following new item:

"Sec. 236B. Alternatives to detention of asylum seekers.".

Subtitle D—Effective Date

SEC. 1131. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect one year after the effective date of division A of this Act.

TITLE XII—UNACCOMPANIED ALIEN JUVENILE PROTECTION

SEC. 1201. UNACCOMPANIED ALIEN JUVENILES.

(a) Custody Determinations.—

(1) In general.—

(A) Initial custody and care.—The custody and care of an unaccompanied alien juvenile shall be the responsibility of the

Under Secretary of Immigration Affairs in the Department of Homeland Security or the Under Secretary of Border and Transportation Security, as determined under guidelines to be promulgated by the Secretary.

(B) TRANSFER OF CUSTODY AND CARE.—Unless the juvenile is described in subsection (b), the Department of Homeland Security shall transfer custody and care of that juvenile to the Office of Refugee Resettlement of the Department of Health and Human Services.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Directorate of Immigration Affairs shall retain or assume the custody and care of an unaccompanied alien juvenile—

(A) who has been charged with a felony;

(B) who has been convicted of a felony;

(C) who exhibits a violent or criminal behavior that endangers others; or

(D) with respect to whom the Secretary of Homeland Security has a substantial evidence to conclude that such juvenile endangers the national security of the United States.

(b) FUNCTIONS.—

(1) IN GENERAL.—Pursuant to subsection (a)(2), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the custody and care of unaccompanied alien juveniles who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to the Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such juvenile, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act;

(B) ensuring that the interests of the juvenile are considered in decisions and actions relating to the custody and care of an unaccompanied alien juvenile;

(C) making placement determinations for all unaccompanied alien juveniles who are in Federal custody by reason of their immigration status;

(D) implementing placement determinations for such unaccompanied alien juveniles;

(E) implementing policies with respect to the care and placement of unaccompanied alien juveniles;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien juveniles;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien juveniles are housed;

(H) reuniting unaccompanied alien juveniles with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien juveniles;

(J) maintaining statistical information and other data on unaccompanied alien juveniles for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a juvenile's name, sex, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the juvenile came into Federal custody by reason of his or her immigration status;

(iii) information relating to the juvenile's placement, removal, or release from each facility in which the juvenile has resided;

(iv) in any case in which the juvenile is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the juvenile is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien juveniles; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien juveniles reside.

(2) COORDINATION WITH OTHER ENTITIES; NO RELEASE ON OWN RECOGNIZANCE.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of Immigration Affairs of the Department of Homeland Security to ensure that the unaccompanied alien juveniles with respect to whom the placement determinations are made—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitative activity; and

(iii) are placed in a setting in which they not likely to pose a danger to themselves or others; and

(B) shall not release such juveniles upon their own recognizance.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to consider the use of the refugee children foster care system established pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien juveniles.

(c) APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN JUVENILES.—

(1) IN GENERAL.—An unaccompanied alien juvenile described in subsection (a)(2) may be placed in a facility appropriate for delinquent juveniles under conditions appropriate to the behavior of such juvenile.

(2) RESTRICTION ON DETENTION IN ADULT DETENTION FACILITIES.—To the maximum extent practicable, and consistent with the protection of the juvenile and others, an unaccompanied alien juvenile shall not be placed in an adult detention facility.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to transfer the responsibility for adjudicating benefit determinations or making enforcement determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State, as the case may be.

(e) TRANSFER OF FUNCTIONS.—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration and nationality laws of the United States with respect to the custody and care of unaccompanied alien juveniles that were vested by statute in, or performed by, the Commissioner of the Immigration and Naturalization Service (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (i).

(f) OTHER TRANSITION MATTERS.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in subsection (i).

(2) SAVINGS PROVISIONS.—Subsections (a), (b), and (c) of section 812 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS.—The assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(g) REFERENCES.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(h) DEFINITIONS.—In this section:

(1) LAWFULLY PRESENT IN THE UNITED STATES.—The term "lawfully present in the United States" means, with respect to an alien, an alien who is—

(A) an alien who is lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act);

(B) an alien who is a nonimmigrant alien described in section 101(a)(15) of the Immigration and Nationality Act;

(C) an alien who is a special immigrant described in section 101(a)(27) of the Immigration and Nationality Act;

(D) an alien who is granted asylum under section 208 of that Act;

(E) a refugee who is admitted to the United States under section 207 of that Act;

(F) an alien who is paroled into the United States under section 212(d)(5) of that Act; or

(G) an alien whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect before April 1, 1997) or section 241(b)(3) of the Immigration and Nationality Act.

(2) PLACEMENT.—The term "placement" means the placement of an unaccompanied alien juvenile in either a detention facility or an alternative to such a facility.

(3) UNACCOMPANIED ALIEN JUVENILE.—The term "unaccompanied alien juvenile" means an alien who—

(A) is not lawfully present in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(i) EFFECTIVE DATE.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 411 takes effect.

TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

SEC. 1301. LEGAL STATUS OF EOIR.

(a) EXISTENCE OF EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1302.

SEC. 1302. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

"POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY, AND THE ATTORNEY GENERAL";

(2) in subsection (a)—

(A) by inserting "Attorney General," after "President,"; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104-208), and (9) (as added by section 372 of Public Law 104-208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

"(g) ATTORNEY GENERAL.—

"(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

"(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.".

SEC. 1303. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1302, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

SEC. 2101. SHORT TITLE.

This title may be cited as the "Chief Human Capital Officers Act of 2002".

SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec.
"1401. Establishment of agency Chief Human Capital Officers.
"1402. Authority and functions of agency Chief Human Capital Officers.

"§1401. Establishment of agency Chief Human Capital Officers

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

"(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

"(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

"(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§1402. Authority and functions of agency Chief Human Capital Officers

"(a) The functions of each Chief Human Capital Officer shall include—

"(1) setting the workforce development strategy of the agency;

"(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

"(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

"(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

"(5) identifying best practices and benchmarking studies, and

"(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

"(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

"(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

"(A) are the property of the agency or are available to the agency; and

"(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

"(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"14. Agency Chief Human Capital Officers .... 1401".

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

"(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

"(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

"(ii) integrating those strategies into the budget and strategic plans of those agencies;

"(B) closing skill gaps in mission critical occupations;

"(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

"(D) sustaining a culture that cultivates and develops a high performing workforce;

"(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

"(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.".

SEC. 2105. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this division.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

"(f) With respect to each agency with a Chief Human Capital Officer, the Chief

Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).".

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and".

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end of the following:

"(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

"(A) public notice has been given; and

"(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria."; and

(2) by inserting after section 3318 the following:

"§ 3319. Alternative ranking and selection procedures

"(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

"(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

"(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

"(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

"(1) the number of employees hired under that system;

"(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

"(3) the way in which managers were trained in the administration of that system.

"(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

"3319. Alternative ranking and selection procedures.".

SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"§ 3521. Definitions

"In this subchapter, the term—

"(1) 'agency' means an Executive agency as defined under section 105; and

"(2) 'employee'—

"(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

"(i) is serving under an appointment without time limitation; and

"(ii) has been currently employed for a continuous period of at least 3 years; and

"(B) shall include—

"(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government.

"(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

"(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

"(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

"(vi) any employee who—

"(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

"(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

"(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

"§ 3522. Agency plans; approval

"(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

"(b) The plan of an agency under subsection (a) shall include—

"(1) the specific positions and functions to be reduced or eliminated;

"(2) a description of which categories of employees will be offered incentives;

"(3) the time period during which incentives may be paid;

"(4) the number and amounts of voluntary separation incentive payments to be offered; and

"(5) a description of how the agency will operate without the eliminated positions and functions.

"(c) The Director of the Office of Personnel Management shall review each agency's plan an may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive of the Office of Personnel Management.

"§ 3523. Authority to provide voluntary separation incentive payments

"(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

"(b) A voluntary incentive payment—

"(1) shall be offered to agency employees on the basis of—

"(A) 1 or more organizational units;

"(B) 1 or more occupational series or levels;

"(C) 1 or more geographical locations;

"(D) skills, knowledge, or other factors related to a position;

"(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

"(F) any appropriate combination of such factors;

"(2) shall be paid in a lump sum after the employee's separation;

"(3) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c)if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

"(B) an amount determined by the agency head, not to exceed $25,000;

"(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

"(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

"(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other separation; and

"(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

"§ 3524. Effect of subsequent employment with the Government

"(a) The term 'employment'—

"(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

"(2) in subsection (c) does not include employment under such a contract.

"(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to he agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§ 3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT";

and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.

"3522. Agency plans; approval.

"3523. Authority to provide voluntary separation incentive payments.

"3524. Effect of subsequent employment with the Government.

"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors.".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106-303 (5 U.S.C. 8336 note; 114 Stat. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105-174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 2302. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), the total payment referred to under such paragraph with respect to an employee paid under section 5372, 5376, or 5383 of title 5 or section 332(f), 603, or 604 of title 28 shall not exceed the total annual compensation payable to the Vice President under section 104 of title 3. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.".

TITLE XXIV—ACADEMIC TRAINING

SEC. 2401. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§ 4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.—Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and".

SEC. 2403. COMPENSATION TIME OFF FOR TRAVEL.

Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) An employee shall receive 1 hour of compensatory time off for each hour spent by the employee in travel status away from the official duty station of the employee, to the extent that the time spent in travel status is not otherwise compensable.

"(b) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

SEC. 2404. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "December 31, 2007".

TITLE XXXI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 3101. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 3102. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks,

and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 3103. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 3104. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation; and

(vii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 3105. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission the Vice Chairperson the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CLOSED MEETINGS.—

(1) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) ADDITIONAL AUTHORITY.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 3106. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) Consultant Services.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 3107. COMPENSATION AND TRAVEL EXPENSES.

(a) Compensation.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) Travel Expenses.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 3108. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 3109. REPORTS OF THE COMMISSION; TERMINATION.

(a) Initial Report.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) Additional Reports.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) Termination.—

(1) In general.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) Administrative activities before termination.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title **$3,000,000**, to remain available until expended.

TITLE XXXII

SEC. . PRESERVATION OF THE PRESIDENTIAL NATIONAL SECURITY POWER

"Notwithstanding any other provision of this Act, nothing in this Act shall be construed to take away the statutory authority of the President to act in a manner consistent with national security requirements and consideration as existed on the day of the terrorist attacks on September 11, 2001.

These sections shall take effect one day after date of enactment.

SA 4743. Mr. DASCHLE (for himself, Mr. Nelson of Nebraska, Mr. Chafee, and Mr. Breaux) proposed an amendment to amendment SA 4742 proposed by Mr. Daschle to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

On page 96, strike line 2 and all that follows through page 109, line 13, and insert the following:

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) Authority.—

(1) Sense of congress.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) In general.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.

"9701. Establishment of human resources management system.

"§ 9701. Establishment of human resources management system

"(a) In General.—Notwithstanding any other provision of this part, the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department.

"(b) System Requirements.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) Other Nonwaivable Provisions.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 71, 72, 73, 77, and 79, and this chapter.

"(d) Limitations Relating to Pay.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) Provisions To Ensure Collaboration With Employee Representatives.—

"(1) In general.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) Notice of proposal.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Preimplementation requirements.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(3) WRITTEN AGREEMENT.—Notwithstanding any other provision of this part, employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any system provided under this section unless the exclusive representative and the Secretary have entered into a written agreement, which specifically provides for the inclusion of such employees within such system. Such written agreement may be imposed by the Federal Service Impasses Panel under section 7119, after negotiations consistent with section 7117.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 801 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 731. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of title 5, United States Code, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(d) SAVINGS CLAUSE.—Notwithstanding any other provision of this Act, Title XXXII is null and void.

SA 4744. Mr. DASCHLE submitted an amendment intended to be proposed to the language proposed to be stricken by amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word in H.R. 5005 and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeland Security Act of 2002".

(b) DIVISIONS.—This Act is organized into three divisions as follows:

(1) DIVISION A.—Homeland Security.

(2) DIVISION B.—Immigration Reform, Accountability, and Security Enhancement Act of 2002.

(3) DIVISION C.—Federal Workforce Improvement.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Construction; severability.
Sec. 4. Effective date.

DIVISION A—HOMELAND SECURITY

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Sec. 101. Executive department; mission.
Sec. 102. Secretary; functions.
Sec. 103. Other officers.
Sec. 104. Office of International Affairs.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Sec. 201. Directorate for Information Analysis and Infrastructure Protection.

Sec. 202. Access to information.
Sec. 203. Protection of voluntarily furnished confidential information.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

Sec. 301. Under Secretary for Science and Technology.
Sec. 302. Responsibilities and authorities of the Under Secretary for Science and Technology.
Sec. 303. Functions transferred.
Sec. 304. Conduct of certain public health-related activities.
Sec. 305. Research in conjunction with the Department of Health and Human Services and other departments.
Sec. 306. Homeland Security Advanced Research Projects Agency.
Sec. 307. Miscellaneous authorities relating to national laboratories.
Sec. 308. Homeland Security Institute.
Sec. 309. Utilization of Department of Energy national laboratories and sites in support of homeland security activities.
Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture.
Sec. 311. Clearinghouse.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

Sec. 401. Under Secretary for Border and Transportation Security.
Sec. 402. Responsibilities.
Sec. 403. Functions transferred.
Sec. 404. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 405. Coordination of information and information technology.
Sec. 406. Visa issuance.
Sec. 407. Border security and immigration working group.
Sec. 408. Information on visa denials required to be entered into electronic data system.
Sec. 409. Study on use of foreign national personnel in visa processing.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.
Sec. 502. Responsibilities.
Sec. 503. Functions transferred.
Sec. 504. Nuclear incident response.
Sec. 505. Conduct of certain public health-related activities.
Sec. 506. Definition.

TITLE VI—MANAGEMENT

Sec. 601. Under Secretary for Management.
Sec. 602. Responsibilities.
Sec. 603. Chief Financial Officer.
Sec. 604. Chief Information Officer.
Sec. 605. Chief Human Capital Officer.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

Sec. 701. Responsibilities.

Subtitle B—Inspector General

Sec. 710. Authority of the Secretary.
Sec. 711. Law enforcement powers of Inspector General Agents.

Subtitle C—United States Secret Service

Sec. 720. Functions transferred.

Subtitle D—General Provisions

Sec. 730. Establishment of Human Resources Management System.
Sec. 731. Labor-management relations.
Sec. 732. Advisory committees.
Sec. 733. Acquisitions.
Sec. 734. Reorganization authority.
Sec. 735. Miscellaneous provisions.
Sec. 736. Authorization of appropriations.
Sec. 737. Regulatory authority.
Sec. 738. Use of appropriated funds.
Sec. 739. Future Year Homeland Security Program.
Sec. 739A. Bioterrorism Preparedness and Response Division.
Sec. 739B. Coordination with the Department of Health and Human Services under the Public Health Service Act.

Subtitle E—Risk Sharing and Indemnification for Contractors Supplying Anti-Terrorism Technology and Services

Sec. 741. Application of indemnification authority.
Sec. 742. Application of indemnification authority to State and local government contractors.
Sec. 743. Procurements of anti-terrorism technologies and anti-terrorism services by State and local governments through Federal contracts.
Sec. 744. Congressional notification.
Sec. 745. Definitions.

Subtitle F—Federal Emergency Procurement Flexibility

Sec. 751. Definition.
Sec. 752. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 753. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
Sec. 754. Increased micro-purchase threshold for certain procurements.
Sec. 755. Application of certain commercial items authorities to certain procurements.
Sec. 756. Use of streamlined procedures.
Sec. 757. Review and report by Comptroller General.
Sec. 758. Identification of new entrants into the Federal marketplace.

Subtitle G—Coast Guard

Sec. 761. Preserving Coast Guard mission performance.

TITLE VIII—TRANSITION

Sec. 801. Definitions.
Sec. 802. Transfer of agencies.
Sec. 803. Transitional authorities.
Sec. 804. Savings provisions.
Sec. 805. Terminations.
Sec. 806. Incidental transfers.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

Sec. 901. Inspector General Act.
Sec. 902. Executive schedule.
Sec. 903. United States Secret Service.
Sec. 904. Coast Guard.
Sec. 905. Strategic National Stockpile and smallpox vaccine development.
Sec. 906. Select agent registration.
Sec. 907. National Bio-Weapons Defense Analysis Center.
Sec. 908. Military activities.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

Sec. 1001. Short title.
Sec. 1002. Definitions.
Sec. 1003. Transfer of Immigration and Naturalization Service functions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

Sec. 1101. Abolition of Immigration and Naturalization Service.
Sec. 1102. Establishment of Directorate of Immigration Affairs.
Sec. 1103. Under Secretary of Homeland Security for Immigration Affairs.
Sec. 1104. Bureau of Immigration Services.
Sec. 1105. Bureau of Enforcement.
Sec. 1106. Office of the Ombudsman within the Directorate.
Sec. 1107. Office of Immigration Statistics within the Directorate.
Sec. 1108. Clerical amendments.

Subtitle B—Transition Provisions

Sec. 1111. Transfer of functions.
Sec. 1112. Transfer of personnel and other resources.
Sec. 1113. Determinations with respect to functions and resources.
Sec. 1114. Delegation and reservation of functions.
Sec. 1115. Allocation of personnel and other resources.
Sec. 1116. Savings provisions.
Sec. 1117. Interim service of the Commissioner of Immigration and Naturalization.
Sec. 1118. Other authorities not affected.
Sec. 1119. Transition funding.

Subtitle C—Miscellaneous Provisions

Sec. 1121. Funding adjudication and naturalization services.
Sec. 1122. Application of Internet-based technologies.
Sec. 1123. Alternatives to detention of asylum seekers.

Subtitle D—Effective Date

Sec. 1131. Effective date.

TITLE XII—UNACCOMPANIED ALIEN JUVENILE PROTECTION

Sec. 1201. Unaccompanied alien juveniles.

TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Sec. 1301. Legal status of EOIR.
Sec. 1302. Authorities of the Attorney General.
Sec. 1303. Statutory construction.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

Sec. 2101. Short title.
Sec. 2102. Agency Chief Human Capital Officers.
Sec. 2103. Chief Human Capital Officers Council.
Sec. 2104. Strategic human capital management.
Sec. 2105. Effective date.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 2201. Inclusion of agency human capital strategic planning in performance plans and programs performance reports.
Sec. 2202. Reform of the competitive service hiring process.
Sec. 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 2204. Student volunteer transit subsidy.

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

Sec. 2301. Repeal of recertification requirements of senior executives.

Sec. 2302. Adjustment of limitation on total annual compensation.

TITLE XXIV—ACADEMIC TRAINING

Sec. 2401. Academic training.
Sec. 2402. Modifications to National Security Education Program.
Sec. 2403. Compensation time off for travel.
Sec. 2404. Customs User Fees Extension.

DIVISION D—NATIONAL COMMISSION

SEC. 2. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this Act:

(1) AMERICAN HOMELAND OR HOMELAND.—Each of the terms "American homeland" or "homeland" mean the United States, in a geographic sense.

(2) CRITICAL INFRASTRUCTURE.—The term "critical infrastructure" means systems and assets, whether physical or virtual, so vital to the United States that the incapacitation or destruction of such systems or assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(3) ASSETS.—The term "assets" includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(5) EMERGENCY RESPONSE PROVIDERS.—The term "emergency response providers" includes Federal, State, and local government emergency public safety, law enforcement, emergency response, emergency medical, and related personnel, agencies, and authorities.

(6) EXECUTIVE AGENCY.—The term "Executive agency" means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(7) FUNCTIONS.—The term "functions" includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(8) KEY RESOURCES.—The term "key resources" means structures, monuments or items of exceptional historical, social, cultural, or symbolic significance to the United States.

(9) LOCAL GOVERNMENT.—The term "local government" has the meaning given in section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288).

(10) MAJOR DISASTER.—The term "major disaster" has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288).

(11) PERSONNEL.—The term "personnel" means officers and employees.

(12) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(13) UNITED STATES.—The term "United States", when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288)), any possession of the United States, and any waters within the jurisdiction of the United States.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect thirty days after the date of enactment or, if enacted within thirty days before January 1, 2003, on January 1, 2003.

DIVISION A—HOMELAND SECURITY

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) PRIMARY MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism; and

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States.

(2) RESPONSIBILITIES.—In carrying out the mission described in paragraph (1), and as further described in this Act, the Department's primary responsibilities shall include—

(A) information analysis and infrastructure protection;

(B) research and development, including efforts to counter chemical, biological, radiological, nuclear, and other emerging threats;

(C) border and transportation security;

(D) emergency preparedness and response; and

(E) coordination (including the provision of training and equipment) with other executive agencies, with State and local government personnel, agencies, and authorities, with the private sector, and with other entities.

(3) OTHER RESPONSIBILITIES.—The Department shall also be responsible for carrying out other functions of entities transferred to the Department as provided by law, and the enumeration of the primary homeland security missions and responsibilities in this section does not impair or diminish the Department's non-homeland security missions and responsibilities.

SEC. 102. SECRETARY; FUNCTIONS.

(a) SECRETARY.—

(1) APPOINTMENT.—There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) HEAD OF DEPARTMENT.—The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) VESTED FUNCTIONS.—All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) may, except as otherwise provided in this Act, delegate any of his functions to any officer, employee, or organizational unit of the Department;

(2) shall have such functions, including the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out his responsibilities under this Act or otherwise provided by law; and

(3) may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of chapter 33, subchapter 3, of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) An Under Secretary for Management.

(7) An Under Secretary for Immigration Affairs.

(8) Not more than 16 Assistant Secretaries.

(9) A General Counsel, who shall be the chief legal officer of the Department.

(b) CHIEF OF IMMIGRATION POLICY.—

(1) IN GENERAL.—There shall be within the office of the Deputy Secretary of Homeland Security a Chief of Immigration Policy, who, under the authority of the Secretary, shall be responsible for—

(A) establishing national immigration policy and priorities; and

(B) coordinating immigration policy between the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security.

(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Immigration Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

(c) INSPECTOR GENERAL.—To assist the Secretary in the performance of his functions, there is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(d) COMMANDANT OF THE COAST GUARD.—To assist the Secretary in the performance of his functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code.

(e) OTHER OFFICERS.—To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President:

(1) A Director of the Secret Service.

(2) A Chief Financial Officer.

(3) A Chief Information Officer.

(4) A Chief Human Capital Officer.

(f) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for his office or prescribed by the Secretary.

SEC. 104. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, an Office of International Affairs. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall have the following responsibilities:

(1) To promote information and education exchange with foreign nations in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include—

(A) joint research and development on countermeasures;

(B) joint training exercises of first responders; and

(C) exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage activities under this section and other international activities within the Department in consultation with the Department of State and other relevant Federal officials.

(5) To initially concentrate on fostering cooperation with countries that are already highly focused on homeland security issues and that have demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

SEC. 201. DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.—

(1) In general.—There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection headed by an Under Secretary for Information Analysis and Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Responsibilities.—The Under Secretary shall assist the Secretary in discharging the responsibilities under section 101 (b)(2)(A) and (d).

(b) Assistant Secretary for Information Analysis; Assistant Secretary for Infrastructure Protection.—

(1) Assistant secretary for information analysis.—There shall be in the Department an Assistant Secretary for Information Analysis, who shall be appointed by the President.

(2) Assistant secretary for infrastructure protection.—There shall be in the Department an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(3) Responsibilities.—The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this section.

(c) Discharge of Information Analysis and Infrastructure Protection.—The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

(d) Responsibilities of Under Secretary.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, intelligence-related information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to—

(A) identify and assess the nature and scope of threats to the homeland;

(B) detect and identify threats of terrorism against the United States and other threats to homeland security; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective measures and to support protective measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government agencies, and from State and local governments and private sector entities (pursuant to memoranda of understanding or other agreements entered into for that purpose).

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States.

(6) To take or seek to effect measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To administer the Homeland Security Advisory System, including—

(A) exercising primary responsibility for public threat advisories; and

(B) in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

(8) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

(9) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

(10) To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(11) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

(12) To ensure that—

(A) any material received pursuant to this section is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information shared under this section is transmitted, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(13) To request and obtain additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility under section 101, including the entry into cooperative agreements through the Secretary to obtain such information.

(14) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(15) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(16) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(17) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(18) To provide intelligence and information analysis and support to other elements of the Department.

(19) To perform such other duties relating to such responsibilities as the Secretary may provide.

(e) Staff.—

(1) In general.—The Secretary shall provide the Directorate with a staff of analysts having appropriate expertise and experience

to assist the Directorate in discharging responsibilities under this section.

(2) PRIVATE SECTOR ANALYSTS.—Analysts under this subsection may include analysts from the private sector.

(3) SECURITY CLEARANCES.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) DETAIL OF PERSONNEL.—

(1) IN GENERAL.—In order to assist the Directorate in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) COVERED AGENCIES.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) COOPERATIVE AGREEMENTS.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) BASIS.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) FUNCTIONS TRANSFERRED.—In accordance with title VIII, there shall be transferred to the Secretary, for assignment to the Under Secretary for Information Analysis and Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The Computer Security Division of the National Institute of Standards and Technology, including the functions of the Secretary of Commerce relating thereto.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy and the energy security and assurance program and activities of the Department, including the functions of the Secretary of Energy relating thereto.

(6) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(h) STUDY OF PLACEMENT WITHIN INTELLIGENCE COMMUNITY.—Not later than 90 days after the effective date of this Act, the President shall submit to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a report assessing the advisability of the following:

(1) Placing the elements of the Department concerned with the analysis of foreign intelligence information within the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) Placing such elements within the National Foreign Intelligence Program for budgetary purposes.

SEC. 202. ACCESS TO INFORMATION.

(a) IN GENERAL.—

(1) THREAT AND VULNERABILITY INFORMATION.—Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence and intelligence-related information, relating to threats of terrorism against the United States and to other areas of responsibility described in section 101 and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any agency of the Federal Government.

(2) OTHER INFORMATION.—The Secretary shall also have access to other information relating to matters under the responsibility of the Secretary that may be collected, possessed, or prepared by an agency of the Federal Government as the President may further provide.

(b) MANNER OF ACCESS.—Except as otherwise directed by the President, with respect to information to which the Secretary has access pursuant to this section—

(1) the Secretary may obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis, including requests or arrangements involving broad categories of material, access to electronic databases, or both; and

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all agencies of the Federal Government shall promptly provide to the Secretary—

(A) all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against the United States and to other areas of responsibility under section 101;

(B) all information concerning the vulnerability of the infrastructure of the United States, or other vulnerabilities of the United States, to terrorism, whether or not such information has been analyzed;

(C) all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed; and

(D) such other information or material as the President may direct.

(c) TREATMENT UNDER CERTAIN LAWS.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be provided with all information from law enforcement agencies that is required to be given to the Director of Central Intelligence, under any provision of the following:

(1) The USA PATRIOT Act of 2001 (Public Law 107-56).

(2) Section 2517(6) of title 18, United States Code.

(3) Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(d) ACCESS TO INTELLIGENCE AND OTHER INFORMATION.—

(1) ACCESS BY ELEMENTS OF FEDERAL GOVERNMENT.—Nothing in this title shall preclude any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), or other any element of the Federal Government with responsibility for analyzing terrorist threat information, from receiving any intelligence or other information relating to terrorism.

(2) SHARING OF INFORMATION.—The Secretary, in consultation with the Director of Central Intelligence, shall work to ensure that intelligence or other information relating to terrorism to which the Department has access is appropriately shared with the elements of the Federal Government referred to in paragraph (1), as well as with State and local governments, as appropriate.

SEC. 203. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL INFRASTRUCTURE.—The term "critical infrastructure" has the meaning given that term in section 1016(e) of the USA PATRIOT Act of 2001 (42 U.S.C. 5195(e)).

(2) FURNISHED VOLUNTARILY.—

(A) DEFINITION.—The term "furnished voluntarily" means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) BENEFIT.—In this paragraph, the term "benefit" does not include any warning, alert, or other risk analysis by the Department.

(b) IN GENERAL.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) RECORDS SHARED WITH OTHER AGENCIES.—

(1) IN GENERAL.—

(A) RESPONSE TO REQUEST.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) SEGREGABLE PORTION OF RECORD.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED RECORDS.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) Withdrawal of Confidential Designation.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) Procedures.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) Effect on State and Local Law.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) Report.—

(1) Requirement.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section; including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) Committees of congress.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) Form.—The report shall be submitted in unclassified form, but may include a classified annex.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

There shall be in the Department a Directorate of Science and Technology headed by an Under Secretary for Science and Technology.

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

In assisting the Secretary with the responsibility specified in section 101(b)(2)(B), the primary responsibilities of the Under Secretary for Science and Technology shall include—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;

(2) supporting all elements of the Department in research, development, testing, evaluation and deployment of science and technology that is applicable in the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism;

(3) to support the Under Secretary for Information Analysis and Infrastructure Protection, by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting a national scientific research and development program to support the mission of the Department, including developing national policy for and coordinating the Federal Government's civilian efforts to identify, devise, and implement scientific, technological, and other countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including directing, funding and conducting research and development relating to the same;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems—

(A) for preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) for detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to federal, state, local government, and private sector entities;

(7) entering into joint sponsorship agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401);

(9) collaborating with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a); and

(10) supporting United States leadership in science and technology.

SEC. 303. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program.

(B) The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program. The programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department.

(E) The Environmental Measurements Laboratory.

(F) The advanced scientific computing research program and activities at Lawrence Livermore National Laboratory.

(2) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

(3) The Plum Island Animal Disease Center of the Department of Agriculture, including the functions of the Secretary of Agriculture relating thereto, as provided in section 310.

(4)(A) Except as provided in subparagraph (B)—

(i) the functions of the Select Agent Registration Program of the Department of Health and Human Services, including all functions of the Secretary of Health and Human Services under title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188); and

(ii) the functions of the Department of Agriculture under the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(B)(i) The Secretary shall collaborate with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a).

(ii) The Secretary shall collaborate with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401).

(C) In promulgating regulations pursuant to the functions described in subparagraph (A), the Secretary shall act in collaboration with the Secretary of Health and Human Services and the Secretary of Agriculture.

SEC. 304. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) In General.—Except as the President may otherwise direct, the Secretary shall carry out his civilian human health-related biological, biomedical, and infectious disease defense research and development (including vaccine research and development) responsibilities through the Department of Health and Human Services (including the Public Health Service), under agreements with the Secretary of Health and Human Services, and may transfer funds to him in connection with such agreements.

(b) Establishment of Program.—With respect to any responsibilities carried out through the Department of Health and Human Services under this subsection, the Secretary, in consultation with the Secretary of Health and Human Services, shall have the authority to establish the research and development program, including the setting of priorities.

SEC. 305. RESEARCH IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND OTHER DEPARTMENTS.

With respect to such other research and development responsibilities under this title, including health-related chemical, radiological, and nuclear defense research and development responsibilities, as the Secretary may elect to carry out through the Department of Health and Human Services (including the Public Health Service) (under agreements with the Secretary of Health and Human Services) or through other Federal agencies (under agreements with their respective heads), the Secretary may transfer funds to the Secretary of Health and Human Services, or to such heads, as the case may be.

SEC. 306. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term "Fund" means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.

(2) HOMELAND SECURITY RESEARCH AND DEVELOPMENT.—The term "homeland security research and development" means research and development of technologies that are applicable in the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) HSARPA.—The term "HSARPA" means the Homeland Security Advanced Research Projects Agency established under this section.

(4) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Science and Technology or the designee of that Under Secretary.

(b) PURPOSES.—The purposes of this section are to—

(1) establish the Homeland Security Advanced Research Projects Agency to prioritize and fund homeland security research and development using the acceleration fund; and

(2) establish a fund to leverage existing research and development and accelerate the deployment of technology that will serve to enhance homeland defense.

(c) FUND.—

(1) ESTABLISHMENT.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies.

(2) USE OF FUND.—The Fund may be used to—

(A) accelerate research, development, testing and evaluation, and deployment of critical homeland security technologies; and

(B) support homeland security research and development.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 to the Fund for fiscal year 2003, and such sums as may be necessary in subsequent years.

(4) TRANSITION OF FUNDS.—With respect to such research, development, testing, and evaluation responsibilities under this section as the Secretary may elect to carry out through agencies other than the Department (under agreements with their respective heads), the Secretary may transfer funds to such heads. Of the funds authorized to be appropriated under paragraph (3) for the Fund, not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways, and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways, and coastal security mission.

(d) RESPONSIBILITIES OF THE HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.—The Homeland Security Advance Research Project Agency shall have the following responsibilities:

(1) To facilitate effective communication among departments, agencies, and other entities of the Federal Government, with respect to the conduct of research and development related to homeland security.

(2) To identify, by consensus and on a yearly basis, specific technology areas for which the Fund shall be used to rapidly transition homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities. The identified technology areas shall, as determined by the Homeland Security Advanced Research Projects Agency, be areas in which there exist research and development projects that address identified homeland security vulnerabilities and can be accelerated to the stage of prototyping, evaluating, transitioning, or deploying.

(3) To administer the Fund, including—

(A) issuing an annual multiagency program announcement soliciting proposals from government entities, federally funded research and development centers, industry, and academia;

(B) competitively selecting, on the basis of a merit-based review, proposals that advance the state of deployed technologies in the areas identified for that year;

(C) at the discretion of the HSARPA, assigning 1 or more program managers to oversee, administer, and execute a Fund project as the agent of HSARPA; and

(D) providing methods of funding, including grants, cooperative agreements, joint sponsorship agreements, or any other transaction.

(4) With respect to expenditures from the Fund, exercise acquisition authority consistent with the authority described under section 2371 of title 10, United States Code, relating to authorizing cooperative agreements and other transactions.

(5) In hiring personnel to assist in the administration of the HSARPA, have the authority to exercise the personnel hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261) with the stipulation that the Secretary shall exercise such authority for a period of 7 years commencing on the date of enactment of this Act, that a maximum of 100 persons may be hired under such authority, and that the term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

(6) Develop and oversee the implementation of periodic homeland security technology demonstrations, held at least annually, for the purpose of improving contact between technology developers, vendors, and acquisition personnel associated with related industries.

SEC. 307. MISCELLANEOUS AUTHORITIES RELATING TO NATIONAL LABORATORIES.

(a) IN GENERAL.—The limitation of the number of employees of the Department of Energy national laboratories assigned to Washington, D.C. shall not apply to those employees who, at the request of the Secretary, are assigned, on a temporary basis, to assist in the establishment of the Department.

(b) DIRECT TASKING.—Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept direct tasking from the Secretary or his designee, consistent with resources provided, and perform such tasking on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

SEC. 308. HOMELAND SECURITY INSTITUTE.

Within the Directorate of Science and Technology there shall be established a Homeland Security Institute as a separate federally funded research and development center under the direction of the Under Secretary to perform policy and systems analysis, assist in the definition of standards and metrics, assist agencies with evaluating technologies for deployment, proposing risk management strategies based on technology developments, and performing other appropriate research and analysis to improve policy and decisionmaking as it relates to the mission of the Department. The Homeland Security Institute shall utilize the capabilities of the National Infrastructure Simulation and Analysis Center.

SEC. 309. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.

(a) OFFICE FOR NATIONAL LABORATORIES.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(b) JOINT SPONSORSHIP.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

(c) ARRANGEMENTS.—The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

(d) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement entered into under subsection (a) or (b).

(e) LEAD AGENT.—

(1) IN GENERAL.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship agreement between the Department and a Department of Energy national laboratory or site for work on homeland security.

(2) FEDERAL ACQUISITION REGULATION.—Any work performed by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017(a) (4) of the Federal Acquisition Regulation.

(f) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of subsection (b).

(g) AUTHORITIES OF SECRETARY AND UNDER SECRETARY.—In connection with work involving the Department of Energy national laboratories or sites, the Secretary or Under Secretary for Science and Technology—

(1) may enter into joint sponsorship agreements with Department of Energy national laboratories or sites;

(2) may directly fund, task, and manage work at the Department of Energy national laboratories and sites; and

(3) may permit the director of any Department of Energy national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of such Act (15 U.S.C. 3710, 3710a).

SEC. 310. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—In accordance with title VIII, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) CONTINUED DEPARTMENT OF AGRICULTURE ACCESS.—On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

(c) DIRECTION OF ACTIVITIES.—The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

(d) NOTIFICATION.—

(1) IN GENERAL.—At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

(2) LIMITATION.—No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 801(2)).

SEC. 311. CLEARINGHOUSE.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall provide for a clearinghouse as a central, national point of entry for individuals or companies seeking guidance on how to pursue proposals to develop or deploy products that would contribute to homeland security. Such clearinghouse shall refer those seeking guidance on Federal funding, regulation, acquisition, or other matters to the appropriate unit of the Department or to other appropriate Federal agencies.

(b) SCREENINGS AND ASSESSMENTS.—The Under Secretary for Science and Technology shall work in conjunction with the Technical Support Working Group (organized under the April 1982, National Security Decision Directive Numbered 30) to—

(1) screen proposals described in subsection (a), as appropriate;

(2) assess the feasibility, scientific and technical merits, and estimated cost of proposals screened under paragraph (1), as appropriate; and

(3) identify areas where existing technologies may be easily adapted and deployed to meet the homeland security agenda of the Federal Government.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

There shall be in the Department a Directorate for Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

SEC. 402. RESPONSIBILITIES.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(C), the primary responsibilities of the Under Secretary for Border and Transportation Security shall include—

(1) preventing the entry of terrorists and the instruments of terrorism into the United States;

(2) securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating governmental activities at ports of entry;

(3) administering the immigration and naturalization laws of the United States, including the establishment of rules, in accordance with section 406, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not citizens or lawful permanent residents thereof;

(4) administering the customs laws of the United States;

(5) in carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce;

(6) carrying out the border patrol function; and

(7) administering and enforcing the functions of the Department under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

SEC. 403. FUNCTIONS TRANSFERRED.

(a) IN GENERAL.—In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto; and

(4) the Federal Law Enforcement Training Center of the Department of the Treasury.

(b) EXERCISE OF CUSTOMS REVENUE AUTHORITIES.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—Notwithstanding subsection (a)(1), authority that was vested in the Secretary of the Treasury by law to issue regulations related to customs revenue functions before the effective date of this section under the provisions of law set forth under paragraph (2) shall not be transferred to the Secretary by reason of this Act. The Secretary of the Treasury, with the concurrence of the Secretary, shall exercise this authority. The Commissioner of Customs is authorized to engage in activities to develop and support the issuance of the regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.

(B) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under paragraph (2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

(C) LIABILITY.—Neither the Secretary of the Treasury nor the Department of the Treasury shall be liable for or named in any legal action concerning the implementation and enforcement of regulations issued under this paragraph after the effective date of this Act.

(2) APPLICABLE LAWS.—The provisions of law referred to under paragraph (1) are those sections of the following statutes that relate to customs revenue functions:

(A) The Tariff Act of 1930.

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised States of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974.

(J) The Trade Agreement Act of 1979.

(K) The North American Free Trade Area Implementation Act.

(L) The Uruguay Round Agreements Act.

(M) The Caribbean Basin Economic Recovery Act.

(N) The Andean Growth and Opportunity Act.

(O) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) DEFINITIONS OF CUSTOMS REVENUE FUNCTIONS.—In this subsection, the term "customs revenue functions" means—

(A) assessing, collecting, and refunding duties (including any special duties), excise taxes, fees, and any liquidated damages or penalties due on imported merchandise, including classifying and valuing merchandise and the procedures for "entry" as that term is defined in the United States Customs laws;

(B) administering section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordation for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

SEC. 404. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) TRANSFER OF AGRICULTURAL IMPORT AND ENTRY INSPECTION FUNCTIONS.—There shall be transferred to the Secretary the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) COVERED ANIMAL AND PLANT PROTECTION LAWS.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading "Bureau of Animal Industry" in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) The first section of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Health Protection Act (subtitle E of title X of Public Law 107-171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) EXCLUSION OF QUARANTINE ACTIVITIES.—For purposes of this section, the term "functions" does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the laws specified in subsection (b) at the locations referred to in subsection (a).

(3) EFFECTIVE ADMINISTRATION.—The Secretary, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department to carry out the functions transferred pursuant to subsection (a).

(e) TRANSFER AGREEMENT.—

(1) AGREEMENT REQUIRED; REVISION.—Before the end of the transition period, as defined in section 801(2), the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

(2) REQUIRED TERMS.—The agreements required by this subsection shall provide for the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Department to carry out the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary under subsection (f).

(C) Authority under which the Secretary may perform functions that are delegated to the Animal and Plant Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary pursuant to subsection (a).

(D) Authority under which the Secretary of Agriculture may use employees of the Department to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Subject to paragraph (2), out of any funds collected as fees under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall periodically transfer to the Secretary, in accordance with the agreement under subsection (e), funds for activities carried out by the Secretary for which the fees were collected.

(2) LIMITATION.—The proportion of fees collected under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a) that are transferred to the Secretary under paragraph (1) may not exceed the proportion that—

(A) the costs incurred by the Secretary to carry out activities funded by those fees; bears to

(B) the costs incurred by the Federal Government to carry out activities funded by those fees.

(g) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period (as defined in section 801(2)), the Secretary of Agriculture shall transfer to the Department not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) PROTECTION OF INSPECTION ANIMALS.—Title V of the Agricultural Risk Protection Act of 2002 (7 U.S.C. 2279e, 2279f) is amended—

(1) in section 501(a)—

(A) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(B) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture";

(2) by striking "Secretary" each place it appears (other than in sections 501(a) and 501(e)) and inserting "Secretary concerned"; and

(3) by adding at the end of section 501 the following:

"(i) SECRETARY CONCERNED DEFINED.—In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

(j) CONFORMING AMENDMENTS.—

(1) Section 501 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e) is amended—

(A) in subsection (a)—

(i) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(ii) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture"; and

(B) by striking "Secretary" each place it appears (other than in subsections (a) and (e)) and inserting "Secretary concerned".

(2) Section 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8411) is repealed.

SEC. 405. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term "affected agency" means—

(1) the Department;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary.

(b) COORDINATION.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall ensure that appropriate information (as determined by the Secretary) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) REPORT AND PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

SEC. 406. VISA ISSUANCE.

(a) DEFINITION.—In this subsection, the term "consular office" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(b) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) of this section, the Secretary—

(1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien;

(2) may delegate in whole or part the authority under subparagraph (A) to the Secretary of State; and

(3) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(c) AUTHORITY OF THE SECRETARY OF STATE.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the foreign policy or security interests of the United States.

(2) CONSTRUCTION REGARDING AUTHORITY.—Nothing in this section shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country adoption).

(C) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(D) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(E) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(F) Section 212(a)(3(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(G) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(H) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(I) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(J) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(K) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104–114).

(L) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105–277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999); 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106–553.

(M) Section 103(f) of the Chemical Weapon Convention Implementation Act of 1998 (112 Stat. 2681–865).

(N) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106–113.

(O) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(P) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(d) Consular Officers and Chiefs of Missions.—

(1) In general.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(2) Construction regarding delegation of authority.—Nothing in this section shall be construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(e) Assignment of Homeland Security Employees to Diplomatic and Consular Posts.—

(1) In general.—The Secretary is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) Functions.—Employees assigned under paragraph (1) shall perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.

(3) Evaluation of consular officers.—The Secretary of State shall evaluate, in consultation with the Secretary, as deemed appropriate by the Secretary, the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary for these procedures.

(4) Report.—The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.

(5) Permanent assignment; participation in terrorist lookout committee.—When appropriate, employees of the Department assigned to perform functions described in paragraph (2) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(6) Training and hiring.—

(A) In general.—The Secretary shall ensure, to the extent possible, that any employees of the Department assigned to perform functions under paragraph (2) and, as appropriate, consular officers, shall be provided the necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) Use of center.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in subparagraph (A).

(7) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(8) Effective date.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(f) No Creation of Private Right of Action.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

SEC. 407. BORDER SECURITY AND IMMIGRATION WORKING GROUP.

(a) Establishment.—The Secretary shall establish a border security and immigration working group (in this section referred to as the "Working Group"), composed of the Secretary or the designee of the Secretary, the Under Secretary for Immigration Affairs, and the Under Secretary for Border and Transportation protection.

(b) Functions.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements in the coverage and geographic distributions of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced security for high-risk traffic, travel, and commerce;

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems; and

(6) coordinate the enforcement of all immigration laws.

(c) Relevant Agencies.—The Secretary shall consult with representatives of relevant agencies with respect to deliberations under subsection (b), and may include representative of such agencies in working group deliberations, as appropriate.

SEC. 408. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM.

(a) In General.—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) Prohibition.—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

SEC. 409. STUDY ON USE OF FOREIGN NATIONAL PERSONNEL IN VISA PROCESSING.

The Secretary shall conduct a study on the use of foreign national personnel in visa processing to determine whether such uses are consistent with secure visa processing. The study shall review and make recommendations with respect to—

(1) the effects or possible effects on national security of the use of foreign national personnel in individual countries to perform data entry, process visas or visa applications, or in any way handle visas or visa application documents; and

(2) each United States mission abroad to determine whether United States consular services performed at the United States mission require different regulations on the use of foreign national personnel.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

SEC. 502. RESPONSIBILITIES.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(D), the primary responsibilities of the Under Secretary for Emergency Preparedness and Response shall include—

(1) helping to ensure the preparedness of emergency response providers for terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 503. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of the Assistant Secretary for Public Health Emergency Preparedness (including the Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System) of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

(a) In General.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) Rule of Construction.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) In General.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) Evaluation of Progress.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 506. DEFINITION.

In this title, the term "Nuclear Incident Response Team" means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

TITLE VI—MANAGEMENT

SEC. 601. UNDER SECRETARY FOR MANAGEMENT.

There shall be in the Department a Directorate for Management, headed by an Under Secretary for Management.

SEC. 602. RESPONSIBILITIES.

In assisting the Secretary with the management and administration of the Department, the primary responsibilities of the Under Secretary for Management shall include, for the Department—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 603. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 604. CHIEF INFORMATION OFFICER.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 605. CHIEF HUMAN CAPITAL OFFICER.

The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

(1) participating in the 2302(c) Certification Program of the Office of Special Counsel;

(2) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

(3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

SEC. 701. RESPONSIBILITIES.

In discharging his responsibilities relating to coordination (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, the responsibilities of the Secretary shall include—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public;

(3) directing and supervising grant programs of the Federal Government for State and local government emergency response providers; and

(4) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

Subtitle B—Inspector General

SEC. 710. AUTHORITY OF THE SECRETARY.

(a) In General.—Notwithstanding the last two sentences of section 3(a) of the Inspector

General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) Prohibition of Completion of Audit or Investigation.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) Notification.—The Secretary shall notify in writing the President of the Senate, the Speaker of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and other appropriate committees of Congress within thirty days of any exercise of his authority under this section stating the reasons for such exercise.

SEC. 711. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) In General.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) seek and execute warrants for arrest, search of a premises, or seizures of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

"(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

"(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

"(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

"(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

"(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

"(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

"(5) Powers authorized for an Office of Inspector General under paragraph (1) shall be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

"(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

"(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.".

(b) Promulgation of Initial Guidelines.—

(1) Definition.—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) In general.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) Minimum requirements.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) No lapse of authority.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) Effective Dates.—

(1) In general.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) Initial guidelines.—Subsection (b) shall take effect on the date of enactment of this Act.

Subtitle C—United States Secret Service

SEC. 720. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—General Provisions

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) Authority.—

(1) Sense of congress.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) In general.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.
"9701. Establishment of human resources management system.

"§9701. Establishment of human resources management system

"(a) In General.—Notwithstanding any other provision of this part, the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department.

"(b) System Requirements.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) Other Nonwaivable Provisions.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

"(d) Limitations Relating to Pay.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) Provisions To Ensure Collaboration With Employee Representatives.—

"(1) In general.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) Notice of proposal.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Preimplementation requirements.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) Continuing collaboration.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) Procedures.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(f) Provisions Relating to Appellate Procedures.—

(1) Sense of Congress.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) Requirements.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) Sunset Provision.—Effective 5 years after the conclusion of the transition period defined under section 801 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) Clerical amendment.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) Effect on Personnel.—

(1) Nonseparation or nonreduction in grade or compensation of full-time personnel and part-time personnel holding permanent positions.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) Positions compensated in accordance with executive schedule.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) Coordination rule.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 731. LABOR-MANAGEMENT RELATIONS.

(a) Limitation on Exclusionary Authority.—

(1) In general.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) HOMELAND SECURITY.—Subsection (a), (b), and (d) of this section shall not apply in circumstances where the President determines in writing that such application would have a substantial adverse impact on the Department's ability to protect homeland security. Whenever the President makes a determination specified under this subsection, the President shall notify the Senate and the House of Representatives of the reasons for such determination not less than 10 days prior to its issuance.

(d) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SEC. 732. ADVISORY COMMITTEES.

The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92-463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

SEC. 733. ACQUISITIONS.

(a) RESEARCH AND DEVELOPMENT PROJECTS.—

(1) IN GENERAL.—When the Secretary carries out basic, applied, and advanced research and development projects, he may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (h) of such section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) PROTOTYPE PROJECTS.—The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 734. REORGANIZATION AUTHORITY.

(a) REORGANIZATION PLAN.—

(1) IN GENERAL.—Whenever the President determines that changes in the organization of the Department are necessary to carry out any policy set forth in this Act, the President shall prepare a reorganization plan specifying the reorganizations that the President determines are necessary. Any such plan may provide for—

(A) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of the Department;

(B) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, from the Department;

(C) the abolition of all or a part of an agency within the Department;

(D) the creation of a new agency or a new part of an agency within the Department; or

(E) the consolidation or coordination of the whole or a part of an agency within the Department, or of the whole or a part of the functions thereof, with the whole or a part of another agency within the Department.

(2) TRANSMITTAL.—

(A) IN GENERAL.—The President shall transmit the reorganization plan to Congress together with the declaration that, with respect to each organization included in the plan, the President has found that the reorganization is necessary to carry out any policy set forth in this Act.

(B) TIMING.—The reorganization plan shall be delivered to both Houses on the same day and to each House while it is in session, except that no more than 2 plans may be pending before Congress at 1 time.

(3) CONTENT.—

(A) IN GENERAL.—The transmittal message of the reorganization plan shall—

(i) specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function;

(ii) include an estimate of any reduction or increase in expenditures (itemized so far as practicable);

(iii) include detailed information addressing the impacts of the reorganization on the employees of any agency affected by the plan, and what steps will be taken to mitigate any impacts of the plan on the employees of the agency;

(iv) describe any improvements in management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan; and

(v) in the case of a transfer to or from the Department, address the impact of the proposed transfer on the ability of the affected agency to carry out its other functions and to accomplish its missions.

(B) IMPLEMENTATION.—In addition, the transmittal message shall include an implementation section which shall—

(i) describe in detail—

(I) the actions necessary or planned to complete the reorganization; and

(II) the anticipated nature and substance of any orders, directives, and other administrative and operations actions which are expected to be required for completing or implementing the reorganization; and

(ii) contain a projected timetable for completion of the implementation process.

(C) BACKGROUND INFORMATION.—The President shall also submit such further background or other information as Congress may require for its consideration of the plan.

(4) AMENDMENTS TO PLAN.—Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any resolution has been ordered reported in either House, the President, or the designee of the President, may make amendments or modifications to the plan, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section. The President, or the designee of the President, may withdraw the plan any time prior to the conclusion of 90 calendar days of continuous session of Congress following the date on which the plan is submitted to Congress.

(b) ADDITIONAL CONTENTS OF REORGANIZATION PLAN.—A reorganization plan—

(1) may change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and 1 or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan containing provisions authorized by paragraph (2) may provide that the head of an agency be an individual or a commission or board with more than 1 member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than 4 years, the pay may not be at a rate in excess of that found to be applicable to comparable officers in the executive branch, by and with the advice and consent of the Senate. Any reorganization plan containing provisions required by paragraph (4) shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

(c) Effective Date and Publication of Reorganization Plans.—

(1) Effective date.—Except as provided under paragraph (3), a reorganization plan shall be effective upon approval by the President of a resolution (as defined in subsection (f)) with respect to such plan, only if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress.

(2) Session of congress.—For the purpose of this chapter—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(3) Later effective date.—Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective.

(4) Publication of plan.—A reorganization plan which is effective shall be printed—

(A) in the Statutes at Large in the same volume as the public laws; and

(B) in the Federal Register.

(d) Effect On Other Laws; Pending Legal Proceedings.—

(1) Effect on laws.—

(A) Definition.—In this paragraph, the term "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) Effect.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) Pending legal proceedings.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in the officer's official capacity or in relation to the discharge of the officer's official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(e) Rules of Senate and House of Representatives On Reorganization Plans.—Subsections (f) through (i) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions with respect to any reorganization plans transmitted to Congress (in accordance with subsection (a)(3) of this section); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(f) Terms of Resolution.—For the purposes of subsections (e) through (i), "resolution" means only a joint resolution of Congress, the matter after the resolving clause of which is as follows: "That Congress approves the reorganization plan transmitted to Congress by the President on 20 .", and includes such modifications and revisions as are submitted by the President under subsection (a)(4). The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than 1 reorganization plan.

(g) Introduction and Reference of Resolution.—

(1) Introduction.—No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under subsection (a), a resolution, as defined in subsection (f), shall be—

(A) introduced (by request) in the House by the chairman of the Government Reform Committee of the House, or by a Member or Members of the House designated by such chairman; and

(B) introduced (by request) in the Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

(2) Referral.—A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 75 calendar days of continuous session of Congress following the date of such resolution's introduction.

(h) Discharge of Committee Considering Resolution.—If the committee to which is referred a resolution introduced pursuant to subsection (g)(1) has not reported such a resolution or identical resolution at the end of 75 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(i) Procedure After Report or Discharge of Committees; Debate; Vote On Final Passage.—

(1) Procedure.—When the committee has reported, or has been deemed to be discharged (under subsection (h)) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(3) Vote on final passage.—Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(5) Prior passage.—If, prior to the passage by 1 House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

SEC. 735. MISCELLANEOUS PROVISIONS.

(a) Seal.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(c) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 736. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 737. REGULATORY AUTHORITY.

Except as specifically provided in this Act, this Act vests in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act. This Act does not alter or diminish the regulatory authority of any other executive agency, except to the extent that this Act transfers such authority from the agency.

SEC. 738. USE OF APPROPRIATED FUNDS.

(a) APPLICABILITY OF THIS SECTION.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance, use, and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS TO CREATE DEPARTMENT.—There is authorized to be appropriated $160,000,000 for the Office of Homeland Security in the Executive Office of the President to be transferred without delay to the Department upon its creation by enactment of this Act, notwithstanding subsection (c)(1)(C) such funds shall be available only for the payment of necessary salaries and expenses associated with the initiation of operations of the Department.

(c) USE OF TRANSFERRED FUNDS.—

(1) IN GENERAL.—Except as may be provided in this subsection or in an appropriations Act in accordance with subsection (e), balances of appropriations and any other funds or assets transferred under this Act—

(A) shall be available only for the purposes for which they were originally available;

(B) shall remain subject to the same conditions and limitations provided by the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; and

(C) shall not be used to fund any new position established under this Act.

(2) TRANSFER OF FUNDS.—

(A) IN GENERAL.—After the creation of the Department and the swearing in of its Secretary, and upon determination by the Secretary that such action is necessary in the national interest, the Secretary is authorized to transfer, with the approval of the Office of Management and Budget, not to exceed $140,000,000 of unobligated funds from organizations and entities transferred to the new Department by this Act.

(B) LIMITATION.—Notwithstanding paragraph (1)(C), funds authorized to be transferred by subparagraph (2)(A) shall be available only for payment of necessary costs, including funding of new positions, for the initiation of operations of the Department and may not be transferred unless the Committees on Appropriations are notified at least 15 days in advance of any proposed transfer and have approved such transfer in advance.

(C) NOTIFICATION.—The notification required in subparagraph (2)(B) shall include a detailed justification of the purposes for which the funds are to be used and a detailed statement of the impact on the program or organization that is the source of the funds, and shall be submitted in accordance with reprogramming procedures to be established by the Committees on Appropriations.

(D) USE FOR OTHER ITEMS.—The authority to transfer funds established in this section may not be used unless for higher priority items, based on demonstrated homeland security requirements, than those for which funds originally were appropriated and in no case where the item for which funds are requested has been denied by Congress.

(d) NOTIFICATION REGARDING TRANSFERS.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(e) ADDITIONAL USES OF FUNDS DURING TRANSITION.—Subject to subsections (c) and (d), amounts transferred to, or otherwise made available to, the Department may be used during the transition period, as defined in section 801(2), for purposes in addition to those for which such amounts were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(f) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(g) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(h) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

SEC. 739. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department's fiscal year 2005 budget request is submitted to Congress.

SEC. 739A. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472-4) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b), the following:

"(c) BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.—

"(1) ESTABLISHMENT.—There is established within the Office of the Director of the Centers for Disease Control and Prevention a Bioterrorism Preparedness and Response Division (in this subsection referred to as the 'Division').

"(2) MISSION.—The Division shall have the following primary missions:

"(A) To lead and coordinate the activities and responsibilities of the Centers for Disease Control and Prevention with respect to countering bioterrorism.

"(B) To coordinate and facilitate the interaction of Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, in so doing, serve as a major contact point for 2-way communications between the jurisdictions of homeland security and public health.

"(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

"(3) RESPONSIBILITIES.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

"(A) The Bioterrorism Preparedness and Response Program.

"(B) The Strategic National Stockpile.

"(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

"(4) DIRECTOR.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

"(5) STAFFING.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

"(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

"(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.".

SEC. 739B. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Secretary under sections 102(b)(14) and 134(b)(7) shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

Subtitle E—Risk Sharing and Indemnification for Contractors Supplying Anti-Terrorism Technology and Services

SEC. 741. APPLICATION OF INDEMNIFICATION AUTHORITY.

(a) IN GENERAL.—The President may exercise the discretionary authority to indemnify contractors and subcontractors under Public Law 85-804 (50 U.S.C. 1431 et seq.) for a procurement of an anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(b) EXERCISE OF AUTHORITY.—In exercising the authority under subsection (a), the President may include, among other things—

(1) economic damages not fully covered by private liability insurance within the scope of the losses or damages of the indemnification coverage;

(2) a requirement that an indemnification provision included in a contract or subcontract be negotiated prior to the commencement of the performance of the contract;

(3) the coverage of information technology used to prevent, detect, identify, otherwise deter, or recover from acts of terrorism; and

(4) the coverage of the United States Postal Service.

SEC. 742. APPLICATION OF INDEMNIFICATION AUTHORITY TO STATE AND LOCAL GOVERNMENT CONTRACTORS.

(a) IN GENERAL.—Subject to the limitations of subsection (b), the President may exercise the discretionary authority to indemnify contractors and subcontractors under Public Law 85-804 (50 U.S.C. 1431 et seq.) for a procurement by a State or unit of local government of an anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(b) EXERCISE OF AUTHORITY.—The authority of subsection (a) may be exercised only—

(1) for procurements of a State or unit of local government that are made by the Secretary under contracts awarded by the Secretary pursuant to the authorities of section 743;

(2) with written approval from the Secretary, or any other official designated by the President, for each procurement in which indemnification is to be provided; and

(3) with respect to—

(A) amounts of losses or damages not fully covered by private liability insurance and State or local government-provided indemnification; and

(B) liabilities arising out of other than the contractor's willful misconduct or lack of good faith.

SEC. 743. PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES AND ANTI-TERRORISM SERVICES BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL CONTRACTS.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program under which States and units of local government may procure through contracts entered into by the Secretary anti-terrorism technology or an anti-terrorism service for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(2) AUTHORITIES.—For the sole purposes of this program, the Secretary may, but shall not be required to, award contracts using the same authorities provided to the Administrator of General Services under section 309(b)(3) of the Federal Property and Administrative Services Act, 41 U.S.C. 259(b)(3).

(3) OFFERS NOT REQUIRED TO STATE AND LOCAL GOVERNMENTS.—A contractor that sells anti-terrorism technology or anti-terrorism services to the Federal Government shall not be required to offer such technology or services to a State or unit of local government.

(b) RESPONSIBILITIES OF THE SECRETARY.—In carrying out the program established by this section, the Secretary shall—

(1) produce and maintain a catalog of anti-terrorism technologies and anti-terrorism services suitable for procurement by States and units of local government under this program; and

(2) establish procedures in accordance with subsection (c) to address the procurement of anti-terrorism technologies and anti-terrorism services by States and units of local government under contracts awarded by the Secretary.

(c) REQUIRED PROCEDURES.—The procedures required by subsection (b)(2) shall implement the following requirements and authorities:

(1) SUBMISSIONS BY STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each State desiring to participate in a procurement of anti-terrorism technologies or anti-terrorism services through a contract entered into by the Secretary shall submit to the Secretary in such form and manner and at such times as the Secretary prescribes, the following:

(i) REQUEST.—A request consisting of an enumeration of the technologies or services, respectively, that are desired by the State and units of local government within the State.

(ii) PAYMENT.—Advance payment for each requested technology or service in an amount determined by the Secretary based on estimated or actual costs of the technology or service and administrative costs incurred by the Secretary.

(B) AWARD BY SECRETARY.—The Secretary may award and designate contracts under which States and units of local government may procure anti-terrorism technologies and anti-terrorism services directly from the contract holders. No indemnification may be provided under the authorities set forth in section 742 for procurements that are made directly between contractors and States or units of local government.

(2) PERMITTED CATALOG TECHNOLOGIES AND SERVICES.—A State may include in a request submitted under paragraph (1) only a technology or service listed in the catalog produced under subsection (b)(1).

(3) COORDINATION OF LOCAL REQUESTS WITHIN STATE.—The Governor of a State (or the Mayor of the District of Columbia) may establish such procedures as the Governor (or the Mayor of the District of Columbia) considers appropriate for administering and coordinating requests for anti-terrorism technologies or anti-terrorism services from units of local government within the State.

(4) SHIPMENT AND TRANSPORTATION COSTS.—A State requesting anti-terrorism technologies or anti-terrorism services shall be responsible for arranging and paying for any shipment or transportation costs necessary to deliver the technologies or services, respectively, to the State and localities within the State.

(d) REIMBURSEMENT OF ACTUAL COSTS.—In the case of a procurement made by or for a State or unit of local government under the procedures established under this section, the Secretary shall require the State or unit of local government to reimburse the Department for the actual costs it has incurred for such procurement.

(e) TIME FOR IMPLEMENTATION.—The catalog and procedures required by subsection (b) of this section shall be completed as soon as practicable and no later than 210 days after the enactment of this Act.

SEC. 744. CONGRESSIONAL NOTIFICATION.

(a) IN GENERAL.—Notwithstanding any other law, a Federal agency shall, when exercising the discretionary authority of Public Law 85-804, as amended by section 742, to indemnify contractors and subcontractors, provide written notification to the Committees identified in subsection (b) within 30 days after a contract clause is executed to provide indemnification.

(b) SUBMISSION.—The notification required by subsection (a) shall be submitted to—

(1) the Appropriations Committees of the Senate and House;

(2) the Armed Services Committees of the Senate and House;

(3) the Senate Governmental Affairs Committee; and

(4) the House Government Reform Committee.

SEC. 745. DEFINITIONS.

In this subtitle:

(1) ANTI-TERRORISM TECHNOLOGY AND SERVICE.—The terms "anti-terrorism technology" and "anti-terrorism service" mean any product, equipment, or device, including information technology, and any service, system integration, or other kind of service (including a support service), respectively, that is related to technology and is designed, developed, modified, or procured for the purpose of preventing, detecting, identifying, otherwise deterring, or recovering from acts of terrorism.

(2) ACT OF TERRORISM.—The term "act of terrorism" means a calculated attack or threat of attack against any person, property, or infrastructure to inculcate fear, or to intimidate or coerce a government, the civilian population, or any segment thereof, in the pursuit of political, religious, or ideological objectives.

(3) INFORMATION TECHNOLOGY.—The term "information technology" has the meaning such term in section 11101(6) of title 40, United States Code.

(4) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(5) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or any agency of the District of Columbia Government or the United States Government performing law enforcement functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

Subtitle F—Federal Emergency Procurement Flexibility

SEC. 751. DEFINITION.

In this title, the term "executive agency" has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 752. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 753. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 752 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $250,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $500,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term "simplified acquisition threshold definitions" means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 754. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 752, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $10,000.

SEC. 755. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 752 without regard to whether the property or services are commercial items.

(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 756. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 752, including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 752.

SEC. 757. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) REQUIREMENTS.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) CONTENT OF REPORT.—The report under subsection (a)(2) shall include the following matters:

(1) ASSESSMENT.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) RECOMMENDATIONS.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) CONSULTATION.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

SEC. 758. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

Subtitle G—Coast Guard

SEC. 761. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (e.g., fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term "homeland security missions" means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, assets, organizational structure, units, personnel, and non-homeland security missions of the Coast Guard shall be maintained intact and without reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts. Nothing in this paragraph shall prevent the Coast Guard from replacing or upgrading any asset with an asset of equivalent or greater capabilities.

(d) CERTAIN TRANSFERS PROHIBITED.—

(1) IN GENERAL.—None of the missions, functions, personnel, and assets (including ships, aircraft, helicopters, and vehicles) of the Coast Guard may be transferred to the operational control of, or diverted to the principal and continuing use of, any other organization, unit, or entity of the Department.

(2) APPLICABILITY.—The restrictions in paragraph (1) shall not apply—

(A) to any joint operation of less than 90 days between the Coast Guard and other entities and organizations of the Department; or

(B) to any detail or assignment of any individual member or civilian employee of the Coast Guard to any other entity or organization of the Department for the purposes of ensuring effective liaison, coordination, and operations of the Coast Guard and that entity or organization, except that the total number of individuals detailed or assigned in this capacity may not exceed 50 individuals during any fiscal year.

(e) CHANGES TO NON-HOMELAND SECURITY MISSIONS.—

(1) PROHIBITION.—The Secretary may not make any substantial or significant change to any of the non-homeland security missions of the Coast Guard, or to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, without the prior approval of Congress as expressed in a subsequent Act. With respect to a change to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, the restrictions in this paragraph shall not apply when such change shall result in an increase in those capabilities.

(2) WAIVER.—The President may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the President to Congress that a clear, compelling, and immediate state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively to the national emergency if the restrictions under paragraph (1) are not waived.

(f) ANNUAL REVIEW.—

(1) IN GENERAL.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) REPORT.—The Inspector General shall submit the detailed results of the annual review and assessment required by paragraph (1) not later than March 1 of each year directly to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) DIRECT REPORTING TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

TITLE VIII—TRANSITION

SEC. 801. DEFINITIONS.

In this title:

(1) AGENCY.—The term "agency" includes any entity, organizational unit, or function; and

(2) TRANSITION PERIOD.—The term "transition period" means the 12-month period beginning on the effective date of this Act.

SEC. 802. TRANSFER OF AGENCIES.

The transfer of an agency to the Department shall occur when the President so directs, but in no event later than the end of the transition period. When an agency is transferred, the President may also transfer to the Department any agency established to carry out or support adjudicatory or review functions in relation to the agency.

SEC. 803. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until the transfer of an agency to the Department, any official having authority over, or functions relating to, the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable or nonreimbursable basis, provide services or detail personnel to assist with the transition.

(c) ACTING OFFICIALS.—

(1) IN GENERAL.—

(A) DESIGNATION.—During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act.

(B) COMPENSATION.—While serving as an acting officer under subparagraph (A), that officer shall receive compensation at the higher of the rate provided—

(i) by this Act for the office in which that officer acts; or

(ii) for the office held at the time of designation.

(2) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose—

(A) agency is transferred to the Department under this Act; and

(B) duties following such transfer are germane to those performed before such transfer.

(d) TRANSFER OF PERSONNEL, ASSETS, LIABILITIES, AND FUNCTIONS.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and liabilities held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget; and

(2) the Secretary shall have all functions—

(A) relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer; and

(B) vested in the Secretary by this Act or other law.

SEC. 804. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—

(1) IN GENERAL.—Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) INCLUDED ACTIONS.—For purposes of paragraph (1), the term "completed administrative actions" includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) PENDING PROCEEDINGS.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) PENDING CIVIL ACTIONS.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) REFERENCES.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions.

(e) STATUTORY REPORTING REQUIREMENTS.—Any statutory reporting requirement that applied to an agency, transferred to the Department under this Act, immediately before the effective date of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

(f) EMPLOYMENT PROVISIONS.—Except as otherwise provided in this Act, or under authority granted by this Act, the transfer under this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

SEC. 805. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred under this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 806. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as the Director may determine necessary to accomplish the purposes of this Act.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 901. INSPECTOR GENERAL ACT.

Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in paragraphs (1) and (2)—

(1) by inserting "Homeland Security," after "Transportation," each place it appears;

(2) by striking "; and" each place it appears and inserting a semicolon;

(3) by striking ",," and inserting a coma; and

(4) by striking ";;" each place it appears and inserting a semicolon in each such place.

SEC. 902. EXECUTIVE SCHEDULE.

Chapter 53 of title 5, United States Code, is amended—

(1) in section 5312, by inserting after the item relating to the Secretary of Veterans Affairs the following:

"Secretary of Homeland Security.";

(2) in section 5313, by inserting after the item relating to the Deputy Secretary of Transportation the following:

"Deputy Secretary of Homeland Security.";

(3) in section 5314, by inserting after the item relating to the Under Secretary for Memorial Affairs, Department of Veterans Affairs the following:

"Under Secretaries, Department of Homeland Security."; and

(4) in section 5315, by inserting at the end the following:

"Assistant Secretaries, Department of Homeland Security.

"General Counsel, Department of Homeland Security.

"Chief Financial Officer, Department of Homeland Security.

"Chief Information Officer, Department of Homeland Security.

"Inspector General, Department of Homeland Security.".

SEC. 903. UNITED STATES SECRET SERVICE.

(a) UNIFORMED DIVISION.—Section 202 of title 3, United States Code, is amended by striking "Secretary of the Treasury" and inserting "Secretary of Homeland Security".

(b) REIMBURSEMENT OF STATE AND LOCAL GOVERNMENTS.—Section 208 of title 3, United States Code, is amended by striking "Secretary of Treasury" each place it appears and inserting "Secretary of Homeland Security" in each such place.

(c) POWERS, AUTHORITIES, AND DUTIES.—Section 3056 of title 18, United States Code, is amended by striking "Secretary of the Treasury" each place it appears and inserting "Secretary of Homeland Security" in each such place.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 904. COAST GUARD.

(a) TITLE 14, U.S.C.—Title 14 of the United States Code is amended—

(1) in sections 1, 3, 53, 95, 145, 516, 666, 669, 673 (as added by Public Law 104-201), 673 (as added by Public Law 104-324), 674, 687, and 688, by striking "of Transportation", each place it appears, and inserting "of Homeland Security"; and

(2) after executing the other amendments required by this subsection, by redesignating the section 673 added by Public Law 104-324 as section 673a.

(b) TITLE 10, U.S.C.—Section 801(1) of title 10, United States Code, is amended by striking "the General Counsel of the Department of Transportation" and inserting "an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) IN GENERAL.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended—

(1) in subsection (a)(1)—

(A) by striking "Secretary of Health and Human Services" and inserting "Secretary of Homeland Security";

(B) by inserting "the Secretary of Health and Human Services and" after "in coordination with"; and

(C) by inserting "of Health and Human Services" after "as are determined by the Secretary"; and

(2) in subsections (a)(2) and (b), by inserting "of Health and Human Services" after "Secretary" each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 906. SELECT AGENT REGISTRATION.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 351A(a)(1)(A), by inserting "(as defined in subsection (l)(9))" after "Secretary";

(2) in section 351A(h)(2)(A), by inserting "Department of Homeland Security, the" before "Department of Health and Human Services";

(3) in section 351A(l), by inserting after paragraph (8) the following:

"(9) The term 'Secretary' means the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services."; and

(4) in section 352A(i)—

(A) by striking "(1)" the first place it appears; and

(B) by striking paragraph (2).

(b) PUBLIC HEALTH SECURITY AND BIOTERRORISM PREPAREDNESS AND RESPONSE ACT OF 2002.—Section 201(b) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended by striking "Secretary of Health and Human Services" and inserting "Secretary of Homeland Security".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the select agent registration enforcement programs and activities of the Department of Health and Human Services to the Department.

SEC. 907. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 908. MILITARY ACTIVITIES.

Except as specifically provided in this Act, nothing in this Act shall confer upon the Secretary any authority to engage in war fighting, the military defense of the United States, or other traditional military activities.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

SEC. 1001. SHORT TITLE.

This division may be cited as the "Immigration Reform, Accountability, and Security Enhancement Act of 2002".

SEC. 1002. DEFINITIONS.

In this division:

(1) ENFORCEMENT BUREAU.—The term "Enforcement Bureau" means the Bureau of Enforcement established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) FUNCTION.—The term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) IMMIGRATION ENFORCEMENT FUNCTIONS.—The term "immigration enforcement functions" has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.

(4) IMMIGRATION LAWS OF THE UNITED STATES.—The term "immigration laws of the United States" has the meaning given the term in section 111(e) of the Immigration and Nationality Act, as added by section 1102 of this Act.

(5) IMMIGRATION POLICY, ADMINISTRATION, AND INSPECTION FUNCTIONS.—The term "immigration policy, administration, and inspection functions" has the meaning given the term in section 112(b)(3) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(6) IMMIGRATION SERVICE FUNCTIONS.—The term "immigration service functions" has the meaning given the term in section 113(b)(2) of the Immigration and Nationality Act, as added by section 1104 of this Act.

(7) OFFICE.—The term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(8) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(9) SERVICE BUREAU.—The term "Service Bureau" means the Bureau of Immigration Services established in section 113 of the Immigration and Nationality Act, as added by section 1104 of this Act.

(10) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of the Immigration and Nationality Act, as added by section 1103 of this Act.

SEC. 1003. TRANSFER OF IMMIGRATION AND NATURALIZATION SERVICE FUNCTIONS.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the Immigration and Naturalization Service of the Department of Justice, including the functions of the Attorney General relating thereto, to be restructured so as to separate enforcement and service functions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

SEC. 1101. ABOLITION OF INS.

(a) IN GENERAL.—The Immigration and Naturalization Service is abolished.

(b) REPEAL.—Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service), is repealed.

SEC. 1102. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

(a) ESTABLISHMENT.—Title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) by inserting "**CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES**" after "**TITLE I—GENERAL**"; and

(2) by adding at the end the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"SEC. 111. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

"(a) ESTABLISHMENT.—There is established within the Department of Homeland Security the Directorate of Immigration Affairs.

"(b) PRINCIPAL OFFICERS.—The principal officers of the Directorate are the following:

"(1) The Under Secretary for Immigration Affairs appointed under section 112.

"(2) The Assistant Secretary for Immigration Services appointed under section 113.

"(3) The Assistant Secretary for Enforcement appointed under section 114.

"(c) FUNCTIONS.—Under the authority of the Secretary of Homeland Security, the Directorate shall perform the following functions:

"(1) Immigration policy and administration functions, as defined in section 112(b).

"(2) Immigration service and adjudication functions, as defined in section 113(b).

"(3) Immigration enforcement functions, as defined in section 114(b), but does not include the functions described in paragraphs (7) and (8) of section 131(b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out the functions of the Directorate.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

"(e) IMMIGRATION LAWS OF THE UNITED STATES DEFINED.—In this chapter, the term 'immigration laws of the United States' shall have the same meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).".

(b) CONFORMING AMENDMENTS.—(1) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) by striking section 101(a)(34) (8 U.S.C. 1101(a)(34)) and inserting the following:

"(34) The term 'Directorate' means the Directorate of Immigration Affairs established by section 111.";

(B) by adding at the end of section 101(a) the following:

"(51) The term 'Secretary' means the Secretary of Homeland Security.

"(52) The term 'Department' means the Department of Homeland Security.";

(C) by striking "Attorney General" and "Department of Justice" each place it appears (other than the proviso in section 103(a)(1) of the Immigration and Nationality Act) and inserting "Secretary" and "Department", respectively;

(D) in section 101(a)(17) (8 U.S.C. 1101(a)(17)), by striking "The" and inserting "Except as otherwise provided in section 111(e), the; and

(E) by striking "Immigration and Naturalization Service", "Service", and "Service's" each place they appear and inserting "Directorate of Immigration Affairs", "Directorate", and "Directorate's", respectively.

(2) Section 6 of the Act entitled "An Act to authorize certain administrative expenses for the Department of Justice, and for other purposes", approved July 28, 1950 (64 Stat. 380), is amended—

(A) by striking "Immigration and Naturalization Service" and inserting "Directorate of Immigration Affairs";

(B) by striking clause (a); and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security of the Department of Homeland Security, as appropriate, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary for Immigration Affairs and the Under Secretary for Border and Transportation Security, as appropriate.

SEC. 1103. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

"SEC. 112. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

"(a) UNDER SECRETARY OF IMMIGRATION AFFAIRS.—The Directorate shall be headed by an Under Secretary of Homeland Security for Immigration Affairs who shall be appointed in accordance with section 103(c) of the Immigration and Nationality Act.

"(b) RESPONSIBILITIES OF THE UNDER SECRETARY.—

"(1) IN GENERAL.—The Under Secretary shall be charged with any and all responsibilities and authority in the administration of the Directorate and of this Act which are conferred upon the Secretary as may be delegated to the Under Secretary by the Secretary or which may be prescribed by the Secretary.

"(2) DUTIES.—Subject to the authority of the Secretary under paragraph (1), the Under Secretary shall have the following duties:

"(A) IMMIGRATION POLICY.—The Under Secretary shall develop and implement policy under the immigration laws of the United States with respect to any function within the jurisdiction of the Directorate. The Under Secretary shall propose, promulgate, and issue rules, regulations, and statements of policy with respect to any function within the jurisdiction of the Directorate.

"(B) ADMINISTRATION.—The Under Secretary shall have responsibility for—

"(i) the administration and enforcement of the functions conferred upon the Directorate under section 111(c) of this Act; and

"(ii) the administration of the Directorate, including the direction, supervision, and coordination of the Bureau of Immigration Services and the Bureau of Enforcement.

"(3) ACTIVITIES.—As part of the duties described in paragraph (2), the Under Secretary shall do the following:

"(A) RESOURCES AND PERSONNEL MANAGEMENT.—The Under Secretary shall manage the resources, personnel, and other support requirements of the Directorate.

"(B) INFORMATION RESOURCES MANAGEMENT.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including the maintenance of records and databases and the coordination of records and other information within the Directorate, and shall ensure that the Directorate obtains and maintains adequate information technology systems to carry out its functions.

"(4) DEFINITION.—In this chapter, the term 'immigration policy and administration' means the duties, activities, and powers described in this subsection.

"(c) GENERAL COUNSEL.—

"(1) IN GENERAL.—There shall be within the Directorate a General Counsel, who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary.

"(2) FUNCTION.—The General Counsel shall—

"(A) serve as the chief legal officer for the Directorate; and

"(B) be responsible for providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Under Secretary with respect to legal matters affecting the Directorate, and any of its components.

"(d) FINANCIAL OFFICERS FOR THE DIRECTORATE OF IMMIGRATION AFFAIRS.—

"(1) CHIEF FINANCIAL OFFICER.—

"(A) IN GENERAL.—There shall be within the Directorate a Chief Financial Officer. The position of Chief Financial Officer shall be a career reserved position in the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Directorate. For purposes of section 902(a)(1) of such title, the Under Secretary shall be deemed to be an agency head.

"(B) FUNCTIONS.—The Chief Financial Officer shall be responsible for directing, supervising, and coordinating all budget formulas and execution for the Directorate.

"(2) DEPUTY CHIEF FINANCIAL OFFICER.—The Directorate shall be deemed to be an agency for purposes of section 903 of such title (relating to Deputy Chief Financial Officers).

"(e) CHIEF OF CONGRESSIONAL, INTERGOVERNMENTAL, AND PUBLIC AFFAIRS.—

"(1) IN GENERAL.—There shall be within the Directorate a Chief of Congressional, Intergovernmental, and Public Affairs. Under the authority of the Under Secretary, the Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

"(A) providing to Congress information relating to issues arising under the immigration laws of the United States, including information on specific cases;

"(B) serving as a liaison with other Federal agencies on immigration issues; and

"(C) responding to inquiries from, and providing information to, the media on immigration issues.

"(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Congressional, Intergovernmental, and Public Affairs shall be a Senior Executive Service position under section 5382 of title 5, United States Code.".

(b) COMPENSATION OF GENERAL COUNSEL AND CHIEF FINANCIAL OFFICER.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel, Directorate of Immigration Affairs, Department of Homeland Security.

"Chief Financial Officer, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) REPEALS.—The following provisions of law are repealed:

(1) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(2) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of assistant commissioners and district directors).

(3) Section 1 of the Act of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(d) CONFORMING AMENDMENTS.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:

"(8) The term 'Under Secretary' means the Under Secretary for Immigration Affairs who is appointed under section 103(c).".

(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(i) by striking "The Commissioner of Immigration and Naturalization" and "The Commissioner" each place they appear and inserting "The appropriate Under Secretary of the Department of Homeland Security"; and

(ii) except as provided in paragraph (1), by striking "Commissioner of Immigration and Naturalization" and "Commissioner" each place they appear and inserting "appropriate Under Secretary of the Department of Homeland Security".

(C) The amendments made by subparagraph (B) do not apply to references to the "Commissioner of Social Security" in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

(2) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended—

(A) in subsection (c), by striking "Commissioner" and inserting "Under Secretary";

(B) in subsection (d), by striking "Commissioner" and inserting "Under Secretary"; and

(C) in subsection (e), by striking "Commissioner" and inserting "Under Secretary".

(3) Sections 104 and 105 of the Immigration and Nationality Act (8 U.S.C. 1104, 1105) are amended by striking "Director" each place it appears and inserting "Assistant Secretary of State for Consular Affairs".

(4) Section 104(c) of the Immigration and Nationality Act (8 U.S.C. 1104(c)) is amended—

(A) in the first sentence, by striking "Passport Office, a Visa Office," and inserting "a Passport Services office, a Visa Services office, an Overseas Citizen Services office,"; and

(B) in the second sentence, by striking "the Passport Office and the Visa Office" and inserting "the Passport Services office and the Visa Services office".

(5) Section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Immigration and Naturalization, Department of Justice.".

(e) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Commissioner of Immigration and Naturalization shall be deemed to refer to the Under Secretary for Immigration Affairs or the Under Secretary for Border and Transportation Security, as appropriate.

SEC. 1104. BUREAU OF IMMIGRATION SERVICES.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"SEC. 113. BUREAU OF IMMIGRATION SERVICES.

"(a) ESTABLISHMENT OF BUREAU.—

"(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the 'Service Bureau').

"(2) ASSISTANT SECRETARY.—The head of the Service Bureau shall be the Assistant Secretary for Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services'), who—

"(A) shall be appointed by the Secretary, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

"(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Services shall administer the immigration service functions of the Directorate.

"(2) IMMIGRATION SERVICE FUNCTIONS DEFINED.—In this chapter, the term 'immigration service functions' means the following functions under the immigration laws of the United States:

"(A) Adjudications of petitions for classification of nonimmigrant and immigrant status.

"(B) Adjudications of applications for adjustment of status and change of status.

"(C) Adjudications of naturalization applications.

"(D) Adjudications of asylum and refugee applications.

"(E) Adjudications performed at Service centers.

"(F) Determinations concerning custody and parole of asylum seekers who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, including determinations under section 236B.

"(G) All other adjudications under the immigration laws of the United States.

"(c) CHIEF BUDGET OFFICER OF THE SERVICE BUREAU.—There shall be within the Service Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Service Bureau shall be responsible for monitoring and supervising all financial activities of the Service Bureau.

"(d) QUALITY ASSURANCE.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to the immigration service functions of the Directorate are properly implemented; and

"(2) ensure that Service Bureau policies or practices result in sound records management and efficient and accurate service.

"(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Service Bureau and for receiving and investigating charges of misconduct or ill treatment made by the public.

"(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.".

(b) SERVICE BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Services, shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consider the location's proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.

(2) TRANSITION PROVISION.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1105. BUREAU OF ENFORCEMENT.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103 and 1104, is further amended by adding at the end the following:

"SEC. 114. BUREAU OF ENFORCEMENT.

"(a) ESTABLISHMENT OF BUREAU.—

"(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Enforcement (in this chapter referred to as the 'Enforcement Bureau').

“(2) Assistant secretary.—The head of the Enforcement Bureau shall be the Assistant Secretary for Enforcement (in this chapter referred to as the ‘Assistant Secretary for Immigration Enforcement’), who—

“(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

“(B) shall report directly to the Under Secretary.

“(b) Responsibilities of the Assistant Secretary.—

“(1) In general.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Enforcement shall administer the immigration enforcement functions of the Directorate.

“(2) Immigration enforcement functions defined.—In this chapter, the term ‘immigration enforcement functions’ means the following functions under the immigration laws of the United States:

“(A) The detention function, except as specified in section 113(b)(2)(F).

“(B) The removal function.

“(C) The intelligence function.

“(D) The investigations function.

“(c) Chief Budget Officer of the Enforcement Bureau.—There shall be within the Enforcement Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Enforcement Bureau shall be responsible for monitoring and supervising all financial activities of the Enforcement Bureau.

“(d) Office of Professional Responsibility.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Enforcement Bureau and receiving charges of misconduct or ill treatment made by the public and investigating the charges.

“(e) Office of Quality Assurance.—There shall be within the Enforcement Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

“(1) ensure that the Directorate's policies with respect to immigration enforcement functions are properly implemented; and

“(2) ensure that Enforcement Bureau policies or practices result in sound record management and efficient and accurate recordkeeping.

“(f) Training of Personnel.—The Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Enforcement Bureau.”.

(b) Enforcement Bureau Offices.—

(1) In general.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Enforcement, shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall make selections according to trends in unlawful entry and unlawful presence, alien smuggling, national security concerns, the number of Federal prosecutions of immigration-related offenses in a given geographic area, and other enforcement considerations. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Enforcement Bureau offices adequately serve enforcement needs.

(2) Transition provision.—In determining the location of Enforcement Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1106. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

“SEC. 115. OFFICE OF THE OMBUDSMAN FOR IMMIGRATION AFFAIRS.

“(a) In General.—There is established within the Directorate the Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

“(b) Ombudsman.—

“(1) Appointment.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

“(2) Compensation.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of Homeland Security so determines, at a rate fixed under section 9503 of such title.

“(c) Functions of Office.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

“(1) to assist individuals in resolving problems with the Directorate or any component thereof;

“(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

“(3) to propose changes in the administrative practices or regulations of the Directorate, or any component thereof, to mitigate problems identified under paragraph (2);

“(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

“(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

“(d) Personnel Actions.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems.

“(e) Annual Report.—Not later than December 31 of each year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

“(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

“(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

“(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action;

“(4) an accounting of the items described in paragraphs (1) and (2) for which action remains to be completed;

“(5) an accounting of the items described in paragraphs (1) and (2) for which no action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction;

“(6) recommendations as may be appropriate to resolve problems encountered by the public;

“(7) recommendations as may be appropriate to resolve problems encountered by the public, including problems created by backlogs in the adjudication and processing of petitions and applications;

“(8) recommendations to resolve problems caused by inadequate funding or staffing; and

“(9) such other information as the Ombudsman may deem advisable.

“(f) Authorization of Appropriations.—

“(1) In general.—There are authorized to be appropriated to the Office of the Ombudsman such sums as may be necessary to carry out its functions.

“(2) Availability of funds.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.”.

SEC. 1107. OFFICE OF IMMIGRATION STATISTICS WITHIN THE DIRECTORATE.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

“SEC. 116. OFFICE OF IMMIGRATION STATISTICS.

“(a) Establishment.—There is established within the Directorate an Office of Immigration Statistics (in this section referred to as the ‘Office’), which shall be headed by a Director who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Office shall collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Directorate and the Executive Office for Immigration Review.

“(b) Responsibilities of Director.—The Director of the Office shall be responsible for the following:

“(1) Statistical information.—Maintenance of all immigration statistical information of the Directorate of Immigration Affairs.

“(2) Standards of reliability and validity.—Establishment of standards of reliability and validity for immigration statistics collected by the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review.

“(c) Relation to the Directorate of Immigration Affairs and the Executive Office for Immigration Review.—

“(1) Other authorities.—The Directorate and the Executive Office for Immigration Review shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review, respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

“(2) Databases.—The Director of the Office, under the direction of the Secretary, shall ensure the interoperability of the databases of the Directorate, the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review to permit the Director of the Office to perform the duties of such office.”.

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Directorate of Immigration Affairs for exercise by the Under Secretary through the Office of Immigration Statistics established by section 116 of the Immigration and Nationality Act, as added by subsection (a), the functions performed by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service, and the statistical functions performed by the Executive Office for Immigration Review, on the day before the effective date of this title.

SEC. 1108. CLERICAL AMENDMENTS.

The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to the heading for title I the following:

"CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES";

(2) by striking the item relating to section 103 and inserting the following:

"Sec. 103. Powers and duties of the Secretary of Homeland Security and the Under Secretary of Homeland Security for Immigration Affairs.";

and

(3) by inserting after the item relating to section 106 the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"Sec. 111. Establishment of Directorate of Immigration Affairs.
"Sec. 112. Under Secretary of Homeland Security for Immigration Affairs.
"Sec. 113. Bureau of Immigration Services.
"Sec. 114. Bureau of Enforcement.
"Sec. 115. Office of the Ombudsman for Immigration Affairs.
"Sec. 116. Office of Immigration Statistics.".

Subtitle B—Transition Provisions

SEC. 1111. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—

(1) FUNCTIONS OF THE ATTORNEY GENERAL.—Except as provided in subsection (c) and title XIII, all functions under the immigration laws of the United States vested by statute in, or exercised by, the Attorney General, immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Secretary through the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(2) FUNCTIONS OF THE COMMISSIONER OR THE INS.—Except as provided in subsection (c), all functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Directorate of Immigration Affairs on such effective date for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Directorate of Immigration Affairs under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

(c) SPECIAL RULE FOR BORDER PATROL AND INSPECTION FUNCTIONS.—

(1) IN GENERAL.—Notwithstanding subsections (a) and (b), the border patrol function, and primary and secondary immigration inspection functions, vested by statute in, or exercised by, the Attorney General, the Commissioner of Immigration and Naturalization, or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Under Secretary for Border and Transportation in accordance with paragraphs (7) and (8) of section 131(b).

(2) REFERENCES.—With respect to the border patrol function and primary and secondary immigration inspection functions, references in this subtitle to—

(A) the Directorate shall be deemed to be references to the Directorate of Border and Transportation Security; and

(B) the Under Secretary shall be deemed to be references to the Under Secretary for Border and Transportation Security.

SEC. 1112. TRANSFER OF PERSONNEL AND OTHER RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the appropriate Under Secretary for appropriate allocation in accordance with section 1115—

(1) the personnel of the Department of Justice employed in connection with the functions transferred under this title; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title.

SEC. 1113. DETERMINATIONS WITH RESPECT TO FUNCTIONS AND RESOURCES.

The Secretary shall determine, in accordance with the corresponding criteria set forth in sections 1112(b), 1113(b), and 1114(b) of the Immigration and Nationality Act (as added by this title)—

(1) which of the functions transferred under section 1111 are—

(A) immigration policy and administration functions;

(B) immigration service functions;

(C) immigration enforcement functions (excluding the border patrol function and primary and secondary immigration inspection functions); and

(D) the border patrol function and primary and secondary immigration inspection functions; and

(2) which of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112 were held or used, arose from, were available to, or were made available, in connection with the performance of the respective functions specified in paragraph (1) immediately prior to the effective date of this title.

SEC. 1114. DELEGATION AND RESERVATION OF FUNCTIONS.

(a) DELEGATION TO THE DIRECTORATES.—The Secretary shall delegate—

(1) through the Under Secretary and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103)—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement; and

(2) the border patrol function and primary and secondary immigration inspection functions to the Under Secretary for Border and Transportation Security.

(b) NONEXCLUSIVE DELEGATIONS AUTHORIZED.—Delegations made under subsection (a) may be made on a nonexclusive basis as the Secretary may determine may be necessary to ensure the faithful execution of the Secretary's responsibilities and duties under law.

(c) EFFECT OF DELEGATIONS.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary for Immigration Affairs, and the Under Secretary for Border and Transportation Security, respectively, as the Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

(d) STATUTORY CONSTRUCTION.—Nothing in this division may be construed to limit the authority of the Under Secretary, acting directly or by delegation under the Secretary, to establish such offices or positions within the Directorate of Immigration Affairs, in addition to those specified by this division, as the Under Secretary may determine to be necessary to carry out the functions of the Directorate.

SEC. 1115. ALLOCATION OF PERSONNEL AND OTHER RESOURCES.

(a) AUTHORITY OF THE UNDER SECRETARY.—

(1) IN GENERAL.—Subject to paragraph (2) and section 1114(b), the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the performance of the respective functions, as determined under section 1113, in accordance with the delegation of functions and the reservation of functions made under section 1114.

(2) LIMITATION.—Unexpended funds transferred pursuant to section 1112 shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) AUTHORITY TO TERMINATE AFFAIRS OF INS.—The Attorney General in consultation with the Secretary, shall provide for the termination of the affairs of the Immigration and Naturalization Service and such further measures and dispositions as may be necessary to effectuate the purposes of this division.

(c) TREATMENT OF SHARED RESOURCES.—The Under Secretary is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau. The Under Secretary shall maintain oversight and control over the shared computer databases and systems and records management.

SEC. 1116. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits,

grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) Proceedings.—

(1) Pending.—Sections 111 through 116 of the Immigration and Nationality Act, as added by subtitle A of this title, shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred under this title, but such proceedings and applications shall be continued.

(2) Orders.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) Discontinuance or modification.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) Suits.—This title, and the amendments made by this title, shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title, and the amendments made by this title, had not been enacted.

(d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) Continuance of Suit With Substitution of Parties.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and such function is transferred under this title to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) Administrative Procedure and Judicial Review.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred under this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred.

SEC. 1117. INTERIM SERVICE OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

The individual serving as the Commissioner of Immigration and Naturalization on the day before the effective date of this title may serve as Under Secretary until the date on which an Under Secretary is appointed under section 112 of the Immigration and Nationality Act, as added by section 1103.

SEC. 1118. OTHER AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Basic Authorities Act of 1956, or under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to the issuance and use of passports and visas;

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(3) except as otherwise specifically provided in this division, any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

SEC. 1119. TRANSITION FUNDING.

(a) Authorization of Appropriations for Transition.—

(1) In general.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—

(A) to effect—

(i) the abolition of the Immigration and Naturalization Service;

(ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement (except for the border patrol function and primary and secondary immigration inspection functions);

(iii) the transfer to the Directorate of Border and Transportation Protection of the border patrol function and primary and secondary immigration inspection functions; and

(iv) the transfer of such other functions as are required to be made under this division; and

(B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) Activities supported.—Activities supported under paragraph (1) include—

(A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration Affairs and the Directorate of Border and Transportation Security, as appropriate, including the preparation of any reports and implementation plans necessary for such transfer;

(B) the division, acquisition, and disposition of—

(i) buildings and facilities;

(ii) support and infrastructure resources; and

(iii) computer hardware, software, and related documentation;

(C) other capital expenditures necessary to effect the transfer of functions described in this paragraph;

(D) revision of forms, stationery, logos, and signage;

(E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and

(F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) Availability of Funds.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) Transition Account.—

(1) Establishment.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the "Directorate of Immigration Affairs Transition Account" (in this section referred to as the "Account").

(2) Use of account.—There shall be deposited into the Account all amounts appropriated under subsection (a) and amounts reprogrammed for the purposes described in subsection (a).

(d) Report to Congress on Transition.—Beginning not later than 90 days after the effective date of division A of this Act, and at the end of each fiscal year in which appropriations are made pursuant to subsection (c), the Secretary of Homeland Security shall submit a report to Congress concerning the availability of funds to cover transition costs, including—

(1) any unobligated balances available for such purposes; and

(2) a calculation of the amount of appropriations that would be necessary to fully fund the activities described in subsection (a).

(e) Effective Date.—This section shall take effect 1 year after the effective date of division A of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1121. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

(a) Level of Fees.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants" and inserting "services".

(b) Use of Fees.—

(1) In general.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refugee applicants.

(2) Prohibition.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of operation.

(c) Refugee and Asylum Adjudication Services.—

(1) Authorization of appropriations.—In addition to such sums as may be otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.

(2) Availability of funds.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) Separation of Funding.—

(1) In general.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other collections available for the Bureau of Immigration Services and the Bureau of Enforcement.

(2) Fees.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under

paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(3) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Immigration Services and the Bureau of Enforcement for purposes not authorized by section 286 of the Immigration and Nationality Act, as amended by subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS FOR BACKLOG REDUCTION.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out the Immigration Services and Infrastructure Improvement Act of 2000 (title II of Public Law 106–313).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) INFRASTRUCTURE IMPROVEMENT ACCOUNT.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvements Account established by section 204(a)(2) of title II of Public Law 106–313.

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF ON-LINE DATABASE.—

(1) IN GENERAL.—Not later than 2 years after the effective date of division A, the Secretary, in consultation with the Under Secretary and the Technology Advisory Committee, shall establish an Internet-based system that will permit an immigrant, nonimmigrant, employer, or other person who files any application, petition, or other request for any benefit under the immigration laws of the United States access to on-line information about the processing status of the application, petition, or other request.

(2) PRIVACY CONSIDERATIONS.—The Under Secretary shall consider all applicable privacy issues in the establishment of the Internet system described in paragraph (1). No personally identifying information shall be accessible to unauthorized persons.

(3) MEANS OF ACCESS.—The on-line information under the Internet system described in paragraph (1) shall be accessible to the persons described in paragraph (1) through a personal identification number (PIN) or other personalized password.

(4) PROHIBITION ON FEES.—The Under Secretary shall not charge any immigrant, nonimmigrant, employer, or other person described in paragraph (1) a fee for access to the information in the database that pertains to that person.

(b) FEASIBILITY STUDY FOR ON-LINE FILING AND IMPROVED PROCESSING.—

(1) ON-LINE FILING.—

(A) IN GENERAL.—The Under Secretary, in consultation with the Technology Advisory Committee, shall conduct a study to determine the feasibility of on-line filing of the documents described in subsection (a).

(B) STUDY ELEMENTS.—The study shall—

(i) include a review of computerization and technology of the Immigration and Naturalization Service (or successor agency) relating to immigration services and the processing of such documents;

(ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and

(iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.

(2) REPORT.—Not later than 2 years after the effective date of division A, the Under Secretary shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the findings of the study conducted under this subsection.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 1 year after the effective date of division A, the Under Secretary shall establish, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Under Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of—

(A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and

(B) representatives of persons or entities who may use the tracking system described in subsection (a) and the on-line filing system described in subsection (b)(1).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) ASSIGNMENTS OF ASYLUM OFFICERS.—The Under Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take steps to ensure that asylum officers participate in the inspections process.

(b) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 236A the following new section:

"SEC. 236B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

"(a) DEVELOPMENT OF ALTERNATIVES TO DETENTION.—The Under Secretary shall—

"(1) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and

"(2) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

"(b) SPECIFIC ALTERNATIVES FOR CONSIDERATION.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):

"(1) Parole from detention.

"(2) For individuals not otherwise qualified for parole under paragraph (1), parole with appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-secure shelter care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(4) Noninstitutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(c) REGULATIONS.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

"(d) DEFINITION.—In this section, the term 'asylum seeker' means any applicant for asylum under section 208 or any alien who indicates an intention to apply for asylum under that section.".

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236A the following new item:

"Sec. 236B. Alternatives to detention of asylum seekers.".

Subtitle D—Effective Date

SEC. 1131. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect one year after the effective date of division A of this Act.

TITLE XII—UNACCOMPANIED ALIEN JUVENILE PROTECTION

SEC. 1201. UNACCOMPANIED ALIEN JUVENILES.

(a) CUSTODY DETERMINATIONS.—

(1) IN GENERAL.—

(A) INITIAL CUSTODY AND CARE.—The custody and care of an unaccompanied alien juvenile shall be the responsibility of the Under Secretary of Immigration Affairs in the Department of Homeland Security or the Under Secretary of Border and Transportation Security, as determined under guidelines to be promulgated by the Secretary.

(B) TRANSFER OF CUSTODY AND CARE.—Unless the juvenile is described in subsection (b), the Department of Homeland Security shall transfer custody and care of that juvenile to the Office of Refugee Resettlement of the Department of Health and Human Services.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Directorate of Immigration Affairs shall retain or assume the custody and care of an unaccompanied alien juvenile—

(A) who has been charged with a felony;

(B) who has been convicted of a felony;

(C) who exhibits a violent or criminal behavior that endangers others; or

(D) with respect to whom the Secretary of Homeland Security has a substantial evidence to conclude that such juvenile endangers the national security of the United States.

(b) FUNCTIONS.—

(1) IN GENERAL.—Pursuant to subsection (a)(2), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the custody and care of unaccompanied alien juveniles who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to the Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such juvenile, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act;

(B) ensuring that the interests of the juvenile are considered in decisions and actions relating to the custody and care of an unaccompanied alien juvenile;

(C) making placement determinations for all unaccompanied alien juveniles who are in Federal custody by reason of their immigration status;

(D) implementing placement determinations for such unaccompanied alien juveniles;

(E) implementing policies with respect to the care and placement of unaccompanied alien juveniles;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien juveniles;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien juveniles are housed;

(H) reuniting unaccompanied alien juveniles with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien juveniles;

(J) maintaining statistical information and other data on unaccompanied alien juveniles for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a juvenile's name, sex, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the juvenile came into Federal custody by reason of his or her immigration status;

(iii) information relating to the juvenile's placement, removal, or release from each facility in which the juvenile has resided;

(iv) in any case in which the juvenile is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the juvenile is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien juveniles; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien juveniles reside.

(2) COORDINATION WITH OTHER ENTITIES; NO RELEASE ON OWN RECOGNIZANCE.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of Immigration Affairs of the Department of Homeland Security to ensure that the unaccompanied alien juveniles with respect to whom the placement determinations are made—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitative activity; and

(iii) are placed in a setting in which they not likely to pose a danger to themselves or others; and

(B) shall not release such juveniles upon their own recognizance.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to consider the use of the refugee children foster care system established pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien juveniles.

(c) APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN JUVENILES.—

(1) IN GENERAL.—An unaccompanied alien juvenile described in subsection (a)(2) may be placed in a facility appropriate for delinquent juveniles under conditions appropriate to the behavior of such juvenile.

(2) RESTRICTION ON DETENTION IN ADULT DETENTION FACILITIES.—To the maximum extent practicable, and consistent with the protection of the juvenile and others, an unaccompanied alien juvenile shall not be placed in an adult detention facility.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to transfer the responsibility for adjudicating benefit determinations or making enforcement determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State, as the case may be.

(e) TRANSFER OF FUNCTIONS.—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration and nationality laws of the United States with respect to the custody and care of unaccompanied alien juveniles that were vested by statute in, or performed by, the Commissioner of the Immigration and Naturalization Service (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (i).

(f) OTHER TRANSITION MATTERS.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in subsection (i).

(2) SAVINGS PROVISIONS.—Subsections (a), (b), and (c) of section 812 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS.—The assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(g) REFERENCES.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(h) DEFINITIONS.—In this section:

(1) LAWFULLY PRESENT IN THE UNITED STATES.—The term "lawfully present in the United States" means, with respect to an alien, an alien who is—

(A) an alien who is lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act);

(B) an alien who is a nonimmigrant alien described in section 101(a)(15) of the Immigration and Nationality Act;

(C) an alien who is a special immigrant described in section 101(a)(27) of the Immigration and Nationality Act;

(D) an alien who is granted asylum under section 208 of that Act;

(E) a refugee who is admitted to the United States under section 207 of that Act;

(F) an alien who is paroled into the United States under section 212(d)(5) of that Act; or

(G) an alien whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect before April 1, 1997) or section 241(b)(3) of the Immigration and Nationality Act.

(2) PLACEMENT.—The term "placement" means the placement of an unaccompanied alien juvenile in either a detention facility or an alternative to such a facility.

(3) UNACCOMPANIED ALIEN JUVENILE.—The term "unaccompanied alien juvenile" means an alien who—

(A) is not lawfully present in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(i) EFFECTIVE DATE.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 411 takes effect.

TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

SEC. 1301. LEGAL STATUS OF EOIR.

(a) EXISTENCE OF EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1302.

SEC. 1302. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

"POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY, AND THE ATTORNEY GENERAL";

(2) in subsection (a)—

(A) by inserting "Attorney General," after "President,"; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104–208), and (9) (as added by section 372 of Public Law 104–208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

"(g) ATTORNEY GENERAL.—

"(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

"(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.".

SEC. 1303. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1302, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

SEC. 2101. SHORT TITLE.

This title may be cited as the "Chief Human Capital Officers Act of 2002".

SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec.
"1401. Establishment of agency Chief Human Capital Officers.
"1402. Authority and functions of agency Chief Human Capital Officers.

"§1401. Establishment of agency Chief Human Capital Officers

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

"(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

"(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

"(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§1402. Authority and functions of agency Chief Human Capital Officers

"(a) The functions of each Chief Human Capital Officer shall include—

"(1) setting the workforce development strategy of the agency;

"(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

"(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

"(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

"(5) identifying best practices and benchmarking studies, and

"(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

"(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

"(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

"(A) are the property of the agency or are available to the agency; and

"(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

"(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"14. Agency Chief Human Capital Officers .... 1401".

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

"(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

"(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

"(ii) integrating those strategies into the budget and strategic plans of those agencies;

"(B) closing skill gaps in mission critical occupations;

"(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

"(D) sustaining a culture that cultivates and develops a high performing workforce;

"(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

"(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.".

SEC. 2105. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this division.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

"(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).".

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and".

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end of the following:

"(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

"(A) public notice has been given; and

"(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria."; and

(2) by inserting after section 3318 the following:

"§3319. Alternative ranking and selection procedures

"(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

"(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

"(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

"(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

"(1) the number of employees hired under that system;

"(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

"(3) the way in which managers were trained in the administration of that system.

"(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

"3319. Alternative ranking and selection procedures.".

SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"§ 3521. Definitions

"In this subchapter, the term—

"(1) 'agency' means an Executive agency as defined under section 105; and

"(2) 'employee'—

"(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

"(i) is serving under an appointment without time limitation; and

"(ii) has been currently employed for a continuous period of at least 3 years; and

"(B) shall include—

"(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government.

"(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

"(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

"(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

"(vi) any employee who—

"(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

"(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

"(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

"§ 3522. Agency plans; approval

"(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

"(b) The plan of an agency under subsection (a) shall include—

"(1) the specific positions and functions to be reduced or eliminated;

"(2) a description of which categories of employees will be offered incentives;

"(3) the time period during which incentives may be paid;

"(4) the number and amounts of voluntary separation incentive payments to be offered; and

"(5) a description of how the agency will operate without the eliminated positions and functions.

"(c) The Director of the Office of Personnel Management shall review each agency's plan an may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive of the Office of Personnel Management.

"§ 3523. Authority to provide voluntary separation incentive payments

"(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

"(b) A voluntary incentive payment—

"(1) shall be offered to agency employees on the basis of—

"(A) 1 or more organizational units;

"(B) 1 or more occupational series or levels;

"(C) 1 or more geographical locations;

"(D) skills, knowledge, or other factors related to a position;

"(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

"(F) any appropriate combination of such factors;

"(2) shall be paid in a lump sum after the employee's separation;

"(3) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c)if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

"(B) an amount determined by the agency head, not to exceed $25,000;

"(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

"(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

"(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other separation; and

"(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

"§ 3524. Effect of subsequent employment with the Government

"(a) The term 'employment'—

"(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

"(2) in subsection (c) does not include employment under such a contract.

"(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to he agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§ 3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT";

and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.
"3522. Agency plans; approval.
"3523. Authority to provide voluntary separation incentive payments.
"3524. Effect of subsequent employment with the Government.
"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors.".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 State. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 2302. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), the total payment referred to under such paragraph with respect to an employee paid under section 5372, 5376, or 5383 of title 5 or section 332(f), 603, or 604 of title 28 shall not exceed the total annual compensation payable to the Vice President under section 104 of title 3. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.".

TITLE XXIV—ACADEMIC TRAINING

SEC. 2401. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§ 4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.—Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and".

SEC. 2403. COMPENSATION TIME OFF FOR TRAVEL.

Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) An employee shall receive 1 hour of compensatory time off for each hour spent by the employee in travel status away from the official duty station of the employee, to the extent that the time spent in travel status is not otherwise compensable.

"(b) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

SEC. 2404. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "December 31, 2007.".

TITLE XXXI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 3101. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 3102. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 3103. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 3104. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation; and

(vii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 3105. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the vice chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CLOSED MEETINGS.—

(1) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) ADDITIONAL AUTHORITY.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 3106. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 3107. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 3108. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 3109. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) ADDITIONAL REPORTS.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

TITLE XXXII

SEC. . PRESERVATION OF THE PRESIDENTIAL NATIONAL SECURITY POWER.

"Notwithstanding any other provision in this Act, nothing in this Act shall be construed to take away the statutory authority of the President to act in a manner consistent with national security requirements and considerations as existed on the day of the terrorist attacks on September 11, 2001."

These provisions shall take effect two days after the date of enactment.

SA 4745. Mr. DASCHLE submitted an amendment intended to be proposed to amendment SA 4744 submitted by Mr. DASCHLE and intended to be proposed to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 96, strike line 2 and all that follows through page 109, line 13, and insert the following:

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.

"9701. Establishment of human resources management system.

"§9701. Establishment of human resources management system

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department.

"(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 71, 72, 73, 77, and 79, and this chapter.

"(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) NOTICE OF PROPOSAL.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) PREIMPLEMENTATION REQUIREMENTS.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(3) WRITTEN AGREEMENT.—Notwithstanding any other provision of this part, employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any system provided under this section unless the exclusive representative and the Secretary have entered into a written agreement, which specifically provides for the inclusion of such employees within such system. Such written agreement may be imposed by the Federal Service Impasses Panel under section 7119, after negotiations consistent with section 7117.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) Requirements.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) Sunset Provision.—Effective 5 years after the conclusion of the transition period defined under section 801 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) Clerical amendment.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) Effect on Personnel.—

(1) Nonseparation or nonreduction in grade or compensation of full-time personnel and part-time personnel holding permanent positions.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) Positions compensated in accordance with executive schedule.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) Coordination rule.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. . LABOR-MANAGEMENT RELATIONS.

(a) Limitation on Exclusionary Authority.—

(1) In general.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) Exclusions allowable.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) Provisions Relating to Bargaining Units.—

(1) Limitation relating to appropriate units.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) Limitation relating to positions or employees.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of title 5, United States Code, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) Coordination Rule.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(d) Savings Clause.—Notwithstanding any other provision of this Act, Title XXXII is null and void.

These provisions shall take effect one day after enactment.

SA 4746. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 232, strike lines 2 through 10 and insert the following:

"(1) In general.—The Attorney General shall have such authorities and functions under this Act as may be necessary to carry out the authorities and functions of immigration judges, appellate immigration judges, and the chief administrative hearing officer under this Act through the Executive Office of Immigration Review of the Department of Justice.

SA 4747. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 55, lines 11 and 12, strike ", including the establishment of rules,".

SA 4748. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 55, line 16, before the semicolon insert the following: ", except that this paragraph shall be restricted to functions transferred by this Act to the Directorate for Border and Transportation Security".

SA 4749. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1103 of the amendment, add the following:

(c) Inspections.—The Under Secretary of Immigration Affairs shall assign officers, with expertise and training in immigration and nationality law, to major ports of entry in the United States to assist in the inspection of aliens. For other ports of entry, the Under Secretary shall take steps to ensure such officers participate in the inspections process.

(d) Training for Border Patrol and Inspectors.—The Under Secretary of Immigration Affairs, in consultation with the Under Secretary of Border and Transportation Protection, will provide training in immigration and nationality law to personnel performing the border patrol and inspections functions in the Border and Transportation Protection Directorate.

SA 4750. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike title XIII and insert the following:

TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

SEC. 1301. ESTABLISHMENT.

(a) In General.—There is within the Department of Justice the Executive Office for Immigration Review.

(b) Statutory Construction.—Nothing in title XI, or any amendment made by that title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by, the Executive Office for Immigration Review of the Department of Justice, or any officer, employee, or component thereof, immediately prior to the effective date of title XI.

SEC. 1302. DIRECTOR OF THE AGENCY.

(a) Appointment.—There shall be at the head of the Executive Office for Immigration Review a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Offices.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono

Coordinator, and other offices as may be necessary to carry out this title.

(c) RESPONSIBILITIES.—The Director shall—

(1) administer the Executive Office for Immigration Review and be responsible for the promulgation of rules and regulations affecting the agency; and

(2) appoint and fix the compensation of attorneys, clerks, administrative assistants, and other personnel as may be necessary.

SEC. 1303. BOARD OF IMMIGRATION APPEALS.

(a) IN GENERAL.—The Board of Immigration Appeals (in this title referred to as the "Board") shall perform the appellate functions of the Executive Office for Immigration Review. The Board shall consist of a Chair and not less than 14 other immigration appeals judges.

(b) APPOINTMENT.—Members of the Board shall be appointed by the Attorney General, in consultation with the Director and the Chair of the Board of Immigration Appeals.

(c) QUALIFICATIONS.—The Chair and each other Member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of pertinent legal expertise.

(d) JURISDICTION.—

(1) IN GENERAL.—The Board shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals (as in effect under the Executive Office of Immigration Review).

(2) DE NOVO REVIEW.—The Board shall have de novo review of any decision by an immigration judge, including any final order of removal.

(e) INDEPENDENCE OF BOARD MEMBERS.—The Members of the Board shall exercise their independent judgment and discretion in the cases coming before the Board.

(f) REFERRAL OF CASES TO THE ATTORNEY GENERAL.—

(1) IN GENERAL.—The Board shall refer to the Attorney General for review of any case that—

(A) the Attorney General directs the Board to refer to the Attorney General;

(B) the Chairman or a majority of the Board believes should be referred to the Attorney General for review; or

(C) the Under Secretary of Homeland Security for Immigration Affairs requests be referred to the Attorney General for review.

(2) DECISION OF THE ATTORNEY GENERAL.—In any case in which the Attorney General reviews the decision of the Board, the decision of the Attorney General shall be stated in writing and shall be transmitted to the Board for transmittal and service as provided by regulations.

SEC. 1304. CHIEF IMMIGRATION JUDGE.

(a) ESTABLISHMENT OF OFFICE.—There shall be within the Executive Office for Immigration Review the position of Chief Immigration Judge, who shall administer the immigration courts.

(b) DUTIES OF THE CHIEF IMMIGRATION JUDGE.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resource and facilities and for the general management of immigration court dockets.

(c) APPOINTMENT OF IMMIGRATION JUDGES.—Immigration judges shall be appointed by the Attorney General, in consultation with the Director and the Chief Immigration Judge.

(d) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of pertinent legal expertise.

(e) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the immigration courts within the Executive Office for Immigration Review of the Department of Justice.

(f) INDEPENDENCE OF IMMIGRATION JUDGES.—The immigration judges shall exercise their independent judgment and discretion in the cases coming before the Immigration Court.

SEC. 1305. CHIEF ADMINISTRATIVE HEARING OFFICER.

(a) ESTABLISHMENT OF POSITION.—There shall be within the Executive Office for Immigration Review the position of Chief Administrative Hearing Officer.

(b) DUTIES OF THE CHIEF ADMINISTRATIVE HEARING OFFICER.—The Chief Administrative Hearing Officer shall hear cases brought under sections 274A, 274B, and 274C of the Immigration and Nationality Act.

SEC. 1306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Executive Office for Immigration Review such sums as may be necessary to carry out this title.

SA 4751. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 232, line 10, before the period insert the following: ", except that the Attorney General may not exercise the authorities and functions in this paragraph in a manner that does not respect the independence of immigration judges".

SA 4752. Mr. HOLLINGS (for Mr. GRAHAM) proposed an amendment to the bill S. 2506, to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.
Sec. 105. Incorporation of reporting requirements.
Sec. 106. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense or Department of Energy.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Definition of congressional intelligence committees in National Security Act of 1947.
Sec. 304. Specificity of National Foreign Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence.
Sec. 305. Modification of authority to make funds for intelligence activities available for other intelligence activities.
Sec. 306. Clarification of authority to furnish information on intelligence activities to Congress.
Sec. 307. Standardized transliteration of names into the Roman alphabet.
Sec. 308. Standards and qualifications for the performance of intelligence activities.
Sec. 309. Modification of David L. Boren National Security Education Program.
Sec. 310. Scholarships and work-study for pursuit of graduate degrees in science and technology.
Sec. 311. National Virtual Translation Center.
Sec. 312. Foreign Terrorist Asset Tracking Center.
Sec. 313. Terrorist Identification Classification System.
Sec. 314. Annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets.
Sec. 315. Two-year extension of Central Intelligence Agency Voluntary Separation Pay Act.
Sec. 316. Additional one-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.

TITLE IV—REPORTING REQUIREMENTS

Subtitle A—Submittal of Reports to Intelligence Committees

Sec. 401. Dates for submittal of various annual and semi-annual reports to the congressional intelligence committees.

Subtitle B—Recurring Annual Reports

Sec. 411. Annual assessment of satisfaction of intelligence community with collection, analysis, and production of intelligence.
Sec. 412. Annual report on threat of attack on the United States using weapons of mass destruction.
Sec. 413. Annual report on covert leases.
Sec. 414. Annual report on improvement of financial statements of certain elements of the intelligence community for auditing purposes.
Sec. 415. Annual report on activities of Federal Bureau of Investigation personnel outside the United States.
Sec. 416. Annual reports of inspectors general of the intelligence community on proposed resources and activities of their offices.
Sec. 417. Annual report on counterdrug intelligence matters.

Subtitle C—Other Reports

Sec. 431. Report on effect of country-release restrictions on allied intelligence-sharing relationships.

Sec. 432. Evaluation of policies and procedures of Department of State on protection of classified information at department headquarters.
Sec. 433. Study of Department of State Consular Services.
Subtitle D—Repeal of Certain Report Requirements
Sec. 441. Repeal of certain report requirements.
TITLE V—COUNTERINTELLIGENCE ACTIVITIES
Sec. 501. Short title; purpose.
Sec. 502. National Counterintelligence Executive.
Sec. 503. National Counterintelligence Policy Board.
Sec. 504. Office of the National Counterintelligence Executive.
TITLE VI—NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY
Sec. 601. Findings.
Sec. 602. National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.
Sec. 603. Powers of Commission.
Sec. 604. Staff of Commission.
Sec. 605. Compensation and travel expenses.
Sec. 606. Treatment of information relating to national security.
Sec. 607. Final report; termination.
Sec. 608. Assessments of final report.
Sec. 609. Inapplicability of certain administrative provisions.
Sec. 610. Funding.
Sec. 611. Definitions.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

(12) The Coast Guard.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2003, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill   of the One Hundred Seventh Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Armed Services and Appropriations of the Senate and House of Representatives, to Members of Congress who so request, and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2003 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 2003 the sum of $157,979,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2004.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 309 full-time personnel as of September 30, 2003. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2003 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for research and development shall remain available until September 30, 2004.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2003, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2003 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), $32,100,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2004, and funds provided for procurement purposes shall remain available until September 30, 2005.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. INCORPORATION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill   of the One Hundred Seventh Congress, in the classified annex to this Act, in the report of the Senate to accompany the bill S.   of the 107th Congress, or in the report of the House of Representatives to accompany the bill H.R.   is hereby incorporated into this Act, and is hereby made a requirement in law.

(b) SUBMITTAL DATE.—The date for the submittal to the congressional intelligence committees of any report referred to in subsection (a), whether an annual report, semiannual report, or non-recurring report, shall be as provided for a report of that type in section 507 of the National Security Act of 1947, as added by section 401 of this Act.

(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 106. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE OR DEPARTMENT OF ENERGY.

(a) CONSULTATION IN PREPARATION.—(1) The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations or a classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.

(2) The Secretary of Defense or Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or Department of Energy, as the case may be, designated by such Secretary for that purpose.

(b) Submittal.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

(2) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2003 the sum of $223,300,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES IN NATIONAL SECURITY ACT OF 1947.

(a) In General.—Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended by adding at the end the following new paragraph:

"(7) The term 'congressional intelligence committees' means—

"(A) the Select Committee on Intelligence of the Senate; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives.".

(b) Conforming Amendments.—(1) That Act is further amended by striking "Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives" and inserting "congressional intelligence committees" in each of the following provisions:

(A) Section 104(d)(4) (50 U.S.C. 403–4(d)(4)).

(B) Section 603(a) (50 U.S.C. 423(a)).

(2) That Act is further amended by striking "Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate" and inserting "congressional intelligence committees" in each of the following provisions:

(A) Section 113(c) (50 U.S.C. 404h(c)).

(B) Section 301(j) (50 U.S.C. 409a(j)).

(C) Section 801(b)(2) (50 U.S.C. 435(b)(2)).

(D) Section 903 (50 U.S.C. 441b).

(3) That Act is further amended by striking "intelligence committees" and inserting "congressional intelligence committees" in each of the following provisions:

(A) Section 501 (50 U.S.C. 413).

(B) Section 502 (50 U.S.C. 413a).

(C) Section 503 (50 U.S.C. 413b).

(D) Section 504(d)(2) (50 U.S.C. 414(d)(2)).

(4) Section 104(d)(5) of that Act (50 U.S.C. 403–4(d)(5)) is amended by striking "Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives" and inserting "congressional intelligence committees".

(5) Section 105C(a)(3)(C) of that Act (50 U.S.C. 403–5c(a)(3)(C)) is amended—

(A) by striking clauses (i) and (ii) and inserting the following new clause (i):

"(i) The congressional intelligence committees."; and

(B) by redesignating clauses (iii), (iv), (v), and (vi) as clauses (ii), (iii), (iv), and (v), respectively.

(6) Section 114 of that Act (50 U.S.C. 404i) is amended by striking subsection (c) and inserting the following new subsection (c):

"(c) Congressional Leadership Defined.—In this section, the term 'congressional leadership' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.".

(7) Section 501(a) of that Act (50 U.S.C. 413(a)), as amended by paragraph (3) of this subsection, is further amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(8) Section 503(c)(4) of that Act (50 U.S.C. 413b(c)(4)) is amended by striking "intelligence committee" and inserting "congressional intelligence committee".

(9) Section 602(c) of that Act (50 U.S.C. 422(c)) is amended by striking "the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives" and inserting "either congressional intelligence committee".

(10) Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3)) is amended by striking "intelligence committees of Congress" and inserting "congressional intelligence committees".

SEC. 304. SPECIFICITY OF NATIONAL FOREIGN INTELLIGENCE PROGRAM BUDGET AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION, COUNTERNARCOTICS, AND COUNTERINTELLIGENCE.

(a) In General.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by adding at the end the following new section:

"SPECIFICITY OF NATIONAL FOREIGN INTELLIGENCE PROGRAM BUDGET AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION, COUNTERNARCOTICS, AND COUNTERINTELLIGENCE

"Sec. 506. (a) In General.—The budget justification materials submitted to Congress in support of the budget of the President for a fiscal year that is submitted to Congress under section 1105(a) of title 31, United States Code, shall set forth separately the aggregate amount requested for that fiscal year for the National Foreign Intelligence Program for each of the following:

"(1) Counterterrorism.

"(2) Counterproliferation.

"(3) Counternarcotics.

"(4) Counterintelligence.

"(b) Election of Classified or Unclassified Form.—Amounts set forth under subsection (a) may be set forth in unclassified form or classified form, at the election of the Director of Central Intelligence.".

(b) Clerical Amendment.—The table of sections for that Act is amended by inserting after the item relating to section 505 the following new item:

"Sec. 506. Specificity of National Foreign Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence.".

SEC. 305. MODIFICATION OF AUTHORITY TO MAKE FUNDS FOR INTELLIGENCE ACTIVITIES AVAILABLE FOR OTHER INTELLIGENCE ACTIVITIES.

(a) Nature of Unforseen Requirements.—Section 504(a) of the National Security Act of 1947 (50 U.S.C. 414(a)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subparagraph (C), as so redesignated—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(B) by striking the semicolon at the end and inserting a period;

(3) by inserting "(1)" after "(a)";

(4) by striking "(4) nothing" and inserting "(2) Nothing";

(5) by indenting paragraph (2), as designated by paragraph (4) of this section, two ems from the left margin; and

(6) by adding at the end the following new paragraph:

"(3) For purposes of paragraph (1)(C)(ii), an unforseen requirement may not include a requirement arising under statute or the request of a committee or Member of Congress.".

(b) Certification Requirement for Reprogramming.—Paragraph (1)(C)(iii) of that section, as redesignated by subsection (a) of this section, is further amended by striking "has notified" and all that follows and inserting "submits to the appropriate congressional committees, before obligation of funds for such activity, a certification that the requirements of clauses (i) and (ii) are met with respect to such activity.".

SEC. 306. CLARIFICATION OF AUTHORITY TO FURNISH INFORMATION ON INTELLIGENCE ACTIVITIES TO CONGRESS.

(a) In General.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 503 the following new section:

"AUTHORITY TO FURNISH INFORMATION ON INTELLIGENCE ACTIVITIES TO CONGRESS

"Sec. 503A. Notwithstanding any other provision of law, and consistent with the obligations of the Director of Central Intelligence to protect intelligence sources and methods, it shall not be unlawful for the Director, or a designee of the Director, to furnish to the congressional intelligence committees information in the possession of an element of the intelligence community on intelligence activities in furtherance of the reporting responsibilities of such element under sections 501, 502, and 503 or any other provision of law requiring the reporting of information on intelligence activities to Congress.".

(b) Clerical Amendment.—The table of sections for the National Security Act of 1947 is amended by inserting after the item relating to section 503 the following new item:

"Sec. 503A. Authority to furnish information on intelligence activities to Congress.".

SEC. 307. STANDARDIZED TRANSLITERATION OF NAMES INTO THE ROMAN ALPHABET.

(a) Method of Transliteration Required.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence shall establish a standardized method for transliterating into the Roman alphabet personal and place names originally rendered in any language that uses an alphabet other than the Roman alphabet.

(b) Use by Intelligence Community.—The Director shall ensure the use of the method established under subsection (a) in—

(1) all communications among the elements of the intelligence community; and

(2) all intelligence products of the intelligence community.

SEC. 308. STANDARDS AND QUALIFICATIONS FOR THE PERFORMANCE OF INTELLIGENCE ACTIVITIES.

Section 104 of the National Security Act of 1947 (50 U.S.C. 403–4) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) Standards and Qualifications for Performance of Intelligence Activities.—The Director, acting as the head of the intelligence community, shall, in consultation with the heads of effected agencies, prescribe standards and qualifications for persons engaged in the performance of intelligence activities within the intelligence community.".

SEC. 309. MODIFICATION OF DAVID L. BOREN NATIONAL SECURITY EDUCATION PROGRAM.

(a) Termination of Scholarship Program.—Paragraph (1) of subsection (a) of section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraph (B) as subparagraph (A).

(b) Substitution of National Flagship Language Initiative for Grant Program.—That subsection is further amended—

(1) in paragraph (1), by striking subparagraph (C) and inserting the following new subparagraph (B):

"(B) carrying out activities under paragraph (2) relating to proficiency in foreign languages.";

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(4) by inserting after paragraph (1) the following new paragraph (2):

"(2) National flagship language initiative.—

"(A) In general.—As part of the program under paragraph (1), the Secretary shall, in accordance with regulations prescribed by the Secretary, carry out activities at institutions of higher education, which activities shall be designed—

"(i) to produce in professionals an advanced level of proficiency in foreign languages that the Board identifies under section 803(d)(4) as critical to the national security of the United States; and

"(ii) to permit undergraduate and graduate students, and employees of the United States Government, to undertake studies to enhance their foreign language proficiency.

"(B) Participation by fellowship recipients.—Recipients of fellowships under paragraph (1)(A) may participate in the activities carried out under this paragraph.

"(C) Designation of activities.—The activities carried out under this paragraph shall be known as the 'National Flagship Language Initiative'.".

(c) Funding Allocation.—That subsection is further amended by inserting after paragraph (2), as amended by subsection (b) of this section, the following new paragraph (3):

"(3) Funding allocations.—Of the amount available for obligation out of the Fund for any fiscal year, the Secretary shall allocate such amount in a manner considered appropriate by the Secretary for purposes of fellowships under paragraph (1)(A) and carrying out activities under paragraph (1)(B).".

(d) Conforming Amendments.—(1) Section 802 of that Act is further amended—

(A) in subsection (a)(5), as redesignated by subsection (b)(3) of this section, by striking "scholarships, fellowships, and grants" and inserting "fellowships, and the carrying out of activities,";

(B) in subsection (b)—

(i) in the matter preceding paragraph (1)—

(I) by striking "scholarship or"; and

(II) by striking "or any scholarship"; and

(ii) by striking paragraph (2) and inserting the following new paragraph (2):

"(2) shall, upon completion of such recipient's education under the program, and in accordance with such regulations—

"(A) work in a national security position for a period specified by the Secretary, which period shall be not less than the period for which the fellowship assistance was provided; or

"(B) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, counterproliferation study, or international field of study for which the fellowship was awarded for a period specified by the Secretary, which period shall be established in accordance with subparagraph (A); and";

(C) in subsection (c)—

(i) by striking "scholarship or" each place it appears; and

(ii) by striking "scholarships and";

(D) in subsection (d)—

(i) by striking "scholarships, fellowships, or grants" and inserting "fellowships, or for the carrying out of activities,"; and

(ii) by striking "scholarships, fellowships, or grants (as the case may be)" and inserting "such fellowships or activities, as the case may be,";

(E) in subsection (e), by striking "scholarships, fellowships, and grants" and inserting "fellowships, and carry out activities,";

(F) in subsection (f), by striking "grant, scholarship, or"; and

(G) in subsection (g)(1), by striking "or scholarship".

(2) Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(A) in paragraph (1), by striking "scholarships, fellowships, and grants" and inserting "fellowships, and carrying out activities,";

(B) in paragraph (3)—

(i) by striking "desiring scholarships or fellowships, and institutions of higher education desiring grants under this chapter" and inserting "desiring fellowships under section 802(a)(1), and institutions of higher education desiring to carry out activities under section 802(a)(2)"; and

(ii) by striking "scholarship or" each place it appears;

(C) in paragraph (4)—

(i) by striking subparagraphs (A) and (C);

(ii) by redesignating subparagraphs (B) and (D) as subparagraphs (A) and (C), respectively;

(iii) in subparagraph (A), as so redesignated, by striking "section 802(a)(1)(B)" and inserting "section 802(a)(1)(A)";

(iv) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) which foreign languages are critical to the national security interests of the United States for purposes of section 802(a)(2); and"; and

(v) in subparagraph (C), as so redesignated, by striking "scholarships or";

(D) in paragraph (6), by striking "scholarship recipients and"; and

(E) in paragraph (7), by striking "scholarship or".

(3) Section 804(b)(1) of that Act (50 U.S.C. 1904(b)(1)) is amended by striking "scholarships, fellowships, and grants" and inserting "fellowships and carrying out activities".

(4) The heading for title VIII of the Intelligence Authorization Act, Fiscal Year 1992 (Public Law 102–183) is amended to read as follows:

"TITLE VIII—NATIONAL SECURITY FELLOWSHIPS AND OTHER EDUCATIONAL SUPPORT".

(5) The heading of section 802 of that Act is amended to read as follows:

"SEC. 802. PROGRAM OF FELLOWSHIPS AND OTHER EDUCATIONAL SUPPORT.".

(e) Construction of Amendments.—Nothing in the amendments to the David L. Boren National Security Education Act of 1991 made by this section shall affect the validity of any scholarship, fellowship, or grant made or awarded under that Act before the date of the enactment of this Act.

(f) Report on Conversion of Funding From Trust Fund to Annual Appropriations.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in conjunction with the Director of Central Intelligence, submit to the congressional intelligence committees a report on the advisability of converting the funding of the program of fellowships and other educational support under the David L. Boren National Security Education Act of 1991, as amended by this section, from funding through the National Security Education Trust Fund under section 804 of that Act to funding through appropriations.

(2) If the Secretary and the Director determine in the report under paragraph (1) that the conversion of funding referred to in that paragraph is advisable, the report shall include a recommendation for such legislation as the Secretary and the Director consider appropriate to implement the conversion of funding.

(g) Report on Modification of National Flagship Language Initiative Before Implementation.—If the Secretary, in conjunction with the Director, proposes any modification of the National Flagship Language Initiative under paragraph (2) of section 802(a) of the David L. Boren National Security Education Act of 1991, as amended by subsection (c) of this section, between the date of the enactment of this Act and the date of the implementation of the initiative, the Secretary and the Director shall jointly submit to the congressional intelligence committees a report on the proposed modification.

(h) Congressional Intelligence Committees Defined.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 310. SCHOLARSHIPS AND WORK-STUDY FOR PURSUIT OF GRADUATE DEGREES IN SCIENCE AND TECHNOLOGY.

(a) Program Required.—The National Security Act of 1947 is amended—

(1) by redesignating title X as title XI;

(2) by redesignating section 1001 as section 1101; and

(3) by inserting after title IX the following new title X:

"TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

"SCHOLARSHIPS AND WORK-STUDY FOR PURSUIT OF GRADUATE DEGREES IN SCIENCE AND TECHNOLOGY

"Sec. 1001. (a) Program Required.—The Director of Central Intelligence shall carry out a program to provide scholarships and work-study for individuals who are pursuing graduate degrees in fields of study in science and technology that are identified by the Director as appropriate to meet the future needs of the intelligence community for qualified scientists and engineers.

"(b) Administration.—The Director shall administer the program through the Assistant Director of Central Intelligence for Administration.

"(c) Identification of Fields of Study.—The Director shall identify fields of study under subsection (a) in consultation with the other heads of the elements of the intelligence community.

"(d) Eligibility for Participation.—An individual eligible to participate in the program is any individual who—

"(1) either—

"(A) is an employee of the intelligence community; or

"(B) meets criteria for eligibility for employment in the intelligence community that are established by the Director;

"(2) is accepted in a graduate degree program in a field of study in science or technology identified under subsection (a); and

"(3) is eligible for a security clearance at the level of Secret or above.

"(e) Regulations.—The Director shall prescribe regulations for purposes of the administration of this section.".

(b) Clerical Amendment.—The table of sections for the National Security Act of 1947 is amended by striking the items relating to title X and section 1001 and inserting the following new items:

"TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

"Sec. 1001. Scholarships and work-study for pursuit of graduate degrees in science and technology.

"TITLE XI—OTHER PROVISIONS

"Sec. 1101. Applicability to United States intelligence activities of Federal laws implementing international treaties and agreements.".

SEC. 311. NATIONAL VIRTUAL TRANSLATION CENTER.

(a) Establishment.—The Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the intelligence community an element with the function of connecting the elements of the intelligence community engaged in the acquisition, storage, translation, or analysis of voice or data in digital form.

(b) Designation.—The element established under subsection (a) shall be known as the National Virtual Translation Center.

(c) Administrative Matters.—(1) The Director shall retain direct supervision and control over the element established under subsection (a).

(2) The element established under subsection (a) shall connect elements of the intelligence community utilizing the most current available information technology that is applicable to the function of the element.

(d) Deadline for Establishment.—The element required by subsection (a) shall be established as soon as practicable after the date of the enactment of this Act, but not later than 90 days after that date.

SEC. 312. FOREIGN TERRORIST ASSET TRACKING CENTER.

(a) Establishment.—The Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the Central Intelligence Agency an element responsible for conducting all-source intelligence analysis of information relating to the financial capabilities, practices, and activities of individuals, groups, and nations associated with international terrorism in their activities relating to international terrorism.

(b) Designation.—The element established under subsection (a) shall be known as the Foreign Terrorist Asset Tracking Center.

(c) Deadline for Establishment.—The element required by subsection (a) shall be established as soon as practicable after the date of the enactment of this Act, but not later than 90 days after that date.

SEC. 313. TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.

(a) Requirement.—(1) The Director of Central Intelligence, acting as head of the Intelligence Community, shall—

(A) establish and maintain a list of individuals who are known or suspected international terrorists, and of organizations that are known or suspected international terrorist organizations; and

(B) ensure that pertinent information on the list is shared with the departments, agencies, and organizations described by subsection (c).

(2) The list under paragraph (1), and the mechanisms for sharing information on the list, shall be known as the "Terrorist Identification Classification System".

(b) Administration.—(1) The Director shall prescribe requirements for the inclusion of an individual or organization on the list required by subsection (a), and for the deletion or omission from the list of an individual or organization currently on the list.

(2) The Director shall ensure that the information utilized to determine the inclusion, or deletion or omission, of an individual or organization on or from the list is derived from all-source intelligence.

(3) The Director shall ensure that the list is maintained in accordance with existing law and regulations governing the collection, storage, and dissemination of intelligence concerning United States persons.

(c) Information Sharing.—Subject to section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6)), relating to the protection of intelligence sources and methods, the Director shall provide for the sharing of the list, and information on the list, with such departments and agencies of the Federal Government, State and local government agencies, and entities of foreign governments and international organizations as the Director considers appropriate.

(d) Reporting and Certification.—(1) The Director shall review on an annual basis the information provided by various departments and agencies for purposes of the list under subsection (a) in order to determine whether or not the information so provided is derived from the widest possible range of intelligence available to such departments and agencies.

(2) The Director shall, as a result of each review under paragraph (1), certify whether or not the elements of the intelligence community responsible for the collection of intelligence related to the list have provided information for purposes of the list that is derived from the widest possible range of intelligence available to such department and agencies.

(e) Report on Criteria for Information Sharing.—(1) Not later then March 1, 2003, the Director shall submit to the congressional intelligence committees a report describing the criteria used to determine which types of information on the list required by subsection (a) are to be shared, and which types of information are not to be shared, with various departments and agencies of the Federal Government, State and local government agencies, and entities of foreign governments and international organizations.

(2) The report shall include a description of the circumstances in which the Director has determined that sharing information on the list with the departments and agencies of the Federal Government, and of State and local governments, described by subsection (c) would be inappropriate due to the concerns addressed by section 103(c)(6) of the National Security Act of 1947, relating to the protection of sources and methods, and any instance in which the sharing on information on the list has been inappropriate in light of such concerns.

(f) System Administration Requirements.—(1) The Director shall, to the maximum extent practicable, ensure the interoperability of the Terrorist Identification Classification System with relevant information systems of the departments and agencies of the Federal Government, and of State and local governments, described by subsection (c).

(2) The Director shall ensure that the System utilizes technologies that are effective in aiding the identification of individuals in the field.

(g) Report on Status of System.—(1) Not later than one year after the date of the enactment of this Act, the Director shall, in consultation with the Director of Homeland Security, submit to the congressional intelligence committees a report on the status of the Terrorist Identification Classification System. The report shall contain a certification on the following:

(A) Whether or not the System contains the intelligence information necessary to facilitate the contribution of the System to the domestic security of the United States.

(B) Whether or not the departments and agencies having access to the System have access in a manner that permits such departments and agencies to carry out appropriately their domestic security responsibilities.

(C) Whether or not the System is operating in a manner that maximizes its contribution to the domestic security of the United States.

(D) If a certification under subparagraph (A), (B), or (C) is in the negative, the modifications or enhancements of the System necessary to ensure a future certification in the positive.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

(h) Congressional Intelligence Committees Defined.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 314. ANNUAL REPORT ON FOREIGN COMPANIES INVOLVED IN THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION THAT RAISE FUNDS IN THE UNITED STATES CAPITAL MARKETS.

(a) Annual Report Required.—The Director of Central Intelligence shall submit to the appropriate committees of Congress on an annual basis a report setting forth each foreign company described in subsection (b) that raised or attempted to raise funds in the United States capital markets during the preceding year.

(b) Covered Foreign Companies.—A foreign company described in this subsection is any foreign company determined by the Director to be engaged or involved in the proliferation of weapons of mass destruction (including nuclear, biological, or chemical weapons) or the means to deliver such weapons.

(c) Submittal Dates.—(1) In the case of the appropriate committees of Congress referred to in paragraph (1) of subsection (e), the date each year for the submittal of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947, as added by section 401 of this Act.

(2) In the case of the appropriate committees of Congress referred to in paragraphs (2) and (3) of subsection (e), the date each year for the submittal of the report required by subsection (a) shall be February 1 of such year.

(d) Form of Reports.—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(e) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives;

(2) the Committees on Armed Services, Banking, Housing, and Urban Affairs, and Governmental Affairs of the Senate; and

(3) the Committees on Armed Services, Financial Services, and Government Reform of the House of Representatives.

SEC. 315. TWO-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

Section 2(i) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4 note) is amended—

(1) in subsection (f), by striking "September 30, 2003" and inserting "September 30, 2005"; and

(2) in subsection (i), by striking "in fiscal year 1998, 1999, 2000, 2001, 2002, or 2003" and inserting "in fiscal years 1998 through 2005".

SEC. 316. ADDITIONAL ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108; 115 Stat. 1401; 22 U.S.C. 7301 note) is amended by striking "October 1, 2002" and inserting "October 1, 2003".

TITLE IV—REPORTING REQUIREMENTS

Subtitle A—Submittal of Reports to Intelligence Committees

SEC. 401. DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMI-ANNUAL REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES.

(a) In General.—(1) Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 304 of this Act, is further amended by adding at the end the following new section:

"DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMI-ANNUAL REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES

"Sec. 507. (a) Annual Reports.—The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1):

"(1) The annual report on the assessment of the satisfaction of the intelligence community with the collection, analysis, and production of intelligence required by section 102(i).

"(2) The annual evaluation of the performance and responsiveness of certain elements of the intelligence community required by section 105(d).

"(3) The annual report on intelligence required by section 109.

"(4) The annual report on the detail of intelligence community personnel required by section 113.

"(5) The annual report on intelligence community cooperation with Federal law enforcement agencies required by section 114(a)(2).

"(6) The annual report on the safety and security of Russian nuclear facilities and nuclear military forces required by section 114(b).

"(7) The annual report on the threat of attack on the United States from weapons of mass destruction required by section 114(c).

"(8) The annual report on covert leases required by section 114(d).

"(9) The annual report on improvements of the financial statements of the intelligence community for auditing purposes required by section 114A.

"(10) The annual report on the protection of the identities of covert agents required by section 603.

"(11) The annual report on transfers of amounts for acquisition of land by the Central Intelligence Agency required by section 5(c)(2) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(c)(2)).

"(12) The annual audit of the Central Intelligence Agency central services program required by section 21(g) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u(g)).

"(13) The annual report on the use of National Security Agency personnel as special policemen required by section 11(a)(5) of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

"(14) The annual report of the Inspectors Generals of the intelligence community on proposed resources and activities of their offices required by section 8H(g) of the Inspector General Act of 1978.

"(15) The annual report on commercial activities as security for intelligence collection required by section 437(c) of title 10, United States Code.

"(16) The annual report on expenditures for postemployment assistance for terminated intelligence employees required by section 1611(e)(2) of title 10, United States Code.

"(17) The annual report on activities of personnel of the Federal Bureau of Investigation outside the United States required by section 540C(c)(2) of title 28, United States Code.

"(18) The annual update on foreign industrial espionage required by section 809(b) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 50 U.S.C. App. 2170b(b)).

"(19) The annual report on coordination of counterintelligence matters with the Federal Bureau of Investigation required by section 811(c)(6) of the Counterintelligence and Security Enhancements Act of 1994 (50 U.S.C. 402a(c)(6)).

"(20) The annual report on intelligence activities of the People's Republic of China required by section 308(c) of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 50 U.S.C. 402a note).

"(21) The annual report on enhancing protection of national security at the Department of Justice required by section 606(b)(2)(B) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106–567).

"(22) The annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets required by section 314 of the Intelligence Authorization Act for Fiscal Year 2003.

"(23) The annual report on counterdrug intelligence matters required by section 417 of the Intelligence Authorization Act for Fiscal Year 2003.

"(24) The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by section 1012(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291-4(c)(2)).

"(25) The annual report on exceptions to consumer disclosure requirements for national security investigations under section 604(b)(4)(E) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)(E)).

"(26) The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) required by section 806(a) of that Act (50 U.S.C. 1906(a)).

"(b) Semi-Annual Reports.—The dates for the submittal to the congressional intelligence committees of the following semi-annual reports shall be the dates each year provided in subsection (c)(2):

"(1) The periodic reports on intelligence provided to the United Nations required by section 112(b)(3).

"(2) The semiannual reports on the Office of the Inspector General of the Central Intelligence Agency required by section 17(d)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(1)).

"(3) The semiannual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (5 U.S.C. App.) as required by section 13(b) of that Act.

"(4) The semiannual reports on the acquisition of technology relating to weapons of mass destruction and advanced chemical munitions required by section 721(b) of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104–293; 50 U.S.C. 2366(b)).

"(5) The semiannual reports on the activities of the Diplomatic Telecommunications Service Program Office (DTS–PO) required by section 322(a)(6)(D)(ii) of the Intelligence Authorization Act for Fiscal Year 2001 (22 U.S.C. 7302(a)(6)(D)(ii)).

"(6) The semiannual reports on the disclosure of information and consumer reports to the Federal Bureau of Investigation for counterintelligence purposes required by section 624(h)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(2)).

"(7) The semiannual provision of information on requests for financial information for foreign counterintelligence purposes required by section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)).

"(c) Submittal Dates for Reports.—(1) Except as provided in subsection (d), each annual report listed in subsection (a) shall be submitted not later than February 1.

"(2) Except as provided in subsection (d), each semi-annual report listed in subsection (b) shall be submitted not later than February 1 and August 1.

"(d) Postponement of Submittal.—(1) Subject to paragraph (3), the date for the submittal of an annual report listed in subsection (a) may be postponed until March 1, or the date of the submittal of a semiannual report listed in subsection (b) may be postponed until March 1 or September 1, as the case may be, if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

"(2)(A) Notwithstanding any other provision of law and subject to paragraph (3), the date for the submittal to the congressional intelligence committees of any report described in subparagraph (B) may be postponed by not more than 30 days from the date otherwise specified in the provision of law for the submittal of such report if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

"(B) A report described in this subparagraph is any report on intelligence or intelligence-related activities of the United States Government that is submitted under a provision of law requiring the submittal of only a single report.

"(3)(A) The date for the submittal of a report whose submittal is postponed under paragraph (1) or (2) may be postponed beyond the time provided for the submittal of such report under such paragraph if the official required to submit such report submits to the congressional intelligence committees a written certification that preparation and submittal of such report at such time will impede the work of officers or employees of the intelligence community in a manner that will be detrimental to the national security of the United States.

"(B) A certification with respect to a report under subparagraph (A) shall include a proposed submittal date for such report, and such report shall be submitted not later than that date.

"(e) Construction.—The provisions of this section shall not affect the date for the submittal of any report covered by this section to a Member or committee of Congress other than the congressional intelligence committees, or to an official of the Executive branch.".

(2) The table of sections for the National Security Act of 1947, as amended by section 304 of this Act, is further amended by inserting after the item relating to section 506 the following new item:

"Sec. 507. Dates for submittal of various annual and semi-annual reports to the congressional intelligence committees.".

(b) Report of General Counsel of CIA on Efforts To Ensure Compliance With Reporting Deadlines.—(1) Not later than December 1, 2002, the General Counsel of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the efforts of the Office of the General Counsel of the Central Intelligence Agency to ensure compliance by the elements of the intelligence community with the requirements of section 507 of the National Security Act of 1947, as added by subsection (a).

(c) Conforming Amendments to Existing Reporting Requirements.—

(1) National security act of 1947.—(A) Subsection (d) of section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) is amended to read as follows:

"(d) Annual Evaluation of Performance and Responsiveness of Certain Elements of Intelligence Community.—(1) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees the evaluation described in paragraph (3).

"(2) The Director shall submit each year to the Committee on Foreign Intelligence of the National Security Council, and to the Committees on Armed Services and Appropriations of the Senate and House of Representatives, the evaluation described in paragraph (3).

"(3) An evaluation described in this paragraph is an evaluation of the performance and responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their respective national missions.

"(4) The Director shall submit each evaluation under this subsection in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.".

(B) Section 109 of that Act (50 U.S.C. 404d) is amended—

(i) in subsection (a), by striking paragraph (1) and inserting the following new paragraph (1):

"(1)(A) Not later each year than the date provided in section 507, the President shall submit to the congressional intelligence committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.

"(B) Not later than January 31 each year, and included with the budget of the President for the next fiscal year under section 1105(a) of title 31, United States Code, the President shall submit to the appropriate congressional committees the report described in subparagraph (A).";

(ii) in subsection (c), as amended by section 803(a) of the Intelligence Renewal and Reform Act of 1996 (title VIII of Public Law 104–293; 110 Stat. 3475)—

(I) in paragraph (1), by striking "The Select Committee on Intelligence of the Senate, the Committee on Appropriations," and inserting "The Committee on Appropriations"; and

(II) in paragraph (2), by striking "The Permanent Select Committee on Intelligence of the Senate, the Committee on Appropriations," and inserting "The Committee on Appropriations"; and

(iii) by striking subsection (c), as added by section 304(a) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103–178; 107 Stat. 2034).

(C) Section 112(b) of that Act (50 U.S.C. 404g(b)) is amended by adding at the end the following new paragraph:

"(3) In the case of periodic reports required to be submitted under the first sentence of paragraph (1) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507.".

(D) Section 113(c) of that Act (50 U.S.C. 404h(c)) is amended by striking "Not later than" and all that follows through "a report" and inserting "Not later each year than the date provided in section 507, the Director of Central Intelligence shall submit to the congressional intelligence committees an annual report".

(E) Section 114 of that Act (50 U.S.C. 404i) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "the congressional intelligence committees and";

(II) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(III) by inserting after paragraph (1) the following new paragraph (2):

"(2) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees the report required to be submitted under paragraph (1) during the preceding year.";

and

(ii) in subsection (b)(1), by striking ", on an annual basis" and all that follows through "leadership" and inserting "submit to the congressional leadership on an annual basis, and to the congressional intelligence committees on the date each year provided in section 507,".

(F) Section 603 of that Act (50 U.S.C. 423) is amended—

(i) in subsection (a), by adding at the end the following new sentence: "The date for the submittal of the report shall be the date provided in section 507."; and

(ii) in subsection (b), by striking the second sentence.

(2) Central intelligence agency act of 1949.—(A) Section 5(c)(2) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(c)(2)) is amended—

(i) by striking "The Director" and all that follows through "an annual" and inserting "Not later each year than the date provided in section 507 of the National Security Act of 1947, the Director shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a)) a"; and

(ii) by inserting "during the preceding year" after "paragraph (1)".

(B) Section 17(d)(1) of that Act (50 U.S.C. 403q(d)(1)) is amended in the second sentence by striking "Within thirty days of receipt of such reports," and inserting "Not later than the dates each year provided for the transmittal of such reports in section 507 of the National Security Act of 1947,".

(C) Section 21(g) of that Act (50 U.S.C. 403u(g)) is amended by striking paragraph (3) and inserting the following new paragraphs:

"(3) Not later than 30 days after the completion of an audit under paragraph (1), the Inspector General shall submit a copy of the audit to the Director of the Office of Management and Budget and the Director of Central Intelligence.

"(4) Not later each year than the date provided in section 507 of the National Security Act of 1947, the Inspector General shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a)) a copy of the audit completed under paragraph (1) during the preceding year.".

(3) National security agency act of 1959.—Section 11(a)(5) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking "Not later than" and all that follows through "the Senate" and inserting "Not later each year than the date provided in section 507 of the National Security Act of 1947, the Director shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a)) a report".

(4) Classified information procedures act.—Section 13 of the Classified Information Procedures Act (5 U.S.C. App.) is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection (b):

"(b) In the case of the semiannual reports (whether oral or written) required to be submitted under subsection (a) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.".

(5) TITLE 10, UNITED STATES CODE.—(A) Section 437 of title 10, United States Code, is amended—

(i) in subsection (c), by striking "Not later than" and all that follows through "of Congress" and inserting "Not later each year than the date provided in section 507 of the National Security Act of 1947, the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))"; and

(ii) by striking subsection (d).

(B) Section 1611(e) of that title is amended—

(i) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";

(ii) by redesignating paragraph (2) as paragraph (3); and

(iii) by inserting after paragraph (1) the following new paragraph (2):

"(2) In the case of a report required to be submitted under paragraph (1) to the Permanent Select Committee on Intelligence of the Senate and the Select Committee on Intelligence of the House of Representatives, the date for the submittal of such report shall be as provided in section 507 of the National Security Act of 1947.".

(6) INTELLIGENCE AUTHORIZATION ACTS.—(A) Section 809 of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 108 Stat. 3454; 50 U.S.C. 2170b) is amended—

(i) by striking subsection (b) and inserting the following new subsection (b):

"(b) ANNUAL UPDATE.—

"(1) SUBMITTAL TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—Not later each year than the date provided in section 507 of the National Security Act of 1947, the President shall submit to the congressional intelligence committees a report updating the information referred to in subsection (a)(1)(D).

"(2) SUBMITTAL TO CONGRESSIONAL LEADERSHIP.—Not later than April 14 each year, the President shall submit to the congressional leadership a report updating the information referred to in subsection (a)(1)(D).

"(3) DEFINITIONS.—In this subsection:

"(A) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

"(B) CONGRESSIONAL LEADERSHIP.—The term 'congressional leadership' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate."; and

(ii) by redesignating subsection (e) as subsection (d).

(B) Paragraph (6) of section 811(c) of that Act (50 U.S.C. 402a(c)) is amended to read as follows:

"(6)(A) Not later each year than the date provided in section 507 of the National Security Act of 1947, the Director of the Federal Bureau of Investigation shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a)) a report with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

"(B) Not later than February 1 each year, the Director shall, in accordance with applicable security procedures, submit to the Committees on the Judiciary of the Senate and House of Representatives a report with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

"(C) The Director of the Federal Bureau of Investigation shall submit each report under this paragraph in consultation with the Director of Central Intelligence and the Secretary of Defense.".

(C) Section 721 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104–293; 110 Stat. 3474; 50 U.S.C. 236) is amended—

(i) in subsection (a), by striking "Not later than" and all that follows through "the Director" and inserting "The Director";

(ii) by redesignating subsection (b) as subsection (c);

(iii) by inserting after subsection (a) the following new subsection (b):

"(b) SUBMITTAL DATES.—(1) The report required by subsection (a) shall be submitted each year to the congressional intelligence committees on a semiannual basis on the dates provided in section 507 of the National Security Act of 1947.

"(2) The report required by subsection (a) shall be submitted each year to the congressional leadership on April 11 and October 11 of such year.

"(3) In this subsection:

"(A) The term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

"(B) The term 'congressional leadership' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate."; and

(iv) in subsection (c), as so redesignated, by striking "The reports" and inserting "Each report".

(D) Section 308 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 111 Stat. 2253; 50 U.S.C. 402a note) is amended—

(i) in subsection (a)—

(I) by striking "Not later than" and all that follows through "the Director of Central Intelligence" and inserting "The Director of Central Intelligence"; and

(II) by inserting "on an annual basis" after "to Congress"; and

(ii) by adding at the end the following new subsection (c):

"(c) SUBMITTAL DATE OF REPORT TO LEADERSHIP OF CONGRESSIONAL INTELLIGENCE COMMITTEES.—The date each year for the submittal to the Chairman and Ranking Member of the Permanent Select Committee on Intelligence of the House of Representatives and the Chairman and Ranking Member of the Select Committee on Intelligence of the Senate of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947.".

(E) Section 322(a)(6)(D) of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 105–567; 114 Stat. 2844; 22 U.S.C. 7302(a)(6)(D)) is amended—

(i) in clause (i), by striking "Beginning on" and inserting "Except as provided in clause (ii), beginning on";

(ii) by redesignating clause (ii) as clause (iii);

(iii) by inserting after clause (i) the following new clause (ii):

"(ii) SUBMITTAL DATE OF REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of reports required to be submitted under clause (i) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal dates for such reports shall be as provided in section 507 of that Act."; and

(iv) in clause (iii), as so redesignated, by striking "report" and inserting "reports".

(F) Section 606(b)(2) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106–567; 114 Stat. 2854) is amended—

(i) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraph (C)";

(ii) by redesignating subparagraph (B) as subparagraph (C); and

(iii) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) In the case of a report required to be submitted under subparagraph (A) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal date for such report shall be as provided in section 507 of that Act.".

(7) PUBLIC LAW 103–337.—Section 1012(c) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291–4(c)) is amended—

(A) in paragraph (1), by striking "Not later than" and inserting "Except as provided in paragraph (2), not later than";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph (2):

"(2) In the case of a report required to be submitted under paragraph (1) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal date for such report shall be as provided in section 507 of that Act.".

(8) DAVID L. BOREN NATIONAL SECURITY EDUCATION ACT OF 1991.—The David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) is amended—

(A) in section 806(a) (50 U.S.C. 1906(a))—

(i) by inserting "(1)" before "The Secretary";

(ii) in paragraph (1), as so designated, by striking "the Congress" and inserting "the congressional intelligence committees";

(iii) by designating the second sentence as paragraph (2) and indenting the left margin of such paragraph, as so designated, two ems;

(iv) in paragraph (2), as so designated, by inserting "submitted to the President" after "The report"; and

(v) by adding at the end the following new paragraph (3):

"(3) The report submitted to the congressional intelligence committees shall be submitted on the date provided in section 507 of the National Security Act of 1947."; and

(B) in section 808 (50 U.S.C. 1908), by adding at the end the following new paragraph (5):

"(5) The term 'congressional intelligence committees' means—

"(A) the Select Committee on Intelligence of the Senate; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives.".

(9) FAIR CREDIT REPORTING ACT.—(A) Section 604(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)) is amended—

(i) in subparagraph (D), by striking "Not later than" and inserting "Except as provided in subparagraph (E), not later than";

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph (E):

"(E) REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of a report to be submitted under subparagraph (D) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal date for such report shall be as provided in section 507 of that Act.".

(B) Section 624(h) of that Act (15 U.S.C. 1681u(h)) is amended—

(i) by inserting "(1)" before "On a semiannual basis,"; and

(ii) by adding at the end the following new paragraph:

"(2) In the case of the semiannual reports required to be submitted under paragraph (1) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.".

(10) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended by striking "On a semiannual" and all that follows through "the Senate" and inserting "On the dates provided in section 507 of the National Security Act of 1947, the Attorney General shall fully inform the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))".

Subtitle B—Recurring Annual Reports

SEC. 411. ANNUAL ASSESSMENT OF SATISFACTION OF INTELLIGENCE COMMUNITY WITH COLLECTION, ANALYSIS, AND PRODUCTION OF INTELLIGENCE.

Section 102 of the National Security Act of 1947 (50 U.S.C. 403) is amended by adding at the end the following new subsection:

"(i) ANNUAL ASSESSMENT OF SATISFACTION OF INTELLIGENCE COMMUNITY WITH COLLECTION, ANALYSIS, AND PRODUCTION OF INTELLIGENCE.—(1) The Assistant Director of Central Intelligence for Collection and the Assistant Director of Central Intelligence for Analysis and Production shall conduct each year a comprehensive review of the satisfaction of the elements of the intelligence community with the collection, analysis, and production of intelligence during the preceding year.

"(2) Each review for a year under paragraph (1) shall include—

"(A) an evaluation of the effectiveness of the intelligence collection, analysis, and production programs of the intelligence community in such year in meeting the requirements of the intelligence community for intelligence, including whether or not gaps exist in such programs; and

"(B) an assessment of the allocation of resources for the collection, analysis, and production of intelligence in such year to determine whether or not an alternative allocation of such resources would better meet the requirements of the intelligence community for intelligence.

"(3) The Assistant Directors shall jointly submit to the Director of Central Intelligence a report on each review conducted under paragraph (1). Each report shall—

"(A) set forth the results of the evaluation and assessment under paragraph (2);

"(B) describe any significant successes or failures in the collection, analysis, or production of intelligence in the year covered by such report; and

"(C) include any recommendations regarding the collection, analysis, or production of intelligence that the Assistant Directors consider appropriate.

"(4) The Director of Central Intelligence shall transmit to the congressional intelligence committees each report submitted under paragraph (3). The Director shall include in the transmittal of such report any comments and recommendations regarding such report that the Director considers appropriate.

"(5) The submittal date for a report under paragraph (4) each year shall be the date provided in section 507.".

SEC. 412. ANNUAL REPORT ON THREAT OF ATTACK ON THE UNITED STATES USING WEAPONS OF MASS DESTRUCTION.

Section 114 of the National Security Act of 1947, as amended by section 303(b)(6) of this Act, is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ANNUAL REPORT ON THREAT OF ATTACK ON THE UNITED STATES USING WEAPONS OF MASS DESTRUCTION.—(1) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees a report assessing the following:

"(A) The current threat of attack on the United States using ballistic missiles or cruise missiles.

"(B) The current threat of attack on the United States using a chemical, biological, or nuclear weapon delivered by a system other than a ballistic missile or cruise missile.

"(2) Each report under paragraph (1) shall be a national intelligence estimate, or have the formality of a national intelligence estimate.".

SEC. 413. ANNUAL REPORT ON COVERT LEASES.

Section 114 of the National Security Act of 1947, as amended by section 412 of this Act, is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ANNUAL REPORT ON COVERT LEASES.—(1) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees a report on each covert lease of an element of the intelligence community that is in force as of the end of the preceding year.

"(2) Each report under paragraph (1) shall include the following:

"(A) A list of each lease described by that paragraph.

"(B) For each lease—

"(i) the cost of such lease;

"(ii) the duration of such lease;

"(iii) the purpose of such lease; and

"(iv) the directorate or office that controls such lease.".

SEC. 414. ANNUAL REPORT ON IMPROVEMENT OF FINANCIAL STATEMENTS OF CERTAIN ELEMENTS OF THE INTELLIGENCE COMMUNITY FOR AUDITING PURPOSES.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 114 the following new section:

"ANNUAL REPORT ON IMPROVEMENT OF FINANCIAL STATEMENTS FOR AUDITING PURPOSES

"SEC. 114A. Not later each year than the date provided in section 507, the Director of Central Intelligence, Director of the National Security Agency, Director of the Defense Intelligence Agency, and Director of the National Imagery and Mapping Agency shall each submit to the congressional intelligence committees a report describing the activities being undertaken by such official to ensure that the financial statements of such agency can be audited in accordance with applicable law and requirements of the Office of Management and Budget.".

(b) CLERICAL AMENDMENT.—The table of sections for the National Security Act of 1947 is amended by inserting after the item relating to section 114 the following new item:

"Sec. 114A. Annual report on improvement of financial statements for auditing purposes.".

SEC. 415. ANNUAL REPORT ON ACTIVITIES OF FEDERAL BUREAU OF INVESTIGATION PERSONNEL OUTSIDE THE UNITED STATES.

(a) ANNUAL REPORT.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 540C. Annual report on activities of Federal Bureau of Investigation personnel outside the United States

"(a) The Director of the Federal Bureau of Investigation shall submit to the appropriate committees of Congress each year a report on the activities of personnel of the Federal Bureau of Investigation outside the United States.

"(b) The report under subsection (a) shall include the following:

"(1) For the year preceding the year in which the report is required to be submitted—

"(A) the number of personnel of the Bureau posted or detailed outside the United States during the year;

"(B) a description of the coordination of the investigations, asset handling, liaison, and operational activities of the Bureau during the year with other elements of the intelligence community; and

"(C) a description of the extent to which information derived from activities described in subparagraph (B) was shared with other elements of the intelligence community.

"(2) For the year in which the report is required to be submitted—

"(A) a description of the plans, if any, of the Director—

"(i) to modify the number of personnel of the Bureau posted or detailed outside the United States; or

"(ii) to modify the scope of the activities of personnel of the Bureau posted or detailed outside the United States; and

"(B) a description of the manner and extent to which information derived from activities of the Bureau described in paragraph (1)(B) during the year will be shared with other elements of the intelligence community.

"(c)(1) In the case of the committees of Congress specified in subsection (d)(1), the date of the submittal each year of the report required by subsection (a) shall be February 1 of such year.

"(2) In the case of the committees of Congress specified in subsection (d)(2), the date of the submittal each year of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947.

"(d) In this section, the term 'appropriate committees of Congress' means—

"(1) the Committees on the Judiciary of the Senate and House of Representatives; and

"(2) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of that title is amended by inserting after the item relating to section 540B the following new item:

"540C. Annual report on activities of Federal Bureau of Investigation personnel outside the United States.".

SEC. 416. ANNUAL REPORTS OF INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY ON PROPOSED RESOURCES AND ACTIVITIES OF THEIR OFFICES.

Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (f), by striking "this section" and inserting "subsections (a) through (e)";

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection (g):

"(g)(1) The Inspector General of the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the National Security Agency shall each submit to the congressional intelligence committees each year a report that sets forth the following:

"(A) The personnel and funds requested by such Inspector General for the fiscal year beginning in such year for the activities of the office of such Inspector General in such fiscal year.

"(B) The plan of such Inspector General for such activities, including the programs and activities scheduled for review by the office of such Inspector General during such fiscal year.

"(C) An assessment of the current ability of such Inspector General to hire and retain qualified personnel for the office of such Inspector General.

"(D) Any matters that such Inspector General considers appropriate regarding the independence and effectiveness of the office of such Inspector General.

"(2) The submittal date for a report under paragraph (1) each year shall be the date provided in section 507 of the National Security Act of 1947.

"(3) In this subsection, the term 'congressional intelligence committees' shall have the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).".

SEC. 417. ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS.

(a) ANNUAL REPORT.—The Counterdrug Intelligence Coordinating Group shall submit to the appropriate committees of Congress each year a report on current counterdrug intelligence matters. The report shall include the recommendations of the Counterdrug Intelligence Coordinating Group on the appropriate number of permanent staff, and of detailed personnel, for the staff of the Counterdrug Intelligence Executive Secretariat.

(b) SUBMITTAL DATE.—(1) In the case of the committees of Congress specified in subsection (c)(1), the date of the submittal each year of the report required by subsection (a) shall be February 1 of such year.

(2) In the case of the committees of Congress specified in subsection (c)(2), the date of the submittal each year of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947, as added by section 401 of this Act.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Appropriations of the Senate and House of Representatives; and

(2) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).

Subtitle C—Other Reports

SEC. 431. REPORT ON EFFECT OF COUNTRY-RELEASE RESTRICTIONS ON ALLIED INTELLIGENCE-SHARING RELATIONSHIPS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence shall, in consultation with the Secretary of Defense, submit to the congressional intelligence committees a report containing an assessment of the effect of the use of "NOFORN" classifications, and of other country-release policies, procedures, and classification restrictions, on intelligence-sharing relationships and coordinated intelligence operations and military operations between the United States and its allies. The report shall include an assessment of the effect of the use of such classifications, and of such policies, procedures, and restrictions, on counterterrorism operations in Afghanistan and elsewhere.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committee" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 432. EVALUATION OF POLICIES AND PROCEDURES OF DEPARTMENT OF STATE ON PROTECTION OF CLASSIFIED INFORMATION AT DEPARTMENT HEADQUARTERS.

(a) EVALUATION REQUIRED.—Not later than December 31 of 2002, 2003, and 2004, the Inspector General of the Department of State shall conduct an evaluation of the policies and procedures of the Department on the protection of classified information at the Headquarters of the Department, including compliance with the directives of the Director of Central Intelligence (DCIDs) regarding the storage and handling of Sensitive Compartmented Information (SCI) material.

(b) ANNUAL REPORT.—Except as provided in subsection (c), not later than February 1 of 2003, 2004, and 2005, the Inspector General shall submit to the congressional intelligence committees a report on the evaluation conducted under subsection (a) during the preceding year.

(c) EXCEPTION.—The date each year for the submittal of a report under subsection (b) may be postponed in accordance with section 507(d) of the National Security Act of 1947, as added by section 401 of this Act.

(d) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 433. STUDY OF DEPARTMENT OF STATE CONSULAR SERVICES.

(a) SENSE OF CONGRESS.—Congress compliments the officers of the Consular Service on the important role they perform daily, many times under difficult conditions, at United States embassies throughout the world. However, Congress is concerned that Consular Service officers, who provide the first line of defense against the admission of undesirable persons into the United States, are entry-level personnel and rotate out of Consular Service assignments as soon as possible.

(b) STUDY.—The Secretary of State shall conduct a study of—

(1) the Consular Services program of the Department of State and the organizational structure of the Consular Service within the Department, including promotion and training policies, rotation frequency, level of experience and seniority, level of oversight provided by senior Consular Service personnel, and consistency of consular services provided among the various United States embassies and consulates; and

(2) the feasibility of establishing a separate employment track within the Department of State for employees who would serve in the Consular Service on a permanent basis and not rotate out of Consular Service assignments.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report containing the findings of the study conducted under subsection (b).

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate; and

(2) the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

Subtitle D—Repeal of Certain Report Requirements

SEC. 441. REPEAL OF CERTAIN REPORT REQUIREMENTS.

(a) ANNUAL REPORT ON EXERCISE OF NATIONAL SECURITY AGENCY VOLUNTARY SEPARATION PAY AUTHORITY.—Section 301(j) of the National Security Act of 1947 (50 U.S.C. 409a(j)), as amended by section 303(b)(2)(B) of this Act, is further amended—

(1) by striking "REPORTING REQUIREMENTS.—" and all that follows through "The Director" and inserting "NOTIFICATION OF EXERCISE OF AUTHORITY.—The Director"; and

(2) by striking paragraph (2).

(b) ANNUAL REPORT ON USE OF CIA PERSONNEL AS SPECIAL POLICEMEN.—Section 15(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o(a)) is amended by striking paragraph (5).

TITLE V—COUNTERINTELLIGENCE ACTIVITIES

SEC. 501. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Counterintelligence Enhancement Act of 2002".

(b) PURPOSE.—The purpose of this title is to facilitate the enhancement of the counterintelligence activities of the United States Government by—

(1) enabling the counterintelligence community of the United States Government to fulfill better its mission of identifying, assessing, prioritizing, and countering the intelligence threats to the United States;

(2) ensuring that the counterintelligence community of the United States Government acts in an efficient and effective manner; and

(3) providing for the integration of all the counterintelligence activities of the United States Government.

SEC. 502. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) ESTABLISHMENT.—(1) There shall be a National Counterintelligence Executive, who shall be appointed by the President.

(2) It is the sense of Congress that the President should seek the views of the Attorney General, Secretary of Defense, and Director of Central Intelligence in selecting an individual for appointment as the Executive.

(b) MISSION.—The mission of the National Counterintelligence Executive shall be to serve as the head of national counterintelligence for the United States Government.

(c) DUTIES.—Subject to the direction and control of the President, the duties of the National Counterintelligence Executive are as follows:

(1) To carry out the mission referred to in subsection (c).

(2) To act as chairperson of the National Counterintelligence Policy Board under section 811 of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103-359; 50 U.S.C. 402a), as amended by section 503 of this Act.

(3) To act as head of the Office of the National Counterintelligence Executive under section 504.

(4) To participate as an observer on such boards, committees, and entities of the Executive branch as the President considers appropriate for the discharge of the mission and functions of the Executive and the Office of the National Counterintelligence Executive under section 504.

SEC. 503. NATIONAL COUNTERINTELLIGENCE POLICY BOARD.

(a) CHAIRPERSON.—Section 811 of the Counterintelligence and Security Enhancements Act of 1994 (title VII of Public Law 103-359; 50 U.S.C. 402a) is amended—

(1) by striking subsection (b);

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) CHAIRPERSON.—The National Counterintelligence Executive under section 502 of the Counterintelligence Enhancement Act of 2002 shall serve as the chairperson of the Board.".

(b) MEMBERSHIP.—That section is further amended by inserting after subsection (b), as amended by subsection (a)(3) of this section, the following new subsection (c):

"(c) MEMBERSHIP.—The membership of the National Counterintelligence Policy Board shall consist of the following:

"(1) The National Counterintelligence Executive.

"(2) Senior personnel of departments and elements of the United States Government, appointed by the head of the department or element concerned, as follows:

"(A) The Department of Justice, including the Federal Bureau of Investigation.

"(B) The Department of Defense, including the Joint Chiefs of Staff.

"(C) The Department of State.

"(D) The Department of Energy.

"(E) The Central Intelligence Agency.

"(F) Any other department, agency, or element of the United States Government specified by the President.".

(c) FUNCTIONS AND DISCHARGE OF FUNCTIONS.—That section is further amended by inserting after subsection (c), as amended by subsection (b) of this section, the following new subsection:

"(d) FUNCTIONS AND DISCHARGE OF FUNCTIONS.—(1) The Board shall—

"(A) serve as the principal mechanism for—

"(i) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

"(ii) upon the direction of the President, resolving conflicts that arise between elements of the Government conducting such activities; and

"(B) act as an interagency working group to—

"(i) ensure the discussion and review of matters relating to the implementation of the Counterintelligence Enhancement Act of 2002; and

"(ii) provide advice to the National Counterintelligence Executive on priorities in the implementation of the National Counterintelligence Strategy produced by the Office of the National Counterintelligence Executive under section 504(e)(2) of that Act.

"(2) The Board may, for purposes of carrying out its functions under this section, establish such interagency boards and working groups as the Board considers appropriate.".

SEC. 504. OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) ESTABLISHMENT.—There shall be an Office of the National Counterintelligence Executive.

(b) HEAD OF OFFICE.—The National Counterintelligence Executive shall be the head of the Office of the National Counterintelligence Executive.

(c) LOCATION OF OFFICE.—The Office of the National Counterintelligence Executive shall be located in the Executive Office of the President.

(d) GENERAL COUNSEL.—(1) There shall be in the Office of the National Counterintelligence Executive a general counsel who shall serve as principal legal advisor to the National Counterintelligence Executive.

(2) The general counsel shall—

(A) provide legal advice and counsel to the Executive on matters relating to functions of the Office;

(B) ensure that the Office complies with all applicable laws, regulations, Executive orders, and guidelines; and

(C) carry out such other duties as the Executive may specify.

(e) FUNCTIONS.—Subject to the direction and control of the National Counterintelligence Executive, the functions of the Office of the National Counterintelligence Executive shall be as follows:

(1) NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT.—Subject to subsection (f), in consultation with appropriate department and agencies of the United States Government, and private sector entities, to produce on an annual basis a strategic planning assessment of the counterintelligence requirements of the United States to be known as the National Threat Identification and Prioritization Assessment.

(2) NATIONAL COUNTERINTELLIGENCE STRATEGY.—Subject to subsection (f), in consultation with appropriate department and agencies of the United States Government, and private sector entities, and based on the most current National Threat Identification and Prioritization Assessment under paragraph (1), to produce on an annual basis a strategy for the counterintelligence programs and activities of the United States Government to be known as the National Counterintelligence Strategy.

(3) IMPLEMENTATION OF NATIONAL COUNTERINTELLIGENCE STRATEGY.—To evaluate on an on-going basis the implementation of the National Counterintelligence Strategy and to submit to the President periodic reports on such evaluation, including a discussion of any shortfalls in the implementation of the Strategy and recommendations for remedies for such shortfalls.

(4) NATIONAL COUNTERINTELLIGENCE STRATEGIC ANALYSES.—As directed by the Director of Central Intelligence and in consultation with appropriate elements of the departments and agencies of the United States Government, to oversee and coordinate the production of strategic analyses of counterintelligence matters, including the production of counterintelligence damage assessments and assessments of lessons learned from counterintelligence activities.

(5) NATIONAL COUNTERINTELLIGENCE PROGRAM BUDGET.—In consultation with the Director of Central Intelligence—

(A) to coordinate the development of budgets and resource allocation plans for the counterintelligence programs and activities of the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and other appropriate elements of the United States Government;

(B) to ensure that the budgets and resource allocations plans developed under subparagraph (A) address the objectives and priorities for counterintelligence under the National Counterintelligence Strategy; and

(C) to submit to the National Security Council periodic reports on the activities undertaken by the Office under subparagraphs (A) and (B).

(6) NATIONAL COUNTERINTELLIGENCE COLLECTION AND TARGETING COORDINATION.—To develop priorities for counterintelligence investigations and operations, and for collection of counterintelligence, for purposes of the National Counterintelligence Strategy, except that the Office may not—

(A) carry out any counterintelligence investigations or operations; or

(B) establish its own contacts, or carry out its own activities, with foreign intelligence services.

(7) NATIONAL COUNTERINTELLIGENCE OUTREACH, WATCH, AND WARNING.—

(A) COUNTERINTELLIGENCE VULNERABILITY SURVEYS.—To carry out and coordinate surveys of the vulnerability of the United States Government, and the private sector, to intelligence threats in order to identify the areas, programs, and activities that require protection from such threats.

(B) OUTREACH.—To carry out and coordinate outreach programs and activities on counterintelligence to other elements of the United States Government, and the private sector, and to coordinate the dissemination to the public of warnings on intelligence threats to the United States.

(C) RESEARCH AND DEVELOPMENT.—To ensure that research and development programs and activities of the United States Government, and the private sector, direct attention to the needs of the counterintelligence community for technologies, products, and services.

(D) TRAINING AND PROFESSIONAL DEVELOPMENT.—To develop policies and standards for training and professional development of individuals engaged in counterintelligence activities and to manage the conduct of joint training exercises for such personnel.

(f) ADDITIONAL REQUIREMENTS REGARDING NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT AND NATIONAL COUNTERINTELLIGENCE STRATEGY.—(1) A National Threat Identification and Prioritization Assessment under subsection (e)(1), and any modification of such assessment, shall not go into effect until approved by the President.

(2) A National Counterintelligence Strategy under subsection (e)(2), and any modification of such strategy, shall not go into effect until approved by the President.

(3) The National Counterintelligence Executive shall submit to the congressional intelligence committees each National Threat Identification and Prioritization Assessment, or modification thereof, and each National Counterintelligence Strategy, or

modification thereof, approved under this section.

(4) In this subsection, the term "congressional intelligence committees" means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(g) PERSONNEL.—(1) Personnel of the Office of the National Counterintelligence Executive may consist of personnel employed by the Office or personnel on detail from any other department, agency, or element of the Federal Government. Any such detail may be on a reimbursable or non-reimbursable basis, at the election of the head of the agency detailing such personnel.

(2) Notwithstanding section 104(d) or any other provision of law limiting the period of the detail of personnel on a non-reimbursable basis, the detail of an officer or employee of United States or a member of the Armed Forces under paragraph (1) on a non-reimbursable basis may be for any period in excess of one year that the National Counterintelligence Executive and the head of the department, agency, or element concerned consider appropriate.

(3) The employment of personnel by the Office, including the appointment, compensation and benefits, management, and separation of such personnel, shall be governed by the provisions of law on such matters with respect to the personnel of the Central Intelligence Agency, except that, for purposes of the applicability of such provisions of law to personnel of the Office, the National Counterintelligence Executive shall be treated as the head of the Office.

(4) Positions in the Office shall be excepted service positions for purposes of title 5, United States Code.

(h) SUPPORT.—(1) The Attorney General, Secretary of Defense, and Director of Central Intelligence may each provide the Office of the National Counterintelligence Executive such support as may be necessary to permit the Office to carry out its functions under this section.

(2) Subject to any terms and conditions specified by the Director of Central Intelligence, the Director may provide administrative and contract support to the Office as if the Office were an element of the Central Intelligence Agency.

(3) Support provided under this subsection may be provided on a reimbursable or non-reimbursable basis, at the election of the official providing such support.

(i) AVAILABILITY OF FUNDS FOR REIMBURSEMENT.—The National Counterintelligence Executive may, from amounts available for the Office, transfer to a department or agency detailing personnel under subsection (g), or providing support under subsection (h), on a reimbursable basis amounts appropriate to reimburse such department or agency for the detail of such personnel or the provision of such support, as the case may be.

(j) CONTRACTS.—(1) Subject to paragraph (2), the National Counterintelligence Executive may enter into any contract, lease, cooperative agreement, or other transaction that the Executive considers appropriate to carry out the functions of the Office of the National Counterintelligence Executive under this section.

(2) The authority under paragraph (1) to enter into contracts, leases, cooperative agreements, and other transactions shall be subject to any terms, conditions, and limitations applicable to the Central Intelligence Agency under law with respect to similar contracts, leases, cooperative agreements, and other transactions.

(k) TREATMENT OF ACTIVITIES UNDER CERTAIN ADMINISTRATIVE LAWS.—(1) The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Office of the National Counterintelligence Executive.

(2) The files of the Office shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 431) to the extent such files meet criteria under subsection (b) of that section for treatment of files as operational files of an element of the Agency.

(l) OVERSIGHT BY CONGRESS.—The location of the Office of the National Counterintelligence Executive within the Executive Office of the President shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) any information, document, record, or paper in the possession of the Office; or

(2) any personnel of the Office.

(m) DESIGNATION OF OFFICE AS ELEMENT OF INTELLIGENCE COMMUNITY.—Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended—

(1) in subparagraph (I), by striking "and" at the end;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph (J):

"(J) the Office of the National Counterintelligence Executive; and".

TITLE VI—NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. 601. FINDINGS.

Congress makes the following findings:

(1) Research and development efforts under the purview of the intelligence community are vitally important to the national security of the United States.

(2) The intelligence community must operate in a dynamic, highly-challenging environment, characterized by rapid technological growth, against a growing number of hostile, technically-sophisticated threats. Research and development programs under the purview of the intelligence community are critical to ensuring that intelligence agencies, and their personnel, are provided with important technological capabilities to detect, characterize, assess, and ultimately counter the full range of threats to the national security of the United States.

(3) There is a need to review the full range of current research and development programs under the purview of the intelligence community, evaluate such programs against the scientific and technological fields judged to be of most importance, and articulate program and resource priorities for future research and development activities to ensure a unified and coherent research and development program across the entire intelligence community.

SEC. 602. NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission for the Review of the Research and Development Programs of the United States Intelligence Community" (in this title referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of 12 members, as follows:

(1) The Deputy Director of Central Intelligence for Community Management.

(2) A senior intelligence official of the Office of the Secretary of Defense, as designated by the Secretary of Defense.

(3) Three members appointed by the Majority Leader of the Senate, in consultation with the Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and two from private life.

(4) Two members appointed by the Minority Leader of the Senate, in consultation with the Vice Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and one from private life.

(5) Three members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and two from private life.

(6) Two members appointed by the Minority Leader of the House of Representatives, in consultation with the ranking member of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and one from private life.

(c) MEMBERSHIP.—(1) The individuals appointed from private life as members of the Commission shall be individuals who are nationally recognized for expertise, knowledge, or experience in—

(A) research and development programs;

(B) technology discovery and insertion;

(C) use of intelligence information by national policymakers and military leaders; or

(D) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member of the Commission if, in the judgment of the official, such individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(3) All members of the Commission appointed from private life shall possess an appropriate security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(d) CO-CHAIRS.—(1) The Commission shall have two co-chairs, selected from among the members of the Commission.

(2) One co-chair of the Commission shall be a member of the Democratic Party, and one co-chair shall be a member of the Republican Party.

(3) The individuals who serve as the co-chairs of the Commission shall be jointly agreed upon by the President, the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

(e) APPOINTMENT; INITIAL MEETING.—(1) Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act.

(2) The Commission shall hold its initial meeting on the date that is 60 days after the date of the enactment of this Act.

(f) MEETINGS; QUORUM; VACANCIES.—(1) After its initial meeting, the Commission shall meet upon the call of the co-chairs of the Commission.

(2) Six members of the Commission shall constitute a quorum for purposes of conducting business, except that two members of the Commission shall constitute a quorum for purposes of receiving testimony.

(3) Any vacancy in the Commission shall not affect its powers, but shall be filled in

the same manner in which the original appointment was made.

(4) If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this Act, a quorum shall consist of a majority of the members of the Commission as of such day.

(g) Actions of Commission.—(1) The Commission shall act by resolution agreed to by a majority of the members of the Commission voting and present.

(2) The Commission may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this title. The actions of any such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(3) Any member, agent, or staff of the Commission may, if authorized by the co-chairs of the Commission, take any action which the Commission is authorized to take pursuant to this title.

(h) Duties.—The duties of the Commission shall be—

(1) to conduct, until not later than the date on which the Commission submits the report under section 607(a), the review described in subsection (i); and

(2) to submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report on the results of the review.

(i) Review.—The Commission shall review the status of research and development programs and activities within the intelligence community, including—

(1) an assessment of the advisability of modifying the scope of research and development for purposes of such programs and activities;

(2) a review of the particular individual research and development activities under such programs;

(3) an evaluation of the current allocation of resources for research and development, including whether the allocation of such resources for that purpose should be modified;

(4) an identification of the scientific and technological fields judged to be of most importance to the intelligence community;

(5) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and development programs and activities of other departments and agencies of the Federal Government; and

(6) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and development programs and activities of the private sector.

SEC. 603. POWERS OF COMMISSION.

(a) In General.—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member considers necessary.

(2) Subpoenas may be issued under subparagraph (1)(B) under the signature of the co-chairs of the Commission, and may be served by any person designated by such co-chairs.

(3) The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of a witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) Contracting.—The Commission may, to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) Information From Federal Agencies.—The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, bureau, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the co-chairs of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.

(d) Assistance From Federal Agencies.—(1) The Director of Central Intelligence shall provide to the Commission, on a nonreimbursable basis, such administrative services, funds, staff, facilities, and other support services as are necessary for the performance of the Commission's duties under this title.

(2) The Secretary of Defense may provide the Commission, on a nonreimbursable basis, with such administrative services, staff, and other support services as the Commission may request.

(3) In addition to the assistance set forth in paragraphs (1) and (2), other departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support as such departments and agencies consider advisable and as may be authorized by law.

(4) The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this title, including the provision of full and current briefings and analyses.

(e) Prohibition on Withholding Information.—No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.

(f) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(g) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this title.

SEC. 604. STAFF OF COMMISSION.

(a) In General.—(1) The co-chairs of the Commission, in accordance with rules agreed upon by the Commission, shall appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III or chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of such title.

(2) Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(b) Consultant Services.—(1) The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(2) All experts and consultants employed by the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

SEC. 605. COMPENSATION AND TRAVEL EXPENSES.

(a) Compensation.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission under this title.

(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay by reason of their service on the Commission.

(b) Travel Expenses.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 606. TREATMENT OF INFORMATION RELATING TO NATIONAL SECURITY.

(a) In General.—(1) The Director of Central Intelligence shall assume responsibility for the handling and disposition of any information related to the national security of the United States that is received, considered, or used by the Commission under this title.

(2) Any information related to the national security of the United States that is provided to the Commission by a congressional intelligence committee may not be further provided or released without the approval of the chairman of such committee.

(b) Access After Termination of Commission.—Notwithstanding any other provision of law, after the termination of the Commission under section 607, only the Members and designated staff of the congressional intelligence committees, the Director of Central Intelligence (and the designees of the Director), and such other officials of the executive branch as the President may designate shall have access to information related to the national security of the United States that is received, considered, or used by the Commission.

SEC. 607. FINAL REPORT; TERMINATION.

(a) FINAL REPORT.—Not later than September 1, 2003, the Commission shall submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report as required by section 602(h)(2).

(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate at the end of the 120-day period beginning on the date on which the final report under subsection (a) is transmitted to the congressional intelligence committees.

(2) The Commission may use the 120-day period referred to in paragraph (1) for the purposes of concluding its activities, including providing testimony to Congress concerning the final report referred to in that paragraph and disseminating the report.

SEC. 608. ASSESSMENTS OF FINAL REPORT.

Not later than 60 days after receipt of the final report under section 607(a), the Director of Central Intelligence and the Secretary of Defense shall each submit to the congressional intelligence committees an assessment by the Director or the Secretary, as the case may be, of the final report. Each assessment shall include such comments on the findings and recommendations contained in the final report as the Director or Secretary, as the case may be, considers appropriate.

SEC. 609. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.

(a) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this title.

(b) FREEDOM OF INFORMATION ACT.—The provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), shall not apply to the activities, records, and proceedings of the Commission under this title.

SEC. 610. FUNDING.

(a) TRANSFER FROM THE COMMUNITY MANAGEMENT ACCOUNT.—Of the amounts authorized to be appropriated by this Act for the Intelligence Technology Innovation Center of the Community Management Account, the Deputy Director of Central Intelligence for Community Management shall transfer to the Director of Central Intelligence $2,000,000 for purposes of the activities of the Commission under this title.

(b) AVAILABILITY IN GENERAL.—The Director of Central Intelligence shall make available to the Commission, from the amount transferred to the Director under subsection (a), such amounts as the Commission may require for purposes of the activities of the Commission under this title.

(c) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (b) shall remain available until expended.

SEC. 611. DEFINITIONS.

In this title:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) INTELLIGENCE COMMUNITY.—The term "intelligence community" has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DODD. Mr. President, I wise to announce that the Committee on Rules and Administration will meet at 9 a.m., in SR–301, Russell Senate Office Building, on Thursday, October 3, 2002, to hold a hearing on the nomination of Bruce R. James, of Nevada, to be Public Printer.

Individuals and organizations wishing to submit a statement for the hearing record are requested to contact Carole Blessington of the Rules Committee staff on 202–224–0278. For further information regarding this hearing, please contact Ms. Blessington.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, September 25, 2002, at 9:30 a.m., in open session to continue to receive testimony on U.S. policy on Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet jointly with the Committee on Finance to conduct a hearing entitled, "Innovative Finance: Beyond the Highway Trust Fund," to explore alternatives for financing our surface transportation system.

The hearing will be held on Wednesday, September 25, 2002, at 9:30 a.m., in the Finance Committee's hearing room, SD–215.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, September 25, 2002, at 9:30 a.m., to hear testimony on "Innovative Financing: Beyond the Highway Trust Fund," to explore alternatives for financing our surface transportation system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 25, 2002 at 2 p.m. to hold a hearing on Iraq.

AGENDA

Witnesses: The Honorable Richard C. Holbrooke, Former U.S. Ambassador to the United Nations, Counselor, Council on Foreign Relations New York, NY; the Honorable Robert C. McFarlane, Former National Security Advisor, Chairman, Energy and Communications Solutions, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in Executive Session during the session of the Senate on Wednesday, September 25, 2002, at 10 a.m. in SD–430. The Committee will consider the following agenda.

AGENDA

S. ___, Reauthorization of the Office of Educational Research and Improvement (OERI)

S. ___, Reauthorization of the Child Abuse Prevention and Treatment Act (CAPTA)

S. 2499, The Food Allergen Consumer Protection Act

S. 830, Breast Cancer and Environmental Research Act of 2001

S. ___, Birth Defects and Developmental Disabilities Prevention Act of 2002

S. 1806, The Pharmacy Education Aid Act of 2001

S. 969, The Lyme and Infectious Disease Information and fairness in treatment (LIFT) Act.

S. ___, Quality of Care for Individuals with Cancer Act

S. ___, the Diabetes Prevention and Treatment Act

S. 2821, The Improved Nutrition and Physical Activity (IMPACT) Act

Nominations:

Maria Mercedes Guillemard, of Puerto Rico, to be a Member on the National Museum services Board;

David Wenzel, of Pennsylvania, to be a Member on the National Council on Disability;

Marco Rodriguez, of California, to be a Member on the National Council on Diability;

Milton Aponte, of Florida, to be a Member on the National Council on Disability;

Michele Guillermin, of Maryland, to be Chief Financial Officer, Corporation for National and Community Service;

Glenn Bernard Anderson, of Arkansas, to be a Member on the National Council on Disability;

Barbara Gillcrist, of New Mexico, to be a Member on the National Council on Disability;

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 25, 2002, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting to consider S. 958, the Western Shoshone Claims Distribution Act, and H.R. 2880, the Five Nations Citizens Land Reform Act, to be followed immediately by a hearing to receive testimony on the President's appointment of Quanah Crossland stamps to serve as Commission for the Administration for Native Americans, and the appointment of Phil Hogen to serve as Chairman of the National Indian Gaming Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Asbestos Litigation" on Wednesday, September 25, 2002 in Dirksen Room 106 at 10 a.m.

TENTATIVE WITNESS LIST

Panel I: The Honorable Max Baucus, United States Senator (D–MT); The Honorable Ben Nelson, United States Senator (D–NE).

Panel II: David T. Austern, Esq., General Counsel, Manville Personal Injury Settlement Trust, Fairfax, VA; Frederick M. Baron, Esq., Baron & Budd, P.C., Dallas, TX; Walter E. Dellinger, Esq., O'Melveny & Myers LLP, Washington, D.C., Jonathan P. Hiatt, Esq., General Counsel, AFL–CIO, Washington, D.C.; Steven Kazan, Esq., Kazan, McClain, Edises, Abrams, Fernandez, Lyons & Farrise, A Professional Law Corporation, Oakland, CA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS

Mr. REID. Mr. President: I ask unanimous consent that the Subcommittee on Consumer Affairs to be authorized to meet on Wednesday, September 25, 2002, at 2:30 p.m. on State of the Tourism Industry one Year After September 11th.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, September 25, 2002, at 2:30 p.m. to conduct an oversight hearing on "Affordable Housing Production and working families, Part 3."

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING MARY BAKER EDDY

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 458, just received from the House.

The PRESIDING OFFICER (Mr. DAYTON). The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 458) recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 458) was agreed to.

The preamble was agreed to.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 490, S. 2506, the intelligence authorization; that the committee-reported amendments be withdrawn; the only amendment in order to be a Graham amendment; that the substitute amendment be agreed to, the bill, as amended, be read three times, and the Intelligence Committee then be discharged from further consideration of H.R. 4628, the House companion, and the Senate then proceed to its consideration; that all after the enacting clause be stricken, and the text of S. 2506, as amended, be inserted in lieu thereof; that the bill be read the third time, passed, and the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate without intervening action or debate; and that S. 2506 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, S. 2506, a bill to authorize appropriations for the intelligence community for fiscal year 2003, represents the first intelligence budget for the War on Terrorism—a war where intelligence is our most effective weapon. The Congress historically has considered the annual Intelligence Authorization bill to be important legislation, but now it has become a matter of national survival. Without an enhanced and effective intelligence capability integrated into the significant capabilities of the U.S. military and tightly linked to law enforcement and the new Department of Homeland Security, we will continue be at the mercy of international terrorists bent on the destruction of our society and we may suffer even more devastating attacks.

Since the tragedy of September 11, the men and women of the U.S. intelligence community have worked every day, nonstop to protect us against those who would seek to do us harm. This bill represents an important step in our effort to provide them with the necessary resources and authorities to get the job done. In its budget request for fiscal years 2003 through 2007, the administration proposes significant resource increases for our national intelligence effort. Such increases build upon substantial supplemental appropriations approved for the intelligence community for fiscal years 2001 and 2002 after September 11.

As the community has noted in past years, the challenges confronting the intelligence community have, for too long, received inadequate fiscal attention. I am encouraged by the commitment of resources proposed by the administration for fiscal year 2003 and beyond. The intelligence community is poised to benefit from an infusion of additional people and funding that can provide momentum for a range of intelligence efforts against those individuals, groups, and states—to include al-Qaida and Osama bin Laden—that threaten our security and safety. As the intelligence community is our first line of defense, the administration's fiscal year 2003 request for the National Foreign Intelligence Program is a necessary first step in correcting the deficiencies of the past.

Earlier this year, the Select Committee on Intelligence conducted a thorough review of the administration's budget request for the National Foreign Intelligence Program for fiscal year 2003. This review included an extensive examination of the individual programs and agencies—such as the Central Intelligence Agency and the National Reconnaissance Office—which comprise the U.S. intelligence community. Building on the approach we took last year, our review once again focused on specific priority areas as well as individual agencies and functions.

The committee highlighted five areas that must continue to receive priority attention in the near term if intelligence is to fulfill its role in our overall national security strategy and the ongoing war on terrorism. They are: (1) revitalizing the National Security Agency; (2) correcting deficiencies in human intelligence; (3) addressing the imbalance between intelligence collection and analysis; (4) rebuilding a robust research and development program; and (5) increasing the capabilities of measurements and signatures intelligence to fulfill key intelligence requirements. These priorities address the basic building blocks of intelligence—capabilities that will support the War on Terrorism as well as the multitude of other intelligence requirements. S. 2506 authorizes additional resources for these areas.

While the additional funding for intelligence programs goes a long way towards alleviating existing near term deficiencies, other long term problems remain to be addressed. We face a looming crisis in our ability to collect critical information from key platforms as a result of unexpected failures; a major acquisition program is experiencing significant cost overruns and schedule slippage; and, we have inadequate funding to ensure that information collected by the next generation of space-based sensors will be processed, exploited, and disseminated appropriately to intelligence analysts.

Higher levels or resources, however, will not address all of the important challenges which confront the intelligence community. The intelligence community must overcome an aversion to risk that has crept into the culture since the end of the cold war. The world will be a dangerous and unstable place for foreseeable future. In order to protect our country, we will need to deal with unsavory characters and we will need to operate in unsafe parts of the world. The CIA has suffered casualties in the war in Afghanistan and we must steel ourselves to the inevitability of more loss of life. Some problems, such as the intelligence community's current organization or its ability to exchange information effectively and efficiently with other government agencies, may require additional legislative actions in the future. The bicameral investigation into the events of September 11 is ongoing and I expect that the investigation will result in recommendations for actions to be taken to strengthened our intelligence community.

The bill includes legislative provisions that are important additions to the work the Intelligence Committee did last year—both in the fiscal year 2002 Intelligence Authorization Act and the USA-PATRIOT Act. I will summarize a few of these provisions:

Section 304 is designed to make improvements in the information available to the Committee each year as it prepares its budget authorizations in the areas of counterterrorism, counterproliferation, counternarcotics and counterintelligence. The provision requires the administration each year to specify in its budget submission the aggregate amount requested in each of these four critical areas. Currently, these numbers are spread throughout the budget submission in the requests for particular programs in individual agencies. The committee believes that it is essential to rational decision-making in the budget process—both for the administration and for Congress—to have "cross-cut" budget numbers so that it is clear how much money is being requested across the Government in these important areas.

Section 306 is a provision that supplements changes implemented under the USA-PATRIOT Act. Under that act, foreign intelligence information that has been collected by law enforcement agencies in the course of criminal investigations can, and in fact must, be provided to the Director of Central Intelligence to be included in the all-source analytic products prepared by intelligence analysts. In other words, these "dots" of foreign intelligence that are collected in criminal cases, including grand jury proceedings and criminal wiretaps, now flow to the intelligence community. The purpose of Section 306 is to clarify that the intelligence committees of the Congress, in the conduct of their oversight of the intelligence community, shall also have access to that law-enforcement-derived information that has been provided to the intelligence agencies. The intelligence committees cannot conduct effective oversight of the intelligence agencies if there are categories of information upon which intelligence operations and analyses are based that is off limits of the committees.

Sections 311 and 312 follow up on provisions that were included in the USA-PATRIOT Act and the FY02 Intelligence Authorization bill. Congress required the Director of Central Intelligence to review and report to the intelligence committees his recommendations of how best to create two new centers: "The National Virtual Translation Center" and the "Foreign Terrorist Asset Tracking Center." We have finally received those reports and Sections 311 and 312 establish those centers in law as part of the intelligence community. We are hopeful that the very difficult problems of translation resources in the intelligence community and the efficient and effective tracking of terrorist finances will be significantly enhanced by the creation of these centers.

Section 313 is similar to S. 2459, a bill introduced by Senator WYDEN. This excellent provision addresses the problem we have all heard so much about in the press: Is there a complete and accurate list of known or suspected international terrorists that is derived from all-source information available to the U.S. Government and that is provided to all agencies whose job is to protect our borders from penetration by terrorists? This provision requires the establishment of a "Terrorist Identification Classification System" that will be available to all Federal agencies, State and local governments and, as appropriate, to foreign governments. It will solve a problem that we have identified in our committee of the proliferation of "watch lists" in our Government—all with different suspected terrorists names, used by different agencies for different purposes.

Title V of the bill establishes in statute the National Counterintelligence Executive, the "NCIX". At the urging of our committee, the President created the NCIX in 2001 to provide the U.S. Government in the counterintelligence area with (1) strong, policy-driven leadership; (2) new and enhanced counterintelligence capabilities; and (3) coherent program, strategies and cooperative approaches. The committee's oversight of this fledging effort revealed problems, however, that Title V is designed to remedy. By establishing the NCIX in statute and placing it in the Executive Office of the President, with oversight by the intelligence committees, the committee believes that the NCIX leadership problems, resource constraints and, overall, lack of sufficient status and visibility within the Government, will be remedied.

Finally, Title VI of the bill establishes a National Commission for Review of Research and Development Programs of the United States Intelligence Community. The committee supports a strong intelligence community R & D program. Research and Development supports virtually all other intelligence community efforts by laying the groundwork for the necessary modernization and innovation of intelligence capabilities. The purpose of the Commission, to be composed of government officials and private sector experts, is to review the current state of research and development in the intelligence community and, in particular, to determine if the level of resources devoted to various efforts across the community is in line with those scientific and technological fields judged to be of the greatest importance to the intelligence needs of the future.

I mentioned earlier the tireless efforts of the men and women of the intelligence community. I am privileged as chairman of the Intelligence Committee to travel to the different agencies around Washington and to visit various installations around the world. I am consistently impressed with competence, professionalism and dedication of these individuals. For years they have been unsung heroes, serving under difficult conditions and often putting their lives on the line. They do this not for money or glory—indeed the nature of their work means that success goes unacknowledged—but because they love their country and they have a profound sense of duty. We owe these people a debt of gratitude of their sacrifices, now more than ever before.

I must mention another group of people who are critical to the process of bringing this legislation to the floor. The staff of the Senate Intelligence Committee has once again done a superb job preparing this bill. The staff is led by Al Cumming the staff director and Bill Duhnke the minority staff director. They have guided the staff through a very difficult year including the anthrax evacuation and the launching of the joint investigation with the House Intelligence Committee into events related to September 11. Through all the turmoil they kept the committee focused on our work and our oversight responsibilities. They are assisted by Kathleen McGhee, Chief Clerk, Bob Filippone, Deputy Staff Director, Jim Hensler, Deputy Minority Staff Director, Vicki Divoll, General Counsel, Chris Ford, Minority Counsel, Melvin Dubee, Budget Director, and the rest of a very talented staff. A special thanks goes to Jim Wolfe, the committee's Security Director for his efforts to ensure the security of our people and our classified materials last fall and winter when the committee was forced to work from temporary offices during the anthrax episode.

Finally and most importantly, I must acknowledge the excellent cooperation and support of Vice Chairman SHELBY. Senator SHELBY has served on the committee for almost 8 years and his experience and commitment have been critical to the success of the committee. We have not agreed on everything but we have agreed on the goal of giving the American people the best intelligence organization possible and have worked together toward that goal. I have appreciated his support and advice.

At this time in our Nation's history, our support for the U.S. intelligence community is vitally important. I urge support for this bill.

Mr. SHELBY. Mr. President, we have before us the Intelligence Authorization bill for fiscal year 2003. This is a bill which we have debated extensively in the Select Committee on Intelligence, and which we reported out in May.

Especially during the global war against terrorism in which our nation is currently engaged, it is important that we give the U.S. intelligence community the support and encouragement it needs to do its vital job—and that we hold it properly accountable for its activities through the oversight process. This bill provides healthy measures of support, encouragement, and accountability, and I urge my colleagues to support it.

While we cannot discuss actual budget figures in an unclassified setting, I can assure my colleagues that this bill provides a significant increase in funding to the U.S. intelligence community, money that it needs and will continue to need as we demand more and better work from it than ever before. Even the world's sole remaining superpower with unchallenged military supremacy cannot be everywhere, and the war on terrorism taxes our capabilities in new and often unprecedented ways. More than anything else, this current conflict is an intelligence-dependent war. We need to do everything we can to ensure that our polilcymakers and our military commanders get the best possible intelligence support. This bill will help ensure that they do.

In addition, our bill also increases the Intelligence Community's accountability to the elected representatives of the American people whose job it is to ensure proper oversight of our intelligence bureaucracy. I would like to mention just a few examples of this.

First, our bill clarifies, rationalizes, and codifies the series of reporting requirements that form such an important part of the process by which Congress obtains information and analyses of intelligence community activities.

The bill also ensures that the intelligence community will be able to continue to fulfill its reporting requirements to the intelligence oversight committees of Congress in the wake of the changes to information-sharing laws contained in the USA PATRIOT Act of 2001.

Our bill also requires that the National Foreign Intelligence Program budget provide specific breakdowns for annual budget aggregates relating to counterterrorism, counterproliferation, counternarcotics, and counterintelligence. This greater specificity, we hope, will enable Congress better to assess intelligence community resourcing decisions and ensure that the right priorities receive our support in years ahead.

The two sides of our committee have not agreed on every detail of the classified appendix that accompanies our report on this bill, but on balance we feel that this is a piece of legislation that will provide much-needed support for—and improve the accountability of—the United States intelligence community.

I urge the Senate to pass this bill promptly.

The committee amendments were withdrawn.

The amendment (No. 4752), in the nature of a substitute, was agreed to.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 4628), as amended, was read the third time and passed.

The Presiding Officer (Mr. DAYTON) appointed Mr. GRAHAM, Mr. LEVIN, Mr. ROCKEFELLER, Mrs. FEINSTEIN, Mr. WYDEN, Mr. DURBIN, Mr. BAYH, Mr. EDWARDS, Ms. MIKULSKI, Mr. SHELBY, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. DEWINE, Mr. THOMPSON, and Mr. LUGAR conferees on the part of the Senate.

Mr. HOLLINGS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, SEPTEMBER 26, 2002

Mr. HOLLINGS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m., Thursday, September 26; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 11:15 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Republican leader or his designee; that at 11:15 a.m., the Senate resume consideration of the homeland security bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HOLLINGS. Mr. President, cloture was filed on the Gramm-Miller amendment to the homeland security bill. Therefore, Senators have until 1 p.m. on Thursday to file first-degree amendments.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. HOLLINGS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:35 p.m., adjourned until Thursday, September 26, 2002, at 9:15 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, September 25, 2002*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LAHOOD).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 25, 2002.

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Rabbi Melvyn May, West End Temple Sinai Congregation, Neponsit, New York, offered the following prayer:

Our God and God of our fathers, as this session of the House of Representatives begins, we pray that the spirit that permeates this room today will enhance and enrich the endeavors of our Congressmen and Congresswomen on behalf of all the citizens of our great country, the United States of America.

In the words of the Psalmist: How good and pleasant it is for brethren to dwell together. During this period when Jews throughout the world celebrate the High Holy Days and the spirit of renewal, we seek to understand and to do God's will so that all humankind will be free. As a Nation under God, we affirm the obligation of our elected officials to lead this country in the spirit of brotherhood, justice and righteousness that was taught by the prophets.

Almighty God, bestow Your continued blessings upon all of our elected officials and their staffs, for good health, happiness, knowledge and strength.

Implant in the hearts of the Members of Congress a sincere desire to toil together for the aims and goals of our American heritage, as exemplified in the spirit of the Constitution. We pray that unity of purpose and harmony of spirit will forever prevail.

With God's divine guidance may their best ideals come to fruition. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. LAMPSON) come forward and lead the House in the Pledge of Allegiance.

Mr. LAMPSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that there will be ten 1-minutes on each side.

WELCOMING RABBI MELVYN MAY, WEST END TEMPLE SINAI CONGREGATION, NEPONSIT, NEW YORK

(Mr. WEINER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEINER. Mr. Speaker, I ask the House to join me in welcoming Rabbi Melvyn May, who gave the invocation this morning. He is the spiritual leader of the West End Temple in Neponsit, New York. His path to that post took him through Connecticut, New Jersey and Brooklyn; and in each and every place he held positions of leadership in the community. He was someone who led the campaign for better understanding among our communities.

When he arrived at Neponsit, he arrived at, frankly, a most troubled time in our community. He arrived in October, 2001, one month almost to the day after the horrific attack on the World Trade Center that took so many of our neighbors in Rockaway, and he arrived also one month before a terrible plane crash in Belle Harbor, a stone's throw from his congregation's home.

During that time, Rabbi May, with dignity and with great understanding, led our community through that most difficult time. He has, in a relatively brief time, just about a year, become a force for healing and understanding throughout our community.

At this time of the holidays in the Jewish faith, he has been someone who has also led a campaign for better understanding among our very diverse communities in New York City.

I ask my colleagues in the House to join me in welcoming Rabbi May, and we ask that his accomplishments be spread across the record of this great body so that they can be shared throughout the Nation.

U.N. MUST PASS STRONG RESOLUTION ON IRAQ

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, last week we heard Iraq agree to allowing U.N. weapons inspectors back into their country without conditions. All I can say is we have been down this road before.

Mr. Speaker, the United Nations must show real backbone if they want to be a meaningful organization in the 21st century. Unfortunately, we have had a decade of defiance and deception from Iraq. Let us not forget that between 1991 and 1998, in spite of 13, yes, 13 different U.N. resolutions mandating unconditional access, Iraq never allowed that to happen.

Saddam always had conditions. Inspectors were kept from presidential palaces, mosques and military installations, just to name a few locations.

The U.N. must pass a resolution that not only mandates unconditional weapons inspections, but also outlines the serious consequences for Saddam if Iraq fails to act and fails to allow U.N. inspectors to do their complete and unfettered job. The U.N. must take control and mandate unfettered inspections, and Saddam Hussein must comply. It is time for the U.N. and not Saddam Hussein to be in the driver's seat.

SUPPORT SECRET SERVICE CHILD PROTECTION ACT

(Mr. LAMPSON asked and was given permission to address the House for 1

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I stand here today to tell you that the Secret Service does not just protect the President, they also protect missing kids. Nearly a decade ago, Congress authorized the U.S. Secret Service to participate in a multi-agency task force with the purpose of providing resources, expertise and other assistance to local law enforcement agencies and the National Center for Missing and Exploited Children in cases involving missing and exploited children.

This began a strong partnership between the Secret Service and the National Center for Missing and Exploited Children and resulted in the Secret Service providing critical forensic support, including polygraph examinations, handwriting examinations, fingerprint research and identification, age progressions and regressions and audio and video enhancements to the National Center and the law enforcement in numerous missing children's cases.

However, there is a clear need to provide explicit statutory jurisdiction to the Secret Service to continue this forensic and investigative support upon request from local law enforcement, or NCMEC.

I urge Members to support the Secret Service and NCMEC by cosponsoring the Secret Service Child Protection Act, H.R. 5389. Help the Secret Service continue their work on behalf of America's children.

ENSURING AMERICA'S NATIONAL AND ECONOMIC SECURITY

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, America and the world must overcome the threat posed by Saddam Hussein's continuing effort to control or disrupt supplies of Arab oil. Successful completion of the House-Senate conference on a national energy bill is imperative to ensure America's national security and economic security.

Americans are 5 percent of the world's population, we use 25 percent of the world's oil production, and we produce 30 percent of the world's goods and services. We are the most energy-efficient and productive nation on Earth. However, America has only 2 percent of the world's known reserves of oil. America imports almost 60 percent of our oil, up from 32 percent in 1992 and 34 percent during the last Arab oil embargo. In 2002, Americans have already paid Saddam Hussein $2.3 billion for oil we need to run our economy and our military.

Since 1970, oil production in the United States has declined, with only a tiny blip up from Alaska's Prudhoe Bay. Many experts agree that U.S. oil production will continue to decline, no matter what we do in terms of drilling.

A comprehensive energy bill with advances in conservation, efficiency and alternative and renewable forms of energy will strengthen America's economy and national security and lessen our dependence upon oil from Saddam Hussein.

HONORING JOSEF D'HEYGERS FOR HIS CONTRIBUTIONS TO MATER DEI HIGH SCHOOL

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, today I rise to honor Josef D'Heygers for his contributions to Mater Dei High School in Santa Ana and to our community.

Josef worked as a caretaker for Mater Dei High School for over 40 years, beginning in 1956. He has lived a modest life, living on campus in a trailer filled with crosses and Mater Dei memorabilia.

Josef recently donated his life savings to Mater Dei to assist with the school's plans to expand. His was one of the top donations given to the campaign.

Mater Dei has always been Josef's family. He gave generously because he firmly believes that education keeps teenagers happy and out of trouble, and he wants his gift to offer students what they need for college and for a lifetime of success.

Josef was recently honored by Mater Dei by having the new counseling and classroom building named after him.

I think all of us can learn from Josef's generosity and his dedication to the education of our Nation's children.

SUPPORT BALANCED ENERGY PLAN TO SECURE TERRORIST-FREE FUTURE FOR AMERICA

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, America is already at war. We are at war against terrorists and those that support evil.

Today we have an important decision to make: Will we continue to finance Saddam Hussein's war machine by buying his oil, or will we support energy independence? I stand here today in support of America and for using America's untapped energy resources.

While our sons and daughters bravely fight terrorism, there are those in this Chamber that would have America continue to import almost 60 percent of our oil from terrorist-sponsoring regimes.

I urge my colleagues to support a balanced energy plan to secure a terrorist-free America for our future.

RESERVATIONS CONCERNING PROPOSED ATTACK ON IRAQ

(Mr. WU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WU. Mr. Speaker, I rise today to express my grave reservations concerning this administration's proposed attack on Iraq. If there were evidence of an imminent threat against us or an attack on Iraq's neighbors, I would not hesitate to use force. But every successful American wartime President, Lincoln, Wilson, Roosevelt, Kennedy, presented evidence to the Nation and to the world that war was absolutely necessary, and thereby led a united Nation in purpose and in moral certitude.

Mr. Speaker, I want to quote a President who avoided becoming a wartime President. In averting a war with France almost 2 centuries ago, John Adams wrote to his wife, Abigail: "Great is the guilt of an unnecessary war."

If there is evidence of imminent necessity, I ask the administration to present it now. We owe it to ourselves, to the world, and to posterity.

GETTING THE AMERICAN ECONOMY ON TRACK

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, today I am introducing legislation to help get our economy going again, to get people investing again and to strengthen America's retirement.

My bill will help to boost stock market performance by providing a real incentive for investors to keep their hard-earned money in the market. This bill will achieve that goal by ending the double taxation of dividends.

Currently dividend income is taxed twice, first as corporate income and again as personal income. This tax policy diminishes the value to shareholders of dividend-paying stocks.

By treating dividend payments differently from interest, we are providing a disincentive for corporations to return earnings to shareholders. Not surprisingly, dividend payments have declined in recent years.

Encouraging the regular payment of dividends by ending their double taxation will attract new investors and help to stop the slide of the stock market.

□ 1015

TIME TO END INTEREST-FREE LOANS TO THE GOVERNMENT

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am here today to call for an end to huge interest-free loans to the government. That is why I have a plan that would fix a portion of the alternative minimum tax problem for those who purchased incentive stock options from their employer. H.R. 5398 would allow taxpayers to apply their prepaid ISO taxes under AMT against up to half of their regular income tax liability.

Mr. Speaker, many taxpayers have prepaid thousands of dollars of taxes with little ability to use those accumulated credits. In essence, people are floating the government a huge interest-free loan. It is just plain wrong, and it must stop.

My bill fixes that so families who have put second mortgages on their homes, cashed out retirement savings, sold assets, and struggled to work out payment plans with the IRS can get their money back and get on with their lives. It is the least we can do for America.

TIME TO PASS PENSION PROTECTION LEGISLATION

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, it has been over 5 months since we passed H.R. 3762, the Pension Reform Security Act. This issue is still a concern to the third district of Arkansas, yet Congress has not completed work on the legislation that will protect my constituents' pensions.

The bill we passed back in April evens out the playing field between senior level executives and the men and women of their workforce. This bill relaxes diversification rules for rank and file workers, enhances worker access to quality investment, and provides a number of much-needed retirement security reforms.

Mr. Speaker, pension reform and protection are critical to restoring investor confidence in our faltering marketplace, and the completion of this bill is critical to the agenda of the 107th Congress. I encourage my colleagues in the House to reaffirm our commitment to pension protection by voting for House Resolution 540 today.

AMERICANS SHOULD PRAY FOR PEACE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, tonight at 6 o'clock at Freedom Plaza at 13th and Pennsylvania, a number of area religious leaders will gather in a prayer vigil for peace. This afternoon, several of the victims from 9/11 will be here to affirm that they think peace is the better course, particularly since there has been a total inability of the Administration to connect the terrorist events of 9/11 with Iraq.

I believe that Americans must pray and must petition their elected representatives here in the Congress to be more than a speed bump on the fast track to war in Iraq, a war that will take thousands of lives, a war that will take hundreds of billions of dollars from American taxpayers.

Now is the time to speak out and speak out firmly in favor of the security of our country and our families, and doing it in a constructive and reasonable way, not by launching a war against a despot in Iraq.

HAPPY 75TH BIRTHDAY TO HENRY HILL

(Mr. ISAKSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISAKSON. Mr. Speaker, I rise today to acknowledge and celebrate the 75th birthday of Dr. Henry Hill of Cobb County, Georgia. Henry is my friend and my mentor and, most importantly, he was my first successful campaign manager. But I do not rise for myself, I rise for thousands of parents, thousands of children, thousands of teachers.

Henry's life has been dedicated to public education as a principal, as a coach, as a teacher, and as a counselor. Normally on birthdays we give the recipient a gift, but on this birthday, number 75 for Henry, I acknowledge the gift he has given to thousands and thousands of our children.

May God Bless Henry Hill.

PROTECTING AMERICA AGAINST TERRORISTS, THUGS, BULLIES, AND MURDERERS

(Mr. HAYES asked and was given permission to address the House for 1 minute.

Mr. HAYES. Mr. Speaker, I rise today in response and in direct opposition to statements that have been recently made. Everyone in this House wants peace; the question is how. Those who say that we and the President have not connected the dots either cannot read or refuse to assess the information that is readily available in both secret and public briefings. We can look to the former weapons inspectors, we can look to the research data behind Prime Minister Blair's speech, and we can look at the research backing up the President of the United States' speech to the U.N.

Mr. Speaker, the evidence is clear. We will protect America against terrorists, against thugs, bullies, and murderers like Saddam Hussein. In visiting Fort Bragg, our soldiers, sailors, airmen, and Marines are ready to do what it takes to protect America and the civilized world.

STAND UP FOR AMERICA'S PENSIONERS

(Mr. TIERNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIERNEY. Mr. Speaker, I thought we might take a minute this morning to talk about the fact that while our economy struggles and while families across America watch helplessly as their retirement savings dwindle away as a result of corporate greed and mismanagement, while health care costs soar to ever-higher rates, and while prescription drug prices rise at 5 times the rate of inflation, the leadership in this House can still be counted on to protect the interests of corporate moguls and wealthy special interests at the expense of hard-working American families.

A case in point. With the startling news that 401(k) and other defined contribution plans lost $210 billion last year, and IRAs lost $230 billion, the majority in this House still thinks it perfectly all right for companies to provide conflicted investment advice to their employees, advice from analysts who have a stake in the very stocks that they are touting, analysts who receive financial benefits from promoting certain stocks, even if they know they are of questionable value.

Some of us tried to do something about that and correct the inequity when we considered the so-called pension reform bill last spring. My amendment would have provided truly unconflicted advice to investors, and that is the direction we ought to go. The bills that are in front of the House later on today, Mr. Speaker, do not move in that direction, and we need to stand up for the American people whose investments are dwindling and do the right thing.

AMERICA'S INTERESTS SHOULD BE FIRST ON THE FLOOR OF THE HOUSE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, now, let us just kind of go back in time. Suppose it is August 2001, and a Member of Congress is speaking to a Rotary Club or something and says, listen, there is a guy out there, a known terrorist named Osama bin Laden. He has a group called al-Qaeda, and they have found sanctuary and training opportunities inside the corrupt Taliban government of Afghanistan. Now, I am telling you here and now, in August 2001, ladies and gentlemen, we need to instruct the President of the United States and instruct the CIA to take him out. We need to work with maybe an international coalition to get rid of this guy.

Now, if a Member of Congress had been saying that 13 months ago, he would have been laughed at, he would have been ridiculed, and he would have been called a warmonger and, yet, how right that statement would have been 13 months ago.

Now, are we not in the same position? We have Saddam Hussein, he hates America, he harbors terrorists, he has been directly and indirectly involved with all kinds of terrorist activity, many against America, all around the globe. Is it not prudent to take the course of action that our President is doing?

Mr. Speaker, this is not time for partisanship or cowering behind whatever boundaries or ideas that one has; this is time to put our best thoughts together and work together as a Nation, as Democrats and Republicans, and bring America's interest first to the floor of this House and get behind the President of the United States.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will now put the question on the approval of the Journal and then on each motion to suspend the rules on which further proceedings were postponed on Tuesday, September 24, in the order in which that motion was entertained.

Votes will be taken in the following order:

on approving the Journal, de novo;

on H.R. 2982, by the yeas and nays;

and on H. Con. Res. 297, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question de novo of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This will be a 15-minute vote followed by two 5-minute votes.

The vote was taken by electronic device, and there were—yeas 366, nays 48, answered "present" 1, not voting 17, as follows:

[Roll No. 407]

YEAS—366

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Sullivan
Sununu
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (FL)

NAYS—48

Aderholt
Baird
Baldwin
Borski
Capuano
Crane
DeFazio
English
Filner
Fossella
Gutknecht
Hastings (FL)
Hilliard
Hinchey
Holt
Hulshof
Johnson, E. B.
Jones (OH)
Kennedy (MN)
Larsen (WA)
Latham
LoBiondo
McDermott
Miller, George
Moore
Oberstar
Olver
Pallone
Peterson (MN)
Phelps
Ramstad
Sabo
Sánchez
Schaffer
Schakowsky
Strickland
Stupak
Sweeney
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Waters
Weller
Wicker
Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—17

Callahan
Clay
Ehrlich
Maloney (NY)
Mascara
Matsui
McKinney
Meek (FL)
Mink
Mollohan
Paul
Roukema
Stump
Thurman
Towns
Whitfield
Young (AK)

□ 1049

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

VICTIMS OF TERRORIST ATTACKS MEMORIAL ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2982, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 2982, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 14, as follows:

[Roll No. 408]

YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—14

Callahan
Clay
Hunter
Maloney (NY)
Mascara
Meek (FL)
Mink
Mollohan
Paul
Roukema
Stump
Thurman
Towns
Young (AK)

□ 1059

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize the establishment of a memorial to victims who died as a result of terrorist acts against the United States or its people, at home or abroad.".

A motion to reconsider was laid on the table.

RECOGNIZING HISTORICAL SIGNIFICANCE OF 100 YEARS OF KOREAN IMMIGRATION TO THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 297.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 297, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 15, as follows:

[Roll No. 409]

YEAS—417

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey

Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—15

Callahan
Clay
Hunter
Maloney (NY)
Mascara
Meek (FL)
Mink
Mollohan
Paul
Roukema
Stump
Thurman
Towns
Watkins (OK)
Young (AK)

□ 1108

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ABORTION NON-DISCRIMINATION ACT OF 2002

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 546 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 546

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4691) to prohibit certain abortion-related discrimination in governmental activities. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER) pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

On Tuesday, the Committee on Rules met and granted a closed rule for the Abortion Non-Discrimination Act of 2002. H.R. 4691 strengthens existing law by saying that health care entities should not be forced by the government to provide abortions. It is a very small but very important step in the right direction. It simply protects conscience rights of those organizations who do not want to be involved in abortion.

I urge Members to act promptly to enact the Abortion Non-Discrimination Act, which will address the crisis of conscience rights and begin to eliminate the intolerance, coercion and discrimination against health care participants who do not believe in participating in abortion procedures due to moral or religious beliefs.

In 1996 Congress passed a law that forbids government discrimination against health care entities that refuse to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions or to provide referrals for such training for such abortions.

However, due to recent judicial misrepresentation, H.R. 4691 is needed to clarify that health care entities include all health care organizations, including hospitals. It is a simple, commonsense and technical change.

I am pleased that in my home State of North Carolina a physician or a nurse does not have to perform abortion if it is against their religious principles. The same applies for hospitals and health care institutions. In fact, 44 other States have similar conscience clauses. So this is not something new and different.

As a cosponsor of this legislation, I am very pleased to see it reach the floor of the House.

I also believe that today a growing number of health care practices, procedures and medications present serious moral concerns for many health care providers. Recent medical and pharmacological developments increasingly put health care entities at the vortex of some of society's controversial moral dilemmas.

Increasingly, there is pressure upon health care providers, both individuals and organizations, to put aside personal moral beliefs in order to facilitate convenient access to new drugs, procedures and technologies. In the ordinary course of professional life, without any additional pressures, these dilemmas arise often enough to create crisis for tens of thousands of health care entities.

However, in addition to these dilemmas, there are increasing pressures upon health care participants to facilitate or provide products or services which violate their own conscience. Advocates of particular procedures and programs, particularly major promoters of abortion, are systematically singling out health care providers and entities to squeeze and compel them to abandon their moral values as the price to pay to remain in the profession or in the market.

Mr. Speaker, health care providers want this bill in overwhelming numbers, believing in their hearts that they too have a right to choose, a right to choose not to be involved in destroying life. To that end, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes.

Mr. Speaker, it has been a mere 6 weeks since the leadership lobbed on to the House floor a bill targeting women and their reproductive health care. Be assured that the election season is upon us, and in the face of a crumbling stock market and exploding deficits and uncertain war on terrorism at home and calls for new war in Iraq, of this we can be sure: Congress will use the floor of the House of Representatives to push propaganda restricting a woman's ability to make her own decisions rather than deal with the overriding issues at hand.

□ 1115

Mr. Speaker, Congress does not have the right or the expertise to make these decisions for the American people. The last time Members were facing a life-or-death decision, or their constituents were facing a life-or-death situation, who would they want with them in the emergency room? Did they want their physician, their spiritual adviser, family members, or would that patient say wait until a Member of Congress gets here because Congress will have the last word on this issue? I am sure that the American public would give us a resounding no. We are basically practicing medicine without a license.

Direct mail pieces distorting the issue are already being printed and will hit the streets as soon as the vote is completed. This vote is pure politics. This measure is cynical and unconstitutional. Moreover, everyone in the Senate knows that the Senate will not touch it.

In the meantime, the real work of the Congress as mandated by the Constitution goes undone. Our most fundamental duty of funding the Nation's priority has ground to a halt. With the fiscal year ending in less than a week, the President has yet to sign a single appropriations bill. The press reports indicate that the majority leadership has under consideration a plan to simply quit work and go home and come back and try again next year, using a long-term continuing resolution to disguise that fact that the people's House has ceased to perform anything but election-year gimmicks at taxpayers' expense.

It is almost superfluous to note that this is a closed rule. For those following the deliberations of this body on controversial matters, it should come as no surprise. The majority has chosen to shut out meaningful debate. Under this closed rule, no amendment will be allowed. For a bill that impacts so fundamentally on the life of so many, this is unconscionable.

For those school children who may be visiting this Chamber today, I wanted to offer a quick history lesson. Silence was not always the case here. Free-flowing debate used to be the norm. The Chamber used to team with ideas and with voices of passion from all regions of the country. Today these voices are shut out. My colleagues, the gentlewoman from Colorado (Ms. DEGETTE), the gentleman from California (Mr. WAXMAN), and the gentleman from Pennsylvania (Mr. GREENWOOD), attempted to have an amendment made in order in the Committee on Rules to prevent the most egregious effects of the underlying bill taking effect. Their efforts were struck down almost immediately along a party-line vote. It is my hope that someday true debate will return to this Chamber and the voices of our constituents will not be silenced.

But today, Mr. Speaker, instead of debate, we will have an up-and-down vote on a bill that will radically expand existing law. This legislation would essentially allow any health care entity, including hospitals, health insurance companies, or HMOs, to exempt themselves from current Federal, State and local laws that assure women have access to reproductive services. I want to make the point here that that says that the Hyde amendment, which was passed by Congress which allows a person who has been a victim of rape or incest to have an abortion, will be overridden by this bill. It says that any law or regulation by a State or the Federal Government can be overridden.

Now, any law or regulation that covers any kind of coverage will be considered discriminatory against a health care entity that does not want to comply, for any reason at all, not merely religious, and could not be enforced. Remember, the religious exemption has been in legislation for years. That is not what we are doing today. The penalty for any State or local government which discriminates is the loss of all, all Federal financial assistance. At a time when hospitals and local governments are hanging on by a thread, such a loss of Federal funds would be devastating.

H.R. 4691 has been brought to the floor without any committee consideration and over the strong objections of the moderate Members of the majority party. Moreover, for a party that prides itself on attention to States' rights, it is ironic that this legislation will override the progress of States that have worked to ensure that women not only have access to reproductive services, but also the right to basic information.

This bill reinstates the gag rule. Many in this body may not realize it, but the Federal Government does not pay for abortion services. As I mentioned before, the Hyde amendment to the Medicaid program stipulates that Medicaid patients must have access to these procedures only in cases of rape, incest or when the pregnancy endangers a woman's life. That would be gone. This bill before us overrides even that most narrow of exceptions. Moreover, States like mine, who use their own Medicaid funds to cover abortion services beyond those narrow circumstances if they wish, and in fact, 21 States do so, this bill would preclude these States from enforcing their own laws and constitutional decisions in the area of reproductive services for low-income women.

Mr. Speaker, this bill is not limited to reproductive services themselves. Under the bill, States would be prohibited from requiring health care entities participating in the Medicaid programs to provide referrals for reproductive services. It would prohibit States from ensuring that patients have all of the information they need to make an informed choice about themselves, the gag rule again.

Moreover, this bill is a direct assault on the doctor-patient relationship. Under this legislation, the administrative hospitals or HMOs could gag the doctors who work under them from discussing basic information about abortion services with their patients. We restrict no other professionals from giving the best of their advice to people who seek it.

This law provides no guidelines for why these administrators may be gagging physicians from providing or even discussing reproductive services. It will say simply to save the HMO more money. The legislation is a gross expansion of the powers of the managed-care entities to severely limit the options available to the patients that they supposedly serve. The legislation would also undermine a State's ability to set health care licensing and certification standards. Imagine that, we would be setting certification standards and licensing for them from here as well.

In deciding whether to approve a hospital merger, for example, a State could not consider whether a newly merged hospital system would diminish a community's access to full reproductive health services. This would tie the hands of States like New Jersey that are trying to ensure that entire communities are not completely without any qualified abortion providers.

In fact, supporters of the bill have stated that this is their intent. The measure is opposed by numerous groups, including the National Council of Jewish Women, Catholics for Free Choice, the American Association of University Women, the American College of Obstetricians and Gynecologists, the Center for Reproductive Law and Policy, National Organization of Women, the National Partnership for Women and Families, People for the American Way, and the Planned Parenthood Federation of America, and certainly me.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, today I rise in strong support of the rule and the Abortion Non-Discrimination Act. The gentlewoman from New York (Ms. SLAUGHTER) strayed a bit from the subject, and I feel the necessity to respond.

As far as the work of the House is concerned, the House is doing its work. Under article 1, section 7, clause 2, the House has passed a budget and many other important pieces of legislation. As required by law, we have done our work. The Senate has not passed a budget.

More importantly, to say that protection of human life is not significant legislation is as sadly wrong as it possibly can be. H.R. 4691 is simply a clarification of current law. This existing nondiscrimination statute that Congress overwhelmingly approved and President Clinton signed into law in 1996 protects health care entities from being forced by the government to perform abortions. Because of judicial misinterpretation, H.R. 4691 is needed to clarify that health care entities include all health care organizations, including hospitals.

In recent years, there has been a growing nationwide effort to attack the conscience rights of Catholic and other private health care providers. Alaska courts have assumed they have the authority to force private hospitals to provide abortions as a condition for receiving Federal funds or for full participation in the health care system. It is imperative that we clarify the protections contained in current law to ensure that no hospital is forced to perform abortions against its will. I support the rule and the underlying bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I cannot help thinking that we are moving back to the 16th century. This is the most far-reaching assault on women that I have ever seen in this House. I want to put a human face on this. In 1963, I was an intern at the Buffalo General Hospital. I dealt with two poor women who had back-alley abortions. One had eight children, one had six. They were done with coat hangers, and both those women died. I still see their faces.

At the same time that was going on in Buffalo at the place I now live, Seattle, women could go down to a travel agency, buy a ticket to Japan, have a day's shopping and an abortion, and come home. Now, that is the circumstance in 1961, 1962, 1963 in this country.

For us to be moving back in this direction, overriding Roe v. Wade, and the Hyde amendment, is simply a step back into the dark ages and it is absolutely wrong. This is not a women's issue; this is a human issue. Those 14 children in Buffalo who grew up without their mothers because their mothers could not have full reproductive services in a decent hospital in a major city in the United States are what Members are saying is all right for all of the children of this country.

Leave no children behind, my President has said. Well, this is guaranteed to leave children behind if we step back this far into the past. I urge Members to vote against this rule.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, I rise in support of the rule, H.R. 4691. Today we have the opportunity to support freedom of conscience for those in our health care system and who have invested their lives in caring for their fellow Americans. Forty-six States protect hospitals and health care professionals who choose not to participate in abortions; and even though there is existing law, Federal law, intended to protect individuals and entities from being forced to participate in an abortion, clarification is still needed, and that is what we are doing today.

Some hospitals and doctors are being forced to go against their conscience and provide abortion services. In spite of existing law, this coercion still exists. For example, the National Abortion and Reproductive Rights Action League has a project in Maryland that aims to require every Maryland hospital to provide abortion services.

H.R. 4691 will guarantee that hospitals, insurance companies, and health care professionals will not be forced to take part in a procedure that they deem morally wrong and disagree with.

Whether one supports a right to life or a right to abortion, participating in or paying for abortion should not be forced upon anyone. I urge Members to stand with me in supporting this rule and our constituents' freedom of conscience.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise today in strong opposition to H.R. 4691. It is a misguided measure that has dangerous implications for women's reproductive health and for our health care system as a whole.

Of course, elections are near, so this debate might be advanced because of a right wing, anti-choice agenda. We have heard and it has been made quite clear that their political schemes are worth sacrificing the health of American women. This bill robs women of their right to get comprehensive information about their medical and legal options, and this bill will leave health care providers at the whim of the anti-choice movement.

□ 1130

The current state of our health system is obviously weakening day by day. Our constituents are experiencing increased premiums or they are being dropped by their plans altogether, and now the right wing of this Congress is prepared to tell our constituents that their right to make an informed decision is being taken away.

Mr. Speaker, rather than putting patient access to care in further jeopardy, why are we not working to improve access to quality health care? This bill also is a slap in the face to State and local governments that have implemented policies that put a woman's health ahead of bad politics.

We cannot fall for the outrageous antics of the anti-choice community. We cannot let them twist another health care issue into a political issue. That is why I implore my colleagues, my colleagues on both sides of the aisle, vote against this extremely harmful measure and vote against this rule.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, for many individuals, opposition to abortion is not just a matter of choice but it has been a matter of conscience and faith. Many individuals so moved to oppose abortion are the health care providers who at one time under Federal law found themselves in the difficult position of objecting to the procedure but being forced to perform it. Fortunately in 1996 Congress recognized that those who choose to oppose abortions should not be forced to administer the procedure and passed legislation protecting those, as they called them, health care entities from being forced by the government to perform those abortions.

Since the passage of that law, though, those who do not want to respect the right of individuals to conscientiously object to performing this procedure and want to ignore the will of Congress have fought this provision nationwide. The attack has been successful in cases such as in Alaska where courts have decided that they can force private hospitals to provide abortions as a condition of fully participating in their health care system. The ignorance of the faith and conscientious objection of American health care professionals and organizations is unacceptable.

That is why I support this legislation. It simply clarifies language in the law so that all health care entities, including Catholic hospitals and individual health care professionals other than physicians, are covered and can freely object to performing abortions on the basis of their conscientious decision.

Opponents of the bill have argued that this legislation will block access to emergency care for poor women or that it will interfere with a State's right to enforce abortion laws. None of this is true. The bill simply protects the conscientious objection of health care providers who oppose abortion.

Mr. Speaker, this is a simple and very direct bill. It does not expand or change any rights of women. What it does is it allows for the free exercise of a conscientious objection of a health care provider.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds to respond to the previous speaker. It does indeed change women's rights. It puts a gag rule on women, and the religious exemption that she talks about clarifying is already in legislation. What this does is drive women back to back alleys.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today in strong opposition to H.R. 4691 and in opposition to the rule that we are considering right now because we should not be considering this legislation at all. Despite the wishes of the bill's promoters, our United States Constitution does in fact guarantee American women the right to choose an abortion. And while this bill does not directly overturn Roe v. Wade, it might as well for many women do that since it will make access to abortion impossible for them. To talk about this as a technical change is simply cynical. This is one of the most dangerous attempts to restrict a woman's right to choose, including her right to information and services regarding her reproductive health.

H.R. 4691 would allow an HMO or a health insurance company to decide for any reason whatsoever that it will no longer pay for, provide information or even make referrals for abortion services even if the woman's life is endangered or she is a victim of rape or incest. Under this bill, it would be impossible for a State to ensure that women who are victims of rape or incest or whose life is threatened would have access to abortions. In this world today, there are decreasing options for everyone in choosing health insurance companies or HMOs.

So are we going to leave it, then, to an employer to decide whether or not a woman would have a right to choose in essence because that HMO would deny them access to the abortion? And in rural areas where there may be only one option for a woman to go, she is denied that opportunity to have her full health services available to her.

What this bill really does is allow any health care entity to ignore all Federal, State and local laws pertaining to abortion services, information and referrals. It is not a conscience clause as some would like to call it, as if HMOs have a conscience. In fact, there are no Federal laws that currently exist that require any individuals or hospitals to provide abortions. But this bill would restrict a doctor's rights; that is, his right if he believes in his medical judgment or in his conscience that it is his responsibility to provide those services, he could not do that. So this does limit the right of doctors not to be forced to perform it but to be forced not to perform abortions.

Women in this country need to be able to trust that when they go to a doctor with a problem or a condition that they will be given all information necessary to make informed decisions. But this bill would gag doctors. Informed consent as a minimum is a valued and expected component of our health care system. So why do we think that when it comes to women's health it is okay to throw even this concept out the window?

This is unacceptable. I urge a "no" vote.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Speaker, I think those of us that have served in public office at all know that when you come to the abortion question, there are two very highly charged and two different views on this subject. Some people think that abortion should be legal and that it is a matter of a human right and somebody's choice. Other people think that abortion is wrong and it is a form of murder. There are people in our country and in each of our districts that hold both of these views with a great deal of tenacity.

But the question before us today is really not the question of abortion. We are not going to address this underlying issue. What we are talking about instead, the question is as to whether we protect various health care organizations or individuals, whether we want to protect their right to have a choice, to even have an opinion on the subject.

What is going on here is that the abortion agenda is not really content with choice. The only choice that they are content with is that everybody has to agree with them and that we are going to compel someone else to that choice. It is always understood, I think, by most reasonable people that one person's rights stop where another person's rights start. But that is not the case here. Instead, the right of some health care organization to have an opinion on this subject is going to be hammered by the big fist of government. That is not reasonable.

All we are saying is that the person that has to provide the service needs to have a choice as well. One person's right stops where another's right starts.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume. I want to say, there is already conscience exemptions and everybody knows that. That is not why we are here today. We are really here today to turn back the clock. Without any doubt, a woman who has the opportunity even to understand what her rights are and what her options are, this is an appalling thing that we are doing. This is not an ordinary law we are talking about here. This is life and death. A woman who has come into a hospital raped, scared to death, does not know what to do, needs somebody to talk to, may have the unlucky option of coming across a doctor who says his conscience forbids him from discussing it with her, comforting her or giving her any idea that she has options.

But since this House is all politics all the time in this Chamber, I want to give you some statistics that I think might be interesting on a political issue. The vast majority of Americans oppose allowing institutional health care providers to deny service on the basis of moral or religious objections. Seventy-six percent of the public opposes giving hospitals an exemption allowing them to refuse to provide medical services to which they object on religious grounds. Eighty-nine percent of the public opposes allowing insurance companies to refuse to pay for medical services to which the insurance company objects on religious grounds. Seventy-nine percent of the public finds convincing the statement that religiously affiliated hospitals should not be allowed to force their religious beliefs on other people. And frankly, I expect that nigh 100 percent of the people in the United States do not believe that Congress should impose its religious beliefs on them.

Mr. Speaker, I include the following material for the RECORD:

AMERICAN CIVIL LIBERTIES UNION,
WASHINGTON NATIONAL OFFICE,
Washington, DC, September 24, 2002.

DEAR REPRESENTATIVE: The ACLU urges you to vote against H.R. 4961, the so-called "Abortion Non-Discrimination Act" when it is considered on the House floor tomorrow. Drafted by the U.S. Conference of Catholic Bishops and sponsored by Representatives DICK ARMEY (R-TX), JOSEPH PITTS (R-PA), and MICHAEL BILIRAKIS (R-FL), H.R. 4691 would allow a broad range of health care entities to refuse to comply with a wide array of federal, state, and local requirements to provide abortion services or information about those services.

Refusal clauses such as H.R. 4691 permit a person or entity to refuse to provide reproductive health services. The ACLU believes that such clauses should be tested against two factors: (1) the extent to which the clause protects religious refusals that place burdens on people who do not share the beliefs that motivate the refusal (by "burdens," we mean obstacles to health care and other critical personal interests, but not the mere exposure of third parties to religious practices or the tax or other financial burdens that may result from permitting certain exemptions); and (2) the extent to which the clause protects institutions engaged primarily in religious worship or instruction, or instead exempts institutions engaged in a secular pursuit in the public sphere. Although this test is not compelled by any legal ruling, the ACLU believes that it strikes the appropriate balance between reproductive rights and religious freedom. H.R. 4691 fails this test because its burdens would fall primarily on those who do not share the beliefs that motivate the refusal and because it protects institutions engaged in the public and secular provision of health care. Because H.R. 4691 amounts to a broad noncompliance permit for religious entities that employ and serve people of all faiths, that perform a variety of public functions, and that accept public financial support, the ACLU strongly opposes this bill.

H.R. 4691 radically alters existing law by providing broad license for all manner of health care entities—from hospitals to insurance companies to HMOs—to avoid basic legal requirements imposed by all levels of government. The bill prohibits a governmental entity from "discriminating"—that is, treating a health care entity differently—on the basis of the entity's refusal to perform, refer, train, cover, or pay for abortions. But merely enforcing federal, state, and local laws designed to ensure access to abortion services, or to information about those services, could constitute "discrimination" against entities that object to those laws. This bill could thus deny women access to critical information about their health care options, interfere with the delivery of abortion services to poor women in medical emergencies, and impede states' ability to enforce their own laws on abortion.

H.R. 4961:

Would compromise the ability of Title X clients to obtain information critical to their health. Title X, which provides federal funds for contraceptive services for low-income individuals, requires that grantees provide a referral to a qualified abortion provider upon request as part of non-directive options counseling. H.R. 4691 would prohibit the federal government from enforcing this regulation because it could be deemed "discriminatory" to deny Title X grants to providers that refuse to make abortion referrals. The bill could thus undermine federal standards and compromise the health of low-income pregnant women by denying them critical information;

Would interfere with the delivery of abortion services to poor women in dire emergencies. H.R. 4691 would impede compliance with the Hyde Amendment, which mandates Medicaid coverage of abortions in cases of rape, incest, or where the pregnancy endangers a woman's life. Requiring Medicaid managed care organizations to provide such coverage, or to provide information concerning such coverage, could constitute "discrimination" against those entities that refuse to provide or refer patients elsewhere for these services;

Would interfere with states' ability to enforce their own laws on abortion. H.R. 4691 could prevent those states that cover medically necessary abortions beyond those mandated by the Hyde Amendment (whether as a result of state constitutional rulings or by virtue of state laws) from effectuating that coverage by contracting only with Medicaid managed care organizations that agree to provide or refer patients elsewhere for abortion services. (More than fifteen states require such coverage.) The provision would interfere with these states' ability to enforce their own laws and to manage and ensure delivery of mandated services within their own Medicaid programs;

Would disrupt the enforcement of state health care regulations. H.R. 4691 would thwart the enforcement of state and local laws that require entities certified or licensed by the state to address the full range of health care needs in the communities they serve. A state might be prevented, for example, from denying a "certificate of need" (a state-issued document that is similar to a permit) to a newly merged hospital that refused to provide even lifesaving abortions and thus left pregnant women in the community without help in medical emergencies. (Mergers between religiously affiliated hosiptals and secular hospitals often raise this issue because some religious hospitals insist that the newly merged entity apply religious doctrine in the provision of health services.);

Could violate basic principles of federalism. H.R. 4691 might interfere with the enforcement of rulings by those state courts that have concluded that their state constitutions require broader protection for reproductive freedom than the federal Constitution provides. For example, proponents claim that the bill would overrule Valley Hospital v. Mat-su Coalition for Choice, 948 P.2d 963 (Alaska 1997), in which the Alaska Supreme Court concluded that the Alaska Constitution requires that quasi-public hospitals provide abortion services. If interpreted as its proponents urge, this bill would abrogate this state constitutional decision because it would prohibit "discrimination" against quasi-public entities for their refusal to provide or refer for abortions. It would thus strip states of autonomy and violate basic principles of federalism;

Could interfere with the enforcement of certain state trust laws. Some state laws prevent health facilities established as charitable trusts from making significant changes in their charitable purposes. For example, charitable trust laws may prohibit a hospital founded specifically to serve a broad segment of the community from eliminating the provision of reproductive health services. At least one state has enforced its charitable trust law against a hospital that sought to convert from a community facility to a religiously controlled facility that provided more limited reproductive health services. Proponents of H.R. 4691 argue that such a state would be deemed to have impermissibly "discriminated" against the hospital under the bill; and

Could immunize a health care entity's refusal to provide emergency contraception, even to victims of rape. Because it does not define the term "abortion," H.R. 4691 could permit health care entities to refuse to provide emergency contraception ("EC"), even to victims of rape. Although EC is merely a high dose of ordinary birth control pills and does not interrupt an established pregnancy, some religiously affiliated providers define EC as an "abortifacient." They could use this bill to attempt to shield themselves from repercussions for refusing to comply with state laws that require hospitals to provide EC (or referrals for EC) to rape survivors in their emergency rooms.

Where the Public Stands: The vast majority of Americans oppose allowing institutional health care providers to deny services on the basis of moral or religious objections:

76% of the public opposes giving hospitals an exemption allowing them to refuse to provide medical services to which they object on religious grounds.

89% of the public opposes allowing insurance companies to refuse to pay for medical services to which the insurance company objects on religious grounds.

79% of the public finds convincing the statement that "[r]eligiously affiliated hospitals should not be allowed to force their religious beliefs on other people."

For all of these reasons, the ACLU urges you to oppose H.R. 4691.

Sincerely,

LAURA W. MURPHY,
Director.
GREGORY T. NOJEIM,
Associate Director and Chief Legislative Counsel.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I know this is a difficult issue for everybody and I regret to have to rise in strong opposition to this rule and to encourage the Republicans and Democrats, pro-life and pro-choice, to oppose this rule.

I do not know how many of you know women in America who use prescription contraceptives to plan their families, to manage their reproductive capability, but in my experience of the women who are of childbearing age, 99 percent, 95 percent, a very large percent of women in America use prescription contraceptives and many States require that any health plan offering prescription drugs include prescription contraceptives in order to be a non-discriminatory prescription drug plan.

This bill for the first time explicitly says that any HMO CEO, who personally defines prescription contraceptives as an abortifacient, can alter their plan to deny women the right to coverage under their prescription drug plan of prescription contraceptives.

Ladies and gentlemen, that is wrong. Never have we given, and here it is right in the bill, a provider sponsored organization, (that is a PSO), a health maintenance organization, (that is an HMO), a health insurance plan the power to deny legal benefits. Health insurance plans and the standards they must abide by are set by State law. This is a massive override of State law that regulates health insurance plans and benefits.

I have personally stood on this floor and voted against some very popular health mandates that have frankly come back to haunt me politically because the Federal Government should not be mandating health benefits on States and State plans. This is doing exactly that and it is giving this power arbitrarily to an individual HMO CEO to override State law. We have never done that. We have never stood on this House floor and allowed individuals to say in conscience, when it might well be not in conscience but in cost, the right to make such decisions in opposition to State law! Are we going to allow the conscience clause now to be polluted as an economic instrument?

The protection in conscience is clear. Forty-five States have laws protecting doctors, nurses, all health care professionals, so they do not have to provide sterilization, abortion, or any procedure that in conscience they do not agree with. Furthermore, Catholic hospitals do not have to provide facilities. No institution that in conscience does not agree has to provide services or facilities. They not only do not have to do it if there are doctors or nurses that do not agree, but the institution is protected. All this does is say CEOs are protected as well.

Did you vote for a patients' bill of rights? I do not care whether it was the Democrat's Patients' Bill of Rights or the Republican's Patients' Bill of Rights, the whole goal of that was to allow patients and doctors to make decisions about health plans and not HMO CEOs,

I urge you to vote down this rule. We need a much greater discussion than to bring this up in the waning days of a session that has not passed its appropriation bills.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 1 minute.

I thank the gentlewoman from Connecticut for her very thoughtful remarks. One point she made that I think is terribly important is that we are turning religious exemption, moral thoughts and moral attitudes into an economic issue by saying we simply will not do this. But, moreover, let me make the point that we made earlier when we talked, that any hospital that flies in the face of this legislation will be restricted of all Federal aid, all of it.

□ 1145

And if the Members' hospitals are like mine, and I see no reason why they would not be, this would be devastating to them and hospitals would have to close all over the country.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, let me reiterate some of the points that have been made but most importantly the fact that we should defeat this rule. This rule is a closed rule. It did not allow a very simple amendment which would have essentially said that doctors will not be gagged from telling their patients what is the best medical information for those patients. Why on earth with an issue like this that was never even taken through committee, and I know that because I sit on the committee of jurisdiction, would we then bring a closed rule to the floor with a bill as outrageous and sweeping as this bill? I urge a "no" vote on the rule. And when we look at the consequences of passing the bill, even if the rule did pass, even if the doctors would be gagged, this bill is such an expansion of law that we cannot pass legislation that will hurt patients so badly.

This legislation is the biggest gag rule we have ever seen. It will not protect Catholic hospitals from providing abortions or even referrals to most people. They are already exempt under current law.

The bill would allow any hospital, any health insurance, any clinic, any HMO to deny services, coverage, or even referrals for abortions for any reason whatsoever. Proponents of this bill will say the purpose is to ensure that hospitals with religious affiliations do not provide services that conflict with their values. This is simply not true. First of all, they do not have to right now. Secondly, there is nothing in this bill about opting out of services or information due to religious values. In fact, there is nothing in this bill about religion at all. Anti-choice lawmakers are trying once again to back-door a bill that restricts women's reproductive choices, and this time they are hiding behind the Vatican to do it.

Let me say it again. Catholic hospitals do not have to provide abortion services under current law, and individual providers at any health care facility can opt out of providing abortions by invoking a conscience clause. This is current law.

Let me tell my colleagues what most health care entities do have to do. They have to give women information about their options. A law preventing them from doing so is a gag rule, plain and simple. And the majority of people in this country want their full medical options and are fiercely opposed to gag rules.

Let me tell my colleagues what current laws that this bill would override. The Emergency Medical Treatment and Active Labor Act passed in 1986 requires that if a pregnant woman who comes to an emergency room is dying, is dying, due to the complications of the pregnancy, they have to try to save her life. If an abortion is deemed an immediate lifesaving measure, then they do have to provide one. This bill would overturn that.

So if you think it is acceptable for pregnant women to bleed to death in emergency rooms because some hospitals have a policy of no abortion even under the circumstances of the life of the mother or rape or incest, vote for this bill.

Today if a Medicaid patient comes to an emergency room after being raped and is found to be pregnant as a result of the rape, that hospital is at least obligated to give her a referral if she asks for one. This bill would overturn that. This bill would let a hospital say, I am sorry, you were raped, you want an abortion, but we cannot give you any information about that.

So if you want victims of rape or incest to be ignorant of their options, vote for this bill. If you want HMOs to have more power over what reproductive services they will pay for, vote for this bill. If you want to tell every city, State, and locality that we know better than they do how to provide reproductive health for their citizens, vote for this bill. But if you do not believe in gag rules, if you believe women deserve access to information, if you believe in States' rights, if you believe the women of this country have the right to make their own decisions about their health care, vote against this bill and, importantly, vote against the rule.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, it has been fascinating to listen to the debate on the other side on this bill. This issue began in 1996 when some of the residency training programs were moving in a direction to require that to be certified and eligible to obtain one's license and specialty, such as OB/GYN, one could be forced to receive training in performing abortions. The Congress has a long-established track record of supporting the rights of conscience on this very, very controversial issue. There are many, many Americans, including many physicians, who feel as I do that abortion is morally wrong, that it is killing the unborn, and that nobody should be forced to learn how to do an abortion if they do not want to do it, and, importantly, no health care entity should be forced to perform abortions.

The original statute that was enacted over the signature of Bill Clinton was language that was actually put forward in the Senate by Senators Coates and Snowe. I will point out that she is pro-choice, and she stated at the time that she wanted to protect the rights of conscience, that people who feel strongly that abortion is killing should not be forced to have to do it. Now, that statute had some language in it that I thought was sufficiently broad. It says health care entities, and I thought a hospital was a health care entity. But the people on the left who are trying to advance the abortion agenda have managed to get courts to interpret that hospitals are not health care entities and that being that they receive Federal dollars and other State dollars, they could, and in the State of Alaska they have done this, be interpreted to be required to perform abortions.

If my colleagues do not think the left is trying to advance their agenda, I have this here in my hand. They have since taken this off their Web site. This is Maryland NARAL. It says: "For these reasons Maryland NARAL is launching the Hospital Provider Project. The goal of the Hospital Provider Project is to increase access to abortion services by requiring Maryland hospitals to provide abortion and other reproductive health care." So that is really what this debate is about. They have found a loophole in the Federal law and they are trying to drive a truck through it. Eighty-five percent of hospitals in America today avoid this issue by not providing abortion services and a pro-abortion crowd of the court wants to drag them into court and interpret a statute which we thought protected the right of conscience in such a way that it would force them to have to provide this.

I want to touch on two things that people keep bringing up. Number one, this is going to interfere with all the Federal dollars. I do not know what else to say, other than that is a total misinterpretation of the statute. The interpretation that we have received is that, and these are decisions that have come out of the administration, that it will not interfere.

The other thing I want to comment on is this business about contraception. Contraception is not defined by the FDA as abortion. The morning-after pill is not defined by the FDA as abortion. It is defined as contraception. It is something different. So to interpret this statute to claim that it is going to prohibit access is to take essentially a religious entity's doctrine and put that into the statute, and it is just not there. It is not in the language.

So I know people can disagree on interpretations of law. When I look at this law and the legal scholars that I have had analyze it, they assert that that is a falsehood.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Members are reminded to refrain from improper references to the other body, including characterizations of positions of the Senate or individual Senators.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Indiana (Mr. SOUDER).

(Mr. SOUDER asked and was given permission to revise and extend his remarks.)

Mr. SOUDER. Mr. Speaker, as we heard earlier, this is an issue that deeply divides our country and us individually. I am passionately pro-life, and I believe it is a shame on America to watch these young kids get killed. But that is not what this bill is about.

This bill is about whether people who share my view about abortion have the right to practice their conscience in America and what are we doing to trample religious rights in America, of people who voluntarily join a health plan that shares their moral and religious beliefs.

Religious institutions, particularly the Catholic Church in this country, founded hospitals to care for the poor and to practice the saving of life. To be able in this country to force them to fund, provide abortion counseling or other things are anathema to their religious beliefs and is wrong.

The bill that my former employer, former Senator Coats, passed in the Senate, intended to address this conscience clause.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Will the gentleman suspend.

The Chair would remind Members to refrain from improper references to the other body, including characterizations of Senate actions.

Mr. SOUDER. As a former staff member, I think I have some flexibility for him.

The SPEAKER pro tempore. The Chair would remind all Members that we do have rules in the House, and the Chair would ask Members to abide by the rules.

Mr. SOUDER. Mr. Speaker, the question in Alaska overruled what was, in my opinion, at least, what my former employer intended to say, that the Alaska Supreme Court struck down the conscience clauses applied to the hospital, holding that there was no compelling State interest in the conscience rights of the hospital.

Now, if compelling State interests overrules a Federal law that is based on religious freedoms based on our Constitution and laws that are passed, we are in deep trouble.

You can see by the intent that my friend, the gentleman from Florida (Mr. WELDON), just referred to of the Maryland national abortion rights group, their goal is to force those of us who deeply feel that abortion is murder to be able to not have our own plans for healthcare, to not fund our own hospital systems, to not have any alternative but to fund what we view as one of the fundamental evils in the United States.

We can continue to fight abortion in this House and we will continue to fight about it, but those of us who deeply hold that this is a fundamental life should not be forced to fund in any way or participate in plans that require us to lay out dollars that require those of us who share that faith to practice what we believe is murder.

Furthermore, I was deeply offended by the line that said we are trying to hide behind the Vatican. The Council of Catholic Bishops, their pro-life activities have spoken out on this, and there should not be cheap shots at the Catholic Church or those of us who share many deeply held religious views based on those views.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to the previous speaker who brought up the Alaska decision, because the Alaska Supreme Court concluded that the Alaska State Constitution requires that quasi-public hospitals provide abortion services.

Anti-choice forces use this decision to claim that private religious hospitals will be forced to perform abortions against their will. In fact, Valley Hospital is a non-religious institution with deep ties to the State and local government. It was built on land donated by the city using $10.7 million in State funds.

Perhaps most importantly, the hospital had been granted a monopoly by the State to operate in the Ma-Su Valley, effectively insulating it from competition in a wide geographic area.

Based on the significant ties to the State, the Alaska courts ruled the hospital was effectively public and that the Alaska State Constitution therefore prohibited the hospital from banning abortions.

This bill, if passed, would violate those basic principles of Federalism by abrogating this State court ruling.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to speak in support of the rule on H.R. 4691. This legislation does not give new rights, nor does it take away any. Rather, it is just a clarification of the current law.

As we previously heard from other speakers, in 1996, Congress overwhelmingly, and I repeat, overwhelmingly, approved the existing nondiscrimination statute that protects healthcare entities from being forced by the government to perform abortions. Only because of judicial misinterpretation are we here today to clarify that healthcare entities include all healthcare organizations, including hospitals.

I would like to note what is at stake here, and that is the freedom to abstain from performing an act that one considers to be morally and ethically wrong.

□ 1200

Catholic hospitals, which are particular targets, have had a long history of locating themselves in impoverished areas where not many others are willing to go. They do this as part of their ministry and yet, there is a movement to shut down these hospitals because they refuse to perform abortions. This is not only ridiculous, but it is callous to all of the people who will suffer without the services that these hospitals provide.

Mr. Speaker, we must stop infringing upon the rights of hospitals, hospital workers, and the patients that they serve. I urge my colleagues to vote "yes" on the rule and to vote "yes" on the final passage of H.R. 4691.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds.

Anybody who votes for this rule because they think that they are preserving religious exemptions is exactly wrong. Religious exemptions are already in law.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, to their everlasting credit, 86 percent of hospitals in America do not do abortions. Why? Because they are all about saving life, nurturing, and healing. Pregnancy is not a disease; the unborn child is not a wart or tumor to be killed. Chemical poisoning, literal dismemberment, abortions, are violence against children.

This is all about protecting the right of conscience. NARAL let the cat out of the bag on one of their web sites. They said, Maryland NARAL is launching this hospital provider project to increase access to abortion services by requiring Maryland hospitals to provide abortion. They want to compel hospitals of conscience to do abortions—it's that simple.

Not all of the hospitals are religious. There are people who are not religious who have deep, moral convictions, and they believe that abortion takes the life of a baby. We ought to be nurturing. We should not compel our places of healing to become killing fields.

Ms. SLAUGHTER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentlewoman from New York.

The SPEAKER pro tempore (Mr. THORNBERRY). The time of the gentleman from New Jersey (Mr. SMITH) has expired.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds.

In one of those 85 percent of the hospitals that perform no abortions, if a woman should walk in bleeding, dying from a botched abortion, what would they do?

Mr. SMITH of New Jersey. Mr. Speaker, if the gentlewoman will yield, they would do everything to help that woman survive and, in the process of trying to heal her and to attend to her botched abortion, they would probably remove the baby who is probably already dead.

We are talking about doing everything to save both lives. That is what the hospitals and the emergency rooms throughout this country are about. That is not what this issue is all about.

The SPEAKER pro tempore. The time of the gentlewoman from New York (Ms. SLAUGHTER) has expired.

Ms. SLAUGHTER. Mr. Speaker, I yield myself another minute, and then the gentleman may respond if he would like to.

Before Roe v. Wade was passed, women had no option in the world except to go to a back alley, turning themselves over to unspeakable people with filthy hands and dirty equipment, and oftentimes they had to go to doctors and hospitals to try to be saved. Does the gentleman from New Jersey know that many of those hospitals were afraid to take them? Is the gentleman aware that women died? Is the gentleman not aware that if this bill were to pass, that hospitals might again be afraid in a circumstance like that to save a woman, lest they violate this legislation?

Mr. SMITH of New Jersey. Mr. Speaker, this just says to opt out of the killing of unborn babies.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to address their remarks to the Chair and to properly yield time back and forth, not to enter into a conversation.

The gentlewoman from New York (Ms. SLAUGHTER) controls the time.

Ms. SLAUGHTER. The Speaker is perfectly right, Mr. Speaker, and I apologize. I simply want to make the case that if 85 percent of the hospitals refuse to give reproductive services in the United States, women will die.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, since Roe v. Wade, there have been in excess of 42 million unborn children killed by the abortionists, through chemical poisoning, through dismemberment, and most of those are for socioeconomic reasons: Abortion on demand. The baby was unwanted therefore he or she was expendible.

What the abortion lobby is attempting to do is to expand the number of places where those children can be destroyed.

Our hope is that Members will vote for this rule. There will be a motion to recommit, there will be an up-or-down vote on a motion that is from the pro-abortion side. I would hope that Members would vote "no" on that motion to recommit and then vote "yes" on the Bilirakis bill.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today on certainly a matter of public policy and a matter of law, but I rise more passionately in support of this rule on a matter of conscience. I am a pro-life Member of this institution and I do not apologize for that. But today's debate I would offer humbly is not really about the debate over life and choice in America; today's debate is actually about the freedom to choose, which is a central tenet of the American experience.

In the same way that no one should be forced to honor a creed that they do not protest or honor a faith that they do not hold, no one and no institution, Mr. Speaker, should be forced to perform abortions against their will, their charter, their faith, their conscience. They should be able to choose, Mr. Speaker.

Now, we are debating here whether or not this institution will take measures to enforce the express will of this institution. Legislation that was signed by President Clinton in 1996 made the law which we seek to defend today the law of the land, Mr. Speaker, but through judicial activism from the bench in Alaska and elsewhere in America, our courts are abrogating the will of the American people as expressed in the laws passed in this institution. We rise today simply to clarify current law.

I say with great respect to my passionate colleagues on the other side of this issue, Mr. Speaker, that there is no hidden agenda here. This is not about denying funding to hospitals, or prescription drugs, or that women will die. The agenda here is very, very public. It is whether or not in America today, in America's health care institutions, there is the freedom to choose; whether there is a freedom of conscience, a freedom of religion, or whether the modern orthodoxy of abortion will be enforced on hospitals as the law of the land.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, sponsors of the bill do claim that this is just a simple clarification of existing law, but that is absolutely not the case. This is an enormous change in Federal law and would represent an unprecedented intrusion by Congress onto State and local rights. We need to think about that.

Mr. Speaker, all of us believe in life. Some of us simply believe that women should have the right to choose to live as well.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, the other side says this is about choice and, yet, when health care professionals, hospitals across the United States make a choice not to perform abortions, like 86 percent of them do today, abortion proponents have teamed up to force them to perform abortions anyway, regardless of religious objections, regardless of moral objections, regardless of conscientious objections. We have a conscience clause law passed in 1996 that talks about health care entities, but because of court opinions like the one by the Supreme Court in Alaska, we have to clarify that these entities do include hospitals.

Now, look at what the other side has said. They want to increase access to abortion services by requiring hospitals; it does not say suggest, it does not say urge, it does not say pressure, it says require every hospital in the State of Maryland to perform abortions. That means every Catholic hospital, every Lutheran hospital, every government hospital. That is what they want.

In New Jersey, the pro-abortion lobby sued Our Lady of Lourdes Health Care Services, that is a Catholic agency, and tried to force them to provide abortion. We have heard about Alaska where the pro-abortion lobby went after the Valley Hospital, from whom we heard testimony on the committee, who did not want to provide abortions in the small town of Palmer, and they actually succeeded in the court case that went up to the Supreme Court that ruled that they had to perform abortions.

What happened to the right to choose? What happened to the right of conscience? I guess the right of choice only applies if you agree with the pro-abortion lobby's agenda.

Mr. Speaker, no one should be forced to have an abortion; no one should be forced to perform an abortion.

The other side is talking here on the floor about a vast right-wing conspiracy. Well, if there is a conspiracy in America, maybe it is the vast left-wing conspiracy to shove abortion down everyone's throat. Support the rule, support the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

I want to say to the gentleman who just spoke that hospitals have been protected since the 1970s, and there is no question about that, and that we are very keen on our side on life and health.

I want to remind everybody of a little bit of history. I am sure all of my colleagues remember the great bill on community health centers which we have not been able to reauthorize for a year. At the end of last year it came up for reauthorization on the suspension calendar and, at the last minute, they attempted to add this piece of legislation to it, but there was such an outcry that they were forced to pull it off. So this year we are going back the other way around. This bill has to be dealt with before all of the community health centers in the United States can get their due from the Congress. That, sir, is a tragedy.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 229, nays 194, not voting 9, as follows:

[Roll No 410]

YEAS—229

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Knollenberg
LaFalce
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
  (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-
  McDonald
Miller, Dan
Miller, George
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Callahan
Maloney (NY)
Mascara
McKinney
Mink
Roukema
Stump
Thurman
Towns

□ 1237

Mr. HALL of Texas changed his vote from "nay" to "yea."

Ms. HARMAN, Mrs. BIGGERT and Mr. LANGEVIN changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BILIRAKIS. Mr. Speaker, pursuant to House Resolution 546, I call up the bill (H.R. 4691) to prohibit certain abortion-related discrimination in governmental activities, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 4691 is as follows:

H.R. 4691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abortion Non-Discrimination Act of 2002".

SEC. 2. ABORTION NON-DISCRIMINATION.

Section 245 of the Public Health Service Act (42 U.S.C. 238n) is amended—

(1) in the section heading, by striking "REGARDING TRAINING AND LICENSING OF PHYSICIANS" and inserting "REGARDING TRAINING, LICENSING, AND PRACTICE OF PHYSICIANS AND OTHER HEALTH CARE ENTITIES";

(2) in subsection (a)(1), by striking "to perform such abortions" and inserting "to perform, provide coverage of, or pay for induced abortions"; and

(3) in subsection (c)(2)—

(A) by inserting "or other health professional," after "an individual physician";

(B) by striking "and a participant" and inserting "a participant"; and

(C) by inserting before the period the following: ", a hospital, a provider sponsored organization; a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization or plan".

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 546, the gentleman from Florida

(Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that this important legislation is before us today. We introduced H.R. 4691, the Abortion Nondiscrimination Act, to provide clarity, and I want to emphasize that, to provide clarity to an existing law, I emphasize that, to an existing law, that protects health care entities from being forced to perform abortions against their consciences. The bottom line purpose of this bill is that.

In 1996, the Congress passed and former President Clinton signed the current statute into law which is known as conscience protection. This law was intended to ensure that no health care entity would be discriminated against on the basis that they did not perform abortions. However, court interpretations have called into question whether these sections of law apply to hospitals that object to offering abortions. That is why we must act quickly to clarify existing law to ensure that these protections are afforded to all types of health care entities.

Mr. Speaker, I would like to clarify two points in debate on this bill. Some have charged that this legislation is a massive expansion of current protections; and, Mr. Speaker, that is just false. The original law was intended, whatever happened to legislative intent for crying out loud, the original law was intended to apply to the broadest definition of health care entities. Transcripts from the debates in 1996 and in extensions of remarks in 1998 show that the original authors of the conscience protection intended a broad definition, a broad definition of health care entity. The other contention is that somehow this bill would allow facilities to not provide life saving care. Again, this is false. In fact, in all cases, facilities are regulated, as we know, by laws that require the provision of life saving care and all hospitals are prepared to provide appropriate life saving care.

What this bill does do is protect facilities from being mandated to offer abortions. We must ask ourselves if we want to force people to provide elective procedures that are fundamentally in opposition to their consciences. The gentleman from Indiana (Mr. PENCE) said it very well during the debate on the rule. "I would add that neither the American Medical Association, nor the American Hospital Association believe that anyone, anyone, should be forced to provide elective care against their conscience," and again I emphasize elective care, against their conscience.

Mr. Speaker, this bill is really a very simple technical correction. It is not a massive expansion or a policy to limit access to health care for women. On the contrary, this bill ensures that all facilities will continue to be free to provide the types of services that they find appropriate, and it will not force facilities to close because of fundamental objections to elective medical procedures.

Mr. Speaker, this is a good bill and I urge all of my colleagues to support H.R. 4691.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are spending a few hours today debating the abortion nondiscrimination bill. Despite this bill's troubling implications for women and despite the strong concerns many of my colleagues and I have about the bill, Republican leadership bypassed the committee and brought it straight to the floor.

While we debate this bill today, a number of issues continue to languish. When my colleagues and I have asked Republican leadership to hold a hearing on legislation that promotes greater competition in the prescription drug marketplace and brings down the cost of prescription drugs, they did nothing. When we asked them to bring the competition bill to the floor, they did nothing.

The Senate has passed similar legislation. If we were to debate it on the floor today, we would pass it, and we would be one step closer to bringing down the cost of prescription drugs. Yet, this Republican leadership is going to send us home before our work is done without passing a bill to cover prescription drugs, without passing a bill to try to get the price of prescription drugs down.

Now, today's House Republicans are proposing legislation that curtails health care information and curtails services available to women, again, before they bring something as important as prescription drug pricing to the floor. The public has every right to question the priorities of Republican leadership. While the partisan proponents of this bill, H.R. 4691, while the partisan proponents of this bill say it is a simple clarification of existing law, experts agree it is a broad, sweeping change to existing law.

□ 1245

Federal law now allows doctors and hospitals to refuse to perform abortion services because of their religious beliefs. That is Federal law. That is the way it should be. That is what we all agree on.

This bill, however, allows insurance plans and HMOs, not religious organizations, insurance plans and HMOs to refuse to provide or to make a referral for abortion services regardless of religious background, regardless of a woman's medical needs. Under this bill, insurance companies could deny coverage of family planning services just because the time spent with the patient doing nondirective counseling just might eat away at the HMO's bottom line.

Under this bill, Medicaid patients would no longer be guaranteed access to abortion counseling, to abortion counseling in cases of rape and incest, or where the pregnancy endangers the woman's life. Under this bill, State law expanding health insurance requirements to include coverage of nondirective family planning counseling would become irrelevant.

The current conscience clause allows doctors and hospitals to refuse to provide services they are opposed to for religious reasons. That is the way it should be. This bill, however, gags doctors, gags hospitals, regardless of their religious belief. It denies women access to medically necessary services, again regardless of religious beliefs.

Existing law protects a woman's right to medically accurate information. It protects a State's right to govern by its constitution and its laws, and my friends on the other side of the aisle always talk about States rights, unless they do not like the State law. It protects the medical institution's right to refuse to provide services they are religiously opposed to.

Mr. Speaker, we should have passed the prescription drug bill. We are obviously not doing that today. We should be promoting women's health. We are sure not doing that today. What we are doing is compromising women's health.

I urge my colleagues to oppose this expansive, broad-ranging infringement on women's rights and infringement on women's health. It is a bad bill. Vote "no."

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman easily forgets that we passed a prescription drug bill last June, and it is the other body which has sat on it.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PITTS), a member of the committee.

Mr. PITTS. Mr. Speaker, in America we believe in rights. We believe in the right of free speech. We believe in the right to choose our religion, right to peaceably assemble, other rights that are enshrined in our Declaration of Independence and every American's right to act according to the dictates of his conscience.

Historically, this right to conscience has applied to individuals and to private organizations as well. In 1996, Congress enacted a law to protect the right of a health care entity to decline to participate in abortion and if they had a conscience against killing unborn children, to decline to participate in this. However, some have read the 1996 law very narrowly to say that it protects only residents and residency programs and only in a training context, and we have had court decisions saying that this health care entity language does not include the full range of participants in providing health care, such as hospitals and health plans and professionals of the facilities.

So this bill, ANDA, the Abortion Non-Discrimination Act, would clarify existing law, strengthen existing law by providing that health care entities should not be forced by the government to pay for abortions or be penalized or discriminated against by government agencies for choosing not to provide or to perform abortions which 86 percent of our hospitals presently choose. It is needed to respond to this national effort that was referred to earlier on the floor by certain groups to force all health care providers to participate in abortions; and we have cited examples in New Jersey, in Alaska, others in Connecticut, in New Hampshire, various places.

So the opponents raise issues like gag rule. Protection from being forced to do abortion referral is part of the 1996 law now. This bill does not create it. Exemption from informed consent or counseling requirements is not found in the 1996 law or in this bill. There is no gag rule here. The bill's protections apply to those who do not want to perform or to make arrangements for or to subsidize abortions against their will.

Mr. Speaker, this is not a radical law. This is reasonable. Pro-choicers and pro-lifers have sponsored this bill that we have before us today. We should not force Catholic hospitals to refer for abortion or provide for abortion or other hospitals who have a conscience against it. I urge support of the bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I would add that the gentleman from Florida (Mr. BILIRAKIS) mentioned this House passed a drug bill in June, one written by the drug companies and advertised by the drug companies and does not serve consumers.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WAXMAN), who had an amendment he wanted to offer to this bill that the partisan majority would not allow him to offer yesterday in the Committee on Rules.

Mr. WAXMAN. Mr. Speaker, the bill before us is an enormous change in current policy about reproductive health, about patients' rights and about federalism. It is not a simple clarification as some have termed it. That may well be the reason we have this process of getting to the floor without markups in committee or subcommittee, without any chance on the floor to offer an amendment.

Let me explain why I say this is a very, very radical bill.

Under current law, beginning since the time of Roe v. Wade, there have been Federal laws that allow doctors, nurses and hospitals to refuse to perform abortion services because of their religious beliefs, and they still can get Federal funds for other services. Catholic doctors do not have to perform abortions. Catholic hospitals do not have to support abortion clinics. This permission for people to refuse because of their religious or moral objection is established already in the law and it is working smoothly, but this bill goes far beyond that.

This bill first and most obvious is not a bill about religion or conscience. While current law says that doctors and hospitals can exercise their religious or moral objections, this bill is not defined in that way. This bill would allow insurance companies and HMOs to ignore laws about patients' information and gag rules because they want to cut costs, because they want to reduce benefits or for no reason at all. Any HMO could gag its doctor, not because HMOs have a conscience, but because they would rather cut time with the patient from 9 minutes to 8. Any public hospital could decide that it would be easier if they did not have a protester out front. Further, this bill would allow the gag rule to govern for title X family planning grantees and this would reverse long-standing policy of providing nondirective information on all options.

Secondly, this bill is not just about doctors or even hospitals refusing to provide services. Those people are given permission to refuse under current law. This bill lets hospitals, insurance plans, HMOs and other corporate entities to gag their doctors and nurses from giving medically appropriate information to their patients. In other words, it would allow them to engage in what is medical malpractice, not giving the information their patients are entitled to receive.

We have tried to get a Patients' Bill of Rights enacted. We have had differences on the ability to sue to enforce those rights, but this bill instead provides a legal protection for a gag. It takes away patients' rights. This is a patients' bill of nonrights and having totally failed to enact the bill to protect patients' rights from the abuse of managed care, the majority is now moving to undo the efforts to those States who have enacted their own patient protection law.

That is the last point I want to make. It overrides State laws. It overrides the constitution in the State of Alaska where it says that a public hospital who is the only provider of services in the entire region must be available for legal abortion services. We should not overturn lightly the constitution of the State of Alaska. We are not here to regulate health insurance at the Federal level. That is what most of my Republican colleagues would object to, and yet they allow this to happen.

This is not a bill about religion. It is not about equal protection. It is the exact opposite, of guaranteeing constitutional rights to safe and legal abortions, family planning and medical privacy; and there is no Federal legitimate purpose here.

I would urge Members to oppose this bill and support the motion to recommit which will make this do what the authors say they want to do.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Speaker, I rise today in strong support of the Abortion Non-Discrimination Act, H.R. 4691. The bill before us is, in fact, a much-needed clarification of current law that was meant to provide full conscience protection to health entities, health providers who because of any moral convictions choose not to have anything to do with abortion; but unfortunately today, we will hear a lot of overblown rhetoric from the other side that the sky is falling, that this simple bill is something much more, when it is not, and arguments from people interestingly who say they are pro-choice, yet apparently when a hospital or a clinic or a provider, a doctor makes a choice, the right choice in my opinion, and chooses life, the other side is up in arms.

We have statements and they are documented from proabortion groups that they are actively engaged in a project to force all hospitals, often against their will or moral convictions, to provide abortions; and we know that the ACLU files lawsuits to force providers to perform abortions in States across the country, and sadly, sometimes activist courts find in their favor.

This really exposes the choice side for what they really believe in, which is not choice at all; and it flies in the face of all of their superficial choice rhetoric. It exposes the real proabortion agenda. Furthermore, it makes this commonsense legislation a necessary response from Congress whose intent in the original legislation was clearly to provide full conscience protection, and that intent clearly has been maligned in significant cases.

I want to thank and commend the gentleman from Louisiana (Mr. TAUZIN), the Committee on Energy and Commerce chairman, as well as the gentleman from Florida (Mr. BILIRAKIS), the subcommittee chairman, for their tremendous efforts in guiding this valuable legislation to the floor, and I urge adoption.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPS), a member of the committee.

Mrs. CAPPS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today not only as an elected representative but also as a public health nurse and as the former director of the Santa Barbara School District Teenage Parenting and Pregnancy Project.

I have firsthand experience with the struggles of many young women around the difficult subject of sex. I have dealt with teenagers trying to cope with the ramifications of bad decisions, and I have seen the terrible results when we turn our back and deny them help.

I am deeply troubled by this bill. I consider myself a religious person, and I hold in high respect the deep-seated values and feelings of Americans on the subject of productive health, but no one should have the authority to force his or her personal views upon others.

The Abortion Non-Discrimination Act does just that by overruling a State's rights to enforce laws and to design its own Medicaid program. This legislation is harmful to women. It would allow health care entities to refuse to comply with Federal, State and local laws pertaining to abortion services and referrals.

Under this measure, recipients of title X funds could defy current requirements that enable a woman to receive information upon request about all legal reproductive options.

□ 1300

Not only does this legislation deny women access to vital medical care, it is also unnecessary. Current law already protects the rights of individuals with religious or conscientious objection who may opt out of providing abortion-related services if they so choose; but institutions do not have the same rights as individuals, nor should they. Health care facilities exist to provide services. It should be rare when such a facility denies access to care to anyone. And all a health facility is required to do is to give a woman a referral upon request and to provide an abortion only if they choose in cases of rape or incest or when the life of the mother is in danger.

Mr. Speaker, it is clear that existing law gives sufficient deference to moral objections. Enacting broader conscience or refusal clauses for health entities only leaves women without medical services that they have a constitutional right to.

For decades women have fought to gain access to the reproductive health services that they need. Last year alone, title X services enabled women to avoid 1 million unintended pregnancies, nearly half of which would have ended in abortion.

This bill would reverse these proven success rates. In fact, this bill is so confusing, it does not even define what an abortion is. And so I respectfully ask the honorable gentleman from Florida (Mr. BILIRAKIS) to explain. Is emergency contraception an abortion? How about oral contraceptives? How about condoms or even advice on where to get this information?

Before we vote, I respectfully ask the gentleman from Florida (Mr. BILIRAKIS) to define what constitutes an abortion.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such additional time as I might require.

I guess I have to continue to respond to statements made by the gentleman from Ohio (Mr. BROWN), my good friend and the ranking member of my subcommittee, when he talks about prescription drugs. The bill was not written by the drug companies. If the drug companies had anything to do with the bill, I certainly did not know about it; and I played a large part in that.

I am talking about a prescription drug bill for seniors now. The bill as it was written was not perfect, but it consisted of $50 billion more than the minority had placed in their budget and intended to write a bill in the previous Congress. So it is more expensive than the bill that they came up with previously. The bill would help the poor to a very large extent. It would help the very sick to a tremendous extent, and it would help an awful lot of people in between; and it is unfortunate that politics is being played with a piece of legislation which is far from perfect, which is not something that we all would like to see ultimately take place but something that would help people at this point in time.

I would go on, Mr. Speaker, and I would like to read from additional views of Senators Coats, GREGG, FRIST, DEWINE, MCCONNELL, and HUTCHINSON in 1998 during the debate.

PARLIAMENTARY INQUIRY

Mr. BILIRAKIS. Mr. Speaker, is that permissible for me to read?

The SPEAKER pro tempore (Mr. THORNBERRY). Does the gentleman state a parliamentary inquiry?

Mr. BILIRAKIS. I guess I am. I noticed the Parliamentarian stood up.

The SPEAKER pro tempore. The Chair would inquire is it related to proceedings regarding the legislative history on the bill the House is considering?

Mr. BILIRAKIS. It is definitely related to it.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. BILIRAKIS. In any case, this took place during the Health Professions Education Partnerships Act of 1998, and the additional views said Congress explained that the term "health care entity" includes an individual physician, a post-graduate physician training program, and a participant in a program of training in the health professions, 42 U.S.C. 238n(c)(2)(1996).

They went on to say, and I read verbatim, and this is significant, Mr. Speaker, because of claims made by the other side that this is an expansion of what was intended at that point in time: "We believe that the term 'health care entity' in 42 U.S.C. 238n was intended to be read in the straightforward manner of 'including' not only the specific entities mentioned but also those which are routinely seen as health care entities in common usage and other Federal laws, such as a hospital, provider sponsored entity, health maintenance organization, health plan, or any other type of health . . . entities generally seen as 'health care entities' under Federal law. We intend to explore other means of definitively resolving this question of legislative intent." And that was signed by the Senators that I mentioned earlier.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Florida (Mr. BILIRAKIS), my friend, said that the drug companies did not write the drug bill that this House in a partisan vote passed. I guess we are all mistaken, but I would like to recount for a moment how this drug legislation passed this House of Representatives.

Back in June we worked on a markup on a bill that the drug companies were totally in support of. There was a fundraiser that had been scheduled for one evening. We stopped the markup so that Republicans could troop off to the fundraiser with the President and the Vice President which raised $30 million, $3 million of it from drug companies. The sponsor of the fundraiser, the chairman of it, was the CEO of a British drug company, GlaxoSmithKline, which gave $300,000 to the Republican campaign coffers.

The next day we came back, passed a bill, defeated every amendment on a partisan vote that was a proconsumer, prosenior amendment. The bill then passed in a partisan vote. It passed the House in a partisan vote.

And then in the most cynical move I have seen in 10 years in Congress, the drug companies spent literally millions of dollars advertising on television, thanking the Republicans for passing their drug bill. The only thing was, Mr. Speaker, they did not say "paid for by" Pfizer or Merck or Eli Lilly or Pharmacia or Glaxo. They said paid for by United Seniors Association or paid for by 60 Plus. So the drug companies spent millions of dollars thanking the Republicans, but they used a front group to make it look like it was a senior organization or actually two senior organizations thanking the Republicans.

If the public only knew that all those ads were paid for by the drug industry, then Republican Members of Congress would not be getting calls thanking them for voting for it. They would be getting calls saying go back to Washington and pass a drug bill that actually helps seniors, that actually helps consumers, that does not help the drug industry continue to be the most profitable industry in America, continue to be in a situation where they pay the lowest tax rate of any industry in America. And I think people in this country have had enough and we are going to find a little more about that come November.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue and so many issues important to the health of all Americans.

Mr. Speaker, I rise today in very strong opposition to this politically motivated anti-woman bill. How could we as representatives of the people lawfully permit health care providers to really ignore the Constitution and the Supreme Court?

Let us be clear. H.R. 4691 radically alters current law and could gag health care providers from giving women, who may face an unintended pregnancy, including rape and incest, all of her legal medical options.

This is really a domestic version of the global gag rule which really should be repealed. This bill would muzzle health care providers who participate in the title X program by eliminating providers' options which enable women to receive information upon request, just upon request, about all of their available medical options.

In the absence of a referral requirement, health care providers may be able to effectively gag health care practitioners from giving such referrals to women who request them. This bill is really outrageous. It is simply another in the long parade of bad bills the majority continues to schedule in order to promote their political ideology and their political message while avoiding and refusing to schedule the real work of the House.

Mr. Speaker, where is the Labor-HHS appropriations bill? Why are we not working on that today instead of considering legislation that amounts to nothing more than a dangerous assault on women's reproductive rights? We should be funding the important health programs in the Labor-HHS bill. I urge Members to vote "yes" on the motion to recommit and "no" on this very bad bill.

Mrs. CAPPS. Mr. Speaker, will the gentlewoman yield?

Ms. LEE. I yield to the gentlewoman from California.

Mrs. CAPPS. Mr. Speaker, I request from the gentleman from Florida (Chairman BILIRAKIS) a definition of the term "abortion." As we prepare to vote on this very important legislation, could the gentleman help us frame what we are voting about? Are we voting about a surgical procedure? Are we voting about emergency contraception? Does an abortion constitute oral contraception or condoms?

Mr. BILIRAKIS. Mr. Speaker, will the gentlewoman yield?

Ms. LEE. I yield to the gentleman from Florida.

Mr. BILIRAKIS. Mr. Speaker, I would advise the gentlewoman, this is not about abortion. This is about freedom. This is what has been said before, and said over again. That is why I read the statement I just read, basically giving people the moral rights to make their decisions. That is what it is all about.

I am not going to give the gentlewoman a definition for abortion or anything of that nature. It is not pertinent to this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, my esteemed colleague on the other side said existing laws protects only religiously affiliated health care providers from forced involvement in abortion and that this bill expands that. That is absolutely false. H.R. 4691 does not expand the law at all on this point. Existing law protects secular as well as religious providers.

H.R. 4691 clarifies the definition of health care entity in this law so it clearly covers nurses as well as physicians, hospitals, as well as training programs in hospitals. This charge of expanding the law beyond religious to secular entities I think is a red herring.

About title X, compromising the ability of title X clients to obtain information critical to their health, I think that is false. Nothing in H.R. 4691 limits Federal or State agency's abilities to require the provision of accurate information about abortion or abortion providers.

Under H.R. 4691, government may not penalize a private health care entity for declining to provide or make arrangements for abortions. States should not be able to force people or hospitals to be involved in an abortion, especially when they try to base the right to coerce on the fact that medical institutions receive Federal funding.

Conscience protection is a civil right. The Federal Government has the right and the duty to protect conscience by making sure that any entity that receives Federal funding does not discriminate against any person or organization just because they do not want to be involved in an abortion. I might say that 46 States in our country presently have conscience protection laws.

I might quote from the American Medical Association. They say: "Neither physician, hospital, nor hospital personnel shall be required to perform any act violative of personally held moral principles."

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 30 seconds.

The other side of the aisle has repeatedly quoted the American Medical Association. Members need to understand they have taken no position on this bill. They are not in support of it. They have not taken a position either way.

However, the American College of Obstetricians and Gynecologists have asked for a "no" vote on this bill because they really understand this issue better than anyone. They know this bill is not a minor change in Federal law, but a broad-reaching change that denies information and access to women, even women whose health is in jeopardy or women who have been raped or are victims of incest.

Mr. Speaker, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, in the prior exchange, the failure of the gentleman from Florida (Mr. BILIRAKIS) to indicate what an abortion is was an important concession because in effect it says an abortion is anything that a provider says it is. It makes this legislation completely untenable.

What we are witnessing is the umpteenth attempt of the Republicans to invade Roe v. Wade. I have to give the majority credit, though; the majority is determined to deny a woman the right to control her own body by any means necessary. That is why they keep coming to the floor with these provisions.

□ 1315

Yes, this bill is about discrimination, discrimination against women and discrimination against the States. They wrap themselves in a conscience clause cloak. We could never have gotten this far if we did not have ironclad conscience clause protection in our law.

I have got two great Catholic universities in my district, Georgetown University, with which I am personally associated as a tenured law professor, and Catholic University. Georgetown University Provident Hospital does not have the slightest doubt that they and their health care services already are strenuously covered by the existing conscience clause.

This is not a conscience clause. This is a cop-out clause. What it does essentially is to open the floodgates. The first to take advantage of this clause are going to be the health care plans and the HMOs. These are the guys who are already saying to physicians, we're timing you on how much time you can spend with patients urgently in need of health care. Do you think they are going to continue to give informed consent by providing the kind of counseling that Federal law provides? They know a loophole when they see one.

We have already closed every Federal door to a woman's right to choose with a Hyde amendment and with a plethora of other provisions. Now we have gone to the next level. We are invading

States rights and the rights of the States to provide health care by changing Federal law to invade State territory. Ever since Roe, we have said not with Federal dollars. Now we are telling the States what to do with their dollars and what to do with their laws.

Let the States' rights Republicans take a page out of their own prayer book. Stand down. Let the States run their own State health care systems.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume to read from the American Medical Association Code of Ethics, H-5.995, on abortion. It goes on to say, "Neither physician, hospital, nor hospital personnel shall be required to perform any act violative of personally held moral principles. In these circumstances, good medical practice requires only that the physician or other professional withdraw from the case, so long as the withdrawal is consistent with good medical practice."

That is the gist of this piece of legislation, intending to clarify what was intended back in 1996. I have not looked up who voted for that bill or who voted against it, but the fact of the matter is that is the bottom line of what we are trying to accomplish today.

Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank my good friend for yielding time. I want to compliment him on his leadership as well as his courage in offering this bill today.

Mr. Speaker, a moment ago, the gentlewoman from the District of Columbia talked about this being the umpteenth time that we have dealt with the abortion issue. Frankly, I am very proud of the fact that pro-lifers have refused to roll over, those of us who have a moral and a conscientious objection to the killing of unborn children and the injuring of their mothers, do whatever we can, whenever we can to preserve at least some of the lives who otherwise would be destroyed by the violence of abortion.

Let us not forget what we are talking about. Abortion either dismembers unborn children or it chemically poisons unborn children and it does it in a horrific way. It is a painful, violent death imposed upon children and it also is injurious to mothers, especially in a psychological way and in long-lasting physical ways. What we are dealing with today, Mr. Speaker, is conscience protection for hospitals and those institutions that protect and preserve and nurture life so that they will not be coerced into performing abortions or referring for abortions.

I would remind my colleagues that OLYMPIA SNOWE, who is not a pro-lifer, said when this was up in 1996 that an institution or an individual who does not want to perform an abortion should not be compelled to do so in a way that is contrary to their beliefs. Unfortunately, while the intent of the legislation signed by the President in 1996 was clear, the language apparently was not, or at least in the eyes of some, and some courts and some attorneys general have been trying to compel health organizations, hospitals, to be involved in abortions.

Some courts and pro-abortion groups are so extreme that they want to force hospitals to do abortions against their will. The whole board of directors, the hospital staff could say we will not participate in this anti-life child battering enterprise but they could be compelled by a State or by some court to do so absent the enactment of this legislation.

In my own home State of New Jersey, Elizabeth General Medical Center agreed to consolidate with St. Elizabeth's Hospital and no longer perform abortions. Subsequently a New Jersey Superior Court judge reviewing the consolidation issued an outrageous judgment that brought the pro-abortion organizations into the equation and approved a settlement to place $2 million in a trust for the performance of abortions and abortion referrals. In other words, they got money from the pro-lifers to enable the killing of unborn children.

This debate is all about human rights, I say to my friends, about child violence. We can mask it, we can sanitize it and we do. We do it quite well. We are Members of Congress. We are politicians. But the fact of the matter is that killing unborn children is violence against children, and dismemberment and chemical poisoning in no way can be construed to be a benign act. It kills babies. Look at the ultrasounds and the great progress that has been made in refining ultrasounds. Today you can see a baby in great detail before birth. The abortionist looks at that same reality—that same baby and kills that baby. I think it is to their credit that 86 percent of all the hospitals in America are all about lifesaving and nurturing and healing—they refuse to do abortions. They are not about killing babies. They are not about putting poisons into their amniotic sacs in order to procure a baby's death. They are not about dismembering the arms and the legs and the torso and the head—decapitation is commonplace in the abortion mills all over America, with 42 to 43 million dead babies and counting a horrific loss of life.

Now we see the abortion lobby, and NARAL makes it very clear, they have a plan when there are consolidations to make sure that these hospitals who are now pro-life, whether they are religiously affiliated or not, to provide abortions. NARAL says it very clearly on one of their websites and we know that this is part of an aggresive strategy, to expand abortions where they are absolutely not wanted. Babies are precious. Their mothers are precious. Let us promote lifesaving, nonviolent alternatives to abortion, not the enabling and the killing of babies.

Someday every Member who has been voting for abortion will rue the day. They will wake up in the middle of the night and say, how could I? Just like looking back in antiquity we look back and say how could people like Washington and Jefferson and others have had slaves? There was a blind spot then. There is a blind spot today. Abortion is violence against children. Brown enables it and expands it. Vote for the Bilirakis bill and against the Brown motion to recommit.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 1 minute.

Of course we are not telling hospitals and doctors to provide abortions. We have already settled that issue. No doctor, no hospital should be forced to do that. We are just saying that a woman who has been raped or a woman who has been a victim of incest, whose life because of the pregnancy might be in danger, who comes to a hospital, comes to any hospital, should be given access to information, should be referred, should be told where she might be able to get counseling or might be able to get help. That is all that we are saying, that we know this legislation takes that right away.

Again, think about that. Imagine, a woman who has been raped, a woman who has been a victim of incest, who is pregnant, whose life may be in danger from that pregnancy gets turned away from a hospital under this legislation, gets turned away from a hospital, nobody will talk to her because this rigid, far-right agenda of the Republican Party says we are against abortion and we make no exceptions for rape, we make no exceptions for incest, we make no exceptions for the health of the mother.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentleman from Ohio in his efforts to try to bring some sanity to this bill.

I would like to ask the gentleman from Florida (Mr. BILIRAKIS), it seems to me that it is a moral obligation to ensure that information regarding the reproductive rights of women be given to her. And is it not true that institutions cannot restrict providers from offering medically appropriate information and services? Can you answer that for me?

Mr. BILIRAKIS. The only answer I will give the gentlewoman is that this is not intended to be an expansion on what is already law. We are trying to clarify as a result of court action that has taken place regarding the legislation that now exists.

Ms. MILLENDER-McDONALD. So this bill then has an opt-out of performing any abortion services, including counseling or referral? Does this bill do that? It opts out performing any abortion services, counseling or referral?

Mr. BILIRAKIS. It is not intended to do that, nor does the bill say that.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). All Members will suspend.

The Chair would remind all Members to direct their remarks to the Chair and if they seek to yield time, to formally yield time to other Members and then that time can be yielded back.

Ms. MILLENDER-McDONALD. I thank the Speaker very much for that.

I again just cannot believe that we are here today to speak about yet another assault on women's fundamental rights to be informed regarding all of her reproductive rights. Just over 2 months ago, we were here again advocating against the passage of legislation banning another aspect of a woman's reproductive choice. Today we stand again to defend a woman's basic rights to be informed of her options with regards to her reproductive health when she is most vulnerable. As we have mentioned and stated, it is not our mission to dictate the most personal choice any woman can ever make regarding her health. We are here to pass fair, effective legislation that will guarantee all women the opportunity to make the best possible decisions about her health. Besides, infringing on a woman's right to decide what is best for her health as in the case of H.R. 4691 will undermine States' rights to enforce their own constitutional protections. This sets a dangerous precedent, Mr. Speaker, if we begin to violate the principles of Federal law by essentially overruling State constitutions. We should not attempt to block Federal title X guidelines that allow women full access to information with regard to their reproductive health choices.

If this piece of legislation passes, H.R. 4691, we would prevent the Federal Government from enforcing its own requirement with reference to title X-funded clinics that refer patients to abortion providers upon request. Further, passage of H.R. 4691 would prevent States from following the Hyde amendment which mandates that Medicaid patients be informed about legal abortion services in the event of rape, incest or a pregnancy that threatens a woman's life.

I say, let us defeat this bill that does not give women their reproductive choices.

Mr. BILIRAKIS. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time. I want to rise in strong support of this bill and reiterate some of the points that I made in my comments in the debate on the rule. This bill has been characterized by its opponents as an assault on their side of the issue, the pro-abortion or pro-choice side. I would argue very, very strongly that that is very much not the case. The law as I interpret it is very, very clear. It seeks to clarify the conscience clause that was enacted by this body and signed into law by the President of the United States, William Jefferson Clinton, in 1996. This dispute arose over a disagreement surrounding a requirement that physicians in training, residents, be forced to learn how to do abortions to get their accreditation and get their license to practice obstetrics and gynecology when in fact they were personally opposed to doing abortions. For most Members of the House, that was a no-brainer. If you are pro-life, why should we the government have laws and regulations that would force a physician in training to have to learn to do a procedure that they find morally and ethically repugnant?

Under the provisions of the law, and I have a copy of the law right here, we encompassed it to include health care entities. I interpreted that at the time, I was here, I voted for it, that it would also include some obvious health care entities like hospitals and HMOs.

□ 1330

But under the aggressive attempt on the part of the pro-choice community to expand the availability of abortion procedures in America, they have used the courts, which has always been their traditional tool to advance their agenda, to expand or redefine the law such that a hospital or an HMO is not a health care entity.

What we seek to do in this statute is to just clarify that act. To define us as engaging in this great assault on Row v. Wade, when really what we are trying to do is protect freedom of conscience or freedom of choice, to me, is just not an accurate interpretation of it.

As far as some of these claims and assertions that we will prevent people from being counseled, if you look at the language, it is very, very clear. If any health care entity voluntarily elects not only to train people to do abortions, but as well to perform them, or refer for an abortion, that is not infringed by this act.

I want to clarify another very, very important thing, I know this is a very sensitive issue for a lot of Members in the body, and this is this debate about contraception.

There have been people who have come to this floor today and tried to assert that the language in this bill would bar the provision of contraception services in many institutions that are already providing it. Please show me in the statute where you find that interpretation. I think it could be described as a tremendous misinterpretation or a tremendous stretch of the imagination.

The provision of contraceptive services has never been defined as abortion in Federal statute, nor has emergency contraception, what has commonly been interpreted as the morning-after pill. Now, some religious groups may interpret that as abortion, but we make no reference in this statute to religious groups or their definitions; and under the current FDA policy that is considered contraception, and it is not affected at all by this statute.

This law, in my opinion, represents a very clear attempt to prevent what I consider to be the extreme agenda of the pro-abortion community to try to advance what they want to do.

We have had many people come down to the floor quoting from a NARAL Web site about their agenda, which is to force many institutions, and 85 percent of hospitals in America today do not provide abortion services, to force them to do that, using current Federal laws and statutes.

Mr. Speaker, this piece of legislation, I think, is very clear. It is not ambiguous. Its intent is to protect the freedom of these institutions to not engage in this procedure.

I ask Members to support this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise in opposition to this bill. I think a dose of reality may be helpful in this debate.

The extremist pro-abortion, pro-choice forces want women to have their constitutional rights. The people who have gotten 85 percent of the hospitals in this country not to be willing to provide an abortion to a woman who requests it want to deny, to make it impossible, for women to exercise what the Supreme Court says is their constitutional right. That is the crux of the debate.

Let us have a dose of reality.

Fact one: this bill has never been considered by any committee of this House, not in hearings, not in markup, not ever. A cynical person might view it as a crass attempt to pander to an extremist constituency on the eve of an election, especially since we know it is dead on arrival in the Senate. But you do not have to be cynical to know that this bill needs to be looked at more carefully, at the very least. Every Member should make up for the negligence of the committees of jurisdiction in not considering this bill by reading the fine print and not listening only to the rhetoric.

Fact two: this bill, despite its lofty title, is not about discrimination. It would cancel out every State law protecting a woman's right to choice and the right of every American to demand health care coverage that meets her medical needs. This Congress has failed to act on prescription drug coverage. This Congress has killed any hope of universal health care coverage. Now the Republican leadership of the House wants to help the for-profit health care industry rob our constituents of medical services to which they have a constitutional right.

Fact three: this bill is not about religious liberty or conscience. Read the bill. Copies of it are sitting on the table just outside the Chamber. The bill covers any hospital, any HMO, any insurer, any facility, any organization, any plan, even if they are for-profit, even if they do not have religious or moral objections to an abortion. I am not aware that HMOs or insurance companies have religious consciences, even if they just want to save a little money at the expense of our constituents.

Fact four: nearly every State protects the right of any individual who objects on moral or religious grounds to performing abortions. So that issue is a red herring. It does not need further discussion. The States protect that right already.

Fact five: There is a domestic terrorist movement that uses violence, murder, bombings and harassment to undermine the ability of women to go to the doctor and receive constitutionally protected health care services. Many medical facilities have knuckled under to this wave of domestic terrorism and simply stopped providing those services. This bill rewards those terrorists.

Fact six: This bill is not limited to the actual performance of abortions. It would also apply to laws that require health care providers to supply women with basic information so that they can make informed decisions about their health care options, exercising their consciences. The consciences that are being violated by this bill are the consciences of women who may want to choose to avail themselves of their constitutional right to choose to have an abortion. This bill would also apply to some forms of birth control.

Let us be clear, this bill is not about religious freedom or protecting the right of conscience. That is already protected by law. This bill is simply an attempt to make it harder for women to obtain an abortion, to vital health care services. If this Congress is unable to expand access to health care, the least Members can do is vote not to restrict it further.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, at least the pro-abortion forces are being very clear about what their position is. They now want to force people who disagree with their position to perform abortions, to counsel for abortions, to pay for abortion through insurance laws.

We have things in the United States called voluntary associations, and if voluntary associations want to form an insurance company that may or may not cover different things, apparently they can cover about anything, unless it is a moral view. In fact, my friend, the gentleman from New York, should know that the Catholic hospitals of the City of New York have in fact formed an HMO. There are many religious institutions in this country and many religious people who have bonded together to form health insurance of all different types.

We should have a right, those of us, regardless of what the Court says, those of us who have a moral view that abortion is murder, should not be forced to counsel, pay for or fund that murder.

It is one thing to say we are going to deprive someone else of their human right to what I believe is to take another human life, and I believe the right to life is preeminent and I believe the Court decision was wrong, but even if you agree with that Court decision, why would you force me, who believes that the taking of these innocent little babies is an abominable sin, why would you force me to say I cannot have insurance coverage that does not pay for that?

I cannot fund a hospital or participate in caring for the poor and caring for people who need health care unless I will also fund what I find to be as abominable as the killing of innocent little babies? Why deprive me of my rights? Why deprive me of my rights of association? Why deprive those people who are not necessarily a majority, we are evenly divided in this country, but why deprive the people who believe it is morally wrong of their right to not fund it, to not counsel it?

There are alternatives. If there are all these people who favor abortion, if there are all these people who support abortion and all these abortions, there are plenty of options for them. Why make me and the people who find this abominable have to pay for this?

The reason this law is needed is in fact the courts in several States have challenged the HMO laws, the hospital laws; and we need this legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I repeat, I have seen one Republican man after another Republican man after another Republican man come down to the House floor and insist that we are forcing physicians and hospitals to perform abortions that in good conscience they do not want to perform.

That is not part of the issue. That issue is solved. No one will have to perform abortions. We do not think people should have to perform abortions, doctors or hospitals, if they do not choose to. That issue is settled.

For them to continue to put up that straw man, for them to continue to use that red herring, is intellectually dishonest, and their far right, no exceptions for rape and incest, far right agenda, they know that; and they should just be a little more honest with the American public.

Now, what is wrong with this whole debate today? First of all, what is first wrong with the debate is we are talking again about a health issue that we really should not be talking about, and we are not acting on prescription drug legislation. We are doing nothing in this Congress to try to lower the cost of prescription drugs.

The second thing that is wrong with this debate is this bill is on the House floor today having bypassed the committee structure. With all the disagreements on what people think about this bill and all the interpretations, it should have been in committee. My friends on the other side of the aisle know that we should have discussed it in committees, we should have had a markup, we should have been able to figure out all these questions.

Third, my friends on the other side of the aisle always talk about States' rights, we should respect what the States do. This legislation overrides States' rights. They are for States' rights, unless they do not like what the States do, then we are going to override States' rights.

Four, as the gentleman from New York (Mr. NADLER) said, as an example, a for-profit health maintenance organization having nothing to do with religion, a for-profit health maintenance organization can simply refuse counseling services to a woman who has been a victim of rape or incest, for example, can refuse it just to save money.

Now, insurance companies, will they do that? These are the same insurance companies that cover Viagra in many, many cases, in most insurance companies; but they do not cover contraceptives for women, which is one of the biggest expenses that women of childbearing age face.

So, sure, some HMOs are going to do that. To save money, they are going to refuse counseling to a woman that might be a victim of rape or incest whose health might be in jeopardy.

Again, Mr. Speaker, there is no allowance in this legislation for rape, there is no allowance for incest, there is no allowance for protecting the life and the health of the woman. I know that fits the far right Republican agenda. They want no abortions in this country, they want no exceptions for rape, no exceptions for incest, no exceptions for the life and health of the woman. That is why this legislation is on the floor today, in order to fulfill that agenda and play to that far right base of the Republican Party.

But, frankly, where I come from, Mr. Speaker, there are differences of opinion on abortion. Some say we should allow them; some say we should not. But almost everybody I know thinks that when a woman has been a victim of rape or incest, and particularly if her life is in danger, almost everybody I know thinks that woman should be entitled to make that choice if she chooses.

That is why this legislation is a bad idea, Mr. Speaker. That is why this Congress should oppose this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the ranking member knows that we have had a hearing on this issue in committee; and as far as the consistency regarding States' rights, I dare say that both parties over the years have been far from consistent on that particular issue.

Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. I thank the gentleman for yielding, particularly because I am rising in opposition to this legislation.

Mr. Speaker, claims that this bill is a clarification of existing law is just incorrect. The act would be a sweeping new Federal exemption from current laws and regulations that assure women access to health services.

I think it is very important to acknowledge that no Federal law requires any health care entity to provide abortion services. Furthermore, there is no requirement that any individual participate in the provision of reproductive health services.

Currently, title X, Family Planning Programs require that clinic staff give their clients the information and referrals for all their legal options upon their request, adoption, carrying to term, abortion; and this legislation would override that existing Federal law, and it would deny pregnant women all the information that they should have about their options.

Also the opt-out for Medicaid coverage, currently the Hyde amendment to the Medicaid program stipulation that Medicaid clients must have access to those services in case of rape, incest or where the pregnancy endangers a woman's life.

Just remember, this is not a mirror of current law; this is absolutely aborting the State and Federal laws.

□ 1345

Mr. BILIRAKIS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I just want to introduce for point of clarification, there have been statements made about how this is not an issue that should apply to health care plans or insurance companies, and I just want to state the case of Fidelis Health Care of New York. This is a Catholic archdiocese of New York cooperative managed health care plan. Immediately after it was started, Family Planning Advocates of New York, FPA they are called; they are an affiliate of Planned Parenthood International, pursued aggressive action against this HMO. They have called upon the State Health Department to "increase its monitoring of Fidelis informational and referral processes concerning reproductive health care," and they are supporting legislation in the New York legislature to force them to provide abortion counseling.

So what we are talking about is we have a Catholic doctor in a Catholic hospital with a Catholic nurse, all of them are pro-life, and these people are wanting to go in there and use the force of government to say you have to do this.

Mr. BILIRAKIS. Mr. Speaker, I yield myself the remaining time.

Just to finish up, I have already quoted from the ethics portion of the American Medical Association. The American Hospital Association has stated that "A health care institution should, based on its assessment of its mission, be able to choose whether or not to perform abortions."

The Association of American Physicians and Surgeons says, "The Federal Government should not discriminate against medical professionals or medical institutions that follow the dictates of conscience or medical judgment."

The American Nurses Association: "Where nurses are placed in situations of compromise that exceed acceptable moral limits or involve violations of the moral standards of the profession, whether in direct patient care or any other form of nursing practice, they may express their conscientious objection to participation."

All this legislation is trying to do is be consistent with all of that, and we are giving the choice and the freedom to those who have a problem with performing these types of procedures.

Mr. PICKERING. Mr. Speaker, I come from a rural community that prides itself in its values and the ability to express those values. Our local health care providers work tirelessly to improve the quality of life and care for the small towns and communities they serve.

It is important to note that many of our rural states and rural health providers have no choice than to rely on public aid for supplying care. We must not limit their ability to serve their communities. We should give them the decision making power that will enable them to better serve their areas while protecting them from discrimination in the law.

Because I believe that it is our local communities that better understand the needs of the people, I strongly support the passage of H.R. 4691, the "Abortion Non-Discrimination Act of 2002."

This bill will provide the necessary protection to health care professionals as they strive to provide quality care to the people they serve.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 4691, the Abortion Non-Discrimination Act. This legislation simply clarifies current law. In 1996, Congress passed and then President Clinton signed into law the existing nondiscrimination statute which protects "health care entities" from being forced by the government to perform abortions. The purpose of the legislation before us today is to clarify that "health care entities" includes all health care organizations, including hospitals.

This bill, despite all the rhetoric we hear from the other side, will not prevent women from obtaining abortions. What this bill does do is say to our hospitals and healthcare personnel that the government will not force them to perform a procedure that is in conflict with their personal moral beliefs. I think it is important to note that most hospitals in this Nation will not even get involved in abortion. That is largely due to the fact the basic function of a hospital is to preserve life not to take it.

I, like many across this Nation, believe that abortion is wrong. Life is a sacred gift from our Creator which should be protected. This, however, is not an abortion debate. This is a debate about allowing individuals to exercise their moral conscience. I cannot believe that there is a single person in this body who would say that we should force someone to perform a procedure that goes against every fiber of their moral and ethical being. It is in this vein, Mr. Chairman, that I urge passage of H.R. 4691.

Mr. FARR of California. Mr. Speaker, I would like to take this opportunity to voice my opposition to H.R. 4691, The Abortion Non-Discrimination Act, which would radically broaden the ability of any health-care entity to refuse to comply with federal, state, or local law that pertains to abortion. These health-care entities include hospitals, insurance companies, HMO's, and any other similar company; all of which would suddenly have the power to decide at will to override the existing federal provisions in Title X and Medicaid that ensure that all women have access to health information and services.

These entities would have free reign to refuse to provide or pay for abortion services, counseling regarding abortion, and referrals to other providers. In addition, hospitals would have the right to turn away women who are in need of emergency abortions as a life-saving procedure.

The State of California has worked hard to establish laws that protect the right of women to make fully informed medical choices, but H.R. 4691 would threaten these valuable laws that protect a woman's right to choose. These changes would create confusion and chaos regarding what services are available, therefore threatening the women's ability to seek and obtain health care.

The provisions encompassed in H.R. 4691 dramatically endanger women's right to quality, non-judgmental health care, and stand in direct contrast to California's efforts to protect access to information and reproductive services. I urge my fellow members to vote against this dangerous legislation.

Mr. BENTSEN. Mr. Speaker, I rise today in strong opposition to H.R. 4691, the Abortion Non-Discrimination Act. This deceptively-titled bill is not aimed at ending discrimination but rather at denying critical reproductive services to women across the nation.

This provision would allow health care entities to exempt themselves from existing state and federal laws that ensure access to a number of reproductive services vital to women's health. Supporters claim that the bill is intended to protect the religious and moral beliefs of doctors and health care providers. However, given the broadness of the bill, I must conclude that the underlying intent is to deprive patients of abortion services, coverage, and information regarding their reproductive rights.

Mr. Speaker, with this legislation, Congress risks trampling on state's rights to formulate their own Medicaid policies or use their own funding to ensure a woman's ability to make an informed decision regarding her own health. Under current law, health care providers are only required to supply abortion services to Medicaid patients in cases of rape, incest, or jeopardy of the mother's health. H.R. 4691 would undermine this narrow provision by allowing health care providers to determine what they will and will not do with federal government dollars.

Furthermore, under H.R. 4691, individual states could no longer require that a woman be referred or even advised of her options with regard to abortion and reproductive choices. If this law is passed, Title X funded entities can refuse to simply talk about abortion with patients because requiring them to do so is considered "discrimination." The fact of the matter is that this law discriminates against women everywhere by denying them adequate information and the opportunity to make their own choices.

Supporters of this legislation say they want to preserve freedom of conscience, but they seek to strip from female patients their freedom of choice articulated in Roe v. Wade and the freedom of states to enact policies that ensure all women receive comprehensive information on their options.

Mr. Speaker, I urge my colleagues to vote against depriving women of crucial reproductive information; against limiting state's rights to build their own Medicaid framework; against this unacceptable legislation.

Mr. STARK. Mr. Speaker, I rise today in opposition to the misnamed Abortion Non-Discrimination Act. It should really be entitled the First Step Toward Outlawing Abortion Act. At a time when my own state of California is leading the nation in enacting the most progressive laws protecting a woman's right to choose, Republicans in Congress continue to lead their ill-conceived, extremist crusade to stamp out this fundamental freedom.

The Republicans claim that their bill is simply a clarification of existing law. They are wrong. Passage of this legislation would undermine the sensible requirement that pregnant women be given a full explanation of their medical options regarding their pregnancy. Supporters of H.R. 4961 are not trying to clarify the law today, they are trying to inch us closer and closer—through every legislative vehicle they can find—toward a time when abortions are outlawed.

If this bill becomes law, pregnant women that go to a doctor, hospital, clinic, or other health care provider opposed to abortion may well leave without a full understanding of their medical options. Not only is it wrong to deny patients a full disclosure of their medical options, it is unethical and fundamentally un-American.

If this bill becomes law, the federal government will directly interfere with every state's right to structure their Medicaid programs in the way they deem most appropriate. Current law already prohibits Medicaid programs from performing abortions except in strictly limited circumstances. This bill would go even further by overriding the ability of states to ensure that women treated by Medicaid providers are at least told of their full medical options, even if they can't get financial assistance to access those services.

If this bill becomes law, family planning clinics across the country that are funded through the Title X program would no longer be required to give a pregnant woman information about all her medical options. In fact, they could withhold such information even in cases of rape or incest where the option of an abortion may be most appropriate for the woman involved.

Existing law contains a conscience clause protection that assures that providers opposed to abortion do not have to provide them. Therefore, there is no need for this legislation. This bill goes so far as to grant providers who are opposed to abortion the leeway to deny informing their patients of what may be a needed medical option. It's not sensible medicine, nor is it appropriate public health policy. There is absolutely no valid reason that this bill should be enacted.

I urge my colleagues to join with me in opposition to H.R. 4961 and to stand firm in our commitment that women must be provided all of the medical options so that they can make informed, personal decisions about their pregnancies.

Mr. BLUMENAUER. Mr. Speaker, I strongly oppose H.R. 4691 and urge my colleagues who care about women's health, states' rights and the legislative process to vote against this measure. Not only is the underlying bill objectionable, but the House Republican Leadership has forced this bill to the floor without any committee consideration or the possibility for amendments.

This bill puts the health and well-being of American families at risk by permitting any hospitals, health-insurance corporation or HMO to exempt itself from any federal, state, or local law that guarantees women access to abortion services. The language of this bill not only applies to the provision of legal abortion services, but also to the important responsibilities of counseling, payment and referral to other providers. Abortion is a legal medical procedure and women, regardless of whether their hospital or HMO provides actual abortion services, have a right to information about their medical options.

My anti-choice colleagues will make many false claims today on the floor, but the reality is that the federal government is not forcing hospitals or doctors to perform abortions against their will, the American public does not support this type of legislation and this bill is not a mere "clarification" of current law.

The bottom line is that health-care organizations should not be allowed to gag medical providers; women should not be denied necessary and appropriate medical information or services; and Congress should not supersede a state's right to create and enforce its own laws.

I will support the motion to recommit so that we can send this bill back to committee and better address its major flaws.

Mr. TIAHRT. Mr. Speaker, I rise today in strong support for H.R. 4691, the Abortion Non-Discrimination Act. This is a bill that should be strongly supported by pro-lifers and pro-choicers alike. For it simply clarifies current law to ensure that no health care provider is forced to perform abortions against its will. This body overwhelmingly supported this view in 1996 and President Clinton even signed it into law because we all agreed that those opposed to abortion on religious or moral grounds should not be forced by the government to compromise their beliefs.

This debate is not just about abortion, however, it is about health care and access to health care. If states or the federal government are allowed to discriminate against Catholic hospitals or community health centers that do not wish to provide abortion services, it will have drastic effects. Catholic hospitals and community health centers are the backbone of our health care system and serve those most in need. They already struggle financially for they treat every patient regardless of ability to pay. To withhold much needed funds just because they refuse to perform a service that they are fundamentally opposed to is abominable and will only hurt low-income Americans.

One of the fundamental principles of our nation is that the government cannot impose religious or philosophical beliefs upon its citizens. We have a rich society of different cultures and beliefs. It is un-American and unconscionable to force health care providers to perform abortions that they believe are morally wrong. Join me in voting in favor of this important legislation to ensure that no American is forced to performed abortions against their will.

Mr. TERRY, Mr. Speaker, I rise today in strong support of H.R. 4691, the Abortion Non-Discrimination Act.

In 1996, Congress enacted a law prohibiting discrimination against health care professionals, organizations, and facilities that decline to provide abortions on moral and religious grounds. This was done to prevent health care providers from being forced to act against their conscience by performing, training in, or giving referrals for abortion.

Unfortunately, several courts have misinterpreted this law by applying its protections only to individual physicians and training programs. Many hospitals and other health care facilities have been left without sufficient legal protection. For example, in 1997 the Alaska Supreme Court ordered a private hospital to provide abortion even though it went against the ethical standards set by its operating board.

H.R. 4691 would uphold the intent of Congress by clarifying the right of *all* health care providers to follow their conscience. It would also strengthen current law by ensuring providers cannot be forced to pay for abortion services. Forty-six states, including my home state of Nebraska, have similar conscience protection laws. I urge my colleagues to join me in supporting H.R. 4691 to ensure health care providers do not have to perform or pay for abortions they believe are morally wrong.

Mr. SHAYS. Mr. Speaker, I strongly oppose H.R. 4691, the inappropriately named Abortion Non-Discrimination Act, which would radically alter current law by allowing health care entities to exempt themselves from any federal, state or local law that assures women have access to abortion services, including basic information. This sort of preemption contradicts local policies espoused by this Congress.

This legislation flies in the face of a woman's right to choose as well as her basic right to be informed about her reproductive options. Moreover, H.R. 4691 has the potential to pose a severe threat to efforts to prevent unwanted pregnancies, thus leading to more, not less, abortions. The sweeping nature of this supposedly narrow legislation is staggering.

Family planning programs have been instrumental in helping millions of American women obtain reproductive health care for three decades. H.R. 4691 could essentially "gag" clinic staff from giving pregnant women information and referrals for all their legal options, including adoption, carrying the pregnancy to term and abortion.

There is currently no federal requirement that a health care entity provide abortion services against its will. Furthermore, there is no federal statutory requirement that any individual participate in the provision of reproductive health services if he or she objects. This legislation is therefore not only without merit but completely unnecessary.

I urge my colleagues to vote against H.R. 4691.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong opposition to H.R. 4691. This legislation, the Abortion Non-Discrimination Act of 2002, would essentially allow any health care entity, including hospitals, health insurance companies, HMOS, etc. to exempt themselves from current federal, state and local laws, that assure women have access to abortion services.

If passed, H.R. 4691 would provide a sweeping new exemption from current laws and regulations that gives the women of this country information about, and access to, reproductive health services.

This bill is specifically designed to override state constitutions, laws and local regulations that anti-choice activists have tried to overturn for years. This legislation will override the progress of states' that have worked to assure that women not only have access to reproductive services, but also the right to basic information.

By and large, the federal government does not pay for abortion services. The Hyde amendment to the Medicaid program stipulates that Medicaid clients must have access to abortion services in cases of rape, incest, or when the pregnancy endangers a woman's life. However, states may use their own Medicaid funds to cover abortion services beyond those narrow circumstances if they wish, and in fact, 21 states do so. This bill would preclude these states from enforcing their own laws and constitutional decisions in the area of abortion services for low-income women.

This bill is not limited to abortion services themselves. Under the bill, states would be prohibited from requiring that health-care entities participating in their Medicaid programs provide referrals for abortion services. It would therefore prohibit state from ensuring that patients have all the information they need to make an informed choice about their health care.

In deciding whether to approve a hospital merger, for example, a state could not even consider whether the newly merged hospital system would diminish the community's access to full reproductive health services. This would tie the hands of states trying to ensure that entire communities are not completely without any qualified abortion providers. In fact, supporters of the bill have states that this is exactly their intent.

Current law essentially requires that patients are entitled to full information about their medical options. The anti-choice movement has long sought to deny pregnant women information about their full range of options. H.R. 4691 bill accomplishes this goal by newly categorizing the Title X referral requirement as "discrimination."

Title X has a long-standing referral requirement that while Title X funds cannot be used to pay for abortion services, it must provide women information about the full range of medical care and reproductive options, including abortion. H.R. 4691 would override this, which will have the effect of instituting a gag on health care providers across the country.

Current law already allows individual health care providers to refrain from providing any reproductive services if they object, and that there is no federal statutory requirement that a health-care entity provide abortion services. While proponents tout this as a religious-based "conscience clause" there is no actual requirement in the bill that a health-care entity demonstrate a religious objection. So in actuality, under this bill any health plan, hospital or HMO could opt out of current standards that provide women information about, and access to, abortion services for any conceivable reason.

Mr. Speaker, I urge my Colleagues to oppose this legislation. This bill would disrupt the balance between federal, state and local authority and severely jeopardize reproductive health care and women's health.

Mr. BILIRAKIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Dan Miller of Florida). All time for debate has expired.

Pursuant to House Resolution 546, the bill is considered read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BROWN of Ohio. I am, Mr. Speaker, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Brown of Ohio moves to recommit the bill, H.R. 4691, to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendments:

Page 2, line 5, strike "Section" and insert "(a) In General.—Section".

Page 2, after line 24, add the following subsection:

(b) Effects on Patients and Employees; State Law.—The amendments made by subsection (a) shall not be construed as—

(1) authorizing any institution to withhold medically appropriate information or services from a patient;

(2) authorizing any institution to prohibit its employees, contractors, or grantees from discussing or providing all medically appropriate information or services; or

(3) preempting or abrogating a State's right to enforce its constitution, laws, policies, or regulations.

Mr. BROWN of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Brown) is recognized for 5 minutes in support of his motion.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

This is a motion to recommit in the purest sense of the word and in the most deserving sense of the term, and that is, Mr. Speaker, that this bill was never discussed in the Committee on Commerce to begin with. Normally, on motions to recommit after a bill goes through the process, it comes out of committee, goes to the floor, and people want to make a change or oppose it and they say, let us send it back to committee, let us recommit it so we can make some changes. But since this legislation was never there, it is even more deserving of a recommittal, an affirmative vote on a recommittal motion.

The legislation we are considering today goes far beyond a so-called clarification of existing law, which permits hospitals and doctors to deny women abortion services based on that provider's religious belief. We believe that, too. Current law allows doctors and hospitals to refuse to provide services they are religiously opposed to, as they should, as the law should. But this bill, Mr. Speaker, goes much further than that. It is not about the religious beliefs of providers, it is about denying health care information and services to women, including counseling services. This bill gags doctors, it gags hospitals from referring women to family planning clinics, even those women who have been raped, even those women who are the victims of incest, and even those women whose lives and health are in danger.

Under H.R. 4691, the legislation we are discussing, insurance companies could deny coverage of family planning services, even when medically necessary, regardless of their religious beliefs. It has nothing to do with religion; it has a lot to do with an HMO's bottom line. Relevant State laws would be trumped, even though these laws are designed to protect women. In other words, Mr. Speaker, the State of California, the State of Ohio, the State of Nebraska, the State of Florida might have passed legislation to protect women; this legislation overrides what those State laws wanted to do to provide these counseling services, or to provide these referral services at the hospital or by a physician.

This bill gags doctors, it gags hospitals, regardless of religious belief. It denies women access to medically necessary services regardless of their religious beliefs. Bottom line: it compromises women's health. That is why this bill should not have been on the floor and that is why we should support the motion to recommit.

I am offering the motion to recommit to safeguard against these efforts. The motion provides that H.R. 4691 not authorize any institution to prevent its providers from providing medically appropriate information or services. It does not authorize any institution to withhold medically appropriate information or services from its patients; it does not preempt State laws from enforcing that State's Constitution or that State's laws. This motion makes no change to current law that allows doctors, nurses, and hospitals to refuse to provide abortion services if those services conflict with the doctor's or the hospital's religious beliefs. It does not affect current prohibition against providing abortion services with Federal funds, it simply limits the harm that H.R. 4691 will do.

Imagine, Mr. Speaker, as we discussed before, a woman has been raped or a woman has been a victim of incest. Her life might be in danger, she comes into a hospital. Under this legislation, that hospital simply may not provide her any information, no counseling, no referral; there is a gag on that hospital's ability to do that. Where I come from, reasonable people have differences, honest differences between when abortion should be legal. Should it be legal, should it not be legal, and in what cases should it be legal. But it is only the extreme far right, the leadership of the Republican Party that wants to pass legislation like this where there are no exceptions for rape, for incest, for the life of the woman. The great, great majority of people in this country think a woman who has been raped, who has been a victim of incest, whose life might be in danger comes into a hospital, she should be given information; she should be given counseling if she so chooses; she should be given a referral if she so chooses. This bill, this very rigid bill, inflexible bill, does not allow that. The motion to recommit is important to protect women like that. This motion to recommit is important to preserve the medical standard that guarantees women access to necessary health care.

Mr. Speaker, I ask for a "yes" vote on the motion to recommit.

Mr. Speaker, I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I rise to claim the time in opposition to the motion, and I yield myself such time as I may consume.

Mr. Speaker, Members should reject the motion to recommit, because it does nothing but gut the intent of the underlying bill. The bill before us, as I said earlier, is simple. No one under any circumstances should be forced to perform an abortion against their will. It would be unconscionable for us to force them to do so, but some courts are doing just that, and that is why this clarification must be made.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the Brown motion states that this bill shall not be construed as authorizing any institution to withhold medically appropriate services from a patient. What are those "services?" They are abortion services, Mr. Speaker.

The problem with the Brown motion is it does not define medically appropriate, it leaves it up to further definition. Perhaps some Attorney General or health commissioner in a government that happens to be pro-abortion would say that is what medically appropriate means, or NARAL might say that is what appropriate means, and we are talking about abortion. That is what is on the table here, and I hope all Members understand that.

This killer motion, will enable the killing of babies. It absolutely reverses the intent of conscience protection and undermines the very law that was passed a few years ago, and takes us further back than we are already right now. I urge Members to vote "no" on this gutting motion.

I want to remind Members that 86 percent of the hospitals in America do not perform abortions. Thank God for that. They protect and preserve and cherish the lives of babies and their mothers—all their patients. They would be compelled under the Brown motion, forced, coerced, or empower others the ability to force them to perform abortions.

This debate is all about conscience. The Bilirakis bill is a great bill, it is an important bill, it is a human rights bill that says conscience means something. We ought to take this step. Vote for it. Vote down this gutting motion.

Mr. BILIRAKIS. Mr. Speaker, I yield the balance of the time to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me just start out by saying, one of the things my father taught me when I was a kid growing up is when people call you names, often the case is they have a problem themselves with the name they are calling you, and we have been called extreme and radical for doing this. I really take offense at that. I believe very strongly all we are trying to do in this bill is to just clarify the intent of the Congress 6 years ago when it originally passed this conscience clause language, and it is the left, it is the pro-abortion left that is trying to do an end run through the courts around this.

Now, this motion to recommit is a classic gutting motion to recommit. It invalidates the entire intent of the bill. It has language that says the statute shall not be construed as authorizing any institution to withhold medically appropriate information or services from a patient. So in other words, we are back to square one. The original intent of the law was it covered hospitals because it referred to them as health care entities, and now we have the courts arguing that hospitals are somehow not health care entities, and they should have to provide these services or referrals.

What they are arguing for here is we have a Catholic hospital, pro-life, they hire a doctor, and the doctor gets in there and he decides he wants to start referring his patients for an abortion. If it is the position of the hospital that that violates their position, they do not want that policy in place, they can enforce it under the conscience clause that we are trying to enact under this law. They have a gutting amendment here that essentially would make it impossible for those institutions, many of which are run by the church, many of which are not run by the church; I want to just underscore this. There are a lot of hospitals that are secular and they do not want to do abortions, and yet what this amendment would effectively do is make it possible for anybody to do abortion counseling, abortion referral, even abortion procedures in hospitals that do not want to do it.

Furthermore, it goes on to say that this law will not abrogate any States rights. So essentially, if the State wants to act very aggressively, statutes that would allow abortion procedures in all hospitals in the State, that this would not be prohibited. This clearly violates the intent of many people in this body, people on both sides of this issue. We had a lot of people who are pro-life and a lot of people who are pro-choice who supported this provision.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROWN of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will advise all Members that the telephone system is not working and the cloakrooms are unable to page Members. The bell systems and the whip systems will notify Members of the vote. The Chair will monitor the progress of the vote. Members are reminded that the paging system is currently not operating.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5-minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 191, nays 230, not voting 11, as follows:

[Roll No. 411]

YEAS—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Kolbe
Lampson
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—230

Aderholt
Akin
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Knollenberg
Kucinich
LaFalce
LaHood
Langevin
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Bachus
Callahan
Ganske
Hilliard
Maloney (NY)
Mascara
Mink
Roukema
Stump
Thurman
Towns

□ 1425

Messrs. SAM JOHNSON of Texas, LANGEVIN, SCHAFFER, EHLERS, CHAMBLISS, KINGSTON and SWEENEY changed their vote from "yea" to "nay."

Mr. BLAGOJEVICH, Mrs. CAPPS, Mrs. JOHNSON of Connecticut, and Mr. PASCRELL changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. WOOLSEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 229, noes 189, answered "present" 2, not voting 12, as follows:

[Roll No. 412]

AYES—229

Aderholt
Akin
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Blunt
Boehner
Bonilla
Boozman
Borski
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gillmor
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Knollenberg
LaFalce
LaHood
Langevin
Latham

LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sununu
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—189

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kelly
Kennedy (RI)
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kolbe
Lampson
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, Dan
Miller, George
Moore
Moran (VA)
Morella
Nadler
Napolitano
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Sweeney
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED "PRESENT"—2

Kaptur
Kucinich

NOT VOTING—12

Bachus
Callahan
Cubin
Maloney (NY)
Mascara
Mink
Olver
Roukema
Sherwood
Stump
Thurman
Towns

☐ 1437

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. SENSENBRENNER (during consideration of House Resolution 545) submitted the following conference report and statement on the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–685)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2215), to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "21st Century Department of Justice Appropriations Authorization Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2002 AND 2003

Sec. 101. Specific sums authorized to be appropriated for fiscal year 2002.
Sec. 102. Specific sums authorized to be appropriated for fiscal year 2003.
Sec. 103. Appointment of additional assistant United States attorneys; reduction of certain litigation positions.
Sec. 104. Authorization for additional assistant United States attorneys for project safe neighborhoods.

TITLE II—PERMANENT ENABLING PROVISIONS

Sec. 201. Permanent authority.
Sec. 202. Permanent authority relating to enforcement of laws.
Sec. 203. Miscellaneous uses of funds; technical amendments.
Sec. 204. Technical and miscellaneous amendments to Department of Justice authorities; authority to transfer property of marginal value; recordkeeping; protection of the Attorney General.
Sec. 205. Oversight; waste, fraud, and abuse within the Department of Justice.
Sec. 206. Enforcement of Federal criminal laws by Attorney General.
Sec. 207. Strengthening law enforcement in United States territories, commonwealths, and possessions.

TITLE III—MISCELLANEOUS

Sec. 301. Repealers.
Sec. 302. Technical amendments to title 18 of the United States Code.
Sec. 303. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal years 2004 and 2005.
Sec. 304. Study of untested rape examination kits.
Sec. 305. Reports on use of DCS 1000 (Carnivore).
Sec. 306. Study of allocation of litigating attorneys.
Sec. 307. Use of truth-in-sentencing and violent offender incarceration grants.
Sec. 308. Authority of the Department of Justice Inspector General.
Sec. 309. Review of the Department of Justice.
Sec. 310. Authorization of appropriations.
Sec. 311. Report on threats and assaults against Federal law enforcement officers, United States judges, United States officials and their families.
Sec. 312. Additional Federal judgeships.

TITLE IV—VIOLENCE AGAINST WOMEN

Sec. 401. Short title.
Sec. 402. Establishment of Violence Against Women Office.
Sec. 403. Effective date.

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUBS OF AMERICA

Sec. 1101. Boys and Girls Clubs of America.

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT OF 2002

Sec. 2001. Short title.

Subtitle A—Drug-Free Prisons and Jails

Sec. 2101. Use of residential substance abuse treatment grants to provide for services during and after incarceration.
Sec. 2102. Jail-based substance abuse treatment programs.
Sec. 2103. Mandatory revocation of probation and supervised release for failing a drug test.

Subtitle B—Treatment and Prevention

Sec. 2201. Report on drug-testing technologies.
Sec. 2202. Drug and substance abuse treatment, prevention, education, and research study.
Sec. 2203. Drug abuse and addiction research.

Subtitle C—Drug Courts

Sec. 2301. Drug courts.
Sec. 2302. Authorization of appropriations.
Sec. 2303. Study by the General Accounting Office.

Subtitle D—Program for Successful Reentry of Criminal Offenders Into Local Communities

CHAPTER 1—POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES

Sec. 2411. Post incarceration vocational and remedial educational opportunities for inmates.

CHAPTER 2—STATE REENTRY GRANT PROGRAMS

Sec. 2421. Amendments to the Omnibus Crime Control and Safe Streets Act of 1968.

Subtitle E—Other Matters

Sec. 2501. Amendment to Controlled Substances Act.
Sec. 2502. Study of methamphetamine treatment.
Sec. 2503. Authorization of funds for DEA police training in South and Central Asia.
Sec. 2504. United States-Thailand drug prosecutor exchange program.

TITLE III—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM

Sec. 3001. Increasing the penalty for using physical force to tamper with witnesses, victims, or informants.
Sec. 3002. Correction of aberrant statutes to permit imposition of both a fine and imprisonment.
Sec. 3003. Reinstatement of counts dismissed pursuant to a plea agreement.
Sec. 3004. Appeals from certain dismissals.
Sec. 3005. Clarification of length of supervised release terms in controlled substance cases.
Sec. 3006. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases.
Sec. 3007. Clarification that making restitution is a proper condition of supervised release.

TITLE IV—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2002

Sec. 4001. Short title.
Sec. 4002. Technical amendments relating to criminal law and procedure.
Sec. 4003. Additional technicals.
Sec. 4004. Repeal of outmoded provisions.
Sec. 4005. Amendments resulting from Public Law 107–56.
Sec. 4006. Cross reference correction.

TITLE V—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

Sec. 5001. Paul Coverdell Forensic Sciences Improvement Grants.
Sec. 5002. Authorization of appropriations.

DIVISION C—IMPROVEMENTS TO CRIMINAL JUSTICE, CIVIL JUSTICE, IMMIGRATION, JUVENILE JUSTICE, AND INTELLECTUAL PROPERTY AND ANTITRUST LAWS

TITLE I—CRIMINAL JUSTICE, CIVIL JUSTICE, AND IMMIGRATION

Subtitle A—General Improvements

Sec. 11001. Law Enforcement Tribute Act.
Sec. 11002. Disclosure of grand jury matters relating to money laundering offenses.
Sec. 11003. Grant program for State and local domestic preparedness support.
Sec. 11004. United States Sentencing Commission access to NCIC terminal.
Sec. 11005. Danger pay for FBI agents.
Sec. 11006. Police corps.
Sec. 11007. Radiation exposure compensation technical amendments.
Sec. 11008. Federal Judiciary Protection Act of 2002.
Sec. 11009. James Guelff and Chris McCurley Body Armor Act of 2002.
Sec. 11010. Persons authorized to serve search warrant.
Sec. 11011. Study on reentry, mental illness, and public safety.
Sec. 11012. Technical amendment to Omnibus Crime Control Act.
Sec. 11013. Debt collection improvement.
Sec. 11014. SCAAP authorization.
Sec. 11015. Use of annuity brokers in structured settlements.
Sec. 11016. INS processing fees.
Sec. 11017. United States Parole Commission extension.
Sec. 11018. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 11019. Pretrial disclosure of expert testimony relating to defendant's mental condition.
Sec. 11020. Multiparty, Multiforum Trial Jurisdiction Act of 2002.
Sec. 11021. Additional place of holding court in the southern district of Ohio.
Sec. 11022. Direct shipment of wine.
Sec. 11023. Webster Commission implementation report.
Sec. 11024. FBI police.
Sec. 11025. Report on FBI information management and technology.
Sec. 11026. GAO report on crime statistics reporting.
Sec. 11027. Crime-free rural States grants.
Sec. 11028. Motor vehicle franchise contract dispute resolution process.
Sec. 11029. Holding court for the southern district of Iowa.
Sec. 11030. Posthumous citizenship restoration.
Sec. 11030A. Extension of H–1B status for aliens with lengthy adjudications.
Sec. 11030B. Application for naturalization by alternative applicant if citizen parent has died.

Subtitle B—EB–5 Amendments

CHAPTER 1—IMMIGRATION BENEFITS

Sec. 11031. Removal of conditional basis of permanent resident status for certain alien entrepreneurs, spouses, and children.
Sec. 11032. Conditional permanent resident status for certain alien entrepreneurs, spouses, and children.
Sec. 11033. Regulations.
Sec. 11034. Definitions.

CHAPTER 2—AMENDMENTS TO OTHER LAWS

Sec. 11035. Definition of "full-time employment".
Sec. 11036. Eliminating enterprise establishment requirement for alien entrepreneurs.
Sec. 11037. Amendments to pilot immigration program for regional centers to promote economic growth.

Subtitle C—Judicial Improvements Act of 2002

Sec. 11041. Short title.
Sec. 11042. Judicial discipline procedures.
Sec. 11043. Technical amendments.
Sec. 11044. Severability.

Subtitle D—Antitrust Modernization Commission Act of 2002

Sec. 11051. Short title.
Sec. 11052. Establishment.
Sec. 11053. Duties of the Commission.
Sec. 11054. Membership.
Sec. 11055. Compensation of the Commission.
Sec. 11056. Staff of Commission; experts and consultants.
Sec. 11057. Powers of the Commission.
Sec. 11058. Report.
Sec. 11059. Termination of Commission.
Sec. 11060. Authorization of appropriations.

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Offender Accountability

Sec. 12101. Short title.
Sec. 12102. Juvenile offender accountability.

Subtitle B—Juvenile Justice and Delinquency Prevention Act of 2002

Sec. 12201. Short title.
Sec. 12202. Findings.
Sec. 12203. Purpose.
Sec. 12204. Definitions.
Sec. 12205. Concentration of Federal effort.
Sec. 12206. Coordinating Council on Juvenile Justice and Delinquency Prevention.
Sec. 12207. Annual report.
Sec. 12208. Allocation.
Sec. 12209. State plans.
Sec. 12210. Juvenile delinquency prevention block grant program.
Sec. 12211. Research; evaluation; technical assistance; training.
Sec. 12212. Demonstration projects.
Sec. 12213. Authorization of appropriations.
Sec. 12214. Administrative authority.
Sec. 12215. Use of funds.
Sec. 12216. Limitations on use of funds.
Sec. 12217. Rules of construction.
Sec. 12218. Leasing surplus Federal property.
Sec. 12219. Issuance of rules.
Sec. 12220. Content of materials.
Sec. 12221. Technical and conforming amendments.
Sec. 12222. Incentive grants for local delinquency prevention programs.
Sec. 12223. Effective date; application of amendments.

Subtitle C—Juvenile Disposition Hearing

Sec. 12301. Juvenile disposition hearing.

TITLE III—INTELLECTUAL PROPERTY

Subtitle A—Patent and Trademark Office Authorization

Sec. 13101. Short title.
Sec. 13102. Authorization of amounts available to the Patent and Trademark Office.
Sec. 13103. Electronic filing and processing of patent and trademark applications.
Sec. 13104. Strategic plan.
Sec. 13105. Determination of substantial new question of patentability in reexamination proceedings.
Sec. 13106. Appeals in inter partes reexamination proceedings.

Subtitle B—Intellectual Property and High Technology Technical Amendments

Sec. 13201. Short title.
Sec. 13202. Clarification of Reexamination Procedure Act of 1999; technical amendments.
Sec. 13203. Patent and Trademark Efficiency Act amendments.
Sec. 13204. Domestic publication of foreign filed Patent Applications Act of 1999 amendments.
Sec. 13205. Domestic publication of patent applications published abroad.
Sec. 13206. Miscellaneous clerical amendments.
Sec. 13207. Technical corrections in trademark law.
Sec. 13208. Patent and trademark fee clerical amendment.
Sec. 13209. Copyright related corrections to 1999 Omnibus Reform Act.
Sec. 13210. Amendments to title 17, United States Code.
Sec. 13211. Other copyright related technical amendments.

Subtitle C—Educational Use Copyright Exemption

Sec. 13301. Educational use copyright exemption.

Subtitle D—Madrid Protocol Implementation

Sec. 13401. Short title.
Sec. 13402. Provisions to implement the protocol relating to the Madrid Agreement concerning the international registration of marks.
Sec. 13403. Effective date.

TITLE IV—ANTITRUST TECHNICAL CORRECTIONS ACT OF 2002

Sec. 14101. Short title.

Sec. 14102. Amendments.
Sec. 14103. Effective date; application of amendments.

DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2002 AND 2003

SEC. 101. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 2002.

There are authorized to be appropriated for fiscal year 2002, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $92,668,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $173,647,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $50,735,000, which shall include for each such fiscal year, not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $549,176,000, which shall include for each such fiscal year—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $130,791,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,353,968,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147): Provided, That such amounts in the appropriations account "General Legal Services" as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $3,524,864,000, which shall include for each such fiscal year—

(A) not to exceed $33,791,000 for construction, to remain available until expended; and

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $648,696,000, which shall include for each such fiscal year not to exceed $15,000,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,622,152,000.

(10) FEDERAL PRISONER DETENTION.—For the support of United States prisoners in non-Federal institutions, as authorized by section 4013(a) of title 18 of the United States Code: $706,182,000, to remain available until expended.

(11) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,481,783,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(12) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: $3,499,854,000, which shall include—

(A) not to exceed $2,739,695,000 for salaries and expenses of enforcement and border affairs (i.e., the Border Patrol, deportation, intelligence, investigations, and inspection programs, and the detention program);

(B) not to exceed $631,745,000 for salaries and expenses of citizenship and benefits (i.e., programs not included under subparagraph (A));

(C) for each such fiscal year, not to exceed $128,454,000 for construction, to remain available until expended; and

(D) not to exceed $50,000 to meet unforeseen emergencies of a confidential character.

(13) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed $6,000,000 for construction of protected witness safesites.

(14) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $338,577,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(15) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,136,000.

(16) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $9,269,000.

(17) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(18) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $9,876,000.

(19) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,000,000.

(20) JOINT AUTOMATED BOOKING SYSTEM.—For expenses necessary for the operation of the Joint Automated Booking System: $1,000,000.

(21) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $94,615,000.

(22) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: such sums as necessary.

(23) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: $4,989,000.

(24) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: $132,862,000.

SEC. 102. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 2003.

There are authorized to be appropriated for fiscal year 2003, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $121,079,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $198,869,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $66,288,000, which shall include for each such fiscal year, not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $659,181,000, which shall include for each such fiscal year—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $141,855,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,550,948,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147):Provided, That such amounts in the appropriations account "General Legal Services" as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $4,323,912,000, which shall include for each such fiscal year—

(A) not to exceed $1,250,000 for construction, to remain available until expended; and

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $737,346,000, which shall include for each such fiscal year not to exceed $15,153,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,605,068,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,582,044,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: $4,131,811,000, which shall include—

(A) not to exceed $3,253,561,000 for salaries and expenses of Border Patrol, detention and removals, intelligence, investigations, inspections, and international enforcement, including not to exceed $50,000 to meet unforeseen emergencies of a.confidential character;

(B) not to exceed $88,598,000 for salaries and expenses of immigration services, including international services; and

(C) not to exceed $789,652,000 for salaries and expenses for support and administration (i.e., data and communications, information and records management, construction, etc.).

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed $6,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $362,131,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,194,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,732,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $11,355,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,388,583,000.

(19) IDENTIFICATION SYSTEM INTEGRATION.—For expenses necessary for the operation of the Identification System Integration: $24,505,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $149,292,000.

(21) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: such sums as necessary.

(22) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: $35,000,000.

(23) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: $215,811,000.

(24) LEGAL ACTIVITIES OFFICE.—For necessary expenses related to office automation: $15,942,000.

SEC. 103. APPOINTMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS; REDUCTION OF CERTAIN LITIGATION POSITIONS.

(a) APPOINTMENTS.—Not later than September 30, 2003, the Attorney General may exercise authority under section 542 of title 28, United States Code, to appoint 200 assistant United States attorneys in addition to the number of assistant United States attorneys serving on the date of the enactment of this Act.

(b) SELECTION OF APPOINTEES.—Individuals first appointed under subsection (a) shall be appointed from among attorneys who are incumbents of 200 full-time litigation positions in divisions of the Department of Justice and whose official duty station is at the seat of Government.

(c) TERMINATION OF POSITIONS.—Each of the 200 litigation positions that become vacant by reason of an appointment made in accordance with subsections (a) and (b) shall be terminated at the time the vacancy arises.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 104. AUTHORIZATION FOR ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS FOR PROJECT SAFE NEIGHBORHOODS.

(a) IN GENERAL.—The Attorney General shall establish a program for each United States Attorney to provide for coordination with State and local law enforcement officials in the identification and prosecution of violations of Federal firearms laws including school gun violence and juvenile gun offenses.

(b) AUTHORIZATION FOR HIRING 94 ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS.—There are authorized to be appropriated to carry out this section $9,000,000 for fiscal year 2002 to hire an additional Assistant United States Attorney in each United States Attorney Office.

TITLE II—PERMANENT ENABLING PROVISIONS

SEC. 201. PERMANENT AUTHORITY.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

"§530C. Authority to use available funds

"(a) IN GENERAL.—Except to the extent provided otherwise by law, the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) may, in the reasonable discretion of the Attorney General, be carried out through any means, including—

"(1) through the Department's own personnel, acting within, from, or through the Department itself;

"(2) by sending or receiving details of personnel to other branches or agencies of the Federal Government, on a reimbursable, partially-reimbursable, or nonreimbursable basis;

"(3) through reimbursable agreements with other Federal agencies for work, materials, or equipment;

"(4) through contracts, grants, or cooperative agreements with non-Federal parties; and

"(5) as provided in subsection (b), in section 524, and in any other provision of law consistent herewith, including, without limitation, section 102(b) of Public Law 102–395 (106 Stat. 1838), as incorporated by section 815(d) of Public Law 104–132 (110 Stat. 1315).

"(b) PERMITTED USES.—

"(1) GENERAL PERMITTED USES.—Funds available to the Attorney General (i.e., all funds available to carry out the activities described in subsection (a)) may be used, without limitation, for the following:

"(A) The purchase, lease, maintenance, and operation of passenger motor vehicles, or police-type motor vehicles for law enforcement purposes, without regard to general purchase price limitation for the then-current fiscal year.

"(B) The purchase of insurance for motor vehicles, boats, and aircraft operated in official Government business in foreign countries.

"(C) Services of experts and consultants, including private counsel, as authorized by section 3109 of title 5, and at rates of pay for individuals not to exceed the maximum daily rate payable from time to time under section 5332 of title 5.

"(D) Official reception and representation expenses (i.e., official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions, but excluding expenses of public tours of facilities of the Department of Justice), in accordance with distributions and procedures established, and rules issued, by the Attorney General, and expenses of public tours of facilities of the Department of Justice.

"(E) Unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General.

"(F) Miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration.

"(G) In accordance with procedures established and rules issued by the Attorney General—

"(i) attendance at meetings and seminars;

"(ii) conferences and training; and

"(iii) advances of public moneys under section 3324 of title 31: Provided, That travel advances of such moneys to law enforcement personnel engaged in undercover activity shall be considered to be public money for purposes of section 3527 of title 31.

"(H) Contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

"(I) Payment of interpreters and translators who are not citizens of the United States, in accordance with procedures established and rules issued by the Attorney General.

"(J) Expenses or allowances for uniforms as authorized by section 5901 of title 5, but without regard to the general purchase price limitation for the then-current fiscal year.

"(K) Expenses of—

"(i) primary and secondary schooling for dependents of personnel stationed outside the United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

"(ii) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

"(L) payment of rewards (i.e., payments pursuant to public advertisements for assistance to the Department of Justice), in accordance with procedures and regulations established or issued by the Attorney General: Provided, That—

"(i) no such reward shall exceed $2,000,000, unless—

"(I) the reward is to combat domestic terrorism or international terrorism (as defined in section 2331 of title 18); or

"(II) a statute should authorize a higher amount;

"(ii) no such reward of $250,000 or more may be made or offered without the personal approval of either the Attorney General or the President;

"(iii) the Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives not later than 30 days after the approval of a reward under clause (ii);

"(iv) any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5) may provide the Attorney General with funds for the payment of rewards; and

"(v) neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

"(2) SPECIFIC PERMITTED USES.—

"(A) AIRCRAFT AND BOATS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for the purchase, lease, maintenance, and operation of aircraft and boats, for law enforcement purposes.

"(B) PURCHASE OF AMMUNITION AND FIREARMS; FIREARMS COMPETITIONS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, for the Federal Prison System, for the Office of the Inspector General, and for the Immigration and Naturalization Service may be used for—

"(i) the purchase of ammunition and firearms; and

"(ii) participation in firearms competitions.

"(C) CONSTRUCTION.—Funds available to the Attorney General for construction may be used for expenses of planning, designing, acquiring, building, constructing, activating, renovating, converting, expanding, extending, remodeling, equipping, repairing, or maintaining buildings or facilities, including the expenses of acquisition of sites therefor, and all necessary expenses incident or related thereto; but the foregoing shall not be construed to mean that funds generally available for salaries and expenses are not also available for certain incidental or minor construction, activation, remodeling, maintenance, and other related construction costs.

"(3) FEES AND EXPENSES OF WITNESSES.—Funds available to the Attorney General for fees and expenses of witnesses may be used for—

"(A) expenses, mileage, compensation, protection, and per diem in lieu of subsistence, of witnesses (including advances of public money) and as authorized by section 1821 or other law, except that no witness may be paid more than 1 attendance fee for any 1 calendar day;

"(B) fees and expenses of neutrals in alternative dispute resolution proceedings, where the Department of Justice is a party; and

"(C) construction of protected witness safesites.

"(4) FEDERAL BUREAU OF INVESTIGATION.—Funds available to the Attorney General for the Federal Bureau of Investigation for the detection, investigation, and prosecution of crimes against the United States may be used for the conduct of all its authorized activities.

"(5) IMMIGRATION AND NATURALIZATION SERVICE.—Funds available to the Attorney General for the Immigration and Naturalization Service may be used for—

"(A) acquisition of land as sites for enforcement fences, and construction incident to such fences;

"(B) cash advances to aliens for meals and lodging en route;

"(C) refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; and

"(D) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies.

"(6) FEDERAL PRISON SYSTEM.—Funds available to the Attorney General for the Federal Prison System may be used for—

"(A) inmate medical services and inmate legal services, within the Federal prison system;

"(B) the purchase and exchange of farm products and livestock;

"(C) the acquisition of land as provided in section 4010 of title 18; and

"(D) the construction of buildings and facilities for penal and correctional institutions (including prison camps), by contract or force account, including the payment of United States prisoners for their work performed in any such construction;

except that no funds may be used to distribute or make available to a prisoner any commercially published information or material that is sexually explicit or features nudity.

"(7) DETENTION TRUSTEE.—Funds available to the Attorney General for the Detention Trustee may be used for all the activities of such Trustee in the exercise of all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service and to the detention of aliens in the custody of the Immigration and Naturalization Service, including the overseeing of construction of detention facilities or for housing related to such detention, the management of funds appropriated to the Department for the exercise of detention functions, and the direction of the United States Marshals Service and Immigration Service with respect to the exercise of detention policy setting and operations for the Department of Justice.

"(c) RELATED PROVISIONS.—

"(1) LIMITATION OF COMPENSATION OF INDIVIDUALS EMPLOYED AS ATTORNEYS.—No funds available to the Attorney General may be used to pay compensation for services provided by an individual employed as an attorney (other than an individual employed to provide services as a foreign attorney in special cases) unless such individual is duly licensed and authorized to practice as an attorney under the law of a State, a territory of the United States, or the District of Columbia.

"(2) REIMBURSEMENTS PAID TO GOVERNMENTAL ENTITIES.—Funds available to the Attorney General that are paid as reimbursement to a governmental unit of the Department of Justice, to another Federal entity, or to a unit of State or local government, may be used under authorities available to the unit or entity receiving such reimbursement.

"(d) FOREIGN REIMBURSEMENTS.—Whenever the Department of Justice or any component participates in a cooperative project to improve law enforcement or national security operations or services with a friendly foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Department of Justice or any component. The amount of a reimbursement or contribution credited shall be available only for payment of the share of the project expenses allocated to the participating foreign country.

"(e) RAILROAD POLICE TRAINING FEES.—The Attorney General is authorized to establish and collect a fee to defray the costs of railroad police officers participating in a Federal Bureau of Investigation law enforcement training program authorized by Public Law 106–110, and to credit such fees to the appropriation account 'Federal Bureau of Investigation, Salaries and Expenses', to be available until expended for salaries and expenses incurred in providing such services.

"(f) WARRANTY WORK.—In instances where the Attorney General determines that law enforcement-, security-, or mission-related considerations mitigate against obtaining maintenance or repair services from private sector entities for equipment under warranty, the Attorney General is authorized to seek reimbursement from such entities for warranty work performed at Department of Justice facilities, and to credit any payment made for such work to any appropriation charged therefor.".

(b) CONFORMING AMENDMENT.—The table of sections of chapter 31 of title 28, United States Code, is amended by adding at the end the following:

"530C. Authority to use available funds.".

SEC. 202. PERMANENT AUTHORITY RELATING TO ENFORCEMENT OF LAWS.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

"§530D. Report on enforcement of laws

"(a) REPORT.—

"(1) IN GENERAL.—The Attorney General shall submit to the Congress a report of any instance in which the Attorney General or any officer of the Department of Justice—

"(A) establishes or implements a formal or informal policy to refrain—

"(i) from enforcing, applying, or administering any provision of any Federal statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer on the grounds that such provision is unconstitutional; or

"(ii) within any judicial jurisdiction of or within the United States, from adhering to, enforcing, applying, or complying with, any standing rule of decision (binding upon courts of, or inferior to those of, that jurisdiction) established by a final decision of any court of, or superior to those of, that jurisdiction, respecting the interpretation, construction, or application of the Constitution, any statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer;

"(B) determines—

"(i) to contest affirmatively, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law; or

"(ii) to refrain (on the grounds that the provision is unconstitutional) from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of any such provision; or

"(C) approves (other than in circumstances in which a report is submitted to the Joint Committee on Taxation, pursuant to section 6405 of the Internal Revenue Code of 1986) the settlement or compromise (other than in bankruptcy) of any claim, suit, or other action—

"(i) against the United States (including any agency or instrumentality thereof) for a sum that exceeds, or is likely to exceed, $2,000,000, excluding prejudgment interest; or

"(ii) by the United States (including any agency or instrumentality thereof) pursuant to an agreement, consent decree, or order (or pursuant to any modification of an agreement, consent decree, or order) that provides injunctive or other nonmonetary relief that exceeds, or is likely to exceed, 3 years in duration: Provided, That for purposes of this clause, the term "injunctive or other nonmonetary relief" shall not be understood to include the following, where the same are a matter of public record—

"(I) debarments, suspensions, or other exclusions from Government contracts or grants;

"(II) mere reporting requirements or agreements (including sanctions for failure to report);

"(III) requirements or agreements merely to comply with statutes or regulations;

"(IV) requirements or agreements to surrender professional licenses or to cease the practice of professions, occupations, or industries;

"(V) any criminal sentence or any requirements or agreements to perform community service, to serve probation, or to participate in supervised release from detention, confinement, or prison; or

"(VI) agreements to cooperate with the government in investigations or prosecutions (whether or not the agreement is a matter of public record).

"(2) SUBMISSION OF REPORT TO THE CONGRESS.—For the purposes of paragraph (1), a report shall be considered to be submitted to the Congress if the report is submitted to—

"(A) the majority leader and minority leader of the Senate;

"(B) the Speaker, majority leader, and minority leader of the House of Representatives;

"(C) the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives and the chairman and ranking minority member of the Committee on the Judiciary of the Senate; and

"(D) the Senate Legal Counsel and the General Counsel of the House of Representatives.

"(b) DEADLINE.—A report shall be submitted—

"(1) under subsection (a)(1)(A), not later than 30 days after the establishment or implementation of each policy;

"(2) under subsection (a)(1)(B), within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but in no event later than 30 days after the making of each determination; and

"(3) under subsection (a)(1)(C), not later than 30 days after the conclusion of each fiscal-year quarter, with respect to all approvals occurring in such quarter.

"(c) CONTENTS.—A report required by subsection (a) shall—

"(1) specify the date of the establishment or implementation of the policy described in subsection (a)(1)(A), of the making of the determination described in subsection (a)(1)(B), or of each approval described in subsection (a)(1)(C);

"(2) include a complete and detailed statement of the relevant issues and background (including a complete and detailed statement of the reasons for the policy or determination, and the

identity of the officer responsible for establishing or implementing such policy, making such determination, or approving such settlement or compromise), except that—

"(A) such details may be omitted as may be absolutely necessary to prevent improper disclosure of national-security- or classified information, of any information subject to the deliberative-process-, executive-, attorney-work-product-, or attorney-client privileges, or of any information the disclosure of which is prohibited by section 6103 of the Internal Revenue Code of 1986, or other law or any court order if the fact of each such omission (and the precise ground or grounds therefor) is clearly noted in the statement: Provided, That this subparagraph shall not be construed to deny to the Congress (including any House, Committee, or agency thereof) any such omitted details (or related information) that it lawfully may seek, subsequent to the submission of the report; and

"(B) the requirements of this paragraph shall be deemed satisfied—

"(i) in the case of an approval described in subsection (a)(1)(C)(i), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the legal and factual basis or bases for the settlement or compromise (if not apparent on the face of documents provided); and

"(ii) in the case of an approval described in subsection (a)(1)(C)(ii), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the injunctive or other nonmonetary relief (if not apparent on the face of documents provided); and

"(3) in the case of a determination described in subsection (a)(1)(B) or an approval described in subsection (a)(1)(C), indicate the nature, tribunal, identifying information, and status of the proceeding, suit, or action.

"(d) DECLARATION.—In the case of a determination described in subsection (a)(1)(B), the representative of the United States participating in the proceeding shall make a clear declaration in the proceeding that any position expressed as to the constitutionality of the provision involved is the position of the executive branch of the Federal Government (or, as applicable, of the President or of any executive agency or military department).

"(e) APPLICABILITY TO THE PRESIDENT AND TO EXECUTIVE AGENCIES AND MILITARY DEPARTMENTS.—The reporting, declaration, and other provisions of this section relating to the Attorney General and other officers of the Department of Justice shall apply to the President (but only with respect to the promulgation of any unclassified Executive order or similar memorandum or order), to the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) that establishes or implements a policy described in subsection (a)(1)(A) or is authorized to conduct litigation, and to the officers of such executive agency.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

"530D. Report on enforcement of laws.".

(2) Section 712 of Public Law 95–521 (92 Stat. 1883) is amended by striking subsection (b) and inserting:

"(b) The Attorney General shall notify Counsel as required by section 530D of title 28.".

(3) Not later than 30 days after the date of the enactment of this Act, the President shall advise the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) of the enactment of this section.

(4)(A) Not later than 90 days after the date of the enactment of this Act, the Attorney General (and, as applicable, the President, and the head of any executive agency or military department described in subsection (e) of section 530D of title 28, United States Code, as added by subsection (a)) shall submit to Congress a report (in accordance with subsections (a), (c), and (e) of such section) on—

(i) all policies of which the Attorney General and applicable official are aware described in subsection (a)(1)(A) of such section that were established or implemented before the date of the enactment of this Act and were in effect on such date; and

(ii) all determinations of which the Attorney General and applicable official are aware described in subsection (a)(1)(B) of such section that were made before the date of the enactment of this Act and were in effect on such date.

(B) If a determination described in subparagraph (A)(ii) relates to any judicial, administrative, or other proceeding that is pending in the 90-day period beginning on the date of the enactment of this Act, with respect to any such determination, then the report required by this paragraph shall be submitted within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but not later than 30 days after the date of the enactment of this Act.

(5) Section 101 of Public Law 106–57 (113 Stat. 414) is amended by striking subsection (b).

SEC. 203. MISCELLANEOUS USES OF FUNDS; TECHNICAL AMENDMENTS.

(a) BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 504(a) by striking "502" and inserting "501(b)";

(2) in section 506(a)(1) by striking "participating";

(3) in section 510(a)(3) by striking "502" and inserting "501(b)";

(4) in section 510 by adding at the end the following:

"(d) No grants or contracts under subsection (b) may be made, entered into, or used, directly or indirectly, to provide any security enhancements or any equipment to any non-governmental entity that is not engaged in law enforcement or law enforcement support, criminal or juvenile justice, or delinquency prevention."; and

(5) in section 511 by striking "503" and inserting "501(b)".

(b) ATTORNEYS SPECIALLY RETAINED BY THE ATTORNEY GENERAL.—The 3d sentence of section 515(b) of title 28, United States Code, is amended by striking "at not more than $12,000".

SEC. 204. TECHNICAL AND MISCELLANEOUS AMENDMENTS TO DEPARTMENT OF JUSTICE AUTHORITIES; AUTHORITY TO TRANSFER PROPERTY OF MARGINAL VALUE; RECORDKEEPING; PROTECTION OF THE ATTORNEY GENERAL.

(a) Section 524 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "to the Attorney General" after "available";

(2) in subsection (c)(1)—

(A) by striking the semicolon at the end of the 1st subparagraph (I) and inserting a period;

(B) by striking the 2d subparagraph (I);

(C) by striking "(A)(iv), (B), (F), (G), and (H)" in the first sentence following the second subparagraph (I) and inserting "(B), (F), and (G)"; and

(D) by striking "fund" in the 3d sentence following the 2d subparagraph (I) and inserting "Fund";

(3) in subsection (c)(2)—

(A) by inserting before the period in the last sentence ", without both the personal approval of the Attorney General and written notice within 30 days thereof to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives";

(B) by striking "for information" each place it appears; and

(C) by striking "$250,000" the 2d and 3d places it appears and inserting "$500,000";

(4) in subsection (c)(3) by striking "(F)" and inserting "(G)";

(5) in subsection (c)(5) by striking "Fund which" and inserting "Fund, that";

(6) in subsection (c)(8)(A), by striking "(A)(iv), (B), (F), (G), and (H)" and inserting "(B), (F), and (G)"; and

(7) in subsection (c)(9)(B)—

(A) by striking "year 1997" and inserting "years 2002 and 2003"; and

(B) by striking "Such transfer shall not" and inserting "Each such transfer shall be subject to satisfaction by the recipient involved of any outstanding lien against the property transferred, but no such transfer shall".

(b) Section 522 of title 28, United States Code, is amended by inserting "(a)" before "The", and by inserting at the end the following:

"(b) With respect to any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose beginning not later than 1 year after the date of enactment of 21st Century Department of Justice Appropriations Authorization Act and continuing thereafter, and notwithstanding any other provision of law, the same criteria shall be used (and shall be required to be used, as applicable) to classify or categorize offenders and victims (in the criminal context), and to classify or categorize actors and acted upon (in the noncriminal context).".

(c) Section 534(a)(3) of title 28, United States Code, is amended by adding "and" after the semicolon.

(d) Section 509(3) of title 28, United States Code, is amended by striking the 2d period.

(e) Section 533 of title 28, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by adding after paragraph (2) a new paragraph as follows:

"(3) to assist in the protection of the person of the Attorney General.".

(f) No compensation or reimbursement paid pursuant to section 501(a) of Public Law 99–603 (100 Stat. 3443) or section 241(i) of the Act of June 27, 1952 (ch. 477) shall be subject to section 6503(d) of title 31, United States Code, and no funds available to the Attorney General may be used to pay any assessment made pursuant to such section 6503 with respect to any such compensation or reimbursement.

(g) Section 108 of Public Law 103–121 (107 Stat. 1164) is amended by replacing "three" with "six", by replacing "only" with ", first,", and by replacing "litigation." with "litigation, and, thereafter, for financial systems, and other personnel, administrative, and litigation expenses of debt collection activities.".

SEC. 205. OVERSIGHT; WASTE, FRAUD, AND ABUSE WITHIN THE DEPARTMENT OF JUSTICE.

(a) Section 529 of title 28, United States Code, is amended by inserting "(a)" before "Beginning", and by adding at the end the following:

"(b) Notwithstanding any provision of law limiting the amount of management or administrative expenses, the Attorney General shall, not later than May 2, 2003, and of every year thereafter, prepare and provide to the Committees on the Judiciary and Appropriations of each House

of the Congress using funds available for the underlying programs—

"(1) a report identifying and describing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract that was made, entered into, awarded, or, for which additional or supplemental funds were provided in the immediately preceding fiscal year, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services), and including, without limitation, for each such grant, cooperative agreement, or contract: the term, the dollar amount or value, a description of its specific purpose or purposes, the names of all grantees or parties, the names of each unsuccessful applicant or bidder, and a description of the specific purpose or purposes proposed in each unsuccessful application or bid, and of the reason or reasons for rejection or denial of the same; and

"(2) a report identifying and reviewing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract over $5,000,000 made, entered into, awarded, or for which additional or supplemental funds were provided, after October 1, 2002, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services) that was programmatically and financially closed out or that otherwise ended in the immediately preceding fiscal year (or even if not yet closed out, was terminated or otherwise ended in the fiscal year that ended 2 years before the end of such immediately preceding fiscal year), and including, without limitation, for each such grant, cooperative agreement, or contract: a description of how the appropriated funds involved actually were spent, statistics relating to its performance, its specific purpose or purposes, and its effectiveness, and a written declaration by each non-Federal grantee and each non-Federal party to such agreement or to such contract, that—

"(A) the appropriated funds were spent for such purpose or purposes, and only such purpose or purposes;

"(B) the terms of the grant, cooperative agreement, or contract were complied with; and

"(C) all documentation necessary for conducting a full and proper audit under generally accepted accounting principles, and any (additional) documentation that may have been required under the grant, cooperative agreement, or contract, have been kept in orderly fashion and will be preserved for not less than 3 years from the date of such close out, termination, or end;

except that the requirement of this paragraph shall be deemed satisfied with respect to any such description, statistics, or declaration if such non-Federal grantee or such non-Federal party shall have failed to provide the same to the Attorney General, and the Attorney General notes the fact of such failure and the name of such grantee or such party in the report.".

(b) Section 1913 of title 18, United States Code, is amended by striking "to favor" and inserting "a jurisdiction, or an official of any government, to favor, adopt,", by inserting ", law, ratification, policy," after "legislation" every place it appears, by striking "by Congress" the 2d place it appears, by inserting "or such official" before ", through the proper", by inserting ", measure," before "or resolution", by striking "Members of Congress on the request of any Member" and inserting "any such Member or official, at his request,", by striking "for legislation" and inserting "for any legislation", and by striking the period and the paragraph following "business" and inserting ", or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counterintelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.".

(c) Section 1516(a) of title 18, United States Code, is amended by inserting ", entity, or program" after "person", and by inserting "grant, or cooperative agreement," after "subcontract,".

(d) Section 112 of title I of section 101(b) of division A of Public Law 105–277 (112 Stat. 2681–67) is amended by striking "fiscal year" and all that follows through "Justice—", and inserting "any fiscal year the Attorney General—".

(e) Section 2320(f) of title 18, United States Code, is amended—

(1) by striking "title 18" each place it appears and inserting "this title"; and

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by inserting "(1)" after "(f)"; and

(4) by adding at the end the following:

"(2)(A) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

"(i) The number of infringement cases in these categories: audiovisual (videos and films); audio (sound recordings); literary works (books and musical compositions); computer programs; video games; and, others.

"(ii) The number of online infringement cases.

"(iii) The number and dollar amounts of fines assessed in specific categories of dollar amounts. These categories shall be: no fines ordered; fines under $500; fines from $500 to $1,000; fines from $1,000 to $5,000; fines from $5,000 to $10,000; and fines over $10,000.

"(iv) The total amount of restitution ordered in all copyright infringement cases.

"(B) In this paragraph, the term 'online infringement cases' as used in paragraph (2) means those cases where the infringer—

"(i) advertised or publicized the infringing work on the Internet; or

"(ii) made the infringing work available on the Internet for download, reproduction, performance, or distribution by other persons.

"(C) The information required under subparagraph (A) shall be submitted in the report required in fiscal year 2005 and thereafter.".

SEC. 206. ENFORCEMENT OF FEDERAL CRIMINAL LAWS BY ATTORNEY GENERAL.

Section 535 of title 28, United States Code, is amended in subsections (a) and (b), by replacing "title 18" with "Federal criminal law", and in subsection (b), by replacing "or complaint" with "matter, or complaint witnessed, discovered, or", and by inserting "or the witness, discoverer, or recipient, as appropriate," after "agency,".

SEC. 207. STRENGTHENING LAW ENFORCEMENT IN UNITED STATES TERRITORIES, COMMONWEALTHS, AND POSSESSIONS.

(a) Extended Assignment Incentive.—Chapter 57 of title 5, United States Code, is amended—

(1) in subchapter IV, by inserting at the end the following:

"§5757. Extended assignment incentive

"(a) The head of an Executive agency may pay an extended assignment incentive to an employee if—

"(1) the employee has completed at least 2 years of continuous service in 1 or more civil service positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands;

"(2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and

"(3) the agency determines it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in the territory or possession, the Commonwealth of Puerto Rico or Commonwealth of the Northern Mariana Islands, except that the total amount of service performed in a particular territory, commonwealth, or possession under 1 or more agreements established under this section may not exceed 5 years.

"(b) The sum of extended assignment incentive payments for a service period may not exceed the greater of—

"(1) an amount equal to 25 percent of the annual rate of basic pay of the employee at the beginning of the service period, times the number of years in the service period; or

"(2) $15,000 per year in the service period.

"(c)(1) Payment of an extended assignment incentive shall be contingent upon the employee entering into a written agreement with the agency specifying the period of service and other terms and conditions under which the extended assignment incentive is payable.

"(2) The agreement shall set forth the method of payment, including any use of an initial lump-sum payment, installment payments, or a final lump-sum payment upon completion of the entire period of service.

"(3) The agreement shall describe the conditions under which the extended assignment incentive may be canceled prior to the completion of agreed-upon service period and the effect of the cancellation. The agreement shall require that if, at the time of cancellation of the incentive, the employee has received incentive payments which exceed the amount which bears the same relationship to the total amount to be paid under the agreement as the completed service period bears to the agreed-upon service period, the employee shall repay that excess amount, at a minimum, except that an employee who is involuntarily reassigned to a position stationed outside the territory, commonwealth, or possession or involuntarily separated (not for cause on charges of misconduct, delinquency, or inefficiency) may not be required to repay any excess amounts.

"(d) An agency may not put an extended assignment incentive into effect during a period in which the employee is fulfilling a recruitment or relocation bonus service agreement under section 5753 or for which an employee is receiving a retention allowance under section 5754.

"(e) Extended assignment incentive payments may not be considered part of the basic pay of an employee.

"(f) The Office of Personnel Management may prescribe regulations for the administration of this section, including regulations on an employee's entitlement to retain or receive incentive payments when an agreement is canceled. Neither this section nor implementing regulations may impair any agency's independent authority to administratively determine compensation for a class of its employees."; and

(2) in the analysis by adding at the end the following:

"5757. Extended assignment incentive.".

(b) Conforming Amendment.—Section 5307(a)(2)(B) of title 5, United States Code, is amended by striking "or 5755" and inserting "5755, or 5757".

(c) Effective Date.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 6 months after the date of enactment of this Act.

(d) REPORT.—No later than 3 years after the effective date of this section, the Office of Personnel Management, after consultation with affected agencies, shall submit a report to Congress assessing the effectiveness of the extended assignment incentive authority as a human resources management tool and making recommendations for any changes necessary to improve the effectiveness of the incentive authority. Each agency shall maintain such records and report such information, including the number and size of incentive offers made and accepted or declined by geographic location and occupation, in such format and at such times as the Office of Personnel Management may prescribe, for use in preparing the report.

TITLE III—MISCELLANEOUS

SEC. 301. REPEALERS.

(a) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL INSTITUTE OF CORRECTIONS.—Chapter 319 of title 18, United States Code, is amended by striking section 4353.

(b) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES MARSHALS SERVICE.—Section 561 of title 28, United States Code, is amended by striking subsection (i).

(c) REDUNDANT AUTHORIZATIONS OF PAYMENTS FOR REWARDS.—

(1) Public Law 107–56 is amended by striking section 501.

(2) Chapter 203 of title 18, United States Code, is amended by striking sections 3059, 3059A, 3059B, 3075, and all the matter after the first sentence of 3072.

(3) Public Law 101–647 is amended in section 2565, by replacing all the matter after "2561" in subsection (c)(1) with "the Attorney General may, in his discretion, pay a reward to the declarant" and by striking subsection (e); and by striking section 2569.

SEC. 302. TECHNICAL AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE.

Title 18 of the United States Code is amended—

(1) in section 4041 by striking "at a salary of $10,000 a year";

(2) in section 4013—

(A) in subsection (a)—

(i) by replacing "the support of United States prisoners" with "Federal prisoner detention";

(ii) in paragraph (2) by adding "and" after "hire;";

(iii) in paragraph (3) by replacing "entities; and" with "entities."; and

(iv) in paragraph (4) by inserting "The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for" before "entering"; and

(B) by redesignating—

(i) subsections (b) and (c) as subsections (c) and (d); and

(ii) paragraph (a)(4) as subsection (b), and subparagraphs (A), (B), and (C), of such paragraph (a)(4) as paragraphs (1), (2), and (3) of such subsection (b); and

(3) in section 209(a)—

(A) by striking "or makes" and inserting "makes"; and

(B) by striking "supplements the salary of, any" and inserting "supplements, the salary of any".

SEC. 303. REQUIRED SUBMISSION OF PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE FOR FISCAL YEARS 2004 AND 2005.

When the President submits to the Congress the budget of the United States Government for fiscal year 2004, the President shall simultaneously submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such proposed legislation authorizing appropriations for the Department of Justice for fiscal years 2004 and 2005 as the President may judge necessary and expedient.

SEC. 304. STUDY OF UNTESTED RAPE EXAMINATION KITS.

Not later than 6 months after the date of enactment of this Act, the Attorney General shall conduct a study to assess and report to Congress the number of untested rape examination kits that currently exist nationwide and shall submit to the Congress a report containing a summary of the results of such study. For the purpose of carrying out such study, the Attorney General shall attempt to collect information from all law enforcement jurisdictions in the United States.

SEC. 305. REPORTS ON USE OF DCS 1000 (CARNIVORE).

(a) REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER 18 U.S.C. 3123.—At the same time that the Attorney General submits to Congress the annual reports required by section 3126 of title 18, United States Code, that are respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, on the number of orders under section 3123 applied for by law enforcement agencies of the Department of Justice whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program), which report shall include information concerning—

(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(2) the offense specified in the order or application, or extension of an order;

(3) the number of investigations involved;

(4) the number and nature of the facilities affected;

(5) the identity of the applying investigative or law enforcement agency making the application for an order; and

(6) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

(b) REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER 18 U.S.C. 2518.—At the same time that the Attorney General, or Assistant Attorney General specially designated by the Attorney General, submits to the Administrative Office of the United States Courts the annual report required by section 2519(2) of title 18, United States Code, that is respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, that contains the following information with respect to those orders described in that annual report that were applied for by law enforcement agencies of the Department of Justice and whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program)—

(1) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of title 18, United States Code, did not apply by reason of section 2518 (11) of title 18);

(2) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(3) the offense specified in the order or application, or extension of an order;

(4) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application;

(5) the nature of the facilities from which or place where communications were to be intercepted;

(6) a general description of the interceptions made under such order or extension, including—

(A) the approximate nature and frequency of incriminating communications intercepted;

(B) the approximate nature and frequency of other communications intercepted;

(C) the approximate number of persons whose communications were intercepted;

(D) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order; and

(E) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(7) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(8) the number of trials resulting from such interceptions;

(9) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(10) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(11) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

SEC. 306. STUDY OF ALLOCATION OF LITIGATING ATTORNEYS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit a report to the chairman and ranking minority member of the Committees on the Judiciary of the House of Representatives and Committee on the Judiciary of the Senate, detailing the distribution or allocation of appropriated funds, attorneys and other personnel, and per-attorney workloads, for each Office of United States Attorney and each division of the Department of Justice except the Justice Management Division.

SEC. 307. USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended to read as follows:

"(b) USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.—Funds provided under section 20103 or 20104 may be applied to the cost of—

"(1) altering existing correctional facilities to provide separate facilities for juveniles under the jurisdiction of an adult criminal court who are detained or are serving sentences in adult prisons or jails;

"(2) providing correctional staff who are responsible for supervising juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court with orientation and ongoing training regarding the unique needs of such offenders; and

"(3) providing ombudsmen to monitor the treatment of juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court in adult facilities, consistent with guidelines issued by the Assistant Attorney General.

SEC. 308. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

"(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice;

"(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility;

"(4) may investigate allegations of criminal wrongdoing or administrative misconduct by a person who is the head of any agency or component of the Department of Justice; and

"(5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General."; and

(2) by adding at the end the following:

"(d) The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, except with respect to allegations described in subsection (b)(3), shall report that information to the Inspector General.".

SEC. 309. REVIEW OF THE DEPARTMENT OF JUSTICE.

(a) APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN THE OFFICE OF INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Justice shall direct that 1 official from the office of the Inspector General be responsible for supervising and coordinating independent oversight of programs and operations of the Federal Bureau of Investigation until September 30, 2004.

(2) CONTINUATION OF OVERSIGHT.—The Inspector General may continue individual oversight in accordance with paragraph (1) after September 30, 2004, at the discretion of the Inspector General.

(b) INSPECTOR GENERAL OVERSIGHT PLAN FOR THE FEDERAL BUREAU OF INVESTIGATION.—Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall submit to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives, a plan for oversight of the Federal Bureau of Investigation, which plan may include—

(1) an audit of the financial systems, information technology systems, and computer security systems of the Federal Bureau of Investigation;

(2) an audit and evaluation of programs and processes of the Federal Bureau of Investigation to identify systemic weaknesses or implementation failures and to recommend corrective action;

(3) a review of the activities of internal affairs offices of the Federal Bureau of Investigation, including the Inspections Division and the Office of Professional Responsibility;

(4) an investigation of allegations of serious misconduct by personnel of the Federal Bureau of Investigation;

(5) a review of matters relating to any other program or operation of the Federal Bureau of Investigation that the Inspector General determines requires review; and

(6) an identification of resources needed by the Inspector General to implement a plan for oversight of the Federal Bureau of Investigation.

(c) REPORT ON INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives concerning—

(1) whether there should be established, within the Department of Justice, a separate office of the Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation;

(2) what changes have been or should be made to the rules, regulations, policies, or practices governing the Federal Bureau of Investigation in order to assist the Office of the Inspector General in effectively exercising its authority to investigate the conduct of employees of the Federal Bureau of Investigation;

(3) what differences exist between the methods and practices used by different Department of Justice components in the investigation and adjudication of alleged misconduct by Department of Justice personnel;

(4) what steps should be or are being taken to make the methods and practices described in paragraph (3) uniform throughout the Department of Justice; and

(5) whether a set of recommended guidelines relating to the discipline of Department of Justice personnel for misconduct should be developed, and what factors, such as the nature and seriousness of the misconduct, the prior history of the employee, and the rank and seniority of the employee at the time of the misconduct, should be taken into account in establishing such recommended disciplinary guidelines.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF JUSTICE.—There is authorized to be appropriated $2,000,000 to the Department of Justice for fiscal year 2003—

(1) for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Inspector General by 25 full-time employees who shall conduct an increased number of audits, inspections, and investigations of alleged misconduct by employees of the Federal Bureau of Investigation;

(2) to fund expanded audit coverage of the grant programs administered by the Office of Justice Programs of the Department of Justice; and

(3) to conduct special reviews of efforts by the Federal Bureau of Investigation to implement recommendations made by the Office of Inspector General in reports on alleged misconduct by the Bureau.

(b) FEDERAL BUREAU OF INVESTIGATION.—There is authorized to be appropriated $1,700,000 to the Federal Bureau of Investigation for fiscal year 2003 for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Professional Responsibility by 10 full-time special agents and 4 full-time support employees.

SEC. 311. REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.

(a) REPEAL OF COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.—Section 808 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat.1310) is repealed.

(b) REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.—Not later than 45 days after the end of fiscal year 2002, the Attorney General shall submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report on the number of investigations and prosecutions under section 111 of title 18, United States Code, and section 115 of title 18, United States Code, for the fiscal year 2002.

SEC. 312. ADDITIONAL FEDERAL JUDGESHIPS.

(a) PERMANENT DISTRICT JUDGES FOR THE DISTRICT COURTS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 5 additional district judges for the southern district of California;

(B) 1 additional district judge for the western district of North Carolina; and

(C) 2 additional district judges for the western district of Texas.

(2) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of paragraph (1) of this subsection, such table is amended—

(A) by striking the item relating to California and inserting the following:

"California:

Northern	14
Eastern	6
Central	27
Southern	13";

(B) by striking the item relating to North Carolina and inserting the following:

"North Carolina:

Eastern	4
Middle	4
Western	4";

and

(C) by striking the item relating to Texas and inserting the following:

"Texas:

Northern	12
Southern	19
Eastern	7
Western	13".

(3) EFFECTIVE DATE.—This subsection shall take effect on July 15, 2003.

(b) DISTRICT JUDGESHIPS FOR THE CENTRAL AND SOUTHERN DISTRICTS OF ILLINOIS, THE NORTHERN DISTRICT OF NEW YORK, AND THE EASTERN DISTRICT OF VIRGINIA.—

(1) CONVERSION OF TEMPORARY JUDGESHIPS TO PERMANENT JUDGESHIPS.—The existing district judgeships for the central district and the southern district of Illinois, the northern district of New York, and the eastern district of Virginia authorized by section 203(c) (3), (4), (9), and (12) of the Judicial Improvements Act of 1990 (Public Law 101–650, 28 U.S.C. 133 note) shall be authorized under section 133 of title 28, United States Code, and the incumbents in such offices shall hold the offices under section 133 of title 28, United States Code (as amended by this section).

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table contained in section 133(a) of title 28, United States Code, is amended—

(A) by striking the item relating to Illinois and inserting the following:

"Illinois:

Northern	22
Central	4
Southern	4";

(B) by striking the item relating to New York and inserting the following:

"New York:

Northern	5
Southern	28
Eastern	15
Western	4";

and

(C) by striking the item relating to Virginia and inserting the following:

"Virginia:
Eastern 11
Western .... 4".

(3) EFFECTIVE DATE.—With respect to the central or southern district of Illinois, the northern district of New York, or the eastern district of Virginia, this subsection shall take effect on the earlier of—

(A) the date on which the first vacancy in the office of district judge occurs in such district; or

(B) July 15, 2003.

(c) TEMPORARY JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional district judge for the northern district of Alabama;

(B) 1 additional judge for the district of Arizona;

(C) 1 additional judge for the central district of California;

(D) 1 additional judge for the southern district of Florida;

(E) 1 additional district judge for the district of New Mexico;

(F) 1 additional district judge for the western district of North Carolina; and

(G) 1 additional district judge for the eastern district of Texas.

(2) VACANCIES NOT FILLED.—The first vacancy in the office of district judge in each of the offices of district judge authorized by this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created in the applicable district by this subsection, shall not be filled.

(3) EFFECTIVE DATE.—This subsection shall take effect on July 15, 2003.

(d) EXTENSION OF TEMPORARY FEDERAL DISTRICT COURT JUDGESHIP FOR THE NORTHERN DISTRICT OF OHIO.—

(1) IN GENERAL.—Section 203(c) of the Judicial Improvement Act of 1990 (28 U.S.C. 133 note) is amended—

(A) in the first sentence following paragraph (12), by striking "and the eastern district of Pennsylvania" and inserting ", the eastern district of Pennsylvania, and the northern district of Ohio"; and

(B) by inserting after the third sentence following paragraph (12) "The first vacancy in the office of district judge in the northern district of Ohio occurring 15 years or more after the confirmation date of the judge named to fill the temporary judgeship created under this subsection shall not be filled.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this section.

TITLE IV—VIOLENCE AGAINST WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Violence Against Women Office Act".

SEC. 402. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2002(d)—

(A) in paragraph (2), by striking "section 2005" and inserting "section 2010"; and

(B) in paragraph (3), by striking "section 2006" and inserting "section 2011";

(2) by redesignating sections 2002 through 2006 as sections 2006 through 2011, respectively; and

(3) by inserting after section 2001 the following:

"SEC. 2002. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

"(a) IN GENERAL.—There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Violence Against Women Office (in this part referred to as the "Office").

"(b) SEPARATE OFFICE.—The Office shall be a separate and distinct office within the Department of Justice, headed by a Director, who shall report to the Attorney General and serve as Counsel to the Attorney General on the subject of violence against women, and who shall have final authority over all grants, cooperative agreements, and contracts awarded by the Office.

"(c) JURISDICTION.—Under the general authority of the Attorney General, the Office—

"(1) shall have sole jurisdiction over all duties and functions described in section 2004; and

"(2) shall be solely responsible for coordination with other departments, agencies, or offices of all activities authorized or undertaken under the Violence Against Women Act of 1994 (title VI of Public 103–322) and the Violence Against Women Act of 2000 (Division B of Public Law 106–386).

"SEC. 2003. DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

"(a) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint a Director for the Violence Against Women Office (in this title referred to as the 'Director') to be responsible, under the general authority of the Attorney General, for the administration, coordination, and implementation of the programs and activities of the Office.

"(b) OTHER EMPLOYMENT.—The Director shall not—

"(1) engage in any employment other than that of serving as Director; or

"(2) hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) or the Violence Against Women Act of 2000 (division B of Public Law 106–386).

"(c) VACANCY.—In the case of a vacancy, the President may designate an officer or employee who shall act as Director during the vacancy.

"(d) COMPENSATION.—The Director shall be compensated at a rate of pay not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"SEC. 2004. DUTIES AND FUNCTIONS OF DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

The Director shall have the following duties:

"(1) Maintaining liaison with the judicial branches of the Federal and State Governments on matters relating to violence against women.

"(2) Providing information to the President, the Congress, the judiciary, State, local, and tribal governments, and the general public on matters relating to violence against women.

"(3) Serving, at the request of the Attorney General, as the representative of the Department of Justice on domestic task forces, committees, or commissions addressing policy or issues relating to violence against women.

"(4) Serving, at the request of the President, acting through the Attorney General, as the representative of the United States Government on human rights and economic justice matters related to violence against women in international fora, including, but not limited to, the United Nations.

"(5) Carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) and the Violence Against Women Act of 2000 (division B of Public Law 106–386), including with respect to those functions—

"(A) the development of policy, protocols, and guidelines;

"(B) the development and management of grant programs and other programs, and the provision of technical assistance under such programs; and

"(C) the award and termination of grants, cooperative agreements, and contracts.

"(6) Providing technical assistance, coordination, and support to—

"(A) other components of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to violence against women, including the litigation of civil and criminal actions relating to enforcing such laws;

"(B) other Federal, State, local, and tribal agencies, in efforts to develop policy, provide technical assistance, and improve coordination among agencies carrying out efforts to eliminate violence against women, including Indian or indigenous women; and

"(C) grantees, in efforts to combat violence against women and to provide support and assistance to victims of such violence.

"(7) Exercising such other powers and functions as may be vested in the Director pursuant to this part or by delegation of the Attorney General.

"(8) Establishing such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Office.

"SEC. 2005. STAFF OF VIOLENCE AGAINST WOMEN OFFICE.

"The Attorney General shall ensure that the Director has adequate staff to support the Director in carrying out the Director's responsibilities under this part.".

"SEC. 2006. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this part for each fiscal year until fiscal year 2005.".

SEC. 403. EFFECTIVE DATE.

This title shall take effect 90 days after this bill becomes law.

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUBS OF AMERICA

SEC. 1101. BOYS AND GIRLS CLUBS OF AMERICA.

Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking "1,000" and inserting "1,200";

(B) by striking "2,500" and inserting "4,000"; and

(C) by striking "December 31, 1999" and inserting "December 31, 2005, serving not less than 5,000,000 young people";

(2) in subsection (c)—

(A) in paragraph (1), by striking "1997, 1998, 1999, 2000, and 2001" and inserting "2002, 2003, 2004, 2005, and 2006"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "1,000" and inserting "1,200"; and

(ii) in subparagraph (B), by striking "2,500 Boys and Girls Clubs of America facilities in operation before January 1, 2000" and inserting "4,000 Boys and Girls Clubs of America facilities in operation before January 1, 2007"; and

(3) in subsection (e), by striking paragraph (1) and paragraph (2) and inserting the following:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $70,000,000 for fiscal year 2002;

"(B) $80,000,000 for fiscal year 2003;

"(C) $80,000,000 for fiscal year 2004; and

"(D) $80,000,000 for fiscal year 2005.".

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT OF 2002

SEC. 2001. SHORT TITLE.

This title may be cited as the "Drug Abuse Education, Prevention, and Treatment Act of 2002".

Subtitle A—Drug-Free Prisons and Jails

SEC. 2101. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

"(c) ADDITIONAL USE OF FUNDS.—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release.".

SEC. 2102. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

Part S of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1901(a)—

(A) by striking "purpose of developing" and inserting the following: "purpose of—

"(1) developing"; and

(B) striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(2) encouraging the establishment and maintenance of drug-free prisons and jails.";

(2) in section 1902, by adding at the end the following:

"(f) USE OF GRANT AMOUNTS FOR NONRESIDENTIAL AFTERCARE SERVICES.—A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services."; and

(3) in section 1904, by adding at the end the following:

"(c) LOCAL ALLOCATION.—At least 10 percent of the total amount made available to a State under section 1904(a) for any fiscal year shall be used by the State to make grants to local correctional and detention facilities in the State (provided such facilities exist therein), for the purpose of assisting jail-based substance abuse treatment programs that are effective and science-based established by those local correctional facilities.".

SEC. 2103. MANDATORY REVOCATION OF PROBATION AND SUPERVISED RELEASE FOR FAILING A DRUG TEST.

(a) REVOCATION OF PROBATION.—Section 3565(b) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "or" after the semicolon;

(2) in paragraph (3), by striking "(4)," and inserting "(4); or"; and

(3) by adding after paragraph (3) the following:

"(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;".

(b) REVOCATION OF SUPERVISED RELEASE.—Section 3583(g) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "or" after the semicolon;

(2) in paragraph (3), by inserting "or" after the semicolon; and

(3) by adding after paragraph (3) the following:

"(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;".

Subtitle B—Treatment and Prevention

SEC. 2201. REPORT ON DRUG-TESTING TECHNOLOGIES.

(a) REQUIREMENT.—The National Institute of Justice shall conduct a study of drug-testing technologies in order to identify and assess the efficacy, accuracy, and usefulness for purposes of the National effort to detect the use of illicit drugs of any drug-testing technologies (including the testing of hair) that may be used as alternatives or complements to urinalysis as a means of detecting the use of such drugs.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Institute shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 2202. DRUG AND SUBSTANCE ABUSE TREATMENT, PREVENTION, EDUCATION, AND RESEARCH STUDY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President, after consultation with the Attorney General, Secretary of Health and Human Services, Secretary of Education, and other appropriate Federal officers, shall—

(1) conduct a thorough review of all Federal drug and substance abuse treatment, prevention, education, and research programs; and

(2) make such recommendations to Congress as the President may judge necessary and expedient to streamline, consolidate, coordinate, simplify, and more effectively conduct and deliver drug and substance abuse treatment, prevention, and education.

(b) REPORT TO CONGRESS.—The report to Congress shall—

(1) contain a survey of all Federal drug and substance abuse treatment, prevention, education, and research programs;

(2) indicate the legal authority for each program, the amount of funding in the last 2 fiscal years for each program, and a brief description of the program; and

(3) identify authorized programs that were not funded in fiscal year 2002 or 2003.

SEC. 2203. DRUG ABUSE AND ADDICTION RESEARCH.

Section 464N of the Public Health Service Act (42 U.S.C. 285o–2) is amended by striking subsection (c) and inserting the following:

"(c) DRUG ABUSE AND ADDITION RESEARCH.—

"(1) GRANTS OR COOPERATIVE AGREEMENTS.—The Director of the Institute may make grants or enter into cooperative agreements to expand the current and ongoing interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to drug abuse and addiction, including related biomedical, behavioral, and social issues.

"(2) USE OF FUNDS.—Amounts made available under a grant or cooperative agreement under paragraph (1) for drug abuse and addiction may be used for research and clinical trials relating to—

"(A) the effects of drug abuse on the human body, including the brain;

"(B) the addictive nature of drugs and how such effects differ with respect to different individuals;

"(C) the connection between drug abuse and mental health;

"(D) the identification and evaluation of the most effective methods of prevention of drug abuse and addiction;

"(E) the identification and development of the most effective methods of treatment of drug addiction, including pharmacological treatments;

"(F) risk factors for drug abuse;

"(G) effects of drug abuse and addiction on pregnant women and their fetuses; and

"(H) cultural, social, behavioral, neurological, and psychological reasons that individuals abuse drugs, or refrain from abusing drugs.

"(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State, and local entities involved in combating drug abuse and addiction.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each fiscal year.

"(B) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to the authorization of appropriations in subparagraph (A) for a fiscal year shall supplement and not supplant any other amounts appropriated in such fiscal year for research on drug abuse and addiction.".

Subtitle C—Drug Courts

SEC. 2301. DRUG COURTS.

(a) DRUG COURTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part DD the following new part:

"PART EE—DRUG COURTS

"SEC. 2951. GRANT AUTHORITY.

"(a) IN GENERAL.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for adult drug courts, juvenile drug courts, family drug courts, and tribal drug courts that involve—

"(1) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders;

"(2) coordination with the appropriate State or local prosecutor; and

"(3) the integrated administration of other sanctions and services, which shall include—

"(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

"(B) substance abuse treatment for each participant;

"(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

"(D) offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services;

"(E) payment, in whole or part, by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; and

"(F) payment, in whole or part, by the offender of restitution, to the extent practicable, to either a victim of the offender's offense or to a restitution or similar victim support fund.

"(b) LIMITATION.—Economic sanctions imposed on an offender pursuant to this section shall not be at a level that would interfere with the offender's rehabilitation.

"SEC. 2952. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

"The Attorney General shall—

"(1) issue regulations or guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders; and

"(2) immediately suspend funding for any grant under this part, pending compliance, if the Attorney General finds that violent offenders are participating in any program funded under this part.

"SEC. 2953. DEFINITION.

"(a) IN GENERAL.—Except as provided in subsection (b), in this part, the term 'violent offender' means a person who—

"(1) is charged with or convicted of an offense, during the course of which offense or conduct—

"(A) the person carried, possessed, or used a firearm or dangerous weapon;

"(B) there occurred the death of or serious bodily injury to any person; or

"(C) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or

"(2) has 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

"(b) DEFINITION FOR PURPOSES OF JUVENILE DRUG COURTS.—For purposes of juvenile drug courts, the term 'violent offender' means a juvenile who has been convicted of, or adjudicated delinquent for, an offense that—

"(1) has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or the possession or use of a firearm; or

"(2) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

"SEC. 2954. ADMINISTRATION.

"(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

"(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines necessary to carry out this part.

"(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan that shall provide for the consultation and coordination with appropriate State and local prosecutors, particularly when program participants fail to comply with program requirements;

"(2) explain the applicant's inability to fund the program adequately without Federal assistance;

"(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

"(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

"(6) certify that participating offenders will be supervised by 1 or more designated judges with responsibility for the drug court program;

"(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

"(8) describe the methodology that will be used in evaluating the program.

"SEC. 2955. APPLICATIONS.

"To request funds under this part, the chief executive or the chief justice of a State or the chief executive or judge of a unit of local government or Indian tribal government, or the chief judge of a State court or the judge of a local court or Indian tribal court shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"SEC. 2956. FEDERAL SHARE.

"(a) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2955 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section.

"(b) IN-KIND CONTRIBUTIONS.—In-kind contributions may constitute a portion of the non-Federal share of a grant.

"SEC. 2957. DISTRIBUTION AND ALLOCATION.

"(a) GEOGRAPHIC DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"(b) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this part have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this part not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this part.

"SEC. 2958. REPORT.

"A State, Indian tribal government, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General a description and an evaluation report on a date specified by the Attorney General regarding the effectiveness of this part.

"SEC. 2959. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees (including uniform data collection standards and reporting requirements), the Attorney General shall carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part DD the following:

"PART EE—DRUG COURTS

"Sec. 2951. Grant authority.
"Sec. 2952. Prohibition of participation by violent offenders.
"Sec. 2953. Definition.
"Sec. 2954. Administration.
"Sec. 2955. Applications.
"Sec. 2956. Federal share.
"Sec. 2957. Distribution and allocation.
"Sec. 2958. Report.
"Sec. 2959. Technical assistance, training, and evaluation.".

(c) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall—

(1) devise a plan to implement recommendations of the General Accounting Office to—

(A) develop and implement a management information system that is able to track and readily identify the universe of drug court programs funded by the Drug Court Program Office of the Department of Justice;

(B) take steps to ensure and sustain an adequate grantee response rate to the Drug Court Program Office's data collection efforts by improving efforts to notify and remind grantees of their reporting requirements;

(C) take corrective action toward grantees that do not comply with the data collection reporting requirement of the Department of Justice;

(D) reinstate the collection of post-program data in the Drug Court Program Office's data collection effort, selectively spot checking grantee responses to ensure accurate reporting;

(E) analyze performance and outcome data collected from grantees and report annually on the results;

(F) consolidate the multiple Department of Justice-funded drug court program-related data collection efforts to better ensure that the primary focus is on the collection and reporting of data on Drug Court Program Office-funded drug court programs;

(G) conduct a methodologically sound national impact evaluation of Drug Court Program Office-funded drug court programs; and

(H) consider ways to reduce the time needed to provide information on the overall impact of Federally-funded drug court programs; and

(2) submit a report on the plan to the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 2302. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3), by inserting before the period at the end the following: "or EE"; and

(2) by adding at the end the following:

"(25)(A) Except as provided in subparagraph (C), there are authorized to be appropriated to carry out part EE—

"(i) $50,000,000 for fiscal year 2002;

"(ii) $54,000,000 for fiscal year 2003;

"(iii) $58,000,000 for fiscal year 2004; and

"(iv) $60,000,000 for fiscal year 2005.

"(B) The Attorney General shall reserve not less than 1 percent and not more than 4.5 percent of the sums appropriated for this program in each fiscal year for research and evaluation of this program.

"(C) No funds made available to carry out part EE shall be expended if the Attorney General fails to submit the report required to be submitted under section 2401(c) of title II of Division B of the 21st Century Department of Justice Appropriations Authorization Act.".

SEC. 2303. STUDY BY THE GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by part EE of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as added by section 2401 and report to Congress the results of the study on or before January 1, 2005.

(b) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under subsection (a), including the identities and criminal records of program participants.

(c) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by part EE of the Omnibus Crime Control and Safe Streets Act of 1968, the Comptroller General shall consider, among other things—,

(1) recidivism rates of program participants;

(2) completion rates among program participants;

(3) drug use by program participants; and

(4) the costs of the program to the criminal justice system.

Subtitle D—Program for Successful Reentry of Criminal Offenders Into Local Communities

CHAPTER 1—POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES

SEC. 2411. POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES.

(a) FEDERAL REENTRY CENTER DEMONSTRATION.—

(1) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall establish the Federal Reentry Center Demonstration project. The project shall involve appropriate prisoners from the Federal prison population and shall utilize community corrections facilities, home confinement, and a coordinated response by Federal agencies to assist participating prisoners in preparing for and adjusting to reentry into the community.

(2) PROJECT ELEMENTS.—The project authorized by paragraph (1) shall include the following core elements:

(A) A Reentry Review Team for each prisoner, consisting of a representative from the Bureau of Prisons, the United States Probation System, the United States Parole Commission, and the relevant community corrections facility, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner.

(B) A system of graduated levels of supervision with the community corrections facility to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing sanctions for a prisoner's violation of the conditions of participation in the project.

(C) Substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed.

(3) PROBATION OFFICERS.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall assign 1 or more probation officers from each participating judicial district to the Reentry Demonstration project. Such officers shall be assigned to and stationed at the community corrections facility and shall serve on the Reentry Review Teams.

(4) PROJECT DURATION.—The Reentry Center Demonstration project shall begin not later than 6 months following the availability of funds to carry out this subsection, and shall last 3 years.

(b) DEFINITIONS.—In this section, the term "appropriate prisoner" shall mean a person who is considered by prison authorities—

(1) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(2) to lack the skills and family support network that facilitate successful reintegration into the community.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated, to remain available until expended—

(1) to the Federal Bureau of Prisons—

(A) $1,375,000 for fiscal year 2003;

(B) $1,110,000 for fiscal year 2004;

(C) $1,130,000 for fiscal year 2005;

(D) $1,155,000 for fiscal year 2006; and

(E) $1,230,000 for fiscal year 2007; and

(2) to the Federal Judiciary—

(A) $3,380,000 for fiscal year 2003;

(B) $3,540,000 for fiscal year 2004;

(C) $3,720,000 for fiscal year 2005;

(D) $3,910,000 for fiscal year 2006; and

(E) $4,100,000 for fiscal year 2007.

CHAPTER 2—STATE REENTRY GRANT PROGRAMS

SEC. 2421. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after part EE the following new part:

"PART FF—OFFENDER REENTRY AND COMMUNITY SAFETY

"SEC. 2976. ADULT AND JUVENILE OFFENDER STATE AND LOCAL REENTRY DEMONSTRATION PROJECTS.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $1,000,000 to States, Territories, and Indian tribes, in partnership with units of local government and nonprofit organizations, for the purpose of establishing adult and juvenile offender reentry demonstration projects.

"(b) ADULT OFFENDER REENTRY DEMONSTRATION PROJECTS.—Funds for adult offender demonstration projects may be expended for—

"(1) oversight/monitoring of released offenders;

"(2) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and basic educational training, and other programming to promote effective reintegration into the community as needed;

"(3) convening community impact panels, victim impact panels or victim impact educational classes; and

"(4) establishing and implementing graduated sanctions and incentives.

"(c) JUVENILE OFFENDER REENTRY DEMONSTRATION PROJECTS.—Funds for the juvenile offender reentry demonstration projects may be expended for—

"(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

"(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;

"(3) oversight/monitoring of released juvenile offenders; and

"(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, family involvement and support, and other services as needed.

"(d) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

"(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

"(2) identify the governmental and community agencies that will be coordinated by this project;

"(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies in the implementation of the program, including existing community corrections and parole; and

"(4) describe the methodology and outcome measures that will be used in evaluating the program.

"(e) APPLICANTS.—The applicants as designated under 2601(a)—

"(1) shall prepare the application as required under subsection 2601(b); and

"(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

"(f) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

"(g) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a description and an evaluation report at such time and in such manner as the Attorney General may reasonably require that contains—

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

"(2) such other information as the Attorney General may require.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated $15,000,000 for fiscal year 2003, $15,500,000 for fiscal year 2004, and $16,000,000 for fiscal year 2005.

"(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

"(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

"(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2977. STATE REENTRY PROJECT EVALUATION.

(a) EVALUATION.—The Attorney General shall evaluate the demonstration projects authorized by section 2976 to determine their effectiveness.

(b) REPORT.—Not later than April 30, 2005, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate containing—

(1) the findings of the evaluation required by subsection (a); and

(2) any recommendations the Attorney General has with regard to expanding, changing, or eliminating the demonstration projects

"PART FF—OFFENDER REENTRY AND COMMUNITY SAFETY ACT

"Sec. 2976. Adult Offender State and Local Reentry Demonstration Projects.

"Sec. 2977. State reentry project evaluation.".

Subtitle E—Other Matters

SEC. 2501. AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 303(g)(2)(I) of the Controlled Substances Act is amended by striking "on the date of enactment" and all that follows through "such drugs," and inserting "on the date of approval by the Food and Drug Administration of a drug in schedule III, IV, or V, a State may not preclude a practitioner from dispensing or prescribed such drug, or combination of such drugs".

SEC. 2502. STUDY OF METHAMPHETAMINE TREATMENT.

Section 3633 of the Methamphetamine Anti-Proliferation Act of 2000 (114 Stat. 1236) is amended by striking "the Institute of Medicine of the National Academy of Sciences" and inserting "the National Institute on Drug Abuse".

SEC. 2503. AUTHORIZATION OF FUNDS FOR DEA POLICE TRAINING IN SOUTH AND CENTRAL ASIA.

There is authorized to be appropriated to the Attorney General not less than $5,000,000 for fiscal year 2003 for regional antidrug training by the Drug Enforcement Administration for law enforcement entities (including police, border control, and other entities engaged in drug interdiction and narcotics control efforts), as well as increased precursor chemical control efforts in the South and Central Asia region.

SEC. 2504. UNITED STATES-THAILAND DRUG PROSECUTOR EXCHANGE PROGRAM.

(a) Program Authorization.—The Attorney General shall establish an exchange program in which prosecutors, judges, or policy makers from the Kingdom of Thailand participate in an exchange program to observe Federal prosecutors in an effort to learn about the various rules and procedures used to prosecute violations of federal criminal narcotics laws.

(b) Authorization of Appropriations.—To carry out this section, there are authorized to be appropriated $75,000 for fiscal year 2003 and $75,000 for fiscal year 2004.

TITLE III—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM

SEC. 3001. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

(a) In General.—Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "as provided in paragraph (2)" and inserting "as provided in paragraph (3)";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

"(A) influence, delay, or prevent the testimony of any person in an official proceeding;

"(B) cause or induce any person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

"(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

"(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3)."; and

(D) in paragraph (3), as redesignated—

(i) by striking "and" at the end of subparagraph (A); and

(ii) by striking subparagraph (B) and inserting the following:

"(B) in the case of—

"(i) an attempt to murder; or

"(ii) the use or attempted use of physical force against any person;

imprisonment for not more than 20 years; and

"(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 10 years.";

(2) in subsection (b), by striking "or physical force"; and

(3) by adding at the end the following:

"(j) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) Retaliating Against a Witness.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

"(e) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(c) Conforming Amendments.—

(1) Witness tampering.—Section 1512 of title 18, United States Code, is amended in subsections (b)(3) and (c)(2) by inserting "supervised release," after "probation".

(2) Retaliation against a witness.—Section 1513 of title 18, United States Code, is amended in subsections (a)(1)(B) and (b)(2) by inserting "supervised release," after "probation".

(d) Restoration.—Section 1402(c) of the Victims of Crime Act of 1984 is amended to read as it did on November 27, 2001.

SEC. 3002. CORRECTION OF ABERRANT STATUTES TO PERMIT IMPOSITION OF BOTH A FINE AND IMPRISONMENT.

(a) In General.—Title 18 of the United States Code is amended—

(1) in section 401, by inserting "or both," after "fine or imprisonment,";

(2) in section 1705, by inserting ", or both" after "years"; and

(3) in sections 1916, 2234, and 2235, by inserting ", or both" after "year".

(b) Imposition by Magistrate.—Section 636 of title 28, United States Code, is amended—

(1) in subsection (e)(2), by inserting ", or both," after "fine or imprisonment"; and

(2) in subsection (e)(3), by inserting "or both," after "fine or imprisonment,".

SEC. 3003. REINSTATEMENT OF COUNTS DISMISSED PURSUANT TO A PLEA AGREEMENT.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§3296. Counts dismissed pursuant to a plea agreement

"(a) In General.—Notwithstanding any other provision of this chapter, any counts of an indictment or information that are dismissed pursuant to a plea agreement shall be reinstated by the District Court if—

"(1) the counts sought to be reinstated were originally filed within the applicable limitations period;

"(2) the counts were dismissed pursuant to a plea agreement approved by the District Court under which the defendant pled guilty to other charges;

"(3) the guilty plea was subsequently vacated on the motion of the defendant; and

"(4) the United States moves to reinstate the dismissed counts within 60 days of the date on which the order vacating the plea becomes final.

"(b) Defenses; Objections.—Nothing in this section shall preclude the District Court from considering any defense or objection, other than statute of limitations, to the prosecution of the counts reinstated under subsection (a).".

(b) Technical and Conforming Amendment.—Chapter 213 of title 18, United States Code, is amended in the table of sections by adding at the end the following new item:

"3296. Counts dismissed pursuant to a plea agreement.".

SEC. 3004. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting ", or any part thereof" after "as to any one or more counts".

SEC. 3005. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

(a) Drug Abuse Penalties.—Subparagraphs (A), (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "Any sentence" and inserting "Notwithstanding section 3583 of title 18, any sentence".

(b) Penalties for Drug Import and Export.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraphs (1), (2), and (3), by striking "Any sentence" and inserting "Notwithstanding section 3583 of title 18, any sentence"; and

(2) in paragraph (4), by inserting "notwithstanding section 3583 of title 18," before "in addition to such term of imprisonment".

SEC. 3006. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting "(and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment)" after "may reduce the term of imprisonment".

SEC. 3007. CLARIFICATION THAT MAKING RESTITUTION IS A PROPER CONDITION OF SUPERVISED RELEASE.

Subsections (c) and (e) of section 3583 of title 18, United States Code, are amended by striking "and (a)(6) and inserting "(a)(6), and (a)(7)".

TITLE IV—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2002

SEC. 4001. SHORT TITLE.

This title may be cited as the "Criminal Law Technical Amendments Act of 2002".

SEC. 4002. TECHNICAL AMENDMENTS RELATING TO CRIMINAL LAW AND PROCEDURE.

(a) Missing and Incorrect Words.—

(1) Correction of garbled sentence.—Section 510(c) of title 18, United States Code, is amended by striking "fine of under this title" and inserting "fine under this title".

(2) Insertion of missing words.—Section 981(d) of title 18, United States Code, is amended by striking "proceeds from the sale of this section" and inserting "proceeds from the sale of such property under this section".

(3) Correction of incorrect word.—Sections 1425 through 1427, 1541 through 1544 and 1546(a) of title 18, United States Code, are each amended by striking "to facility" and inserting "to facilitate".

(4) Correcting erroneous amendatory language on executed amendment.—Effective on the date of the enactment of Public Law 103–322, section 60003(a)(13) of such public law is amended by striking "$1,000,000 or imprisonment" and inserting "$1,000,000 and imprisonment".

(5) Correction of reference to short title of law.—That section 2332d(a) of title 18, United States Code, which relates to financial transactions is amended by inserting "of 1979" after "Export Administration Act".

(6) Elimination of typographical error.—Section 1992(b) of title 18, United States Code, is amended by striking "term or years" and inserting "term of years".

(7) Spelling correction.—Section 2339A(a) of title 18, United States Code, is amended by striking "or an escape" and inserting "of an escape".

(8) Section 3553.—Section 3553(e) of title 18, United States Code, is amended by inserting "a" before "minimum".

(9) Misspelling in section 205.—Section 205(d)(1)(B) of title 18, United States Code, is amended by striking "groups's" and inserting "group's".

(10) Conforming change and inserting missing word in section 709.—The paragraph in section 709 of title 18, United States Code, that begins with "A person who" is amended—

(A) by striking "A person who" and inserting "Whoever"; and

(B) by inserting "or" after the semicolon at the end.

(11) ERROR IN LANGUAGE BEING STRICKEN.—Effective on the date of its enactment, section 726(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) is amended—

(A) in subparagraphs (C) and (E), by striking "section" the first place it appears; and

(B) in subparagraph (G), by striking "relating to" the first place it appears.

(b) MARGINS, PUNCTUATION, AND SIMILAR ERRORS.—

(1) MARGIN ERROR.—Section 1030(c)(2) of title 18, United States Code, is amended so that the margins of subparagraph (B) and each of its clauses, are moved 2 ems to the left.

(2) CORRECTING CAPITALIZATION IN LANGUAGE TO BE STRICKEN.—Effective on the date of its enactment, section 607(g)(2) of the Economic Espionage Act of 1996 is amended by striking "territory" and inserting "Territory".

(3) CORRECTING PARAGRAPHING.—The material added to section 521(a) of title 18, United States Code, by section 607(q) of the Economic Espionage Act of 1996 is amended to appear as a paragraph indented 2 ems from the left margin.

(4) SUBSECTION PLACEMENT CORRECTION.—Section 1513 of title 18, United States Code, is amended by transferring subsection (d) so that it appears following subsection (c).

(5) CORRECTION TO ALLOW FOR INSERTION OF NEW SUBPARAGRAPH AND CORRECTION OF ERRONEOUS INDENTATION.—Section 1956(c)(7) of title 18, United States Code, is amended—

(A) in subparagraph (B)(ii), by moving the margin 2 ems to the right;

(B) by striking "or" at the end of subparagraph (D);

(C) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(D) in subparagraph (F)—

(i) by striking "Any" and inserting "any"; and

(ii) by striking the period at the end and inserting a semicolon.

(6) CORRECTION OF CONFUSING SUBDIVISION DESIGNATION.—Section 1716 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph, by inserting "(j)(1)" before "Whoever";

(B) in the second undesignated paragraph—

(i) by striking "not more than $10,000" and inserting "under this title"; and

(ii) by inserting "(2)" at the beginning of that paragraph;

(C) by inserting "(3)" at the beginning of the third undesignated paragraph; and

(D) by redesignating subsection (j) as subsection (k).

(7) PUNCTUATION CORRECTION IN SECTION 1091.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "subsection (a)(1)," and inserting "subsection (a)(1)".

(8) PUNCTUATION CORRECTION IN SECTION 2311.—Section 2311 of title 18, United States Code, is amended by striking the period after "carcasses thereof" the second place that term appears and inserting a semicolon.

(9) SYNTAX CORRECTION.—Section 115(b)(2) of title 18, United States Code, is amended by striking ", attempted kidnapping, or conspiracy to kidnap of a person" and inserting "or attempted kidnapping of, or a conspiracy to kidnap, a person".

(10) CORRECTING CAPITALIZATION IN SECTION 982.—Section 982(a)(8) of title 18, United States Code, is amended by striking "Court" and inserting "court".

(11) PUNCTUATION CORRECTIONS IN SECTION 1029.—Section 1029 of title 18, United States Code, is amended—

(A) in subsection (c)(1)(A)(ii), by striking "(9)," and inserting "(9)"; and

(B) in subsection (e), by adding a semicolon at the end of paragraph (8).

(12) CORRECTIONS OF CONNECTORS AND PUNCTUATION IN SECTION 1030.—Section 1030 of title 18, United States Code, is amended—

(A) by inserting "and" at the end of subsection (c)(2)(B)(iii); and

(B) by striking the period at the end of subsection (e)(4)(I) and inserting a semicolon.

(13) CORRECTION OF PUNCTUATION IN SECTION 1032.—Section 1032(1) of title 18, United States Code, is amended by striking "13," and inserting "13".

(14) CORRECTION OF PUNCTUATION IN SECTION 1345.—Section 1345(a)(1) of title 18, United States Code, is amended—

(A) in subparagraph (B), by striking ", or" and inserting "; or"; and

(B) in subparagraph (C), by striking the period and inserting a semicolon.

(15) CORRECTION OF PUNCTUATION IN SECTION 3612.—Section 3612(f)(2)(B) of title 18, United States Code, is amended by striking "preceding." and inserting "preceding".

(16) CORRECTION OF INDENTATION IN CONTROLLED SUBSTANCES ACT.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by moving the margin of subparagraph (C) 2 ems to the left.

(c) ELIMINATION OF REDUNDANCIES.—

(1) ELIMINATION OF DUPLICATE AMENDMENTS.—Effective on the date of its enactment, paragraphs (1), (2), and (4) of section 601(b), paragraph (2) of section 601(d), paragraph (2) of section 601(f), paragraphs (1) and (2)(A) of section 601(j), paragraphs (1) and (2) of section 601(k), subsection (d) of section 602, paragraph (4) of section 604(b), subsection (r) of section 605, and paragraph (2) of section 607(j) of the Economic Espionage Act of 1996 are repealed.

(2) ELIMINATION OF EXTRA COMMA.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(A) by striking "Code,," and inserting "Code,"; and

(B) by striking "services),," and inserting "services),".

(3) REPEAL OF SECTION GRANTING DUPLICATIVE AUTHORITY.—

(A) Section 3503 of title 18, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3503.

(4) ELIMINATION OF OUTMODED REFERENCE TO PAROLE.—Section 929(b) of title 18, United States Code, is amended by striking the last sentence.

(d) CORRECTION OF OUTMODED FINE AMOUNTS.—

(1) IN TITLE 18, UNITED STATES CODE.—

(A) IN SECTION 492.—Section 492 of title 18, United States Code, is amended by striking "not more than $100" and inserting "under this title".

(B) IN SECTION 665.—Section 665(c) of title 18, United States Code, is amended by striking "a fine of not more than $5,000" and inserting "a fine under this title".

(C) IN SECTIONS 1924, 2075, 2113(b), AND 2236.—

(i) Section 1924(a) of title 18, United States Code, is amended by striking "not more than $1,000," and inserting "under this title".

(ii) Sections 2075 and 2113(b) of title 18, United States Code, are each amended by striking "not more than $1,000" and inserting "under this title".

(iii) Section 2236 of title 18, United States Code, is amended by inserting "under this title" after "warrant, shall be fined", and by striking "not more than $1,000".

(D) IN SECTION 372 AND 752.—Sections 372 and 752(a) of title 18, United States Code, are each amended by striking "not more than $5,000" and inserting "under this title".

(E) IN SECTION 924(e)(1).—Section 924(e)(1) of title 18, United States Code, is amended by striking "not more than $25,000" and inserting "under this title".

(2) IN THE CONTROLLED SUBSTANCES ACT.—

(A) IN SECTION 401.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended—

(i) in paragraph (1), by striking "and shall be fined not more than $10,000" and inserting "or fined under title 18, United States Code, or both"; and

(ii) in paragraph (2), by striking "and shall be fined not more than $20,000" and inserting "or fined under title 18, United States Code, or both".

(B) IN SECTION 402.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)) is amended—

(i) in subparagraph (A), by striking "of not more than $25,000" and inserting "under title 18, United States Code"; and

(ii) in subparagraph (B), by striking "of $50,000" and inserting "under title 18, United States Code".

(C) IN SECTION 403.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(i) by striking "of not more than $30,000" each place that term appears and inserting "under title 18, United States Code"; and

(ii) by striking "of not more than $60,000" each place it appears and inserting "under title 18, United States Code".

(e) CROSS REFERENCE CORRECTIONS.—

(1) SECTION 3664.—Section 3664(o)(1)(C) of title 18, United States Code, is amended by striking "section 3664(d)(3)" and inserting "subsection (d)(5)".

(2) CHAPTER 228.—Section 3592(c)(1) of title 18, United States Code, is amended by striking "section 36" and inserting "section 37".

(3) CORRECTING ERRONEOUS CROSS REFERENCE IN CONTROLLED SUBSTANCES ACT.—Section 511(a)(10) of the Controlled Substances Act (21 U.S.C. 881(a)(10)) is amended by striking "1822 of the Mail Order Drug Paraphernalia Control Act" and inserting "422".

(4) CORRECTION TO REFLECT CROSS REFERENCE CHANGE MADE BY OTHER LAW.—Effective on the date of its enactment, section 601(c)(3) of the Economic Espionage Act of 1996 is amended by striking "247(d)" and inserting "247(e)".

(5) TYPOGRAPHICAL AND TYPEFACE ERROR IN TABLE OF CHAPTERS.—The item relating to chapter 123 in the table of chapters at the beginning of part I of title 18, United States Code, is amended—

(A) by striking "2271" and inserting "2721"; and

(B) so that the item appears in bold face type.

(6) SECTION 4104.—Section 4104(d) of title 18, United States Code, is amended by striking "section 3653 of this title and rule 32(f) of" and inserting "section 3565 of this title and the applicable provisions of".

(7) ERROR IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 583 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (111 Stat. 2436) is amended by striking "Section 2401" and inserting "Section 2441".

(8) ERROR IN CROSS REFERENCE TO COURT RULES.—The first sentence of section 3593(c) of title 18, United States Code, is amended by striking "rule 32(c)" and inserting "rule 32".

(9) SECTION 1836.—Section 1836 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "this section" and inserting "this chapter"; and

(B) in subsection (b), by striking "this subsection" and inserting "this section".

(10) CORRECTION OF ERRONEOUS CITE IN CHAPTER 119.—Section 2510(10) of title 18, United States Code, is amended by striking "shall have" and all that follows through "United States Code;" and inserting "has the meaning given that term in section 3 of the Communications Act of 1934;".

(11) ELIMINATION OF OUTMODED CITE IN SECTION 2339A.—Section 2339A(a) of title 18, United States Code, is amended by striking "2332c,".

(12) CORRECTION OF REFERENCES IN AMENDATORY LANGUAGE.—Effective the date of its enactment, section 115(a)(8)(B) of Public Law 105–119 is amended—

(A) in clause (i)—

(i) by striking "at the end of" and inserting "following"; and

(ii) by striking "paragraph" the second place it appears and inserting "subsection"; and

(B) in clause (ii), by striking "subparagraph (A)" and inserting "clause (i)".

(f) TABLES OF SECTIONS CORRECTIONS.—

(1) CONFORMING TABLE OF SECTIONS TO HEADING OF SECTION.—The item relating to section 1837 in the table of sections at the beginning of chapter 90 of title 18, United States Code, is amended by striking "Conduct" and inserting "Applicability to conduct".

*(2) CONFORMING HEADING TO TABLE OF SECTIONS ENTRY.—The heading of section 1920 of title 18, United States Code, is amended by striking "**Employee's**" and inserting "**Employees**".*

SEC. 4003. ADDITIONAL TECHNICALS.

(a) TITLE 18.—Title 18, United States Code, is amended—

(1) in section 922(t)(1)(C), by striking "1028(d)(1)" and inserting "1028(d)";

(2) in section 1005—

(A) in the first undesignated paragraph, by striking "Act,," and inserting "Act,"; and

(B) by inserting "or" at the end of the third undesignated paragraph;

(3) in section 1071, by striking "fine of under this title" and inserting "fine under this title";

(4) in section 1368(a), by inserting "to" after "serious bodily injury";

(5) in subsections (b)(1) and (c) of section 2252A, by striking "paragraphs" and inserting "paragraph"; and

(6) in section 2254(a)(3), by striking the comma before the period at the end.

(b) TITLE 28.—Title 28, United States Code, is amended—

(1) in section 509(3), by striking the second period;

(2) in section 526—

*(A) in the heading, by striking "**AND**" before "**TRUSTEES**"; and*

(B) in subsection (a)(1), by striking the second comma after "marshals";

(3) in section 529(b)(2), as hereinbefore added, by striking the matter between "services contract" and "made," and inserting "services contract made,";

(4) in section 534(a)(3), by inserting "and" after the semicolon;

(5) in the item relating to section 526 in the table of sections at the beginning of chapter 31, by striking "and" before "trustees";

(6) in the item relating to chapter 37 in the table of chapters at the beginning of part II, by inserting "Service" after "Marshals";

(7) in the item relating to section 532 in the table of sections at the beginning of chapter 33, by inserting "the" after "of"; and

(8) in the item relating to section 537 in the table of sections at the beginning of chapter 33, by striking "nature" and inserting "character".

SEC. 4004. REPEAL OF OUTMODED PROVISIONS.

(a) Section 14 of title 18, United States Code, and the item relating thereto in the table of sections at the beginning of chapter 1 of title 18, United States Code, are repealed.

(b) Section 1261 of such title is amended—

(1) by striking "(a) The Secretary" and inserting "The Secretary"; and

(2) by striking subsection (b).

(c) Section 1821 of such title is amended by striking ", the Canal Zone".

(d) Section 3183 of such title is amended by striking "or the Panama Canal Zone,".

(e) Section 3241 of such title is amended by striking "United States District Court for the Canal Zone and the".

(f) Any section of any Act enacted on the antepenultimate day of November 2001, which section provides for any amendment to chapter 31 of title 28, United States Code, is hereby repealed.

SEC. 4005. AMENDMENTS RESULTING FROM PUBLIC LAW 107–56.

(a) MARGIN CORRECTIONS.—

(1) Section 2516(1) of title 18, United States Code, is amended by moving the left margin for subsection (q) 2 ems to the right.

(2) Section 2703(c)(1) of title 18, United States Code, is amended by moving the left margin of subparagraph (E) 2 ems to the left.

(3) Section 1030(a)(5) of title 18, United States Code, is amended by moving the left margin of subparagraph (B) 2 ems to the left.

(b) CORRECTION OF WRONGLY WORDED CLERICAL AMENDMENT.—Effective on the date of its enactment, section 223(c)(2) of Public Law 107–56 is amended to read as follows:

"(2) The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by adding at the end the following new item:

"2712. Civil actions against the United States.".

(c) CORRECTION OF ERRONEOUS PLACEMENT OF AMENDMENT LANGUAGE.—Effective on the date of its enactment, section 225 of Public Law 107–56 is amended—

(1) by striking "after subsection (g)" and inserting "after subsection (h)"; and

(2) by redesignating the subsection added to section 105 of section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) as subsection (i).

(d) PUNCTUATION CORRECTIONS.—

(1) Section 1956(c)(6)(B) of title 18, United States Code, is amended by striking the period and inserting a semicolon.

(2) Effective on the date of its enactment, section 803(a) of Public Law 107–56 is amended by striking the close quotation mark and period that follows at the end of subsection (a) in the matter proposed to be inserted in title 18, United States Code, as a new section 2339.

(3) Section 1030(c)(3)(B) of title 18, United States Code, is amended by inserting a comma after "(a)(4)".

(e) ELIMINATION OF DUPLICATE AMENDMENT.—Effective on the date of its enactment, section 805 of Public Law 107–56 is amended by striking subsection (b).

(f) CORRECTION OF UNEXECUTABLE AMENDMENTS.—

(1) Effective on the date of its enactment, section 813(2) of Public Law 107–56 is amended by striking "semicolon" and inserting "period".

(2) Effective on the date of its enactment, section 815 of Public Law 107–56 is amended by inserting "a" before "statutory authorization".

(g) CORRECTION OF HEADING STYLE.—The heading for section 175b of title 18, United States Code, is amended to read as follows:

"§ 175b. Possession by restricted persons".

SEC. 4006. CROSS REFERENCE CORRECTION.

Section 2339C(a)(1) of title 18, United States Code, is amended by striking "described in subsection (c)" and inserting "described in subsection (b)".

TITLE V—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

SEC. 5001. PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS.

(a) STATE APPLICATIONS.—Section 503(a)(13)(A)(iii) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(13)(A)(iii)) is amended by striking "or the National Association of Medical Examiners," and inserting ", the National Association of Medical Examiners, or any other nonprofit, professional organization that may be recognized within the forensic science community as competent to award such accreditation,".

(b) FORENSIC SCIENCES IMPROVEMENT GRANTS.—Part BB of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797j et seq.) is amended—

(1) in section 2801, by inserting after "States" the following: " and units of local government";

(2) in section 2802—

(A) in the matter before paragraph (1), by inserting "or unit of local government" after "State";

(B) in paragraph (1), to read as follows:

"(1) a certification that the State or unit of local government has developed a plan for forensic science laboratories under a program described in section 2804(a), and a specific description of the manner in which the grant will be used to carry out that plan;";

(C) in paragraph (2), by inserting "or appropriate certifying bodies" before the semicolon; and

(D) in paragraph (3), by inserting "for a State or local plan" after "program";

(3) in section 2803(a)(2), by striking "to States with" and all that follows through the period and inserting "for competitive awards to States and units of local government. In making awards under this part, the Attorney General shall consider the average annual number of part 1 violent crimes reported by each State to the Federal Bureau of Investigation for the 3 most recent calendar years for which data is available and consider the existing resources and current needs of the potential grant recipient.";

(4) in section 2804—

(A) in subsection (a), by inserting "or unit of local government" after "A State"; and

(B) in subsection (c)(1), by inserting "(including grants received by units of local government within a State)" after "under this part"; and

(5) in section 2806(a)—

(A) in the matter before paragraph (1), by inserting "or unit of local government" after "each State"; and

(B) in paragraph (1), by inserting before the semicolon the following: ", which shall include a comparison of pre-grant and post-grant forensic science capabilities"

(C) in paragraph (2), by striking "and" at the end;

(D) by redesignating paragraph (3) as paragraph (4); and

(E) by inserting after paragraph (2) the following:

"(3) an identification of the number and type of cases currently accepted by the laboratory; and".

SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) such sums as may be necessary for the Center for Domestic Preparedness of the Department of Justice in Anniston, Alabama;

(2) such sums as may be necessary for the Texas Engineering Extension Service of Texas A&M University;

(3) such sums as may be necessary for the Energetic Materials Research and Test Center of the New Mexico Institute of Mining and Technology;

(4) such sums as may be necessary for the Academy of Counterterrorist Education at Louisiana State University;

(5) such sums as may be necessary for the National Exercise, Test, and Training Center of the

Department of Energy, located at the Nevada test site;

(6) such sums as may be necessary for the National Center for the Study of Counter-Terrorism and Cyber-Crime at Norwich University; and

(7) such sums as may be necessary for the Northeast Counterdrug Training Center at Fort Indiantown Gap, Pennsylvania.

DIVISION C—IMPROVEMENTS TO CRIMINAL JUSTICE, CIVIL JUSTICE, IMMIGRATION, JUVENILE JUSTICE, AND INTELLECTUAL PROPERTY AND ANTITRUST LAWS

TITLE I—CRIMINAL JUSTICE, CIVIL JUSTICE, AND IMMIGRATION

Subtitle A—General Improvements

SEC. 11001. LAW ENFORCEMENT TRIBUTE ACT.

(a) SHORT TITLE.—This section may be cited as the "Law Enforcement Tribute Act".

(b) FINDINGS.—Congress finds the following:

(1) The well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement and public safety personnel.

(2) More than 700,000 law enforcement officers, both men and women, at great risk to their personal safety, serve their fellow citizens as guardians of peace.

(3) Nationwide, 51 law enforcement officers were killed in the line of duty in 2000, according to statistics released by the Federal Bureau of Investigation. This number is an increase of 9 from the 1999 total of 42.

(4) In 1999, 112 firefighters died while on duty, an increase of 21 deaths from the previous year.

(5) Every year, 1 in 9 peace officers is assaulted, 1 in 25 is injured, and 1 in 4,400 is killed in the line of duty.

(6) In addition, recent statistics indicate that 83 officers were accidentally killed in the performance of their duties in 2000, an increase of 18 from the 65 accidental deaths in 1999.

(7) A permanent tribute is a powerful means of honoring the men and women who have served our Nation with distinction. However, many law enforcement and public safety agencies lack the resources to honor their fallen colleagues.

(c) PROGRAM AUTHORIZED.—From amounts made available to carry out this section, the Attorney General may make grants to States, units of local government, and Indian tribes to carry out programs to honor, through permanent tributes, men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers.

(d) USES OF FUNDS.—Grants awarded under this section shall be distributed directly to the State, unit of local government, or Indian tribe, and shall be used for the purposes specified in subsection (c).

(e) $150,000 LIMITATION.—A grant under this section may not exceed $150,000 to any single recipient.

(f) MATCHING FUNDS.—

(1) The Federal portion of the costs of a program provided by a grant under this section may not exceed 50 percent.

(2) Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement or public safety functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

(g) APPLICATIONS.—To request a grant under this section, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

(h) ANNUAL REPORT TO CONGRESS.—Not later than November 30 of each year, the Attorney General shall submit a report to the Congress regarding the activities carried out under this section. Each such report shall include, for the preceding fiscal year, the number of grants funded under this section, the amount of funds provided under those grants, and the activities for which those funds were used.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2002 through 2006.

SEC. 11002. DISCLOSURE OF GRAND JURY MATTERS RELATING TO MONEY LAUNDERING OFFENSES.

Section 3322(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or 1344; or" and inserting "1344, 1956, or 1957;";

(2) in subparagraph (B), by inserting "or" after the semicolon; and

(3) by adding at the end the following:

"(C) any provision of subchapter II of chapter 53 of title 31, United States Code;".

SEC. 11003. GRANT PROGRAM FOR STATE AND LOCAL DOMESTIC PREPAREDNESS SUPPORT.

(a) TECHNICAL CORRECTIONS.—

(1) OFFICE.—Section 1014(a) of the USA PATRIOT Act (Public Law 107–56) is amended by striking "Office of State and Local Domestic Preparedness Support" and inserting "Office for Domestic Preparedness".

(2) PERCENT.—Section 1014(c)(3) of the USA PATRIOT Act (Public Law 107–56) is amended by inserting "not less than" before "0.25 percent".

(b) ADDITIONAL USE OF GRANT AMOUNTS.—Section 1014(b) of the USA PATRIOT Act (Public Law 107–56) is amended by inserting at the end the following: "In addition, grants under this section may be used to construct, develop, expand, modify, operate, or improve facilities to provide training or assistance to State and local first responders.".

SEC. 11004. UNITED STATES SENTENCING COMMISSION ACCESS TO NCIC TERMINAL.

Section 534(a) of title 28, United States Code, is amended by striking paragraph (4) and inserting the following:

"(4) exchange such records and information with, and for the official use of, authorized officials of the Federal Government, including the United States Sentencing Commission, the States, cities, and penal and other institutions.".

SEC. 11005. DANGER PAY FOR FBI AGENTS.

Section 151 of the Foreign Relations Act, fiscal years 1990 and 1991 (5 U.S.C. 5928 note), is amended by inserting "or Federal Bureau of Investigation" after "Drug Enforcement Administration".

SEC. 11006. POLICE CORPS.

Subtitle A of title XX of the Violent Crime Control and Law Enforcement Act of 1994, the Police Corps Act (42 U.S.C. 14091 et seq.), is amended—

(1) in section 200106—

(A) in subsection (a)(2)—

(i) in subparagraph (A), by striking "$7,500" and inserting "$10,000";

(ii) in subparagraph (B), by striking "$10,000" and inserting "$13,333"; and

(iii) in subparagraph (C), by striking "$30,000" and inserting "$40,000"; and

(B) in subsection (b)(2)—

(i) in subparagraph (A), by striking "$7,500" and inserting "$10,000";

(ii) in subparagraph (B), by striking "$10,000" and inserting "$13,333"; and

(iii) in subparagraph (C), by striking "$30,000" and inserting "$40,000";

(2) in section 200108, by striking "$250" and inserting "$400";

(3) in section 20110(2), by striking "no more than 10 percent" and inserting "except with permission of the Director, no more than 25 percent"

(4) by striking section 200111; and

(5) in section 200112, by striking "fiscal year 2002" and inserting "each of fiscal years 2002 through 2005".

SEC. 11007. RADIATION EXPOSURE COMPENSATION TECHNICAL AMENDMENTS.

(a) IN GENERAL.—The Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) in section 4(b)(1)(C), by inserting ", and that part of Arizona that is north of the Grand Canyon" after "Gila";

(2) in section 4(b)(2)—

(A) by striking "lung cancer (other than in situ lung cancer that is discovered during or after a post-mortem exam),"; and

(B) by striking "or liver (except if cirrhosis or hepatitis B is indicated)." and inserting "liver (except if cirrhosis or hepatitis B is indicated), or lung.";

(3) in section 5(a)(1)(A)(ii)(I), by inserting "or worked for at least 1 year during the period described under clause (i)" after "months of radiation";

(4) in section 5(a)(2)(A), by striking "an Atomic Energy Commission" and inserting "a";

(5) in section 5(b)(5), by striking "or lung cancer";

(6) in section 5(c)(1)(B)(i), by striking "or lung cancer";

(7) in section 5(c)(2)(B)(i), by striking "or lung cancer";

(8) in section 6(e)—

(A) by striking "The" and inserting "Except as otherwise authorized by law, the"; and

(B) by inserting ", mill, or while employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill" after "radiation in a uranium mine";

(9) in section 6(i), by striking the second sentence;

(10) in section 6(k), by adding at the end the following: "Not later than 180 days after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000, the Attorney General shall issue revised regulations to carry out this Act.";

(11) in section 7, by amending subsection (b) to read as follows:

"(b) CHOICE OF REMEDIES.—No individual may receive more than 1 payment under this Act."; and

(12) by adding at the end the following:

"SEC. 14. GAO REPORTS.

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000, and every 18 months thereafter, the General Accounting Office shall submit a report to Congress containing a detailed accounting of the administration of this Act by the Department of Justice.

"(b) CONTENTS.—Each report submitted under this section shall include an analysis of—

"(1) claims, awards, and administrative costs under this Act; and

"(2) the budget of the Department of Justice relating to this Act.".

(b) CONFORMING AMENDMENTS.—Section 3 of the Radiation Exposure Compensation Act Amendments of 2000 (Public Law 106–245) is amended by striking subsection (i).

SEC. 11008. FEDERAL JUDICIARY PROTECTION ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the "Federal Judiciary Protection Act of 2002.".

(b) ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "three" and inserting "8"; and

(2) in subsection (b), by striking "ten" and inserting "20".

(c) INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.—Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking "five" and inserting "10"; and

(2) by striking "three" and inserting "6".

(d) MAILING THREATENING COMMUNICATIONS.—Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as redesignated by paragraph (1), by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both."; and

(3) in subsection (d), as redesignated by paragraph (1), by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.".

(e) AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(2) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in paragraph (1)—

(A) any expression of congressional intent regarding the appropriate penalties for the offense;

(B) the range of conduct covered by the offense;

(C) the existing sentences for the offense;

(D) the extent to which sentencing enhancements within the Federal sentencing guidelines and the authority of the court to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(E) the extent to which the Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(F) the extent to which the Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(G) the relationship of the Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(H) any other factors that the Commission considers to be appropriate.

SEC. 11009. JAMES GUELFF AND CHRIS McCURLEY BODY ARMOR ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the "James Guelff and Chris McCurley Body Armor Act of 2002".

(b) FINDINGS.—Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 7,200 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

(c) DEFINITIONS.—In this section:

(1) BODY ARMOR.—The term "body armor" means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) LAW ENFORCEMENT AGENCY.—The term "law enforcement agency" means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) LAW ENFORCEMENT OFFICER.—The term "law enforcement officer" means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(d) AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18, United States Code) or drug trafficking crime (as defined in section 924(c) of title 18, United States Code) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.

(2) SENSE OF CONGRESS.—It is the sense of Congress that any sentencing enhancement under this subsection should be at least 2 levels.

(e) PROHIBITION OF PURCHASE, USE, OR POSSESSION OF BODY ARMOR BY VIOLENT FELONS.—

(1) DEFINITION OF BODY ARMOR.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(35) The term 'body armor' means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.".

(2) PROHIBITION.—

(A) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§931. Prohibition on purchase, ownership, or possession of body armor by violent felons

"(a) IN GENERAL.—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

"(1) a crime of violence (as defined in section 16); or

"(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

"(b) AFFIRMATIVE DEFENSE.—

"(1) IN GENERAL.—It shall be an affirmative defense under this section that—

"(A) the defendant obtained prior written certification from his or her employer that the defendant's purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

"(B) the use and possession by the defendant were limited to the course of such performance.

"(2) EMPLOYER.—In this subsection, the term 'employer' means any other individual employed by the defendant's business that supervises defendant's activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.".

(B) CLERICAL AMENDMENT.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"931. Prohibition on purchase, ownership, or possession of body armor by violent felons.".

SEC. 11010. PERSONS AUTHORIZED TO SERVE SEARCH WARRANT.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(g) PRESENCE OF OFFICER NOT REQUIRED.—Notwithstanding section 3105 of this title, the presence of an officer shall not be required for service or execution of a search warrant issued in accordance with this chapter requiring disclosure by a provider of electronic communications service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.".

SEC. 11011. STUDY ON REENTRY, MENTAL ILLNESS, AND PUBLIC SAFETY.

(a) STUDY.—The Attorney General shall commission a study of offenders, or a sampling of such offenders, with mental illness released from prison or jail in 2 or more jurisdictions, including at least 1 State or local and 1 Federal, to determine the extent to which participation in public benefit programs correlates with successful reentry and improved public safety.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives—

(1) a report detailing the results of the study conducted under subsection (a) with findings that address—

(A) the number of offenders with mental illness released from the prison or jail who qualify for medicaid, SSI, or SSDI;

(B) the number of offenders with mental illness who qualify for medicaid, SSI, or SSDI benefits and who are enrolled in these programs upon release from prison or jail; and

(C) how enrollment in medicaid, SSI, or SSDI affects—

(i) rearrest;

(ii) violation of condition(s) of release;

(iii) reincarceration;

(iv) rehospitalization;

(v) the length of time upon release from prison or jail time to the first contact with a mental health or substance abuse service; and

(vi) the number of contacts with a mental health or substance abuse services within the first 90 days of release; and

(2) any recommendations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as necessary to conduct the study and issue the report required by this section.

SEC. 11012. TECHNICAL AMENDMENT TO OMNIBUS CRIME CONTROL ACT.

Section 802(b) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended in the first sentence by striking "U,".and inserting "T,".

SEC. 11013. DEBT COLLECTION IMPROVEMENT.

(a) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, or any other statute affecting the crediting of collections, the Attorney General may credit, as an offsetting collection, to the Department of Justice Working Capital Fund up to 3 percent of all amounts collected pursuant to civil debt collection litigation activities of the Department of Justice. Such amounts in the Working Capital Fund shall remain available until expended and shall be subject to the terms and conditions of that fund, and shall be used first, for paying the costs of processing and tracking civil and criminal debt-collection litigation, and, thereafter, for financial systems and for debt-collection-related personnel, administrative, and litigation expenses.

(b) CONFORMING AMENDMENT.—Section 108 of Public Law 103–121 is repealed.

SEC. 11014. SCAAP AUTHORIZATION.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking ", of which" and all that follows through "2000" and inserting "in fiscal years 2003 and 2004".

SEC. 11015. USE OF ANNUITY BROKERS IN STRUCTURED SETTLEMENTS.

(a) ESTABLISHMENT AND TRANSMISSION OF LIST OF APPROVED ANNUITY BROKERS.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall establish a list of annuity brokers who meet minimum qualifications for providing annuity brokerage services in connection with structured settlements entered by the United States. This list shall be updated upon request by any annuity broker that meets the minimum qualifications for inclusion on the list. The Attorney General shall transmit such list, and any updates to such list, to all United States Attorneys.

(b) AUTHORITY TO SELECT ANNUITY BROKER FOR STRUCTURED SETTLEMENTS.—In any structured settlement that is not negotiated exclusively through the Civil Division of the Department of Justice, the United States Attorney (or his designee) involved in any settlement negotiations shall have the exclusive authority to select an annuity broker from the list of such brokers established by the Attorney General, provided that all documents related to any settlement comply with Department of Justice requirements.

SEC. 11016. INS PROCESSING FEES.

The Immigration and Nationality Act of 1953 is amended—

(1) in section 344(c) (8 U.S.C. 1455(c)), by striking "All" and inserting "Except as provided by section 286(q)(2) or any other law, all"; and

(2) in section 286(q)(2) (8 U.S.C. 1356(q)(2)), by inserting ", including receipts for services performed in processing forms I–94, I–94W, and I–68, and other similar applications processed at land border ports of entry," after "subsection".

SEC. 11017. UNITED STATES PAROLE COMMISSION EXTENSION.

(a) EXTENSION OF THE PAROLE COMMISSION.—For purposes of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as such section relates to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to "fifteen years" or "fifteen-year period" shall be deemed to be a reference to "eighteen years" or "eighteen-year period", respectively.

(b) STUDY BY ATTORNEY GENERAL.—The Attorney General, not later than 60 days after the enactment of this Act, should establish a committee within the Department of Justice to evaluate the merits and feasibility of transferring the United States Parole Commission's functions regarding the supervised release of District of Columbia offenders to another entity or entities outside the Department of Justice. This committee should consult with the District of Columbia Superior Court and the District of Columbia Court Services and Offender Supervision Agency, and should report its findings and recommendations to the Attorney General. The Attorney General, in turn, should submit to Congress, not later than 18 months after the enactment of this Act, a long-term plan for the most effective and cost-efficient assignment of responsibilities relating to the supervised release of District of Columbia offenders.

(c) SERVICE AS COMMISSIONER.—Notwithstanding section 1 of this legislation, the final clause of the fourth sentence of section 4202 of title 18, United States Code, which begins "except that", shall not apply to a person serving as a Commissioner of the United States Parole Commission when this Act takes effect.

SEC. 11018. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) INCREASE IN NUMERICAL LIMITATION ON WAIVERS REQUESTED BY STATES.—Section 214(l)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(B)) is amended by striking "20;" and inserting "30;".

(b) EXTENSION OF DEADLINE.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "2002." and inserting "2004.".

(c) TECHNICAL CORRECTION.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended by striking "214(k):" and inserting "214(l):".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if this Act were enacted on May 31, 2002.

SEC. 11019. PRETRIAL DISCLOSURE OF EXPERT TESTIMONY RELATING TO DEFENDANT'S MENTAL CONDITION.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure that are embraced by an order entered by the Supreme Court of the United States on April 29, 2002, shall take effect on December 1, 2002, as otherwise provided by law, but with the amendments made in subsection (b).

(b) PRETRIAL DISCLOSURE OF EXPERT TESTIMONY.—Rule 16 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (a)(1), by amending subparagraph (G) to read as follows:

"(G) EXPERT WITNESSES.—At the defendant's request, the Government shall give to the defendant a written summary of any testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial. If the Government requests discovery under subdivision (b)(1)(C)(ii) and the defendant complies, the Government shall, at the defendant's request, give to the defendant a written summary of testimony that the Government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial on the issue of the defendant's medical condition. The summary provided under this subparagraph shall describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications."; and

(2) in subdivision (b)(1), by amending subparagraph (C) to read as follows:

"(C) EXPERT WITNESSES.—The defendant shall, at the Government's request, give to the Government a written summary of any testimony that the defendant intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial, if—

"(i) the defendant requests disclosure under subdivision (a)(1)(G) and the government complies; or

"(ii) the defendant has given notice under Rule 12.2(b) of an intent to present expert testimony on the defendant's mental condition.

This summary shall describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on December 1, 2002.

SEC. 11020. MULTIPARTY, MULTIFORUM TRIAL JURISDICTION ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the "Multiparty, Multiforum Trial Jurisdiction Act of 2002".

(b) MULTIPARTY, MULTIFORUM JURISDICTION OF DISTRICT COURTS.—

(1) BASIS OF JURISDICTION.—

(A) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1369. Multiparty, multiforum jurisdiction

"(a) IN GENERAL.—The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 75 natural persons have died in the accident at a discrete location, if—

"(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

"(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

"(3) substantial parts of the accident took place in different States.

"(b) LIMITATION OF JURISDICTION OF DISTRICT COURTS.—The district court shall abstain from hearing any civil action described in subsection (a) in which—

"(1) the substantial majority of all plaintiffs are citizens of a single State of which the primary defendants are also citizens; and

"(2) the claims asserted will be governed primarily by the laws of that State.

"(c) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

"(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

"(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

"(3) the term 'injury' means—

"(A) physical harm to a natural person; and

"(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

"(4) the term 'accident' means a sudden accident, or a natural event culminating in an accident, that results in death incurred at a discrete location by at least 75 natural persons; and

"(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(d) Intervening Parties.—In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a), shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

"(e) Notification of Judicial Panel on Multidistrict Litigation.—A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.".

(B) Conforming amendment.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1369. Multiparty, multiforum jurisdiction.".

(2) Venue.—Section 1391 of title 28, United States Code, is amended by adding at the end the following:

"(g) A civil action in which jurisdiction of the district court is based upon section 1369 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.".

(3) Removal of actions.—Section 1441 of title 28, United States Code, is amended—

(A) in subsection (e) by striking "(e) The court to which such civil action is removed" and inserting "(f) The court to which a civil action is removed under this section"; and

(B) by inserting after subsection (d) the following new subsection:

"(e)(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

"(A) the action could have been brought in a United States district court under section 1369 of this title; or

"(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1369 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1369 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.

"(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(j) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

"(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination shall not be subject to further review by appeal or otherwise.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) An action removed under this subsection shall be deemed to be an action under section 1369 and an action in which jurisdiction is based on section 1369 of this title for purposes of this section and sections 1407, 1697, and 1785 of this title.

"(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.".

(4) SERVICE OF PROCESS.—

(A) OTHER THAN SUBPOENAS.—(i) Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

"§1697. Service in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(ii) The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

"1697. Service in multiparty, multiforum actions.".

(B) Service of subpoenas.—(i) Chapter 117 of title 28, United States Code, is amended by adding at the end the following new section:

"§1785. Subpoenas in multiparty, multiforum actions

"When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.".

(ii) The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following new item:

"1785. Subpoenas in multiparty, multiforum actions.".

(c) Effective Date.—The amendments made by subsection (b) shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

SEC. 11021. ADDITIONAL PLACE OF HOLDING COURT IN THE SOUTHERN DISTRICT OF OHIO.

Section 115(b)(2) of title 28, United States Code, is amended by inserting "St. Clairsville," after "Columbus,".

SEC. 11022. DIRECT SHIPMENT OF WINE.

(a) Conditions for Transporting Certain Wine.—During any period in which the Federal Aviation Administration has in effect restrictions on airline passengers to ensure safety, the direct shipment of wine shall be permitted from States where wine is purchased from a winery, to another State or the District of Columbia, if—

(1) the wine was purchased while the purchaser was physically present at the winery;

(2) the purchaser of the wine provided the winery verification of legal age to purchase alcohol;

(3) the shipping container in which the wine is shipped is marked to require an adult's signature upon delivery;

(4) the wine is for personal use only and not for resale; and

(5) the purchaser could have carried the wine lawfully into the State or the District of Columbia to which the wine is shipped.

(b) Violations.—If any person fails to meet any of the conditions under subsection (a), the attorney general of any State may bring a civil action under the same terms as those set out in section 2 of the Act entitled "An Act divesting intoxicating liquors of their interstate character in certain cases", approved March 1, 1913 (commonly known as the "Webb-Kenyon Act") (27 U.S.C. 122a).

(c) Report.—Not later than 2 years after the date of enactment of this Act, and at 2-year intervals thereafter, the Attorney General of the United States, in consultation with the Administrator of the Federal Aviation Administration, shall prepare and submit to the Committee on the Judiciary of the Senate and to the Committee on the Judiciary of the House of Representatives a report on the implementation of this section.

SEC. 11023. WEBSTER COMMISSION IMPLEMENTATION REPORT.

(a) Implementation Plan.—Not later than 6 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a plan for implementation of the recommendations of the Commission for Review of FBI Security Programs, dated March 31, 2002, including the costs of such implementation.

(b) Annual Reports.—On the date that is 1 year after the submission of the plan described in subsection (a), and for 2 years thereafter, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a report on the implementation of such plan.

(c) APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of this section, the term "appropriate Committees of Congress" means—

(1) the Committees on the Judiciary of the Senate and the House of Representatives;

(2) the Committees on Appropriations of the Senate and the House of Representatives;

(3) the Select Committee on Intelligence of the Senate; and

(4) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 11024. FBI POLICE.

(a) In General.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§540C. FBI Police

"(a) Definitions.—In this section:

"(1) Director.—The term "Director" means the Director of the Federal Bureau of Investigation.

"(2) FBI buildings and grounds.—

"(A) IN GENERAL.—The term "FBI buildings and grounds" means—

"(i) the whole or any part of any building or structure which is occupied under a lease or otherwise by the Federal Bureau of Investigation and is subject to supervision and control by the Federal Bureau of Investigation;

"(ii) the land upon which there is situated any building or structure which is occupied wholly by the Federal Bureau of Investigation; and

"(iii) any enclosed passageway connecting 2 or more buildings or structures occupied in whole or in part by the Federal Bureau of Investigation.

"(B) INCLUSION.—The term "FBI buildings and grounds" includes adjacent streets and sidewalks not to exceed 500 feet from such property.

"(3) FBI POLICE.—The term "FBI police" means the permanent police force established under subsection (b).

"(b) ESTABLISHMENT OF FBI POLICE; DUTIES.—

"(1) IN GENERAL.—Subject to the supervision of the Attorney General, the Director may establish a permanent police force, to be known as the FBI police.

"(2) DUTIES.—The FBI police shall perform such duties as the Director may prescribe in connection with the protection of persons and property within FBI buildings and grounds.

"(3) UNIFORMED REPRESENTATIVE.—The Director, or designated representative duly authorized by the Attorney General, may appoint uniformed representatives of the Federal Bureau of Investigation as FBI police for duty in connection with the policing of all FBI buildings and grounds.

"(4) AUTHORITY.—

"(A) IN GENERAL.—In accordance with regulations prescribed by the Director and approved by the Attorney General, the FBI police may—

"(i) police the FBI buildings and grounds for the purpose of protecting persons and property;

"(ii) in the performance of duties necessary for carrying out subparagraph (A), make arrests and otherwise enforce the laws of the United States, including the laws of the District of Columbia;

"(iii) carry firearms as may be required for the performance of duties;

"(iv) prevent breaches of the peace and suppress affrays and unlawful assemblies; and

"(v) hold the same powers as sheriffs and constables when policing FBI buildings and grounds.

"(B) EXCEPTION.—The authority and policing powers of FBI police under this paragraph shall not include the service of civil process.

"(5) PAY AND BENEFITS.—

"(A) IN GENERAL.—The rates of basic pay, salary schedule, pay provisions, and benefits for members of the FBI police shall be equivalent to the rates of basic pay, salary schedule, pay provisions, and benefits applicable to members of the United States Secret Service Uniformed Division.

"(B) APPLICATION.—Pay and benefits for the FBI police under subparagraph (A)—

"(i) shall be established by regulation;

"(ii) shall apply with respect to pay periods beginning after January 1, 2003; and

"(iii) shall not result in any decrease in the rates of pay or benefits of any individual.

"(c) AUTHORITY OF METROPOLITAN POLICE FORCE.—This section does not affect the authority of the Metropolitan Police Force of the District of Columbia with respect to FBI buildings and grounds.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 33 of title 28, United States Code, is amended by adding at the end the following new item:

"540C. FBI police.".

SEC. 11025. REPORT ON FBI INFORMATION MANAGEMENT AND TECHNOLOGY.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation, with appropriate comments from other components of the Department of Justice, shall submit to Congress a report on the information management and technology programs of the Federal Bureau of Investigation including recommendations for any legislation that may be necessary to enhance the effectiveness of those programs.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall provide—

(1) an analysis and evaluation of whether authority for waiver of any provision of procurement law (including any regulation implementing such a law) is necessary to expeditiously and cost-effectively acquire information technology to meet the unique needs of the Federal Bureau of Investigation to improve its investigative operations in order to respond better to national law enforcement, intelligence, and counterintelligence requirements;

(2) the results of the studies and audits conducted by the Strategic Management Council and the Inspector General of the Department of Justice to evaluate the information management and technology programs of the Federal Bureau of Investigation, including systems, policies, procedures, practices, and operations; and

(3) a plan for improving the information management and technology programs of the Federal Bureau of Investigation.

(c) RESULTS.—The results provided under subsection (b)(2) shall include an evaluation of—

(1) information technology procedures and practices regarding procurement, training, and systems maintenance;

(2) record keeping policies, procedures, and practices of the Federal Bureau of Investigation, focusing particularly on how information is inputted, stored, managed, utilized, and shared within the Federal Bureau of Investigation;

(3) how information in a given database is related or compared to, or integrated with, information in other technology databases within the Federal Bureau of Investigation;

(4) the effectiveness of the existing information technology infrastructure of the Federal Bureau of Investigation in supporting and accomplishing the overall mission of the Federal Bureau of Investigation;

(5) the management of information technology projects of the Federal Bureau of Investigation, focusing on how the Federal Bureau of Investigation—

(A) selects its information technology projects;

(B) ensures that projects under development deliver benefits; and

(C) ensures that completed projects deliver the expected results; and

(6) the security and access control techniques for classified and sensitive but unclassified information systems in the Federal Bureau of Investigation.

(d) CONTENTS OF PLAN.—The plan provided under subsection (b)(3) shall include consideration of, among other things—

(1) to what extent appropriate key technology management positions in the Federal Bureau of Investigation should be filled by personnel with experience in the commercial sector;

(2) how access to the most sensitive information can be audited in such a manner that suspicious activity is subject to near contemporaneous security review;

(3) how critical information systems can employ a public key infrastructure to validate both users and recipients of messages or records;

(4) how security features can be tested to meet national information systems security standards;

(5) which employees in the Federal Bureau of Investigation should receive instruction in records and information management policies and procedures relevant to their positions and how frequently they should receive that instruction;

(6) whether and to what extent a reserve should be established for research and development to guide strategic information management and technology investment decisions;

(7) whether administrative requirements for software purchases under $2,000,000 are necessary and could be eliminated;

(8) whether the Federal Bureau of Investigation should contract with an expert technology partner to provide technical support for the information technology procurement for the Federal Bureau of Investigation;

(9) whether procedures should be implemented to permit procurement of products and services through contracts of other agencies, as necessary; and

(10) whether a systems integration and test center should be established, with the participation of field personnel, to test each series of information systems upgrades or application changes before their operational deployment to confirm that they meet proper requirements.

SEC. 11026. GAO REPORT ON CRIME STATISTICS REPORTING.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the issue of how statistics are reported and used by Federal law enforcement agencies.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) identify the current regulations, procedures, internal policies, or other conditions that allow the investigation or arrest of an individual to be claimed or reported by more than 1 Federal or State agency charged with law enforcement responsibility;

(2) identify and examine the conditions that allow the investigation or arrest of an individual to be claimed or reported by the Offices of Inspectors General and any other Federal agency charged with law enforcement responsibility;

(3) examine the statistics reported by Federal law enforcement agencies, and document those instances in which more than 1 agency, bureau, or office claimed or reported the same investigation or arrest during the years 1998 through 2001;

(4) examine the issue of Federal agencies simultaneously claiming arrest credit for in-custody situations that have already occurred pursuant to a State or local agency arrest situation during the years 1998 through 2001;

(5) examine the issue of how such statistics are used for administrative and management purposes;

(6) set forth a comprehensive definition of the terms "investigation" and "arrest" as those terms apply to Federal agencies charged with law enforcement responsibilities; and

(7) include recommendations, that when implemented, would eliminate unwarranted and duplicative reporting of investigation and arrest statistics by all Federal agencies charged with law enforcement responsibilities.

(c) FEDERAL AGENCY COMPLIANCE.—Federal law enforcement agencies shall comply with requests made by the General Accounting Office for information that is necessary to assist in preparing the report required by this section.

SEC. 11027. CRIME-FREE RURAL STATES GRANTS.

(a) SHORT TITLE.—This section may be cited as the "Crime-Free Rural States Act of 2002".

(b) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C.

3711 et seq.), as amended, is amended by inserting after part FF the following new part:

"PART GG—CRIME FREE RURAL STATE GRANTS

"SEC. 2985. GRANT AUTHORITY.

"The Attorney General shall award grants to rural State criminal justice agencies, Byrne agencies, or other agencies as designated by the Governor of that State and approved by the Attorney General, to develop rural States' capacity to assist local communities in the prevention and reduction of crime, violence, and substance abuse.

"SEC. 2986. USE OF FUNDS.

"(a) IN GENERAL.—A capacity building grant shall be used to develop a statewide strategic plan as described in section 2987 to prevent and reduce crime, violence, and substance abuse.

"(b) PERMISSIVE USE.—A rural State may also use its grant to provide training and technical assistance to communities and promote innovation in the development of policies, technologies, and programs to prevent and reduce crime.

"(c) DATA COLLECTION.—A rural State may use up to 5 percent of the grant to assist grant recipients in collecting statewide data related to the costs of crime, violence, and substance abuse for purposes of supporting the statewide strategic plan.

"SEC. 2987. STATEWIDE STRATEGIC PREVENTION PLAN.

"(a) IN GENERAL.—A statewide strategic prevention plan shall be used by the rural State to assist local communities, both directly and through existing State programs and services, in building comprehensive, strategic, and innovative approaches to reducing crime, violence, and substance abuse based on local conditions and needs.

"(b) GOALS.—The plan must contain statewide long-term goals and measurable annual objectives for reducing crime, violence, and substance abuse.

"(c) ACCOUNTABILITY.—The rural State shall be required to develop and report in its plan relevant performance targets and measures for the goals and objectives to track changes in crime, violence, and substance abuse.

"(d) CONSULTATION.—The rural State shall form a State crime free communities commission that includes representatives of State and local government, and community leaders who will provide advice and recommendations on relevant community goals and objectives, and performance targets and measures.

"SEC. 2988. REQUIREMENTS.

"(a) TRAINING AND TECHNICAL ASSISTANCE.—The rural State shall provide training and technical assistance, including through such groups as the National Crime Prevention Council, to assist local communities in developing Crime Prevention Plans that reflect statewide strategic goals and objectives, and performance targets and measures.

"(b) REPORTS.—The rural State shall provide a report on its statewide strategic plan to the Attorney General, including information about—

"(1) involvement of relevant State-level agencies to assist communities in the development and implementation of their Crime Prevention Plans;

"(2) support for local applications for Community Grants; and

"(3) community progress toward reducing crime, violence, and substance abuse.

"(c) CERTIFICATION.—Beginning in the third year of the program, States must certify that the local grantee's project funded under the community grant is generally consistent with statewide strategic goals and objectives, and performance targets and measures.

"SEC. 2989. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 to carry out this part for each of fiscal years 2003, 2004, and 2005.".

(c) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part FF the following:

"PART GG—CRIME FREE RURAL STATE GRANTS

"Sec. 2985. Grant authority.
"Sec. 2986. Use of funds.
"Sec. 2987. Statewide strategic prevention plan.
"Sec. 2988. Requirements.
"Sec. 2989. Authorization of appropriations.".

SEC. 11028. MOTOR VEHICLE FRANCHISE CONTRACT DISPUTE RESOLUTION PROCESS.

(a) ELECTION OF ARBITRATION.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term "motor vehicle" has the meaning given such term in section 30102(6) of title 49 of the United States Code; and

(B) the term "motor vehicle franchise contract" means a contract under which a motor vehicle manufacturer, importer, or distributor sells motor vehicles to any other person for resale to an ultimate purchaser and authorizes such other person to repair and service the manufacturer's motor vehicles.

(2) CONSENT REQUIRED.—Notwithstanding any other provision of law, whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a controversy arising out of or relating to such contract, arbitration may be used to settle such controversy only if after such controversy arises all parties to such controversy consent in writing to use arbitration to settle such controversy.

(3) EXPLANATION REQUIRED.—Notwithstanding any other provision of law, whenever arbitration is elected to settle a dispute under a motor vehicle franchise contract, the arbitrator shall provide the parties to such contract with a written explanation of the factual and legal basis for the award.

(b) APPLICATION.—Subsection (a) shall apply to contracts entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this Act.

SEC. 11029. HOLDING COURT FOR THE SOUTHERN DISTRICT OF IOWA.

Notwithstanding any other provision of law, during the period beginning on January 1, 2003, through July 1, 2005, the United States District Court for the Southern District of Iowa may—

(1) with the consent of the parties in any case filed in the Eastern Division or the Davenport Division of the Southern District of Iowa, hold court on that case in Rock Island, Illinois; and

(2) summon jurors from the Southern District of Iowa to serve in any case described under paragraph (1).

SEC. 11030. POSTHUMOUS CITIZENSHIP RESTORATION.

(a) SHORT TITLE.—This section may be cited as the "Posthumous Citizenship Restoration Act of 2002".

(b) DEADLINE EXTENSION.—Section 329A(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1440–1(c)(1)(A)) is amended by striking "this section," and inserting "the Posthumous Citizenship Restoration Act of 2002,".

SEC. 11030A. EXTENSION OF H–1B STATUS FOR ALIENS WITH LENGTHY ADJUDICATIONS.

(a) EXEMPTION FROM LIMITATION.—Section 106(a) of American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended to read as follows:

"(a) EXEMPTION FROM LIMITATION.—The limitation contained in section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act (8 U.S.C.1101(a)(15)(H)(i)(b)), if 365 days or more have elapsed since the filing of any of the following:

"(1) Any application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)), in a case in which certification is required or used by the alien to obtain status under section 203(b) of such Act (8 U.S.C. 1153(b)).

"(2) A petition described in section 204(b) of such Act (3 U. S.C. 1154(b)) to accord the alien a status under section 203(b) of such Act.".

(b) EXTENSION OF H–1B WORKER STATUS.—Section 106(b) of American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended to read as follows:

"(b) EXTENSION OF H–1B WORKER STATUS.—The Attorney General shall extend the stay of an alien who qualifies for an exemption under subsection (a) in one-year increments until such time as a final decision is made—

"(1) to deny the application described in subsection (a)(1), or, in a case in which such application is granted, to deny a petition described in subsection (a)(2) filed on behalf of the alien pursuant to such grant;

"(2) to deny the petition described in subsection (a)(2); or

"(3) to grant or deny the alien's application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence.".

SEC. 11030B. APPLICATION FOR NATURALIZATION BY ALTERNATIVE APPLICANT IF CITIZEN PARENT HAS DIED.

Section 322(a) of the Immigration and Nationality Act (8 U.S.C. 1433(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting "(or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian)" after "citizen of the United States"; and

(B) by striking "such parent" and inserting "such applicant";

(2) in paragraph (1), by inserting "(or, at the time of his or her death, was)" after "parent";

(3) in paragraph (2)—

(A) in subparagraph (A), by inserting "(or, at the time of his or her death, had)" after "has"; and

(B) in subparagraph (B), by inserting "(or, at the time of his or her death, had)" after "has" the first place such term appears;

(4) by amending paragraph (4), to read as follows:

"(4) The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).": and

(5) by adding at the end the following:

"(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.".

Subtitle B—EB–5 Amendments

CHAPTER 1—IMMIGRATION BENEFITS

SEC. 11031. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.

(a) IN GENERAL.—In lieu of the provisions of section 216A(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)), subsection (c) shall apply in the case of an eligible alien described in subsection (b)(1).

(b) ELIGIBLE ALIENS DESCRIBED.—

(1) IN GENERAL.—An alien is an eligible alien described in this subsection if the alien—

(A) filed, under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), a petition to accord the alien a status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)) that was approved by the Attorney General after January 1, 1995, and before August 31, 1998;

(B) pursuant to such approval, obtained the status of an alien entrepreneur with permanent resident status on a conditional basis described in section 216A of such Act (8 U.S.C. 1186b); and

(C) timely filed, in accordance with section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) and before the date of the enactment of this Act, a petition requesting the removal of such conditional basis.

(2) REOPENING PETITIONS PREVIOUSLY DENIED.—

(A) IN GENERAL.—In the case of a petition described in paragraph (1)(C) that was denied under section 216A(c)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)(C)) before the date of the enactment of this Act, upon a motion to reopen such petition filed by the eligible alien not later than 60 days after such date, the Attorney General shall make determinations on such petition pursuant to subsection (c).

(B) PETITIONERS ABROAD.—In the case of such an eligible alien who is no longer physically present in the United States, the Attorney General shall establish a process under which the alien may be paroled into the United States if necessary in order to obtain the determinations under subsection (c), unless the Attorney General finds that—

(i) the alien is inadmissible or deportable on any ground; or

(ii) the petition described in paragraph (1)(C) was denied on the ground that it contains a material misrepresentation in the facts and information described in section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) and alleged in the petition with respect to a commercial enterprise.

(C) DEPORTATION OR REMOVAL PROCEEDINGS.—In the case of such an eligible alien who was placed in deportation or removal proceedings by reason of the denial of the petition described in paragraph (1)(C), a motion to reopen filed under subparagraph (A) shall be treated as a motion to reopen such proceedings. The Attorney General shall grant such motion notwithstanding any time and number limitations imposed by law on motions to reopen such proceedings, except that the scope of any proceeding reopened on this basis shall be limited to whether any order of deportation or removal should be vacated, and the alien granted the status of an alien lawfully admitted for permanent residence (unconditionally or on a conditional basis), by reason of the determinations made under subsection (c). An alien who is inadmissible or deportable on any ground shall not be granted such status, except that this prohibition shall not apply to an alien who has been paroled into the United States under subparagraph (B).

(c) DETERMINATIONS ON PETITIONS.—

(1) INITIAL DETERMINATION.—

(A) IN GENERAL.—With respect to each eligible alien described in subsection (b)(1), the Attorney General shall make a determination, not later than 180 days after the date of the enactment of this Act, whether—

(i) the petition described in subsection (b)(1)(C) contains any material misrepresentation in the facts and information described in section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) and alleged in the petition with respect to a commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation);

(ii) subject to subparagraphs (B) and (C), such enterprise created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the eligible alien and the alien's spouse, sons, or daughters), and those jobs exist or existed on any of the dates described in subparagraph (D); and

(iii) on any of the dates described in subparagraph (D), the alien is in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)).

(B) INVESTMENT UNDER PILOT IMMIGRATION PROGRAM.—For purposes of subparagraph (A)(ii), an investment that satisfies the requirements of section 610(c) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note), as in effect on the date of the enactment of this Act, shall be deemed to satisfy the requirements of such subparagraph.

(C) EXCEPTION FOR TROUBLED BUSINESSES.—In the case of an eligible alien who has made a capital investment in a troubled business (as defined in 8 CFR 204.6(e), as in effect on the date of the enactment of this Act), in lieu of the determination under subparagraph (A)(ii), the Attorney General shall determine whether the number of employees of the business, as measured on any of the dates described in subparagraph (D), is at no less than the pre-investment level.

(D) DATES.—The dates described in this subparagraph are the following:

(i) The date on which the petition described in subsection (b)(1)(C) is filed.

(ii) 6 months after the date described in clause (i).

(iii) The date on which the determination under subparagraph (A) or (C) is made.

(E) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General renders an affirmative determination with respect to clauses (ii) and (iii) of subparagraph (A), and if the Attorney General renders a negative determination with respect to clause (i) of such subparagraph, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the alien's lawful admission for permanent residence.

(F) REQUIREMENTS RELATING TO ADVERSE DETERMINATIONS.—

(i) NOTICE.—If the Attorney General renders an adverse determination with respect to clause (i), (ii), or (iii) of subparagraph (A), the Attorney General shall so notify the alien involved. The notice shall be in writing and shall state the factual basis for any adverse determination. The Attorney General shall provide the alien with an opportunity to submit evidence to rebut any adverse determination. If the Attorney General reverses all adverse determinations pursuant to such rebuttal, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the alien's lawful admission for permanent residence.

(ii) CONTINUATION OF CONDITIONAL BASIS IF CERTAIN ADVERSE DETERMINATIONS.—If the Attorney General renders an adverse determination with respect to clause (ii) or (iii) of subparagraph (A), and the eligible alien's rebuttal does not cause the Attorney General to reverse such determination, the Attorney General shall continue the conditional basis of the alien's permanent resident status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) for a 2-year period.

(iii) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General renders an adverse determination with respect to subparagraph (A)(i), and the eligible alien's rebuttal does not cause the Attorney General to reverse such determination, the Attorney General shall so notify the alien involved and, subject to subsection (d), shall terminate the permanent resident status of the alien (and that of the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.—An alien may seek administrative review of an adverse determination made under subparagraph (A) by filing a petition for such review with the Board of Immigration Appeals. If the Board of Immigration Appeals denies the petition, the alien may seek judicial review. The procedures for judicial review under this clause shall be the same as the procedures for judicial review of a final order of removal under section 242(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(1)). During the period in which an administrative or judicial appeal under this clause is pending, the Attorney General shall continue the conditional basis of the alien's permanent resident status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(2) SECOND DETERMINATION.—

(A) AUTHORIZATION TO CONSIDER INVESTMENTS IN OTHER COMMERCIAL ENTERPRISES.—In determining under this paragraph whether to remove a conditional basis continued under paragraph (1)(F)(ii) with respect to an alien, the Attorney General shall consider any capital investment made by the alien in a commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation), in the United States, regardless of whether that investment was made before or after the determinations under paragraph (1) and regardless of whether the commercial enterprise is the same as that considered in the determinations under such paragraph, if facts and information with respect to the investment and the enterprise are included in the petition submitted under subparagraph (B).

(B) PETITION.—In order for a conditional basis continued under paragraph (1)(F)(ii) for an eligible alien (and the alien's spouse and children) to be removed, the alien must submit to the Attorney General, during the period described in subparagraph (C), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subparagraphs (A) and (B) of section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) with respect to any commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation) which the alien desires to have considered under this paragraph, regardless of whether such enterprise was created before or after the determinations made under paragraph (1).

(C) PERIOD FOR FILING PETITION.—

(i) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—Except as provided in clause (ii), the petition under subparagraph (B) must be filed during the 90-day period before the second anniversary of the continuation, under paragraph

(1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in clause (i).

(D) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION.—

(i) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under paragraph (1)(F)(ii), if no petition is filed with respect to the alien in accordance with subparagraph (B), the Attorney General shall terminate the permanent resident status of the alien (and the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) HEARING IN REMOVAL PROCEEDING.—In any removal proceeding with respect to an alien whose permanent resident status is terminated under clause (i), the burden of proof shall be on the alien to establish compliance with subparagraph (B).

(E) DETERMINATIONS AFTER PETITION.—If a petition is filed by an eligible alien in accordance with subparagraph (B), the Attorney General shall make a determination, within 90 days of the date of such filing, whether—

(i) the petition contains any material misrepresentation in the facts and information alleged in the petition with respect to the commercial enterprises included in such petition;

(ii) all such enterprises, considered together, created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the eligible alien and the alien's spouse, sons, or daughters), and those jobs exist on the date on which the determination is made, except that—

(I) this clause shall apply only if the Attorney General made an adverse determination with respect to the eligible alien under paragraph (1)(A)(ii);

(II) the provisions of subparagraphs (B) and (C) of paragraph (1) shall apply to a determination under this clause in the same manner as they apply to a determination under paragraph (1)(A)(ii); and

(III) if the Attorney General determined under paragraph (1)(A)(ii) that any jobs satisfying the requirement of such paragraph were created, the number of those jobs shall be subtracted from the number of jobs otherwise needed to satisfy the requirement of this clause; and

(iii) considering all such enterprises together, on the date on which the determination is made, the eligible alien is in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)), except that—

(I) this clause shall apply only if the Attorney General made an adverse determination with respect to the eligible alien under paragraph (1)(A)(iii); and

(II) if the Attorney General determined under paragraph (1)(A)(iii) that any capital amount was invested that could be credited towards compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)), such amount shall be subtracted from the amount of capital otherwise needed to satisfy the requirement of this clause.

(F) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General renders an affirmative determination with respect to clauses (ii) and (iii) of subparagraph (E), and if the Attorney General renders a negative determination with respect to clause (i) of such subparagraph, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(G) REQUIREMENTS RELATING TO ADVERSE DETERMINATIONS.—

(i) NOTICE.—If the Attorney General renders an adverse determination under subparagraph (E), the Attorney General shall so notify the alien involved. The notice shall be in writing and shall state the factual basis for any adverse determination. The Attorney General shall provide the alien with an opportunity to submit evidence to rebut any adverse determination. If the Attorney General reverses all adverse determinations pursuant to such rebuttal, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) TERMINATION IF ADVERSE DETERMINATION.—If the eligible alien's rebuttal does not cause the Attorney General to reverse each adverse determination under subparagraph (E), the Attorney General shall so notify the alien involved and, subject to subsection (d), shall terminate the permanent resident status of the alien (and that of the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(d) HEARING IN REMOVAL PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1)(F)(iii) or (2)(G)(ii) of subsection (c) may request a review of such determination in a proceeding to remove the alien. In such proceeding, the burden of proof shall be on the Attorney General.

(e) CLARIFICATION WITH RESPECT TO CHILDREN.—In the case of an alien who obtained the status of an alien lawfully admitted for permanent residence on a conditional basis before the date of the enactment of this Act by virtue of being the child of an eligible alien described in subsection (b)(1), the alien shall be considered to be a child for purposes of this section regardless of any change in age or marital status after obtaining such status.

(f) DEFINITION OF FULL-TIME.—For purposes of this section, the term "full-time" means a position that requires at least 35 hours of service per week at any time, regardless of who fills the position.

SEC. 11032. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.

(a) IN GENERAL.—With respect to each eligible alien described in subsection (b), the Attorney General or the Secretary of State shall approve the application described in subsection (b)(2) and grant the alien (and any spouse or child of the alien, if the spouse or child is eligible to receive a visa under section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d))) the status of an alien lawfully admitted for permanent residence on a conditional basis under section 216A of such Act (8 U.S.C. 1186b). Such application shall be approved not later than 180 days after the date of the enactment of this Act.

(b) ELIGIBLE ALIENS DESCRIBED.—An alien is an eligible alien described in this subsection if the alien—

(1) filed, under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), a petition to accord the alien a status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)) that was approved by the Attorney General after January 1, 1995, and before August 31, 1998;

(2) pursuant to such approval, timely filed before the date of the enactment of this Act an application for adjustment of status under section 245 of such Act (8 U.S.C. 1255) or an application for an immigrant visa under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)); and

(3) is not inadmissible or deportable on any ground.

(c) TREATMENT OF CERTAIN APPLICATIONS.—

(1) REVOCATION OF APPROVAL OF PETITIONS.—If the Attorney General revoked the approval of a petition described in subsection (b)(1), such revocation shall be disregarded for purposes of this section if it was based on a determination that the alien failed to satisfy section 203(b)(5)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)(A)(ii)).

(2) APPLICATIONS NO LONGER PENDING.—

(A) IN GENERAL.—If an application described in subsection (b)(2) is not pending on the date of the enactment of this Act, the Attorney General shall disregard the circumstances leading to such lack of pendency and treat it as reopened, if such lack of pendency is due to a determination that the alien—

(i) failed to satisfy section 203(b)(5)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)(A)(ii)); or

(ii) departed the United States without advance parole.

(B) APPLICANTS ABROAD.—In the case of an eligible alien who filed an application for adjustment of status described in subsection (b)(2), but who is no longer physically present in the United States, the Attorney General shall establish a process under which the alien may be paroled into the United States if necessary in order to obtain adjustment of status under this section.

(d) RECORDATION OF DATE; REDUCTION OF NUMBERS.—Upon the approval of an application under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence on a conditional basis as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1151(d) and 1153(b)(5)) for the fiscal year then current.

(e) REMOVAL OF CONDITIONAL BASIS.—

(1) PETITION.—In order for a conditional basis established under this section for an alien (and the alien's spouse and children) to be removed, the alien must satisfy the requirements of section 216A(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(1)), including the submission of a petition in accordance with subparagraph (A) of such section. Such petition may include the facts and information described in subparagraphs (A) and (B) of section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) with respect to any commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation) in the United States in which the alien has made a capital investment at any time.

(2) DETERMINATION.—In carrying out section 216A(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)) with respect to an alien described in paragraph (1), the Attorney

General, in lieu of the determination described in such section 216A(c)(3), shall make a determination, within 90 days of the date of such filing, whether—

(A) the petition described in paragraph (1) contains any material misrepresentation in the facts and information alleged in the petition with respect to the commercial enterprises included in the petition;

(B) subject to subparagraphs (B) and (C) of section 11031(c)(1), all such enterprises, considered together, created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the alien and the alien's spouse, sons, or daughters), and those jobs exist or existed on either of the dates described in paragraph (3); and

(C) considering the alien's investments in such enterprises on either of the dates described in paragraph (3), or on both such dates, the alien is or was in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)).

(3) DATES.—The dates described in this paragraph are the following:

(A) The date on which the application described in subsection (b)(2) was filed.

(B) The date on which the determination under paragraph (2) is made.

(f) CLARIFICATION WITH RESPECT TO CHILDREN.—In the case of an alien who was a child on the date on which the application described in subsection (b)(2) was filed, the alien shall be considered to be a child for purposes of this section regardless of any change in age or marital status after such date.

SEC. 11033. REGULATIONS.

The Immigration and Naturalization Service shall promulgate regulations to implement this chapter not later than 120 days after the date of enactment of this Act. Until such regulations are promulgated, the Attorney General shall not deny a petition filed or pending under section 216A(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(1)(A)) that relates to an eligible alien described in section 11031, or on an application filed or pending under section 245 of such Act (8 U.S.C. 1255) that relates to an eligible alien described in section 11032. Until such regulations are promulgated, the Attorney General shall not initiate or proceed with removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) that relate to an eligible alien described in section 11031 or 11032.

SEC. 11034. DEFINITIONS.

Except as otherwise provided, the terms used in this chapter shall have the meaning given such terms in section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)).

CHAPTER 2—AMENDMENTS TO OTHER LAWS

SEC. 11035. DEFINITION OF "FULL-TIME EMPLOYMENT".

Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by adding at the end the following:

"(D) FULL-TIME EMPLOYMENT DEFINED.—In this paragraph, the term 'full-time employment' means employment in a position that requires at least 35 hours of service per week at any time, regardless of who fills the position.".

SEC. 11036. ELIMINATING ENTERPRISE ESTABLISHMENT REQUIREMENT FOR ALIEN ENTREPRENEURS.

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT CREATION.—Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "enterprise—" and inserting "enterprise (including a limited partnership)—";

(B) by striking clause (i); and

(C) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(2) in subparagraph (B)(i), by striking "establish" and inserting "invest in".

(b) CONDITIONAL PERMANENT RESIDENT STATUS FOR ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.—Section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A) by striking "establishment of" and inserting "investment in"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) the alien did not invest, or was not actively in the process of investing, the requisite capital; or

"(ii) the alien was not sustaining the actions described in clause (i) throughout the period of the alien's residence in the United States; or";

(2) by amending subsection (d)(1) to read as follows:

"(1) CONTENTS OF PETITION.—Each petition under subsection (c)(1)(A) shall contain facts and information demonstrating that the alien—

"(A)(i) invested, or is actively in the process of investing, the requisite capital; and

"(ii) sustained the actions described in clause (i) throughout the period of the alien's residence in the United States; and

"(B) is otherwise conforming to the requirements of section 203(b)(5)."; and

(3) by adding at the end of subsection (f) the following:

"(3) The term 'commercial enterprise' includes a limited partnership.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to aliens having any of the following petitions pending on or after the date of the enactment of this Act:

(1) A petition under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), with respect to status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).

(2) A petition under section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) to remove the conditional basis of an alien's permanent resident status.

SEC. 11037. AMENDMENTS TO PILOT IMMIGRATION PROGRAM FOR REGIONAL CENTERS TO PROMOTE ECONOMIC GROWTH.

(a) PURPOSE OF PROGRAM.—Section 610(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note), is amended—

(1) by inserting after "regional center in the United States" the following: ", designated by the Attorney General on the basis of a general proposal,";

(2) by striking "and increased domestic" and inserting "or increased domestic"; and

(3) by adding at the end the following:

"A regional center shall have jurisdiction over a limited geographic area, which shall be described in the proposal and consistent with the purpose of concentrating pooled investment in defined economic zones. The establishment of a regional center may be based on general predictions, contained in the proposal, concerning the kinds of commercial enterprises that will receive capital from aliens, the jobs that will be created directly or indirectly as a result of such capital investments, and the other positive economic effects such capital investments will have.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) any proposal for a regional center pending before the Attorney General (whether for an initial decision or on appeal) on or after the date of the enactment of this Act; and

(2) any of the following petitions, if filed on or after the date of the enactment of this Act:

(A) A petition under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision)(or any predecessor provision), with respect to status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).

(B) A petition under section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) to remove the conditional basis of an alien's permanent resident status.

Subtitle C—Judicial Improvements Act of 2002

SEC. 11041. SHORT TITLE.

This subtitle may be cited as the "Judicial Improvements Act of 2002".

SEC. 11042. JUDICIAL DISCIPLINE PROCEDURES.

(a) IN GENERAL.—Part I of title 28, United States Code, is amended by inserting after chapter 15 the following new chapter:

"CHAPTER 16—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

"Sec.
"351. Complaints; judge defined.
"352. Review of complaint by chief judge.
"353. Special committees.
"354. Action by judicial council.
"355. Action by Judicial Conference.
"356. Subpoena power.
"357. Review of orders and actions.
"358. Rules.
"359. Restrictions.
"360. Disclosure of information.
"361. Reimbursement of expenses.
"362. Other provisions and rules not affected.
"363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit.
"364. Effect of felony conviction.

"§351. Complaints; judge defined

"(a) FILING OF COMPLAINT BY ANY PERSON.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

"(b) IDENTIFYING COMPLAINT BY CHIEF JUDGE.—In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

"(c) TRANSMITTAL OF COMPLAINT.—Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term 'chief judge'). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

"(d) DEFINITIONS.—In this chapter—

"(1) the term 'judge' means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

“(2) the term ‘complainant’ means the person filing a complaint under subsection (a) of this section.

“§352. Review of complaint by chief judge

“(a) EXPEDITIOUS REVIEW; LIMITED INQUIRY.—The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining—

“(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

“(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

“(b) ACTION BY CHIEF JUDGE FOLLOWING REVIEW.—After expeditiously reviewing a complaint under subsection (a), the chief judge, by written order stating his or her reasons, may—

“(1) dismiss the complaint—

“(A) if the chief judge finds the complaint to be—

“(i) not in conformity with section 351(a);

“(ii) directly related to the merits of a decision or procedural ruling; or

“(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

“(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

“(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.

The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

“(c) REVIEW OF ORDERS OF CHIEF JUDGE.—A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge’s order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

“(d) REFERRAL OF PETITIONS FOR REVIEW TO PANELS OF THE JUDICIAL COUNCIL.—Each judicial council may, pursuant to rules prescribed under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

“§353. Special committees

“(a) APPOINTMENT.—If the chief judge does not enter an order under section 352(b), the chief judge shall promptly—

“(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

“(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

“(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

“(b) CHANGE IN STATUS OR DEATH OF JUDGES.—A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

“(c) INVESTIGATION BY SPECIAL COMMITTEE.—Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee’s recommendations for necessary and appropriate action by the judicial council of the circuit.

“§354. Action by judicial council

“(a) ACTIONS UPON RECEIPT OF REPORT.—

“(1) ACTIONS.—The judicial council of a circuit, upon receipt of a report filed under section 353(c)—

“(A) may conduct any additional investigation which it considers to be necessary;

“(B) may dismiss the complaint; and

“(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

“(2) DESCRIPTION OF POSSIBLE ACTIONS IF COMPLAINT NOT DISMISSED.—

“(A) IN GENERAL.—Action by the judicial council under paragraph (1)(C) may include—

“(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;

“(ii) censuring or reprimanding such judge by means of private communication; and

“(iii) censuring or reprimanding such judge by means of public announcement.

“(B) FOR ARTICLE III JUDGES.—If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include—

“(i) certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and

“(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

“(C) FOR MAGISTRATE JUDGES.—If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

“(3) LIMITATIONS ON JUDICIAL COUNCIL REGARDING REMOVALS.—

“(A) ARTICLE III JUDGES.—Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

“(B) MAGISTRATE AND BANKRUPTCY JUDGES.—Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

“(4) NOTICE OF ACTION TO JUDGE.—The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

“(b) REFERRAL TO JUDICIAL CONFERENCE.—

“(1) IN GENERAL.—In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

“(2) SPECIAL CIRCUMSTANCES.—In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge appointed to hold office during good behavior may have engaged in conduct—

“(A) which might constitute one or more grounds for impeachment under article II of the Constitution, or

“(B) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

“(3) NOTICE TO COMPLAINANT AND JUDGE.—A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.

“§355. Action by Judicial Conference

“(a) IN GENERAL.—Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

“(b) IF IMPEACHMENT WARRANTED.—

“(1) IN GENERAL.—If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

“(2) IN CASE OF FELONY CONVICTION.—If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

“§356. Subpoena power

“(a) JUDICIAL COUNCILS AND SPECIAL COMMITTEES.—In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

“(b) JUDICIAL CONFERENCE AND STANDING COMMITTEES.—In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.

"§ 357. Review of orders and actions

"(a) REVIEW OF ACTION OF JUDICIAL COUNCIL.—A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

"(b) ACTION OF JUDICIAL CONFERENCE.—The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).

"(c) NO JUDICIAL REVIEW.—Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

"§ 358. Rules

"(a) IN GENERAL.—Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.

"(b) REQUIRED PROVISIONS.—Rules prescribed under subsection (a) shall contain provisions requiring that—

"(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;

"(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

"(3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

"(c) PROCEDURES.—Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter.

"§ 359. Restrictions

"(a) RESTRICTION ON INDIVIDUALS WHO ARE SUBJECT OF INVESTIGATION.—No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

"(b) AMICUS CURIAE.—No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

"§ 360. Disclosure of information

"(a) CONFIDENTIALITY OF PROCEEDINGS.—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—

"(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;

"(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

"(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

"(b) PUBLIC AVAILABILITY OF WRITTEN ORDERS.—Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.

"§ 361. Reimbursement of expenses

"Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge during the investigation which would not have been incurred but for the requirements of this chapter.

"§ 362. Other provisions and rules not affected

"Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

"§ 363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit

"The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this chapter.

"§ 364. Effect of felony conviction

"In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the following shall apply:

"(1) The judge shall not hear or decide cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.

"(2) Any service as such judge or judge of a court referred to in section 363, after the conviction is final and all time for filing appeals thereof has expired, shall not be included for purposes of determining years of service under section 371(c), 377, or 178 of this title or creditable service under subchapter III of chapter 83, or chapter 84, of title 5.".

(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by inserting after the item relating to chapter 15 the following new item:

"16. Complaints against judges and judicial discipline .... 351".

SEC. 11043. TECHNICAL AMENDMENTS.

(a) RETIREMENT FOR DISABILITY.—(1) Section 372 of title 28, United States Code, is amended—

(A) in the section caption by striking "**; judicial discipline**"; and

(B) by striking subsection (c).

(2) The item relating to section 372 in the table of sections for chapter 17 of title 28, United States Code, is amended by striking "; judicial discipline".

(b) JUDICIAL CONFERENCE.—Section 331 of title 28, United States Code, is amended in the fourth undesignated paragraph by striking "section 372(c)" each place it appears and inserting "chapter 16".

(c) JUDICIAL COUNCILS.—Section 332 of title 28, United States Code, is amended—

(1) in subsection (d)(2)—

(A) by striking "section 372(c) of this title" and inserting "chapter 16 of this title"; and

(B) by striking "372(c)(4)" and inserting "353"; and

(2) by striking the second subsection designated as subsection (h).

(d) RECALL OF BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 375(d) of title 28, United States Code, is amended by striking "section 372(c)" and inserting "chapter 16".

(e) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 604 of title 28, United States Code, is amended—

(1) in subsection (a)(20)—

(A) in subparagraph (B), by striking "372(c)(11)" and inserting "358"; and

(B) in subparagraph (C), by striking "372(c)(15)" and inserting "360(b)"; and

(2) in subsection (h)—

(A) in paragraph (1), by striking "section 372" each place it appears and inserting "chapter 16"; and

(B) in paragraph (2), by striking "section 372(c)" and inserting "chapter 16".

(f) COURT OF APPEALS FOR VETERANS CLAIMS.—Section 7253(g) of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "section 372(c)" and inserting "chapter 16"; and

(B) by striking "such section" and inserting "such chapter";

(2) in paragraph (2)—

(A) in the first sentence, by striking "paragraphs (7) through (15) of section 372(c)" and inserting "sections 354(b) through 360"; and

(B) in the second sentence, by striking "paragraph (7) or (8) of section 372(c)" and inserting "section 354(b) or 355"; and

(3) in paragraph (3)(B), by striking "372(c)(16)" and inserting "361".

SEC. 11044. SEVERABILITY.

If any provision of this subtitle, an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle D—Antitrust Modernization Commission Act of 2002

SEC. 11051. SHORT TITLE.

This subtitle may be cited as the "Antitrust Modernization Commission Act of 2002".

SEC. 11052. ESTABLISHMENT.

There is established the Antitrust Modernization Commission (in this subtitle referred to as the "Commission").

SEC. 11053. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to examine whether the need exists to modernize the antitrust laws and to identify and study related issues;

(2) to solicit views of all parties concerned with the operation of the antitrust laws;

(3) to evaluate the advisability of proposals and current arrangements with respect to any issues so identified; and

(4) to prepare and to submit to Congress and the President a report in accordance with section 11058.

SEC. 11054. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall be composed of 12 members appointed as follows:

(1) Four members, no more than 2 of whom shall be of the same political party, shall be appointed by the President. The President shall appoint members of the opposing party only on the recommendation of the leaders of Congress from that party.

(2) Two members shall be appointed by the majority leader of the Senate.

(3) Two members shall be appointed by the minority leader of the Senate.

(4) Two members shall be appointed by the Speaker of the House of Representatives.

(5) Two members shall be appointed by the minority leader of the House of Representatives.

(b) Ineligibility for Appointment.—Members of Congress shall be ineligible for appointment to the Commission.

(c) Term of Appointment.—

(1) In general.—Subject to paragraph (2), members of the Commission shall be appointed for the life of the Commission.

(2) Early termination of appointment.—If a member of the Commission who is appointed to the Commission as—

(A) an officer or employee of a government ceases to be an officer or employee of such government; or

(B) an individual who is not an officer or employee of a government becomes an officer or employee of a government;

then such member shall cease to be a member of the Commission on the expiration of the 90-day period beginning on the date such member ceases to be such officer or employee of such government, or becomes an officer or employee of a government, as the case may be.

(d) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(e) Appointment Deadline.—Initial appointments under subsection (a) shall be made not later than 60 days after the date of enactment of this Act.

(f) Meetings.—The Commission shall meet at the call of the chairperson. The first meeting of the Commission shall be held not later than 30 days after the date on which all members of the Commission are first appointed under subsection (a) or funds are appropriated to carry out this subtitle, whichever occurs later.

(g) Vacancy.—A vacancy on the Commission shall be filled in the same manner as the initial appointment is made.

(h) Consultation Before Appointment.—Before appointing members of the Commission, the President, the majority and minority leaders of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall consult with each other to ensure fair and equitable representation of various points of view in the Commission.

(i) Chairperson; Vice Chairperson.—The President shall select the chairperson of the Commission from among its appointed members. The leaders of Congress from the opposing party of the President shall select the vice chairperson of the Commission from among its remaining members.

SEC. 11055. COMPENSATION OF THE COMMISSION.

(a) Pay.—

(1) Nongovernment employees.—Each member of the Commission who is not otherwise employed by a government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 United States Code, as in effect from time to time, for each day (including travel time) during which such member is engaged in the actual performance of duties of the Commission.

(2) Government employees.—A member of the Commission who is an officer or employee of a government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Commission.

(b) Travel Expenses.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

SEC. 11056. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) Staff.—

(1) Appointment.—The chairperson of the Commission may, without regard to the provisions of chapter 51 of title 5 of the United States Code (relating to appointments in the competitive service), appoint and terminate an executive director and such other staff as are necessary to enable the Commission to perform its duties. The appointment of an executive director shall be subject to approval by the Commission.

(2) Compensation.—The chairperson of the Commission may fix the compensation of the executive director and other staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code (relating to classification of positions and General Schedule pay rates), except that the rate of pay for the executive director and other staff may not exceed the rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5 United States Code, as in effect from time to time.

(b) Experts and Consultants.—The Commission may procure temporary and intermittent services of experts and consultants in accordance with section 3109(b) of title 5, United States Code.

SEC. 11057. POWERS OF THE COMMISSION.

(a) Hearings and Meetings.—The Commission, or a member of the Commission if authorized by the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers to be appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or such member.

(b) Official Data.—The Commission may obtain directly from any executive agency (as defined in section 105 of title 5 of the United States Code) or court information necessary to enable it to carry out its duties under this subtitle. On the request of the chairperson of the Commission, and consistent with any other law, the head of an executive agency or of a Federal court shall provide such information to the Commission.

(c) Facilities and Support Services.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. On request of the Commission, the head of an executive agency may make any of the facilities or services of such agency available to the Commission, on a reimbursable or nonreimbursable basis, to assist the Commission in carrying out its duties under this subtitle.

(d) Expenditures and Contracts.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or such member considers to be appropriate for the purpose of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in advance in appropriation Acts.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) Gifts, Bequests, and Devises.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

SEC. 11058. REPORT.

Not later than 3 years after the first meeting of the Commission, the Commission shall submit to Congress and the President a report containing a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative or administrative action the Commission considers to be appropriate.

SEC. 11059. TERMINATION OF COMMISSION.

The Commission shall cease to exist 30 days after the date on which the report required by section 8 is submitted.

SEC. 11060. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $4,000,000 to carry out this subtitle.

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Offender Accountability

SEC. 12101. SHORT TITLE.

This subtitle may be cited as the "Consequences for Juvenile Offenders Act of 2002".

SEC. 12102. JUVENILE OFFENDER ACCOUNTABILITY.

(a) Grant Program.—Part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee et seq.) is amended to read as follows:

"PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

"SEC. 1801. PROGRAM AUTHORIZED.

"(a) In General.—The Attorney General is authorized to provide grants to States, for use by States and units of local government, and in certain cases directly to specially qualified units.

"(b) Authorized Activities.—Amounts paid to a State or a unit of local government under this part shall be used by the State or unit of local government for the purpose of strengthening the juvenile justice system, which includes—

"(1) developing, implementing, and administering graduated sanctions for juvenile offenders;

"(2) building, expanding, renovating, or operating temporary or permanent juvenile correction, detention, or community corrections facilities;

"(3) hiring juvenile court judges, probation officers, and court-appointed defenders and special advocates, and funding pretrial services (including mental health screening and assessment) for juvenile offenders, to promote the effective and expeditious administration of the juvenile justice system;

"(4) hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and case backlogs reduced;

"(5) providing funding to enable prosecutors to address drug, gang, and youth violence problems more effectively and for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

“(6) establishing and maintaining training programs for law enforcement and other court personnel with respect to preventing and controlling juvenile crime;

“(7) establishing juvenile gun courts for the prosecution and adjudication of juvenile firearms offenders;

“(8) establishing drug court programs for juvenile offenders that provide continuing judicial supervision over juvenile offenders with substance abuse problems and the integrated administration of other sanctions and services for such offenders;

“(9) establishing and maintaining a system of juvenile records designed to promote public safety;

“(10) establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice systems, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts;

“(11) establishing and maintaining accountability-based programs designed to reduce recidivism among juveniles who are referred by law enforcement personnel or agencies;

“(12) establishing and maintaining programs to conduct risk and need assessments of juvenile offenders that facilitate the effective early intervention and the provision of comprehensive services, including mental health screening and treatment and substance abuse testing and treatment to such offenders;

“(13) establishing and maintaining accountability-based programs that are designed to enhance school safety;

“(14) establishing and maintaining restorative justice programs;

“(15) establishing and maintaining programs to enable juvenile courts and juvenile probation officers to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism; or

“(16) hiring detention and corrections personnel, and establishing and maintaining training programs for such personnel to improve facility practices and programming.

“(c) DEFINITION.—In this section the term ‘restorative justice program’ means a progrdm that emphasizes the moral accountability of an offender toward the victim and the affected community and may include community reparations boards, restitution (in the form of monetary payment or service to the victim or, where no victim can be identified, service to the affected community), and mediation between victim and offender.

“SEC. 1801A. TRIBAL GRANT PROGRAM AUTHORIZED.

“(a) IN GENERAL.—From the amount reserved under section 1810(b), the Attorney General shall make grants to Indian tribes for programs to strengthen tribal juvenile justice systems and to hold tribal youth accountable.

“(b) ELIGIBILITY.—Indian tribes, as defined by section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a), or a consortia of such tribes, shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require. Only tribes that carry out tribal juvenile justice functions shall be eligible to receive a grant under this section.

“(c) AWARDS.—The Attorney General shall award grants under this section on a competitive basis.

“(d) GUIDELINES.—The Attorney General shall issue guidelines establishing application, use, and award criteria and processes consistent with the purposes and requirements of this Act.

“SEC. 1802. GRANT ELIGIBILITY.

“(a) STATE ELIGIBILITY.—To be eligible to receive a grant under this part, a State shall submit to the Attorney General an application at such time, in such form, and containing such assurances and information as the Attorney General may require by guidelines, including—

“(1) information about—

“(A) the activities proposed to be carried out with such grant; and

“(B) the criteria by which the State proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

“(2) assurances that the State and any unit of local government to which the State provides funding under section 1803(b), has in effect (or shall have in effect, not later than 1 year after the date that the State submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the State submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (c).

“(b) LOCAL ELIGIBILITY.—

“(1) SUBGRANT ELIGIBILITY.—To be eligible to receive a subgrant, a unit of local government, other than a specially qualified unit, shall provide to the State—

“(A) information about—

“(i) the activities proposed to be carried out with such subgrant; and

“(ii) the criteria by which the unit proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

“(B) such assurances as the State shall require, that, to the maximum extent applicable, the unit of local government has in effect (or shall have in effect, not later than 1 year after the date that the unit submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the unit submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (c).

“(2) SPECIAL RULE.—The requirements of paragraph (1) shall apply to a specially qualified unit that receives funds from the Attorney General under section 1803(e), except that information that is otherwise required to be submitted to the State shall be submitted to the Attorney General.

“(c) ROLE OF COURTS.—In the development of the grant application, the States and units of local governments shall take into consideration the needs of the judicial branch in strengthening the juvenile justice system and specifically seek the advice of the chief of the highest court of the State and where appropriate, the chief judge of the local court, with respect to the application.

“(d) GRADUATED SANCTIONS.—A system of graduated sanctions, which may be discretionary as provided in subsection (e), shall ensure, at a minimum, that—

“(1) sanctions are imposed on a juvenile offender for each delinquent offense;

“(2) sanctions escalate in intensity with each subsequent, more serious delinquent offense;

“(3) there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and

“(4) appropriate consideration is given to public safety and victims of crime.

“(e) DISCRETIONARY USE OF SANCTIONS.—

“(1) VOLUNTARY PARTICIPATION.—A State or unit of local government may be eligible to receive a grant under this part if—

“(A) its system of graduated sanctions is discretionary; and

“(B) it demonstrates that it has promoted the use of a system of graduated sanctions by taking steps to encourage implementation of such a system by juvenile courts.

“(2) REPORTING REQUIREMENT IF GRADUATED SANCTIONS NOT USED.—

“(A) JUVENILE COURTS.—A State or unit of local government in which the imposition of graduated sanctions is discretionary shall require each juvenile court within its jurisdiction—

“(i) which has not implemented a system of graduated sanctions, to submit an annual report that explains why such court did not implement graduated sanctions; and

“(ii) which has implemented a system of graduated sanctions but has not imposed graduated sanctions in all cases, to submit an annual report that explains why such court did not impose graduated sanctions in all cases.

“(B) UNITS OF LOCAL GOVERNMENT.—Each unit of local government, other than a specially qualified unit, that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the State each year.

“(C) STATES.—Each State and specially qualified unit that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the Attorney General each year. A State shall also collect and submit to the Attorney General the information collected under subparagraph (B).

“(f) DEFINITIONS.—In this section:

“(1) DISCRETIONARY.—The term ‘discretionary’ means that a system of graduated sanctions is not required to be imposed by each and every juvenile court in a State or unit of local government.

“(2) SANCTIONS.—The term ‘sanctions’ means tangible, proportional consequences that hold the juvenile offender accountable for the offense committed. A sanction may include counseling, restitution, community service, a fine, supervised probation, or confinement.

“SEC. 1803. ALLOCATION AND DISTRIBUTION OF FUNDS.

“(a) STATE ALLOCATION.—

“(1) IN GENERAL.—In accordance with regulations promulgated pursuant to this part and except as provided in paragraph (3), the Attorney General shall allocate—

“(A) 0.50 percent for each State; and

“(B) of the total funds remaining after the allocation under subparagraph (A), to each State, an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of people under the age of 18 living in such State for the most recent calendar year in which such data is available bears to the population of people under the age of 18 of all the States for such fiscal year.

“(2) PROHIBITION.—No funds allocated to a State under this subsection or received by a State for distribution under subsection (b) may be distributed by the Attorney General or by the State involved for any program other than a program contained in an approved application.

“(b) LOCAL DISTRIBUTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), each State which receives funds under subsection (a)(1) in a fiscal year shall distribute among units of local government, for the purposes specified in section 1801, not less than 75 percent of such amounts received.

“(2) WAIVER.—If a State submits to the Attorney General an application for waiver that demonstrates and certifies to the Attorney General that—

“(A) the State's juvenile justice expenditures in the fiscal year preceding the date in which an application is submitted under this part (the ‘State percentage’) is more than 25 percent of the aggregate amount of juvenile justice expenditures by the State and its eligible units of local government; and

“(B) the State has consulted with as many units of local government in such State, or organizations representing such units, as practicable regarding the State's calculation of expenditures

under subparagraph (A), the State's application for waiver under this paragraph, and the State's proposed uses of funds.

"(3) Allocation.—In making the distribution under paragraph (1), the State shall allocate to such units of local government an amount which bears the same ratio to the aggregate amount of such funds as—

"(A) the sum of—

"(i) the product of—

"(I) three-quarters; multiplied by

"(II) the average juvenile justice expenditure for such unit of local government for the 3 most recent calendar years for which such data is available; plus

"(ii) the product of—

"(I) one-quarter; multiplied by

"(II) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, bears to—

"(B) the sum of the products determined under subparagraph (A) for all such units of local government in the State.

"(4) Expenditures.—The allocation any unit of local government shall receive under paragraph (3) for a payment period shall not exceed 100 percent of juvenile justice expenditures of the unit for such payment period.

"(5) Reallocation.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (4) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

"(c) Unavailability of Data for Units of Local Government.—If the State has reason to believe that the reported rate of part 1 violent crimes or juvenile justice expenditures for a unit of local government is insufficient or inaccurate, the State shall—

"(1) investigate the methodology used by the unit to determine the accuracy of the submitted data; and

"(2) if necessary, use the best available comparable data regarding the number of violent crimes or juvenile justice expenditures for the relevant years for the unit of local government.

"(d) Local Government With Allocations Less Than $10,000.—If under this section a unit of local government is allocated less than $10,000 for a payment period, the amount allotted shall be expended by the State on services to units of local government whose allotment is less than such amount in a manner consistent with this part.

"(e) Direct Grants to Specially Qualified Units.—

"(1) In general.—If a State does not qualify or apply for funds reserved for allocation under subsection (a) by the application deadline established by the Attorney General, the Attorney General shall reserve not more than 75 percent of the allocation that the State would have received under subsection (a) for such fiscal year to provide grants to specially qualified units which meet the requirements for funding under section 1802.

"(2) Award basis.—In addition to the qualification requirements for direct grants for specially qualified units the Attorney General may use the average amount allocated by the States to units of local government as a basis for awarding grants under this section.

"SEC. 1804. GUIDELINES.

"(a) In General.—The Attorney General shall issue guidelines establishing procedures under which a State or specifically qualified unit of local government that receives funds under section 1803 is required to provide notice to the Attorney General regarding the proposed use of funds made available under this part.

"(b) Advisory Board.—

"(1) In general.—The guidelines referred to in subsection (a) shall include a requirement that such eligible State or unit of local government establish and convene an advisory board to recommend a coordinated enforcement plan for the use of such funds.

"(2) Membership.—The board shall include representation from, if appropriate—

"(A) the State or local police department;

"(B) the local sheriff's department;

"(C) the State or local prosecutor's office;

"(D) the State or local juvenile court;

"(E) the State or local probation office;

"(F) the State or local educational agency;

"(G) a State or local social service agency;

"(H) a nonprofit, nongovernmental victim advocacy organization; and

"(I) a nonprofit, religious, or community group.

"SEC. 1805. PAYMENT REQUIREMENTS.

"(a) Timing of Payments.—The Attorney General shall pay to each State or specifically qualified unit of local government that receives funds under section 1803 that has submitted an application under this part the amount awarded to such State or unit of local government not later than the later of—

"(1) the date that is 180 days after the date that the amount is available; or

"(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by subsection (c).

"(b) Repayment of Unexpended Amounts.—

"(1) Repayment required.—From amounts awarded under this part, a State or specially qualified unit shall repay to the Attorney General, before the expiration of the 36-month period beginning on the date of the award, any amount that is not expended by such State or unit.

"(2) Extension.—The Attorney General may adopt policies and procedures providing for a one-time extension, by not more than 12 months, of the period referred to in paragraph (1).

"(3) Penalty for failure to repay.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

"(4) Deposit of amounts repaid.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States and specially qualified units.

"(c) Administrative Costs.—A State or unit of local government that receives funds under this part may use not more than 5 percent of such funds to pay for administrative costs.

"(d) Nonsupplanting Requirement.—Funds made available under this part to States and units of local government shall not be used to supplant State or local funds as the case may be, but shall be used to increase the amount of funds that would, in the absence of funds made available under this part, be made available from State or local sources, as the case may be.

"(e) Matching Funds.—

"(1) In general.—The Federal share of a grant received under this part may not exceed 90 percent of the total program costs.

"(2) Construction of facilities.—Notwithstanding paragraph (1), with respect to the cost of constructing juvenile detention or correctional facilities, the Federal share of a grant received under this part may not exceed 50 percent of approved cost.

"SEC. 1806. UTILIZATION OF PRIVATE SECTOR.

"Funds or a portion of funds allocated under this part may be used by a State or unit of local government that receives a grant under this part to contract with private, nonprofit entities, or community-based organizations to carry out the purposes specified under section 1801(b).

"SEC. 1807. ADMINISTRATIVE PROVISIONS.

"(a) In General.—A State or specially qualified unit that receives funds under this part shall—

"(1) establish a trust fund in which the government will deposit all payments received under this part;

"(2) use amounts in the trust fund (including interest) during the period specified in section 1805(b)(1) and any extension of that period under section 1805(b)(2);

"(3) designate an official of the State or specially qualified unit to submit reports as the Attorney General reasonably requires, in addition to the annual reports required under this part; and

"(4) spend the funds only for the purpose of strengthening the juvenile justice system.

"(b) Title I Provisions.—Except as otherwise provided, the administrative provisions of part H shall apply to this part and for purposes of this section any reference in such provisions to title I shall be deemed to include a reference to this part.

"SEC. 1808. ASSESSMENT REPORTS.

"(a) Reports to Attorney General.—

"(1) In general.—Except as provided in paragraph (4), for each fiscal year for which a grant or subgrant is awarded under this part, each State or specially qualified unit of local government that receives such a grant shall submit to the Attorney General a grant report, and each unit of local government that receives such a subgrant shall submit to the State a subgrant report, at such time and in such manner as the Attorney General may reasonably require.

"(2) Grant report.—Each grant report required by paragraph (1) shall include—

"(A) a summary of the activities carried out with such grant;

"(B) if such activities included any subgrant, a summary of the activities carried out with each such subgrant; and

"(C) an assessment of the effectiveness of such activities on achieving the purposes of this part.

"(3) Subgrant report.—Each subgrant report required by paragraph (1) shall include—

"(A) a summary of the activities carried out with such subgrant; and

"(B) an assessment of the effectiveness of such activities on achieving the purposes of this part.

"(4) Waivers.—The Attorney General may waive the requirement of an assessment in paragraph (2)(C) for a State or specially qualified unit of local government, or in paragraph (3)(B) for a unit of local government, if the Attorney General determines that—

"(A) the nature of the activities are such that assessing their effectiveness would not be practical or insightful;

"(B) the amount of the grant or subgrant is such that carrying out the assessment would not be an effective use of those amounts; or

"(C) the resources available to the State or unit are such that carrying out the assessment would pose a financial hardship on the State or unit.

"(b) Reports to Congress.—Not later than 90 days after the last day of each fiscal year for which 1 or more grants are awarded under this part, the Attorney General shall submit to Congress a report, which shall include—

"(1) a summary of the information provided under subsection (a);

"(2) an assessment by the Attorney General of the grant program carried out under this part; and

"(3) such other information as the Attorney General considers appropriate.

"SEC. 1809. DEFINITIONS.

"In this part:

"(1) Unit of local government.—The term 'unit of local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes;

"(B) any law enforcement district or judicial enforcement district that—

"(i) is established under applicable State law; and

"(ii) has the authority, in a manner independent of other State entities, to establish a budget and raise revenues; and

"(C) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

"(2) SPECIALLY QUALIFIED UNIT.—The term 'specially qualified unit' means a unit of local government which may receive funds under this part only in accordance with section 1803(e).

"(3) State.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that—

"(A) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands (the 'partial States') shall collectively be considered as 1 State; and

"(B) for purposes of section 1803(a), the amount allocated to a partial State shall bear the same proportion to the amount collectively allocated to the partial States as the population of the partial State bears to the collective population of the partial States.

"(4) Juvenile.—The term 'juvenile' means an individual who is 17 years of age or younger.

"(5) JUVENILE JUSTICE EXPENDITURES.—The term 'juvenile justice expenditures' means expenditures in connection with the juvenile justice system, including expenditures in connection with such system to carry out—

"(A) activities specified in section 1801(b); and

"(B) other activities associated with prosecutorial and judicial services and corrections as reported to the Bureau of the Census for the fiscal year preceding the fiscal year for which a determination is made under this part.

"(6) Part 1 VIOLENT CRIMES.—The term 'part 1 violent crimes' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

"SEC. 1810. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated to carry out this part, $350,000,000 for each of fiscal years 2002 through 2005.

"(b) Oversight Accountability and Administration.—

"(1) In general.—Of the amount authorized to be appropriated under section 261 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.), there shall be available to the Attorney General, for each of the fiscal years 2002 through 2004 (as applicable), to remain available until expended—

"(A) not more than 2 percent of that amount, for research, evaluation, and demonstration consistent with this part;

"(B) not more than 2 percent of that amount, for training and technical assistance; and

"(C) not more than 1 percent, for administrative costs to carry out the purposes of this part.

"(2) Oversight plan.—The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients.

"(c) Tribal Set-Aside.—Of the amounts appropriated under subsection (a), 2 percent shall be made available for programs that receive grants under section 1801A.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the first day of the first fiscal year that begins after the date of enactment of this Act.

(c) Transition of Juvenile Accountability Incentive Block Grants Program.—For each grant made from amounts made available for the Juvenile Accountability Incentive Block Grants program (as described under the heading "VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE" in the Department of Justice Appropriations Act, 2000 (as enacted by Public Law 106–113; 113 Stat. 1537–14)), the grant award shall remain available to the grant recipient for not more than 36 months after the date of receipt of the grant.

Subtitle B—Juvenile Justice and Delinquency Prevention Act of 2002

SEC. 12201. SHORT TITLE.

This subtitle may be cited as the "Juvenile Justice and Delinquency Prevention Act of 2002".

SEC. 12202. FINDINGS.

Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended to read as follows:

"FINDINGS

"Sec. 101. (a) The Congress finds the following:

"(1) Although the juvenile violent crime arrest rate in 1999 was the lowest in the decade, there remains a consensus that the number of crimes and the rate of offending by juveniles nationwide is still too high.

"(2) According to the Office of Juvenile Justice and Delinquency Prevention, allowing 1 youth to leave school for a life of crime and of drug abuse costs society $1,700,000 to $2,300,000 annually.

"(3) One in every 6 individuals (16.2 percent) arrested for committing violent crime in 1999 was less than 18 years of age. In 1999, juveniles accounted for 9 percent of murder arrests, 17 percent of forcible rape arrests, 25 percent of robbery arrest, 14 percent of aggravated assault arrests, and 24 percent of weapons arrests.

"(4) More than ½ of juvenile murder victims are killed with firearms. Of the nearly 1,800 murder victims less than 18 years of age, 17 percent of the victims less than 13 years of age were murdered with a firearm, and 81 percent of the victims 13 years of age or older were killed with a firearm.

"(5) Juveniles accounted for 13 percent of all drug abuse violation arrests in 1999. Between 1990 and 1999, juvenile arrests for drug abuse violations rose 132 percent.

"(6) Over the last 3 decades, youth gang problems have increased nationwide. In the 1970's, 19 States reported youth gang problems. By the late 1990's, all 50 States and the District of Columbia reported gang problems. For the same period, the number of cities reporting youth gang problems grew 843 percent, and the number of counties reporting gang problems increased more than 1,000 percent.

"(7) According to a national crime survey of individuals 12 years of age or older during 1999, those 12 to 19 years old are victims of violent crime at higher rates than individuals in all other age groups. Only 30.8 percent of these violent victimizations were reported by youth to police in 1999.

"(8) One-fifth of juveniles 16 years of age who had been arrested were first arrested before attaining 12 years of age. Juveniles who are known to the juvenile justice system before attaining 13 years of age are responsible for a disproportionate share of serious crimes and violence.

"(9) The increase in the arrest rates for girls and young juvenile offenders has changed the composition of violent offenders entering the juvenile justice system.

"(10) These problems should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

"(A) quality prevention programs that—

"(i) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether or not juveniles have been the victims of family violence (including child abuse and neglect); and

"(ii) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and

"(B) programs that assist in holding juveniles accountable for their actions and in developing the competencies necessary to become responsible and productive members of their communities, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts.

"(11) Coordinated juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter can help prevent juveniles from becoming delinquent and help delinquent youth return to a productive life.

"(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts and which provide opportunities for competency development. Without true reform, the juvenile justice system will not be able to overcome the challenges it will face in the coming years when the number of juveniles is expected to increase by 18 percent between 2000 and 2030.".

SEC. 12203. PURPOSE.

Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

"PURPOSES

"Sec. 102. The purposes of this title and title II are—

"(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

"(2) to assist State and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; and

"(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency.".

SEC. 12204. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3) by striking "to help prevent juvenile delinquency" and inserting "designed to reduce known risk factors for juvenile delinquent behavior, provides activities that build on protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior",

(2) in paragraph (4) by inserting "title I of" before "the Omnibus" each place it appears,

(3) in paragraph (7) by striking "the Trust Territory of the Pacific Islands,",

(4) in paragraph (12)(B) by striking ", of any nonoffender,",

(5) in paragraph (13)(B) by striking ", any nonoffender,",

(6) in paragraph (14) by inserting "drug trafficking," after "assault,",

(7) in paragraph (16)—

(A) in subparagraph (A) by adding "and" at the end, and

(B) by striking subparagraph (C),

(8) in paragraph (22)—

(A) by redesignating subparagraphs (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and

(B) by striking "and" at the end,

(9) in paragraph (23) by striking the period at the end and inserting a semicolon, and

(10) by adding at the end the following:

"(24) the term 'graduated sanctions' means an accountability-based, graduated series of sanctions (including incentives, treatment, and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system;

"(25) the term 'contact' means the degree of interaction allowed between juvenile offenders in a secure custody status and incarcerated adults under section 31.303(d)(1)(i) of title 28, Code of Federal Regulations, as in effect on December 10, 1996;

"(26) the term 'adult inmate' means an individual who—

"(A) has reached the age of full criminal responsibility under applicable State law; and

"(B) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense;

"(27) the term 'violent crime' means—

"(A) murder or nonnegligent manslaughter, forcible rape, or robbery, or

"(B) aggravated assault committed with the use of a firearm;

"(28) the term 'collocated facilities' means facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds; and

"(29) the term 'related complex of buildings' means 2 or more buildings that share—

"(A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or

"(B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996.".

SEC. 12205. CONCENTRATION OF FEDERAL EFFORT.

Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (b)—

(A) in paragraph (3) by striking "and of the prospective" and all that follows through "administered",

(B) in paragraph (5) by striking "parts C and D" each place it appears and inserting "parts D and E", and

(C) by amending paragraph (7) to read as follows:

"(7) not later than 1 year after the date of the enactment of this paragraph, issue model standards for providing mental health care to incarcerated juveniles.",

(2) in subsection (c) by striking "and reports" and all that follows through "this part", and inserting "as may be appropriate to prevent the duplication of efforts, and to coordinate activities, related to the prevention of juvenile delinquency",

(3) by amending subsection (d) to read as follows:

"(d) The Administrator shall have the sole authority to delegate any of the functions of the Administrator under this Act.";

(4) by striking subsection (i), and

(5) by redesignating subsection (h) as subsection (f).

SEC. 12206. COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

Section 206(c)(2)(B) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)(2)(B)) is amended by striking "Education and Labor" and inserting "Education and the Workforce".

SEC. 12207. ANNUAL REPORT.

Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617) is amended by striking paragraphs (4) and (5), and inserting the following:

"(4) An evaluation of the programs funded under this title and their effectiveness in reducing the incidence of juvenile delinquency, particularly violent crime, committed by juveniles.".

SEC. 12208. ALLOCATION.

Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking "(other than parts D and E)",

(II) by striking "amount, up to $400,000," and inserting "amount up to $400,000",

(III) by striking "1992" the 1st place it appears and inserting "2000,",

(IV) by striking "1992" the last place it appears and inserting "2000",

(V) by striking "the Trust Territory of the Pacific Islands,", and

(VI) by striking "amount, up to $100,000," and inserting "amount up to $100,000",

(ii) in subparagraph (B)—

(I) by striking "(other than part D)",

(II) by striking "$400,000" and inserting "$600,000",

(III) by striking "or such greater amount, up to $600,000" and all that follows through "section 299(a) (1) and (3)",

(IV) by striking "the Trust Territory of the Pacific Islands,",

(V) by striking "amount, up to $100,000," and inserting "amount up to $100,000", and

(VI) by striking "1992" and inserting "2000,",

(B) in paragraph (3)—

(i) by striking "allot" and inserting "allocate", and

(ii) by striking "1992" each place it appears and inserting "2000", and

(2) in subsection (b) by striking "the Trust Territory of the Pacific Islands,".

SEC. 12209. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) in the 2d sentence by striking "and challenge" and all that follows through "part E", and inserting ", projects, and activities",

(B) in paragraph (3)—

(i) by striking ", which—" and inserting "that—",

(ii) in subparagraph (A)(i) by striking "or the administration of juvenile justice" and inserting ", the administration of juvenile justice, or the reduction of juvenile delinquency"; and

(iii) in subparagraph (D)—

(I) in clause (i) by inserting "and" at the end, and

(II) in clause (ii) by striking "paragraphs" and all that follows through "part E", and inserting "paragraphs (11), (12), and (13)",

(C) in paragraph (5)—

(i) in the matter preceding subparagraph (A) by striking ", other than" and inserting "reduced by the percentage (if any) specified by the State under the authority of paragraph (25) and excluding", and

(ii) in subparagraph (C) by striking "paragraphs (12)(A), (13), and (14)" and inserting "paragraphs (11), (12), and (13)",

(D) by striking paragraph (6),

(E) in paragraph (7) by inserting ", including in rural areas" before the semicolon at the end,

(F) in paragraph (8)—

(i) in subparagraph (A)—

(I) by striking "for (i)" and all that follows through "relevant jurisdiction", and inserting "for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State", and

(II) by striking "of the jurisdiction; (ii)" and all that follows through the semicolon at the end, and inserting "of the State; and",

(ii) by amending subparagraph (B) to read as follows:

"(B) contain—

"(i) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

"(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

"(iii) a plan for providing needed mental health services to juveniles in the juvenile justice system, including information on how such plan is being implemented and how such services will be targeted to those juveniles in such system who are in greatest need of such services;", and

(iii) by striking subparagraphs (C) and (D),

(G) by amending paragraph (9) to read as follows:

"(9) provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;",

(H) in paragraph (10)—

(i) in subparagraph (A)—

(I) by striking ", specifically" and inserting "including",

(II) by striking clause (i), and

(III) redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively,

(ii) by amending subparagraph (D) to read as follows:

"(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;",

(iii) in subparagraph (E)—

(I) by redesignating clause (ii) as clause (iii), and

(II) by striking "juveniles, provided" and all that follows through "provides; and", and inserting the following:

"juveniles—

"(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;

"(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and",

(iv) by amending subparagraph (F) to read as follows:

"(F) expanding the use of probation officers—

"(i) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

"(ii) to ensure that juveniles follow the terms of their probation;",

(v) by amending subparagraph (G) to read as follows:

"(G) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile

offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officials, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;",

(vii) in subparagraph (H) by striking "handicapped youth" and inserting "juveniles with disabilities",

(viii) by striking subparagraph (K),

(ix) in subparagraph (L)—

(I) in clause (iv) by adding "and" at the end,

(II) in clause (v) by striking "and" at the end, and

(III) by striking clause (vi),

(x) in subparagraph (M) by striking "boot camps",

(xi) by amending subparagraph (N) to read as follows:

"(N) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families so that such juveniles may be retained in their homes;",

(xii) in subparagraph (O)—

(I) in striking "cultural" and inserting "other", and

(II) by striking the period at the end and inserting a semicolon,

(xiii) by redesignating subparagraphs (L), (M), (N), and (O) as subparagraphs (K), (L), (M), and (N), respectively; and

(xiv) by adding at the end the following:

"(O) programs designed to prevent and to reduce hate crimes committed by juveniles;

"(P) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

"(Q) community-based programs that provide follow-up post-placement services to adjudicated juveniles, to promote successful reintegration into the community;

"(R) projects designed to develop and implement programs to protect the rights of juveniles affected by the juvenile justice system; and

"(S) programs designed to provide mental health services for incarcerated juveniles suspected to be in need of such services, including assessment, development of individualized treatment plans, and discharge plans.",

(I) by amending paragraph (12) to read as follows:

"(12) shall, in accordance with rules issued by the Administrator, provide that—

"(A) juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult, excluding—

"(i) juveniles who are charged with or who have committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar State law;

"(ii) juveniles who are charged with or who have committed a violation of a valid court order; and

"(iii) juveniles who are held in accordance with the Interstate Compact on Juveniles as enacted by the State;

shall not be placed in secure detention facilities or secure correctional facilities; and

"(B) juveniles—

"(i) who are not charged with any offense; and

"(ii) who are—

"(I) aliens; or

"(II) alleged to be dependent, neglected, or abused;

shall not be placed in secure detention facilities or secure correctional facilities;",

(J) by amending paragraph (13) to read as follows:

"(13) provide that—

"(A) juveniles alleged to be or found to be delinquent or juveniles within the purview of paragraph (11) will not be detained or confined in any institution in which they have contact with adult inmates; and

"(B) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adult inmates, including in collocated facilities, have been trained and certified to work with juveniles;",

(K) by amending paragraph (14) to read as follows:

"(14) provide that no juvenile will be detained or confined in any jail or lockup for adults except—

"(A) juveniles who are accused of nonstatus offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

"(i) for processing or release;

"(ii) while awaiting transfer to a juvenile facility; or

"(iii) in which period such juveniles make a court appearance;

and only if such juveniles do not have contact with adult inmates and only if there is in effect in the State a policy that requires individuals who work with both such juveniles and adult inmates in collocated facilities have been trained and certified to work with juveniles;

"(B) juveniles who are accused of nonstatus offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained in a jail or lockup—

"(i) in which—

"(I) such juveniles do not have contact with adult inmates; and

"(II) there is in effect in the State a policy that requires individuals who work with both such juveniles and adults inmates in collocated facilities have been trained and certified to work with juveniles; and

"(ii) that—

"(I) is located outside a metropolitan statistical area (as defined by the Office of Management and Budget) and has no existing acceptable alternative placement available;

"(II) is located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable; or

"(III) is located where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;";

(L) in paragraph (15)—

(i) by striking "paragraph (12)(A), paragraph (13), and paragraph (14)" and inserting "paragraphs (11), (12), and (13)", and

(ii) by striking "paragraph (12)(A) and paragraph (13)" and inserting "paragraphs (11) and (12)",

(M) in paragraph (16) by striking "mentally, emotionally, or physically handicapping conditions" and inserting "disability",

(N) by amending paragraph (19) to read as follows:

"(19) provide assurances that—

"(A) any assistance provided under this Act will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any currently employed employee;

"(B) activities assisted under this Act will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

"(C) no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization involved;",

(O) by amending paragraph (22) to read as follows:

"(22) provide that the State agency designated under paragraph (1) will—

"(A) to the extent practicable give priority in funding to programs and activities that are based on rigorous, systematic, and objective research that is scientifically based;

"(B) from time to time, but not less than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, that it considers necessary; and

"(C) not expend funds to carry out a program if the recipient of funds who carried out such program during the preceding 2-year period fails to demonstrate, before the expiration of such 2-year period, that such program achieved substantial success in achieving the goals specified in the application submitted by such recipient to the State agency;",

(P) by amending paragraph (23) to read as follows:

"(23) address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system;",

(Q) by amending paragraph (24) to read as follows:

"(24) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—

"(A) an appropriate public agency shall be promptly notified that such juvenile is held in custody for violating such order;

"(B) not later than 24 hours during which such juvenile is so held, an authorized representative of such agency shall interview, in person, such juvenile; and

"(C) not later than 48 hours during which such juvenile is so held—

"(i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such juvenile; and

"(ii) such court shall conduct a hearing to determine—

"(I) whether there is reasonable cause to believe that such juvenile violated such order; and

"(II) the appropriate placement of such juvenile pending disposition of the violation alleged;",

(R) in paragraph (25)—

(i) by striking "1992" and inserting "2000", and

(ii) by striking the period at the end and inserting a semicolon,

(S) by redesignating paragraphs (7) through (25) as paragraphs (6) through (24), respectively, and

(T) by adding at the end the following:

"(25) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 222 (other than funds made available to the State advisory group under section 222(d)) that the State will reserve for expenditure by the State to provide incentive grants to

units of general local government that reduce the caseload of probation officers within such units;

“(26) provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court;

“(27) establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders; and

“(28) provide assurances that juvenile offenders whose placement is funded through section 472 of the Social Security Act (42 U.S.C. 672) receive the protections specified in section 471 of such Act (42 U.S.C. 671), including a case plan and case plan review as defined in section 475 of such Act (42 U.S.C. 675).”,

(2) by amending subsection (c) to read as follows:

“(c) If a State fails to comply with any of the applicable requirements of paragraphs (11), (12), (13), and (22) of subsection (a) in any fiscal year beginning after September 30, 2001, then—

“(1) subject to paragraph (2), the amount allocated to such State under section 222 for the subsequent fiscal year shall be reduced by not less than 20 percent for each such paragraph with respect to which the failure occurs, and

“(2) the State shall be ineligible to receive any allocation under such section for such fiscal year unless—

“(A) the State agrees to expend 50 percent of the amount allocated to the State for such fiscal year to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

“(B) the Administrator determines that the State—

“(i) has achieved substantial compliance with such applicable requirements with respect to which the State was not in compliance; and

“(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with such applicable requirements within a reasonable time.”,

(3) in subsection (d)—

(A) by striking “allotment” and inserting “allocation”, and

(B) by striking “subsection (a) (12)(A), (13), (14) and (23)” each place it appears and inserting “paragraphs (11), (12), (13), and (22) of subsection (a)”, and

(4) by adding at the end the following:

“(e) Notwithstanding any other provision of law, the Administrator shall establish appropriate administrative and supervisory board membership requirements for a State agency designated under subsection (a)(1) and permit the State advisory group appointed under subsection (a)(3) to operate as the supervisory board for such agency, at the discretion of the chief executive officer of the State.

“(f) TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—The Administrator shall provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under subsection (a)(3) to assist such organization to carry out the functions specified in paragraph (2).

“(2) ASSISTANCE.—To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

“(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;

“(B) disseminating information, data, standards, advanced techniques, and program models;

“(C) reviewing Federal policies regarding juvenile justice and delinquency prevention;

“(D) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

“(E) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.”.

SEC. 12210. JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by striking parts C, D, E, F, G, and H,

(2) by striking the 1st part I,

(3) by redesignating the 2d part I as part F, and

(4) by inserting after part B the following:

“PART C—JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM

“SEC. 241. AUTHORITY TO MAKE GRANTS.

“(a) GRANTS TO ELIGIBLE STATES.—The Administrator may make grants to eligible States, from funds allocated under section 242, for the purpose of providing financial assistance to eligible entities to carry out projects designed to prevent juvenile delinquency, including—

“(1) projects that provide treatment (including treatment for mental health problems) to juvenile offenders, and juveniles who are at risk of becoming juvenile offenders, who are victims of child abuse or neglect or who have experienced violence in their homes, at school, or in the community, and to their families, in order to reduce the likelihood that such juveniles will commit violations of law;

“(2) educational projects or supportive services for delinquent or other juveniles—

“(A) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations in educational settings;

“(B) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency;

“(C) to assist in identifying learning difficulties (including learning disabilities);

“(D) to prevent unwarranted and arbitrary suspensions and expulsions;

“(E) to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

“(F) which assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other juveniles with disabilities;

“(G) which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies; or

“(H) to provide services to juveniles with serious mental and emotional disturbances (SED) in need of mental health services;

“(3) projects which expand the use of probation officers—

“(A) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

“(B) to ensure that juveniles follow the terms of their probation;

“(4) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officers, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;

“(5) community-based projects and services (including literacy and social service programs) which work with juvenile offenders and juveniles who are at risk of becoming juvenile offenders, including those from families with limited English-speaking proficiency, their parents, their siblings, and other family members during and after incarceration of the juvenile offenders, in order to strengthen families, to allow juvenile offenders to be retained in their homes, and to prevent the involvement of other juvenile family members in delinquent activities;

“(6) projects designed to provide for the treatment (including mental health services) of juveniles for dependence on or abuse of alcohol, drugs, or other harmful substances;

“(7) projects which leverage funds to provide scholarships for postsecondary education and training for low-income juveniles who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;

“(8) projects which provide for an initial intake screening of each juvenile taken into custody—

“(A) to determine the likelihood that such juvenile will commit a subsequent offense; and

“(B) to provide appropriate interventions (including mental health services) to prevent such juvenile from committing subsequent offenses;

“(9) projects (including school- or community-based projects) that are designed to prevent, and reduce the rate of, the participation of juveniles in gangs that commit crimes (particularly violent crimes), that unlawfully use firearms and other weapons, or that unlawfully traffic in drugs and that involve, to the extent practicable, families and other community members (including law enforcement personnel and members of the business community) in the activities conducted under such projects;

“(10) comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies (including collaboration on appropriate prenatal care for pregnant juvenile offenders), private nonprofit agencies, and public recreation agencies offering services to juveniles;

“(11) to develop, implement, and support, in conjunction with public and private agencies, organizations, and businesses, projects for the employment of juveniles and referral to job training programs (including referral to Federal job training programs);

“(12) delinquency prevention activities which involve youth clubs, sports, recreation and parks, peer counseling and teaching, the arts, leadership development, community service, volunteer service, before- and after-school programs, violence prevention activities, mediation skills training, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment;

“(13) to establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing treatment plans for juvenile offenders;

“(14) programs that encourage social competencies, problem-solving skills, and communication skills, youth leadership, and civic involvement;

“(15) programs that focus on the needs of young girls at-risk of delinquency or status offenses;

"(16) projects which provide for—

"(A) an assessment by a qualified mental health professional of incarcerated juveniles who are suspected to be in need of mental health services;

"(B) the development of an individualized treatment plan for those incarcerated juveniles determined to be in need of such services;

"(C) the inclusion of a discharge plan for incarcerated juveniles receiving mental health services that addresses aftercare services; and

"(D) all juveniles receiving psychotropic medications to be under the care of a licensed mental health professional;

"(17) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

"(18) programs related to the establishment and maintenance of a school violence hotline, based on a public-private partnership, that students and parents can use to report suspicious, violent, or threatening behavior to local school and law enforcement authorities;

"(19) programs (excluding programs to purchase guns from juveniles) designed to reduce the unlawful acquisition and illegal use of guns by juveniles, including partnerships between law enforcement agencies, health professionals, school officials, firearms manufacturers, consumer groups, faith-based groups and community organizations;

"(20) programs designed to prevent animal cruelty by juveniles and to counsel juveniles who commit animal cruelty offenses, including partnerships among law enforcement agencies, animal control officers, social services agencies, and school officials;

"(21) programs that provide suicide prevention services for incarcerated juveniles and for juveniles leaving the incarceration system;

"(22) programs to establish partnerships between State educational agencies and local educational agencies for the design and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness;

"(23) programs that foster strong character development in at-risk juveniles and juveniles in the juvenile justice system;

"(24) local programs that provide for immediate psychological evaluation and follow-up treatment (including evaluation and treatment during a mandatory holding period for not less than 24 hours) for juveniles who bring a gun on school grounds without permission from appropriate school authorities; and

"(25) other activities that are likely to prevent juvenile delinquency.

"(b) Grants to Eligible Indian Tribes.—The Administrator may make grants to eligible Indian tribes from funds allocated under section 242(b), to carry out projects of the kinds described in subsection (a).

"SEC. 242. ALLOCATION.

"(a) Allocation Among Eligible States.—Subject to subsection (b), funds appropriated to carry out this part shall be allocated among eligible States proportionately based on the population that is less than 18 years of age in the eligible States.

"(b) Allocation Among Indian Tribes Collectively.—Before allocating funds under subsection (a) among eligible States, the Administrator shall allocate among eligible Indian tribes as determined under section 246(a), an aggregate amount equal to the amount such tribes would be allocated under subsection (a), and without regard to this subsection, if such tribes were treated collectively as an eligible State.

"SEC. 243. ELIGIBILITY OF STATES.

"(a) Application.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application that contains the following:

"(1) An assurance that the State will use—

"(A) not more than 5 percent of such grant, in the aggregate, for—

"(i) the costs incurred by the State to carry out this part; and

"(ii) to evaluate, and provide technical assistance relating to, projects and activities carried out with funds provided under this part; and

"(B) the remainder of such grant to make grants under section 244.

"(2) An assurance that, and a detailed description of how, such grant will supplement, and not supplant State and local efforts to prevent juvenile delinquency.

"(3) An assurance that such application was prepared after consultation with and participation by the State advisory group, community-based organizations, and organizations in the local juvenile justice system, that carry out programs, projects, or activities to prevent juvenile delinquency.

"(4) An assurance that the State advisory group will be afforded the opportunity to review and comment on all grant applications submitted to the State agency.

"(5) An assurance that each eligible entity described in section 244 that receives an initial grant under section 244 to carry out a project or activity shall also receive an assurance from the State that such entity will receive from the State, for the subsequent fiscal year to carry out such project or activity, a grant under such section in an amount that is proportional, based on such initial grant and on the amount of the grant received under section 241 by the State for such subsequent fiscal year, but that does not exceed the amount specified for such subsequent fiscal year in such application as approved by the State.

"(6) Such other information and assurances as the Administrator may reasonably require by rule.

"(b) Approval of Applications.—

"(1) Approval Required.—Subject to paragraph (2), the Administrator shall approve an application, and amendments to such application submitted in subsequent fiscal years, that satisfy the requirements of subsection (a).

"(2) Limitation.—The Administrator may not approve such application (including amendments to such application) for a fiscal year unless—

"(A)(i) the State submitted a plan under section 223 for such fiscal year; and

"(ii) such plan is approved by the Administrator for such fiscal year; or

"(B) the Administrator waives the application of subparagraph (A) to such State for such fiscal year, after finding good cause for such a waiver.

"SEC. 244. GRANTS FOR LOCAL PROJECTS.

"(a) Grants by States.—Using a grant received under section 241, a State may make grants to eligible entities whose applications are received by the State, and reviewed by the State advisory group, to carry out projects and activities described in section 241.

"(b) Special Consideration.—For purposes of making grants under subsection (a), the State shall give special consideration to eligible entities that—

"(1) propose to carry out such projects in geographical areas in which there is—

"(A) a disproportionately high level of serious crime committed by juveniles; or

"(B) a recent rapid increase in the number of nonstatus offenses committed by juveniles;

"(2)(A) agreed to carry out such projects or activities that are multidisciplinary and involve more than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles; or

"(B) represent communities that have a comprehensive plan designed to identify at-risk juveniles and to prevent or reduce the rate of juvenile delinquency, and that involve other entities operated by individuals who have a demonstrated history of involvement in activities designed to prevent juvenile delinquency; and

"(3) the amount of resources (in cash or in kind) such entities will provide to carry out such projects and activities.

"SEC. 245. ELIGIBILITY OF ENTITIES.

"(a) Eligibility.—Except as provided in subsection (b), to be eligible to receive a grant under section 244, a unit of general purpose local government, acting jointly with not fewer than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles, shall submit to the State an application that contains the following:

"(1) An assurance that such applicant will use such grant, and each such grant received for the subsequent fiscal year, to carry out throughout a 2-year period a project or activity described in reasonable detail, and of a kind described in one or more of paragraphs (1) through (25) of section 241(a) as specified in, such application.

"(2) A statement of the particular goals such project or activity is designed to achieve, and the methods such entity will use to achieve, and assess the achievement of, each of such goals.

"(3) A statement identifying the research (if any) such entity relied on in preparing such application.

"(b) Limitation.—If an eligible entity that receives a grant under section 244 to carry out a project or activity for a 2-year period, and receives technical assistance from the State or the Administrator after requesting such technical assistance (if any), fails to demonstrate, before the expiration of such 2-year period, that such project or such activity has achieved substantial success in achieving the goals specified in the application submitted by such entity to receive such grants, then such entity shall not be eligible to receive any subsequent grant under such section to continue to carry out such project or activity.

"SEC. 246. GRANTS TO INDIAN TRIBES.

"(a) Eligibility.—

"(1) Application.—To be eligible to receive a grant under section 241(b), an Indian tribe shall submit to the Administrator an application in accordance with this section, in such form and containing such information as the Administrator may require by rule.

"(2) Plans.—Such application shall include a plan for conducting programs, projects, and activities described in section 241(a), which plan shall—

"(A) provide evidence that the applicant Indian tribe performs law enforcement functions (as determined by the Secretary of the Interior);

"(B) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be addressed by activities conducted with funds provided by the grant for which such application is submitted, by the Indian tribe in the geographical area under the jurisdiction of the Indian tribe;

"(C) provide for fiscal control and accounting procedures that—

"(i) are necessary to ensure the prudent use, proper disbursement, and accounting of grants received by applicants under this section; and

"(ii) are consistent with the requirement specified in subparagraph (B); and

"(D) comply with the requirements specified in section 223(a) (excluding any requirement relating to consultation with a State advisory group) and with the requirements specified in section 222(c); and

"(E) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably require by rule to ensure the effectiveness of the projects for which grants are made under section 241(b).

"(b) Factors for Consideration.—For the purpose of selecting eligible applicants to receive grants under section 241(b), the Administrator shall consider—

"(1) the resources that are available to each applicant Indian tribe that will assist, and be coordinated with, the overall juvenile justice system of the Indian tribe; and

"(2) with respect to each such applicant—

"(A) the juvenile population; and

"(B) the population and the entities that will be served by projects proposed to be carried out with the grant for which the application is submitted.

"(c) Grant Process.—

"(1) Selection of grant recipients.—

"(A) Selection Requirements.—Except as provided in paragraph (2), the Administrator shall—

"(i) make grants under this section on a competitive basis; and

"(ii) specify in writing to each applicant selected to receive a grant under this section, the terms and conditions on which such grant is made to such applicant.

"(B) Period of grant.—A grant made under this section shall be available for expenditure during a 2-year period.

"(2) Exception.—If—

"(A) in the 2-year period for which a grant made under this section shall be expended, the recipient of such grant applies to receive a subsequent grant under this section; and

"(B) the Administrator determines that such recipient performed during the year preceding the 2-year period for which such recipient applies to receive such subsequent grant satisfactorily and in accordance with the terms and conditions applicable to the grant received;

then the Administrator may waive the application of the competition-based requirement specified in paragraph (1)(A)(i) and may allow the applicant to incorporate by reference in the current application the text of the plan contained in the recipient's most recent application previously approved under this section.

"(3) Authority to modify application process for subsequent grants.—The Administrator may modify by rule the operation of subsection (a) with respect to the submission and contents of applications for subsequent grants described in paragraph (2).

"(d) Reporting Requirement.—Each Indian tribe that receives a grant under this section shall be subject to the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(e) Matching Requirement.—(1) Funds appropriated for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this section.

"(2) Paragraph (1) shall not apply with respect to funds appropriated before the date of the enactment of the Juvenile Justice and Delinquency Prevention Act of 2002.

"(3) If the Administrator determines that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.".

SEC. 12211. RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part C, as added by section 12510, the following:

"PART D—RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING

"SEC. 251. RESEARCH AND EVALUATION; STATISTICAL ANALYSES; INFORMATION DISSEMINATION.

"(a) Research and Evaluation.—(1) The Administrator may—

"(A) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

"(B) conduct research or evaluation in juvenile justice matters, for the purpose of providing research and evaluation relating to—

"(i) the prevention, reduction, and control of juvenile delinquency and serious crime committed by juveniles;

"(ii) the link between juvenile delinquency and the incarceration of members of the families of juveniles;

"(iii) successful efforts to prevent first-time minor offenders from committing subsequent involvement in serious crime;

"(iv) successful efforts to prevent recidivism;

"(v) the juvenile justice system;

"(vi) juvenile violence;

"(vii) appropriate mental health services for juveniles and youth at risk of participating in delinquent activities;

"(viii) reducing the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups;

"(ix) evaluating services, treatment, and aftercare placement of juveniles who were under the care of the State child protection system before their placement in the juvenile justice system;

"(x) determining—

"(I) the frequency, seriousness, and incidence of drug use by youth in schools and communities in the States using, if appropriate, data submitted by the States pursuant to this subparagraph and subsection (b); and

"(II) the frequency, degree of harm, and morbidity of violent incidents, particularly firearm-related injuries and fatalities, by youth in schools and communities in the States, including information with respect to—

"(aa) the relationship between victims and perpetrators;

"(bb) demographic characteristics of victims and perpetrators; and

"(cc) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation; and

"(xi) other purposes consistent with the purposes of this title and title I.

"(2) The Administrator shall ensure that an equitable amount of funds available to carry out paragraph (1)(B) is used for research and evaluation relating to the prevention of juvenile delinquency.

"(3) Nothing in this subsection shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies, or in data-collection efforts, carried out under paragraph (1)(B)(x).

"(4) Not later than 1 year after the date of enactment of this paragraph,the Administrator shall conduct a study with respect to juveniles who, prior to placement in the juvenile justice system, were under the care or custody of the State child welfare system, and to juveniles who are unable to return to their family after completing their disposition in the juvenile justice system and who remain wards of the State. Such study shall include—

"(A) the number of juveniles in each category;

"(B) the extent to which State juvenile justice systems and child welfare systems are coordinating services and treatment for such juveniles;

"(C) the Federal and local sources of funds used for placements and post-placement services;

"(D) barriers faced by State in providing services to these juveniles;

"(E) the types of post-placement services used;

"(F) the frequency of case plans and case plan reviews; and

"(G) the extent to which case plans identify and address permanency and placement barriers and treatment plans.

"(b) Statistical Analyses.—The Administrator may—

"(1) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

"(2) undertake statistical work in juvenile justice matters, for the purpose of providing for the collection, analysis, and dissemination of statistical data and information relating to juvenile delinquency and serious crimes committed by juveniles, to the juvenile justice system, to juvenile violence, and to other purposes consistent with the purposes of this title and title I.

"(c) Grant Authority and Competitive Selection Process.—The Administrator may make grants and enter into contracts with public or private agencies, organizations, or individuals and shall use a competitive process, established by rule by the Administrator, to carry out subsections (a) and (b).

"(d) Implementation of Agreements.—A Federal agency that makes an agreement under subsections (a)(1)(B) and (b)(2) with the Administrator may carry out such agreement directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

"(e) Information Dissemination.—The Administrator may—

"(1) review reports and data relating to the juvenile justice system in the United States and in foreign nations (as appropriate), collect data and information from studies and research into all aspects of juvenile delinquency (including the causes, prevention, and treatment of juvenile delinquency) and serious crimes committed by juveniles;

"(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, publication, and dissemination of information relating to juvenile delinquency, including State and local prevention and treatment programs, plans, resources, and training and technical assistance programs; and

"(3) make grants and contracts with public and private agencies, institutions, and organizations, for the purpose of disseminating information to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, the courts, corrections, schools, and related services, in the establishment, implementation, and operation of projects and activities for which financial assistance is provided under this title.

"SEC. 252. TRAINING AND TECHNICAL ASSISTANCE.

"(a) Training.—The Administrator may—

"(1) develop and carry out projects for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102; and

"(2) make grants to and contracts with public and private agencies, institutions, and organizations for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, *law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102.*

"(b) TECHNICAL ASSISTANCE.—The Administrator may—

"(1) develop and implement projects for the purpose of providing technical assistance to representatives and personnel of public and private agencies and organizations, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title; and

"(2) make grants to and contracts with public and private agencies, institutions, and organizations, for the purpose of providing technical assistance to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title.

"(c) TRAINING AND TECHNICAL ASSISTANCE TO MENTAL HEALTH PROFESSIONALS AND LAW ENFORCEMENT PERSONNEL.—The Administrator shall provide training and technical assistance to mental health professionals and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials, and correctional officers) to address or to promote the development, testing, or demonstration of promising or innovative models (including model juvenile and family courts), programs, or delivery systems that address the needs of juveniles who are alleged or adjudicated delinquent and who, as a result of such status, are placed in secure detention or confinement or in nonsecure residential placements.".

SEC. 12212. DEMONSTRATION PROJECTS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part D, as added by section 12511, the following:

"PART E—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

"SEC. 261. GRANTS AND PROJECTS.

"(a) AUTHORITY TO MAKE GRANTS.—The Administrator may make grants to and contracts with States, units of general local government, Indian tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency. The Administrator shall ensure that, to the extent reasonable and practicable, such grants are made to achieve an equitable geographical distribution of such projects throughout the United States.

"(b) USE OF GRANTS.—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which such grant is made.

"SEC. 262. GRANTS FOR TECHNICAL ASSISTANCE.

"The Administrator may make grants to and contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 261.

"SEC. 263. ELIGIBILITY.

"To be eligible to receive a grant made under this part, a public or private agency, Indian tribal government, organization, institution, individual, or combination thereof shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may reasonably require by rule.

"SEC. 264. REPORTS.

"Recipients of grants made under this part shall submit to the Administrator such reports as may be reasonably requested by the Administrator to describe progress achieved in carrying out the projects for which such grants are made.".

SEC. 12213. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) by striking subsection (e), and

(2) by striking subsections (a), (b), and (c), and inserting the following:

"(a) AUTHORIZATION OF APPROPRIATIONS FOR TITLE II (EXCLUDING PARTS C AND E).—(1) There are authorized to be appropriated to carry out this title such sums as may be appropriate for fiscal years 2003, 2004, 2005, 2006, and 2007.

"(2) Of such sums as are appropriated for a fiscal year to carry out this title (other than parts C and E)—

"(A) not more than 5 percent shall be available to carry out part A;

"(B) not less than 80 percent shall be available to carry out part B; and

"(C) not more than 15 percent shall be available to carry out part D.

"(b) AUTHORIZATION OF APPROPRIATIONS FOR PART C.—There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.

"(c) AUTHORIZATION OF APPROPRIATIONS FOR PART E.—There are authorized to be appropriated to carry out part E, and authorized to remain available until expended, such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.".

SEC. 12214. ADMINISTRATIVE AUTHORITY.

Section 299A of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended—

(1) in subsection (d) by striking "as are consistent with the purpose of this Act" and inserting "only to the extent necessary to ensure that there is compliance with the specific requirements of this title or to respond to requests for clarification and guidance relating to such compliance", and

(2) by adding at the end the following:

"(e) If a State requires by law compliance with the requirements described in paragraphs (11), (12), and (13) of section 223(a), then for the period such law is in effect in such State such State shall be rebuttably presumed to satisfy such requirements.".

SEC. 12215. USE OF FUNDS.

Section 299C(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5674(c)) is amended to read as follows:

"(c) No funds may be paid under this title to a residential program (excluding a program in a private residence) unless—

"(1) there is in effect in the State in which such placement or care is provided, a requirement that the provider of such placement or such care may be licensed only after satisfying, at a minimum, explicit standards of discipline that prohibit neglect, and physical and mental abuse, as defined by State law;

"(2) such provider is licensed as described in paragraph (1) by the State in which such placement or care is provided; and

"(3) in a case involving a provider located in a State that is different from the State where the order for placement originates, the chief administrative officer of the public agency or the officer of the court placing the juvenile certifies that such provider—

"(A) satisfies the originating State's explicit licensing standards of discipline that prohibit neglect, physical and mental abuse, and standards for education and health care as defined by that State's law; and

"(B) otherwise complies with the Interstate Compact on the Placement of Children as entered into by such other State.".

SEC. 12216. LIMITATIONS ON USE OF FUNDS.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510, is amended adding at the end the following:

"SEC. 299F. LIMITATIONS ON USE OF FUNDS.

"None of the funds made available to carry out this title may be used to advocate for, or support, the unsecured release of juveniles who are charged with a violent crime.".

SEC. 12217. RULES OF CONSTRUCTION.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by section 12516, is amended adding at the end the following:

"SEC. 299G. RULES OF CONSTRUCTION.

"Nothing in this title or title I shall be construed—

"(1) to prevent financial assistance from being awarded through grants under this title to any otherwise eligible organization; or

"(2) to modify or affect any Federal or State law relating to collective bargaining rights of employees.".

SEC. 12218. LEASING SURPLUS FEDERAL PROPERTY.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516 and 12517, is amended adding at the end the following:

"SEC. 299H. LEASING SURPLUS FEDERAL PROPERTY.

"The Administrator may receive surplus Federal property (including facilities) and may lease such property to States and units of general local government for use in or as facilities for juvenile offenders, or for use in or as facilities for delinquency prevention and treatment activities.".

SEC. 12219. ISSUANCE OF RULES.

Part F of title II or the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516, 12517, and 12518, is amended adding at the end the following:

"SEC. 299I. ISSUANCE OF RULES.

"The Administrator shall issue rules to carry out this title, including rules that establish procedures and methods for making grants and contracts, and distributing funds available, to carry out this title.".

SEC. 12220. CONTENT OF MATERIALS.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516, 12517, 12518, and 12519, is amended by adding at the end the following:

"SEC. 299J. CONTENT OF MATERIALS.

"Materials produced, procured, or distributed both using funds appropriated to carry out this Act and for the purpose of preventing hate crimes that result in acts of physical violence, shall not recommend or require any action that abridges or infringes upon the constitutionally protected rights of free speech, religion, or equal

protection of juveniles or of their parents or legal guardians.".

SEC. 12221. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AMENDMENTS.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in section 202(b) by striking "prescribed for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376",

(2) in section 221(b)(2) by striking the last sentence,

(3) in section 299D by striking subsection (d), and

(4) by striking title IV, as originally enacted by Public Law 93–415 (88 Stat. 1132–1143).

(b) CONFORMING AMENDMENTS.—(1) The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended—

(A) in section 214(b)(1) by striking "262, 293, and 296 of subpart II of title II" and inserting "299B and 299E",

(B) in section 214A(c)(1) by striking "262, 293, and 296 of subpart II of title II" and inserting "299B and 299E",

(C) in section 217(c)(1) by striking "sections 262, 293, and 296 of subpart II of title II" and inserting "sections 299B and 299E", and

(D) in section 223(c) by striking "section 262, 293, and 296" and inserting "sections 262, 299B, and 299E".

(2) Section 404(a)(5)(E) of the Missing Children's Assistance Act (42 U.S.C. 5773) is amended by striking "section 313" and inserting "section 331".

SEC. 12222. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

(a) AMENDMENT.—Title V of the of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781–5785), as added by Public Law 102–586, is amended to read as follows:

"TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

"SEC. 501. SHORT TITLE.

"This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act of 2002'.

"SEC. 502. DEFINITION.

"In this title, the term 'State advisory group' means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

"SEC. 503. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

"The Administrator shall—

"(1) issue such rules as are necessary or appropriate to carry out this title;

"(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

"(3) provide adequate staff and resources necessary to properly carry out this title; and

"(4) not later than 180 days after the end of each fiscal year, submit a report to the chairman of the Committee on Education and the Workforce of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate—

"(A) describing activities and accomplishments of grant activities funded under this title;

"(B) describing procedures followed to disseminate grant activity products and research findings;

"(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

"(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

"SEC. 504. GRANTS FOR DELINQUENCY PREVENTION PROGRAMS.

"(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to juveniles and their families of—

"(1) alcohol and substance abuse prevention services;

"(2) tutoring and remedial education, especially in reading and mathematics;

"(3) child and adolescent health and mental health services;

"(4) recreation services;

"(5) leadership and youth development activities;

"(6) the teaching that people are and should be held accountable for their actions;

"(7) assistance in the development of job training skills; and

"(8) other data-driven evidence based prevention programs.

"(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—

"(1) the unit is in compliance with the requirements of part B of title II;

"(2) the unit has submitted to the State advisory group a minimum 3-year comprehensive plan outlining the unit's local front end plans for investment for delinquency prevention and early intervention activities;

"(3) the unit has included in its application to the Administrator for formula grant funds a summary of the minimum 3-year comprehensive plan described in paragraph (2);

"(4) pursuant to its minimum 3-year comprehensive plan, the unit has appointed a local policy board of not fewer than 15 and not more than 21 members, with balanced representation of public agencies and private nonprofit organizations serving juveniles, their families, and business and industry;

"(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services to at-risk juveniles and their families, including such programs as nutrition, energy assistance, and housing;

"(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

"(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

"'(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

"(1) plans for service and agency coordination and collaboration including the colocation of services;

"(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities;

"(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention;

"(4) coordinating and collaborating with programs established in local communities for delinquency prevention under part C of this subtitle; and

"(5) developing data-driven prevention plans, employing evidence-based prevention strategies, and conducting program evaluations to determine impact and effectiveness.

"SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2004, 2005, 2006, 2007, and 2008.".

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall take effect on October 1, 2002, and shall not apply with respect to grants made before such date.

SEC. 12223. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to fiscal years beginning after September 30, 2002.

Subtitle C—Juvenile Disposition Hearing

SEC. 12301. JUVENILE DISPOSITION HEARING.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence—

(i) by striking "enter an order of restitution pursuant to section 3556,"; and

(ii) by inserting after "official detention" the following: "which may include a term of juvenile delinquent supervision to follow detention"; and

(B) by inserting after the second sentence the following: "In addition, the court may enter an order of restitution pursuant to section 3556.";

(2) in subsection (b)—

(A) by striking the last sentence; and

(B) by adding at the end the following:

"The provisions dealing with probation set forth in sections 3563 and 3564 are applicable to an order placing a juvenile on probation. If the juvenile violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a dispositional hearing and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to section 994 of title 28, revoke the term of probation and order a term of official detention. The term of official detention authorized upon revocation of probation shall not exceed the terms authorized in section 5037(c)(2) (A) and (B). The application of sections 5037(c)(2) (A) and (B) shall be determined based upon the age of the juvenile at the time of the disposition of the revocation proceeding. If a juvenile is over the age of 21 years old at the time of the revocation proceeding, the mandatory revocation provisions of section 3565(b) are applicable. A disposition of a juvenile who is over the age of 21 years shall be in accordance with the provisions of section 5037(c)(2), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of official detention may continue beyond the juvenile's 26th birthday, and in any other case, no term of imprisonment may continue beyond the juvenile's 24th birthday. A term of official detention may include a term of juvenile delinquent supervision.";

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking "or";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or";

(4) in subsection (c)(2)(A), by striking "five years; or" and inserting: "the lesser of—

"(i) five years; or

"(ii) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or";

(5) in subsection (c)(2)(B)—

(A) in clause (i), by striking "or";

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or";

(6) by redesignating subsection (d) as subsection (e); and

(7) by inserting after subsection (c) the following:

"(d)(1) The court, in ordering a term of official detention, may include the requirement that the juvenile be placed on a term of juvenile delinquent supervision after official detention.

"(2) The term of juvenile delinquent supervision that may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(A) in the case of a juvenile who is less than 18 years old, a term that extends beyond the date when the juvenile becomes 21 years old; or

"(B) in the case of a juvenile who is between 18 and 21 years old, a term that extends beyond the maximum term of official detention set forth in section 5037(c)(2) (A) and (B), less the term of official detention ordered.

"(3) The provisions dealing with probation set forth in sections 3563 and 3564 are applicable to an order placing a juvenile on juvenile delinquent supervision.

"(4) The court may modify, reduce, or enlarge the conditions of juvenile delinquent supervision at any time prior to the expiration or termination of the term of supervision after a dispositional hearing and after consideration of the provisions of section 3563 regarding the initial setting of the conditions of probation.

"(5) If the juvenile violates a condition of juvenile delinquent supervision at any time prior to the expiration or termination of the term of supervision, the court may, after a dispositional hearing and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to section 994 of title 18, revoke the term of supervision and order a term of official detention. The term of official detention which is authorized upon revocation of juvenile delinquent supervision shall not exceed the term authorized in section 5037(c)(2) (A) and (B), less any term of official detention previously ordered. The application of sections 5037(c)(2) (A) and (B) shall be determined based upon the age of the juvenile at the time of the disposition of the revocation proceeding. If a juvenile is over the age of 21 years old at the time of the revocation proceeding, the mandatory revocation provisions of section 3565(b) are applicable. A disposition of a juvenile who is over the age of 21 years old shall be in accordance with the provisions of section 5037(c)(2), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of official detention may continue beyond the juvenile's 26th birthday, and in any other case, no term of official detention may continue beyond the juvenile's 24th birthday.

"(6) When a term of juvenile delinquent supervision is revoked and the juvenile is committed to official detention, the court may include a requirement that the juvenile be placed on a term of juvenile delinquent supervision. Any term of juvenile delinquent supervision ordered following revocation for a juvenile who is over the age of 21 years old at the time of the revocation proceeding shall be in accordance with the provisions of section 5037(d)(1), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of juvenile delinquent supervision may continue beyond the juvenile's 26th birthday, and in any other case, no term of juvenile delinquent supervision may continue beyond the juvenile's 24th birthday.".

TITLE III—INTELLECTUAL PROPERTY

Subtitle A—Patent and Trademark Office Authorization

SEC. 13101. SHORT TITLE.

This subtitle may be cited as the "Patent and Trademark Office Authorization Act of 2002".

SEC. 13102. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE.

(a) IN GENERAL.—There are authorized to be appropriated to the United States Patent and Trademark Office for salaries and necessary expenses for each of the fiscal years 2003 through 2008 an amount equal to the fees estimated by the Secretary of Commerce to be collected in each such fiscal year, respectively, under—

(1) title 35, United States Code; and

(2) the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946).

(b) ESTIMATES.—Not later than February 15, of each fiscal year, the Undersecretary of Commerce for Intellectual Property and the Director of the Patent and Trademark Office (in this subtitle referred to as the Director) shall submit an estimate of all fees referred to under subsection (a) to be collected in the next fiscal year to the chairman and ranking member of—

(1) the Committees on Appropriations and Judiciary of the Senate; and

(2) the Committees on Appropriations and Judiciary of the House of Representatives.

SEC. 13103. ELECTRONIC FILING AND PROCESSING OF PATENT AND TRADEMARK APPLICATIONS.

(a) ELECTRONIC FILING AND PROCESSING.—The Director shall, beginning not later than 90 days after the date of enactment of this Act, and during the 3-year period thereafter, develop an electronic system for the filing and processing of patent and trademark applications, that—

(1) is user friendly; and

(2) includes the necessary infrastructure—

(A) to allow examiners and applicants to send all communications electronically; and

(B) to allow the Office to process, maintain, and search electronically the contents and history of each application.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized under section 13102, there is authorized to be appropriated to carry out subsection (a) of this section not more than $50,000,000 for each of fiscal years 2003, 2004, and 2005. Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 13104. STRATEGIC PLAN.

(a) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—The Director shall, in close consultation with the Patent Public Advisory Committee and the Trademark Public Advisory Committee, develop a strategic plan that sets forth the goals and methods by which the United States Patent and Trademark Office will, during the 5-year period beginning on January 1, 2003—

(A) enhance patent and trademark quality;

(B) reduce patent and trademark pendency; and

(C) develop and implement an effective electronic system for use by the Patent and Trademark Office and the public for all aspects of the patent and trademark processes, including, in addition to the elements set forth in section 13103, searching, examining, communicating, publishing, and making publicly available, patents and trademark registrations.

(2) CONTENTS AND CONSULTATION.—The strategic plan shall include milestones and objective and meaningful criteria for evaluating the progress and successful achievement of the plan. The Director shall consult with the Public Advisory Committees with respect to the development of each aspect of the strategic plan.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 4 months after the date of enactment of this Act, the Director shall submit the plan developed under subsection (a) to the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 13105. DETERMINATION OF SUBSTANTIAL NEW QUESTION OF PATENTABILITY IN REEXAMINATION PROCEEDINGS.

(a) IN GENERAL.—Sections 303(a) and 312(a) of title 35, United States Code, are each amended by adding at the end the following: "The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any determination of the Director of the United States Patent and Trademark Office that is made under section 303(a) or 312(a) of title 35, United States Code, on or after the date of enactment of this Act.

SEC. 13106. APPEALS IN INTER PARTES REEXAMINATION PROCEEDINGS.

(a) APPEALS BY THIRD-PARTY REQUESTER IN PROCEEDINGS.—Section 315(b) of title 35, United States Code, is amended to read as follows:

"(b) THIRD-PARTY REQUESTER.—A third-party requester—

"(1) may appeal under the provisions of section 134, and may appeal under the provisions of sections 141 through 144, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; and

"(2) may, subject to subsection (c), be a party to any appeal taken by the patent owner under the provisions of section 134 or sections 141 through 144.".

(b) APPEAL TO BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134(c) of title 35, United States Code, is amended by striking the last sentence.

(c) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended in the third sentence by inserting ", or a third-party requester in an inter partes reexamination proceeding, who is" after "patent owner".

(d) EFFECTIVE DATE.—The amendments made by this section apply with respect to any reexamination proceeding commenced on or after the date of enactment of this Act.

Subtitle B—Intellectual Property and High Technology Technical Amendments

SEC. 13201. SHORT TITLE.

This subtitle may be cited as the "Intellectual Property and High Technology Technical Amendments Act of 2002".

SEC. 13202. CLARIFICATION OF REEXAMINATION PROCEDURE ACT OF 1999; TECHNICAL AMENDMENTS.

(a) OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.—Title 35, United States Code, is amended as follows:

(1) Section 311 is amended—

(A) in subsection (a), by striking “person” and inserting “third-party requester”; and

(B) in subsection (c), by striking “Unless the requesting person is the owner of the patent, the” and inserting “The”.

(2) Section 312 is amended—

(A) in subsection (a), by striking the second sentence; and

(B) in subsection (b), by striking “, if any”.

(3) Section 314(b)(1) is amended—

(A) by striking “(1) This” and all that follows through “(2)” and inserting “(1)”;

(B) by striking “the third-party requester shall receive a copy” and inserting “the Office shall send to the third-party requester a copy”; and

(C) by redesignating paragraph (3) as paragraph (2).

(4) Section 315(c) is amended by striking “United States Code,”.

(5) Section 317 is amended—

(A) in subsection (a), by striking “patent owner nor the third-party requester, if any, nor privies of either” and inserting “third-party requester nor its privies”; and

(B) in subsection (b), by striking “United States Code,”.

(b) CONFORMING AMENDMENTS.—

(1) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Subsections (a), (b), and (c) of section 134 of title 35, United States Code, are each amended by striking “administrative patent judge” each place it appears and inserting “primary examiner”.

(2) PROCEEDING ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: “In an ex parte case or any reexamination case, the Director shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Director and the parties in the appeal.”.

(c) CLERICAL AMENDMENTS.—

(1) Section 4604(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended by striking “Part 3” and inserting “Part III”.

(2) Section 4604(b) of that Act is amended by striking “title 25” and inserting “title 35”.

(d) EFFECTIVE DATE.—The amendments made by section 4605 (b), (c), and (e) of the Intellectual Property and Communications Omnibus Reform Act, as enacted by section 1000(a)(9) of Public Law 106–113, shall apply to any reexamination filed in the United States Patent and Trademark Office on or after the date of enactment of Public Law 106–113.

SEC. 13203. PATENT AND TRADEMARK EFFICIENCY ACT AMENDMENTS.

(a) DEPUTY COMMISSIONER.—

(1) Section 17(b) of the Act of July 5, 1946 (commonly referred to as the “Trademark Act of 1946”) (15 U.S.C. 1067(b)), is amended by inserting “the Deputy Commissioner,” after “Commissioner,”.

(2) Section 6(a) of title 35, United States Code, is amended by inserting “the Deputy Commissioner,” after “Commissioner,”.

(b) PUBLIC ADVISORY COMMITTEES.—Section 5 of title 35, United States Code, is amended—

(1) in subsection (i), by inserting “, privileged,” after “personnel”; and

(2) by adding at the end the following new subsection:

“(j) INAPPLICABILITY OF PATENT PROHIBITION.—Section 4 shall not apply to voting members of the Advisory Committees.”.

(c) MISCELLANEOUS.—Section 153 of title 35, United States Code, is amended by striking “and attested by an officer of the Patent and Trademark Office designated by the Director,”.

SEC. 13204. DOMESTIC PUBLICATION OF FOREIGN FILED PATENT APPLICATIONS ACT OF 1999 AMENDMENTS.

Section 154(d)(4)(A) of title 35, United States Code, as in effect on November 29, 2000, is amended—

(1) by striking “on which the Patent and Trademark Office receives a copy of the” and inserting “of”; and

(2) by striking “international application” the last place it appears and inserting “publication”.

SEC. 13205. DOMESTIC PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD.

Subtitle E of title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

(1) Section 4505 is amended to read as follows:

“SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

“Section 102(e) of title 35, United States Code, is amended to read as follows:

“‘(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or’.”.

(2) Section 4507 is amended—

(A) in paragraph (1), by striking “Section 11” and inserting “Section 10”;

(B) in paragraph (2), by striking “Section 12” and inserting “Section 11”.

(C) in paragraph (3), by striking “Section 13” and inserting “Section 12”;

(D) in paragraph (4), by striking “12 and 13” and inserting “11 and 12”;

(E) in section 374 of title 35, United States Code, as amended by paragraph (10), by striking “confer the same rights and shall have the same effect under this title as an application for patent published” and inserting “be deemed a publication”; and

(F) by adding at the end the following:

“(12) The item relating to section 374 in the table of contents for chapter 37 of title 35, United States Code, is amended to read as follows:

“‘374. Publication of international application.’”.

(3) Section 4508 is amended to read as follows:

“SEC. 4508. EFFECTIVE DATE.

“Except as otherwise provided in this section, sections 4502 through 4504 and 4506 through 4507, and the amendments made by such sections, shall be effective as of November 29, 2000, and shall apply only to applications (including international applications designating the United States) filed on or after that date. The amendments made by section 4504 shall additionally apply to any pending application filed before November 29, 2000, if such pending application is published pursuant to a request of the applicant under such procedures as may be established by the Director. Except as otherwise provided in this section, the amendments made by section 4505 shall be effective as of November 29, 2000 and shall apply to all patents and all applications for patents pending on or filed after November 29, 2000. Patents resulting from an international application filed before November 29, 2000 and applications published pursuant to section 122(b) or Article 21(2) of the treaty defined in section 351(a) resulting from an international application filed before November 29, 2000 shall not be effective as prior art as of the filing date of the international application; however, such patents shall be effective as prior art in accordance with section 102(e) in effect on November 28, 2000.”.

SEC. 13206. MISCELLANEOUS CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—The following provisions of title 35, United States Code, are amended:

(1) Section 2(b) is amended in paragraphs (2)(B) and (4)(B), by striking “, United States Code”.

(2) Section 3 is amended—

(A) in subsection (a)(2)(B), by striking “United States Code,”;

(B) in subsection (b)(2)—

(i) in the first sentence of subparagraph (A), by striking “, United States Code”;

(ii) in the first sentence of subparagraph (B)—

(I) by striking “United States Code,”; and

(II) by striking “, United States Code”;

(iii) in the second sentence of subparagraph (B)—

(I) by striking “United States Code,”; and

(II) by striking “, United States Code.” and inserting a period;

(iv) in the last sentence of subparagraph (B), by striking “, United States Code”; and

(v) in subparagraph (C), by striking “, United States Code”; and

(C) in subsection (c)—

(i) in the subsection caption, by striking “, UNITED STATES CODE”; and

(ii) by striking “United States Code,”.

(3) Section 5 is amended in subsections (e) and (g), by striking “, United States Code” each place it appears.

(4) The table of chapters for part I is amended in the item relating to chapter 3, by striking “**before**” and inserting “**Before**”.

(5) The item relating to section 21 in the table of contents for chapter 2 is amended to read as follows:

“21. Filing date and day for taking action.”.

(6) The item relating to chapter 12 in the table of chapters for part II is amended to read as follows:

“12. Examination of Application .... 131”.

(7) The item relating to section 116 in the table of contents for chapter 11 is amended to read as follows:

“116. Inventors.”.

(8) Section 154(b)(4) is amended by striking “, United States Code,”.

(9) Section 156 is amended—

(A) in subsection (b)(3)(B), by striking “paragraphs” and inserting “paragraph”;

(B) in subsection (d)(2)(B)(i), by striking “below the office” and inserting “below the Office”; and

(C) in subsection (g)(6)(B)(iii), by striking “submittted” and inserting “submitted”.

(10) The item relating to section 183 in the table of contents for chapter 17 is amended by striking “of” and inserting “to”.

(11) Section 185 is amended by striking the second period at the end of the section.

(12) Section 201(a) is amended—

(A) by striking “United States Code,”; and

(B) by striking “5, United States Code.” and inserting “5.”.

(13) Section 202 is amended—

(A) in subsection (b)(4), by striking “last paragraph of section 203(2)” and inserting “section 203(b)”; and

(B) in subsection (c)—

(i) in paragraph (4), by striking "rights;" and inserting "rights,"; and

(ii) in paragraph (5), by striking "of the United States Code".

(14) Section 203 is amended—

(A) in paragraph (2)—

(i) by striking "(2)" and inserting "(b)";

(ii) by striking the quotation marks and comma before "as appropriate"; and

(iii) by striking "paragraphs (a) and (c)" and inserting "paragraphs (1) and (3) of subsection (a)"; and

(B) in the first paragraph—

(i) by striking "(a)", "(b)", "(c)", and "(d)" and inserting "(1)", "(2)", "(3)", and "(4)", respectively; and

(ii) by striking "(1." and inserting "(a)".

(15) Section 209 is amended in subsections (d)(2) and (f), by striking "of the United States Code".

(16) Section 210 is amended—

(A) in subsection (a)—

(i) in paragraph (11), by striking "5901" and inserting "5908"; and

(ii) in paragraph (20) by striking "178(j)" and inserting "178j"; and

(B) in subsection (c)—

(i) by striking "paragraph 202(c)(4)" and inserting "section 202(c)(4)"; and

(ii) by striking "title.." and inserting "title.".

(17) The item relating to chapter 29 in the table of chapters for part III is amended by inserting a comma after "**Patent**".

(18) The item relating to section 256 in the table of contents for chapter 25 is amended to read as follows:

"256. Correction of named inventor.".

(19) Section 294 is amended—

(A) in subsection (b), by striking "United States Code,"; and

(B) in subsection (c), in the second sentence by striking "court to" and inserting "court of".

(20) Section 371(d) is amended by adding at the end a period.

(21) Paragraphs (1), (2), and (3) of section 376(a) are each amended by striking the semicolon and inserting a period.

(b) OTHER AMENDMENTS.—

(1) Section 4732(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999 is amended—

(A) in paragraph (9)(A)(ii), by inserting "in subsection (b)," after "(ii)"; and

(B) in paragraph (10)(A), by inserting after "title 35, United States Code," the following: "other than sections 1 through 6 (as amended by chapter 1 of this subtitle),".

(2) Section 4802(1) of that Act is amended by inserting "to" before "citizens".

(3) Section 4804 of that Act is amended—

(A) in subsection (b), by striking "11(a)" and inserting "10(a)"; and

(B) in subsection (c), by striking "13" and inserting "12".

(4) Section 4402(b)(1) of that Act is amended by striking "in the fourth paragraph".

SEC. 13207. TECHNICAL CORRECTIONS IN TRADEMARK LAW.

(a) AWARD OF DAMAGES.—Section 35(a) of the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946") (15 U.S.C. 1117(a)), is amended by striking "a violation under section 43(a), (c), or (d)," and inserting "a violation under section 43(a) or (d),".

(b) ADDITIONAL TECHNICAL AMENDMENTS.—The Trademark Act of 1946 is further amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended in the first sentence by striking "specifying the date of the applicant's first use" and all that follows through the end of the sentence and inserting "specifying the date of the applicant's first use of the mark in commerce and those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce.".

(2) Section 1(e) (15 U.S.C. 1051(e)) is amended to read as follows:

"(e) If the applicant is not domiciled in the United States the applicant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.".

(3) Section 8(f) (15 U.S.C. 1058(f)) is amended to read as follows:

"(f) If the registrant is not domiciled in the United States, the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.".

(4) Section 9(c) (15 U.S.C. 1059(c)) is amended to read as follows:

"(c) If the registrant is not domiciled in the United States the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.".

(5) Subsections (a) and (b) of section 10 (15 U.S.C. 1060(a) and (b)) are amended to read as follows:

"(a)(1) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

"(2) In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted.

"(3) Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office, the record shall be prima facie evidence of execution.

"(4) An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office within 3 months after the date of the assignment or prior to the subsequent purchase.

"(5) The United States Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Director.

"(b) An assignee not domiciled in the United States may designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the assignee does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served upon the Director.".

(6) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking the second comma after "numeral".

(7) Section 33(b)(8) (15 U.S.C. 1115(b)(8)) is amended by aligning the text with paragraph (7).

(8) Section 34(d)(1)(A) (15 U.S.C. 1116(d)(1)(A)) is amended by striking "section 110" and all that follows through "(36 U.S.C. 380)" and inserting "section 220506 of title 36, United States Code,".

(9) Section 34(d)(1)(B)(ii) (15 U.S.C. 1116(d)(1)(B)(ii)) is amended by striking "section 110" and all that follows through "(36 U.S.C. 380)" and inserting "section 220506 of title 36, United States Code".

(10) Section 34(d)(11) is amended by striking "6621 of the Internal Revenue Code of 1954" and inserting "6621(a)(2) of the Internal Revenue Code of 1986".

(11) Section 35(b) (15 U.S.C. 1117(b)) is amended—

(A) by striking "section 110" and all that follows through "(36 U.S.C. 380)" and inserting "section 220506 of title 36, United States Code,"; and

(B) by striking "6621 of the Internal Revenue Code of 1954" and inserting "6621(a)(2) of the Internal Revenue Code of 1986".

(12) Section 44(e) (15 U.S.C. 1126(e)) is amended by striking "a certification" and inserting "a true copy, a photocopy, a certification,".

SEC. 13208. PATENT AND TRADEMARK FEE CLERICAL AMENDMENT.

The Patent and Trademark Fee Fairness Act of 1999 (113 Stat. 1537–546 et seq.), as enacted by section 1000(a)(9) of Public Law 106–113, is amended in section 4203, by striking "111(a)" and inserting "1113(a)".

SEC. 13209. COPYRIGHT RELATED CORRECTIONS TO 1999 OMNIBUS REFORM ACT.

Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

(1) Section 1007 is amended—

(A) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (2)(A)"; and

(B) in paragraph (3), by striking "1005(e)" and inserting "1005(d)".

(2) Section 1006(b) is amended by striking "119(b)(1)(B)(iii)" and inserting "119(b)(1)(B)(ii)".

(3)(A) Section 1006(a) is amended—

(i) in paragraph (1), by adding "and" after the semicolon;

(ii) by striking paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2).

(B) Section 1011(b)(2)(A) is amended to read as follows:

"(A) in paragraph (1), by striking 'primary transmission made by a superstation and embodying a performance or display of a work' and inserting 'performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed';".

SEC. 13210. AMENDMENTS TO TITLE 17, UNITED STATES CODE.

Title 17, United States Code, is amended as follows:

(1) Section 119(a)(6) is amended by striking "of performance" and inserting "of a performance".

*(2)(A) The section heading for section 122 is amended by striking "**rights; secondary**" and inserting "**rights: Secondary**".*

(B) The item relating to section 122 in the table of contents for chapter 1 is amended to read as follows:

"122. Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.".

*(3)(A) The section heading for section 121 is amended by striking "**reproduction**" and inserting "**Reproduction**".*

(B) The item relating to section 121 in the table of contents for chapter 1 is amended by striking "reproduction" and inserting "Reproduction".

(4)(A) Section 106 is amended by striking "107 through 121" and inserting "107 through 122".

(B) Section 501(a) is amended by striking "106 through 121" and inserting "106 through 122".

(C) Section 511(a) is amended by striking "106 through 121" and inserting "106 through 122".

(5) Section 101 is amended—

(A) by moving the definition of "computer program" so that it appears after the definition of "compilation"; and

(B) by moving the definition of "registration" so that it appears after the definition of "publicly".

(6) Section 110(4)(B) is amended in the matter preceding clause (i) by striking "conditions;" and inserting "conditions:".

(7) Section 118(b)(1) is amended in the second sentence by striking "to it".

(8) Section 119(b)(1)(A) is amended—

(A) by striking "transmitted" and inserting "retransmitted"; and

(B) by striking "transmissions" and inserting "retransmissions".

(9) Section 203(a)(2) is amended—

(A) in subparagraph (A)—

(i) by striking "(A) the" and inserting "(A) The"; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking "(B) the" and inserting "(B) The"; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking "(C) the" and inserting "(C) The".

(10) Section 304(c)(2) is amended—

(A) in subparagraph (A)—

(i) by striking "(A) the" and inserting "(A) The"; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking "(B) the" and inserting "(B) The"; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking "(C) the" and inserting "(C).The".

(11) The item relating to section 903 in the table of contents for chapter 9 is amended by striking "licensure" and inserting "licensing".

SEC. 13211. OTHER COPYRIGHT RELATED TECHNICAL AMENDMENTS.

(a) AMENDMENT TO TITLE 18.—Section 2319(e)(2) of title 18, United States Code, is amended by striking "107 through 120" and inserting "107 through 122".

(b) STANDARD REFERENCE DATA.—(1) Section 105(f) of Public Law 94–553 is amended by striking "section 290(e) of title 15" and inserting "section 6 of the Standard Reference Data Act (15 U.S.C. 290e)".

(2) Section 6(a) of the Standard Reference Data Act (15 U.S.C. 290e) is amended by striking "Notwithstanding" and all that follows through "United States Code," and inserting "Notwithstanding the limitations under section 105 of title 17, United States Code,".

Subtitle C—Educational Use Copyright Exemption

SEC. 13301. EDUCATIONAL USE COPYRIGHT EXEMPTION.

(a) SHORT TITLE.—This subtitle may be cited as the "Technology, Education, and Copyright Harmonization Act of 2002".

(b) EXEMPTION OF CERTAIN PERFORMANCES AND DISPLAYS FOR EDUCATIONAL USES.—Section 110 of title 17, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) except with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or a performance or display that is given by means of a copy or phonorecord that is not lawfully made and acquired under this title, and the transmitting government body or accredited nonprofit educational institution knew or had reason to believe was not lawfully made and acquired, the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission, if—

"(A) the performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution;

"(B) the performance or display is directly related and of material assistance to the teaching content of the transmission;

"(C) the transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—

"(i) students officially enrolled in the course for which the transmission is made; or

"(ii) officers or employees of governmental bodies as a part of their official duties or employment; and

"(D) the transmitting body or institution—

"(i) institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and

"(ii) in the case of digital transmissions—

"(I) applies technological measures that reasonably prevent—

"(aa) retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and

"(bb) unauthorized further dissemination of the work in accessible form by such recipients to others; and

"(II) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination;"; and

(2) by adding at the end the following:

"In paragraph (2), the term 'mediated instructional activities' with respect to the performance or display of a work by digital transmission under this section refers to activities that use such work as an integral part of the class experience, controlled by or under the actual supervision of the instructor and analogous to the type of performance or display that would take place in a live classroom setting. The term does not refer to activities that use, in 1 or more class sessions of a single course, such works as textbooks, course packs, or other material in any media, copies or phonorecords of which are typically purchased or acquired by the students in higher education for their independent use and retention or are typically purchased or acquired for elementary and secondary students for their possession and independent use.

"For purposes of paragraph (2), accreditation—

"(A) with respect to an institution providing post-secondary education, shall be as determined by a regional or national accrediting agency recognized by the Council on Higher Education Accreditation or the United States Department of Education; and

"(B) with respect to an institution providing elementary or secondary education, shall be as recognized by the applicable state certification or licensing procedures.

"For purposes of paragraph (2), no governmental body or accredited nonprofit educational institution shall be liable for infringement by reason of the transient or temporary storage of material carried out through the automatic technical process of a digital transmission of the performance or display of that material as authorized under paragraph (2). No such material stored on the system or network controlled or operated by the transmitting body or institution under this paragraph shall be maintained on such system or network in a manner ordinarily accessible to anyone other than anticipated recipients. No such copy shall be maintained on the system or network in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary to facilitate the transmissions for which it was made.".

(c) EPHEMERAL RECORDINGS.—

(1) IN GENERAL.—Section 112 of title 17, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

"(f)(1) Notwithstanding the provisions of section 106, and without limiting the application of subsection (b), it is not an infringement of copyright for a governmental body or other nonprofit

educational institution entitled under section 110(2) to transmit a performance or display to make copies or phonorecords of a work that is in digital form and, solely to the extent permitted in paragraph (2), of a work that is in analog form, embodying the performance or display to be used for making transmissions authorized under section 110(2), if—

"(A) such copies or phonorecords are retained and used solely by the body or institution that made them, and no further copies or phonorecords are reproduced from them, except as authorized under section 110(2); and

"(B) such copies or phonorecords are used solely for transmissions authorized under section 110(2).

"(2) This subsection does not authorize the conversion of print or other analog versions of works into digital formats, except that such conversion is permitted hereunder, only with respect to the amount of such works authorized to be performed or displayed under section 110(2), if—

"(A) no digital version of the work is available to the institution; or

"(B) the digital version of the work that is available to the institution is subject to technological protection measures that prevent its use for section 110(2).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 802(c) of title 17, United States Code, is amended in the third sentence by striking "section 112(f)" and inserting "section 112(g)".

(d) PATENT AND TRADEMARK OFFICE REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and after a period for public comment, the Undersecretary of Commerce for Intellectual Property, after consultation with the Register of Copyrights, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing technological protection systems that have been implemented, are available for implementation, or are proposed to be developed to protect digitized copyrighted works and prevent infringement, including upgradeable and self-repairing systems, and systems that have been developed, are being developed, or are proposed to be developed in private voluntary industry-led entities through an open broad based consensus process. The report submitted to the Committees shall not include any recommendations, comparisons, or comparative assessments of any commercially available products that may be mentioned in the report.

(2) LIMITATIONS.—The report under this subsection—

(A) is intended solely to provide information to Congress; and

(B) shall not be construed to affect in any way, either directly or by implication, any provision of title 17, United States Code, including the requirements of clause (ii) of section 110(2)(D) of that title (as added by this subtitle), or the interpretation or application of such provisions, including evaluation of the compliance with that clause by any governmental body or nonprofit educational institution.

Subtitle D—Madrid Protocol Implementation

SEC. 13401. SHORT TITLE.

This subtitle may be cited as the "Madrid Protocol Implementation Act".

SEC. 13402. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946") is amended by adding after section 51 the following:

"TITLE XII—THE MADRID PROTOCOL

"SEC. 60. DEFINITIONS.

"In this title:

"(1) BASIC APPLICATION.—The term 'basic application' means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(2) BASIC REGISTRATION.—The term 'basic registration' means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(3) CONTRACTING PARTY.—The term 'Contracting Party' means any country or inter-governmental organization that is a party to the Madrid Protocol.

"(4) DATE OF RECORDAL.—The term 'date of recordal' means the date on which a request for extension of protection, filed after an international registration is granted, is recorded on the International Register.

"(5) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term 'declaration of bona fide intention to use the mark in commerce' means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

"(A) the applicant or holder has a bona fide intention to use the mark in commerce;

"(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce; and

"(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, mistake, or deception.

"(6) EXTENSION OF PROTECTION.—The term 'extension of protection' means the protection resulting from an international registration that extends to the United States at the request of the holder of the international registration, in accordance with the Madrid Protocol.

"(7) HOLDER OF AN INTERNATIONAL REGISTRATION.—A 'holder' of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

"(8) INTERNATIONAL APPLICATION.—The term 'international application' means an application for international registration that is filed under the Madrid Protocol.

"(9) INTERNATIONAL BUREAU.—The term 'International Bureau' means the International Bureau of the World Intellectual Property Organization.

"(10) INTERNATIONAL REGISTER.—The term 'International Register' means the official collection of data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded.

"(11) INTERNATIONAL REGISTRATION.—The term 'international registration' means the registration of a mark granted under the Madrid Protocol.

"(12) INTERNATIONAL REGISTRATION DATE.—The term 'international registration date' means the date assigned to the international registration by the International Bureau.

"(13) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

"(14) NOTIFICATION OF REFUSAL.—The term 'notification of refusal' means the notice sent by the United States Patent and Trademark Office to the International Bureau declaring that an extension of protection cannot be granted.

"(15) OFFICE OF A CONTRACTING PARTY.—The term 'Office of a Contracting Party' means—

"(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks; or

"(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

"(16) OFFICE OF ORIGIN.—The term 'office of origin' means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

"(17) OPPOSITION PERIOD.—The term 'opposition period' means the time allowed for filing an opposition in the United States Patent and Trademark Office, including any extension of time granted under section 13.

"SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS.

"(a) IN GENERAL.—The owner of a basic application pending before the United States Patent and Trademark Office, or the owner of a basic registration granted by the United States Patent and Trademark Office may file an international application by submitting to the United States Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Director.

"(b) QUALIFIED OWNERS.—A qualified owner, under subsection (a), shall—

"(1) be a national of the United States;

"(2) be domiciled in the United States; or

"(3) have a real and effective industrial or commercial establishment in the United States.

"SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION.

"(a) CERTIFICATION PROCEDURE.—Upon the filing of an application for international registration and payment of the prescribed fees, the Director shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification.

"(b) TRANSMITTAL.—Upon examination and certification of the international application, the Director shall transmit the international application to the International Bureau.

"SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION.

"With respect to an international application transmitted to the International Bureau under section 62, the Director shall notify the International Bureau whenever the basic application or basic registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of the goods and services listed in the international registration—

"(1) within 5 years after the international registration date; or

"(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

"SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

"The holder of an international registration that is based upon a basic application filed with the United States Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

"(1) directly with the International Bureau; or

"(2) with the United States Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Director.

"SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

"(a) In General.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

"(b) If the United States Is Office of Origin.—Where the United States Patent and Trademark Office is the office of origin for a trademark application or registration, any international registration based on such application or registration cannot be used to obtain the benefits of the Madrid Protocol in the United States.

"SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

"(a) Requirement for Request for Extension of Protection.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the United States Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

"(b) Effect of Proper Filing.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

"(1) The international registration date, if the request for extension of protection was filed in the international application.

"(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

"(3) The date of priority claimed pursuant to section 67.

"SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES.

"The holder of an international registration with a request for an extension of protection to the United States shall be entitled to claim a date of priority based on a right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

"(1) the request for extension of protection contains a claim of priority; and

"(2) the date of international registration or the date of the recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention for the Protection of Industrial Property).

"SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL.

"(a) Examination and Opposition.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Director shall cause the mark to be published in the Official Gazette of the United States Patent and Trademark Office.

"(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13.

"(3) Extension of protection shall not be refused on the ground that the mark has not been used in commerce.

"(4) Extension of protection shall be refused to any mark not registrable on the Principal Register.

"(b) Notification of Refusal.—If, a request for extension of protection is refused under subsection (a), the Director shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

"(c) Notice to International Bureau.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Director shall transmit to the International Bureau any of the following that applies to such request:

"(A) A notification of refusal based on an examination of the request for extension of protection.

"(B) A notification of refusal based on the filing of an opposition to the request.

"(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

"(2) If the Director has sent a notification of the possibility of opposition under paragraph (1)(C), the Director shall, if applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

"(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Director after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

"(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Director shall issue a certificate of extension of protection pursuant to the request.

"(d) Designation of Agent for Service of Process.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served. Such notices or process may be served upon the person designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation filed. If the person designated cannot be found at the address given in the last designation, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States for service of notices or process in proceedings affecting the mark, the notice or process may be served on the Director.

"SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

"(a) Issuance of Extension of Protection.—Unless a request for extension of protection is refused under section 68, the Director shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the United States Patent and Trademark Office.

"(b) Effect of Extension of Protection.—From the date on which a certificate of extension of protection is issued under subsection (a)—

"(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register; and

"(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

"SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

"(a) Effect of Cancellation of International Registration.—If the International Bureau notifies the United States Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Director shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

"(b) Effect of Failure To Renew International Registration.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

"(c) Transformation of an Extension of Protection Into a United States Application.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

"SEC. 71. AFFIDAVITS AND FEES.

"(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Director—

"(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Director, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; and

"(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Director, and at the end of each 10-year period thereafter, unless—

"(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the United States Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; or

"(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and the surcharge prescribed by the Director.

"(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

"(c) NOTIFICATION.—The Director shall notify the holder of the international registration who files 1 of the affidavits of the Director's acceptance or refusal thereof and, in case of a refusal, the reasons therefor.

"(d) SERVICE OF NOTICE OR PROCESS.—The holder of the international registration of the mark may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person designated cannot be found at the address given in the last designation, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States for service of notices or process in proceedings affecting the mark, the notice or process may be served on the Director.

"SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

"An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

"SEC. 73. INCONTESTABILITY.

"The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Director issues the certificate of the extension of protection under section 69, except as provided in section 74.

"SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

"When a United States registration and a subsequently issued certificate of extension of protection to the United States are owned by the same person, identify the same mark, and list the same goods or services, the extension of protection shall have the same rights that accrued to the registration prior to issuance of the certificate of extension of protection.".

SEC. 13403. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date on which the Madrid Protocol (as defined in section 60 of the Trademark Act of 1946) enters into force with respect to the United States; or

(2) the date occurring 1 year after the date of enactment of this Act.

TITLE IV—ANTITRUST TECHNICAL CORRECTIONS ACT OF 2002

SEC. 14101. SHORT TITLE.

This title may be cited as the "Antitrust Technical Corrections Act of 2002".

SEC. 14102. AMENDMENTS.

(a) PANAMA CANAL ACT.—Section 11 of the Panama Canal Act (37 Stat. 566; 15 U.S.C. 31) is amended by striking the undesignated paragraph that begins "No vessel permitted".

(b) SHERMAN ACT.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended—

(1) by inserting "(a)" after "SEC. 3."; and

(2) by adding at the end the following:

"(b) Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in any Territory of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia, and any State or States or foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.".

(c) WILSON TARIFF ACT.—

(1) TECHNICAL AMENDMENT.—The Wilson Tariff Act (28 Stat. 509; 15 U.S.C. 8 et seq.) is amended—

(A) by striking section 77; and

(B) in section 78—

(i) by striking "76, and 77" and inserting "and 76"; and

(ii) by redesignating such section as section 77.

(2) CONFORMING AMENDMENTS TO OTHER LAWS.—

(A) CLAYTON ACT.—Subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) is amended by striking "seventy-seven" and inserting "seventy-six".

(B) FEDERAL TRADE COMMISSION ACT.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by striking "77" and inserting "76".

(C) PACKERS AND STOCKYARDS ACT, 1921.—Section 405(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 225(a)) is amended by striking "77" and inserting "76".

(D) ATOMIC ENERGY ACT OF 1954.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by striking "seventy-seven" and inserting "seventy-six".

(E) DEEP SEABED HARD MINERAL RESOURCES ACT.—Section 103(d)(7) of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1413(d)(7)) is amended by striking "77" and inserting "76".

(d) CLAYTON ACT.—The first section 27 of the Clayton Act (15 U.S.C. 27) is redesignated as section 28 and is transferred so as to appear at the end of such Act.

(e) YEAR 2000 INFORMATION AND READINESS DISCLOSURE ACT.—Section 5(a)(2) of the Year 2000 Information and Readiness Disclosure Act (Public Law 105–271) is amended by inserting a period after "failure".

(f) ACT OF MARCH 3, 1913.—The Act of March 3, 1913 (chapter 114, 37 Stat. 731; 15 U.S.C. 30) is repealed.

(g) REPEAL.—Section 116 of the Act of November 19, 2001 is repealed.

SEC. 14103. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) APPLICATION TO CASES.—(1) Section 14102(f) shall apply to cases pending on or after the date of the enactment of this Act.

(2) The amendments made by subsections (a), (b), and (c) of section 14102 shall apply only with respect to cases commenced on or after the date of enactment of this Act.

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HENRY HYDE,
GEORGE W. GEKAS,
J. HOWARD COBLE,
LAMAR SMITH,
ELTON GALLEGLY,
JOHN CONYERS, Jr.,
BARNEY FRANK,
BOBBY SCOTT,
TAMMY BALDWIN,
(*Provided*, That Mr. BERMAN is appointed in lieu of Ms. BALDWIN for consideration of sec. 312 of the Senate amendment, and modifications committed to conference.)
HOWARD BERMAN

From the Committee on Energy and Commerce, for consideration of secs. 2203–6, 2206, 2210, 2801, 2901–2911, 2951, 4005, and title VIII of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,
JOHN D. DINGELL,

From the Committee on Education and the Workforce, for consideration of secs. 2207, 2301, 2302, 2311, 2321–4, and 2331–4 of the Senate amendment, and modifications committed to conference:

PETER HOEKSTRA,
MICHAEL N. CASTLE,
GEORGE MILLER,
Managers on the Part of the House.

PATRICK LEAHY,
TED KENNEDY,
ORRIN HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act, to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck the entire House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

Section 1. Short title and table of contents

Section 1 provides that the short title of the Act shall be the 21st Century Department of Justice Appropriations Authorization Act, as well as the Table of Contents.

DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

Section 101. Specific sums authorized to be appropriated for fiscal year 2002

Section 101 authorizes appropriations to carry out the work of the various components of the Department of Justice for fiscal year 2002. The structure of section 101 mirrors the organization of the annual Commerce-Justice-State (CJS) appropriations bill and the President's budget request. The section authorizes the appropriations of amounts requested by the President in most accounts and as enacted in Public Law 107-77. This provision is similar to section 101 of the House bill. The accounts, and the activities and components that each would fund, are as follows:

General Administration—$92,668,000.—For the leadership offices of the Department (including the offices of the Attorney General and Deputy Attorney General) and the Justice Management Division, Executive Support Program, Intelligence Policy, Office of Professional Responsibility, and General Administration.

Administrative Review and Appeals—$173,647,000.—For the Executive Office for Immigration Review and the Office of the Pardon Attorney.

Office of Inspector General—$50,735,000.—For the investigation of allegations of violations of criminal and civil statutes, regulations, and ethical standards by Department employees, and for the new position of Deputy Inspector General to oversee the Federal Bureau of Investigation. This amount is $10 million above the President's request. The IG's Office has been severely downsized over the last several years from approximately 460 to 360 full-time equivalents. Oversight is a priority and this level of funding should get the IG back on the path of meeting the audit and oversight needs of the Department. The Committee expects that the OIG will substantially increase its oversight of the FBI, INS, and the Department's grant programs.

General Legal Activities—$549,176,000.—For the conduct of the legal activities of the Department. This includes the Office of Solicitor General, Tax Division, Criminal Division, Civil Division, Environment and Natural Resources Division, Civil Rights Division, Office of Legal Counsel, Interpol, Legal Activities Office Automation, and Office of Dispute Resolution. The authorization includes not less than $4,000,000 to augment the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

Antitrust Division—$140,973,000.—For decreasing anticompetitive behavior among U.S. businesses and increasing the competitiveness of the national and international business environment.

United States Attorneys—$1,353,968,000.—For the 94 U.S. Attorneys and their offices and the Executive Office of U.S. Attorneys. The U.S. Attorneys represent the United States in the vast majority of criminal and civil cases handled by the Justice Department. The authorization includes not less than $10,000,000 to augment the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105-147).

Federal Bureau of Investigation—$3,524,864,000.—For the detection, investigation, and prosecution of crimes against the United States. The FBI is also authorized by Executive Order to protect against foreign intelligence and international terrorist activities and, in certain circumstances, to collect foreign intelligence.

United States Marshals Service—$648,696,000.—To protect the Federal courts and its personnel and to ensure the effective operation of the Federal judicial system, of which no more than $15,000,000 may be used for construction.

Federal Prison System—$4,622,152,000.—For the administration, operation, and maintenance of Federal penal and correctional institutions.

Federal Prison Detention—$706,182,000.—For the support of U.S. prisoners in non-Federal institutions, as authorized by 18 U.S.C. 4013(a).

Drug Enforcement Agency—$1,481,783,000.—To enforce the controlled substance laws and regulations of the United States and to recommend and support nonenforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets.

Immigration and Naturalization Service—$3,499,854,000.—For the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, of which no more than $2,739,695,000 for salaries and expenses and border affairs, no more than $631,745,000 for salaries and expenses of citizenship and benefits, and no more than $128,454,000 for construction.

Fees and Expenses of Witnesses—$156,145,000.—For fees and expenses associated with providing witness testimony on behalf of the United States, expert witnesses, and private counsel for Government employees who have been sued, charged, or subpoenaed for actions taken while performing their official duties.

Interagency Crime and Drug Enforcement—$338,577,000.—For the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking.

Foreign Claims Settlement Commission—$1,136,000.—To adjudicate claims of U.S. nationals against foreign governments under jurisdiction conferred by the International Claims Settlement Act of 1949, as amended, and other authorizing legislation.

Community Relations Service (CRS)—$9,269,000.—To assist communities in preventing violence and resolving conflicts arising from racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance. CRS activities are conducted in accordance with title X of the Civil Rights Act of 1964.

Assets Forfeiture Fund—$22,949,000.—To provide a stable source of resources to cover the costs of the asset seizure and forfeiture program, including the costs of seizing, evaluating, inventorying, maintaining, protecting, advertising, forfeiting, and disposing of property.

United States Parole Commission—$9,876,000.—For the activities of the U.S. Parole Commission. The Commission has jurisdiction over all Federal prisoners eligible for parole, wherever confined, and continuing jurisdiction over those who are released on parole or as if on parole.

Federal Detention Trustee—$1,000,000.—For necessary expenses to exercise all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the U.S. Marshals Service; and the detention of aliens in the custody of the Immigration and Naturalization Service.

Joint Automated Booking System—$1,000,000.—For expenses necessary for the nationwide deployment of a Joint Automated Booking System including automated capability to transmit fingerprint and image data.

Narrowband Communications—$94,615,000.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems.

Radiation Exposure Compensation.—such sums as necessary—For administrative expenses in accordance with the Radiation Exposure Compensation Act.

Counterterrorism Fund—$4,989,000.—For the reimbursement of costs authorized by section 101 of the USA PATRIOT Act (Public Law 107-56).

Office of Justice Programs—$132,862,000.—For necessary administrative expenses of the Office of Justice Programs.

Section 102. Specific sums authorized to be appropriated for fiscal year 2003

Section 102 authorizes appropriations to carry out the work of the various components of the Department of Justice for fiscal year 2003. The conferees added this section to the conference report to reflect the President's budget request for fiscal year 2003, which was released after passage of the House and Senate bills. There are authorized to be appropriated for fiscal year 2003, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

General Administration.—$121,079,000.—For the leadership offices of the Department (including the offices of the Attorney General and Deputy Attorney General) and the Justice Management Division, Executive Support Program, Intelligence Policy, Office of Professional Responsibility, and General Administration.

Administrative Review and Appeals.—$198,869,000.—For the Executive Office for Immigration Review and the Office of the Pardon Attorney.

Office of Inspector General.—$66,288,000.—For the investigation of allegations of violations of criminal and civil statutes, regulations, and ethical standards by Department employees, and for the new position of Deputy Inspector General to oversee the Federal Bureau of Investigation.

General Legal Activities.—$659,181,000.—For the conduct of the legal activities of the Department. This includes the Office of Solicitor General, Tax Division, Criminal Division, Civil Division, Environment and Natural Resources Division, Civil Rights Division, Office of Legal Counsel, Interpol, Legal Activities Office Automation, and Office of Dispute Resolution. The authorization includes not less than $4,000,000 to augment the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

Antitrust Division.—$141,855,000.—For decreasing anticompetitive behavior among U.S. businesses and increasing the competitiveness of the national and international business environment.

United States Attorneys.—$1,550,948,000.—For the 94 U.S. Attorneys and their offices and the Executive Office of U.S. Attorneys. The U.S. Attorneys represent the United States in the vast majority of criminal and civil cases handled by the Justice Department. The authorization includes not less than $10,000,000 to augment the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105-147).

Federal Bureau of Investigation.—$4,323,912,000.—For the detection, investigation, and prosecution of crimes against the United States. The FBI is also authorized by Executive Order to protect against foreign intelligence and international terrorist activities and, in certain circumstances, to collect foreign intelligence.

United States Marshals Service.—$737,346,000.—To protect the Federal courts and its personnel and to ensure the effective operation of the Federal judicial system, of which no more than $6,621,000 may be used for construction.

Federal Prison System.—$4,605,068,000.—For the administration, operation, and maintenance of Federal penal and correctional institutions.

Drug Enforcement Administration.—$1,582,044,000.—To enforce the controlled substance laws and regulations of the United States and to recommend and support nonenforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets.

Immigration and Naturalization Service.—$4,131,811,000. For the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, of which no more than $3,253,561,000 for salaries and expenses of Border Patrol; no more than $88,598,000 for salaries and expenses of immigration services, including international services; and no more than $789,652,000 for salaries and expenses for support and administration.

School Compliance with INS Regulations: Designated School Officials (DSO) Certification. The conferees strongly endorse a plan for the INS to implement after January 31, 2003, a comprehensive training program for DSOs. This program should educate DSOs on their professional responsibilities with regards to IIRIRA, the USA PATRIOT Act and SEVIS and should employ a testing mechanism to verify this understanding. In addition, the training system should include a mechanism for creating a "professional register" of DSOs who have completed the requisite training and are, therefore, eligible to perform this vital function. It is recommended that the program be outsourced to a private-sector company with the ability to implement such a program effectively, rapidly and at little or no cost to the Federal Government.

Fees and Expenses of Witnesses.—$156,145,000.—For fees and expenses associated with providing witness testimony on behalf of the United States, expert witnesses, and private counsel for Government employees who have been sued, charged, or subpoenaed for actions taken while performing their official duties.

Interagency Crime and Drug Enforcement.—$362,131,000.—For the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking.

Foreign Claims Settlement Commission.—$1,194,000.—To adjudicate claims of U.S. nationals against foreign governments under jurisdiction conferred by the International Claims Settlement Act of 1949, as amended, and other authorizing legislation.

Community Relations Service.—$10,732,000.—To assist communities in preventing violence and resolving conflicts arising from racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance. CRS activities are conducted in accordance with title X of the Civil Rights Act of 1964. The increased authorization provided by this section is intended to support the addition of six full-time employees to accommodate the expansion of the Community Relations Service's efforts to address heightened tension and potential for conflict in many communities in the wake of the September 11, 2001 attacks on the United States.

Assets Forfeiture Fund.—$22,949,000.—To provide a stable source of resources to cover the costs of the asset seizure and forfeiture program, including the costs of seizing, evaluating, inventorying, maintaining, protecting, advertising, forfeiting, and disposing of property.

United States Parole Commission.—$11,355,000.—For the activities of the U.S. Parole Commission. The Commission has jurisdiction over all Federal prisoners eligible for parole, wherever confined, and continuing jurisdiction over those who are released on parole or as if on parole.

Federal Detention Trustee.—$1,388,583,000.—For necessary expenses to exercise all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the U.S. Marshals Service; and the detention of aliens in the custody of the Immigration and Naturalization Service.

Identification System Integration.—$24,505,000.—For expenses necessary for the operation of the Identification System Integration.

Narrowband Communications.—$149,292,000.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems.

Radiation Exposure Compensation.—such sums as necessary.—For administrative expenses in accordance with the Radiation Exposure Compensation Act.

Counterterrorism Fund.—$35,000,000.—For the reimbursement of costs authorized by section 101 of the USA PATRIOT Act (Public Law 107-56).

Office of Justice Programs.—$215,811,000.—For administrative expenses not otherwise provided for, of the Office of Justice Programs.

Legal Activities Office.—$15,942,000.—For necessary expenses related to office automation.

Section 103. Appointment of additional Assistant United States Attorneys; reduction of certain litigation positions

This section authorizes the Attorney General to transfer 200 additional Assistant U.S. Attorneys from among the six litigating divisions at the Justice Department's headquarters (Main Justice) in Washington, DC., to the various U.S. Attorneys offices around the country. Vacant positions resulting from transfers pursuant to this section will be terminated. This section is intended to raise the productivity of Washington—based lawyers, who litigate criminal and civil cases across the nation for the Justice Department, by moving them to the field. Litigating attorneys for the Government are most effective in the Federal judicial district where their cases are pending. The appointment authorization is at the discretion of the Attorney General. This provision is identical to section 101 of the Senate bill and similar to section 102 of the House bill.

Section 104. Authorization of Additional Assistant United States Attorneys for project safe neighborhoods

This section authorizes an additional Assistant United States Attorney in each of the 94 U.S. Attorney Offices to implement part of the Administration's Project Safe Neighborhoods proposal to reduce school gun violence across the Nation. These prosecutors will assist in targeting juveniles who obtain weapons and commit violent crimes, as well as the adults who place firearms in the hands of juveniles. This provision is identical to section 102 of the Senate bill.

TITLE II—PERMANENT ENABLING PROVISIONS

Section 201. Permanent authority

Section 201 amends chapter 31 of title 28, United States Code, by creating a new section, "530C". This section details permitted uses of available funds by the Attorney General to carry out the activities of the Justice Department. General permitted uses of available funds include:

Payment for motor vehicles, boats, and aircraft;

Payment for service of experts and consultants, and payment for private counsel;

Payment for official reception and representation expenses and public tours;

Payment of unforeseen emergencies of a confidential character;

Payment of miscellaneous and emergency expenses;

Payment of certain travel and attendance expenses;

Payment of contracts for personal services abroad;

Payment of interpreters and translators;

Payment for uniforms;

Payment for primary and secondary schooling of dependents of personnel stationed overseas; and

Payment for rewards, including authority for terrorism-related rewards previously authorized by the USA PATRIOT Act (Public Law 107-56));

Specific permitted uses of available funds include:

Payment for aircraft and boats;

Payment for ammunition, firearms, and firearm competitions; and

Payment for construction of certain facilities.

The use of funds appropriated for Fees and Expenses of Witnesses is limited to certain expenses and the construction of witness safesites. The use of funds appropriated for the Federal Bureau of Investigation is limited to the detection, investigation, and prosecution of crimes against the United States. The use of funds appropriated for the Immigration and Naturalization Service is limited to general Immigration and Naturalization Service activities. The use of appropriated funds for the Federal Prison System is limited to general function of the Federal Prison System. The use of appropriated funds for the Detention Trustee is limited to the functions authorized by law relating to the detention of Federal prisoners in non—Federal institutions or otherwise in the custody of the U.S. Marshals Service and for the detention of aliens in the custody of the INS.

The Attorney General is prohibited from compensating employed attorneys who are not duly licensed and authorized to practice under the law of a State, U.S. territory, or the District of Columbia. And reimbursement payments to governmental units of the Department of Justice, other Federal entities, or State or local governments are limited to uses permitted by the authority permitting such reimbursement payment.

The section also permits the FBI and other components of the Department of Justice to enter into cooperative projects with foreign countries to improve law enforcement or intelligence operations and to authorize the Attorney General to charge and collect a fee for training of railroad police officers. In addition, the section authorizes the Attorney General to seek reimbursement of warranty work performed at Department of Justice facilities. The administration requested these provisions in its budget submissions for fiscal year 2002 and fiscal year 2003. This provision is similar to section 201 of the Senate and House bills.

Section 202. Permanent authority relating to enforcement of laws

Section 202 amends chapter 31 of title 28, United States Code, by creating a new section, "530D" relating to reporting on the enforcement of laws. This section directs the Attorney General to report to Congress in any case in which the Attorney General, the President, head of executive agency, or military department:

(1) Establishes a policy to refrain from enforcing any provision of a Federal statute, rule, regulation, program, policy, or other law within the responsibility of the Attorney General;

(2) Refrains from adhering to, enforcing, applying, or complying with any other judicial determination or other statute, rule, regulation, program, or policy within the responsibility of the Attorney General;

(3) Decides to contest in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law;

(4) Refrains from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of such provision when the constitutionality of the provision is challenged; or

(5) When the Attorney General approves the settlement or compromise of any claim, suit or other action against the United States for more than $2,000,000 (excluding prejudgment interest) or for certain injunctive relief against the Government that is likely to exceed three years.

Each report, which is subject to certain time and content requirements, must be submitted to the Majority and Minority Leaders of the Senate, the Speaker of the House, House Majority Leader, House Minority Leader, and the Chairman and ranking minority member of the Senate and House Committees on the Judiciary, the Senate Legal Counsel and the General Counsel of the House of Representatives. Section 202 also includes a number of conforming amendments.

This provision is similar to section 202 of the Senate and House bills.

Section 203. Miscellaneous uses of funds; technical amendments

Section 203 provides technical amendments to the Bureau of Justice Assistance grant programs in title I of the Omnibus Crime Control and Safe Streets Act of 1968. It also makes minor amendments to the amount available to compensate attorneys specially retained by the Attorney General. This provision is identical to section 203 of the Senate bill and similar to section 204 House bill.

Section 204. Technical and miscellaneous amendments to Department of Justice authorities; authority to transfer property of marginal value; recordkeeping; protection of the Attorney General

Section 204 makes technical amendments to section 524(c) of title 28, United States Code, clarifies the Attorney General's authority to transfer property of marginal value, and requires the use of standard criteria for the purpose of categorizing offenders, victims, actors, and those acted upon in any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose. It also requires the Attorney General to notify Congress in writing of any civil asset forfeiture award greater than $500,000. This section further makes several clerical and technical amendments to title 28, United States Code. In addition, this section adds authority to ensure that no inference is created that the Government is liable for interest on certain retroactive payments made by the Department of Justice, and to improve financial systems and debt-collection activities. This provision is identical to section 204 of the Senate bill and similar to section 205 of the House bill.

Section 205. Oversight; waste, fraud, and abuse within the Department of Justice

Section 205 amends section 529 of title 28, United States Code, to require the Attorney General to submit an annual report to the House and Senate Committees on the Judiciary describing:

Every grant, cooperative agreement, or programmatic services contract that was made, entered into, awarded, or supplemented in the immediately preceding fiscal year by or on behalf of the Office of Justice Programs (other than one made to a governmental entity, pursuant to a statutory formula); and

A report on every grant, cooperative agreement, or programmatic services contract made, entered into, awarded, or supplemented by or on behalf of the Office of Justice Programs that was terminated or that otherwise ended in the immediately preceding fiscal year (other than one made to a governmental entity, pursuant to a statutory formula).

In addition, section 205 amends the Anti-Lobbying Act to expand its coverage to all legislative activity at the Federal and State level and establishes a new reporting requirement on the enforcement and prosecution of copyright infringements, along with a number of conforming amendments. This provision is similar to section 205 of the Senate bill and section 206 of the House bill.

Section 206. Enforcement of Federal criminal laws by Attorney General

Section 206 provides clarifying amendments to title 28, United States Code, relating to the enforcement of Federal criminal law. This provision is identical to section 206 of the Senate bill and section 207 of the House bill.

Section 207. Strengthening law enforcement in United States territories, commonwealths, and possessions

Section 207 allows the payment of a retention bonus and other extended assignment incentives to retain law enforcement personnel in U.S. territories, commonwealths and possessions. This new authority is needed to continue the fight against drug and crime problems in these areas. This provision is identical to section 208 of the Senate bill.

TITLE III—MISCELLANEOUS

Section 301. Repealers

Section 301 repeals open-ended authorizations of appropriations for the National Institute of Corrections and the U.S. Marshals Service and redundant authorizations for payment of rewards. This provision is similar to section 301 of the Senate and House bills.

Section 302. Technical amendments to Title 18 of the United States Code

Section 302 makes several minor clarifying amendments to title 18, United States Code. Section 302(3) moves a comma that became the focus of a statutory construction question in Crandon v. United States.[1] This provision is identical to section 302 of the Senate and House bills.

Section 303. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal years 2004 and 2005

Section 303 requires the President to submit a Department of Justice authorization bill for fiscal years 2004 and 2005 to the House and Senate Committees on the Judiciary when the President submits his fiscal year 2004 budget request. This authorization bill should contain any recommended additions, changes or modifications to existing authorities that may be necessary to carry out the functions of the Department. Any such addition, change, or modification should be accompanied by a description of the change and the justification for the change. This provision is similar to section 303 of the Senate and House bills.

Section 304. Study of untested rape examination kits

Section 304 requires the Attorney General to conduct a study and assessment of untested rape examination kits that currently exist nationwide, including information from all law enforcement jurisdictions. The Attorney General is required to submit a report of this study and assessment to the Congress. This provision is identical to section 304 of the Senate bill and section 305 of the House bill.

Section 305. Reports on use of DCS 1000 (carnivore)

Section 305 requires the Attorney General and Director of the Federal Bureau of Investigation to submit a timely report to the

---

[1] 494 U.S. 152 (1990) (J. Scalia concurring).

House and Senate Committees on the Judiciary detailing, among other things, as:

(1) The kind and number of orders or extensions applied for to authorize the use of the DCS 1000 program (or any subsequent version of such program);

(2) The period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(3) The offense specified in the order or application, or extension of an order;

(4) The number and nature of the facilities affected;

(5) The identity of the applying investigative or law enforcement agency making the application for an order; and

(6) The specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program).

This provision is identical to section 305 of the Senate bill and is similar to section 306 of the House bill.

Section 306. Study of allocation of litigating attorneys

Section 306 requires the Attorney General to report to Congress within 180 days of enactment of this bill on the allocation of funds, attorneys, and other personnel, per-attorney workloads for each office of U.S. Attorney and each division of the Department of Justice. This provision is identical to section 306 of the Senate bill.

Section 307. Use of Truth-in-Sentencing and Violent Offender Incarceration Grants

Section 307 provides States with flexibility to use existing Truth-In-Sentencing and Violent Offender Incarceration Grants to account for juveniles being housed in adult prison facilities. This provision is identical to section 307 of the Senate bill.

Section 308. Authority of the Department of Justice Inspector General

Section 308 would amend Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) to provide explicit statutory authority for the Office of the Inspector General ("OIG") to investigate all allegations of criminal or administrative misconduct by DOJ employees, including FBI personnel. The OIG is also authorized to refer certain matters to the FBI Office of Professional Responsibility or to the internal affairs office of the appropriate component of the Department. The Attorney General is directed to promulgate regulations implementing this OIG authority. The section would make clear that the OIG may investigate alleged misconduct by DOJ component heads.

For many years, the FBI was excluded from OIG jurisdiction and the FBI's own internal Office of Professional Responsibility had sole authority to investigate FBI personnel misconduct, unless the Attorney General made an exception. The FBI's exclusive domain to investigate its own misconduct was unique in the Department and created the appearance of a conflict of interest. On July 11, 2001, Attorney General Ashcroft issued a new rule expanding the OIG's jurisdiction over the FBI. This section is consistent with, and codifies, the Attorney General's new rule.

This provision is similar to section 308 of the Senate bill.

Section 309. Review of the Department of Justice

To ensure that the OIG has the necessary structure and resources to effectively assume its new jurisdiction over the FBI and that the Congress is fully informed of such needs, this section requires the Inspector General to: (1) appoint an official to help supervise and coordinate oversight operations and programs of the FBI during the transition period; (2) conduct a comprehensive study of the FBI and report back to the House and Senate Judiciary Committees with a plan for auditing and evaluating various parts of the FBI (including information technology) and for effective continued OIG oversight; and (3) report back to the House and Senate Judiciary Committees on whether an Inspector General for the FBI should be established. The section would add a requirement to report on FBI administrative changes to implement the OIG authority, on different internal investigative methods used by DOJ components and steps to bring uniformity, and on whether recommended guidelines should be developed for the discipline of DOJ personnel for misconduct. This provision is similar to section 309 of the Senate bill and section 304 of the House bill.

Section 310.—Authorization of appropriations

The conferees agreed to add this section to authorize appropriations for the OIG and the FBI Office of Professional Responsibility for fiscal year 2003.

Subsection (a) would authorize $2,000,000 to be appropriated to the Department of Justice for fiscal year 2003 for three purposes: first, to increase the staffing level of the OIG by 25 full-time employees to conduct an increased number of audits, inspections, and investigations of alleged misconduct by FBI employees; second, to fund additional audit coverage of the grant programs administered by the Office of Justice Programs of the Department of Justice; and third, to conduct special reviews of FBI efforts to implement recommendations made by the OIG in reports on alleged misconduct by the Bureau.

Subsection (b) would authorize $1,700,000 to be appropriated to the FBI for fiscal year 2003 to increase the staffing level of the FBI Office of Professional Responsibility by 10 full-time special agents and 4 full-time support employees.

Section 311. Report on threats and assaults against Federal law enforcement officers, United States judges, United States officials and their families

Section 311 repeals a burdensome reporting requirement on the compilation of statistics relating to intimidation of Government employees and requires the Attorney General to report to Congress not later than 45 days after the end of the fiscal year 2002 on the number of investigations and prosecutions on threats and assaults against Federal law enforcement officers, U.S. judges, U.S. officials and their families. This provision is similar to section 311 of the Senate bill and the repeal provision is identical to the repeal provision in section 301 of the House bill.

Section 312. Additional Federal judgeships

Section 312 authorizes eight new permanent judgeships as follows: five judgeships in the Southern District of California, two judgeships in the Western District of Texas, and one judgeship in the Western District of North Carolina. It would also convert four temporary judgeships to permanent judgeships—one each in the Central District of Illinois, the Southern District of Illinois, the Northern District of New York, and the Eastern District of Virginia. Additionally, section 312 creates seven new temporary judgeships, one each in the Northern District of Alabama, the District of Arizona, the Central District of California, the Southern District of Florida, the District of New Mexico, the Western District of North Carolina, and the Eastern District of Texas. Finally, it extends the temporary judgeship in the Northern District of Ohio for five years.

TITLE IV—VIOLENCE AGAINST WOMEN

Section 401. Short title

Section 401 establishes the "Violence Against Women Office Act" as the short title.

Section 402. Establishment of Violence Against Women Office

Section 402 specifies that Part T of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3796gg et seq.) will be amended by the following insertion, and changes the existing paragraph numbers to incorporate the amendment.

Section 2002. Establishment of Violence Against Women Office

Section 2002 creates a separate and independent Violence Against Women Office (hereinafter the "Office") in the Department of Justice, under the general authority of the Attorney General. The Office shall be headed by a Director who reports directly to the Attorney General and has final authority over all grants, cooperative agreements and contracts awarded by the Office.

Section 2002 also affirms that the Office has the sole jurisdiction over all the duties and functions delineated for the Director in Section 2004, and that the Office is solely responsible for coordination with other departments, agencies, or offices of all activities authorized or undertaken under the Violence Against Women Act of 1994 (Title VI of Public 103-322) and the Violence Against Women Act of 2000 (Division B of Public Law 106-386). For instance, since its inception in 1995, the Violence Against Women Office has handled and coordinated the Department of Justice's legal and policy issues regarding violence against women—everything from enforcing protection orders across state lines to issuing annual reports on stalking. The jurisdiction provision ensures that coordination such as this will continue.

In addition, the Violence Against Women Office also works with other federal agencies, such as the Department of Housing and Urban Development, the Department of Health and Human Services, and the Immigration and Naturalization Service about federal policies, programs, statutes, and regulations that impact violence against women such as immigration procedures for battered immigrant women, public housing assistance for battered women and their children, and women's health programs. Pursuant to this jurisdiction section, inter-department coordination such as this will continue.

Section 2003. Director of Violence Against Women Office

Section 2003 establishes that the Office shall be headed by a Director appointed by the President and confirmed by the Senate. In addition, the Director is prohibited from other employment during service as Director. This provision specifies that compensation for the Director shall not exceed the rate payable for Level V of the Executive Schedule under §5316 of Title 5, United States Code.

Section 2004. Duties and functions of director of Violence Against Women Office

Section 2004 delineates the duties and functions of the director and correspondingly, the jurisdiction of the Office as set forth in §2002 and they are as follows:

(1) Maintaining liaison with the judicial branches of the Federal and State governments on matters relating to violence against women;

(2) Providing information to the President, the Congress, the judiciary, State, local and tribal governments, the general public on matters relating to violence against women;

(3) Serving, at the request of the Attorney General, as the representative of the Department of Justice on domestic task forces, committees, or commissions addressing policy or issues relating to violence against women;

(4) Serving, at the request of the President, acting through the Attorney General, as the representative of the United States Government on human rights and economic justice matters related to violence against women in international fora, including, but not limited to, the United Nations;

(5) Carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (Title IV of Public Law 103-322) and the Violence Against Women Act of 2000 (Division B of Public Law 106-386) including with respect to those functions—

(A) the development of policy, protocols, and guidelines;

(B) the development and management of grant programs and other programs, and the provision of technical assistance under such programs;

(C) the award and termination of grants, cooperative agreements, and contracts.

(6) Providing technical assistance, coordination, and support to—

(A) other components of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to violence against women, including the litigation of civil and criminal actions relating to enforcing such laws;

(B) other Federal, State, local and tribal government agencies, in efforts to develop policy, provide technical assistance and improve coordination among agencies carrying out efforts to eliminate violence against women, including Indian or indigenous women; and (C) grantees, in efforts to combat violence against women and to provide support and assistance to victims of such violence.

(7) Exercising such other powers and functions as may be vested in the Director pursuant to this part or by delegation of the Attorney General; and

(8) Establishing such rules, regulations, guidelines and procedures as are necessary to carry out any function of the Office.

Pursuant to §2004(3), the Director and the Office will continue to participate in task forces, commissions, committees, working groups such as the Violence Against Women Coordinating Council in the Department of Justice, Office of Justice Programs Indian Issues Working Group, and the Department of Defense Task Force on Domestic Violence.

Section 2005. Staff of Violence Against Women Office

Section 2005 requires the Attorney General to ensure that the Office receives adequate staff to support the Director in carrying out the responsibilities, duties and functions.

Section 2006. Authorizations of appropriations

Section 2006 authorizes the appropriations of such sums as may be necessary to carry out this title for each fiscal year until fiscal year 2005, the year through which the Violence Against Women Act is authorized.

Section 403. Effective date

Section 403 states that this Title shall take effect 90 days after the date of enactment of this amendment.

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUB OF AMERICA

Section 1101.—Boys and Girls Clubs of America

Section 1101 authorizes DOJ grants to the Boys and Girls Clubs of America to help establish 1,200 additional Boys and Girls Clubs across the nation with the goal of having 4,000 Boys and Girls Clubs in operation by January 1, 2007. This provision is similar to section 1101 of the Senate bill.

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT OF 2001

Section 2001. Short title

Section 2001 provides that the short title of this Act shall be the Drug Abuse Education, Prevention, and Treatment Act of 2001. It is the same as section 2001 of the Senate bill.

Subtitle A—Drug-Free Prisons and Jails

Section 2101. Use of residential substance abuse treatment grants to provide for services during and after incarceration

Section 2101 authorizes the use of Residential Substance Abuse Treatment Grants for treatment and sanctions both during incarceration and after release, as requested in the Administration's fiscal year 2002 budget request. This provision is identical to section 310 of the Senate bill.

Section 2102. Jail-based substance abuse treatment programs

Section 2102 provides grants to States for jail-based substance abuse programs, and requires States to make at least 10 percent of funds received under this section available to local correctional facilities. It is similar to section 2102 of the Senate bill.

Section 2103. Mandatory revocation of probation and supervised release for failing a drug test

Section 2103 amends 18 U.S.C. sections 3565(b) and 3583(g) to provide for mandatory revocation of probation or supervised release if a defendant tests positive for illegal controlled substances more than three times over the span of one year. This provision is identical to section 2103 of the Senate bill.

Subtitle B—Treatment and Prevention

Section 2201. Report on drug-testing technologies

Section 2201 directs the National Institute of Justice to conduct a study of drug-testing technologies to identify and assess the efficacy, accuracy, and usefulness of such technologies. It is similar to section 2209 of the Senate bill.

Section 2202. Drug and substance abuse treatment, prevention, education, and research study

Section 2202 instructs the President, in consultation with the Attorney General, the Secretary of Health and Human Services, the Secretary of Education, and other appropriate Federal officers, to review all federal drug treatment, prevention, education, and research programs and recommend to Congress ways in which those programs could be streamlined, consolidated, simplified, coordinated, and made more effective.

Section 2203. Drug abuse and addiction research

Section 2203 authorizes the expansion of current and ongoing interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to drug abuse and addiction. It is similar to section 2208 of the Senate-passed bill.

Subtitle C—Drug Courts

Sec. 2301. Drug courts

Section 2301 authorizes the Attorney General to make grants to States to fund adult drug courts, juvenile drug courts, family drug courts, and tribal drug courts. Drug court programs receiving funds may only involve nonviolent offenders and must involve continuing supervision over those offenders, coordination with appropriate State or local prosecutor, and the provision of services such as drug treatment. The Attorney General is also required to implement recommendations of the General Accounting Office to improve the accountability and track the success of drug court programs throughout the nation. This section is similar to section 2401 of the Senate bill.

Sec. 2302. Authorization of appropriations

Section 2302 authorizes appropriations of $50 million for fiscal year 2002, $54 million for fiscal year 2003, $58 million for fiscal year 2004, and $60 million for fiscal year 2005. This section is similar to section 2402 of the Senate bill.

Sec. 2303. Study by the General Accounting Office

Section 2303 instructs the GAO to study and assess the effectiveness and impact of grants made under this subtitle.

Subtitle D—Program for Successful Reentry of Criminal Offenders Into Local Communities

Sec. 2411. Post incarceration vocational and remedial educational opportunities for inmates

Section 2411 establishes a Federal Reentry Center Demonstration project, under which individualized plans will be developed to reduce recidivism by offenders to be released from the Federal prison population. Among other things, the project will include substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training. The project will also include a reasonable method for imposing sanctions for a prisoner's violation of the conditions of participation in the project. It is similar to section 2511 of the Senate bill.

Sec. 2421. Amendments to the Omnibus Crime Control and Safe Streets Act of 1968

Section 2421 authorizes the Attorney General to make grants of up to $1 million to States, Territories, and Indian tribes to establish demonstration projects to promote successful reentry of criminal offenders. Funds can be expended for oversight and monitoring of released offenders, substance abuse treatment, and other purposes. This provision is similar to section 2521 of the Senate bill.

Subtitle E—Other Matters

Sec. 2501. Amendment to Controlled Substances Act

Section 2501 makes a technical amendment to the Drug Abuse Treatment Act, which was signed into law last year, to amend the opt-out time limit from the date of passage of the Act to the date of Food and Drug Administration approval of the type of drugs authorized to be prescribed under the Act. This provision is identical to section 2951 of the Senate bill.

Sec. 2502. Study of methamphetamine treatment

Section 2502 amends section 3633 of the Methamphetamine Anti-Proliferation Act of 2000 to request that the National Institute on Drug Abuse produce a report that the Act directed the Institute of Medicine of the National Academy to produce. This provision is identical to section 2952 of the Senate bill.

Sec. 2503. Authorization of funds for DEA police training in South and Central Asia

Section 2503 authorizes not less than $5 million for fiscal year 2003 to the Attorney General for regional antidrug training by the Drug Enforcement Administration for law enforcement entities in South and Central Asia.

Sec. 2504. United States-Thailand drug prosecutor exchange program

Section 2504 authorizes the Attorney General to establish an exchange program in which prosecutors, judges, or policymakers from Thailand participate in an exchange program to observe federal prosecutors to learn about the various rules and procedures used in the United States to prosecute violations of federal criminal narcotics laws. The section authorizes $75,000 for fiscal years 2003 and 2004.

TITLE III—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM

Sec. 3001. Increasing the penalty for using physical force to tamper with witnesses, victims, or informants

Section 3001 would increase the statutory maximum sentence for witness tampering that involves the use of physical force. Under current law, a defendant convicted of using physical force to tamper with a witness, victim or informant faces a maximum sentence of 10 years. This section would increase the maximum for the use or attempted use of force to 20 years, which is the same sentence available for a defendant who tampers with a witness by attempted murder. The increased penalty is justified because the use of physical force is often comparably egregious to attempted murder, such as where the victim, witness or informant is severely beaten, even though the government cannot prove the specific intent to commit murder. Judges should have the authority to sentence accordingly. This section would also add a provision for conspiracy cases making the maximum sentence for conspiracy the same as the maximum sentence for the underlying substantive offense. This provision is similar to section 4001 of the Senate bill.

Sec. 3002. Correction of aberrant statutes to permit imposition of both a fine and imprisonment

This section would allow the court to impose both a fine and imprisonment under certain aberrant statutes that presently permit the imposition of only one of these punishments, but not both. The statutes at issue are 18 U.S.C. §401 (criminal contempt); 18 U.S.C. §1705 (destruction of letter boxes); 18 U.S.C. §1916 (unauthorized employment or disposition of lapsed appropriations); 18 U.S.C. §2234 (willfully exceeding authority in executing a search warrant); 18 U.S.C. §2235 (maliciously procuring and executing a search warrant); and 28 U.S.C. §§636(e)(2) & (3) (criminal contempt by magistrates). Although the general policy of the Sentencing Reform Act of 1984 that courts should have multiple sentencing options, see 18 U.S.C. §3551(b) ("A sentence to pay a fine may be imposed in addition to any other sentence."), these statutes stand as an anomalous exception to that policy, see *United States* v. *Versaglio*, 85 F.3d 943, 946–47 (2d Cir. 1996) (notwithstanding §3551(b), court many not impose both imprisonment and a fine under §401); *United States* v. *Holloway*, 991 F.2d 370, 373 (7th Cir. 1993) (same).

Of the statutes that limit the court to a single sentencing option, only section 401 has generated case law concerning the effect of its disjunctive sentencing provisions. These cases have resulted in windfalls for undeserving defendants when judges who are unaware of the unusual restriction on their sentencing authority mistakenly impose an illegal sentence of both a fine and imprisonment. If the defendant tenders payment of the fine before the error is corrected, the sentence is deemed to have been fully satisfied and the term of imprisonment must be vacated. See *In re Bradley*, 318 U.S. 50 (1943); *United States* v. *Catalano*, 1996 WL 387220 (2d Cir. July 11, 1996); Versaglio, 85 F.3d at 948; *United States* v. *Holmes*, 822 F.2d 481 (5th Cir. 1987); *United States* v. *Sampogne*, 533 F.2d 766, 767 (2d Cir. 1976). In effect, the defendant can buy immunity from imprisonment by immediately paying the fine and then filing an appeal challenging only the prison term. Even where it is clear that the sentencing court would have imposed a prison term rather than a fine if it had correctly understood its options, the defendant must be allowed to go free, with no possibility of the case being remanded for resentencing. While these decisions may be compelled by the plain wording of the statute, their outcomes are hardly satisfactory. As Chief Justice Stone remarked in his dissenting opinion in *Bradley*, it is unjust that "the choice rests with the offender rather than with the court whether he shall be punished by fine or by imprisonment, either of which alone the court could have lawfully imposed; and that by payment of the fine, imposed and accepted under mistake of law . . . he may irrevocably escape punishment by imprisonment." 318 U.S. at 53; see also *Holmes*, 822 F.2d at 505 (Brown, J., dissenting) ("The Constitution does not require that sentencing should be a game in which the wrong move by a judge means immunity for the prisoner.").

There is no sound reason to limit a court's sentencing authority under the statutes at issue to only a fine or imprisonment. No legislative history apparently exists to explain the reasons for these disjunctive sentencing provisions. Indeed, the Senate Judiciary Committee has previously remarked that this feature of section 401 was probably unintended and proposed correcting it in the Criminal Code Reform Act of 1979. See S. Rep. No. 96–553 at 355 (96th Cong. 2d Sess.). The correction is long overdue. The proposed amendment would therefore insert the phrase "or both" after the language authorizing a fine or imprisonment in the affected statutes. This section is identical to section 4002 of the Senate-passed bill.

Sec. 3003. Reinstatement of counts dismissed pursuant to a plea agreement

This section would create a new provision, to be codified at 18 U.S.C. §3296, which would extend the statute of limitations for counts dismissed pursuant to a plea agreement when the defendant's guilty plea is subsequently vacated. There have been cases where a defendant is indicted on one set of charges and pleads guilty to lesser counts pursuant to a plea bargain, but then later succeeds in getting the guilty plea vacated. If the plea is vacated after the statute of limitations on the original set of charges has run, courts have held that those charges cannot be reinstated and that the case is time-barred. Thus, the defendant can no longer be prosecuted even though the government acted with all reasonable diligence in bringing the case. See *United States* v. *Midgley*, 142 F.3d 174, 178–80 (3d Cir. 1998); *United States* v. *Podde*, 105 F.3d 813 (2d Cir. 1995). The bill would close this loophole by giving the government 60 days after the order vacating the defendant's plea becomes final to move to reinstate any charges dismissed pursuant to a plea agreement. This approach is analogous to that of 18 U.S.C. §3288, which grants the government a grace period to obtain a new indictment when counts are dismissed after the expiration of the statute of limitations.

The new section 3296 would not prevent the court from considering any defense other than statute of limitations to the reinstated charges. Thus, for example, defendants who contend that their ability to defend against the reinstated counts has been irreparably prejudiced by the passage of time retain their ability to bring a constitutional speedy trial claim, see *Barker* v. *Wingo*, 407 U.S. 514 (1972), as well as any other defenses to the prosecution they would otherwise have. This provision is identical to section 4003 of the Senate bill.

Sec. 3004. Appeals from certain dismissals

This section clarifies that 18 U.S.C. §3731 authorizes an appeal by the United States, consistent with the Double Jeopardy clause, whenever a district court enters an order dismissing or striking part of an indictment or information. Section 3731 confers broad authority on the United States to appeal orders of district courts that dismiss an indictment or information either in whole or as to "any one or more counts." The statute was designed to permit the United States to appeal virtually all adverse rulings in criminal cases, when not precluded from doing so by the Double Jeopardy Clause of the Constitution, and contains a final sentence stating that the "provisions of this section shall be liberally construed to effectuate its purposes." As a result of this language, the statute has generally been generously interpreted to allow government appeals, even when its literal language does not clearly extend to the case, such as where a district court has dismissed only a portion of a count such as a predicate act in a RICO count or an overt act in a conspiracy count. See, e.g., *United States* v. *Levasseur*, 846 F.2d 786 (1st Cir. 1988) (appeal held to lie where predicate acts were stricken from a RICO count). This approach is consistent with the Supreme Court's observation that section 3731 permits "an appeal from an order dismissing only a portion of a count." *Sanabria* v. *United States*, 437 U.S. 54, 69 n.23 (1978). However, one federal circuit has held that section 3731 does not permit any government appeals from the dismissal of only part of a count. See *United States* v. *Louisiana Pacific Corporation*, 106 F.3d 345 (10th Cir. 1997). In other cases, appellate review of orders dismissing predicate acts or overt acts has been denied where the dismissed acts could not themselves have been charged in separate counts. See *United States* v. *Terry*, 5 F.3d 874 (5th Cir. 1993); *United States* v. *Tom*, 787 F.2d 65 (2d Cir. 1986).

It is time to resolve these conflicting results definitively. The reach of section 3731 should clearly be extended to orders dismissing portions of counts. Although the Solicitor General, who must approve all appeals by the United States to a court of appeals, only seldom authorizes appeals from partial dismissals of counts in criminal cases, there is no reason not to permit the government to appeal when the issue involved is important and determined by the Solicitor General to be worthy of presentation to a higher court. Indeed, there are some cases where the dismissal of a predicate act or overt act may substantially weaken the government's ability to prove its case. The proposed amendment would therefore insert the phrase "or any part thereof" in section 3731 so as to make clear that dismissals of any part of a count are subject to appeal by the United States in appropriate circumstances. This provision is identical to section 4004 of the Senate bill.

Sec. 3005. Clarification of length of supervised release terms in controlled substance cases

This section resolves a conflict in the circuits as to the permissible length of supervised release terms in controlled substance cases. Under 18 U.S.C. 3583(b), "[e]xcept as otherwise provided," the maximum authorized terms of supervised release are 5 years for Class A and B felonies, 3 years for Class C and D felonies, and 1 year for Class E felonies and certain misdemeanors. The drug trafficking offenses in 21 U.S.C. §§841 and 960 prescribe special supervised release terms, however, that are longer than those applicable generally under section 3583(b). Those longer terms, which may include lifetime supervised release, were enacted in 1986 in the same Act that inserted the introductory phrase "Except as otherwise provided" in section 3583(b). Because of this clear legislative history and intent, three courts of appeals have held that section 3583(b) does not limit the length of supervised release that may be imposed for a violation of 21 U.S.C. §§841 or 960 when a greater term is there provided. *United States* v. *LeMay*, 952 F.2d 995, 998 (8th Cir. 1991); *United States* v. *Eng*, 14 F.3d 165, 172–3 (2d Cir. 1994); *United States* v. *Garcia*, 112 F.3d 395 (9th Cir. 1997). Two courts of appeals, however, have reached the opposite result, holding that the length of a supervised release term that can be imposed for controlled substance cases is limited by 18 U.S.C. §3583(b). *United States* v. *Gracia*, 983 F.2d 625, 630 (5th Cir. 1993); *United States* v. *Kelly*, 974 F.2d 22, 24–25 (5th Cir. 1992); *United States* v. *Good*, 25 F.3d 218 (4th Cir. 1994).

Although the issue has not arisen with frequency, the conflict is entrenched and should be dealt with definitively. Accordingly, the amendment would add the words "Notwithstanding section 3583 of title 18" to the title 21 controlled substance offenses in the parts of those statutes dealing with supervised release to make clear that the longer terms there prescribed control over the general provision in section 3583. Of course, the Sentencing Guidelines would continue to govern the permissible length of supervised release terms under the amended statutes. This provision is identical to section 4005 of the Senate bill.

Sec. 3006. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases

This section would confer express authority on courts under section 3582(c)(1)(A), when exercising the power to reduce a term of imprisonment for extraordinary and compelling reasons, to impose a sentence of probation or supervised release with or without conditions. Such added flexibility is consistent with the purposes for which this statute was designed and will likely facilitate its use in appropriate cases.

Under 18 U.S.C. 3582(c)(1)(A), a court is authorized, on motion of the Bureau of Prisons and consistent with the purposes of sentencing in 18 U.S.C. 3553, to "reduce the term of imprisonment" upon a finding that "extraordinary and compelling reasons" warrant such a reduction. This limited authority has been generally utilized when a defendant sentenced to imprisonment becomes terminally ill or develops a permanently incapacitating illness not present at the time of sentencing. In such circumstances, the situation of a prisoner (e.g., one suffering from a contagious debilitating disease), may make a court reluctant simply to release the prisoner back into society unless another sentencing option such as home confinement as a condition of supervised release or probation can be imposed. Presently, however, it is doubtful whether a court can order such a sentence since section 3582(c)(1)(A) speaks only in terms of reducing "the term of imprisonment," not imposing in its stead a lesser type of sentence. Cf. Fed. R. Crim. P. 35(b), which gives a court the power to "reduce a sentence" to reflect substantial assistance. The proposed language also makes it clear that any new term of supervised release or probation cannot be longer than the unserved portion of the original prison term, as it is not intended that this provision be used to increase the total amount of time that a person's liberty is restricted. This provision is identical to section 4006 of the Senate bill.

Sec. 3007. Clarification that making restitution is a proper condition of supervised release

This section would remedy an ambiguity relating to restitution as a condition of supervised release. Under 18 U.S.C. 3583(c) and (e), the court is authorized to consider various sentencing factors set forth in 18 U.S.C. 3553 as a basis for imposing restitution as a condition of supervised release or for revoking or modifying the conditions of supervised release. Supervised release is among the purposes of sentencing enumerated in section 3553, in paragraph (a)(7), but is not among the factors enumerated in section 3583(c) and (e). However, 18 U.S.C. 3583(c) also authorizes the court to impose any condition of supervised release that is an authorized condition of probation under 18 U.S.C. 3563(b), and making restitution is among those conditions (see section 3564(b)(2)). Thus, it appears clear that a court has authority to impose a restitution condition upon a term of supervised release. But the absence of a reference to section 3553(a)(7) in the revocation subsection of section 3583 raises a question whether, even though it is an authorized condition of supervised release, a court has authority to revoke or modify the term for willful failure to make restitution. Such authority is probably implicit and was surely intended by Congress. See *United States* v. *Payan*, 992 F.2d 1387, 1395–96 (5th Cir. 1993). This amendment would provide a reference to section 3553(a)(7) in the supervised release statute and remove any ambiguity in this regard. Of course, even under the amended statute, a court could not revoke or modify the defendant's supervised release for failure to pay restitution unless the defendant had the resources to pay and willfully refused to do so. See *Bearden* v. *Georgia*, 461 U.S. 660 (1983); *Payan*, 992 F.2d at 1396–97. This provision is identical to section 4007 of the Senate bill.

TITLE IV—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2002

Sec. 4001. Short title

This section provides that the short title of the act shall be the "Criminal Law Technical Amendments Act of 2002." This provision is similar to section 5001 of the Senate bill.

Sec. 4002. Technical amendments relating to criminal law and procedure

This section makes over 60 separate technical changes to various criminal statutes by correcting missing and incorrect words, margins, punctuation, redundancies, outmoded fine amounts, cross references, and other technical and clerical errors. This provision is identical to section 5002 of the Senate bill.

Sec. 4003. Additional technicals

Section 4003 makes additional technical changes to criminal statutes, and is similar to section 5003 of the Senate bill.

Sec. 4004. Repeal of outmoded provisions

This provision is similar to section 5004 of the Senate bill.

Sec. 4005. Amendments resulting from public law 107–56

This provision is identical to section 5005 of the Senate bill.

Sec. 4006. Cross reference correction

The conferees agree to add this section to make a technical correction to the International Convention for the Suppression of Terrorist Bombings.

TITLE V—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

Sec. 5001. Paul Coverdell Forensic Sciences Improvement Act

Section 5001 amends the Paul Coverdell National Forensic Sciences Improvement Act of 2000 to permit local crime labs to receive grants. In addition, the section allows the Attorney General to make discretionary grants to any State or locality after considering the state crime rate and existing crime lab resources and requires each State to include in its report to the Attorney General on the comparison of pre-grant and post-grant forensic science capabilities, and an identification of the number and type of cases currently accepted by the laboratory. This provision is identical to section 7001 of the Senate bill.

Sec. 5002. Authorization of appropriations

Section 5002 authorizes to be appropriated for each of fiscal years 2002 through 2007 such sums as necessary for the Center for Domestic Preparedness of the Department of Justice in Anniston, Alabama; the Texas Engineering Extension Service of Texas A&M University; the Energetic Materials Research and Test Center of the New Mexico Institute of Mining and Technology; the Academy of Counterterrorist Education at Louisiana State University; the National Exercise, Test, and Training Center of the Department of Energy, located at the Nevada test site; the National Center for the Study of Counter-Terrorism and Cyber-Crime at Norwich University; and the Northeast Counterdrug Training Center at Fort Indiantown Gap, Pennsylvania. This provision is similar to section 7002 of the Senate bill.

DIVISION C—IMPROVEMENTS TO CRIMINAL JUSTICE, CIVIL JUSTICE, IMMIGRATION, JUVENILE JUSTICE, AND INTELLECTUAL PROPERTY AND ANTITRUST LAWS

TITLE I—CRIMINAL JUSTICE, CIVIL JUSTICE AND IMMIGRATION

Subtitle A—General Improvements

Sec. 11001. Law Enforcement Tribute Act

Section 11001 makes findings regarding the number of law enforcement and public safety officers currently serving in the United States and the number assaulted, injured or killed in the line of duty each year. Congress finds that these officers risk their safety to serve the citizens of their communities. This section makes the finding that many of the communities do not have the resources to properly honor the fallen officers that have served them.

This section authorizes the Attorney General to award matching grants up to 50 percent of the cost of the tribute directly to a State, local government or Indian Tribe in an amount not to exceed $150,000. It provides that Indian Tribes may use any funds appropriated by Congress for activities of the Bureau of Indian Affairs or Indian tribal government to meet the matching requirements.

This section also requires any application for funds under this bill to meet the criteria established by the Attorney General. It requires the Attorney General to provide an annual report to provide Congress with information regarding the number of grants awarded, the amount of funds provided for those grants, and the activities for which the funds were used.

This section includes an authorization of $3 million for each fiscal year 2002–2006, which results in a total authorization of $15 million over 5 years.

Sec. 11002. Disclosure of grand jury matters relating to money laundering offenses

In general, information relating to the investigation of a matter before a grand jury is subject to strict protection and may not be disclosed. Section 3322 of title 18, United States Code, provides limited exceptions to this rule, permitting bank regulators to obtain information in certain cases to ensure that they can continue to supervise banking organizations involved in law enforcement investigations. The statute, enacted following the savings and loan crisis and the extensive law enforcement efforts necessitated by bank and thrift failures, does not, however, cover money laundering cases. Section 11002 would amend 18 U.S.C. 3322 so that the Justice Department may obtain a court order to share grand jury information with bank supervisors if an investigation involves money laundering.

Sec. 11003. Grant program for State and local domestic preparedness support

This section makes technical corrections and adds additional uses to the Office of Domestic Preparedness grants to support state and local law enforcement agencies and other first responders prepare for and prevent terrorist attacks as authorized by section 1014 of the USA PATRIOT Act (Public Law 107–56).

The conferees strongly encourage the Department of Justice through the Office of Domestic Preparedness to support a public safety pilot project initiated by the Pennsylvania State Association of Boroughs designed to inventory the infrastructure and resources of five participating central Pennsylvania boroughs using GIS technology for the purpose of analyzing security risks and possible responses. Data collected on the five boroughs will be stored in an online searchable database or "information warehouse." Data collected will include roads, water resources, stadiums, energy plants, hazardous materials locations and other assets.

Sec. 11004. United States Sentencing Commission access to NCIC terminal

This section authorizes the U.S. Sentencing Commission to access the National Crime Information Center information system at the Federal Bureau of Investigation.

Sec. 11005. Danger pay for FBI agents

Section 11005 provides special "danger pay" allowances for FBI agents in hazardous duty locations outside the United States, as is provided for agents of the Drug Enforcement Administration. The president's budget submission for fiscal years 2002 and 2003 requested this change in law. This section is identical to section 210 of the Senate-reported bill.

Sec. 11006. Police corps

Section 11006 extends the Police Corps' authorization for an additional four years. It also deletes the provisions that now give $10,000 a year to participating police agencies, thereby reducing the per-officer cost of the program by 30% and making funds available to support more officers; and updates the maximum for scholarship payments, from $7,500 (set when the bill was introduced in 1989) to $10,000 per year.

Sec. 11007. Radiation exposure compensation technical amendments

The Radiation Exposure Compensation Act ("RECA") Amendments of 2000, P.L. 106–245, inadvertently eliminated some claimants previously eligible for compensation, and made it more difficult for other claimants to prove eligibility. The technical amendments included in section 11007 are:

Duration of Employment Standard as an Alternative to Radiation Exposure Levels—Under RECA as amended by P.L. 106–245, uranium miners are required to prove exposure to at least 40 working level months (WLMs) of radiation. Uranium millers and ore transporters are required to demonstrate employment in a mill or as an ore transporter for one full year. During the last congressional session, proposed amendments to P.L. 106–245 by Senators Hatch and Daschle sought to eliminate the WLM exposure requirement for miners and substitute a one-year duration of employment requirement—identical to the one in place for millers and ore transporters. There are many miners, however, who worked for less than one year in uranium mines but who still were exposed to significant levels of radiation exposure and could easily qualify for eligibility with a 40 WLM standard. The proposed technical amendment would allow uranium miners to qualify by meeting either the 40 WLM exposure standard or the one year duration of employment standard.

Reinsert a "Downwinder" Area Erroneously Stricken from Act by P.L. 106–245—In amending the list of "downwinder" areas, P.L. 106–245 inadvertently eliminated a portion of Mohave County, Arizona (located north of the Grand Canyon) that was previously compensable under RECA. As a consequence, claimants who reside in this portion of Mohave County are no longer eligible for compensation. The proposed technical amendment would again include this area in the definition of "downwinder" areas.

Remove Disparity for Downwinder and Onsite Participant "Lung Cancer" Claimants—P.L. 106–245 added seven new cancers to the list of compensable cancers for the "downwinder" and "onsite participant" provisions of RECA. These include: cancers of the male breast, salivary gland, urinary bladder, brain, colon, ovary and lung. With the exception of lung cancer, the Act now requires all compensable cancers to be "primary"—to originate in the specified organ or tissue. The proposed technical amendment would require that all compensable cancers be "primary" and thus eliminate the distinction inadvertently created by the amendments between lung cancer claimants and claimants with other compensable cancers.

Remove Inconsistent Treatment for Claimants with In Situ Lung Cancers—As a result of the recent amendments, RECA treats "downwinder" and "onsite participant" claimants with in situ lung cancer more stringently than uranium worker claimants. Presently, under the amended "downwinder" and "onsite participant" provisions, compensation is available for lung cancer "other than in situ lung cancer that is discovered during or after a post-mortem exam." This restricts compensation for in situ lung cancer to claimants who are living. No similar restriction exists for uranium worker claimants with in situ lung cancer. The proposed technical amendment would ensure consistent treatment of in situ lung cancer among all categories of claimants, and eliminate the distinction based on the timing of lung cancer diagnosis.

Uranium Miners, Mill Workers, and Ore Transporters with Lung Cancer Should Not be Required to Show Evidence of Non-Malignant Respiratory Disease—As amended by P.L. 106–245, RECA requires (in cases where the claimant is living) the submission of the same medical documentation for proof of a "non-malignant respiratory disease" and "lung cancer." While the documentation required is appropriate for purposes of establishing a non-malignant respiratory disease, it is not medically appropriate for establishing lung cancer. The requirement precludes most lung cancer claimants who do not also suffer from a non-malignant respiratory disease from establishing eligibility for compensation. The proposed technical amendment would eliminate the requirement that claimants with lung cancer also submit proof of a non-malignant respiratory disease.

Requiring Claimants to Prove Uranium Mines in States Not Designated as "AEC Mines" is Inappropriately Restrictive—P.L 106–245 amended the Act to allow uranium miner claimants to qualify for compensation if an additional state not designated in the Act establishes that the "Atomic Energy Commission" (AEC) operated a uranium mine in the State between January 1, 1942 and December 31, 1971. The provision states that once the State has been certified for inclusion as a uranium mining state, a claimant may demonstrate employment in that state. The AEC, however, did not exist prior to January 1, 1947. Maintaining the requirement is confusing for claimants employed in uranium mines between 1942 and 1946 in a state other than the one designated in the Act and may prevent them from qualifying for compensation. The proposed technical amendment would eliminate the requirement that a state operated an AEC uranium mine.

Section 6(i) "Issuance of Regulations" Misplaced—The new provision regarding "issuance of revised regulations" should amend "Section 6(k) Issuance of Regulations, Guidelines and Procedures." P.L. 106–245 inadvertently amends "Section 6(i) Use of Existing Resources."

Section on "Affidavits" Misplaced—P.L. 106–245 fails to enumerate a section for the newly-added provision regarding "affidavits." The provision regarding affidavits should be added as new section "Section 6(m) Affidavits."

Omission of Uranium Millers and Ore Transporters from "Full Settlement of Claims" Provision—P.L. 106–245 did not amend the Act's "full settlement of claims" provision (Sec. 6(e)) to provide that acceptance of payment under the new claimant categories—uranium millers and ore transporters—shall be in full settlement of all claims that individual may have against the United States. Presently, the provision applies only to the original RECA claimant categories. The technical amendment would correct the omission by providing that acceptance of payment shall be in full settlement of claims arising out of exposure to radiation with respect to all clamant categories. The technical amendment also takes into consideration the availability of additional compensation under the new Department of Energy compensation program (Energy Employees' Occupational illness Compensation Program Act).

"Choice of Remedies" Provision Requires Clarifying Language—P.L. 106–245 did not amend the Act's "choice of remedies" provision which prevents double recovery for individuals seeking payment under multiple sections of the Act. Presently, the Act's "choice of remedies" provision eliminates double recovery as between "Downwinders," "Onsite participants," and "Uranium Miners." With the addition of the two new claimant categories—"Millers" and "Ore Transporters"—the provision is presently unclear as to whether multiple payments are now available. The technical amendment would clarify the "choice of remedies" provision to plainly state that there is no possibility of a double recovery under the amended Act.

Section on "GAO Reports" Misplaced—P.L 106-245 fails to enumerate a section for the provision regarding "GAO Reports." The provision regarding GAO Reports should be added as new section "Sec. 14. GAO Reports."

Sec. 11008. Federal Judiciary Protection Act of 2002

Section 11008 increases the maximum prison term for forcible assaults, resistance, intimidation, or interference with a Federal judge, Federal law enforcement officer, or U.S. official from 3 years imprisonment to 8 years and increases the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge, Federal law enforcement officer, or U.S. official from 10 years imprisonment to 20 years.

This section also increases the maximum prison term for actual or attempted influencing, impeding, or retaliating against a Federal judge, Federal law enforcement officer, or U.S. official by threatening a family member of the employee, from 5 to 10 years, and from 3 to 6 years if the threat is to commit an assault.

In addition, Section 11008 increases the maximum prison term from 5 to 10 years for threats of injury or kidnapping of any person mailed to a Federal judge, Federal law enforcement officer, or U.S. official, and from 3 to 6 years for extortionate threats to a Federal judge, Federal law enforcement officer, or U.S. official.

It directs the U.S. Sentencing Commission to amend the Sentencing Guidelines to enhance penalties for assaults and threats against a Federal judge, Federal law enforcement officer, and U.S. official engaged in their official duties.

Sec. 11009. The James Guelff and Chris McCurley Body Armor Act of 2002

Section 11009 defines the terms "body armor," "law enforcement agency," and "law enforcement officer." It directs the U.S. Sentencing Commission to provide an appropriate sentencing enhancement for any crime of violence or drug trafficking crime in which the defendant used body armor. It also states that it is the Sense of the Senate that a minimum two-level enhancement is appropriate.

Section 11009 makes it unlawful for a person who has been convicted of a violent felony to purchase, own, or possess body armor. It provides an affirmative defense against prosecution if the felon wore armor after obtaining permission from employer, and possession of armor was necessary for safe performance of lawful business activity. Individuals who violate this prohibition are guilty of a felony subject a fine and a maximum sentence of three years.

This provision also empowers Federal law enforcement agencies to donate surplus body armor directly to local and state law enforcement departments. These agencies include the Administrator of the Drug Enforcement Administration, the Director of the FBI, the Commissioner of the Immigration and Naturalization Service, the Director of the U.S. Marshals Service, the Director of the Bureau of Alcohol, Tobacco, and Fire Arms, the Commissioner of Customs, and the Director of the United States Secret Service. Only body armor that is not required by the Federal government is eligible for donation.

Sec. 11010. Persons authorized to serve search warrant

Section 11010 amends section 2703 of title 18 by stating that an officer's presence is not required to serve or execute a search warrant directed to a provider of electronic communication service or remote computing service for records or other information pertaining to a subscriber of that service.

Sec. 11011. Study on reentry, mental illness, and public safety

Section 11011 requires the Attorney General to conduct a study of offenders with mental illness who are released from prison or jail to determine how many such offenders qualify for Medicaid, SSI, or SSDI, how many of those who qualify are actually enrolled in those programs, and how enrollment affects whether such offenders commit further crimes, among other things.

Sec. 11012. Technical amendment to Omnibus Crime Control Act

The current version of Section 802(b) [42 U.S.C. (§3783(b)] of the Omnibus Crime Control and Safe Streets Act gives rights of notice and appeal to applicants for the Violence Against Women Act (VAWA) Grants to Encourage Arrests program (Part U) whose applications have been denied. The Grants to Encourage Arrests program is a discretionary grant program and historically, a discretionary grant applicant is not afforded a right of appeal of an application denial. This is based on the rule that formula grants create an "entitlement," which gives formula grantees certain due process rights of notice and hearing in the event a formula grant application is denied. Discretionary grants, on the other hand, do not create any entitlement, and consequently discretionary grant applicants do not have such due process rights.

A second problem with the current version of Section 802(b) is that it does not give VAWA formula grant applicants these notice and appeal rights which they should have under the entitlement concept, because it does not cite to the STOP grant program in Part T, which is the VAWA formula grant program. This is illustrated by the language of Section 802(b) by which all formula grant programs under the Omnibus statute (except VAWA's STOP program) are covered by this version of Section 802(b), and no other discretionary grant program are referenced by this provision (except the incorrect reference to VAWA's Grants to Encourage Arrest program, which would be changed by this amendment). The logical conclusion is that the reference to Part U was a misdesignation, and that Congress intended to reference Part T, the STOP formula grant program, and not Part U, the discretionary Grants to Encourage Arrest program. Accordingly, this section amends section 802(b) to give the right of appeal to VAWA STOP formula applicants and would also eliminate the right of appeal for discretionary grant applicants, as Congress clearly intended.

Sec. 11013. Debt collection improvement

Section 11013 expands the use of the Department's Three Percent Debt Collection Fund. This fund was established by Section 108 of P.L. 103-121. The language of that Act permits the Department to credit three percent of all civil debt collections resulting from Department debt collection activities to the Working Capital Fund (the Three Percent Fund) and to use those deposits to the Fund only for the costs of processing and tracking civil debt collection litigation. The proposed language would expand the uses of the Three Percent Fund and establish a two tier structure for the expanded use of those funds.

The first tier permits the Department would use deposits in the fund for processing and tracking both civil and criminal debt collection. Thereafter, if there are amounts remaining in the Fund after paying the costs of processing and tracking, the funds could be used for financial systems and for debt-collection related personnel, administrative, and litigation expenses. The second tier permits the Department to use balances remaining after the costs of tracking and processing have been paid to support its financial management systems and to pay the costs of personnel, administration and other debt-collection-related litigation expenses.

Sec. 11014. SCAAP authorization

Section 10014 reauthorizes the State Criminal Alien Assistance Program (8 U.S.C. section 1231(i)(5)) through fiscal year 2004.

Sec. 11015. Use of annuity brokers in structured settlements

Section 11015 reforms the Department of Justice's practice for using annuity brokers in structured settlements in two ways. First, it directs the Attorney General to establish a list of annuity brokers who meet minimum qualifications for providing annuity brokerage services in connection with structured settlements entered by the United States. This list shall be updated upon request by any annuity broker that meets the minimum qualifications for inclusion on the list. The Attorney General shall transmit the list, and any updates to such list, to all United States Attorneys. Second, this provision permits the United States Attorney (or his designee) involved in any settlement negotiations (except those negotiated exclusively through the Civil Division of the Department of Justice) to have the exclusive authority to select an annuity broker from the list of such brokers established by the Attorney General, provided that all documents related to any settlement comply with Department of Justice requirements.

Sec. 11016. INS processing fees

Section 11016 states that processing fees for I-94, I-94W, and I-68 forms are to be deposited in the Land Border Inspection Fee Account, as requested by the Bush Administration in its FY 2002 and 2003 budget submissions.

Sec. 11017. United States Parole Commission extension

Section 11017 extends the United States Parole Commission, scheduled to cease operations later this year, for an additional three years. There are numerous offenders who remain under the supervision of the Parole Commission, which is responsible for administering the supervised release of District of Columbia offenders. This section also allows current Commissioners to extend their service on the Commission, and asks the Attorney General to conduct a study on whether the Parole Commission is the appropriate entity to administer supervised release for D.C. offenders.

Sec. 11018. Waiver of foreign country residence requirement with respect to international medical graduates

Section 11018 extends until 2004 the program authorizing visas for foreign medical graduates wishing to serve in the United States, and raises the number of visas available per State from 20 to 30.

Sec. 11019. Pretrial disclosure of expert testimony relating to defendant's mental condition

Section 11019 restores two provisions of Rule 16 of the Federal Rules of Criminal Procedure that were inadvertently omitted when the Supreme Court transmitted a revision of the Rules to Congress on April 29, 2002. The omitted provisions impose reciprocal obligations on the government and defendant, requiring each to disclose their expert witnesses' testimony on the defendant's mental condition bearing on the issue of guilt. The version of the Rules transmitted by the Supreme Court take effect on December 1, 2002, unless Congress acts to modify them. This section simply ensures that the sections that were omitted are not thus deleted from the Rules.

Sec. 11020. Multiparty, Multiforum Trial Jurisdiction Act of 2002

Section 11020 would streamline the process by which multidistrict litigation governing disasters are adjudicated. This section would save litigants time and money, but would not interfere with jury verdicts or compensation rates for attorneys.

The genesis of §11020 of the conference report took place during oversight hearings conducted in the 95th Congress by the House Subcommittee on Courts, Civil Liberties and the Administration of Justice (now Courts, the Internet and Intellectual Property). These efforts were joined by those of the Carter Administration to improve judicial machinery by abolishing diversity of citizenship jurisdiction and to delineate the jurisdictional responsibilities of state and federal courts. Following Senate opposition to such expansive change, the Subcommittee narrowed its focus and began to concentrate on the problem of dispersed complex litigation arising out of a single accident resulting in multiple deaths or injuries.[2]

Legislation on this more specific issue was first introduced in both the 98th and 99th Congresses. The House of Representatives subsequently approved legislation highly similar to §11020 of the conference report in the 101st and 102nd Congresses; and the full House Committee on the Judiciary favorably reported this language in the 103rd Congress as well. Moreover, §11020 of the conference report is highly similar to that set forth in §10 of the Subcommittee substitute to H.R. 1252, the "Judicial Reform Act," from the 105th Congress, which the House passed in amended form with §10 fully intact. In addition, during the 106th Congress the House of Representatives passed the precursor to §11020 of the conference report, H.R. 2112, by voice vote under suspension of the rules. Section 11020 of the conference report is now largely culled from §3 of H.R. 860, which the House passed under suspension of the rules on March 14, 2001. No hearings on H.R. 860 were held in the 107th Congress given the ample legislative history that preceded it from the 95th Congress through the 106th. The Judicial Conference and the Department of Justice have also supported these previous legislative initiatives.

The need for enactment of §11020 of the conference report was articulated by an attorney who testified on behalf of a major airline manufacturer at the June 16, 1999, hearing on H.R. 2112.[3] It is common after a serious accident to have many lawsuits filed in several states, in both state and federal courts, with many different sets of plaintiffs' lawyers and several different defendants. Despite this multiplicity of suits, the principal issue that must be resolved first in each lawsuit is virtually identical: Is one or more of the defendants liable? Indeed, in lawsuits arising out of major aviation disasters, it is common for the liability questions to be bifurcated and resolved first, in advance of any trial on individual damage issues. The waste of judicial resources—and the costs to both plaintiffs and defendants—of litigating the same liability question several times over in separate lawsuits can be extreme.

Different expert consultants and witnesses may be retained by the different plaintiffs' lawyers handling each case. The court in each lawsuit can issue its own subpoenas for records and for depositions of witnesses, potentially conflicting with the discovery scheduled in other lawsuits. Critical witnesses may be deposed for one suit and then redeposed by a different set of lawyers in a separate lawsuit. Identical questions of evidence and other points of law can arise in each of the separate suits, meaning that the parties in each case may have to brief and argue—and each court may have to resolve—the same issues that are being briefed, argued, and resolved in other cases, sometimes with results that conflict.

Current efforts to consolidate all state and federal cases related to a common disaster are incomplete because current federal statutes restrict the ways in which consolidation can occur—apparently without any intention to limit consolidation. For example, plaintiffs who reside in the same state as any one of the defendants cannot file their cases in federal court because of a lack of complete diversity of citizenship, even if all parties to the lawsuit want the case consolidated. For those cases that cannot be brought into the federal system, no legal mechanism exists by which they can be consolidated, as state courts cannot transfer cases across state lines. In sum, full consolidation cannot occur in the absence of federal legislative redress.

The changes set forth in §11020 of the conference report speak directly to these problems. The revisions should reduce litigation costs as well as the likelihood of forum-shopping in airline accident cases; and an effective one-time determination of punitive damages would eliminate multiple or inconsistent awards arising from multiforum litigation.

Sec. 11020 Multiparty, Multiforum Jurisdiction of District Courts. Section 11020 of the conference report would bestow original jurisdiction on federal district courts in civil actions involving minimal diversity jurisdiction among adverse parties based on a single accident where at least 75 persons have died. The district court in which such cases are consolidated would retain those cases for determination of liability and punitive damages.

More specifically, subsection 11020 of the conference report creates a new §1369 of Title 28 of the U.S. Code which confers original jurisdiction upon the federal district courts of any civil action involving minimal diversity between adverse parties that arise from a single accident and where at least 75 people have died in the accident if (a) a defendant resides in a state and a substantial part of the accident occurred in another state or other location (regardless of whether the defendant is also a resident of the state where a substantial part of the accident occurred); any two defendants reside in different states (regardless of whether such defendants are also residents of the same state or states); or (c) substantial parts of the accident occurred in different states.

Subsection (b) of new §1369 creates an exception to the minimum diversity rule. In brief, a U.S. district court may not hear any case in which a "substantial majority" of plaintiffs and the "primary" defendants are all citizens of the same state; and in which the claims asserted are governed "primarily" by the laws of that same state. In other words, only state courts may hear such cases. (This feature was one of three changes proffered to the Senate in an effort to develop greater support for H.R. 2112 in the waning days of the 106th Congress.

Subsection (c) of new §1369 sets forth certain "special rules" and definitions. They include the following:

(1) *Minimal Diversity.* Exists between adverse parties if any party is a citizen of a state and any adverse party is a citizen of another state, a citizen/subject of a foreign state, or a foreign state.

(2) *Corporation.* Deemed to be a citizen of any state, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business; and is deemed to be a resident of any state in which it is incorporated or licensed to do business.

(3) *Injury.* Physical harm to a person, and physical damage or destruction of tangible property, but only if physical harm exists.

(4) *Accident.* A sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 75 natural persons.

(5) *State.* Includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Subsection (d) of new §1369 permits any person with a claim arising from an accident as defined by the terms of the bill to intervene as a party plaintiff, even if that person could not have brought an action in district court as an original matter.

Pursuant to subsection (e) of new §1369, a federal district court in which an action is pending under the terms of the bill must promptly notify the Multidistrict Litigation Panel (MDLP)[4] of the pendency.

Section 11020(b) of the conference report amends the general federal venue statute[5] by permitting any action under the bill to be brought in any district court in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.

Section 11020(c) of the conference report permits a defendant in a civil action in state court to remove to the appropriate federal district court under 28 U.S.C. §1441 if:

(A) the action could have been brought under the terms of §1369, or

---

[2] Letter from Michael J. Remington, former Chief Counsel to the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary, U.S. House of Representatives, to Representative F. James Sensenbrenner, Jr. (July 14, 1999).

[3] Letter on H.R. 2112 Before the Subcomm. on Courts and Intellectual Property of the House Comm. on the Judiciary, 106th Cong., 1st Sess. (June 16, 1999) (statement of Thomas J. McLaughlin, Esq., Perkins Coie, LLP, Attorneys for the Boeing Company at 4–9)

[4] 28 U.S.C. §1407. The Mutidistrict Litigation Panel—a select group of seven federal judges picked by the Chief Justice—helps to consolidate lawsuits which share common questions of fact filed in more than one judicial district nationwide. Typically, these suits involve mass torts—a plane crash, for exmaple—in which the plaintiffs are from many different states. All things considered, the panel attempts to identify the one U.S. district court nationwide which is best adept at adjudicating pretrial matters. The panel then remands individual cases back to the districts where they were originally filed for trial unless they have been previously terminated.

[5] 28 U.S.C. §1391.

(B) The defendant is a party to an action which is or could have been brought pursuant to the terms of the bill in a federal district court and arises from the same accident as the state court action.

New §1441(e)(2)-(5), as created by §11020(c) of the conference report, also sets forth the procedure for removal, along with the terms by which an action is remanded back to state court for determination of damages, including appellate procedures governing liability. Any decision under §1441(e) concerning remand for the determination of damages is not reviewable by appeal or otherwise under new paragraph (6).

Finally, §11020(d) of the conference report establishes service-of-process authority (new §1697) for actions brought under its terms.

The amendments made by §11020 of the conference report shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of enactment of the Act.

Sec. 11021. Additional place of holding court in the Southern District of Ohio

This section authorizes judges in the Southern District of Ohio to hold court in St. Clairsville, Ohio.

Sec. 11022. Direct shipment of wine

This section states that during any period that the Federal Aviation Administration has in effect restrictions on airline passengers to ensure their safety, a person who purchases wine while visiting a winery can ship wine to another state provided that the purchaser could have carried or brought the wine into the state to which the wine is shipped. Further, the purchaser must be of legal age to purchase alcohol, the shipment must require an adult signature upon delivery and the wine must be for personal use only and not for resale. Within two years of the date of enactment, and at two-year intervals thereafter, the Attorney General, in conjunction with the FAA Administrator, must submit a report to the House and Senate Committees on the Judiciary on the implementation of this provision.

Sec. 11023. Webster Commission implementation report

This section implements a recommendation in the report of the Commission for Review of FBI Security Programs, dated March 31, 2002 ("Webster Commission"). Subsection (a) would require the FBI Director to submit to the appropriate Committees of Congress a plan for implementation of the Webster Commission recommendations, including the costs of such implementation. Subsection (b) would require the FBI Director to submit to the appropriate Committee annual reports on implementation of this plan for three years thereafter. Subsection (c) defines the appropriate Committees as the Senate and House Judiciary and Appropriations Committees, the Senate Select Committee on Intelligence, and the House Permanent Select Committee on Intelligence.

Sec. 11024. FBI police

This title provides statutory authorization for an already existing FBI police force that protects FBI buildings and adjacent streets. Currently, the FBI police suffers from a high rate of turnover due to lower pay and fewer benefits than the Uniformed Division of Secret Service or Capitol and Supreme Court police. This title would close this disparity.

The section defines the terms "Director," "FBI buildings and grounds," and "FBI police" as used in the title. It authorizes the FBI Director to establish the FBI police, subject to the Attorney General's supervision, to protect persons and property within FBI buildings and grounds, including adjacent streets and sidewalks within 500 feet. FBI buildings and grounds would include any building occupied by the FBI and subject to FBI supervision and control, the land on which such building is situated, and enclosed passageways connecting such buildings. FBI police would be uniformed representatives of the FBI with authority to make arrests and otherwise enforce federal and D.C. laws, carry firearms, prevent breaches of the peace, suppress unlawful affrays and unlawful assemblies, and hold the same powers as sheriffs and constables. FBI police would not have authority to serve civil process. Pay and benefits would be equivalent to pay and benefits for the Secret Service Uniformed Division. The section provides that the authority of the Washington, D.C. Metropolitan Police would not be affected by this title.

Sec. 11025. Report on FBI information management and technology

This section would require the FBI Director, with appropriate commends from other components of the Department of Justice, to submit to the Congress a report on FBI information management and technology, including whether the authority is needed to waive normal procurement regulations. The report would provide the results of pending Justice Management Council studies and Inspector General audits and submitting a 10-point plan for improving FBI information management and technology to consider (1) to what extent appropriate FBI technology management positions should be personnel with commercial sector experience, (2) how access to the most sensitive information can be audited so that suspicious activity is subject to near contemporaneous review, (3) how critical information systems can employ a public key infrastructure, (4) how security features can be tested (5) which FBI employees should receive instruction in records and information management, (6) whether a reserve should be established for research and development, (7) whether administrative requirements for less costly software purchases are necessary, (8) whether the FBI should contract with an expert technology partner, (9) whether procedures should be instituted to procure through contracts of other agencies as necessary; and (10) whether system upgrades should be tested before operational deployment.

Sec. 11026. GAO report on crime statistics reporting

This section requires the General Accounting Office to report on how crime statistics are reported and used by Federal law enforcement agencies. Specifically, the report would identify policies that allow a case to be claimed or reported by more than one law enforcement agency, the conditions that allow such reporting to occur, the number of such cases reported during a 4-year period, similar multiple claims of credit for arrests, the use of such statistics for administrative and management purposes, and relevant definitions. The report would include recommendations for how to eliminate unwarranted and duplicative reporting. Federal law enforcement agencies would be required to comply with GAO requests for information necessary to prepare the report.

Sec. 11027. Crime-free rural States grants

Section 11027 authorizes $30 million over three years for the Attorney General to make grants to State criminal justice, Byrne, or other designated agencies to develop rural States' capacity to assist local communities in the prevention and reduction of crime, violence, and substance abuse.

Sec. 11028. Motor vehicle franchise contract dispute resolution process

Section 11028 requires that whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a controversy arising out of or relating to the contract, arbitration may be used to settle the controversy only if both parties consent in writing after such controversy arises. This section also requires the arbitrator to provide the parties with a written explanation of the factual and legal basis for the decision. The section provides that its provisions shall apply only to contracts entered into, modified, renewed or extended after the date of enactment.

Sec. 11029. Holding court for the Southern District of Iowa

Section 11029 states that the U.S. District Court for the Southern District of Iowa may hold court in Rock Island, Illinois, from January 1, 2003 through July 1, 2005, while the Davenport, Iowa courthouse undergoes renovation.

Sec. 11030. Posthumous citizenship restoration

Section 11030 extends the deadline for allowing families of non-citizen veterans who died while serving honorably in past wars to apply for purely honorary posthumous citizenship on the part of the deceased non-citizen veteran.

Sec. 11030A. Extension of H-1B status for aliens with lengthy adjudications

Section 11030A allows for extension of H-1B status for aliens who file a labor certification more than 365 days before the end of their sixth year, and file an immigration petition before the end of their sixth year. This provision recognizes the lengthy processing times of the Department of Labor.

Sec. 11030B. Application for naturalization by alternative applicant if citizen parent has died

Section 11030B amends the Immigration and Nationality Act to authorize the submission of an application for naturalization under section 322 of such Act on behalf of a child by the child's grandparent or legal guardian, if the parent who otherwise would be authorized to submit such application is deceased.

Subtitle B—EB-5 Amendments

CHAPTER 1—IMMIGRATION BENEFITS

Sec. 11031. Removal of conditional basis of permanent resident status for certain alien entrepreneurs, spouses, and children

Section 11031(a): This subsection sets forth new procedures for certain investors to remove conditional resident status.

Section 11031(b)(1): This subsection defines the investors who qualify under this section. They must meet three conditions: (1) they filed an I-526 petition and had it approved by the INS between January 1, 1995 and August 31, 1998; (2) they obtained conditional resident status; and (3) before the date of enactment of this bill they filed an I-829 to remove their conditional resident status.

Section 11031(b)(2): This subsection allows investors whose I-829 petitions have been denied an opportunity to file a motion to reopen them, as long as they file the motion to reopen within 60 days after enactment. If the investor is outside the United States, the INS must parole the person back into the country unless they are inadmissible or deportable or they had a material misrepresentation in their petition. If an investor whose I-829 petition was denied is in removal proceedings, they too can file a motion to reopen to apply under this bill.

Section 11031(c): This subsection sets forth procedures to determine whether investors can have their conditions removed.

Section 11031(c)(1): This subsection states that the INS has 180 days after enactment to decide three things: (1) whether the I–829 petition has any material misrepresentations; (2) whether the investment created or saved 10 jobs; and (3) whether the investor has substantially complied with the investment requirement ($1 million or $500,000). The section also states that investments in regional centers or in troubled businesses count.

Section 11031(c)(1)(D): This subsection gives investors a choice of three dates by which to measure their compliance: (1) the date the I–829 petition is filed; (2) six months after the I–829 petition is filed; or (3) the date the INS makes its determination.

Section 11031(c)(1)(E): This subsection states that if the investor meets the jobs and investment requirements and has not made a material misrepresentation, the INS will remove the conditional resident status and the investor and family members become real permanent residents.

Section 11031(c)(1)(F): This subsection states that if the INS finds against the investors on any of the three grounds, the Service must notify the investor, and the investor receives a chance to rebut the adverse facts. If the investor loses on the jobs or investment requirement, the INS will continue the investor's conditional resident status for two years. During that time the investor can try to meet those requirements (see below). If the INS finds that the investor made a material misrepresentation, the INS will terminate the investor's conditional resident status. The investor can appeal to the BIA and then seek judicial review. During administrative or judicial review proceedings the investor remains in conditional resident status.

Section 11031(c)(2): This subsection provides for second determinations two years later for those investors who could not initially demonstrate the necessary number of jobs created or amount invested.

Section 11031(c)(2)(A): This subsection states that an investor can combine investments made earlier with new investments to show that altogether he or she invested the total amount required. This includes investments in limited partnerships.

Section 11031(c)(2)(C): This subsection states that the investor must file another I–829 during the 90 days preceding the two-year anniversary. Failure to file will normally terminate a conditional resident's status. There is a good cause exception.

Section 11031(c)(2)(E): This subsection states that if an investor files another I–829 petition, the INS has 90 days to decide three things: (1) whether the I–829 petition has any material misrepresentations; (2) whether the investment created or saved 10 jobs; and (3) whether the investor has substantially complied with the investment requirement ($1 million or $500,000). The investor can aggregate money invested before and jobs created or saved from the initial investment. As before, investments in regional centers or in troubled businesses count.

Section 11031(c)(2)(F): This subsection states that if the investor meets the job creation and investment requirements and has not made a material misrepresentation, the INS will remove the conditional resident status of the investor and family members, who may become real permanent residents.

Section 11031(c)(2)(G): This subsection states that if the INS finds against an investor on any of the three grounds, the Service must notify the investor, who may attempt to rebut the adverse facts. If the investor loses, the INS will terminate the investor's conditional resident status.

Section 11031(d): This subsection states that an investor whose conditional resident status is terminated can have an immigration judge review that decision.

Section 11031(e): This subsection provides that any alien who was admitted on a conditional basis by virtue of being the child of an EB–5 investor shall still be considered a child for purposes of this title.

Section 11031(f): This subsection defines "full-time" employment to mean a position that requires at least 35 hours a week.

Sec. 11032. Conditional permanent resident status for certain alien entrepreneurs, spouses, and children

Section 11032 provides similar procedures for EB–5 investors whose I–526 petitions were approved, but who never became conditional residents because the INS never acted on their adjustment of status applications or because they remained overseas. The key provisions of this section are outlined below.

Section 11032(a): This subsection states that the INS must approve applications under this section within 180 days after enactment.

Section 11032(b): This subsection defines an eligible individual as an investor who filed an I–526 petition that was approved by the INS between January 1, 1995 and August 31, 1998, and who then timely filed an adjustment of status application or applied for an immigrant visa overseas. Investors are not eligible if they are inadmissible or deportable on any ground.

Section 11032(c): This subsection states that if the INS revoked the I–526 petition on the ground that the investor failed to meet the capital investment requirement, that revocation is to be disregarded for purposes of this bill. If the adjustment of status application or immigrant visa application overseas is not pending on the date of enactment, it is to be treated as reopened if (i) it is not pending because the INS claims the investor never complied with the capital investment requirement or (ii) the investor left the United States without advance parole. If an investor applied for adjustment of status in the United States but is now overseas, the INS will establish a process to let them return to the United States if necessary to obtain adjustment.

Section 11032(e): This subsection states that like investors covered by section 11031 above, investors covered by this section must file an I–829 petition within two years of becoming a conditional resident. The determinations and process are similar for both section 11031 and section 11032 investors. For example, the Attorney General shall credit the investor with funds invested and jobs created or saved both prior to and after the date of enactment. This section gives investors a choice of two dates by which to measure their compliance: (1) the date they filed their adjustment of status application; or (2) the date the INS decides the I–829 petition.

Sec. 11033. Regulations

Section 11033 requires the INS to publish implementing regulations within 120 days of enactment. Until regulations are promulgated, the INS may not deny a pending I–829 petition or adjustment of status application relating to an alien covered under the terms of sections 11031 or 11032, or commence or continue removal proceedings against affected EB–5 investors.

Sec. 11034. Definitions

Section 11034 states that the terms used in this title shall have the meaning given such terms in section 101(b) of the Immigration and Nationality Act ("INA"), unless otherwise provided.

CHAPTER 2—AMENDMENTS TO OTHER LAWS

Sec. 11035. Definition of "Full-Time Employment"

Section 11035 defines full-time employment for purposes of section 203(b)(5) of the INA as a position that requiring at least 35 hours a week.

Sec. 11036. Eliminating enterprise establishment requirement for alien entrepreneurs

Section 11036 amends section 203(b)(5) of the INA to eliminate the "establishment" requirement for EB–5 investors. Instead of showing that they have "established" a commercial enterprise, Investors need only that they have "invested" in a commercial enterprise. This section also amends section 216A of the INA to eliminate the "establishment" requirement for EB–5 investors who have filed I–829 petitions. Instead of showing that they have "established" a commercial enterprise, they need only show that they have "invested" in a commercial enterprise. They also must show that they have "sustained" their investment actions over the two-year period. This section also clarifies that a "commercial enterprise" may include a limited partnership. The changes made by this section apply to I–526 and I–829 petitions pending on or after the date of enactment.

Sec. 11037. Amendments to pilot immigration program for regional centers to promote economic growth

Section 11037 amends section 610(a) of the 1993 Commerce, State, Justice appropriations act to clarify that an EB–5 regional center can promote increased export sales, improved regional productivity, job creation, or increased domestic capital investment. This accords with a 2000 amendment that became law, amending section 610(c) of the 1993 Act in a similar way. Section 11037 also clarifies that the INS should approve applications for EB–5 regional center status as long as they are based on a general prediction concerning the kinds of commercial enterprises that will receive capital from investors, the jobs that will be created directly or indirectly as a result of the investment of capital, and the positive economic impacts that will result from the investment of capital.

Subtitle C—Judicial Improvements Act of 2002

Sec. 11041. Short title

Section 11041 states that this subtitle may be cited as the "Judicial Improvements Act of 2002."

Sec. 11042. Judicial discipline procedures

Section 11042 amends Part I of Title 28 to add a new "Chapter 16: Complaints Against Judges and Judicial Discipline," which consists of:

QUOTED SECTION 351: COMPLAINTS; JUDGE DEFINED

Allows any person who alleges that a circuit, district, bankruptcy, or magistrate judge has engaged in improper conduct, or that a judge is unable to perform his duties due to mental or physical disability, to file a written complaint with the clerk of the court of appeals for that judge's circuit. The clerk will present the complaint to the chief judge of the circuit, and to the judge who is the subject of the complaint. If the chief judge is the subject of the complaint, the second-most senior judge will receive the complaint. (The chief judge may also independently identify a complaint without receiving it in writing.)

QUOTED SECTION 352: REVIEW OF COMPLAINT BY CHIEF JUDGE

The chief judge shall expeditiously review any complaint, and can conduct a limited factual inquiry. The chief judge may request that the judge whose conduct is at issue submit a written response, which would not be shared with the complainant without that judge's consent. The chief judge or his or her designee may also communicate with the complainant, the judge, and any other person with knowledge of the matter. The chief judge shall not make findings of fact about any matter reasonably in dispute. The chief judge may issue a written order dismissing the complaint when: (a) it does not follow the rules set out in this statute, (b) when it is directly related to a judicial decision or ruling, (c) when it is frivolous or its allegations are incapable of being established through an investigation, or (d) when the judge's limited inquiry demonstrates that the allegations are false or lack factual foundation. The chief judge may also conclude the proceeding if corrective action has been taken or intervening events have mooted the complaint.

The chief judge shall distribute any written order to the complainant and the subject of the complaint.

A party aggrieved by the decision of the chief judge may petition the circuit's judicial council for review—denial of such petition is not judicially reviewable. If the judicial council accepts the petition, it can refer it for review to a panel of no fewer than five members of the council, including at least two district court judges.

QUOTED SECTION 353: SPECIAL COMMITTEES

If the chief judge does not issue an order dismissing the complaint, he or she shall promptly appoint himself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the allegations, providing written notice of such action to the complainant and the subject. The committee shall conduct an investigation as extensive as it feels necessary, and expeditiously file a comprehensive written report with the judicial council of the circuit. The report shall include both the findings of the investigation and recommendations for appropriate action by the judicial council.'

QUOTED SECTION 354: ACTION BY JUDICIAL COUNCIL

Upon receipt of a report from the special committee, the judicial council may: (1) conduct any additional investigation it considers necessary, (2) dismiss the complaint, and (3) if the complaint is not dismissed, take any appropriate action to assure the effective and expeditious administration of the courts. (The council may also refer the complaint to the Judicial Conference of the United States for its recommendation.) Such action may include a temporary ban on cases being assigned to the judge who was the subject of the complaint, and a private and/or public censure or reprimand of the judge.

For Article III judges, the council may certify the judge's disability and request that the judge voluntarily retire. But the council may not order removal from office. If the council determines that an Article III judge has acted in a way that might constitute grounds of impeachment, it should promptly certify such determination to the Judicial Conference.

For magistrate judges, the council may direct the chief judge of the district of the magistrate judge to take such action as the council considers appropriate. Any removal of a magistrate or bankruptcy judge shall be in accordance with existing law.

QUOTED SECTION 355: ACTION BY JUDICIAL CONFERENCE

Upon referral from a judicial council, the Judicial Conference shall by majority vote take such action as it considers appropriate, from the sanctions available under section 354. If the Judicial Conference believes that consideration of impeachment may be warranted, it shall send that determination to the House of Representatives. Upon receipt, the Clerk of the House of Representatives shall make the Judicial Conference's determination available to the public. If a judge has been convicted of a State or Federal felony, and exhausted or waived all direct appeals, the Judicial Conference may by majority vote send a determination that consideration of impeachment may be warranted to the House of Representatives, together with appropriate court records. No referral from a judicial council is needed for the Conference to take that step.

QUOTED SECTION 356: SUBPOENA POWER

Provides subpoena powers to judicial councils, special committees, the Judicial Conference, or a standing committee appointed by the Chief Justice for purposes of an investigation under this chapter.

QUOTED SECTION 357: REVIEW OF ORDERS AND ACTIONS

A complainant or judge aggrieved by an action of a judicial council under section 354 can petition the Judicial Conference for review.

QUOTED SECTION 358: RULES

Each judicial council and the Judicial Conference may create such rules as it deems appropriate for proceedings under this chapter. Such rules must include (a) adequate prior written notice to a judge who has been the subject of a complaint; (b) the right of an accused judge to appear before the investigating panel, call witnesses, and present evidence and argument; and (c) the complainant being given the opportunity to appear for proceedings if the panel believes he or she could provide substantial information. Rules must be made public and are subject to modification by the Judicial Conference.

QUOTED SECTION 359: RESTRICTIONS

No judge whose conduct is the subject of investigation can serve upon an investigatory panel, a judicial council, or the Judicial Conference until proceedings under this chapter are terminated. No person has the right to intervene or appear as an amicus in any proceeding before a judicial council or the Judicial Conference under this chapter.

QUOTED SECTION 360: DISCLOSURE OF INFORMATION

Except for referrals to the House of Representatives, all matters related to investigations under this chapter shall be confidential and not disclosed by any person in any proceeding, with certain exceptions.

QUOTED SECTION 361: REIMBURSEMENT OF EXPENSES

When a complaint is dismissed, the judge who was its subject may be reimbursed for reasonable expenses, including attorneys' fees, incurred during the investigation.

QUOTED SECTION 362: OTHER PROVISIONS AND RULES NOT AFFECTED

Nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil or Criminal Procedure, Appellate Procedure, or Evidence.

QUOTED SECTION 363: COURT OF FEDERAL CLAIMS, COURT OF INTERNATIONAL TRADE, COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Each named court shall establish rules consistent with this chapter to evaluate complaints against its judges, and shall have the powers granted by this chapter to a judicial council.

QUOTED SECTION 364: EFFECT OF FELONY CONVICTION

Any judge who has been convicted of a State or Federal felony and has exhausted all available means for direct review of that conviction shall not accrue credit toward retirement benefits or hear or decide cases unless the judicial council of the circuit determines otherwise.

Sec. 11043. Technical amendments

Section 11043 makes technical amendments necessitated by the bill.

Sec. 11044. Severability

Section 11044 states that if any part of this subtitle is found unconstitutional, the remainder of the Act will not be affected.

Subtitle D—Antitrust Modernization Commission Act of 2002

Sec. 11051. Short title

Section 11051 states that this subtitle may be cited as the "Antitrust Modernization Commission Act of 2002."

Sec. 11052. Establishment

Section 11052 establishes the Commission.

Sec. 11053. Duties of the Commission

Section 11053 states that the Commission's duties are to examine whether the antitrust laws are in need of modernization, to solicit the views of all concerned parties, to evaluate proposals, and to prepare and submit a report to Congress and the President.

Sec. 11054. Membership

Section 11054 states the Commission will have 12 members, with four appointed by the President, two each by the majority and minority leaders of the Senate, and two each by the Speaker and minority leader of the House. The President's nominees will include two members of the opposing party, to be chosen by that party's Congressional leaders. The President will choose the chair of the Commission, while the Congressional leaders from the other party will choose the vice chair.

Sec. 11055. Compensation of the Commission

Section 11055 states that government employees will not be compensated for their service on the Commission, while nongovernment employees will receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule.

Sec. 11056. Staff of Commission; experts and consultants

Section 11056 states that the chairperson of the Commission may appoint and terminate an executive director and other necessary staff, and use experts and consultants.

Sec. 11057. Powers of the Commission

Section 11057 states that the Commission may hold such hearings and take such testimony as it considers appropriate, may take testimony under oath, and obtain information directly from any executive agency or court.

Sec. 11058. Report

Section 11058 states that the Commission shall submit a detailed report to Congress and the President within three years after its first meeting, including recommendations for legislative and administrative action the Commission considers appropriate.

Sec. 11059. Termination of Commission

Section 11059 states that the Commission shall cease to exist 30 days after it submits its report.

Sec. 11060. Authorization of appropriations

Section 11060 authorizes $4 million to carry out this subtitle.

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Offender Accountability

Sec. 12101. Short title

This section provides that the short title of this subtitle may be cited as the "Consequences for Juvenile Offenders Act of 2002."

Sec. 12102. Juvenile offender accountability

Section 12101 establishes a juvenile offender accountability block grant program for states, authorized at $350,000,000 per year through FY2005.

QUOTED SECTION 1801: PROGRAM AUTHORIZED

Authorizes the Attorney General to provide grants to States, and in certain cases directly to eligible units of local government, for use by States and localities for the purpose of strengthening their juvenile justice systems. Subsection (b) provides an illustrative list of acceptable expenditures for the grant money. Generally, funded programs are aimed at ensuring that juveniles receive appropriate sanctions and face consequences for their wrongdoing.

QUOTED SECTION 1802: GRANT ELIGIBILITY

This section establishes the eligibility criteria for States and localities to receive funding under the grant program. Section 1802(a) provides that States applying for grant funds must provide the Attorney General with information about the proposed activities the State and its localities will carry out with the grant and the criteria by which the State proposes to assess the effectiveness of such activities on achieving the purposes of this part. The applicant must provide the Attorney General with assurances that the State and any localities within the State that qualify for funding have in effect, or will have in effect within one year of submitting its application, policies and programs that provide for a system of graduated sanctions as defined in Section 1802(c).

Section 1802(b) establishes the eligibility criteria for localities, both within States which qualify for funding, and within States that do not qualify or apply for funds, to receive grant funds under the section. Section 1802(b)(1)(A) requires that the localities must provide information about the activities the localities propose to carry out with the subgrant and the criteria by which the locality proposes to assess the effectiveness of such activities. Section 1802(b)(1)(B) requires that localities must provide assurances that a system of graduated sanctions is or will be in effect within one year of applying for the funds.

Section 1802(c) describes the four requirements that a system of graduated sanctions must meet for an applicant to qualify for the grant funds: (1) the sanctions must be imposed on a juvenile offender for each delinquent offense; (2) the sanctions escalate in intensity with each subsequent, more serious delinquent offense; (3) the system have sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and (4) the system should accord appropriate consideration to public safety and victims of crime.

Section 1802(d) provides that a State or locality may qualify for the grant funds even if its system of graduated sanctions is discretionary. A State or locality does not have to require all of its juvenile courts to impose graduated sanctions or to impose them in every case. In States and localities where the imposition of graduated sanctions is discretionary, the juvenile courts that do not impose graduated sanctions must report at least annually to the applicable State or locality why graduated sanctions were not imposed in all such cases.

Section 1802(e) defines the terms "discretionary" and "sanctions." The term discretionary means that each and every juvenile court in a State or locality does not have to impose a system of graduated sanctions. The term sanctions means tangible, proportional consequences that hold juvenile offenders accountable for the offense committed. A sanction may include, but is not limited to, counseling, restitution, community service, a fine, supervised probation, or confinement.

QUOTED SECTION 1803: ALLOCATION AND DISTRIBUTION OF FUNDS

Section 1803(a) provides that each State is to receive 0.50 percent of the total grant funds. The term "State" is defined in Section 1809. The remaining funds are then to be distributed among the States based on the size of each State's juvenile population.

Section 1803(b)(1) requires that a participating State must distribute to its participating localities 75 percent of the total grant funds the State receives. This "pass-through" provision is aimed at ensuring that localities receive most of the funding when they bear most of the juvenile justice expenditures.

Section 1803(b)(2) provides for a waiver of the pass-through provision when the State is responsible for more than 25 percent of the total juvenile justice expenditures in the State. The State may seek a waiver of the pass-through requirement from the Attorney General so that it may keep a share of the grant funds equal to its share of the total expenditures in that State.

Section 1803(b)(3) provides an allocation formula to distribute the grant funding among the localities within a State. The allocation formula is intended to provide maximum resources to the localities that bear the largest burden in administering the juvenile justice system in the participating State. Under the formula, each State determines the amount that each of its localities receives, based on a combination of juvenile justice expenditures and the level of violent crime in each locality.

Section 1803(b)(4) provides that a local government shall not receive a subgrant of more than 100 percent of its juvenile justice expenditures.

Section 1803(c) requires the State to investigate the methodology used by a locality to determine the accuracy of the locality's submitted data, if the State has reason to believe such information is insufficient or inaccurate.

Section 1803(d) provides that States shall expend money on services to localities whose allotments are less than $10,000.

Section 1803(e) provides that the Attorney General will reserve not more than 75 percent of the allocation that a non-qualifying State would have received under section 1803(a) if it had qualified. This reserve will be used to provide grants to localities that meet the requirements for funding under section 1802 even though they are in the non-qualifying States.

QUOTED SECTION 1804: GUIDELINES

Section 1804(a) requires the Attorney General to issue guidelines establishing procedures under which a State or locality that receives funds is required to provide notice regarding the proposed use of funds made available under this part.

Section 1804(b) requires an eligible State or locality to establish an advisory board to review the proposed uses of such funds. The members of the board must include representatives of: State and local police departments, prosecutors' offices, juvenile courts, probation offices, educational agencies, and social service agencies; the local sheriff's departments; nonprofit, nongovernmental victim advocacy organizations; and nonprofit, religious or community groups.

QUOTED SECTION 1805: PAYMENT REQUIREMENTS

This section establishes various provisions regarding payment of funds to eligible States and localities and repayment of unexpended funds to the Attorney General. Grant recipients may use no more than 5 percent of any grant funds received for administrative costs.

QUOTED SECTION 1806: UTILIZATION OF THE PRIVATE SECTOR

This section provides that States or localities may use the funds to contract with private, nonprofit entities or community-based organizations to carry out the purposes of section 1801.

QUOTED SECTION 1807: ADMINISTRATIVE PROVISIONS

This section establishes administrative provisions for recipient State or localities that receive funds directly from the Attorney General. The recipient of the funds must establish a trust fund and deposit all payments received under this grant program into that trust.

QUOTED SECTION 1808: ASSESSMENT REPORTS

This section requires that a State or locality that receives the grant or subgrant funding must provide a report to the Attorney General summarizing the activities carried out with the funds and assessing the effectiveness of those activities. This section also includes a waiver provision for activities that are not practical to assess.

QUOTED SECTION 1809: DEFINITIONS

This section provides definitions of key terms used in the legislation.

QUOTED SECTION 1810: AUTHORIZATION OF APPROPRIATIONS

This section authorizes $350 million a year for through fiscal year 2005 to fund the programs under this title.

Subtitle B—Juvenile Justice and Delinquency Prevention Act of 2002

Section 12201. Short title

Section 12201 states that this subtitle may be cited as the "Juvenile Justice and Delinquency Prevention Act of 2002."

Section 12202. Findings

Section 12202 states the findings of Congress on the seriousness of juvenile crime and the need to address the problem through both prevention and accountability programs.

Section 12203. Purpose

Section 12203 states that the purpose of this subtitle is to assist State and local governments in preventing acts of juvenile delinquency and holding offenders accountable.

Section 12204. Definitions

Section 12204 modifies and adds to the definitions under the Juvenile Justice and Delinquency Act. It defines "graduated sanctions," "contact," "adult inmate," "violent crime," "collocated facilities," and "related complex of buildings." The definition for "contact" adopts current Federal regulations, as found in section 31.303 of Title 28 of the Code of Federal Regulations.

Section 12205. Concentration of Federal effort

Section 12205 modifies the duties of the Administrator of the Office of Juvenile Justice and Delinquency Prevention by, among other things, requiring him to issue model standards for providing mental health care to incarcerated juveniles within one year of enactment.

Section 12206. Coordinating Council on Juvenile Justice and Delinquency Prevention

Section 12206 makes a technical correction to the JJDPA, making it comply with the current title of the House Education and Workforce Committee.

Section 12207. Annual report

Section 12207 amends section 207 of the JJDPA to require an annual evaluation of the effectiveness of programs funded under this title.

Section 12208. Allocation

Section 12208 amends section 222 of the JJDPA to make technical changes to clarify the process by which States and territories receive funding under the Act.

Section 12209. State plans

Section 12209 amends section 223 of the JJDPA to amend or eliminate specific state plan requirements and modify the list of activities eligible for funding under the formula grant program.

Section 12210. Juvenile Delinquency Prevention Block Grant Program

Section 12210 amends Title II of the JJDPA by repealing Part C (National Programs), Part D (Gangs), Part E (State Challenge Activities), Part F (Treatment of Juvenile Offenders Who Are Victims of Child Abuse or Neglect), Part G (Mentoring), Part H (Boot Camps), and the first sub-part of Part I (White House Conference on Juvenile Justice). In their place, the section creates a new Part C that establishes the Juvenile Delinquency Prevention Block Grant and sets forth the allocation of funds, state plan requirements and criteria and eligibility for grants for local projects.

Section 12211. Research; evaluation; technical assistance; training

Section 12211 amends Title II of the JJDPA by creating a new Part D that authorizes research, training, technical assistance and information dissemination regarding juvenile justice matters through the Office of Juvenile Justice and Delinquency Prevention.

Section 12212. Demonstration projects

Section 12212 amends Title II of the JJDPA by creating a new Part E that permits the administrator to award grants for developing, testing, and demonstrating new initiatives and programs for the prevention, control or reduction of juvenile delinquency.

Section 12213. Authorization of appropriations

Section 12213 authorizes such sums as may be appropriate to carry out Title II of this act.

Section 12214. Administrative authority

Section 12214 amends Section 299A of the JJDPA to modify the administrator's authority to establish rules, regulations, and procedures.

Section 12215. Use of funds

Section 12215 amends Section 299C of the JJDPA to state, among other things, that no funds shall be paid to a residential program unless the State in which it is located has minimum licensing standards.

Section 12216. Limitations on use of funds

Section 12216 amends Title II, Part F of the JJDPA by adding a requirement that funds not be used to support the unsecured release of juveniles charged with a violent crime.

Section 12217. Rules of construction

Section 12217 amends Title II, Part F of the JJDPA by adding a new section to clarify that nothing in Titles I or II (a) prevents otherwise eligible organizations from receiving grants, or (b) should be construed to modify or affect existing federal or state laws related to collective bargaining rights of employees.

Section 12218. Leasing surplus Federal property

Section 12218 amends Title II, Part F of the JJDPA to permit the administrator to receive surplus Federal property and lease it to eligible entities for use in juvenile facilities or for delinquency prevention and treatment activities.

Section 12219. Issuance of rules

Section 12219 amends Title II, Part F of the JJDPA to allow the administrator to issue rules to carry out the title.

Section 12220. Content of materials

Section 12220 amends Title II, Part F of the JJDPA to add a new section requiring that materials funded by this act for the purpose of hate crimes prevention shall not abridge or infringe upon the constitutionally protected rights of free speech, religion, and equal protection of juveniles or their parents or legal guardians.

Section 12221. Technical and conforming amendments

Section 12221 sets forth technical and conforming amendments.

Section 12222. Incentive grants for local delinquency prevention programs

Section 12222 reauthorizes Title V of the JJDPA, which provides for grants for delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, with minor amendments.

Section 12223. Effective date; application of amendments

Section 12223 sets forth the effective date of the act and states that amendments made by the act shall apply to fiscal years beginning after September 30, 2002.

Subtitle C—Amendments to 18 U.S.C. 5037

Section 12301. Amendments to 18 U.S.C. 5037

Section 12301 amends 18 U.S.C. §5037 to modify current federal law regarding the sentencing of juvenile delinquents. Specifically, it (1) provides authority to impose a term of juvenile delinquency supervision to follow a term of official detention, (2) provides authority to sanction a violation of probation when a person adjudicated a juvenile delinquent is over 21 at the time of the violation, and (3) makes technical corrections in response to the Supreme Court's decision in *United States* v. *R.L.C.*

TITLE III—INTELLECTUAL PROPERTY

Subtitle A—Patent and Trademark Office Authorization

Sec. 13101. Short Title

Section 13101 states that the short title of this subtitle is the "Patent and Trademark Authorization Act of 2002."

Sec. 13102. Authorization of amounts available to the Patent and Trademark Office

Section 13102 would authorize the PTO to receive appropriations for fiscal years 2003 through 2008 in amounts equal to those fees collected by the agency in each such fiscal year. The Director of the PTO must submit estimates of the fees for the next fiscal year to the Committees on Appropriations and Judiciary of the Senate and the Committees on Appropriations and Judiciary of the House of Representatives no later than February 15 each fiscal year. If enacted, however, this full-funding authorization would still be subject to appropriations.

Sec. 13103. Electronic filing and processing of patent and trademark applications

Section 13103 requires the Director to develop a user-friendly electronic system for the filing and processing patent and trademark applications. This electronic system must also allow examiners and applicants to send all communications electronically, and should allow the PTO to process, maintain, and search electronically the contents and history of each application. The system must be completed within 3 years of the date of enactment of this legislation. This section authorizes not more than $50,000,000 for each of fiscal years 2003, 2004 and 2005 to carry out this section. These amounts will remain available until expended.

Sec. 13104. Strategic Plan

Section 13104 requires the Secretary of Commerce to submit annual updates on the implementation of the "21st Century Strategic Plan", which was issued on June 3, 2002, and any amendments to that plan. These annual reports should be submitted to Committees on the Judiciary of the Senate and House of Representatives in the five calendar years following the date of enactment of this act.

Sec. 13105. Determination of substantial new question of patentability in reexamination proceedings

Section 13105 modifies the sections of Title 35 of the U.S. Code that instruct the Director to determine whether substantial new questions of patentability are raised by requests for prior art citations to the Office, *ex parte* reexaminations of patents, or *inter partes* reexaminations of patents. In each of these cases, language is added to the Title to clarify that the existence of a substantial new question of patentability is not necessarily precluded by the fact that a patent or printed publication has been previously cited by the Office or considered by the Office. This section states that these amendments to the U.S. Code will be effective for any determinations made by the Director on or after the enactment of this bill.

Sec. 13106. Appeals in inter partes reexamination proceedings

Section 13106 amends 35 U.S.C. Sec. 315 by adding the Court of Appeals for the Federal Circuit as a venue where a third party requester may appeal, or be a party to an appeal of, a final decision on patentability.

This section strikes the section in the Code that states that the third-party requester may not appeal the decision of the Board of Patent Appeals and Interferences. It explicitly adds third-party requesters to those who may request an appeal or participate in an appeal of a decision by the Board of Patent Appeals and Interferences. It also states that all of the amendments found in this section apply to any reexamination begun on or after the date of enactment of this bill.

Subtitle—B Intellectual Property and High Technology Technical Amendments

Sec. 13201. Short title

Section 13201 may be cited as the "Intellectual Property and High Technology Technical Amendments Act of 2002."

Sec. 13202. Clarification of Reexamination Procedure Act of 1999; technical amendments

Reexamination is an administrative proceeding in which a patent may be reviewed in light of new evidence affecting its patentability ("prior art").[6] Traditionally, reexamination operated only between the patent owner and the PTO (*ex parte*). As part of the AIPA, a new *inter partes* reexamination procedure was established to allow a third party also to challenge the validity of a patent or its claims through the introduction of new evidence. While this *inter partes* procedure is considered beneficial because it provides cost savings over court litigation, some critics were concerned it would be abused. As a result, reexamination through the *inter partes* mechanism was designed with certain limitations (e.g., estoppel provisions) which do not apply in *ex parte* reexamination under the Patent Act.

Section 13202 of the bill merely clarifies the Patent Act's *inter partes* reexamination section by stipulating that it will apply to the proper parties and operate as envisioned. For example, the term "third-party requester" is inserted in lieu of "persons," since only a third party may invoke this *inter partes* reexamination. This is logical because a patent owner has more rights under *ex parte* reexamination and would not choose to use the *inter partes* procedures even if available.

The bill, under paragraph (c), specifies that the effective date of these reexamination procedures shall apply to any reexamination on or after the date of the act's enactment.

Sec. 13203. Patent and Trademark Efficiency Act amendments

The AIPA contained a title (the "Patent and Trademark Efficiency Act") to modernize the PTO by transforming it into a more autonomous and efficient agency. The first section of the bill clarifies the status and authority of the Deputy Director of the PTO under this reorganization. The amendments made by the succeeding two paragraphs also conform the membership of the Trademark Trial and Appeal Board and the Board of Patent Appeals and Interferences to include the Deputy Director, as under current statute.

Section 13203 amends section 5, chapter 1, of title 35. The employees of the PTO are currently prohibited from having an ownership interest in patents.[7] Members of the newly-established Public Advisory Committee are currently considered employees of the Office. Currently, those individuals who possess the most thorough understanding of the patent system (for example, independent inventors) are prohibited from participating on the Public Advisory Committee. This subsection eases this restriction on those serving on the Public Advisory Committee in light of the goals of the AIPA.

This section eliminates the need for a signature to be attested on a patent grant. This amendment removes one step of the agency's bureaucracy and allows the PTO to issue patents more expeditiously.

Sec. 13204. Domestic publication of Foreign Filed Patent Applications Act of 1999 amendments

The AIPA established the early publication of patent applications in the U.S. patent system for the first time along with certain conditions and new rights for inventors. One such right is a corresponding provisional right (e.g., a reasonable royalty) in patent infringement cases. These provisions will take effect 1 year after the AIPA's date of enactment. Section 13204 is technical in nature and clarifies the text regarding the statutory requirement for the effective date of international applications which may qualify for the provisional rights based on early publication.

Sec. 13205. Domestic Publication of Patent Applications Published Abroad

The AIPA established the early publication of patent applications, as described above. One consequence of early publication is its effect on the standard of novelty for a patent application. Section 13205 and the following paragraphs establish certain safeguards regarding the interplay of the early publication of patent applications and the review of novelty during the patent examination process. It is an especially important safeguard in light of the fact that the U.S. is a signatory of the Patent Cooperation Treaty, an international convention allowing for the multi-national application of patents in several languages.

Subsection 1 contains a safeguard that the PTO will only rely on information published in English in patent applications as it makes the essential determination of novelty during the examination of a patent application. This limits the evidence from foreign applications that may be considered "prior art" and could affect patentability. This is an important safeguard for independent inventors and small American businesses that do not have access to expensive translation services and the foreign patent offices.

The effective date language relating to section 102(e) generally provides that all patents, whenever granted, and all pending applications for patents, whenever filed, will be subject to prior art as defined by section 102(e) of title 35 effective as of November 29, 2000. However, patents resulting from an international application filed before November 29, 2000 and applications published under section 122(b) of title 35 or Article 21(2) of the treaty defined in section 351(a) of title 35 resulting from an international application filed before November 29, 2000 will not be effective as prior art references as of the filing date of the international application. This exception includes patents and published applications derived directly or indirectly from international applications filed before November 29, 2000, including international applications that claim benefit to an earlier application for patent in the United States. Thus, for example, if an application for patent, filed before, on, or after November 29, 2000, claims the benefit to an international application filed before November 29, 2000, and the international application, in turn, claims the benefit to earlier filed United States application for patent, neither the filing date of the international application nor the filing date of the earlier-filed application for patent in the United States will be considered in determining when the resulting published application or patent is effective as a prior art reference under section 102(e) of title 35 effective on November 29, 2000. However, under section 102(e) of title 35 as amended by the AIPA, for patents and published applications derived indirectly from an international application filed before November 29, 2000 through a bypass continuation application (an application for patent filed under section 111 of title 35 that claims the benefit of the filing date of an earlier international application that did not enter the national stage under section 371 of title 35), such patents and published applications are effective as prior art references as of the filing date of the bypass continuation application.

This section also clarifies that a patent or pending application for patent will be subject to prior art patents resulting from international applications filed before November 29, 2000 based on the provisions of section 102(e) of title 35 in effect before November 29, 2000. Thus, such patents may be prior art references as of the date of compliance with the requirements of section 371 (c) (1), (2), and (4) of title 35 and not the filing date of the international application, unless the date of compliance with the requirements of section 371(c)(1), (2), and (4) of title 35 coincides with the filing date of the international application.

Sec. 13206. Miscellaneous clerical amendments

Section 13206 contains a series of highly technical clerical amendments developed by the Office of Legislative Counsel upon its own initiative. These changes to the Patent Act are self-evident, and range from aligning paragraphs, deleting quotation marks, correcting the fonts of headings, and the like.

Sec. 13207. Technical corrections in trademark law

In Section 13207, the first paragraph clarifies the statutory text of the Trademark Act as it relates to damages. In 1999, the "Anti-Cybersquatting Consumer Protection Act"[8] established certain damages for willful violation of §43(c) of the Trademark Act.[9] The present language entitles a plaintiff to damages, but it reads awkwardly. This bill makes a technical correction to the text and thereby removes the redundant text, without altering the substance of available trademark infringement remedies.

The second paragraph provides for additional technical amendments, including four strictly clerical changes, such as the deletion of a comma and the realignment of a paragraph. The bill also makes additional changes to the Trademark Act regarding the designation of persons involved with the filing procedures for receiving notice and process correspondence relating to the trademark registration.

Sec. 13208. Patent and trademark fee clerical amendment

Section 13208 corrects a clerical error pertaining to the section of the law cited relating to the adjustment of trademark fees and the consumer price index. The change to the cited reference does not make a substantive change in trademark law.

Sec. 13209. Copyright related corrections to 1999 Omnibus Reform Act

Section 13209 makes amendments to Title I of IPCORA.

Paragraph (1)(A) amends section 1007(2) by striking "paragraph (2)" and inserting "paragraph (2)(A)".

Paragraph (1)(B) amends section 1007(3) by striking "1005(e)" and inserting "1005(d)". In section 1007(3), the amendment instructions require paragraph 12 to be added to subsection 119(a) "as amended by section 1005(e)". The reference to section 1005(e) is wrong. Section 1005(d) amended subsection 119(a), whereas section 1005(e) amended subsection 119(d). Section 1005(d) amended subsection 119(a) by adding paragraph 11. Section 1005(e) amended subsection 119(d) by rewriting its paragraph 11. This amendment corrects this.

Paragraph (2) amends section 1006(b) by striking "119(b)(1)(B)(iii)" and inserting

---

[6] 35 U.S.C. §301 et seq.

[7] 35 U.S.C. §4.

[8] H.R. 3194, P.L. 106-113 (Nov. 29, 1999)

[9] 15 U.S.C. §1125(c)

"119(b)(1)(B)(ii)". Section 1006(b) amended section 119(b)(1)(B)(iii) by inserting "or the Public Broadcasting Service satellite feed" after "network station". Section 119(b)(1)(B)(ii), not (iii), should have been amended. Section 119(b)(1)(B)(iii) contains no reference to "network station". Section 119(b)(1)(B)(ii) does contain that reference, and it is clear that section 1006(b) was intended to amend section 119(b)(1)(B)(ii).

Paragraphs (3)(A) and (3)(B) amend section 1006(a)(2) by repealing it, redesignating the paragraphs and changing the language in section 1011(b). The amendment in section 1006(b)(2) amends section 119(a)(1) by inserting new wording so that the text will read as follows, with the new wording italicized: "primary transmission made by a superstation or by the Public Broadcasting Service satellite feed and embodying a performance or display of a work".

The amendment in section 1011(b)(2)(A) subsequently amends the same language but does not take the first amendment into account. It directs that section 119(a)(1) be amended to delete "primary transmission made by a superstation and embodying a performance or display of a work" (ignoring the fact that "or by the Public Broadcasting Service satellite feed" has been inserted into the middle of that phrase). In lieu of that phrase, it inserts "performance or display of a work embodied in a primary transmission made by a superstation" (but without taking into account the addition of "or by the Public Broadcasting Service satellite feed"). As a result, it is unclear what is to be done with the phrase "or by the Public Broadcasting Service satellite feed". Although the intent is clear, the language of sections 1006(a)(2) and 1011(b)(2)(A) does not necessarily accomplish the intended result. These paragraphs clarify the ambiguity and achieve the intended result.

Sec. 13210. Amendments to title 17, United States Code

Section 13210 makes amendments to title 17, United States Code.

Paragraph (1) amends section 119(a)(6) by striking "of performance" and inserting "of a performance". Section 1011(b)(2) of IPCORA amended section 119(a)(6) so that "performance or display of a work embodied in" is inserted after "by a satellite carrier of". The word "a" is missing between these two phrases. This section inserts it before "performance" so that the language, will read "by a satellite carrier of a performance or display of a work embodied in".

Paragraph (2)(A) amends the section heading for section 122 by striking "rights; secondary" and inserting "rights: Secondary". Section 1002(a) of IPCORA added section 122 to title 17. The title of section 122 has editorial errors. To make it consistent with the style used throughout title 17, the title is changed to substitute a colon in lieu of the semicolon and "secondary" is capitalized. Paragraph (2)(B) amends the item relating to section 122 in the table of contents for chapter 1 to make it consistent with the change made by paragraph (2)(A).

Paragraph (3)(A) amends the section heading for section 121 by striking "reproduction" and inserting "Reproduction". Paragraph 3(B) amends the item relating to section 121 in the table of contents for chapter 1 by striking "reproduction" and inserting "Reproduction". This makes the heading for section 121 and the table of contents for chapter 1 conform to the editorial style used for the rest of the headings for title 17 by capitalizing "reproduction".

Paragraphs (4)(A), (4)(B), and (4)(C) amend cross references to the limitations on exclusive rights in copyright to include section 122. Throughout title 17, such references to "121" are changed to "122". Paragraph 4(A) amends section 106 by striking "107 through 121" and inserting "107 through 122". Paragraph (4)(B) amends section 501(a) by striking "106 through 121" and inserting "106 through 122". Paragraph (4)(C) amends section 511(a) by striking "106 through 121" and inserting "106 through 122".

Paragraph (5)(A) amends section 101 by moving the definition of "computer program" so that it appears after the definition of "compilation". Paragraph (5)(B) amends section 101 by moving the definition of "registration" so that it appears after the definition of "publicly". This amendment ensures that the definitions appear in alphabetical order.

Paragraph (6) amends section 110(4)(B) in the matter preceding clause (i) by striking "conditions;" and inserting "conditions:". A colon is the proper punctuation when a phrase that introduces multiple subparts is worded to include "the following".

Paragraph (7) amends section 118(b)(1) in the second sentence by striking "to it". This section was amended by the Copyright Royalty Tribunal Reform Act of 1993 to substitute "Librarian of Congress" for references to the "Copyright Royalty Tribunal" (CRT). As originally enacted by the Copyright Act of 1976, the second sentence in subsection(b) used the pronoun "it" to refer to the CRT. As amended in 1993, the sentence now states, "The Librarian of Congress shall proceed on the basis of the proposals submitted to it. . . ." This amendment corrects that reference.

Paragraphs (8)(A) and (B) amend section 119(b)(1)(A). Paragraph (A) strikes "transmitted" and inserts "retransmitted". Paragraph (B) strikes "transmissions" and inserts "retransmissions". These paragraphs correct two drafting errors in section 119(b)(1)(A) when it was enacted by the Satellite Home Viewer Act of 1988.

Paragraphs (9)(A), (B) and (C) amend section 203(a)(2). Paragraph (9)(A)(i) amends subparagraph (A) by striking "(A) the" and inserts "(A) The". Paragraph (9)(A)(ii) amends subparagraph (A) by striking the semicolon at the end and inserting a period. Paragraph (9)(B)(i) amends subparagraph (B) by striking "(B) the" and inserting "(B) The". Paragraph (9)(B)(ii) amends subparagraph (B) by striking the semicolon at the end and inserting a period. Paragraph (9)(C) amends subparagraph (C) by striking "(C) the" and inserting "(C) The".

Paragraphs (10)(A), (B) and (C) amend section 304(c)(2). Paragraph (10)(A)(i) amends subparagraph (A) by striking "(A) the" and inserting "(A) The". Paragraph (10)(A)(ii) amends subparagraph (A) by striking the semicolon at the end and inserting a period. Paragraph (10)(B)(i) amends subparagraph (B) by striking "(B) the" and inserting "(B) The". Paragraph (10)(B)(ii) amends subparagraph (B) by striking the semicolon at the end and inserting a period. Paragraph (10)(C) amends subparagraph (C) by striking "(C) the" and inserting "(C) The". The addition of subparagraph (C) to sections 203(a)(2) and 304(c)(2) resulted in inconsistent punctuation and this amendment makes the punctuation in sections 203(a)(2) and 304(c)(2) internally consistent.

Paragraph (11) amends the item relating to section 903 in the table of contents for chapter 9 by striking "licensure" and inserting "licensing". As originally enacted in 1984, the table of contents for chapter 9 and the text each had a different heading for section 903. The heading in the text was the same as it is now, which is "Ownership, transfer, licensing, and recordation". The heading in the table of contents was, "Ownership and transfer." In 1997, a technical amendment changed the heading in the table of sections to its present form, which is, "Ownership, transfer, licensure, and recordation." The 1997 amendment did not change the heading in the text to make it the same. This amendment makes both the table of contents and the heading in the text the same.

Paragraph (12) amends section 109 by striking subsection (e). Section 803 of the Computer Software Rental Amendments Act of 1990 amended section 109 of title 17 by adding subsection (e). According to section 804(c) the amendments made by section 803 shall not apply to public performances or displays that occur on or after October 1, 1995. Therefore, section 109 is expired.

Sec. 13211. Other copyright related technical amendments.

Section 13211 makes other technical and conforming amendments. Paragraph (a) amends title 18, section 2319(e)(2) by striking "107 through 120" and inserting "107 through 122". Paragraph (b)(1) and (2) correct an incorrect reference to an uncodified title. It is incorrect to directly cite to an uncodified title.

Subtitle C—Educational Use Copyright Exemption

Sec. 13301. Educational use copyright exemption

Subsection (a) provides that this provision may be cited as the "Technology, Education and Copyright Harmonization Act of 2002."

Subsection (b): Exemption of certain performances and displays for educational uses

Section 1(b) of the TEACH Act amends section 110(2) of the Copyright Act to encompass performances and displays of copyrighted works in digital distance education under appropriate circumstances. The section expands the scope of works to which the amended section 110(2) exemption applies to include performances of reasonable and limited portions of works other than nondramatic literary and musical works (which are currently covered by the exemption), while also limiting the amount of any work that may be displayed under the exemption to what is typically displayed in the course of a live classroom session. At the same time, section 1(b) removes the concept of the physical classroom, while maintaining and clarifying the requirement of mediated instructional activity and limiting the availability of the exemption to mediated instructional activities of governmental bodies and "accredited" non-profit educational institutions. This section of the Act also limits the amended exemption to exclude performances and displays given by means of a copy or phonorecord that is not lawfully made and acquired, which the transmitting body or institution knew or had reason to believe was not lawfully made and acquired. In addition, section 1(b) requires the transmitting institution to apply certain technological protection measures to protect against retention of the work and further downstream dissemination. The section also clarifies that participants in authorized digital distance education transmissions will not be liable for any infringement by reason of transient or temporary reproductions that may occur through the automatic technical process of a digital transmission for the purpose of a performance or display permitted under the section. Obviously, with respect to such reproductions, the distribution right would not be infringed. Throughout the Act, the term "transmission" is intended to include transmissions by digital, as well as analog means.

Works subject to the exemption and applicable portions

The TEACH Act expands the scope of the section 110(2) exemption to apply to performances and displays of all categories of copyrighted works, subject to specific exclusions for works "produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks" and performance or displays "given by means of a copy or phonorecord that is not lawfully made and acquired," which the transmitting body or institution "knew or had reason to believe was not lawfully made and acquired."

Unlike the current section 110(2), which applies only to public performances of non-dramatic literary or musical works, the amendment would apply to public performances of any type of work, subject to certain exclusions set forth in section 110(2), as amended. The performance of works other than non-dramatic literary or musical works is limited, however, to "reasonable and limited portions" of less than the entire work. What constitutes a "reasonable and limited" portion should take into account both the nature of the market for that type of work and the pedagogical purposes of the performance.

In addition, because "display" of certain types of works, such as literary works using an "e-book" reader, could substitute for traditional purchases of the work (e.g., a text book), the display exemption is limited to "an amount comparable to that which is typically displayed in the course of a live classroom setting." This limitation is a further implementation of the "mediated instructional activity" concept described below, and recognizes that a "display" may have a different meaning and impact in the digital environment than in the analog environment to which section 110(2) has previously applied. The "limited portion" formulation used in conjunction with the performance right exemption is not used in connection with the display right exemption, because, for certain works, display of the entire work could be appropriate and consistent with displays typically made in a live classroom setting (e.g., short poems or essays, or images of pictorial, graphic, or sculptural works, etc.).

The exclusion for works "produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks" is intended to prevent the exemption from undermining the primary market for (and, therefore, impairing the incentive to create, modify or distribute) those materials whose primary market would otherwise fall within the scope of the exemption. The concept of "performance or display as part of mediated instructional activities" is discussed in greater detail below, in connection with the scope of the exemption. It is intended to have the same meaning and application here, so that works produced or marketed primarily for activities covered by the exemption would be excluded from the exemption. The exclusion is not intended to apply generally to all educational materials or to all materials having educational value. The exclusion is limited to materials whose primary market is "mediated instructional activities," *i.e.*, materials performed or displayed as an integral part of the class experience, analogous to the type of performance or display that would take place in a live classroom setting. At the same time, the reference to "digital networks" is intended to limit the exclusion to materials whose primary market is the digital network environment, not instructional materials developed and marketed for use in the physical classroom.

The exclusion of performances or displays "given by means of a copy or phonorecord that is not lawfully made and acquired" under Title 17 is based on a similar exclusion in the current language of section 110(1) for the performance or display of an audiovisual work in the classroom. Unlike the provision in section 110(1), the exclusion here applies to the performance or display of any work. But, as in section 110(1), the exclusion applies only where the transmitting body or institution "knew or had reason to believe" that the copy or phonorecord was not lawfully made and acquired. As noted in the Register's Report, the purpose of the exclusion is to reduce the likelihood that an exemption intended to cover only the equivalent of traditional concepts of performance and display would result in the proliferation or exploitation of unauthorized copies.[10] An educator would typically purchase, license, rent, make a fair-use copy, or otherwise lawfully acquire the copy to be used, and works not yet made available in the market (whether by distribution, performance or display) would, as a practical matter, be rendered ineligible for use under the exemption.

Eligible transmitting entities

As under the current section 110(2), the exemption, as amended, is limited to government bodies and non-profit educational institutions. However, due to the fact that, as the Register's Report points out, "nonprofit educational institutions" are no longer a closed and familiar group, and the ease with which anyone can transmit educational material over the Internet, the amendment would require non-profit educational institutions to be "accredited" in order to provide further assurances that the institution is a bona fide educational institution. It is not otherwise intended to alter the eligibility criteria. Nor is it intended to limit or affect any other provision of the Copyright Act that relates to non-profit educational institutions or to imply that non-accredited educational institutions are necessarily not bona fide.

"Accreditation" is defined in section 1(b)(2) of the TEACH Act in terms of the qualification of the educational institution. It is not defined in terms of particular courses or programs. Thus, an accredited nonprofit educational institution qualifies for the exemption with respect to its courses whether or not the courses are part of a degree or certificate-granting program.

Qualifying performances and displays; mediated instructional activities

Subparagraph (2)(A) of the amended exemption provides that the exemption applies to a performance or display made "by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of . . . systematic mediated instructional activity." The subparagraph includes several requirements, all of which are intended to make clear that the transmission must be part of mediated instructional activity. First, the performance or display must be made by, under the direction of, or under the actual supervision of an instructor. The performance or display may be initiated by the instructor. It may also be initiated by a person enrolled in the class as long as it is done either at the direction, or under the actual supervision, of the instructor. "Actual" supervision is intended to require that the instructor is, in fact, supervising the class activities, and that supervision is not in name or theory only. It is not intended to require either constant, real-time supervision by the instructor or pre-approval by the instructor for the performance or display. Asynchronous learning, at the pace of the student, is a significant and beneficial characteristic of digital distance education, and the concept of control and supervision is not intended to limit the qualification of such asynchronous activities for this exemption.

The performance or display must also be made as an "integral part" of a class session, so it must be part of a class itself, rather than ancillary to it. Further, it must fall within the concept of "mediated instructional activities" as described in section 1(b)(2) of the TEACH Act. This latter concept is intended to require the performance or display to be analogous to the type of performance or display that would take place in a live classroom setting. Thus, although it is possible to display an entire textbook or extensive course-pack material through an e-book reader or similar device or computer application, this type of use of such materials as supplemental reading would not be analogous to the type of display that would take place in the classroom, and therefore would not be authorized under the exemption.

The amended exemption is not intended to address other uses of copyrighted works in the course of digital distance education, including student use of supplemental or research materials in digital form, such as electronic course packs, e-reserves, and digital library resources. Such activities do not involve uses analogous to the performances and displays currently addressed in section 110(2).

The "mediated instructional activity" requirement is thus intended to prevent the exemption provided by the TEACH Act from displacing textbooks, course packs or other material in any media, copies or phonorecords of which are typically purchased or acquired by students for their independent use and retention "in most post-secondary and some elementary and secondary contexts). The Committee notes that in many secondary and elementary school contexts, such copies of such materials are not purchased or acquired directly by the students, but rather are provided for the students" independent use and possession (for the duration of the course) by the institution.

The limitation of the exemption to systematic "mediated instructional activities" in subparagraph (2)(A) of the amended exemption operates together with the exclusion in the opening clause of section 110(2) for works "produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks" to place boundaries on the exemption. The former relates to the nature of the exempt activity; the latter limits the relevant materials by excluding those primarily produced or marketed for the exempt activity.

One example of the interaction of the two provisions is the application of the exemption to textbooks. Pursuant to subparagraph (2)(A), which limits the exemption to "mediated instructional activities," the display of material from a textbook that would typically be purchased by students in the local classroom environment, in lieu of purchase by the students, would not fall within the exemption. Conversely, because textbooks typically are not primarily produced or marketed for performance or display in a manner analogous to performances or display in the live classroom setting, they would not per se be excluded from the exemption under the exclusion in the opening clause. Thus, an instructor would not be precluded from using a chart or table or other short excerpt from a textbook different from the one assigned for the course, or from emphasizing such an excerpt from the assigned textbook that had been purchased by the students.

---

[10] Register of Copyrights, report on copyright and digital distance education (1999) at 159.

The requirement of subparagraph (2)(B), that the performance or display must be directly related and of material assistance to the teaching content of the transmission, is found in current law, and has been retained in its current form. As noted in the Register's Report[11], this test of relevance and materiality connects the copyrighted work to the curriculum, and it means that the portion performed or displayed may not be performed or displayed for the mere entertainment of the students, or as unrelated background material.

Limitations on receipt of transmissions

Unlike current section 110(2), the TEACH Act amendment removes the requirement that transmissions be received in classrooms or similar places devoted to instruction unless the recipient is an officer or employee of a governmental body or is prevented by disability or special circumstances from attending a classroom or similar place of instruction. One of the great potential benefits of digital distance education is its ability to reach beyond the physical classroom, to provide quality educational experiences to all students of all income levels, in cities and rural settings, in schools and on campuses, in the workplace, at home, and at times selected by students to meet their needs.

In its place, the Act substitutes the requirements in subparagraph (2)(C) that the transmission be made solely for and, to the extent technologically feasible, the reception be limited to students officially enrolled in the course for which the transmission is made or governmental employees as part of their official duties or employment. This requirement is not intended to impose a general requirement of network security. Rather, it is intended to require only that the students or employees authorized to be recipients of the transmission should be identified, and the transmission should be technologically limited to such identified authorized recipients through systems such as password access or other similar measures.

Additional safeguards to counteract new risks

The digital transmission of works to students poses greater risks to copyright owners than transmissions through analog broadcasts. Digital technologies make possible the creation of multiple copies, and their rapid and widespread dissemination around the world. Accordingly, the TEACH Act includes several safeguards not currently present in section 110(2).

First, a transmitting body or institution seeking to invoke the exemption is required to institute policies regarding copyright and to provide information to faculty, students, and relevant staff members that accurately describe and promote compliance with copyright law. Further, the transmitting organization must provide notice to recipients that materials used in connection with the course may be subject to copyright protection. These requirements are intended to promote an environment of compliance with the law, inform recipients of their responsibilities under copyright law, and decrease the likelihood of unintentional and uninformed acts of infringement.

Second, in the case of a digital transmission, the transmitting body or institution is required to apply technological measures to prevent (i) retention of the work in accessible form by recipients to which it sends the work for longer than the class session, and (ii) unauthorized further dissemination of the work in accessible form by such recipients. Measures intended to limit access to authorized recipients of transmissions from the transmitting body or institution are not addressed in this subparagraph (2)(D). Rather, they are the subjects of subparagraph (2)(C).

Third, in the case of a digital transmission, the transmitting body or institution must not "engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination." As the context makes clear, this requirement refers to conduct that is taken in connection with the particular transmissions subject to the exemption, rather than to the broader activities of the transmitting body or institution generally. Further, like the other provisions under paragraph (2)(D)(ii), the requirement has no legal effect other than as a condition of eligibility for the exemption. Thus, it is not otherwise enforceable to preclude or prohibit conduct.

The requirement that technological measures be applied to limit retention for no longer than the "class session" refers back to the requirement that the performance be made as an "integral part of a class session." The duration of a "class session" in asynchronous distance education would generally be that period during which a student is logged on to the server of the institution or governmental body making the display or performance, but is likely to vary with the needs of the student and with the design of the particular course. It does not mean the duration of a particular course (i.e., a semester or term), but rather is intended to describe the equivalent of an actual single face-to-face mediated class session (although it may be asynchronous and one student may remain online or retain access to the performance or display for longer than another student as needed to complete the class session). Although flexibility is necessary to accomplish the pedagogical goals of distance education, the Committee expects that a common sense construction will be applied so that a copy or phonorecord displayed or performed in the course of a distance education program would not remain in the possession of the recipient in a way that could substitute for acquisition or for uses other than use in the particular class session. Conversely, the technological protection measure in subparagraph (2)(D)(ii) refers only to retention of a copy or phonorecord in the computer of the recipient of a transmission. The material to be performed or displayed may, under the amendments made by the Act to section 112 and with certain limitations set forth therein, remain on the server of the institution or government body for the duration of its use in one or more courses, and may be accessed by a student each time the student logs on to participate in the particular class session of the course in which the display or performance is made. The reference to "accessible form" recognizes that certain technological protection measures that could be used to comply with subparagraph (2)(D)(ii) do not cause the destruction or prevent the making of a digital file; rather they work by encrypting the work and limiting access to the keys and the period in which such file may be accessed. On the other hand, an encrypted file would still be considered to be in "accessible form" if the body or institution provides the recipient with a key for use beyond the class session.

Paragraph (2)(D)(ii) provides, as a condition of eligibility for the exemption, that a transmitting body or institution apply technological measures that reasonably prevent both retention of the work in accessible form for longer than the class session and further dissemination of the work. This requirement does not impose a duty to guarantee that retention and further dissemination will never occur. Nor does it imply that there is an obligation to monitor recipient conduct. Moreover, the "reasonably prevent" standard should not be construed to imply perfect efficacy in stopping retention or further dissemination. The obligation to "reasonably prevent" contemplates an objectively reasonable standard regarding the ability of a technological protection measure to achieve its purpose. Examples of technological protection measures that exist today and would reasonably prevent retention and further dissemination, include measures used in connection with streaming to prevent the copying of streamed material, such as the Real Player "Secret Handshake/Copy Switch" technology discussed in *Real Networks* v. *Streambox*, 2000 WL 127311 (Jan. 18, 2000) or digital rights management systems that limit access to or use of encrypted material downloaded onto a computer. It is not the Committee's intent, by noting the existence of the foregoing, to specify the use of any particular technology to comply with subparagraph (2)(D)(ii). Other technologies will certainly evolve. Further, it is possible that, as time passes, a technological protection measure may cease to reasonably prevent retention of the work in accessible form for longer than the class session and further dissemination of the work, either due to the evolution of technology or to the widespread availability of a hack that can be readily used by the public. In those cases, a transmitting organization would be required to apply a different measure.

Nothing in section 110(2) should be construed to affect the application or interpretation of section 1201. Conversely, nothing in section 1201 should be construed to affect the application or interpretation of section 110(2).

Transient and temporary copies

Section 1(b)(2) of the TEACH Act implements the Register's recommendation that liability not be imposed upon those who participate in digitally transmitted performances and displays authorized under this subsection by reason of copies or phonorecords made through the automatic technical process of such transmission, or any distribution resulting therefrom. Certain modifications have been made to the Register's recommendations to accommodate instances where the recommendation was either too broad or not sufficiently broad to cover the appropriate activities.

The third paragraph added to the amended exemption under section 1(b)(2) of the TEACH Act recognizes that transmitting organizations should not be responsible for copies or phonorecords made by third parties, beyond the control of the transmitting organization. However, consistent with the Register's concern that the exemption should not be transformed into a mechanism for obtaining copies,[12] the paragraph also requires that such transient or temporary copies stored on the system or network controlled or operated by the transmitting body or institution shall not be maintained on such system or network "in a manner ordinarily accessible to anyone other than anticipated recipients" or "in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary to facilitate the transmissions" for which they are made.

---

[11] *Id.* at 80.

The liability of intermediary service providers remains governed by section 512, but, subject to section 512(d) and section 512(e), section 512 will not affect the legal obligations of a transmitting body or institution when it selects material to be used in teaching a course, and determines how it will be used and to whom it will be transmitted as a provider of content.

The paragraph refers to "transient" and "temporary" copies consistent with the terminology used in section 512, including transient copies made in the transmission path by conduits and temporary copies, such as caches, made by the originating institution, by service providers or by recipients. Organizations providing digital distance education will, in many cases, provide material from source servers that create additional temporary or transient copies or phonorecords of the material in storage known as "caches" in other servers in order to facilitate the transmission. In addition, transient or temporary copies or phonorecords may occur in the transmission stream, or in the computer of the recipient of the transmission. Thus, by way of example, where content is protected by a digital rights management system, the recipient's browser may create a cache copy of an encrypted file on the recipient's hard disk, and another copy may be created in the recipient's random access memory at the time the content is perceived. The third paragraph added to the amended exemption by section 1(b)(2) of the TEACH Act is intended to make clear that those authorized to participate in digitally transmitted performances and displays as authorized under section 110(2) are not liable for infringement as a result of such copies created as part of the automatic technical process of the transmission if the requirements of that language are met. The paragraph is not intended to create any implication that such participants would be liable for copyright infringement in the absence of the paragraph.

Subsection (c): Ephemeral recordings

One way in which digitally transmitted distance education will expand America's educational capacity and effectiveness is through the use of asynchronous education, where students can take a class when it is convenient for them, not at a specific hour designated by the body or institution. This benefit is likely to be particularly valuable for working adults. Asynchronous education also has the benefit of proceeding at the student's own pace, and freeing the instructor from the obligation to be in the classroom or on call at all hours of the day or night.

In order for asynchronous distance education to proceed, organizations providing distance education transmissions must be able to load material that will be displayed or performed on their servers, for transmission at the request of students. The TEACH Act's amendment to section 112 makes that possible.

Under new subsection 112(f)(1), transmitting organizations authorized to transmit performances or displays under section 110(2) may load on their servers copies or phonorecords of the performance or display authorized to be transmitted under section 110(2) to be used for making such transmissions. The subsection recognizes that it often is necessary to make more than one ephemeral recording in order to efficiently carry out digital transmissions, and authorizes the making of such copies or phonorecords.

Subsection 112(f) imposes several limitations on the authorized ephemeral recordings. First, they may be retained and used solely by the government body or educational institution that made them. No further copies or phonorecords may be made from them, except for copies or phonorecords that are authorized by subsection 110(2), such as the copies that fall within the scope of the third paragraph added to the amended exemption under section 1(b)(2) of the TEACH Act. The authorized ephemeral recordings must be used solely for transmissions authorized under section 110(2).

The Register's Report notes the sensitivity of copyright owners to the digitization of works that have not been digitized by the copyright owner. As a general matter, subsection 112(f) requires the use of works that are already in digital form. However, the Committee recognizes that some works may not be available for use in distance education, either because no digital version of the work is available to the institution, or because available digital versions are subject to technological protection measures that prevent their use for the performances and displays authorized by section 110(2). In those circumstances where no digital version is available to the institution or the digital version that is available is subject to technological measures that prevent its use for distance education under the exemption, section 112(f)(2) authorizes the conversion from an analog version, but only conversion of the portion or amount of such works that are authorized to be performed or displayed under section 110(2). It should be emphasized that subsection 112(f)(2) does not provide any authorization to convert print or other analog versions of works into digital format except as permitted in section 112(f)(2).

Relationship to fair use and contractual obligations

As the Register's Report makes clear "critical to [its conclusion and recommendations] is the continued availability of the fair use doctrine."[13] Nothing in this Act is intended to limit or otherwise to alter the scope of the fair use doctrine. As the Register's Report explains:

> Fair use is a critical part of the distance education landscape. Not only instructional performances and displays, but also other educational uses of works, such as the provision of supplementary materials or student downloading of course materials, will continue to be subject to the fair use doctrine. Fair use could apply as well to instructional transmissions not covered by the changes to section 110(2) recommended above. Thus, for example, the performance of more than a limited portion of a dramatic work in a distance education program might qualify as fair use in appropriate circumstances.[14]

The Register's Report also recommends that the legislative history of legislation implementing its distance education requirements make certain points about fair use. Specifically, this legislation is enacted in recognition of the following:

a. The fair use doctrine is technologically neutral and applies to activities in the digital environment; and

b. the lack of established guidelines for any particular type of use does not mean that fair use is inapplicable.[15]

While the Register's Report also examined and discussed a variety of licensing issues with respect to educational uses not covered by exemptions or fair use, these issues were not included in the Report's legislative recommendations that formed the basis for the TEACH Act. It is the view of the committee that nothing in this Act is intended to affect in any way the relationship between express copyright exemptions and license restrictions.

Nonapplicability to secure tests

The Conference is aware and deeply concerned about the phenomenon of school officials who are entrusted with copies of secure test forms solely for use in actual test administrations and using those forms for a completely unauthorized purpose, namely helping students to study the very questions they will be asked on the real test. The Conference does not in any way intend to change current law with respect to application of the Copyright Act or to undermine or lessen in any way the protection afforded to secure tests under the Copyright Act. Specifically, this section would not authorize a secure test acquired solely for use in an actual test administration to be used for any other purpose.

Subsection (d): PTO report

The report requested in subsection (d) requests information about technological protection systems to protect digitized copyrighted works and prevent infringement. The report is intended for the information of Congress and shall not be construed to have any effect whatsoever on the meaning, applicability, or effect of any provision of the Copyright Act in general or the TEACH Act in particular.

Subtitle D—Madrid Protocol Implementation

Sec. 13401. Short title

This section provides that this subtitle may be cited as the "Madrid Protocol Implementation Act."

Sec. 13402. Provisions to implement the protocol relating to the Madrid Agreement Concerning the International Registration of Marks

This section amends the "Trademark Act of 1946" by adding a new "Title XII—The Madrid Protocol," which contains new sections 60 through 74 with the following:

(A) The owner of a registration granted by the U.S. Patent and Trademark Office (PTO) or the owner of a pending application before the PTO may file an international application for trademark protection at the PTO.

(B) After receipt of the appropriate fee and inspection of the application, the PTO Director is charged with the duty of transmitting the application to the WIPO International Bureau.

(C) The Director is also obliged to notify the International Bureau whenever the international application has been "restricted, abandoned, canceled, or has expired," within a specified time period.

---

[12] *Id.* at 151.

[13] Id. at xvi.

[14] Id. at 161-162.

[15] 15 Id.

(D) The holder of an international registration may request an extension of its registration by filing with the PTO or the International Bureau.

(E) The holder of an international registration is entitled to the benefits of extension in the United States to the extent necessary to give effect to any provision of the Protocol; however, an extension of an international registration shall not apply to the United States if the PTO is the office of origin with respect to that mark.

(F) The holder of an international registration with an extension of protection in the United States may claim a date of priority based on certain conditions.

(G) If the PTO Director believes that an applicant is entitled to an extension of protection, the mark will be published in the "Official Gazette of the Patent and Trademark Office." This serves notice to third parties who oppose the extension. Unless an opposition and/or other court proceeding conducted pursuant to existing law is successful, the request for extension may not be refused. If the request for extension of protection is denied, however, the Director notifies the International Bureau of such action and sets forth the reason(s) why. The Director must also apprise the International Bureau of other relevant information pertaining to requests for extension of protection within designated time periods.

(H) If an extension for protection is granted, the PTO issues a certificate attesting to such action, and publishes notice of the certificate in the "Official Gazette." Holders of extension certificates thereafter enjoy protection equal to that of other owners of registration listed on the Principal Register of the PTO.

(I) If the International Bureau notifies the PTO of a cancellation of some or all of the goods and services listed in the international registration, the PTO must cancel an extension of protection with respect to the same goods and services as of the date on which the international registration was canceled. Similarly, if the International Bureau does not renew an international registration, the corresponding extension of protection in the United States shall cease to be valid. Finally, the holder of an international registration canceled in whole or in part by the International Bureau may file an application for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection in the United States based on that international registration.

(J) The holder of an extension of protection must, within designated time periods and under certain conditions, file an affidavit setting forth the relevant goods or services on or in connection with which the mark is in use in commerce and attaching a specimen or facsimile showing the current use of the mark in commerce, or setting forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

(K) The right to an extension of protection may be assigned to a third party so long as that person is a national of, or is domiciled in, or has a "bonafide" and effective industrial or commercial establishment in a country that is a member of the Protocol; or has such a business in a country that is a member of an intergovernmental organization (such as the EC) belonging to the Protocol.

(L) An extension of protection conveys the same rights as an existing registration for the same mark if the extension and existing registration are owned by the same person, and extension of protection and the existing registration cover the same goods or services, and the certificate of extension is issued after the date of the existing registration.

Sec. 13403. Effective date

This section states that the effective date of the act shall commence on the date on which the Madrid Protocol enters into force with respect to the United States or 1 year after the date of enactment of the act, whichever occurs later.

TITLE IV—ANTITRUST TECHNICAL CORRECTIONS ACT OF 2002

Sec. 14101. Short title

Section 14101 provides that this title may be cited as the "Antitrust Technical Corrections Act of 2002."

Sec. 14102. Amendments

Subsection 14102(a) repeals the paragraph in Section 11 of Panama Canal Act, prohibiting ships owned by persons who are violating the antitrust laws from passing through the Canal.

Subsection 14102(b) adds a new Section 3(b) to the Sherman Act to clarify that Section 2 of the Sherman Act applies to the District of Columbia and the territories.

Subsection 14102(c) repeals Section 77 of the Wilson Tariff Act and also eliminates several cross-references to Section 77 in five other statutes (the Clayton Act, the Federal Trade Commission Act, the Packers and Stockyards Act, the Atomic Energy Act of 1954, and the Deep Seabed Hard Mineral Resources Act). These cross-references occur in definitions of the term "antitrust laws" in the other statutes and do not change the substance of those statutes.

Subsection 14102(d) corrects an erroneous section number designation in the Curt Flood Act passed in 1998. It makes no substantive change.

Subsection 14102(e) inserts an inadvertently omitted period in the Year 2000 Information and Readiness Disclosure Act. It makes no substantive change.

Subsection 14102(f) repeals the Act of March 3, 1913, requiring that depositions in Sherman Act equity cases brought by the government be held in public.

Subsection 14102(g) repeals section 116 of the Act of November 19, 2001.

Section 14103. Effective date; application of amendments

Subsection 14103(a) provides that the changes shall take effect on the date of enactment.

Subsection 14103(b) provides that the change made by subsection 14102(a) shall apply to cases pending on or after the date of enactment.

Subsection 14103(c) provides that the change made by subsections 14102(b), (c), and (d) shall apply only to cases commenced on or after the date of enactment.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HENRY HYDE,
GEORGE W. GEKAS,
J. HOWARD COBLE,
LAMAR SMITH,
ELTON GALLEGLY,
JOHN CONYERS, Jr.,
BARNEY FRANK,
BOBBY SCOTT,
TAMMY BALDWIN,
(*Provided*, That Mr. BERMAN is appointed in lieu of Ms. BALDWIN for consideration of sec. 312 of the Senate amendment, and modifications committed to conference.)
HOWARD BERMAN

From the Committee on Energy and Commerce, for consideration of secs. 2203–6, 2206, 2210, 2801, 2901–2911, 2951, 4005, and title VIII of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,
JOHN D. DINGELL,

From the Committee on Education and the Workforce, for consideration of secs. 2207, 2301, 2302, 2311, 2321–4, 2331–4 of the Senate amendment, and modifications committed to conference:

PETER HOEKSTRA,
MICHAEL N. CASTLE,
GEORGE MILLER,
Managers on the Part of the House.

PATRICK LEAHY,
TED KENNEDY,
ORIN HATCH,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 1646, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 2003

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 545 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 545

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN) pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 545 is a rule waiving all points of order against the conference report to accompany H.R. 1646, the Foreign Relations Authorization Act for 2002 and 2003, and against its consideration.

The underlying legislation has taken on a new meaning, Mr. Speaker, this year. The United States is leading a worldwide war against terrorism. This is a very difficult task, which requires a careful combination of strength as well as diplomacy. The legislation that we will consider today supports the needs of President Bush and his administration to conduct the foreign relations of the United States while keeping our citizens abroad safe from harm.

It provides $13.8 billion in fiscal year 2003 to help achieve these goals, including $5.2 billion for counterterrorism assistance to our allies and $1.6 billion for security at our embassies abroad.

I am very pleased to see that this report includes increased authorization levelings for human rights monitoring as part of our effort in Congress to promote human rights around the world. This legislation also requires State Department officials to work to reform the United Nations Commission on Human Rights, whose membership includes some of the world's worst human rights violators.

The underlying legislation will also help promote our Nation's message of freedom and support for democracy by providing new authorities to our international broadcasting entities, with an emphasis on those countries whose governments obviously do not permit freedom of the press.

I am pleased to see a continued commitment to our friends in Israel. Every couhtry under international law has the right to designate its capital city. In fact, however, this has not been the case with Israel. This legislation requires compliance with existing U.S. law that recognizes Jerusalem as the capital of Israel, which has been the capital of that country since 1950.

This legislation also enacts the Middle East Peace Commitments Act of 2002, which requires the President to formally determine whether the Palestinian Authority is complying with its commitments under international agreements, including the absolute renunciation of terrorism and violence.

It is important, Mr. Speaker, we continue to support our democratic allies around the world. For example, Taiwan has demonstrated its continued commitment to a democratic path even under the constant threat just miles off its shores. The administration has shown that they have a clear understanding of Taiwan's security needs by requesting four Kidd class destroyers which this bill provides for.

Mr. Speaker, as we continue our efforts to prevent future acts of terror, it is important that we provide the administration with the necessary tools to continue to bring the world's community on board. I would like to thank the gentleman from Illinois (Mr. HYDE), the chairman, and the gentleman from California (Mr. LANTOS), the ranking member, and all the members of the Committee on International Relations for in effect making the tough decisions required to produce thoughtful legislation that meets our most important priorities in this field, the field of foreign affairs.

I urge all of my colleagues to support this straightforward rule, noncontroversial rule as well as this very important underlying legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1445

Mr. McGOVERN. Mr. Speaker, I thank the gentleman from Florida for granting me the customary time for debate, and I yield myself such time as I may consume.

Mr. Speaker, I am very glad that the House is able to review and act on the conference report on H.R. 1646, the fiscal year 2002 and fiscal year 2003 authorizations for the Department of State; and I commend the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, and the gentleman from California (Mr. LANTOS), his distinguished ranking member, for moving the conference process along; and I thank all the conferees for their work.

The rule providing for debate is the standard rule for a conference report. It waives all points of order against the conference report and against consideration. It provides that the conference report shall be considered as read and it allows for 1 hour of debate equally divided. As such, this rule should be supported.

This bipartisan bill has much to commend it. It authorizes $8.6 billion for the operations of the State Department and related agencies in fiscal year 2003, slightly more than the level approved in the House version of the bill. The measure's funding level includes a substantial increase for the State Department as requested by the administration.

I do want to clarify that this is not a foreign aid authorization bill which would involve the authorization of our bilateral development economic and security programs. This bill primarily authorizes funding for the State Department programs, multilateral aid administered by the State Department such as international peacekeeping funds and refugee assistance and U.S. information programs such as freedom broadcasting to the Middle East and Asia.

Most importantly, this bill authorizes $564 million for worldwide security upgrades to protect U.S. diplomatic missions and personnel abroad. It also strengthens the authority of the United States to fight terrorism as well as strengthening our commitment to Israel and peace in the Middle East, reform at the United Nations, the survival of a democratic Taiwan, the promotion of religious freedom, and protection for the victims of human trafficking.

Mr. Speaker, I am sure every Member of this body could find at least one provision in this bill that runs counter to his or her convictions about what is best for U.S. policy. For example, this bill authorizes $25.9 million for broadcasting Radio and TV Marti to Cuba. Since TV Marti reaches no one in Cuba, I find it a particulars waste of Americans' hard-earned tax dollars. There is a shocking lack of accountability in Radio Marti's professional conduct and broadcast content. Often, it broadcasts news to Cuban households many hours after such news has already been broadly reported by other sources, including sometimes even Cuban government programs such as in the case of Jimmy Carter's recent address to the Cuban people. I know that the Committee on International Relations has been looking into the lack of effectiveness of Radio and TV Marti, and I hope that this waste of U.S. taxpayer dollars will soon be remedied.

The conference report also includes a total of $5.2 billion to fund security assistance provisions, including counterterrorism and other military assistance to our allies. This section of the bill facilitates access by U.S. pilots to the Gulf Air Warfare Center in the United Arab Emirates and authorizes funding for the destruction of surplus weapon stockpiles in the former Soviet Union, Africa, and elsewhere. It also includes a new program to forgive certain Russian debts in exchange for investments in nonproliferation programs.

My colleagues will detail many of these key provisions, but I would like to take a few moments just to highlight a few. This bill serves as the vehicle for the release of funds previously appropriated for back payments of U.S. dues to the United Nations. The Omnibus Appropriations Act for fiscal year 2000 provided $926 million for U.S. back payments to the United Nations. However it conditioned the release of these funds on enactment of an authorization bill that specified U.N. agreement to certain reforms, including a decrease in the percentage of assessed U.S. contributions to the organization. These conditions were successfully negotiated by former U.S. ambassador to the United Nations Richard Holbrooke.

In May of 2001, the House passed its version of H.R. 1646 and authorized both the release of the $582 million and a third installment of $244 million. However, 2 weeks before the House considered the bill, the United States lost its seat on the U.N. Commission on Human Rights. The House responded by adopting an amendment conditioning release of the remaining installment on the return of the U.S. to the commission. Since then the United States has regained the seat. This bill, therefore, authorizes the third and final installment owed to the United Nations.

This bill also completes the process of U.N. reform under which U.S. dues to the United Nations will be reduced from 25 to 22 percent, providing American taxpayers with $2 billion in savings. In addition, this bill modestly increases the level of U.S. contributions for U.N. peacekeeping, raising it from 25 to 27 percent.

At a time when the United States is asking so much of the United Nations, it is important that we put in place the financial and legal structure that will ensure the U.S. remains a responsible and accountable leader of this singular international body.

I am also very pleased to see a number of important programs authorized in this bill. Among these is the inclusion of the Tibet Policy Act, which requires the State Department to create an office for a special coordinator for Tibetan issues. It also requires the U.S. to undertake a number of initiatives to improve the condition of human rights and religious freedom for the Tibetan people and encourage dialogue between the Chinese Government and the Dalai Lama over the future of Tibet. It also calls for the release of the 11-year-old Panchen Lam from detention by China, an act that would significantly increase confidence among the international community about China's commitment to respect the culture and religion of the Tibetan people.

The gentleman from California (Mr. LANTOS), my colleague and the ranking member, should be commended for his leadership on this issue along with our colleagues, the gentleman from New Jersey (Mr. SMITH), the gentleman from Virginia (Mr. WOLF), and the gentleman from Illinois (Mr. KIRK). This bill will also enact the East Timor Transition to Independence Act, which authorizes economic aid for East Timor and provides a framework for a strong bilateral relationship between the U.S. and the world's newest nation. I want to thank the gentleman from Illinois (Mr. HYDE), chairman, and the gentleman from California (Mr. LANTOS), ranking member, as well as the efforts of the gentleman from New Jersey (Mr. SMITH) and the gentleman from Rhode Island (Mr. KENNEDY), for their long leadership in support of freedom and human rights in East Timor.

The conference report also requires the State Department to report to Congress on the extent to which the British Government has implemented the recommendations for police reform in Northern Ireland listed in the Patten Commission's report. The establishment of a new, nonpartisan police is critical to the implementation of the Good Friday Peace Accords and bringing peace and genuine security to the people of Northern Ireland. It also emphasizes the importance of continuing the decommissioning of weapons by all Irish armed groups and the investigations of the murders of Rosemary Nelson, Patrick Finucane, and Roberts Hammill. So many of our colleagues have worked long and hard to secure a just and lasting peace in Northern Ireland, and we are all appreciative of the leadership on this provision of the gentleman from New Jersey (Mr. PAYNE), the gentleman from New Jersey (Mr. SMITH), the gentleman from Massachusetts (Mr. NEAL), the gentleman from New York (Mr. GILMAN), the gentleman from New York (Mr. CROWLEY), and the gentleman from New York (Mr. KING).

Finally, the conference report agreement also extends and strengthens authorizations provided for the Trafficking Victims Protection Act, it requires the State Department to maintain a special envoy for Sudanese issues; authorizes $5 million for a special court to try war criminals and human rights abusers in Sierra Leone; it requires annual country reports on the use of children as soldiers; and it requires the State Department to report to the Congress on U.S. efforts in Colombia to promote alternative development, recovery, and resettlement of internally displaced persons, judicial reform, and the peace process and human rights. It also requires reports on the activities of U.S. private contractors involved in counter-narcotics programs in Colombia, an issue brought so compellingly to the attention of the House by the gentlewoman from Illinois (Ms. SCHAKOWSKY) and the gentleman from Michigan (Mr. HOEKSTRA).

Mr. Speaker, this is an important bill that is long overdue, and I urge my colleagues to approve the rule and adopt the conference report on H.R. 1646.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Mr. Speaker, I rise today to object to some language that is in this conference report having to do with assistance to Lebanon. There was an attempt early on with an amendment to eliminate most of the money for Lebanon, and I guess wiser heads prevailed.

I want to offer my thanks to the chairman of the full Committee on International Relations for working out an arrangement that will allow for the country of Lebanon to be authorized for $35 million. The language I object to is that they have carved out $10 million that cannot be used for the country, $10 million of the $35 million, until there is a certification from the President that a certain group that is in the country is no longer a threat. I think this is a mistake to have this kind of language in there. The country of Lebanon is 3 million people. It is a peace-loving country. It is caught in the switches between other countries who are involved in disputes. To single out this country for this kind of certification I think is without merit. I wish the language were not in there.

The $35 million is walking-around change compared to the money that is authorized for a lot of other countries. Lebanon certainly does not deserve this kind of treatment from this Congress. I know there are people in the administration, particularly in the State Department, who have strong objections to the way that Lebanon is being treated. I, too, have strong objections, and I wanted to make those objections known. I intend to vote for the rule. I know that the chairman and others have worked very hard to put together a good conference report; but my objection for the country of Lebanon needs to be noted here. Again, this to me is just an opportunity to take a very unjustified criticism of a country that has tried to work with the United States, has tried to work with other countries in the region. I object to the language, and I hope at some point people will come to respect the country of Lebanon and what the leaders there are trying to do.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I rise to state my very strong support for the conference report on the International Relations Authorization Act for fiscal year 2003. I commend the gentleman from Illinois (Mr. HYDE); the ranking member, the gentleman from California (Mr. LANTOS), as well as Senator BIDEN and Senator LUGAR, for their hard work to support the State Department at a time when alliances and international partners matter most.

By paying more of our back dues to the United Nations, we are finally stepping up to the plate and being a responsible partner in this great international organization we helped create.

This bill also makes a bit of history by authorizing a new way to protect the United States from the threat of weapons of mass destruction: debt-for-security swaps.

In June, the leaders of the G–8 nations agreed to fund nonproliferation programs at $20 billion over the next 10 years and stated that debt-for-program exchanges should be used to stop the spread of nuclear, chemical, and biological weapons.

Several months ago I introduced the first bipartisan nonproliferation legislation in the 107th Congress with the gentleman from New York (Mr. MCHUGH), the gentleman from Wisconsin (Mr. GREEN), and the gentleman from California (Mr. SCHIFF), the Russian Federation Debt Reduction for Nonproliferation Act for 2002, that would authorize the President to forgive a portion of Russia's outstanding debt to us in exchange for Russia using that money to lock down loose nuclear weapons and material.

Our colleagues in the House and Senate went a step further, including a debt-swap provision in the State Department authorization bill. Debt-for-security swaps are an important development. They will help Russia reduce its outstanding debt, involve Russia and the rest of the G–8 countries in programs that directly improve U.S. national security, and extend burden-sharing to our allies.

Mr. Speaker, now is the time to seize this existing and unique opportunity to use a tool that would both help stabilize the Russian economy and find new sources of funding for the critical programs that keep nuclear weapons out of the hands of Saddam and al Qaeda. I encourage Members to vote for this bill.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I congratulate the gentleman from Florida (Mr. DIAZ-BALART) for his very important efforts on this legislation. I also join in commending the chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), and the ranking member, the gentleman from California (Mr. LANTOS), for reporting out this very important State Department authorization. This, as we know, covers a wide range of issues; and I would like to take just a moment to focus on one particular issue, and that has to do with the new degree of flexibility which is being put into place to deal with our war on drugs.

We know that President Uribe from Colombia is here in the United States. He met with President Bush today and met with a number of us yesterday. I believe that efforts are being made by leaders in Latin America to deal with the tremendous scourge of drugs that have been flowing into this country.

☐ 1500

But we had a very antiquated structure for certification, decertification, was something that went on. In fact, it was very, very poorly crafted and I believe that it played a role in exacerbating rather than improving the situation. The language that is included in this conference report provides, as I mentioned, a degree of flexibility. So it basically uses the two words "demonstrably failed" in describing what it is that countries would have done who are dealing with this issue.

So the point is, we need to congratulate, encourage and support those nations which are helping us deal with the illegal drug problem that we have faced as a Nation. I particularly want to congratulate President Fox who has faced a great deal of challenges in his country. He has come forward and in dealing with this question, there is the horrible Tijuana-based Arellano Felix drug cartel. Under President Fox's leadership, two of the very powerful members of that cartel have been arrested. There are other ongoing efforts taking place between the United States and Mexico. I believe that the language that is now incorporated in this conference report will help us further deal with this difficult challenge.

I want to congratulate all those involved in this very important effort and to say that I strongly support the rule that is being managed by the gentleman from Florida (Mr. DIAZ-BALART) and the conference report that the gentleman from Illinois (Mr. HYDE) will be managing.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise in support of the rule and I must say that I support most of the provisions of the conference report. I am concerned, though, and I do object to one provision with regard to India. In section 1601 of the legislation, the President is required to submit a report to Congress with regard to U.S. efforts relative to nonproliferation benchmarks. There is mention in that regard of both India and Pakistan.

Mr. Speaker, I do not think that India should be mentioned and specified in this report for the following reasons: First of all, in the House version of the bill we did not include India. India was included at the behest of the Senate. And if you think about it, since 1998, when India and Pakistan both tested nuclear weapons, India has had very good relations with the United States and has had numerous discussions on the issue of benchmarks for nonproliferation. Right now basically there is no disagreement between the United States and India in that regard. India has stated very dramatically that it has put in place a moratorium on further testing of nuclear weapons. India has also been very adamant about a policy of no first use of nuclear weapons, which is certainly not the case with regard to Pakistan. For that reason, I do not think we need to include India in any further negotiations or in any report that would have to be submitted on behalf of the President.

I am not quite sure why it was the case that the conference report did not adopt the House version of the bill, which I think made a lot more sense than the Senate version, and I did want to raise an objection at this time because I think that once again our policy is somehow reflecting that if Pakistan is included then India has to be included as well. I think that does not make sense under the circumstances.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time.

I urge my colleagues to approve this rule and to approve the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume. I again would like to thank Chairman HYDE and Ranking Member LANTOS for leading the Committee on International Relations to a very, not only successful but I think admirable and commendable result in this legislation. This is, as I stated before, very important legislation. By virtue of the fact that it is in effect consensus legislation in that it is supported in a bipartisan way by an overwhelming majority obviously of the committee, but also I am sure later by the House, it does not I think in any way minimize the importance and really the brilliance of the result.

This country, the Nation, the United States of America, has not only a role in leadership, a leadership role in the world but constantly has to be developing ways to implement that leadership on behalf of protection of democracies and the spreading of the values of freedom. This legislation goes a long way in once again doing that, and so it is legislation that I strongly support and urge my colleagues to as well.

I think that if there is a chairman and ranking member whom I certainly look at and admire for their clarity and their leadership and their vision, it is the chairman and the ranking member of the Committee on International Relations. I would like to reiterate not only my thanks but my admiration for both of them. This is another example of why I think we all thank them and admire them. The issue was brought out of the fact that this legislation, for example, supports broadcasting to the oppressed people of Cuba, and it does and I am very proud of that. Despite the fact of the opposition of some folks such as the gentleman who expressed opposition once again to broadcasting to the oppressed people of Cuba, the overwhelming majority on a bipartisan basis of this Congress has supported and has continued and continues to support that broadcasting and the efforts to offer news and information as well as assistance to that people only 90 miles from our shores that have been suffering for over 40 years oppression. Again, if there is a leadership of a committee that I think demonstrates on a bipartisan basis in terms of the chairman and the ranking member clarity and lack of confusion with regard to dictators and tyranny and oppression, it is the leadership again of Chairman HYDE and Ranking Member LANTOS.

I think this is legislation that we can all be proud of, Mr. Speaker. Again, I strongly support it and the rule, which is eminently fair and permits obviously all Members to express any points of view that they may have on this legislation.

Mr. Speaker, I urge support for the rule and the underlying legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HYDE. Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Pursuant to House Resolution 545, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 23, 2002 at page H 6422.)

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of the conference report on H.R. 1646, the Foreign Relations Authorization Act for Fiscal Year 2003. This comprehensive foreign policy legislation will give the President and the Secretary of State the tools they need to conduct a foreign policy that strengthens the security of the United States, protects American interests and promotes American values.

Mr. Speaker, it is traditional that in matters of foreign policy the Congress leaves the President and the Secretary of State some flexibility. This legislation respects that tradition, but it also sets limits, both on the amounts that may be spent and on the purposes for which they may be used. It identifies foreign policy priorities and it requires that Congress be kept informed.

Mr. Speaker, this conference report reaffirms and strengthens the authority of the U.S. officials to combat terrorism and to protect our embassies and the people who work in them. It also reaffirms and strengthens the United States' commitment to the survival of Israel and to a just peace in the Middle East, to United Nations reform, to the continued existence of a democratic Taiwan, and to religious freedom and other fundamental human rights.

To be specific, Mr. Speaker, this legislation will enhance our national security by authorizing $1.6 billion for security at our embassies and other United States missions abroad and by providing new law enforcement authorities for the diplomatic security agents who are charged with the protection of these missions. It will also authorize new counterterrorism assistance to countries that are helping us in this global struggle, and provide new authorities for the State Department's Bureau of Verification and Compliance, which monitors compliance by foreign governments with arms control agreements in order to stop the flow of weapons of mass destruction to terrorists and to rogue regimes.

The conference report also reaffirms and strengthens our commitment to freedom and democracy by setting aside funds for enhanced human rights monitoring, extending the life of the U.S. Commission on International Religious Freedom, providing for enhanced U.S. diplomatic efforts to promote human rights in Tibet and Vietnam, and requiring State Department officials to work for reform of the United Nations Commission on Human Rights whose membership now includes some of the world's worst human rights violators.

This legislation would also complete the process of United Nations budget reform which we began several years ago under which the U.S. dues to the U.N. will be lowered from 25 percent to 22 percent of the total. Our contributions to U.N. peacekeeping operations will also be reduced through the end of fiscal year 2004 and thereafter will be capped at 25 percent. In addition, 15 provisions promote sound financial and management practices at the U.N. and its affiliated agencies.

The conference report will strengthen our bilateral relationship with important allies, such as Israel and Taiwan. It not only provides enhanced antiterrorism assistance for Israel but also contains provisions to spur compliance with existing U.S. law recognizing Jerusalem as the capital of Israel. The conference report also includes the Middle East Peace Commitments Act of 2002, which requires the President to determine whether the Palestinian Authority is complying with its commitments under international agreements, including the renunciation of terrorism and violence, and to report to Congress on what actions will be taken in the event of noncompliance. The legislation also authorizes the transfer to Taiwan of four Kidd class destroyers, as requested by the Bush administration, and requires that Taiwan be treated for purposes of military assistance as though it had been designated as a major non-NATO ally.

☐ 1515

Finally, Mr. Speaker, the bill contains important provisions to protect a variety of other vital American interests. For instance, it requires a plan from the State Department for improving the recruitment of veterans into the Foreign Service, as well as a report on steps taken by the U.S. Agency for International Development to ensure that the bidding procession is fair to small businesses in the United States. The legislation will require senior State Department officials in the law enforcement bureau to have some experience with law enforcement and/or international counternarcotics efforts, and it will require the State Department to report to Congress on foreign governments that refuse to extradite criminals for prosecution in the United States or to comply with the Hague Convention on International Child Abduction, as well as on joint cooperative efforts to eradicate opium in Colombia.

Mr. Speaker, I urge my colleagues to vote "yes" on this important legislation.

I would like the record to show what a pleasure it was to work with the ranking Democrat, the gentleman from California (Mr. LANTOS), whose cooperation and vision has added greatly to the end product.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this conference report.

Mr. Speaker, first I want to thank my good friend, the gentleman from Illinois, for his most gracious words.

Mr. Speaker, let me at the outset congratulate the distinguished chairman of the Committee on International Relations on bringing this conference report to the floor. Since this matter last came before the House, a myriad of procedural and substantive issues blocked the path of this bill. At every turn, the outstanding leadership of the gentleman from Illinois (Chairman HYDE) brought us closer to our shared goal, and today an important and very substantive bill is before us.

Mr. Speaker, I believe this bill blends the very best features of the original House-passed measure and the Senate amendments. The conference report authorizes funds for the conduct of the foreign relations of the United States of America and funds urgent U.S. priorities, such as the security of our embassies abroad, broadcasting to the Middle East and Asia to communicate our values and points of view to foreign audiences, protection of refugees, and scores of other issues.

Perhaps most significantly, Mr. Speaker, our bill takes a huge step towards normalizing our relations with the United Nations. It allows payment of our remaining arrears payments to the U.N. and clears our debts with a host of other smaller, but important, international organizations.

In addition, our bill includes a new authorization that clears the way for the United States to begin paying our bills on time instead of a year late. Because of late payments, the U.N. has been forced to adopt unsound budgetary practices. Our legislation will help put the United Nations and other international organizations on a proper and businesslike financial footing.

Mr. Speaker, I am particularly delighted that the conference report includes language on the reentry of the United States into UNESCO, the United Nations Economic, Social and Cultural Organization. Several of us have been working for years to bring about this result, and I am truly pleased that in his speech before the United Nations on September 12, President Bush added his support for this critical initiative. The conference report now reflects this new consensus, which is truly bipartisan, to rejoin this important organization, so that the voice of the United States will be loud and clear in UNESCO.

Our actions are particularly timely, as we are in the midst of working with the United Nations to enforce U.N. Security Council resolutions aimed at Iraq. Our bill clearly demonstrates Congress' commitment to multilateralism, and it offers a vote of confidence in the United Nations. It is now time for the United Nations to prove itself worthy of such confidence by defending its principles and enforcing its resolutions. With the passage of this bill, the United States will have done its part. Now the Members of the United Nations Security Council must do theirs.

Mr. Speaker, there are a number of other important features in this bill, and I would like to highlight some of them.

Our bill authorizes U.S. counterterrorism and nonproliferation assistance as well as military assistance to recent and future NATO entrants and some of our key allies in the war against terrorism.

The bill also includes a trailblazing initiative to strengthen nonproliferation programs in Russia while retiring that nation's huge Soviet-era debt. Under our initiative, the United States will forgive that debt, and Russia will use the savings to pursue programs, such as securing its stocks of weapons-grade uranium and plutonium from terrorists and state sponsors of terrorism.

The bill has numerous important provisions on the Middle East, including the stopping of illegal weapons transfers to the Palestinians and ensuring that the PLO is abiding by the commitments it made almost a decade ago in 1993 to stop the use of violence and to negotiate peacefully. Our bill reaffirms United States policy that Jerusalem is the undivided and eternal capital of the State of Israel.

I also note that a compromise provision on Lebanon included in the conference report will create a real incentive for that government to deploy its forces along its own national frontier in areas currently controlled by Hezbollah, a terrorist organization. Our bill provides for new exchange programs for Sudanese oppressed by war and for scientists who conduct research on HIV–AIDS.

Our legislation, Mr. Speaker, provides that the Secretary of State should establish programs to train scientists and public policy experts on ethical issues relating to drug trials, allowing governments in developing countries to evaluate any trials by foreign pharmaceutical companies on their citizens.

I am particularly pleased, Mr. Speaker, that the conference report contains the Tibetan Policy Act of 2002, legislation I introduced along with my good friends and colleagues, Senator FEINSTEIN, the gentleman from New York (Mr. GILMAN), and the gentleman from Illinois (Mr. KIRK). This legislation is the first piece of comprehensive Tibet legislation ever enacted in the Congress of the United States, and it will send a strong signal to the Chinese Government that the United States has not forgotten the plight of Tibet and its people. Our legislation will promote human rights and religious freedom in Tibet, and it will ensure the development sponsored by international institutions benefits the people of Tibet.

The conference report also contains measures I introduced, along with the gentleman from New Hampshire (Mr. KENNEDY) and many others, to help the people of East Timor. After more than 2 decades of brutal Indonesian rule in East Timor and the enormous devastation subsequent to East Timor's vote for independence, our legislation will ensure that East Timor's people get the assistance they need to get back on their feet.

In addition, Mr. Speaker, our act provides for ensuring that those who commit crimes against humanity are not treated with impunity. In particular, we provide U.S. funding for the Special Court in Sierra Leone, which will deal with the human rights atrocities from that country's deadly civil war and authorizes a new U.S. rewards program to help apprehend those that the Special Court indicts.

Our legislation reauthorizes funding for victims of human trafficking, extends the life of the Commission on International Religious Freedom, and ensures that human rights are more fully integrated into the State Department's policy considerations.

Mr. Speaker, this is a major piece of legislation, crafted in a truly bipartisan manner with a great deal of statesmanship on the part of many Members. But I particularly want to pay special tribute to my good friend, the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on International Relations, for his leadership on this most important legislation. I urge all of my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I rise in support of this legislation, but I have a serious reservation that I would like to discuss. I speak as chairman of the Subcommittee on Drug Policy and co-chair of the Speaker's Drug Task Force to express my concern with the permanent modification to the annual drug certification process contained in this bill.

The annual certification process is one of the strongest tools that we have as a Nation to ensure full cooperation from other nations with our efforts to control international narcotics traffic by conditioning U.S. foreign aid on such full cooperation. I believe that this is a reasonable and basic condition on the use of taxpayer dollars. Clearly, American workers should not be asked to subsidize the programs of foreign governments that will not help us stop drug traffic.

As a practical matter, we have also heard scores of anecdotal reports that the threat of decertification often has been the only real means for American officials serving abroad to get meaningful cooperation on matters such as extradition, law enforcement, and many other means of controlling the drug trade.

In fact, I was part of the Presidential delegation down to the swearing in of the new President of Bolivia; and outgoing President Cariaga made a special pitch to me and the other members of the delegation, Do not compromise this regulation. He said it was the only tool that they really had in Bolivia to take them down from supplying one-third of our cocaine down to about 2 percent, and he said that this was the most effective tool.

I appreciate very much the work that the gentleman from Illinois (Chairman HYDE) and his staff did to minimize what I believe will be a permanent weakening of the certification process in this legislation. I was disappointed that the administration supported weakening the certification standard from fully cooperating, which has been proven to work successfully over several years, to leaning toward a new standard that would only decertify those countries that have failed demonstrably to make substantial efforts to cooperate.

Instead of the burden falling on countries who want American aid to cooperate completely with our efforts, we will now presume in many cases that the foreign nations are cooperating, and the State Department will have to prove that they are not doing so. No major drug source or transit country should ever presume that it is entitled to American money, and this body certainly should not enshrine such a presumption into law.

I am particularly concerned that it appears that the administration and the other body were determined to weaken the standard to satisfy a single foreign country. I worked with the gentleman from Florida (Mr. MICA), who has long been involved with this statute, to propose an alternative. The alternative would have kept the current standard for decertification, but only would have publicly named those countries who are not fully cooperating, instead of the entire majors list, which will still be made public under the modified law.

☐ 1530

We believe that this would have addressed the concerns of the nations. They have talked to me on every visit down to Central and South America, and they are concerned about this listing and seeming to have to go through a proving process, but it would only have listed those who are not fully cooperating, and would have still maintained our option to enforce tough sanctions.

I am still baffled that the administration would not work with us on this compromise which I believe is far superior to the provision in the bill today.

I am pleased, however, that the conferees agreed to change the certification reporting date back to September 15 from early November, which had been proposed in the original version of the bill. An early November report would have essentially removed any congressional role from the process.

I also strongly support the bill's provision allowing the President to use the old "fully cooperating" standard in making certification determination as he sees fit. I fully encourage the administration to use this standard as the basis for its determinations in the coming year, rather than the weaker "demonstrably failed" standard included in this bill. The traditional standard has been successful for many years as a tool for our foreign policy and has reflected congressional intent for many years on the proper standard to be applied in allocating taxpayer dollars. Unfortunately, the new standard seems only to reflect an agreement between the administration and a few select Members of Congress.

Let me give one specific example. If a Nation does not cooperate with us on extradition, one of the toughest and most important things, does that mean that they have demonstrably failed, or does it mean they are not fully cooperating? Clearly, they would not be fully cooperating, but it is not clear that they would have demonstrably failed. So at the margins of the real world, unless the administration takes the fully cooperating standard, we are in a real box here.

My question would be, is this going to be our new standard on terrorism? Is this going to be our new standard on human rights? If not, why is it different on drugs than it is on human rights and terrorism? I know that it has been offensive for us to list all of these different countries and try to make them prove the case, but we need something more than "demonstrably failed" and we need something that enables and gives the administration the flexibility. I hope they will exercise what they have been given in this bill, because there is nothing more tragic right now going on in America, thousands of people dying on our streets because of drug abuse and the cocaine and heroin and methamphetamines and BC Bud pouring into this country, and I hope that we do not back up on this administration on drug policy.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Vermont (Mr. SANDERS), my good friend and our distinguished colleague.

Mr. SANDERS. Mr. Speaker, I thank my good friend, the gentleman from California (Mr. LANTOS), for yielding me this time.

Mr. Speaker, I rise today in strong support of the Israel-Arab Peace Partners Program, which is reauthorized in H.R. 1646. The Israel-Arab Peace Partners Program is a program that I helped to create in 1999 with my good friend, the gentleman from New York (Mr. GILMAN). I would like to thank the gentleman from New York (Mr. GILMAN) for his leadership on this program and for his help to ensure that it was reauthorized in this bill and that it receives proper funding in the appropriations process. I would also like to thank the gentleman from Illinois (Mr. HYDE) very much for his support and for his effort, as well as the ranking member, the gentleman from California (Mr. LANTOS), who has been very supportive of the effort as well.

The Israel-Arab Peace Partners Program authorizes a $750,000 pool of grant money within the State Department's Bureau of Educational and Cultural Affairs to fund public and private nonprofit organizations for people-to-people activities with participants from Israel, the West Bank, Arab countries, and the United States. Through this program, American organizations link up with Israeli, Arab, and American partners to exchange skills and ideas on issues such as health care, the peace process, the environment, and education. By working on issues of common interest to all, people of the region are able to form bonds that cross borders and build trust and skills that not only helps each of their individual communities, but also helps bring them closer to peace. In addition, it brings American citizens and organizations in contact with people from a region where the United States plays such a crucial role.

I think it is important to note the wide range of well-respected groups that have participated in the program over the last few years. Brandeis University, Catholic Relief Services, Fairfax County Public Schools, St. Michael's College, Arava Institute for Environmental Studies, Seeds of Peace, American-Jewish Joint Distribution Committee, Conflict Management Group, and American University. Some of these groups already have well-established programs in the Middle East; for others the Israel-Arab Peace Partners Program provides an opportunity to begin programs that will grow in the years to come. The more groups we can aid in establishing ties in the region, the better chance we have to build a long lasting network of organizations which are working toward professional development, community exchanges, and peace.

This summer I was able to meet with a group of 20 Israeli, Palestinian, Jordanian, and American students who were here in Washington to participate in a program funded through the Israel-Arab Peace Partners Program. Amid all the senseless killing and suffering going on in the Middle East, I was amazed to see this group of students come together to study the environment. For many of the Israeli students, it was their first time meeting an Arab person their age and vice versa. After working together on month-long, environmentally-focused internships all across this country, these students began to see each other not just as Arabs or Israelis or Americans, but as colleagues and friends. They were able to understand a little bit better what it was like to live as an Israeli or an Arab in the Middle East.

This understanding and the real life professional skills that they learned from each other and through their internships was, to me, a ray of hope amid all the devastation in the Middle East, and it really was an honor to see people from the Middle East, from Israel, from the Palestinian Authority, from Arab countries coming together in the midst of all of the horror that is existing there, talking about the environment, talking about how people can work together to make the entire region a better place in which to live.

So, Mr. Speaker, I am very strongly supportive of this effort. I think the relatively small amounts of money that we are spending here to bring people together who are living amidst all of the horror that is going on in the Middle East, to have Arabs talking to Jews talking to Christians, is exactly what we should be doing. I would hope that this becomes a step forward in continuing to have the United States fund programs like this.

Again, I want to thank the chairman and ranking member for their strong support.

Mr. HYDE. Mr. Speaker, I am very pleased to yield 3 minutes to the learned gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time.

I would like to highlight one provision in this conference report that I think is critical and underscores why there needs to be a consistent, government-wide policy when it comes to dealing with victims of terrorism.

In the first half of 2002, Congress introduced several legislative initiatives to allow all victims of terrorism equal opportunity to recover damages from the assets of terrorists and State sponsors of terrorism. The purpose of the bill is to allow victims of terrorism to obtain justice and, simultaneously, to hold accountable those who commit and support terror. Provisions have passed both the House and the other body by a recorded vote of 81 to 3.

The proposed language included in the State authorization conference report will allow only two victims to receive compensatory damages for acts of international terrorism from the frozen assets of designated State sponsors of terrorism and completely ignores what Congress has attempted to achieve this year on behalf of all of the victims. Now, this is not to take away from the victims of terrorism. It is important. They suffered, they suffered greatly, and they are entitled to compensation. But what this underscores and highlights really is important, because all of those folks who may have suffered the same set of circumstances, even worse in some cases, from the same groups of terrorists or those who sponsor terrorism, have been shut out and denied the same level of justice that others on a piecemeal approach have obtained.

In light of what has happened in the last year, where potentially we are looking at thousands of victims of terrorism, is it not about time that an American citizen who suffers from the hands, the violent hands of a terrorist or those who sponsor terrorism and is able to obtain a judgment where the assets are frozen should be entitled to the same set of rights? Instead, what we have, and I hope it does not continue, but unless we pass it in the two competing bills in the House and the Senate, it will; unless we do something about it, each year there will be victims, and whoever can hire the best attorney or the best lobbyist will find its way into one of these conference reports. As long as that continues, there will be families and victims of terrorism who will be denied the same set of compensatory damages. I do not think it is right, I do not think it is just. I just want to bring that out to underscore why we need to pass it for all Americans who are entitled to the same set of rights and opportunities when it comes to justice.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. SCHIFF), my good friend and distinguished colleague.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of H.R. 1646, the Foreign Relations Authorization Act and, in particular, language in the bill on Russian Federation Debt for Nonproliferation. I want to applaud the conferees for including this very important language on ways to reduce the threat of weapons of mass destruction in the final conference report.

The demise of the Soviet empire ushered in a new post-Cold War period and a very real sense of urgency with regard to the former Soviet Union's weapons stockpile. It has become tragically clear that new threats have emerged and terrorists and the States that sponsor them are actively in search of nuclear, biological, and chemical weapons technology and materials.

During the last 11 years, the Nunn-Lugar program, which was launched to reduce threats from the former Soviet Union, has done much to dismantle these stockpiles. However, continuing economic and social weaknesses in Russia, coupled with an eroding early warning system, poorly secured Russian weapons materials, and poorly paid Russian weapons scientists and security personnel increase the threat of mass destruction on an unprecedented scale if such materials fall into the hands of terrorists or rogue nations.

Now, more than ever, we must make a fundamental shift in the way we think about the spread of weapons of mass destruction and our own national security. Using Russia's debt to the United States as a funding mechanism for programs addressing the inadequate security of the Russian weapons stockpile is an innovative approach we must explore.

The Russian Federation Debt Reduction for Nonproliferation Act, which I coauthored with the gentlewoman from California (Mrs. TAUSCHER), the gentleman from Wisconsin (Mr. GREEN), and the gentleman from New York (Mr. MCHUGH), will provide a means to forgive the loans and credits owed to the United States by Russia in exchange for cooperation with U.S. efforts to monitor and reduce weapons-usable nuclear material, nuclear and other weapons of mass destruction, and the facilities where they may be built.

Securing Russia's arsenal is a massive challenge, but not an impossible one. While the cost of a terrorist attack on the United States involving Russian expertise or smuggled Russian nuclear chemical or biological materials is staggering, funding for these simple measures that can prevent these attacks is sensible and urgent, and I urge Members' support.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield back the balance of my time, I would just like to express my appreciation to Committee staff for the exceptionally effective work that they have put into this legislation. Legislation of this scope and magnitude could never be completed without the dedicated effort of our staff.

The Republican staff of the Committee on International Relations worked with us in a bipartisan way. I want to express my particular gratitude to Kristen Gilley, Walker Roberts and Joseph Rees of the majority staff.

I want to acknowledge the efforts of all of the members of the Democratic staff, since in a bill of this scope, everyone had a hand in the final product. Four people deserve particular recognition.

David Abramowitz, our Democratic Chief Counsel has devoted enormous effort to the successful completion of this bill. We have greatly benefited from his solid legal and political judgement.

David Fite, played a critical role in the security provisions of this bill, and I want to thank him for his outstanding contributions.

Nisha Desai was heavily involved in the initial drafting and adoption of this bill. She has since left our staff, but her contribution was significant.

Peter Yeo, Deputy Democratic Staff Director, as always played an extremely helpful role in bringing this legislation to completion.

In addition, I want to express thanks to Art Rynearson of the Office of Senate Legislative Council, who helped assure that the substances of the legislation was accurate and accomplished what we intended. He is one of thee many unsung heroes who makes this institution function, as we owe him our thanks.

Mr. Speaker, I again congratulate the Chairman of the Committee, and yield back the balance of my time.

Mr. KNOLLENBERG. Mr. Speaker, I rise today to signal my intent to support H.R. 1646, the State Department Authorization Act. It is a good bill with many provisions that will aid the State Department in its mission around the world.

However, I also must express my deep disappointment at the inclusion of Section 1224 regarding assistance to Lebanon. Section 1224 withholds $10 million of the Economic Support Fund allocated to Lebanon for the Fiscal Year 2003 and for all subsequent years unless and until the President certifies that the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel and that the government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed.

I do not oppose the goal of extending Lebanese control to southern Lebanon. Unfortunately, this provision does absolutely nothing to further that goal and will in fact hinder any progress. The U.S. should continue to press the Lebanese and Syrian governments on this point. The people of Lebanon will only know long-term peace and stability when Lebanon is willing and able to assert its independence. The U.S. must continue to press for full compliance with UN Security Council Resolution 425. However, this provision will not lead us toward this goal.

I have supported efforts to expand U.S. Agency for International Development (USAID) activities in southern Lebanon following the withdrawal of Israeli armed forces. However, far from supporting Hezbollah, this assistance undermines that terrorist organization by eliminating the desperate conditions that so many cite as a reason that region is a terrorist haven.

I have received repeated assurances that U.S. money only goes through American non-governmental organizations to support projects that provide clean water, medicine, agricultural assistance and other basic humanitarian needs. None of this money goes to the Lebanese government or to any terrorist organization.

With these facts in mind, it makes no sense to me to withhold funding that undermines terrorist control of southern Lebanon. Until the grip that Hezbollah has on that region is weakened, the government of Lebanon will not be able to deploy armed forces to the border.

Unfortunately, Section 1224 only punishes the people of Southern Lebanon rather than offer a solution to the security needs of Israel.

I will vote for the bill, but it is my hope Congress will revisit this issue in future legislation.

Mr. SHAYS. Mr. Speaker, I support the inclusion of Section 213 in H.R. 1646, the Department of State Authorization Act Conference Report. This section of the conference report repeals Section 738 of the 2001 Agriculture Appropriations Act, which gave unwarranted special treatment to foreign agriculture attachés. Both the State Department and the Office of Management and Budget support repealing Section 738, and H.R. 1646 does just that.

In 1978, Congress, with the support of the Office of Management and Budget, endorsed the State Department as the sole manager for overseas property. In 1990, Congress directed State to implement a uniform housing policy for and with the input of all agencies overseas.

That system worked. It has the support of OMB, the General Accounting Office, and apparently had the support of Congress. But last year, a little-noticed section of the Agriculture Appropriations Act changed the system for one agency: the Foreign Agriculture Service.

The provision required the State Department to obtain FAS approval to sell property originally purchased to house FAS employees overseas. Moreover, FAS gained the right to occupy new residences permanently.

That provision created an exception for one agency, an exception that if copied by other agencies would disrupt the equitable management of overseas property. Overseas property management would lose much needed flexibility and make the housing of overseas personnel more difficult and costly.

At my request, GAO looked into this matter. In a July 11th letter, GAO concluded the "restrictions on the sales of residences purchased for agricultural attachés do not appear to be in the government's best interests. As the single manager for overseas property, State is responsible for implementing cost-effective decisions about the sale of unneeded overseas real estate and using sales proceeds for the government's highest priorities. . . . [T]he restrictions weaken efforts to improve management of the government's overseas properties and conflict with congressional and executive branch efforts to establish State as the single real property manager."

The properties at issue are not just regular old houses. In Cairo, the residence is a 4,200-square-foot, two-level house with four bedrooms, three bathrooms, two living rooms, a dining room, two kitchens, a sunroom, a breakfast room, and terraces. In Vienna, the residence is a 3,500-square-foot, three-story villa with six bedrooms, three bathrooms, a terrace, breakfast room, basement, and garage. Both houses exceed established housing standards.

This unsound FAS exception is delaying the sale of these valuable properties, a sale that could net at least $2.1 million. The provision may also complicate the sale of other properties, such as an underutilized property in Bangkok worth $50 million.

The State Department manages 3,500 properties in more than 220 locations overseas and has had the authority to sell those properties since 1926. Proceeds from sales are used to acquire and maintain other properties. In the wake of the 1998 embassy bombings in Kenya and Tanzania and other terrorist attacks, proceeds from these sales are used to ensure the safety of our embassies and personnel abroad. Providing special treatment to FAS prevents the State Department from implementing some of the measures necessary to protect our diplomatic personnel.

Mr. Speaker, the letter from GAO, "Current Law Limits the State Department's Authority to Manage Certain Overseas Properties Cost Effectively" (GAO–02–790R, July 11, 2001) follows. A more complete version of the letter is available at http://www.gao.gov/new.items/d02790r.pdf.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, July 11, 2002.

Hon. CHRISTOPHER SHAYS,
Chairman, Subcommittee on National Security, Veterans Affairs, and International Relations, Committee on Government Reform, House of Representatives.

Subject: Current Law Limits the State Department's Authority to Manage Certain Overseas Properties Cost Effectively

DEAR MR. CHAIRMAN: The Department of State is the central manager for real estate at U.S. embassies and consulates and has the statutory authority to sell properties and use the sales proceeds to acquire and maintain other overseas properties. Section 738 in the fiscal year 2001 Agriculture Appropriations Act prohibits State from selling residences purchased to house agricultural attachés without approval from the Foreign Agricultural Service (FAS) and requires the department to use the proceeds from such sales to purchase residences for these attachés. Legislation currently before the Congress would repeal section 738.

At your request, this report discusses the effect of section 738 on State's management of overseas properties. We examined this issue as part of our review of the Department of State's performance in identifying and selling unneeded overseas real estate. In conducting this assignment, we interviewed officials and analyzed records at the Department of State, FAS, and the Office of Management and Budget (OMB).

RESULTS IN BRIEF

Section 738 limits the Department of State's authority to implement cost-effective decisions about sales of unneeded overseas property and the use of sales proceeds. Because of section 738's restrictions, State has delayed two property sales valued at nearly $4 million that appear to be in the government's best interests. FAS is concerned that if section 738 is repealed, selling these properties will result in increased costs for FAS since it would have to lease housing for attachés who previously lived rent-free in government-owned housing. State acknowledges that this could occur but save its financial analysis shows that selling the houses benefits the government as a whole. Although section 738 applies only to residences purchased for agricultural section 738 applies only to residences purchased for agricultural attachés, OMB and State are concerned that it could lead to fragmented and less cost-effective management of overseas property if other agencies seek similar treatment for their senior representatives. In our view, section 738's restrictions do not appear to be in the government's best interests.

This report suggests that the Congress may wish to consider repealling section 738. State officials, commenting on a draft of this report, said they agreed with the report's information and conclusions regarding the negative effects of section 738 on overseas property management. FAS officials reiterated their view that repealing section 738 could result in increased costs for FAS. We believe that if the section's repeal and sale of residences used by agricultural attachés increases FAS costs, the Department of Agriculture can request that the Congress consider providing additional funds for FAS operations.

BACKGROUND

The Foreign Buildings Act of 1926, as amended, authorizes the Secretary of State to sell overseas properties that are used to support diplomatic and consular operations in foreign countries. The Department of State manages about 3,500 government-owned properties—including embassy and consular office buildings, housing, and land—at more than 220 overseas locations. The law authorizes the Secretary to use the proceeds from the sale of overseas properties to acquire and maintain other overseas properties and requires the Secretary to report such transactions to the Congress with the department's annual budget estimates. The Secretary has delegated this authority to State's Bureau of Overseas Building Operations.

Over the years, as a result of congressional and OMB actions, overseas property management has been consolidated under State. In 1978, the Congress endorsed State as the single manager for overseas property and asked OMB to prepare a proposal for implementing this concept. In 1979, OMB issued a report that supported the concept of single management and acquisition planning for overseas property under State. OMB noted that the Congress was strengthening and broadening State's existing role as the central manager for overseas property. In 1990, the Congress directed State to establish and implement a uniform housing policy for agencies' overseas personnel. Resulting new overseas housing regulations, issued in 1991 and 1992 with the agreement of the foreign affairs agencies and the Department of Defense, reinforced State's authority to act as the single manager for overseas property. These authorities show that the Congress and the executive branch had intended that State should manage overseas property in a consolidated, integrated manner and that doing so would be in the government's best interests. We have supported this concept since the 1960s because it is more effective, efficient, and economical than having multiple property managers.

Since 1997, State has increased efforts to identify and sell unneeded overseas real estate in response to congressional direction and our recommendations. As part of this effort, State sold two residences occupied by agricultural attachés for about $855,000 and proposed selling three others for more than $4 million. FAS argued that these properties were purchased to house its attachés; and consequently, FAS should have a say in approving the sales and in determining how the sales proceeds should be used. As a result, FAS sought and the Congress enacted legislation that requires State to obtain FAS approval to sell residences purchased to house agricultural attachés. Additionally, State must use the proceeds from such sales to acquire other suitable residences for agricultural attachés (not necessarily at the same post), and FAS has the right to occupy these properties permanently. According to FAS, State manages 13 properties purchased for agricultural attachés.

SECTION 738 LIMITS STATE'S AUTHORITY TO MAKE COST-EFFECTIVE DECISIONS ON CERTAIN PROPERTIES

Section 738 of the fiscal year 2001 Agriculture Appropriations Act limits State's authority to sell unneeded property by making sales decisions contingent on FAS approval. Proposed sales of residences in Cairo, Egypt, and Vienna, Austria, illustrate the potential limitations. Although selling these properties appears to be in the U.S. government's best interests, State has postponed these sales because of concerns about section 738. In October 1998, the State Inspector General reported that the Cairo and Vienna residences were larger than housing standards allow, were underutilized, and should be sold. According to State records, the Cairo residence is a 4,200-square-foot, two-level house with four bedrooms, three bathrooms, two living rooms, a dining room, two kitchens, a sunroom, a breakfast room, and terraces. The Vienna residence is a 3,500-square-foot, three-story villa with six bedrooms, three bathrooms, a terrace, breakfast room, basement, and garage. These residences are larger than the housing standards allow. Figures 1 and 2 show photographs of the Cairo and Vienna residences.

State financial analyses suggest that selling the Cairo and Vienna residences would yield net benefits for the government of at least $2.1 million. In addition, using a measure of investment performance, State determined that selling the two residences was a substantially more efficient use of government resources than continued ownership. In February 2001, FAS informed State that it approved the sale of the Vienna residence on condition that the sales proceeds were used to purchase a replacement residence in Vienna and new residences for agricultural attachés at two other posts. Because FAS's proposed use of the proceeds would not address the government's highest priority overseas property needs, State officials decided to postpone the Vienna sale pending repeal of section 738. State subsequently postponed the Cairo sale for the same reason.

State and OMB believe that the sales proceeds should be used to meet the government's highest priority needs. According to its long-range facilities plan, State seeks to reinvest sales proceeds where there is the greatest need or the most opportunity to reduce government operating costs. This plan notes that, in recent years, most sales proceeds have been earmarked for specific capital construction projects, such as building secure embassies. In future years, State plans to use sales proceeds to purchase additional residential housing. Within this broad priority, State plans to direct these proceeds to several objectives: (1) Buying residential properties in locations that offer the greatest rent savings to contain leasing costs, (2) buying earthquake resistant residential properties in seismic areas to address safety issues, and (3) buying key diplomatic properties. Although we did not assess State's priorities or use of proceeds from property sales, its approach is consistent with recommendations we made in 1996 regarding using sales proceeds for the highest priority overseas facility needs.

FAS believes that the sales proceeds should be used to purchase replacement and additional residences for agricultural attachés—not to purchase properties according to State's priorities. FAS said that past sales had displaced two of its attachés from government-owned housing, forcing it to pay about $400,000 over the past 5 years to lease replacement residences. FAS is concerned about having to cut its program budgets to fund additional leases for replacement housing. In addition, FAS complained that it had insufficient advance notice of the proposed sales and had difficulty freeing up funds to pay for replacement housing for displaced attachés.

State acknowledged that FAS may have to lease replacement residences if section 738 is repealed and the two residences are sold. However, financial analyses of the proposed sales considered these costs in determining that they were cost effective for the government. State also acknowledged that unanticipated sales could cause short-term budgetary disruptions. As a result, in June 2001, assuming repeal of section 738, State offered to pay for leasing replacement housing until FAS could build these costs into its budget in cases where State disposed of the properties with less than 2 years' advance notice. In January 2002, FAS responded that, before agreeing to any sales, it would require State to provide appropriate government-owned replacement housing within 2 years and expect State to make every effort to ensure that sales did not affect FAS's budget. FAS's letter did not address the repeal of section 738. In April 2002, FAS officials told us they were reluctant to accept State's offer because it did not address the long-term budgetary effect of the sales and allowed State to retain control over the use of the sales proceeds.

According to State, if section 738 remained in effect, it could be a complicating factor in the future sale of a compound in downtown Bangkok that could be worth as much as $50 million. In 1998, the State Inspector General reported that the compound—a 15-acre wooded site located in a prime commercial area that contains five executive residences (one occupied by the agricultural attaché) and several other facilities—was underutilized and should be sold. Before the 1997 Asian financial crisis, State had planned to sell the compound and use the proceeds to finance the construction of new facilities at the post, including housing for more than 200 embassy families that would reduce post lease costs by about $73 million over 10 years. Recognizing the changed economic conditions, State reported that further study is needed to determine the appropriate time to sell the compound and the appropriate use of the sales proceeds.

State and OMB Support Repealing Section 738; FAS Opposes Its Repeal

State and OMB support legislation currently before the Congress that would repeal section 738. They argue that its restrictions on State's authority seriously weaken centralized management of overseas properties because they essentially establish a separate executive housing program for FAS and subordinate governmentwide priorities to agency priorities. For example, FAS could disapprove the sale of oversize or high-value residences purchased for agricultural attachés while State was selling residences purchased for ambassadors, deputy chiefs of mission, consuls general, and senior representatives of other foreign affairs agencies. State reported that, between 1997 and 2002, it sold 17 executive residences for about $38 million and is planning to sell 15 additional residences for about $20 million. Additionally, State and OMB pointed out that other foreign affairs agencies and Defense have experienced budgetary effects from the sale of such residences. In these cases, agencies must weigh housing costs in deciding whether to station their employees overseas. State and OMB are also concerned that unless section 738 is repealed, other agencies may seek similar legislation, leading to more fragmented property management and unequal and uneconomical housing policies at taxpayer expense.

FAS opposes repealing section 738. FAS argues that section 738 maintains Agriculture's entitlement to residences purchased to house its attachés. FAS believes that repealing section 738 would allow State to ignore what FAS believes was the Congress' intent in providing funds to purchase these residences, while imposing substantial budgetary costs on FAS.

CONCLUSIONS

Section 738's restrictions on the sales of residences purchased for agricultural attachés do not appear to be in the government's best interests. As the single manager for overseas property, State is responsible for implementing cost-effective decisions about the sale of unneeded overseas real estate and using sales proceeds for the government's highest priorities. However, for residences purchased to house agricultural attachés, implementation of State's decisions is contingent on FAS approval and priorities. Although its analysis shows that selling the Vienna and Cairo residences would be financially advantageous to the government, State does not plan to proceed with these sales if section 738 remains in force. We recognize that, if section 738 is repealed, selling these residences may affect FAS's budget. However, FAS's budgetary concerns need to be weighed against the government's overall benefits from these sales—which include disposing of unneeded property and reinvesting the proceeds where they provide the greatest return. In addition, the restrictions weaken efforts to improve management of the government's overseas properties and conflict with congressional and executive branch efforts to establish State as the single real property manager.

MATTER FOR CONGRESSIONAL CONSIDERATION

In light of our findings, Congress may wish to consider repealing section 738 of the fiscal year 2001 Agriculture Appropriations Act.

AGENCY COMMENTS AND OUR EVALUATION

State officials, commenting on a draft of this report, said the report fairly and accurately represents their positions on the negative effects of section 738 and the reasons they support its repeal. They said it is in the government's interest to have a single property manager with the authority to sell unneeded properties and reinvest the proceeds where they will produce the greatest benefits. State officials reiterated their concern that, by according FAS special treatment, section 738 threatens the centralized management of overseas property and is unfair to the staff of other foreign affairs agencies and Defense.

FAS official reiterated their concern that repealing section 738 could result in additional annual lease costs for FAS and that FAS would need additional budget resources to maintain its current level of services overseas, FAS officials also questioned whether section 738 would fragment overseas property management, stating that only Defense was in a position to assert similar claims to overseas housing.

We continue to believe that, in considering whether to repeal section 738, budgetary concerns need to be weighed against the government's interests in selling these residences and maintaining a single property manager with the authority to sell unneeded properties and reinvest the proceeds where they will produce the greatest benefits. If the section's repeal and subsequent property sales increase FAS costs, Agriculture can request that Congress consider providing more funds for FAS operations. Additionally, we agree with State that section 738 accords FAS preferential treatment and that other foreign affairs agencies and Defense will likely seek similar treatment for their overseas executives. We believe this would weaken centralized overseas property management, which we have long supported because it is more effective, efficient, and economical than an noncentralized approach.

SCOPE AND METHODOLOGY

To determine the effect of section 738 on State's management of overseas property, we analyzed applicable laws, regulations, and guidance that provide State's authority to sell properties and use the proceeds. Key laws, regulations, and guidance include the Foreign Buildings Act, section 738 of the fiscal year 2001 Agriculture Foreign Affairs Manual. We also examined past GAO and State Inspector General reports on overseas property management. We analyzed State and FAS records that summarized their assessment of the effect of section 738 on State's authority to buy and sell overseas properties and act as the single manager for overseas property. We discussed section 738's effect with appropriate State, FAS, and OMB officials. We examined State's rationale for selling the properties in Cairo, Vienna, and other locations, including State's financial analyses of the proposed sales, OMB guidance on evaluating asset sales, and State's fiscal year 2002 to 2007 long-range buildings plan. We did not access the accuracy or reliability of the property appraisals or other underlying data used in State's analyses or the priorities and objectives in its long-range plan.

We conducted this review from April to July 2002 in accordance with generally accepted government auditing standards.

We are sending copies of this report to other interested congressional committees, the Secretaries of Agriculture and State, the FAS Director, State's Director of Overseas Buildings Operations, OMB, and other interested parties. Copies will be made available to others on request. In addition, this report will be available at no charge on our Web site at http://www.gao.gov.

If you have questions about this report, please contact me at 202–512–4128 or by e-mail at fordj@gao,gov John Brummet, Michael Rohrback, Ed Kennedy, Richard Seldin, Janey Cohen, and Stephanie Robinson made major contributions to this report.

Sincerely yours,

JESS T. FORD,
Director, International Affairs and Trade.

Mr. MENENDEZ. Mr. Speaker, I rise in reluctant support of this important legislation. I say "reluctant", not because of what is in the bill, but because of what is not in the bill. This bill could have been a much better product, and it strongly underscores why the American people should think long and hard about which party should be in control of this great institution come November.

It is unconscionable that we are debating this bill today only because Speaker HASTERT and Majority Whip DELAY threatened to throw this entire bill in the waste can unless it excluded a non-binding, "Sense of the Congress" resolution stating merely that the United States should re-engage in the international effort to reduce the greenhouse gas emissions that have led to global warming. Were this to continue unabated, the consequences could be so dramatic that we can barely imagine them today.

The language that was forcibly removed by the Speaker and the Majority Whip already was passed by the full House. Its arbitrary removal by the anti-environmental House Republican leadership shows not only how radical things have gotten around here, but more importantly that they do not want the American people to know anything about their radical, anti-environmental agenda—certainly not with just over a month before the mid-term elections.

Second, the perennial underfunding of State Department operations had become a international embarrassment due to the shortsighted cuts forced by our friends on the other side of the aisle. Now we can say that some relief is on the way, although many Americans would be embarrassed to see the awful conditions of some of our diplomatic facilities abroad. Let me remind the all too-eager hawks in the Majority and in the Administration that diplomacy is truly the first line of defense.

Second, I am glad to have joined with my colleague from Alabama, Mr. HILLIARD, the Congressional Black Caucus and the Asian-Pacific American Caucus, in developing language in this bill to ensure that the State Department makes progress in its recruitment and promotion of minorities to its senior-most ranks. Our language makes clear that Congress is looking for results in the recruitment and promotion of minority professionals. It provides $2 million to increase minority recruitment in the Department and requires the Department to track its results with a database.

The General Accounting Office (GAO) reported in a long-term study that despite years of effort from Congress, the State Department has failed to make any significant progress in the recruitment and promotion of qualified minorities to senior management positions. For example, the State Department—along with the Federal Emergency Management Agency—actually promoted fewer minority managers in 1999 than in 1990.

While having more minorities take the foreign service exam is a step in the right direction, that is but a small step, and only one among many more steps needed, to rectify the severe under-representation of qualified Hispanic Americans, African Americans and Asian-Pacific Americans in the foreign affairs agencies. All three caucuses join together to urge President Bush and Secretary of State Powell to ensure that we, at long last, get on with the business of obtaining results in minority recruitment and promotion at the State Department and the foreign affairs agencies.

If the State Department is to make progress, minorities must have a seat at the table. And that means, among other things, a seat at the table at the promotion boards and the selection boards—the entities that placed officers in senior positions. We will look for results and we will continue with these efforts until we see results.

Third, this bill includes the "Iran Nuclear Non-Proliferation Act", a bill I first introduced in 1998, and whose passage could not be more timely than today. In response to Iran's efforts to develop the Bushehr nuclear power plant in the Persian Gulf, the language I introduced requires the U.S. to withhold proportional assistance to the International Atomic Energy Agency (IAEA) for programs and projects of the Agency that go toward the development of the Bushehr plant if the Secretary of State were to determine that it is inconsistent with US nonproliferation policy, helps Iran develop nuclear weapons expertise, or is a cover of acquisition of sensitive technology. We must keep a watchful eye on IAEA activities in Iran—one of the nations that President Bush singled out as part of the "axis of evil" that threatens our way of life. While I have no interest in cutting off all IAEA assistance to Iran, it is ludicrous for the U.S. to support—even indirectly—a plant which clearly poses a threat to the United States and to stability in the Middle East.

Finally, this bill provides language I was glad to sponsor to provide the National Endowment for Democracy (NED) with a modest increase for the first time in years. This vital and cost-effective organization promotes the fundamental American values of democracy and human rights abroad. By leading many efforts in the struggle for freedom worldwide, NED enjoys strong bipartisan support as it advances our national security. From Lech Walesa in Poland to Nelson Mandela in South Africa to human rights activists in Nigeria to civil society leaders in Mexico, NED and it core institutes have assisted grassroots organizations that have helped bring about peaceful transitions to democracy.

Mr. Speaker, despite the outrage committed by the majority on global warming, for the reasons I have mentioned, I urge my colleagues to support this bill.

Mr. ACKERMAN. Mr. Speaker, I rise today in support of the conference report to accompany H.R. 1646, the Foreign Relations Authorization Act.

Mr. Speaker, at the outset, I want to commend Chairman HYDE and Ranking Member LANTOS for their diligent efforts in producing a bill which will truly assist in the conduct of our foreign affairs.

There are a few specific provisions in the conference agreement which I would like to draw attention to. The first is the Middle East Peace Commitments Act. This section requires the President to report to Congress on the Palestinians adherence to their commitments to resolve their conflict with Israel through exclusively non-violent means. If the President cannot report to Congress that the

Palestinians are complying with their commitments to peace, and unless the President utilizes a national security waiver, the legislation requires the imposition of one or more of following sanctions: the denial of visas to PLO and Palestinian Authority officials; the downgrading of the status of the PLO office in Washington; the designation of the PLO, the PA, or any of their constituent groups or arms as Foreign Terrorist Organizations; or the cutoff of all non-humanitarian aid to the West Bank and Gaza.

Mr. Speaker, the problem with the U.S. policy to date isn't that we're disengaged—far from it. The problem is that for all our effort, we haven't gotten any commitment to peace from the Palestinians. It doesn't seem to matter how many envoys and senior policy makers the President sends to meet with Palestinian leaders, these visits have failed to produce any change in Palestinian behavior. With the adoption of these sanctions, Congress is sending a strong message to the Palestinians that America's never-ending supply of last-chances has run out.

Another important provision in the conference report concerns Taiwan. Last year, President Bush altered arms sales discussions between the U.S. and Taiwan from once a year to an as needed basis. The experience with this policy has thus far been satisfactory and has removed a major irritant in U.S.-PRC relations by removing the focus an annual meeting between the U.S. and Taiwan provides. However, in order to ensure Congress's historic role in assessing Taiwan's defense needs under the Taiwan Relations Act, the bill requires that the Administration consult with the Congress twice annually regarding Taiwan's defense needs. This provision will ensure that the Congress retains its unique role in determining the types and quantity of defense articles and services that should be provided to Taiwan.

Lastly, Mr. Speaker, the conference report authorizes the final payment of our U.N. arrearage. For too long the late payment of our dues has set an example for other nations to follow and has caused serious budget problems for the U.N. At a time when the President has challenged the United Nations to be a forceful advocate for peace and security, or risk irrelevance, it helps for us to demonstrate that we support the U.N. by putting our money where our mouth is.

Mr. Speaker, I commend Chairman HYDE and Ranking Member LANTOS for their extraordinary work on this measure and I urge my colleagues to support the conference report.

Mr. GILMAN. Mr. Speaker, Section 1601 of the State Department Authorization Conference Agreement addresses nuclear missile nonproliferation in South Asia. I have reservations about the provision. U.S.—India relations are strong and both countries are looking forward to an enhancement and expansion of their economic, political and strategic potential. The engagement between our two nations continues to be mutually beneficial. In light of this tangible bilateral progress being made, and India's long-standing commitment to regional and global peace and security, provisions of Section 601 create an unnecessary diversion in the steadily strengthening bilateral relationship between the U.S. and India.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

DIRECTING THE CLERK OF THE HOUSE TO MAKE TECHNICAL CORRECTIONS IN THE ENROLLMENT OF H.R. 1646, 21ST CENTURY DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION ACT

Mr. HYDE. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 483) directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1646, and ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the current resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 483

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes, the Clerk of the House of Representatives shall insert at the appropriate place the following new section (and conform the table of contents accordingly):

SEC. 1309. THREE-YEAR INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION STRATEGY.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the appropriate congressional committees a 3-year international arms control and nonproliferation strategy. The strategy shall contain the following:

(1) A 3-year plan for the reduction of existing nuclear, chemical, and biological weapons and ballistic missiles and for controlling the proliferation of these weapons.

(2) Identification of the goals and objectives of the United States with respect to arms control and nonproliferation of weapons of mass destruction and their delivery systems.

(3) A description of the programs, projects, and activities of the Department of State intended to accomplish goals and objectives described in paragraph (2).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1545

PROVIDING FOR CONSIDERATION OF H. RES. 540, EXPRESSING SENSE OF HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 3762, PENSION SECURITY ACT OF 2002; H. RES. 544, EXPRESSING SENSE OF HOUSE ON PERMANENCY OF PENSION REFORM PROVISIONS; AND H. RES. 543, EXPRESSING SENSE OF HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 4019, MAKING MARRIAGE TAX RELIEF PERMANENT

Mr. SESSIONS. By direction of the Committee on Rules, I call up House Resolution 547 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 547

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 540) expressing the sense of the House of Representatives that Congress should complete action on H.R. 3762, the Pension Security Act of 2002. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided among and controlled by the chairmen and ranking minority members of the Committees on Education and the Workforce and Ways and Means. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

SEC. 2. Upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 544) expressing the sense of the House of Representatives on permanency of pension reform provisions. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

SEC. 3. Upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 543) expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage tax relief permanent. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, the resolution before us is a closed rule that allows for consideration of three important resolutions.

The rule provides for 1 hour of debate, equally divided among and controlled by the respective chairmen and ranking members of the committees of jurisdiction.

Mr. Speaker, the trio of resolutions before us today represents some of the most pressing needs for average Americans across the Nation. In politics, we often try to put a personal face to a problem that is being debated or addressed. Mr. Speaker, the face of our story today is just the average American, the average American who is a family member, a friend, a neighbor. It is a person who has worked hard and tried to invest wisely so that he or she can enjoy a retirement of independence.

The first of these resolutions, House Resolution 540, expresses the sense of the House that Congress should complete action on and present to the President before adjournment the Pension Security Act of 2002.

Although the House passed this measure more than 150 days ago by a strong bipartisan vote, the Senate has not taken up comprehensive pension protection that includes safeguards and options to help American workers preserve and enhance their retirement security.

Over the last year, we have witnessed the unraveling and breakdown of major corporations such as Enron. While Enron workers were likely victims of criminal wrongdoing, there is no question that they were most definitely the victims of outdated Federal pension laws.

The tragedy of Enron was two-fold. In addition to decimating the savings of employees, it has also undermined the confidence of American workers in this country's pension system.

The Pension Security Act includes new options and resources for workers, as well as greater accountability from companies and senior-level executives. Employees would be given new freedoms to sell and diversify company stock. The bill also creates parity between senior corporate executives and rank-and-file workers. This will help to prevent a repeat occurrence of the egregious disparity that allowed Enron executives to sell their investments and preserve their savings while rank-and-file workers were barred from making changes.

The bill also includes provisions that would ensure that employees receive accurate and timely information, along with sound advice and resources to make informed investment decisions. Mr. Speaker, let me be very clear about this: each day that we delay in enacting the Pension Security Act is another day that we leave worker retirement savings vulnerable to corporate meltdowns.

The second resolution we will consider is House Resolution 544, which expresses the sense of the House that Congress should complete work on the Retirement Savings Security Act of 2002. The tax relief package that was enacted last year included provisions that increased contribution limits for IRA and 401(k)-type plans to make it easier for companies, and particularly small businesses, to offer a retirement savings plan.

Currently, half of the Nation's workforce, roughly 70 million Americans, do not have a 401(k) plan or any other kind of pension. At the same time, much of the workforce is quickly approaching retirement. The provision enacted last year addressing this growing concern by allowing all workers to set aside more in their own retirement and IRA plans was important. I am proud of what this House did. Special considerations were also given to workers over 50 years old who were allowed to so-called "catch up" or accelerate contributions so that they can build up their retirement nest egg more quickly.

One group that will be particularly helped by this is women, women who come to work many times after raising their children, many times later in life.

This tax relief package also included provisions that modernize pension laws. Workers are now able to enjoy the benefits that come from having a portable defined contribution plan and are also allowed to vest in their plans more quickly.

So one might ask: What is the problem? The problem, Mr. Speaker, is that all of these very good benefits enjoyed by the American worker are set to expire on December 31, 2010, because of an arcane Senate rule. Consequently, Americans will have a difficult time planning for the future.

In order to prevent a massive overnight tax increase, this past June the House passed a bill that would make these provisions permanent on a strongly bipartisan vote of 308 to 70. The American worker is calling for these reforms to be made permanent, and the President is ready and willing to sign these significant retirement security provisions. We just need to go through the legislative process that involves both parties here in the Capitol. This measure, too, has also not been taken up by the other body.

The last resolution addresses similarly important tax relief that is put in jeopardy by the aforementioned Senate rule. House Resolution 543 is a measure expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage tax relief permanent.

Because of the Senate rule, the provisions that give relief to married couples from an additional tax burden are set to expire at the end of the year 2010. The Senate has not acted on making marriage tax relief permanent. Without enacting a law making marriage tax relief permanent at the start of the year 2011, the nearly 36 million couples in the Nation would be subject once again to this fundamentally unfair tax solely because they are married. If this provision is not made permanent, married couples across America will once again be subject to this unfair tax that is an affront to the most basic institution of marriage.

The Committee on Ways and Means report also notes that "failure to make permanent marriage penalty tax relief would result in a $17 billion tax increase for low- and middle-income married taxpayers in the year 2011, followed by a $25 billion tax increase in the year 2012."

Mr. Speaker, I look forward to debate on these three resolutions, which give the House the opportunity to once again reaffirm its commitment to the American workers and their families.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. As the Chair most recently ruled on September 19, 2002, Members are reminded to confine their remarks to factual references to the other body and avoid characterizations of Senate rules, Senate action or inaction, remarks urging Senate action or inaction, or references to particular Senators.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule and the three meaningless sense of the House resolutions it will bring to the floor represent a complete abdication of leadership by House Republicans.

On the front page of today's New York Times, the Census Bureau reports that the number of people living in poverty has increased, the median household income has decreased, and Americans are suffering under the weakest economy in 50 years. But congressional Republicans are fiddling about, cynically playing politics in order to run out the clock before the November elections.

The majority leadership should be ashamed of itself, Mr. Speaker. Republicans refuse to do the most basic job that they were elected to do: fund the Federal Government. House Republicans have passed only five of the 13 appropriation bills, and the fiscal year ends in less than 1 week.

Later today, or perhaps tomorrow, or perhaps some day next week, we will pass the first of several continuing resolutions to keep the government operating. But instead of working overtime to do their most fundamental job, Republican leaders are worried about their own political power, so they are wasting time on the meaningless bipartisan propaganda that these resolutions represent.

Never have I seen such timidity, timidity from the Republican leadership. Meanwhile, long-term unemployment is at an 8 percent high, and 2 million

Americans have lost their jobs. Consumer confidence is at its lowest level since November of 2001, and prescription drug prices are still sky high, leaving senior citizens unable to afford vital prescription medicine.

Mr. Speaker, corporate scandals, the massive criminality at Enron, WorldCom, and the like have rocked the economy and devastated retirement plans of millions of Americans; but House Republicans overwhelmingly voted against real pension protection legislation a few months ago, blocking Democratic efforts to protect Americans' retirement plans.

Just yesterday, the Dow hit a 4-year low. The NASDAQ is at a 6-year low. Overall, the stock market has lost $4.5 trillion in value since Republicans took control in Washington a year ago January.

How have Republicans responded, Mr. Speaker? Last week they wasted the taxpayers' time and money on two utterly meaningless resolutions. This week they are doing it again, issuing a rule that brings three more utterly meaningless resolutions to the House floor, since we have already passed these bills that are the subject of these resolutions.

Mr. Speaker, in case anyone has any doubt as to the substantive significance of the resolutions on the floor today, let me tell the Members how we got here. Originally, Republicans had one meaningless resolution on the schedule for today. Apparently, however, that would not waste enough time, so in the middle of the Committee on Rules meeting yesterday evening, Republicans happened to mention that they were going to add two more meaningless resolutions. Then they told us that they had to adjourn the committee until the new resolutions had been written.

Mr. Speaker, this is a shameful failure to lead. It demonstrates an embarrassing intellectual bankruptcy on the part of the Republican Party. They have given up on addressing the real priorities of the American people and turned the House floor into a propaganda arm of the Republican National Committee.

In closing, Mr. Speaker, I pose a simple question to my Republican colleagues: Are they afraid to do the job their constituents elected them to do? If not, I urge them to join Democrats in opposing the previous question.

If we defeat the previous question, we will amend the rule to bring to the floor real corporate accountability legislation offered by the gentleman from California (Mr. MATSUI), the ranking member of the Subcommittee on Social Security. The Matsui measure would ensure that big corporations treat their employees the same way they treat their favorite executives: if the CEO gets a guaranteed pension, then so should the front line employees; if the company restricts employees who want to change their 401(k) plans, then it should restrict CEOs who want to cash in their stock options.

The Matsui bill embodies the values that President Bush set forth months ago. If it is good enough for the captain, it is good enough for the crew.

I urge my Republican friends to join us in defeating the previous question so this House can finally address the corporate scams that have hurt so many employees and investors.

By the way, it might be nice if the Republicans would also bring the eight appropriation bills that are still languishing in committee to the floor. They have utterly failed to do the job that they were sent here to do.

Mr. Speaker, I reserve the balance of my time.

☐ 1600

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BALLENGER), a member of the Committee on Education and the Workforce.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, over the last year thousands of Americans employed by Enron, WorldCom, Adelphia and others have watched helplessly as their companies collapsed and their retirement savings evaporated. In response, President Bush called on Congress to act in a bipartisan fashion to restore confidence in our Nation's pension and retirement security system, and I am not ashamed to say more than 150 days ago the House did its part by passing a comprehensive pension protection bill that protects workers from losing their retirement savings in Enron-style corporate meltdowns.

The House passed the Pension Security Act to protect workers' retirements by stopping harmful inside trader moves. It gives workers new freedoms to diversify their retirement savings in 3 years and allows workers to receive sound investment advice about their retirement plans. American workers deserve no less than this from Congress. And also we need to support a 401(k) continuation and permanent renewal of the marriage penalty. The Senate has not passed any protection bill; and by supporting this bill rule, you are standing up for American workers.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. Mr. Speaker, I thank the gentleman from the State of Texas (Mr. FROST), the ranking member on the Committee on Rules.

Mr. Speaker, what we are really doing here today is passing three resolutions that the gentleman from Texas (Mr. FROST) said were absolutely meaningless, and I would have to say that they are probably less than absolutely meaningless.

The first resolution deals with a bill that was passed some months ago basically asking that the Senate act on it. Now, the way I would do this is you just go walk over to the Senate side, which takes about 5 minutes, and just suggest that perhaps they bring the bill up, and if they will not bring the bill up ask them why and then you will find out why because the bill that passed the House is somewhat meaningless.

The same thing on the second resolution. You want to make something permanent that will not take effect until 8 years from now. And so why talk about asking the Senate to take this bill up now when we are talking about something 8 years from now? We do not even know how this bill will work.

The last one is on the marriage penalty, again doing something that will take 8 years from now. What is odd is that we should really be addressing the shortfall on Social Security, but because the Republicans want to privatize Social Security, they want to wait until after the elections because they know they are getting really torpedoed on this. They do not want to talk about Social Security. They have a prescription drug proposal that will privatize Medicare and, obviously, that cannot pass the other body because it is so extreme that that is not going to happen.

You can go on and on and on. One of reasons the appropriations bills are not being brought up is even though the President had a wonderful Rose Garden ceremony, signing ceremony, on the education bill, Leave No Children Behind, he falls $7 billion short in actually funding that bill, which would make it impossible to implement it and create chaos in every school district in America.

So we know what is happening. We know why we are spending hours of time on this floor of this body talking about resolutions. The easiest thing in the world, as I said, is just go on the other side. Talk to these people on the other side. Do not send resolutions and waste their time.

What is really offensive is let us take the first piece of legislation that we are talking about, the first resolution. I will tell you how meaningless it is. They have basically two parts of this bill: The Boehner-Thomas bill which is supposed to really address the Enron pension problems. The first one basically says that no employee can actually sell company stock for 3 to 5 years from the date of receipt. Now, that does not mean anything from the top level management employees; the executives like Ken Lay could still sell any time they want. They get a stock option. So this does not really help the employees of these companies.

The second part of it is even more silly when you think about it. The gentleman from Texas (Mr. FROST) talked about investment advice. The only trouble is the investment advice will come from the same people that are administering the program. So you take Enron, it would have been the Enron pension managers that would have been giving investment advice to the Enron employees. Now, what do you think they are going to say? Do not buy Enron stock? Of course not. It is silly.

But you say, we do have a provision that you have to disclose a conflict of interest. Sure, that is a lot of help. That is what this bill does. It is somewhat meaningless. That is why the other body has a rough time wanting to take this up.

The bill I would like to offer and the bill we really should be debating, you can vote against it, but let us bring it to the floor so that the American public will know our values, what we stand for, exactly who does want to solve those problems. What our bill will do is basically, let us take, for example, the whole issue of diversification, the first issue about Enron employees having in their 401(k) plans Enron stock. Essentially what we would provide is that the executive employees like Ken Lay and Skilling and those folks would not be able to sell their stocks if in fact there are impediments to the employees having to sell their stocks. And if they do sell their stocks and breach the general company-wide prohibition in terms of time limits, they would just have to pay a capital gains tax that is larger than the capital gains tax they will pay now. They will have to pay a 50 percent capital gains tax. That should be a disincentive then for them to sell these stocks or at least perhaps open it up so their employees can sell their stocks.

Secondly, we all know what has been going on, and finally I think the Jack Welch situation became public knowledge about a month ago. A lot of retired top executives and CEOs get millions and millions of dollars of perks. Not only do they get wonderful pension programs, but they also get tickets free to sporting games on the front row. They get apartment complexes. They get their cleaning paid for. They get a corporate jet that is waiting for them. Millions of dollars worth of funds.

We know that they get these big benefits and we are not going to stop that. They are going to get them. But what we want is transparency. One of the reasons the market is falling apart, it was 11,700 when the President took office, and now it is down to 7,700. It lost 4,000 points in the last 2 years since President Bush has been President, about a 40 percent reduction in pension benefits.

The reason why there is no confidence in the stock market today is because there is no transparency, because the shareholders do not know what is actually being expensed. The shareholders of GE did not know that Jack Welch was actually spending millions and millions of dollars of monies that could have gone in the form of stock dividends. All we would do is just provide that when you give these benefits and perks to these top management people, that you notify the shareholders in writing. And then you allow the shareholders to vote as to whether or not they agree with it; and if they do not, these perks are not available. Very simple.

Why would anybody be opposed to that? You want transparency, you want fairness, and you want the shareholders to have their benefits. We cannot bring this bill on the floor because you, Republican leadership, will not allow us to. The American public needs to know that. Why should we not be allowed to do that?

Lastly, the whole issue of deferred compensation. Ken Lay did really well. After bankruptcy was filed, he was able to take millions of dollars in deferred compensation. You know why he was able to do it? Because he put it in a third party trust that was nontaxable to him; nontaxable trust monies of Enron money went into a third party trust. And when they filed bankruptcy, every employee of Enron corporation lost their 401(k)s and went from $100,000 to zero or whatever they had went down to zero. It was suffering, what these people went through. Ken Lay walked off with it. You know why? Because we have a provision in the Tax Code that needs to be changed because it allows a deferral of taxes, and at the same time with the third party trust he was able to take literally millions of dollars from his account.

We need a no vote on the motion on the previous question so we are able to bring up our legislation that will deal with these major points so the American public and the shareholders will understand exactly what is going on in corporate America.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Members are reminded to avoid improper references to the Senate.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we were furthering this debate that we have had for quite some time. I completely understand where the Democrats are coming from. They completely understand where we are coming from. We would like an agenda that is going to help taxpayers. We want an agenda that will help investors. We want an agenda that will help this country to come back from the problems that it has had. But the bottom line is the consensus that these bills have represented, including just one of these bills, got 308 votes. It is a consensus about doing something that will work.

I understand how difficult it is to beat up the status quo, just beat it up. But the answers that the other side has, just like when they present their budget, it does not even come close to passing. The measures that they have time after time do not come close. But the provisions that we have put on the floor have virtually bipartisan agreement with over 308 people who vote for it.

These are the ideas that we bring back to the floor today. The ones that have received over 300 votes of this body, the votes that make a difference, the ideas that make sense. It is easy beating up these ideas. I understand that. I also understand a lot of the frustration that they have got. But now is the time for us to make sure that we are pushing these. These three provisions are important. Yes, it is true. Two of them simply make permanent the things at the end of 10 years that we passed in the past few years. But I believe they are very important and I believe they represent more than a consensus of this body. And that is why it makes sense that what we passed previously, that we will debate again.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN), a member of the Committee on Ways and Means.

Mr. PORTMAN. Mr. Speaker, I thank my colleague from Texas (Mr. SESSIONS) for yielding me time; and I am pleased to talk about today the substance of some of the legislation before us.

The rule permits us to take up three bills. My understanding is today we will address two of them. They have just been mischaracterized in my view by my colleague from the other side of the aisle, and I just want to relate what they actually contain.

The first is H.R. 3762. This is the pension security bill. It passed the House with a vote of 255 to 163 with 46 Democrats supporting it. It does have a controversial amendment with regard to independent investment advice, but to say that it does nothing, which my colleague and friend from California (Mr. MATSUI) said earlier, is not accurate. Let me tell you just what it does.

It says to people who are currently in company plans who have 401(k)s, who get a match of stock from their employer, that they do not have to be in that stock for an unlimited period of time. Under current law if an employer wants to they can give a match under a 401(k) program and say, you can have that stock but you have got to keep it, and you can never get rid of it, because there is no current rule which says that employees, the workers, have the right to unload that stock. That is a bad situation.

What happened at Enron is they told people they had to be 50 years of age plus they have to have 10 years of service. So people literally got hold of that Enron stock and they did not have the ability to get it out of their retirement plan. That is current law. Enron could have said 65 instead of 50. They could have said 20 years of service. They chose 50 and 10.

So what this House did on a bipartisan basis is we said, Let us change these rules. Let us say that as soon as you are vested, and vesting is after 3 years of service, that is the current vesting rule. We moved it from 5 years down to 3 years in the Portman-Cardin legislation a couple years ago. As soon as someone is vested after 3 years, you can get rid of that stock. You can divest yourself of that corporate stock that that company has given you as a match. That is a huge difference. And to say that does nothing I think not only mischaracterizes the bill, but I think that is really unfair to the workers of America who want to have that flexibility. They want to have the choice. If they want to keep that stock, fine, they should be able to. But they should also have the choice to get out of it. And a lot of folks at Enron would have gotten out of it. So that is a big change from current law.

It is not something, frankly, the business community was wild about because they like the idea of giving corporate stock and tying people to that stock because they think that gives people more of a stake in that company. It enables them to have that stock be held. But we looked at it. We said it was fair. We decided to do it. The gentleman from Maryland (Mr. CARDIN) and I worked on that. The gentleman from North Dakota (Mr. POMEROY) and I worked on that and others. So to say it does nothing is just inaccurate.

Second, it provides better information to workers. That is something we agreed to on a bipartisan basis. It was not a controversial part of the bill. It does provide a lot more information and better information. For instance, now when somebody gets into a plan they have to be provided with advice that says diversify. Do not put all your eggs in one basket. A commonly accepted principle for retirement is you should not have all your eggs in one basket. People now have to be told that when they get into a plan. They also have to be told, not only when they get into it but on a quarterly basis, what that plan is doing.

□ 1615

That was not a requirement before this legislation. If we could get this out of the Senate, people would actually get quarterly statements telling them what is in their plan, what they have, how the plan is doing in plain English so they can actually have the kind of transparency that the gentleman from California (Mr. MATSUI) talked about, and I could not agree with him more. Transparency is absolutely critical.

Finally, education. Choice and information are important, but we also need to give people more tools to be able to educate themselves about how to invest their retirement savings. I think there is a consensus on doing that. There is some controversy about one element here, but it is extremely important.

There are two provisions in the bill. One says that one should be able on a pretax basis to go out and get advice wherever one wants, up to 500 bucks. Just like one can get a pretax cafeteria plan for eyeglass coverage or some other benefit, one can get investment advice. Investment advice is not cheap. So it is important that people have the ability to go out to get that advice. That is something that the gentleman from Maryland (Mr. CARDIN) and I have put together in previous legislation; it is something this House passed.

Finally, it says that companies ought to be able to allow people to come into the company and provide advice to the employees. The employer has the option to do that under this bill. It is voluntary. If the person comes forward to offer advice, the person has to disclose whatever that person is doing including being involved in a company plan, if they are. It is subject to all fiduciary responsibilities that come with that. It has to be a certified individual. So their protection is in there, but the point is there are millions of American workers today, over 42 million of them are in 401(k)s and a lot of them are getting no advice at all. In fact, 65 percent of those workers tell us they want to get education. So this is what this bill does. It is pretty simple. It says people ought to have choice. They do not have it now. And until the Senate acts, they will not have it. They ought to have better information about their plan. They ought to have better education.

A couple of other really good provisions of the bill have already been passed in the corporate accountability bill. That dealt with the blackout period. Do my colleagues remember that issue with the Enron situation because they were changing plan administrators, there was a blackout where people could not sell their stock and yet the people at the top could and there was no notice of the blackout? This House passed legislation that is part of this bill that says 30-day notice, they have to tell people about a blackout and during the blackout, the corporate executives who are not even in the plan but have stock separately cannot sell their stock. What is good for the sailor is also good for the ship captain. That was that idea and that did pass as part of the corporate accountability bill, but it came out of this House and out of this legislation.

So what we are doing today may seem meaningless to some, but I think it is very important because it is important to the workers of America. It is to say to the United States Senate, look, we passed this thing back in April. We responded on a bipartisan basis in the House. It is time now for the United States Senate to help America's workers. Enough talk. We have got a bipartisan consensus on which way to go. We ought to get it done.

The second piece of legislation has to do with enabling people to put more in their retirement accounts, enable them to move their accounts from job to job, portability, and simplifying the rules for small business so that they can offer more accounts. We know for a fact that of the 75 million people in America who do not have any retirement savings plan at all, 75 million people are left out right now. Most of them work in small business. In fact, among small businesses, only 20 percent offer any kind of plan like a 401(k) or a similar plan. So this House, on a 308 to 70 vote and in the past on a 400 vote, passed this legislation.

And what we are saying here is we ought to now make that legislation permanent. It lets everybody save more for their retirement. It is good policy. It is already working. IRA contributions are up 25 percent this past year, and thank goodness, because some of that money is accounted for now and able to balance some of what is happening in the markets so that people have a little more retirement savings. So it is out there working. It is good policy.

Why do we think it ought to be made permanent? Because although it does not expire for 8 years, it is very difficult to plan. Most Americans are trying to plan for their retirement. They want to know that this thing is not going to expire in 8 years, which it does under the current legislation. Small businesses would like to plan. If someone is thinking about getting into a pension plan for the first time if they are one of those 80 percent of small businesses, Mom and Pop operations, and they are sort of scared about the cost and the burden of liabilities to this, we reduce some of these for them here but they are saying, gee, how do we know that if we get into this business we are not going to get knocked out of it in 8 years? We ought to make it permanent.

I hope this is something this House would agree on. We already had a vote on that in this House. All we are saying to the Senate is, please, instead of talking about this so much, let us do something. We have the ability to do something. We have a consensus on how to help every worker have a more secure retirement.

There may be other things that people would like to add. The gentleman from California (Mr. MATSUI) has talked about executive compensation. Those are important issues. We ought to address those issues. It will not help one person get a pension, I can tell you that. So let us focus on what we are about here, which is helping workers to be able to have a little nest egg for their retirement, have a little peace of mind so that when they retire, they have something to be able to use for their own retirement and pass along to their kids and grandkids. That is what we are doing today. It is very simple. I appreciate the time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Members are reminded to avoid improper references to Senators.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

I was listening to my colleague, the gentleman from Texas, a while ago; and he was talking about why we need to be voting on this today, and I think he is a little confused. I do not know, maybe he was sick the day they did the legislative process during freshman orientation. I do not know. But it sounded like he was talking about voting on a conference report. We do not have a conference report before us. We have a bill that has already passed the House, has not been taken up by the Senate. So it is meaningless to vote a second time on the same bill that has already passed the House when it has not been passed by the Senate, has not gone to conference, and has not come back to us. So this really is an extraordinary waste of everybody's time, the minority's time, the majority's time, and the taxpayers' time and money.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me this time.

Mr. Speaker, I strongly support worker protection in the pension laws, but today is another wasted opportunity, another loss of an opportunity to do something positive in that direction. I strongly disagree with the partisan strategies of my Republican colleagues. We need Congress to act on pension protection. It has been a pleasure to work with the gentleman from Ohio (Mr. PORTMAN) on many of these pension issues. Yes, employees should have control over their assets in the 401(k) plan.

Yes, we need to give them advice on diversification and independent advice; and yes, we have to give them notice of blackout periods. All that is very important, but this rule, as the gentleman from Texas (Mr. FROST) has pointed out, if it passes, will allow us to consider on this floor three meaningless resolutions. They do not even reenact what we did before. These are basically political statements more than action on the floor of this body.

Instead, we could have done something here today to make it more likely we would send legislation to the President accomplishing what we are talking about today. We still have that opportunity. If we defeat the previous question, then we will be able to bring forward an issue that is extremely important to the workers of this Nation, will help bring us closer to the other body and more likely that we will get legislation enacted this year.

Mr. Speaker, I refer to the fact that under current pension law, there is preferential treatment for top management over the rank-and-file workers of a defunct company. No one can justify that. If a company cannot pay its workers, if a company cannot pay its creditors, it should not be paying these lucrative agreements to its top management, the deferred compensations and the unqualified pension plans that allow these payments to continue even though the company is in bankruptcy; and that is what the gentleman from California (Mr. MATSUI) is referring to. That is what we will be able to consider in this body if we defeat the previous question; and if we do that, we will not only be enacting the right policy, treating workers equally with top management and protecting their pension rights, but we also will make it more likely that we can get legislation enacted this year.

I urge my colleagues to listen to this debate. Why we continue to take up these resolutions that do absolutely nothing is beyond me. These are important issues. We all want to help workers. So why can we not use the time that is obviously available to us to do the work we have not done yet? We have not taken up the issue of protecting the rank and file versus the top management. Let us take that issue up during this time.

I urge my colleagues to defeat the previous question.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. WELLER), the sponsor of the Marriage Penalty Relief Act.

Mr. WELLER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me this time.

I rise in strong support of the rule. I urge a "yes" vote on the previous question because this is a pretty simple debate before us today. We are debating bringing up a measure that says we need to get our work done on making elimination of the marriage tax penalty permanent; and before I discuss this marriage tax penalty, I do want to commend my friend, the gentleman from Ohio (Mr. PORTMAN), and the gentleman from Ohio (Mr. BOEHNER) for their good work on the pension legislation that is also part of this rule debate, particularly for the inclusion of the 415 pension provisions which benefit over 10 million construction and building trades people across America.

Thankfully, President Bush had the leadership to sign that legislation into law; and unfortunately, it was a temporary measure, and just imagine what it would mean to working folks back home in our districts if the rug were pulled out from them if that provision were allowed to expire, what it means for a laborer in my district like Larry Core. That 415 provision means a doubling of his pension by removing those artificial caps that denied him the full pension that he earned and deserved.

I have often, like many of my colleagues, come to the floor and asked the very fair and basic issue of fairness, and that is, is it right, is it fair that under our Tax Code almost 42 million married working couples have suffered higher taxes historically just because they are married? It does not seem right, and it does not seem fair; but the average marriage tax penalty would be about $1,700.

Thankfully, this House, along with the Senate, and we obtained bipartisan support, succeeded in passing as part of the Bush tax cut legislation to eliminate the marriage tax penalty, helping 42 million married working couples, couples such as Jose and Magdalena Castillo, two laborers, two construction workers from Joliet, Illinois. They have a son and daughter, Eduardo and Carolina. They are good people. They work hard. They are pursuing the American dream, but they suffered the marriage tax penalty prior to President Bush signing the Bush tax cut into law.

Unfortunately, the Bush tax cut is temporary. It expires in a few years, so what that means for a couple such as Jose and Magdalena Castillo, who right now have the marriage tax penalty essentially eliminated, is they could end up paying in a few years about $1,700 more in higher taxes just because they are married; and I believe that there is bipartisan agreement in this House that it is wrong that a married couple who are both in the workforce, man and wife, should pay higher taxes. We saw that we had almost 60 Democrats join with every House Republican that rejected their leadership's call, and they voted with us in eliminating that marriage tax penalty.

We have before us today a rule which will allow us to bring up this coming week a measure which will say that we want to complete before the end of this year, making permanent the elimination of the marriage tax penalty, and this House has passed legislation to make permanent the elimination of the marriage tax penalty; and I would note that the Senate has not taken up permanency when it comes to eliminating the marriage tax penalty legislation that the House passed months ago. I think it is important that we make this a bipartisan priority.

We have that opportunity today, because think about it, for Jose and Magdalena Castillo of Joliet, Illinois, two hardworking people who have suffered the marriage tax penalty, just like 42 million American working couples, unless we make permanent the elimination of the marriage tax penalty, they are going to once again suffer higher taxes just because they are married.

We have a simple vote before us. We are voting on a rule. It is a procedural thing that we have to do, but this rule will allow us to debate the need to finish our job on eliminating the marriage tax penalty permanently; and, again, I would note that this House passed, and the votes of every House Republican and about 60 Democrats joined with us in a bipartisan effort, to eliminate the marriage tax penalty. I urge a "yes" vote on the rule and a "yes" vote on the previous question.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me the time.

Today, Mr. Speaker, we are considering more resolutions without meaning. What was great about the Seinfeld show, a show about nothing, is not so funny here in Congress when we debate bills about nothing. These empty resolutions seek to divert attention of the American voters from the Republican leadership's mediocre attempt at pension and corporate reforms.

What we should be debating today is actual legislation that deals with the important issues of pension reform and corporate accountability. My colleagues may recall, Mr. Speaker, that the first economic stimulus bill that the leadership pushed through this House, and my friend from Ohio made reference to Ma and Pa businesses they want to help, would have given $254 million with repeal of the corporate alternative minimum tax to Ma and Pa Enron.

□ 1630

Well, in the wake of Enron's spectacular demise, this House has done little to help those who were financially devastated as shareholders and workers. Pension security deserves serious debate. Establishing parity between corporate executives and rank-and-file employees regarding the buying and selling of stock is simply the right thing to do. It is imperative to strengthening the integrity and public trust in corporate America. Congress has that opportunity if we would just get to it.

President Bush, a former corporate executive himself, said, "If it is okay for the captain, it ought to be okay for the sailor." Instead of debating senseless senses of the House, we should correct this system that unfortunately allowed hardworking Americans, the backbone of corporate America, to lose their retirement savings.

What we are continuing to allow by wasting our time on these resolutions is abusive corporate perks. Let us start with our friends at GE, the quintessential corporate manager who was receiving exorbitant perks at shareholders' expense and most importantly, without shareholder approval. I call Members' attention to the enviable list of perks ranging from big-ticket items to minutia, from a $15 million Manhattan apartment, to corporate jets, to membership fees at four country clubs, to sports tickets, and even expensive toiletries. It is interesting why a man whose wealth has been estimated at $900 million would feel it necessary to have the shareholders of GE pay for his laundry service.

How about the ousted CEO of Tyco, formerly of New Hampshire and now of Bermuda. Without shareholder approval, the company paid for a bizarre set of perks, including $2 million on a birthday party for his wife, $15,000 for a dog umbrella stand, and how about $445 for a pin cushion.

The CEO of Adelphia, he used company funds to construct a $13 million golf course on family property. The holidays must have been very good there.

These extravagances reflect a corporate culture gone awry. Warren Buffet summed it up best when he said, "The ratcheting up of compensation has become obscene." But rather than taking up legislation to prevent or discourage such financial abuse of shareholders and investors, we debate resolutions about nothing.

Mr. Speaker, I want to join the gentleman from California (Mr. MATSUI) in urging this House to take up his legislation which would bring some sanity into the corporate compensation process. We need better protections for our investors, shareholders and workers. How can anybody look at those shareholders and employees at Enron and justify what happened to them?

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the gentleman from Texas (Mr. FROST) said this is a meaningless resolution. I beg to differ with the gentleman; I think this resolution is very meaningful because it shows that the majority in the face of real economic stress and pain in our country is more interested in positioning for the election that is coming in 6 weeks than it is in solving the country's problems.

Since the beginning of 2001, 2 million people have gone on the unemployment rolls. In the last 12 months, 1 million people have exhausted their economic unemployment benefits, have seen them run out. Since the beginning of 2001, the stock markets have seen $4.5 trillion of wealth evaporate, much of that wealth in the pension funds of American workers, American retirees.

We have seen the equity markets themselves lose 40 percent of their value. We have seen the spread between short- and long-term interest rates, a key indicator of future happenings in our economy, grow wider than it has in recent history. We have seen a Federal Government that was bringing in $108 for every $100 that we spent at the beginning of 2001, now bringing in $90 for every $100 that we spend, and covering the difference by borrowing from the Social Security trust fund, running the government on Social Security money that should be there for the future.

The right thing to do would be to renegotiate the country's budget, to bring to this floor legislation that would really make a difference to the people that have been stressed, an extension of unemployment benefits for people who cannot find work, a means of creating more jobs in the short run for people who cannot find work, provisions that would truly strengthen pension plans, and one of those provisions can be brought to the floor if Members vote "no" on the previous question, and that is the idea of the gentleman from California (Mr. MATSUI), which says that a self-regulating concept in pension plans will be that whatever the top guy in the organization gets, everybody else has to get, too. If there is a restriction on what can be done with stock that applies to the person who cleans the office at night, then it applies to the person who owns the office building. If there are benefits for the person high up in the executive suite, a similar kind of a benefit has to apply to every single man and woman who stands under that person on the company's organizational table.

This is a real change that would make a real difference at a time of real problems. I regret that what we are going to do if the majority passes this rule is pass a couple of ceremonial resolutions to take note of what we wish the other body would do. We cannot control what the other body does. It has a conscience and a rhythm all of its own. That is what the framers intended. However, we ought to do something rather than nothing.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, over the course of this past year, we have watched employees of Enron and WorldCom and other companies watch their retirement savings dwindle to almost nothing. The House in a bipartisan way came together on April 11, 160 days ago, to pass the Pension Protection Act which will in fact help protect all pensions in America. Yet the Senate has not acted.

Now the Senate did in fact act along with the House when we passed the

Corporate Accountability bill to put those corporate insiders who have abused their shareholders and abused the law and put them in jail. In that bill, I might add, there were two provisions from the Pension Security Act actually signed into law. One, a provision that would bar company insiders from selling their stock during a blackout period where the plan administrator is changing.

Secondly, in the Corporate Accountability bill, we do require that pension plan administrators notify their employees 30 days in advance of any blackout period. But we all know there is a lot more that needs to be done. We need to give workers more freedom to diversify their 401(k) accounts. We need to make sure that workers have access to high-quality investment advice. But the House cannot do it alone.

We all know under the Constitution that before a bill can become law and go to the President's desk, it has to be acted on by the House; it has to be acted on by the other body. Any differences have to be resolved before the bill goes to the President. The House has acted. The Senate has yet to take up pension legislation, and I believe this issue is one thing that needs to be done.

We have to remember that this bill, the Pension Security Act, passed the House with 46 Democrat members voting for it. We worked in a bipartisan way to make responsible reforms that really would in fact protect the pension assets of many of our employees. But we cannot get this bill to the President's desk until we have action. That action needs to occur, and it needs to occur now.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when people who are watching this on television, maybe listening to us on the radio, perhaps following these proceedings in the newspaper tomorrow, when members of the public get their quarterly 401(k) statements next week and the statements from their mutual funds, think of the Republicans when you open that up. Think of the Republicans and what they have not done and what they are not willing to do to improve the economy.

They are not willing to bring any legislation to the floor today that makes any difference. They bring meaningless resolutions. I urge members of the public, think of my friends on the Republican side when you open your quarterly 401(k) statement next week.

Mr. Speaker, the majority should be ashamed to bring these sense of Congress resolutions to the floor. These resolutions are pieces of paper that do nothing, help no one, and waste the time of the House of Representatives. No wonder the American people are cynical about their government. Mr. Speaker, I would be, too, if this is the best the majority can produce.

If there is any Member on the majority side who wishes to pass some actual legislation, they should join us in defeating the previous question of the rule. If that occurs, then I will offer an amendment that provides immediately after the House passes this meaningless rule, it will take up a bill that contains real corporate welfare reforms. While the Republican majority is busy indulging their aversion to passing actual legislation so close to an election, Democrats want to crack down on corporate executives who get cheap leases for their corporate jets while their company's 401(k) plan collapses. The majority allows these executives to shield their earnings and retire to their penthouses and benefits for life, while the American people are left playing for this largess.

This is wrong, Mr. Speaker. Democrats know it and are willing to do something about it, while the Republicans pretend these problems do not exist. I do not know about anybody on the other side, Mr. Speaker, but Democrats want to work. We are elected to help make things better for the American people, not to stall legislation we were afraid would hurt us with our big donors too close to an election time.

By defeating the previous question, the House can take up this bill and stop the two classes of people we now have in this country: executives who walk away with millions and live the life of luxury, and the rank-and-file worker who goes home every day hoping their 401(k) plan will last until retirement.

Mr. Speaker, Members, all a "yes" vote does is waste time, and Congress has done enough of that for the past 3 weeks. Let us actually pass something that matters. Let us get some work done. I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we promised at the beginning of this debate on the rule that it would be contentious, that we understood that the Democrat Party opposed what we were doing, and we understood what we were supporting. We believe what we are talking about here is good for investors. We believe it is good for people to have 401(k)s, pension plans, the opportunity to save more money.

We have had a chance to debate these important issues. We have had any number of speakers on both sides of the aisle who have talked about the things that are good and bad about these resolutions that we are talking about; but the bottom line is that Members will get a chance to vote now after hearing this debate.

Mr. Speaker, I think the previous question will pass, that we will pass these resolutions, that the vast majority of Members will understand what we are doing, the importance to the American people, and the importance to people who are trying to make a go of it with their own savings account.

☐ 1645

I think the American public understands what we are doing, and I think they understand what the Republican Party stands for.

The material previously referred to by Mr. FROST is as follows:

Previous Question for H. Res. 547—Rule on H. Res. 540 Sense of the House that the Congress should complete action on H. Res. 3762, the Pension Security Act of 2002, H. Res. 543 Sense of the House that Congress should complete action on H.R. 4019, making marriage tax relief permanent and H. Res. 544 Sense of the House of Representatives on permanency of pension reform provisions

At the end of the resolution add the following new sections:

SEC. . Notwithstanding any other provision in this resolution, immediately after disposition of the resolution H. Res. 540, the Speaker shall declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5432) to amend the Internal Revenue Code of 1986 with respect to the amount included in gross income by reason of personal use of corporate property, to require the same holding period for company stock acquired upon exercise of options as is applicable to company stock in its 401(k) plan, to require disclosure to shareholders of the amount of corporate perks provided to retired executives, and to provide parity for secured retirement benefits between the rank and file and executives. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. . If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of that bill.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL RULES FOR EXECUTIVE PERKS AND RETIREMENT BENEFITS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end the following new subpart:

"SUBPART F—SPECIAL RULES FOR EXECUTIVE PERKS AND RETIREMENT BENEFITS

"Sec. 420A. Holding period requirement for stock acquired through exercise of option.

"Sec. 420B. Additional tax on nondisclosed retirement perks.

"Sec. 420C. Inclusion in gross income of funded deferred compensation of corporate insiders.

"Sec. 420D. Definitions and special rule.

"SEC. 420A. HOLDING PERIOD REQUIREMENT FOR STOCK ACQUIRED THROUGH EXERCISE OF OPTION.

"(a) IN GENERAL.—In the case of a corporate insider with respect to a corporation, the tax imposed by this chapter on a corporate insider for any taxable year shall be increased by 50 percent of the amount realized by such insider from the disqualified disposition during such year of stock acquired by the corporate insider upon the exercise of a stock option granted by the corporation with respect to which such individual is a corporate insider.

"(b) DISQUALIFIED DISPOSITION OF STOCK.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'disqualified disposition of stock' means any sale, exchange, or other disposition of stock which, if such stock were employer securities held in a qualified cash or deferred arrangement (as defined in section 401(k)(2)), would violate any restriction imposed on the sale or other disposition of such securities by the plan of which such arrangement is a part.

"(2) SPECIAL RULE FOR 2 OR MORE CASH OR DEFERRED ARRANGEMENTS.—If a corporation has more than 1 qualified cash or deferred arrangement (as so defined), the restrictions which apply for purposes of paragraph (1) shall be the most restrictive provisions relating to the disposition of employer securities held pursuant to any such arrangements.

"SEC. 420B. ADDITIONAL TAX ON NONDISCLOSED RETIREMENT PERKS.

"(a) IN GENERAL.—In the case of a publicly traded corporation, the tax imposed by this chapter for the taxable year shall be increased by 50 percent of the net cost to the corporation for the taxable year of personal perks provided to a retired executive of the corporation.

"(b) WAIVER IF PERKS PROVIDED PURSUANT TO SHAREHOLDER APPROVAL.—Subsection (a) shall not apply with respect to any personal perks provided pursuant to a contract if—

"(1) all of the material terms of such contract (including a description of the benefits to be provided to the executive and the extent of such benefits) are disclosed to shareholders, and

"(2) such contract is approved by a majority of the vote in a separate shareholder vote before any benefits are provided under the contract.

"(c) NET COST OF PERSONAL PERKS.—

"(1) IN GENERAL.—For purposes of subsection (a), the net cost of personal perks provided to a retired executive is the excess of—

"(A) the cost to the corporation of such perks, over

"(B) the amount paid in cash during the taxable year by the executive to reimburse the corporation for the cost of such perks.

"(2) PERSONAL PERKS.—For purposes of paragraph (1), the term 'personal perks' means—

"(A) the use of corporate-owned property,

"(B) travel expenses, including meals and lodging, unless such expenses are directly related to the performance of services by the executive for the corporation and the business relationship of such expenses is substantiated under the requirements of section 274,

"(C) tickets to sporting or other entertainment events,

"(D) amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose, and

"(E) other personal services, including services related to maintenance or protection of any personal residence of the executive.

"(3) COST RELATING TO USE OF CORPORATE-OWNED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The cost taken into account with respect to the use of corporate-owned property shall be the allocable portion of the total cost of operating such property.

"(B) ALLOCABLE PORTION.—For purposes of subparagraph (A), the allocable portion of total cost is—

"(i) the portion of the total cost (including depreciation) incurred by the corporation for operating and maintaining such property during the corporation's taxable year in which such use occurred,

"(ii) which is allocable to the use (determined on the basis of the relationship of such use to the total use of the property during the taxable year).

SEC. 420C. INCLUSION IN GROSS INCOME OF FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS.

"(a) IN GENERAL.—If an employer maintains a funded deferred compensation plan—

"(1) compensation of any corporate insider which is deferred under such funded deferred compensation plan shall be included in the gross income of the corporate insider or beneficiary for the 1st taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

"(2) the tax treatment of any amount made available under the plan to a corporate insider or beneficiary shall be determined under section 72 (relating to annuities, etc.).

"(b) FUNDED DEFERRED COMPENSATION PLAN.—For purposes of this section—

"(1) IN GENERAL.—The term 'funded deferred compensation plan' means any plan providing for the deferral of compensation unless—

"(A) the employee's rights to the compensation deferred under the plan are no greater than the rights of a general creditor of the employer, and

"(B) all amounts set aside (directly or indirectly) for purposes of paying the deferred compensation, and all income attributable to such amounts, remain (until made available to the participant or other beneficiary) solely the property of the employer (without being restricted to the provision of benefits under the plan), and

"(C) the amounts referred to in subparagraph (B) are available to satisfy the claims of the employer's general creditors at all times (not merely after bankruptcy or insolvency).

Such term shall not include a qualified employer plan.

"(2) SPECIAL RULES.—

"(A) EMPLOYEE'S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(A) unless—

"(i) the compensation deferred under the plan is payable only upon separation from service, death, disability, or at a specified time (or pursuant to a fixed schedule), and

"(ii) the plan does not permit the acceleration of the time such deferred compensation is payable by reason of any event.

If the employer and employee agree to a modification of the plan that accelerates the time for payment of any deferred compensation, then all compensation previously deferred under the plan shall be includible in gross income for the taxable year during which such modification takes effect and the taxpayer shall pay interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income on the earliest date that there is no substantial risk of forfeiture of the rights to such compensation.

"(B) CREDITOR'S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(B) with respect to amounts set aside in a trust unless—

"(i) the employee has no beneficial interest in the trust,

"(ii) assets in the trust are available to satisfy claims of general creditors at all times (not merely after bankruptcy or insolvency), and

"(iii) there is no factor that would make it more difficult for general creditors to reach the assets in the trust than it would be if the trust assets were held directly by the employer in the United States.

Except as provided in regulations prescribed by the Secretary, such a factor shall include the location of the trust outside the United States.

"(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5), and

"(B) any other plan of an organization exempt from tax under subtitle A.

"(2) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement.

"(3) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

"(4) TREATMENT OF EARNINGS.—Except for purposes of subsection (a)(1) and the last sentence of (b)(2)(A), references to deferred compensation shall be treated as including references to income attributable to such compensation or such income.

"SEC. 420D. DEFINITIONS AND SPECIAL RULE.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) CORPORATE INSIDER.—The term 'corporate insider' means, with respect to a corporation, any individual—

"(A) who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

"(B) who would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

"(2) RETIRED EXECUTIVE.—The term 'retired executive' means any corporate insider who is no longer performing services on a substantially full time basis in the capacity that resulted in being subject to the requirements of section 16(a) of the Securities Exchange Act of 1934.

“(3) PUBLICLY TRADED CORPORATION.—The term ‘publicly traded corporation’ means any corporation issuing any class of securities required to be registered under section 12 of the Securities Exchange Act of 1934.

“(4) CORPORATE-OWNED PROPERTY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘corporate-owned property’ means any of the following property owned by a corporation—

“(i) planes,

“(ii) apartments or other residences,

“(iii) vacation, sports, and entertainment facilities, and

“(iv) cars.

Such term includes any such property which is leased or chartered by the corporation.

“(B) EXCEPTIONS.—Such term does not include any property used directly by the corporation in providing transportation, lodging, or entertainment services to the general public.

“(b) ADDITIONS TO TAX NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The tax imposed by sections 420A and 420B shall not be treated as a tax imposed by this chapter for purposes of determining—

“(1) the amount of any credit allowable under this chapter, or

“(2) the amount of the minimum tax imposed by section 55.”.

(b) CLERICAL AMENDMENT.—The table of subparts for part I of subchapter D of chapter 1 of such Code is amended by adding at the end the following new item:

“Subpart F. Special Rules for Executive Perks and Retirement Benefits.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as follows:

(1) Section 420A of the Internal Revenue Code of 1986 (as added by this section) shall apply to stock acquired pursuant to the exercise of an option after the date of the enactment of this Act.

(2)(A) Except as provided by subparagraph (B), section 420B of such Code (as so added) shall apply to perks provided after the date of the enactment of this Act.

(B) In the case of perks provided pursuant to a contract in existence on the date of the enactment of this Act, such section 420B shall apply to such perks after the date of the first annual shareholders meeting after the date of the enactment of this Act.

(3) Section 420C of such Code (as so added) shall apply to amounts deferred after the date of the enactment of this Act.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 217, nays 200, not voting 15, as follows:

[Roll No. 413]

YEAS—217

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—15

Bachus
Bonior
Borski
Callahan
Maloney (NY)
Mascara
McDermott
McKinney
Mink
Radanovich
Roukema
Stump
Thompson (CA)
Thurman
Young (AK)

□ 1733

Messrs. BRADY of Pennsylvania, WU, and BAIRD changed their vote from “yea” to “nay.”

Mr. GARY G. MILLER of California and Mr. HEFLEY changed their vote from “nay” to “yea.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 3762, PENSION SECURITY ACT OF 2002

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 547, I call up the resolution (H. Res. 540) expressing the sense of the House of Representatives that Congress should complete action on H.R. 3762, the Pension Security Act of 2002, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The text of H. Res. 540 is as follows:

H. RES. 540

Workers with stronger pension protections and greater access to professional investment advice;

Whereas a bipartisan majority of the House of Representatives passed H.R. 3762, the Pension Security Act of 2002, on April 11, 2002, by a vote of 255 to 163;

Whereas the Pension Security Act of 2002 would provide working Americans with more investment education and information regarding their retirement plans, greater access to professional investment advice, rights to diversified pension plan assets, protections against corporate abuses and mismanagement of pensions, and other reforms that would increase pension coverage;

Whereas the pension protections and reforms contained in the Pension Security Act of 2002 would enhance the retirement security of American workers; and

Whereas the Senate has not passed the Pension Security Act of 2002 or equivalent legislation: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Congress should complete action in the 107th Congress on the Pension Security Act of 2002 and present such legislation to the President for his signature prior to adjournment so that needed pension protections and reforms may be delivered to the American people.

The SPEAKER pro tempore. Pursuant to House Resolution 547, the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Ohio (Mr. PORTMAN), and the gentleman from California (Mr. MATSUI) each will control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 540.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, over the last year, thousands of hardworking and loyal Enron and WorldCom employees watched helplessly as their companies and their retirement portfolios collapsed. We have an obligation to provide workers with the tools to help them manage their retirement savings. Let us just put the facts on the table: the House has acted on bipartisan pension protections, but the Senate has not.

Back in February, President Bush called on Congress to act in a bipartisan fashion to restore confidence in our Nation's pension and retirement security system. More than 160 days ago, the House did its part by passing a comprehensive pension protection bill that protects workers from losing their retirement savings in Enron-style corporate meltdowns. Today we wait.

One thing is very clear: worker retirement savings remain vulnerable to corporate meltdowns today, and it should not take another Enron or WorldCom for Congress to act on bipartisan pension protection that would give workers the tools they need to protect and expand their retirement savings.

That is exactly why we passed the Bipartisan Pension Security Act in April, more than 160 days ago. It takes a balanced approach by expanding worker access to investment advice and includes new safeguards to help workers preserve and enhance their retirement security, such as giving employees new freedoms to diversify their portfolios. However, it also insists on greater accountability from senior company insiders.

There are several pension provisions that the Senate has not acted on. Enron barred workers from selling company stock until age 50; the Pension Security Act gives workers new freedom to sell their company stock within 3 years. In addition, it requires companies to give workers quarterly benefit statements that include information about accounts, including the value of their assets, their right to diversify, and the importance of maintaining a diverse portfolio. The benefits of diversification will help workers better plan and save for their future over the long term.

The bill also empowers workers to hold company insiders accountable for abuses by clarifying that companies are responsible for workers' savings during blackout periods when workers cannot make changes to their 401(k)s. Under the Pension Security Act, as under current law, workers can sue company pension officials if they violate their fiduciary duty to act solely in the interests of 401(k) participants.

As we all know, defined contribution 401(k)-type accounts have become a primary vehicle for retirement savings. Yet, today, the vast majority of American workers receive no investment advice on how best to structure their 401(k) retirement plans; and most cannot afford to pay for it on their own like company insiders can. It is time to fix these outdated Federal rules that discourage employers from giving workers access to professional investment advice.

Like most U.S. companies, Enron and WorldCom did not provide their workers with access to this type of investment advice. The investment guidance would have alerted these workers to the need to diversify their accounts, which would have enabled many to preserve their retirement savings. The Pension Security Act changes these outdated rules and encourages employers to provide their workers with access to this high-quality investment advice.

We need to give investors more choices and more information to choose wisely, so they are better able to navigate their way through volatile markets and maximize the potential of their hard-earned and hard-saved retirement savings. Workers must also be fully protected and fully prepared with the tools they need to protect and enhance their retirement savings.

The Committee on Education and the Workforce, along with my colleagues from the Committee on Ways and Means, have been engaged on the issue of pension reform for several years now, looking at ways to expand worker access to high-quality investment advice and encourage employers to sponsor retirement plans for their workers.

As our committees have been doing hearings to specifically address the Enron collapse, we did so with a firm commitment to identify further reforms that promote security, education, and freedom for employees who saved all their lives for a secure retirement. Congress should move decisively to restore worker confidence in the Nation's retirement security and pension system, and the bill before us will accomplish those goals.

Unfortunately, instead of gathering the President's signature, the Pension Security Act has been gathering dust. The Senate has not acted on any pension protection bill. If we are truly concerned about protecting the pensions of American workers, the 107th Congress will complete action on this vital issue and send President Bush a bipartisan pension security bill that he can sign into law.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SÁNCHEZ), a member of the committee.

Ms. SANCHEZ. Mr. Speaker, I wonder if the gentleman from Ohio (Mr. BOEHNER), who just spoke on the other side of the aisle, realizes that the constituents in his State have lost $8.27 billion of their hard-earned nest egg due to a poor economy, corporate scandal, and weak pension laws. That is why we need to do something about these pension laws.

By now, all Americans have been affected in some way by the fallout from the collapse of large corporations like Enron, WorldCom, and Tyco. Executives have escaped troubled companies with millions of dollars in compensation, while American workers have lost over $175 billion in their 401(k) plans. Workers in my own State of California alone have lost more than $18 billion in their 401(k) savings plans.

As a legislative body, we have begun to examine ways to protect American families from future loss through the Pension Security Act, but among the many issues in this bill that we do not address is the lack of employee representation on pension boards. In its current form, pension boards have the potential to continue the cronyism that got us into the dilemma that we are in now.

In the case of Enron, many of the pension board trustees were high-ranking executives whose corporate marching orders did not represent the best interests of the workers they were appointed to protect. The Rangel-Miller substitute to the Pension Security Act would have given employees a voice at the table, where decisions about their companies' pension plans and offerings are made.

Employee representation on pension boards has already been successful, even in my own State of California, where we have the California Public Employee Retirement System, or PERS. We require six of the 13 members of that board to be elected by active and retired workers of that system.

Giving workers a real voice and real choice means ensuring active participation and overall plan management. Workers bear the financial risk in 401(k)s. They deserve to get pension people on the board representing them.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING), the author of the resolution before us.

Mr. PICKERING. Mr. Speaker, I thank the gentleman from Ohio (Mr. BOEHNER) for his leadership on pension reform and thank both him and the gentleman from Ohio (Mr. PORTMAN) for all they have done. I am pleased to sponsor the resolution before us today expressing the sense of the House of Representatives that Congress should complete action on H.R. 3762, the Pension Security Act of 2002.

Mr. Speaker, due to gross irresponsibility, corruption, and financial mismanagement, several of our country's most noted corporations have collapsed. Accordingly, tens of thousands of employees who held their retirement accounts in these companies have lost everything. Plans made for retirement vanished, hopes and dreams for the future disappeared, and savings to send children to college are gone, all because of improper and fraudulent actions of a handful of corporate executives who took advantage of this system.

We know all too well in my home State of Mississippi the cost and the consequence and the hurt and the pain and the loss when this happens. The leadership of this House, Republicans and Democrats on a bipartisan basis, took action to prevent further such abuses. We passed the Pension Security Act in April to protect the pensions of American workers from corporate wrongdoing while restoring worker confidence in our country's pension system.

□ 1745

However, the Senate has not passed pension security reform. Will we allow yet another corporate scandal to hurt even more families before we get a bill to the President's desk?

National security is critical today. Economic security is vital today. Retirement security should be a top priority and must be passed before we leave this session. It is crucial legislation that will reform our country's outdated pension laws. It prevents corporate insiders from selling their own stock during blackouts, and it gives workers freedom to diversify their portfolios.

Mr. Speaker, the House has done its duty. We passed this much-needed reform 5 months ago. While the President waits, the opportunity to sign this bill sits motionless, collecting dust. The time to act is now.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I wonder if the gentleman who just spoke realizes that his own constituents in his State lost $1.48 billion of his constituents' hard-earned dollars there. So I just want to remind him also of the scandal that has taken place here today.

Mr. Speaker, I rise here today because the rank and file workers, many of whom that I represent and many that Members here represent know and expect Congress to do something about this corruption that has been going on now for some time and not continue with this whole issue of safeguarding the lives of individuals that make seven-figure pensions, get special perks, and will get more protections under this Republican-sponsored piece of legislation.

As my colleagues know, this country lost over $175 billion in retirement savings, and in California alone we lost 18 billion. I would like to remind people that in our own districts right now we are faced with some very hard issues. Our economy is hurting. Nationally Hispanics right now have one of the highest rates of unemployment, 7.5 nationally, and in my own district in California in cities that I represent it is way above 11 percent and it has been there for 6 months or more.

How do I explain when I go home to my constituents that we are ignoring the jobs about putting bad CEOs behind bars and letting them go scot free? We cannot allow this version, the Republican-sponsored legislation, to get out because people are watching. Americans want to know that there is justice for all.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON), a member of the committee.

Mr. ISAKSON. Mr. Speaker, I thank the chairman for yielding me this time, and I thank the chairman for the hearing he called immediately following the revelations about Enron, a meeting that so far everybody that has spoken was in attendance, a meeting that a gentleman spoke at who was an employee of Enron. The real scandal is not a bunch of statistics where somebody tries to divert attention. The scandal is that on that day that committee where everybody that has spoken so far attended heard a man, an employee at Enron, who had $751,000 in his 401(k) in January and had nothing by the time we had that hearing. And at the same hearing the administrator and a trustee of that plan who testified admitted that her plan had gone down by only 10 percent and the difference was she had information and she could diversify. And when that gentleman, an employee of Enron, was asked about the information he received from his executives, he said the only thing they were sent was the value of the increase of Enron stock.

We can talk about all the scandals we want to, but the biggest scandal of all would be a failure of this Congress, in a year of trepidation and economic tragedy, to not see to it that the rank and file Americans we represent have a right to good information, the right to hold the administrators accountable, and the right to diversify their accounts. So rather than point to obscure statistics about what may have happened in a State and trying to attribute it to an individual who speaks, let us speak unitedly as we did in bipartisan effort just months ago and let us pass a bill that brings about the kind of reform to put to an end the kind of tragedies that took place at Enron just a short time ago. Do not divert the debate. Help the American worker and the citizens we represent.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY), a member of the committee.

Mr. TIERNEY. Mr. Speaker, I suppose that the gentleman who just spoke up understands that the constituents in his State have lost about $5.25 billion of their hard-earned nest egg due to a poor economy, corporate scandal, and weak pension laws, and in fact, what is amazing is all of the things that he talked about at that hearing were true. That was what the hearing told us. Nothing in the bill that passed this House would address any of those issues. That poor employee still would never have gotten information from the employer, from the CEOs and the other high corporate officers saying that they had bailed out on their stock and left the employees holding the bag. The bill that passed the House does not resolve that. Nothing puts those people on the board of directors so that they can be aware of situations like that and help them.

The fact of the matter is once again we are here in this House talking about a sense of the House, which makes no sense because it does not do anything. We are instructing the other body on how to do its business instead of doing our business. Do we want to help people in this country? What they need is an extension of their unemployment benefits. They are out. But we are not talking that action. We are talking about a sense of the House resolution.

Let us talk about people who do not have health insurance. There are almost 40 million of them now. We are not doing anything on that. Let us talk about education. We have a "no child left behind" bill that the President ran around the country touting, but he is afraid to have the majority bring it up in the House because we are $7 billion short on it. And that is money to help people get their children an opportunity in the future.

We could be talking about job training for people that need to get back into work, except the budget put forward by the majority and the administration, cuts those funds way back so that people that are displaced cannot have the resources they need to move forward.

The fact of the matter is this economy continues to struggle. Families across America watch helplessly while their retirement savings dwindle because of corporate greed. We watch their health care costs rise. Small businesses cannot meet those, and yet there is no help going out in that direction because we are not dealing with any business of import to American families in the House. We are dealing with senses of the House, senses of Congress, telling the other body of the Congress what it should be doing.

The fact of the matter is, Mr. Speaker, there is much we could be doing, much that we should be doing. I say let us get down to business and let us do it.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT), a member of committee.

Mrs. BIGGERT. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise in strong support of House Resolution 540. Throughout the Nation employers pay good money to provide an excellent benefit to their employees' 401(k) plans run by professionals, and yet our 27-year-old law effectively silences those professionals, denying employees a major part of the benefit their employers want them to have. Now more than ever the 42 million Americans investing their retirement income in 401(k) plans need access to critical investment advice that will help them achieve their financial goals.

Retirement security and investment advice legislation has passed by a bipartisan vote in the House, not once but twice during this Congress. What I like best about this bill that we have passed is it gives workers more freedom to diversify their retirement savings. American workers need relief and they deserve it now. Let us get our pension reform legislation to the President's desk before Congress adjourns this year.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), a member of the subcommittee.

Ms. WOOLSEY. Mr. Speaker, I wonder if the gentlewoman who just spoke realizes that constituents in her State have lost $8.66 billion, the fourth highest amount in the Nation, of their hard earned nest egg due to a poor economy, corporate scandal and weak pension laws.

Here we are after that, it is the last full week in September and the House has passed only five of 13 appropriations bills, and yet we are taking precious time to debate a meaningless resolution urging the Senate to pass a pension reform bill.

Do I want the Senate to pass pension reform? I sure do. But rather than wasting our time worrying about the Senate, I call on the majority party to pass a real pension reform bill here in our House because we have not done that yet.

Unlike the House passed pension bill, a real pension reform bill will make pension fairness its number one highest priority. The House passed pension bill not only fails to correct the pension inequities in current law which favors corporate executives over employees, it actually makes them worse. The House passed bill continues to allow executives to sell the stock that they receive in stock options at any time they choose, while it blocks their employees from selling company provided stock for 5 years.

The House passed pension bill will continue to allow executives to dump their own company stock without notifying their employees. In fact, under the House passed bill executives can actually encourage employees to continue to buy company stock just as they did at Enron, where thousands of employees lost significant amounts of their pensions. And an even bigger step backwards is that the House passed bill gives an unfair share of benefits to top executives, resulting in fewer pensions for lower wage workers.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I could say that all the issues that the gentlewoman was talking about could be taken care of in conference committee if we could get a bill from the Senate and go to conference and work some of these out. The reason that we are here today is very important. We do not have a conference committee, and we do not have a bill that we can work on and work these problems out.

Members will vote today to reaffirm the House's commitment to protect workers' pensions and their 401(k) plans. Employees who watch renegade corporate officers raid their pensions want President Bush to be able to sign a piece of legislation to protect their retirement funds from future attacks.

Now, back in March the President told Congress to send him some common sense reforms and on April 11 this House answered his call. This House passed the bipartisan Pension Security Act. These powerful protections attracted support from 46 Democrats. They joined the Republican House majority because our pension protections were needed and they are necessary. Members of both parties came together because workers 401(k)s and pensions were in jeopardy and that had to change. Specifically, the House pension protection package gives clear new diversification rights to employees.

Now they are vested in only 3 years. Now they can diversify out of company stock. Now they have multiple investment options that are provided to the employees, and now they have more than their employer stock. We strengthened notice rights so that employees will not get caught off guard. We have placed strong restrictions on CEOs. We blocked other executives from trading company stock when the employees cannot trade their stock.

Mr. Speaker, the House passed a strong balanced pension security plan months ago, but those potent new protections are not helping the American people yet. The President is still waiting for the Pension Securities Act to reach his desk. He says he will sign it as soon as it comes. He has been waiting since April. Millions of worried Americans are waiting for action on their retirement security. They should not wait another week. There is no reason in the world to postpone action on pension reform. Workers have watched for half the year as their 401(k)s and their pensions have been battered about by politics, and despite the clear need for pension reform, the President continues to wait, unable to sign the bill that the House passed in a big bipartisan way.

So I just encourage our Members to support this resolution. Send a very strong message to the American people. Let us demands action on pension security. The Federal Government should put politics aside and vote to protect workers 401(k)s and protect workers' pensions.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS), a member of the committee.

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am sure the distinguished majority whip knows that the people of Texas have lost $11.47 billion in their pension assets since these scandals began, and I am pleased to hear him say that a conference would be necessary to fix the problems in the bill that passed the House in April.

He is right. There are a lot of problems, and one of those problems is best understood if we thought about what would happen if the majority's bill that had passed through this House were the law at the time the Enron scandal came along.

□ 1800

If Enron was working with a financial firm that was doing its investment banking on the one hand and giving investment advice to its pensioners in their 401(k) plan on the other hand, the majority's bill would make it legal for that financial firm to give advice to employees that would encourage them to buy Enron stock. We would have to wonder whether that advice was based upon the wisdom of buying Enron stock and filling up a pension 401(k) with it or whether it was based upon the reward that that financial firm is earning as an investment banker in the form of millions of dollars or tens of millions of dollars of fees by representing Enron.

The scandal that has roiled the market, the scandal that has caused the evaporation of $4.5 trillion of pension assets is all about conflict of interest. The flaw in the bill that the majority passed out of here 160 days ago is that it institutionalizes into the law conflict of interest.

The chairman is right when he says that American workers need sound investment advice, but he is incorrect when he says that this is the kind of advice that they need. American workers need independent, unbiased investment advice about where to put their money. The majority assures them just the opposite, which is why this motion should be defeated.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, the Republican majority has managed to move the discussion off the table and stifle any discussions of the swindles that have taken place. However, the hurt, the pain goes on with respect to what has been endured by working families and hardworking employees of corporations that swindle them out of their pension funds. To go forward with the kind of ceremonial bill that was passed in this House perpetuates that swindle. We did not do anything significant. We did not deal with the situation that exists in terms of they have lost their money and no one has offered them ways to get it back, except I must pay tribute to the gentleman from New York (Mr. SWEENEY) and the AFL-CIO. Despite the fact that Enron's employees were not unionized, several other corporations were not unionized, they have gone to bat with them, and they have got a settlement with them in the bankruptcy courts for some Enron employees to get some of their money back.

We had an opportunity to be able to deal with correcting what the Republican majority started when they took control. They wanted to maximize deregulation from working conditions in the shops to the way corporations handle pension funds and anything else. They wanted to give the corporate bosses all the power they could give them and they did that, but in hindsight, after seeing the debacle that had taken place, we had hoped that there would be bipartisan cooperation, and small steps like guaranteeing that there be a representative of the employees on the pension committee were voted down by the committee, and the bill that left this House did not have that, very tiny steps like requiring that any executive who sold his stock would have to notify the public right away. Use electronic notifications, that is available now, that was voted down.

So we are in a ceremonial situation that should not go forward. We would like real pension reform, and I hope that we have bipartisan cooperation to get real pension reform.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself the remaining time.

I would urge the Members to vote no on this legislation because to vote yes on this is to reaffirm the House to do nothing. The fact of the matter is most of this legislation was written before the Enron debacle. Most of this legislation was written because it was designed for the purposes of increasing the contributions that people could make to the 401(k) plans, allowing small businesses to make contributions; to the owners, they would not have to offer pension plans at that point because there is no need for them to take care of their employees, treating executives differently than we treat employees. All of that was already in this legislation.

Yes, we had a hearing on Enron and we listened to these employees who were locked into their pension plans, could not sell their stock. This legislation would have those same people, the people who were locked into WorldCom, for whatever it is worth today, requires a 5-year phase-out period and then it is 3 years. We would like to talk about how the markets work and how fast they are and how they balance out. Those same people are stuck there today, riding this out as the market dropped to its lowest point in 6 years or in 4 years on the various indexes. They cannot sell that corporate stock because they are locked in.

If this Congress really wanted to do something, just free those millions of American workers so they could diversify today. They could get out with what little they have left in their corporate stock.

The gentleman from Ohio, in his State they have lost $8 billion in their 401(k)s. In California they lost $18 billion. He is right, those are not abstract figures. That means someone is not going to retire this year who planned on retiring. Somebody is not going to retire next year. I assume my colleague had constituents come to him, like they come up to me and told me how their retirement plans are shambles, how one of the spouses is going to have to continue to work. They thought he or she would be able to retire, how they now do not have the money to put their kids through school.

Yet the Republican plan does not do anything for these people. It does not let them out of these plans. It does not let them put workers on the board. 100 percent of this money belongs to the workers. It is their money. It is in their 401(k) plan, and they will not let them sit on the pension board to discuss information about investments.

Finally, they say, well, we give them more investment advice. After all we have learned out of Merrill Lynch, after we have learned out of Citicorp, after all we learned about the huge conflicts of interest about the investment banks and investment advice and touting these stocks, all we have learned, this bill does not respond to it because it allows those very same conflicts to continue. Wells Fargo now runs an investment fund. Other companies are scouring the landscape to try to buy these mutual funds because annuities are not doing so well. Insurance businesses do not want to be in the business. I know in the financial reform bill we had Chinese firewalls. They all broke down during the nineties. Everybody was doing everybody else's business.

We owe it to the public to turn down this bill, and we have to understand the reason the bill has not moved in the Senate is because the Republicans will not accept any worker protections. Yes, they want a bill just like this bill that takes care of corporate greed, takes care of corporate criminality, does nothing for the worker. That is unacceptable to the people in this country, and it should be unacceptable to their elected representatives in the House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind all Members again, it is not appropriate to characterize the positions of the Senate.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, at the end of the day we need to send President Bush a pension protection bill he can sign into law because this is about real people and their own financial security, and the gentleman and my colleagues on the other side of the aisle who talked all during this debate about the amount of losses in pension accounts by State is exactly the reason we have this resolution on the floor today.

The House passed pension protection legislation on April 11. We are still waiting to send a bill to the President, and I would remind my colleagues that this was a bipartisan bill, and I appreciate that my colleagues may not agree with all the aspects of the bill, but 46 Democrats voted with all Republicans to move this bill to the other body. Forty-six Democrats, almost one-fourth of the Democrat party in the House, voted with all the Republicans to move this bill to the other body to try to get it to the President's desk.

At the end of the day, this is about real people. It is about their retirement security, and it is time that this Congress act and get this bill to the President's desk before we leave here before the election.

Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore. It is now in order to consider the debate controlled by members of the Committee on Ways and Means. The gentleman from Ohio (Mr. PORTMAN) and the gentleman from California (Mr. MATSUI) each will control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of the resolution before us. This is a resolution to send a strong message that it is time to help all American workers to save more for retirement and to be able to have more security in their retirement. I commend the gentleman from Mississippi (Mr. PICKERING) for offering the resolution, and I am happy to support him.

Mr. Speaker, today we are talking about doing the right thing. We are talking about just following up on what this House did back in April to be able to give people a little more security in their retirement. The underlying legislation that we are encouraging the other body to act on allows people who have retirement plans to have a lot more security in a number of different ways.

First, very importantly, if they are in a 401(k) plan now and they get a corporate match, as was the case with Enron, that company can tie a person into that stock for a long period of time. At Enron it was age 50 plus having 10 years of service. Under the 401(k) rules as they currently exist, a person could be tied down until they were age 65 or indefinitely.

We say instead people, after they have vested and they vest after only 3 years thanks to this House taking action last year to decrease vesting from 5-years to 3 years, after only 3 years they can divest of that stock. That is a big difference and it does make a difference. It makes a difference to millions of workers around this country who have 401(k) plans, for 42 million people in that situation. Those who have the good fortune of getting a match from their employer, and most of them do, and those who get that in corporate stock now will have the ability, the choice to be able to get out of that stock that the workers at Enron did not have.

Second and very importantly, it provides a lot better information to those same workers so that they are going to have the kind of data they need to make a good decision, better information, including the fact that when they get into a pension plan and get given a statement saying this is what this plan is all about and they ought to diversify, because commonly accepted investment principles for retirement says people do not want all their eggs in one basket, they want to have diversification. Companies now would have to say that in plain English to employees as they get into these plans. That is good. That is an improvement.

More important to me is that on a quarterly basis now a statement is going to be given to all workers. It includes the value of their assets, again their rights to diversify so they know they have those rights, an explanation of generally accepted investment principles in plain English. This is extremely important. It is not required now.

Finally, with regard to blackout periods, there was discussion earlier about the fact that during a blackout period that executives would be able to trade where employees would not who were in a 401(k) plan, that is not true. That is changed in this legislation.

This legislation also says that with regard to a blackout period a person has got to get 30 days notice. That was picked up in the Corporate Accountability Act that actually already passed, but it came out of this legislation out of the House.

There is additional fiduciary responsibilities that is in this legislation that during a so-called blackout period; that is, when the company changes advisers or something and has a blackout period on its 401(k) plan or other retirement plan, that people cannot trade in the stock during that time period. There are additional fiduciary responsibilities that go to the employer, to the executives. That is in the legislation. These are all positive changes.

Finally, with regard to education, everybody who looks at our retirement system today agrees that we not only need to allow people to put more aside for retirement, we need to encourage people to be able to do more for themselves and their families, but we also need to give people more information and better education. This legislation says that on a pretax basis a person gets a tax break basically for going down and getting investment advice, up to $500. It is not inexpensive to get investment advice. This is very important to people. They can choose whoever they want. There is no potential conflict of interest here because they can choose an adviser who is a third party who has nothing to do with the company or its 401(k) plan.

Also, significantly, as the gentleman from Ohio (Mr. BOEHNER) just discussed, it also provides companies the option to be able to have advisers come into the company and offer good, sound advice under a fiduciary duty, that they have to not only provide good advice and sound advice and objective advice but they have to be certified, they have to be qualified to do so, and they have to disclose any kind of potential conflict they might have with the company or its 401(k) plan.

This is, when we talk to people in the trenches, again, one of the most important, single aspects of this legislation, which is to provide workers with better education so they can make better decisions so there is a nest egg there when they retire that will take care of themselves and their families in retirement.

This is great legislation, and there is no better way to show that than the fact that it has passed the House on a strong bipartisan basis. Forty-six Democrats voted for it. It is now stuck in the other body, and the President waits for it to come to his desk which he says he will sign it. He will sign it immediately.

Today's exercise may be viewed by some as meaningless, but to us it is simply a way of sending a strong message. Workers are waiting for this relief. The Enron debacle happened about a year ago. In April the House acted, and still we see no action on the other side of the Capitol, in the other body, and therefore, we cannot help people to be able to get all those rights we talked about earlier, these important changes in retirement security.

There were a number of statements made earlier by some of my colleagues on the other side of the aisle that I just do not get. They talked about how this bill gives executives more perks. Name one. I challenge my colleagues. Name one. I do not know what they are referring to. They say it makes it worse because executives can divest or sell when there is an employee blackout. Not so, and actually, again, that is in current law now because it was part of this bill, but then it got passed as part of the Corporate Accountability Act.

□ 1815

I do not know what talking points the other side of the aisle is referring to. But the bottom line is that this legislation was bipartisan. It passed this House with a strong vote. It is entirely focused on retirement security, helping people to be able to have more security in their retirement accounts.

We are saying today that it is time to move this legislation from the halls of Congress and from a lot of talk to action, and to be able to actually help people in need, people who are looking at their retirement accounts decrease 20 to 30 percent, and telling those people help is on the way. This is one way to give Americans a more secure retirement. It is good legislation, and I strongly urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield 6 minutes to myself.

Mr. Speaker, I am astonished. It is 6:15 in the evening; West Coast time it is 3:15. We have been debating essentially this issue with the rule and now in debate; and we will go on for another couple hours on this, so we will have all of this staff time in the House of Representatives and all of us sitting in the House of Representatives.

What this resolution does is just say that the Senate should pass the Boehner-Thomas bill that was passed earlier this year. That is all it does. It is a meaningless piece of legislation. It has no effect of law. It is just gamesmanship.

I suppose the gentleman from Ohio (Mr. PORTMAN) actually might feel a little more secure at night because this resolution will probably pass, and it will make us feel better. Like, my gosh, we earned our pay because we were on the floor debating an important issue.

Maybe the gentleman from Ohio feels a little better also because people from the State of Ohio in their 401(k)s only lost $8 billion over the last 18 months. My problem is California, these same people that have 401(k)s, have lost $18 trillion. Maybe the intensity of the gentleman from California (Mr. GEORGE MILLER) and my intensity is a little greater than the intensity of the gentleman from Ohio because $8 billion is small time compared to what we lost in California.

But what is interesting is the way Members handle legislation is not by passing resolutions and beating our chest and making a spectacle of ourselves. We walk to the other body, 5 minutes away, and say to the Senators, this bill has not passed. How can we get this piece of legislation passed? They may raise some problems. They may say we should beef the bill up a little bit. Then we could come back and start talking. The reason nothing happens is because we keep beating our chests and pretending like we are legislating when we really are not.

Many of us who are concerned about this, in the last 18 months since President Bush took the oath of office, the stock market lost 40 percent. It went from 11,700 points down to 7,700 points. That is a lot of money. That is trillions of dollars worth of losses.

My colleagues said when the President took office, we have to reform Social Security; we are going to privatize Social Security. All of a sudden privatization has become a bad word because people have lost money in the stock market, so they abandon the discussion about Social Security; but it will probably come up next year because the President plans to privatize Social Security. That is why this election is important.

We will not debate Social Security. We have four Republican bills out there. The gentleman from Texas (Mr. ARMEY) has one, the gentleman from Florida (Mr. SHAW) has one. Why not bring those bills up on the privatization of Social Security. Let us debate those so at least the American public in an election year will know where we stand.

On prescription drugs, Republicans want to privatize Medicare and the prescription drug program. That is why the other body has a very difficult time with it because we want to put prescription drugs under the Medicare program to make sure all seniors are protected.

So we have fundamental differences, but what is really sad is that the Boehner-Thomas bill is irrelevant. We have some major problems in America. People have lost their 401(k) plans. People are stuck with their own company's plans, their stock in their 401(k)s. This bill will do very little. I think the gentleman from California (Mr. GEORGE MILLER) said it is a 5-year transition before it really comes effective. Then the so-called financial advice will come from the same people that are managing the Enron-type pension plans. They are going to say buy Enron stock or WorldCom stock because it is in their company's best interests. They are getting their wages from the company. That is why it is very difficult for the other body to get excited about this.

Mr. Speaker, what we should be dealing with right now is transparency. One of the real problems in the stock market and why there is a great loss of confidence is because people know that the books are not necessarily accurate. We saw that with the former CEO of General Electric, Jack Welch. This guy has a corporate jet on call, he had a penthouse in New York, tickets to sporting events. Millions and millions of dollars' worth of money that was part of his going-away present in perpetuity for the rest of his life. He was smart enough to give it up because he knew the political ramifications.

I wish my colleagues would have the judgment of Jack Welch, and I will tell Members why, not to punish corporate CEOs, but to provide transparency. The American public when they invest in the market should know exactly where that money is going. That means less stock dividends that are being paid out. That is why this is important.

We would like to just offer a bill, or even an amendment; but under the rules, the Republicans will not allow us to do it. But if in fact there is a situation where we are going to give big fringe benefits to many of these CEOs who are retiring, all it requires is letting the shareholders of the company know what these benefits are, what the value is; and secondly, letting the stockholders vote. What is wrong with that? Why can we not debate that issue today and send it over to the other body. I bet they would pass it quickly.

But the other side of the aisle does not want to do it quickly because they have a lot of friends that they are helping. That is what the problem is right now, and that is why this resolution is a waste of time, and that is why we have already wasted 3½ hours, and we will probably waste more time on nothing today. But we will go home, and we will feel a little better and have a glass of wine and kind of enjoy life.

But I will say that my constituents, maybe not the constituents of the gentleman from Ohio, but my constituents, because they have lost $18 trillion in their 401(k) plans, are really sad.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind Members that characterizing why the Senate might be having difficulty is also not in order under the rules.

Mr. PORTMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, pension security is close to the heart of every working American. Workers save for years with the hopes that after they retire they will be able to live without financial worries, spending more time with their family and friends.

Five months ago the House passed a pension reform bill with significant bipartisan support. This legislation gives workers the freedom to diversify their retirement savings, it expands worker access to investment advice, empowers workers to hold company insiders accountable for abuses, and gives workers added protections. The House has acted on pension reform; the Senate has not. Yet Americans continue to worry about their retirement security.

Mr. Speaker, Americans deserve a secure retirement. They expect it, and they have earned it. I also want to add that I think the majority whip a few minutes ago on the House floor, the gentleman from Texas (Mr. DELAY), made an excellent point. He reminded us that while the House has acted, the Senate has not. Under our system, unless we have a work product from the House and a work product from the Senate that can go to a conference committee, we are not going to have pension reform. As much as we might criticize what the House has done, it is too late to do anything about it. Pension reform passed with bipartisan support in the House. The only action left now is once the House has acted, under our system, the Senate now needs to act, and we need to get that work product. The House has acted; the Senate has not.

The other point, Mr. Speaker, there has been a lot of sentiment expressed tonight about the great need for pension reform and pension security. I think we all agree with that, but we need to focus not on what is wrong with the work product of one body, but we need to focus on the solution. And once again, the only way we are going to get to that solution is if we have a work product from the House and we have a work product from the Senate. Unfortunately, the House has acted; but the Senate has not. Until we get to the point where we can get to the conference committee and resolve our differences and do what is right for American workers and the American people, and for those who deserve to have a secure retirement, we are not going to get to that solution. Once again, the House has acted and the Senate has not. Until we come up with a solution to that dilemma, which is going to be a conference report after the House and the Senate have acted, we are not going to do what is right for the American people.

Mr. Speaker, once again, the House has acted; the Senate has not. We have to resolve that before we can do what is right.

Mr. MATSUI. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership. I wonder if the gentleman from Texas (Mr. SMITH) realizes that his constituents in the State of Texas have lost $11.5 billion of their hard-earned nest eggs due to corporate scandal and weak pension laws.

It is very interesting to see us gathered on this floor telling the other body that it should pass legislation when we have been so delinquent in this body in doing our own business. The other body has passed a prescription drug benefit which we are trying to discharge with a discharge petition. We should be taking up that prescription drug benefit. The American people want and need it.

Not one single appropriations bill has become law even though the fiscal year is less than 1 week away, October 1. The Republican leadership has refused to schedule desperately needed bipartisan school construction legislation.

That leadership has also failed to schedule legislation to help all Americans with escalating prescription drug benefits, as I mentioned.

Now the Republican leadership has a new strategy, pass resolutions praising old, irresponsible tax bills and blame the other body. The resolution before us today is not only a press release, it is a very misleading one.

Members can see what we need to do for education in our country and how far short the Republican initiative on this comes, and that we are taking no action to meet the needs of America's children. The administration and the Republicans say Leave No Child Behind in their rhetoric, but in reality their budget request leaves millions of children behind by having a $7 billion deficit in what they are sending to this floor.

Hopefully, some of the Republicans on the other side of the aisle will prevail so we can do justice for our children. This is surreal. This is not sense of the Congress; this is nonsense of the Congress.

Mr. Speaker, our Founding Fathers placed a value on life, liberty and the pursuit of happiness. That pursuit of happiness included working hard, playing by the rules, and being able to reach their self-fulfillment and retirement with dignity, not to have to be dependent on their children to support them; indeed, helping their children reach their fulfillment.

What has happened to the pensions of America's workers is absolutely a travesty of justice and goes against the principles of our Founding Fathers who valued the pursuit of happiness.

□ 1830

Separate and apart from the ridiculousness of us telling the other body what to do when we have not done our own business, this bill is a bad bill and should not become law. Shareholders should be made aware of and allowed to vote on perks provided to retired executives, but not under this bill. Retired corporate executives often get large retirement benefits above and beyond their pensions and other conventional benefits. These include housing, corporate jets, living expenses, tickets to sporting events and the rest. Congress should impose penalties on corporations providing such benefits unless shareholders know and approve of such things. We should ensure that corporate executives that crash their companies cannot escape with golden or platinum parachutes. But corporate executives also get retirement benefits that they can collect even after the corporation fails. Congress should tax executives on their deferred compensation benefits like all other income if the benefits are paid to executives in the case of bankruptcy or corporate corruption.

This bill should be opposed because it endorses the Republicans' inadequate pension legislation. The GOP bill does not show what we have learned from the collapse of Enron, WorldCom and other corporate scandals. The underlying bill does little to protect employees' retirement savings. The underlying bill does not hold executives accountable. The underlying bill is not worthy of passage. Let us mind our own business, heed the needs of the American people, and pass our education bill, our prescription drug bill, and our own good pension bill.

I urge my colleagues to vote against this nonsensical sense of the Congress.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume to talk a little about what is actually before us today. The gentlewoman from California talked about a lot of different issues and ended by saying that she is not supportive of the legislation because it does not include certain things. Everything she talked about including has to do with executive compensation. Taxing executives and talking about ways in which we can further keep executives from getting the kind of compensation that they are currently getting is a legitimate subject and it ought to be one that we have formal debate on, have hearings on it and bring it to the floor. But I would ask the gentlewoman how it is going to help one person have a more secure pension. It has nothing to do with what is before us. It is a great message.

I would ask the gentlewoman, I know that she is not on our committee that dealt with the prescription drug issue for months and I see the gentleman from California (Mr. MATSUI) is here, the gentleman from Maryland (Mr. CARDIN) and others from the committee, but to say that we have not passed a prescription drug benefit I think is a little surreal. I remember being on this floor and spending a lot of time on that issue. I remember passing a $350 billion piece of legislation that provides real coverage for prescription drugs. We can differ on how that prescription drug coverage is offered to our seniors, but the House took it upon itself to pass legislation that provides a real prescription drug benefit.

It, too, now that the gentlewoman has raised it, if she wants to get into the other issues, we can talk about all the ways the House has acted and the Senate has not acted and the President awaits. Prescription drugs is a perfect example. The Senate has not acted on providing a prescription drug benefit. If you would consider the generic drug legislation in the Senate a prescription drug benefit, I hope you are not going home and telling your constituents that because it is not going to offer them the kind of benefit that they are looking for which is to be able to pay for prescription drugs. The average senior pays over $2,100 a year. None of that will be helped by the generic bill that passed in the Senate. The Senate was not able to pass a prescription drug benefit. They had it on the floor for a week.

Homeland security is another issue that we worked on together. We passed that issue 9 weeks ago now or something like that. The President asked us to pass it, the House got busy, we had a good select committee process, and we passed it. The Senate still can't seem to get its act together to pass legislation in that regard to be able to keep our country safer.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman will suspend. The phrase "the Senate can't get its act together" is not appropriate under the rules.

The gentleman may continue.

Mr. PORTMAN. I apologize to the Chair. I will refrain from saying that again.

My point is if you go down the list, whether it is prescription drug coverage, whether it is the pension security bill before us today, whether it is the faith-based initiative which passed this House on a bipartisan basis, whether it is having a budget, the Senate does not even have a budget, the Senate has not been able to, I am not sure how I can characterize this, but the Senate has not been able to act and the House has. I just think it is a little surreal to stand here and say that somehow in this prescription drug issue, the House has not acted and the Senate has is not accurate and to say that somehow this pension bill is not good because it does not deal with executive compensation issues which have nothing to do with what we were trying to do at the time, which was to give people a little more security and more rights with regard to their pensions.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. PORTMAN. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I appreciate the gentleman yielding. I will do my best not to name the other body by its name.

First of all, let me say that perhaps it is news to the gentleman that many people in our country have very serious concerns about the cost of drugs. The Senate, the other body, passed in a very strong way, 78–21, a generic drug bill that is on that table. We want it to come to the floor so this House can act upon it to lower the cost of prescription drug to the American people.

As far as the bill that passed this House, that is a sham in my view. The Democrats were proposing a prescription drug benefit with guaranteed benefits under Medicare for America's seniors. The Republican bill is a bill that tells seniors to go into the private market and we will help you buy insurance for prescription drugs there. But that is not a real guaranteed benefit.

Mr. PORTMAN. Reclaiming my time, I think I allowed the gentlewoman to make her point, which was my point, which is that the House did act to pass on a bipartisan basis, admittedly we did not agree on all the details, but we passed a real prescription drug benefit under Medicare. The Senate has not. I do not think there is any issue more important to my constituents. I agree with the gentlewoman. I think it is very important to move forward on that. But the Senate has not acted.

That is what we are trying to do today. We are just trying to shine light on the fact that on a number of different issues, the United States Senate has not followed suit, has not passed in a constructive way legislation that we could then take into conference and then send to the President for signature which then could have a real effect on the lives of real people. There is no issue more important than prescription drug coverage, but there is also a very important issue out there which is how to keep people who want to be able to save for their retirement, to give them a little more security so that they are going to know, in the example of Enron for instance, where they could not get rid of their corporate stock, they had to hold onto it because they were restricted, that that could no longer happen. That cannot happen if this legislation passes. People can no longer be told, You have to keep that stock until you're age 50 plus 10 years of service. They can no longer be told that during a blackout period executives are able to trade shares and they cannot. They can no longer be told they are not going to give notice of blackout periods when they cannot trade stocks. They can no longer be in a situation where they are not getting the kind of information that they need through quarterly statements, which we are going to require under this legislation, what their account is, what is going on with their plan. The kind of transparency that the gentleman from California (Mr. MATSUI) talked about is absolutely essential. That is the stuff of this legislation.

It also does provide education. I talked earlier about the gentleman from Maryland's bill and mine which lets people on a pretax basis get a tax break for going out and getting education advice wherever they want it. That is something I think this House on a bipartisan basis agrees is necessary to move to the next step in retirement security. Those are the kinds of things that are in this legislation. Those are the kinds of things that we need to have done. The Senate needs to act. The House has acted. It is time to actually help the American people and not just talk about it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. All time controlled by the gentleman from Ohio has expired.

The Chair, since the next resolution will also deal with similar matters, would again remind Members that phrases like "the Senate has not passed legislation in a constructive way" is an inappropriate characterization of Senate action.

The gentleman from California has 5 minutes left.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. I thank the gentleman for yielding time.

Mr. Speaker, it seems strange that we are here debating a sense of the Congress to instruct the other body how to do its business when we are not even allowed to use the name of the other body here. It seems strange that we are here talking about what they should do with their schedule when we have a schedule that begins on Tuesday night and ends on Thursday afternoon. We give new meaning to reducing the week. It used to be "Thank God it's Friday." Now it is "Thank God it's Thursday afternoon," so Congress can go home, without passing any appropriations bills, turning them into law before the end of the fiscal year, which is October 1. Not one appropriation bill is law.

Yes, I say to the gentleman, the Republicans did not pass a prescription drug bill under Medicare. The Democratic proposal was a prescription drug benefit under Medicare, guaranteed benefits for our seniors. The Republican bill is a hoax. Let us not try to fool the American people. They know what is real. Let us do an education bill so that we can fund education and afterschool programs and helping children. Let us pass our appropriations bills, let us have HMO reform, let us pass a prescription drug bill. Let us past electoral reform so we can have honest counts in our country about who should serve in office.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. I thank the gentleman from California for yielding me this time.

Mr. Speaker, I regret that this resolution is before us. It is not in the spirit of how we have worked on pension legislation in this Congress earlier. I am proud of the work that the gentleman from Ohio and I have done in a bipartisan way to bring forward pension legislation. But let me remind my friend the gentleman from Ohio that the legislation that we are considering today came to this body through the Committee on Ways and Means in a bipartisan way, but the Committee on Rules adopted an Education and Workforce version which was not in keeping with the way that we proceeded in a bipartisan manner and in fact contained provisions concerning investment advice which I think is very damaging and needs to be corrected, and I think many people believe that.

Let me also mention the other point that the gentleman from Ohio raised, and that is about corporate responsibility and having equal protection for the rank and file members versus the corporate executives. The gentleman from Ohio asked a very important question. How does that help people with their retirement benefits? Responsible corporate management is very important for the workers of a company. How much you compensate or how you try to get around the accounting rules or what you do about executive compensation speaks to the manner in which you run a company and manage a company. The employees have a vested interest in making sure that company succeeds. When it fails and we have this excessive compensation to the corporate executives, it is different than how the rank and file are treated. We should correct that. That is why I said I think we are wasting our time on this resolution and we missed an opportunity because we should have been talking about the issues that would have brought us closer together on the underlying bill and given us a better chance to get a bill to the President's desk.

I do not believe this resolution helps us achieve those objectives. I regret that we are debating this resolution rather than the important issues that we should in regards to protecting workers' rights.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. VISCLOSKY), a member of the Committee on Appropriations.

Mr. VISCLOSKY. I thank the gentleman for yielding me this time.

Mr. Speaker, I would open my remarks by stating that as a Member of this House for the last 18 years, I never remember being so tired, tired of doing nothing, tired of not passing an agricultural appropriation bill, tired of not passing a foreign assistance bill in this House, tired of not passing an energy and water bill in this House.

The gentleman from Ohio in his remarks stated before that a number of points as far as corporate compensation needing shareholder approval was not before the body. He was absolutely right, because the gentleman from California (Mr. MATSUI) wanted to make those important questions part of the real debate today and we were prohibited by the leadership under the rule that provided consideration of this resolution from doing it. What did the gentleman from California want to do as far as making sure real American citizens who owned stock can either approve or disapprove outrageous corporate perks?

Let us talk about corporate housing that is provided to executives. In the First Congressional District, I have had thousands of steelworkers lose their jobs. They have had to sell their house. Nobody is providing them any house and voting on it. We have talked about corporate jets and no one being able to vote on that as far as shareholders are concerned. When my steelworkers come out to Washington, D.C., they take a bus. When we talk about shareholders having an opportunity to vote on reimbursement for living expenses, the people I represent have lost their job and they do not have any money to live on. The only thing I do not have a concern about is sporting events, because they have all the time in the world to go to their children's soccer games and Little League games and basketball games because they have lost their job. They have lost their job. And we were not allowed today to vote on that issue and that is wrong.

Mr. ROEMER. Mr. Speaker, I rise in support of strengthening retirement security in America. Congress should act now to clean up executive mismanagement and check corporate greed that is responsible for the loss over $175 billion in pension savings.

In my home state of Indiana, 55 percent of the workforce has pensions. Over the last year, their losses exceed four and a half billion dollars worth of hard-earned retirement savings. Hooisers like all Americans are shocked by reports of corporate executives who played by different rules, who deceived employees about their company's health, and who skimmed billions from corporations heading toward bankruptcy while thousands of workers witnessed their jobs and pensions evaporate.

The House of Representatives had a chance to enact meaningful reform when the Pension Reform Act, H.R. 3762, was considered last April. However, that bill fails to achieve basic protections reforms that most businesses and workers should agree on such as allowing employees to adequately control their own investments in pensions funds. Nor does it provide for investment diversification, employee representation on pension boards, or improved investment advice. For these reasons, I did not support H.R. 3762 when it was considered by the House last April.

As the pension crisis has deteriorated in recent months, CEOs and corporate executives continue to play by different rules than their employees. The law maintains giant loopholes permitting employers to deceive employees about stock sales and conceal stock options and conflicts of interest. Pension funds are supposed to belong to the employees, but they are still denied the ability to say how their funds are managed.

Although I support the intent of this resolution to stimulate further consideration of pension reform legislation. I believe that the House bill could be improved. For example, I offered amendments requiring corporations to notify their employees when stock levels in their pension reforms exceeded designated amounts. This would encourage workers to diversify their accounts in case of sudden and unexpected downturns in their company stock holdings. I also proposed an amendment requiring corporations to communicate to their workers in clear and understandable terminology with regard to pension rules. Unfortunately, the Rules Committee denied consideration of my amendments on the House floor.

Congress should act now to improve a workforce environment where retired workers now struggle to live with dignity after working for so many years while executives take home disproportionately high benefits at the expense of profits earned from employee-contributed pension plans. The current pension reform legislation fails to make corporate executives play fair or by the same set of pension standards as their workers. I therefore urge rejection of this business as usual resolution.

Mr. STARK. Mr. Speaker, today I rise in opposition to both H. Res. 540 and H. Res. 544. We desperately need to pass meaningful pension security reform. But the plan put forward by Republicans flatly does not pass the test. These resolutions simply call for urging the Senate to comply with the Republican's ill-conceived reforms and then make them permanent.

Republicans can chastise the Senate all they want or put hard hats on corporate lobbyists to make people think they're listening to average, everyday American workers. But it won't change the simple fact that Republican pension reform just isn't enough. In fact, these resolutions are so meaningless that they can only be viewed for what they are: a temporary distraction from the real reform the Republicans have failed to deliver.

President Bush has said, that if "It's okay for the sailor, it ought to be okay for the captain." Democrats agree with the President's rhetoric and have taken it a step further in offering a bill—of which I am an original cosponsor—that truly holds corporations accountable. The Republicans simply allow corporate captains to sink their own companies and let workers and investors go down with the ship.

Corporate executives should be required to face the same rules on stock options and deferred compensation plans as apply to rank-and-file employees. The bill that the Democrats propose would provide workers the same rights to buy or sell company stock in their 401(k) plans as corporate executives have in being permitted to buy or sell company stock obtained through stock options.

President Bush claims, "It is unfair for workers to be denied the ability to sell stock when executives are free to sell stocks . . ." and again Democrats completely agree. Corporations rarely restrict their executives' capacity to buy and sell stock from stock options, but many corporations restrict their rank-and-file workers from buying and selling the corporation's stock in their 401(k) plans.

Democrats would eliminate this double standard by ensuring that CEOs adhere to the same restrictions as employees in the buying and selling of their company stock. Our bill would impose tax penalties on executives who sell stock acquired from stock options if the sale violates the restrictions rank-and-file employees face in their own 401(k) plans. Executives don't need any more perks than they already receive. But it's high time this Congress listen to the calls of the rank-and-file workers who want their pensions protected from unscrupulous corporate thieves.

The resolutions before us today are an insult to American workers. I urge my colleagues to vote no on H. Res. 540 and H. Res. 544.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 547, the resolution is considered read for amendment and the previous question is ordered on the resolution.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PORTMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remark and to include extraneous material on the subject of H. Res. 540, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

EXPRESSING THE SENSE OF THE HOUSE ON PERMANENCY OF PENSION REFORM PROVISIONS

Mr. PORTMAN. Mr. Speaker, pursuant to House Resolution 547, I call up the resolution (H. Res. 544) expressing the sense of the House of Representatives on permanency of pension reform provisions, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 544

Whereas increasing pension coverage and pension savings is crucial to retirement security;

Whereas the Economic Growth and Tax Relief Reconciliation Act of 2001 provided significant bipartisan pension reforms that would increase pension savings and increase the number of employees covered by employer pension plans;

Whereas these pension reforms are scheduled to expire after 2010;

Whereas a bipartisan majority of the House of Representatives passed H.R. 4931, the Retirement Security Savings Act of 2002, on June 21, 2002 by a vote of 308–70 to permanently extend these important pension benefits;

Whereas failure to enact H.R. 4931 would significantly impact retirement planning and retirement security by eliminating pension reforms that exist under present law; and

Whereas the Senate has not passed the Retirement Security Savings Act of 2002 or equivalent legislation: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Congress should complete action in the 107th Congress on the Retirement Security Savings Act of 2002 and present such legislation to the President for his signature prior to adjournment so that American workers can be assured that the pension reforms under present law will not be eliminated.

The SPEAKER pro tempore. Pursuant to House Resolution 547, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from California (Mr. MATSUI) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. PORTMAN).

□ 1845

Mr. PORTMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BRADY), a valued member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, I thank the gentleman from Ohio for yielding me time and thank him for his leadership in this very bipartisan effort to increase and protect retirement savings.

Let me, as an aside, tell you that retirement security is very important in my district. I have many Enron workers in my district. Many of them are my neighbors who have lost their jobs, lost their whole retirement savings through no fault of their own. Listening to the debate tonight, I continue to be ashamed of those in Congress who continue to try to score political points off the misery of our Enron workers and shareholders.

We have an opportunity, both in urging the Senate to take this bill off their calendar and to help us protect retirement savings, and we have it in this resolution as well, where we are trying to protect improvements that have been made to help people save.

We simply do not save enough in America. For the life of me, I do not know why Washington insists on creating obstacles to savings, punishing people for trying to put money aside for their education or their retirement or for health care, for a rainy day. Under the bill that we passed in a very bipartisan way, we helped remove those obstacles.

Unfortunately, unless we make those incentives permanent, in 10 years we are going to make it harder again for people to save. Without the Senate taking this bill from the calendar, where it has remained for quite some time, too long, the maximum amount that you and I can contribute to our IRA each year will be cut from $5,000 to $2,000, at a time we need it the most. The most that we can contribute to our savings plans at work will be cut almost $5,000, again at a time when inflation adds up and we need those savings the most.

This catch-up provision for people, especially women, who worked at home while others set up their business or worked, who can make catch-up retirement contributions, that will be eliminated. Also the portability, which means when people move from job to job, like a backpack they can take their pension retirement with them easily, that will be erased as well.

So we have added expenses and obstacles and disincentives to savings that simply do not belong there. Congress was wise to remove it. We would be much wiser to make it permanent.

I support this resolution, and anyone who truly cares about savings ought to do the same.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is kind of interesting, because I do not have anybody that wants to speak. This bill is so meaningless, so irrelevant, so worthless, that not one of my colleagues on our side of the aisle wants to speak. I think the other side probably has two or three, probably because they want to say something, I do not know what. But again, this is a resolution that asks the other body to pass a bill that we passed.

Now, under the rules of the institution, of the Congress, after we pass a piece of legislation we enroll it and then we send it over to the other body so they know they can either take action or take no action. If they decide to take no action, then the next logical thing is, maybe you do not want to walk over there, maybe the 5-minute walk takes too long, how about just calling them up and saying, hey, what is wrong with the bill we sent over, because we want to move it. Then maybe you can have a discussion. But, instead, we have to pass a resolution, keep all the staff here; and no one really wants to speak about it.

I will tell you why this is so irrelevant. This is unbelievable. It is so irrelevant because this will not take effect until 2010. This will not take effect until the year 2010, 8 years from now. We are not even going to be around here. Maybe that is why we are doing it now, because we want to make sure our legacy is going to be effective in 2010. This is not going to have any effect, even if it became law, until the year 2010.

Well, let me just say this, if I may, Mr. Speaker, because I do not want to get into the substance too much, but I think it does require a little discussion about the substance. In this proposal that was passed by the House, and is not being passed by the other body and will not take effect, at least the extension of this law, for 8 years, 84 months, 8 years, in this proposal we actually make significant changes in the anti-discrimination law, that is a very technical law, and also the top-heavy rules.

I have a letter dated April 11 when the bill was being considered by the House by Daniel Halperin, who just happens to be a professor of law at Harvard University, an expert on pension law; and he says if this bill is allowed to continue and take effect, at that time it had not taken effect, but it is in effect now, it could allow about 80 percent of the ordinary workers of a company that are non-highly compensated to be excluded from the plan, the pension plan. Eighty percent of the workers could be excluded from the pension plan. You just help the high-level employees.

Then I have a letter from a professor from the University of Alabama named Norman Stein, not a real liberal institution, Alabama; but he indicates that this bill was cobbled together by the pension industry.

Of course, Karen Ferguson, director of a group that makes sure that beneficiaries are adequately taken care of on pension benefits, basically said this bill is really going to do damage to the average worker in America because it is going to create a situation because of the top-heavy rules and anti-discrimination rules where pension benefits are going to be eliminated.

The gentleman from Ohio (Mr. PORTMAN) has said, because I remember the debate he had last time, that, no, what is going on, the reason why Americans are not having more pension benefits is because these rules are too complicated and it does not do enough for the highly compensated employees. So why would a manager, an executive, set up a pension plan if he is not going to benefit?

The reason he does not set up that plan, I say to the gentleman from Ohio, is because they found a way to get around it. These high-level executives had companies like Arthur Andersen who advised them in tax laws. We know what that is really all about. So what they have done was they set up rules like Ken Lay had in which he was able, without being taxed, to have his deferred compensation placed in an offshore trust account, so that when he finally retired and when Enron went bankrupt and all the employees lost their 401(k) plans, he was able to then get millions of dollars in deferred compensation. So he found a way around dealing with pension benefits. He had a defined benefit plan, and the Enron employees had what is known as a defined contribution plan, subject to the stock market; and they lost everything.

Of course, you have all kinds of gimmicks that insurance companies use, for example the split dollar plan, and we all heard about that, because many folks were worried that was going to be eliminated. So that is another plan that highly compensated employers could engage in.

So they really do not need to set up system-wide plans in companies, because of the fact that they are being taken care of through the Tax Code or through other mechanisms that have been thought through by the Arthur Andersens and all those smart people that know how to deal with tax laws.

What we really should be doing instead of passing meaningless resolutions is really try to deal with the average American's pension benefit. There are only three ways when a person is ready to retire that they think about their retirement. One is personal savings, and we know a great majority of Americans do not have personal savings because they have family responsibilities, kids going to college. So most of the time even families that make $70,000, $80,000 a year, spend that money right away on their families, because those are just necessities. So they do not have any savings, except their house. That is the only thing they have.

Then you have 401(k)s. Because we do not have these defined benefit plans in existence anymore, it is basically 401(k) plans. You saw what happened when the market went down 40 percent the last 18 months, since the President was sworn into office. So that obviously is subject to the economy, and subject to the global economy as well.

Of course, the one thing that at least the Enron employees and the WorldCom employees told me when they came to Washington, they said, "At least I have my Social Security benefits." But we know about Social Security benefits, because the President wants to privatize Social Security. The President wants to make Social Security subject to the stock market.

Well, if the President gets his way and if we do not take action on the 401(k)s, if we do not do something about these highly compensated employers and we extend this law beyond 2010, I think we are going to do major damage to the baby boom population. We have had all kinds of studies in America now that people 45 years and older, they are not going to be ready for retirement. In fact, all they are going to have is maybe $20,000 or $30,000 in their 401(k) plans. If they live another 20 years, that is going to be gone within a couple of years. All they have is Social Security, and that may not be secure if the President is successful in privatizing Social Security.

So I have to ask myself, what are we doing here at 7 o'clock in the evening debating a bill that is meaningless and not taking up some of the real important problems of America? Well, it is because you cannot do it. My colleagues on the other side of the aisle cannot pass these other bills that are really critical to the American public. They cannot deal with the national economy. That is why we are fooling around with meaningless resolutions. That is why I have no colleagues that want to speak on this, because it is meaningless.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would suggest that perhaps the reason there are not a lot of people who want to speak in opposition is because this has been a very popular piece of legislation. It passed the House by over 400 votes. Even in the context of the tax cut, which was quite a partisan exercise, it passed with 308 votes. It is good legislation.

I would love the opportunity to address some of the concerns that the gentleman from California (Mr. MATSUI) raised, and I would like to do so in a moment.

Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. WELLER), a valued member of the Committee on Ways and Means, who was instrumental in putting together this legislation, particularly with regard to the very important provisions to help multi-employer plans. There was tremendous complexity surrounding these multi-employer plans. Section 415 needed to be reformed, something that had been talked about for years. Finally, with this legislation we got it done. I hope my colleague will address that.

Mr. WELLER. Mr. Speaker, of course I rise in support of this resolution which, frankly, is very, very important; and I commend the gentleman from Ohio (Mr. PORTMAN) for the leadership he has given on this issue.

You know, if you listen to the rhetoric of my friends on the other side of the aisle, you can see they are, frankly, laying the groundwork for a tax increase. They opposed permanency of the Bush tax cut, they are opposing permanency of the individual provisions, whether marriage penalty or death tax, and even the most popular provision, which, of course, is the pension provisions that we have before us today.

They are opposing it; and, frankly, a vote against this resolution essentially is a vote in favor of a tax increase. As you can see from the rhetoric and their procedural moves that they always take, they are trying to stall, stymie and delay making permanent the Bush tax cuts, because they believe that money can be better spent here in Washington than hardworking Americans can spend it back home. I believe, as I know the majority of my colleagues do, that we should allow working Americans to keep more of what they earn.

Today we are, of course, talking about the opportunity to improve retirement savings. This House passed this with overwhelming bipartisan support. In fact, the Bush tax cut, the final version passed with overwhelming bipartisan support. Unfortunately, it was not permanent; but we passed legislation increasing opportunity for retirement savings, which benefits every American who pays taxes. We increased the opportunity to give a larger amount to your individual retirement accounts, increased that from $2,000 to $5,000. We increased what you can put into your 401(k) from $10,000 to $15,000.

I would note that there are catch-up provisions. People like my sister Pat, who are out of the workforce for a few years, staying home with the kids, the family income is less and they were not able to set aside much or anything for retirement savings. Now they can make a catch-up contribution once they turn 50, which will be a great benefit to stay-at-home moms and empty-nesters. Thanks to the Bush tax cut, that is now law. Unfortunately, it is temporary.

I would also note, as the gentleman from Ohio (Mr. PORTMAN) pointed out, we had an important reform that benefited over 10 million construction workers, building tradesmen and women, all across this country, who benefit from the removal of the caps put in place under section 415, which affects the multi-employer pension funds, which are basically labor union and building trade pension funds. Those artificial caps have been in place for far too long. Thanks to the Bush tax cut, they have been removed. And for a couple like Larry Kohr of Peru, Illinois, and his wife, he saw his take-home pension that he can live on, now that he has retired, essentially double by removing those artificial caps. There is no science and no reason to have them; nobody had just gone back to fix them.

□ 1900

So that section 415 provision, which claims a lot of bipartisan support unfortunately will expire unless we make it permanent.

That is why I was pleased earlier this year that the House of Representatives passed with a vote of 407 Members, the vast majority of Democrats; only a very small, narrow group of Democrats voted against making permanent this legislation. Unfortunately, the Senate has not yet taken up this legislation. My hope is that the House and Senate can work together in a bipartisan way and make permanent efforts to eliminate that cap on section 415, as well as increase opportunities for retirement savings. So let us really get to what the real issue is here before us.

The question before us today is, do we make permanent the portion of the Bush tax cut which gives increased opportunity for retirement savings, helping construction workers, helping those who have IRAs or 401(k)s, helping empty-nesters or stay-at-home moms do what we all need to do more of, and that is to set aside more for our retirement savings. Think about this: unless we make it permanent, those opportunities go away. That is a tax increase on savings; that is a tax increase on working Americans. This is a simple vote, and that is if you vote "no," you are voting to raise taxes on all those who wish to save for their retirement.

Mr. Speaker, I urge an "aye" vote, and I commend the gentleman from Ohio for his resolution before the House.

Mr. MATSUI. Mr. Speaker, it is my understanding that the gentleman from Ohio (Mr. PORTMAN) is the only other speaker on their side, and I am the last speaker, the only speaker on my side, and if the gentleman is, and we can have some understanding that we are going to kind of keep it light and short, I will yield back the balance of my time, with that understanding.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman. I do not know about keeping it light, but we will try to keep it short.

Mr. MATSUI. Mr. Speaker, I yield back the balance of my time.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume.

I guess it has been a helpful discussion. What we are doing here today is we are trying to shed light on the fact that the House-passed legislation, which made these good retirement changes permanent, which the other body chose not to do that; it had to be done on a temporary basis, only for the next 8 years.

We think it is very important for the purposes of planning, and what is more important than retirement planning? It is very important to the person who is planning to have some permanency. It is important to the individual worker. People need to plan for their retirement. It is planning for more than 8 years out. We need to know it is going to be there for the baby boom generation; we need to know that it is going to be permanent changes in law. For the employer, particularly the small employer, who is thinking about getting into the pension business for the first time; only 20 percent of those with 25 or fewer employees now offer pensions. For those people, they need to be able to plan. So not to have this be permanent is bad policy. It makes no sense at all. That is what we are doing today. We are trying to shine some light on this issue so that our friends in the other body will move.

Now, let me just talk a little bit about what this is all about. It is really three general areas: First, allowing everyone to contribute more to their 401(k)s and their IRAs. This could not come at a more important time. The fact that you can contribute another $1,000 into your IRA account this year is very important to people, and they are taking advantage of it. In the first 6 months of this year alone, there has been a 25 percent increase in IRA contributions, and it is needed, and never needed more than now.

With regard to 401(k)s, this year you can put another $500 in, plus a catch-up, as the gentleman from Illinois (Mr. WELLER) talked about, another $500. Over time, another $5,000 and $10,000, up to $15,000. This is extremely important, again. I would like to accelerate that. I would hope that this House will take that up at some point so that we can immediately allow people to put more aside for their retirement. But at a minimum, let us make what we did permanent.

The catch-up provisions are extremely important to the baby boomers. The gentleman from California (Mr. MATSUI) talked about the baby boom generation not being prepared for retirement. It is true. Seventy-five million people have no retirement plan at all, other than what they might have saved in their own personal savings. They have no access to a 401(k), a simple plan, any kind of plan from their employer. We need to help these people.

We therefore said if you are over 50, you get to put in even more into your retirement plan, which is particularly helpful for women who have taken time out from the workforce to raise a family, and now want to come back in and need to be able to put together that nest egg quickly.

The second general area is portability, enabling people to go from job to job in a seamless way to move their retirement savings.

Finally, we permit for simplification of the plan, to help small businesses to be able to offer these plans. The gentleman from California (Mr. MATSUI) actually talked about it earlier, and I was going to get into it. I would ask the gentleman's indulgence, instead of me getting further into that issue, if I could yield some time to the gentleman from Oklahoma (Mr. SULLIVAN), who is now here, to speak on the general issue.

I instead will cut my remarks short, except to say this, and that is that this is all about helping people save more for retirement. This House has passed this on a bipartisan basis, over 400 votes. What we are saying here today is it is time to move to make that permanent so people can plan. It is common sense policy. The Senate has not acted, the House has, the President is ready to sign the bill. Let us move forward.

Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN) as a final speaker.

Mr. SULLIVAN. Mr. Speaker, today I rise in support of House Resolution 544. As a sponsor of this legislation, I feel it is important for Congress to make permanent the Economic Growth and Tax Reconciliation Act passed into law last year. I would like to thank my distinguished colleagues, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Maryland (Mr. CARDIN), for spending several years crafting this bipartisan legislation.

This measure includes significant pension reforms aimed at modernizing retirement security. The law is scheduled to sunset after December 31, 2010. People throughout the First District of Oklahoma and all across America are restricted in planning for their retirement because of an arcane Senate rule that makes the entire tax relief package, including the retirement savings provisions, expire in just 10 years. Retirement plans are based on rules that need to be consistent over a career, not just 10 years. I do not base my future retirement plans on the next 9 years, so I do not expect to legislate and encourage that standard for my constituents and all Americans. The law, as passed last year, gives employees the additional resources to appropriately plan for their retirement. The act contains many significant provisions that will be extremely beneficial to employees.

First of all, we allowed workers to invest more money into their 401(k) and pension plans, as well as IRAs, from $2,000 to $5,000. Secondly, the House modernized pension laws to meet the challenges of an increasingly mobile workforce that is likely to have several jobs during their career. The resolution also allows workers to become vested in their pension plans faster.

In addition, the measure allows workers age 50 and older to make catch-up contributions, a provision that will significantly help women who are more likely to spend more time away from the workforce.

Finally, the bill modernizes pension laws and provides regulatory relief to encourage more small businesses to offer retirement plans.

Mr. Speaker, I urge my colleagues to adopt this measure.

Mr. PORTMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LATOURETTE). All time for debate has expired.

Pursuant to House Resolution 547, the resolution is considered read for amendment and the previous question is ordered on the resolution.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PORTMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, the Chair will now put each question on which further proceedings were postponed today in the following order: H. Res. 540, by the yeas and nays; and H. Res. 544, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

SENSE OF THE HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 3762, PENSION SECURITY ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 540, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 15-minute vote followed by a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 258, nays 152, not voting 22, as follows:

[Roll No. 414]

YEAS—258

Aderholt
Akin
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berkley
Berry
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Matheson
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—152

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Harman
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Markey
Matsui
McCarthy (MO)
McCollum
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moran (VA)
Nadler
Napolitano
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (MS)
Tierney
Towns
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—22

Bachus
Bishop
Bonior
Borski
Callahan
Ehrlich
Gutierrez
Hinojosa
LaFalce

Maloney (NY)
Mascara
McDermott
McKinney
Mink
Murtha
Obey
Roukema
Slaughter
Stump
Thompson (CA)
Thurman
Waxman

□ 1932

Mr. DICKS and Mr. LAMPSON changed their vote from "yea" to "nay."

Messrs. GREEN of Texas, PHELPS, BOYD, and Ms. CARSON of Indiana changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for the next electronic vote.

EXPRESSING THE SENSE OF THE HOUSE ON PERMANENCY OF PENSION REFORM PROVISIONS

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 544, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 291, nays 118, not voting 23, as follows:

[Roll No. 415]

YEAS--291

Aderholt
Akin
Armey
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Everett
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Meeks (NY)
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Pallone
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—118

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrett
Becerra
Berman
Berry
Boyd
Brown (FL)
Brown (OH)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Eshoo
Evans
Farr
Filner
Ford
Frank
Gephardt
Gonzalez
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Markey
Matsui
McCollum
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller, George
Mollohan
Nadler
Napolitano
Neal
Oberstar
Olver
Ortiz
Owens
Pastor
Payne
Pelosi
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sawyer
Schakowsky
Scott
Serrano
Sherman
Smith (WA)
Solis
Stark
Stenholm
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Weiner
Wexler
Woolsey

NOT VOTING—23

Bachus
Bishop
Bonior
Borski
Callahan
Ehrlich
Greenwood
LaFalce
Maloney (NY)
Mascara
McDermott
McKinney
Mink
Moran (VA)
Murtha
Obey
Oxley
Roukema
Slaughter
Stump
Thompson (CA)
Thurman
Waxman

□ 1944

Ms. JACKSON-LEE of Texas, Ms. MILLENDER-McDONALD, and Ms. BROWN of Florida changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RYAN of Wisconsin. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 544, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 111, CONTINUING APPROPRIATIONS, FISCAL YEAR 2003

Mr. HASTINGS of Washington (during consideration of the Motion to Instruct on H.R. 3295), from the Committee on Rules, submitted a privileged report (Rept. No. 107–694) on the resolution (H. Res. 550) providing for consideration of the joint resolution (H.J.Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. HASTINGS of Washington (during consideration of the Motion to Instruct on H.R. 3295), from the Committee on Rules, submitted a privileged report (Rept. No. 107–695) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. HASTINGS of Washington (during consideration of the Motion to Instruct on H.R. 3295), from the Committee on Rules, submitted a privileged report (Rept. No. 107-696) on the resolution (H. Res. 552) waiving points of order against the conference report to accompany the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4600, HELP EFFICIENT, ACCESSIBLE, LOW COST, TIMELY HEALTH CARE (HEALTH) ACT OF 2002

Mr. HASTINGS of Washington (during consideration of the Motion to Instruct on H.R. 3295), from the Committee on Rules, submitted a privileged report (Rept. No. 107-697) on the resolution (H. Res. 553) providing for consideration of the bill (H.R. 4600) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, which was referred to the House Calendar and ordered to be printed.

MOTION TO INSTRUCT CONFEREES ON H.R. 3295, HELP AMERICA VOTE ACT OF 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Ms. EDDIE BERNICE JOHNSON of Texas moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 3295 be instructed to take such actions as may be appropriate to ensure that a conference report is filed on the bill prior to October 1, 2002.

□ 1945

The SPEAKER pro tempore (Mr. PENCE). Pursuant to clause 7 of rule XXII, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and the gentleman from Ohio (Mr. NEY) each will control 30 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

This motion instructs the conferees on H.R. 3295, the Help America Vote Act, to complete their work and file a conference report prior to October 1, 2002.

Mr. Speaker, less than a week ago I joined a number of Members at this podium and recounted how allegations of voter intimidation, inaccurate voter registration lists, arbitrary ballot counting standards, and antiquated machinery deprived so many citizens of their right to vote and have their vote counted during the 2000 election.

Recent primary elections in Florida and elsewhere have only confirmed that the problems of 2000 will not go away until we pass and enact meaningful election reform legislation reform standards, and we must also provide State and local authorities with resources to improve their election systems from top to bottom.

It is really very simple, and so I ask how many times do we have to come to this podium and plead for reform.

I am here to tell my colleagues that we will come before them I guess as many times as it takes. This is a number one priority for the Congressional Black Caucus because we believe so strongly in democracy, and this is the crux of democracy. There is no democracy when we shut out the first amendment right and not allow people to cast their votes that are eligible and have those votes counted.

So we cannot be silenced until this body answers the call for election reform. We in Congress have within our power, indeed almost within our very grasp, legislation that will take giant strides to remedy the disenfranchisement of the last election. It has not been an easy fight to get where we are today, but we are just inches away from the comprehensive legislation that will secure the constitutional right to vote for millions of Americans. We must pass this bill, and we must send it to the President for his signature before another day passes.

I am proud to say that in the fight for election reform we have had many foot soldiers. I want to thank the gentleman from Maryland (Mr. HOYER), who has been battling every day since the 2000 elections to extend these important protections to all of our Nation's voters. His leadership is getting us to where we are today on this legislation. It has been limitless, and I thank him for everything he has done.

In that same spirit, I must also thank the gentleman from Ohio (Mr. NEY) for his hard work in helping us bridge the differences between the two bills. Indeed, I believe that all members of the conference committee deserve our gratitude for their work on this challenging task.

We also have had the terrific support from our colleagues from the other Chamber, and I would like to especially commend the efforts of Senator CHRISTOPHER DODD, who has worked alongside the caucus and the civil rights communities to make certain that the issues we care about most deeply are being addressed in the final bill.

Finally, I must thank my colleagues in the Congressional Black Caucus and, in particular, the gentleman from Michigan (Mr. CONYERS) and the gentlewoman from California (Ms. WATERS) for working tirelessly. We have invested so much energy and so much passion in seeing the goal of making every vote count realized, and now I salute all of the people who have remained steadfast.

As many of my colleagues know, the CBC has been holding hearings and forums and speaking out continuously for the past 21 months on this issue. I believe when it comes to election reform, yet again, we have served as the conscience of the Congress.

Soon after the Supreme Court announced its decision on Bush v. Gore, the caucus resolved to develop legislation that addressed these spectacular failures in the 2000 election. We resolved to make that legislation our number one priority.

We fought hard to get the Help America Vote Act introduced and passed by the House of Representatives, and we worked with the Senate to make sure that the protections they passed were even stronger than those contained in our bill.

Mr. Speaker, these bills are not far apart and we cannot reconcile them. This is why I stand here before my colleagues today to encourage conferees to complete their work and send us a bill that can be signed into law.

We also know that the legislation before the conferees is not perfect. I do not think I have ever seen a perfect bill, but it is a tremendous first step toward meaningful reform. The legislation will help protect and secure an electoral system in which all Americans are able to register as voters, remain on the rolls once registered, and vote free from harassment.

Mr. Speaker, our democracy begins and ends with the fundamental right to vote. Congress must act immediately to ensure that every American has the right to vote and to have their votes counted.

Time is running out for the 107th Congress. We have come so close to the compromise, and the price for not passing election reform is far too high. It is imperative that the conference committee finish their hard work and come to an agreement before October 1 because we cannot afford to let this opportunity slip away.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members that it is not in order to cast reflections on the Senate; that it is not in order to refer to a Senator except as provided in clause 1 of rule XVII.

Mr. NEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I stand tonight applauding the efforts of our colleague, the gentlewoman from Texas; and I stand to support this motion to instruct. As we like to say around here, work, work, and we mean it this time on this. It is a good thing to do.

The Help America Vote Act could not be here if it were not for my colleague from Maryland (Mr. HOYER) and all the other Members on both sides of the aisle that supported this measure. It is a crucial measure. It is important to every citizen in the United States, and the conference committee has to continue to communicate, communicate with the advocacy groups, local election officials, everybody who has this bill near and dear to their heart.

I commend the gentlewoman from Texas, all of those who have worked so hard for this bill. We cannot lose this bill. We have to continue to work. I know we are running out of time, but I am sure that many minds can come together and can produce a product that we are going to be proud of long after we are not serving in this body.

The Help America Vote Act is good for the Nation. I fully support the gentlewoman's motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding me the time.

I want to congratulate her and thank her for the extraordinary job that she has done over the last 18 months on this particular issue. She has been tireless in her efforts to promote the assurance that every American not only has the right to vote but that every American will have their vote counted correctly.

I also want to mention two of my very good friends and colleagues on the floor, the gentlewoman from Florida (Ms. BROWN) and the gentlewoman from Florida (Mrs. MEEK), two members from Florida who firsthand experienced and their constituents experienced the difficulties of voting in November of 2000.

I also want to recognize the gentleman from Ohio (Mr. NEY), our chairman, who has done such an outstanding job getting us to this point. Without his measured and effective leadership, we would not be where we are.

I want to go back to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) because as chairwoman of the Congressional Black Caucus and vice chair of the Democratic Caucus Special Committee on Election Reform she has tirelessly advocated that the 107th Congress keep its eye on the prize and pass meaningful, comprehensive election reform.

Mr. Speaker, in only 42 days this Nation will hold its first Federal election since November 2000. Nobody can predict with certainty how smoothly those elections will go. Certainly we experienced a primary in Florida that did not go well. After almost 2 years, studying what went wrong in November 2000, I am convinced that confidence in this Nation's election system will not be restored until this Congress enacts meaningful national standards and offers State and local authorities the resources to improve their election infrastructure.

I am pleased to report, as the chairman has said, that Congress is on the threshold of doing just that, thanks in large measure to my colleague and good friend from Ohio (Mr. NEY), whom I have already mentioned. We are closer than ever to enacting the most comprehensive package of voting reforms since the Voting Rights Act of 1965, reforms that will require States to offer provisional ballots to all voters; reforms that will require States to maintain state-wide computerized registration lists to ensure the most accurate, up-to-date rolls and minimize the number of voters who are incorrectly removed from the rolls; reform that will reward States for retiring obsolete voting machines, especially the notorious punch card machines and their dangling chads; reforms that will require voting systems to be accessible to all individuals with disabilities, including nonvisual accessibility for the blind; reforms that will allow voters to review and correct their ballots before they are ultimately cast. We call that second-chance voting. Every voter ought to be assured that their vote is correctly cast and will be accurately counted.

Reform that does not weaken, let me reiterate this, reforms that do not weaken any existing voting rights laws and includes meaningful enforcement; reform that ensures military and civilian voters who live and work overseas are able to vote and have their vote counted.

Mr. Speaker, this motion is intended to ensure that we on the conference committee complete our work prior to October 1, 2002. Given the extraordinary progress the conference committee has made in the past 14 days, there is no legitimate reason we cannot meet that deadline. I know the chairman shares my view on that. Indeed, given the larger context in which we operate, I would submit that this Congress has a moral responsibility and obligation to enact election reform before we adjourn the 107th Congress.

Mr. Speaker, over the last year, this country has committed vast resources to ridding the world of those who would employ the tools of terror to destroy systems of government that derive their legitimacy from the ballot box. In just the past few weeks, we in Congress have been challenged to contemplate the use of overwhelming military might to bring to heel one of the great despots of the past 50 years, a figure whose utter contempt for democracy and the people he rules is the only reason he has held power for so long.

□ 2000

As we consider such profound measures to extend democracy where it does not now exist and strengthen it where it is fragile, we have an urgent, moral responsibility to do the same at home. I urge adoption of this motion. I congratulate the chairman for his support of this motion and last week's motion to urge us to complete our work. This motion is timely. Passage is late, but it is never too late to do the right thing.

Mr. NEY. Mr. Speaker, I reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, today, September 24, I stand before this body in our Nation's Capitol, nearly 2 years after the Supreme Court selected the President of the United States. To this day nothing has been done, while the American people wait and wait. No new laws have been signed. No agreements have been reached to correct the 2000 election problems.

In fact, the Bush administration clearly shows that election reform is not a part of their agenda. Immediately after the 2000 election, the only legislative item that was brought up has been tax cuts, tax cuts, tax cuts. It does matter who is in charge. I heard one of the committee chairmen on television discussing Congress giving war powers to the President, and he said over and over again, over and over again, the President is the only person that is elected by all of the people.

Time out. Did I miss something? Over 500,000 Americans voted for Al Gore. Al Gore, not George W. Bush. The Supreme Court decided on a 5-4 decision that George W. Bush would be the President, and to date nothing has been done to correct it.

Let me tell Members about Florida. With 16 million people, Florida spent just $32 million for election reform efforts. Just to the north of us, Georgia, with 8 million, spent $54 million. In an effort to distract the American public from issues like election reform, health care and prescription drug coverage, which was promised to our seniors, in the middle of a mid-term election we are distracted by a war. I think the American people need to weigh in; and if we want to take the questions about the election out, then we need to pass a bill and move forward with election reform.

Mr. NEY. Mr. Speaker, I reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentlewoman for yielding me this time, the chairman of the Congressional Black Caucus.

Mr. Speaker, I rise in strong support of the motion to instruct the election reform conferees to produce a conference report and produce it as soon as possible. Election reform is long overdue. We continually come to this podium and stress the importance of election reform, but no one seems to be listening. That is, those people who are in the leadership are not listening. If they were, election reform would have come to the floor many, many months ago.

How many more voting catastrophes like the week before last in Florida will be required for this Congress to get the message that our people need real election reform, and they need it now? I am just wondering how many more catastrophes must happen.

I do not have enough time to detail all of the many problems that are wrong with elections in this country, not only in south Florida, but manifested much more strongly in south Florida. I have read the same newspaper and magazine accounts that other Members have read, suggesting that election reform conferees have not yet been able to work out their differences. I do not see why there should be so many differences in a right that the Constitution gives each of us. It is perplexing to me, and it appears that election reform may be dead for this particular session just because of this kind of treatment.

This outcome is absolutely unacceptable. It is unacceptable to the people of the United States of America that we as a Congress cannot pass an election reform bill. We can send it to the President for his signature before this session ends. That is extremely important, Mr. Speaker. The voting of the last 2 weeks revealed the many problems that plagued the 2000 Presidential election. Why does it take so long to get the idea? So we are back again. It is a nightmare.

Mr. NEY. Mr. Speaker, I reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me add my appreciation to the conferees on the House side, and particularly the gentleman from Maryland (Mr. HOYER) and the gentleman from Ohio (Mr. NEY) for the diligent work that they have offered. Let me also acknowledge and give appreciation to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), the Chair of the Congressional Black Caucus, and someone who has captured the essence of the vitality of this legislation by pushing and encouraging its passage.

I rise to support this motion to instruct, particularly on the basis of the hard work of the gentlewoman from Florida (Ms. BROWN) and the gentlewoman from Florida (Mrs. MEEK) and the gentleman from Florida (Mr. HASTINGS), as well as the Democratic Task Force which I had an opportunity to participate in. I say that because we have seen around the country in every place that we have gone hearings that have indicated the great need for election reform.

The work that was done in the Committee on the Judiciary, of which I am a member, headed by the legislative initiative of the gentleman from Michigan (Mr. CONYERS), the ranking member, captured the ailments, the illness of the election system and tried to put together a legislative initiative that was encompassing, that was embracing, that answered the questions about the many horror stories we heard in November 2000: individuals turned away; intimidation at the polls; people who registered to vote and yet were turned away. It is imperative before we go into the Federal elections that we come together in a consensus and pass election reform.

I do feel that the House conferees have been working together in moving toward final passage, and I believe the other body has the same amount of focus. It is now time to set a time frame for us and not let this legislation die in this session. I do not believe anyone desires it to do so. I believe the American people want to see election reform.

Mr. Speaker, after 9–11 when we have all recommitted ourselves to the values of this Nation, the values of democracy and freedom and equality and the right to speak one's mind, it would be a tribute to again reinforce our values by passing such a legislative initiative as election reform.

Mr. NEY. Mr. Speaker, who has the right to close?

The SPEAKER pro tempore (Mr. PUTNAM). The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) has the right to close.

Mr. NEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this is an important motion to instruct. I appreciate the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) for her insight and her input into this process. All of the speakers that participated tonight have added greatly to the process. This is an important measure. America needs it, and I appreciate this motion to instruct because it will give us an additional push and say this is the sense of the House. I urge all of my colleagues on this side of the aisle to support the motion to instruct.

Mr. Speaker, I yield back the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard some powerful words this evening from my colleagues on how important it is that Congress pass election reform legislation, and pass it quickly. Although it will not affect the November elections, they are approaching and there simply is no time to waste.

As we all know, the most fundamental issue facing all of us during this Congress is restoring the public's faith in democracy. To restore that faith in democracy, we must make sure that every vote cast is counted. We have said repeatedly that we have been attacked because of the jealousy of our freedom. We must make that freedom real, and the only way we can do that is to make sure that every vote cast is counted and is cast without intimidation.

The legislation we have passed will take important steps toward protecting the sacred right to vote. It is time that we take action. House and Senate conferees have come so close to a compromise on H.R. 3295 and now they must finish the job. I call upon members of the conference committee to reach agreement before October 1 and submit the legislation to us for final passage. I am in strong support of this motion to instruct.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the motion to instruct has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each:

□ 2015

JUDICIAL CODE OF CONDUCT PRIVACY CLARIFICATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. BIGGERT) is recognized for 5 minutes.

GENERAL LEAVE

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I rise today to join my colleague the gentlewoman from New York (Mrs. MALONEY) in introducing the Judicial Code of Conduct Privacy Clarification Act. As the title suggests, this bill would clarify a provision in title V of the Gramm-Leach-Bliley Act that deals with privacy protections for consumers.

Gramm-Leach-Bliley was landmark legislation that for the first time permitted companies to engage in banking, insurance and securities transactions simultaneously. While considering these new freedoms for businesses to operate across lines, Congress also wanted to ensure that consumer privacy would not be placed at risk.

Title V sought to address this issue by giving regulators latitude to enforce privacy provisions among financial institutions. Unfortunately in interpreting the language of the law, some confusion has arisen over what specifically those financial institutions might be. In seeking to clarify the confusion, the Federal Trade Commission concluded that financial institutions include any business that, and I quote, significantly engages in financial activities. What is the definition of "significantly"? Well, it could be as little as once a year. And what is a financial activity? There are four: debt collecting, financial advisory activities, tax planning preparation and advising, and leasing real or personal property.

Okay, that is fair enough. But in writing its regulations in this way, the Federal Trade Commission appears to have unintentionally swept under its umbrella the one group of professionals that already is governed by the strictest possible confidentiality or privacy regulations. What group is this? Attorneys.

Attorneys already are bound by a duty of confidentiality enforceable under the laws of all 50 States that prevents misuse of client information and provides a higher degree of privacy than Gramm-Leach-Bliley. For example, lawyers in my home State of Illinois are prohibited from releasing confidential information. Our code reads, "Except in certain specified circumstances, a lawyer shall not, during or after termination of the professional relationship with the client, use or reveal a confidence or secret of the client known to the lawyer unless the client consents after disclosure."

And Illinois is no exception. All 50 States have equally restrictive language. In all 50 States, lawyers who violate these laws face disbarment and/or other penalties that are much more onerous than those for a violation of title V under Gramm-Leach-Bliley.

Do attorneys significantly engage in financial activities as defined by the FTC? Yes. Some attorneys do give tax planning advice. Others may handle debt collection cases. Still others may take up cases relating to the other two named financial activities, providing financial advice or leasing real or personal property. Yet in order to comply with the privacy provisions under Gramm-Leach-Bliley, these attorneys now run the risk of violating the client confidentiality restrictions placed on their profession.

Every attorney who engages in any of the four defined financial activities for a noncorporate client must mail to that client a privacy notice, every year for as long as he or she is in business. And what does that privacy notice convey? It informs clients that they may direct their attorney not to share their personal information with other entities, the so-called opt-out provision of Gramm-Leach-Bliley. Yet the attorney-client confidentiality relationship is by nature an opt-in protection. In short, for attorneys, the very act of disclosing a privacy policy can create a confidentiality violation.

It was not the intent of Congress to regulate attorney-client relations. Our intent was to regulate the growing use and sale of consumers' personal information for marketing, profiling and other commercial purposes by bona fide financial institutions. At the end of the day, our bill will make the intention of the Gramm-Leach-Bliley Act crystal clear. The scope of the law was not intended to include law firms and sole practicing lawyers.

I urge my colleagues to support this legislation.

Mrs. MALONEY of New York. Mr. Speaker, I rise today in support of legislation that I am introducing with my colleague JUDY BIGGERT of Illinois, the Judicial Code of Conduct Privacy Clarification Act. This legislation resolves the continuing controversy as to whether attorneys at law, who are subject to strict codes of professional conduct, should be subject to the privacy section of the Gramm-Leach-Bliley Act. The Biggert-Maloney legislation recognizes that the practice of law and the business of financial services are wholly different and that Gramm-Leach-Bliley should be clarified to recognize this distinction.

Protecting personal privacy should be one of the highest priorities of Congress. Whether online, over the phone or in person, I believe that individuals should be allowed the maximum control over information they supply to financial services and other companies.

With passage of Gramm-Leach-Bliley in 1999, Congress took a small first step in ensuring that consumer privacy is protected as financial institutions continue to merge and as the economy grows increasingly digital. As a member of the then-Banking Committee, I was proud to play a role in requiring that financial services companies supply their customers with privacy policies and allow customers the right to opt-out of information sharing with third-parties. These were groundbreaking provisions that future Congresses should work to expand.

Unfortunately, since enactment, Gramm-Leach-Bliley has caused significant confusion for the legal community. On February 11, 2002, I joined 12 of my bipartisan colleagues on the Financial Services Committee in writing to the Federal Trade Commission (FTC) to ask that it grant attorneys an exemption to the Gramm-Leach-Bliley privacy provisions. As we wrote at the time, "Attorneys are already bound by a duty of confidentiality, enforceable under the laws of all 50 states, that prevents misuse of client information and provides a higher degree of privacy protection than Gramm-Leach-Bliley." After a thorough review, the FTC determined that it does not presently have the authority to grant the exemption we requested.

The privacy protections in Title V of Gramm-Leach-Bliley were a response to specific cases where consumers' private, personal financial information was mined without their consent in an effort to market them products. Where Title V is an appropriate response to such egregious cases, it is inappropriate to apply it to most lawyers whose clients already expect that all their disclosures are confidential, covered by State codes of ethics and attorney-client privilege.

For example, the Legal Aid Society of New York City had to translate its privacy notice into many different languages to serve its ethnically diverse clientele. It also had to devote an inordinate amount of time to dealing with confused clients who couldn't understand why they were getting privacy notices from their lawyers when everything they tell their lawyers is presumed to be confidential. I fear this could have a chilling effect on the willingness of these individuals to share critical information with their attorneys. The confusion these privacy notices are causing in New York is unnecessary given that there is express language forbidding the sharing of client information in the New York State Ethics Code for lawyers.

I join Representative BIGGERT in introducing this legislation today because it is my intention to target this limited area where the interpretation of Gramm-Leach-Bliley can be improved by a legislative fix. The FTC's standing interpretation of Title V of the Act is causing confusion that is determined to the attorney-client relationship. It is appropriate for Congress to intervene. I have met with numerous constituents from New York City on this issue and am convinced that attorneys should not fall under the existing language. I do understand that it is late in the congressional session and I invite interested parties to work with me to improve the legislation in the coming year.

I look forward to continuing to work to safeguard the privacy of my constituents in the coming Congress. I emphatically do not support any rollback of the progress that has been made on privacy. This legislation is limited and strictly targeted. As for the larger privacy issues—the American public deserves more privacy protections, not fewer.

IRAQ AND THE WAR ON TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GRUCCI) is recognized for 5 minutes.

Mr. GRUCCI. Mr. Speaker, on September 20, 2001, before a joint session of Congress, President Bush declared, and I quote, our war on terror begins with al Qaeda but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated. This principle rallied the world to support the war on terrorism. Today, we must remind ourselves of this principle as America considers action against Iraq. We must remember that the actions of Saddam Hussein are nothing short of terrorism. Until he is removed from a position of power and influence, Americans will not be safe and the war on terrorism will not be won.

On September 16, 2002, Iraq delivered a letter to the United Nations allowing U.N. weapons inspectors unconditional access to Iraq. While the recent letter from Iraq may be received as good news by some, it is important to place this action in the appropriate historical perspective.

A quick reminder of 1998 when Saddam Hussein forced weapons inspectors out of Iraq is enough to understand that the latest move is nothing more than theatrics that will only give Iraq additional time to stockpile and hide weapons of mass destruction to avoid detection.

In May of 1991, Iraq accepted United Nations resolution 687, giving inspectors unconditional access to Iraq. In the years that followed, Iraq contradicted their unconditional pledge to support resolution 687 with the following actions:

June of 1991, Iraqi personnel prevent inspectors from approaching by firing warning shots.

October of 1991, Iraq refuses to accept United Nations resolution 715 calling for additional unconditional access for inspectors.

February of 1992, Iraq refuses to allow the destruction of certain facilities used in weapons programs.

April of 1992, Iraq calls for the end of surveillance flights and threatens the safety of pilots.

June of 1993, Iraq refuses to allow remote controlled monitoring cameras at two missile engine sites.

March of 1996, Iraq refuses access to five inspection sites designated for inspection.

June of 1996, Iraq denies access to sites under investigation.

June of 1996, Iraq denies access to another inspection team.

November of 1996, Iraq refuses to allow inspectors to remove missile remnants for analysis.

June of 1997, Iraqi personnel attempt to physically prevent a helicopter pilot from flying to inspection areas.

June of 1997, Iraq denies access to inspection sites.

September of 1997, an Iraqi officer attacks inspectors photographing unauthorized movements of Iraqi vehicles.

August of 1998, Iraq announces that they will refuse to agree to any United Nations resolutions until the oil embargo is lifted.

In fact, Iraq has violated 16 United Nations resolutions and sanctions. Sadly, I believe that future inspections will once again be met with blatant defiance and further problems.

Removing Saddam's weapons of mass destruction will only occur when we remove Saddam Hussein. Just in the last several days, Iraq stated that it will not accept any new United Nations resolutions. Furthermore, Iraqi officials have already started adding conditions to their allowance of unconditional access.

We must not allow ourselves to be led down that same path of noncooperation that Iraq has led the world down in the past. We do not need to look beyond Iraqi defectors, many from within Saddam's nuclear program, to learn that Saddam Hussein is dangerously close to obtaining nuclear weapons and has advanced considerably in his biological and chemical weapons programs. I do not believe that we should have to wait for another United States city to be devastated, a military base to be targeted or even to be attacked in order to respond to the threat of Saddam Hussein. Every minute we delay only brings this enormous threat closer to reality.

Mr. Speaker, I applaud the President's actions to come to the Congress and seek the Congress's approval. As freedom-loving nations continue to eliminate international terrorism, this war will not end until every terrorist group of global reach has been found, stopped and defeated.

PAUL ESPINOSA RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. DAVIS) is recognized for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I rise today in strong support of my resolution recognizing the contributions of my constituent from San Diego, Paul Espinosa, to both the Latino and the arts community. A few years ago, a study conducted by a leading Latino nonprofit concluded that representation of Hispanics in mainstream network television decreased during the last 30 years. The few roles that were held by Latinos often depicted them as criminals, maids or gardeners. Paul Espinosa observed this disturbing trend 20 years ago and dedicated himself to making documentaries and films about Hispanic Americans. He applied his academic background in anthropology to media and developed textured depictions of Hispanics.

The results have made Paul Espinosa one of the country's most respected and recognized documentary filmmakers. His works, to name a few, include the Lemon Grove Incident, the Hunt for Pancho Villa, and the Earth did not swallow him, Uneasy Neighbors, and The Border. The characters and experiences in his films are as diverse as the Latino community itself. He chronicled the story of a controversial 19th century New Mexico priest, the defining summer in a young migrant boy's life, and the actions of parents in Lemon Grove, California fighting for their children's education. Through these films, Paul Espinosa shows that Latinos possess a complex and dignified history. These previously untold stories examine the social issues surrounding the protagonists and provide a history lesson for all their viewers.

Many consider Paul Espinosa's films catalysts for important cultural dialogue. These films are so highly regarded that they have become the basis for film festivals bearing his name in Texas and California. Academia has also recognized Paul Espinosa's films for their contributions to education. Various high schools and universities include some of his films in their curriculum. Paul Espinosa, who holds a B.A. from Brown University and a Ph.D. from Stanford University, was named a Regents Lecturer at the University of California San Diego in 2000 and is frequently asked to lecture at numerous universities on his films.

Besides his work as a filmmaker, Paul Espinosa is a media arts activist. He is strongly dedicated to enabling an upcoming generation of filmmakers. His involvement with the Media Arts Center of San Diego and the Association of Independent Video and Filmmakers speaks to his commitment to support aspiring media artists and increase the visibility of traditionally underrepresented groups.

One of the Media Art Center's most promising initiatives is the Teen Producer's Project. It teaches young people artistic and analytical skills by emphasizing effective communication through the use of digital video, interpersonal skills and creative writing.

Paul Espinosa has defined his career by making films that tell a meaningful story. His films have spurred discussion and challenged its viewers to reexamine their perceptions of Hispanic Americans.

I hope you, Mr. Speaker, and all of my colleagues will join me in honoring this community artist, his accomplishments in the media arts and his triumphs for the Latino community.

□ 2030

MAKING AMERICA INDEPENDENT OF MIDDLE EASTERN OIL

The SPEAKER pro tempore (Mr. PUTNAM). Under a previous order of the House, the gentleman from Massachusetts (Mr. TIERNEY) is recognized for 5 minutes.

Mr. TIERNEY. Mr. Speaker, there has been much debate on how the United States should proceed with Iraq. I rise to draw attention to an issue that is critical to this decision-making process.

As we debate how and whether to take military action in Iraq, I should hope that we could all agree to take economic action against Saddam Hussein. Now, it is clear that the United States is overly dependent on foreign oil. The United States presently imports 48 percent of the 19.7 million barrels of oil it consumes each day. Of that total, approximately half a million barrels come from Iraq.

Now is the opportunity to pursue a policy of making America independent of Middle Eastern oil. To do this, we have to aggressively pursue new technologies and development of renewable energy, biomass, geothermal, hydropower, solar and wind. A renewed effort toward policies that encourage reduced reliance on fossil fuels and more secure sources of dependable energy would mean the creation of jobs that would strengthen our economy and better serve our national interests.

Now is the precise moment for the United States to shed its dependency on any Iraqi oil and work toward a future when our domestic energy policy does not play a role in how we implement strategic initiatives.

Already we are told that Saddam Hussein does not use the proceeds from the sale of oil to feed his population or to provide medical needs for his people. We are told instead that the profits from these sales are going to his own personal needs, to his aggrandizement with palaces and other monuments that he builds to himself, and to embellishing his Republican Guard. Especially if that is the case, then we ought to be talking about not buying Iraqi oil so that he has the proceeds with which to act in that manner, and we ought to be talking about convincing our allies in the international community to do the same.

This will not be easy, but the fact of the matter is we have a capable State Department and a capable Secretary of State who ought to go about the hard work of working diplomatically to convince our international community that that is one way to enforce inspections and enforce disarmament, one tool to use to get the attention of Saddam Hussein, knowing there is a hammer at the other end that can be effective, and we ought to do it.

In the long range, we ought to make sure that we have an energy policy in place that allows us not only to back off of any use of Iraqi oil, but to eventually overcome any need to rely on Middle Eastern oil. It is a relatively small portion of the fossil fuel that we use in this country; and over a period of a reasonable number of years, a concerted and wise energy policy will allow us to strategically pull out of that area and resolve many of the crises we may have in the future dealing with Middle Eastern problems and situations, politically and otherwise.

Mr. Speaker, I think that this is a policy that would be wise. I think we have international resolutions for inspections and disarmament that need international enforcement. We ought to call upon the United Nations to do everything in its power to work within the international community to make sure that they in fact enforce those resolutions and have inspections and make sure that we have disarmament in Iraq.

But that is hard work, as I said before; and it is not as easy sometimes as taking an overpowering military force and attacking. But there is no imminency to any attack on the interests of the United States at this time, and we have an international body and we have an international means to act; and we have the time to do that and try that. We should exhaust all avenues before going to the extreme avenue of an unprovoked, in the sense of any action against the United States directly, action. We should make sure that we use our resources, work within the international community, understand that we can embargo oil to Iraq as an opening step, and get our allies to do the same as a way of enforcing provisions for inspections and disarmament. We ought to move in that direction.

Mr. Speaker, I hope that we can get some agreement on this, and I hope that we can work within the international community to do just that.

OPTIONS WITH REGARD TO IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, the rush to war continues here in Washington, despite the possibility of the reinstatement of effective, unfettered inspections aimed at the destruction of weapons of mass destruction that Saddam Hussein may have hidden from past inspections or may have developed since that time.

Now, Prime Minister Tony Blair, as a surrogate for this administration, did provide a more concrete and detailed report than anything provided by the Bush administration to the United States Congress thus far on what is going on in Iraq. But the interesting thing is, in reading through the 50-some odd pages of this report and perusing the photographs, the actual conclusion is that inspections did work, U.N. sanctions did work, and are still working. The containment and deterrence doctrine has worked with Saddam Hussein.

In fact, the previous program before the inspectors left was extraordinarily successful, more so than would be admitted by this administration, that is very dismissive about the possibility of going back in with intrusive, unfettered inspections with a mandate to destroy any weapons of mass destruction that this miscreant may have managed to develop.

I will read a few quotes from Prime Minister Blair's report. He talks about their attempts to obtain nuclear weapons: "In August 1990, Iraq instigated a crash program to develop a single nuclear weapon within a year. By the time of the Gulf War, the crash program had made little progress."

They go on to say that "UNSCOM had totally dismantled the physical infrastructure of the Iraqi nuclear weapons program, including the dedicated facilities and equipment for uranium separation and enrichment, and for weapon development and production, and removed the remaining highly enriched uranium."

It is hard to reconcile that with the assertions that intrusive inspections under the auspices of the U.N. will have no impact on Saddam Hussein or his attempts to obtain weapons of mass destruction.

In early 2002, the British intelligence judged that while sanctions remained effective, Iraq will not be able to produce nuclear weapons. That is on page 27 of the justification given by the Prime Minister of Britain for a preemptive war against Iraq. He cannot build or obtain nuclear weapons, according to British intelligence, as long as the sanctions remain in effect, and that is without intrusive inspections backed by the full force of the United States and around the world.

There are many other passages. This is incredibly instructive reading. I would recommend it to my colleagues in Congress. It is certainly more detailed than anything provided to this Congress, either in classified briefings or outside of classified briefings, and certainly more detailed than anything provided to the American public, NATO or anybody else by the United States, and the British have done us a service.

But the case they make is the opposite of the conclusion of their Prime Minister. The case that is strongly made here is that a return to the regime of an intrusive, unfettered weapons inspection and destruction program would effectively preclude this dictator from ever obtaining weapons with which he could threaten other countries in that region, and most certainly the United States of America.

So this, to me, certainly demonstrates that the rush to war, the first preemptive war in the history of the United States, the first preemptive war since the horrible destruction of World War II and the U.N. and the agreements we have reached since then, breaking with all precedent, the United States, in some bizarre version of "Minority Report," the movie, will decide that we have people in the administration who can determine whether or not someone presents a real and present threat to the United States, even if they made no threats, even if there is no documentation of them having the capabilities on carrying out on the threats they have not made; and we, the United States of America, should be able, in violation of all international law and all precedents of our Nation, be able to preemptively attack and destroy that country for the purposes of regime change, because we do not like who is running that country.

Well, there are a lot of brutal dictators around the world running a lot of countries I do not like, including Saddam Hussein; and I would support democratic efforts and subversion efforts and any other way to get those people out of power. But a war that opens the door to worldwide conflicts, to Taiwan and China, India and Pakistan and any other host of countries, is an incredibly dangerous precedent, and this report from the Prime Minister to his Parliament documents that it is not necessary. We have an effective option before us.

ENERGY AND THE POTENTIAL FOR WAR IN THE MIDDLE EAST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 60 minutes as the designee of the minority leader.

Mr. BLUMENAUER. Mr. Speaker, I rise to address the House this evening, as we have had speakers here earlier, focusing on issues of energy and the potential for war in the Middle East.

I think it is appropriate that these two issues are in fact before us, because oil and the Middle East are linked in the minds of the public; and, in fact, I think any credible observer would agree that in fact they are linked in fact.

Tonight, as one reflects on the status of the potential growing cloud of war in the Middle East as we are dealing in this country with issues that relate as we speak now, there is a conference that has been meeting in terms of the energy policy. I think it is appropriate for us to step back and reflect on the status of what this Congress has done in the course of the last year to deal meaningfully with energy policy.

It is something that in and of itself is important for us to focus on, but it would seem that in the aftermath of the horrible attacks of September 11 of last year, the rising tensions in the Middle East, the pressures that took place as we moved into Afghanistan, what we have seen in terms of the potential problems with oil that is concentrated in terms of the 50 percent or more that comes to the United States from foreign sources, that there would be a sense of urgency about that discussion.

Americans want and deserve a national energy policy that ensures safe, affordable and clean energy. One must only be disappointed by the lack of leadership and urgency that we have seen with the administration, and, sad to say, here in Congress, to reduce our dependence on foreign oil, to say nothing about reducing the impact of the pollution that is associated with that dependence.

We have now been working on an energy bill for almost 2 years; and the plan that has come forward from the House does not even employ simple steps to reduce the demand for oil that years of study have demonstrated beyond question are necessary and in fact will work.

Sadly, this is in the midst of the economic challenges that we face as we have seen the promise of fiscal stability go out the window. In my State of Oregon we have consistently in the course of over the last year and a half had among the highest unemployment rates in the country.

It was less than a year and a half ago when we heard from the President that we could in fact embark upon a massive tax cut because we were going to have over $5 trillion in surplus; and, in fact, it was alleged that one of the real problems we were facing as a Nation was the possibility that we would be paying off the national debt so rapidly that we would not have safe investment instruments.

Well, we have dodged that bullet. We have not just a tight budget, but we have deficits now for as long as the eye can see. We are going to be borrowing between 100 billion and $200 billion of Social Security trust funds. One only hears faintly the echo of the lockbox that people were going to set aside these monies, and we are looking at a significant long-term structural deficit.

□ 2045

But in the context of that, we have the conferees looking at an energy bill that would give away billions of dollars in new subsidies and tax breaks for fossil fuel, for the automobile industry, for the nuclear industry while sadly shortchanging clean, sustainable energy sources.

Having a dependable supply of energy and using it wisely is critical for Americans to be able to have livable communities. However, in response to the terrorist attacks and the call for more stable and predictable energy supply, we should not increase our dependence on fossil fuels in the way that we have for a century. The question is not whether we should reduce our dependence on oil, but whether we have the will; not whether we will reduce dependence on fossil fuel, but how and when we are going to achieve it. What is our strategy?

With the United States holding some 3 percent of the world's oil reserves, yet consuming over 25 percent of the fossil fuels, we will never drill our way out of reliance on the unsustainable sources of oil. But aside for a moment that the vast majority of the oil that we rely upon is concentrated in a handful of countries in an area that has never been particularly stable, but has been growing increasingly unstable over time, much of the recoverable oil in the United States, the 2 or 3 percent, is environmentally and politically difficult to access.

Now, many of my friends on the other side of the aisle in the Republican Party and, of course, the White House believe that drilling for oil in the Arctic Wildlife refuge is an important part of the solution. Well, the fact is that even if we were to disregard the serious questions and problems associated with it, the reserves that we can recover in the Arctic are likely to provide only a few months energy supply for the United States, some have suggested 6 months or less, and it is not going to be available to us for the better part of a decade.

If we, in fact, are concerned about energy security, if we are concerned about potential terrorist threats, putting our reliance on the 800-mile Alaskan pipeline seems to be a rather slender thread to rely upon. Recall that it was just a year ago when we had a drunk with a hunting rifle shoot up the pipeline, spilling almost 300,000 gallons of oil before the problem could be solved, and that was in the early fall.

Consider what would have happened if this drunk had assaulted the pipeline later in the year, in the winter. Interrupting the flow of oil would have caused the entire pipeline to be subject to freezing up, and we would have an 800 mile long piece of Chapstick, hardly a safe and secure method of assuring oil supply to the lower 48 States. If a drunk with a hunting rifle can disrupt the flow, think what would happen along 800 miles if a few determined terrorists decided to inflict damage on it. Not something that we are going to rely upon.

The notion that this is, in fact, part of a comprehensive energy solution that is going to be an important part of solving our problem is, at best, disingenuous for the American public as it is damaging to the environment. The public has made clear its opposition to drilling in the Arctic Wildlife Refuge.

Now, where would the administration take us next? According to the petroleum industry, western Federal lands hold 95 percent of untapped United States oil and 40 percent of untapped natural gas. In the last year, 2001, the administration approved 3,800 permits for companies to drill for oil and gas, the most in one year since 1988. Reflecting for a moment that it has taken eons for the radiant energy from the sun to convert by natural process to fossil fuels, in the course of a few generations we will have used up nearly all of the Earth's entire supply of accessible petroleum.

The question is increasingly not just how much oil is left in the ground, but how long can we go on increasing the rate at which cheap oil is extracted. I think it is clear that there is a finite duration; it is just a matter of time when that curve is crossed and when the cheap oil is reduced, starts to go away that we change the economics of the petroleum industry. One hopes that we can convince our friends in the administration and our colleagues on the other side of the aisle to join the American public in realizing that we do have the technology to meet more of our energy needs through alternatives. Through energy conservation we have not, by any stretch of the imagination, exhausted the potential of energy savings through conservation, through increased full efficiency. Remember that a 3-mile per gallon increase in fuel efficiency for SUVs would offset the entire amount of oil that we expect to extract some day from the Arctic Wildlife Refuge, if we change our policy.

It is an opportunity for us to think about new creative ways to accelerate that progress. In one hour, there is more energy that the Earth receives from the sun, through the solar process, than is the entire year's output in fossil fuels. Energy and fuel efficiency is the quickest, cheapest, cleanest way to save not just energy. Most people will recover in a relatively short period of time over the course of the life of a vehicle the savings for any increase in the price of that vehicle. If they are going to have to have a more expensive SUV, if the people are not going to cut down on the power at all, they will end up in being able to recover those costs through savings that they will achieve in terms of reduced expenditure that they have. Passenger cars, for example, use more than 40 percent of the oil consumed in America. The average American driver spends 443 hours driving every single year. In fact, America's cars, light trucks, consume one-tenth of the annual global oil production.

Mr. Speaker, we have resources available to us to, in fact, make a difference in energy efficiency, and it is something that we want to focus on with this Congress, not allow this time to get away from us, use the opportunity of the energy conference bill and each opportunity that comes before us from now until we adjourn to be able to advance the cause of America's energy security.

I note, Mr. Speaker, that I have been joined by the gentlewoman from southern California (Ms. SÁNCHEZ), my colleague, with whom I have been pleased to work on a variety of issues that speak to the environment, to transportation. She has a wide variety of interests that range from the environment to national security. I am honored that she would join us this evening. I yield to the gentlewoman should she have some comments that she would wish to share.

Ms. SANCHEZ. Mr. Speaker, I thank the gentleman from Oregon, and I thank him for coming down to the House floor tonight to speak about such an important issue. With everything going on right now, with our Nation assessing whether to go to war in the Middle East and the state of our economy being so shaky, we in Congress need to make sure that we are asking the right questions.

For instance, we are here tonight to talk about how are we going to achieve a realistic solution to U.S. foreign oil dependence?

Now, it is not like this is a new question. I remember back in 1973, 1974, I am a Californian. We use a lot of oil, we drive a lot of cars, we go a lot of places, we drive long distances. I remember standing in lines and waiting in 100-car lines the last time we had a problem with OPEC and prices going up, and we all swore that we would do something about this and that we should not be so dependent on cars that use so much gas. For a while we remembered that and we started to work on and import and get more gas mileage for our cars. But then what happened? The SUV situation, and now we find that we are back up to those gas guzzlers, once again.

So we have to say to ourselves, this is an opportune time when we can make some real policy decisions and put into play some very important solutions, possible solutions. People ask me all the time, well, what answer do you have, LORETTA, to importing oil from Iraq or from the Middle East or the OPEC countries? There are a lot of ways, and it does not just have to be that we have to go off to the Arctic circle and drill the last plain that we have that is not touched by humans. There are other ways to do this.

Let me give my colleagues an example. I am from southern California. We had an energy crisis about a couple of summers ago, about 18 months ago, blackouts in our production, our factories were being affected because we were not getting the electricity we needed; we had natural gas prices go high on us. Now, we now know that much of that was artificially created. But for the moment, while we were in the middle of all of that, we were asking ourselves, how are we going to solve this problem?

Well, the first thing is consumption. Why is it that we consume the way we do? And we offered incentives at the State level. As it is, I come from a large family. My dad always taught us to turn off the lights as we left the room and turn everything off, so I grew up that way, so our energy bill was low. But the Governor told us, if you conserve 20 percent more than what you normally use, you will get an incredible savings on your electricity bill. Let me tell my colleague, people rose to the occasion in California. We saw an incredible drop in the consumption of electricity. We learned that once again, things that we know, but we do not think about, that we should run our machines, our washers and dryers and dishwashers and stuff at night, rather than during the day when the regular business shift is using that power.

□ 2100

So that we do not have to create more power plants, nor nuclear power plants, divert more rivers, create more energy. We can actually use what we already have, as long as we use it efficiently.

California proved that we could do it. It was not a hardship. We were not killing ourselves to get that done. We understood that it was the right thing to do for the moment, and we could continue, and many people have. Many people have learned to live with less, if you will. We can do that in so many ways.

Why is it that every time that we set standards at the Federal level to require automobiles to get higher gas mileage, and we say it is going to be 7 years off, the companies need to work towards this, why is it that we reach the 7 years, and all of a sudden we need to change the law because nobody invested in that, nobody really did it? We could have done it. If they knew we were going to stick to our guns, they would do that; they would increase the efficiency of our automobiles.

Or we could just remember to put all our shopping trips in one haul. There are so many things that we could do; for instance, offering incentives. Do not punish people, but offer people, companies, incentives for new technologies, to invest more in new technologies for wind and solar and fuel cells. I will bet if we did that and we were real about it, if we put the money behind that, that we would find companies that would be willing to step up and use that and do it and find the solutions so that we would not be so dependent on foreign oil supplies, or even on the need to drill our own supplies that we know exist in some of the States that we have.

We have to build better vehicles. We have to light and heat our buildings more efficiently. I know that by doing that we could lower our dependence on fossil fuel oil, which is the real problem that exists here.

We have said for years that we are going to do it, but we have never stood behind that. We have never, as a Federal Government, as a policy of the people, said: be more efficient. Let us strengthen energy efficiency standards. Let us create incentives for a new generation of vehicles. Let us raise the fuel economy standards; and let us adopt a strong, renewable portfolio standard. If we do this, we will not be dependent on the Iraqs of the world.

I thank my colleague for bringing this to light. We need to discuss this more. We need to get the American people involved in deciding that they are part of the solution towards this dependence that we have on foreign countries because of the oil that they possess.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentlewoman's comments and her leadership.

I will always remember the visit we took last year with some of our colleagues to the Arctic National Wildlife Refuge, where we were camping on a plain amidst the caribou; where we had a chance to really sense the vastness of that area, to get a feel for what was at stake as we looked at other areas that had been developed and were continuing to be developed for oil production.

It was clear that this was one of America's jewels, and I have appreciated the gentlewoman's commitment in terms of going up there to see it firsthand and the gentlewoman's continued advocacy for a more rational and thoughtful energy policy.

Hopefully, working together, we can advance these causes here in Congress that will make a difference for America's energy security.

Ms. SANCHEZ. Mr. Speaker, I thank the gentleman. I just want to add, it is very important that we save that last frontier. I would like my nieces and nephews to be able to see a part of the North American continent that is the same as it was 100, 200, 600, 1,000 years ago. They deserve a chance to see a plain that is open, that is in its austere and pristine condition. That is a legacy that I think is important for us to protect, especially when we can do it through better efficiency and tightening down and understanding that we are part of our own problem.

Mr. BLUMENAUER. Mr. Speaker, I think the gentlewoman said it well, and I thank her for her participation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BACHUS (at the request of Mr. ARMEY) for noon today and the balance of the week on account of family reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. EDDIE BERNICE JOHNSON of Texas) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. KUCINICH, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mrs. DAVIS of California, for 5 minutes, today.

Mr. TIERNEY, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

(The following Members (at the request of Mrs. BIGGERT) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. PETERSON of Pennsylvania, for 5 minutes, today.

Mrs. BIGGERT, for 5 minutes, today.

Mr. GRUCCI, for 5 minutes, today.

ADJOURNMENT

Mr. BLUMENAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 5 minutes p.m.), the House adjourned until Thursday, September 26, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9346. A letter from the Under Secretary, Department of Defense, transmitting the Department's report on the Family Subsistence Supplemental Allowance program, pursuant to Public Law 105–85 section 655(a)(2) (111 Stat. 1805); to the Committee on Armed Services.

9347. A letter from the Under Secretary, Department of Defense, transmitting the Department's report entitled, "Report on Nuclear-Powered Submarine Force Structure," pursuant to Public Law 106–398; to the Committee on Armed Services.

9348. A letter from the Attorney-Advisor, Department of Transportation, transmitting the Department's final rule — Amendment of MARAD's Regulations Establishing and Administering Deposit Funds Authorized by Section 1109 of the Merchant Marine Act, 1936, as Amended [Docket No. MARAD-2002-12425] (RIN: 2133-AB47) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9349. A letter from the Secretary, Department of Education, transmitting the Department's report on Presidential Advisory Committee Recommendations; to the Committee on Education and the Workforce.

9350. A letter from the Trial Attorney, Department of Transportation, transmitting the Department's final rule — List of Nonconforming Vehicles Decided to be Eligible for Importation [Docket No. NHTSA-2002] (RIN: 2127-AI79) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9351. A letter from the Investment Manager, Treasury Division, Army and Air Force Exchange Service, transmitting a report on the Annual Federal Pension Plans, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform.

9352. A letter from the Secretary, Department of Transportation, transmitting the Secretary's Management Report on Management Decisions and Final Actions on Office of Inspector General Audit Recommendations for the period ending March 31, 2002, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform.

9353. A letter from the Deputy General Counsel, National Science Foundation, transmitting the Foundation's final rule — Antarctic Conservation Act of 1978, Civil Monetary Penalties — received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9354. A letter from the Acting Assistant Secretary of the Army, Department of Defense, transmitting a report in compliance with the Water Resources Development Act of 2000; to the Committee on Transportation and Infrastructure.

9355. A letter from the Acting Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Crazy Horse Campground, Colorado River, Lake Havasu, AZ [COTP San Diego 02-021] (RIN: 2115-AA97) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9356. A letter from the Acting Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Liferaft Servicing Intervals [USCG-2001-11118] (RIN: 2115-AG28) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9357. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; CFM International CFM56 Series Turbofan Engines [Docket No. 95-ANE-64-AD; Amendment 39-12876; AD 97-09-02R1] (RIN: 2121-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9358. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332C, L, L1, and Model SA330F, G, and J Helicopters [Docket No. 2001-SW-47-AD; Amendment 39-12880; AD 2002-18-06] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9359. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace, Coppertown, MT [Airspace Docket No. 01-ANM-08] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9360. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Using Agency for Restricted Area 2534 A & B, Vandenberg Air Force Base, CA [Docket No. FAA-2002-12302; Airspace Docket No. 02-AWP-05] (RIN: 2120-AA66) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9361. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Stillwater Municipal Airport, Stillwater, OK [Airspace Docket No. 2001-ASW-18] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9362. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Scott Field Airport, Mangum, OK [Airspace Docket No. 2002-ASW-1] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9363. A letter from the Administrator, Small Business Administration, transmitting the Annual Report on Minority Small Business and Capital Ownership Development for Fiscal Year 2001, pursuant to 15 U.S.C. 636(j)(16)(B); to the Committee on Small Business.

9364. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — New Markets Tax Credit [Notice 2002-64] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9365. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Obligations of States and Political Subdivisions [TD 9016] (RIN: 1545-AY71) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9366. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev Proc 2002-61) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9367. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev Rul 2002-61) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under Clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on Conference. Conference report on H.R. 2215. A bill to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes (Rept. 107-685). Ordered to be printed.

Mr. BURTON: Committee on Government Reform. H.R. 3340. A bill to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift savings Plan to be made by participants age 50 or over (Rept. 107-686). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. S. 487. An act to amend chapter 1 of title 17, United States Code, relating to the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of a single copy of such performances or displays is not an infringement, and for other purposes (Rept. 107-687). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 1811. A bill to provide permanent funding for the payment in lieu of taxes program, and for other purposes (Rept. 107-688). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2408. A bill to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands (Rept. 107-689). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3747. A bill to direct the Secretary of the Interior to conduct a study of the site commonly known as Eagledale Ferry Dock at Taylor Avenue in the State of Washington for potential inclusion in the National Park System (Rept. 107-690). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3896. A bill to repeal the reservation of mineral rights made by the United States when certain lands in Livingston Parish, Louisiana, were conveyed by Public Law 102-562 (Rept. 107-691). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4853. A bill to provide that land which is owned by the Seminole Tribe of Florida but which is not held in trust by the United States for the Tribe may be mortgaged, leased, or transferred by the Tribe without further approval by the United States; with amendments (Rept. 107-692). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4600. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; with an amendment (Rept. 107-693, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 4600. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; with an amendment (Rept. 107-693, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 550. Resolution providing for consideration of the joint resolution (H.J. Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes (Rept. 107-694). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 551. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 107-695). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 552. Resolution waiving points or order against the conference report to accompany the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes. (Rept. 107-696). Referred to the House Calendar.

Mr. REYNOLDS: Committee on Rules. House Resolution 553. Resolution providing for consideration of the bill (H.R. 4600) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery room (Rept. 107-697). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Mr. FILNER, Mr. GUTIERREZ, Ms. BROWN of Florida, Ms. CARSON of Indiana, and Mr. RODRIGUEZ):

H.R. 5454. A bill to amend title 38, United States Code, to provide for the annual placement of memorials honoring the service in the Armed Forces of veterans who, at the time of death, were homeless or indigent; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Alaska:

H.R. 5455. A bill to amend title 23, United States Code, relating to streamlining for highway and transit projects, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. UPTON:

H.R. 5456. A bill to direct the Secretary of Transportation to maintain flight restrictions over major sporting events and other major open assemblies of people; to the Committee on Transportation and Infrastructure.

By Mrs. BIGGERT (for herself, Mrs. MALONEY of New York, Mr. GILLMOR, Mr. WATT of North Carolina, Mr. SHAYS, Mrs. JONES of Ohio, Mr. MANZULLO, Mr. MASCARA, and Mr. FRANK):

H.R. 5457. A bill to amend the Gramm-Leach-Bliley Act to exempt attorneys from the privacy provisions of that Act; to the Committee on Financial Services.

By Mr. BILIRAKIS (for himself, Mr. BROWN of Ohio, Mr. YOUNG of Florida, Mr. LANGEVIN, Mr. HOUGHTON, and Mr. HOYER):

H.R. 5458. A bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BONIOR:

H.R. 5459. A bill to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community; to the Committee on Resources.

By Mr. CALVERT:

H.R. 5460. A bill to reauthorize and amend the Federal Water Project Recreation Act, and for other purposes; to the Committee on Resources.

By Mr. KINGSTON (for himself, Mr. LARSON of Connecticut, Mr. TOM DAVIS of Virginia, and Mr. LEWIS of Kentucky):

H.R. 5461. A bill to enhance homeland security by encouraging the development of regional comprehensive emergency preparedness and coordination plans; to the Committee on Transportation and Infrastructure.

By Mr. NETHERCUTT (for himself, Ms. DEGETTE, Mr. WELDON of Pennsylvania, and Mr. LAFALCE):

H.R. 5462. A bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy; to the Committee on Energy and Commerce.

By Mr. PETRI:

H.R. 5463. A bill to amend the Internal Revenue Code of 1986 to allow a dividends paid deduction; to the Committee on Ways and Means.

By Mr. PLATTS:

H.R. 5464. A bill to amend section 4531(c) of the Balanced Budget Act of 1997 to permit payment for ALS intercept services furnished in areas other than rural areas and other than through a volunteer ambulance service; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMBO (for himself, Ms. ESHOO, Mr. SHERMAN, Mr. DOOLEY of California, Mr. COX, Mr. ROHRABACHER, Mr. ISSA, Mr. DREIER, Ms. WATSON, Mr. OSE, Mr. HUNTER, Mr. ROYCE, Mrs. TAUSCHER, Mr. CONDIT, Mr. GARY G. MILLER of California, Mr. RADANOVICH, Mr. WAXMAN, Mr. BERMAN, Mr. MCKEON, Ms. HARMAN, Mr. LEWIS of California, Mr. DOOLITTLE, Mr. CALVERT, Ms. SÁNCHEZ, Ms. ROYBAL-ALLARD, Ms. WOOLSEY, Mrs. BONO, Mr. CUNNINGHAM, Mr. MATSUI, Mr. FARR of California, Mr. HORN, Mr. LANTOS, Mr. HERGER, and Mr. BECERRA):

H.R. 5465. A bill to designate the facility of the United States Postal Service located at 3131 Arch Airport Road in Stockton, California, as the "Norman Shumway Post Office Building"; to the Committee on Government Reform.

By Mr. REYNOLDS (for himself and Mr. DOOLITTLE):

H.R. 5466. A bill to amend the Internal Revenue Code of 1986 to simplify and reduce the capital gain rates for all taxpayers and to exclude from gross income 55 percent of the dividends received by individuals, and for other purposes; to the Committee on Ways and Means.

By Mr. SMITH of Michigan:

H.R. 5467. A bill to reauthorize the program of block grants to States for temporary assistance for needy families for 2 years; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina (for himself, Mr. JONES of North Carolina, Mr. KILDEE, and Mr. CARSON of Oklahoma):

H.R. 5468. A bill to provide for a Federal land exchange for the environmental, educational, and cultural benefit of the American public and the Eastern Band of Cherokee Indians, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Florida:

H.J. Res. 111. A joint resolution making continuing appropriations for the fiscal year 2003, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself and Mr. LANTOS):

H. Con. Res. 483. Concurrent resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1646; considered and agreed to.

By Mr. CASTLE (for himself and Mr. LAMPSON):

H. Con. Res. 484. Concurrent resolution expressing the sense of the Congress regarding personal safety for children, and for other purposes; to the Committee on Education and the Workforce.

By Mr. JONES of North Carolina:

H. Con. Res. 485. Concurrent resolution requesting the United States Government to take appropriate action to urge the Government of the People's Republic of China to provide for a fair resolution of the claims of United States citizens who hold Chinese Government bonds on which that Government has defaulted; to the Committee on International Relations.

By Mr. PLATTS (for himself and Mr. MCNULTY):

H. Con. Res. 486. Concurrent resolution expressing the sense of the Congress that there should be established a Pancreatic Cancer Awareness Month; to the Committee on Government Reform.

By Mr. RANGEL (for himself and Mr. GILMAN):

H. Con. Res. 487. Concurrent resolution authorizing the printing as a House document of a volume consisting of the transcripts of the ceremonial meeting of the House of Representatives and Senate in New York City on September 6, 2002, and a collection of statements by Members of the House of Representatives and Senate from the Congressional Record on the terrorist attacks of September 11, 2001; to the Committee on House Administration.

By Mrs. DAVIS of California:

H. Res. 554. A resolution honoring Paul Espinosa for an exceptional career in film and for contributing to a greater appreciation of Hispanic-Americans both past and present; to the Committee on Government Reform.

By Mr. GALLEGLY:

H. Res. 555. A resolution recognizing the continued importance of the trans-Atlantic relationship, promoting stronger relations with Europe by reaffirming the need for a continued and meaningful dialogue between the United States and Europe, and congratulating the Honorable Benjamin A. Gilman for his efforts to promote a strong trans-Atlantic dialogue; to the Committee on International Relations.

By Mr. PALLONE (for himself, Mr. LAMPSON, Ms. BROWN of Florida, Mr. FOLEY, Mr. FROST, Ms. KAPTUR, Mr. LEVIN, Ms. MILLENDER-MCDONALD, Mrs. MINK of Hawaii, Ms. ROYBAL-ALLARD, Mr. SCHIFF, Mr. WEXLER, Mr. WILSON of South Carolina, Mr. ROTHMAN, Ms. SCHAKOWSKY, Mr. TERRY, Mr. PAYNE, and Mr. ACEVEDO-VILÁ):

H. Res. 556. A resolution recognizing the "Code Adam" child safety program, commending retail business establishments that have implemented programs to protect children from abduction, and urging retail business establishments that have not implemented such program to consider doing so; to the Committee on Energy and Commerce.

By Mr. SHOWS:

H. Res. 557. A resolution expressing support for United States forestry, lumber, wood, paper, and allied product industries and encouraging protection of these industries against the unfair trade practices of the People's Republic of China; to the Committee on Ways and Means.

By Mr. SNYDER (for himself and Mr. BEREUTER):

H. Res. 558. A resolution congratulating the Russian Federation and the citizens of Volgograd on the 60th anniversary of the Russian victory at Stalingrad; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 122: Mr. POMBO.

H.R. 440: Mr. LOBIONDO.

H.R. 536: Mr. BISHOP.

H.R. 826: Ms. ROS-LEHTINEN and Mr. MCNULTY.

H.R. 896: Mr. ANDREWS.

H.R. 1186: Mr. PAUL.

H.R. 1232: Mr. LARSEN of Washington.

H.R. 1296: Mr. KELLER.

H.R. 1331: Mr. LATHAM.

H.R. 1353: Ms. MCCOLLUM.

H.R. 1368: Mr. CANNON.

H.R. 1433: Mr. SMITH of Washington.

H.R. 1555: Mr. MCNULTY.

H.R. 1808: Ms. SOLIS.

H.R. 1841: Ms. BALDWIN, Ms. VELÁZQUEZ, Mrs. CHRISTENSEN, Mr. ACKERMAN, Mr. MATSUI, Mr. SHAYS, Mr. WU, Ms. ESHOO, Mr. MCINTYRE, Mr. DINGELL, Ms. HOOLEY of Oregon, Mrs. TAUSCHER, Mr. LEWIS of Georgia, Mr. SCOTT, Mrs. MEEK of Florida, and Mr. DOOLEY of California.

H.R. 1996: Mr. PALLONE.

H.R. 2098: Mr. FOLEY.

H.R. 2117: Mr. SANDERS.

H.R. 2156: Mr. FROST.

H.R. 2290: Mr. WILSON of South Carolina.

H.R. 2373: Mr. SMITH of Michigan, Mr. SHADEGG, Mr. RYAN of Wisconsin, Mr. CHABOT, Mr. WILSON of South Carolina, Mr. BARTLETT of Maryland, Mr. HOSTETTLER, Mr. DEMINT, and Mr. JONES of North Carolina.

H.R. 2466: Mr. COMBEST.

H.R. 2483: Mr. ISTOOK and Mr. RAMSTAD.

H.R. 2570: Ms. NORTON, Mr. OWENS, and Mr. THOMPSON of Mississippi.

H.R. 2649: Mr. SHOWS, Mr. WAMP, Mr. DEAL of Georgia, Mr. BOEHNER, Mr. HERGER, Mr. DEUTSCH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. COBLE, Mr. GREEN of Wisconsin, Mr. ARMEY, Mr. DAVIS of Illinois, and Mr. POMBO.

H.R. 2874: Mr. LEWIS of Georgia.

H.R. 3109: Mrs. DAVIS of California and Mr. MCINNIS.

H.R. 3139: Mr. RODRIGUEZ.

H.R. 3246: Mr. POMEROY.

H.R. 3278: Mr. CAPUANO.

H.R. 3283: Ms. KAPTUR, Mr. SCHIFF, Mr. KUCINICH, Mr. BAIRD, Mr. ROTHMAN, Mr. GUTIERREZ, Mr. LYNCH, and Mrs. DAVIS of California.

H.R. 3321: Mr. KENNEDY of Rhode Island.

H.R. 3333: Mrs. JO ANN DAVIS of Virginia.

H.R. 3414: Mr. TAYLOR of Mississippi and Mr. BERRY.

H.R. 3450: Mr. TANNER, Mr. LOBIONDO, and Mr. REHBERG.

H.R. 3464: Ms. NORTON.

H.R. 3488: Mr. CROWLEY.

H.R. 3492: Mr. FROST.

H.R. 3681: Mr. SANDERS.

H.R. 3741: Mr. ACKERMAN.

H.R. 3794: Mr. WALSH, Mr. WOLF, and Mr. OBERSTAR.

H.R. 3831: Mr. EHRLICH and Mr. RILEY.

H.R. 3895: Mr. ROYCE and Mr. JEFF MILLER of Florida.

H.R. 4084: Ms. SCHAKOWSKY.

H.R. 4483: Mr. BALDACCI and Mr. HOSTETTLER.

H.R. 4575: Mr. EDWARDS.

H.R. 4582: Mr. GRAHAM.

H.R. 4600: Mr. McINNIS, Mr. TIAHRT, and Mr. SMITH of Michigan.

H.R. 4614: Mr. ABERCROMBIE.

H.R. 4701: Mr. HEFLEY.

H.R. 4706: Mr. ENGLISH.

H.R. 4763: Mrs. EMERSON, Mr. LANTOS, Mr. FATTAH, Ms. WOOLSEY, Mr. HALL of Texas, Mr. SOUDER, Mr. CLAY, Mr. WOLF, Mr. SIMMONS, and Mr. DAVIS of Illinois.

H.R. 4785: Mr. HEFLEY.

H.R. 4842: Mr. PAUL.

H.R. 4904: Ms. BERKLEY and Mrs. DAVIS of California.

H.R. 4963: Mr. WAXMAN, Mr. LANGEVIN, and Mr. TOOMEY.

H.R. 5016: Mr. WATTS of Oklahoma.

H.R. 5033: Mrs. JO ANN DAVIS of Virginia.

H.R. 5037: Mr. SANDERS.

H.R. 5047: Mrs. MALONEY of New York.

H.R. 5085: Mr. FRANK, Mr. SOUDER, Mr. CLEMENT, Mrs. DAVIS of California, Mr. BISHOP, Mr. SAXTON, and Mr. SAWYER.

H.R. 5119: Mr. NETHERCUTT.

H.R. 5166: Mr. REHBERG.

H.R. 5173: Mr. KOLBE and Mr. PLATTS.

H.R. 5191: Mr. GUTIERREZ.

H.R. 5250: Mr. RANGEL, Mr. DOYLE, Mr. NORWOOD, Ms. WOOLSEY, Mrs. KELLY, Mr. BROWN of South Carolina, Mr. LATOURETTE, and Mr. THUNE.

H.R. 5293: Ms. McCOLLUM, Ms. BROWN of Florida, Mrs. JONES of Ohio, Mr. NADLER, Mr. GONZALEZ, and Mr. RUSH.

H.R. 5316: Mr. OTTER and Mr. REHBERG.

H.R. 5317: Mr. SOUDER.

H.R. 5319: Mr. AKIN.

H.R. 5326: Mr. BAIRD.

H.R. 5381: Mr. NETHERCUTT.

H.R. 5414: Mr. RILEY.

H.R. 5432: Mrs. THURMAN.

H.R. 5445: Mr. OXLEY, Mr. KELLER, Mr. ANDREWS, and Mr. HOBSON.

H.R. 5446: Mr. COOKSEY.

H.R. 5449: Mr. PASTOR and Mr. BECERRA.

H.J. Res. 6: Mr. EVANS.

H.J. Res. 86: Mr. VITTER.

H.J. Res. 108: Mr. RILEY.

H.J. Res. 110: Mr. BISHOP, Mrs. MEEK of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. CHRISTENSEN, Mr. WYNN, Mr. CUMMINGS, and Mr. CLAY.

H. Con. Res. 333: Ms. SCHAKOWSKY.

H. Con. Res. 432: Mr. FARR of California.

H. Con. Res. 445: Ms. HART, Mr. WICKER, Mr. BACHUS, Mr. ARMEY, Mr. CANTOR, Mr. BARTLETT of Maryland, Mr. GOODLATTE, and Mr. JONES of North Carolina.

H. Con. Res. 447: Mr. CANTOR, Mrs. JONES of Ohio, Mr. STARK, Mr. MENENDEZ, Mr. SMITH of New Jersey, Mr. GUTIERREZ, Ms. WATERS, Mr. SCHAFFER, Mr. DICKS, Mr. GREENWOOD, and Mr. CONYERS.

H. Con. Res. 466: Mr. FROST.

H. Con. Res. 473: Mr. WATT of North Carolina.

H. Con. Res. 477: Mr. FLETCHER, Mr. NEAL of Massachusetts, and Mr. TERRY.

H. Con. Res. 480: Mr. GONZALEZ and Ms. SLAUGHTER.

H. Res. 454: Mr. SERRANO.

H. Res. 468: Mr. SMITH of Michigan and Ms. ROS-LEHTINEN.

H. Res. 484: Mr. PHELPS, Mr. SABO, and Mr. ANDREWS.

H. Res. 522: Mr. ISSA, Mr. BOSWELL, Mr. DOOLEY of California, and Mr. GUTIERREZ.

H. Res. 549: Ms. ROS-LEHTINEN, Mr. ENGLISH, Mr. KERNS,, Mr. BURTON of Indiana, and Mr. FOSSELLA.

EXTENSIONS OF REMARKS

TRIBUTE TO ROBERT H. CASTELLINI

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to Robert H. Castellini, a friend, community leader and accomplished businessperson who will have the honor of being inducted into the Greater Cincinnati and Northern Kentucky Business Hall of Fame on September 26, 2002. Bob is being honored for his outstanding business and community leadership.

Bob is a Cincinnati native. He graduated with a Bachelor of Arts from Georgetown University in Washington, D.C., in 1963, and went on to earn his M.B.A. from the University of Pennsylvania in 1967. After earning his M.B.A., he served in the U.S. Army for 2 years until 1969.

Bob's business successes come from his association with the produce firm, Castellini Company, where he started in 1966 as a Vice President. From 1970 to 1992 he was President and CEO of the company, and, from 1992 to the present, he has served as the company's Chairman of the Board of Directors. Under his leadership, the firm experienced significant growth, becoming one of the premier fresh produce distribution firms in the Midwest.

The Castellini Company is one of Cincinnati's oldest companies. It was founded in 1896 by Bob's grandfather, Joseph J. Castellini. Bob has been with the company for over 35 years, and his outstanding leadership and hard work are directly responsible for its continued success.

Bob also has been very active in our community. He serves on the board of directors of several Greater Cincinnati privately-held corporations. He also is a member of the Chief Executives Organization and the Cincinnati Business Committee in addition to serving on the Board of Trustees for the National Underground Railroad Freedom Center, Xavier University, the Good Samaritan Hospital, and the Cincinnati Art Museum. In addition, Bob has received a number of other honors and awards including the Distinguished Service Citation Award from the National Conference for Community and Justice; the People of Vision Award from Prevent Blindness of Southwest Ohio; and the Founders Award from Xavier University.

Bob also is a devoted family man. He and his wife, Susan, have four children and four grandchildren. All of us in the Cincinnati area congratulate him on his induction into the Greater Cincinnati and Northern Kentucky Business Hall of Fame.

HONORING DR. JEROME DOLAN

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Dr. Jerome Dolan for his contributions in the medical field and his outstanding service to his community. Dr. Dolan was awarded the Louis T. Scialli Memorial Award on September 17, 2002, at the United Way Kick-Off, which was held at the Crowne Plaza in Secaucus, New Jersey.

Born in Jersey City, Dr. Dolan graduated from St. Peter's College in 1944. He attended NYU College of Medicine after serving in the US Navy, and later joined the U.S. Army Medical Corp as a Korean War Combat Surgeon. Upon his return home, he completed his residency in Bellevue Hospital's Obstetrics, Gynecology and Pathology Department.

As an accomplished doctor, Dr. Dolan focused on the care and well being of others, and opened his own medical practice in 1955. He enjoyed a successful career in the medical field as he became Director of Ob/Gyn at St. Joseph's Medical Center in Paterson, NJ, before becoming the Medical Director of Margaret Hague Hospital in Jersey City.

Dr. Dolan is a member of the American Legion, Korean War Veterans Association, First Cavalry Division Association, Eighth Cavalry Regiment Medics 1950 Survivors Association and a member of the United Way of Hudson County Board of Directors since 1965.

The Louis T. Scialli Memorial Award is given in recognition of the spirit of community in the "gentlemen of Hudson County." This award also symbolizes the spirit of the United Way, "to increase the organized capacity of people to care for one another."

Dr. Dolan and his wife Marguerite May have four children, five grandchildren, and one great-grandchild.

Today, I ask my colleagues to join me in honoring Dr. Jerome Dolan for his many accomplishments in the medical field and his selfless contributions to our community.

A PROCLAMATION RECOGNIZING GEORGE ARNETT

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. NEY. Mr. Speaker, whereas, George Arnett is a professional truck driver for Roadway Express; and

Whereas, George Arnett has successfully driven one million miles without a preventable accident; and

Whereas, George Arnett should be commended for reaching this safety milestone; and

Whereas, George Arnett has demonstrated a steadfast commitment to the safety of our nation's highways;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating George Arnett for his outstanding accomplishment.

AMERICAN FRONTIERS: A PUBLIC LANDS LEGACY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. RADANOVICH. Mr. Speaker, America has an important shared legacy in its parks, forests and other public lands. They bring us close to the natural world and its wildlife; contribute to physical and mental health; add to our understanding of history and culture; and provide important economic opportunities to many communities across the West. Unfortunately, not enough people understand the multiple facets of America's public lands. As Chairman of the National Parks Subcommittee, I am happy to see a major effort being mounted to address this issue. "American Frontiers: A Public Lands Journey" is a 3,000-mile expedition currently being undertaken by two teams of adventurers. They are crossing only public lands and waters in six states, by foot, horseback, mountain bike, canoe, SUV and boat. Their two month journey will culminate in Salt Lake City on September 28, 2002, National Public Lands Day. Along the trail, they are sharing dispatches and individual journals relating their experiences and impressions of the public lands by videophone and through an interactive Internet website located at www.americanfrontiers.net. These communication efforts are especially directed at America's youth. I applaud the efforts of Public Lands Interpretive Association, which has spearheaded this project, along with the many dedicated individuals, volunteers, and sponsors of this impressive journey. I look forward to hearing more about their experiences in America's national parks.

TRIBUTE TO GEORGE A. SCHAEFER, JR.

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to George A. Schaefer, Jr., a distinguished constituent, a friend and an accomplished business leader who will be inducted into the Greater Cincinnati and Northern Kentucky Business Hall of Fame on September

26, 2002. George is being honored for his many successes at the helm of Fifth Third Bancorp and for his leadership in our community.

George was born in Cincinnati in 1945. He attended Elder High School, and went on to earn a Bachelor of Science in Engineering from the U.S. Military Academy, West Point, in 1967. In 1974, he graduated with an M.B.A. from Xavier University.

Following West Point, George proudly served our country in the U.S. Army. From 1967 to 1969, he was stationed in Europe, and, between 1969 and 1970, he served in Vietnam, where he earned a Bronze Star.

George will tell you that his experience at West Point and service in the Army prepared him well for the business world. He initially joined Fifth Third Bank as a management trainee in 1971, and, by 1990, he was the President and CEO of the bank. Since then, Fifth Third has routinely posted double digit growth rates. Under George's tenure, total revenues have grown from $393 million to $4.2 billion—an astonishing 1000 percent increase. Currently, Fifth Third is the 15th largest bank in the U.S., and among the top ten U.S. banks in market valuation. George is rightfully regarded as one of the top bankers in our nation.

George's other activities and civic commitments include: Chairman of the Board of the University of Cincinnati; the Children's Hospital Center Medical Center Executive Committee; the Greater Cincinnati Chamber of Commerce Executive Committee; and the Health Alliance of Greater Cincinnati Executive Committee. He has given of his time and energy to a number of other worthy organizations including: the Cincinnati Institute of Fine Arts; the Johnny Bench Scholarship Fund; the United Way; and the Taft Museum of Art.

With all of his great accomplishments, he's particularly proud of his marriage of 35 years to his wife, Betty, and their three children and four grandchildren. All of us in the Greater Cincinnati area congratulate George on his induction into the Greater Cincinnati and Northern Kentucky Business Hall of Fame, and wish him the very best on his current and future endeavors.

IN HONOR OF DENA MALLACH

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Dena Mallach for her outstanding service as Executive Director of the Jewish Family and Counseling Service (JFCS) of Jersey City, Bayonne, and Hoboken. Mrs. Mallach was awarded the 2002 Mary T. Norton Memorial Award on September 17, 2002, at the United Way Kick-Off, which was held at the Crowne Plaza in Secaucus, New Jersey.

Mrs. Mallach has devoted her life to the care of others. Her inspiring credentials include being trained a disaster mental health worker within the Red Cross system, her work in child protective and developmentally disabled youth services, on a crisis intervention team, and over fourteen years of experience at the JFCS, where she was appointed Executive Director in September, 2000.

Some of her most admirable feats have come at the darkest of times. She volunteered in the recovery efforts of countless local disasters, such as the deadly Seton Hall fire, and in numerous national emergencies, such as Hurricane George. And when her country needed her most, she worked tirelessly to help the families and colleagues of the victims of the terrorist attacks on America. In addition to personal care, she directed the opening of a branch office in Hoboken after 9/11 and brought aid and advocacy services to the distressed residents.

This award is given in recognition of the deep commitment to human services exemplified by Congresswoman Mary T. Norton. It recognizes women who have made outstanding contributions to the success of programs both in their community and throughout the nation.

Today, I ask my colleagues to join me in honoring Dena Mallach for her selfless dedication and volunteerism in her community and beyond.

HONORING DR. MICHAEL VINCIGUERRA

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. WELLER. Mr. Speaker, I rise today to honor Dr. Michael Vinciguerra, who will be inaugurated today as the 8th President of the University of St. Francis in Joliet, IL.

Dr. Vinciguerra comes to the University of St. Francis from the State University of New York (SUNY) at Farmingdale where he served since 1970 as professor, vice president for academic affairs, and provost. While at SUNY-Farmingdale, he led the effort to transform the college to a four-year institution as well as helping to create a campus Bioscience Park in collaboration with Cold Spring Harbor Laboratory and a leading biotechnology company, OSI Pharmaceutical. He also initiated a campus-wide outcomes assessment program; pursued continuous improvement in programs and upgraded fiscal enrollment management.

Experienced in Catholic Education, Dr. Vinciguerra is a graduate of Iona College in New Rochelle, NY with a degree in chemistry. He holds a master of science degree and Ph.D. in physical chemistry from Adelphi University. Michael and Grace recently relocated in Joliet, IL, and have one son, Michael, who is married to Darcy and one grandson, Christopher who lives in Spotsylvania, VA.

With his wealth of academic experience and his ability to work closely with the community, Dr. Vincinguerra is the right choice to lead the University of St. Francis community in its 2002–2003 Annual Theme of "A Time of Renewal, to reconnect, reaffirm, and rejuvenate the many qualities that make St. Francis unique."

Mr. Speaker, I ask this body to join me in welcoming Dr. Michael Vinciguerra as the President of the University of St. Francis.

A PROCLAMATION RECOGNIZING GERALD BENSON

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. NEY. Mr. Speaker, whereas, Gerald Benson became a citizen of the United States of America 25 years ago on November 8, 1977; and

Whereas, Gerald Benson showed his responsible citizenship by also voting on the same November 8, 1977; and

Whereas, Gerald Benson has demonstrated a commitment to his community of Cambridge, Ohio; and

Whereas, Gerald Benson has worked hard to become an American success story;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Gerald Benson on the 25th Anniversary of his being a United States of America Citizen.

TRIBUTE TO ROSS LOVE

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to Ross Love, a friend, community leader, and accomplished businessperson who will be inducted into the Greater Cincinnati and Northern Kentucky Business Hall of Fame on September 26, 2002. Ross is being honored for his outstanding business career, which includes leadership roles at the Procter & Gamble Company, Blue Chip Broadcasting, and Blue Chip Enterprises.

Ross was born and raised in Philadelphia, Pennsylvania, and graduated from Syracuse University in 1968 with a Bachelor of Arts. Shortly after earning his degree, Ross began a very successful career with Procter & Gamble, where he worked for 28 years in marketing and advertising. After running a number of the company's key brands, he was appointed Vice President of Advertising and oversaw the marketing of Procter & Gamble's products for 10 years.

In 1995, Ross founded Blue Chip Broadcasting, which initially included an investment in just one radio station. By the time he sold Blue Chip Broadcasting last year, he had grown the company into a 19-station group—the second largest African-American owned radio broadcasting company in the United States. Currently, Ross is the President and CEO of Blue Chip Enterprises, a company he founded in 2001. Blue Chip Enterprises has helped increase the number of African-American owned businesses in the Cincinnati region.

Even while achieving great business successes, Ross has been active in making our community and our country stronger. Nationally, he led the Partnership for a Drug-Free America in developing virtually all of its anti-drug messages targeted to the African-American community. Among his important local activities, he serves as Vice Chair of the Board of Trustees of the United Way of Greater Cincinnati, and as Co-Chair of Cincinnati Community Action Now (CAN).

Ross and his wife, Cheryl, have been married for over 30 years, and they have two children, Jonathan and Ayanna. All of us in the Cincinnati area congratulate Ross on his induction into the Greater Cincinnati and Northern Kentucky Business Hall of Fame, and wish him the very best with his current and future endeavors.

A BILL TO ENSURE THAT THE IRS ACCURATELY ACCOUNT FOR FICA TAXES PAID BY EMPLOYERS ON EMPLOYEE'S TIP INCOME

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HERGER. Mr. Speaker, I rise today with my colleague from Tennessee, Mr. TANNER, to introduce the Tip Tax Fairness Act, a bill to require the Internal Revenue Service (IRS) to accurately account for FICA taxes paid by employers on employee's tip income.

As we all know, many employees in the service sector of the business community earn a substantial portion of their income from tips. Recognizing this, Congress passed legislation years ago requiring employers and employees to pay FICA payroll taxes on tip income. This ensures that an employee's total earnings are reflected in their Social Security wage history, which determines the employee's Social Security benefits upon retirement.

In the IRS's effort to collect the FICA taxes they believe is owed on unreported tips, the agency has created an aggregate method for assessing employers which is inconsistent with congressional intent. Congress did not intend FICA taxes to be paid on an aggregate basis, because earnings subject to FICA taxes are intended to be credited to an employee's Social Security wage history.

Under current law, employees are required to report all of their tips to their employer. The employer is required to send this information to the IRS, along with the employer and employee share of the FICA taxes owed. If the IRS believes the amount of tip income reported is not accurate the agency will audit the employer, bill the employer using an aggregate estimate, and collect the employer's portion of the FICA taxes. However, the agency does not credit the employee's Social Security wage history. By not doing so, the agency is disregarding one of the reasons Congress required employers to pay FICA taxes on tips.

Furthermore, this lack of accounting on the part of the IRS, and the use of aggregate estimates, creates a dramatic shift in the burden of tax collection. Under this method, it is the employer who must determine if there was underrepomng of income, not the IRS, and the employer who must disprove an inaccurate assessment. Many service providers have expressed concerns that this shift in burden pits the employer against their own employees, effectively turning them into "tip police."

The bill Mr. TANNER and I are introducing today is a solution that we believe employees and employers can support. Simply stated, this legislation requires the IRS to ensure that assessments paid by employers, for FICA taxes owed on unreported tips, are credited to each affected employee's Social Security wage history. As such, this measure requires the IRS to use FICA taxes as Congress intended.

Mr. Speaker, I would like to thank all of our original cosponsors for supporting this worthy legislation.

HONORING THE LIFE OF CUNG PHAM AND HIS SERVICE TO ST. ANSELM'S CROSS-CULTURAL CENTER IN GARDEN GROVE

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Ms. SANCHEZ. Mr. Speaker, I rise today to honor the life of Cung Pham of Garden Grove, California.

Cung Pham served as the director of educational legislation and planning prior to the fall of the Republic of Vietnam 1975. After the country's collapse, he was detained in a concentration camp for seven years before escaping by boat in 1982 to spend time in a refugee camp in Thailand.

Mr. Pham eventually ended up in the Orange County community. Using his understanding of the refugee experience, Mr. Pham worked as the director of the refugee resettlement program at St. Anselm's Cross Cultural Center in Garden Grove. His great compassion and organizational skills helped make the program a model for the entire country, helping thousands of refugees become assimilated to American life. He helped them with paperwork, enrolled them in English classes, and trained them for job interviews.

Sadly, at the young age of 63, Mr. Pham lost his battle to cancer on September 14, 2002. He was known for his quiet and gentle ways and was greatly admired by those he helped and those with whom he worked.

RECOGNIZING THE JEWISH NATIONAL FUND

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize the Jewish National Fund which is celebrating its 100th anniversary on October 6, 2002. The Jewish National Fund (JNF) was established with the express purpose of bringing Jews from around the world together and make the Zionist dream of a Jewish state a reality.

JNF was formed at the Fifth Zionist Congress in order to motivate people from around the world to collect spare change in tin "Blue Boxes," to be used to purchase the land that would one day become the state of Israel. These Blue Boxes became a symbol of Zionism and they were distributed in Jewish communities everywhere, creating a bond that was felt by the Jewish community as a whole. Through this unity, the Zionist movement built the nation of Israel that continues to flourish and thrive.

In the spring of 1903, JNF acquired its first parcel of land of 800 acres in Hadera, Israel. Immediately, JNF focused on greening the land through the planting of trees. To date, JNF has planted over 210 million trees on 250,000 acres across Israel. JNF has grown with the country's changing needs by building infrastructure for essential new communities which accommodate Israel's growing population. The JNF is responsible for building access roads, providing employment for waves of new immigrants, and improving the quality of life for Israelis across the country.

Today JNF continues to be a major force in the development of Israel through water resource development, education, research and development, community development and tourism and recreation. These successes across such a wide range of activities have benefited the lives of countless Israeli citizens. The reach of JNF extends beyond Israel's boarders providing a link between Jews around the world with the Jewish state.

I congratulate the Jewish National Fund on its 100 years of service to the Zionist movement and the state of Israel and wish them many more years of continued success.

NATIONAL RADIOLOGIC TECHNOLOGY WEEK

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. DUNCAN. Mr. Speaker, I would like to recognize the contribution of medical imaging and radiation professionals to the care of Americans as we celebrate National Radiologic Technology Week (NRTW) November 3–9, 2002.

Many people are unaware of who radiologic technologists are or what they do. This week to honor those dedicated health care professionals was started in 1979 by the American Society of Radiologic Technologists (ASRT). The purpose for the week is to educate the public about the important contributions of medical imaging and radiation therapy professionals in providing quality patient care and a safer health care environment.

Radiologic technologists are the medical personnel who perform diagnostic imaging examinations and administer radiation therapy treatments. They are educated in anatomy, patient positioning, examination techniques, equipment protocols, radiation safety, radiation protection and patient care.

NRTW takes place annually and is celebrated across the Country at hospitals, clinics, imaging centers, educational institutions, corporations and affiliate organizations and at public events held at schools, health fairs, fund-raisers and other community locations. NRTW also commemorates the founding of the ASRT in October 1920. ASRT is the oldest and largest national, not-for-profit member association representing medical imaging and radiation therapy professionals, with a membership exceeding 100,000. Since 1920, ASRT has helped foster the professional growth and educational needs of radiologic technologists throughout the world. The Society represents individual practitioners, educators, students and managers/administrators in radiologic technology, radiation therapy, nuclear medicine and sonography.

I would like to congratulate and thank our Country's medical imaging and radiation therapy professionals for a job well done. It is an honor to commemorate and celebrate National Radiologic Technology Week.

CELEBRATING THE 75TH ANNIVERSARY OF HYDE PARK COMMUNITY UNITED METHODIST CHURCH

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to congratulate Hyde Park Community United Methodist Church on the 75th anniversary of its consecration.

The origins of the Church can be traced to 1879 when the Mount Lookout Methodist Episcopal Church was organized by fifteen Methodists who were meeting in area homes. In 1880, a wooden church was erected at the site of the current church on the corner of Observatory Road and Grace Avenue on land donated by John Kilgour.

Meanwhile, in 1907, another small group of congregants left the Mount Lookout M.E. and formed the Hyde Park Methodist Episcopal Church. They constructed a building at 2753 Erie Avenue, which was completed in 1915. Both churches continued to grow. After the Mount Lookout M.E. Church was damaged by termites and a tornado and the Hyde Park M.E. Church building experienced structural difficulties, Bishop Henderson urged the two churches to merge, and in 1922 the two became the Mt. Lookout Hyde Park United Methodist Episcopal Church.

In 1923, the pastor of the newly merged churches, Reverend Warren Dunham, articulated the vision of the community church, and encouraged the construction of a new building. The congregation moved quickly to construct a large and impressive Gothic structure that required substantial financial sacrifice by its members. The present building was dedicated on the site of the original Mount Lookout M.E. Church on September 25, 1927.

Since 1927, the Church has grown significantly, enlarging its buildings and adding to its membership. But its Invitation, dedicated on its founding, in 1927, remains unaltered, and as timeless today as then. It reads:

To all who mourn and need comfort
To all who are tired and need rest
To all who are friendless and want friendship
To all who are lonely and want companionship
To all who are homeless and want sheltering love
To all who pray, and all who do not, but ought
To all who sin and need a savior;
and to who-so-ever-will, this church opens wide its doors, and in the name of Jesus, our Lord, bids welcome!

The inclusive spirit of this Invitation is one reason Hyde Park Community United Methodist Church has been blessed by such growth and success over the years. The Church community is a shining example of the United Methodist Church's current nationwide inclusiveness campaign of "Open Hearts, Open Minds, Open Doors."

Over the years, the Church has had a proud tradition of not just serving the spiritual needs of the congregation, but also reaching out to help others. Consistent with the vision laid out in the 1920s, the Church has been active in the community. This includes the Hyde Park community, the Greater Cincinnati area and our greater national and world community through its ministries on Christian education, United Methodist Women, Spiritual Direction, affiliations with churches in other countries, and mission programs.

All of us in Greater Cincinnati congratulate the Church, its pastors, parishioners, and staff on the occasion of the Church's 75th anniversary. We also look forward to many more years of the Hyde Park Community United Methodist Church and its open Invitation and commitment to our community.

TRIBUTE TO MACK POWELL

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. MATSUI. Mr. Speaker, I rise in tribute to my friend Mack Powell. On August 8, the Sacramento real estate community lost one of its most beloved and dedicated leaders when Mack Powell passed away. As his family and friends gather to remember Mack's many outstanding achievements and contributions to his community, I ask all of my colleagues to join with me in saluting this truly remarkable citizen of Sacramento.

Born in Sardis Mississippi on September 20, 1920, Mack was orphaned at an early age and was raised in an orphanage. Mack would go on to serve his country by enlisting in the Army during World War II. After his stint in the Army, Mack moved to Texas in 1946. While in Texas, Mack was elected and served with great distinction as the Mayor of Pecos, Texas.

In hopes of securing a better future for himself, Mack moved to California in 1955. In time, Mack owned and operated a furniture store in Sacramento. It was also in Sacramento where Mack met his wife, Paula. Mack and Paula were happily married in 1967. In the following year, Mack made his initial entry into the real estate business. After obtaining his sales license and later his brokers license, Mack and Paul founded Suburban Properties, Inc.

By 1970, Mack had begun to get involved with the Sacramento Board of Realtors. During the course of his illustrious career, Mack would serve on over 100 committees between the national, state, and local Realtor associations. Locally, Mack served as the Sacramento Association of Realtors' President in 1986. On a statewide level, Mack was the California Association of Realtors Regional Vice President in 1986, and after much hard work, he was selected President of California Association of Realtors in 1991. It was also in 1991 that Mack was named the Realtor of the year for the Sacramento Association of Realtors and California Association of Realtors.

Mack also served as a Federal District Coordinator of the National Association of Realtors for my a Congressional district. It was simply a great joy and privilege to have had the opportunity to work with Mack over the years. Mack was a gentle man of unparalleled ethics who always had the best interests of the community and his industry in mind in all his endeavors. The citizens of Sacramento should be thankful that they could call Mack Powell one of their own.

Widely touted as one of Sacramento's most cherished and prominent citizens, Mack was the consummate community leader. While astute and active politically, he was both a civic leader and exemplary citizen who was trusted and respected across all political persuasions. His intellect, integrity, good cheer, energy, and compassion made him a natural gatherer of people. Mack always found time to help others, whatever their stations in life.

Mr. Speaker, as Mack Powell's family and friends pay tribute to his many wonderful achievements, I am honored to express my gratitude and respect for one of Sacramento's most outstanding citizens. His accomplishments are unparalleled, and it was truly a privilege for me to count him as one of my dearest friends. I ask all my colleagues to join me in acknowledging Mack's invaluable contributions to Sacramento.

IN HONOR OF LESLEY MOORE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Lesley Moore for twenty years of service to the Hudson County community and to Catholic Community Services. Ms. Moore was awarded the 2002 Mary T. Norton Memorial Award on September 17, 2002, at the United Way Kick-Off, which was held at the Crowne Plaza in Secaucus, New Jersey.

Lesley Moore has selflessly dedicated herself to a life of social service focused on the needs of others, including at-risk children and their families, the homeless, and people living with HIV.

Ms. Moore's leadership has been exemplified in her work as Children and Family Services Division Director, as well as her supervision of the Children and Family Services of Catholic Community Services. She has successfully expanded the abilities of these organizations to assist those most in need, and continues to administer the following programs: home-based services; an adoption agency; juvenile justice programs; school-based counseling; youth development, and youth mentoring.

Lesley Moore's hard work ethic and spirit of kindness is also found in her participation in a number of professional groups, such as: Hudson County Case Assessment Review Team;

Hudson County Children's Interagency Coordinating Council, Hudson County Coalition on Domestic Violence; Hudson County Coalition of Non-Profits; Hudson County HIV/AIDS Planning Council; Hudson County Human Services Advisory Commission; and Hudson County Youth Services Commission.

This award is given in recognition of the deep commitment to human services exemplified by Congresswoman Mary T. Norton. It recognizes women who have made outstanding contributions to the success of programs, both in their community and throughout the nation.

Today, I ask my colleagues to join me in honoring Lesley Moore for her critical role in helping to improve the lives of families and children in Hudson County.

INTRODUCTION OF SENIORS ACCESS TO HEALTH CARE ACT OF 2002

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. WELDON of Florida. Mr. Speaker, today I am introducing the Seniors Access to Health Care Act of 2002 in order to guarantee that senior citizens continue to have access to health care providers under the Medicare program. This bill includes most of the provisions of a bill (H.R. 4954) that was approved earlier this year to restore payments to health care providers, ensuring that they continue to see seniors.

I am introducing this bill, today because the Senate has failed to approve legislation establishing a prescription drug plan for seniors and a restoration of payments to providers. I am fully committed to enacting a prescription drug plan for senior citizens, but given the failure of Democrat Majority Leader TOM DASCHLE to secure Senate passage of a prescription drug bill, I believe it would be doubly harmful to seniors if we allowed additional provider cuts to go into effect. It is for this reason that I believe it is important that we at least ensure that these additional cuts are averted. We should plug this hole while we continue to work together to address the need for a prescription drug plan for seniors.

Last year physicians saw a 5 percent reduction in their reimbursement rates from Medicare. This year, without the changes proposed in my legislation, they will see another 5.7 percent reduction. This cut comes at a time when providers are facing an unprecedented rise in medical malpractice premiums, and a dramatic increase in the costs of health insurance premiums for their own employees. A second year of reductions in Medicare reimbursements will lead more providers to drop out of the Medicare program or to leave medical practice altogether. It is important for seniors that we not allow this to happen.

The other significant change from the House-passed bill is the removal of the requirement for nationwide competitive bidding in durable medical equipment. I believe additional work needs to be done in this arena to fully understand its impacts on savings and quality of care.

IN RECOGNITION OF BART'S 30TH ANNIVERSARY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to the San Francisco Bay Area Rapid Transit District, known as BART, as it celebrates its 30th anniversary this month. BART is the San Francisco Bay Area's premier mode of public transit and has carried nearly 2 billion passengers quickly and efficiently since it opened in 1972.

Established in 1957 by the California State Legislature to relieve the unbearable traffic congestion on Bay Area roads, the BART concept was popular with the public from the very beginning. BART service began on September 11, 1972, an event that signaled a renaissance in rail transit in the United States. It was the first new rail rapid transit system built in the U.S. in more than 60 years and the first fully automated transit system in the world. The American Public Works Association named BART one of the "Top Ten Public Works Projects of the 20th Century," an honor it shares with the Golden Gate Bridge, the Panama Canal, and the Hoover Dam.

The BART District includes the counties of Alameda, Contra Costa and San Francisco, with service to San Mateo County. On an average weekday, BART carries about 310,000 passengers. The system consists of 95 miles of double track and 39 stations. With nearly 3,500 employees throughout the system, a $420 million operating budget and $561 million capital budget, BART is an important part of the Bay Area's economy.

BART continues to grow and thrive. Four new stations and 8.7 additional miles of double track are set to open in early 2003 with service to the San Francisco International Airport and the Peninsula. BART will connect with Caltrain, a 77-mile commuter rail service, at the Millbrae station to create a 180-mile combined regional rail network. Continued regional transportation needs are spurring several BART extensions, now in the planning stages. These extensions would take BART to Warm Springs, to San Jose, to the Oakland International Airport, and possibly other heavily traveled corridors in the East Bay.

Mr. Speaker, BART has consistently provided safe, fast, and reliable transportation to Bay Area residents and visitors. BART has served the San Francisco Bay Area well for 30 years, and we look forward to an even more extensive and more efficient rail system 30 years from now. I urge my colleagues to join me in wishing BART a Happy 30th Birthday.

ARTICLE BY PROFESSOR DAVID YAMADA

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. McDERMOTT. Mr. Speaker, as Congress grapples with how to best create a Department of Homeland Security that will meet our nation's security needs, I'd like to include in the CONGRESSIONAL RECORD comments that Professor David Yamada made regarding this issue. Mr. Yamada is a co-founder of the Workers' Rights Committee of Americans for Democratic Action and a professor of law at Suffolk University Law School in Boston. I share many of Mr. Yamada's concerns.

(By Professor David Yamada)

In the hours and weeks that followed the September 11 attacks, thousands of unionized police officers and firefighters representing the diversity of America secured the damaged sites and sifted through the horrible destruction. Few events in American history have more strongly attested to the value of having dedicated public employees on the front lines of our civil defense network.

Nevertheless, the Bush Administration's proposed Homeland Security legislation threatens to make second class citizens of federal airport security workers who are hired to screen passengers and to inspect packages and baggage. If Congress approves the bill in its current form, newly hired airport screening personnel could be denied all basic labor protections. These include the rights to join a union, to negotiate over wages and working conditions, to be free from discrimination and harassment, and to be protected against retaliation for whistle blowing.

This very real possibility is rooted in a little-known loophole in the recently enacted Aviation and Transportation Security Act. The loophole allows the Department of Transportation, "notwithstanding any other provision of law," to "employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment" for all federal airport screening personnel. Read literally, this allows the DOT to fix summarily all terms of employment for airport security workers, without regard to any existing federal labor law protections.

The recently proposed Homeland Security bill would transfer the airport screening functions specified in the Aviation and Transportation Security Act to the new Department of Homeland Security. The bill further provides that the Secretary of Homeland Security will be granted all powers previously accorded to the federal agencies absorbed into the new Department. This means that the Secretary will inherit the same alarming carte blanche authority originally granted to the DOT to unconditionally mandate all terms of employment for airport security screeners.

This short, seemingly insignificant provision carries huge implications. First, it obviously means that thousands of new federal employees could be denied their basic labor rights at the whim of a single Cabinet member. In addition, it would send an unprecedented message that fundamental worker protections, by their very existence, are inconsistent with the goal of national security. Indeed, if airport baggage screeners can be required to give up these civil rights under the guise of national security, can police officers, firefighters, and even privately employed transportation workers be far behind?

Finally, stripping these employees of their labor protections would defeat the goal of hiring a skilled and motivated workforce for this important security function. Recall that one of the original concerns in light of September 11 was that, because airport screening workers were so poorly paid, the security companies had trouble attracting qualified personnel, and that many of these workers reported for duty exhausted from working other jobs to pay their bills. How many qualified, trustworthy individuals will apply for and remain in a job in which giving up virtually all basic legal protections is a condition of employment?

Hard-won legal protections for workers should not be sacrificed in the name of national security without valid, convincing reasons for doing so. In this case, the manner in which airport security workers have been put at risk of losing their rights smacks of an insidious attempt to "sneak one through" Congress, taking undue advantage of the public's understandable fears about the safety of air travel. Because the Aviation and Transportation Security Act already spells out in detail the necessary skill levels and security clearances for airport screeners, there is no principled reason also to require a wholesale removal of their labor safeguards.

Consideration of the Homeland Security bill now provides Congress with an opportunity to undo the hidden damage of the Aviation and Transportation Security Act. In the aftermath of September 11, President Bush stood in solidarity with police officers and firefighters at Ground Zero. Against a background of terrible tragedy, he symbolically affirmed the importance of rank-and-file public workers in American society. Hopefully the letter of the proposed Homeland Security law will be amended to reflect the spirit of that vital gesture.

RECOGNIZING THE CONTRIBUTIONS OF DR. JAMES WITHERS IN ADDRESSING THE HEALTH CARE NEEDS OF PITTSBURGH'S HOMELESS POPULATION

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. DOYLE. Mr. Speaker, I rise today to acknowledge the work of Dr. James Withers, the Director of Operation Safety Net in Pittsburgh, Pennsylvania. Dr. Withers recently received national recognition from the Robert Wood Johnson Foundation's Community Health Leadership Program. The prestigious award includes a $120,000 grant to provide additional funding for his program.

Dr. Withers, a Forest Hills internist and member of Mercy Hospital's medical and teaching staffs, founded Operation Safety Net to address the health care needs of Pittsburgh's homeless population. The program partners volunteer medical professionals and medical students with former homeless people to provide medical care to the city's unsheltered homeless.

Dr. Withers launched Operation Safety Net in 1993, after spending almost a year visiting Pittsburgh's streets dressed as a homeless person to learn about their health care needs. He and a friend walked down countless dark streets, alleys, and abandoned buildings to find people in need of medical care. He even carried his medical supplies in a backpack to ease their concerns.

Now, the 16 Operation Safety Net teams of volunteers, students and former homeless, do much the same, searching out those in need of care. Dr. Withers, or "Doc Jim" as he is known on the street, still walks with the teams several nights a week.

The project now provides care for about 900 patients annually—the majority are substance abusers and many suffer from mental illness.

In addition to helping Pittsburgh's unsheltered homeless population, Operation Safety Net also offers a valuable experience for the medical students and residents who participate as volunteers—giving them a hands-on lesson in caring for disadvantaged patients.

Mr. Speaker, I am honored to recognize Dr. James Withers for this national award and express my gratitude for his determination and leadership. His lesson reaches well beyond the medical students and residents who volunteer with Operation Safety Net. It carries a message for all of us.

Dr. Withers' nominator for the award put it best by saying, "Jim's advocacy, creativity, and leadership are tireless. He teaches all who are willing to listen, in Pittsburgh and beyond, that each of the homeless has a name and that each has a story."

CONGRATULATING THE CALIFORNIA ARMENIAN HOME

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate the California Armenian Home on the occasion of celebrating 50 years of dedication and service to the needs of the elderly people in the Armenian community on September 21, 2002. The California Armenian Home was established to provide housing for the aging population who could no longer live on their own.

In 1952, the California Home for the Armenian Aged opened with accommodations for 35 persons in downtown Fresno, California. Since its inception, the Home has evolved into a community of 168 residents and is considered to have one of the highest standards of senior care. The highly skilled nursing staff provides excellent care for assisted living.

The California Armenian Home was dedicated in honor of the K. Arakelian Foundation and the Armenian-American Citizens' League. Prior to the Home's grand opening, sponsorship of only eleven rooms in the Home had been assured, leaving twenty-four rooms without sponsorship. Mrs. K. Arakelian, a widow of one of the Home's founders, was concerned and decided to coordinate a "Grand Opening Shower." More than 600 persons attended the shower and brought gifts such as blankets, sheets, pillows, and cash donations to help complete furnishing the Home.

Mr. Speaker, it is my pleasure to congratulate the California Armenian Home of Fresno on the occasion of their 50th year anniversary. I urge my colleagues to join me in wishing the California Armenian Home many more years of continued success.

A GRAVE AND GATHERING DANGER

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HORN. Mr. Speaker, the House will soon take up the question of whether to authorize the President to use any necessary means, including military force, to require Iraq to abide by its agreements with the United Nations to destroy its stockpiles of chemical and biological weapons. There is of course no question that Saddam Hussein has repeatedly violated these agreements and that he continues to pursue the development of weapons of mass destruction. The only real question is whether Congress and the United Nations will enforce these international resolutions.

Mr. Speaker, I strongly support the President and I believe that it is important that we act promptly on this issue. The President made clear in his address to the General Assembly of the United Nations that there is a clear and compelling case for forcing Saddam Hussein to obey UN agreements or face real and immediate consequences. As we prepare to debate this issue, I urge my colleagues to review the President's remarks because I believe this speech not only could help avert a new Persian Gulf war but also could help restore credibility to a United Nations that has been drifting toward irrelevance.

I have been a strong and consistent supporter of the United Nations. I believe it is essential that we have a strong, credible and effective international forum where disputes can be debated and resolved without bloodshed, where problems that stretch beyond the boundaries and resources of any one nation can be tackled by the joint efforts of many countries and where those who flout the laws of civilized behavior not only face condemnation but international penalties with real bite.

In his speech, President Bush presented two challenges. One was to Saddam Hussein to abide by a series of UN resolutions over the past 12 years requiring him to halt production of weapons of mass destruction, to end internal political repression in Iraq and to abide by the terms of the ceasefire that ended the Gulf War. The other challenge was to the United Nations to enforce its own resolutions, if Saddam continues to murder and maim within Iraq while furiously working to complete his arsenal of chemical, biological and nuclear weapons.

By ordering Saddam to disarm and then failing to take any effective action to enforce those orders, the United Nations has endangered its own credibility. Since the 1991 ceasefire, the UN Security Council has issued 12 specific demands for Iraq to comply with requirements to eliminate weapons of mass destruction and other steps. Iraq has repeatedly and brazenly refused. As a result, UN weapons inspection teams left Iraq four years ago, ending any check on Saddam's growing arsenal.

President Bush made clear that this steady drift into danger will not be allowed to continue. Saddam has a well-documented history of invading neighboring nations like Iran and Kuwait, and using highly lethal concoctions of poison gas and nerve agents despite all prohibitions in international law and in civilized behavior. He also has a fully documented history of gassing entire villages of opposition groups within Iraq, as in 1988 when attacks against Kurdish villages killed hundreds of women and children.

The President puts it very simply: "The history, the logic and the facts lead to one conclusion: Saddam Hussein's regime is a grave and gathering danger. To suggest otherwise is to hope against the evidence. To assume this regime's good faith is to bet the lives of millions and the peace of the world in a reckless gamble, and this is a risk we must not take."

President Bush then posed two unavoidable questions that only the United Nations can now answer: "Are Security Council resolutions to be honored and enforced or cast aside without consequences? Will the United Nations serve the purpose of its founding or will it be irrelevant?"

The only adequate response to those questions is forceful and unequivocal action by the United Nations to require that Iraq immediately comply with the terms of the 1991 ceasefire and subsequent UN requirements, beginning with the complete elimination of weapons of mass destruction. These demands are not onerous or outrageous. They simply require that Iraq abide by the same standards of human decency that guide every civilized nation. To demand less would be to abandon millions of innocent people within Iraq and to endanger millions more throughout the rest of the world. It would also set the precedent that the malignant whims of a determined dictator can reduce the United Nations to a hollow debating society that cannot uphold the promise of world peace.

A war against Iraq by a renewed international coalition or by the United States alone would be a grave and sobering step with many risks and unknowns. We cannot and should not take such a step without full consideration by the United Nations and the Congress, as the President has promised. But the dangers of continued inaction, of endless dithering, are too frightening to ignore. We must act to support the President.

SARASOTA CONCERT BAND

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. DAVIS of Florida. Mr. Speaker, the victims of the September 11, 2001 attack on the United States of America were honored by a special performance of Charles Gabriele's "Ave Maria" presented by the Sarasota Concert Band, conducted by its director Maestro William Barbenera, at the band's September 2nd concert. Lorraine Murphy-Renfroe and Douglas Renfroe were the solo vocalists.

Members of the band who performed in the tribute were: Patricia Dominowski, Adrienne Clover, Kelly Hatin, Valerie McManus, Lindsey White, Tom Hughes, Kelly Jacobs, Jave Martin, Pan Winkle, Phil Hohman, Estella Lilly, Maria Herrera, Calvin Wright, Megan Jefferds, Harry Phillips, Lynn Miller, R.C. Summers, George McLain, Marc Levensen, Kristen Constantino, Liz Jefferds, Joe Martinez, Dick Thierry, Gerry Snyder, John Hietala, Dave Jacobs, Jacob Bradley, Robert Moore, Merril Wilson, Eric Vanzytveld, Andrea Hatin, Robert Thurston, Marvin Luckett, Charles Wilson, Bill Namack, John Haswell, Lara Fetzek, Chuck Evans, Laurita Noller, Pam Winkle, Robert Andrews, Jack Brokensha, Mike Dubi, Carolyn Gallmeyer, Fred Gallmeyer, Jeff Hanscom, Joe Hruby, Ann Jefferds, Marc Levensen, Faye Luckett, William Namack, Eddie Pawl, Bryson Sanders, Dianne Saunders, Michael Saunders, Paul Worrell, Lisa Barbanera, Kim Clark, Diane Jolly and Melissa Martinez.

Mr. Speaker, I ask that my colleagues join me in applauding this most commendable musical tribute to the victims.

IN HONOR OF JACQUELINE ELLAM AUTRY, RECIPIENT OF THE HONORARY CONGRESSIONAL HORIZON AWARD

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate Jacqueline Autry, who will receive the Honorary Congressional Horizon Award on September 27, 2002 at the Autry Museum of Western Heritage. The Honorary Congressional Horizon Award is presented annually to individuals who have personally contributed to expanding the opportunities for all Americans, and who have set an exceptional example for young people through their successes in life.

Success has always followed Jackie Autry. As a young woman in 1959, she started her career at Security First National Bank, working first as a switchboard operator, then as an Assistant Manager of Operations, and then Manager. At the young age of thirty-two, she was appointed to the position of Vice President, where she remained until July 17, 1981, when she married the American cowboy legend, Gene Autry.

Mrs. Autry has clearly demonstrated her selfless devotion to the community of Los Angeles. Her invaluable contributions to the community include serving as President of the Palm Springs chapter of the American Red Cross and serving as Treasurer and a member of the Board of Trustees of the Eisenhower Medical Center and Hospital. She has also served as President of Community Blood Bank of the Desert and currently serves as Director and President of the Autry Foundation.

Mrs. Autry also has the venerable distinction of being the only woman ever to serve on the Major League Baseball Executive Council and Board of Directors. She continues to serve the sporting community while acting as Honorary President of the American League of Major League Baseball.

Over the years, Mrs. Autry's remarkable breadth of involvement with the community has been a benefit and an inspiration to many. I am proud to honor the contributions of Mrs. Autry. It is through her accomplishments that we are inspired to believe in the power of each American to make a difference in our nation. In acknowledgement of her service, I ask all Members of Congress to join me in recognizing the achievements and contributions of Jacqueline Autry.

IDAHO PUBLIC LANDS

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. SIMPSON. Mr. Speaker, the people of Idaho are fortunate to have the incredible resources of the public lands for work and play. Our public lands provide forest, mineral, and grazing resources, as well as access to a wide variety of outdoor recreation pursuits. The beauty of Idaho's mountains and rivers draw thousands of tourists to our state, injecting millions of dollars into our state's economy and supporting thousands of small businesses. So it is fitting to draw attention to an expedition that recently passed through Idaho.

American Frontiers: A Public Lands Journey is drawing attention to America's public lands legacy through a two month, 3,000 mile journey entirely on public lands and waters. Two teams of adventurers, including teachers, a firefighter, a nurse, a reporter, and several outdoor enthusiasts began this trek on August 1, one team starting from the Canadian border, the other from the Mexican border. The two teams will join together on September 28, 2002 in Salt Lake City on National Public Lands Day. The northern group journeyed into Idaho while they were on the Continental Divide Trail, and hit the halfway point in their journey in the Targhee National Forest.

We all treasure the special moments spent in awe of the natural wonders around us, and stand to gain from a better understanding of America's public lands legacy. My thanks go to the Public Lands Interpretive Association and the many sponsors and partners organizing this special journey. I encourage you to read more about this incredible journey on America's public lands by visiting the interactive website www.americanfrontiers.net.

REPRESSION OF MINORITIES CONTINUES IN INDIA—SIKHS, MUSLIMS, CHRISTIANS CONTINUE TO BE TARGETED

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. BURTON of Indiana. Mr. Speaker, I am distressed about two recent articles that show the continuing repression of minorities in India. One article appeared in The Hindu, an Indian newspaper. It said that over 5,000 Muslims were killed in the violence this spring in Gujarat. Then the Times of India reported that a group of Indian police officers fired on a group of peaceful Sikh protestors. These articles show that minorities such as Sikhs, Christians, Muslims, and others continue to suffer the worst kind of repression in "democratic" India.

In Gujarat, the police were quoted as saying that they were ordered to stand aside and let the Muslims be killed. This was strangely reminiscent of the 1984 massacre of Sikhs in Delhi. It is part of India's pattern of repression of its minorities. Now, it comes out that peaceful Sikh protestors who were simply holding a peaceful protest against what they see as desecration of their gurus and their scriptures were fired upon by Indian police. What kind of a democracy fires on peaceful protestors engaged in peaceful action?

Christians continue to be oppressed as well. Churches have been burned, prayer halls have been attacked, nuns have been raped, and priests have been murdered. Militant Hindu nationalists burned a missionary and his two young sons to death while they slept in their jeep. A few years ago, police fired on a Christian religious festival that was peacefully promoting the theme "Jesus Is the Answer."

Mr. Speaker, it is time to stop U.S. aid to India. It is time to declare our support for self-determination for the Sikhs of Khalistan, the Muslims of Kashmir, the Christians of Nagaland, and all the peoples demanding their freedom from India. We cannot just stand by and allow India's repression to go on with our support. Self-determination is everyone's birthright. Freedom is everyone's birthright. It is time for America to follow our principles and support it.

The Council of Khalistan issued an excellent press release on the police firing at the peaceful demonstrators. I would like to insert that into the RECORD at this time. In addition, I would like to place the article from The Hindu into the RECORD to show my colleagues the ongoing repression of minorities in supposedly democratic India.

INDIAN POLICE FIRE AT PEACEFUL SIKH PROTESTORS

INDIA AGAIN SHOWS IT IS NOT A DEMOCRACY

WASHINGTON, DC, August 5, 2002.—The Times of India reported on August 1 that police in Malout fired on a crowd of peaceful protestors, injuring many of them. Several have been admitted to Civil Hospital, Malout. Eight protestors were arrested. The police used tear gas on the demonstrators. Two people suffered bullet wounds, according to the article.

The demonstrators were protesting against a so-called religious function organized by the Divya Jyoti Jagriti Sansthan which was aimed at undermining the Sikh religion and slandering the Sikh gurus, according to the Times of India.

"Like the attack on the Golden Temple, this incident shows that there is no place in India for Sikhs," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. Khalistan is the Sikh homeland declared independent on October 7, 1987. "The Indian government is dedicated to wiping out the Sikh religion," he said. "Nations that do not have political power perish. The only way to ensure that the Sikh religion can survive is to liberate Khalistan as soon as possible," he said.

"This attack shows that India is not a democracy, despite its pretensions," said Dr. Aulakh. "Democracies don't attack minorities and minority religions. Democracies don't commit genocide."

Indian security forces have murdered over 250,000 Sikhs since 1984, according to figures compiled by the Punjab State Magistracy and human-rights organizations. These figures were published in the book "The Politics of Genocide" by Inderjit Singh Jaijee. India has also killed over 200,000 Christians in Nagaland since 1947, over 80,000 Kashmiris since 1988, and tens of thousands of other minorities.

A report issued last year by the Movement Against State Repression (MASR) shows that India admitted that it held 52,268 political prisoners under the repressive "Terrorist and Disruptive Activities Act" (TADA) even though it expired in 1995. Many have been in illegal custody since 1984. There has been no list published of those who were acquitted under TADA and those who are still rotting in Indian jails. Additionally, according to Amnesty International, there are tens of thousands of other minorities being held as political prisoners. On February 28, 42 Members of the U.S. Congress from both parties wrote to President Bush to urge him to work for the release of Sikh political prisoners. The MASR report quotes the Punjab Civil Magistracy as writing "if we add up the figures of the last few years the number of innocent persons killed would run into lakhs [lsqb]hundreds of thousands.[rsqb]"

In November 1994, the Indian newspaper Hitavada reported that the Indian government paid the late governor of Punjab, Surendra Nath, $1.5 billion to organize and support covert terrorist activity in Punjab, Khalistan, and in neighboring Kashmir. The book "Soft Target", written by Canadian journalists Brian McAndrew and Zuhair Kashmeri, shows that the Indian government blew up its own airliner in 1985 to blame Sikhs and justify further repression. It quotes an agent of the Canadian Security Investigation Service (CSIS) as saying, "If you really want to clear up the incidents quickly, take vans down to the Indian High Commission and the consulates in Toronto and Vancouver. We know it and they know it that they are involved." On January 2, the Washington Times reported that India sponsors cross-border terrorism in the Pakistani province of Sindh.

Christians have been victims of a campaign of terror that has been going on since Christmas 1998. Churches have been burned, Christian schools and prayer halls have been attacked, nuns have been raped, and priests have been killed. Missionary Graham Staines and his two sons were burned alive while they slept in their jeep by militant Hindu members of the RSS, the parent organization of the ruling BJP. Earlier this year, over 5,000 Muslims were murdered by Hindus in Gujarat, according to The Hindu. These attacks were planned by the government, according to human-rights organizations, and news reports quoted a police officer as saying they had orders not to intervene to stop the violence.

"India's efforts to eliminate the Sikh religion are doomed to fail," Dr. Aulakh said. "This terrible act of police brutality shows that India is neither secular nor democratic, and it is time to launch a Shantmai Morcha to liberate our homeland, Khalistan, so that the Sikh Nation can finally enjoy the glow of freedom that was promised to us in 1947. Sovereignty is our birthright, and self-determination is the cornerstone of democracy. It is time for self-determination for all the peoples of South Asia."

[lsqb]From the Hindu, April 16, 2002[rsqb]

GUJARAT RIOT TOLL COULD BE UP TO 5,000

JAIPUR, April 15.—Various social and political groups and human rights organizations, which held a public meeting here over the week-end to protest against the recent violence in Gujarat, demanded removal of the Narendra Modi Government and spoke out against the move to hold elections to the State Assembly prior to the return of normalcy.

The meeting addressed by K.S. Subramanyam, former Director-General of Police, Tripura; Magsaysay Award winner, Aruna Roy; noted economist, Prabhat Patnaik; Renuka Khanna, PUCL Activist from Baroda in Gujarat and others, asked for immediate steps to restore people's faith in the system in the riot-ravaged Gujarat.

Presenting the report of a delegation comprising prominent citizens who toured the affected areas of Gujarat, Mr. Subramanyam, who was a member of the delegation, said the police in Gujarat had extended a helping hand to the rioters on the instructions of the Chief Minister, Narendra Modi.

The official records speak of over 700 casualties in Gujarat riots but they had learnt that the number of those killed could be between 2,000 and 5,000, he observed. "Senior administrative as well as police officers confided with us that in a meeting with the officials called on the eve of the VHP-announced bandh of February 28, Mr. Modi had asked them to honour Hindu sentiments". This directive made the officers passive spectators to what went on in Gujarat on the day of bandh and thereafter, Mr. Subramanyam said.

He also said the delegation could see that the Godhra carnage itself was not the result of any pre-planned strategy but the outcome of a tussle between the Kar Sevaks in the train and the people living in the slum clusters near the railway station. Ms. Renuka Khanna said the police colluding with the rioters to wreak havoc with the lives and property of the minority community, would only lead to the birth of terrorism.

Ms. Aruna Roy said it was for villagers to preserve the pluralistic culture of India's rural areas and stop trouble-makers from disturbing the social fabric.

Prof. Patnaik traced the roots of the social and communal unrest to the growing unemployment and poverty in the wake of globalisation.

The meeting, which held the Gujarat Government, its police and administration fully responsible for the killings in that State, also found them guilty of discriminating against the victims and their families later, as well by denying them relief and compensation. By giving a clean chit to Mr. Modi, the National Democratic Alliance Government at the Centre too shared the guilt of the genocide in Gujarat, the meeting noted.

TRIBUTE TO JIM AMOS FOR YEARS OF SERVICE

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. CUNNINGHAM. Mr. Speaker, I rise today to recognize Jim Amos for his contributions to the San Diego community. Jim retired this month as President and CEO of Mail Boxes Etc., Inc., which is headquartered in my district.

Jim's professional accomplishments are indeed laudable. What I want to recognize today, however, is the mark Jim has left on San Diego through his commitment to philanthropy.

In 1998, Jim founded the MBE We Deliver Dreams Foundation, a non-profit organization committed to improving the lives of children who are victims of abuse, neglect, poverty, violence or illness.

The MBE Foundation has grown rapidly since its founding, and in that time has delivered numerous dreams to children throughout the world. I am particularly grateful for the Foundation's Community Care Fund; a separate fund dedicated to making dreams come true for San Diego youth.

Jim may be departing the San Diego community, but he is leaving an indelible impression upon it, and for that I thank him. I urge my colleagues to join me in recognizing Jim's commitment to charity and his success with the MBE Foundation, both of which serve as examples to us all.

IN RECOGNITION OF JEFF LUDWIG, SENIOR VICE PRESIDENT OF NAI MICHAEL COS.

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HOYER. Mr. Speaker, I rise today to give recognition to Mr. Jeff Ludwig, senior vice president of Nai Michael Cos. As a result of his personal initiative to become a community emergency response team member, Mr. Ludwig was able to assist the community of La Plata, Maryland in constructing a new Town Center after it was hit by a powerful tornado in April 2002. After President Bush's State of the Union Address in January, Mr. Ludwig responded to the President's call to volunteerism by signing up for the Citizen Corps to become a member of the new emergency response group. He took advantage of online training manuals and completed his course, despite the fact that the Homeland Security Program had not yet begun to train citizen volunteers. This motivation prepared him to assist his community on April 28. It also makes him one of the first citizens corps community emergency response team leaders to take actions in the Nation's history.

When the tornado struck La Plata, Mr. Ludwig teamed up with the Facchina Group to create a plan to build a temporary Town Center. Not only did he help initiate this plan, he put in 18 hour days on the construction site, attacking problems, maintaining worker morale, and even buying dinner for the crew. The project was completed in eight days under his strong leadership. Mr. Ludwig's volunteerism is a strong symbol of the impact dedicated Americans can have on their communities in times of crisis.

Mr. Speaker, and colleagues, please join me in thanking Jeff Ludwig for his commitment to his community and congratulating him on his tremendous successes.

TRIBUTE TO ROBERT J. SPAZZARINI OF HUNTSVILLE, ALABAMA

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. CRAMER. Mr. Speaker, I rise today to recognize Mr. Robert J. Spazzarini of Huntsville, Alabama as he celebrates his retirement from thirty six years in the Legal Office of the United States Army Aviation and Missile Command at Redstone Arsenal, Alabama.

Robert Spazzarini first came to Redstone Arsenal in 1966 as a contract attorney. He served in various positions in this office and was appointed to the Senior Executive Service and named Chief Counsel in February 1997. He has a reputation of providing excellent legal services, which were demonstrated when he successfully led the consolidation of two legal offices into one AMCOM after the 1995 Base Realignment and Closure.

Mr. Spazzarini has been the recipient of numerous awards for his outstanding service to AMCOM including being named a Fellow, National Institute of Public Affairs. He was the first recipient of the Francis J. Buckley Managerial Award presented annually by the Command Counsel, U.S. Army Materiel Command. In addition to these specific awards, Mr. Spazzarini has been honored with the respect of his staff, peers, and the Command's leadership due to his expertise, professionalism, and high standards of leadership.

Though the people at Redstone Arsenal and in the Huntsville community will miss Mr. Spazzarini's exceptional legal services, I join his colleagues, family and friends today in wishing him the best in retirement and a well-deserved rest.

IN MEMORIUM OF BOB HAYES,

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Ms. BROWN of Florida. Mr. Speaker, it is with sorrow that I announce the passing of my friend, Bob Hayes, at the age of 59.

"Bullet" Bob, a Jacksonville native, was known as the world's fastest man for his efforts in the 1964 Tokyo Olympics. In addition to winning the gold medal in the hundred-meter race, tying the world-record of 10.05 seconds, he also anchored the 400-meter relay team to victory with a time of 8.6. Not a bad day's work for the then Florida A&M junior.

For many athletes, the Olympics would be the culmination of an athletic career, but Hayes, switching sports to football and recruited by the Cowboys (after finishing up with the Rattlers), went on to redefine how football is played. In his rookie year, Bullet had 1,003 yards and 12 touchdowns, and his speed forced opposing teams to come up with zone defenses now common in pro play.

In 1972, when Dallas won the Super Bowl, Hayes became the only athlete to earn a Super Bowl ring and an Olympic gold medal. He retired in 1975 having made 9 consecutive playoff appearances, 3 Pro Bowl showings, two Super Bowl appearances, and earning a Cowboys receiving record of 371 catches for 7,414 yards with 71 touchdowns.

Hayes did not forget his roots, and returned home to Jacksonville. He remained active in the Bob Hayes Invitational Track and Field Meet, now in its 38th year. At the Bob Hayes Invitational in Jacksonville, 3500 high school and middle school athletes gain experience in competing on a national level against world class competition. He also attended as many Florida A&M games as he possibly could.

Just last year Hayes was the 11th inductee to the prestigious Dallas Cowboys' Ring of Honor. And, earlier this year, he received the Lifetime Achievement Award at the Seventh Annual Florida Sports Awards.

Bob "Bullet" Hayes died last Wednesday. He is survived by his mother, a brother and a sister, and five children.

I also submit the following article from the September 20th issue of the Gainesville Sun into the RECORD.

[lsqb]From the Gainesville Sun, Sept. 20, 2002[rsqb]

JACKSON REMEMBERS HAYES

Bob Hayes' speed made a difference for blacks during the tumultuous 1960s, the Rev. Jesse Jackson said Thursday.

"He was such a lift for our generation," said Jackson, who played football against Hayes and the powerful Florida A&M teams of the early 1960s. "He was the best in the whole world at what he did."

Jackson's North Carolina A&T team was just one of many schools routed on an annual basis by Hayes and the Rattlers.

"You couldn't catch him. No one could," he said. "The fact is nobody could catch Bob Hayes in the whole world."

HONORING THE ACCOMPLISHMENTS OF MARC NATHANSON AS CHAIRMAN OF THE BROADCASTING BOARD OF GOVERNORS

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. RICHARD A. GEPHARDT

OF MISSOURI

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. BERMAN. Mr. Speaker, on the occasion of his retirement from the Broadcasting Board of Governors, it is a pleasure to recognize Marc Nathanson, who was named to the Board in 1995 and has served as its Chairman since 1999. Marc is a very dear friend to us; a person of the highest integrity and intelligence and it is with considerable pride that we share with our colleagues some of the many challenges he faced during his tenure and the outstanding manner in which he has served.

Marc led the BBG through its transition to independence in the Fall of 1999, ensuring the appropriate distribution of resources and authorities as the responsibilities of the U.S. Information Agency were divided between the new broadcasting entity and the State Department.

He set the standard for cooperative relationships between the State Department and the White House in a manner that protected the journalistic independence of the broadcasters, yet supported the new agency's ability to carry out its mission to present the policies of the United States clearly and effectively.

Marc chaired the Board during strong tests of its legislated role as a firewall—both in ensuring that the broadcast entities acted according to strong journalistic standards and principles, and ensuring that the broadcasters were protected from unwarranted interference from the State Department.

He led the Board through periods of foreign policy crisis, where the BBG's ability to surge its broadcasting to meet foreign policy priorities was severely tested. For example, during the crisis in the Balkans, the BBG established the "Ring Around Serbia"—a series of transmitters quickly established to allow the people of the region to have accurate news and information about the war around them, and of the crimes being committed against civilian populations. The success of this effort was evident when Radio Free Europe/Radio Liberty was named the most popular radio station in the region at the height of the crisis.

He faced the challenge of terrorism, and ensured that the BBG was a strong part of the war on terrorism as the agency's broadcasts surged in the Dari and Pashto languages to Afghanistan and other parts of the Middle East and South Asia.

Marc challenged the agency to confront the need for new broadcast activities in this region where news and information is either government controlled or unavailable. He chaired the Board as it created the agency's new Middle East Radio Network ("Radio Sawa"), putting U.S. international broadcasting high in the ratings among young Arab audiences throughout the Middle East.

He helped lead the agency into the 21st Century by stressing the use of new technologies and the need to provide programming targeted at key audiences. He emphasized the need for more effective research, both to evaluate current programming and to lay the foundation for new programming, allowing the agency to more efficiently use its limited resources.

He shared a vision with other BBG members for enhanced television programming worldwide—and especially to Islamic audiences—encouraging the consideration of opportunities for television broadcasting to the Middle East.

Mr. Speaker, we invite our colleagues to join us in congratulating Marc Nathanson for his many accomplishments as head of the Broadcasting Board of Governors and to thank him for giving so freely of his time and expertise to help deliver America's message abroad.

PROJECT ROFEH RECOGNIZES LEADERS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. FRANK. Mr. Speaker, for several years I have had the very distinct honor of sharing with our colleagues information about the important charitable work done by ROFEH International and the New England Chassidic Center. Under the leadership of Grand Rabbi Levi Y. Horowitz, the New England Chassidic Center and ROFEH International do an excellent job of helping people take full advantage of the wonderful medical facilities we have in Boston. Through their efforts, families are able to come to Boston when members of those families need medical care, and find their needs tended to so that they can focus on the important job of being supportive of that individual in need of medical care. I am very proud that this innovative program that does so much for people at a time of their-greatest need is headquartered in the district I am privileged to represent, and I am pleased to put here into the RECORD of our proceedings a list of those individuals who are receiving awards from ROFEH at a November 10 dinner, in the hopes that this will inspire people elsewhere in the country to emulate this creative work.

Mr. Speaker, here is the list of the award winners and a brief description of their efforts which does not do full justice to them, but does give some indication of how important they have been to ROFEH's vital work.

Dr. Eugene Braunwald is the Distinguished Hersey Professor of Medicine at Harvard Medical School, Faculty Dean and Chief Academic Officer of the Partners HealthCare System founded by the Brigham and Women's and Massachusetts General Hospitals. He is the only cardiologist who is a member of the National Academy of Sciences. In 2000 the living Nobel Prize winners in medicine voted Dr. Braunwald as "the person who has contributed the most to cardiology in recent years". The doctor is a Holocaust survivor. Dr. Eugene Braunwald, will receive the coveted "Lillian and Harry Andler Memorial Award".

Mr. and Mrs. Joseph Gann in recognition of their devotion to ROFEH International will have the newly renovated ROFEH International facility named in their honor, "The Joseph and Rae Gann ROFEH International Residence Facility". Mr. and Mrs. Gann have been affiliated with the Bostoner Rebbe, Grand Rabbi Levi Y. Horowitz for over 50 years and they continue to be strong supporters of ROFEH International.

Others to be bestowed with special laudatory communal awards are Mr. Irwin Chafetz and Mr. A. Joseph Stern.

Mr. Irwin Chafetz is the director of Interface Group-Massachusetts, Inc., a privately held company that owns and operates GWV International.

He has been instrumental in the development of ROFEH International and the renovation of its residential facility for the benefit of the families and the desperately ill, who come to Boston for medical help.

Mr. Chafetz received a Boston University Distinguished Alumni Award in 2000, and was honored by the Massachusetts Anti-Defamation League in 2001. He is a member of the executive board of the American Israel Public Affairs Committee (AIPAC) and is an active participant at Chabad House of Lexington.

Mr. Chafetz grew up in Dorchester, Massachusetts. He lives in Brookline with Roberta his wife. They have two sons and four grandchildren.

Mr. A. Joseph Stern is a developer of residential and commercial construction. Mr. Stern's list of accomplishments as a builder of community needs is truly impressive. Despite his busy schedule, he has devoted and continues to devote substantial amounts of time, effort and material resources to a host of worthy causes.

Mr. Stern has a long family connection with the Bostoner Rebbe, Shlita. Recently he has been most helpful in the Rebbe's effort to reconstruct the ROFEH International building, making it possible to house the desperately ill and their families.

Mr. Stern continues to live up to his reputation as a builder of Torah and Chesed. He credits his accomplishments to the traditions handed down by his parents and grandparents.

Mr. Irwin Chafetz and Mrs. A. Joseph Stern will be presented with the ROFEH International Master Builders Award.

TRIBUTE TO WALLY LAIRD

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to commend one of Northwest Indiana's most distinguished citizens, Wally Laird, of Rensselaer, Indiana. On Friday, September 27, 2002, he will be honored for his exemplary and dedicated service to our community. Wally's praiseworthy efforts will be recognized at a special Rensselaer/Remington Area Chamber of Commerce dinner, as an endowment for a scholarship has been established in his name.

The scholarship, the Wally Laird Youth Service Award, was created to honor a high school student who shows similar qualities to Mr. Laird. These qualities include dedication to community causes and commitment to education, as well as possessing the willingness to share the knowledge he or she gains with others. This banquet and scholarship is in honor of Wally Laird's service as well as his demonstrated commitment to improving the communities of Northwest Indiana.

Wally Laird, a longtime resident of Rensselaer, graduated from Rensselaer High School in 1950 and went on to Purdue University to earn his bachelor's and master's degrees in agricultural economics. A local farmer and entrepreneur, Wally Laird is most widely known by radio-listeners as the host of WRIN/WLGI's "Farm World." Aside from farming and his radio work, Wally is an active Rotarian and gives much of his time to the Carnegie Players theater group. Additionally, he has been working, with others in the agricultural community to bring an ethanol-producing facility to Jasper County, Indiana.

The featured speaker at this dinner will be WGN Radio personality Max Armstrong. Armstrong is one of America's best-known and widely followed agriculture journalists. His daily broadcasts, with colleague Orion Samuelson. have been heard by millions of Americans across the United States for nearly 25 years. Armstrong has spent the past two decades delivering the news about agriculture to his vast farming audience, as well as the nonfarm consumers in the Chicago area. Armstrong has been the recipient of numerous awards of excellence in journalism.

Mr. Speaker, I ask you and my other distinguished colleagues to join me commending Wally Laird for his outstanding service to Rensselaer and neighboring Northwest Indiana communities. His family and friends should be proud of his efforts, as his leadership has served as a beacon of hope throughout the area. Wally Laird's longstanding commitment to improving the quality of life for the people of Northwest Indiana is truly inspirational and should be recognized and commended.

TRIBUTE TO THE REVEREND DR. DAVID PAUL NEELY

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor and congratulate The Reverend Dr. David Paul Neely, Sr., Pastor of Greater Harvest Baptist Church, on the celebration of the anniversary of his 64 years in the ministry commemorating on September 27, 2002. After serving a number of churches throughout the country, Rev. Neely founded the Greater Harvest Baptist Church in 1968. For over 33 years he has Preached the Gospel from the pulpit of this house of worship located in my Congressional District.

The Reverend Dr. D. P. Neely was born on May 10, 1922 in Smyrna, South Carolina, to the late Reverend Dr. C. S. Neely and Dora Sanders-Neely. He was the fourteenth of sixteen children and received his primary education in the Smyrna, South Carolina public school system. He completed his secondary education at the Jefferson High School in York, South Carolina. At the age of sixteen, Rev. Neely was called to preach the gospel and was ordained six months later by the late Reverend Dr. H. Gray. as Reverend Dr. Neely continued to grow in Christianity, he enrolled in the Hanover Theological Seminary and later in the Martha's Vineyard Theological Seminary. He is the recipient of two Doctor of Divinity Degrees received in 1950 and 1997 respectively.

Reverend Neely is one of four family members to be ordained to minister, preach, and teach the Word of God. They include his father the Reverend Dr. C.S. Neely, his brother The Reverend J. O. Neely, both of whom are deceased, and his youngest son, the Reverend S. D. Neely, Sr., currently Pastor of the Enon Baptist Church of Philadelphia.

In 1941 Reverend Neely enlisted in the United States Air Force. He received an Honorable Discharge in 1946. As before, during and after his military service, Reverend Neely continued to preach the Word of God and maintain his profession as a Barber. In 1955 Reverend Neely moved to Philadelphia, Pennsylvania and joined the Oakgrove Baptist Church. He later met and married Ms. Cleveland Ann Jowers-Neely.

During Reverend Neely's sixty-four years of preaching, he has served numerous congregations including Mount Pisgah in Dallas, North Carolina; First Baptist Church, Mooresville, North Carolina; Trinity Baptist Church, Boston, Massachusetts; Friendship Baptist Church, Peoria, Illinois. On the third Sunday in September, 1968, Reverend Dr. Neely became the founder of The Greater Harvest Baptist Church of Philadelphia. The church was originally located at Sixteenth and Oxford Streets. However, due to a growing membership it only remained at this location for one year. It was then moved to its second home at Broad and Clearfield Streets and the membership continued to grow. Its final home is its current location, 1409–17 West Master Street where it continues to stand as a strong foundation to our Lord and Savior Jesus Christ.

While Reverend Neely's first love remains Jesus Christ, he has great esteem for his profession of over forty years, being a Licensed Barber. Reverend Neely's long time hobby is that of Deep Sea Fisherman. His affiliations include membership in The National Baptist Convention of U.S.A., Inc., The Philadelphia Police Clergy, The Philadelphia Prince Hall Masons, Pennsylvania State Convention, Ministers Conference of Philadelphia, and the Good Friday Night Baptist Association.

Mr. Speaker, houses of worship and those that lead them continue to be the backbone of our communities. Reverend Dr. Neely having labored and nurtured in the vineyard for sixty-four years has come to epitomize those values that remain inherent in the strength an character of our citizenry. I hope that my colleagues will join me in recognizing and celebrating the anniversary of The Reverend Dr. D. P. Neely's sixty-four years in the ministry.

HOMELAND EMERGENCY RESPONDERS ORGANIZATION (HERO) ACT

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce the HERO Act, the Homeland Emergency Responders Organization Act.

This Act will establish the Office of National Preparedness within the Federal Emergency Management Agency. The HERO Act will improve the ability of first responders to prepare for and respond to terrorist attacks by getting grants to them directly through this new Office.

In the past several months, I've received numerous letters and calls from state and community leaders on the critical issue of homeland security. Two overriding themes have surfaced again and again:

We must allocate more resources to homeland security.

And, those resources must go directly to cities and other local governments.

I believe that the best ideas on how to make the hometown more secure come from the hometown.

The HERO Act is a federal grant program that will improve the readiness of first responders at both the local and state levels. Since it utilizes an existing agency—FEMA—and its regional offices, federal grants will get to those who need them most, when they need them most—NOW!

The Director of the new Office will make grants available to first responders through each of FEMA's 10 regional offices. Each of these regional offices serves several states, as well as Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana's. Eligibility for grants will be based on criteria such as population density and proximity to international borders.

Dispersing funds directly to first responders, like the Broward County Sheriff's Office or the Hollywood, Florida Police Department, will enable local communities to concentrate on their highest priorities—training, purchasing communications equipment, or upgrading emergency operating centers.

The new Office will also distribute grants to each of the 50 states. The state grants can be used—to establish or upgrade state-wide emergency notification systems, plan terrorism response exercises, or to coordinate inter- and intra-state antiterrorism programs.

First responders in cities and towns across America need our help to make the homeland more secure. They, in fact we, can't wait for a new agency to be approved, and then created, before we take the first steps towards a more secure homeland. Local communities need our help and support now.

I am looking forward to working with my colleagues on both sides of the aisle to move this bill as quickly as possible. Time is of the essence. Let's make the homeland more secure.

PAYING TRIBUTE TO JANE ZIMMERMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. McINNIS. Mr. Speaker, it is my pleasure to recognize Ms. Jane Zimmerman of Durango, Colorado for her tireless dedication and the irreplaceable contributions she has made to her community. Ms. Zimmerman has served in the Durango Area Chamber Resort Association for over 19 years, overseeing a variety of community projects and activities that have immeasurably benefited the City of Durango. As she leaves her position of Executive Director, I would like to highlight her accomplishments before this body of Congress and this nation. –

Since beginning her career at the Chamber in 1983, Ms. Zimmerman has held a variety of leadership positions that have utilized her knowledge and expertise toward worthy causes. She has directed the Durango Area Chamber Resort Association through a multiplicity of challenges and transitional periods.

Under Ms. Zimmerman's watchful eye, the Durango Chamber of Commerce became the Durango Area Chamber Resort Association, DACRA, the transition was a new and shaky venture for the city but Ms. Zimmerman lead the organization through this uncertain period and into financial stability and success.

Ms. Zimmerman has also been instrumental in many other projects that have benefited the community. Through increased communication and coordination efforts, she has helped to bridge relationships between the business and education communities, providing valuable revenue for Durango's educational programs. Ms. Zimmerman organized and directed a High School Leadership program that today boasts the active involvement of students from all three high schools in La Plata County.

Over the summer, Ms. Zimmerman dedicated much of her time to forming the new La Plata County Disaster Recovery Coalition, helping to aid distressed victims of Colorado's forest fires. Ms. Zimmerman met with over 100 interested parties and formed the coalition to provide a proactive approach to aiding fire victims with badly needed supplies and shelter.

Mr. Speaker, it is a honor and a privilege to recognize Ms. Jane Zimmerman before this body of Congress and this nation for the countless contributions she has made to Durango. She is truly an irreplaceable asset to the welfare and vitality of the entire community, and I commend her for the hardwork and determination she has given to such a reputable and worthwhile pursuit. Thanks for your service Jane and I wish you all the best in your future endeavors.

IN MEMORY OF KATE GILL MARRIOTT MADGWICK

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HALL of Texas. Mr. Speaker, I rise today to honor the memory of Kate Gill Madgwick of Terrell, Texas, the loving wife of Terrell Mayor Henry Madgwick and an outstanding citizen, who passed away in December of last year.

Born and raised in Terrell, Kate graduated from Terrell High School and attended the University of Texas, where she earned a degree in English Literature. Upon receiving her degree, she chose to serve her country during World War II as an aide to the American Red Cross in England. After returning to Terrell, she remained active in the community through her membership in the Episcopal Church of the Good Shepherd.

She was a devoted wife, mother and grandmother and is survived by her husband, Henry; son Bruce Ragan Sanders of Denver; daughter Susan Sanders McCrum of Dallas; grandchildren Cole and Kelly McCrum; and inlaws Doris and Peter Gibbs of England. She was preceded in death by her previous husband of 40 years, Albert James Sanders of Tiverton, England.

All who knew Kate will miss her dearly, and she will certainly be remembered by those whose many lives she touched in Terrell. As we adjourn today, let us do so in memory of this outstanding citizen and my good friend—Kate Madgwick.

POST-HUSSEIN IRAQ

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. ISRAEL. Mr. Speaker, as we begin to discuss our options in Iraq it is important that we recognize the difficulties of a post-Hussein Iraq. I commend Thomas Friedman's column of September 1, 2002 to my colleagues, which I ask to have inserted into the RECORD.

"As I think about President Bush's plans to take out Saddam Hussein and rebuild Iraq into a democracy, one question gnaws at me: Is Iraq the way it is today because Saddam Hussein is the way he is? Or is Saddam Hussein the way he is because Iraq is the way it is?

"I mean, is Iraq a totalitarian dictatorship under a cruel, iron-fisted man because the country is actually an Arab Yugoslavia—a highly tribalized, artificial state, drawn up by the British, consisting of Shiites in the south, Kurds in the north and Sunnis in the center—whose historical ethnic rivalries can be managed only by a Saddam-like figure?

"Or, has Iraq, by now, congealed into a real nation? And once the cruel fist of Saddam is replaced by a more enlightened leadership, Iraq's talented, educated people will slowly produce a federal democracy.

"The answer is critical, because any U.S. invasion of Iraq will leave the U.S. responsible for nation-building there. Invade Iraq and we own Iraq. And once we own it, we will have to rebuild it, and since that is a huge task, we need to understand what kind of raw material we'll be working with.

"It is instructive in this regard to quickly review Iraq's history before Saddam. Romper Room it was not. It was a saga of intrigue, murder and endless coups involving the different ethnic and political factions that were thrown together inside Iraq's borders by the British. In July 1958, Iraq's King Faisal was gunned down in his courtyard by military plotters led by Brig. Abdel Karim Kassem and Col. Abdul Salam Arif. A few months later, Kassem ousted Arif for being too pro-Nasserite. Around the same time a young Saddam tried, but failed, to kill Kassem, who himself executed a slew of Iraqi Nasserites in Mosul in 1959.

"In 1963, Arif came back from exile and killed Kassem. A short time later Arif, and the Baath Party thugs around him, savagely slaughtered and tortured thousands of left-wingers and Communists all across Iraq. Arif ruled until 1966, when he was killed in a helicopter crash and was succeeded by his brother, who was toppled in 1968 by Saddam and his clan from the village of Tikrit. That's when Saddam first began sending away his opponents to a prison called Qasr al-Nahiya—'the Palace of the End.' Since 1958, every one of these Sunni-dominated military regimes in Baghdad began with a honeymoon with the Kurds in northern Iraq and ended up fighting them.

"The point here is that we are talking about nation-building from scratch. Iraq has a lot of natural resources and a decently educated population, but it has none of the civil society or rule of law roots that enabled us to quickly build democracies out of the ruins of Germany and Japan after World War II. Iraq's last leader committed to the rule of law may have been Hammurabi—the King of Babylon in the 18th century B.C. So once Saddam is gone, there will be a power vacuum, revenge killings and ethnic pulling and tugging between Kurds, Sunnis and Shiites.

"This is not a reason for not taking Saddam out. It is a reason for preparing the U.S. public for a potentially long, costly nation-building operation and for enlisting as many allies as possible to share the burden. There is no avoiding nation-building in Iraq. Because to get at Iraq's weapons of mass destruction we'll need to break the regime open, like a walnut, and then rebuild it.

"What's worrying about the Bushies is that they seem much more adept at breaking things than building things. To do nation-building you need to be something of a naïve optimist. I worry that the Bushies are way too cynical for nation-building.

"My most knowledgeable Iraqi friend tells me he is confident that the morning after any U.S. invasion, American troops would be welcomed by Iraqis, and the regime would fold quickly. It's the morning after the morning after that we have to be prepared for. In the best case, a 'nice' strongman will emerge from the Iraqi Army to preside over a gradual transition to democracy, with America receding into a supporting role. In the worst case, we crack Iraq open and it falls apart in our hands, with all its historical internal tensions—particularly between its long-ruling Sunni minority and its long-frustrated Shiite majority. In that case, George Bush will have to become Iraq's strongman—the iron fist that holds the country together, gradually redistributes the oil wealth and supervises a much longer transition to democracy.

"My Iraqi friend tells me that anyone who tells you he knows which scenario will unfold doesn't know Iraq."

CONGRATULATING SOUTH LOUISIANA MUSICAL PIONEERS—LUDERIN DARBONE, EDWIN DUHON AND THE HACKBERRY RAMBLERS

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. JOHN. Mr. Speaker, I rise today to commend 2002 National Heritage Fellow Awardees—and my constituents—Luderin Darbone and Edwin Duhon, founding members of the acclaimed South Louisiana musical group, The Hackberry Ramblers.

The prestigious National Heritage Fellow Award was created in 1982 by the National Endowment for the Arts. To date, the award has honored 272 traditional artists, of all varieties, from across the United States.

My home state of Louisiana has been home to fifteen fellows since 1982, and ten of those fellows have been natives of Louisiana's 7th Congressional District, which I proudly represent. The artists or groups nominated for this award have made a "significant contribution to the cultural heritage of the United States."

Luderin Darbone and Edwin Duhon of The Hackberry Ramblers were among this year's thirteen awardees, and indeed have made a significant contribution to the world of Cajun music.

Mr. Darbone and Mr. Duhon have been thrilling audiences as the lead members of The Hackberry Ramblers since 1933. They began playing at local parties and dances in South Louisiana, and their ensemble is still playing and touring today—nearly 70 years later.

Undoubtedly the oldest Cajun music group in existence, the Ramblers combine their Cajun French repertoire with rural string band, western swing, and popular ingredients to produce their unique sound. A number of musical 'firsts' are attributed to The Hackberry Ramblers including being among the first Cajun musicians to de-emphasize the accordion and feature the fiddle; the first to successfully blend the Cajun music sound with western swing, blues and a variety of other medleys; the first to record and tag the name "Jolie Blonde," the tune often called the 'Cajun National Anthem'; and they were the first musicians to bring electronic amplification to area dancehalls by running a sound system off the engine of Mr. Darbone's Model-A Ford.

Their 1997 album, "Deep Water," received a grammy nomination in the traditional folk category, and on December 4, 1999, Darbone and Duhon fulfilled a life-long dream of performing at the Grand Ole Opry in Nashville. This past spring and summer, The Ramblers toured festivals across Louisiana and even ventured on their first European tour!

Over the years, The Ramblers have been profiled on Entertainment Tonight, Music City Tonight, and NPR's Weekend Edition. They have garnered critical acclaim from the New York Times, Rolling Stone, and USA Today—and they have even been featured on MTV!

As one report put it—"They have seen the Depression, World War II, rock and roll, flower power, disco, the computer age, and 9/11—and they're still going strong."

Mr. Speaker, I congratulate South Louisiana's 2002 National Heritage Fellows Mr. Luderin Darbone and Mr. Edwin Duhon on their lifetime of achievement and I wish The Hackberry Ramblers many more years of good times and great music!

HONORING LAURAN HOWARD AS AN "ANGEL IN ADOPTION"

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. KNOLLENBERG. Mr. Speaker, I would like to salute Lauran Howard, who will be one of the 277 Angels in Adoption honored tonight at a banquet organized by the Congressional Coalition on Adoption Institute (CCAI).

CCAI is a nonprofit, nonpartisan organization raising awareness about the tens of thousands of foster children in this country and the millions of orphans around the world in need of permanent, safe and loving homes; and eliminating the barriers that hinder these children from realizing their basic need of a family.

I was proud to nominate Lauran because her work has made a significant difference in the lives of children and adoptive families in our community. Since graduating from Marygrove College in Detroit, MI, Howard has been actively involved in ensuring that children are placed with loving families in a timely manner. After working with the Michigan Department of Social Services (now the Family Independence Agency) as a social worker, she began working as a caseworker for the Honorable James Lincoln at the Wayne County Juvenile Court. Later, as a shareholder in the firm of Kemp, Klein, Umphrey and Endelman in Troy, MI, she concentrated her practice in the adoption and family law areas. Lauran is a member of the American Academy of Adoption Attorneys (AAAA), having practiced as counsel in hundreds of adoptions.

Since January 2, 2000, she has been a court administrator in adoptions and juvenile support for Oakland County, MI. In that position, Lauran attempts to ensure that adoptions are processed quickly and in accordance with the Michigan adoption code and court rules. Lauran's efforts have helped reduce the time that children spend in foster care and guarantee the system is used as a temporary answer instead of a permanent solution. The swift placement of children in permanent homes is essential to their positive development and well-being.

Adoption allows people the opportunity to extend their homes and their hearts to people in need. I commend Lauran Howard for her work to break down the barriers that stand between foster children and their adoptive families. She is truly worthy of the Angels in Adoption recognition.

RECOGNIZING THE ACHIEVEMENT OF GLORIA WISE BOYS & GIRLS CLUB

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. CROWLEY. Mr. Speaker, I rise in recognition of The Gloria Wise Boys & Girls Club of the Bronx, New York. I congratulate them on their recently awarded $218,500 grant from the U.S. Department of Justice.

This grant will fund the Juvenile Mentoring Program (JUMP). JUMP is a one-on-one mentoring program that takes at-risk youths from the Bronx neighborhoods of Co-Op City, Baychester, Edenwald, and Williamsbridge, and gives them the kind of activities they want and need. The goals of this program are to reduce gang participation, promote academic achievement and school attendance, and promote positive social behavior. The activities include college campus visits, outings to sporting events, and reading time with caring adult mentors.

That is precisely what is so wonderful about Gloria Wise—it recognizes the needs of this community and it provides services that serve this community. That is the mark of understanding, seasoned leadership—leadership provided by Gloria Wise's Executive Director, Charlie Rosen. Mr. Rosen has proven his commitment to the neighborhood for decades. And he continues to respond to the needs of this varied and diverse community.

Under his leadership, Gloria Wise has grown into a model community center, serving the young, the old, those in need of assistance, and those who long to help, this center serves all of us.

This Federal grant certainly speaks to the quality of Mr. Rosen's leadership. It also speaks to the quality of the Gloria Wise programs and staff, people like the Jeff Aulenbach who is the Deputy Executive Director who actually wrote the grant application—an application that was successful in a very competitive year where only three of these awards were given out in New York State.

This program has a lot of people behind it, including myself. This center has been blessed with incredible staff and an incredible leader. I am glad that the Federal Government and the Department of Justice has recognized how exceptional this Boys & Girls Club is to the Co-Op City community.

For all of their work, I thank them.

PAYING TRIBUTE TO HOLLY COORS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. McINNIS. –Mr. Speaker, I would like to take this opportunity to pay tribute to an individual who has contributed selflessly to the betterment of her community, Holly H. Coors of Denver, Colorado. It is my pleasure to honor Holly as a pillar and a pioneer to the advancements of our society.

Holly Coors was born and raised in Philadelphia by a caring charitable family. She moved to Colorado where she nurtured her own family with her example of humanitarian service. Holly has donated countless hours of service at St. Luke's Hospital and Spalding Rehabilitation Hospital in Denver, Colorado in addition to serving as the Colorado State Chairman for Reagan/Bush in 1980 and 1984. Holly's appointment as the United States Ambassador to the National Year of Americas by President Reagan highlights her ability to represent her country and her willingness to reach out. Holly has also helped found and fund the organization Women of Our Hemisphere Achieving Together to help women improve their lives through entrepreneurship. Through this organization and her support of Latin American schools and clinics, Holly has economically uplifted many developing communities and received numerous awards for her dedication to educational and health care issues.

Holly's humanitarian legacy extends to the Caribbean where she helped rebuild the fire ravaged Parliament House in the commonwealth of Dominica. When Hurricane Mitch wreaked havoc along its destructive path, Holly sent five plane loads of diapers to hospitals there. Appointed to serve as Ambassador-at-Large to Latin America by President George H. W. Bush, Holly moved throughout the western hemisphere standing out as a determined advocate and mentor to the women in every country she visited. She continues to tirelessly serve her country as an advocate on many health care issues at home and abroad.

With such a distinguished list of accomplishments, it is no surprise the Jefferson Symphony Orchestra has chosen to honor Holly at its 50th Anniversary Gala in December. It is our chance to give her the recognition she deserves for her years of volunteer service and philanthropic assistance she has given to her community, her state, and her nation.

Mr. Speaker, it is with great admiration that I extend my praise to Holly Coors before this body of Congress and this nation. Holly brings great care and sincerity wherever her mission takes her and she is truly an individual of great character and conduct deserving of the honors and awards bestowed on her throughout her career.

REMEMBERING SEPTEMBER 11, 2002

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HALL of Texas. Mr. Speaker, as we reflect on the tragic attacks on America on September 11, 2001, and the remarkable heroism of those who responded selflessly to those attacks, the weapon we have most, that we need most, and that we need now more than any time in the history of the Republic is prayer.

We need prayer for our brave men and women in the military who are fighting the war on terrorism and for those who will go, prayer for our President and our leaders as they chart our Nation's course, prayer for the families and friends of the more than 3,000 citizens who lost their lives in New York City, on the plane that crashed in Pennsylvania and at the Pentagon, and prayer for the safety and security of our Nation.

We need prayer as well for the selfless and hardworking members of our police, firefighter and emergency response teams. The harsh reality of the danger of their jobs came crashing down on America on September 11 when 343 firefighters, 23 police officers and 37 Port Authority officers in New York City lost their lives at the World Trade Center.

With a year to ponder the terrible losses suffered that day and the threat of terrorism and evil still looming over our Nation, we realize now more than ever the debt of gratitude that we owe to those who place themselves in harm's way to protect our Nation and our citizens.

September 11 unified America and reawakened a spirit of determination and patriotism not seen since World War II. On that day we were reminded that freedom is not free—that there is a price that must be extracted to defeat tyranny and terrorism and to preserve the precious freedoms for which previous generations of heroes have fought so valiantly.

The war on terrorism will be a long war—but it is a war that we can and will win. So as we remember those who paid the ultimate sacrifice for their country and those still on the front lines in the battle for freedom, we are filled with renewed resolve that those who perpetrated these terrible acts will be brought to justice and that such a tragedy will never happen again in America.

May God bless the families of the victims of September 11, and may God continue to bless America.

STATEMENT ON POW/MIA RECOGNITION DAY

SPEECH OF

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 19, 2002

Mr. ISRAEL. Mr. Speaker, today I rise to bring my colleagues' attention to POW/MIA Recognition Day, which is tomorrow. Designated by the President and observed every year on the Third Friday of September, we take this day to remember the sacrifices of armed service-members who were captured in wartime, and whose ultimate fate remains unknown. Over the course of the last century more than 142,000 Americans were taken captive when fighting for their country. Those unfortunate enough to be taken prisoner all too often suffered from the very worst human treatment. Let us remember the sacrifice they made for their country.

I would encourage my colleagues not only to remember those who were captured, but also those who have never returned. I commend the Department of Defense's use of DNA sampling of living relatives to identify unknown remains. I have linked their website from mine and encourage other members to do the same to publicize this important step. We must also continue to encourage Korea, Vietnam and other countries to fully cooperate with our efforts to bring resolution to these cases.

Mr. Speaker, our missing heroes deserve much more than just a passive pledge not to forget, they deserve our active support. Let us all remember that fact on MIA/POW Recognition Day.

COMMENDING "SPIRIT OF AMERICA" AWARD RECIPIENTS PENNY FREDERICK AND KRISTIE BROUSSARD

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. JOHN. Mr. Speaker, I rise today to commend the achievements of two of the staff members in my Lafayette, Louisiana Congressional District Office—Penny Frederick and Kristie Broussard.

On September 11, 2002, Penny and Kristie received the "Spirit of America" Award from the Diocese of Lafayette, Louisiana. They received this award in recognition of their dedicated service to those in need in our community.

As the commendation reads, both Penny and Kristie have "upheld the founding spirit of America, extending a helping hand to those in need of new homes and new hope. Migration and Refugee Services extends this commendation with warmest regards and deepest appreciation."

I applaud their patience and compassion for our constituents in Louisiana's 7th Congressional District. Their years of service to our community, and their dedication to their jobs is evidenced through this award.

Along with my outstanding team of staffers both in the district and in Washington, DC, I commend Penny and Kristie on this achievement.

INTRODUCTION OF A RESOLUTION HONORING AMERICA'S SMALL BUSINESSES

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. LANGEVIN. Mr. Speaker, today I am joined by 35 of my colleagues in introducing a bipartisan resolution supporting the issuance of a postage stamp honoring America's small businesses.

Small businesses make up a significant sector of our economy. The estimated 25 million small businesses in this nation bring new and innovative services and products to the marketplace and provide business ownership opportunities to diverse and traditionally underrepresented groups. According to the Small Business Administration, small firms create two out of every three new jobs in America. In fact, small businesses employ 54 percent of the national work force, and the men and women who own small businesses represent over 99 percent of all employers.

Many cutting-edge technologies which have become a part of our daily lives are the product of small business innovation. From the zipper and quick-frozen food, to the personal computer and high-resolution x-ray microscopes, small businesses have been a major force in shaping the last half century. In fact, it is estimated that small firms produce twice as many innovations per employee as large firms. Although small businesses receive a low percentage of federal research and development funds, they are responsible for a larger percentage of patents than big companies.

I urge my colleagues to join me and the 35 original bipartisan cosponsors of this resolution in honoring the real engine of our nation's economy by supporting the issuance of a postage stamp in commemoration of America's small businesses.

PAYING TRIBUTE TO DON PARSONS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. McINNIS. Mr. Speaker, it is with earnest respect that I recognize the life and passing of Mr. Don Parsons of Northglenn, Colorado. Sadly, Mr. Parsons recently passed away at the end of August and as his family mourns the loss, I would like to pay tribute to his life and to the wonderful contributions he made to the Northglenn Community.

For over fifteen years Don Parsons served diligently as Northglenn's mayor, prescribing effective solutions to many of the problems that confronted the city through out the years. Mr. Parsons served Northglenn's citizens honestly and faithfully and his reputation for fair dealing won him the bipartisan approval of his constituency. Don Parsons's ability to manage money and his overwhelming popularity throughout the community helped the mayor to resolve many of Northglenn's financial problems and place the city in a strong position fiscally.

Mr. Parsons believed and often said, "that those who are in charge should be those who are affected" and that is exactly how he made decisions for the City of Northglenn. He was always a citizen first and never lost touch with the real issues and concerns that affected his constituency with in the community. Mr. Parsons also contributed his time and expertise to a variety of regional boards and commissions, including the Regional Air Quality Council, the Metro Mayor's Caucus, and the Denver Regional Council of Governments.

Mr. Speaker, it is with great sadness that I recognize Mr. Parsons before this body of Congress and this nation for the wonderful contributions he has made to the city of Northglenn, Colorado. My sincere condolences go out to his wife Jennifer, and his four children Julie, Jill, Doug, and Dirk. In life and in politics, Don Parsons always embodied the best of intentions. His loss will be deeply felt by the City if Northglenn and the entire state of Colorado.

CONGRATULATING EBBY HALLIDAY ACERS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HALL of Texas. Mr. Speaker, I rise today to honor one of Texas's most respected and most successful businesswomen—Ebby Halliday of Dallas—on the occasion of her 91st birthday. Her countless community activities, successful business venture and endless enthusiasm make her truly a remarkable woman.

Ebby Halliday Realtors, the company that she founded 47 years ago, has grown from its infancy into a nationally know entity. This company that began with one office has now expanded to become one of the world's largest independently-owned residential realty firms. And at the age of 91, Ebby still works 9-hour work days. Ebby Halliday Realtors assisted some 17,500 home buyers last year, and Ebby's remarkable business acumen is evident in the many awards that she has received from her industry and peers.

In 1996 Ebby was introduced into the Texas Business Hall of Fame. She was the recipient of the Distinguished Service Award from the National Association of Realtors and the International Real Estate Federation. Ernst and Young named her the regional Entrepreneur of the Year in 1997, and she was inducted into the Dallas Business Hall of Fame in 1999. In 2000, Ebby received the Lifetime Achievement Award in Real Estate from Texas A&M's Real Estate Center and was named Most Influential Woman in the Business and Professional Category by the Ft. Worth Business Press. Ebby was the first recipient of the Executive Women International's Executive Excellence Award—an award that will carry her name in the future—and she was conferred the Degree of Doctor of Humanities by Dallas Baptist University.

Aside from running a successful business, Ebby has selflessly devoted time and resources to local civic organizations. She has served as chairperson of the Thanksgiving Square Foundation, served on the boards of St. Paul Medical Foundation, the Communities Foundation of Texas, the Dallas Community College District Foundation, and the Better Business Bureau. She has also supported the Alexis de Tocqueville Society for the United Way, the Dallas Symphony Orchestra Guild, the Plano Symphony and the State Fair of Texas. She has been president of the North Dallas Chamber of Commerce and of the Greater Dallas Planning Council and served as a member of the Dallas Park and Recreation Board. In addition, the St. Paul Medical Center Foundation was dedicated to Ebby and her husband, Maurice Acers, in honor of their service.

Ebby's remarkable energy and philanthropy are a testament to her devotion to her career and to her community, and the State of Texas is grateful for her many significant contributions. Mr. Speaker, it is an honor for me to recognize an outstanding citizen for her remarkable lifetime of achievement and philanthropy—my dear friend, Ebby Halliday Acers.

IN MEMORY OF ANN RITTLE MONACO

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to pay tribute to Ann Rittle Monaco, a woman of strength, elegance, integrity and a passion for music. Ann, the Artistic Director at the Merit School of Music, died suddenly on July 30, 2002 after being hit from behind by a van while she was out on a run.

Born in Pittsburgh, she earned her bachelor's degree in music from Western College for Women in Oxford, Ohio, and her master's from the New England Conservatory in Boston. While studying at Western, she met Richard A. Monaco, an accomplished composer on the faculty. The two married and in 1974 moved to Oak Park, Illinois.

Over the years, Ann Monaco taught at Chicago State University, and UIC and spent nearly three decades teaching piano to students in her home. In 1982, she joined Merit as a piano teacher, ten years later she became the artistic director. She also was running the school's Tuition-Free Conservatory at the time of her death.

Merit offers a full continuum of instruction in music, both classical and jazz. More than 30,000 youths have studied at Merit since it was founded in 1979. Merit's primary goals are to serve the economically disadvantaged, to help young people achieve their full musical potential, and to give young people a sense of purpose by stimulating personal and educational growth through music.

Ann was a major influence on thousands of Merit students. Known for wearing "a velvet glove over an iron hand" Ann was in charge of keeping high overall artistic standards at Merit, but she also was known for her fierce dedication to her students. She paid close individual attention to her students, doing everything from helping them find appropriate apparel for performances, to teaching them how to bow properly, and to fighting to secure scholarships for them to attend college.

Mr. Speaker, it is with profound sadness that we remember the life of Ann Monaco. Her death creates a void not only at Merit, but also throughout the music education community and the world of music. I urge my colleagues to join me in expressing our condolences to her family and colleagues.

IN TRIBUTE TO ED HOGAN

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. GALLEGLY. Mr. Speaker, I rise in tribute to a close friend, Ed Hogan, who is celebrating his 75th birthday with no sign of slowing down.

Just over a year ago, I rose to honor Ed and his wife, Lynn, for celebrating 50 years of marriage as business partners and partners in life. I spoke extensively about their entrepreneurial success and their extensive philanthropic endeavors. Some highlights:

Together, Ed and Lynn opened Pleasant Travel Service and built it into a limited liability corporation with more than 1,700 employees and revenues exceeding $400 million.

They formed the Pleasant Hawaiian Holidays Foundation to grant annual scholarships and awards to benefit Hawaiian residents. The non-profit Hogan Family Foundation is dedicated to promoting an understanding of the importance of travel and tourism. The Ed and Lynn Hogan Program in Travel and Tourism is funded at Loyola Marymount University in Los Angeles.

Ed and Lynn volunteered for numerous other non-profit organizations focused on health care, child abuse and education, and sit on several boards, and have been honored frequently for their efforts.

In 1993, Ed and Lynn were inducted into the American Society of Travel Agents' "Hall of Fame," the travel industry's highest honor. In 1995, Ed served as a delegate to the first White House Conference on Travel and Tourism.

The past year has been no less busy. Through the Hogan Family Foundation, Ed and Lynn opened a community garden in Thousand Oaks, California, that is free and open to the public. The Gardens of the World was the site of a one-year anniversary tribute to the heroes and victims of September 11, 2001, sponsored by the city and the foundation.

The Hogans also opened the Hogan Entrepreneurial Program at the Chaminade University of Honolulu. Ed joined the board of the California Tourism Association. And, they were blessed with the birth of their third grandchild, Gavin Hogan, son of Gary and Nadine.

Mr. Speaker, through a lifetime of hard work and family teamwork, Ed Hogan has achieved the American dream. At the same time he has upheld the highest ideals of America by sharing his knowledge and the fruits of his success. I know my colleagues will join Janice and me in wishing Ed Hogan a very happy 75th birthday. We can hardly wait to see what this year brings.

IN RECOGNITION OF REVEREND FRED COBETT

HON. SAXBY CHAMBLISS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. CHAMBLISS. Mr. Speaker, today I rise to recognize Reverend Fred Cobett, Children's Minister to Calvary Assembly of God in Dunwoody, Georgia, for taking on an unusual role to teach children how to help other children, while raising money for mission work.

At the request of the children he works with, Pastor Cobett agreed to spend seven entire days on the ledge of a billboard forty feet above interstate 285 in Atlanta for a fundraiser called Up in the Air For Kids. This event is part of the Boys and Girls Missionary Crusade, a non-profit organization founded by the Assemblies of God Church that exists to reach the children of the world by creating a heart of compassion in the children they lead. The Up in the Air For Kids project is geared specifically toward raising community awareness of the needs of children around the world who are living in poverty. Nine other states nationwide are also participating in this benefit and hope to reach a cumulative goal of one million dollars. Pastor Cobett's goal for Georgia is to raise 100,000 dollars that will be distributed among four separate charities including Convoy of Hope, Latin America Child Care, Africa's Children, and Asia's Little Ones.

As the son of a minister, I have a special affinity for Pastor Cobett and his ministry. It is a high calling, and I commend him for dedicating his life to teaching children the principles of charity, generosity, and goodwill in this creative manner.

HONORING JEANNE CARIGLIA

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. McGOVERN. Mr. Speaker, I rise today to pay tribute to Jeanne Cariglia for her 30 years of service to the students, staff, and community of Gates Lane School of International Studies in Worcester, Massachusetts.

Mrs. Cariglia has done far more than efficiently serve breakfast and lunch for 30 years. Children also receive a warm smile, a friendly greeting, a hug, and a kind word. "Jeannie" is and always has been an integral part of the Gates Lane community. She has left such a lasting impression on our children that a Gates Lane Alumnus, author Jarett Krosoczka, has recently published a children's book entitled Bag Head wherein the "lunch lady" is a curly redheaded character named, as one would expect, "Jeannie."

An active participant in all school activities and social functions, Jeannie received the prestigious Thomas Jefferson Award from the Gates Lane community in 2000. This award was given in recognition of her service above and beyond the call of duty and, more importantly, for her caring attitude, with which she serves her little charges each and every day.

Jeannie's retirement, while a great loss to our community, promises to afford her more time to enjoy her home with her husband, Dante, and her family of three daughters and two grandchildren. She also plans on traveling to sunny places with both her family and her wide circle of friends.

Mr. Speaker, I am certain that the entire House of Representatives joins me in congratulating Mrs. Jeannie Cariglia on her long career of service to the Gates Lane School of International Studies, and wishes her the best of luck in retirement.

INTRODUCTION OF NATIONAL VISITING NURSE ASSOCIATIONS WEEK

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. MARKEY. Mr. Speaker, today Representative JOHN PETERSON (R–PA) and I are introducing a bill to establish a National Visiting Nurse Associations Week in honor of the army of health care heroes who, every day, comfort, care for, and assist our loved ones. Modern society takes for granted the need for nursing as an indispensable component of our public health system, but this was not always the case. The very concept of a visiting nurse can be traced to the pioneering work of Florence Nightingale. She reformed British military hospitals in the Crimean War through an expose in the British press, she professionalized nursing and made it an acceptable profession for educated women, devoted the rest of her life to building on her experiences, setting standards and writing books, until the mission of nursing had gained the respect of the world.

When Henry Wadsworth Longfellow read of the work of Florence Nightingale, he penned a poem, Santa Filomena, that spoke of the deep appreciation owed by all of us to those dedicated to service in the ultimate caring profession. He wrote:

Whene'er a noble deed is wrought,
Whene'er is spoken a noble thought,
Our hearts, in glad surprise,
To higher levels rise.
The tidal wave of deeper souls
Into our inmost being rolls,
And lifts us unawares
Out of all meaner cares.

The Visiting Nurse Associations of today are founded on the principle that the sick, the disabled, and the elderly benefit most from healthcare when it is offered in their own homes. They are non-profit home health agencies that provide cost-effective and compassionate home and community-based health care to individuals, regardless of their condition or ability to pay for services. Through these exceptional organizations, 90,000 clinicians dedicate their lives to bringing healthcare into the homes of over 4 million Americans every year. In the face of rising costs and drastic changes in our health care system, visiting nurse associations have continued to deliver high quality health services for over 120 years.

It is time for Congress to recognize the vital services that visiting nurses provide their patients. Moreover, visiting nurses also are an indispensable lifeline for families. The comfort and quality care that visiting nurses provide can help family members cope with the difficulties of a loved one's illness.

I am proud to be introducing this important legislation with my colleague Representative PETERSON and urge my colleagues to join us in supporting National Visiting Nurse Associations Week.

PERSONAL EXPLANATION

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Ms. McCARTHY of Missouri: Mr. Speaker, due to a problem with my voting card my vote on rollcall No. 403 was not recorded. Had my vote card operated properly I would be recorded as a "yea" on the Waters motion to instruct House conferees on H.R. 3295, The Help America Vote Act of 2001.

TRIBUTE TO LANCE ARMSTRONG

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. BLUMENAUER. Mr. Speaker, today I am introducing a resolution honoring and congratulating Lance Armstrong on his fourth successive victory of the Tour de France. One of the world's most grueling athletic events, this year's Tour de France bicycling race covered 2,036 miles in 20 days. Winning this challenging race is an amazing feat in itself but Lance Armstrong's triumph is even more remarkable considering his comeback from cancer. Through his efforts with the Lance Armstrong Foundation, Mr. Armstrong has been an effective advocate for cancer survivorship and research.

What I find particularly interesting is the connection between health and bicycling. The active lifestyle inherent in bicycling and the environmental benefits of bicycling as an emission-free, non-polluting transportation alternative is a cornerstone of my work on the House Transportation and Infrastructure Committee and as Chair of the bipartisan Congressional Bike Caucus.

The resolution being introduced today is a deserving tribute to Lance Armstrong and his Tour de France victory, commitment to cancer awareness and survivorship, and promotion of bicycling.

TRIBUTE TO DOLORES HUERTA

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HINOJOSA. Mr. Speaker, I rise today to bring attention to an outstanding member of the Hispanic community. Dolores Huerta has dedicated her life to fighting for equality and fairness for our Nation's farm workers. She has fought equally hard to protect first amendment rights and other issues of justice.

Ms. Huerta began her career as an educator. Her students were the children of farm workers and they routinely went without adequate food and clothing. In response, she founded the Stockton chapter of the Community Service Organization to educate and provide assistance to these laborers. This initial effort grew into the founding of the National Farm Worker Association, a precursor to United Farm Workers Organizing Committee. Ms. Huerta, along with this organization, has advocated against the use of harmful pesticides such as DDT and Parathion and has led a national campaign for environmental justice. Ms. Huerta was inducted to the Women's Hall of Fame in 1993. She has received the American Civil Liberties Union Roger Baldwin Medal of Liberty Award, as well as many other prestigious recognitions of her dedication.

I am proudly cosponsor H. Con. Res. 177, a bipartisan resolution to honor Dolores Huerta for her tireless efforts on behalf of our nation. Her work particularly interests the 15th Congressional District of Texas, as 60 percent of the national migrant population resides in this area of south Texas.

October 15, 2002 marks the end of Hispanic Heritage Month. I urge my colleagues to bring H. Con. Res. 177 to the floor before the end of this month in order to appropriately acknowledge the contributions of Dolores Huerta, a truly historic Latina.

IN SUPPORT OF H. CON. RES. 177—HONORING DOLORES HUERTA

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. REYES. Mr. Speaker, as Chair of the Congressional Hispanic Caucus, I would like to commend my colleague, Representative HILDA SOLIS of California, for introducing H. Con. Res. 177, honoring civil rights leader Dolores Huerta. And I share my colleague's frustration with the undue delay in bringing this resolution before the House.

With National Hispanic Heritage Month celebrated between September 15 and October 15, there isn't a better time to bring this resolution to the floor. This year's celebration would be incomplete if we do not recognize a historic Latina who has led the fight for equality and justice in the United States—Dolores Huerta.

Dolores Huerta's contributions are no less than those that our nation has proudly recognized over the years. Nearly 100 other Members of Congress acknowledge the need to give Dolores Huerta the recognition she deserves and have co-sponsored H. Con. Res. 177.

The contributions of Dolores Huerta are well known and have already been recognized by numerous organizations. Dolores Huerta was inducted into the Women's Hall of Fame in 1993 for her relentless dedication to farm worker issues. She has also received the American Civil Liberties Union Roger Baldwin Medal of Liberty Award and the Ellis Island Medal of Freedom Award. And in March, she was named one of six Women Sustaining the American Spirit honorees by the National Women's History Project.

Dolores Huerta has fought for the rights of underserved laborers for more than 40 years. She has advocated against the use of harmful pesticides such as DDT and Parathyon, led a national campaign for environmental justice, and protected our First Amendment rights through peaceful protests and demonstrations.

Dolores Huerta began as a teacher, but left the teaching profession because she couldn't stand to see her students—children of farmworkers—arrive at school hungry and without shoes. She founded the Stockton chapter of the Community Service Organization in 1955 to educate and assist farmworkers. In 1962, she joined with Cesar Chavez to found the National Farm Workers Association, a precursor to the United Farm Workers Organizing Committee. The organization has repeatedly fought for the rights of farmworkers, advocated against the use of harmful pesticides and led a national campaign for environmental justice.

Mr. Speaker, I ask you and the rest of the leadership to bring H. Con. Res. 177 to the floor, so we may give Dolores Huerta the recognition she so richly deserves during Hispanic Heritage Month.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 26, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 27

9 a.m.

Armed Services

To hold hearings to examine the nominations of General James L. Jones, Jr., USMC, for reappointment to the grade of general and to be Commander, United States European Command and Supreme Allied Commander, Europe, Admiral James O. Ellis, Jr., USN, for reappointment to the grade of admiral and to be Commander, United States Strategic Command, Lieutenant General Michael W. Hagee, USMC, for appointment to the grade of general and to be Commandant of the Marine Corps, Charles S. Abell, of Virginia, to be Deputy Under Secretary of Defense for Personnel and Readiness, Thomas Forrest Hall, of Oklahoma, to be Assistant Secretary of Defense for Reserve Affairs, and Charles E. Erdmann, of Colorado, to be a Judge of the United States Court of Appeals for the Armed Forces.

SH–216

10 a.m.

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine the annual report of the Postmaster General, focusing on the Postal Service Transformation Plan, the progress of cleaning anthrax-contaminated postal facilities, and further steps the Postal Service will take to reduce debt and increase financial transparency.

SD–342

SEPTEMBER 30

10 a.m.

Environment and Public Works

Transportation, Infrastructure, and Nuclear Safety Subcommittee

To hold hearings to examine the conditions and performance of the federal-aid highway system.

SD–406

2:30 p.m.

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine reports that nations interested in chemical, biological, radiological, and nuclear weapons are placing significant emphasis on bolstering their domestic production capabilities.

SD–342

OCTOBER 1

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the government's role in promoting the future of the telecommunications industry and broadband deployment.

SR–253

10 a.m.

Environment and Public Works

To hold hearings to examine environmental standards for schools such as school siting in relation to toxic waste sites and green building codes, focusing on environmental and energy concerns relevant to school properties.

SD–406

Judiciary

To hold hearings to examine recent Supreme Court jurisprudence on federalism issues.

SD–226

2:15 p.m.

Judiciary

Immigration Subcommittee

To hold hearings to examine the detention and treatment of Haitian asylum seekers.

SD–226

OCTOBER 2

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine airlines viability in the current economic climate.

SR–253

10 a.m.

Judiciary

To hold hearings to examine protecting children from child pornography.

SD–226

2 p.m.

Environment and Public Works

To hold hearings to examine the status and studies of the health impacts of fine particles which result from fuel combustion from motor vehicles, power generation, and industrial facilities, as well as from residential fireplaces and wood stoves, known as PM–2.5, focusing on those effects associated with power plant emissions.

SD–406

OCTOBER 3

9 a.m.

Rules and Administration

To hold hearings to examine the nomination of Bruce R. James, of Nevada, to be Public Printer, Government Printing Office.

SR–301

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings to examine park overflight regulations.

SR–253

2:30 p.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine Title IX and the Sciences.

SR–253

OCTOBER 8

10 a.m.

Judiciary

Constitution Subcommittee

To hold hearings to examine the detention of U.S. citizens.

SD–226

HOUSE OF REPRESENTATIVES—*Thursday, September 26, 2002*

The House met at 10 a.m.

The Reverend Dr. K. Eric Perrin, Cornerstone Presbyterian Church, Columbia, South Carolina, offered the following prayer:

Almighty God, Father of all who love You, this Nation owes You our liberty. Your truth shaped our law. Generation after generation You delivered us from enemies. For Your goodness, receive our thanks.

Now we confront new terrors. Clouds of war rise on the Middle Eastern horizon. We need Your help. Yet in many ways we have forgotten You. We are confused as to who You are. We have difficulty discerning good from evil in our private lives. We are often unjust in our relationships, corrupt in our commerce, self-interested in our pursuit of the Nation's welfare.

Forgive us, Lord. Turn our hearts to seek You, our minds to know You, our wills to serve You. Guide the men and women of this honorable House. Bless the President of these United States. Aid those who defend us. Save us through Your mercy, by the grace of Christ, our Sovereign. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. FOLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. FOLEY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 4628. An act to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4628) "An Act to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRAHAM, Mr. LEVIN, Mr. ROCKEFELLER, Mrs. FEINSTEIN, Mr. WYDEN, Mr. DURBIN, Mr. BAYH, Mr. EDWARDS, Ms. MIKULSKI, Mr. SHELBY, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. DEWINE, Mr. THOMPSON, and Mr. LUGAR, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed without amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

> H. Con. Res. 458. Concurrent resolution recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The gentleman from South Carolina (Mr. WILSON) is recognized for 1 minute; then there will be 15 1-minute speeches on each side.

WELCOMING REVEREND DR. K. ERIC PERRIN

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I am so pleased to welcome Pastor Rick Perrin from the Irmo community of South Carolina as our guest chaplain. Pastor Perrin has been the senior pastor of Cornerstone Presbyterian Church for 11 years. He has been married to Barb Perrin for 30 years, and they have three wonderful sons. Scott Perrin serves with the Secret Service in Georgia; Tim Perrin, who worked for my mentor and predecessor, Floyd Spence; and Chris Perrin, who now works for my colleague, the gentleman from Oklahoma (Mr. WATTS).

Pastor Perrin started the Community Roundtable, a group of leaders who have come together to lead and deal with at-risk youth. He also started the Human Relations Committee to promote harmony with racial and demographic changes in the community. Pastor Perrin is the chairman of the World Reform Fellowship which connects churches and ministry organizations around the world to build partnerships. Pastor Perrin has demonstrated consistent leadership over the years, and I count his family as friends.

It is a great honor for all South Carolinians to have Pastor Perrin perform the prayer today in the United States House of Representatives.

THE NEED FOR A HOMELAND SECURITY BILL

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Madam Speaker, I woke up this morning to a lot of noise on my TV set as two prominent Senators were berating the President of the United States, so I tuned in to listen and find out what all the fuss was about.

It turned out there was a concern echoed by the President that there is a national homeland security bill that left this Chamber in July. In July. We had promised the American public action on this critical legislation before the anniversary of the terror attacks in New York, Washington and Pennsylvania on September 11.

So I thought to myself, why would our President, our Commander-in-Chief, be outraged? Why would he be concerned, and why would we hear such volume from the Senate? Well, he is concerned about the life of every American living here in the United States who wants a safe homeland.

We passed our bill. I cannot urge action on the other body, it is prohibited

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

by the rules of the House. But I would at least hope that the American people would speak out loud and clear about the need for a homeland security bill, about the need to protect our national security.

CODE ADAM ACT

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Madam Speaker, I rise today in support of the Code Adam Act. Code Adam is a proven, successful program that has saved lives in the retail environment. It is time to bring that same measure of safety to children in Federal buildings.

Since the Code Adam program began in 1994, it has been a powerful preventive tool against child abductions and lost children in more than 25,000 stores across the Nation. The House and Senate versions of the Code Adam Act would require the implementation of this protocol in all Federal buildings.

Wal-Mart started this fantastic program in the name of Adam Walsh, John and Reve Walsh's son, who was abducted from a mall and murdered in Florida about 20 years ago. Every day I see children walking through the Halls of Congress and in Federal buildings back home in Texas. God forbid, if a child would go missing in one of these buildings, this bill would make sure that a plan was in place to secure that building and find the child before something tragic could occur.

Join me, the gentleman from Puerto Rico and many of our other colleagues in supporting this great piece of legislation.

URGING ACTION ON HOMELAND SECURITY

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Madam Speaker, we are at war. Homeland security legislation passed this body in July, as the gentleman from Florida (Mr. FOLEY) just mentioned, and yet the Senate has not acted.

The President wants the tools that he thinks are necessary to protect every man, woman and child in this country, and yet the Senate has not acted.

He wanted it done before September 11, the anniversary of the tragedy that happened in New York, here in Washington, D.C. and in Pennsylvania, but the Senate has not acted.

It is almost October. We are about to get out of here, and the Senate has not acted.

The other body wants to give the President less authority over national security than any other agency of government, and that is wrong. He needs the tools to protect this country, and yet the Senate has not acted.

Let me just say to the leaders of the Senate who were raising Cain yesterday: Get on the ball, protect America, support our President, and protect all the people who want to be protected in this country. We do not need another attack of terror.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Members are to be reminded that they should not characterize inaction or action of the Senate.

ILL-CONCEIVED CUTS IN MEDICARE

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. CAPPS. Madam Speaker, seniors back at home have been waiting for years for Congress to pass a prescription drug benefit as part of Medicare. Each month, many choose between buying medications and paying rent. I am not exaggerating. They are desperate.

To make matters worse, many seniors were told by their doctors this year that they had to go somewhere else for care. This is because an arcane formula arbitrarily cuts the fees Medicare pays physicians. The administration says there was nothing they could do.

Now seniors in my district will be told they cannot get other health care, like a pacemaker or a pint of blood, because Medicare is cutting these rates also. And this time it is not because of some formula. The administration is actually doing this on purpose. This will hurt our already stretched seniors.

This will also get in the way of efforts to prepare for bioterrorism. Hospitals depend upon Medicare to help pay the bills. These cuts will mean our hospitals will be even more strapped for resources and less prepared.

I urge the administration to reject this ill-conceived idea and support our seniors, our doctors and our hospitals.

□ 1015

BANKRUPTCY REFORM BILL UNDERMINED BY TAINTED AMENDMENT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, some proponents of the current bankruptcy reform bill have claimed they want to stop violence. Well, we already know that fines and judgments for violent acts cannot be discharged in bankruptcy, so we have been arguing that the amendment added in conference committee is really out to stop peaceful, nonviolent protestors at abortion clinics.

Well, last week the Senator who wrote the amendment said on MNPR, and I quote, "They'd pay their fine and go back and stand in front of the clinic again. And they'd pay their fine and go back and stand in front of the clinic again; and they'd pay their fine and go back and stand again. They were taking the law into their own hands; in a peaceful way, but a very serious way, that led us to write the law."

Well, there we have it, right from the horse's mouth. Peaceful, pro-life protestors are the target of that amendment.

Madam Speaker, the current bill discriminates against pro-life Americans for no other reason than for what they believe. That is not right, not in America; and as much as I want to vote for bankruptcy reform, I cannot support the bill with this harmful language restricting first amendment rights of pro-lifers.

HONORING ALEXANDER LOPEZ FOR HIS APPOINTMENT TO THE CALIFORNIA STATE UNIVERSITY BOARD OF TRUSTEES

(Ms. SÁNCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Madam Speaker, I rise today to honor Alexander Lopez of Santa Ana.

Alex, a junior pursuing a Bachelor of Science Business Administration degree at California State University, Fullerton, has been appointed to one of the two student slots on the California State University Board of Trustees.

Student trustees are an important part of the governing body overseeing the 23-campus California State University system. They are responsible for creating policies, for hiring university presidents, and for representing the concerns of over 400,000 students in the California State University system.

I met Alex following a commencement address I gave at Cal State Fullerton this past year. He was all the things we hope our young people will grow to be: bright, ambitious, and compassionate. In addition to serving as the president of the student government, Alex is committed to advocacy for programs that will help low-income and minority students attend college.

I am very proud of Alex for his achievement, and I wish him luck. I also wish we would take note of this and invest in education instead of war.

OVERSIGHT HEARING TO INVESTIGATE HESHAM HEDAYET

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Madam Speaker, as chairman of the Subcommittee on Immigration of the Committee on the Judiciary, I am scheduling an oversight hearing next week on the bizarre case of Hesham Hedayet. He is the Egyptian national who killed two people at the Los Angeles International Airport back on July 4.

After that incident happened, the press reported that this individual had applied for a green card and was denied, and then later, was granted a green card based on the diversity application lottery that we have for visas based on diversity.

Later on, we got so worried about it that I issued a letter to the INS commissioner asking for full access to that Hesham Hedayet file so that we could inquire into it. Madam Speaker, 2½ months later, we still have not received a reply and then, somehow, that became clear to the Attorney General that there were questions about this individual, and the Attorney General has asked the INS to clarify it.

We are going to have an oversight hearing next week to determine answers to all of the inquiries about this matter.

MORE MONEY FOR FIRE PREVENTION

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Madam Speaker, I rise today to talk about an incident that is occurring now in the San Gabriel Valley in California and that is the Williams fire. We just went through a very, very debilitating fire several weeks ago in the same area. Now the Williams fire is continuing to burn there without much success to put it out.

Every day we spend about a million dollars just to try to bring resources to put this out. The problem here, though, is that there is not enough money being put in for preventive measures, and that is when the forest, the national forest is but up against our communities. We have community development areas, we have housing, we have people that are going to be affected.

Madam Speaker, 44 structures have already been burned; and I can tell my colleagues right now that with the conditions in California, the drought, the fact that we do not have enough preventive measures going in to help with containment is a serious problem. We need to put more money into this area, because we cannot afford to lose houses and human life and not even to mention the habitat that will not be replaced. It is important for us to understand that.

Madam Speaker, I ask this House to help by considering providing more support for fire prevention.

HOMELAND SECURITY

(Mr. REHBERG asked and was given permission to address the House for 1 minute.)

Mr. REHBERG. Madam Speaker, time is of the essence. With national security on the minds of many Americans, I urge my colleagues to seize the opportunity and pass legislation to create the Department of Homeland Security.

Each day that passes without this coordinating effort is a day that America is vulnerable to the very people who attacked this country on September 11. Creating the Department of Homeland Security will send a resounding message to the world: America is stronger and safer than it was 12 months ago.

I applaud those who have put partisan agendas aside to do what is right for this country. An entire year has passed. Let us get our work done. Let us put an end to the politics and provide Americans with the safety they deserve.

A NOTE OF REMEMBRANCE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Madam Speaker, I rise this morning with a note of remembrance. Raymond Hall Hayworth, age 98, passed away peacefully yesterday. The last teammate of Ty Cobb has now left his earthly field.

Ray Hayworth wore a major league uniform in parts of 3 decades. His career spanned 13 years in the major leagues, first called up in 1926 to the Tigers.

For purposes of full disclosure, Madam Speaker, I should note that Ray Hayworth was my granddad; and the lessons he taught me, not only about sports, but about life, are lessons far more valuable than I can express on the floor of this House.

Our founders said they moved to secure the blessings of liberty for themselves and their posterity. In much the same way, my grandfather has left a legacy of freedom, as an athlete, as a role model, but, most of all, as a man. I was blessed for having his example to guide me.

SUPPORT H.R. 4600, THE HEALTH ACT

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Madam Speaker, the University of Nevada, Las Vegas, was forced to close its trauma unit after 57 of 58 surgeons quit, citing exposure to costly medical malpractice. In LeHigh, Pennsylvania, one-third of the surgeons quit because of unrelenting problems with medical malpractice. In Wheeling, West Virginia, all of the neurosurgeons have left, so that trauma patients needing brain surgery must be flown to Pittsburgh. And in Philadelphia, the Methodist Hospital stopped delivering babies June 30 because of malpractice insurance costs.

But this House will have an opportunity to do something about that with the passage of H.R. 4600. This will help get health care malpractice premiums in line that will bring some balance, protect the interests of the patients, and restore the doctor-patient relationship.

The objective of H.R. 4600 is to put patients into the emergency room and not get lawyers into the courtroom. I urge my colleagues to support it.

HELP FOR FIGHTING FIRES

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, over the last several months we have seen the terrible fires that have hit Colorado, Arizona, New Mexico, Oregon, and other parts of the country. We are feeling the impact of the droughts. But now the fires have hit the Los Angeles area, and over the past several weeks we have had what was known as the Curve fire burn over 20,000 acres, and right now, the Williams fire, which started 5 o'clock Sunday afternoon, has hit the Angeles National Forest, the number one most-used national forest, national park in the country. We have had many structures damaged.

I would like to congratulate the President and thank him for the fact that we are going to, through the Federal Emergency Management Agency, have reimbursement to those who are fighting the fire. I also want to say that our challenge will be dealing with reseeding which, as we face the rains that will hit come this winter, the mudslides can have an even more devastating impact.

Our thoughts and prayers are with those who are on the frontline fighting these fires, and we look forward to a quick resolution.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. DIAZ-BALART. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 552

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 552 is a standard rule waiving all points of order against the conference report to accompany H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act and against its consideration.

It has been over 20 years since Congress last authorized appropriations for the Department of Justice. This conference report that we are preparing to consider takes the long overdue step of putting our mark on the vital justice programs and funding levels that we have addressed solely through appropriations, since the 96th Congress. This conference report is a product of a careful deliberative bipartisan process. Every member of the conference committee, Republican and Democrat, House and Senate, has signed the conference report.

I believe that all of the conferees, especially the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, and the gentleman from Michigan (Mr. CONYERS), the ranking member, should be commended for their work.

The conference report establishes fundamental and budgetary administrative authorities that simplify, harmonize, and clarify over 2 decades of statutory authorities. Few times in our national history has it been so important that we update and provide direction to the Department of Justice. The conference report helps the Department of Justice to adjust to the new century and the new challenges facing America. As President Bush has noted, "We are today a Nation at risk to a new and changing threat."

The Department of Justice has played and obviously will continue to play a very important, a pivotal role, in securing our Nation against the possibility of terrorist attacks.

Importantly, the conference report also reasserts congressional oversight of the Department. The administration has gone to extraordinary lengths to secure the Nation, while respecting the free and open society which we are privileged to live in.

Nevertheless, Congress is designed to serve as a check on the actions of the executive branch, to oversee the executive branch, that is obviously as fundamental a role for Congress as is legislating; and this conference report reaffirms our oversight responsibility.

This conference report is not by any means limited to the streamlining and strengthening of the Department of Justice's law enforcement responsibility or congressional oversight of its actions.

The conference report provides 94 additional U.S. Attorneys to work with State and local law enforcement to enforce existing Federal laws, firearms laws, for example, especially in and around schools.

□ 1030

The conference report also provides eight new permanent Federal judgeships in the State of Florida. Also in my State and that of the gentleman from Florida (Mr. HASTINGS), it creates a new temporary Federal District Court judgeship for the Southern District to ease the extraordinary burden on our Federal courts.

The conference report provides an increase in funds for the Boys and Girls Club, which will allow them to increase outreach efforts and increase membership throughout the Nation.

I think it is also worth a commendation that the conference report establishes a permanent, separate, and independent Violence Against Women Office in the Department of Justice. The office will be headed by a director who reports directly to the Attorney General and has final authority over all grants and cooperative agreements and contracts awarded by the office.

The conference report contains important provisions regarding drug abuse prevention and treatment, safeguarding the integrity of the criminal justice system, and providing for the enactment of juvenile justice and delinquency prevention legislation.

Madam Speaker, the conference report before us I believe is an extremely important piece of bipartisan legislation that will serve the Nation in innumerable ways.

The conference report, and I believe the rule, obviously, providing for its consideration, deserve our support. Accordingly, I urge all of my colleagues to support this rule and this very important underlying legislation.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in full support of the conference report for H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act.

As my colleagues know, H.R. 2215 passed the House of Representatives in July, 2001, by a voice vote. I am quite certain that my colleagues will join us today and approve the conference report in an overwhelming way again.

Madam Speaker, while sitting in the Committee on Rules yesterday afternoon, and in reviewing the conference report, I am in true admiration of the bipartisanship that was shown by the committee's chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the ranking member, the gentleman from Michigan (Mr. CONYERS). I applaud the bipartisanship that the two of them showed while working on this report, and thank the conferees for their inclusion of many Democratic amendments.

As the House works on a variety of contentious issues in the coming days, I urge my colleagues to heed the bipartisan lessons of the chairman and ranking Democrat of the Committee on the Judiciary.

Many Members of the House were here this morning and spoke about the words that are being slung around on homeland security, and faulting the other body for delays in that regard. I would remind my colleagues that we have not completed the appropriations process, and all of us need to be about that business.

Madam Speaker, H.R. 2215 authorizes funding to the Department of Justice for the current fiscal year and the following one, which begins next Tuesday. In addition to authorizing dollars to the Department for the salaries of the Federal judges, attorneys, and support staff, the report also authorizes funding for many important programs utilized by millions of Americans every year.

As the gentleman from Florida (Mr. DIAZ-BALART) says, he and I are happy to report that the Southern District of Florida will be the recipient of one of the judges authorized under this legislation.

Additionally, H.R. 2215 serves as a commitment to keeping drugs off of our streets and out of our schools. While much of the Nation focuses on the war on terrorism and a possible war with Iraq, we cannot and should not forget a war that we have been fighting for more than three decades: the war on drugs.

As we seek to stabilize Afghanistan, we cannot and should not forget that prior to and during Taliban rule, Afghanistan was one of the world's largest producers of poppy, an integral ingredient of heroin. Thus, economic stability in this renewed democracy must provide alternate means of income to Afghans who once depended on poppy sales for a living.

Further, we cannot and should not forget that the war on drugs has no definitive end. The dollars authorized in this bill, albeit limited, serve as Congress' continued commitment to fighting the war on drugs. I do, however, urge the authorizing committee to increase spending for this fight in the coming years. In my lifetime in south Florida I have seen hundreds of lives ruined and ended because of drugs. We cannot allow this trend to continue into the 21st century.

Madam Speaker, in addition to authorizing funding for the war on drugs, this legislation also funds the Immigration and Naturalization Service, an agency that my office works with every day. Nearly 30 percent of everything we do in the Fort Lauderdale office deals with immigration.

While Congress continues to address the obvious shortcomings of this poorly funded, understaffed, and overworked agency, the United States remains a Nation created by immigrants. Those who enter our borders legally and pose no threat to our security should be afforded equal opportunity to excel and prosper. They should enjoy the benefits that those of us born here take for granted.

To many, the United States remains a land where the streets are paved with gold. It is those we let in legally, not those we do not, who will help us extend this street of gold to the rest of the world.

Finally, among many things, the conference report also establishes a national Violence Against Women Office. This is a plan that I and many of the Members have supported for years. Domestic violence remains a disgusting reality in our society, and the establishment of this office is a step in the right direction toward protecting women and punishing those who believe violence is an acceptable practice.

Madam Speaker, the Department of Justice should always be America's voice of justice. Though I do not always agree with its policies today, or its practices, I do agree with its charter.

This conference report is a good one, and so is the rule. I urge my colleagues to support both of them.

Additionally, prior to the consideration of the rule, my very good friend, the gentleman from Pennsylvania (Mr. HOLDEN), will make a motion for the previous question. I ask my colleagues to consider his motion, as well.

GENERAL LEAVE

Mr. HASTINGS of Florida. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 552.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Madam Speaker, I am more than pleased to yield such time as he may consume to my good friend, the gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. Madam Speaker, I thank the gentleman for yielding time to me.

At the conclusion of this debate, I will seek to defeat the previous question on this rule. If the previous question is defeated, I will then offer an amendment to the rule that will instruct the Enrolling Clerk to add to the conference report language to permanently extend Chapter 12 bankruptcy protections for family farmers.

This is not a proposal that should be considered controversial. In fact, this House has voted overwhelmingly three times in the last 18 months to extend these bankruptcy protections for family farmers.

Chapter 12 was enacted in 1986 as a temporary measure to allow family farmers to repay their debts according to a plan under court supervision. It prevents a situation from occurring where a few bad crop years lead to the loss of the family farm.

In the absence of Chapter 12, farmers are forced to file for bankruptcy relief under the Bankruptcy Code's other alternatives, none of which work quite as well for farmers as Chapter 12.

Chapter 11, for example, will require a farmer to sell the family farm to pay the claims of creditors. How can a farmer be expected to come up with the money to pay off his debts without his farm? Chapter 11 is an expensive process that does not accommodate the special needs of farmers.

Since its creation, Chapter 12, family farmer bankruptcy protection, has been renewed regularly by Congress and has never been controversial. In 1997, the National Bankruptcy Review Commission recommended that Chapter 12 be made permanent.

In this Congress, H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001, includes a provision that permanently extends Chapter 12. Just like previous versions of this bill in previous Congresses, H.R. 333 is a bill plagued with controversy and a bill whose passage is an uncertainty, at best.

For 5 years now, family farmers have been held hostage by the contentious debate surrounding the larger bankruptcy issue. For 5 years, they have been made to sit on pins and needles waiting to see if Congress will extend these protections for another 11 months, 4 months, 8 months, or whatever length of time we feel it will take us for the next legislative hurdle on the larger bankruptcy issue.

Madam Speaker, family farmers have waited long enough. The games must stop. Right now, family farmers are making plans to borrow money based on next year's expected harvest in order to be able to buy the seeds needed to plant the crops for that harvest. As these farmers leverage themselves, they need to have the assurance that Chapter 12 family farmer bankruptcy protections are going to be there for them on a long-term basis. Sporadic and temporary extensions do not do the job.

Attaching Chapter 12 bankruptcy protections for family farmers to the Department of Justice authorization conference report will give farmers the kind of protections they desperately need, the kind of protections we have already voted three times in the 107th Congress.

On February 21, 2001, we voted 408 to 2 to retroactively extend Chapter 12 for 11 months. On June 6, 2001, we voted 411 to 1 to extend Chapter 12 for an additional 4 months. Most recently, on April 16 of this year, we voted 407 to 3 to extend Chapter 12 for yet an additional 8 months. So Members can see, extending Chapter 12 by no means is a controversial idea.

Madam Speaker, Chapter 12 is scheduled to expire at the end of this year. If we do nothing today, Members of the House will be home in their districts enjoying the holidays with their families while once again family farmers are put at risk. Let us end this cliffhanger once and for all. Let us give family farmers the assurance of permanent protection they deserve and close this chapter for good.

Members should understand that a no vote will not stop the House from considering and approving this conference report, but it will allow us to extend once and for all, and provide the permanent extension of Chapter 12 family farmer bankruptcy protection that farmers so desperately need. However, a yes vote on the previous question will prevent the House from adding this noncontroversial farmer-friendly provision.

I urge all my colleagues to be consistent with their three earlier votes in this Congress and vote no on the previous question.

Madam Speaker, I ask unanimous consent that the text of this amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DIAZ-BALART. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Madam Speaker, I thank my dear friend, the gentleman from Miami, Florida, for yielding me this time.

Madam Speaker, I rise in strong support of both this rule and the Department of Justice conference report. It has been over two decades, 22 years to be precise, since we have actually had a Department of Justice authorization bill. This has been done through the appropriations process in the past.

I believe that if we look at the issues that the Committee on the Judiciary and others involved in this process have been able to address, I believe that it is a very, very good measure.

We have in Southern California tremendous problems with overburdened courts because of drug cases. I am very pleased that the State of California, and specifically southern California, will be benefiting from five new judgeships for southern California, six overall for the State of California. I believe that that will go a long way towards dealing with the challenge that we have of our overburdened court system in California.

Another issue that has an impact on California that is included in this measure, which is not California-specific, however, is the very balanced approach to the H–1B visa program. We know that as we deal with the challenges of the 21st century economy, Madam Speaker, one of the problems that we have had is the inability to get the best expertise possible for our high-tech sector of the economy, and other sectors, quite frankly.

The fact that we have had a bureaucracy dealing with this has been a challenge, but I am pleased that through legislation that we have been able to get through in the past, we have been able to increase the number of H–1B visas. It was the high-skilled workers who have been able to come in and who filled this need so that the United States of America can remain on the cutting edge technologically.

□ 1045

There has been, as I said, a bureaucratic mess that has existed for some. And so in this conference report we see the inclusion of a 1-year period, a grace period which will allow for those who were holding H–1B visas to be here to continue their very important work. And so, Madam Speaker, this is a very good rule, it is a very good conference report, and I urge my colleagues to support it.

Mr. HASTINGS of Florida. Madam Speaker, first I would like to offer an apology to my good friend from Florida (Mr. DIAZ-BALART). I indicated to him that we had but one speaker, but that was before two others showed up.

Madam Speaker, I yield 2½ minutes to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Madam Speaker, as a member of the Committee on the Judiciary and the conference committee that produced the underlying bill, I am very pleased with much of the work reflected there. But I do think there is one enormous omission, and I rise to speak to that today.

I urge my colleagues to defeat the previous question on the rule so that we can take immediate action to protect our Nation's family farmers and family fishermen. The gentleman from Pennsylvania (Mr. HOLDEN), the gentleman from Illinois (Mr. PHELPS), the gentleman from Massachusetts (Mr. DELAHUNT), and I have introduced H.R. 5348 to permanently extend Chapter 12 bankruptcy protection. It is long past time for us to do so.

Madam Speaker, it is increasingly evident that we will not see comprehensive bankruptcy reform this session. As in the last 5 years, it has stalled. Whatever one thinks of the merit of that bill, we have broad agreement of making Chapter 12 farmer and fishermen protection permanent as a good idea and good public policy. By defeating the previous question today, we can consider this important question now.

During this current session of Congress, we have extended Chapter 12 bankruptcy three times, most recently as part of the farm bill. It is now due to expire again at the end of this year. The next 2 weeks may be our final chance to renew it before it expires once again, and we should do that today.

Madam Speaker, it is time to stop using our farmers as pawns in the push for bankruptcy reform. It is time to stop pretending that this important protection has in any way helped win support for the comprehensive bankruptcy reform bill. It is time to protect our family farmers.

A farmer who has a dairy farm in Belleville, Wisconsin, in my district contacted me recently about this issue. He has been farming like his dad before him most of his life. He milks 70 cows to make his living. Milk prices have remained low for most of the time he has been in farming. Now milk prices are again reaching historic lows. He simply cannot stay in business because he is losing money every day. He is scared he is going to lose his farm to his creditors and let his whole family down.

Madam Speaker, let us amend this rule right now so we can take up my bill, H.R. 5348, and give all our family farmers and our family fishermen another chance to reorganize their debts and keep their farms or fishing operations in their families. I urge my colleagues to defeat the previous question and support this rule.

Mr. DIAZ-BALART. Madam Speaker, I yield 3 minutes to my good friend, the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I rise today in support of this rule and adoption of the conference report on H.R. 2215, the Department of Justice Appropriations Authorization Act. I am elated to report that after more than 6 years of working on legislation to reauthorize the Juvenile Justice and Delinquency Prevention Act, we finally have a real opportunity for reauthorization of the act to become a reality.

This conference report includes the language embodied in H.R. 1900, my legislation, which overwhelmingly passed the House 1 year ago on September 20 of last year.

The Office of Juvenile Justice and Delinquency Prevention was created by Congress in 1974 to help communities and States prevent and control delinquency and to improve their juvenile justice systems. This office has not been reauthorized since 1994, although a similar bill has passed the Congress by overwhelming margins twice since then.

The nature and extent of juvenile delinquency has changed considerably since the office was created, and this reauthorization has taken that into account. It is an extraordinarily difficult task to create a juvenile justice system in each of the States and each of the counties that can respond to the very, very different young people in our society who get caught up in the law. But I believe that this bipartisan bill represents good policy.

The bill successfully strikes a balance in dealing with children who grow up and come before the juvenile justice system who are already very vicious and dangerous criminals, and other children who come before the juvenile justice system who are harmless and scared and running away from abuse at home.

The legislation is designed to assist States and local communities to develop strategies to combat juvenile crime through a wide range of prevention and intervention programs. We acknowledge that most successful solutions to juvenile crime are developed at the State and local level of government by those individuals who understand the unique characteristics of youth in their area. By combining the current discretionary programs into prevention block grants to the States and allowing States and local communities discretion in how such funds are used, we allow the local officials to use their own good judgment based on the realities of each situation. We have found a way to provide the additional flexibility that our local officials need, still protect society from dangerous teenagers, while protecting scared kids from overly harsh treatment in our juvenile justice system.

Madam Speaker, I want to thank the gentleman from Virginia (Mr. SCOTT) for joining me in this effort. This is virtually the same legislation that the gentleman and I successfully negotiated on a bipartisan basis last Congress.

Madam Speaker, I also want to thank the chairman of the Committee on Education and the Workforce, the gentleman from Ohio (Mr. BOEHNER); and the ranking member, the gentleman from California (Mr. GEORGE MILLER); the chairman of the Subcommittee on Select Education of the Committee on Education and the Workforce, the gentleman from Michigan (Mr. HOEKSTRA); and the ranking member, the gentleman from Indiana (Mr. ROEMER), for their valued assistance in guiding the legislation through committee. Finally, a special thank you to the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the ranking member, the gentleman from Michigan (Mr. CONYERS), for their willingness to work with us to include this bill in the H.R. 2215 conference report.

Madam Speaker, I also want to thank my legislative director, Judy Borger, who has lived this thing for many, many years and who has done yeoman's work for both committees. I urge all my colleagues to join me in supporting the rule.

Mr. HASTINGS of Florida. Madam Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), my good friend.

Ms. JACKSON-LEE of Texas. Madam Speaker, I want to thank the distinguished gentleman from Florida (Mr. HASTINGS) for his leadership, but as well his yielding me time. I rise to acknowledge the very hard work that was done on this legislation and to suggest that we have made strides. Particularly, let me note that as the ranking member on the Subcommittee on Immigration, Border Security, and Claims of the Committee on the Judiciary, I think the fact that we have kept the H-1B's responsive, those visas, in light of September 11 when many people will equate immigration issues to terrorism, that is not the case. And I think it is important that we allow talented individuals to be able to come into this country and share their talents. And certainly we want to make sure that Americans have the same access to technology and computer knowledge and software knowledge, but it is important to have this talent. So I applaud the legislation, therefore the rule, of this particular initiative because that is in it.

Likewise, let me acknowledge, as my colleague from Pennsylvania (Mr. GREENWOOD) just noted, the consequences for juvenile offenders, a bill that I was very happy to support, that was worked on and co-sponsored by the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Virginia (Mr. SCOTT), came through the Subcommittee on Crime, Terrorism and Homeland Security of the Committee on the Judiciary. And might I say that this is an important statement for our young people, that our young people are not throw-aways, that they can be rehabilitated. And many people will tell you they are our future. I tell you that juveniles, young people today, those young people in middle schools and high schools around America are our today. And it is important to realize that if we incarcerate and lock up a youngster in their teenage years, we are only perpetrating their ways of violence and ill acts. And it is very important that we have these rehabilitative measures, we intervene and it is a very important point.

I would like to acknowledge, as well, the importance of violence against women's office. We stabilized it, if you will, allowed it to be free-standing, and supported it by funding; and I believe that is extremely important.

But I believe, Madam Speaker, that we have some concerns, some more work that could have been done and that is my dilemma today as we come forward. We could have passed 245i that again reinforces family reunification with those who are in this country or seeking to reunite their families who happen to be immigrants. Just this past week I faced a very troubling situation in my own district where nine members of a Palestinian family were about to be deported and not looking at the humanitarian grounds of them having come to this country from a tumultuous region seeking asylum and yet not being able to do so. We were able to provide some remedy for them, and they had a 9-year-old citizen, their daughter who was born in this country; but because she was not of the age of majority, she could not petition for their relief. So we have these problems. We did not do anything in this legislation on that.

We did not fix 1996 immigration laws to keep families together so we do not have these large numbers of individuals being deported to places they have never lived. I believe we should have looked at trying to fix that. And the same thing with the comprehensive immigration bill that I and the gentleman from Michigan (Mr. CONYERS) have authored. It fixes the immigration system in its totality. It recognizes that we must be safe but at the same it fixes some of the major loopholes that we have in our immigration system.

I believe, Madam Speaker, as well we have not done ourselves proud by not including the hate crimes legislation that has 206 sponsors so that we would have to result to a discharge petition to try to get that on the floor of the House. How much more do Members have to say when 206 Members believe that we should get rid of hate crimes and have laws against it, legislation authored by the gentleman from Michigan (Mr. CONYERS); and yet we cannot get that to the floor of the House. This should have been included in this legislation.

I am glad to see that we did not codify the TIPS program, neighbors spying on neighbors. Yes, we believe in the security of this Nation, but I also believe Americans believe in civil liberties. I am glad that that is not in this legislation.

Let me conclude, Madam Speaker, on this point, and that is the civil rights office that I believe certainly there are good intentions there but there are issues of police brutality around this Nation. In fact, in my own district we have some incidents of a Hispanic being shot in the back and the medical examiner declared it was a homicide and no action was taken against any of those involved in this case. Another African American shot in the back, unarmed and no action taken against law enforcement.

I am a supporter of law enforcement, but I am supportive of law. And I believe the civil rights division should be invigorated with funding and they should be utilized for what they are utilized for regardless of whether it is a Republican or Democratic administration.

School desegregation orders. I represent a district that is now trying to get rid of their school desegregation order, and they still have the same violations. The Justice Department should not be engaged in being on the side of a school district that is fighting to get rid of their desegregation order when they are still failing our children.

These problems should be addressed in this legislation and more funding should be given to the civil rights division in order to fix these problems. I believe this is a good piece of legislation, but we could have done more.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, in closing I will invite the Members' attention to the matter discussed earlier by the gentleman from Pennsylvania (Mr. HOLDEN). Defeating the previous question as proposed by the gentleman will allow us to permanently extend Chapter 12 protection for farmers. The House has already voted on three separate occasions in this Congress to extend these bankruptcy protections for farmers. Sporadic and temporary extensions leave farmers uncertain of their future. Even as they face record drought, and the gentleman from Montana (Mr. REHBERG) from the other side and I have a drought bill that a substantial number of Members have joined on that we consider critical for our Nation's farmers, and when they experience poor harvest in many regions of the country.

In the absence of Chapter 12, farmers are forced to file bankruptcy under much less favorable terms. Permanent extension as proposed by the gentleman from Pennsylvania (Mr. HOLDEN) will ease these pressures. I ask our membership to defeat the previous question.

Madam Speaker, I yield back the balance of my time.

□ 1100

Mr. DIAZ-BALART. Madam Speaker, I want to reiterate my support, strong support for this rule and the underlying legislation. It is very important underlying legislation. It has been over 20 years since we have in effect authorized the needed expenditures of the Department of Justice, and so I urge, again, support for the rule and the underlying measure.

Mr. PHELPS. Madam Speaker, I rise today to move to defeat the previous question on H.R. 2215—Department of Justice Authorization Conference Report. I am very disappointed that the permanent extension of Chapter 12 of the Federal Bankruptcy Code was not included in this legislation.

Madam Speaker, Chapter 12 of the Federal Bankruptcy Code gives farmers much needed bankruptcy protections. This is an issue I have been working on for some time now and was disappointed to see it was not included in this conference report. On April 10th, I offered a motion to Instruct Conferees on the Farm Bill which asked conferees to accept language in the Senate Bill that would make Chapter 12 of the Bankruptcy Code permanent. My motion passed overwhelmingly, but was not included in the final version of the bill.

H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001 includes a permanent extension of Chapter 12, but like its predecessor in previous Congresses, H.R. 333 is a bill whose passage is uncertain. Since 1997, farmers have been told to wait for the Bankruptcy Reform Act to pass and they would be protected forever. For five years, farmers have been waiting for this to happen. Farmers have waited too long and need protection now.

Including a permanent extension of Chapter 12 in the DOJ Authorization Conference Report would have given farmers the kind of family farmer bankruptcy protections, on a permanent basis, that we have already voted for three times this Congress. As farmers harvest their crops for this year, they will soon have to borrow against next year's harvest to plant next year's crops. They need to know that the legal protections Congress enacted in 1986 will be there for them if something goes wrong. Unfortunately, they have seen Congress let Chapter 12 lapse several times in the last five years and, despite repeated promises, no permanent relief is in sight. The inability to plan and know that if the worst happens they can save their family farm . . . especially in these uncertain times . . . is devastating.

I do not think that there is any controversy whatsoever that Chapter 12 works well, that it protects our family farmers who are in distress, that it properly balances the legitimate needs of financially troubled farmers and their creditors, and that it preserves the family farm.

The material previously referred to by Mr. HOLDEN is as follows:

PREVIOUS QUESTION FOR H. RES. 552, H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

At the end of the resolution, add the following:

"SEC. 2. Upon adoption of this resolution, the House shall be considered to have adopted a concurrent resolution (H. Con. Res. 488) directing the Clerk of the House to correct the enrollment of H.R. 2215."

At an appropriate place insert the following (and make such technical and conforming changes as may be appropriate):

SEC. . FAMILY FARMERS AND FAMILY FISHERMEN PROTECTION ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the "Family Farmers and Family Fishermen Protection Act of 2002".

(b) PERMANENT REENACTMENT OF CHAPTER 12.

(1) REENACTMENT.—

(A) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is hereby reenacted, and as here reenacted is amended by this section.

(B) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(2) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

(c) DEBT LIMIT INCREASE.—Section 104(b) of title 11, United States Code, is amended by inserting "101(18)," after "sections" each place it appears.

(d) CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.—

(1) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;".

(2) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by this section is amended by striking "a State or local governmental unit" and inserting "any governmental unit".

(e) DEFINITION OF FAMILY FARMER.—Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50"; and

(2) in subparagraph (B)(ii)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50".

(f) ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.—Section 101(18)(A) of title 11, United States Code, is amended by striking "for the taxable year preceding the taxable year" and inserting the following:

"for—

"(i) the taxable year preceding; or

"(ii) each of the 2d and 3d taxable years preceding;

the taxable year".

(g) PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(1) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

(A) in subparagraph (A) by striking "or" at the end;

(B) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.".

(2) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

"(d) A plan may not be modified under this section—

"(1) to increase the amount of any payment due before the plan as modified becomes the plan;

"(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

"(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.".

(h) FAMILY FISHERMEN.—

(1) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(A) by inserting after paragraph (7) the following:

"(7A) 'commercial fishing operation' means—

"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

"(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

"(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;"; and

(B) by inserting after paragraph (19) the following:

"(19A) 'family fisherman' means—

"(A) an individual or individual and spouse engaged in a commercial fishing operation—

"(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

"(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

"(B) a corporation or partnership—

"(i) in which more than 50 percent of the outstanding stock or equity is held by—

"(I) 1 family that conducts the commercial fishing operation; or

"(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

"(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

"(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

"(III) if such corporation issues stock, such stock is not publicly traded;

"(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;".

(2) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting "or family fisherman" after "family farmer".

(3) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(A) in the chapter heading, by inserting "**OR FISHERMAN**" after "**FAMILY FARMER**";

(B) in section 1203, by inserting "or commercial fishing operation" after "farm"; and

(C) in section 1206, by striking "if the property is farmland or farm equipment" and inserting "if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)".

(4) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

"12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income .... 1201".

(e) APPLICABILITY.—Nothing in this subsection shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(f) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

Mr. DIAZ-BALART. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous queston.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOLDEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution and then on the Speaker's approval of the Journal and on the motion to instruct conferees offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

The vote was taken by electronic device, and there were—yeas 208, nays 199, not voting 25, as follows:

[Roll No. 416]

YEAS—208

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson (IN)
Carson (OK)
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (MS)
Thune
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—25

Bachus
Barcia
Bonior
Callahan
Capuano
Clay
English
Fossella
Hastings (WA)
Hulshof
John
Jones (NC)
Kennedy (RI)
Maloney (NY)
McDermott
Mink
Roukema
Schaffer
Smith (MI)
Stump
Thompson (CA)
Thurman
Whitfield
Wu
Wynn

☐ 1126

Messrs. CRAMER, REYES, BARRETT of Wisconsin, TAYLOR of Mississippi, ACKERMAN, BEREUTER, Ms. WOOLSEY, and Ms. ESHOO changed their vote from "yea" to "nay."

Mr. ISSA and Mr. BILIRAKIS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McNULTY. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 346, noes 58, not voting 28, as follows:

[Roll No. 417]

AYES—346

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Baker
Baldacci
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Flake
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kelly
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Sullivan
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)
Young (FL)

NOES—58

Aderholt
Baird
Baldwin
Borski
Brady (PA)
Carson (IN)
Costello
Crane
DeFazio
Doggett
Evans
Filner
Fletcher
Gephardt
Gillmor
Graves
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Holt
Kennedy (MN)
Kucinich
Larsen (WA)
Lewis (GA)
LoBiondo
Markey
McGovern
McNulty
Miller, George
Moore
Moran (KS)
Neal
Oberstar
Obey
Olver
Pallone
Pascrell
Peterson (MN)
Platts
Ramstad
Sabo
Sánchez
Schakowsky
Slaughter
Strickland
Stupak
Sweeney
Taylor (MS)
Thompson (MS)
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Weller
Wicker

NOT VOTING—28

Bachus
Barcia
Bonior
Callahan
Capuano
Clay
English
Fossella
Hastings (WA)
Hulshof
Hunter
John
Jones (NC)
Keller
Kennedy (RI)
Maloney (NY)
McDermott
Mink
Murtha
Roukema
Schaffer
Smith (MI)
Stump
Thompson (CA)
Thurman
Whitfield
Wu
Wynn

☐ 1137

So the Journal was approved.

The result of the vote was announced as above recorded.

MOTION TO INSTRUCT CONFEREES ON H.R. 3295, HELP AMERICA VOTE ACT OF 2001

The SPEAKER pro tempore (Mrs. BIGGERT). The unfinished business is the question on the motion to instruct conferees on H.R. 3295.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 385, nays 16, not voting 31, as follows:

[Roll No. 418]

YEAS—385

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Ballenger
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mollohan
Moore

Moran (KS)
Moran (VA)
Morella
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thune
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey

NAYS—16

Barr
Bonilla
Collins
Culberson
Duncan
Flake
Goode
Hostettler
Kerns
Miller, Jeff
Myrick
Norwood
Paul
Thornberry
Toomey
Young (AK)

NOT VOTING—31

Bachus
Baldwin
Barcia
Bonior
Callahan
Capuano
Clay
English
Fletcher
Fossella
Hastings (WA)
Hulshof
Hunter
John
Jones (NC)
Kennedy (RI)
Larson (CT)
Maloney (NY)
McCrery
McDermott
Mink
Murtha
Roukema
Schaffer
Stump
Thompson (CA)
Thurman
Whitfield
Wu
Wynn
Young (FL)

☐ 1147

Mr. DUNCAN changed his vote from "yea" to "nay."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. BALDWIN. Madam Speaker, I was absent during rollcall vote No. 418. However, if I would have been present on the Johnson of Texas Motion to Instruct Election Reform Conferees, I would have voted, "yea."

PERSONAL EXPLANATION

Mr. JONES of North Carolina. Madam Speaker, on rollcall Nos. 416, 417, and 418, I was unavoidably detained. Had I been present, I would have voted "aye" on Nos. 416 and 417, and "nay" on No. 418.

HELP EFFICIENT, ACCESSIBLE, LOW COST, TIMELY HEALTH CARE ACT OF 2002

Mr. REYNOLDS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 553 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 553

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 4600) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system. The bill shall be considered as read for amendment. In lieu of the amendments recommended by the Committees on the Judiciary and on Energy and Commerce now printed in the bill, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 553 is a closed rule providing for the consideration of H.R. 4600, the Help Efficient, Accessible, Low Cost, Timely Health Care Act of 2002, more commonly known as the HEALTH Act. The rule waives all points of order against consideration of the bill and provides one motion to recommit, with or without instructions.

Madam Speaker, when it comes to health care, there is nothing more hallowed than the quality of patient care and the integrity of patient choice. However, there is an unfortunate and rising trend in our country that is not only threatening patient care and choice, but is obstructing the way in which doctors and other providers administer that care, and it is collectively costing patients, their families, doctors and taxpayers billions of dollars every year.

In recent years, medical liability insurance premiums have soared to the highest rates since the mid-1980s. These devastating increases have forced health care professionals to limit services, relocate their practices, or retire early. Meanwhile, affordability and availability of insurance is in grave jeopardy, and, in the end, patients are the ones shortchanged.

One might assume that the generous lawsuit judgment awards and settlements would bode well for injured patients seeking redress. However, studies show that most injured patients receive little or no compensation at all. Alarmingly, there is clear evidence indicating that skyrocketing medical liability premiums are a direct result of increases in both lawsuit awards and litigation expenses, and, according to a study compiled by the United States Department of Health and Human Services, excessive litigation is impeding efforts to improve the quality of care and raising the cost of health care that all Americans pay.

By placing modest limits on unreasonable awards for economic damages, an estimated $60 billion to $108 billion, that is $60 billion to $108 billion, could be saved in health care costs each year. Reclaiming this money would lower premiums for doctors and patients, allowing millions of Americans the opportunity to obtain affordable health insurance. Currently, runaway litigation expenses are getting in the way.

Take into consideration my home State of New York. In most instances New York physicians are paying the highest medical liability premiums in the country and are likely to pay at least 20 percent more in premiums over the next year alone. My region of the State is especially feeling the impact.

"The number of doctors leaving Erie last year doubled from the previous year, a trend that continues to 2002," wrote Donald Copley, M.D., an officer of the Erie County Medical Society in the Business First of Buffalo newspaper. The Medical Society of New York says the trend of physicians leaving New York State or retiring early is happening all across the State.

When exorbitant litigation goes unchecked, as it has, premiums escalate, leaving doctors either unable to afford insurance or unable to provide a variety of services, thereby leaving Americans at risk of not being able to find a doctor.

Madam Speaker, this is completely unacceptable.

The legislation before us today will halt the exodus of providers from the health care industry, stabilize premiums, limit staggering attorney fees, and, above all, improve patient access to care.

The HEALTH Act is modeled after legislation adopted by a Democratic legislature and a Democratic Governor in the State of California over 27 years ago. Since that time, insurance premiums in the rest of the country have increased over 500 percent, while California's has only risen 167 percent.

California's insurance market has stabilized, increasing patient access to care and saving more than $1 billion per year in liability premiums. Equally important, California doctors are not leaving the State.

In scaling this model into a national standard, the sponsors of the HEALTH Act included a critical component, state flexibility. The HEALTH Act respects States rights by allowing States that already have damages caps, whether larger or smaller than those provided in the HEALTH Act, to retain such caps.

Madam Speaker, right now this crisis is affecting every State in its own way, but the Nation as a whole is suffering.

President Bush has said that the lawsuit industry is devastating the practice of medicine. Let us not pass up our opportunity to step up to the plate. Doctors should not be afraid to practice medicine and patients should not be afraid of losing their doctor.

I urge my colleagues to support this rule and the underlying legislation.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank my friend the gentleman from New York (Mr. REYNOLDS) for yielding me time.

Madam Speaker, I rise today in strong opposition to the closed rule for H.R. 4600. This is an extremely complex piece of legislation and certainly one that requires a full and open debate. The closed rule denies us a much-needed opportunity to discuss its pros and cons.

To start, I have received, as I am sure other Members have, a number of phone calls from physicians in the district that I am privileged to serve urging me to support this legislation. Most of them expressed their readiness to close their doors because of the high premiums they currently pay for malpractice insurance and erroneously, in my judgment, believe that H.R. 4600 will relieve them of high malpractice insurance premiums.

There is no question that medical liability insurance rates are out of control and doctors, as well as other health care providers, often abandon high-risk patients for fear of being sued. However, what many, if not all, of the physicians who have called my office fail to realize is that H.R. 4600 will not lower doctors' premiums.

Despite a wide consensus, skyrocketing premiums are not due to bad politics. Hiked premiums are the result of insurers' failed profits on their market investments. When insurance companies began to make sound investments with the insured's money, and when our friends on the other side of the aisle allow an open rule so sensible amendments from Democrats and Republicans can be heard, then and only then will premiums be lowered.

The fact is, this bill would restrict the amount of money that malpractice insurance companies will have to pay. But nowhere in this legislation, and I invite my colleagues on the other side to point to the place, nowhere in this legislation are any of these savings going to be passed along to physicians.

Had this been an open rule, we could offer amendments similar to that of my colleague the gentleman from Massachusetts (Mr. MARKEY) that would require savings realized by the insurers as a result of the $250,000 cap be passed on to health care providers in the form of lower premiums. There are other Members who are going to speak here that had this been an open rule, their amendments would have been included as well.

Medical malpractice is the fifth leading cause of death in the United States, where an estimated 98,000 people die annually in United States hospitals because of negligent medical errors. The medical malpractice system is important because it compensates victims injured by negligence, deters future medical misconduct, punishes those who cause injury and death through negligence and removes and informs the public of harmful products and practices.

While a $250,000 cap on punitive and non-economic damages may suffice for the men and women on the other side of the aisle, my constituents and all Americans deserve more. This is a one-size-fits-all bureaucratic approach that objectifies victims and the uniqueness of their suffering.

I told the story yesterday of my grandmother's death. In the "halcyon" days of segregation, when she died at the hands of a physician, we could not sue for the reason we were black. That is not the issue here. But I can tell you this, there was no price that anybody could have put on my grandmother, and there is no price that anybody can put on your sister or your brother, whether you are a doctor or a lawyer or an insurer.

□ 1200

This bill sends a clear and distinct message that lawmakers are more concerned with abating insurance companies' malpractice problems instead of reducing the pain and suffering of the American people.

Let us call this bill what it really is, and that is another poor attempt by my friends on the other side to give financial breaks to their corporate friends. One would think that they would learn from previous incidents of corporate mishaps; but I guess, Madam Speaker, some things never change.

Madam Speaker, H.R. 4600 is a health care immunity act that benefits insurance companies, HMOs, manufacturers and distributors of defective products and pharmaceutical companies, not physicians. It is a tort reform effort of the worst kind. Stunting the judicial process by disallowing the public to litigate unrestricted malpractice suits is not only biased, but it is un-American. I am in strong opposition to this measure. I urge a "no" vote on the rule and the underlying bill.

Madam Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Madam Speaker, I yield myself such time as I may consume.

Nothing in the HEALTH act denies injured plaintiffs the ability to obtain adequate redress, including compensation for 100 percent of their economic losses, their medical costs, their lost wages, their future lost wages, rehabilitation costs, and any other economic out-of-pocket loss suffered as a result of a health care injury. Ceilings on noneconomic damages limit only the inherently unquantifiable element damages, such as those awarded for pain and suffering, loss of enjoyment, and other intangible items. When we look at health care, the reality is, and CBO estimates, that under this bill premiums of medical malpractice ultimately will be on an average of 25 to 30 percent below what they would be under current law. It is time for action.

Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Madam Speaker, I want to thank the gentleman from New York for yielding me this time.

He is exactly right. What we are talking about doing here is making sure that all of us who have agreed to pay the cost of this system through the insurance system, we all pay for it; that is where the money comes from, to make sure that we all agree that we will pay for unlimited compensation for people who are the victims of medical malpractice, that we will pay for 100 percent of any imaginable cost, 100 percent of all medical costs, 100 percent of lost wages, 100 percent of lost future earnings, 100 percent of any rehabilitation costs; obviously, 100 percent of any medical expenses, doctors, nurses, hospitals, prescription drugs, nursing home care, assisted living, whatever it is, 100 percent of all of these things.

But what we are trying to do is save the patients from a system right now that is falling down all around them. Doctors are getting out of practice; whole hospitals are shutting down, OB-GYNs are not delivering babies any more. People are not getting care. There is a crisis in this country. We had extraordinary testimony before the Committee on Energy and Commerce. We heard that in Nevada, for example, southern Nevada is without a trauma center right now; and it is directly attributable to this malpractice crisis.

We want to do what we have done in California. The law has worked, as the gentleman from New York described.

On June 30 of this year, Methodist Hospital in south Philadelphia, which has been delivering babies since 1892, closed its doors because of this crisis. They are not going to be delivering babies any more. Women need health care; men need health care. We need doctors, we need care, we need treatment. The Congressional Budget Office, as the gentleman from New York pointed out, said that if we pass this bill, we will have $14 billion more available to help our hospitals, available for health care, available to keep the cost of health care down so more people will have insurance. That is what this is all about. The only people who will suffer if this bill is passed are those in their enormous mansions right now that are skimming the top in the gold-plated tort system by faking more than all of the costs that I described for themselves.

In California, what has happened, our premiums, of course, they have gone up; they have gone up 140 percent, but at the same time, the rest of the country has gone up over 5 percent, so we have a system that is much more under control. People are healthier in California. In lawsuits, plaintiffs are getting a greater share of the recoveries in California than they are in other States. And they are getting the recoveries faster. There is no question that the HEALTH act is good for everyone, for patients, for doctors, for the whole health care system, for hospitals, for nurses, for everyone that has come to this Congress.

Madam Speaker, I urge the enactment of this rule and passage of the legislation.

Mr. HASTINGS of Florida. Madam Speaker, I am very pleased and privileged to yield 2½ minutes to the gentleman from Pennsylvania (Mr. HOEFFEL), my good friend.

Mr. HOEFFEL. Madam Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue.

The doctors in my district in Montgomery County, Pennsylvania, and all in the Philadelphia area, face a financial crisis, the same as many doctors around the country, as we have heard here today. This bill will not solve their crisis. This bill does not reflect a comprehensive effort to solve the medical malpractice crisis that we face in southeastern Pennsylvania and across many parts of this country. Nobody wants a compromise. Nobody wants to come together in a reasonable way to find a middle ground. That has happened at various State levels, but it is not happening here in Washington. It is not happening because the Washington representatives of the doctors do not want to compromise; the Washington representatives of the lawyers do not want to compromise. The Committee on Rules has brought forward a closed rule so the House of Representatives cannot be involved in working our will.

If we were to make a good-faith effort to address medical malpractice around the country, we would fundamentally have to address insurance industry reform, and that bill is completely silent on that issue. Frankly, we need to partially lift the antitrust exemption that the insurance industry has enjoyed for 55 years, that allows them to collude, to engage in anticompetitive practices. Those are the problems that are driving up medical malpractice insurance rates, in addition to their losses in the stock market that the gentleman from Florida (Mr. HASTINGS) has already described.

We need to give the Attorney General the ability to regulate national insurance companies because the States are not doing it, and we are not, we are not having these anticompetitive practices investigated and resolved. If we are going to make a good-faith effort regarding caps which are, by their nature, inflexible and arbitrary, we need to add judicial discretion, at a minimum, to any cap, so that a court can make a judgment that could allow an award to reflect what the jury has found in that particular case, not what this body chooses to impose here in Washington as an inflexible one-size-fits-all.

Madam Speaker, this bill does not resolve the problem. We are failing here today. I ask for a negative vote on the rule and against the bill.

Mr. REYNOLDS. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Madam Speaker, I rise today in support of the rule and the bill. We have a medical malpractice crisis in America and especially in my home State of Illinois. I am particularly worried about malpractice rates for obstetricians and gynecologists who are leaving the practice of medicine, rather than ensure the delivery of healthy babies.

I spoke with Dr. Gina Wehramann, an Evanston OB-GYN, who reported that after malpractice payments were paid, she made just $35,000. Her office manager makes $90,000. She is leaving the practice of medicine to become a pharmacist where she can triple her income. She reports that OB-GYNs are leaving the field of medicine in Illinois in dozens and women in northern Illinois will find it hard to receive sufficient care for the delivery of their babies. Dr. Wehramann reported that 85 percent of OB-GYNs in northern Illinois are sued for malpractice. The plaintiffs' bar tells us that 85 percent of OB-GYNs in my State are bad doctors.

All of this adds up to a war on women by the plaintiffs' bar. The plaintiffs' bar killed contraceptive development in our country, with no vote in the Congress and no Presidential decision. European women have many more safe and effective options than Americans, but the plaintiffs' bar does not care. They believe that 85 percent of all OB-GYNs are bad doctors and must be sued out of existence.

The American Association of Neurological Surgeons recently designated 25 States as crisis States, including my home State of Illinois. A constituent of mine, Dr. Jay Alexander, recently told me that his group of 17 cardiologists paid $250,000 in premiums last year, but the bill this year is $800,000. The stories are not limited to physicians. In 2001, Lake Forest Hospital paid $734,000 in malpractice coverage, but that cost will go up to $1.5 million this year. These costs deprive patients of health care at Lake Forest Hospital, and Lake Forest Hospital delivers more babies than any other hospital in Lake County, Illinois; but they will soon have to deny care to these women because of these costs.

With the passage of H.R. 4600 we will end the plaintiffs' bar's war on women. Without this bill, we will continue to see greater distances for deliveries, fewer screening services, and less training for women's health and health care.

Madam Speaker, we must restore the doctor-patient relationship. Today we have a genuine opportunity to pass this legislation and make sure that the women of Illinois and every other State have access to obstetric care.

I urge passage for the bill, and I applaud the gentleman for bringing it to the floor.

Mr. HASTINGS of Florida. Madam Speaker, I yield myself 15 seconds.

No reflection on my young colleague from Illinois, but as a 40-year lawyer and one involved in the process, I find it difficult to believe that I participated in something dealing with the elimination of contraception, because I protected the rights of women who were victims. My belief is it is the right-to-life group that had as much to do with the elimination of contraception.

Madam Speaker, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL), my distinguished friend and colleague.

Mr. PASCRELL. Madam Speaker, I rise to speak against this unfair rule and against this flawed legislation.

It is really unfortunate that the rule will not allow any amendments to improve the bill. My primary concern is that nowhere in H.R. 4600 does it limit health care lawsuits to just medical malpractice. In fact, health care lawsuits applies to any health care liability claim, quote unquote.

H.R. 4600 would undermine the 11 States of the Union, including my State of New Jersey, that hold HMOs accountable. We arrived at that in a very bipartisan way. It would decimate what we have done in New Jersey, what we have worked so hard to do. In my memory, if my memory serves me correctly, last summer, a majority in this Congress, on both sides of the aisle, voted to hold HMOs accountable when they make medical decisions that kill or permanently maim patients.

So we are on the floor today doing the exact opposite of what most of us supported just last summer. In looking at what happened in California, I have heard that mentioned a few times this afternoon, H.R. 4600 probably would not accomplish its goal of reducing premium costs or increasing the availability of medical malpractice insurance, either. Premiums in California rose 190 percent in the 12 years following the enactment of their claim limitation bill. In its present form, H.R. 4600 is not good for patients, and it does not work.

□ 1215

So I ask that we vote against H.R. 4600. Let us focus on real solutions, such as making the Patients' Bill of Rights law. It is good to be back on domestic issues.

Mr. REYNOLDS. Madam Speaker, I yield 3½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Madam Speaker, I thank the gentleman for yielding time to me.

If we are out there talking to our constituents, if we keep in touch with the medical communities, not just the doctors but the hospitals, the little home health agencies, and if we listen, we will know that our Nation is galloping toward a health care crisis of dimensions we have never faced before, a crisis of cost and a crisis of access.

There are whole States in America where a woman cannot find an obstetrician who will take a high-risk pregnancy. If we talk to the specialty surgeons, many will not take the high-risk cases. Very quietly, access to sophisticated, high-risk care is declining in America. That is the unique strength of the American medical system and it is becoming inaccessible to more and more Americans.

Just in going about my rounds, a five-town area is losing its ENT practice. ENT is a relatively low pickup specialty. Their liability premiums last year were only $22,000. Next year they are going to be closer to $50,000. There are not enough hours in the day for these physicians to see enough patients to pay the increase in those premiums. They are being forced to leave practice.

I had a meeting at a senior citizen center in Brookfield, Connecticut. A gentleman came in and sat all through the senior citizens' questions, and then rose to say that in fact he could not stay in practice after 14 years invested in education and training. He was leaving in 2 years because there were not enough hours in the day for him to see enough patients to pay a $150,000 malpractice premium over this year's $100,000.

My home hospital, in a small little urban community, has all the uncompensated care costs and all the difficulties urban hospitals face: this year, $300,000 malpractice premiums; next year, $1 million. We cannot close our eyes. If this House and our Senate can send a malpractice reform bill to the President, we will lower premiums.

The evidence has been given from California. In California, OB-GYN premiums across the board on average are $43,000; nationally, $107,000. How can doctors continue, how can hospitals continue, without pushing costs up tremendously when their premiums are going to double and triple?

One practice in Waterbury, in the last 7 years the doctors have taken a 50 percent pay cut. Why? Because they are paying their people more, they are investing in technology and medical supplies. They are doing all the right things to provide quality care, to their people. This is in Waterbury, Connecticut. They are doing all the right things. Their own pay has gone down 50 percent.

We in this House were unable to protect them from a 5 percent cut last year, and the Senate is refusing to act, to protect them from another 5% cut this next year. We must protect them from extraordinary malpractice increases that will reduce their ability to provide care to the women of the Waterbury region.

Madam Speaker, this is not something Members can close their eyes to. It does not do any good to say on a grand scale that we have to reform our insurance laws; this is today. It is today women cannot find obstetricians to cover high-risk pregnancies. It is today doctors are being forced to retire by our failure to provide common sense malpractice reform legislation!

Mr. HASTINGS in Florida. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I still point out to the gentlewoman that there is nowhere in this bill that says that insurance premiums are going to go down as a result of this. We could have passed the measure of the gentleman from Massachusetts (Mr. MARKEY) and would have accomplished that.

Madam Speaker, I yield 1½ minutes to my good friend, the distinguished gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I rise in opposition to the rule and the bill. I had hoped to offer amendments, as did others, that are not being allowed to improve this legislation and deal realistically with this problem.

Even if we believe the preemption of the laws of the 50 States with tort reform, something the Republicans, of course, the States rights party, does not normally believe in, would resolve this problem, we have to question, why is the pharmaceutical industry in this bill? Are they buying malpractice insurance? No. This is an incredible gift to the pharmaceutical industry.

Why is the HMO industry in this bill? Why are the nursing homes in this bill? Guess what? It is all about campaign fundraising on that side of the aisle. They know this bill is so radical, and is not a solution. It is not going anywhere in the Senate, but they want to bring it up today with no amendments and no attempt to really resolve this.

No savings are required to be passed on to the doctors in their premiums. In fact, the insurers never promised that tort reform would achieve specific premium savings. That is the American Insurance Association. That is a quote from them.

The premiums are excessive. Are they excessive because of a cyclical change in settlements? No. We have had four crises in 20 years. Guess what, there have not been four up-and-down cycles in settlements in lawsuits and malpractice; there have been four cycles in the investment losses of the insurance industry, bad underwriting, and bad accounting on their practice.

This is another corporate bailout by the Republicans, plain and simple. This is not going to help my docs. My docs really want a solution. They are desperate. Some of them are even biting on this stuff they are shoveling out. They are going to do nothing to resolve this problem long-term in this country.

Mr. REYNOLDS. Madam Speaker, I yield 2½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Madam Speaker, I thank the gentleman from New York for yielding time to me.

Madam Speaker, the vast majority of physicians across this country are highly qualified medical doctors who look out for the best interests of their doctors. My husband has been in the practice of medicine in a sole practice for over 30 years. My son now is in his second year of medical school, and I know this insurance problem intimately.

The very principle that governs the medical profession is the concept of "do no harm." So what does it say about our society when one of the greatest preoccupations for physicians these days is fear of being sued? In fact, a survey conducted by the organization known as Common Good found that 87 percent of physicians now fear potential medical malpractice lawsuits more than they did when they started their careers, 87 percent.

Health care costs are drastically inflated when doctors order tests that they feel are truly not medically necessary, but they have to order those tests in case a lawsuit should be brought against them. What they want is to do the right thing by their patient healthwise and pocketbook-wise.

We are not talking about limiting economic damages, we are talking about limiting punitive damages. The median medical liability award jumped 43 percent in 1 year, from $700,000 in 1999 to $1 million in the year 2000. This is having a critical effect on health care in many States, many of the lower-populated States, such as Nevada, Oregon, and my home State of Wyoming.

Wyoming goes far beyond what is traditionally known as a rural State. The vast majority of Wyoming has the designation of "frontier," which means there are fewer than 6 people per square mile. Wyoming's population is sparse, with roughly 490,000 spread out over 100,000 square miles. Providers are few and far between, and health care facilities are very limited.

Madam Speaker, what it means when excessive malpractice litigation takes hold is professional liability insurance skyrockets and physicians scramble for coverage. There are only two companies in the State of Wyoming that provide coverage. What happens is the doctors close their doors and have to go to other places to find a job.

This is a travesty of twofold dimensions: Wyoming loses a good physician; but even worse, patients in frontier Wyoming lose access to vital primary care. That is unacceptable to me. I urge everyone to support this rule and support this legislation for physicians and patients alike.

Mr. HASTINGS of Florida. Madam Speaker, I am privileged to yield 3 minutes to my good friend, the gentlewoman from Nevada (Ms. BERKLEY), who has a considerable amount of experience in her State, as I do in mine, with this problem.

Ms. BERKLEY. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I rise in strong opposition to the closed rule for H.R. 4600. Nevada's health care crisis reached alarming proportions this past year. Malpractice insurance premiums jumped as much as $150,000 a year for many of our doctors. At least 150 Nevada doctors closed their practices, and 1 in 10 obstetricians have stopped delivering babies. Others are limiting their practices.

Pregnant women find it difficult to get care. Our largest emergency center closed temporarily when huge malpractice rates forced doctors out the door. So, Madam Speaker, I know firsthand the problems caused by runaway insurance rates, but H.R. 4600 is not the answer.

Let me tell the Members how this harms this Nation's health care. It caps noneconomic damages in the aggregate, barring punitive damages even in the most gross acts of malpractice. It caps noneconomic damages in a way that hits low-income Americans the hardest.

There is no provision for enhancing patient safety. Judicial discretion of egregious circumstances does not exist, or streamlining our court cases. This bill wipes out all of the hard work that Nevada's legislature and its carefully-crafted solution and legislation would solve.

The State of Nevada has passed a reform plan that is a far better starting point than H.R. 4600. This measure, signed by the Governor last month, is a product of hard negotiations and compromise, hard work by the medical and the legal and the insurance professionals. It passed a bipartisan legislature unanimously.

I find it very interesting that many of my colleagues on the other side of the aisle keep talking about Nevada's health care crisis. Not one of them will stand with me and suggest that Nevada's health care solution might be an answer to the problem.

The Nevada plan holds both doctors and lawyers accountable while setting limits on noneconomic damages. It allows judges discretion to make higher awards in the most egregious cases of malpractice. It does not let medical products manufacturers or HMOs or the pharmaceutical companies off the hook.

Madam Speaker, in an unwise rush to vote on H.R. 4600, my amendment that brings the Nevada plan to the floor was denied. My husband is a physician. I know firsthand the crisis facing the medical profession. I live with it every day. This Congress has an obligation to help ease the crisis so doctors can continue to treat their patients.

This legislation is so extreme it has no chance, no chance of passing and getting to the President's desk for signature. While this Congress is playing games with medical malpractice problems, the problem only gets worse, and this legislation will do nothing, absolutely nothing, to help because it will never be passed. This is an election year ploy, and it is shameful in its transparency. I am embarrassed. I am embarrassed for the United States Congress. I am embarrassed for the other side of the aisle.

Mr. REYNOLDS. Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Madam Speaker, I thank the gentleman from New York for yielding time to me.

Madam Speaker, I have been involved in legislative issues for 25 years at the State and in Congress. Most of the time, my number one issue has been health care. I chaired health at the State for 10 years. I believe this is the greatest health care crisis facing my State, Pennsylvania, and this country that we will see.

Let me give a little Pennsylvania information. Pennsylvania hospital malpractice premiums in the last 12 months have increased an aggregate of 220 percent. One-third of the hospitals have increased over 300 percent.

Forty percent of the hospitals in Pennsylvania have closed or curtailed services; number one, OB-GYN; number two, trauma, when people are the most seriously ill or traveling further and further; three, neurosurgery and other surgical specialties.

Half of the hospitals in Pennsylvania cannot recruit a physician and are losing the physicians that they have. Fifty percent of teaching programs are finding out that almost all of their students are leaving Pennsylvania. Three-fourths of hospital physicians were denied coverage from an insurance company, and the only reason in Pennsylvania they have coverage is because we have a high-risk pool, at outrageous prices.

Thirty-two rural hospitals in my district, the most rural part of Pennsylvania, had to form their own insurance company because no one would insure them. Eighteen additional hospitals in Pennsylvania are forming their own insurance company. These people have no idea where this is going to take them and what their long-term risks are.

Hospital coverage alone for medical malpractice in Pennsylvania is in excess of one-half billion dollars and rising daily. That does not include physician costs, it does not include nursing homes and health agencies. That is over half a billion dollars that does not treat a patient.

□ 1230

The worst part of the crisis is OB-GYNs and the poorest of American women are going to be denied; those who cannot travel long distances are going to be denied prenatal care, and we will pay for that decades ahead. Any struggling rural hospital that loses their surgeons or OB-GYNs will soon close.

Let me tell my colleagues what they have not heard about this morning. The real opposition to this bill. It limits trial lawyers' rewards. That is what the opposition to this bill is about. But let us see if it is fair. Fifty percent of a $50,000 reward they can still get. That is pretty good pay; 33 1/3 percent of the next $50,000. So that is 42 percent on a $100,000 claim. I think that is pretty good pay. Twenty-five percent on the next half a million. So on a $600,000 claim, they get 28 percent reward. Pretty good pay. Fifteen percent on anything thereafter. So a million dollar reward, they will still make 23 percent that will not go to the victim. I think that is darn good pay.

If we do not address this issue in this country, we are going to be doing the biggest disservice to those who need health care because it will not be available in rural areas, and they are not even a high-risk area. It will not be available in urban areas. I am told the Philadelphia sports teams are having to leave Philadelphia for orthopedic care. A tragedy. Let us fix it.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to my good friend and thoughtful legislator, the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my friend and colleague from the Committee on Rules for yielding me this time.

I am going to try to keep the volume down and talk about what is in this bill. There is no question, my colleagues, that we have a problem in the country. No Member of Congress can say that the status quo is all right. It is not okay for those that are coming into this world not to have the best services of a doctor, of an OB–GYN, of pediatricians; nor is it fair for those who are in the autumn of their lives not to have the right kind of medical assistance.

I think there is unanimity in recognizing what the problem is and that we should be unified in how we resolve this. As a Californian, I know what the MICRA law is. For those who do not know what it stands for, it is the Medical Injury Compensation Reform Act. It has been on the books in California for more than a quarter of a century. Democrats put it into place. Democratic Governors have not repealed it. Republican legislators, Democratic Governors, regardless of what that combination has been, for those who take shots at lawyers and Democrats, a Democratic legislature, and for over a quarter of a century, they have kept this law in place.

In the Congress we have looked at MICRA; and the general consensus has been that MICRA is good, MICRA works. To the gentleman and my friend from Pennsylvania (Mr. GREENWOOD), I told him I will not only be a cosponsor, I will be an original cosponsor of MICRA. This is not MICRA. MICRA places a $250,000 cap on economic damages and malpractice cases. This bill does that as well, and I think that is right. But it also does on product liability cases against drug and medical device manufacturers. How can any Member say to their constituents that that is all right, that they have no recourse? This is not about lawyers. This is about injured patients. We have to stand next to them as well.

The gentlewoman from Connecticut said do not close your eyes; do not close your eyes to that part of the bill. This bill is overburdensome. It is not MICRA, no matter how they advertise it to be such. It does not honor the people we represent. It should be rejected. It is a closed rule because it is closed thinking. I urge a "no" vote.

Mr. REYNOLDS. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the rule on H.R. 4600. Malpractice lawsuits are spiraling out of control. Too many doctors are settling cases even though they have not committed a medical error, and good doctors are ordering excessive tests and procedures and treatments out of fear.

These were the primary issues a panel of experts highlighted at a medical forum I hosted last month in my congressional district. The experts said these issues, or cracks in our medical system, are driving physicians and hospitals out of business.

Are some malpractice lawsuits necessary? Absolutely. Patients must have access to justice and restitution. But it is wrong when excessive costs of malpractice suits and excessive costs of malpractice insurance drive out health care providers.

Mr. Speaker, Congress had the opportunity to fix the malpractice system last summer, but we failed to do so. The good news is that we have another chance today to take the big step towards preserving the long-term viability of the medical system in Illinois and around the country. I urge my colleagues to support the rule on H.R. 4600.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to my very good friend, the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in opposition to the rule and the underlying bill. This legislation, H.R. 4600, says if we cap lawsuit damages, everything will be okay; but in this bill, once again, the majority party has gone way too far. In this area, as they have in so many other areas, the right to sue is being attacked as the root of all evil and stopping Americans from having access and their day in court. It is not the magic cure-all as the majority party would make it out to be. In fact, when we eliminate and take away the incentive to behave or to be sued, we eliminate deterrence.

And we have gone too far. This is not just malpractice. This is product liability. This is nursing home care. It is all rolled into this one big bill. I understand and I sympathize with those doctors facing huge premiums, but this bill is not the answer they are seeking. We went to offer an amendment, the antitrust, to take the antitrust exemption that insurance companies enjoy so they cannot jack up those premiums 200, 300 percent.

They can because they can all get together. They are not subject to monopoly laws and anti-trust laws. And of course we were denied because this is a closed rule.

Also we heard the gentlewoman from California (Ms. ESHOO) say that if you think that this bill is the answer to the malpractice problem, we need to look no further than California, which has a law in place for the last 26 years and this bill is claimed to be done and modeled after that California law. California medical malpractice insurance problems have not disappeared because of the law they passed 26 years ago. They still have it. It did not work.

The focus should not be just this simplistic answer of putting a cap on lawsuits and everything would be okay.

In Michigan we did this 10 years ago. Many of the provisions of this bill were in Michigan's bill passed in the early 90's. Michigan is now considered one of the States, once again, in medical malpractice crisis because the premiums have risen so much. If caps do not work, it is time we look at this crisis from a new focus, a new set of eyes; and what we have to do is start looking at why and look for ways to prevent malpractice.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just disagree with my friend, the gentleman from Michigan (Mr. STUPAK). One cannot argue with the facts that in California the premiums in the last 27 years have gone up 167 percent. The rest of the country is 500 percent. Doctors are not leaving California like they are in New York, and we have heard testimony from other States like Pennsylvania. So the reality is there is a result based on the acts of that Democratic legislature and Governor 27 years ago. And in addition, we know the CBO in scoring this says that this legislation versus the current law as it is today would reduce the premiums paid by 25 to 30 percent for medical malpractice.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, since the last speaker brought up Michigan, I thought I would bring it up. Even with our caps in Michigan, our premiums for our doctors are higher than those States without caps. If California has gone up 167 percent in the last few years and the rest of country has gone up 500 percent for malpractice premiums, is it not time we took away the anti-trust exemption for the insurance companies so they cannot go up 500 percent when the rate of inflation is 2 or 3 percent? Why are they going up 500 percent? It is not the lawsuits. It is the stock market, the Enrons and all the other things.

When St. Paul pulls $1.5 billion out of their reserves, they have to make it up someway, and they make it up on the backs of doctors.

Mr. HASTINGS of Florida. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Florida (Mr. HASTINGS) has 10 minutes remaining. The gentleman from New York (Mr. REYNOLDS) has 6½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, if we talk about malpractice, we ought to talk about malpractice. If this bill passes, there is no commitment from any insurance company to actually reduce rates. There are some provision in here that have nothing to do with malpractice rates.

The previous speaker mentioned attorneys' fees and how reducing attorneys' fees will reduce attorneys' fees. It did not have anything to do with malpractice insurance. He said if you have a $1 million settlement, that if you limit lawyers' fees to 23 percent that will do some good. He did not say that the malpractice carrier will pay a million dollars. If it is a one-third fee, they will pay a million dollars. If it is no fee, they will pay a million dollars. This does not have anything to do with malpractice.

We ought to focus on the malpractice problem, not just gratuitously hurt the innocent victims of malpractice.

Mr. REYNOLDS. Mr. Speaker, we have heard from a lot of lawyers today and a few business people. I would like to now have an opportunity to hear from a medical doctor educated in the University of Buffalo and then moved to Florida.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of this rule and the underlying bill. I just want to touch on a very, very important issue and that is defensive medicine, the incorrect costs of liability on the practice of medicine in the United States. Now, I practiced medicine for 15 years prior to being elected. I still see patients once a month. I practice defensive medicine. I know it is real.

I want to share with my colleagues who think this is not a Federal issue. A study was done, it was published in the Journal of Economics in May of 1996, looking at the impact of the California tort reforms on health care costs and specifically they looked in the Medicare plan. And they discovered that there was a 5 to 9 percent reduction in health care costs brought about in the Medicare plan in the State of California attributable to the caps on noneconomic damages and less defensive medicine.

This is an excellent study, and I would encourage all of my colleagues to read it. What this study also looked at was morbidity and mortality. They said it is not enough to just look at a decline in health care charges, but was it having an adverse effect on patients; were there more complications; were there more deaths. And lo and behold there were not. The researchers out of Stanford University, it is an excellent study published by Kessler and McClellan, they extrapolated this data and concluded that defensive medicine, because of liability, costs us $50 billion a year.

How can that be? I can tell you the patients came in my office. I thought they had this; I would order that test. And then I would say to myself, What if they have something else? What if they have this or that? What if they sue me? So I would start ordering the additional tests to prevent myself from being sued.

Mr. Speaker, I encourage my colleagues to support this rule and support the underlying bill. It is a Federal issue.

[From the Quarterly Journal of Economics, May 1996]

DO DOCTORS PRACTICE DEFENSIVE MEDICINE?

[By Daniel Kessler; Mark McClellan]

"Defensive medicine" is a potentially serious social problem: if fear of liability drives health care providers to administer treatments that do not have worthwhile medical benefits, then the current liability system may generate inefficiencies much larger than the cost of compensating malpractice claimants. To obtain direct empirical evidence on this question, we analyze the effects of malpractice liability reforms using data on all elderly Medicare beneficiaries treated for serious heart disease in 1984, 1987, and 1990. We find that malpractice reforms that directly reduce provider liability pressure lead to reductions of 5 to 9 percent in medical expenditures without substantial effects on mortality or medical complications. We conclude that liability reforms can reduce defensive medical practices.

INTRODUCTION

The medical malpractice liability system has two principal roles: providing redress to individuals who suffer negligent injuries, and creating incentives for doctors to provide appropriately careful treatment to their patients [Bell 1984]. Malpractice law seeks to accomplish these goals by penalizing physicians whose negligence causes an adverse patient health outcome, and using these penalties to compensate the injured patients [Danzon 1985]. Considerable evidence indicates that the current malpractice system is neither sensitive nor specific in providing compensation. For example, the Harvard Medical Practice Study [1990] found that sixteen times as many patients suffered an injury from negligent medical care as received compensation in New York State in 1984. In any event, the cost of compensating malpractice claimants is not an important source of medical expenditure growth: compensation paid and the costs of administering that compensation through the legal system account for less than 1 percent of expenditures [OTA 1993].

The effects of the malpractice system on physician behavior, in contrast, may have much more substantial effects on health care costs and outcomes, even though virtually all physicians are fully insured against the financial costs of malpractice such as damages and legal defense expenses. Physicians may employ costly precautionary treatments in order to avoid nonfinancial penalties such as fear or reputational harm, decreased self-esteem from adverse publicity, and the time and unpleasantness of defending a claim [Charles, Pyskoty, and Nelson 1988; Weiler et al. 1993].

On the one hand, these penalties for malpractice may deter doctors and other providers from putting patients as excessive risk of adverse health outcomes. On the other hand, these penalties may also drive physicians to be too careful—to administer precautionary treatments with minimal expected medical benefit out of fear of legal liability—and thus to practice "defensive medicine." Many physicians and policy-makers have argued that the incentive costs of the malpractice system, due to extra tests and procedures ordered in response to the perceived threat of a medical malpractice claim, may account for a substantial portion of the explosive growth in health care costs [Reynolds, Rizzo, and Gonzalez 1987; OTA 1993, 1994]. The practice of defensive medicine may even have adverse effects on patient health outcomes, if liability induces providers either to administer harmful treatments or to forgo risky but beneficial ones. For these reasons, defensive medicine is a crucial policy concern [Sloan, Mergenhagen, and Bovbjerg 1989].

Despite this policy importance, there is virtually no direct evidence on the existence and magnitude of defensive medical practices. Such evidence is essential for determining appropriate tort liability policy. In this paper we seek to provide such direct evidence on the prevalence of defensive medicine by examining the link between medical malpractice tort law, treatment intensity, and patient outcomes. We use longitudinal data on all elderly Medicare recipients hospitalized for treatment of a new heart attack (acute myocardial infarction, or AMI) or of new ischemic heart disease (IHD) in 1984, 1987, and 1990, matched with information on tort laws from the state in which the patient was treated. We study the effect of tort law reforms on total hospital expenditures on the patient in the year after AMI or IHD to measure intensity of treatment. We also model the effect of tort law reforms on important patient outcomes. We estimate the effect of reforms on a serious adverse outcome that is common in our study population: mortality within one year of occurrence of the cardiac illness. We also estimate the effect of tort reforms on two other common adverse outcomes related to a patient's quality of life; whether the patient experienced a subsequent AMI or heart failure requiring hospitalization in the year following the initial illness.

To the extent that reductions in medical malpractice tort liability lead to reductions in intensity but not with increases in adverse health outcomes, medical care for these health problems is defensive; that is doctors supply a socially excessive level of care due to malpractice liability pressures. Put another way, tort reforms that reduce liability also reduce inefficiency in the medical care delivery system to the extent that they reduce health expenditures which do not provide commensurate benefits. We assess the magnitude of defensive treatment behavior by calculating the cost of an additional year of life or an additional year of cardiac health achieved through treatment intensity induced by specific aspects of the liability system. If liability-induced precaution results in low expenditures per year of life saved relative to generally accepted costs per year of life saved of other medical treatments, then the existing liability system provides incentives for efficient care. But if liability-induced precaution results in high expenditures per year of life saved, then the liability system provides incentives for socially excessive care. Because the precision with which we measure the consequences of reforms is critical, we include all U.S. elderly patients with heart diseases in 1984, 1987, and 1990 in our analysis.

Section I of the paper discusses the theoretical ambiguity of the impact of the current liability system on efficiency in health care. For this reason, liability policy should be guided by empirical evidence on its consequences for "due care" in medical practice. Section II reviews the previous empirical literature. Although the existing evidence on the effectiveness of alternative liability rules has provided considerable insights, direct evidence on the crucial effects of the tort system on physician behavior is virtually nonexistent. Section III presents our econometric models of the effects of liability rules on treatment decisions, costs, and patient outcomes, and formally describes the test for defensive medicine used in the paper. We identify liability effects by comparing trends in treatment choice, costs, and outcomes in states adopting various liability reforms to trends in those that did not. We also review a number of approaches to enriching the model, assisting in the evaluation of its statistical validity and providing further insights into the tort reform effects. Section IV discusses the details of our data, and motivates our analysis of elderly Medicare beneficiaries for purposes of assessing the costs of defensive medicine. Section V presents the empirical results. Section VI discusses implications for policy, and Section VII concludes.

I. Malpractice liability and efficient precaution in health care

In general, malpractice claims are adjudicated in state courts according to state laws. These laws require three elements for a successful claim. First, the claimant must show that the patient actually suffered an adverse event. Second, a successful malpractice claimant must establish that the provider caused the event: the claimant must attribute the injury to the action or inaction of the provider, as opposed to nature. Third, a successful claimant must show that the provider was negligent. Stated simply, this entails showing that the provider took less care than that which is customarily practiced by the average member of the profession in good standing, given the circumstances of the doctor and the patient [Keeton et al. 1984]. Collectively, this three-part test of the validity of a malpractice claim is known as the "negligence rule."

In addition to patient compensation, the principal role of the liability system is to induce doctors to take the optimal level of precaution against patient injury. However, a negligence rule may lead doctors to take socially insufficient precaution, such that the marginal social benefit of precaution would be greater than the marginal social cost. Or, it may lead doctors to take socially excessive precaution, that is, to practice defensive medicine, such that the marginal social benefit of precaution would be less than the marginal social cost [Farber and White 1991]. The negligence rule may not generate socially optimal behavior in health care because the private incentives for precaution facing doctors and patients differ from the social incentives. First, the costs of accidents borne by the physician differ from the social costs of accidents. Because malpractice insurance is not strongly experience rated [Sloan 1990], physicians bear little of the costs of patient injuries from malpractice. However, physicians bear significant uninsured expenses in response to a malpractice claim, such as the value of time and emotional energy spent on legal defense [OTA 1993, p. 7]. Second, patients and physicians bear little of the costs of medical care associated with physician precaution in any particular case because most health care is financed through health insurance. Generally, insured expenses for drugs, diagnostic tests, and other services performed for precautionary purposes are much larger than the uninsured costs of the physician's own effort. Third, physicians bear substantial costs of accidents only when patients file claims, and patients may not file a malpractice claim in response to every negligent medical injury [Harvard Medical Practice Study 1990].

The direction and extent of the divergence between the privately and socially optimal levels of precaution depends in part on states' legal environments. Although the basic framework of the negligence rule applies to most medical malpractice claims in the United States, individual states have modified their tort law to either expand or limit malpractice liability along various dimensions over the past 30 years. For example, several states have imposed caps on malpractice damages such that recoverable losses are limited to a fixed dollar amount, such as $250,000. These modifications to the basic negligence rule can affect both the costs to physicians and the benefit to patients from a given malpractice claim or lawsuit, and thereby also affect the frequency and average settlement amount ("severity") of claims. We use the term malpractice pressure to describe the extent to which a state's legal environment provides high benefits to plaintiffs or high costs to physicians or both. (Malpractice pressure can be multidimensional.)

If the legal environment creates little malpractice pressure and externalized costs of medical treatment are small, then the privately optimal care choice may be below the social optimum. In this case, low benefits from filing malpractice claims and lawsuits reduce nonpecuniary costs of accidents for physicians, who may then take less care than the low cost of diagnostic tests, for example, would warrant. However, if the legal environment creates substantial malpractice pressure and externalized costs of treatment are large, then the privately optimal care choice may be above the social optimum: privately chosen care decisions will be defensive. For example, increasing technological intensity (with a reduced share of physician effort costs relative to total medical care costs) and increasing generosity of tort compensation of medical injury would lead to relatively more defensive medical practice.

Incentives to practice defensively may be intensified if judges and juries impose liability with error. For example, the fact that health care providers' precautionary behavior may be ex post difficult to verify may give them the incentive to take too much care [Cooler and Ulen 1986; Craswell and Calfee 1986]. Excessive care results from the all-or-nothing nature of the liability decision: small increases in precaution above the optimal level may result in large decreases in expected liability.

Because privately optimal behavior under the basic negligence rule may result in medical treatment that has marginal social benefits either greater or less than the marginal social costs, the level of malpractice pressure that provides appropriate incentives is an empirical question. In theory, marginal changes to the negligence rule can either improve or reduce efficiency, depending on their effects on precautionary behavior, total health care costs, and adverse health outcomes. Previous studies have analyzed effects of legal reforms on measures of malpractice pressure, such as the level of compensation paid malpractice claimants. To address the potentially much larger behavioral consequences of malpractice pressure, we study the impact of changes in the legal environment on health care expenditures to measure the marginal social cost of treatment induced by the liability system, and the impact of law changes on adverse health events to measure the marginal social benefit of law-induced treatment. As a result, we can provide direct evidence on the efficiency of a baseline malpractice system and, if it is inefficient, identify efficiency-improving reforms.

II. Previous empirical literature

The previous empirical literature is consistent with the hypothesis that providers practice defensive medicine, although it does not provide direct evidence on the existence or magnitude of the problem. One arm of the literature uses surveys of physicians to assess whether doctors practice defensive medicine [Reynolds, Rizzo, and Gonzalez 1987; Moser and Musaccio 1991; OTA 1994]. Such physician surveys measure the cost of defensive medicine only through further untestable assumptions about the relationship between survey responses, actual treatment behavior, and patient outcomes. Although surveys indicate that doctors believe that they practice defensively, surveys only provide information about what treatments doctors say that they would administer in a hypothetical situation: they do not measure behavior in real situations.

Another body of work uses clinical studies of the effectiveness of intensive treatment [Leveno et al. 1986; Shy et al. 1990]. These studies find that certain intensive treatments which are generally thought to be used defensively have an insignificant impact on health outcomes. Similarly, clinical evaluations of malpractice control policies at specific hospitals have found that intensive treatments thought to serve a defensive purpose are "overused" by physicians [Master et al. 1987]. However, this work does not directly answer the policy question of interest: does intensive treatment administered out of fear of malpractice claims have any effect on patient outcomes? Few medical technologies in general use have been known to be ineffective in all applications, and the average effect of a procedure in a population may be quite different from its effect at the margin in, for example, the additional patients who receive it because of more stringent liability rules [McClellan 1995]. Evaluating malpractice liability reforms requires evidence on the effectiveness of intensive treatment in the "marginal" patients.

A third, well-developed arm of the literature estimates the effects of changes in the legal environment on measures of the compensation paid and the frequency of malpractice claims. Danzon [1982, 1986] and Sloan, Mergenhagen, and Bovbjerg [1989] find that tort reforms that cap physicians' liability at some maximum level or require awards in malpractice cases to be offset by the amount of compensation received by patients from collateral sources reduce payments per claim. Danzon [1986] also finds that collateral-source-rule reforms and statute-of-limitations reductions reduce claim frequency. Based on data from malpractice insurance markets, Zuckerman, Bovbjerg, and Sloan [1990] and Barker [1992] reach similar conclusions: Zuckerman, Bovbjerg, and Sloan find that caps on damages and statute-of-limitations reductions reduce malpractice premiums, and Barker finds that caps on damages increase profitability.

Despite significant variety in data and methods, this literature contains an important unified message about the types of legal reforms that affect physicians' incentives. The two reforms most commonly found to reduce payments to and the frequency of claims, caps on damages and collateral-source-rule reforms, share a common property: they directly reduce expected malpractice awards. Caps on damages truncate the distribution of awards; mandatory collateral-source offsets shift down its mean. Other malpractice reforms that only affect malpractice awards indirectly, such as reforms imposing mandatory periodic payments (which require damages in certain cases to be disbursed in the form of an annuity that pays out over time) or statute-of-limitations reductions, have had a less discernible impact on liability and hence on malpractice pressure.

However, estimates of the impact of reforms on frequency and severity from these analyses are only the first step toward answering the policy question of interest: do doctors practice defensive medicine? Taken alone, they only provide evidence of the effects of legal reforms on doctors' incentives; they do not provide evidence of the effects of legal reforms on doctors' behavior. Identifying the existence of defensive treatment practices and the extent of inefficient precaution due to legal liability requires a comparison of the response of costs of precaution and the response of losses from adverse events to changes in the legal environment.

A number of studies have sought to investigate physicians' behavioral response to malpractice pressure. These studies generally have analyzed the costs of defensive medicine by relating physicians' actual exposure to malpractice claims to clinical practices and patient outcomes [Rock 1988; Harvard Medical Practice Study 1990; Localio et al. 1993; Baldwin et al. 1995]. Rock, Localio et al., and the Harvard Medical Practice Study find results consistent with defensive medicine; Baldwin et al. do not. However, concerns about unobserved heterogeneity across providers and across small geographic areas qualify the results of all of these studies. The studies used frequency of claims or magnitude of insurance premiums at the level of individual doctors, hospitals, or areas within a single state over a limited time period to measure malpractice pressure. Because malpractice laws within a state at a given time are constant, the measures of malpractice pressure used in these studies arose not from laws but from primarily unobserved factors at the level of individual providers or small areas, creating a potentially serious problem of selection bias. For example, the claims frequency or insurance premiums of a particular provider or area may be relatively high because the provider is relatively low quality, because the patients are particularly sick (and hence prone to adverse outcomes), because the patients had more "taste" for medical interventions (and hence are more likely to disagree with their provider about management decisions), or because of many other factors. The sources of the variation in legal environment are unclear and probably multifactorial. All of these factors are extremely difficult to capture fully in observational data sets and could lead to an apparent but noncausal association between measured malpractice pressure and treatment decisions or outcomes.

Thus, while previous analyses have provided a range of insights about the malpractice liability system, they have not provided direct empirical evidence on how malpractice reforms would actually affect physician behavior, medical costs, and health outcomes.

III. Econometric modes

Our statistical methods seek to measure the effects of changes in an identifiable source of variation in malpractice pressure influencing medical decision making—state tort laws—that is not related to unobserved heterogeneity across patients and providers. We compare time trends across reforming and nonreforming states during a seven-year period in inpatient hospital expenditures, and in outcome measures including all-cause cardiacmortality as well as the occurrence of cardiac complications directed related to quality of life. We model average expenditures and outcomes as essentially nonparametric functions of patient demographic characteristics, state legal and political characteristics, and state- and time-fixed effects. We model the effects of state tort law changes as differences in time trends before and after the tort law changes. We test for the existence and magnitude of defensive medicine based on the relationship of the law-change effects on medical expenditures and health outcomes.

While this strategy fundamentally involves differences-in-differences between reforming and nonreforming states to identify effects, we modify conventional differences-in-differences estimation strategies in several ways. First, as noted above, our models include few restrictive parametric or distributional assumptions about functional forms for expenditures or health outcomes. Second, we do not only model reforms as simple one-time shifts. Malpractice reforms might have more complex, longer term effects on medical practices for a number of reasons. Law changes may not have instantaneous effects because it may take time for lawyers, physicians, and patients to learn about their consequences for liability, and then to re-establish equilibrium practices. Law changes may affect not only the static climate of medical decision making, but also the climate for further medical interventions by reducing pressure for technological intensity growth. Thus, the long-term consequences of reforms may be different from their short-term effects. By using a panel data set including a seven-year panel, our modeling framework permits a more robust analysis of differences in time trends before and after adoption.

We use a panel-data framework with observations on successive cohorts of heart disease patients for estimating the prevalence of defensive medicine. In state s=1, S during year t=1, T, our observational units consist of individual T=1, [N.sub.st] who are hospitalized with new occurrences of particular illnesses such as a heart attack. Each patient has observable characteristics [X.sub.ist], which we describe as a fully interacted set of binary variables, as well as many unobservable characteristics that also influence both treatment decisions and outcomes. The individual receives treatment of aggregate intensity [R.sub.ist], where R donates total hospital expenditures in the year after the health event. The patient has a health outcome [O.sub.ist], possibly affected by the intensity of treatment received, where a higher value denotes a more adverse outcome (O is binary in our models).

We define state tort systems in effect at the time of each individual's health event based on the existence of two categories of reforms from a maximum-liability regime: direct and indirect malpractice reforms. Previous studies, summarized in Section II, found differences between these types of reforms on claims behavior and malpractice insurance premiums (Section IV below discusses our reform classification in detail). We denote the existence of direct reforms in state s at time t using two binary variables [L.sub.mst]: [L.sub.1st] = 1 if state s has adopted a direct reform at time t, and [L.sub.2st] = 1 if state s has adopted an indirect reform at time t. [L.sub.st] = [[L.sub.1st][L.sub.2st]] is thus a two-dimensional binary vector describing the existence of malpractice reforms.

We first estimate linear models of average expenditure and outcome effects using these individual-level variables. The expenditure models are of the form, (1) [R.sub.ist] = [[theta].sub.t] + [[alpha].sub.s] + [X.sub.ist][beta] + [W.sub.st][gamma] + [L.sub.st][[phi].sub.m] + [V.sub.ist], where [[theta].sub.t] is a time-fixed effect, [[alpha].sub.s] is a state-fixed effect, [W.sub.st] is a vector of variables described below which summarize the legal-political environment of the state over time, [beta] and [gamma] are vectors of the corresponding average-effect estimates for the demographic controls and additional state-time controls, [[phi].sub.m] is the two-dimensional average effect of malpractice reforms on growth rate, and [v.sub.ist] is a mean-zero independently distributed error term with E([v.sub.ist] [pipe] [X.sub.ist], [L.sub.st],[W.sub.st]) = 0. Because legal reforms may affect both the level and the growth rate of expenditures, we estimate different baseline time trends [[theta].sub.t] for states adopting reforms before 1985 (which were generally adopted before 1980) and nonadopting states. Our data set includes essentially all elderly patients hospitalized with the heart diseases of interest for the years of our study, so that our results describe the actual average differences in trends associated with malpractice reforms in the U.S. elderly population. We report standard errors for inferences about average differences that might arise in potential populations (e.g., elderly patients with these health problems in other years). Our model assumes that patients grouped at the level of state and time have similar distributions of unobservable characteristics that influence medical treatments and health outcomes. Assuming that malpractice laws affect malpractice pressure, but do not directly affect patient expenditures or outcomes, then the coefficients [phi] identify the average effects of changes in malpractice pressure resulting from malpractice reforms.

To distinguish short-term and long-term effects of legal reforms, we estimated less restrictive models of the average effects of legal reforms that utilize the long duration of our panel. These "dynamic" models estimate separate growth rate effects [[phi].sub.md] based on time-since-adoption: (2) [Mathematical Expression Omitted] where we include separate short-term average effects [[phi].sub.m0] and long-term average effects [[phi].sub.m1]. We estimate the short-term effect of the law (within two years of adoption) [[phi].sub.m0] by setting [d.sub.st0] = 1 for 1985–1987 adopters in 1987 and 1988–1990 adopters in 1990, and we estimate the long-term effect (three to five years since adoption) by setting [d.sub.st] = 1 for 1985–1987 adopters in 1990.

The estimated average effects [[phi].sub.md]d in these models form the basis for tests of the effects of malpractice reforms on health care expenditures and outcomes, and thus for tests of the existence and magnitude of defensive medicine. In all of these models, there is evidence of defensive medicine if, for direct or indirect reforms m, [[phi].sub.md] < 0 in our models of medical expenditures and [[phi].sub.md] = 0 in our models of health outcomes. In other words, if a state law reform is associated with a reduction in the growth rate of medical expenditures and does not adversely affect the growth rate of adverse heath outcomes through its impact on treatment decisions, then malpractice pressure is too high from the perspective of social welfare, and defensive medicine exists. More generally, defensive medicine exists if the effect of malpractice reforms on expenditures is "large" relative to the effect on health outcomes. Thus, in the results that follow, we test both whether expenditure and outcome effects of reforms differ substantially from zero, as well as the ratio of expenditure to outcome effects.

The power of the test for defensive medicine depends on the statistical precision of the estimated effects of law reforms on outcomes. Consequently, we evaluate the confidence intervals surrounding our estimates of outcome efforts carefully. It is not feasible to collect information on all health outcomes that may matter to some degree to individual patients. Instead, our tests focus on important health outcomes, including mortality and significant cardiac complications, which are reliably observed in our study population. Because the cardiac complications we consider reflect the two principal ways in which poorly treated heart disease would affect quality of life (e.g., through further heart attacks or through impaired cardiac function), estimates of effects on these health outcomes along with mortality would presumably capture any important health consequences of malpractice reforms.

We estimated additional specifications of our models to test whether reform adoption is not in fact correlated with unobserved trends in malpractice pressures or patient characteristics across the state-time groups. One set of specification tests was based on the inclusion of random effects for state-time interactions. To account for any geographically correlated variations in costs or expenditures over time, we included Huber-White [1980] standard error corrections for zip code-time error correlations. We also tested whether our estimated standard errors were sensitive to Huber-White corrections for state-time error correlations.

Another set of specification tests involved evaluating a range of variables [W.sub.st] summarizing the political and regulatory environment in each state at each point in time, to test whether various factors that might influence reform adoption influence our estimates of reform effects on either expenditure or health outcomes. Since the main cause of the tort reforms that are the focus of our study was nationwide crisis in all lines of commercial casualty insurance, it is unlikely that endogeneity of reforms is a serious problem [Priest 1987; Rabin 1988]. However, Campbell Kessler, and Shepherd [1996] show that the concentration of physicians and lawyers in a state and measures of states' political environment are correlated with liability reforms, and Danzon [1982] shows that the concentration of lawyers in a state is correlated with both the compensation paid to malpractice claims and the enactment of reforms. Consequently, we control for the political party of each state's governor, the majority political party of each house of each state's legislature, and lawyers per capita in all of the regressions, and we tested the sensitivity of our results to these controls.

A third set of specification tests relied on other tort reforms enacted in the 1980s which should have had a minimal impact on malpractice liability cases in the elderly during the time frame of our study. However, these reforms might be correlated with relevant malpractice reforms if, for example, general concerns about liability pressures in all industries led to broad legal reforms. If such reforms were correlated with included reforms, then our estimates might overstate the impact of the malpractice law reforms that we analyze.

Along these lines, we investigate the validity of our assumption of no omitted variable bias by estimating the impact of reforms to states' statuses of limitations. Statutes of limitations are most relevant in situations involving latent injuries. Malpractice arising out of AMI in the elderly would involve an injury of which the adverse consequences would appear before any statute of limitations would exclude an injured patient. Nonetheless, statutes of limitations are the potentially most important reform not included in our study (23 states shortened their statutes of limitations between 1985 and 1990, and Danzon [1986] finds that shorter statutes of limitations reduced claims frequency). If our models are correctly specified, then statute-of-limitations reforms sohuld have no effect on the treatment intensity and outcome decisions that we analyze. If omitted variable bias is a problem, however, statute-of-limitations reforms may show a significant estimated effect.

Finally, because all of our specifications control for fixed differences across states, they do not allow us to estimate differences in the baseline levels of intensive treatment and adverse health outcomes. Thus, we also estimate additional versions of all of our models with region effects only, to explore baseline differences in treatment rates, costs, and outcomes across legal regimes.

IV. Data

The data used in our analysis come from two principal sources. Our information on the characteristics, expenditures, and outcomes for elderly Medicare beneficaries with heart disease are derived from comprehensive longtiudinal claims data for the vast majority of elderly Medicare beneficaries who were admitted to a hospital with a new primary diagnosis (no admission with either health problem in the preceding year) of either acute myocardial infraction (AMI) or ischemic heart disease (IHD) in 1984, 1987, and 1990. Data on patient demographic characteristics were obtained from the Health Care Financing Administration HISKEW enrollment files, with death dates based on death reports validated by the Social Security Administration. Measures of total one-year hospital expenditures were obtained by adding up all reimbursement to acute-care hospitals (including copayments and deductible not paid by Medicare) from insurance claims for all hospitalizations in the year following each patient's initial admission for AMI or IHD. Measures of the occurrence of cardiac complications were obtained by abstracting data on the principal diagnosis for all subsequent admissions (not counting transfers) in the year following the patient's initial admission. Cardiac complications included re-hospitalizations within one year of the initial event with a primary diagnosis (principal cause of hospitalization) of either subsequent AMI or heart failure. Treatment of IHD and AMI patients is intended to prevent subsequent AMIs if possible, and the occurrence of heart failure requiring hospitalization is evidence that the damage to the patient's heart from ischemic disease has serious functional consequencies. The programming rules used in the data set creation process and sample exclusion criteria were virtually identical to those reported in McClellan and Newhouse [1995, 1996].

We analyze cardiac disease patients because the choice of a particular set of diagnoses permits detailed exploration of the health and treatment consequences of policy reforms. Cardiac disease and its complications are the leading cause of medical expenditures and mortality in the United States. A majority of AMIs and IHD hospitalizations occurs in hte elderly, and both mortality and subsequent cardiac complications are relatively common occurrences in this population. Thus, this condition provides both a relatively homogeneous set of patients and outcomes (to analyze the presence of defensive medicine with reasonable clinical detail), and medical expenditures are large enough and the relevant adverse outcomes common enough that the test for defensive medicine can be a precise one. Furthermore, because AMI is essentially a severe form of the same underlying illness as is IHD, we can assess whether reforms affect more or less severe cases of a health problem differently by comparing AMI with IHD patients.

In addition, cardiovascular illness is likely to be sensitive to defensive medical practices. In a ranking of illnesses by the frequency of and payments to the malpractice claims that they generate, AMI is the third most prevalent and costly, behind only malignant breast cancer and brain-damaged infants [PIAA 1993]. AMI is also disinctive because of the severity of medical injury associated with malpractice claims: conditional on a claim, patients with AMI suffer injury that rates 8.2 on the National Association of Insurance Commissioners nine-point severity scale, the second-highest severity rating of any malpractice-claim-generating health problem [PIAA]. Cardiovascular illnesses and associated procedures also include 7 of the 40 most prevalent and costly malpractice-claim-generating health problems [PIAA].

We focus on elderly patients in part because no comparable longitudinal microdata exist for nonelderly U.S. patient populations. However, there are other advantages to concentrating on this population. Several studies have documented that claims rates are lower in the elderly than in the nonelderly population, presumably because losses from severe injuries would be smaller given the patients' shorter expected survival [Weller et al. 1993]. This hypothesis suggests that physicians are least likely to practice defensively for elderly patients. Thus, treatment decisions and expenditures in this population would be the least sensitive to legal reforms. Similarly, relatively low baseline incentives for defensive practices and the relatively high frequency of adverse outcomes in the elderly imply that this population can provide the most sensitive tests for adverse health effects of reforms. These considerations suggest that analysis of elderly patients provides a lower bound on the costs of defensive medicine. In any event, trends in practice patterns over time have been similar for elderly and nonelderly patients (e.g., intensity of treatment has increased dramatically and survival rates have improved for both groups [National Center for Health Statistics 1994]). Thus, we would expect the findings for this population to be qualitatively similar to results for the nonelderly, if such a longitudinal empirical analysis were possible.

Table I describes the elderly population with AMI and IHD from the years of our study. Between 1984 and 1990 the elderly AMI population aged slightly, and the share of males in the IHD population increased slightly, but the characteristics of AMI and IHD patients were otherwise relatively stable. The number of AMI patients in an annual cohort declined slightly (from 233,000 to 221,000), while the number of IHD patients increased (from 357,000 to 423,000). Changes in real hospital expenditures in the year following the AMI or IHD event were dramatic. For example, one-year average hospital expenditures for AMI patients rose from $10,880 in 1984 to $13,140 in 1990 (in constant 1991 dollars), a real growth rate of around 4 percent per year. These expenditure trends are primarily attributable to changes in intensity. Because of Medicare's "prospective" hospital payment system, reimbursement given treatment choice for Medicare patients actually declined during this period. This growth in expenditures and treatment intensity was associated with significant mortality reductions, from 39.9 percent to 35.3 percent for AMI patients (with the bulk of the reduction coming after 1987) and from 13.5 percent to 10.8 percent for IHD patients (with the bulk coming before 1987). However, the AMI survival improvements—but not the IHD improvements—were associated with corresponding increases in recurrent AMIs and in heart failure complications. This underscores that the role of changes in intensity versus other factors—as well as any role of changes in liability—is difficult to identify directly in all of these trends.

Second, building on prior efforts to collect information on state malpractice laws (e.g., Sloan, Mergenhagen, and Bovbjerg [1989]), we have compiled a comprehensive database on reforms to state liability laws and state malpractice-control policies that contain information on several types of legal reforms from 1969 to 1992(8). The legal regime indicator variables are defined such that the level of liability imposed on defendants in the baseline is at a hypothetical maximum.

Eight characteristics of state malpractice law, representing divergences from the baseline legal regime, are summarized in Table IIA. We divide these eight reforms into two groups of four reforms each: reforms that directly reduce malpractice awards and reform that only reduce awards indirectly. "Direct" reforms include reforms that truncate the upper tail of the distribution of awards, such as caps on damages and the abolition of punitive damages, and reforms that shift down the mean of the distribution, such as collateral-source-rule reform and abolition of mandatory prejudgment interest. "Indirect" reforms include other reforms that have been hypothesized to reduce malpractice pressure but only affect awards indirectly, for instance, through restricting the range of contracts that can be enforced between plaintiffs and contingency-fee attorneys. As discussed in Section II above, we chose this division because the previous empirical literature generally found the impact of direct reforms to be larger than the impact of indirect reforms on physicians' incentives through their effect on the compensation paid and the frequency of malpractice claims. Each of the observations in the Medicare data set was matched with a set of two tort law variables that indicated the presence or absence of direct or indirect malpractice reforms at the item of their initial hospitalization.

Table IIB contains the effective date for the adoption of direct and indirect reforms for each of the 50 states. The table shows that a number of states have implemented legal reforms at different times. For example, 13 states never adopted any direct reforms, 23 states adopted direct reforms between 1985 and 1990, and 18 states adopted direct reforms 1984 or earlier (adoptions plus nonadoptions exceed 50 because some states adopted both before and after 1985). Similarly, 16 state never adopted any indirect reforms, 23 states adopted indirect reforms between 1985 and 1990, and 18 states adopted indirect reforms 1984 or earlier. Adoption of direct and indirect reforms is not strongly related: sixteen states that never adopted reforms of one type have adopted reforms of the other.

V. Empirical results

Table III previews our basic difference-in-difference (DD) analysis by reporting unadjusted conditional means for expenditures and mortality for four patient groups, based on the timing of malpractice reforms. Expenditure levels in 1984 (our base year) were slightly higher in states passing reforms between 1985–1987 and lower in states passing reforms between 1988–1990. Baseline mortality rates were slightly lower for AMI and higher for IHD in the 1985–1987 reform states, and conversely for the 1988–1990 reform states. Thus, overall, reform states looked very similar to nonreform states in terms of baseline expenditures and outcomes. States with earlier reforms (pre-1985) had slightly higher base year expenditures but similar base year mortality rates. The table shows that expenditure growth in reform states was smaller than in nonreform states during the study years. Altogether, growth was 2 to 6 percent slower in the reform compared with the nonreform states for AMI, and trend differences were slightly greater for IHD. Although mortality trends differed somewhat across the state groups, mortality trends on average were quite similar for reform and nonreform states. These simple comparisons do not account for any differences in trends in patient characteristics across the state groups, do not account for any effects of other correlated reforms, and do not readily permit analysis of dynamic malpractice reform effects. Nonetheless, they anticipate the principal estimation results that follow.

Table IV presents standard DD estimates of the effects of tort reforms between 1985 and 1990 on average expenditures and outcomes for AMI, that is, no dynamic reform effects are included. In this and subsequent models, we include fully interacted demographic effects—for patient age (65–69, 70–74, 75–79, 80–89, 90–99), gender, black or nonblack race, and urban or rural residence—and controls for contemporaneous political and regulatory changes described previously. For each of the four outcomes—one-year hospital expenditures, mortality, and AMI and CHF readmissions—two sets of models are reported. The first set includes complete state and year fixed effects. The second set, intended to illustrate the average differences of states that had adopted reforms before our study began as well as the sensitivity of the results to a more complete fixed-effect specification, includes only time and census region effects. As described in Section II, both specifications are linear, the dependent variable in the expenditure models is logged, all coefficient estimates are multiplied by 100 and so can be interpreted as average effects in percent (for expenditure models) or percentage points (for outcomes models), and the standard errors are corrected for heteroskedasticity and grouping at the state/zip-code level.

The estimates of average expenditure growth rates in both specifications are substantial showing an increase in real expenditures of over 21 percent between 1984 and 1990. The estimated DD effects show that expenditures declined by 5.3 percent in states that adopted direct reforms relative to nonreforming states. The corresponding DD estimate of the effect of indirect reforms, 1.8 percent, is positive but small; these reforms do not appear to have a substantial effect on expenditures. In the region-effect models, the estimated DD reform effects are slightly larger but qualitatively similar States that adopted reforms prior to our study period had 1984–1990 growth rates in expenditures that were slightly larger, by around 3 percent. The region-effect model shows that these states as a group also had slightly higher expenditure levels in 1984. Because these states generally adopted reforms at least five years before our panel began, our results suggest that direct reforms do not result in relatively slower expenditure growth more than five years after adoption. However, lack of a pre-adoption baseline for and adoption-time heterogeneity among the early-adopting states, as well as the sensitivity of the early-adopter/nonadopter differential growth rates to alternative specifications (as discussed below), complicates interpreting estimates of differential early-adopter/nonadopter growth rates as a long-term effect. In any event, in no case would the differential 1984–1990 expenditure growth rate between adopters and nonadopters offset the difference-indifference "levels" effect. In total, malpractice reforms always result in a decline in cost growth at least 10 percent.

The remaining columns of Table IV describe the corresponding DD estimates of reform effects on AMI outcomes. Mortality rates declined, but readmission rates with cardiac complications increased during this time period, confirming the results of Table I. Outcome trends were very similar in reform and nonreform states: the cumulative difference in mortality and cardiac complication trends was around 0.1 percentage points. These small estimated mortality differences are not only insignificantly different from zero, they are estimated rather precisely as well. For example, the upper 95 percent confidence limit for the effect of direct reforms on one-year mortality trends between 1984 and 1990 is 0.64 percentage points. Coupled with the estimated expenditure effect, the expenditure effect, the expenditure/benefit ratio for a higher pressure liability regime is over $500,000 per additional one-year AMI survivor in 1991 dollars.

Even a ration based on the upperbound mortality estimate translates into hospital expenditures of over $100,000 per additional AMI survivor to one year. The estimates in the corresponding region-effect models are very similar. Indirect reforms were also associated with estimated mortality effects that were very close to zero. Results for outcomes related to quality of life, that is, rehospitalizations with either recurrent AMI or heart failure, also showed no consequential effects of reforms. In this case, the point estimates (upper bound of the 95 percent confidence interval) for the estimated effected of direct reforms were −0.18 (0.21) percentage points for AMI recurrence and −0.07 (0.28) percentage points for the occurrence of heart failure. Again, compared with the estimated expenditure effects, these differences are not substantial.

Table V presents estimated effects of malpractice reforms on IHD expenditures and outcomes, with results qualitatively similar to those just described for AMI. IHD expenditure also grew rapidly between 1984 and 1990. Direct reform led to somewhat larger expenditure reductions for IHD (9.0 percent) and indirect reforms were again associated with relatively smaller increases in expenditures (3.4 percent). The effects of reform on IHD outcomes are again very small: the effect of direct reforms on mortality rates was an average difference of −0.19 percentage points (95 percent upper confidence limit of 0.10), and the effects on subsequent occurrence of AMI or heart failure hospitalizations were no larger. Estimates from the models with region effects were very similar. Thus, directly liability reforms appear to have relatively larger effect on IHD expenditures, without substantial consequences for health outcomes.

As we noted in Section III, the simple average effects of liability reforms estimated in the DD specifications of Tables IV and V may not capture the dynamic effects of reforms. Table VI presents results form model specifications that estimate reform effects less restrictively. In these specifications we use our seven-year panel to estimate short-term and long-term effects of direct and indirect reforms on expenditures and outcomes, to determine whether the "shift" effect implied by the DD specification is adequate. The models retain our state and time fixed effects.

We find the same general patterns as in the simple DD models, but somewhat larger effects of malpractice reforms three to five years after adoption compared with the short-term effects. In particular, Table VI shows that direct reforms lead to short-term reductions in AMI expenditures of approximately 4.0 percent within two years of adoption, and that the reduction grows to approximately 5.8 percent three to five years after adoption. This specification also shows that the positive association between indirect reforms and expenditures noted in Table IV is a short-term phenomenon: the long-term effect on expenditures is approximately zero.

As in Table IV, both direct and indirect reforms have trivial effects on mortality and readmissions with complications, both soon and later after adoption. For example, the average difference in mortality trends between direct-reform and nonreform states is −0.22 percentage points (not significant) within two years of adoption, with a 95 percent upper confidence limit of 0.39 percentage points. At three to five years the estimated effect is 0.12 percentage points (not significant) with a 95 percent upper confidence limit of 0.75 percentage points. These points estimates translate into very high expenditures per reduction in adverse AMI outcomes.

The results for the corresponding model of IHD effects over time are presented in the right half of Table VI. Direct reforms are associated with a 7.1 percent reduction in expenditures by two years after adoption (standard error 0.5) and an 8.9 percent reduction by five years after (standard error 0.5). In contrast, mortality tends for states with direct reforms do not differ significantly by two years (point estimate of −0.15 percentage points, 95 percent upper confidence limit 0.18) or five years after adoption (point estimate −0.11 percentage points, 95 percent upper confidence limit 0.22). Direct reforms also have no significant or substantial effects on cardiac complications, either immediately or later. Indirect reforms are again associated with small positive effects on expenditure growth (3.1 percent within two years), but these effects decline over time to a relative trivial level (1.4 percent at three to five years). Indirect reforms are also associated with slightly lower mortality rates and slightly higher rates of cardiac complications, but the size of these effects is very small (e.g., the upper limit of the 95 percent confidence interval around the estimated effect of indirect reforms three to five years after adoption is 0.47 percentage points for AMI recurrence and 0.29 percentage points for heart failure occurrence). Thus, the pattern of reform effects for IHD is again qualitatively similar to that for AMI, with direct reforms having a somewhat larger effect on expenditures.

Taken together, the estimates in Tables IV through VI consistently show that the adoption of direct malpractice reforms between 1984 and 1990 led to substantial relative reductions in hospital expenditures during this period—accumulating to a reduction of more than 5 percent for AMI and 9 percent for IHD by five years after reform adoption—and that these expenditure effects were not associated with any consequential effects on mortality or on the rates of significant cardiac complications.

We estimated a variety of other models to explore the robustness of our principal results. We tested the sensitivity of our results to alternative assumptions about the excludability of state/time interactions. One set of tests reestimated the models with random state/time effects to determine whether correlated outcomes at the level of state/time interactions might affect our conclusions. Our estimated effects of reforms did not differ substantially or significantly with these methods. Using the model presented in Tables IV and V, the estimated difference-indifference effect of direct reforms on expenditures for AMI patients, controlling for random state/time effects, is −4.9 percent (standard error 2.1), and for indirect reforms, the estimated effect is −0.6 percent (standard error 2.0). The estimated DD effect of direct reforms on mortality for AMI patients, controlling for random state/time effects, is 0.15 percentage points (standard error 0.32) and for indirect reforms, the estimated effect is −0.19 percentage points (standard error 0.32). We obtained similar results for IHD patients: direct reforms showed a negative and statistically significant effect on expenditures with an insubstantial and precisely estimated effect on mortality, and indirect reforms showed no substantial effect on either expenditures or mortality. Estimated differential 1984–1990 expenditure growth rates between early-adopters and nonadopters were insignificant in the random effects specification. For AMI patients the differential growth rate for early adopters of direct reforms is 0.61 percent (standard error 3.1). For early adopters of indirect reforms the differential growth rate is 0.61 percent (standard error 2.3). For IHD patients the differential growth rate for early adopters of direct reforms is −1.9 percent (standard error is 3.0). For early adopters of indirect reforms the differential growth rate is −3.2 percent (standard error is 2.2). Another related diagnostic involved estimating the models with Huber-White [1980] corrections for state/time grouped errors instead of corrections for zipcode/ time grouped errors. Standard errors corrected for state/ time grouping were somewhat larger than those corrected for zipcode/ time grouping but smaller than those obtained under the random effects specification.

Although they did have a statistically significant influence on expenditures in some models, the broad set of political and regulatory environment controls that we used did not change our results substantially. Using the models presented in Tables IV and V but excluding controls for the regulatory and legal environment, the estimated DD effect of direct reforms on expenditures for AMI patients −9.1 percent (standard error is 0.44). For indirect reforms the estimated DD effect is 3.3 percent (standard error is 0.40). In addition, the difference in 1984–1990 growth rates between early-reforming and nonreforming states changes sign from positive to negative for enacting direct reforms before 1985 (Table IV: 3.1 percent with legal environment controls, −3.1 percent without them). The difference in growth rates for states enacting indirect reforms before 1985 remains about the same (Table IV: 2.8 percent with legal environment controls, 3.5 percent without them). These two specification checks, taken together, underscore the points made by Tables IV and V. Direct reforms reduce expenditure growth without increasing mortality, indirect reforms have no substantial effect on either expenditures or mortality, and differential 1984–1990 expenditure growth rates for early-adopting states are not robust estimates of the long-term impact of reforms.

Finally, we reestimated the models in Tables IV and V including controls for statute-of-limitations reforms. Statute-of-limitation reforms have a very small positive effect on expenditures and no effect on mortality, which is consistent with their classification as an indirect reform. Using the models presented in Tables IV and V, statute-of-limitations reforms are associated with a 0.96 percent increase in expenditures for AMI patients (standard error is 0.46), and a 0.003 percentage point increase in mortality (standard error is 0.28). Inclusion of statute-of-limitation reforms did not substantially alter the estimated DD effect of either direct or indirect reforms: for AMI patients the estimated effect of direct reforms went from −5.3 percent (Table IV) to −5.5 percent, and the estimated effect of indirect reforms remained constant at 1.8 percent (Table IV).

To explore the sources of our estimated reform effects more completely, we estimated additional specifications that analyzed effects on use of intensive cardiac procedures such as cardia catheterization, that used alternative specifications of time-since-adoption and calendar-year effects, and that estimated the effects of each type of tort reform separately (see Table IIA). These specifications produced results consistent with the simpler specifications reported here for both AMI and IHD. Specifically, reforms with a determinate, negative direct impact on liability led to substantially slower expenditure growth, somewhat less growth in the use of intensive procedures (but smaller effects than would explain the expenditure differences, suggesting less intensive treatments were also affected), and no consequential effects on mortality.

VI. Policy implications

We have developed evidence on the existence and magnitude of "defensive" medical practices by studying the consequences of reforms limiting legal liability on health care expenditures and outcomes for heart disease in the elderly. These results provide a critical extension to the existing empirical literature on the effects of malpractice reforms. Previous studies have found significant effects of direct reforms on the frequency of and payments to malpractice claims. Because the actual costs of malpractice litigation comprise a very small portion of total health care expenditures, however, these litigation effects have only a limited impact on health care expenditure growth. To provide a more complete assessment of malpractice reforms, we have studied their consequences for actual health care expenditures and health outcomes. Our study is the first to use exogenous variation in tort laws not related to potential idiosyncrasies of providers or small geographic areas to assess the behavioral effects of malpractice pressure. Thus, our analysis fills a crucial empirical gap in evaluating the U.S. malpractice liability system, because the effects of malpractice law on physician behavior are both a principal justification for current liability rules and potentially important for understanding medical expenditure growth.

Our analysis indicates that reforms that directly limit liability—caps on damage awards, abolition of punitive damages, abolition of mandatory prejudgment interest, and collateral-source-rule reforms—reduce hospital expenditures by 5 to 9 percent within three to five years of adoption, with the full effects of reforms requiring several years to appear. The effects are somewhat smaller for actual heart attacks than for a relatively less severe form of heart disease (IHD), for which more patients may have "marginal" indications for treatment. In contrast, reforms that limit liability only indirectly—caps on contingency fees, mandatory periodic payments, joint-and-several liability reform, and patient compensation funds—are not associated with substantial effects on either expenditures or outcomes, at least by several years after adoption. Neither type of reforms led to any consequential differences in mortality or the occurrence of serious complications. As we described previously, the estimated expenditure/benefit ratio associated with direct reforms is over $500,000 per additional one-year survivor, with comparable ratios for recurrent AMIs and heart failure. Even the 95 percent confidence bounds for outcome effects are generally under one percentage point, translating into over $100,000 per additional one-year survivor. While it is possible that malpractice reforms have had effects on other outcomes valued by patients, this possibility must be weighed against the absence of any substantial effects on mortality or the principal cardiac complications that are correlated with quality of life. Thus, at the current level of malpractice pressure, liability rules that are more generous in terms of award limits are a very costly approach to improving health care outcomes.

Approximately 40 percent of patients with cardiac disease were affected by direct reforms between 1984 and 1990. Based on simulations using our effect estimates, we conclude that if reforms directly limiting malpractice liability had been applied throughout the United States during this period, expenditures on cardiac disease would have been around $450 million per year lower for each of the first two years after adoption and close to $600 million per year lower for each of years three through five after adoption, compared with nonadoption of direct reforms.

While our panel is relatively lengthy for a DD study, it is to long enough to allow us to reach equally certain conclusions about the long-term effects of malpractice reforms on medical expenditure growth and trends in health outcomes. Plausible static effects of virtually all outcomes. Plausible static effects of virtually all policy factors cannot explain more than a fraction of expenditure growth in recent decades [Newhouse 1992], and we have also documented that outcome trends may be quite important. Whether policy changes such as malpractice reforms influence these long-term trends through effects on the environment of technological change in health care is critical issue. Do reforms have implications for trends in expenditures and outcomes long after they are adopted, or do the trend effects diminish over time? Preliminary evidence on the question from early-adopted (pre-1985, mostly pre-1980) reforms suggest that long-term expenditure growth is not slower in states that adopt direct reforms. On the other hand, subsequent growth does not appear to offset the expenditure reductions that occur in the years following adoption. Moreover, we found no evidence that direct reforms adopted from 1985–1990 had smaller effects in states that had also adopted direct reforms earlier, suggesting that dynamic malpractice policies may produce more favorable long-term expenditure/benefit trends. In any event, our conclusions about long-term effects are speculative at this point, given the absence of baseline data on expenditures and outcome trends in reform states. Follow-up evaluations of longer term effects of malpractice reforms should be possible within a few years, and might help confirm whether liability reforms have any truly lasting consequences for expenditure growth or trends in health outcomes.

Hospital expenditures on treating elderly heart disease patients are substantial—over $8 billion per year in 1991—but they comprise only a fraction of total expenditures on health care. If our results are generalizable to medical expenditures outside the hospital, to other illnesses, and to younger patients, then direct reforms could lead to expenditure reductions of well over $50 billion per year without serious adverse consequences for health outcomes. We hope to address the generalizability of our results more extensively in future research. More detailed studies using both malpractice claims information and patient expenditure and outcome information, linking the analysis of the two policy justifications for a malpractice liability system, should be particularly informative. Such studies could provide more direct evidence on how liability rules translate into effects on particular kinds of physician decisions with implications for medical expenditures but not outcomes. Thus, they may provide more specific guidance on which specific liability reforms—including "nontraditional" reforms such as no-fault insurance and mandatory administrative reviews—will have the greatest impact on defensive practices without substantial consequences for health outcomes.

Our evidence on the effects of direct malpractice reforms suggests that doctors do practice defensive medicine. Given the limited relationship between malpractice claims and medical injuries documented in previous research, perhaps our findings that less malpractice liability does not have significant adverse consequences for patient outcomes but does affect expenditures are not surprising. To our knowledge, however, this is the first direct empirical quantification of the costs of defensive medicine.

VII. Conclusion

We have demonstrated that malpractice liability reforms that directly limit awards and hence benefits from filing lawsuits lead to substantial reductions in medical expenditure growth in the treatment of cardiac illness in the elderly with no appreciable consequences for important health outcomes, including mortality and common complications. We conclude that treatment of elderly patients with hear disease does involve "defensive" medical practices, and that limited reductions in liability can reduce these costly practices. (*) We would like to thank Randall Bovbjerg, David Genesove, Jerry Hausman Paul Joskow, Lawrence Katz, W. Page Keeton, Gary King, A. Mitchell Polinsky George Shepherd, Frank Sloan, seminar participants at Northwestern University, the University of Michigan and the National Bureau of Economic Research, and two anonymous referees for advice, assistance, and helpful comments. Jeffrey Geppert and Mohan Ramanujan provided excellent research assistance. Funding from the National Institute of Aging, Harvard/MIT Research Training Group in Positive Political Economy, and the John M. Olin Foundation is greatly appreciated. All errors are our own. Reforms requiring collateral-source offset revoke the common-law default rule which states that the defendant must bear the full cost of the injury suffered by the plaintiff, even if the plaintiff were compensated for all or part of the cost by an independent or "collateral" source. Under the common-law default rule defendants liable for medical malpractice always bear the cost of treating a patient for medical injuries resulting from the malpractice even if the treatment were financed by the patient's own health insurance. Either the plaintiff enjoys double recovery (the plaintiff recovers from the defendant and his own health insurance for medical expenses attributable to the injury) or the defendant reimburses the plaintiff's (subrogee) health insurer, depending on the plaintiff's insurance contract and state or federal law. However, some states have enacted reforms that specify that total damages payable in a malpractice tort are to be reduced by all or part of the value of collateral source payments. Estimates of the impact of reforms on claim severity vary over time and across studies. Based on 1975–1978 data, Danzon [1982, p. 30] reports that states enacting caps on damages had 19 percent lower awards, and states enacting mandatory collateral source offsets had 50 percent lower awards. Based on 1975–1984 data, Danzon [1986, p. 26] reports that states enacting caps had 23 percent lower awards, and states enacting collateral source offsets had 11 to 18 percent lower awards. Based on 1975–1978 and 1984 data, Sloan, Mergenhagen and Bovbjerg [1989] find that caps reduced awards by 38 to 39 percent, and collateral-source offsets reduced awards by 21 percent. Again, because all elderly patients with serious heart disease during the years of our study are included, this consideration applies only to extending the results to other patient populations. Of course, if such state-time specific effects exist, there is no reason to expect that they would be normally distributed. Normality assumptions in error structures generally have not performed well in models of health expenditures and outcomes. However, incorporating such random effects permits us to explore the robustness of our estimation methods to possible state-time specific shifts. According to Danzon [1982, 1986], urbanization is a highly significant determinant both of claim payments to and the frequency of claims and of the enactment of tort reforms. We control for urbanization at the individual level, as discussed below. Although we did not include controls for the number of physicians per capita in the reported results because of concerns regarding the exogeneity of that variable, results conditional on physician density are virtually identical. We include both a current and a one-year-lagged effect to account for the possibility that past political environments influence current law. Data on lawyers per capita for 1980, 1985, and 1988 are from the American Bar Foundation [1985, 1991]. Intervening years are calculated by linear interpolation. Our data set is partially derived from Campbell, Kessler, and Shepherd [1966]. The baseline is defined as the "negligence rule" without any of the liability-reducing reforms studied here and with mandatory prejudgment. That is, (.063*$13,140)/.0064[nearly equal to]$108,000 using the 95 percent upper bound of the estimated mortality effect and (.053*$13,140)/.007[nearly equal to]$1,000,000 using the actual DD estimate. Both of these ratios are very large, the difference in absolute magnitude of the two estimates results from the denominator being very close to zero. Because we were concerned that reforms might affect the rate of IHD hospitalization as well as outcomes among patients hospitalized, we estimated models analogous to the specifications reported using population hospitalization rates with IHD as the dependent variable. We found no significant or substantial effects of either direct or indirect reforms on IHD hospitalization rates. Models with region effects only, analogous to the right halves of Tables IV and V, again showed very similar effect estimates. We also estimate separate time-trend effects for early-reform (pre-1984) states. This approach may permit the development of some evidence on "longterm" effects of reforms on intensity growth rates. As noted previously we find no evidence for such effects. Of course, our lack of a pre-adoption baseline for the early-adopting states precludes DD identification and makes the long-term conclusion more speculative. A follow-up study using more recent expenditure and outcome data would provide more convincing evidence on effects beyond five years. In contrast to AMI, the slower rate of expenditure growth between 1984 and 1990 for early-reform states (see Table V) suggests that reforms may have longer term effects on slowing IHD expenditure growth.

REFERENCES

American Bar Foundation, The Lawyer Statistical Report (Chicago, IL: 1985, 1991).

Baldwin, L.M., et al., "Defensive Medicine and Obstetrics," JAMA, CCLXXIV (1995), 1606–10.

Barker, D.K., "The Effects of Tort Reform on Medical Malpractice Insurance Markets: An Empirical Analysis," Journal of Health Politics, Policy and Law, XVII (1992), 143–61.

Bell, P.A., "Legislative Intrusions into the Common Law of Medical Malpractice: Thoughts about the Deterrent Effect of Tort Liability," Syracuse Law Review XXXV (1984), 939–93.

Campbell, T.J., D.P. Kessler, and G.B. Shepherd, "Liability Reforms' Causes and Economic Impacts" in The Mosaic of Economic Growth, R. Landau, et al. eds. (Stanford, CA: Stanford University Press, 1996).

Charles, S.C., C.E. Pyskoty, and A. Nelson, "Physicians on Trial-Self-Reported Reactions to Malpractice Trials," Western Journal of Medicine, CXLVIII (1988), 358–60.

Cooter, Robert D., and Thomas S. Ulen, "An Economic Case for Comparative Negligence," New York University Law Review, LXI (1986), 1067–1110.

Council of State Governments, Book of the States (Chicago, IL: 1984 1990).

Craswell, Richard, and John Calfee, "Deterrence and Uncertain Legal Standards," Journal of Law, Economics, and Organization II (1986), 279–303.

Danzon, P.M., "The Frequency and Severity of Medical Malpractice Claims," RAND R–2870–ICJ/HCFA, 1982.

—Medical Malpractice: Theory, Evidence, and Public Policy (Cambridge, MA: Harvard University Press, 1985).

—, "New Evidence on the Frequency and Severity of Medical Malpractice Claims," RAND R–3410–ICJ, 1986.

Farber, H.S., and M.J. White, "Medical Malpractice: An Empirical Examination of the Litigation Process," RAND Journal of Economics, XXII (Summer 1991), 199–217.

Harvard Medical Practice Study, Patients, Doctors, and Lawyers: Medical Injury Malpractice Litigation, and Patient Compensation in New York, a report of the Harvard Medical Practice Study to the State of New York (Cambridge MA: The President and Fellows of Harvard College, 1990).

Keeton, W.P., et al., Prosser and Keeton on Torts, 5th. ed. (St. Paul, MN: West Publishing Co., 1984).

Leveno, K. J., et al., "A Prospective Comparison of Selective and Universal Electronic Fetal Monitoring in 34 995 Pregnancies," New England Journal of Medicine, CCCXV (1986), 614–19.

Localio, A. R., et al., "Relationship between Malpractice Claims and Cesarean Delivery," JAMA, CCLXIX (1993), 366–73.

Masters S. J., et al., "Skull X-Ray Examinations after Head Trauma: Recommendations by a Multidisciplinary Panel and Validation Study, "New England Journal of Medicine, CCCXVI (1987).

McClellan, Mark, "Uncertainty, Health Care Technologies, and Health Care Costs," American Economic Review, LXXXV (1995), 38–44.

McClellen, Mark, and Joseph P. Newhouse, "The Marginal Benefits of Medical Treatment Intensity: Acute Myocardial Infarction in the Elderly," NBER Working Paper, 1995.

McClellan, Mark, and Joseph R. Newhouse, "The Marginal Costs and Benefits of Medical Technology: Acute Myocardial Infarction," Journal of Econometrics (1996), forthcoming.

Moser, J., and R. Musaccio, "The Cost of Medical Professional Liability in the 1980s," Medical Practice Management (Summer 1991), 3–9.

National Center for Health Statistics, Health United States (Washington, DC: U.S. Government Printing Office, 1994).

Newhouse, J. P., "Medical Care Costs: How Much Welfare Loss?" Journal of Economic Perspectives, VI (1992), 3–22.

Physician Insurers Association of America (PIAA), Data Sharing Reports (1993).

Priest, George L., "The Current Insurance Crisis and Modern Tort Law,'" Yale Law Journal, XCVI (1987), 1521–89.

Rabin, Robert L., "Some Reflections on the Process of Tort Reform, San Diego Law Review, XXV (1988), 13–48.

Reynolds, R. A. J. A. Rizzo, and M. L. Gonzalez, "The Cost of Medical Professional Liability," JAMA CCLVII (1987), 2776–81.

Rock, S. M., "Malpractice Premiums and Primary Cesarian Section Rates in New York and Illinois," Public Health Reporter, CVIII (1988), 459–68.

Shy, K. K., et al., "Effects of Electronic Fetal-Heart-Rate Monitoring, as Compared with Periodic Auscultation, on the Neurologic Development of Premature Infants," New England Journal of Medicine, CCCXXII (1990), 588–93.

Sloan, F. A., "Experience Rating: Does It Make Sense for Medical Malpractice Insurance?" American Economic Review, LXXX (1990), 128–33.

Sloan, F. A., R. M. Mergenhagen and R. R. Bovbjerg, "Effects of Tort Reforms on the Value of Closed Medical Malpractice Claims: A Microanalysis," Journal of Health Politics, Policy and Law, XIV (1989), 663–89.

U.S. Congress, Office of Technology Assessment, Impact of Legal Reforms on Medical Malpractice Costs, OTA-BP-H-119 (Washington, DC: U.S. Government Printing Office).

—, Defensive Medicine and Medical Malpractice, OTA-H-602 (Washington, DC: U.S. Government Printing Office, 1994).

Weiler, R. C. et al., A Measure of Malpractice: Medical Injury, Malpractice Litigation, and Patient Compensation (Cambridge, MA: Harvard University Press, 1993).

White, H., "A Heteroskedasticity-Consistent Covariance Martix Estimator and a Direct Test for Heteroskedasticity," Econometrica, XLVII (1980), 817–38.

Zukerman, S., R. R. Bovbjerg, and F. Sloan, "Effects of Tort Reforms and Other Factors on Medical Malpractice Insurance Premiums," Inquiry, XXVII (1990), 167–82.

Note.—Tables were not reproducible in the RECORD.

Mr. REYNOLDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, West Virginia's health care system and the health care system of many States are facing many challenges. But medical liability insurance has caused a mass exodus of doctors from my State of West Virginia.

I live in Charleston, West Virginia, our capital city. We have one of the largest medical facilities in our State, the Charleston Area Medical Center, which was downgraded from a level one trauma center to a level three trauma center because we could not provide the 24 hour, 7-day-a-week emergency care.

Mr. Speaker, I challenge anybody to tell me about living in a capital city of any State in this Nation and you have to be air lifted out of your capital city, out of the largest medical facilities in your State if you have multiple injuries.

☐ 1245

That is a sad story, but I can tell my colleagues what is going to be a sadder story if we do not fix this problem.

Last week, a young boy 6 years old had a pen lodged in his windpipe. His parents rushed him to the emergency room. What happened, the emergency physician had to call all around to find somebody to treat him. Did they find anybody? No. He drives 3 hours to Cincinnati, Ohio, to find a specialist that can help this young man. What if he could not endure a 3-hour car ride?

I challenge my colleagues, a tragedy is in the making. The perfect storm is created because of the high cost of medical liability insurance, and our doctors across the Nation and most especially in West Virginia are suffering, and the access and the quality care that we deserve as Americans is going to suffer as well.

Without this Federal legislation, the exodus of our health care providers from the practice of medicine will continue, and patients will find it increasingly difficult to find the care. I urge all of my colleagues to recognize this critical and growing problem and to pass H.R. 4600. It will go a long way to helping the health care system in our State and our Nation rise and stay at the level that we expect.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the balance of our time, and I probably will not take it all.

I do ask a question, if this bill is supposed to be the end all, be all, then will someone please explain to me what would have been wrong with accepting the amendments that were very thoughtful, that were offered by Members of the House of Representatives, most of whom were Democrats? No, they did not get that opportunity.

I do not know whether the gentleman from New York (Mr. REYNOLDS) cares to indulge in this particular colloquy or any other Republican or any Member of the House of Representatives. I ask my colleague from New York when he closes to point to the place in this legislation where savings are going to be passed to physicians.

Let me give my colleagues what may not appear to be an exacting analogy. We pass a significant number of subsidies for farmers in the United States of America and I support those. We supported subsidies, for example, for the sugar industry and for wheat, but nowhere after those subsidies where sugar went down or wheat went down did we see Corn Flakes or candy go down. The consumer gets slapped every time, it does appear.

Let me set the record straight. This is modeled on California, and we have more Members from California in this House of Representatives than from any other State in the Nation. We had the gentlewoman from California (Ms. ESHOO) come down here to talk about California. Let me tell my colleagues what they are not saying about MICRA, it is referred to.

The California experience is perhaps in many respects the most telling fact having to do with this legislation since it is modeled on California. In 1975, California enacted into law the Medical Injury Compensation Reform Act, and this is the act after which many of the provisions of H.R. 4600 are modeled after, including caps on noneconomic damages, collateral source offsets and limitation on attorney's fees. Despite these reforms in California, premiums for medical malpractice in California grew more quickly between 1991 and 2000 than in the Nation, 3½ percent versus 1.9 percent respectively, and between 1975 and 1993, California's health care costs rose 343 percent, almost double the rate of inflation.

Not only does the evidence show that California's tort reform has failed to lower premiums for physicians, it also shows that California's insurance companies are reaping excessive profits in the aftermath of tort reform. In 1997, California's insurers earned more than $763 million, yet paid out less than $300 million to claims.

Mr. Speaker, the gentleman from Massachusetts (Mr. MARKEY) offered an amendment yesterday that would direct insurers to use any savings received as a result of H.R. 4600 to reduce the premiums they charge their health care providers. If within 2 years of that enactment, his legislation called for insurers not realizing cost savings, then the provisions of H.R. 4600 relating to liability lawsuits and liability claims would not apply to any lawsuits and claims against providers insured by the insurance companies. That was defeated in the Committee on Rules by 2 to 8 and never will see the light of day here, a measure that would have given an opportunity for physicians to receive the benefits that would be saved.

I want to harken back to 1993 when my colleagues on the other side of the aisle very skillfully built an infrastructure on radio and all I could hear, I was a new Member of Congress, all I could hear was the Democrats are having closed rules. People that did not even know what a rule was were calling in to the talk shows and saying those Democrats are horrible about closed rules. So little did I know that time would pass and I would become a member of the Committee on Rules, and what I am experiencing and what we experienced here today is a closed rule. If it was bad in 1993, it is bad in 2002.

What closed rules have done and what they are doing is stopping the gentleman from Michigan (Mr. STUPAK), who we heard from, the gentlewoman from California (Ms. ESHOO), the gentleman from Pennsylvania (Mr. HOEFFEL) and the gentleman from New Jersey (Mr. PASCRELL). Very thoughtful amendments, that if this body worked its will could have gone about the business of attending to.

I am a lawyer for 40 years and I am proud of that, and what I learned in law school in torts, written by some of the more brilliant persons in the world, including those founders in England that gave us this great judicial system that we have, and that is that that process of punitive damages is embedded in our laws to make sure that people do not act grossly negligent.

That said, most physicians, most health care providers are honest. There is nothing that is going to stop the bad physician from being bad in this particular measure, and punitive damages are what alerts the entire profession that they need to be careful. It is just that simple. I invite my colleague from New York to show me where the insurance companies are going to pass on to the physicians any savings and where H.R. 4600 does anything to lower insurance premiums.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself the remainder of my time.

I thank the gentleman from Florida for some of his opportunity to share with passion his views on this legislation.

First, both the Committee on the Judiciary, which passed the legislation out by voice vote, and the Committee on Energy and Commerce have had ample debate on this legislation before it came to the Committee on Rules and now on to the floor for consideration of by the entire body.

Two Stanford University economists have conducted two extensive studies using national data on Medicare populations and concluded that patients from States that adopted direct medical care litigation reforms, and I will say that again for my Florida colleague, that the study which adopted and concluded that patients from States that adopted direct medical care litigation reforms, such as limits on damage awards, incur significantly lower hospital costs while suffering no increase in adverse health outcomes associated with the illness for which they were treated.

Mr. Speaker, in public opinion, by a survey conducted by Wirthlin Worldwide for Health Care Liability Alliance, 71 percent of Americans agree that the main reason health care costs are rising is because of medical liability lawsuits; 78 percent of Americans say they are concerned about the access to care being affected because doctors are leaving the practices due to rising liability costs; 73 percent of Americans support reasonable limits on awards for pain and suffering in medical liability lawsuits; and more than 76 percent of Americans favor a law limiting the percentage on contingent fees paid by the patient.

This legislation is intended to control escalation in lawsuit damage awards and slow the rising costs of medical malpractice insurance. The HEALTH Act would benefit patients because it will award injured patients unlimited economic damages. It will award injured patients noneconomic damages up to $250,000. It will award injured patients punitive damages of up to two times economic damages of $250,000 or whatever is higher. It establishes a fair share rule that allocates damage awards fairly and in proportion to a party's degree of fault, and it establishes a sliding scale of attorney's contingent fees, therefore maximizing the recovery for patients. It allows States the flexibility to establish or maintain their own laws on damage awards, whether higher or lower than those provided for in this bill.

I hear my time is expiring. I urge a yes vote on the rule and on the underlying legislation, a yes vote for patients and families all across America.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 221, nays 197, not voting 14, as follows:

[Roll No. 419]

YEAS—221

Aderholt
Akin
Armey
Baker
Ballenger
Barcia
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—14

Bachus
Barr
Bonior
Buyer
Callahan
Maloney (NY)
McDermott
Meek (FL)
Mink
Paul
Roukema
Stump
Thompson (CA)
Thurman

□ 1321

Mrs. JONES of Ohio changed her vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 553, I call up the bill (H.R. 4600) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to House Resolution 553, the bill is considered read for amendment.

The text of H.R. 4600 is as follows:

H.R. 4600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act of 2002".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of "defensive medicine" and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

A health care lawsuit may be commenced no later than 3 years after the date of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years, except that in the case of an alleged injury sustained by a minor before the age of 6, a health care lawsuit may be commenced by or on behalf of the minor until the later of 3 years from the date of injury, or the date on which the minor attains the age of 8.

SEC. 4. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder.

SEC. 7. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages awarded in a health care lawsuit may be up to as much as two times the amount of economic damages awarded or $250,000, whichever is greater. The jury shall not be informed of this limitation.

(c) NO CIVIL MONETARY PENALTIES FOR PRODUCTS THAT COMPLY WITH FDA STANDARDS.—

(1) IN GENERAL.—No punitive damages may be awarded against the manufacturer or distributor of a medical product based on a claim that such product caused the claimant's harm where—

(A)(i) such medical product was subject to premarket approval or clearance by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such medical product which caused the claimant's harm or the adequacy of the packaging or labeling of such medical product; and

(ii) such medical product was so approved or cleared; or

(B) such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable Food and Drug Administration regulations, including without limitation those related to packaging and labeling.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes a drug or device (including blood products) approved by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such drug or device and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or product seller of such drug or device.

(3) PACKAGING.—In a health care lawsuit for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially out of compliance with such regulations.

(4) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval or clearance of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval or clearance of such medical product.

SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

SEC. 9. DEFINITIONS.

In this Act:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term "compensatory damages" includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term "contingent fee" includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term "health care organization" means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term "health care provider" means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term "health care goods or services" means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term "malicious intent to injure" means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term "medical product" means a drug or device intended for humans, and the terms "drug" and "device" have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term "recovery" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 10. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does

not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS.—Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This Act does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this Act.

(c) STATE FLEXIBILITY.—No provision of this Act shall be construed to preempt—

(1) any State statutory limit (whether enacted before, on, or after the date of the enactment of this Act) on the amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, whether or not such State limit permits the recovery of a specific dollar amount of damages that is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 12. APPLICABILITY; EFFECTIVE DATE.

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

The SPEAKER pro tempore. In lieu of the amendments recommended by the Committee on the Judiciary and the Committee on Energy and Commerce, the amendment in the nature of a substitute printed in House Report 107–697 is adopted.

The text of the amendment in the nature of a substitute printed in House Report 107–697 is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2002".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of "defensive medicine" and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals;

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following:

(1) Upon proof of fraud;

(2) Intentional concealment; or

(3) The presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

SEC. 4. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered without limitation.

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit, an award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 5. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

SEC. 7. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages awarded in a health care lawsuit may be up to as much as two times the amount of economic damages awarded or $250,000, whichever is greater. The jury shall not be informed of this limitation.

(c) NO CIVIL MONETARY PENALTIES FOR PRODUCTS THAT COMPLY WITH FDA STANDARDS.—

(1) IN GENERAL.—No punitive damages may be awarded against the manufacturer or distributor of a medical product based on a claim that such product caused the claimant's harm where—

(A)(i) such medical product was subject to premarket approval or clearance by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such medical product which caused the claimant's harm or the adequacy of the packaging or labeling of such medical product; and

(ii) such medical product was so approved or cleared; or

(B) such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable Food and Drug Administration regulations, including without limitation those related to packaging and labeling, unless the Food and Drug Administration has determined that such medical product was not manufactured or distributed in substantial compliance with applicable Food and Drug Administration statutes and regulations.

(2) LIABILITY OF HEALTH CARE PROVIDERS.—A health care provider who prescribes a drug or device (including blood products) approved by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such drug or device and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or product seller of such drug or device.

(3) PACKAGING.—In a health care lawsuit for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially out of compliance with such regulations.

(4) EXCEPTION.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval or clearance of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval or clearance of such medical product.

SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

SEC. 9. DEFINITIONS.

In this Act:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term "compensatory damages" includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term "contingent fee" includes all compensation to any

person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term "health care organization" means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term "health care provider" means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term "health care goods or services" means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term "malicious intent to injure" means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term "medical product" means a drug or device intended for humans, and the terms "drug" and "device" have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term "recovery" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 10. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS.—Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law. This Act does not preempt or supersede any law that imposes greater protections (such as a shorter statute of limitations) for health care providers and health care organizations from liability, loss, or damages than those provided by this Act.

(c) STATE FLEXIBILITY.—No provision of this Act shall be construed to preempt—

(1) any State statutory limit (whether enacted before, on, or after the date of the enactment of this Act) on the amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, whether or not such State limit permits the recovery of a specific dollar amount of damages that is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

SEC. 12. APPLICABILITY; EFFECTIVE DATE.

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

SEC. 13. SENSE OF CONGRESS.

It is the sense of Congress that a health insurer should be liable for damages for harm caused when it makes a decision as to what care is medically necessary and appropriate.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes and the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Ohio (Mr. BROWN) each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill, H.R. 4600, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a national insurance crisis is ruining the Nation's essential health care system. Medical professional liability insurance rates have soared, causing many insurers to either drop coverage or raise premiums to unaffordable levels. Doctors and other health care providers are being forced to abandon patients and practices, particularly in high-risk specialties such as emergency medicine and obstetrics and gynecology. This trend has had a particularly negative impact upon women, low-income neighborhoods and rural areas, and in medical schools large and small.

When California faced a similar crisis over 25 years ago, Democratic Governor Jerry Brown, following the recommendation of the gentleman from California (Mr. WAXMAN), then chairman of the California Assembly's Select Committee on Medical Malpractice, enacted the Medical Injury Compensation Reform Act, known as MICRA.

MICRA's reforms include a $250,000 cap on noneconomic damages, limits on the contingency fees lawyers can charge, and provisions that prevent double recoveries. According to the Los Angeles Times, "Because of the 1975 tort reform, doctors in California are largely unaffected by increasing insurance rates. But the situation is dire in other States." Exhaustive research by two Stanford University economists has confirmed that direct medical care litigation reforms, including caps on noneconomic damage awards, generally reduce malpractice claims rates, insurance premiums and other stresses upon doctors that may impair the quality of medical care.

The HEALTH Act includes MICRA's reforms, while also creating a fair share rule by which defendants are only liable for the percentage of damages for which they are at fault. Additionally, H.R. 4600 sets reasonable guidelines, but not caps, on punitive damage awards. Under this legislation, a punitive damage award cannot exceed the greater of $250,000, or two times the amount of economic damages that are awarded.

The HEALTH Act will accomplish reform without limiting compensation for 100 percent, or all of plaintiffs' economic losses, meaning any loss which can be quantified and to which a receipt can be attached. These include their medical costs, lost wages, future lost wages, rehabilitation costs, and any other economic out-of-pocket loss suffered as a result of a health care injury.

Additionally, although this legislation places a cap on noneconomic damages, it also allows deserving victims to keep more of their jury awards by limiting the percentage that lawyers can take. This is accomplished according to a sliding scale that caps legal fees down to 15 percent of awards exceeding $600,000. Without such reforms, lawyers can take their standard one-third to 40 percent cut from whatever victims recover. Enactment of this bill will allow victims to keep roughly 75 percent of awards under $600,000 and 85 percent of awards over that amount. Under the HEALTH Act, the larger the demonstrable, real-life economic damages are, the more the victims will get to keep.

A recent survey conducted for the bipartisan legal reform organization Common Good, whose board of advisers includes former Clinton administration Deputy Attorney General Eric Holder and former Democratic Senator Paul Simon of Illinois, reveals the dire need for regulating the current medical tort system in America. According to the survey, which was conducted by the reputable Harris organization:

First, more than three-fourths of physicians feel that concern about malpractice litigation has hurt their ability to provide quality care in recent years; second, 79 percent of physicians report that fear of malpractice claims causes them to order more tests than they would based only on the professional judgment of what is medically needed.

As former Democrat Senator and Presidential candidate George McGovern and former Republican Senator Alan Simpson have written, "Legal fear drives doctors to prescribe medications and order tests, even invasive procedures, that they feel are unnecessary. Reputable studies estimate that this defensive medicine squanders $50 billion a year. The Common Good survey also asked physicians the following question: Generally speak, how much do you think that fear of liability discourages medical professionals from openly discussing and thinking of ways to reduce medical errors?

□ 1330

An astonishing 59 percent of physicians replied "a lot."

Americans want to see their friends and loved ones receive the best and most accessible health care available, but, with greater and greater frequency, doctors are not there to deliver it because they have been priced out of the healing profession by unaffordable professional liability insurance rates.

Sound policy does not favor supporting one person's abstract ability to sue a doctor for unlimited and unquantifiable damages when doing so means that health care will become less accessible and less affordable to all Americans, particularly to women, to the poor and to those who live in rural areas.

The American Bar Association estimates that there are 1 million lawyers in the United States, but all of us, all 287 million Americans, are patients, and as patients and for patients, I urge my colleagues to support the HEALTH Act.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I begin by commending the gentleman from Florida (Mr. HASTINGS) for conducting a very important and substantive debate on the rule governing this measure that is before us.

Now, let us begin with the fact that this medical malpractice reform bill, except for the fact that there are no caps on attorneys, is the same bill, amendment, brought forward by the gentleman from California (Chairman THOMAS) to the Patients' Bill of Rights last July, and it was turned down, for good reason.

The next thing I should point out is that there is a serious constitutional problem that the American Bar Association has written to me and members of the committee about, a letter that I have for those who still have that reverence for that document, that I am sure we all do.

Now, there has been constant reference to the Medical Injury Compensation Reform Act of 1975 in California. May I point out to all of those who assume that it has been enormously successful that the Consumers Federation of America in their report, which reinforces another California report, makes two points: That the per capita health expenditures in California have exceeded the national average every year between 1975 and 1993 by an average of at least 9 percent per year; and that the California health care costs have continued to skyrocket at a rate faster than inflation since the passing of the Medical Injury Compensation Reform Act.

Inflation, as measured by the Consumer Price Index, rose 186 percent between 1975 and 1993, yet California's health care costs grew by 343 percent during the same period. Moreover, California's health care costs have grown at almost twice the rate of inflation since 1985.

Now, the problem with this bill is that rather than help doctors and victims, this bill really does a great favor to insurance companies, HMOs and the manufacturers of defective medical products and the pharmaceuticals, as usual.

In addition, it also is clear that a legislative solution focused on limiting victims' rights available under our State tort system will do little other than increase the incidence of medical malpractice, already the third leading cause of preventible deaths in the United States of America.

Finally, you should be aware that the drug companies have somehow gotten into this, as well as the producers of the infamous Dalcon Shield, the Cooper 7 IUD, high absorbancy Tampons, linked to toxic shock syndrome, and silicon gel implants, all of whom would have completely avoided billions of dollars that they have paid out in damages had this bill been law.

So, Mr. Speaker, I refer you finally to the Consumers Union Report, which points out in detail all of the basic things that have been reviewed here.

Please let us stick to our guns. This is too important a thing to let something as blatantly political go through in the name of helping the victims of medical malpractice in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Michigan (Mr. CONYERS) I think was in error when he was saying that all of these people would have avoided billions and billions of dollars of liability. The fact is that this bill does not limit liability for proven economic damages, such as lost wages, lost future wages, rehab expenses, medical expenses and the like by one penny for anybody. The economic damages that are suffered are unlimited under this legislation. What it does limit is noneconomic damages that cannot be quantified.

What the gentleman from Michigan says is that we all should pay more in doctors' fees and the taxpayers should pay more in Medicare expenses simply because we do not want to limit noneconomic damages for maybe one plaintiff or a couple of plaintiffs.

So here is something where the interests of a few completely wipe away the interests of the greater good, particularly those people in rural areas that are looking for OB-GYNs.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

We on the Committee on the Judiciary have been wrestling with this issue for many years and have had many different proposals cross our desks on this very same theme. What brings us to the floor now is that when we were first considering it the problems were terrible. Now the problems are more than terrible, almost unbearable.

Every day in Pennsylvania, just like in your home States, you hear anecdotes about the giving up of a practice by a physician or the constriction of services to be rendered at a hospital or actually the closing of a hospital, all due to the rising cost of insurance premiums and the awards granted on behalf of plaintiffs across the board.

What is so good about the plan we have in front of us is, as the gentleman from Wisconsin was able to articulate, that this puts no caps at all on the economic damages. As a matter of fact, the testimony that we had from the Californians who testified as to the system that is extant in their State was that even though health care costs are rising and that they must consider that in the awards that are granted in California, the rising health care costs, even though they go up, are going up incrementally, and the cap on the noneconomic damages remains the same, thus preserving the very root of this kind of legislation. It is to allow physicians and hospitals to remain in place across the spectrum of medical services. Why? Because their economic damages of their own, caused by the high insurance premiums and high awards visited against them, would be retarded by this legislation. It would not cure the matter, but it would retard their financial difficulties.

If we can retard their financial difficulties, we give them reason to stay in place, to leave their practice thriving in a particular sector in my State and in yours. It would allow hospitals to be able to budget in such a way, with the shrinking cost of insurance that we hope that this brings about, to be able to extend services or remain in place over a long period of time, where otherwise, with the high costs now seen across the Nation, they are incapable of maintaining their own level of services. So this is the time to bring about a great reform.

I remember in 1995 we were on the floor with a different version of this bill and many of us thought we had a great chance of passing it. But, for one reason or another, it did not occur. All I do now is repeat that that was then when the situation was very bad; today it is much worse, and we have a chance to strike a blow at this emergency right now.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to my friend from Massachusetts, I think we ought to make sure we are all talking about the same bill.

On page 5 of this bill we eliminate the doctrine of joint and several liability, meaning that if one person does not have enough money, then nobody else is responsible for them paying for the damages.

Number two, the statute of limitations is reduced to 3 years, and that is on page 3. What that means then is if a person with AIDS discovers it in 6 years, they just missed out, because the statute of limitations would now be 3 years.

For my friend from Pennsylvania's information, this bill does cap noneconomic and punitive damages.

Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY), from the Committee on Energy and Commerce.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me time.

So the Republicans say that they have identified a big problem: Insurance premiums for physicians are skyrocketing, and we have to do something about it.

What is their solution? Just what the insurance companies ordered for a solution: A cap on noneconomic damages at $250,000; pain and suffering, all that, $250,000. The juries are not even told that the limit is $250,000, so they could come back with a $1 million verdict, but only $250,000 to the victim.

But their bill does not say that the savings goes to physicians. No. They have all the money go to the insurance company executives.

Now, last night I made a request to the Republicans that I be allowed to make an amendment that says that any amount of money that a jury renders above $250,000, let us say $1 million, that the court would then give that money over to a court-appointed trustee and the court-appointed trustee would then ensure that the insurance premiums for the physicians inside that area would be lowered.

The Republicans prohibited that from coming out here because that would guarantee that the physicians would be the beneficiaries, not the insurance industry. And what is the problem? Well, the insurance company executives have a fiduciary relationship to their shareholders, to their wives, to their children, to maximize profits for themselves. That is a legal responsibility.

If we are going to pass this bill and limit the ability for victims to recover, then the only justification should be that physicians' premiums go down, and that is the one big missing link in the Republican bill. There is no requirement that the insurance companies lower the premiums for doctors, and that is what the Democrats are trying to do, to help the patients, to help the doctors. And what is the Republican Party doing once again? They are bringing out the agenda of the insurance industry.

If we have learned anything from the accounting practices across this country, it is that it is impossible to know where those savings would have gone.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would appreciate it if Members would recognize the gavel.

□ 1345

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

The gentleman from Massachusetts (Mr. MARKEY) thunders away about the Republican solution to the problem of escalating medical liability insurance premiums. He is entitled to his opinion. But the Democrats have no solution at all. They would like to continue the present system. They would like to see these rates skyrocket. They would like to see physicians close their practices or go into other specialties. They would like to see OB-GYNs be priced out of the market. They would like to see clinics in rural areas closed, and they would like to see the affordability and the accessibility of health care to poor people shrink.

I figured out how much the patient ends up having to pay. In the State of Mississippi, an OB-GYN can be charged as much as $110,000 a year this year for professional liability insurance, based upon 2,000 billable hours per year. Based upon 2,000 billable hours per year, a half an hour visit to that OB-GYN, the first $27.50 of whatever that doctor charges the patient goes for that patient's share of the doctor's professional liability insurance premium, and everything else that the doctor charges ends up being used to pay the doctor's other expenses as well as to allow the doctor to take some money home to support himself or herself and their families. So all of these costs end up getting passed on to the patients, and if you want to complain about the high cost of health insurance, the way to start doing something about it is to pass this bill so that doctors do not have to pay through the nose for professional liability insurance.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of the legislation. Many of my colleagues today have made claims that this bill is bad, as we just heard, that this is just what the insurance companies order. Actually, if my colleagues will look at this map, they will see it is actually just what the doctors ordered.

The States in red, my home State of Pennsylvania, are the States where we are in a crisis. Doctors are leaving my State in droves, leaving patients with nowhere to go for health care. Those in opposition say they dislike caps on damages and limits on lawyers' contingency fees. Let us start with that cap on damages. It is a $250,000 cap, and it is on punitive damages. It has nothing to do with the actual recovery that the injured plaintiff is due. It is the additional damages that are being limited.

Let us talk about the limit on lawyer contingency fees. The lawyer who actually suffered no injury at all is being limited on how much in fees he can take from that plaintiff's award. That is the award that is due to the plaintiff because of the actual injury. The bill helps the injured person retain more of the award that she is due. The lawyer would be limited to, listen, 40 percent of the first $50,000; one-third of the second $50,000; one-fourth of the next $500,000; and 15 percent of any amount over $600,000. Do the math. The lawyer gets plenty of money under this plan. I do not believe we will have a shortage of lawyers taking on cases as a result of this; but if we do not get this, we will continue to have a shortage of doctors who are willing to take on patients. Without this rule, we will continue the mass exodus in these States in red, and the States that are not in red are soon to follow.

This past weekend I visited with a physician friend of mine. Both she and her husband are practicing medicine in my home State of Pennsylvania. She gave me the bad news of her firsthand experience and how she and her husband are interviewing out of State to practice medicine out of State because they can no longer afford the insurance that they need to be able to continue to practice to provide good service to their patients.

In Pennsylvania over the last 4 years, rates have increased 125 percent, according to the "Medical Liability Monitor." The American Medical Association has statistics that are similar. If we do not pass this HEALTH act, we are saying to the people of America we are not concerned about their health. I believe that we are, and I believe that the majority of us will support the HEALTH act, a wonderful bill by the gentleman from Pennsylvania (Mr. GREENWOOD) and a bill that we should all support to make sure that our constituents get the health care they need.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

We are going to see many crocodile tears shed this afternoon on behalf of physicians and their high premiums. But the Republicans refuse to allow the Democrats to make an amendment that ensures that all of the savings that come from the limits on how much a patient can recover goes to lower insurance premiums. They refuse to allow us to even make the amendment because they are going to allow the insurance industry to pocket this money. That is what this time is all about. It is about the insurance companies, not about the physicians. We support the physicians.

Mr. CONYERS. Mr. Speaker, I am sorry I corrected the other side in connection with their understanding of their bill which may have brought about an overreaction about what Democrats do not want to happen to the health system in America. I apologize for that.

Mr. Speaker, I yield 2 minutes to our very distinguished colleague, the gentleman from North Carolina (Mr. WATT), on the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I have to say with respect to all my colleagues that I think we have lost sight of what this is all about. When we start debating the merits or demerits of this bill, we miss the point. The point is that in North Carolina if I walk into a physician's office, all of that treatment takes place right there in North Carolina, and historically the tort law and medical negligence law has been determined State by State; and were I in the State legislature of North Carolina, all of this discussion that we are having would probably be a very appropriate debate.

But for people who came to Congress saying that they believed in States' rights and the federalist form of government that we have, this debate is totally misplaced. It would be like us saying, well, we are very dissatisfied with schools all across the country; therefore, we are going to federalize the whole education system in America. That is what this debate reminds me of.

My Republican colleagues, in 1995, told me that they believed in States' rights. And ever since then, they have been trying to federalize the standards on everything that has traditionally been done at the State level, and this is just another one of those examples.

When I raise this point, nobody seems to care. Well, my Constitution says that unless there is some interstate commerce connection, and I have not seen any medical practice take place across State lines since I have been going to doctors; unless there is some kind of Federal nexus here, why are we debating tort reform here, rather than having the gentlewoman from Pennsylvania (Ms. HART) go back and tell her State legislators that they need to address this problem? If they are losing doctors in Pennsylvania, then they ought to address the problem in Pennsylvania and solve the problem there, not federalize the issue.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to H.R. 4600, a bill to protect doctors, other health care providers, drug companies, and manufacturers of medical devices from the consequences of their own negligence. It reduces compensation for severely injured people in order to save money for negligent providers and their insurers.

This is a congressional power grab to take over tort law from the States. Many States, including Maine, have held down malpractice premiums without stripping compensation from severely injured plaintiffs. Maine requires a review of malpractice claims by an independent panel within 90 days of the plaintiff's filing a claim. I served on two of those panels before I left the practice of law, and the result is more cases are settled early without an arbitrary cap on damages.

I believe that we here in the Congress should deal with our issues and leave the State law issues to the States. We do not need to take over State legislative responsibility.

We are now in the fourth week since the August recess, and not one single appropriations bill that we ought to be dealing with has come to the floor of this House; instead, we are spending our time dealing with matters more appropriate for State legislators.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I would just like to tell my colleagues about a woman, I will call her Jane, and she is a citizen of the State of Washington. She went in for a routine test, a mammography, a biopsy was done, she was diagnosed as having breast cancer. She had a double radical mastectomy because of that diagnosis. She then developed a blood clot that went into her bowel and she required her bowel to be removed. She then developed another blood clot that caused gangrene in her leg, and they had to cut off her leg.

Some time later, a subsequent review, a quality control assurance review, found that the diagnosis was inaccurate. The pathology report was flat dead wrong. She never had cancer, she never had anything that required significant surgery. She is a woman without breasts, without a bowel, and without a leg due to a failure, either of a physician or of a medical device, both of which would be affected by this legislation.

Now, I do not know what is just to do in Jane's situation, but I do know this: the first people that should be making that decision are 12 of her peer citizens sitting in a jury box looking at the evidence, the second should be the State legislature, and the last should be the U.S. Congress. We should reject this legislation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER), one of our ranking members of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, this bill is a cruel attempt to protect insurance companies by trampling the rights of consumers.

We are told today the bill is necessary to drive down insurance rates because juries award too much money to plaintiffs. But that is a diversion from the real problem, which is very simple: mismanagement by the insurance companies. Insurance companies make their money by investing the premiums they collect in the stock market. When the market is strong, they keep premiums artificially low, because they can make plenty of money in the markets. When the market turns sour, they must dramatically increase premiums to cover their costs. It is a predictable cycle, and that is why once about every 10 years when the market goes south, we hear of a great crisis which is then blamed on out-of-control lawsuits and the consumer has to get it in the neck.

Mr. Speaker, lawsuits account for the same minuscule fraction of health care costs as they always have. Studies have shown the average jury award has not changed at all in the last decade, so why the sudden crisis? Because the market is in a tailspin and the insurance companies need to recoup their losses because they kept the rates too low during the good years. But why should injured patients pay to bail out the failed management of these companies? And who seriously believes that premiums will go down if this bill is passed?

As Debora Ballen, executive vice president of the American Insurance Association said, "Insurers never promised that tort reform would achieve specific premium savings," just savings to their bottom line, I guess. And, of course, the Republican Committee on Rules refused to allow an amendment on the floor that would say that they have to pass on the savings to the doctors, to the consumers.

□ 1400

In pursuit of this giant bailout, what we have here is a breathtaking assault on the rights of consumers and patients. Take the $250,000 cap on noneconomic damages, a figure that might have been reasonable in 1975 when the MICRA law was passed in California; it is woefully inadequate today. The equivalent today would be $1.5 million.

Again, the Republican Committee on Rules refused to allow an amendment to even say, okay, $250,000, we will put in an inflation amount to adjust it, so it does not decrease to nothing with inflation. If we maintain this cap now, it will be impossible for consumers to hold doctors accountable for malpractice in the future.

Not content merely to cap malpractice suits, this bill also guts, guts State HMO laws, protects big drug companies and medical product manufacturers, makes punitive damages almost impossible to assess, and places an unreasonable statute of limitations on injured patients.

Mr. Speaker, we should not be misled by the bill's supporters. Do not believe for a second that insurance rates will go down as a result of this bill. This cruel bill should be seen for what it is: another gift from the Republican majority to the big insurance companies at the expense of patients, consumers, and, I might add, doctors.

This irresponsible bill should be disapproved.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, we are here because of patients. Patients are not getting care. Trauma centers are closing. Emergency rooms are closing. OB–GYNs are leaving their practice. Women are without health care. That is why we are here.

On June 30 of this year, Methodist Hospital in south Philadelphia, which had been delivering babies since 1892, closed its doors. They closed their maternity ward and they stopped delivering babies. This is going on all over the country.

In Nevada, in all of southern Nevada, now, there is no trauma center. Southern Nevada's only trauma center closed its doors in July. Las Vegas is now the only city of its size without any care for such people in these circumstances. Our intention is to ensure that no more patients are denied the care they deserve.

We have heard there was a Democratic amendment that should have been made in order that would have ensured that savings from this bill, which the Congressional Budget Office estimates at $14 billion, $14 billion more available to go into health care, into hospitals, into Medicare givebacks, into quality of care, that we should have had this amendment that guaranteed that savings went to doctors.

Somebody should ask whether the doctors supported that amendment, because they did not. The way this amendment was written, the premiums would still have been high because the awards still would have had to be paid, this time to a trustee instead of to the trial lawyers, but the premiums would not have come down. That is why doctors did not support the amendment.

Somebody made the claim that the Dalkon shield case, bringing up the old horribles of the past, that damages would not have been awarded in that case had this bill been law. That is completely false. In 1976 Congress changed the law, post-Dalkon shield, to require pre-market approval for devices. The House and Senate reports on that legislation specifically mentioned Dalkon shield as something that would have been kept off the market if we had had pre-market approval in the law.

What this bill says is if a device has been approved by the FDA, then there will not be punitive damages; in other words, if people comply with the pre-market approval requirements, why should the lawyers be able to claim that there was some kind of willful, egregious, and so on kind of injury committed.

In California, we have had this system a long time. I have heard some people say that California's premiums have gone up faster than inflation. Of course they have, they have gone up 150 percent since this law has gone on the books. But at the same time, we have to tell the whole story, malpractice premiums in the rest of the country have gone up 500 percent. This has saved a great deal of money for us in California.

Medical liability insurance premiums in constant dollars have actually fallen in California by more than 40 percent, and injured patients are receiving compensation more quickly in California than in the United States as a whole. Injured patients receive a larger share of the awards.

This is all about patients; it is all about making sure that their doctors can serve them. That is why doctors support this bill. That is why patients support this bill. It is why it is high time that we pass this bill.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to my friend, the gentleman from California (Mr. COX), I say, please check the punitive damages that the Dalkon shield Cooper 7 IUD, the hundreds of millions that they would have not had to pay had this bill been in effect.

Mr. Speaker, I yield 2 minutes to my friend, the distinguished gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, someone needs to stand up for American physicians. Somebody needs to stand up for the American health care system.

What is the problem? Malpractice premiums have skyrocketed. What is the answer proposed by our friends on the other side? It is H.R. 4600. Let us make no mistake about it, H.R. 4600 is a hoax, it is a sham, and our friends know it. It is a sham on the American medical establishment by the insurance carriers, who want to limit their exposure but will not commit to reducing premiums.

Please read the bill. H.R. 4600 limits the amount that carriers pay for legitimate claims, but it has absolutely no provision requiring reducing premiums; none, zero, zilch, nada, nothing, and they know it. It is a scam.

In fact, Mr. Speaker, in States that have enacted caps, in States that have enacted caps, the malpractice premiums are higher than in States that have no caps. But the carriers do not want to tell us that. Why? That is because their interests are in conflict with the medical community.

I want to ask a question: Do the words "Patients' Bill of Rights" ring a familiar note? What causes the problems? It is not physicians, it is not patients, it is not even the lawyers they are talking about; the problem is the market. St. Paul recently, in announcing it was exiting the market, said they paid too much in claims; but, oh, yes, they forgot to mention they lost $108 million in Enron. Every time the market goes down, they claim a medical liability crisis. How convenient is that?

The truth is that the carriers are asking doctors, hospitals, and patients to pay for their bad investment decisions. It is as simple as that. They know it. We have asked the insurance carriers to put in this bill a requirement to reduce premiums. They will not do it. They will not talk about it. That is because they know they are going to raise the premiums. It is a scam on the entire system.

There are a lot of other problems. At least 31 States have found portions of this bill to be unconstitutional. It does limit economic damages because it gets rid of joint and several liability. They know that. They know it limits economic damages.

Let us just get right back to it. It boils down to this point: It helps the insurance carriers; it does nothing for the physicians and nothing for the patients, and they know it.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE) to concluded the debate on our side of the aisle.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 2 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member, for yielding time to me.

Mr. Speaker, time is short for an important step for America, and that is, of course, something that probably we have not debated on this floor. We do not make light of the horrific tragedy of 9/11, but what it caused Americans to do is to reinforce their commitment to our values. Part of that is the judiciary system, which allows Americans to go into a courthouse and address their grievances, away from violence and intimidation.

It is interesting that we would come in that backdrop to begin to tell Americans that they cannot go into the courthouse when they have been injured and begin to find relief. Why we are promoting this kind of bill that denies and equalizes justice for all Americans I cannot give an answer.

Many people criticize lawyers. I remember Shakespeare saying, the first thing you should do is to kill all the lawyers. I am one, but I serve the American people as a Representative for the 18th Congressional District in Texas.

Mr. Speaker, let me tell the Members, I supported reform in the State of Texas. I believe the President of the United States supported it. But can Members imagine that the legislation that we have on the floor today goes overboard, goes way beyond the idea of allowing poor people to get into the courthouse and lawyers to represent them when tragedy has befallen them.

For example, a 50-year-old woman who earned about $12,500 annually settled her malpractice claim during trial for $12 million because her surgeon had impaired her spine; a spear, if you will, went through her spine. With this particular health act, she would be severely limited by the $250,000 cap, a woman who makes $12,500.

Let me tell the Members why this is bogus, Mr. Speaker, with respect to the idea that this bill will help prevent hospitals from closing and doctors' offices from closing.

I am their friend. We cannot survive without a medical profession. Doctors will tell us that they are being shut down because of these premiums. They are not angry at lawyers, they are being made to be angry at lawyers.

When we had this bill in Texas, the premium went up from $26,000 to $45,000. This is a bogus bill and we should vote it down because it denies the American people the opportunity to get into the courthouse. This is a bill against poor people.

Mr. Speaker, I oppose H.R. 4600, the so-called "HEALTH" Act of 2002. I do this with somewhat mixed emotions, because I agree with the bill's stated purpose: to Help get Efficient Accessible Low Cost Timely Health care to all Americans. I agree that one of the obstacles to accessible low cost health care is the outrageous liability insurance premiums charged to health care providers. I also feel that some approaches to litigation contribute to the cost of our Nation's health care by encouraging professionals to use tests, procedures, and treatments that may not be necessary. I agree with supporters of this bill that high malpractice insurance premiums charged by insurance companies have led some physicians to abandon high-risk specialties and patients.

Unfortunately, H.R. 4600 does not address any of these problems. The bill does not discourage lawsuits. This bill does not decrease liability insurance premiums, the real problem. The bill does place a cap on noneconomic damage awards, but there is no reason to think that limiting awards to suffering people with legitimate claims will translate into decreased premiums for providers.

In California, where tort reform has been the strictest and has had almost three decades to work, premiums are still 8 percent higher than premiums in States without noneconomic damage caps. Medical malpractice insurers in California pay out less than 50 cents in claims on every dollar they bring in through premiums. Obviously tort reform is lining the coffers of insurance companies and not getting to doctors or their patients.

It is surprising that supporters of this bill are presenting it as a means to decrease premiums, when those in the know, such as the executive vice president of the American Insurance Association, and American Tort Reform Association president, both have stated that limitations like those in this bill will not necessarily decrease premiums.

I am also confused about where this arbitrary cutoff of $250,000 for noneconomic damages comes from. It happens to be the same number used in similar legislation, passed 27 years ago in California, with no adjustment for inflation or changes in costs of living. Due to skyrocketing health care costs, $250,000 will only get an injured person about $40,000 worth of care.

The bill does not cap economic damages—which is good news for those with high incomes. Rich people will be able to stay rich and perhaps that is appropriate. But what about mothers who work at home raising their children, or the elderly on fixed incomes? They will not be able to claim large economic damages due to losses in income. If they are crippled or blinded by a negligent HMO, or pharmaceuticals company, they may get their $250,000—but maybe they will receive 8 or 9 thousand dollars per year. That is a pittance for someone working through the tough times after a catastrophic injury.

Perhaps that would be a fair sacrifice if the funds would go to our hospitals or public health clinics, but to increase revenues of insurance companies? I say no.

Furthermore, since we do not have a bill before us today that would limit liability insurance, or would decrease the number of frivolous lawsuits, perhaps we should leave it to the States to decide how to address these issues. California is not the only State in the Union that is working to tackle these problems; Texas has worked to solve this problem and has put forward a better solution. H.R. 4600 would override such local efforts and compromise the rights of States, and probably not help improve the health of a single American, except maybe a few insurance company CEOs.

I encourage my colleagues to vote against H.R. 4600.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 1 minute.

Mr. SENSENBRENNER. Mr. Speaker, the gentlewoman from Texas (Ms. JACKSON-LEE) is dead wrong. This bill will not close the courthouse to anybody who has a legitimate claim. It does not restrict anybody's right to sue. What it does do is it puts some sense in the compensation. It puts some sense in the compensation in a manner that allows affordable and accessible health care to be available nationwide. We will not be pricing doctors out of their practice by high professional liability insurance premiums. We will not force maternity wards and trauma centers to close their doors for the same reason.

The time has come to put some sense in this system. California did that. They do not have a crisis there because their State legislature did that. We now have to step up to the plate and work for the patients, particularly in the States that are listed in red and in yellow on the map that was referred to by the gentlewoman from Pennsylvania (Ms. HART).

Pass the bill.

The SPEAKER pro tempore. All time for the Committee on the Judiciary has expired.

The gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Ohio (Mr. BROWN) each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Speaker, I yield myself 2¼ minutes.

Mr. Speaker, as usually happens at this time in the debate, the rhetoric gets hotter and we tend to find ourselves at our most cynical attitudes. But let us see if we can do a little better than that in the next 20 minutes.

The fact of the matter is that we do not accuse the Democratic Party of being the lackeys of the trial lawyers, and they should not accuse us of being the lackeys of the health care industry. But what we all should care about is our constituents. We should care about the pregnant woman, we should care about an individual harmed in an automobile accident, we should care about their access to health care.

Also, we should care about them if they cannot find a doctor. We should care about them if the trauma center is closed and cannot save their lives. We should care about them if they are injured by a doctor. It is not either/or.

We have a crisis in this country right now. It is nearly countrywide. The crisis is that the cost of medical malpractice insurance has skyrocketed to the point where obstetricians cannot deliver babies anymore, where neurosurgeons are leaving trauma centers, where trauma centers are closing their doors. We are very close, if we are not there already, to Americans dying because they cannot get emergency care and the quality of our health care system deteriorating across-the-board.

There is a solution. There is a solution here that enables us to care about our constituents when they are struggling to find care or emergency care, and care about them when they are hurt by a physician and they have a legitimate claim. That has been modeled in California.

I have heard my constituents argue erroneously that capping noneconomic damages will not affect premium rates. That is dead wrong. Let us settle that. There is the chart. The source here is the National Association of Insurance Commissioners.

This chart tells the whole story. While California's rates have stayed flat for the last 25 years, the rest of the country's rates have soared. This is the solution. We all ought to work on it together, get it over to the Senate, and save America's health care system.

Mr. Speaker, I reserve the balance of my time.

□ 1415

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I support medical malpractice reform but I oppose this bill. H.R. 4600 lays the blame for rising medical malpractice premiums solely on individuals whom a court and jury determine have been injured by medical malpractice. Apparently Congress knows better than judges, juries and patients; but we do not know better than insurers.

This bill does not have a single provision acknowledging the insurance industry's accountability for skyrocketing premiums. Insurers have tripled their investment in the stock market over the past 10 years. Of course, now they are trying to recoup their losses.

Democrats have tried to negotiate with the majority to even look at this issue. But the majority rejected every attempt to force the insurance industry to assume any responsibility for its dramatic premium increases. There are avenues we could take to stabilize medical malpractice premiums, loss ratio requirements, reinsurance pools, transparency to help us see exactly why insurers are raising their rates. But no, in this billing the insurance industry is held harmless. It is the patients' fault.

California has the most stringent liability caps in the country. Premiums are higher in California than the average for the rest of the country. Premiums have grown faster in California than the average for the rest of the country. Still somehow the solution to the medical malpractice crisis is to cap jury awards. And by the way, to cap them in a way that promises wealthier patients larger rewards than other patients. This bill apparently says those who are more wealthy suffer more than those who are not.

H.R. 4600 will also shield HMOs that fail to provide the needed care. It would shield drug companies whose medicine has toxic side effects. It would shield manufacturers of defective medical equipment. In this bill, businesses are never at fault. Patients are greedy. Jurors are misguided. It is the patients' fault. That is the problem.

At a time when the public is calling for greater corporate accountability, this bill turns on the public itself and holds injured patients, not the insurance industry, accountable. I ask for a "no" vote.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Speaker, I rise in strong support of the bill and on behalf of the Committee on Energy and Commerce recommend it to my colleagues in the House.

When injured patients in this country have to wait on average 5 years before a medical injury case is complete, our system is failing. When an injured patient loses up to 58 percent of the awards to attorneys and the courts, something is wrong. And when 60 percent of malpractice claims against doctors are dropped or dismissed, you can imagine the unnecessary costs to the system that all of us pay into.

Now, I want to do something we do not do around here enough. I want to admit to being wrong once in my life. I was in the legislature of Louisiana. I voted wrong. I voted against these reforms as a young State legislator. They were passed over my objections and they worked.

Doctors and hospitals in Mississippi are streaming into Louisiana because they do not have those protections in Mississippi and people in Mississippi are losing access to quality health care. Let me tell you, I do not care whether you have insurance or not. You can have all the insurance in the world; if there is no doctor to serve you, if there is no emergency room to go to, if there is no hospital to take care of you, you are in trouble. This bill makes sure we have doctors and hospitals and emergency rooms in America.

Mr. Speaker, I rise in strong support of H.R. 4600, legislation to ensure that patients have access to high quality health care.

When injured patients have to wait, on average, 5 years before a medical injury case is complete, our judicial system has failed. When injured patients lose 58 percent of their compensation to attorneys and the courts, our judicial system has failed. When 60 percent of malpractice claims against doctors are dropped or dismissed, but the fear of litigation still forces doctors with 25 years or more of experience to retire early, our judicial system has failed.

What my home State has in place and what California have benefited from for over 27 years are commonsense guidelines for health care lawsuits. These guidelines ensure that injured patients receive greater compensation and that frivolous lawsuits—that extort health care professionals and drive doctors from the practice of medicine—are limited.

The reforms in this bill will work. According to the Congressional Budget Office, "H.R. 4600 would lower the cost of malpractice insurance for physicians, hospitals, and other health care providers and organizations. That reduction in insurance costs would, in turn lead to lower charges for health care services and procedures, and ultimately, to a decrease in rates for health insurance premiums." Even better, "CBO estimates that, under this bill, premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law."

That means that Congress really has an opportunity to pass legislation that will have a direct impact on patient access to care. With these reforms, patients will have greater access to health insurance. With these reforms, doctors will stay in business and not be forced to move to another State, or even worse, drop a specialty practice altogether. With these reforms, patients will have greater access to providers so they will actually receive "health care."

The issue at hand today is fundamental to all of the deliberations we make with regard to health care policy. We all recognize that health care costs money, and that high health care costs are a barrier to health care. But, even if a patient has health insurance, what is that insurance coverage worth if there are few doctors available to treat you?

This bill before us will have a tremendous impact on patients' lives. I encourage all of my colleagues, on both sides of the aisle, to support the legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to my colleague, the gentlewoman from northeast Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I would like to thank my colleague for yielding me time.

You know what, I am really tired of people not telling the truth on the floor of the House. Hospitals are not going to stay open any longer because of this bill. People are not going to get any better health care because of this bill.

What is going to give them better health care is if this Congress will go ahead and give people universal health care. The fact is that H.R. 4600 introduced under the guise of fixing the problem of rising costs of malpractice insurance does not say anywhere that insurance companies will be required to reduce premiums. Nowhere does it assure that any savings that the insurance companies get will be passed along to the doctors.

The shame of it all is it is taking away the ability of judges who served, like me, the ability to determine when punitive damages ought to be awarded. It is taking away the ability of people who are injured to have the ability to bring their claim in court. The reality is that this bill does none of the things that have been claimed by the other side.

Now, the hospitals are going to be open in Cleveland, Detroit, New York as a result of this; and nobody is going to get better health care. I say to my colleagues vote against this legislation. It does nothing to help our patients.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, unlimited liability is an unacceptable drain on our health care system today. It is about access to care. It is about unruly costs from defensive medicine. We have got to make a change before it begins to truly affect our patients any more than it already has.

Now, I understand that people who have been injured by medical malpractice deserve redress. I also know people on the other side of the issue believe you can never match a value to a human life. But when is it enough? Is it enough when a sick patient cannot find a doctor because too many doctors have closed down their practices over rising malpractice premiums? Is it enough when an emergency trauma center closes its doors? Is it enough when nurses and support personnel in that trauma center are put out of work, Mr. Speaker?

There has got to be a figure out there somewhere that is enough. Saying that no figure is enough and that we can never place a limit, some reasonable limits on noneconomic awards, is to condemn the American patients to lesser care as this reckless liability system takes its toll on our health care system today.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WAXMAN), my friend on the committee.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, 1 minute. There is not a lot I can say in 1 minute, but let me say the following: the Republicans seem to think that Washington has all the answers right here, and we ought to take it away from the States to make their own decisions, and I think that is a wrong approach.

They would impose a bill to be in place for all of this country when there are a lot of differences and a lot of different approaches to issues like tort liabilities, licensures of professionals and how to handle those matters. But supporters of this bill claim it is modeled after the California Medical Injury Compensation Reform Act, but the liability limits in this bill go far beyond medical malpractice. They extend to any lawsuits relating to any health care or medical product including the manufacturers and distributors of drugs and medical devices. This is far beyond the liability limits adopted in California or, as far as I am aware, any other State. So I oppose this bill.

I know that they are trying to do something about the medical malpractice problem, but I do not think it answers the problem; and I think it makes it one-size-fits-all, and it is not the best approach.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, today I rise in strong support of H.R. 4600, the HEALTH act. Since other speakers, Mr. Speaker, have effectively described the extent of our problem and the need for a solution, I want to emphasize one feature of the bill that is very important to me, and this is actually somewhat in response to what the gentleman from California (Mr. WAXMAN) has just shared with us.

While H.R. 4600 does cap noneconomic damages, which I believe will help bring stability and predictability to the medical liability insurance market, it also does protect States' rights, since any State cap on noneconomic punitive damages, up or down, will supersede the Federal limits. And that is why I feel this bill strikes the right balance between the need for Federal action and the States' traditional role of the primary regulator of insurance markets.

Mr. Speaker, I believe I can stabilize our out-of-control medical liability system without harming the ability of patients to recover adequate compensation when they have been harmed. We can do this by passing H.R. 4600 today.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Pennsylvania (Mr. DOYLE).

(Mr. DOYLE asked and was given permission to revise and extend his remarks.)

Mr. DOYLE. Mr. Speaker, I rise in opposition to H.R. 4600. We do have a problem with physicians and hospitals paying too much for malpractice insurance, but H.R. 4600 is not the answer. The cap on H.R. 4600 is based on a 1975 California law that when adjusted for inflation would have a value of slightly more than $40,000 today. This 1975 base cap penalizes the most vulnerable victims of medical malpractice: children, homemakers, the elderly and minorities, society members who have limited incomes and thus will benefit less from future economic earnings.

Nearly 12 percent of Americans currently live in poverty and would depend on noneconomic damages to live on if injured.

In my home State of Pennsylvania the people have decided against caps by including a prohibition on caps in our State constitution. Like them, I do not believe a cap on damages will do anything to reduce insurance premiums or ensure the quality of health care. But I realize the issue of a cap is a good starting point for discussion. Members like myself want to compromise and work on real solutions for the problems. Let us vote against this bill and start to work on a compromise that truly will reduce premiums.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I am pleased to announce that the chairman of the Senate Finance Committee has just endorsed the Medicare provision for low-reimbursement States like Iowa that we passed in our House prescription drug bill.

What does that have to do with this bill? Well, Iowa ranks dead last on Medicare reimbursements. When we have increased premiums for malpractice and our physicians and other practitioners are already dead last in terms of Medicare reimbursements, the increase in the malpractice premiums means that many patients may not have a doctor in the State of Iowa. What is the situation in Iowa? Well, when St. Paul went out of business, some physicians in Iowa were able to pick up coverage from Wisconsin; but it would be my prediction that in the next 12 to 18 months, unless there is some fix in terms of the malpractice premium situation, Iowa is going to be facing the same type of crisis that many of the States that have been talked about already today will be facing. So these are two inter-related issues. I am very pleased to support this bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). The Chair would admonish all Members that references to legislative positions of Senators must be confined to their factual sponsorship of bills, resolutions or amendments.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong opposition to H.R. 4600. At first blush this bill sounds great. That is why some medical groups are supporting it. We definitely need to do something about skyrocketing malpractice costs that are driving good doctors out of their offices and away from their patients, but this is not the way.

As a physician myself, I have thought about this bill until I realized it exempted manufacturers of drugs, products and HMOs from liability. Once again, the doctors are the only ones liable. Everyone else, those who put the products in our hands, those who dictate what we do, would be off the hook.

This bill does nothing to guarantee that medical malpractice premiums will actually be reduced. In California, which the Republicans cite, doctors' premiums have grown 3.5 percent from 1991 to 2000 compared with the national increase of 1.9 percent. This is not the kind of tort reform we need. This is a terrible bill, and I urge my colleagues to oppose it.

The SPEAKER pro tempore. The Chair would advise that the gentleman from Pennsylvania (Mr. GREENWOOD) has 3-3/4 minutes remaining. The gentleman from Ohio (Mr. BROWN) has 4 minutes remaining.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I rise in support of H.R. 4600 because it strikes an appropriate balance between the needs of patients who have been harmed to seek redress and the needs of all patients to have access to health care.

I note my colleague from the Committee on Energy and Commerce, the gentleman from Massachusetts (Mr. MARKEY), was concerned about whether premiums would go down or not. I would welcome him to read the Congressional Budget Office's report that was ordered by the Committee on the Judiciary. CBO estimates that under this bill premiums for medical malpractice ultimately would go down on an average of 25 to 30 percent. So I would welcome the gentleman to read that.

I also particularly support section 11 that provides flexibility to the States. I think that is smart to do that. Indiana has a very good law that has been in place for over 3 decades. It is comprehensive medical malpractice reform. The system works well. It has a medical review panel.

□ 1430

It also limits recovery from lawyers. The total recovery is capped. Attorney's fees are capped. We have a compensation fund managed by the State, and injured patients receive compensation in a timely fashion. I would like to thank the chairman for permitting this flexibility in the bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the chairman and ranking member, soon to be chairman, my friend, for yielding me the time.

There is a malpractice insurance crisis in our country. The woman who delivered my two daughters no longer delivers babies these days because of that crisis, and I understand it. I also understand the way to end that problem is not to enact the greatest transfer of income in history from victims of medical malpractice to insurance companies, and that is what this underlying legislation does.

What it says is that people who have been the victims of medical mistake, medical malpractice and medical error will see an arbitrary ceiling on what they can recover when something has happened to them. What the bill does not say is that the savings that would no doubt accrue to the benefit of insurance companies must accrue to the benefit of the physicians who paid in malpractice premiums.

The iron rule of insurance law in America is when insurance companies get the money they keep it. They do not share it with the doctors. They do not share it with the patients. They keep it. This is an insurance company relief act at a time when our physicians and patients need relief.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise in support of this act. In my home State we now have a crisis. Our legislature cannot reach agreement. It cannot enforce or enact any type of boundary or set of limits that will give us some protection and stability and predictability and certainty for our medical community. We have acute shortages of nurses, of OB/GYNs, of neurosurgeons. Our trauma care, if there is a car accident, this is becoming a matter of life and death in Mississippi.

We needed to do something here so that we can help in Medicare and Medicaid and for our veterans so that we can help have the nursing and the physician professions stay in business and stay in a very noble calling to heal the sick and to make well those who are hurt and injured.

If we do not do this, we will see health care in places like Mississippi diminish. It will not be affordable. It will not be accessible. I know from personal experience.

My mother just had open heart surgery. My sister just had her eighth child. On one day we had new life in our family. On the next day my mother got a new heart. We must have the medical care and we need this act to contain the costs and to keep those who heal in business.

Mr. BROWN of Ohio. Mr. Speaker, how much time is remaining and who actually is going to close?

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Ohio (Mr. BROWN) has 3 minutes remaining and the gentleman from Pennsylvania (Mr. GREENWOOD) has 1-3/4 minutes remaining. The gentleman from Pennsylvania will close.

Mr. GREENWOOD. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. GREENWOOD) for the work he has done on this. What this bill is really about, it is about affordable, accessible, available and quality health care. Whatever else is said really makes very little difference if we cannot have health care access in all of America.

Some are saying this may limit the particular damages individuals injured may get, but in fact, the truth of this bill, the damages that a patient incurs are not limited in this bill, and it has proved very effective. The economic damages are unlimited. The punitive damages are up to twice the economic damages, which makes those unlimited virtually.

Let me say this. I do not begrudge personal lawyers having seven digit incomes. That is not the issue here. The issue is the siphoning of money out of the health care system that goes somewhere else, money that could be used to deliver health care.

The other issue is accessibility. There are some in rural America, if we do not pass legislation like this, either on the Federal level in many States, that are going to have to drive an extra mile to get looked at. That means that a patient is going to be injured, a child is going to be lost or another individual will not receive the health care.

I think it is imperative that we pass this legislation. I want to thank the leadership on this.

Mr. BROWN of Ohio. Mr. Speaker, I yield our final 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE), who has been a leader for patient's rights.

Ms. DEGETTE. Mr. Speaker, as a former State legislator, I am continually amazed how this Congress seems to think that we are the "über" State legislature and that we should solve all the problems that we in our cynicism do not think the States can solve. The truth is regulation of medicine is a State issue and regulation of medical malpractice is a State issue. Every State has a malpractice statute, and right now the majority of the States are reviewing those statutes to see if they are adequately addressing this issue. I think we should leave it up to the States, and that is one reason I oppose this bad, bad bill.

I know there is a malpractice insurance crisis in this country. I talk to my doctors just like everybody else, but I want to ask my colleagues this, why should the patients suffer twice because we want to reward the insurance companies? The patients are being asked to sacrifice their rights under this legislation. The doctors are still going to have to pay high insurance premiums because nothing in this legislation stops the insurance companies from continuing to rack up the rates, and the ones that are going to suffer are the patients.

In California, they have had a statute for many, many years. The malpractice insurance rates are higher than the States that do not have these kind of caps, and why? We are putting no limitations on these out-of-control insurance rates. In the meantime, here is what this terrible bill does to the patients, to people who are actually injured by medical malpractice.

The first one is the $250,000 cap on noneconomic damages. As I said in committee, I think people misunderstand what noneconomic damages are. They are not punitive damages. They are very real damages that patients suffer. They are things like loss of a leg, disfigurement, pain and suffering and the loss of fertility. Under common law, noneconomic damages would not be capped, but when we cap them at $250,000, victims who do not work outside the home like women, children, others with very low economic damages will not be able to be adequately compensated.

There is a case in Colorado where a child fell on a stick and his doctor did not adequately diagnose it, and that child, if he were limited to $250,000, his mother had to quit her job. He has been limited to a wheelchair. His chance to succeed as a citizen in our society is gone, and we are not going to adequately compensate him for that all because the insurance companies want to charge excessive rates. That is wrong. That is wrong for that kid, that is wrong for his family, and that is wrong for every single patient who suffers at the hands of malpractice.

The second problem with this bill, well, there are many problems, but the second I want to talk about is the elimination of joint and several liability. Under common law, defendants are jointly and severally liable. When we eliminate it, victims will not receive compensation.

Please defeat this bad bill.

Mr. GREENWOOD. Mr. Speaker, the previous speaker and most of the opponents of this bill have acknowledged that we have a crisis, a crisis that has to be resolved, and unfortunately, they have not articulated an alternative to our proposal, only their criticisms of it.

The fact of the matter is that this bill tips the scales back so that they are in balance. This bill allows 100 percent of economic damages, millions and millions of dollars of damages available to plaintiffs for their health care and their lost wages and many, many other economic damages. It puts a cap as a floor of $250,000 for noneconomic, noncalculable economic damages and allows every State in the union that wants to raise that to wherever they see fit.

This is the opportunity now to decide whether this House will stand up to the crisis and solve it or turn its head and let it fester for another 20 years.

Mr. CHAMBLISS. Mr. Speaker, the American Medical Association has declared Georgia one of twelve states with a medical malpractice crisis. About four in every ten hospitals in Georgia are now facing liability insurance premiums that have increased by more than 50 percent, and one of every four of those facilities has been hit hard with increases that exceed 200 percent. The St. Paul Company was the second largest health care underwriter in Georgia. When it ceased writing medical malpractice insurance policies last December, around 42,000 physicians nationwide had to scramble for coverage and protection. Some still have not found new insurance. Radiologists, OB/GYN specialists, and surgeons are among the groups hardest hit by these rising rates.

Many of Georgia's 178 hospitals already are struggling financially from staffing shortages and financial pressures. Some hospitals in Georgia will either have to look at closing or offer fewer services to patients who are in desperate need of care. The problems in Georgia highlight a national challenge for both hospitals and physicians. Physicians are threatening to relocate or retire in the wake of dramatic increases in malpractice insurance premiums. Patients cannot afford to lose care because doctors cannot afford premiums. This is outrageous and a sad commentary on the state of our health care system.

Litigation costs have premiums which are forcing doctors to scale back services, retire early, and reduce care to the poor. Like physicians, hospitals are having a difficult time finding medical malpractice insurance because with the skyrocketing cost of litigation several providers have ceased writing coverage altogether.

I would like to share some examples to demonstrate the severity of this problem in Georgia:

There is an 80 bed hospital in Alma, Georgia, which is in the 8th Congressional district, that was forced to take out a bank loan to cover a medical malpractice insurance premium that more than tripled in one year (rising from $118,000 to $396,000). Memorial Hospital and Manor in Bainbridge, Georgia was faced with a staggering 600 percent increase on its existing policy (increasing from $140,000 to $970,000).

According to WebMD Medical News, Dr. Sand Reed in Thomasville, Georgia, an OB/GYN, said her medical malpractice insurance increased 30 percent just this year. She is considering giving up delivering babies. She should not be forced to make these choices and her patients will suffer when they lose her expertise and experience in this area.

According to the Atlanta Journal Constitution, Ty Cobb Health, a consortium of three rural Northeast Georgia Hospitals and nursing homes, received a bill by fax this summer just 24 hours before a check was due. Not only did the insurance company increase his deductible ten fold, but the premium jumped from $553,000 to $3.15 million—a 469 percent increase. They eventually got an extension but can no longer plan for expansions or renovations of their emergency room.

In Fitzgerald, Georgia, Dr. Jim Luckie, has quit delivering babies because his premium was so high. His liability insurance expired in April and it took him six weeks to get a new policy. When his insurance premium more than doubled, the family practitioner decided to discontinue the OB portion of his medical practice.

Dr. Edmund Wright, also of Fitzgerald, is a family practitioner who performed Caesarean sections and has had to give up that part of his practice. His premiums quadrupled to $80,000 this year and would have been $110,000 had he continued the surgical delivery procedure, which insurance companies consider "high risk."

In 2000, Georgia physicians paid more than $92 million to cover injury awards. That amount was 11th highest in the nation despite Georgia ranking 38th in total number of physicians in the U.S. It's clear Georgia is in a medical malpractice crisis.

Substantial medical malpractice reform is critical. The current system is destroying the doctor-patient relationship. I have talked extensively with the members and leadership of the Medical Association of Georgia, and have met with hospital and physician groups, as well as with patients and it is clear that we need to reform our current system for the sake of our patients, physicians, and hospitals. We need a system that allows any patient the right to pursue any cause where injury is the result of negligence. At the same time, we need a system that provides reasonable protection to hospitals and physicians.

Without the important reforms included in H.R. 4600, physicians and hospitals will continue to struggle to keep their doors open. I urge my colleagues to fight for all who deserve and need quality, affordable healthcare and to vote for this important legislation.

Mr. PAUL. Mr. Speaker, as an OB–GYN with over 30 years in private practice, I understand better than perhaps any other member of Congress the burden imposed on both medical practitioners and patients by excessive malpractice judgments and the corresponding explosion in malpractice insurance premiums. Malpractice insurance has skyrocketed to the point where doctors are unable to practice in some areas or see certain types of patients because they cannot afford the insurance premiums. This crisis has particularly hit my area of practice, leaving some pregnant woman unable to find a qualified obstetrician in their city. Therefore, I am pleased to see Congress address this problem.

However this bill raises several questions of constitutionality, as well as whether it treats those victimized by large corporations and medical devices fairly. In addition, it places de facto price controls on the amounts injured parties can receive in a lawsuit and rewrites every contingency fee contract in the country. Yet, among all the new assumptions of federal power, this bill does nothing to address the power of insurance companies over the medical profession. Thus, even if the reforms of H.R. 4600 become law, there will be nothing to stop the insurance companies from continuing to charge exorbitant rates.

Of course, I am not suggesting Congress place price controls on the insurance industry. Instead, Congress should reexamine those federal laws such as ERISA and the HMO Act of 1973, which have allowed insurers to achieve such a prominent role in the medical profession. As I will detail below, Congress should also take steps to encourage contractual means of resolving malpractice disputes. Such an approach may not be beneficial to the insurance companies or the trial lawyers, but will certainly benefit the patients and physicians which both sides in this debate claim to represent.

H.R. 4600 does contain some positive elements. For example, the language limiting joint and several liability to the percentage of damage someone actually caused, is a reform I have long championed. However, Mr. Speaker, H.R. 4600 exceeds Congress' constitutional authority by preempting state law. Congressional dissatisfaction with the malpractice laws in some states provides no justification for Congress to impose uniform standards on all 50 states. The 10th amendment does not authorize federal action in areas otherwise reserved to the states simply because some members of Congress are unhappy with the way the states have handled the problem. Furthermore, Mr. Speaker, by imposing uniform laws on the states, Congress is preventing the states from creating innovative solutions to the malpractice problems.

The current governor of my own state of Texas has introduced a far reaching medical litigation reform plan that the Texas state legislature will consider in January. However, if H.R. 4600 becomes law, Texans will be deprived of the opportunity to address the malpractice crisis in the way that meets their needs. Ironically, H.R. 4600 actually increases the risk of frivolous litigation in Texas by lengthening the statute of limitations and changing the definition of comparative negligence.

I am also disturbed by the language that limits liability for those harmed by FDA-approved products. This language, in effect, establishes FDA approval as the gold standard for measuring the safety and soundness of medical devices. However, if FDA approval guaranteed safety, then the FDA would not regularly issue recalls of approved products later found to endanger human health and/or safety.

Mr. Speaker, H.R. 4600 also punishes victims of government mandates by limiting the ability of those who have suffered adverse reactions from vaccines to collect damages. Many of those affected by these provisions are children forced by federal mandates to receive vaccines. Oftentimes, parents reluctantly submit to these mandates in order to ensure their children can attend public school. H.R. 4600 rubs salt in the wounds of those parents whose children may have been harmed by government policies forcing children to receive unsafe vaccines.

Rather than further expanding unconstitutional mandates and harming those with a legitimate claim to collect compensation, Congress should be looking for ways to encourage physicians and patients to resolve questions of liability via private, binding contracts. The root cause of the malpractice crisis (and all of the problems with the health care system) is the shift away from treating the doctor-patient relationship as a contractual one to viewing it as one governed by regulations imposed by insurance company functionaries, politicians, government bureaucrats, and trial lawyers. There is no reason why questions of the assessment of liability and compensation cannot be determined by a private contractual agreement between physicians and patients.

I am working on legislation to provide tax incentives to individuals who agree to purchase malpractice insurance, which will automatically provide coverage for any injuries sustained in treatment. This will insure that those harmed by spiraling medical errors receive timely and full compensation. My plan spares both patients and doctors the costs of a lengthy, drawn-out trial and respects Congress' constitutional limitations.

Congress could also help physicians lower insurance rates by passing legislation that removes the antitrust restrictions preventing physicians from forming professional organizations for the purpose of negotiating contracts with insurance companies and HMOs. These laws give insurance companies and HMOs, who are often protected from excessive malpractice claims by ERISA, the ability to force doctors to sign contracts exposing them to excessive insurance premiums and limiting their exercise of professional judgment. The lack of a level playing field also enables insurance companies to raise premiums at will. In fact, it seems odd that malpractice premiums have skyrocketed at a time when insurance companies need to find other sources of revenue to compensate for their recent losses in the stock market.

In conclusion, Mr. Speaker, while I support the efforts of the sponsors of H.R. 4600 to address the crisis in health care caused by excessive malpractice litigation and insurance premiums, I cannot support this bill. H.R. 4600 exceeds Congress' constitutional limitations and denies full compensation to those harmed by the unintentional effects of federal vaccine mandates. Instead of furthering unconstitutional authority, my colleagues should focus on addressing the root causes of the malpractice crisis by supporting efforts to restore the primacy of contract to the doctor-patient relationships.

Mr. DELAY. Mr. Speaker, we're facing a growing crisis in our health care system.

In a number of states, there's a continuing exodus of doctors and talented specialists that's drawing down the quality of health care available to many Americans.

The reason for it is simple. The plaintiff's bar has been working for years and years to undermine, weaken, and strip away the legal protections for practicing physicians.

Their reckless pursuit of ever-growing legal judgments is placing affordable insurance coverage out of reach for doctors in far too many states.

The raw greed motivating plaintiff's lawyers is driving good doctors out of states like Florida, Illinois, New York, North Carolina, Ohio, Pennsylvania, Texas, and West Virginia, to pick only a few.

These states are in crisis. And if anyone doubts if, they can test my assertion by trying to schedule an appointment with a neurosurgeon in one of these states. You'd better not need help in a hurry.

Doctors are confronting an awful choice: Abandon the communities and patients they trained to heal or be broken over the unacceptable costs of rising medical insurance premiums.

All of this raises a dangerous question. The medical liability insurance crisis creates liabilities for us beyond the practical problems of routine care.

What happens in states with over-burdened medical systems if there's a terror attack that produces mass casualties? What happens to the people when doctors have been driven across the border to neighboring states?

Mr. Speaker, we need real common-sense reforms and we need them today. The HEALTH Act delivers that relief and I ask Members to support it.

Mr. KNOLLENBERG. Mr. Speaker, we must act now to address the malpractice insurance crisis facing our nation. Medical providers across the country are turning away new patients or simply closing their doors because they can no longer afford the skyrocketing malpractice insurance premiums. This is particularly true in high-risk specialties such as obstetrics/gynecology and emergency medicine.

An American Hospital Association survey released this June found that more than 1,300 health care institutions have been affected by increasing malpractice costs. It further reported that 20 percent of the association's 5,000 member hospitals and other health care organizations had cut back on services and 6 percent had eliminated some units.

And the AMA today designated 19 states as "Medical Liability Crisis State." Fortunately, my home state of Michigan is not on that list, but if things continue as they are, all of our home states will be on that list.

This is unacceptable. Patients do not have time to wait for care or travel long distances to find a provider when they are in emergency situations. We cannot allow people to die because emergency rooms cannot afford to insure the necessary specialists. Women should also be able to receive prenatal care without worrying that their doctors might not be able to continue providing care throughout their entire pregnancy.

Moreover, fear of litigation leads many doctors to prescribe medicines and order tests that they feel are unnecessary. Studies estimate that this defensive medicine costs billions of dollars a year, enough to provide medical care to millions of uninsured Americans.

I believe we must work to eliminate medical errors and patients should be able to seek redress when medical mistakes are made but our health care system should serve patients, not lawyers. I have strong concerns with any endless, frivolous, and costly personal injury-like litigation. Today's system is skewed toward enterprising plaintiff's attorneys but the focus should be toward expanding health care access.

The causes of the liability crisis are complex but legislation we are considering today is a significant step in ensuring health care providers will be able to continue serving patients. The HEALTH Act would help stabilize liability premiums as well as help patients get awards and settlements faster and ensure that patients, not lawyers, receive the majority of the awards.

This is common-sense legislation modeled after California's twenty-five year-old, highly successful litigation reforms. I encourage my colleagues to support this bill because Americans do not have the time to wait for assurance that health care practitioners can maintain their practices and continue to serve patients.

Mr. BLUMENAUER. Mr. Speaker, it is clear that a crisis exists relating to the costs of medical malpractice liability insurance premiums. This bill is not a solution, and I will not vote for it. The problem deserves an effective solution based on a real causal evaluation, which this bill lacks. Even insurers and their lobbyists reject the notion that tort reform would achieve any specific premium reduction.

I am particularly concerned that the model for this bill, California's Medical Injury Compensation Reform Act (MICRA), does not appear to have made any improvement at all in the battle against high malpractice insurance premiums. MICRA included a $250,000 cap on non-economic damages as well as arbitration and attorney fee provisions, yet doctors still pay premiums that are higher than the national average.

Furthermore, the caps on damages in this bill are arbitrary, and based on a scale established in 1975. In Oregon, the Supreme Court has repeatedly ruled that even looser caps are a clear violation of state law, and Oregon voters have resisted efforts to change this. This bill would overturn their decisions, as well as patients' rights laws in 11 other states.

Since Congress is very unlikely to enact this tort reform, we ought to look into the effect that poor investments, the legislative framework, and other insurance industry-side elements might have in this crisis. Until we achieve a greater level of transparency in the accounting practices of insurers who hold the strings to these premiums, we will be unable to truly provide the relief that the medical system needs. I am committed to working with all parties to solve the malpractice premium crisis.

Ms. GRANGER. Mr. Speaker, today in my district, doctors are being forced out of practice because of the skyrocketing cost of medical malpractice insurance. In fact, a very close friend of mine who is a practicing physician in Fort Worth, Doctor Susan Blue, has recently been notified that her insurance carrier will terminate her policy on December first of this year. Since 1990, Doctor Blue has had nine malpractice claims filed against her. However, most of the claims were frivolous and without merit, and her insurance company only paid out on one of these claims. And in that instance, $5,000 was paid to simply avoid spending tens of thousands of dollars in defense.

Unfortunately, because Doctor Blue has been unable to find malpractice insurance, she may be forced to retire in December—after 29 years of practicing quality medicine.

I wish I could say that Doctor Blue's story is an isolated incident. But we all know it's not. Every member of Congress here today has a Doctor Blue in their district. Every member of Congress has experienced doctors that are, right now, deciding whether or not to retire because of the high cost of malpractice insurance. As a nation, we cannot afford to lose one more doctor.

With one less doctor, patients wait longer, diseases progress further, and health insurance costs continue to spin out of control.

Let's hold on to the skilled community physicians and ensure patients have the doctor choice that they deserve and desire.

Today I will be voting for doctors like Susan Blue, and I will support common sense malpractice reform. I will be supporting H.R. 4600.

Mr. EHRLICH. Mr. Speaker, I am pleased that the House today is debating public policy options to help contain the growth of medical care costs in our nation. Patients across the country continue to see increases in their insurance premiums and health costs, and it is critical for Congress to find solutions to make health care more affordable for physicians to practice and patients to access.

Proponents of H.R. 4600, the Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act, argue that this bill, which would create national tort reform, would contain or lower medical malpractice insurance costs for physicians and by extension lower health costs for consumers. I understand the many arguments in favor of this legislation, including the need to limit excessive medical insurance costs which physicians face in many states and often pass on to their patients. Also, like my fellow House members, I too feel a need to help my constituents back home.

I agree that our society has become excessively litigious and that reasonable tort reform can be enacted to reduce medical malpractice insurance premiums, keep doctors in areas of medical need, and help patients. Supporters of this legislation argue that many states are incapable of enacting tort reform because of the restrictions of their state constitutions or other barriers. Supporters also argue that a federal remedy is reasonable because this bill allows for state limits on damages to supersede the federal caps. I understand that the majority of my party, our leadership, and the President support this bill.

I believe, however, the proper venue for this debate should not be the U.S. Congress but rather the many state legislatures whose constitutions forbid tort reform or where there is no political will to limit damages from medical malpractice. This is a state matter—not a federal one.

States can and do enact reasonable, successful tort reform. In Maryland, for example, our tort reform law has generally worked well. As a state delegate who served on the Judiciary Committee in Annapolis and as a Member of Congress, I strongly support Maryland's tort law, which differs significantly from H.R. 4600 on a number of important matters, including caps on noneconomic damages, attorneys' fees caps, statutes of limitation on claims, and joint and several liability. One of the notable features of the Maryland law is the cap on noneconomic damages at $620,000 this year, with a built-in adjuster for inflation of $15,000 annually. I believe this cap allows for working-class victims of medical malpractice to reap reasonable damages. Creating an inflation adjuster allows for the removal of politics from tort laws which would otherwise call for frequent political intervention to update damage caps or risk the erosion of their value to compensated victims.

Mr. Speaker, I opposed similar caps on damages during the Patients Bill of Rights debate on the floor of the House in 2001 because I have come to the conclusion that states can regulate tort reform best—if they only choose to do so. I understand that many states have experienced problems with increasing costs of medical liability insurance for physicians. I respectfully believe, however, that the proper area for that debate is not in Washington, DC but in state capitals where tort systems clearly need to be addressed and regulated as they have been in the past.

Accordingly, I oppose H.R. 4600.

Mr. HAYES. Mr. Speaker, I rise today in strong support of H.R. 4600, the Health Act.

Skyrocketing insurance premiums are debilitating our nation's health care delivery system.

In April I visited hospitals in the 8th District of North Carolina to talk about workforce issues such as the nursing shortage. At every stop, the number one concern of these talented health professionals was resoundingly the dramatically escalating cost of liability insurance.

Last year, NorthEast Medical in Concord, North Carolina paid approximately $600,000 for professional liability/general liability insurance for the hospital. This year they will pay approximately $1.7–1.9 million for the same coverage. They have one of the best loss rates in North Carolina. Other hospitals that aren't so fortunate are paying even more.

Scoltland Memorial, a rural hospital with only 124 acute beds, 50 bed nursing home, and minimal claims history, has seen an increase of over $545,000 this year with most of their insurance quotes over $1 million. Many of the potential insurers left in the industry are not willing to cover nursing homes or only at an even greater premium.

First Health Richmond, another rural hospital, paid $836,810 in 2001 for liability premiums. But this past year, they paid over $2 million! This hospital submitted 14 requests for bids, and only one company was even able to offer a quote. Lack of competitive insurers means even higher costs for our hospitals.

However, the problem is not isolated to hospitals.

Many obstetricians/gynecologists have stopped delivering babies. Physicians are retiring or moving because they no longer can afford to serve their communities or are simply unable to even purchase insurance. Annual increases in malpractice insurance for doctors of 30–70 percent are common today.

Just this month, three sub-specialist groups have informed Union Regional Medical Center in Union County, North Carolina that they will have to discontinue serving the hospital's patients because of huge increases in liability coverage, or threats from their carrier of such.

Smaller community hospitals, like most of those in my district need these sub-specialists from our larger cities such as Charlotte and Fayetteville. Their availability adds to the quality of health services available in our communities.

In 1994, the average medical malpractice jury award was $1.14 million. In 2000, just 6 short years, the average award rose to $3.4 million.

We must reign in run-away jury verdicts and the greed of trial lawyers who search for deep pockets. Taxpayers and seniors are the leading victims of a systemic trial lawyer-driven litigation explosion that siphons federal dollars out of the nation's healthcare system, threatens seniors' access to quality health care, and costs taxpayers billions of dollars. The system is broken, and we need to fix it.

Without federal legislation, the exodus of providers from the practice of medicine will continue, and patients will find it increasingly difficult to obtain needed health care.

This crisis is a threat for all Americans. We must safeguard patients' access to care through common sense reforms. Vote "yes" on H.R. 4600.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 4600, legislation that would undermine the right of patients and their families to seek appropriate compensation and penalties when they, or a loved one, are harmed or even killed by an incompetent health care provider.

At best, this bill is a wrong-headed approach to the problem of rising malpractice health insurance costs. At worst, it is a bill designed to protect bad doctors and other health care providers from being held accountable for their actions. Under any scenario, the bill is harmful to consumers and should be defeated.

The Republican Leadership has once again brought us a bill that favors their special interests at the expense of quality health care. Doctors, hospitals, HMOs, health insurance companies, nursing homes, and other health care providers would all love to see their liability risk reduced. This bill meets that need. Unfortunately, it does so solely on the backs of America's patients.

Supporters of this bill would have you believe that medical malpractice lawsuits are driving health care costs through the roof. In fact, for every $100 spent on medical care in 2000, only 56 cents could be attributed to medical malpractice costs—that's one half of one percent. So, supporters are spreading false hope that reducing the cost of medical malpractice would reduce the cost of health care in our country by any measurable amount. It won't.

What supporters of this bill do not want you to understand is how bad this bill would be for consumers. The provisions of this bill would prohibit juries and courts from providing awards they believe are appropriate relative to the harm done.

H.R. 4600 caps non-economic damages. By setting an arbitrary cap on this portion of an award, the table is tilted against seniors, women, children, and people with disabilities. Medical malpractice awards break down into several categories. Economic damages are awarded based on how one's future income is impacted by the harm caused by medical malpractice. There are no caps on this part of the award. But by capping non-economic damages, this bill would result in someone, without tremendous earning potential—a housewife or a senior for example—finding their award much lower than that of a young, successful businessman for identical injuries. Is that fair? I don't think so.

The limits on punitive damages are severe. Punitive damages are seldom awarded in malpractice cases, but their threat is an important deterrent. And, in cases of reckless conduct that cause severe harm, it is irresponsible to forbid such awards.

The bill prohibits the requirement of a lump sum payment to an injured party which allows the defendants to continue to reap interest benefits while holding the award. And, this prohibition on lump sum awards could mean that injured victims who can no longer work do not have the funds available to meet their needs. Why should the decision of how to award the penalty be taken from the court which is in the best position to make that determination since they know the details of the particular case?

Republicans claim to be advocates for states rights. Yet, this bill directly overrides the abilities of states to create and enforce medical malpractice laws that meet the needs of their residents.

The issue of rising malpractice insurance costs is a very legitimate concern for America's health care providers. I would happily work with colleagues to develop legislation to help change that. For example, we could look at better ways of spreading the risk of medical malpractice insurance across a wider spectrum of doctors. Another option that has been discussed is to experience rate malpractice insurance so that providers' premiums better reflect their own professional experience. These are just a few examples of steps that could be taken. But, the important difference between those proposals and the one before us today is that those changes don't harm patients.

Medical malpractice costs are an easy target. My Republican colleagues like to simplify it as a fight between America's doctors and our nation's trial lawyers. That is a false portrayal. Our medical malpractice system is a vital consumer protection. The bill before us drastically weakens the effectiveness of our nation's medical malpractice laws. I urge my colleagues to join me in voting against this wrong-headed and harmful approach to reducing the cost of malpractice premiums. It's the wrong solution for America's patients and their families.

Mr. SMITH of Michigan. Mr. Speaker, a national insurance crisis is ravaging the nation's essential health care system Medical professional liability insurance rates have skyrocketed, causing major insurers to drop coverage or raise premiums to unaffordable levels.

Doctors and other health care providers have been forced to abandon patients and practices, particularly in high-risk specialties such as emergency medicine, neurology, and obstetrics and gynecology. Low-income neighborhoods and rural areas are being particularly hard hit.

H.R. 4600 is, modeled after California's quarter-century old and highly successful health care litigation reforms (MICRA). MICRA was signed into law by Governor Jerry Brown, and has proved immensely successful in increasing access to affordable medical care. Overall, according to data of the National Association of Insurance Commissioners, the rate of increase in medical professional liability premiums in California since MICRA was enacted in 1976 has been a very modest 167 percent, whereas the rest of the United States have experienced a 505 percent rate of increase.

Economists have concluded that direct medical care litigation reforms—including caps on non-economic damage awards—generally reduce the growth of malpractice claims rates and insurance premiums, and reduce other stresses on doctors that may impair the quality of medical care.

By incorporating MICRA's time-tested reforms at the Federal level, the HEALTH Act will make medical malpractice insurance affordable again, encourage health care practitioners to maintain their practices, and reduce health care costs for patients. MICRA remains the only proven legislative solution to the current crisis, yet many state courts in states other than California have nullified legislative reforms. Congressional action is required.

The current, unregulated medical tort system can force doctors to practice defensive medicine. It also discourages improvements in the delivery of medical care by deterring doctors from freely discussing errors or potential errors due to a fear of litigation. The HEALTH Act will also save billions of dollars a year in taxpayer dollars by significantly reducing the incidence of wasteful defensive medicine in federally-funded programs.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in support of H.R. 4600 which safeguards patients' access to medical care by implementing common sense reforms.

Skyrocketing liability insurance has forced some physicians, hospitals, and other health care providers to cut back or end practicing medicine. Our best and brightest doctors are curtailing their medical practice or leaving the profession altogether because of the ballooning cost of medical malpractice insurance caused by an onslaught of frivolous, yet damaging, lawsuits.

At the most basic level, this is an access to care issue. As the former ranking member of the D.C. Appropriations Subcommittee, I saw first-hand the lack of access to decent health care for the disadvantaged and under-served population.

The District of Columbia is the only state or territory that has not made any changes to its civil liability system resulting in D.C. ranking number one in the country in terms of the average size of payments that juries award in malpractice suits.

One of the nation's premier pediatric hospitals located in the District of Columbia, Children's Hospital, over the last two years has had the total cost for malpractice insurance increase by 200 percent for less coverage. That is an additional $3 million a year going to insurance costs instead of going to treat sick patients. Howard University Hospital has been its malpractice insurance increase by 300 percent this year alone.

In Anacostia, OB–GYNs are terminating their practice because of the astronomical cost of medical malpractice insurance. Women are being denied access to critical prenatal care, gynecological services, and preventative treatment.

Congress must pass this common-sense legislation and put a stop to the costs of the runaway litigation system paid by all Americans, I urge my colleagues to vote in favor of this legislation.

Mr. PITTS. Mr. Speaker, in the Commonwealth of Pennsylvania, we have a crisis on our hands. Last year, there were more than $1.2 billion in medical malpractice suit payouts. That's a thousand dollars for every man, woman, and child in the Keystone State. That's a huge drain on our economy. Worse than that, it's hurting patients.

In my Congressional district, one hospital recently closed its trauma center and another canceled plans to build a center city clinic to serve the poor. A third hospital is about to close its maternity ward and fourth hospital nearby is on the verge of cutting back on emergency room services.

Why? Because they can't find medical malpractice insurance.

Insurance companies literally can't charge enough for their policies to stay in business, so they're leaving the Commonwealth. And that means doctors and hospitals can't get insurance. Doctors are leaving the profession or leaving the state.

One doctor in my district says there were thirty companies offering malpractice policies when he started his practice 30 years ago. Now there is only one, and he's not sure they'll give him a policy.

This is a crisis, Mr. Speaker. And Pennsylvania is not the only state in the Union that's in trouble.

It's time for Congress to act. And we need to act now.

I urge my colleagues to pass this bill.

Mr. DINGELL. Mr. Speaker, like many of my colleagues here today, I am concerned about the rising cost of malpractice insurance. It is a very real problem for doctors and patients and something we should address. But, I have serious reservations about this bill, H.R. 4600. And the closed rule under which it is being considered is an outrage—confirming that this bill is a political ploy that will not help doctors and patients.

High insurance rates have left doctors with few options. Those who can afford it will pay the increased costs, but those who cannot will either be forced to assume significant personal liability, leave high risk specialities, or leave the profession altogether. But, this legislation doesn't guarantee any reduction or abatement in increases that doctors are facing for their malpractice premiums. Instead, it focuses on drastic reforms of the judicial system that extend beyond malpractice, hurt injured consumers' access to redress, and provide a windfall to insurance companies.

What has caused the increase in malpractice premiums is not easily identified. Many factors completely unrelated to jury verdicts and the civil justice system affect insurance rates: pricing of malpractice insurance; practices of accounting for income and expenses while planning for downturns; investment choices. Yet, this legislation addresses none of these issues. In fact, neither of the two Committees of jurisdiction ever explored these issues and their relation to malpractice premiums. Instead, we are voting today on a bill that won't do anything to lower doctors' premiums but will disproportionately hurt women, low-income families, and seniors.

The legislation severely restricts non-economic damage awards. Yet, evidence shows no relation between caps and lower malpractice premiums. Four out of the top five most expensive states for medical malpractice premiums cap damages in medical malpractice cases. Michigan doctors pay far above the national average for medical malpractice insurance, in spite of Michigan's $280,000 cap on non-economic damages. Such limits sever only to enrich insurance companies at the expense of the most vulnerable, women, children, the elderly and low income families.

The legislation also sets a nearly impossible standard for awarding punitive damages and then limits such damages based on the level of economic loss, again unfairly penalizing those with lower earnings. An egregious act that severely injures or disfigures Ken Lay, former CEO of Enron, could be punished more severely than if that same act had hurt a child, a stay-at-home mother, or an elderly woman in a nursing home.

The legislation also goes well beyond the realm of medical malpractice and provides immunity from punitive damages to manufacturers of drugs and devices that are approved or cleared by the Food and Drug Administration (FDA) as well as those that are not FDA approved but are "generally recognized as safe and effective." This is like arguing that because someone drives at the speed limit, they can not be negligent or reckless. It is clearly possible to obey the speed limit, yet still act in a negligent or reckless manner. The bill that was brought to the floor purports to address this criticism, but the change is mostly cosmetic. The FDA statue and regulations, like FDA approval, should not be a shield for liability from injury caused by egregious acts.

The legislation also sets a stringent federal statute of limitations on state tort cases. In no event shall the time for commencement of a lawsuit exceed three years. Here again, last minute changes were made to the bill that are cosmetic rather than meaningful. The time should toll from discovery, not manifestation. Such a definition only invites more, not less, litigation. This issue is a well settled one with plenty of examples in case law and statute, and would be quite easy to fix correctly. The majority chose otherwise, leaving many injured patients whose claims would fall subject to this bill shut off from recourse.

One more item I should mention is the sense of the Congress on holding insurance companies liable for damages when their medical decisions cause harm. This provision is all bark and no bite. Democrats and a handful of moderate Republicans have tried for more than five years to enact a Patients' Bill of Rights that would allow injured patients to hold HMOs accountable under state law. Time and time again, however, such legislation has been blocked by Republicans who ultimately wish to shield insurance companies from liability. This last minutes cosmetic change cannot hide that fact.

In sum, instead of help for doctors with their malpractice premiums and fair compensation for injured patients, this bill puts more money in the pockets of insurance companies, and combines broad liability protections for industry with restrictions on patients who are harmed. The rising cost of malpractice insurance is a real problem requiring careful, balanced, and targeted legislation. Sadly, efforts to address this problem have become the vehicle for all manner of anti-patient provisions. I urge my colleagues to reject H.R. 4600.

Mr. MOORE. Mr. Speaker, I rise in opposition to H.R. 4600.

Like my colleagues, I am concerned about medical malpractice premiums and their effect on the availability of physicians, especially obstetricians and specialty physicians to practice in certain states. I am not at this time convinced, however, that H.R. 4600 is the complete answer to the medical malpractice insurance premium problem. The concentration of excessively high premiums in certain states shows that this is a regional, not national problems.

I believe that Congress should address the medical malpractice insurance system as a whole. The pricing and accounting practices of medical malpractice insurers may have contributed to this problem. There are indications that imprecise accounting practices have inflated the bottom line of companies and price wars in the early 1990s led insurers to sell malpractice coverage at rates that were inadequate to cover anticipated claims. Recent stock market declines have further exacerbated the financial difficulties of these companies, which have raised premiums or gone out of business in response.

I believe that a solution to the problem of rapidly rising medical malpractice insurance premiums must address all of the factors that contribute to premium cost. Earlier this year, I sent a letter with several of my colleagues asking that the General Accounting Office conduct a study on the effect of market conditions and insurance company practices on medical malpractice insurance premiums. I am introducing into the RECORD a copy of that letter as well as a July 3, 2002, article from the Wall Street Journal.

I expect to have preliminary results from the GAO in December. Once we know the full scope of the problem, I hope that we can work together to find a comprehensive solution to this problem.

WASHINGTON, DC,
July 2, 2002.

Hon. DAVID M. WALKER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR MR. WALKER: We are writing to request your assistance in evaluating the extent to which current market conditions and insurance company practices are contributing to an increase in medical malpractice premiums.

It has been reported that insurance companies have been raising the medical malpractice premiums which doctors must pay in certain regions of the country. Congress has begun to investigate this issue, and many in Congress have already proposed legislation. However, thus far the focus of debate in Washington has been limited. As Congress attempts to balance the rights of patients with the interests of doctors and insurers, we believe that a thorough analysis of insurance industry practices is necessary. Medical malpractice is an important issue that must be examined thoroughly and deliberately from all perspectives.

In this regard, we ask that you examine the financial statements and information submitted to regulators by insurance companies that offer medical malpractice insurance, as well as any other information maintained by regulators that may be relevant to this issue. In particular, we would like to know how reductions in the investment income of insurers may be adversely affecting the financial outlook of these companies, thus increasing physician premiums to compensate for any declines. To the extent feasible, you should also analyze the underwriting history of medical malpractice insurance to determine whether premiums have historically experienced similar increases and also determine whether current market conditions are in some way unique.

We would also like you to examine the competitiveness of markets, particularly in those areas experiencing the sharpest premium increase. For example, has the lack of competition in the medical malpractice insurance market adversely affected physician premiums? In addition, we are interested in having a better understanding of how malpractice settlements and judgements compare to premiums earned for medical malpractice lines of insurance. In particular, we would like to know how incurred but not yet reported holdings have affected the reserve practices of medical malpractice insurers.

As your examination proceeds, please provide us with a status report no later than September 3, 2002. We thank you for your assistance and look forward to your ultimate findings on this important issue for patients and doctors.

Sincerely,

John Conyers, Jr., John J. LaFalce, Joseph M. Hoeffel, Nick J. Rahall II, Alan B. Mollohan, John D. Dingell, Max Sandlin, Ronnie Shows, Dennis Moore, Marion Berry.

[From the Wall Street Journal, June 24, 2002]

INSURERS' PRICE WARS CONTRIBUTED TO DOCTORS FACING SOARING COSTS

(By Rachel Zimmerman and Christopher Oster)

As medical-malpractice premiums skyrocket in about a dozen states across the country, obstetricians and doctors in other risky specialties, such as neurosurgery, are moving, quitting or retiring. Insurers and many doctors blame the problem on rising jury awards in liability lawsuits.

"The real sickness is people sue at the drop of a hat, judgments are going up and up and up, and the people getting rich out of this are the plaintiffs' attorneys," says David Golden of the National Association of Independent Insurers, a trade group. The American Medical Association says Florida, Nevada, New York, Pennsylvania and eight other states face a "crisis" because "the legal system produces multimillion-dollar jury awards on a regular basis."

But while malpractice litigation has a big effect on premiums, insurers' pricing and accounting practices have played an equally important role. Following a cycle that recurs in many parts of the business, a price war that began in the early 1990s led insurers to sell malpractice coverage to obstetrician-gynecologists at rates that proved inadequate to cover claims.

PRICE SLASHING

Some of these carriers had rushed into malpractice coverage because an accounting practice widely used in the industry made the area seem more profitable in the early 1990s than it really was. A decade of shortsighted price slashing led to industry losses of nearly $3 billion last year.

"I don't like to hear insurance-company executives say it's the tort [injury-law] system—it's self-inflicted," says Donald J. Zuk, chief executive of Sepie Holdings Inc., a leading malpractice insurer in California.

What's more, the litigation statistics most insurers trumpet are incomplete. The statistics come from Jury Verdict Research, a Horsham, Pa., information service, which reports that since 1994, jury awards for medical-malpractice cases have jumped 175%, to a median of $1 million in 2000. During that seven-year period, the median award for negligence in childbirth was $2,050,000—the highest for all types of medical-malpractice cases, Jury Verdict Research says. (In any group of figures, half fall above the median, and half fall below.)

GAPS IN DATABASE

But Jury Verdict Research says its 2,951-case malpractice database has large gaps. It collects award information unsystematically, and it can't say how many cases it misses. It says it can't calculate the percentage change in the median for childbirth-negligence cases. More important, the database excludes trial victories by doctors and hospitals—verdicts that are worth zero dollars. That's a lot to ignore. Doctors and hospitals win about 62% of the time, Jury Verdict Research says. A separate database on settlements is less comprehensive.

A spokesman for Jury Verdict Research, Gary Bagin, confirms these and other holes in its statistics. He says the numbers nevertheless accurately reflect trends. The company, which sells its data to all comers, has reported jury information this way since 1961. "If we changed now, people looking back historically couldn't compare apples to apples," Mr. Bagin says.

Some doctors are beginning to acknowledge that the conventional focus on jury awards deflects attention from the insurance industry's behavior. The American College of Obstetricians and Gynecologists for the first time is conceding that carriers' business practices have contributed to the current problem, says Alice Kirkman, a spokeswoman for the professional group. "We are admitting it's a much more complex problem than we have previously talked about," she says.

SCRAMBLING FOR DOCTORS

The upshot is beyond dispute: Pregnant women across the country are scrambling for medical attention. Kimberly Maugaoteg of

Las Vegas is 13 weeks pregnant and hasn't seen an obstetrician. When she learned she was expecting, the 33-year old mother of two called the doctor who delivered her second child but was told he wasn't taking any new pregnant patients. Dr. Shelby Wilbourn plans to leave Nevada because of soaring medical-malpractice insurance rates there. Ms. Maugaotega says she called 28 obstetricians but couldn't find one who would take her.

Frustrated, she called the office of Nevada Gov. Kenny Guinn. A staff member gave her yet another name. She made an appointment to see that doctor today but says she is skeptical about the quality of care she will receive.

In the Las Vegas area, doctors say some 90 obstetricians have stopped accepting new patients since St. Paul Cos., formerly the country's leading provider of malpractice coverage, quit the business in December. St. Paul had insured more than half of Nevada's 240 obstetricians. Carriers still offering coverage in the state have raised rates by 100% to 400% physicians say.

Dr. Wilbourn says his annual malpractice premium was due to jump to $108,000 next month, from $33,000. The 41-year-old solo practitioner says the increase would come straight out of his take-home pay of between $150,000 and $200,000 a year. In response, he is moving to Maine this summer.

Dr. Wilbourn mourns having "to pick up and leave the patients I cared for and the practice I built up over 12 year." But in Maine, he has found a $200,000-a-year position with an insurance premium of only $9,800 for the first year, although the rate rises significantly after that. Premiums in Maine are relatively low because a dominant doctor-owned insurance cooperative there hasn't pushed to maximize rates, the heavily rural population isn't notably litigious and its court system employs an expert panel to screen out some suits, says Insurance Commissioner Allessandro Iuppa.

Until the 1970s, few doctors faced big-dollar suits. Malpractice coverage was a small specialty. As courts expanded liability rules, malpractice suits became more common. Dozens of doctor-owned insurance cooperatives, or "bedpan mutuals," formed in response. Most stuck to their home states.

St. Paul, a mid-sized national carrier named for its base in Minnesota, saw an opportunity. An insurer of Main Street businesses, St. Paul became the leader in the malpractice field. By 1985, it had a 20% share of the national market. Overall, the company had revenue of $8.9 billion last year, with about 10% of its premium dollars coming from malpractice coverage.

The frequency and size of doctors' malpractice claims rose steadily in the early 1980s, industry officials say. St. Paul and its competitors raised rates sharply during the 1980s.

Expecting malpractice awards to continue rising rapidly, St. Paul increased its reserves. But the company miscalculated, says Kevin Rehnberg, a senior vice president. Claim frequency and size leveled off in the late 1980s, as more than 30 states enacted curbs on malpractice awards, Mr. Rehnberg says. The combination of this so-called tort reform and the industry's rate increases turned malpractice insurance into a very lucrative specialty.

A standard industry accounting device used by St. Paul and, on a smaller scale, by its rivals, made the field look even more attractive. Realizing that it had set aside too much money for malpractice claims, St. Paul "released" $1.1 billion in reserves between 1992 and 1997. The money flowed through its income statement and boosted its bottom line.

St. Paul stated clearly in its annual reports that excess reserves had enlarged its net income. But that part of the message didn't get through to some insurers—especially bedpan mutuals—dazzled by St. Paul's bottom line, according to industry officials.

In the 1990s, some bedpan mutuals began competing for business beyond their original territories. New Jersey's Medical Inter-Insurance Exchange, California's Southern California Physicians Insurance Exchange (now known as Scpie Holdings), and Pennsylvania Hospital Insurance Co., or Phico, fanned out across the country. Some publicly traded insurers also jumped into the business.

With St. Paul seeming to offer a model for big, quick profits, "no one wanted to sit still in their own backyard," says Scpie's Mr. Zuk. "The boards of directors said, 'We've got to grow.'" Scpie expanded into Connecticut, Florida and Texas, among other states, starting in 1997.

As they entered new areas, smaller carriers often tried to attract customers by undercutting St. Paul. The price slashing became contagious, and premiums fell in many states. The mutuals "went in and aggravated the situation by saying, 'Look at all the money St. Paul is making,'" says Tom Gose, President of MAG Mutual Insurance Co., which operates mainly in Georgia. "They came in late to the dance and undercut everyone."

The newer competitors soon discovered, however, that "the so-called profitability of the '90s was the result of those years in the mid-80s when the actuaries were predicting the terrible trends," says Donald J. Fager, president of Medical Liability Mutual Insurance Co., a bedpan mutual started in 1975 in New York. Except for two mergers in the past two years, his company mostly has held to its original single-state focus.

The competition intensified, even though some insurers "knew rates were inadequate from 1995 to 2000" to cover malpractice claims, says Bob Sanders, an actuary with Milliman USA, a Seattle consultancy serving insurance companies.

ALLEGED FRAUD

In at least one case, aggressive pricing allegedly crossed the line into fraud. Pennsylvania regulators last year filed a civil suit in state court in Harrisburg against certain executives and board members of Phico. The state alleges the defendants misled the company's board on the adequacy of Phico's premium rates and funds set aside to pay claims. On the way to becoming the nation's seventh-largest malpractice insurer, the company had suffered mounting losses on policies for medical offices and nursing homes as far away as Miami.

Pennsylvania regulators took over Phico last August. The company filed for bankruptcy-court protection from is creditors in December. A trial date hasn't been set for the state fraud suit. Phico executives and directors have denied wrongdoing.

In the late 1990s, the size of payouts for malpractice awards increased, carriers say. By 2000, many companies were losing money on malpractice coverage. Industrywide, carriers paid out $1.36 in claims and expenses for every premium dollar they collected, says Mr. Golden, the trade-group official.

The losses were exacerbated by carriers' declining investment returns. Some insurers had come to expect that big gains in the 1990s from their bond and stock portfolios would continue, industry officials say. When the bull market stalled in 2000, investment gains that had patched over inadequate premium rates disappeared.

Some bedpan mutuals went home. Scpie stopped writing coverage in any state other than California. "We lost money, and we retreated," says the company's Mr. Zuk.

New Jersey's Medical Inter-Insurance Exchange, now known as MIIX, had expanded into 24 states by the time it had a loss of $164 million in the fourth quarter of 2001. The company says it is now refusing to renew policies for 7,000 physicians outside of New Jersey. It plans to reformulate as a new company operating only in that state.

St. Paul's malpractice business sank into the red. Last December, newly hired Chief Executive Jay Fishman, a former Citigroup Inc. executive, announced the company would drop the coverage line. St. Paul reported a $980 million loss on the business for 2001.

As carriers retrench, competition has slumped and prices in some states have shot up. Lauren Kline, 6½ months pregnant, changed obstetricians when her long-time Philadelphia doctor moved out of state because of rate increases. Now, her new doctor, Robert Friedman, may have to give up delivering babies at his suburban Philadelphia practice. His insurance expires at the end of the month, and he says he is having difficulty finding a carrier that will sell him a policy at any price.

Last year, Dr. Friedman says he paid $50,000 for coverage. If he gets a policy for next year, it will cost $90,000, he predicts, based on his broker's estimate. "I can't pass a single bit of that off to my patients," because managed-care companies don't allow it, he says.

Dr. Friedman says he is considering dropping the obstetrics part of his practice. Generally, delivering babies is seen as posing greater risks than most gynecological treatment. As a result insurers offer less-expensive policies to doctors who don't do deliveries.

Mr. Golden of the insurers' association argues that whatever role industry practices may play, the current turmoil stems from lawsuits. The association says that from 1995 through 2000, total industry payouts to cover losses and legal expenses jumped 52%, to $6.9 billion. "That says there are more really huge verdicts," Mr. Golden says. Even in the majority of cases in which doctors and hospitals win—the zero-dollar verdicts—there are still legal expenses that insurers have to pick up, he adds.

Industry critics point to different sets of statistics. Bob Hunter, director for insurance at Consumer Federation of America, an advocacy group in Washington, prefers numbers generated by A.M. Best Co. The insurance-rating agency estimates that once all malpractice claims from 1991 through 2000 are resolved—which will take until about 2010—the average payout per claim will have risen 47%, to $42,473. That projection includes legal expenses and suits in which doctors or hospital prevail.

While the statistical debate rages, pregnant women adjust to new limits and inconveniences. Kelly Biesecker, 35, spent many extra hours on the highway this spring, driving from her home in Villanova, Pa., to Delran, N.J., so she could continue to use her obstetrician. Dr. Richard Krauss says he moved the obstetrics part of his practice from Philadelphia because malpractice rates had skyrocketed in Pennsylvania. Ms.

Biesecker, who gave birth to a healthy boy on June 5, says Dr. Krauss was the doctor she trusted to guard her health and the health of her baby: "You stick with that guy no matter what the distance."

Dr. Krauss, 53, left Philadelphia last year only after his malpractice premium rose to $54,000, from $38,000, and then was canceled by a carrier getting out of the business, he says. After getting quotes of about $80,000 on a new policy, he moved. New Jersey hasn't been a panacea, however. His policy there expires July 1, and the carrier refuses to renew it. The doctor says he hopes to go to work for a hospital that will pay for his coverage.

Mr. BERMAN. Mr. Speaker, I've heard many arguments against H.R. 4600, but there is one that I've not heard mentioned yet today. I suspect that the drafters did not intend the bill to have this effect, but as drafted the HEALTH Act endangers the effectiveness of the most successful anti-fraud tool that the government has at its disposal—the False Claims Act.

In 1986, Congress passed and President Reagan signed legislation strengthening the False Claims Act, a law originally signed by President Lincoln in 1863. The amendments passed in 1986 have made it possible for the government to recover close to $9 billion that would otherwise have been lost to health care fraud and abuse.

The definitions of "health care lawsuit" and "health care liability action" in this bill are very broad. Broad enough to encompass fraud cases brought under the False Claims Act. If a False Claims Act case was determined to fall under the HEALTH Act, it would be devastating to the effectiveness of this anti-fraud tool. Under False Claims the government can recover up to treble damages. In a decision 2 years ago, the Supreme Court determined that these recoveries constitute punitive damages. The Health Act would cap punitive damages at $250,000 or twice the amount of economic damages, whichever is greater.

Let's use as an example the 1996 case against Laboratory Corporation of America, a fraud case based upon false claims for medically unnecessary "add-on" tests submitted to Medicare, Medicaid, and CHAMPUS. The government recovery in this case was $182 million. These are not small cases. The treble damages serve as a deterrent—a very effective deterrent. By some estimates the deterrent effect of the False Claims Act amendments was between 150 and 300 billion dollars during their first ten years of existence. By blocking punitive damages in these cases, the bill could make the False Claims Act useless to the government as a tool against fraud.

In a report released last year, Taxpayers Against Fraud estimated that using the False Claims Act, the government was recovering $8 for each tax dollar spent fighting health care fraud. There are very few government efforts that can claim this level of efficacy.

I encourage my colleagues to reject this bill and permit the government to continue to protect itself from health care fraud.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of H.R. 4600, which makes health care delivery more accessible and cost-effective in Virginia and throughout America by curbing medical malpractice abuse.

In recent years, Americans have witnessed a dramatic rise in the costs of malpractice insurance for doctors and hospitals. This cost is ultimately passed along to patients. Skyrocketing insurance premiums are debilitating America's health care system. Liability insurers are either leaving the market or raising rates to astronomically high levels. This has led physicians, hospitals and other health care providers to severely limit their practices or to leave the practice of medicine all together. Women, low-income neighborhoods and rural areas are among the hardest hit.

Fearing bankruptcy or the possibility of endless litigation, some doctors have turned to "defensive medicine"—which consists of wasteful prescription of medically unnecessary medicine and the performance of unnecessary tests with the intent of limiting liability exposures. These "defensive medicine" practices ultimately cost taxpayers billions of dollars. In addition, fearing litigation, some doctors may hesitate to discuss a potential misdiagnosis or medical error, thereby compounding the harm done to patients. A recent survey released by the Department of Health and Human Services revealed that over 76 percent of physicians are concerned that malpractice litigation has hurt their ability to provide quality care to patients.

This bill safeguards patient's access to care by limiting the number of years a plaintiff has to file a healthcare liability action. This ensures that claims are brought while evidence and witnesses are available. The legislation allocates damages fairly in proportion to a party's degree of fault, allows patients to recover economic damages such as future medical expenses and loss of future earnings, while establishing a cap of $250,000 on non-economic damages, such as pain and suffering. The bill also places reasonable limits on punitive damages.

American health care is still the envy of the world, but unless we act now to curb rapidly rising health care costs, we threaten the future availability of high quality affordable health care. One way to cut costs and improve quality is by curbing excessive lawsuits. This bill is a big step in the right direction to improving patient safety and doctor accessibility.

Mr. SMITH of Texas. Mr. Speaker, the cost of malpractice insurance has steadily risen, which has caused many insurers to drop coverage or raise premiums. Doctors and others have been forced to abandon patients, particularly in high-risk specialties such as emergency medicine and obstetrics and gynecology.

H.R. 4600, the HEALTH Act, will cap non-economic damages at $250,000, and limit the contingency fees lawyers can charge. This will reduce the number of medical malpractice claims and make medical malpractice insurance affordable again. Patients will receive better and less expensive health care.

By improving the medical malpractice system, the HEALTH Act will enhance the quality of care for all patients.

I urge my colleagues to support this legislation.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of the HEALTH Act of 2002 (H.R. 4600), which will improve health care quality and help ensure the availability of health care services and coverage.

The failure of the medical liability system is compromising patient access to care. Liability insurers are leaving the market or raising rates to astronomical levels. In turn, more physicians and other health care providers are severely limiting their practices or are simply unable to afford to practice medicine. Physicians in Texas as well as Florida, Mississippi, Nevada, New York, Ohio, Pennsylvania, Washington, West Virginia and other states are already in crisis.

Skyrocketing medical malpractice insurance premiums are debilitating the nation's health care delivery system in communities across the country. Physicians in Texas have experienced a 51 percent increase in malpractice claims between 1990 and 2000, and according to the Texas Medical Association, increases in physician malpractice insurance rates in 2002 ranged from 30 percent to 200 percent.

Increasing numbers of physicians, hospitals, and other providers are curtailing their services, relocating to other states, or simply ceasing to offer medical services altogether. For example, obstetricians/gynecologists and surgeons in these states routinely pay more than $100,000 a year for $1,000,000 coverage. Some are paying more than $200,000. A physician facing these premiums is more likely to practice defensive medicine, order extra tests and use only procedures that limit risk. For some, it goes to the heart of their practice. For instance, many OB/GYN physicians have stopped delivering babies. The problem also has spread to emergency rooms where the crisis takes on life-or-death proportions.

Especially in rural areas, health care services are likely to be unevenly distributed. Many rural residents do not even have access to a local doctor, primary care provider, or hospital. Increases in medical malpractice insurance have resulted in a further loss of patient access to health care. Without access to local health care professionals, rural residents are frequently forced to leave their communities to receive necessary treatments. Not only is this a burden to rural residents, who are often older or lack reliable transportation, but it drains vital health care dollars from the local economy—further straining the financial well-being of rural communities.

Without federal legislation, the exodus of physicians from the practice of medicine will continue, especially in high-risk specialities, and patients will find it increasingly difficult to obtain health care.

It is for these reasons that I joined my fellow colleagues as an original cosponsor of the HEALTH Act, which safeguards patients' access to care, promotes speedy resolution of claims, fairly allocates responsibility, compensates patient injury, maximizes patient recovery, and puts reasonable limits, not caps, on punitive damages. This bill alone will not resolve our health care costs or access challenges but it is one part of the solution.

I urge my colleagues, especially those who represent rural America, to support H.R. 4600, stabilizing the nation's shaky medical liability system.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 4600, the Help Efficient, Accessible, Low-cost, and Timely Healthcare Act, and ask my colleagues to support this common sense measure.

This legislation, modeled after California's 25 year old reforms, contains a tested package of reforms that will help lower medical liability premiums across the country is important for both physicians and patients.

In my great state of Pennsylvania, five commercial carriers that insured more than half of the hospitals and health systems have left the market or are not renewing policies for this year. Pennsylvania hospitals and physicians continue to face skyrocketing premiums. The cost of primary coverage has increased as much as 450% for some hospitals, and on average by 70 percent for all hospitals.

Further, the medical liability crisis is hindering the ability of our academic medical schools to recruit and retain students. According to the American College of Obstetricians and Gynecologists, one in ten obstetricians have already stopped delivering babies due to skyrocketing premiums. A shortage in radiologists willing to read mammograms has increased the wait time for screening mammograms at most major hospitals from two to three months. The current system is forcing our doctors to quit, encouraging them to seek other employment and jeopardizing the health care of our women.

In rural Pennsylvania this issue hits home. Many doctors are relocating to big cities where they can be part of a larger practice, specifically because they can't afford the insurance premiums on their own. In rural areas we have to travel farther and farther for quality health care—this dramatically affects our quality of life. Who wants to move to an area where they can't get health care?

It becomes more worrisome when it is an emergency. it is common knowledge that the sooner you get to the doctor the better chance you have in surviving a serious medical emergency. In rural areas, emergency medical personnel have to travel to the patient, diagnose the problem and then transport them to the nearest facility that can treat them. The further they have to travel the less likely they will survive.

Mr. Speaker, by passing H.R. 4600, we will take significant steps toward stabilizing the medical liability system by both safeguarding patients' access to care while helping to address skyrocketing health care costs. Congress needs to work for the betterment of the whole nation and pass this common-sense well tested package of reforms.

Mr. CROWLEY. Mr. Speaker, I rise in opposition to H.R. 4600. This bill's proponents say the legislation helps curb the costs of healthcare and helps doctors stay in business by reducing their insurance rates. However, they are wrong. I would like to illustrate why they are wrong and why I will oppose this legislation.

First, the $250,000 cap on non-economic damages will impede the right of patients and victims of gross negligence. Under this legislation, victims would not be allowed to sue for pain and suffering. That is wrong. Consider the cases of the patient who has the wrong leg amputated or who finds surgeon's initials carved into her skin or the recent example in Massachusetts where a surgeon left in the middle of surgery to go cash a check at the bank. Who would dare look these victims in the eye and say they should not be allowed to sue for anything beyond what this cap allows. Under current law, the onus is on the victims to prove they are deserving of a particular award. If they succeed in making their case, then they deserve to be awarded the appropriate amount by a jury of their peers in accordance with the law. This legislation leaves victims isolated without assistance and without the tools to protect themselves and their families.

Second, the bill takes power away from jurors and judges. Our constitution provides for trial by jury to ensure fair trials for all. Now the Republican majority believes that the Constitution is wrong and people are not trustworthy; that power should be in the hands of the insurance companies not the American public. This bill is a one-size-fits-all approach to ruling on legislation. It says that even if jurors, who have conscientiously listened to every fact presented by both sides, want to award a plaintiff an amount beyond the cap, they are unable to do so. This bill says that judges, who are trained to listen to the specifics of a case and to understand the specifics of the law, cannot award damages as they see fit. This bill ties the hands of those who are expected to know the most about the law and about individual cases.

Third, the bill, which was drafted under the auspices of trying to lower malpractice insurance costs, offers no guarantees that medical malpractice costs will fall. Proponents claim the bill's intent is to reduce malpractice insurance rates, yet malpractice insurers can easily choose to price gauge. A June 24, 2002 Wall Street Journal article discusses the direct impact of insurers' "pricing and accounting practices" on increased malpractice rates. If we want to limit the burden on doctors, we need to limit their insurance rates, not limit victims' rights.

Finally, this bill places caps on suits due to negligent doctors who shouldn't be practicing, dangerous HMOs that should be shut down, and faulty pharmaceuticals and faulty devices that should be off the market. Unfortunately there are bad pharmaceuticals and bad devices in this country. Consider the Dalcon Shield, the inter-uterine device that used to be on the market. This device caused many women to develop serious uterine infections or worse, and the company knew it was faulty. Their negligence was punished by crushing lawsuits that caused the corporation to go bankrupt—and they should have gone bankrupt because they were killing women. This bill would allow manufacturers of devices like the Dalcon Shield to pay off small awards by their insurance company to their victims and continue to kill.

Additionally, this bill exempts all HMOs from litigation for denials of care. So many of my Congressional colleagues talk about wanting to protect Americans against HMOs, yet here we are discussing a bill that would do precisely the opposite. This bill is protection for HMOs. This bill saves HMOs from paying victims whatever amount the judicial systems finds is just. Patients need and deserve stronger protections against their HMOs than this bill permits.

This bill simply takes power away from judges, jurors, and victims while guaranteeing no relief for hospitals and physicians. My constituents have been waiting for Congress to pass a serious Patients Bill of Rights, protect patients and their families, and lower medical costs. This bill will accomplish none of these goals.

Therefore, I will be opposing this vote and urge all Members who care about their constituents and about health care costs to oppose this bill as well.

The SPEAKER pro tempore. Pursuant to House Resolution 553, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill H.R. 4600 to the Committee on the Judiciary and the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

In section 11—

(1) in the first sentence of subsection (a), strike "subsections (b) and (c)" and insert "subsections (b), (c), and (d)"; and

(2) add at the end the following new subsection:

(d) PATIENTS' BILL OF RIGHTS.—Notwithstanding any other provision of this Act, if a State has in effect a law that provides for the liability of health maintenance organizations (as defined in section 2791(b)(3) of the Public Health Service Act (42 U.S.C. 300gg–91(b)(3))) with respect to patients, or sets forth circumstances under which actions may be brought with respect to such liability, this Act does not preempt or supersede such law or in any way affect such liability, circumstances, or actions.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan is recognized for 5 minutes in support of his motion.

Mr. CONYERS. Mr. Speaker, I ask that the gentleman from New Jersey (Mr. ANDREWS) join me in the motion to recommit, and I offer this motion on behalf of myself and him.

As currently drafted, this bill guts HMO reform laws that States have already passed because it creates broad new caps on damages when HMOs deny coverage to patients, and so what we do is to add a safe harbor provision to specify that these State patient's bills of rights laws are not preempted by this bill. Nothing more.

It goes without saying that these limits are far less friendly to consumers injured by HMOs than the patient protection laws already enacted by the States, and I would love to refer to the former Governor of Texas George W. Bush, who had a similar view in mind. They enacted an HMO law in Texas, and that law, still on the books, has a higher cap on punitive damages than this bill and no caps on noneconomic damages for suits against HMOs.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding.

There is a serious disagreement about the underlying bill and whether or not it poses the right solution to the malpractice crisis. Aside from that, there should be no dispute over what this bill should and should not do with respect to State laws that many of our States have passed to protect patients against abuses by the managed care industry. This bill should have no effect on those underlying State laws.

If this motion to recommit is not adopted, I believe the best analysis is that this bill would have the effect of repealing or substantially neutralizing and weakening those State law protections. The purpose of the motion to recommit is to make it explicit in the statute that this bill, if enacted into law, would not preempt State patient protections laws.

So, for example, there are States that have laws that say that if a person went to their primary care provider and she suggested that a person needed a series of tests regarding possible malignancy and the managed care company refused to pay for the tests regarding the possible malignancy and they developed a malignancy, developed cancer, got sick as a result of it, under these State patient protection laws there are certain remedies that that patient and her family would now have, the ability to get a review before the decision was made by an external objective body and the ability, if the decision were not reversed, the ability to recover damages resulting from the arbitrary medical malpractice by the managed care company.

This has been a principle embraced by Republicans and Democrats in State legislatures around the country. In fact, as the gentleman from Michigan (Mr. CONYERS) mentioned, the President of the United States embraced such a bill when he was chief executive of the State of Texas.

□ 1445

The good work that the Texas legislature has done, and other legislatures have done around the country, would be imperiled and put at risk if this motion to recommit is not adopted.

Mr. Speaker, I disagree with the underlying bill; but even those who agree with the underlying bill, I believe, did not set out with the intention of repealing State patient protection statutes. I know that the majority has added a sense of Congress provision to the underlying bill that says it is not really our intention.

Frankly, there is a better way for us to express our intention than simply expressing the sense of Congress. It is to write a statute or to write a provision in the statute that says that State patient protection provisions are not repealed as a result of the adoption of this bill.

Mr. Speaker, I think Members should support the motion to recommit whether they are for the underlying bill, or whether they are joining those of us who oppose the underlying bill. If Members respect and support the right of their State legislature to enact State laws that would protect Members' constituents against abuses by managed care companies and State laws, Members should vote for the motion to recommit. I would urge Republicans and Democrats to vote for the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, this is a very craftily drafted motion. The effect of its adoption will be to increase health care costs and further restrict availability of health care to people all around the country.

First, it will increase health care costs in that patients of HMOs and the employers that sponsor the HMO-type coverage will not be able to benefit from what the Congressional Budget Office estimates will be a reduction of somewhere between 25-30 percent of professional liability insurance. So there will be higher professional liability insurance premiums paid by the doctors who practice in the HMOs which will be passed on to their patients and which will be passed on to their employers.

This is an incentive for doctors to leave practicing with HMOs. And as we know, HMOs generally save money. Every Member who gets these statements from our insurance company that says "This is not a bill" on it, there are negotiated savings that would not be there if the doctor left the HMO as a result of this motion to recommit passing, and thus qualifying for the lower insurance premiums available, or where the protections of this bill would be available to doctors practicing outside of HMOs.

By increasing the cost of HMOs, more and more employers will decide that it is too expensive for them to continue to provide health insurance coverage. So the protections to patients will go down as fewer and fewer employers can afford the coverage through the HMOs.

But I think also the availability of quality health care will go down whether one is in an HMO or not in an HMO because the market works. If health care becomes more expensive, then there will be less health care that will be available. I do not think anybody who supports this motion to recommit can ever come to the floor of this House of Representatives with a straight face and sincerely complain about increased health care costs because that is exactly what the motion to recommit will accomplish should it pass.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Speaker, this motion to recommit is, I fear, a wolf in sheep's clothing. The fact of the matter is while it purports to be a small carveout for the Patient Bill of Rights as they apply to HMOs, the fact of the matter is it would insulate and take away the protections for all of the physicians who work for HMOs, and I believe for the hospitals that contract with HMOs. It is very much a gutting amendment.

The fact of the matter is that we in this House have to decide which side we are on here. We are either on the side of providing adequate care to our patients, to our constituents, making sure that our physicians can stay in practice, stop retiring early, keeping the trauma centers open; or we are on the side of doing nothing, which is about what this bill would do with a motion to recommit with instructions.

The Congressional Budget Office has said that this bill will reduce premiums by 25-30 percent. Despite all of the railings against it, the fact of the matter is when we limit liability, as California has seen and the statistics are crystal clear there, when we limit noneconomic damages, the rates go down. The rates go down because there is competition in the system, and the insurance companies will have to lower their premiums in order to compete with others in the same market.

The fact of the matter is, until we do that, we will remain on this head-long path towards crisis, in which case the traumas centers will close, the obstetrician offices will close, and patients, our constituents, will have third world health care if we do not pass this bill today.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 193, nays 225, not voting 14, as follows:

[Roll No. 420]

YEAS—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Ganske
Gephardt
Gonzalez
Gordon
Graham
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—225

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
McKinney
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Bachus
Barcia
Bonior
Callahan
Hilliard
Israel
Maloney (NY)
McDermott
Mink
Roukema
Slaughter
Stump
Thompson (CA)
Thurman

□ 1513

Messrs. CAMP, KIRK, BAKER, HORN, CRAMER, EHLERS, SHAYS, TIBERI, ISTOOK, MORAN of Virginia, Ms. ROS-LEHTINEN, and Mrs. KELLY changed their vote from "yea" to "nay."

Mr. LIPINSKI, Mr. LAMPSON, Ms. WOOLSEY, and Mrs. CLAYTON changed their vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 217, nays 203, not voting 12, as follows:

[Roll No. 421]

YEAS—217

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Young (AK)
Young (FL)

NAYS—203

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Coble
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank
Frost
Gephardt
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Grucci
Gutierrez
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Morella
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Terry
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wilson (SC)
Woolsey
Wu
Wynn

NOT VOTING—12

Bachus
Barcia
Bonior
Callahan
Israel
Maloney (NY)
McDermott
Mink
Roukema
Stump
Thompson (CA)
Thurman

☐ 1528

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 552, I call up the conference report on the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 25, 2002, at page 17958.)

☐ 1530

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the conference report on H.R. 2215 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a lengthy statement which I plan on putting in the RECORD, as it is important to this conference report. I know that the Members wish to make plans so that they can get out of here before the last plane leaves, and I would hope that everybody who seeks time will speed it up so that the Members will be accommodated.

This conference report represents the first Department of Justice authorization that will be signed into law since 1979. The Department has gone for 23 years without an authorization. This legislation will help the Congress to do better oversight over the Department of Justice and will allow the Department of Justice to do better oversight over itself through improvements in the Inspector General's Office.

There are a number of additional judgeships that have been created, largely in the southwestern part of the country, to handle cases that arise from problems along the border. There is an improvement in how the Department administers its grant programs through the Office of Justice programs; and I think probably most importantly, the improvements in the juvenile justice system at the Federal level, jointly within the jurisdiction of the Committee on the Judiciary and the Committee on Education and the Workforce, at long last, will be finding its way into law.

All of the conferees signed this legislation. It has significant bipartisan support. I would commend it to the Members' favorable vote.

Mr. Speaker, over the last two decades, there have been several unsuccessful attempts by the Committees on the Judiciary of both Houses of Congress to authorize the Department of Justice. If enacted, H.R. 2215 represents the first such authorization of the Department in nearly a quarter century. It reflects the broad bipartisan support of both Houses, and was signed by all of those appointed to the Conference. While some might argue that congressional authorization of federal departments within its jurisdiction is a mere formality, the authorization of executive agencies fulfills Congress' fundamental constitutional obligation to maintain an active and continuing role in organizing the priorities and overseeing the operation of the executive branch. This process also ensures that the authorizing committees' institutional knowledge about the federal agencies they oversee can be imparted in the course of regulation reauthorization.

The Department of Justice is one of the most important agencies in the Federal Government and the world's premier law enforcement organization. With an annual budget exceeding 20 billion dollars and a workforce of over 100,000 employees, the Department of Justice is an institution whose mission and values reflect the American people's staunch commitment to fairness and justice.

The importance of the Department of Justice has only increased since the tragic events of September 11th, 2001. Last year, I was pleased to introduce and lead congressional passage of the PATRIOT Act, which has strengthened America's security by providing law enforcement with a range of tools to fight and win the war against terrorism.

As Chairman of the Judiciary Committee, I have continued to help provide the Department with the legislative resources to carry out its crucial mandate. At the same time, I have worked to ensure that the Department's structure, management, and priorities are tailored to best promote the purposes for which it was established.

The 21st Century Department of Justice Appropriations Authorization Act advances this important goal. The title of this measure reflects its broad and ambitious sweep: to focus the priorities of the Department to tackle the challenges of the 21st century. At the same time, its title alone does not fully capture the several individual legislative initiatives contained in its text. Many of these initiatives were reported by the House Judiciary Committee and passed the House of Representatives, only to be diverted from the President's desk by the delay and inaction of the other body.

H.R. 2215 fully authorizes the appropriations requested by the President for fiscal years 2002 and 2003. It strengthens oversight of the Department of Justice by bolstering the authority of the Department's Inspector General. It also mandates that one senior official in the Inspector General's office be dedicated to the oversight of the FBI. It also requires the Inspector General to submit an FBI oversight plan to Congress within 30 days of enactment.

It also directs the Department to submit a report detailing the operation of the Office of Justice programs, requires the submission of information concerning litigation activities at the Department, and protects civil liberties by requiring the submission of a report on the Department's use of the electronic surveillance system formerly known as "Project Carnivore."

H.R. 2215 strengthens the statutory authority of the Attorney General to conduct his official responsibilities, enhances the administration of justice by incorporating long-needed judicial improvements and strengthens judicial disciplinary procedures. It also creates additional judgeships to address the chronic overburdening of America's federal courts, particularly in border states such as Texas, California, and New Mexico, as well as Florida, Nevada, and Alabama.

H.R. 2215 also ensures effective market competition by making important improvements to federal antitrust statues, and establishes a Commission to review the adequacy of existing antitrust laws. It promotes America's economic competitiveness by strengthening protections for intellectual property, modernizing the application process at the Patent and Trademark Office, and ensuring that holders of U.S. trademarks are accorded the full protection of international law.

In addition, H.R. 2215 strengthens the integrity of the criminal justice system in several ways. It increases penalties for those who tamper with federal witnesses or harm federal judges and law enforcement personnel, authorizes danger pay for federal agents in harm's way overseas, and contains important provisions to reduce illegal drug use. The Report also makes important refinements to address INS administrative processing delays faced by legal immigrants.

Of critical importance, this legislation contains a sweeping and ambitious program to protect at-risk kids. It provides continued support for Boys and Girls Clubs, enhances juvenile criminal accountability, and provides states with block grants to curb youth crime. It represents comprehensive bipartisan legislation the House Committees on Judiciary and Education and Workforce have been working on for several years, and I am proud of its inclusion in the Conference Report. Finally, this bill promotes continued support for federal, state, and local coordination of preparedness against terrorist attacks.

Mr. Speaker, it is my hope that the American people will not have to wait another 23 years for this body to again reauthorize the Department of Justice. Rather, I hope that passage of H.R. 2215 will lead to a period of reinvigorated congressional oversight of the executive branch. Working in concert to identify solutions to the growing challenges faced by federal law enforcement, Congress and The Administration will better provide for the safety and security of American people. H.R. 2215 makes a critical, long-overdue step in this direction, and I urge your support.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I rise in support of the conference report. I yield 2 minutes to the gentleman from California (Mr. SCHIFF), who has been very helpful in putting this bipartisan package together.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time, and I applaud the bipartisan leadership for their tireless work in bringing this bill to the floor today.

In particular, I am very appreciative that one of my bills, the Law Enforcement Tribute Act, has been included in the reauthorization conference report. The Law Enforcement Tribute Act authorizes funding for grants to States and localities to aid in honoring those men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers.

To ensure this funding would allow for the development of many tributes around the country, there is a limit that no award may be greater than $150,000; and the bill further requires a match by the State or locality requesting the funding. The bill authorizes $3 million a year for 5 years to be administered through the Department of Justice and would provide enough funding for 20 projects each year.

Mr. Speaker, I would like to explain briefly why this bill is so important. In one of the communities I represent alone, Glendale, California, four police officers and one sheriff's deputy have been killed in the line of duty. Many others have suffered injuries and illnesses that have contributed to early deaths. The ultimate sacrifice they have made deserves this recognition.

One of those fallen heroes was Charles Lazzaretto, a Glendale police officer killed in the line of duty only 4 years ago. Another involves Janice Starnes of Martinsville, Indiana, whose husband, Dan, was killed in the line of duty in July of 2001, just months after they celebrated their 25th anniversary. Earlier this year, Janice wrote a check for $100 to start a memorial for her husband and two other officers also killed in the line of duty. In a letter that we received from her, she writes: "He was the best friend to our sons. Dan paid the ultimate sacrifice. He has always been my hero, and now others can be honored by this memorial. I want to live long enough to see this memorial completed."

Well, so do all of us in the Congress of the United States.

I want to thank the original cosponsor, the gentleman from Virginia (Mr. DAVIS); our subcommittee chairman, the gentleman from Texas (Mr. SMITH); and the gentleman from Virginia (Mr. SCOTT), the ranking member of the subcommittee, for their work; and the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee; and the gentleman from Michigan (Mr. CONYERS), the ranking member of the full committee, for all of their assistance. To the many organizations of law enforcement who have supported it, I thank them; and I urge the support of my colleagues.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding me this time.

This conference report contains intellectual property provisions which are very significant, such as PTO reauthorization; the patent reexamination reform proposal; intellectual property technical amendments; the TEACH Act, regarding the distance education program; and the Madrid protocol implementation concerning the international registration of trademarks.

Our subcommittee of the Committee on the Judiciary, Mr. Speaker, has worked a long time on these matters, and in the case of the Madrid protocol for 8 years. This is much-needed reform that will benefit the intellectual property owners of the intellectual property community, and the American public as well.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise in support of this conference report. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), our chairman; and the gentleman from Michigan (Mr. CONYERS), our ranking member; and the gentleman from Virginia (Mr. SCOTT), the ranking member of the subcommittee, for their efforts to pass the first DOJ authorization bill in 2 decades. I have enjoyed working with them as a member of the Committee on the Judiciary and as a member of the conference committee to bring this legislation to the floor.

This is an excellent piece of legislation that deals with a large number of important issues. I would like to focus on two of them today.

I am very pleased that we were able to create a permanent Violence Against Women Office and make the director of that office a Senate-confirmed appointee. These provisions will strengthen the existing office, enhancing the Department of Justice's capacity to address the continuing problems of domestic violence and sexual assault.

Domestic violence and sexual assault are still scourges on our Nation. The statistics are chilling. Nearly one in three women will experience either domestic violence or a sexual assault in her lifetime. These horrible crimes damage lives and tear families apart. The Violence Against Women Act is a proven part of the solution to these problems, and a permanent office with a strong director will help us continue to move forward to end this problem forever.

I want to thank the gentlewoman from New York (Ms. SLAUGHTER), my colleague, for introducing the original legislation; and I also want to appreciate the work of the gentlewoman from Maryland (Mrs. MORELLA) and the gentlewoman from Colorado (Ms. DEGETTE), and also appreciate the gentleman from Michigan (Mr. CONYERS), the ranking member, for their efforts to move this issue forward. I thank the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), for the work that he did to make sure that we found appropriate legislative language that meets the great need for a strong Violence Against Women Office.

Mr. Speaker, this bill also includes an important, although somewhat obscure, provision that will help promote education. The bill includes the Technology Education and Copyright Harmonization Act, also known as the TEACH Act. The TEACH Act extends the current exemption of educational use of copyrighted materials to distance learning. This will allow our schools, colleges, and universities to expand educational opportunities through new technology. Copyright holders and our educational institutions worked hard to develop this compromise language. I am pleased we were able to introduce it and include it in this bill, and I urge my colleagues to vote for this conference report.

Mr. SENSENBRENNER. Mr. Speaker, I yield a quick 1 minute to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time.

This legislation contains several bills originated by the Subcommittee on Crime, Terrorism and Homeland Security. The Juvenile Offender Accountability Act, the Law Enforcement Tribute Act, and the Body Armor Act will help make America safer.

Additionally, this legislation increases penalties for threatening Federal judges and other Federal officials, and for threatening witnesses, victims and informants.

An immigration provision I sponsored benefits the high-tech sector. It allows high-tech workers with H1-B visas who apply for an extension beyond their normal 6 years to extend their stay in the U.S. while their application is pending.

This legislation provides for three additional judgeships in Texas, two permanent district judges in the western district and one temporary district judge in the eastern district.

Mr. Speaker, I urge my colleagues to support this conference report.

Mr. Speaker, Section 11030 A of the conference report will permit H–1B aliens who have labor certification applications caught in lengthy agency backlogs to extend their status beyond the 6th year limitation or, if they have already exceeded such limitation, to have a new H–1B petition approved so they can apply for an H–1B visa to return from abroad or otherwise re-obtain H–1B status.

Either a labor certification application or a petition must be filed at least 365 days prior to the end of the 6th year in order for the alien to be eligible under this section. The slight modification to existing law made by this section is necessary to avoid the disruption of important projects caused by the sudden loss of valued employees.

This corrects a problem created in the American Competitiveness in the 21st Century Act (Pub. L. 106–313)(AC21). The provision, as it was orginially written, allowed for extensions of H–1B status beyond the usual 6 years, but required that a labor certification be filed more than 365 days before the end of the 6th year and that an immigrant petition, the next step in the long line to permanent residency, be filed before the end of the 6 year as well.

When it passed AC 21, Congress intended to protect foreign nationals and the companies who sponsor them from the inequities of government bureaucracy inefficiency. This specific provision was put in place to recognize the lengthy delays at INS in adjusticalting petitions, rather than DOL. But since that time, DOL has slowed down its own processing, and the provision as it was orginially written has become useless for many otherwise qualified applicants.

This correction allows for those in H–1B status to get extensions beyond the six years when a labor certification was filed before the end of the fifth year, without regard to the ability to file an immigrant petition within the next year. The conferees intends that those who are about the exceed their six years in H–1B status should not be subject to the additional requirement of having to file the immigrant petition by the end of the sixth year, which is simply impossible when DOL has not finished its part in the process.

This recognizes that these individuals are already well-valued by their companies, have significant ties to the U.S. and whose employers have to prove that they are not taking jobs from U.S. workers.

It also is meant to permit those who have exceeded their six year limitation to return to H–1B status. The conferees intend for this provision to allow those who already exceeded the 6-year limitation to have a new H–1B petition approved and obtain a visa to return from abroad or otherwise re-obtain H–1B status.

In addition, the compromise reached with the Senate on Title IV of Division B of this legislation relating to the Violence Against Women Office (VAWO) gives the Attorney General discretion about where to place the VAWO in the organizational structure and chain of command of the Department of Justice as did the version contained in the House passed bill.

This compromise does not contain language found in section 402(b)(1) of the Senate bill which stated that the VAWO "shall not be part of any division or component of the Department of Justice." The conference report permits the Attorney General the flexibility to manage the Department's responsibilities in the area of violence against women.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER), who is the ranking member of the Committee on Education and the Workforce, which did a tremendous job on part of the juvenile justice provisions in the legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the conference report. I believe that it offers a balanced approach to reducing juvenile crime and promotes both prevention and accountability. States will have an obligation to protect children in the juvenile justice system. Runaways and truants cannot be contained in secured facilities; juveniles cannot be held in adult facilities. The States have to find a systematic method of addressing a disproportionate number of incarcerated minority youth.

It also includes for the first time a measure aimed at preventing the abuse of juveniles in residential camps, many of whom are in federally funded, but State supervised, foster care. These camps have operated away from the public scrutiny for too long, and the result is that children have suffered serious injuries and, in several circumstances, children have died. This provision requires that residential camps be licensed in the State in which they are located and also meet the licensing standards of States which send juveniles for placements.

I also want to take time to thank so many people who participated in these components of this legislation. I want to thank Bob Sweet and Krisann Pearce of the majority staff on the committee; Judy Borger with the staff of the gentleman from Pennsylvania (Mr. GREENWOOD); and Ruth Friedman and Cheryl Johnson and Denise Forte of our staff on the minority side. On the Senate side I want to thank Tim Lynch and Beryl Howell with Senator LEAHY, and Jeff Miller with Senator KOHL, and Leah Belaire with Senator HATCH.

Mr. Speaker, I also would like to thank the gentleman from Virginia (Mr. SCOTT) for all the work that he did on behalf of this legislation to make it fair and equitable. It is a good piece of legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the distinguished chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, let me congratulate our colleagues on the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee, and his colleagues for their very good work on this DOJ authorization bill.

I am very pleased that the chairman has included the provisions of juvenile justice that we have been trying to pass in this House for 6 years. We have had countless numbers of hearings, countless numbers of markups; we have been to the floor three times, and finally, this 6-year project is finished.

I just want to thank the two people most responsible on our committee, and that would be the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Virginia (Mr. SCOTT), who have really worked hard to help pull this together. I also want to thank the chairman of the subcommittee, the gentleman from Michigan (Mr. HOEKSTRA), for his fine work; one of our committee staff, Bob Sweet, who just did incredible work, working with Members and staff on both sides of the aisle to bring about what I would describe as a very good agreement and something that has alluded us for a long time.

Lastly, let me thank two other people, my colleague, the gentleman from California (Mr. GEORGE MILLER), the ranking member of my committee. We have a very good relationship, and we have been able to work through many of these difficult issues. Lastly, let me thank again Chairman SENSENBRENNER for his willingness to include this issue, this juvenile justice bill in this DOJ conference report.

Mr. SCOTT. Mr. Speaker, I yield 2½ minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in support of H.R. 2215, the Department of Justice Authorization Conference Report.

I am pleased that the conferees included my bill H.R. 28, the Violence Against Women's Office Act, which was approved by the House last year and would make the Violence Against Women Office a permanent and independent force in the Department of Justice.

Created in 1995, this office has been absolutely critical in heightening awareness within the Federal Government and the entire Nation about domestic violence, sexual assault, and stalking. The office formulates policy and administers more than $270 million annually in grants to State governments, as well as to local community organizations, police, prosecutors and courts to address violence against women. In addition, it assists these organizations with education and training to ensure the highest quality services to victims and the full administration of justice.

The importance of this office cannot be overestimated. In fact, in a survey conducted by the National Coalition Against Domestic Violence, reports of domestic violence have dropped 21 percent since the inception of this office. Much remains to be done, however, as nearly 25 percent of women also reported they had been physically and/or sexually assaulted by a current or former intimate partner at home some time in their lifetime. These statistics illustrate the importance of the Violence Against Women Office to the health, safety, and the very survival of women all over America.

The conference report creates an independent Violence Against Women's Office within the Department of Justice, rather than making the office simply a subsidiary part of the Office of Justice programs. The policy independence of the Violence Against Women Office is critical in carrying out its unique mission with regard to both its policy and grant administration efforts to prevent violence against women.

□ 1545

The office's work with grantees on very sensitive issues is vital and will be best addressed through a separate and independent office. This valuable resource has been specifically authorized by statute, and will be a permanent part of the government's anti-violence efforts.

Ending violence against women is an ongoing struggle, and one of the best tools is the Violence Against Women Office. I want to give my thanks to the gentleman from Virginia (Mr. SCOTT), the ranking member, and to the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing this good bill to the floor today. I give it my support.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK), who contributed significantly to this legislation.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am pleased to rise in support of this conference report, which contains a bill that I have worked on for several years, the James Guelff and Chris McCurley Body Armor Act of 2002. I introduced this bill with Asa Hutchinson and the gentleman from Virginia (Mr. SCOTT), and thanks to their strong support of this issue and the hard work of the gentleman from Wisconsin (Chairman SENSENBRENNER), the ranking member, the gentleman from Michigan (Mr. CONYERS), and Senator FEINSTEIN, this bill will finally be enacted into law.

We are providing invaluable assistance to our Nation's law enforcement at a time when their mission is even more important. Violent felons will be prohibited from owning body armor, and serious crimes committed while wearing body armor will be punished more severely.

Criminals wear body armor in the commission of crimes so they can outgun our law enforcement officers and facilitate their criminal intent. This must be stopped. We cannot allow criminals to have an advantage over the men and women that put their lives on the line every day to protect society. The days of the Wild West are over, and gunfights have no place in our society.

I want to thank the Nation's law enforcement that has rallied behind our bill. The Fraternal Order of Police, the National Association of Police Organizations, the National Troopers Coalition, and the International Union of Police Associations have provided invaluable support to the bill, as have numerous police departments across the Nation, including Los Angeles and New York.

But I think the greatest thanks goes to Lee Guelff, who has worked tirelessly on this cause in the name of his brother. Lee has done much and sacrificed more, and today's action serves as a tribute to his efforts. Lee's advocacy has resulted in the passage of similar provisions in numerous State legislatures, including my own State of Michigan.

James Guelff, Chris McCurley, and many other law enforcement officers have been tragically killed by criminals wearing body armor. After the events of September 11, our law enforcement officials have been called upon to go even further in protecting this great Nation, so I am pleased that by passing the James Guelff and Chris McCurley Body Armor Act of 2002, we are standing up for them as they rise every day to protect us.

Mr. Speaker, I thank all the people associated with this committee for including our bill.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act. I want to commend my colleagues, the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS), particularly for their leadership in ensuring that we have worked in a bipartisan, cooperative method in developing this conference report.

It is because of that kind of leadership that we have for the first time in over 20 years a bill to authorize the programs and funding in the Department of Justice.

Mr. Speaker, this bill is based on the provisions that both sides of the aisle in both Chambers can agree on, rather than provisions which divide us based on the disagreements. This is especially true in the juvenile justice provisions in the bill.

For years, juvenile justice programs and funding have been characterized in both Chambers by contention and differences. In this bill are two juvenile justice provisions, one developed in the Committee on the Judiciary and one developed in the Committee on Education and the Workforce. Both bills were developed through bipartisan cooperation and agreement, in stark contrast to the contention and rancor which has deadlocked both Chambers on the issue of juvenile justice in recent years.

I want to give special credit for the hard work on this bill to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Crime, Terrorism, and Homeland Security, and the gentleman from Pennsylvania (Mr. GREENWOOD), who has worked for years on juvenile justice issues.

Juvenile justice bills in the past have been based on the advice of political pollsters and consultants. These bills, however, were developed based on advice of juvenile justice researchers, administrators, judges, psychologists, educators, and other experts in the field.

The Committee on the Judiciary bill provides for accountability of the juvenile to the law, as well as accountability of the juvenile justice system to the juvenile and the public through a program of graduated sanctions and services.

States and localities are provided with resources to ensure that offenses by juveniles are responded to with an appropriate degree of punishment and/or services, as the individual case requires, graduated and increasing in the level of punishment or services with any subsequent offenses until the problems bringing about such offenses are resolved.

The education bill authorizes the Juvenile Justice and Delinquency Prevention Act for the first time in almost 6 years. We have maintained the core requirements of the act that serve to protect juveniles from abuse and that direct resources towards reducing overrepresentation of minorities in the system.

This reauthorization also provides resources through a delinquency prevention block grant designed to identify at-risk children and to address difficulties which may lead to juvenile offenses before such offenses occur through proven juvenile delinquency prevention programs.

The juvenile justice provision of the report also contains a provision to ensure that the Office of Juvenile Justice and Delinquency Prevention has continued responsibility for the oversight and planning for the research, evaluation, and statistical functions of the office, in addition to grant and contracting authority for these functions.

The research and evaluation arm of that office has been critical to the development of effective juvenile delinquency prevention programs, and this reauthorization reaffirms its important role within the office.

In sum, Mr. Speaker, the juvenile justice provisions of this bill will provide the necessary resources to effectively reduce juvenile delinquency and hold juveniles accountable for any offenses they commit.

I am also pleased to see several other items in the bill which are the result of bipartisan cooperation. We converted a temporary judgeship in the Eastern District of Virginia to a permanent one, which is of critical importance to the area that I represent.

I am also pleased to have worked to include in the bill the bill introduced by the gentleman from Michigan (Mr. STUPAK), providing our brave law enforcement officers with bulletproof vests, and another bill introduced by the gentleman from California (Mr. SCHIFF) to provide suitable tributes to those who have paid the ultimate sacrifice protecting the public from criminals.

Mr. Speaker, there are provisions in the bill which some would prefer would not be there, and other provisions were left out which some would have preferred were in the bill, but the bill represents a well-reasoned, bipartisan effort to fund important programs in the Department of Justice.

I would like to commend the Members on both sides of the aisle, and our respective staffs in both Chambers, for their hard work and accomplishments, as well. I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I support this measure because, parochially speaking, it does a great deal for some of the projects in which we are so interested in Pennsylvania.

For instance, at Fort Indiantown Gap, this calls for full funding of an anti-drug/antiterrorist school and training program that is extant in that institution, that military base. That alone would justify my vote for this.

But then we include, on top of that, the fact that there is language that will help the State Borough Association implement a plan of Pennsylvania-wide security measures and infrastructure protection that is vital to our State, as it is to every other State in similar circumstances.

Thirdly, under the INS, there is strong language to help us implement the CIVAS program through the designated school officials' training program that will make the visa applications of students better monitored.

Mr. HYDE. Mr. Speaker, as a member of the Committee of Conference on H.R. 2215, the Department of Justice Authorization Act for Fiscal Years 2002 and 2003, I strongly support adoption of the conference report.

I am particularly pleased that the conference report authorizes $10,732,000 and an additional six full-time employees in fiscal year 2003 for the Community Relations Service (CRS). of the Department of Justice. CRS is an extraordinarily important office whose many accomplishments have been too little noticed. It has the statutory responsibility to assist communities around the United States, and particularly minority communities, in preventing violence and resolving conflicts arising from racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance. They do a wonderful job and we are fortunate to have them. The increased authorization provided by this section and the additional full-time employees will support the expansion of the Community Relations Service's efforts to address heightened tension and potential for conflict in many communities in the wake of the September 11, 2001 attacks on the United States.

I am also pleased that the conference report creates a Violence Against Women Office with the Department of Justice. The Office will be headed by a Director who reports directly to the Attorney General and has final authority over all grants, cooperative agreements and contracts awarded by the Office.

Finally, Mr. Speaker, the conference committee wisely decided not to include a Senate provision would have exempted federal government lawyers from the responsibility to follow the same ethnical rules that bind other lawyers. The Senate provision was not only unnecessary, but would have been counterproductive to the goal of truly professional law enforcement.

Mr. Speaker, I strongly support this important legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to speak to Section 312 of the Conference Report accompanying H.R. 2215, as well as to support passage of this important legislation.

On the 21st of May this year, I wrote to Congressman SENSENBRENNER and Ranking Member CONYERS to express my concern for the dire shortages of federal judges in the State of New Mexico, and to request that the Committee authorize an additional judgeship for the District of New Mexico in the 21st Century Department of Justice Appropriations Authorization Act.

Today, I want to thank Chairman SENSENBRENNER, Ranking Member CONYERS and the members of the Conference Committee for including appropriations for an additional temporary judgeship for the State of New Mexico in Section 312 of the Report.

New Mexico is the 3rd busiest judicial district in the nation behind southern California and western Texas. In 1996, the Judiciary Council recommended that New Mexico receive one new permanent judgeship and one temporary judgeship. Two years later, the council reiterated that recommendation. Then, in 2000, the Judicial Conference recommended that New Mexico receive two permanent judgeships and one temporary judgeship.

Since the Conference's first recommendation six years ago, the caseload in the federal courts in New York has been on the rise, seemingly growing exponentially each year. Accordingly, the judgeship appropriated in Section 312 will help alleviate the pressure felt within this increasingly overloaded judiciary system, and provide the people of New Mexico more efficient accessibly to federal courts.

Once again, I think my collegues for considering my request.

Mr. NADLER. Mr. Speaker, I rise in support of the DOJ authorization bill because it does enhance the Violence Against Women Office and increase assistance to our law enforcement officers.

I also applaud the provision of the bill that directs the Attorney General to conduct a study to assess the number of untested rape examination kits that currently exist nationwide.

However, I know we could have done more. It would be nice to know how many rape kits are outstanding. But it is much more important that we fund the DNA analysis of the kits and solve crimes, rather than simply counting how many kits remain on the shelf.

We know there are outstanding kits, anywhere from 150,000 to 500,000 of them, and we need money to test them. Asking for a study doesn't put any rapists behind bars.

Now, you may ask, what else could we possibly do about this?

Well, we could have put money for testing into the DOJ authorization bill. In fact, I asked the distinguished Chairman to do just that. He told me the study was the best he could do.

Well, I know we can do better. In fact, the Senate already has. The Senate already had hearings, already had a markup, and already passed a bill under unaminous consent. Now, the House has the opportunity to take up S. 2513, the DNA Sexual Assault Justice Act. We could have put this bipartisan bill into the conference report, but we didn't.

The Senate bill included $500,000 for a study, but it didn't stop there. The Senate bill also includes $15 million a year for DNA testing for convicted felons, $75 million a year to test rape kits, and $150 million over five years to train nurses how to better collect evidence. That is a lot better and would make much more of an impact than an unfunded study.

Now, some may say, we just didn't have time to address this problem. Well, I introduced a bill to solve this problem back in March of this year. It has never had a hearing. It has never been considered by the Judiciary Committee. It has been ignored, just like all the untested rape kits across America. So, we had plenty of time to address this issue, the Republican leadership simply chose not to.

This is a serious effort to combat crime, locate and apprehend rapists, and use powerful evidence to put them behind bars. We all know that DNA evidence is essential to solving crimes. It can lead to punishment of the guilty and the freeing of the innocent. The Department of Justice released a statement yesterday that mentioned the "unprecedented success in linking serial violent crimes by registering more than 80 matches against the FBI's National DNA Index System (NDIS) last month." The Department also states that "two of these matches resulted in the arrest in Pennsylvania of the perpetrator of two rapes." The DOJ reports that the DNA evidence solved 24 previously unsolved cases, and that nine matches involved connecting together previously unrelated crime scenes.

We must commit the necessary resources now to empower law enforcement to analyze all of the DNA evidence they collect, so that they can solve cases and bring justice to American families.

We already have a non-controversial bill that we could make law very quickly (we could even do it today), and it would be an immediate benefit to people all across America, especially victims of rape and sexual assault.

It is time for Congress to lend a hand to our law enforcement officers and provide them with the funds needed to solve these crimes and put rapists behind bars.

Since some Members were unwilling to include the Senate rape kit bill in this authorization bill, I now urge the leadership to bring the Senate bill up for a vote as soon as possible. I have a letter here signed by more than a dozen Members of Congress urging Majority Leader ARMEY to take up the Senate bill, and I ask unanimous consent that this letter be included as part of the RECORD. I also ask unanimous consent to include the Statement by the U.S. Department of Justice that I mentioned earlier.

STATEMENT OF U.S. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF INVESTIGATION

The FBI Laboratory today lauded state and local laboratories unprecedented success in linking serial violent crimes by registering more than 80 matches against the FBI's National DNA Index System (NDIS) last month. Additionally, the FBI's federal convicted offender program recorded its first NDIS match during the final week in August. The federal match was between the federal convicted offender database and a DNA profile from a case involving a sexual assault of a juvenile in Tampa, Florida contributed by the Florida Department of Law Enforcement. Two weeks later, as a result of this match, an arrest was made in this case.

The final week of August was one of the most successful weeks ever in the four years that NDIS has been operational. During that week, 33 matches were made, 17 by Oklhoma in that state's upload of DNA profiles into NDIS. To illustrate the power and reach of NDIS. Oklahoma's DNA matches were made with cases in the FBI Laboratory, Kansas, Colorado, Missouri, Texas, California, Arizona, and Maine. Examples of other matches included the FBI Laboratory matching a profile from New York; and Virginia posting matches with Washington state and Oregon.

Of the 33 matches made in the last week of August, 24 matched convicted offender DNA profiles already contained in the national database with DNA profiles from unknown individuals obtained at crime scenes or from rape kits, thus solving these previously unsolved cases. Two of these matches resulted in the arrest in Pennsylvania of the perpetrator of two rapes. The other nine matches involved connecting together previously unrelated crime scenes.

The FBI implemented NDIS is October, 1998 to allow state laboratories the ability to electronically compare and exchange DNA profiles with one another in an effort to link serial violent offenses. Today 44 states, the FBI and U.S. Army Lab participate in the NDIS program NDIS contains nearly 1.4 million offender DNA samples and 47,000 DNA profiles developed from crime scenes and rape kills. In the four years of NDIS, there have been approximately 5,000 DNA profile matches across 36 states and the District of Columbia. In December, 2000 legislation was passed which authorized collection and inclusion of DNA samples of certain federal offenders into NDIS. Full implementation of the federal convicted offender program began in July, 2002. In only the second upload of federal data, the first federal match was made.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 26, 2002.

Hon. DICK ARMEY,
Majority Leader, House of Representatives, the Capitol, Washington, DC.

DEAR LEADER ARMEY: We are writing to urge you to bring up the Senate passed bill, S. 2513, the DNA Sexual Assault Justice Act, without delay.

This bill passed the Senate by unanimous consent on September 12th. Similar legislation has been introduced in the House and has gathered the support of a substantial number of supporters. We believe this bill could be passed into law quickly and would be an immediate benefit to people all across America, especially victims of rape and sexual assault.

ABC's 20/20 reports that hundreds of thousands of rape kits sit unprocessed in police storage units across the country. There could be anywhere from 150,000 to 500,000 kits that remain untested. That means that DNA evidence from rape kits is going untested and crimes are going unsolved. This is totally unacceptable. It is time for Congress to lend a hand to our law enforcement officers and provide them with the funds needed to solve these crimes and to put rapists behind bars.

This is a serious effort to combat crime, locate and apprehend rapists, and use powerful evidence to put them behind bars. We all know that DNA evidence is essential to solving crimes. It can lead to punishment of the guilty and the freeing of the innocent. We must commit the necessary resources now to empower law enforcement to analyze all of the DNA evidence they collect, so that they can solve cases and bring justice to American families.

As the number of bills on this issue as well as the number of supporters indicate, there is strong public interest in this issue. We hope that you will schedule S. 2513 for House floor consideration as soon as possible.

Sincerely,

Jerrold Nadler, John Conyers, Jr., Bernard Sanders, Gary Ackerman, Rod Blagojevich, Danny Davis, Carolyn Maloney, Robert Andrews, Lane Evans, Rush Holt, Corrine Brown, Maurice Hinchey, Tammy Baldwin, Brad Carson, James Langevin, Sam Farr, Juanita Millender-McDonald, Ron Kind, Eleanor Holmes Norton, Julia Carson.

Mr. TERRY. Mr. Speaker, this Conference Report does not include a permanent Judgeship for the State of Nebraska. Since 1998 Nebraska has exceeded the weighted standard of 430 filings per judge, and in 2001, that number grew to 482 filings. Without this permanent Judgeship, over the next year filings are expected to rise to over 600 per Judge. Currently, the caseload in Nebraska is the 9th heaviest in the Nation, and is only expected to increase. Nebraska has a higher drug prosecution rate than any other federal court in the 7th and 8th circuit; 65 percent of our drug cases are methamphetamine prosecutions, compared to a national average of 14.5 percent. The continued absence of this Judgeship hurts the citizens of Nebraska and brings an already over-worked court system to near standstill.

This permanent Judgeship was included in the House-passed Department of Justice Authorization bill, and I would like to thank Chairman SENSENBRENNER and Ranking Member CONYERS for their assistance in this effort. However, I learned last night that the Nebraska's permanent judgeship designation had been stripped from the conference report. I have no idea why this language was stripped out, and it upsets me that I've been unable to obtain a definitive answer. I'm left to believe that this designation was eliminated due to political concerns, and it was not a decision based upon merit or need.

Nebraska has had a temporary Judgeship since 1990 and will expire in November 2003. What occurred in conference is unfair to the State of Nebraska, and will negatively impact an already strained court system.

Nebraska Temporary/Permanent Judgeship Issue, April 8, 2002

(Currently three permanent and one temporary judgeship)

1. Need for permanent judgeship in Nebraska is critical:

A. Temporary judgeship created in 1990.

B. Expires first judge to leave after November 20, 2003.

C. Based on 430 weighted standard, Nebraska eligible for even a fifth judge, but not asking for that.

D. Since 1998, District of Nebraska exceeded 430 weighted filing per judge.

E. 2001—weighted case load was 482 per judge, with a 95 percent confidence level of 525–440 cases.

F. 2001 busiest year in last 6 years with 1500 new filings and 1242 pending cases.

G. Weighted filings in 200 —482, highest in last six years, compared to 377 in 1996.

H. Without this judgeship, weighted filings expected to exceed 600 per judge.

2. Criminal filings very heavy:

A. Very heavy for last 12 years and continues to increase.

B. 17th heaviest in nation in 1998, 12th in nation in 1999, and 9th in nation in 2001 (ranks 9th out of 94 districts).

C. Caseload per judge is double that of 1996: 118 per judge vs. 58 per judge.

D. Average caseload is 50 percent greater in criminal cases than average federal judge.

E. Heavier criminal case load than judges in New York City, Chicago, or Los Angeles.

F. Highest drug prosecutions than any other federal court in the 7th and 8th Circuits.

G. Nebraska's drug docket is 66 percent, while national average is less than 40 percent.

H. 64 percent of drug cases is methamphetamine, compared to national average of 14.5 percent.

I. Nebraska ranked 2nd in the number of high level drug trafficking defendants indicated and convicted in the Central Region (includes 12 states).

J. Criminal caseload is expanding; crack cocaine defendants doubled over last year, and meth defendants increased 88 percent.

3. Senior judges:

A. Two senior judges, and each carry about 100 cases.

B. Will not be able to continue to carry a caseload that heavy.

C. Both judges are over 75, and one has indicated he wishes to cut his caseload by 50 percent in 2002.

D. No additional help from senior judges available.

E. Note that one active judge has serious cancer, but no senior judges available in future to help with that caseload.

4. Magistrate judges:

A. Three magistrate judges, two in Omaha and one in Lincoln.

B. All three are fully utilized in criminal cases, preliminary civil dispositions, ADR management, and consent trials.

5. Visiting Judges:

A. Forced to request assistance of visiting judges in 2001 to handle the heavy volume of criminal/civil cases.

B. Will not address severe problem.

6. Current legislation:

A. H.R. 2215 does not include a recommendation that Nebraska temporary judgeship be converted into a permanent one, although recommendations for other states (Central District of Illinois, Southern District of Illinois, and Northern District of Ohio) are addressed.

B. Nebraska must be included in that legislation.

Mr. BEREUTER. Mr. Speaker, today the House is considering the conference report on H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act which includes provisions that make several existing temporary Federal judgeships permanent. Unfortunately, Nebraska was not included on the list.

This Member greatly appreciates the attempts by the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER) to make this critically important improvement for the people of Nebraska. Despite the gentleman's best efforts, the conferees from the other body would not agree to include Nebraska on this list. As such, this Member is very concerned and disappointed that the Nebraska judgeship was not included in the final conference report.

The Nebraska temporary judgeship was created in 1990, and will expire with the first vacancy after November 2003. The caseload for the Federal District Court in Nebraska has steadily increased since that time, rising well above the Judicial Conference weighted standard of 430. In fact, in 2001, there were 1500 new filings and 1242 pending cases, with a weighted filing of 482. Without this judgeship, the weighted filings are expected to exceed 600 per judge. In addition, Nebraska currently has two District Court judges who have taken senior status and are expected to retire in the near future, further increasing the caseload on Nebraska judges.

Mr. Speaker, clearly, this is an important issue to this Member and to the state of Nebraska. It is impossible for this Member to understand the reason this important change was not included in this conference report. The opportunity was available and yet inexplicably not taken by the conferees from the other body. However, because of the many important provisions in this bill, this Member will vote "aye" even while expressing his extraordinary disappointment and regret that the permanent Nebraska judgeship was not included in the conference report. If there was a problem on another issue or judgeship in the House offer, Nebraskans did not deserve to lose this opportunity for the much-needed permanent judgeship designation.

Mr. GALLEGLY. Mr. Speaker, today, along with my fellow conferees, I'm pleased to deliver a comprehensive conference report and ask for other members' support. We have worked diligently to address a wide variety of issues. From crime prevention programs, to drug education and treatment, a fix in the H1-B visa system and the inclusion of the Judicial Improvements Act, this conference report is a complete package. I'd like to take the opportunity to highlight these provisions and thank several individuals who made the inclusion in this conference report possible.

First, the conference report includes a provision that permits consumers who visit wineries to ship a limited quantity of wine back to their homes. This language is needed because post-September 11, as the Federal Aviation Administration and Congress supported strong airline security measures, it became difficult, if not impossible, to carry-on bottles of wine after a visit to a winery. This provision is not only pro-consumer, but it is also very important to California's $12 billion wine industry. I would like to thank Chairman SENSENBRENNER for his support on this provision.

In addition to the direct shipment of wine, we are also including legislative language that will allow motor vehicle dealers, who sign franchise contracts with manufacturers, to have the opportunity to either accept or reject mandatory binding arbitration after a legal dispute arises. Currently, the mandatory arbitration requirements are either "take it or leave it" provisions in the contracts, forcing auto dealers to waive important legal safeguards. I would personally like to thank Chairman SENSENBRENNER and Congressman GEKAS for their support on this issue.

Finally, I am very pleased that this conference report includes five additional federal judgeships for the Southern District of California, as well as one temporary judgeship for the Central District of California. The numbers speak for themselves; the Southern California District is the most overwhelmed in the country and greatly needs these additional judgeships. In the year 2000, the weighted caseload for the Southern District of California was 978 cases per judge. That was more than double the national average of 430. Most alarming is the number of felony cases, which tripled between 1994 and 1999 without additional judgeships. These additional judgeships will ensure that the very integrity of our judicial process will be protected. For that, I'd like to thank all of the conferees for their support.

Mr. CONYERS. Mr. Speaker, we all know by now that this is an historic moment—Congress has not reauthorized the Department of Justice in over 20 years; instead, we have left the responsibility to the appropriators to decide which Department programs should be authorized and their maximum funding level.

This conference report, arrived at after months of bipartisan, bicameral negotiations, expresses the views of the authorizing committees about how these programs should operate. I'd like to thank Conference and Senate Judiciary Chairman LEAHY, House Judiciary Chairman SENSENBRENNER, and Senate Judiciary Ranking Member HATCH for working with us on this legislation.

Aside from the authorizing language and technical corrections to the antitrust, criminal, and intellectual property laws, important compromises were reached between the House and Senate on other non-controversial provisions so they could be included in this report. Included are:

A provisions supported by Representative MARY BONO and myself to ensure that parties to motor vehicle franchise contracts cannot be subject to mandatory arbitration without their consent;

A provision supported by Representative TAMMY BALDWIN, Representative LOUISE SLAUGHTER, and myself to establish an independent Violence Against Women Office within the Department of Justice. This provision raises the profile of the Office by having its Director report directly to the Attorney General instead of through other subordinates. This demonstrates our commitment to rooting out, deterring, and preventing violence against women;

A provision that expands vocational and remedial opportunities to smooth the reentry of inmates post-incarceration;

A provision offered by Representative BARNEY FRANK that allows grandparents to apply for citizenship for a child in the event that the parents are deceased;

A provision offered by Representative ADAM SCHIFF to create a fund that disburses Federal grants for states and localities to construct memorials to officers killed or disabled while protecting the public;

A provision drafted by Representative LAMAR SMITH and Representative BOBBY SCOTT that authorizes grants for states and local governments to improve their juvenile justice programs; and

The Madrid Protocol Implementation Act, which will allow one-stop shopping for international trademark registration. This bill has passed the House on several occasions and finally will be enacted into law.

At the same time, the Republicans were not able to accept a permanent extension of chapter 12 (family farmer bankruptcy) or higher compensation for workers who are laid-off as a result of a corporate bankruptcy. I hope we can address these issues before adjourning this session.

I urge my colleagues to vote "yes" on this conference report.

Mr. OSBORNE. Mr. Speaker, today the House is considering the conference report for H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act. While this conference report authorizes appropriations for the Justice Department, it also establishes federal judgeships. Despite the efforts of Chairman SENSENBRENNER, this legislation fails to make permanent Nebraska's temporary judgeship, which is set to expire November 20, 2003.

Caseloads for U.S. district judges in Nebraska have climbed steadily largely because of an increasing number of criminal cases, particularly those related to drug trafficking. In fact, criminal cases have more than doubled since 1995. Like many other states in the Midwest, Nebraska has been plagued in recent years by an influx of methamphetamine (meth), and criminal cases involving meth represent 66 percent of Nebraska's drug docket, compared to the national average of 14.5 percent.

The influx of meth in Nebraska will continue to cause the criminal caseload to increase. In the last year alone, the number of meth defendants increased by 88 percent. Interstate 80, which runs the length of the state of Nebraska, is one of the primary transit routes used for drug trafficking across the central United States. This has contributed to Nebraska being ranked second in the number of high-level drug trafficking defendants indicted and convicted in the Central Region, which includes 12 states.

This substantial increase in Nebraska's criminal trials leaves Nebraska's federal judges with extremely heavy caseloads. In fact, Nebraska's judges carry a heavier criminal caseload than judges in New York City, Chicago, and Los Angeles. This fourth judgeship is critically important to Nebraska, and without it, criminal cases will move more slowly and handling civil cases will become increasingly burdensome.

Mr. Speaker, while I am grateful for the efforts of Chairman SENSENBRENNER on this issue, I am very disappointed this conference report does not address Nebraska's serious need for a permanent judgeship. Without this fourth judgeship, Nebraska's criminal justice system will be in real trouble.

Mr. ISSA. Mr. Speaker, I rise in support of the Conference Report for H.R. 2215, "The 21st Century Department of Justice Appropriations Authorization Act." I thank Chairman JAMES SENSENBRENNER, the House and Senate Conferees and the Judiciary Committee staff for their leadership on this bill.

Within this Conference Report, in section 312, the Southern District of California will receive five judgeships. This authorization will bring immense relief to this district. As you may know, Southern California has the dubious distinction of having the highest judge to caseload ratio in the nation. I have met with four of the sitting judges in this district and have seen first hand the problems they face on a daily basis. In 1998, the Southern District, which has 8 judgeships, had a weighted caseload of 1,006 cases per judge, annually.

I want to give you a comparison of the caseload to judges from different regions of the United States to show you how overloaded the judges in the Southern District of California are:

New York has 28 judgeships and each one handles 468 cases annually, LA has 27 judgeships/481 caseload, Chicago—22 judgeships/381 caseload, Houston—18 judgeships/588 caseload, Philadelphia—22 judgeship/381 caseload.

Congress has not authorized any new judgeships for the Southern District since 1990, and with this district being a border corridor, I do not expect the level of criminal activity to diminish in the near future. Passing this bill is necessary to ease the burden on the sitting judges of the Southern District.

Mr. SCOTT. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 4, not voting 28, as follows:

[Roll No. 422]

YEAS—400

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Baird
Baker
Baldacci
Baldwin
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne

Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—4

Duncan
Flake
Kerns
Paul

NOT VOTING—28

Bachus
Barcia
Blumenauer
Bonior
Callahan
Calvert
Clayton
Condit
Conyers
Dooley
Ehrlich
Gilchrest
Israel
Maloney (NY)
McDermott
McKinney
Meek (FL)
Mink
Ros-Lehtinen
Roukema
Shadegg
Simpson
Smith (MI)
Stump
Thompson (CA)
Thurman
Waxman
Young (AK)

□ 1649

Mr. HASTINGS of Florida changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GILCHREST. Mr. Speaker, on rollcall No. 422 I was inadvertently detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. ENGLISH. Mr. Speaker, on the morning of September 26, 2002, due to an official meeting at the White House, I was unable to place votes on three items:

If I had been present, I would have voted "yea" on H.R. 2215, "no" on the Journal, and "yea" on the motion to instruct conferees on H.R. 3295.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.J. RES. 111, CONTINUING APPROPRIATIONS, FISCAL YEAR 2003

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes; the joint resolution shall be considered as read for amendment; the joint resolution shall be debatable for 2 hours, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from California?

Mr. NUSSLE. Mr. Speaker, I reserve the right to object so that I may enter into a colloquy with the very distinguished chairman of the Committee on Appropriations.

The resolution that we have before us that the very distinguished chairman of the Committee on Rules is bringing up under this unanimous-consent request is based on what might be referred to as "a rate not to exceed the current rate" for fiscal year 2002. Is it the gentleman's understanding that this would effectively carry forward appropriations from last year's supplementals that were designated as emergencies?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. The gentleman is correct. The bill carries forward all amounts that were appropriated in fiscal year 2002, including amounts that were designated as an emergency. However, as in all previous continuing resolutions, the Office of Management and Budget has the flexibility under this CR to not extend funding for one-time items.

Mr. NUSSLE. Will the very distinguished gentleman work with me on the next continuing resolution that we understand will be necessary to ensure that one-time, nonrecurring emergency designated expenditures are not included in the base used to calculate the current rate of operations?

Mr. YOUNG of Florida. If the gentleman will yield further, it is not my intention that any true one-time nonrecurring expenditures from last year's supplementals be included in the base of any continuing resolution. It is my understanding that under any short-term CR, the Office of Management and Budget can avoid funding one-time items.

Mr. NUSSLE. This short-term CR would, if it were to last for an entire year, provide, according to the Congressional Budget Office, $744.3 billion in budget authority which in fact would not exceed the appropriate level in the budget resolution because defense is assumed to continue at last year's level. However, if it were annualized and the defense and military construction bills were enacted at even the House-passed levels, it would exceed the budget level by $8.2 billion. Of course, that assumes that these emergencies would continue. Will the gentleman assure the House and work with me in assuring the House that any further future continuing resolutions will come in under, on an annualized basis, the $749 billion in new budget authority assuming the enactment of the defense and MILCON bills at the levels requested by the President?

Mr. YOUNG of Florida. If the gentleman will yield further, the gentleman's estimate is correct only if you assume that one-time spending continues. No one else has included such items in their estimates, including OMB. So it is my intent that any CR provide the most limited funding possible under a current rate. If the defense and military construction bills are enacted and the 11 remaining bills are funded at a current rate and OMB exercises its authority as it has in the past to not extend one-time funding, the total annualized funding under a CR would be below $749 billion. I would also remind the House that it is imperative that we pass the remaining fiscal year 2003 bills.

Mr. NUSSLE. If I may reclaim my time, Mr. Speaker, I compliment the gentleman on his work to do just that, and I thank the hard work of the Committee on Appropriations in trying to accomplish that goal and will stand by the gentleman to work with him to accomplish that goal.

Mr. YOUNG of Florida. I would like to respond in kind to my friend from Iowa, the chairman of the Committee on the Budget.

Mr. DREIER. If the gentleman will yield under his reservation, I would like to congratulate both the Committee on the Budget and the Committee on Appropriations; and it is an honor to stand between the two very distinguished chairmen of these committees, Mr. Speaker.

Mr. NUSSLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. OBEY. Mr. Speaker, reserving the right to object, under my reservation I simply want to confess my bafflement. We are one working day from the end of the fiscal year. We had expected to have this proposal on the floor yesterday; and we have been held up for more than a day, as I understand it, by the misgivings of the distinguished chairman of the Committee on the Budget about the resolution that the Committee on Appropriations had intended to bring to the floor yesterday.

I simply want to reiterate what the distinguished chairman of the Committee on Appropriations said, that we are very close to the end of the string on this fiscal year and we cannot afford any more delays. I would also point out, I find it somewhat ironic that the Committee on the Budget, as represented by the Chair, has been raising these concerns, legitimate concerns, I might say, about the complicated and sometimes uncertain nature of continuing resolutions. We all know that continuing resolutions are imperfect instruments for extending the authority of the government to function because they have many anomalies and they do not take into account many of the other legitimate anomalies that occur in funding requirements.

Just yesterday, for instance, the Secretary of Transportation was in my office discussing his need for one such adjustment in order to be able to provide what that agency felt was necessary under some of the homeland security provisions. But I simply want to say that the Committee on Appropriations has tried to produce the regular bills which would have made unnecessary a continuing resolution, but it has been the unrealistic budget resolution produced by the Committee on the Budget chaired by the distinguished gentleman from Iowa that is at the root of the problem to begin with, because he has chosen, along with some of his colleagues in the majority caucus, to try to enforce rigidly that resolution to the point where it has been impossible to bring bills to the floor that would achieve enough votes in the majority caucus to pass, much less the minority caucus.

We are stuck here, for instance, still unable to bring up the Labor-Health-Education bill because people are insisting that we stick to the budget resolution and the allocation provided under it to the Labor-Health-Education bill. And because that bill has been bogged down by an internal war in the majority party caucus, we have not been able to bring the other bills forward to finish the basic work that we have.

So I find it somewhat ironic that at the last day, virtually the last day that we have to send this to the Senate before both bodies leave for the weekend, that the committee that has caused the problems in the first place is still producing the doubts about this instrument which was made necessary by their own lack of realism in the first place. I think that needs to be made quite clear.

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Iowa.

Mr. NUSSLE. I know the gentleman will most likely have the last word on this, so I will make my comments brief; but I have a slightly different take on who might be responsible here. The rules of the House may not permit me to be quite as specific as I might like, but there are two bodies that have to have a budget, have to complete a process in order to be successful. This body passed a budget. The gentleman may not agree with it. It may be difficult. These are difficult times. But at least the House of Representatives has completed its work on a budget and did so back before the deadline of April 15. If there was a better budget, a better proposal, a better outline and a better plan, we have yet to see it. It has yet to materialize in either the gentleman's caucus or the other body, as it is referred to. That may happen, but until then I would at least suggest that there may be more responsibility to go around than where he pointed the responsibility in his comments here just a moment ago.

I appreciate the gentleman yielding.

□ 1700

Mr. OBEY. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments. Let me simply respond by saying I think that is a red herring. The fact is that it is not the fault of the other body that this House has only produced five of the 13 appropriation bills. The other body is not even supposed to consider appropriation bills until they are reported and handled in this body. So, I think it is quaint indeed to blame the body which is supposed to act after we act for the fact that we have not acted in the first instance.

The fact is that this House has produced final action on only five of 13 appropriation bills. We have the responsibility to finish all 13 of them. This is the worst record that the House has had in finishing its appropriations work of the last 15 years. The last time we had such a serious problem was the year after the Reagan tax cuts were passed and the Congress was trying to find ways, after those tax cuts resulted in huge additions to the deficit, to take additional money out of appropriations bills. So we got hung up in 1981.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, if the gentleman will yield for a procedural comment, I made a request that there be 2 hours of debate once there is agreement in the House to this unanimous consent request that I have just propounded. This is a fascinating exchange that is taking place between the chairman of the Committee on the Budget and the ranking minority member of the Committee on Appropriations. I would like to think if we could accept this unanimous consent request to have 2 hours of debate, we could continue it under that procedure.

Mr. OBEY. Mr. Speaker, reclaiming my time, so would I. But let me simply say we have been held up by the actions of the Committee on the Budget and the internal war in the Republican caucus for 8 months. We have been held up for the last 26 hours by the gentleman from Iowa and his concerns. With all due respect, I make no apology for taking 5 minutes to express my unhappiness about it.

Mr. DREIER. Mr. Speaker, if the gentleman will yield further, I am not asking anyone to apologize. I am just suggesting we start the 2 hours of debate and continue this exchange.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, it has been my experience that not everybody following the debate fully understands the rules. The gentleman from Wisconsin knows them well, both the rules of the House and the rules of the Committee on Appropriations.

Is there any rule, law, statute, constitutional principle that in any way hinders this House from taking up appropriations bills whenever it wants because somebody else has not done anything?

Mr. OBEY. Mr. Speaker, reclaiming my time, of course not. That is the problem. This House has ducked its responsibility for 8 months, and is now looking for a way to get out of town without having voted on the specifics.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from California (Mr. DREIER)?

There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.J. Res. 111, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONTINUING APPROPRIATIONS, FISCAL YEAR 2003

Mr. YOUNG of Florida. Mr. Speaker, pursuant to the previous order of the House, I call up the joint resolution (H.J. Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 111 is as follows:

H.J. RES. 111

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2003, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2002 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2002, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available in the following appropriations Acts:

(1) the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002;

(2) the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(3) the Department of Defense Appropriations Act, 2002, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(4) the District of Columbia Appropriations Act, 2002;

(5) the Energy and Water Development Appropriations Act, 2002, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(6) the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956;

(7) the Department of the Interior and Related Agencies Appropriations Act, 2002;

(8) the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002;

(9) the Legislative Branch Appropriations Act, 2002;

(10) the Military Construction Appropriations Act, 2002;

(11) the Department of Transportation and Related Agencies Appropriations Act, 2002;

(12) the Treasury and General Government Appropriations Act, 2002; and

(13) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 2002 or prior years, for the increase in production rates above those sustained with fiscal year 2002 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during fiscal year 2002: *Provided*, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2002.

SEC. 105. (a) For purposes of section 101, the term "rate for operations not exceeding the current rate"—

(1) has the meaning given such term (including supplemental appropriations and rescissions) in the attachment to Office of Management and Budget Bulletin No. 01–10 entitled "Apportionment of the Continuing Resolution(s) for Fiscal Year 2002" and dated September 27, 2001, applied by substituting "FY 2002" for "FY 2001" each place it appears; but

(2) does not include any unobligated balance of funds appropriated in Public Law 107–38 and carried forward to fiscal year 2002, other than funds transferred by division B of Public Law 107–117.

(b) The appropriations Acts listed in section 101 shall be deemed to include supplemental appropriation laws enacted during fiscal year 2002.

SEC. 106. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 107. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 4, 2002, whichever first occurs.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 110. Notwithstanding any other provision of this joint resolution, except section 107, for those programs that had high initial rates of operation or complete distribution of fiscal year 2002 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2003 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 112. For the Overseas Private Investment Corporation Program account, for the cost of direct and guaranteed loans, at an annual rate not to exceed $19,000,000, to be derived by transfer from the Overseas Private Investment Corporation non-credit account, subject to section 107(c).

SEC. 113. Activities authorized by section 403(f) of Public Law 103–356, as amended by section 634 of Public Law 107–67, and activities authorized under the heading "Treasury Franchise Fund" in the Treasury Department Appropriations Act, 1997 (Public Law 104–208), as amended by section 120 of the Treasury Department Appropriations Act, 2001 (Public Law 106–554), may continue through the date specified in section 107(c) of this joint resolution.

SEC. 114. Activities authorized by title IV–A of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue in the manner authorized for fiscal year 2002 through December 31, 2002 (notwithstanding section 1902(e)(1)(A) of such Act): *Provided*, That grants and payments may be made pursuant to this authority at the beginning of fiscal year 2003 for the first quarter of such year, at the level provided for such activities for the first quarter of fiscal year 2002: *Provided further*, That notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the provisions of this section that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were they included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and by the Chairmen of the House and Senate Budget Committees, as appropriate, under the Congressional Budget Act of 1974.

SEC. 115. Activities authorized by section 1722A of title 38, United States Code may continue through the date specified in section 107(c) of this joint resolution.

SEC. 116. In addition to amounts made available in section 101 and subject to sections 107(c) and 108 of this joint resolution, such sums as may be necessary for contributions authorized by 10 U.S.C. 1111 for the Uniformed Services of the Department of Defense, the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration are made available to accounts for the pay of members of such participating uniformed services, to be paid from such accounts into the Fund established under 10 U.S.C. 1111, pursuant to 10 U.S.C. 1116(c).

SEC. 117. None of the funds made available under this Act, or any other Act, shall be used by an Executive agency to implement any activity in violation of section 501 of title 44, United States Code.

SEC. 118. Collection and use of maintenance fees as authorized by section 4(i) and 4(k) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a–1(i) and (k)) may continue through the date specified in section 107(c) of this joint resolution. Prohibitions against collecting "other fees" as described in section 4(i)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a–1(i)(6)) shall continue in effect through the date specified in section 107(c) of this joint resolution.

SEC. 119. Security service fees authorized under 49 U.S.C. 44940 shall be credited as offsetting collections and the maximum amount collected shall be used for providing security services authorized by that section: *Provided*, That the sum available from the General Fund shall be reduced as such offsetting collections are received during fiscal year 2003.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 1 hour.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before the House, H.J. Res. 111, is a continuing resolution, a CR, for fiscal year 2003, and it extends our spending profiles for four big days.

At midnight this coming Monday, the fiscal year ends. None of the appropriations bills has been sent to the President's desk, regardless of who is at fault. We have heard some discussion on that. We will probably hear more about that. But we need this legislation to continue operations of the Federal Government for the first 4 days of the new fiscal year.

As everyone is aware, the Committee on Appropriations continues to work on the fiscal year 2003 appropriations bills, despite the fact that we have no common budget with the other body. The collapse occurred because we had a breakdown in the budget process, not the appropriations process. The budget process stalled because the other body did not adopt a budget resolution. The House did. But because both Houses did not, we had no opportunity to come to conference and reach the same 302(a) number, the 302(a) number being the top number that we would both use in our appropriations process.

Anyway, despite all of that, we continued to produce bills, and we have a number of bills in the queue ready to go when we are given the approval to bring them to the House floor.

I will comment again that without a common 302(a) number, the top number, it is nearly impossible to have a common 302(b) number for the respective subcommittees of the House and the Senate appropriations committees. It is unfortunate that this is the case, because one of the fundamental responsibilities of Congress is the power of the purse. I emphasis "responsibility." The guiding principles of checks and balances that the founders of our great Nation embodied in our Constitution is lost when the Congress does not complete its work with regard to government spending.

If I might indulge my colleagues in the House for just a moment by reading from Article I of the Constitution, it very simply says, "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

That is in our Constitution. Unless we do this, we are failing to uphold our basic constitutional responsibilities.

It is unfortunate that our budget process broke down at a critical time for our country when we are currently at war against terror and when the security of our homeland is at risk. I do not believe the people who wrote the Budget Act ever intended that budget debates would get in the way of our national security interests.

The House has passed five of the 13 appropriations bills. We are currently in conference with the Senate on two of those bills, the defense and military construction bills. We are waiting to appoint conferees on the legislative branch bill.

The Committee on Appropriations has reported four other bills that are awaiting floor action, and that is the appropriations bill for agriculture, energy and water, foreign operations and the District of Columbia. On Tuesday of next week we will conclude consideration of the transportation appropriations bill, and next week we also plan to report the VA–HUD bill from the Committee on Appropriations.

But until we get to the point where we can develop a common set of numbers between the House and the Senate for us to work with, it is important that the operations of our government agencies continue without any disruption, and that is what this legislation is about today.

Let me briefly describe the terms and conditions of the CR. It will continue all ongoing activities at current rates, including supplementals, under the same terms and conditions as fiscal year 2002. We have codified the term "rate for operations not exceeding the current rate" as defined in OMB Bulletin No. 01–10. As in past CRs, it does not allow new starts, and it allows for adjustment for one-time expenditures that occurred in fiscal year 2002. It restricts obligations on high initial spend-out programs so the annualized funding levels in this bill will not impinge on our final budget deliberations.

It includes eight funding or authorizing anomalies, of which six allow for the continuation of existing programs and fee collections that would otherwise expire. The remaining two provisions will ensure that executive agencies use the Government Printing Office when procuring government printing, as specified under current law and to ensure that funding for all of the uniformed services to support the accrual contribution for Medicare-eligible retiree health care is available.

After some of the discussion, Mr. Speaker, this may come as a surprise to some, but I believe the CR is noncontroversial, and I urge the House to move this legislation to the Senate quickly so that our government will continue to operate smoothly and efficiently and so that we can continue our work to finish our regular appropriations bills when we are able to do that.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I expect this short-term continuing resolution will pass the House by an overwhelming bipartisan majority. But make no mistake. When it does, it will represent an overwhelming bipartisan indictment of the failures of this Republican House of Representatives.

The fiscal year ends next week, and this Republican-controlled House has passed only five of the 13 appropriation bills. The gentleman who just spoke, the chairman of the committee, is an honorable man and his committee has been doing its work. His own leadership has prevented him from bringing the appropriation bills to the floor even though those bills have been reported out of his committee. Republican leaders have stopped even trying to do their work. They have given up on doing the most basic job Congress is elected to do, fund important initiatives in education, health care, and other key American priorities.

It is a shocking abdication of leadership, Mr. Speaker. America is suffering through the weakest economy in 50 years. Unemployment and the poverty rate are up while the stock market and retirement security is down. For too many Americans, the drop in the stock market has turned 401(k) plans into 201(k) plans, but while millions of Americans are busy looking for jobs, House Republicans refuse to do their jobs, the jobs they are getting paid to do.

What accounts for this shameful failure to lead, Mr. Speaker? Simply put, Republicans have put America in a huge deficit ditch, one that poses a grave threat to Social Security and other priorities like education, prescription drugs, and homeland security, and now they refuse to pick up the shovels and dig their way out of it. We can see it most clearly on education. With much fanfare last year, Democrats and Republicans passed the No Child Left Behind Act, but now Republicans refuse to provide schools with the resources they need to carry out the reforms Congress mandated last year.

That is why the appropriations process is stuck in the House, Mr. Speaker. The majority of the House Republican Conference wants to gut resources for education and other priorities in the bill funding the Departments of Labor, Education, and Health and Human Services. But a few moderate Republicans are afraid to take that vote on the eve of the election.

Over the past week, Mr. Speaker, Republican leaders have turned the House floor into little more than a PR vehicle for the Republican Party. They have wasted time and taxpayers' dollars on numerous, meaningless resolutions. Mr. Speaker, Americans are facing real challenges right now. The economy is weak, prescription drug prices are still sky high, the budget is in deficit, and many Republicans want to privatize Social Security. It is time to quit playing politics. It is time to get back to doing the American people's business.

Free the Committee on Appropriations. Let them bring their bills to the floor. What is the leadership on that side afraid of?

Mr. YOUNG of Florida. Mr. Speaker, I would like to reserve my time for just another couple of minutes if the gentleman could proceed.

Mr. OBEY. Mr. Speaker, I yield myself 14 minutes.

Mr. Speaker, this is a serious time for the country. In 2 years' time we have seen a record surplus go to record deficits, almost 2 million people more out of work today than there were a year ago, a year and a half ago. Economic growth is more anemic than at any time in 20 years. Corporate marauders have swindled investors and ruined workers' pension plans. The stock market has lost more than $4 trillion in value, and the price of health care and prescription drugs is skyrocketing. And almost nothing is being done about that by the American people's government.

We also are conducting a war against terrorism, and now we are considering taking on a new war against Iraq. In the midst of all of that, because of an unreal and incredibly mismanaged budget, this Congress has passed only one of 13 appropriation bills, and that means that 90 percent of our domestic budget is likely by the end of next week still to be unfunded.

□ 1715

Even the defense budget is not funded at this point; we hope it will be funded next week.

Under these circumstances we need to work together; we need a cooperative spirit. The last time we went to war against Iraq, President Bush, Sr., consulted broadly, he respected differences of opinion, he set the tone for cooperation between the U.S. and our allies, between the U.S. and the U.N., between the executive and legislative branches of government, between the Democrats and Republicans who serve in this Congress. The result was that we had a spirited debate which I had the privilege to chair at that time; and after the vote, we all came together, united in purpose and in spirit.

But this time the situation is sadly different, and this President is taking a much different approach at a time when we need to keep discussion on a high plane. We have seen the report in The Washington Post yesterday which questioned the concern of the Senate Democrats about national security. The kind of rhetoric that we saw emanating from the President on seven occasions is divisive when it should be unifying, it personalizes issues that ought to be substantive, and it weakens this country's ability to find consensus at a time when we need it badly.

Now, the White House issued a limp apology yesterday and said "Oh, the President did not mean it; he was not talking about the Iraq debate, he was talking about homeland security." I would point out that when this President questions someone else's concern for national security because of their positions on homeland security issues, this is the same President who told me nose-to-nose in the White House that the bipartisan package that the gentleman from Florida (Chairman YOUNG) and I were producing to buttress our homeland security programs after September 11 would be vetoed if we spent one dime more than the President had himself requested for homeland security.

This is the President who resisted our efforts to provide more money to the FBI so that we could end the disgraceful situation under which 50 percent of the FBI's computers could not even send a picture of a terrorist or a suspected terrorist to another FBI computer around the country.

This is the same President who resisted our efforts to add more funding for Canadian border security, when I stood in this well holding a traffic cone, saying that on many of the stations on the Canadian border, after they were closed at night, the only deterrent we had to terrorists crossing the border was a traffic cone. I am sure they were scared stiff of that.

This is the same President who resisted our efforts to strengthen funding for the Nunn-Lugar program to secure nuclear material in the former Soviet Union before it fell into terrorist hands.

This is the same President who resisted our efforts to add money above his budget request to protect our nuclear plants and to protect other sensitive Federal installations from terrorist attack.

Now, I have served with seven Presidents. I have never seen any President during all of that time, except Richard Nixon—the only President I ever saw use that kind of innuendo, questioning someone else's dedication to the security interests of this country was President Nixon.

The reason I am so passionate about this issue is because I get my dander up when people question any other public servant's commitment to this country's security interest. Because I come from the State of Joe McCarthy, and I saw how he denigrated the political debate in this country, and I think that no one ought to emulate that. Unfortunately, I think we have seen remarks that came pretty close.

I would also point out, it was not the other body of this Congress, if the President wants to know, it was not the other body that blocked funds that his own Secretary of Energy requested to protect the shipment of nuclear warheads down U.S. highways from terrorist attacks. Huge bipartisan majorities of this House and the other body approved those funds, but the President said no. It was not the other body of this Congress that blocked funds to bring the Federal Bureau of Investigation into the information age. Huge bipartisan majorities in both Houses of Congress approved those funds in the recent supplemental, but the President said no.

It was not the other body of this Congress that blocked funds to establish a global system of checking containerized cargo on cargo ships before they leave ports overseas rather than after they are on American soil in order to determine if they have radioactive material, chemical, or biological weapons, or other material that may be used to launch acts of terror. Huge bipartisan majorities in both Houses of Congress approved those funds, but the President said no. It was not the other body of this Congress that blocked funds to help the Immigration and Naturalization Service develop the analytical capability they needed to prioritize and track the thousands of illegal immigrants who were inside the United States and identify the ones that are likely to pose the greatest threat to the citizens of this country. Huge bipartisan majorities in both Houses of Congress approved those funds also, but the President said no.

It was not the other body of this Congress that blocked funds to help the National Weapons and Research Laboratories to make certain that they can defend themselves and their employees against cyberattacks and espionage conducted by terrorist organizations. Huge bipartisan majorities in both Houses of Congress approved those funds, but the President said no.

Despite all of that, I do not think we saw Democrats in either this body or the other body questioning the President's patriotism or his commitment to national security. We took those differences to be honest differences. The President owes us and the other body the same courtesy.

We all have obligations of conscience, and we should respect them, including the President of the United States. And we have other obligations. Because this House has not met those obligations, we are here today with this continuing resolution. Because at this point, this House, if we can quit blaming somebody else for a change, this House, not the other body, this House has passed only five appropriation bills out of the 13 required to finish our business.

This chart demonstrates what has happened every year since 1988. The worst record during that period from 1988 through today, the worst record we had was in 1991 when the House only finished 10 of its 13 appropriation bills, and in 1, 2, 3, 4, 5, 6, 7, 8 years, the House finished all of them. This year, the House has done virtually nothing of its appropriations work, and that is not the fault of the chairman of the Committee on Appropriations, and it is not the fault of the Committee on Appropriations.

It is because there is an internal war in the majority party caucus over one bill, the Labor, Health and Education bill. The conservatives in the majority party caucus do not want to see any appropriation bill brought to this floor until the education budget is brought to this floor and passed at the President's level, and the Republican leadership's dilemma is that they know they do not have the votes for that in their own caucus. Because the moderates in the Republican caucus know that the President's budget is inadequate, and they do not want to go home having stopped the progress we have made on education over the last few years.

Now, I will say one thing for the President. He has had a lot of photo ops. He has been in elementary schools more often than students over the past year, posing for political holy pictures with children promoting the No Child Left Behind Education Act. We passed that with large bipartisan majorities, and what that act said is that we are going to reform the education programs and then we are going to fund them. Well, we reformed them. Where is the funding? Before that act passed, this Congress, over a 5-year period, virtually doubled support for public education. But what budget did the President send down to match his talk as he goes from schoolroom to schoolroom, trying to create the image that he is putting education first in this country? The President's education budget brings to a screaming halt the progress we have made in expanding education funding over the past 5 years. He puts a financial freeze on education when we look at it on a per-student basis. That is not what my constituents tell me they want when I go home.

The reason this continuing resolution is here is for only one reason: it is because the majority party does not want to have to vote on the President's education budget before the election. The only group that appears to want to vote on it are the conservatives in the Republican caucus. But the rest of the caucus does not want to have to vote on the President's budget because they know they would vote no, because the President's rhetoric is not matched by his actions.

Mr. Speaker, the President is not putting our money where our mouths are, and I call that posing for political holy pictures. As far as I can see, the Nation's schools are regarded as the number one photo op for the White House political staff and the number one target by the White House budget staff. I would like to know which of those two groups our friends in the majority party are actually going to be supporting. But this CR is here because they do not want to have to vote on that issue. They do not want to have to expose their own chaos and their own different vision in their own caucus.

So I want to make clear to the leadership in this House, I will vote for this resolution today, this short-term continuing resolution, because we have no option if we are going to keep the government open. But I will not vote for an extended continuing resolution. I will not vote for a continuing resolution that allows this body to push these issues off until after the election so they can have a collective Republican duck. I will not do that.

This House needs to finish its business. It needs to pass the Labor-HHS bill, it needs to pass the transportation bill, it needs to pass the budget for science, it needs to pass the budget for defense. In short, we need to meet our basic responsibilities.

When all we can do is produce five of these 13 bills and then somehow blame the other body for the fact that we have not even seen these bills come up here, that to me is a confession of institutional impotence and a demonstration of political incompetence; and neither one of them ought to make anybody very proud.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 1 minute. I do so, number one, to say that I agree with some of the things that the gentleman from Wisconsin (Mr. OBEY) has said, and I disagree with some of the things that he has said. I do want to thank him for helping us bring this resolution to the floor today, because it is essential. We have to pass this resolution, or Monday night at midnight the government closes down. I do not want that to happen. There may be some around here that want it to happen, but I am not one of them. But anyway, I do appreciate the fact that we finally have got this resolution on the floor.

But I also want my friend, the gentleman from Wisconsin (Mr. OBEY), to know that I am not going to try to respond in kind on any of the political issues that might be raised today, because my job and my responsibility today is to move this CR through the House, get it to the Senate, and get it to the President.

□ 1730

Mr. Speaker, I yield 7 minutes to the gentleman from Ohio (Mr. REGULA), the distinguished chairman of the Subcommittee on Labor, Health and Human Services and Education.

Mr. REGULA. Mr. Speaker, I thank the chairman for yielding time to me.

I do not want to engage in the blame game; I just want to support the record that we have achieved in the past 6 years in terms of education. I think this is an outstanding record, and I must say, in fairness, that oftentimes or most of the time we have had the support of the minority party in doing this. The gentleman from Wisconsin (Mr. OBEY) is ranking in our committee, and has been very supportive.

Title I, aid to disadvantaged students. I think the important part that I want to say is that the record in education has been to help those really in need of help. Let us take Title I. It is up 62 percent from 1996, from $6.37 billion to $10.35 billion, a good record for this body that we can all take pride in.

IDEA, special education grants. These are young people who need help. It is up by 224 percent. That is a remarkable increase over the past 6 or 8 years.

We have tripled the funding for Federal reading programs from $300 million to more than $900 million. This is what the President promised to do. I think he deserves credit for that.

We have increased the Federal teacher quality funds by 35 percent to help States and local communities to train, recruit, and retain quality public school teachers.

I might say here, and this is almost a crusade with me, we should get a good teacher in every classroom, because if we ask any group, do you have some teacher that in your life has made a difference, without hesitation hands go up. That is why it is so important that we can continue the programs that will help the States and local communities to get good teachers in every classroom. No child will be left behind if they have a quality teacher.

Pell grants. This is help to those from the low income to have an opportunity to get an additional education; it might be in a trade school, it might be in a college, a university, or whatever. We have increased them by 62 percent, from $2,470 to $4,000 in fiscal year 2002. That is a credit to this Congress, that it has recognized the importance of helping these young people.

Head Start, another program to help those who are less advantaged, we have increased it by 83 percent over the past

6 years. I think it is a record to be proud of.

We have increased Federal aid to America's Historically Black Colleges and Universities by 144 percent.

Mr. Speaker, we want to continue this record because I think education is the most important responsibility, in cooperation with the States and the local communities. We need to have an educated population if we want to compete in the world of tomorrow, if we want to give the people of this Nation an opportunity, the young people.

I would also like to point to the record in Health and Human Services. We have supported dislocated worker employment assistance. It grew by $271 million to $1.4 billion, again, helping those who need a helping hand.

Community health centers. They delivered needed medical services to over 10 million patients in fiscal year 2001, and it grew by 77 percent since fiscal year 1996.

Support for the Centers for Disease Control. We suddenly discovered after 9/11 how important the Centers for Disease Control were to this Nation, and they deal with infectious diseases. They are the traffic cop that stands between us and the incursion of many different types of diseases in our society. It grew by 400 percent; again, something that helps people all across the Nation.

The Centers for Disease Control's chronic disease prevention, it has grown by 178 percent.

Medical research by the National Institutes of Health: a commitment was made about 4 years ago or 5 years ago that we would double their budget. We have kept that commitment, and we would hope to do that again in this fiscal year. They have supported nearly 37,000 research projects. That is important. That is important to people, because out of those research projects will come cures, will come ways of helping individuals.

If Members could sit in the committee that the gentleman from Wisconsin (Mr. OBEY) and myself are responsible for and listen to the testimony, they would realize how important it is to the people of this Nation, and parents with children that need help; people with Alzheimer's, Parkinson's, you name it, we have heard from them in our subcommittee, and we have tried to help by enhancing the programs of the National Institutes of Health and many others.

All I want to say to this body is that I think we have an excellent record we have accomplished on a bipartisan basis over the past several years, and particularly since the Republicans have had the responsibility for the programs as the majority party.

But in fairness, I also want to say, we have had help in getting this record accomplished. We would hope that we will have the same kind of help. We know that we cannot do everything, that the resources are not as great as they might have been 3 or 4 years ago.

I think one of the things we need to do is take a look at all the money we have poured into these programs and say, is it being spent wisely? Is it getting results? Is it producing value received to the taxpayers of this Nation? What we are trying to do in crafting these appropriations bills is to ensure that we are getting value received; that we are using the money wisely on behalf of the people who need the help.

I would reiterate again that these programs help all Americans. They are not limited to any single group. Illness strikes at all types in our socioeconomic strata.

Education is important, and we have had a real concern in making sure these programs serve the people. I think that is a record we can point to with pride, and I hope that we can work out appropriation bills that will continue this record of great service to the American people from every walk of life.

Under Republican leadership, America's proven education programs have thrived. In the past several years, Republicans have:

Increased Title I aid to disadvantaged students by 62 percent—from $6.37 billion in FY 96 to $10.35 billion in FY 02.

Increased special education grants to states (Part B of the Individuals with Disabilities Education Act, or IDEA) by 224 percent—an increase far larger than under Democrat controlled Congresses.

Tripled funding for federal reading programs from $300 million to more than $900 million, as promised by President George W. Bush.

Increased federal teacher quality funds by 35 percent to help states and local communities train, recruit, and retain quality public school teachers.

Increased the maximum Pell Grant award by 62 percent—from $2,470 in FY 96 to $4,000 in FY 02.

Increased Head Start funding by 83 percent—from $3.569 billion in FY 96 to $6.538 billion in FY 02.

Increased federal aid to America's Historically Black Colleges and Universities, Historically Black Graduate Institutions, and Hispanic-Serving Institutions by 144 percent—from a combined total of $140 million in FY 96 to $341 million in FY 02.

Support for dislocated worker re-employment assistance grew $271 million, to nearly $1.4 billion since FY96;

Support for Community Health Centers, which delivered needed medical services to an estimated 10.5 million patients in FY2001, grew $587 million, or 77 percent, since FY96 helping CHCs serve 2.4 million more patients over six years;

Support for CDC's work in tracking, understanding and controlling new and re-emerging infectious agents grew $282 million, or over 400 percent since FY96.

Support for CDC's chronic disease prevention activities, in areas such as breast and cervical cancer prevention, diabetes control, and cardiovascular disease prevention, grew $479 million, or 178 percent, since FY96;

Support for medical research administered by the National Institutes of Health grew $11.5 billion, or 97 percent since FY96. NIH estimates that they will support nearly 37,000 research/project grants in FY2002, over 11,000 more than they supported in FY96;

Support for Head Start grew nearly $3 billion, or 83 percent, since FY96. During FY2002, the Administration estimates Head Start will serve over 100,000 more children aged 3 to 4 then it did in FY96; and

Support for helping low income Americans in meeting their heating costs through the LIHEAP program grew $1.1 billion, or 120 percent since FY96.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman is certainly a friend of education and health care; but I would simply point out that the issue is not what we have done last year, it is what we are going to do next year.

We still have not seen a bill produced by the majority, and the President's budget for health care cuts back $1.4 billion in crucial health care programs outside of NIH. It essentially fails to provide anywhere near the support level that is needed for programs that help low-income students, for programs that help the handicapped, and for children who need help with second languages.

So there are going to be thousands of children, indeed, left behind by the President's budget, and we would like to correct that, but we cannot get the Republican majority to bring a bill to the floor.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding time to me.

Mr. Speaker, I would like to respond to my friend, the gentleman from Ohio (Mr. REGULA). I agree with the gentleman from Wisconsin (Mr. OBEY), the gentleman from Ohio (Mr. REGULA) is a friend of education. Also, he is the chairman of our subcommittee.

What I think most of us feel on the Committee on Appropriations is our Republican colleagues on the Committee on Appropriations want positive investment in our country. They are not the problem, but the leadership of the Republican Party is the problem. Frankly, the chairman of the Committee on the Budget this year and in past years is the problem.

Now, let me tell my friend, the gentleman from Ohio, about education. The irony is that my friend, the gentleman from Ohio, would stand and say, look what we have done since 1995 on education. What we have done on education is, under the leadership of Bill Clinton, he said, I am not going to sign bills that underfund education.

What were those bills? Let me read them to the Members so in the future the Members will know, because I know if the gentleman knew this, he probably would not have made this representation.

The Republican bill offered to this House in 1996 was $5 billion under the President's request. That did not end up that way.

In 1997, the Republican bill offered $2.8 billion under the President.

In 1998, it was a Presidential election year. The Republican leadership, wanting to elect its own, came in with a bipartisan bill. It was just $191 million under the President. However, in the next year, it was over half a billion dollars over the President.

In the year 2000, the Republican bill was $1.4 billion under the President; and in 2001, it was $2.9 billion under the President. By the way, the bills were not as harsh as the budget.

So, Mr. Speaker, yes, over the last 8 years we have been generous to education, and we have in fact said not only are we rhetorically going to leave no child behind, but we are going to fund programs to seek that end.

The gentleman from Wisconsin (Mr. OBEY) put up a chart here, it is now over there, but essentially it shows 15 years of activities of the Committee on Appropriations, and more importantly, the House committee, in passing appropriation bills.

Over those 15 years, we have averaged 12.2 bills passed before the end of the fiscal year. That is a 93 percent average. That is an A. This year, we are at 38 percent. That is a miserable failure; not the responsibility of the chairman of the Committee on Appropriations or the gentleman from Ohio (Mr. REGULA) or the gentleman from California (Mr. LEWIS) or others who chair the appropriations subcommittees, but it is the fault of a divisive leadership that wants to talk about being for programs but does not want to fund those programs; not only that, does not want to debate them on this floor.

This month of September we have not considered one appropriation bill on this floor, notwithstanding the fact that September 30 is at the door.

I, like the gentleman from Wisconsin (Mr. OBEY), will vote for this continuing resolution, but like the gentleman from Wisconsin (Mr. OBEY), I will also call to account those who put us in a position of being unable to debate the priorities of this Nation on this floor.

Like the gentleman from Wisconsin (Mr. OBEY), I do not want my patriotism or concern for the security of this Nation to be called into question by this President, who is our leader and who ought to bring us together, not drive us apart.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I wanted to respond to my dear friend, the gentleman from Maryland (Mr. HOYER). I want to assure him that however politically engaged this might become this afternoon, that none of my speakers will attack any of the gentleman's leadership. We had a lot of disagreements with the gentleman's leadership, but we are not going to raise those today. We have a strong leadership on our side and they have accomplished a lot in this Congress.

We did hit a couple of roadblocks dealing with the budget process, and as the gentleman knows, we passed a budget. Whether the gentleman likes it or not, we passed a budget in the House. That did not happen in the other body.

Secondly, I wanted to point out to my friend that the only two bills that we have had a request from the other body to go to conference on are the defense bill and the military construction bill. We in fact are in conference aggressively coming to closure on those two bills. With the exception of Legislative Branch appropriations, we have not had a request from the other body to go to conference on any other appropriation bills, including the ones that we have already sent down there to them.

Mr. Speaker, I yield 6 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to remind my colleagues that in 1994, with a Democrat-controlled House, they passed an education bill $3 billion below President Clinton's request.

☐ 1745

I have heard tonight, well, let us stop pointing fingers. That is all I have heard from the other side, every single speaker, pointing fingers. You know why? Well, the President took control of the issue of education.

I have talked to Democrat pollsters; they are upset because the Democrat numbers are down on Education. This President has shown that he cares about education. He focuses on education. And education spending is not everything.

I would like to submit this for the record. It is what Secretary Paige showed, the number of increases in education spending but yet test scores have baselined. The education plan is more than just spending. We have increased education dollars, but we have also given the State the flexibility to move those dollars around where parents and teachers can make those decisions.

My colleagues on the other side want line items and every item increased so that they can mandate exactly what is done in the States, the paperwork increases, the mandates, the union bureaucracy. And the President said no, I want to give the States the flexibility where parents and teachers can make those decisions.

They also demand accountability. And with the accountability he also gave the superintendents and the State legislatures the ability to move money around, not line item it and mandate it. A hundred thousand teachers? We need teachers, yes. But we also put money in for the quality of education and teachers.

We have passed prescription drugs, and tax relief for working families. My colleagues only attack, oh, it is a tax break for the rich. Some of them have not found a tax they do not want to increase. In 1993 they increased tax on the middle class after they said they were going to reduce it. They taxed Social Security. They actually taxed gas. And, remember, there was even a retroactive tax in there and you cut veterans' COLAs. You cut military COLAs, if you want to talk about history.

And I want to tell you, I would question somebody who used our military as White House waiters. I would question someone who would send our people into harm's way. I questioned a Republican President who sent our people over in Lebanon and let them sit there. But I sure question President Clinton on a lot of the things he did that in my estimation were not right.

Why are they doing this? Well, it is an election year, Mr. Speaker. Have you ever heard the name of James Carville and his colleagues? We have got the "Carville Report." What does he recommend to his Democrat pollsters? For the Democrats to stick close to the President on the war because if they do not, the numbers will go down. But they also requested that the Senate hold up bills, because in a bad economy they can hang on to the Senate. They also said we can pass things here like tax relief but to blast the Republicans on these issues. And I think you have heard every speaker over here do that. And it is just not the case.

We have passed prescription drugs here. The Senate has not. We have passed homeland security. And I tell you, I would question somebody that holds up a homeland security bill insisting on union workers filling those billets instead of passing a homeland security bill. I think that is wrong. And I think it should be questioned.

I heard about border patrol. The gentleman from California (Mr. HUNTER) on this floor, when I first came, we fought to get more border patrol and we were turned down until we took the majority. And slowly in a bipartisan way in many cases, we got more border patrol to secure our borders.

It is sad to watch the things that are going on tonight because as a group we have done so many things. This President is a caring President. I want to tell you, he has brought credibility, he has brought character to the White House that was not there before. Is it not nice to see a President who can actually look at his wife and say, I love you and mean it?

The economy is growing. It is growing by 3 percent. Alan Greenspan said that the economy has grown by 1.5 percent because of tax relief for working families. My colleagues say it is just for the rich; it is an election year.

Inflation is low. Interest is low. But yet there is not confidence in the market. The Senate has not passed the Employee Protection Act that would protect them from cases of Enron and WorldCom. We need to pass that bill, to bring that confidence up. And that has not been passed by the other body; and I think that is wrong.

POINT OF ORDER

Mr. FRANK. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman will state his point of order.

Mr. FRANK. Mr. Speaker, the speaker has just violated the rules of the House with regard to references to the Senate.

The SPEAKER pro tempore. The characterizing of the Senate inaction is not in order.

Mr. CUNNINGHAM. Mr. Speaker, they have not passed the bill that should be in order. They have not passed the bill.

POINT OF ORDER

Mr. FRANK. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FRANK. Mr. Speaker, the point of order I raised was not when the gentleman referred to inaction, but when the gentleman characterized that inaction and gave a value judgment to the inaction.

The SPEAKER pro tempore. The gentleman is correct. The gentleman in the well will proceed in order.

Mr. CUNNINGHAM. I do not believe I have done that, Mr. Speaker.

But I will tell you, an energy bill is critical. The Senate has not passed that bill. An economic stimulus package is critical which helps us in education. The Senate has not passed that bill.

The Senate according to the Carville memo did not pass its budget, not mine. Why? Because they can offer a trillion dollars in a prescription drugs program.

MR. OBEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. PELOSI), the distinguished whip.

Ms. PELOSI. Mr. Speaker, I thank the distinguished ranking member for yielding me time and for his great leadership on behalf of America's families. I also commend the distinguished Chair of the Committee on Appropriations for his leadership and the two of them for bringing this continuing resolution to the floor.

The sadness of it all, though, is that the continuing resolution is needed at all. For the weeks that we have come back here from the summer August break, this Congress has been in session from Tuesday night until Thursday afternoon. We have had plenty of time if we had worked a full week to do the people's business, to pass the appropriations bills that are our responsibility by the end of this fiscal year and the start of the new one.

Instead, we are here passing a short-term continuing resolution, and there will be another one and there will be another one because this House has ignored the needs of the American people, the needs for a growing economy, for prescription drug benefits, for access to quality health care, for educating our children; and that is the point on which I would like to focus.

I rise on behalf of America's children who deserve every opportunity we can give them and on behalf of their parents who deserve to know just where the parties really stand as opposed to what they say they stand for.

Nowhere is the contrast between Republican rhetoric and Republican reality so stark as in the oft-repeated promise to "leave no child behind."

The reality is that the Republicans want to cut our investment in education to a level far below what is authorized in the Leave No Child Behind Act, $7 billion less of an investment than that which was promised by the President. Despite countless Presidential photo ops and despite the little red school house built outside the Department of Education at massive tax payer expense, I might add, the reality is that the Republican Party plans to leave millions of children behind.

The fact is that the Republicans do not want to debate appropriations bills because they do not want the public to see that their education budget would underfund the No Child Left Behind Act, which the President heralded as his great achievement by $7.2 billion, and that is the President's recommendation and that is why some Republicans will hold up this bill from coming to the floor.

The President's education budget stops in its tracks 6 years of steady progress in Federal support to local schools, dead in its tracks. The investments in education under this budget are down to less than 1 percent. How are we going to grow our economy if we will not grow our investment in public education?

There is no tax cut you can name or benefit or credit or anything that you could name that grows the economy more than investing in education. There is nothing that is more dynamic to the budget than investing in education. We are not only doing a disservice to the children, we are doing a disservice to the taxpayers. There is nothing you can name that would grow the economy more than investing in education.

All the research, Mr. Speaker, tells us that children do better in smaller classes and, indeed, they do better in smaller schools. And yet the Republicans want to freeze funding for these cost-effective programs. What they have in the budget is enough to provide, for example, after-school programs to only 8 percent of the 15.2 million low-income children who could benefit from them.

I refer you to this chart. Look at this. We are gaining in enlightenment. We are giving after-school guidance for children. It is good for their education. It is good for their health. It is good for their future. And here we come into this budget and take a downturn in after-school programs for America's children. This is really, really a tragedy. We cannot turn our backs on the millions of children who just last year we were promising to rescue, and we cannot turn our backs on the economic future of our great country. When we make a decision in this body we should think of America's children. We should think of growing our economy. There is a commonality of interest.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the very distinguished gentleman from Ohio (Mr. BOEHNER), who is the chairman of the Committee on Education and the Workforce and who authored the outstanding education bill last year, H.R. 1.

Mr. BOEHNER. Mr. Speaker, the rhetoric we are hearing from our friends across the aisle is not about children. This is all about politics. And when it comes to education funding or any other kind of funding, our Democrat friends this year have no budget, no plan, and no credibility.

Now let us just look at the facts. In the House the Democrats voted against the President's budget but did not even offer an alternative of their own. In the Senate they even failed to pass any budget at all. The first time since 1974 that has happened.

Now, let us take a look at what columnist David Broder wrote recently: "When the House is debating its budget resolution," Broder wrote, "the Democrats proposed no alternative of their own." He went on to say, "Rather than fake it, House Democrats just punted," Broder wrote. "The resolution is designed to be the clearest statement of a party's policy priorities, and as long as they are silent the Democrats cannot be part of a serious political debate."

I think David Broder is right.

So I say to my Democrat friends, if you are going to stand here today and say you are for additional education spending, you better be prepared to tell the American people how you plan to get there. Fortunately, President Bush has given us a budget this year that continues to make education a priority even in the face of war and economic turmoil.

As you can see by this chart, President Bush's budget this year proposes far more for education than the last budgets proposed and signed by President Clinton. In fact, Federal funding for education has more than doubled over the past 6 years. Discretionary appropriations for the Department of Education have climbed from $23 billion in fiscal year 1996 to $49 billion this year, an increase of 113 percent.

Now, as you can see by this chart, special education, the Republican budget provides for another billion dollars' increase in special education grants to the States, and calls for full funding of IDEA over the next 10 years. This is almost a 300 percent increase over the last 7 years.

Democrats did not offer a budget to help children with special needs. They have no budget. They have no plan, and they have no solution.

Now, let us look at title I for a moment. For disadvantaged students in school, the Republican budget provides for a billion dollars' increase in title I grants. Now this is on top of the $1.6 billion increase that we passed and was signed into law earlier this year. These resources are focused in on high-poverty schools and kids who are in poor neighborhoods who need our help. Democrats have not offered a budget to help low-income school districts or kids. They have no budget. They have no plan and they have no solution.

Now, here is something else to consider. As this chart shows, under the first 2 years of President Bush's Presidency, we will have seen greater increases in title I funding than in the previous 7 years combined.

□ 1800

The last 2 years of the President's budget, last year and this year, are greater increases than in the last 7 years under the previous President.

Let us not forget about teachers, the people responsible for our kids in the classroom. For teachers, the Republican budget provides $2.85 billion, matching the historic increase the President signed into law last year. This is a 38 percent increase over the last Clinton budget.

Democrats have offered no budget to help America's schoolteachers. They have no plan, they have no budget and they have no solution. Despite the twin challenges of war and economic recovery, the President's budget this year expands funding for all of our educational priorities, and so I say to my friends on the other side, if they have got a better plan, why do they not show us?

Mr. OBEY. Mr. Chairman, I yield myself 2 minutes. The previous speaker leaves a false impression in the House because of his constant reference to budget resolutions rather than appropriations. Budget resolutions do not provide one dime for students. Appropriations bills do.

The fact is despite the fact that the President of the United States made a big thing out of being for the No Child Left Behind authorization bill, there will be hundreds of thousands of children left behind under the budget that he proposed, which does not in any way match that original legislation. Example: Special education, the budget he proposed this year is one-half billion dollars below what it would have to be to meet the promises of the Individuals with Disabilities Act.

In Title I, they are $4.6 billion below where they would have to be in order to meet the promised funding level under the No Child Left Behind Act, and even the small $1 billion increase in that package is paid for by cuts in other programs that affect the very same children who need help the most, and then you have in addition the President cutting the comprehensive school reform program by 24 percent, eliminating the smaller schools appropriations.

So then if you take the children who are most at risk, because they have difficulty with languages, this budget on a pupil basis provides a 10 percent real reduction in programs to help children who have trouble with the English language. No child left behind, it sounds nice. Why do you not back it up with your money?

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, if the gentleman is so proud of that which he has done in his budget and his bill, why does he not bring the appropriations bill to the floor? Why does it languish for the last 8 months in committee? Why do they say to me we do not have the votes for the bill on our side of the aisle if what he says is so true?

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, let me respond to my colleagues and say that we worked closely together in a bipartisan way to produce the No Child Left Behind Act, and it was truly the most bipartisan bill this Congress has produced, and I am proud of my relationship with my good friend the gentleman from California (Mr. GEORGE MILLER), who worked closely with me and all of my colleagues to produce it.

We put huge increases in place last year, and my colleagues have to understand that the increases that are in this year's budget are on top of the increases in last year's budget. We have offered a budget. We have a plan. My colleagues have no plan. They brought no budget to the floor. They are ducking and hiding from the issues how.

Now where is the bill? The fact is we have a plan. We have a budget. Show us yours. We have not seen it yet.

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DELAY), a strong member of the strong leadership team in the House.

Mr. DELAY. Mr. Speaker, I greatly appreciate the gentleman from Florida's work and what he has been able to accomplish, and I understand the dilemma that he is facing, and I can answer the question where is the bill.

You cannot reconcile with an addict. The Senate did not pass a budget. Therefore, they are spending with addiction. They are addicts. They are spending like I have never seen before. When we have a budget that we have to adhere to in the House, you cannot reconcile.

POINT OF ORDER

Mr. FRANK. Mr. Speaker, point of order.

The SPEAKER pro tempore (Mr. HANSEN). Members will avoid improper references to the Senate during this debate.

Mr. DELAY. Mr. Speaker, I appreciate that.

When you try to reconcile a bill against with having a budget, it cannot be reconciled with a bill that has increased spending with abandon. It is amazing, Mr. Speaker, that they do not understand that.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman from Texas (Mr. DELAY) will avoid improper references to the Senate.

Mr. DELAY. Mr. Speaker, this surge of aggression from the other side of the aisle is simply the bitter fruit of a strategy to stymie, frustrate and defeat fiscal discipline at every turn. My colleagues from the other party are infuriated.

Mr. Speaker, I am speaking about Members of this House.

My colleagues from the other party for this House are infuriated that our Republican House majority is a dike holding back waves upon waves of new Democrat nonsecurity spending. That is not how it used to be around here. They ache to restore the tax and spend policies that robbed the Social Security Trust Fund for decade after decade after decade after decade when the Democrats controlled this Congress.

The Democrats ran the House and they fueled an irresponsible culture of spending that drove America's books deep, deep, deep into the red. They spent with abandon. They spent without restraint. They spent blindly. They spent more than the country could bear. They ignored the economic damage that their spending lust had created. They balanced their budgets on the backs of future generations.

The other party understands that they have to raise taxes to fund the huge new spending programs that their big spending caucus demanded. Our Republican insistence on lowering, not raising, taxes makes them livid. They complain that lowering taxes causes the deficit, and one made mention that Reagan's tax cut in the eighties created the deficit. For every dollar, revenues actually went up after that tax cut. The problem is for every dollar of new revenues coming in they spent two dollars.

The other party understands that and has a single all-consuming ambition, separating the taxpayers from more of their hard-earned dollars and swelling the size of government with waves of new spending, waves and waves of new spending.

The Democrat House leadership embraced the decision by the other body to proceed with no governing fiscal oversight called a budget. They attempted to do the same thing here, but unfortunately for the big spenders, the House of Representatives passed a budget. Let us shift our attention away from the specific points at issue. Let us consider things in the realm of the theoretical.

For any theoretical elective body, the decision to proceed forward without a governing budget would be foolhardy and grossly irresponsible. It would be a blunder of rank stupidity and extreme fiscal wantonness for any conceivable legislative body to rashly conclude it could sustain fiscal discipline without a guiding and governing budget.

Our House Republican majority brought America back into the black. We brought back fiscal discipline. We even started paying down the debt. We are working with the President to hold the line on excessive nonsecurity spending, we are holding firm, and we are motivated by an undeniable truism: The dollars that Washington spends belong to the taxpayers. We respect their hard work. We appreciate the taxpayers' ability to spend their own money better than Washington, D.C., and we are extremely hostile to any scheme that would separate a single taxpayer from any additional dollar.

Our friends on the other side of the aisle see 180 degrees differently. The truth is the House Republicans are completing America's business and we are doing it responsibly within a fiscal framework that preserves fiscal freedom.

The hostility directed against us today flows from the bitter hunger pains of an insatiable appetite for new wasteful spending.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, we have just been told by the majority party whip that he is holding back an ocean wave of spending. Well, what is it that he is holding back? What is he using his hammer to hold back in his own caucus? He is using his hammer in order to prevent this House from voting on the education and health appropriations bill. He has his ideological views and he has assessed the votes in his own caucus and he has decided he does not even have the votes in his own caucus to squeeze down education as much as the President wants to do in his own budget.

If The Hammer, as he is known on that side of the aisle, if the gentleman is so confident that he can prevail, then why do you not allow the committee to bring up the Labor-Health-Education bill? I wrote to the Speaker and I said, Mr. Speaker, you have got a fight between your conservatives and your moderates and so you are hung up and so you do not want to bring a bill up because you cannot guarantee an outcome, why do you not simply bring the bill to the floor and let us let the gentleman from Florida (Mr. YOUNG) offer the President's budget, which he tried to do, let your Republican caucus offer any other alternative they want, and then let us offer an alternative we want and let us see which package wins? The reason you will not bring the Education bill to the floor is because you know you cannot win it.

It is also because you know that your Members desperately want to avoid voting on the President's Education budget before the election. Why? Because in the last 5 years, we have delivered on average a 13 percent increase for education each year, and now you want to freeze it. Now you want to freeze it and your moderate Members know that that will not fly with the American people. It will not do any good for America's kids. It will not help build America's future, and it will not help you in the election.

Bring the bill out. That is what we are asking.

As for the Senate being responsible, the fact is that 90 percent of the domestic budget has not passed, and that is no fault of the Senate. You have only produced on this floor the smallest of the domestic appropriation bills and only the Treasury-Post Office bill has become law.

We are going to have a conference on Defense next week but you have abdicated your responsibility. The gentleman from Texas, I say to you, you have abdicated the responsibility as majority party whip to do the Nation's business. You say you have completed the Nation's business. Then why is it that 90 percent of the domestic appropriations are being bottled up by the majority party? Why do you not do your duty and bring those bills to the floor?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to remind Members to please avoid improper references to the Senate.

Mr. OBEY. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) has 29½ minutes, and the gentleman from Florida (Mr. YOUNG) has 29 minutes.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. SHAW), my distinguished colleague.

Mr. SHAW. Mr. Speaker, I thank the chairman for yielding me this time.

One item that has been lost in this debate, which is truly important, I think one of the proudest moments in this House of Representatives was in 1996, when we passed a welfare reform bill. As a result of that, almost 3 million kids are now out of poverty. Millions and millions of people who otherwise would be on the welfare roll are on the payroll, and the welfare rolls in this country have been reduced by 60 percent, and that is why at the same time we are reducing poverty among kids. What greater accomplishment have we had?

That bill runs out the end of this month.

□ 1815

There will be no welfare and welfare reform can be forgotten. The $4.8 billion in child care will no longer be there. Four months ago on the floor of this House, we passed the extension. The Senate has not.

Part of this bill is to extend welfare reform so that the checks will continue to go out. The child care will continue to be there, the job training will still be there, and all of the good things that we passed in 1996 will remain with us. But it is going to be absolutely vital that we pass this continuing resolution because this would extend it for 3 months into next year. That is tremendously important because if we do not, there will be no checks going out.

The prediction that was made in 1996 when we passed welfare reform would come true and the poverty levels would skyrocket, the job training and all of the good that we did would be undone. The Senate has not acted on this most important piece of legislation, and it is one that I think all Members in one degree or another can support.

Mr. Speaker, I would like to compliment the House for passing welfare reform, and also urge that all Members tonight vote for this continuing resolution so that all the good that we did in 1996 is not lost.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. JACKSON).

Mr. JACKSON of Illinois. Mr. Speaker, I intend to support the continuing resolution that is before us today, but I must say that the administration's budget proposal in this body has not lived up to the commitment that we made to leave no child behind.

Yesterday, the Census Bureau stated that the proportion of Americans living in poverty rose significantly last year, increasing for the first time in 8 years. At the same time, the Bureau said that the income of middle-class households fell for the first time since the last recession ended, in 1991. In the last 2 years, 2 million more Americans have lost their jobs, and economic growth is at an anemic 1 percent, the slowest growth in over 50 years.

What has been the House's answer to this: Tax cuts, the ability to find another $100–200 billion for a possible war in Iraq.

A strong economy depends on a strong workforce, and that means educating all Americans and providing them with skills they need to be productive workers. Some Members of Congress seem to have a single focus, and that is keeping America strong abroad. But we have a dual responsibility, keeping America strong abroad and also keeping America strong at home. Education is the key to keeping America strong at home, and that is why I think we must finish our work here before we adjourn for the elections in November.

The title I program provides funds for school districts to help disadvantaged children obtain a high-quality education, and at a minimum, to achieve proficiency on challenging academic achievement standards established by the States.

The President's request for title I education is $4.56 billion below the $16 billion he supported and Congress supported in the Leave No Child Behind Act. The administration refused to request funding for title I school improvements funds, and last year over 8,600 schools, 10 percent across the country, were identified as failing to meet the State standards. With the additional funds promised by the Leave No Child Behind Act, school districts would have been able to hire an additional 92,000 title I teachers.

Mr. Speaker, I urge Members to support this continuing resolution, but let us also focus on the need to fully fund education for our children.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON), a member of the Committee on Appropriations.

Mr. KINGSTON. Mr. Speaker, there is a sinkhole on the Capitol, not over here, but over there, a giant growing sinkhole. It is particularly hazardous to judicial nominees, to presidential appointees, and to presidential ideas or initiatives in general. It is very hazardous to legislation, hazardous to the budget. In fact, the only thing that seems to get through this giant sinkhole are memos from Barbra Streisand; but that is an improvement, I would say, over contacting Eleanor Roosevelt, as we were doing a couple of years ago to get our instructions.

Now, this sinkhole ate up the budget this year. There is no budget. Where there is no budget, every day is Christmas.

I have four wonderful children. I love my children, like just every Democrat and Republican here. We all love our kids, but my kids have all kinds of ideas about how I ought to be spending my money. For birthdays, they want a golf cart, Jetskis, CDs, and if they are older, they want a car. None of them quite wanted the pair of tennis shoes that I bought and wrapped so carefully. The reality is, they think I am a U.S. Senator, and every day is Christmas when we do not have a budget.

So here we are forced to pass a continuing resolution because we cannot deal with some group that does not have a budget. That is bad enough, but here are some other bills. We are at war. As I speak, as we sit here, we have troops in Afghanistan and Pakistan and all over the Middle East, and yet we cannot get a homeland security bill passed. We cannot get faith-based initiatives passed. The House has passed 51 bills which have not been passed by the other body. There is no bipartisan Patient Protection Act. There is no human cloning bill. I can understand that because some of them do not want more of us, and a lot of us do not want more of them. Maybe that one I can understand their hesitancy.

They have not passed Personal Responsibility, Work, and Family Promotion Act, or welfare reform. We had 14 million people on welfare 3 years ago.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Georgia will suspend.

Members must avoid improper references to the other body. That is the rule of the House.

Mr. KINGSTON. Mr. Speaker, I appreciate that. Now there is no doubt who I am referring to; and that same other body has not passed the Child Custody Protection Act, the Internet Freedom and Broadband Deployment Act, the Small Business Interest Checking Act, the Sudan Peace Act, the Coral Reef and Coastal Marine Conservation Act, the Rail Passenger Disaster Family Assistance Act, the Medicare Regulatory and Contracting Reform Act, the Two Strikes and You're Out Child Protection Act, the Anti-Hoax Terrorism Act, the Class Action Fairness Act, the True American Heroes Act, the Jobs for Veterans Act, the Social Security Benefit Enhancement for Women Act, the Child Sex Crimes Wiretapping Act.

Mr. Speaker, all this stuff the House has passed, 51 pieces of legislation which languish in this giant sinkhole on the other side of the Capitol. It is disgraceful.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds Members not to characterize action or inaction in the other body.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, it is not the other body that has prevented this House from bringing out the Labor-Health and Education budget, or the Science budget, or the Housing or Transportation budget. It is the fact that the majority caucus is wrapped around the axle because they cannot get an agreement on any approach that will bring those bills to the floor and allow them to pass them. That is what the problem is.

Now we have an effort to shift the blame somewhere else. I guess that is the normal course of action around here. That does not make it right.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I love this House of Representatives, but I do not like us when we do not do our work. The reason we are here tonight is because we have not done our work. We have not passed the 13 appropriation bills in this body, and we would have all of the complaints in the world had we done our work. We have not done our work.

It is amazing the speeches I have heard defending the budget and the fact that we do not have a budget on this side of the aisle. Some of us did. We were denied an opportunity to debate it on the House floor. Some of us had a budget. We did not like the budget that has now given us $317 billion of new deficits.

Conveniently, the majority whip came on the floor and talked about 10 years ago. What about right now? We are here tonight discussing a budget that has given us $317 billion of new deficits and will spend Social Security trust funds for the next 10 years. Forget the last 40, worry about today. That is when we can do something about it. The other side is in the majority.

Mr. Speaker, I have no quarrel with the gentleman from Florida (Chairman YOUNG) or the gentleman from Iowa (Chairman NUSSLE), but the gentleman from Texas who stood down here a moment ago and made that eloquent speech of untruths reminded me of the Will Rogers quote when he said, "It ain't people's ignorance that bothers me so much, it's them knowing so much that ain't so is the problem."

Mr. Speaker, we talk about the Reagan tax cuts. I was here. For the 12 years of Reagan-Bush, never did the big spending Democratic Congress, other than 1 year, spend more than Presidents Reagan and Bush asked us to spend; and yet, conveniently, the rhetoric tonight says it was us that did it.

Conveniently, we are letting some of the real budget rules that allowed us to do some good things on budget expire September 30, and the same leadership that comes down and makes the speeches they made a moment ago are directly responsible for allowing pay-go to expire, to allow discretionary caps to expire.

Let me make out one relevant point tonight when we talk about spending, as so many Members on the other side of the aisle keep talking about Democratic spending, the difference between the House and the Senate; the difference we are talking about on the appropriators is $9 billion. That is the difference that has kept the leadership from bringing the 13 appropriation bills to the floor of the House and letting the House work its will.

We should at least keep the spending caps in. I feel kind of ridiculous arguing for that because we have ignored them all year, but if the other side had enforced the pay-go rules, we would have never passed the budget because we could not have passed the budget. Increasing the debt ceiling for our country was passed at midnight because the majority party did not want to stand up and acknowledge the fact that as they talk about paying down the debt and deficit elimination, the debt is going up. We are going to have to do it again, under the budget that everybody over on the other side is bragging about. If they are bragging about it, spend the appropriation bills out and pass them; but do not keep complaining about somebody else's fault. This House has not done its work. It is not the minority party's fault; it is the majority party's fault.

As a child, I always knew that if I started criticizing some trait about one of my playmates, Mother would soon be talking about "your own plank." Her shorthand reference was to the scripture which warns against pointing out the "speck" in someone else's eye when there was a huge "plank" in your own. I think we could use my mother on the House floor these days. There has been a lot of rhetoric about what the other chamber has not done but not much attention to some of our own shortcomings right here in the House. One of those shortcomings—the failure to renew budget enforcement rules—is very near and dear to my heart and, after years of defending those rules, I cannot remain silent today.

Circumstances have changed dramatically since we passed the Republican budget last year. The projections turned out to be too optimistic, revenues are much lower than expected, and we face tremendous new expenses for homeland defense and the war on terrorism and a possible war with Iraq.

Now that those projections have proven to be nothing more than empty hopes and unfulfilled promises, some of us think we should look honestly at our economic situation rather than continuing to view the world through faulty rose colored glasses. But the leadership on the other side of the aisle refuses to consider any adjustments to their budget policies.

At the very least, we should take action to make sure we don't dig the deficit hole still deeper. Instead, the Republican leadership is allowing the existing budget enforcement rules which impose some fiscal discipline on Congress to expire.

Over the previous decade, the budget enforcement rules were one of the more successful tools for establishing fiscal discipline and helping bring about budget surpluses. These rules set limits on the amount of discretionary spending Congress can approve and prohibited legislation which would have increased the deficit.

When these rules expire five days from now, there will be no limits on spending and no restrictions on the ability of Congress to pass legislation which makes the deficit even worse.

Considering spending bills during a lame duck session after the election without any rules imposing budget discipline is a recipe for runaway spending and higher debt.

Unless we renew our budget discipline, Congress will continue to find ways to pass more legislation that puts still more red ink on the national ledger.

Alternatively, enforceable spending limits would serve as a fiscal guardrail to help keep our spending within our means.

Federal Reserve Board Chairman Alan Greenspan told the Budget Committee that "Failing to preserve (budget enforcement rules) would be a grave mistake . . . the bottom line is that if we do not preserve the budget rules and reaffirm our commitment to fiscal responsibility, years of hard effort could be squandered.

Leon Panetta, who served as Chairman of the House Budget Committee and Bill Frenzel, the former Ranking Republican on the Budget Committee wrote a letter on behalf of the Committee for a Responsible Federal Budget warning that: "The expiration of Budget Enforcement Act constraints on spending and revenue legislation is an open invitation to fiscal irresponsibility and an embarrassment to all that care about the budget process. . . . To let them expire now would send a terrible signal to an economy that is struggling for stability."

The Concord Coalition has warned that allowing budget enforcement rules to expire is "an open invitation to fiscal chaos."

Despite these warnings about the harm that could be done to the federal budget and the economy if we allow these rules to expire, the House leadership has resisted any efforts to extend these rules.

In my book, that's a mighty big "plank" in the House's eye.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I urge support for this continuing resolution so that America's critical welfare reform programs and support for low-income families can continue. Welfare reform should not be forced to be part of this discussion today. The House passed a 5-year welfare reform extension bill this May. Fourteen of my colleagues across the aisle joined us in approving that bill. Now more than 4 months later, the Senate has still failed to act.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

The gentleman from California is reminded to avoid improper references to the other body.

Mr. HERGER. Mr. Speaker, if it were not for this continuing resolution, the greatly successful 1996 welfare reforms would expire just 4 days from now. What makes this prolonged lack of action so frustrating is that welfare reform has helped literally millions of families achieve remarkable progress in the last 6 years.

□ 1830

The 1996 welfare reforms were the greatest social policy change success story in history. The success is indisputable. Nearly 3 million children have left poverty. Employment by mothers most likely to go on welfare rose by 40 percent. Welfare caseloads fell by 9 million.

The continuing resolution before us extends for 3 months the important welfare programs depended upon by millions of low-income families. We should not have to be here today extending welfare programs, but the other body has failed to act; so we have no other choice. I encourage my colleagues to support this continuing resolution so millions of low-income families can continue to be supported in their efforts to work and support their families.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HANSEN). The Chair reminds the Members again that characterizing Senate inaction is not appropriate and is against our rules.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I am going to confess our inferiority. We have been here denouncing this continuing resolution, but we are not as good at denouncing continuing resolutions as some of the great figures in America's past.

I was here when Ronald Reagan really talked about a continuing resolution, when he said Congress should not send another one of these, when he belittled a continuing resolution of 5 days and 8 days and 9 days, then denounced the fact that Congress had passed none of the appropriations bills. That was Ronald Reagan holding up that continuing resolution as an example of government at its worst. How the Republican Party has fallen away from that ideal. Ronald Reagan was the one who said let us get the people's work done in time to avoid a foot race with Santa Claus. Santa Claus has gained on the Republican Party since he left.

The Republican Party is usually quite respectful of Ronald Reagan. Why this great falling away from the teachings of President Reagan to which they are usually so obedient? Do the Members know why? I hope Members listened to the speech from the chairman of the Subcommittee on Labor, Health and Human Services and Education, who boasted about increased government spending, and then heard the speech from the majority whip, who denounced all those people who boast about increased government spending. That is the problem when the chairman of the Appropriations subcommittee gives a speech which is in fact denounced by the majority whip. That is why the bill cannot come up.

Let us be clear. There is no rule, there is no principle, there is no Constitution, there is nothing that interferes with this House bringing something up, and Members can violate the rules by denouncing the Senate all they want. It is irrelevant to anything except their disrespect for the rules of this House. It has nothing to do with whether or not we vote on bills. Indeed, they are illogical by their own rules because they ultimately boast about passing some appropriations bills and then complain that some mystical force has kept them from passing the others.

The fact is that rarely, rarely do I have to dissent even mildly from the gentleman from Wisconsin who has been such a magnificent articulator on this issue, but he said the problem is a fight between the moderates and the conservatives of the Republican Party. He knows that is a fight between Mike Tyson and Grandma Moses. The moderates in the Republican Party are lucky if they get the water cooler turned on. It is not the moderates. Here is the problem: it is the Republicans who voted for a tax cut, and then we had Afghanistan and Iraq and homeland security, and we now have demands on expenditures that are greater than the revenues.

I will pay tribute to those like the majority whip in his fervor and venom against government spending. He is prepared to bring government spending down to the level that would be consistent with the tax cut, but the other Republicans want to have it both ways. They want to vote for a tax cut, which reduces government revenue; and then they do not want to vote for a bill that would bring down the spending. So that is why we do not have the bill. We do not have the Health and Human Services bill or the HUD bill because they cannot admit how much they have made it impossible for the government to spend responsibly.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON), who is a member of the Committee on Appropriations.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I thank the chairman for yielding me this time, and I feel compelled to share a few words in this debate tonight.

I have dealt with budgets all my life. For 26 years I operated a business and I had a budget. In the family I had a budget. For 19 years I was in State government and we passed a budget every year. For 10 years I was a State appropriator; so I was very involved in the State budget. It had taken me a while since my 6 years in Washington to figure out our process because it is a lot more complicated, and I have often wondered why it was so complicated. But we all know the basic principles, that the House has to pass a budget and the Senate has to pass a budget, and we have to bring that together. And the process that I have learned to understand is the budget first is the framework of how much money we should spend. The Senate figures out how much money, and then we reconcile that figure and then we are all working off of the same spending plan. We only argue about how we spend it.

This is the first time that process has fallen apart. Our friends have not played in this process and so they have no rules of conduct, they have no limits on spending, so their proposals from the figures I have when you use the budget gimmicks of advance spending is up to close to $15 billion above the President's proposal.

We have had the war on terrorism; we had the rebuilding of our defenses. We have a stellar record of spending in the last few years for education which increased education spending 132 percent.

It seems to me it is the year that we both need to have a proposal that limits spending because we have a war to fight, we have our defenses to rebuild; and if we do not have some rules of spending, we will have deficits as long as we are around. The debate is about do we want to have deficits forever, or do we want to have deficits temporarily and get past deficit spending back to budgets that are surpluses? That is the big argument. If the other body plays by no rules and we have no way to reconcile how much money we are going to spend together, we can never reconcile our appropriation bills at the end of the process, in my view. That is pretty simple adding up the numbers.

So we now have a process where we have rules, they have no rules. We have a limit on how much we will spend so we can get beyond deficit spending down the road. They have taken the rules away so they can spend for anything they want to spend no matter what it costs so it will sound good for the election. Their process is about electing people. It is not about having our budget process work so the American people can know that we have been a little cautious in our spending because we have a war to fight and so that we can bring realism back to our budget process in the future and we can get back to surpluses where this country needs to be.

I rise tonight to say that it is time for these two bodies to reconcile their differences and get down to a budget process that has rules for both bodies.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. For the benefit of the Members, the gentleman from Florida (Mr. YOUNG) has 18 minutes and the gentleman from Wisconsin (Mr. OBEY) has 21 minutes.

The Chair again reminds Members to please not characterize the actions of the Senate.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

I would simply like to say to the gentleman who just spoke, the worst thing that can happen in this town is when we believe our own baloney, and the fact is I have just heard a lot of it.

We hear speech after speech from the majority side of the aisle saying, It's them thar other guys on the other side of the Capitol what's caused this problem.

That is really not the problem. The problem can be summed up in a quote from Shakespeare: "The fault, dear Brutus, lies not in our stars but in ourselves."

I would say to my friends in the majority, you are in the majority. Act like it. Bring the bill to the floor. If you have got the votes, you have got the votes. If you do not, we will reach some other result. But do not stymie the Congress into paralysis and then govern by continuing resolution because you do not have the courage of your convictions. Bring the bills up and see whether the majority whip or other factions in the caucus win. The only reason the majority whip does not want to bring the bill up is because he knows he does not have the votes in his own caucus. I dare him to bring the Labor-Health-Education bill up. I dare him to put the President's budget on the floor.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER), ranking member of the Committee on Education and the Workforce.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding me this time.

Mr. Speaker, I have never heard such a sad, duplicitous argument from my colleagues on the other side as this one of why they cannot get their work done, why they cannot do the job that they were elected to do. They come out here and suggest that somehow it is everyone else's fault, but the fault lies within the Republican caucus.

I find it rather interesting on the eve of the time when so many in this House are so anxious to send our troops into harm's way to establish democracy and defend democracy, they are so afraid of democracy on the floor of the House of Representatives. Bring the bill out and let us vote. Somebody will win and somebody will lose. It may be a bipartisan coalition of moderates and Democrats or right-wing conservatives and conservative Democrats, I do not know. But bring the health and human services appropriations bill to the floor and let us vote. That is democracy.

This is supposed to be the most democratic of all places on the face of the Earth, and you want to manage it because you are afraid to be accountable for your votes. It was not too long ago when the President of the United States said when he signed the No Child Left Behind education reform that I had the honor of working with him on, along with the chairman of the Committee on Education and the Workforce (Chairman BOEHNER), he said to the American public and he said to every audience as we flew around the country as he had multiple signings, if you will, he said, This is the way Washington should work. This is the way Washington should work.

The basic tenet of that bill at the request of the President of the United States was accountability. That bill holds State offices of education accountable, school districts accountable, chief State school officers accountable, teachers accountable. But now we have the Republican caucus, rather than bring out the funding for that bill, seeking to duck the accountability for the savage cuts that are going to happen if we kick this all over to March.

This is not theoretical. My colleagues in California on both sides of the aisle know that in the middle of March, if we have not done this bill, tens of thousands of teachers in California will get pink-slipped, their lives will be disrupted, school budgets will be disrupted. Most of these local governments and school districts will start the budgetary process in January; and by March, April and May they will be deep into their budget. But there will be no education budget. There will be no education budget allowing for the additional billion dollars for special education on which we have bipartisan agreement. There will be no education budget for the 350,000 additional title I children, the children in most desperate need of this money to get a decent education in this country. There will be no education budget for them. There will be no education budget for 350,000 children with disabilities.

Can you not see it in your heart to bring this budget to do your work to carry out the promise of the President of the United States, the promise of this Congress to the parents and to the children of this Nation that there would be a new day for education, there would be a system of standards and goals and accomplishments and, more importantly than anything, of accountability to the children and to the parents?

When? When will this Republican caucus get the courage and the pride to do the Nation's business?

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

□ 1845

Mr. PRICE of North Carolina. Mr. Speaker, the audacity of the House Republican leadership in blocking the entire Federal budget in order to spare the President embarrassment and to cater to their most extreme right-wing members goes beyond anything I have ever seen or experienced in this body.

I was amazed in July when the House leadership caved in to the Conservative Action Team, putting the Labor-HHS-Education appropriations bill in jeopardy. I wondered, how are Republican leaders going to pass this bill within the President's inadequate numbers? How would we get past this bill to the rest of the appropriations agenda before the new fiscal year began?

But, Mr. Speaker, it never occurred to me that Republican leaders would simply disregard the start of the new fiscal year and let the entire budget come crashing down, all to appease the most right-wing members of their caucus.

It is equally amazing that the President and his OMB Director are complicit in this strategy, apparently, or perhaps it is a lack of strategy, for in fact this is irresponsibility and dereliction of duty on a monumental scale.

What I never dreamed would happen has indeed happened, and the continuing resolution we are voting on today, covering not one bill or two, but the entire discretionary budget, is a monument to an extraordinary failure of leadership and responsibility.

This institutional breakdown is fraught with real consequences for real people. The No Child Left Behind Act, for example, was signed by the President amid great bipartisan fanfare in January. Yet, just weeks later, the President submitted a fiscal year 2003 budget that would cut the very education programs authorized in the new law. A continuing resolution will stall education funding and negate the effects of No Child Left Behind while the Bush budget would actually take us backwards.

The Bush budget reduces by 82 percent promised support for needy schools and students. Instead of increasing funding to help school districts meet the mandate that all teachers be highly qualified, the President's budget cuts teacher quality funding by 4 percent, eliminating training for 18,000 teachers.

Instead of providing increased support for after school centers to increase enrollment by 580,000, the President's budget would actually force 50,000 children to be eliminated from programs that provide safe places to learn after school.

Mr. Speaker, the House leadership has allowed a willful group of right-wingers to hold the entire budget process to their ideological agenda. This budgetary breakdown is a disaster, not only for this institution, but for the people we represent.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I have been sitting on the floor now for hours, as many of you have as well. I do not relish saying the following, but I think that we have hit one of our all-time lows.

This is the House of Representatives, the place of the people. We are the political descendants, every single one of us, of this man here, George Washington, of Lafayette, of Lincoln, of Kennedy, of Reagan, of all of them. What has come of us, that we have descended into this?

I say to the gentleman from Florida (Mr. YOUNG), I respect you. You are a gentleman. You are a decent man. I respect the mainstream Republicans who have to deal with this nonsense daily by the only wing that dominates your party now, the right wing.

But the right wing is the wrong wing. The people of this country deserve to have their families taken care of by us. That is why we ran. We said to our respective constituents, whether they were Republicans, Democrats, Independents, we want to fulfill the dream of America for you.

Now, whether we agree or disagree about the approaches, we have the collective responsibility to bring the vehicles to this floor, and a continuing resolution means that there has been a collapse, a collapse of leadership.

I do not want to think of what Lincoln would say about the Republican whip and what he said. He is too busy hating Democrats. What about loving our country and moving an agenda forward?

I feel ashamed tonight. I feel ashamed that there is not enough leadership. Where is the Speaker? Where is the majority leader? We can do better than this. We can do better than this, and the American people will hold us accountable. This is a sad evening.

I will vote for the resolution, so the government does not shut down.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Speaker, I am so honored to serve in the people's House and have taken such great pride in my service here over the past 12 years. I will soon be casting my last vote in this historic Chamber, and I remember casting my first 12 years ago on whether or not to go to war in the Persian Gulf. Members sat attentive, listening, applauding one another, Republican and Democrat. Whether or not they agreed with the Member's position, there was respect and comity.

Now, when this Chamber should be united, when that respect should be at an all time high, when we should be productive and working into the night, we are questioning one another's patriotism and calling one another names.

What is happening to this great institution? That night we went into the night, we worked for days. We did the people's work. Now we work 2 days. We cannot bring a housing bill to the floor, we cannot bring an education bill to the floor, we cannot have the great debates that this body has had over centuries.

Why can we not rise to the occasion, rather than putting this great body into reverse and going backwards at one of the most momentous and important times in our Nation's history? Let us pull together and work together and bring glory and hope to what Abraham Lincoln said was the last best hope of mankind. Let us come together and work together in a bipartisan way and do the people's work.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me time.

Mr. Speaker, I have to tell you, I am reminded of the coffee shop breakfast table where I ate breakfast every morning for 27 years. We have a motto, "Often wrong, but never in doubt."

It is a sad day, as previous speakers, have mentioned. We are Americans. We can do better. We can do anything. All we have to do is work together and do the right thing.

The facts are we have got more people in poverty now than we had 2 years ago. Middle income has gone down. The debt is $440 billion greater. The American people continue to get robbed every time they go to the drugstore by the criminal acts of the prescription drug manufacturers.

We have spent all of the Social Security and Medicare trust funds. It is all gone. We collected that money with a promise to the American people that we would take it and it would be there to pay your benefits when your time came. It is all gone. Those are facts. You cannot hide from them. You cannot make up something else. You cannot blame it on somebody else. That is the way it is.

It is also a fact, as I said in the beginning, that we are Americans. We can do better. This is a shameful event in the history of this House.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois (Mr. PHELPS).

Mr. PHELPS. Mr. Speaker, I thank the gentleman from Wisconsin for allowing me the time to speak on this very important subject.

That we are asked to vote on a continuing resolution to continue something implies that which is in progress to reach a reasonable end, a resolve. I remember my father saying, "Don't start a job you can't finish." Well, that is what we are doing, if we are not careful. It is my hope that we can come together and resolve the differences before we throw in the towel.

I am not a quitter. I want to do everything possible that we can to come to a positive end.

Circumstances have changed drastically since we enacted the budget last year, the Republican budget last year. The projections turned out to be too optimistic. Revenues are much lower than expected, and we face tremendous new expenses for homeland defense and the war on terrorism and a possible war with Iraq.

But we have got to acknowledge that there is a problem. New situations call for new solutions. Do not point fingers at each other and say it will work itself out. We came here to do a job, the greatest deliberative body in the world, to debate the very differences that we have. Maybe it is about unions in one respect and business in another, but that is why we came here. Can we not as reasonable people reach a resolve on behalf of the American people, whom we are going to ask in a few days to reelect us? It is shameful if we cannot.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, like every one of you, I love my country, but I do not think we serve our country when we lie to the people who sent us here.

In the past month I have heard no one less than the Speaker of this House and the majority whip tell the American people we are paying down the debt. A question I pose to the both of you, if that is so, then why did this body schedule a vote in the wee hours of the morning when our constituents slept to raise the debt limit over $6 trillion? If that is so, why is our Nation $440 billion deeper in debt than 1 year ago today, and en route within the next week to have the single largest increase in our Nation's debt in one fiscal year?

Mr. Speaker, we have to pass this resolution tonight. But I want to very much commend the people in that party and the people in this party who are working with our budget chairman to try to rein in spending, because not one of you would go buy a car and say, "Let my kids pay for it." Not one of you would go buy a house and say, "By the way, I don't care what it costs, let my kids pay for it." That is precisely what you are doing.

By the way, it was a Republican House, a Republican Senate and a Republican President who signed the budget bill last year. Please do not tell me and please do not tell the people I represent that somehow your magical budget is going to solve that, because it was your budget that put us $440 billion deeper in debt in the past 12 months.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

□ 1900

Mr. EDWARDS. Mr. Speaker, while American servicemen and women are fighting the war against terrorism in Afghanistan tonight, and preparing for possible war against Iraq, it seems to me that the House could at least extend its present 3-day work week in order to keep from undermining the education of military schoolchildren. By not passing our education appropriation bill and by relying on this continuing resolution, this bill will basically prevent hundreds of millions of Federal dollars from going in November to public schools that have large numbers of military schoolchildren in them.

How can the House leadership explain to soldiers fighting 7 days a week in Afghanistan that the House cannot pass an education appropriations bill important to their children's education because that might just require Members of Congress to work more than 3 days a week? If the top Republican leadership has time to campaign in my district in Texas this weekend, then surely they can find time to schedule more than a 3-day work week in the House so that we can pass an education appropriations bill that is vital to thousands of Army parents in my district.

We have an obligation, Democrat and Republican alike in this House, to pass appropriation bills. That is our responsibility, Mr. Speaker, even if it requires more than a 3-day work week. We owe it to our military children and to their parents who sacrifice so much for our Nation to put this continuing resolution aside, get back to work, and pass an education appropriation bill.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, after 6 years on the Committee on the Budget, I am amazed at the debate I have heard tonight. I did not realize just how powerful that committee is. In the 6 years I have been on that committee, I have seen Members of the other party in this body and the other body waive the pay-go rules, waive the spending cap rules to accomplish whatever goal they want. But tonight, tonight we hear, because we do not have a budget resolution of both bodies, we cannot bring appropriations bills to the House floor.

Why is it that we can have an ongoing conference on the defense bill and the military construction bill but, somehow, we cannot even bring the Labor-HHS-Education bill to the floor, we cannot bring the science bill or the housing bill or any of those other bills, because the majority whip tells us, if we bring them to the floor, then we will have to go to conference and then the spending will go up?

But we are already in conference on other bills. It seems rather illogical to this Member that if we can do it on some bills, why we cannot do it on other bills.

What it is, Mr. Speaker, is that there is a small cadre in the House on the Republican side that are the last to realize that the economic program of this administration has been a failure, and rather than leaving us in surplus, we have wiped out over $5 trillion in surplus value, including that in the Social Security and Medicare trust funds. They are the last ones to realize it. The American people and the majority in the House and the Senate long ago did. We ought to bring those bills to the floor and finish our work for the American people.

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, it is irresponsible for Congress to put off doing the people's business; it is irresponsible for the Republican majority to continue to ignore America's unmet needs, particularly our commitment to educating our children. From Head Start to teacher's pay, America's children, teachers and schools are being severely shortchanged by President Bush's budget and the majority's inaction. Mr. Speaker, 18,000 fewer teachers being trained, 33,000 fewer children in after-school programs, zero funds for repairing our crumbling schools, and only 9 months ago, we heard so much talk about how Congress and the administration would leave no child behind.

But now, with the smallest proposed increase in education since 1996, the President and the Republican majority are doing just that. Leaving our children behind is what happens when we underfund education by $7.2 billion.

This year programs funded under the No Child Left Behind Act are cut by $87 million, no additional resources to purchase books, to invest in teacher training. The President does take a lot of photographs with young children. When it comes to early childhood learning, we have heard soaring rhetoric, but not much else. Nowhere in the Bush budget does the Republican rhetoric ring more hollow. They have cut the Even Start program, supporting projects that combine early childhood education for children and literacy training for parents. By gutting Even Start, we leave whole families behind.

What we need to do is to stop taking pictures with children and provide them with the tools they need in order that they might succeed.

Mr. OBEY. Mr. Speaker, I yield myself the remaining 1½ minutes.

Mr. Speaker, under the rules of the House, the gentleman from Florida has the right to close; he still has a lot of time remaining, and so much may be said which we will not be able to respond to. But having said that, let me simply say that I think every Member of the House wishes the chairman well. He is being honored tonight for his leadership on bone marrow research, and I hope we do not tie him up too late here so that he can receive that award. I want to congratulate him for it. I think all of us in the House know that he deserves it, and his mother will be proud.

Let me also say, Mr. Speaker, we are simply here because this resolution will extend the ability of the government to function until October 4. It is then my understanding there is another plan to move us to October 11; and then after that, evidently, an effort will be made to move us past the election. I want the majority leadership to understand, I will not vote for a resolution that moves us past the election without doing our duty to pass the education bill, to pass the science bill, to pass the other appropriation bills that this House has a duty to pass. We should not sneak out of town before we have done our duty, especially our duty by the children of America.

Mr. Speaker, I urge the House leadership to take the time afforded by this resolution to face up to their responsibilities to bring the Labor-Health-Education bill to the floor, as well as the other bills, so that the House can finish its business.

When we finish our business, then we can squawk about the other body. Until then, we have no claim in the world to do so.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, anyone observing our debate this evening would think that we were engaged in some great political activity and that this bill on the floor was going to affect the politics of this body.

The fact of the matter is, we are only talking about a 4-day CR, and I would suggest that maybe some of us should save our ammunition for next week, because we are going to have to go through this all again next week, probably.

As far as it being a CR, someone might get the idea that it is a sinister development or a sneaky procedure. Except for the year that the gentleman from Wisconsin chaired the Committee on Appropriations, we have used CRs around here forever. So this is not something that is new; it has been used before, a number of times, many times.

But as strange as it might seem from all of this debate, this really is a bipartisan bill that we are debating here tonight. It is bipartisan because the gentleman from Wisconsin has worked closely with us to fashion this bill, and I do not want to get in trouble here with the rules of the House, but as well as the chairman of the Committee on Appropriations in the other body, and the ranking Republican member of the other body; we all worked together to fashion this nonpartisan, bipartisan continuing resolution.

As I said, we are probably going to have to do this again next week, so if my colleagues have some other ammunition that they want to throw out, save it. Although I think everything that needs to be said has probably already been said, but let us see.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman very, very briefly, because I have said there would be no other speakers.

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding.

I would tell my friend from Wisconsin, if I was fighting in combat, I would want to fight against the best MiG driver there is; and as a political opponent and a friend, I think we have fought against one of the best MiG drivers here on the floor tonight, and I salute the gentleman.

I would just like to answer, and I do not think they will be controversial, two questions real quick. The gentleman from Texas (Mr. EDWARDS) asked how can we increase the debt. If you inherit a debt that is $5 trillion and you nearly spend $1 billion a day on just the interest of the debt, it grows. You can pay down $490 billion; but if it grows over the years, over $1 billion a day, it is going to get bigger.

The other thing I would say is to my friend, the gentleman from California (Mr. GEORGE MILLER), whom I am very proud of as a colleague in California, who worked on the education bill, but I would ask him to take a look at what Governor Gray Davis is doing to education in California where every single district is being cut millions of dollars because of the energy crisis that was mismanaged.

Mr. YOUNG of Florida. Again, Mr. Speaker, this is a continuing resolution to keep the government funded until October 4, which is 4 days into the fiscal year. It is a bipartisan bill, and I would urge that we vote it quickly, send it down to the other body so that we can get it to the President's desk.

Mr. BLUMENAUER. Mr. Speaker, it is unfortunate that we have not been able to deal meaningfully with the appropriations process. The fiscal year ends in a few more days and we have not completed our appropriations work. Indeed, we have barely begun. The Republican part has a split between its conservative and its more conservative members, which is keeping the remaining appropriations bills from being brought to the House floor for debate and action.

The funding of our federal departments and program is one of the most important jobs of

Congress. We must honor our commitments to defend our country, educate our children, and protect the environment. I am willing to support this short-term continuing resolution. However, we must, sooner rather than later, face up to the consequences of a massive tax cut, more demands for security, and the impact of the wasteful farm bill, and get on with the job the American people expect of us.

Mrs. LOWEY. Mr. Speaker, I wanted to take this opportunity to express my strong opposition to the idea of a long-term continuing resolution.

My colleagues, what have we done over the last few weeks? We've passed resolutions critical of the other body. Day by day, however, the start of the fiscal year approaches and the possibility looms that our inaction on the Labor-HHS bill will be felt in classrooms throughout American and by every school-age kid.

The House Republican leadership ought to stop pointing the finger at the Senate, and start crafting appropriations bills that are palatable to their own party.

Last year we passed and the President signed into law the landmark reauthorization of the ESEA, which calls for substantial increases in funding to ensure a quality education for every American child. The No Child Left Behind Act marked a new federal commitment to the education of our children.

It seems, unfortunately, that the Republican Leadership suddenly forgot everything it said as soon as we passed this bill.

The new ESEA law promised to provide school districts with 40% of the nation's average per pupil expenditure for each low-income student. Title I funding already does not meet the overwhelming need across the country, particularly in urban school districts, but ESEA was a step in the right direction.

The Republican budget, however, provides a mere $1 billion increase in Title I funding. This funding level is $16.7 billion below "full" funding for Title I under the new education law. Not only does this increase come on the backs of other programs, but it does not even keep up with inflation.

In New York City alone, only 30% of eligible low-income students were served by Title I in the last school year. This means that 326,000 students are being left behind. Under the Republican budget, even with the $1 billion increase, 256,000 eligible students will still miss out.

The failure to provide adequate Title I dollars runs counter to the historic No Child Left Behind Act, which promised to provide greater federal assistance to those schools serving the highest concentration of poor students. Regardless of location, the costs of educating children are similar in all schools. Under the Republicans' education spending bill, children will continue to be deprived of critical academic services.

Now it is the number one victim of Republican delays and intra-party squabbles.

Democrats will not allow after-school, teacher training, and school construction programs be put aside and underfunded until the spring of next year. Clearly, education must remain a recession-proof priority.

Mr. HINOJOSA. Mr. Speaker, although I support this continuing resolution, I want to sound a warning to my colleagues.

Last year, many of us proudly went to the White House and stood with the President as he signed the No Child Left Behind Act. That bill instituted many needed reforms and authorized additional funding to help poor and disadvantaged children.

I was very disappointed when the President's Fiscal Year 2003 budget did not provide the money necessary to fulfill the promise of that historic bill. Yet today we are heading down a path that will be even more tragic.

No matter how inadequate the President's budget, it at least provided some minimal increases to several critical programs. If in the next few weeks, however, we agree to a long-term continuing resolution, even those scant increases will be gone.

What does this mean to our children? It means that states with sizeable Hispanic student populations like Texas, California, New York and Florida will lose almost $2 billion in funding for Title I.

California, Texas, New York, Arizona, New Mexico and Illinois will lose $63 million just under the English Language Acquisition State Grants program. This program serves 950,000 limited-English proficient and immigrant children. These are the children who need the most help, yet we will be denying them access to education they deserve.

If we pass a long-term CR will be freezing funding for TRIO, GEAR-UP, Migrant Education, drop-out prevention, and the College Assistance Migrant Programs. All of these programs heavily impact Hispanic students nationwide. A long-term CR will leave thousands of Hispanic children behind.

We do not need a long-term continuing resolution, we need a fully funded education appropriations bill for all the children in this country. I urge my colleagues to take heed.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HANSEN). All time for debate has expired.

The joint resolution is considered read for amendment, and pursuant to the order of the House of today, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 370, nays 1, not voting 61, as follows:

[Roll No. 423]

YEAS—370

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Berkley
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Camp
Cannon
Cantor
Capito
Capps
Capuano
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (NY)
McCollum
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer

Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—1

DeFazio

NOT VOTING—61

Armey
Bachus
Baker
Barcia
Bereuter
Berman
Bilirakis
Boehlert
Bonior
Burton
Buyer
Callahan
Calvert
Cardin
Condit
Conyers
Cooksey
Deal
Delahunt
Dooley
Ehrlich
Everett
Gallegly
Green (TX)
Hilleary
Hinojosa
Hoekstra
Houghton
Israel
Issa
Istook
Keller
Kind (WI)
King (NY)
LaHood
LaTourette
Maloney (NY)
McCarthy (MO)
McCrery
McDermott
McInnis
Meek (FL)
Miller, Gary
Mink
Murtha
Ortiz
Otter
Paul
Quinn
Ros-Lehtinen
Roukema
Sandlin
Sawyer
Shadegg
Simpson
Slaughter
Stump
Thompson (CA)
Thurman
Visclosky
Young (AK)

□ 1935

Ms. CARSON of Indiana changed her vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. McCARTHY of Missouri. Mr. Speaker, during rollcall vote No. 423, H.J. Res. 111, continuing Appropriations for FY03 I was unavoidably detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. ISRAEL. Mr. Speaker, I was absent from votes this afternoon so that I could be in New York to keep an appointment at my daughter's school. Were I here I would have voted as follows:

Rollcall Vote 420, on a Motion to Recommit H.R. 4600 with Instructions: "yea"; rollcall Vote 421, on Passing H.R. 4600: "nay"; rollcall Vote 422, on Passing the Conference Report to Accompany H.R. 2215: "yea"; and rollcall Vote 423, on Passing H.J. Res. 111: "yea".

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 483 Concurrent Resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1646.

The message also announced, that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1646) An Act to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes.

LEGISLATIVE PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I take this time for the purposes of inquiring about the schedule of next week, and I yield to the distinguished gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentlewoman for yielding.

I am pleased to announce that the House has completed its legislative business for the week. The House will next meet for legislative business on Tuesday, October 1 at 10:30 a.m. for morning hour and 12 o'clock noon for legislative business. The majority leader will schedule a number of measures under suspension of the rules, a list of which will be distributed to the Members' offices tomorrow. Recorded votes on Tuesday will be postponed until 6:30 p.m.

For Wednesday and the balance of the week, the majority leader has scheduled the following measures for consideration in the House:

H. Res. 559, a House resolution on expedited special elections;

H. Res. 543, expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage penalty tax relief permanent; a continuing resolutions; and S. 2690, the Pledge of Allegiance Reaffirmation Act; and Conferees are also working hard to complete work on the Bob Stump National Defense Authorization Act conference report. It is our hope that the conference report will be available for consideration in the House next week as well.

I thank the gentlewoman for yielding.

Ms. PELOSI. Mr. Speaker, I thank the gentleman.

From what I can tell from what he read, next week we will have another week of heavy lifting: a House resolution on special elections, sense of the Congress on making tax relief permanent, a continuing resolution reflecting the fact that we have not finished our business, and the Pledge of Allegiance Reaffirmation Act.

We all want to reaffirm our Pledge of Allegiance, but we can do that by pledging allegiance not only to the Flag but to the American people. They are still crying out for us to take action, to grow the economy, to create jobs, to educate our children, to provide a prescription drug benefit, access to health care, protect Social Security, preserve Medicare, give us a prescription drug benefit under Medicare; and we are having resolutions and hoping to complete our work on the defense bill.

I have some questions for the gentleman. Will the resolution on Iraq be brought up on the floor next week? If not, when do you think it will be brought up?

Mr. Speaker, I yield to the distinguished gentleman.

Mr. BLUNT. Mr. Speaker, in response to my friend, the gentlewoman from California (Ms. PELOSI), I would like to say that on the list of things she mentioned, the House of Representatives passed virtually all of that legislation, sent it to the Senate. We would like to see it come back and would like to take final action on it and hope that the conference reports on defense and military construction and other conference reports would produce some of that work next week.

In terms of Iraq, there is hard work on a bipartisan bicameral basis to get a resolution that I personally would be pleased to see come to the House next week, but we are working hard to have a resolution that has broad agreement to deal with this very important question.

Ms. PELOSI. Mr. Speaker, I thank the gentleman. Can the distinguished gentleman inform us when H.R. 3450, to reauthorize community health centers, might be scheduled? Twelve million Americans who are served by the centers are waiting to hear. I was hoping it might be a suspension on Tuesday.

Mr. BLUNT. Mr. Speaker, at the gentlewoman's request, I am told it will be on suspension on Tuesday, and I look forward to seeing that bill come to the floor as well.

Ms. PELOSI. To the best of the gentleman's knowledge, will there be votes next Friday?

Mr. BLUNT. I think there very likely will be votes next Friday; and certainly if we are able to move on the Iraq resolution, there will definitely be votes on Friday.

Ms. PELOSI. We have given up Monday of next week already?

Mr. BLUNT. We are working Tuesday, not Monday.

Ms. PELOSI. What is the leader's latest prediction on when the House will adjourn before the election? Closer to October 11 or 18? And when do you believe we will return for a lame duck session?

Mr. BLUNT. I am certainly in no position to predict that. I think there is a discussion with the leaders on both sides of the building. We want to adjourn, of course, in conjunction with our friends on the other side of the building. I would anticipate that the continuing resolution next week will go through the 11th; and hopefully by the time we get into that period, we will have either resolved some of the appropriations concerns, or we will be looking at the time between now and the election in a more definite way.

Ms. PELOSI. I certainly hope so. And I hope that we can work together to pass more of these appropriations bills. We have taken them up in committee. Some of them are ready. In fact, the distinguished chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs last Thursday on the floor asked when his bill would be taken up. We are working on transportation, but we passed District of Columbia today. So many of these bills are ripe for coming to the floor. That is why I am disappointed not to see them on the schedule because when we pass up votes on Monday, I remind my colleagues that is September 30, the last day of the fiscal year, Mr. Speaker, and once again there are no appropriations bills scheduled to be on the floor. We used to say, and you know the expression, you are a young man, "Thank God it's Friday." Around here it is "Thank God it's Thursday." Now the Republican leadership is giving us a work week that ends on Thursday afternoon. I am sure hard-working Americans who are holding down two jobs to support their families and work more than 40 hours a week would appreciate a schedule like this.

We spent weeks telling the other body that they have made no progress taking care of business we think they should be doing, and yet we have neglected so many of our own responsibilities. We have eight appropriations bills to fund the entire government that the House has yet to consider: education, veterans' medical care, transportation, agriculture, energy. The list goes on and on. And the disappointment is that these are being held up because an element, not the entire, but an element in the Republican Party wants to cut $7 billion out of education and you do not have the votes to do that; so you cannot bring it to the floor and therefore we are engaged in this business of one CR after another.

I thank the gentleman for the information.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF HOUSE RESOLUTION 559, EXPEDITED SPECIAL ELECTIONS

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time to consider in the House H. Res. 559; the resolution shall be considered as read for amendment; the resolution shall be debatable for 90 minutes, equally divided among and controlled by the chairman and ranking minority member of the Committee on House Administration, Representative COX of California and Representative FROST of Texas; and the previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. PUTNAM). Is there objection to the request of the gentleman from California?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 30, 2002

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON TUESDAY, OCTOBER 1, 2002

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, September 30, 2002, it adjourn to meet at 10:30 a.m. on Tuesday, October 1, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR THE COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 30, 2002, TO FILE REPORT ON H.R. 4561, FEDERAL AGENCY PROTECTION OF PRIVACY ACT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight on Monday, September 30, 2002, to file a report to accompany H.R. 4561.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 30, 2002, TO FILE REPORT ON H.R. 4125, FEDERAL COURTS IMPROVEMENT ACT OF 2002

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight on Monday, September 30, 2002, to file a report to accompany H.R. 4125.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 30, 2002, TO FILE REPORT H.R. 5428, CONSERVATION AND WATER DEVELOPMENT PROJECTS AUTHORIZATION

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure may have until midnight on Monday, September 30, 2002, to file a report to accompany H.R. 5428.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1945

APPOINTMENT OF HON. JAMES V. HANSEN TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH OCTOBER 1, 2002

The SPEAKER pro tempore (Mr. PUTNAM) laid before the House the following communication from the Speaker:

> WASHINGTON, DC,
> *September 26, 2002.*
>
> I hereby appoint the Honorable JAMES V. HANSEN or, if not available to perform this duty, the Honorable MAC THORNBERRY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through October 1, 2002.
>
> J. DENNIS HASTERT,
> *Speaker of the House of Representatives.*

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

STANDING FIRM FOR THE PEOPLE OF SUDAN

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Mr. Speaker, for nearly 20 years, the people of

Sudan have been engaged in a civil war. The government in Khartoum, known as the National Islamic Front, has been ruthlessly terrorizing its own citizens in the south, killing and starving those who are not Muslim Arabs.

This religious hatred has evolved into genocide. Christians in southern Sudan are the subject of ethnic cleansing. Over 2 million people have died. Over 4 million people have been displaced. The war in Sudan is clearly one of good versus evil.

If this persecution was not bad enough, southern Sudan is a source of enormous oil reserves, causing the National Islamic Front to literally clear a path of black Christians in order to reap the benefits of this commodity.

Sudan is perhaps the most prominent purveyor of slavery, an atrocity of unspeakable proportions. Women and children are subjected to extreme cruelty. Men are removed from their families and given Arabic names before experiencing the worst of conditions.

There have been many prayers and vigils for the people of Sudan recently. I commend those who speak up for the persecuted and enslaved in the south of Sudan, and I urge the Sudanese government to resume peace talks with the Sudan People's Liberation Army. We must have peace, Mr. Speaker, in Sudan.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WELCOMING MEMBERS OF RUSSIAN DUMA AND FEDERATION COUNCIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise tonight to pay tribute to what has been a very exciting week.

Members of this body and the other body played host to four separate groups of our colleagues from the Russian Duma and Federation Council. These groups were involved in intense discussions involving cooperation on antiterrorism, on projects involving health care, energy, programs to improve the conditions of the people of Russia and the relationship between the U.S.

In fact, the gentleman from New Jersey (Mr. SAXTON) chaired one delegation, and we had Members of other groups in the Congress chair other delegations. The gentleman from New Jersey (Mr. SMITH) was hosting a group that was focusing on veterans benefits and ways to construct housing support for the military in Russia. It has been a good week.

Mr. Speaker, on Tuesday a group of our colleagues, 12 to be exact, from both sides of the aisle played host to one of the rising young companies in Russia, an energy company known as ATERA and their CEO Igor Makarov. The members of the bipartisan delegation that traveled to Russia last May were hosted by ATERA as they had been hosted in previous delegations by the officials from GASTFIRM, LUKoil and other major energy companies, including Yukost and our friend Mikhail Korofko.

In response to the hospitality shown to us in Moscow, we agreed to host a dinner here in Washington for Makarov and the ATERA Corporation, and so on Tuesday evening in the Library of Congress almost 30 Members of this body from both parties and members of the other body assembled, along with diplomats from eight nations and approximately 18 members of the Russian Duma and Federation Council. In addition, we were joined by officials from various Federal agencies.

It was a very productive dinner, as we heard the progress of this young energy company, 10 years old, that now has an annual revenue approximating $5 billion.

There were also some serious discussions because, as with other merging companies in Russia, there have been allegations and accusations, as there have been with other energy companies and other banks and institutions in Russia, that the companies are perhaps not transparent enough, perhaps they have items that we have to confront and ask them about.

In this case, what was absolutely refreshing was that the chairman of the board of the ATERA, Igor Marakov, a young 34-year-old champion bicyclist from Russia, openly in front of our entire assembled group offered to provide to us the complete list of all of the owners of this privately held corporation. That in itself was significant because they are a private corporation. They gave us the list at my request of not just the owners of the company but also the members and employees of their Esau who, in fact, were revealed to us so that we now know the true ownership of this corporation as they move to be accepted on the New York Stock Exchange.

Secondarily, because of concerns that we raised with them and concerns that we have had with other companies that are emerging in Russia, they announced that they have agreed to form an outside independent board that would monitor and review the board activities of ATERA, and they have announced that they are accepting, and I have provided to them suggestions for prominent Americans that can reflect upon the kind of work that this company is engaged in, and in fact, they had meetings this week with former CIA Director Jim Woolsey, former Energy Secretary and former CNO of the Navy Jim Watkins and, in fact, took their constructive suggestions and have agreed to put into place an aggressive effort to open up the inside operations of the company, the kinds of activities they are involved in, the extent of their operations and to have a formal process for these kinds of officials that will, in fact, come from America and perhaps other companies to bring true transparency to their company.

For these things I applaud ATERA. I am not saying that we have answered all the questions, but I am saying that we have made a good start, and this company deserves to be given credit for coming to Washington and telling the elected officials of this body that it wants to be open, it wants to engage with American energy corporations. It wants to have the bipartisan look of not just Members of Congress and our agencies but also of those individuals in America that can help them chart a new course, a course of integrity, honesty and openness as they grow into a company that hopefully will become a true multinational organization.

I thank my colleagues for joining with me in hosting that event, in particular the gentlewoman from Florida (Ms. BROWN) and the gentleman from Florida (Mr. SHAW) from Jacksonville, who hosts the corporate headquarters of this company, and I applaud those other Russian companies that are looking to make the same strides in moving toward open ownership and openness and moving toward the kind of transparency that American companies must provide to get the investment from the people of this country and people from around the world who have confidence in the American free enterprise system.

FREEDOM OF SPEECH FOR RELIGIOUS INSTITUTIONS

The SPEAKER pro tempore (Mr. CRENSHAW). Under the Speaker's announced policy of January 3, 2001, the gentleman from North Carolina (Mr. JONES) is recognized for 60 minutes as the designee of the majority leader.

Mr. JONES of North Carolina. Mr. Speaker, I want to report to the staff that I will not take the full hour. That I am sure is good news because they work awfully hard, and many times the staff is here at 11:00 at night. I will keep my word to be not much longer than 20 minutes.

Mr. Speaker, I am on the floor again, I have been every week for the last month, talking about an issue that, to me, if we are talking about September 11, we are talking about the war on terrorism, we are talking about our troops in Afghanistan. Part of the reason they are there is to protect our freedom. There is no question about it, and our national security.

The reason I come to the floor is because a year or so ago it was brought to my attention by a minister in my District that he was prohibited from talking about a political issue or candidate during the 2000 election in the months of September and October. So I took it upon myself to, along with my staff, to research this issue, and I found out that in 1954 Lyndon Baines Johnson had the H.L. Hunt family opposed to his reelection, and the H.L. Hunt family had established two 501(c)(3) think tanks.

So Johnson, being the majority leader and a very powerful man, and I think very arrogant man quite frankly, but anyway that is my opinion. He put an amendment on the revenue bill that was going through the Senate that was never debated, no debate, and basically what this debate said that if a company is a 501(c)(3) then they may not have political speech.

Mr. Speaker, the reason that bothers me so greatly is that prior to the Johnson amendment, any pastor, priest or rabbi or cleric in this country had the right to talk about any issue that they and the congregation chose for that minister to talk about. The Johnson amendment put the IRS, because his amendment went on a revenue bill, into our churches, and they are what we call the speech patrol.

That is not what this great Nation is about. This great Nation is about freedom, and the first amendment is cherished by all of us, and I would always do any and everything I can as a Member of Congress and as a citizen to protect the first amendment rights of the people of this country, and that includes our preachers, priests and rabbis.

So we put a bill in as H.R. 2357, the Houses of Worship Political Speech Protection Act, and I am pleased to tell my colleagues, as of tonight, we have about 134 cosponsors. We are picking up some from the other side of the aisle, some Democrats. I am delighted that the gentleman from Tennessee (Mr. CLEMENT) came on this week. He has joined us in this fight to return the freedom of speech to our churches and synagogues, and I want to read a couple of quotes at this time.

This is a quote from the former Congressman George Hansen from Idaho who served 12 terms, and this is his quote, "It is impossible to have religious freedom in any Nation where churches are licensed to the government." In my opinion, if the government is going to influence what a person can and cannot say within a church, then that is the government, in my opinion, that might as well as be licensed to churches, if they are going to stop them from talking about the moral and political issues of the day, because many of the biblical issues are today the political issues of the day. So the churches should be free to have those sermons and those discussions if the minister chooses to do so.

In addition, Martin Luther said, "The church must be reminded that it is neither the master nor the servant of the State but, rather, the conscience of the State."

Mr. Speaker, what happened in the year 2000 and actually throughout the election cycle in the year 2000, Barry Lynn of the Americans United for Separation of Church and State, he sends a letter to the religious leaders, both front page and back, and I am just going to read one paragraph because I want to make a point with this one paragraph. He says, "Dear Religious Leader, another election year is upon us, and questions about the appropriate role of houses of worship in the political process have arisen."

The second paragraph is the one that I really find intriguing quite frankly because he says in the first sentence of the second paragraph, he acknowledges what I am saying tonight is that our churches are guaranteed freedom of speech by the Constitution, and this is what Mr. Lynn says to begin this second paragraph.

"The First Amendment of the U.S. Constitution protects the right of pastors and church leaders to speak out on religious, moral and political issues." That is exactly what I am saying. Exactly what I am saying. The first amendment guarantees the freedom of speech in our churches and synagogues and mosques throughout this country. However, and that is the word he uses, the second part of that paragraph or the second sentence in that paragraph is exactly what I am talking about tonight, the Johnson amendment.

He says, "However, houses of worship, as nonprofit entities under Section 501(c)(3) of the Internal Revenue Service Tax Code, are barred from endorsing or opposing candidates for any public office and may not intervene directly or indirectly in partisan campaigns."

That is because of the Johnson amendment. If I go back to Mr. Lynn's first sentence, very seldom do I agree with him, but I do agree with him and he is exactly right, "The first amendment of the U.S. Constitution protects the right of pastors and church leaders to speak out on religious, moral and political issues."

□ 2000

He is right. The problem is the second sentence, the Johnson amendment, "however." That is right, Mr. Lynn and I agree, the Constitution does guarantee that right to our preachers, priests, and rabbis throughout this country.

There was a hearing held, and the gentleman from Illinois (Mr. CRANE) has certainly been interested in this issue. He has a separate bill from mine. They are not competing. Mine just takes a different approach than his, but I want to praise the gentleman from Illinois (Mr. CRANE) for taking on this issue for a number of years, and I look forward to working with him in the months and years ahead. One day I hope that President Bush will sign a bill that says to the churches and synagogues of this country that they have total free speech in that church. That is what the cosponsors who have joined us on this bill, H.R. 2357, want.

Tonight I am not going to take the time to list all of the spiritual leaders that have written letters of support and made telephone calls.

Dr. D. James Kennedy from Florida testified before the oversight subcommittee of the Committee on Ways and Means, and brought petitions signed by 60,000 people from around this country in support of this legislation. That same day we had a former Member of Congress from Washington, D.C., and a vice mayor of Washington, D.C., Pastor Walter Fauntroy testified on behalf of this legislation at the same time Dr. D. James Kennedy testified, and the attorney who helped me draft this legislation, Mr. Kobe May of the American Center for Law and Justice. Mr. May has been in the courts many times trying to protect the first amendment rights of people throughout this country.

What I want to share is a response. There were two representatives from the Internal Revenue Service. One is Mr. Hopkins, and one is Mr. Miller. I found the whole testimony intriguing, quite frankly, but just a couple of points I would like to bring forward. In response to a question the gentleman from Georgia (Mr. LEWIS) asked Mr. Miller, "As a rule, do you monitor the activities of churches during the political season?"

Mr. Miller with the Internal Revenue Service, "We do monitor churches. We are limited in how we do that by reason of section 7611 and because of lack of information in the area because there is no annual filing."

Mr. Speaker, this is the point that I want to make clearly. The last part of his answer, Mr. Miller to the gentleman from Georgia (Mr. LEWIS), and this is what I wanted to stress, "So our monitoring is mostly receipt of information from third parties who are looking."

Mr. Speaker, third parties that are looking to see what the church and the pastor in that church is talking about and if he is violating the 501(c)(3) status, the Johnson amendment, then he is in violation and can lose the 501(c)(3) status. For those who talk about the separation of church and state, if they really are concerned, why do they want the government dictating what a minister might or might not be able to say within the church?

Let me go just a little bit further. The gentleman from Illinois (Mr.

WELLER) also is on that committee, and I want to read a couple of his questions and the answers. This gives a better example I think to my colleagues here in the House. The gentleman from Illinois (Mr. WELLER) asked a question of Mr. Miller of the Internal Revenue Service. Can the from the pulpit and not be in violation of the tax status that candidate is pro life or candidate why is pro choice? The answer was that becomes more problematic can speak to issues of the take but to the extent they start tying it to particular candidates and to a particular election, it begins to look more and more like either opposition to a particular candidate or favoring a particular candidate.

Basically he is saying they are in violation of the Johnson amendment. The preacher cannot do that. That is exactly what he is saying that.

Let me go to another question that the gentleman from Illinois (Mr. WELLER) asked. He asked, "and would the Crane and Jones legislation clarify the law to allow for that type of statement?

Mr. Miller answers, "I believe so."

That is what this is all about. I think if this country is to remain morally strong, our spiritual leaders throughout the country should have the right to talk about these issues. They had it prior to 1954. I am going to give evidence of that in just a moment.

Another question from the gentleman from Illinois (Mr. WELLER) to another agent who was in attendance, Mr. Hopkins. He says, "So just to follow up on that, say you have a candidate who is a guest speaker, was in a church speaking from the pulpit, concludes his or her remarks, and the minister walks up, puts his or her arm around that particular candidate and says, this is the right candidate. I urge you to support this candidate. Is that allowable under current law?"

Mr. Hopkins with the Internal Revenue Service, "No, that would not be allowable under current law. That would clearly be political campaign activity. It would be protected, however, under the two bills that are the specific subject of the hearing." So it would be protected under my bill and the Crane bill.

Some people might say why should the churches get involved in political campaigns. Let me give another example. Down in my district during the year 2000, Jerry Shield, a friend of mine who is Catholic, went to his priest, Father Rudy at St. Paul's in New Bern, North Carolina, the Sunday before the Tuesday and he said to Father Rudy, Would you please say to the congregation George Bush is pro-life. The priest said, I cannot do that. It will violate the tax status of this church.

Let me give an example on the other side. There is a wonderful former Member of Congress, Floyd Flake, whom all of us love. He is Dr. Floyd Flake, a minister, and has a very large church in New York City. Mr. Flake had Al Gore in his church, and when Mr. Gore completed his speech, Reverend Flake went up and did exactly the same thing that the gentleman from Illinois (Mr. WELLER) asked the IRS about. He stood up there and said I believe this is the right man to lead this Nation. He is trying to say that he believes as a spiritual man that he believed Al Gore is the right man. He got a letter of reprimand from the Internal Revenue Service; a third party turned him in.

Mr. Speaker, this is America. Freedom rings in this great country. Our men and women are serving this Nation across the sea to guarantee that freedom, and we have a responsibility to not let Lyndon Johnson get by with an amendment that was not even debated. That is what happened. So after 48 years, 48 years of the Federal Government influencing and threatening what can be said in our churches and synagogues, we now have an opportunity to pass legislation to get this debate started.

I want to thank even some who do not agree with me on this issue, thank you for allowing, after 48 years, for this bill to get to the floor for a debate. We will see what might happen when this bill might come forward.

Let me take 5 or 6 more minutes and then I will close. There is a professor at Purdue University named Dr. James Davidson. I had read a report. He is well known. He is a psychologist at Purdue University. I talked to Dr. Davidson yesterday. He has spent a lot of time writing books and articles about churches and religion in America. I want to read this to Members. This is the beginning of his research on the issue of the freedom of churches to talk about political issues. "The ban on electioneering has nothing to do with the first amendment or Jefferson's principle of separation of church and state. The first amendment speaks of religious freedom. It says nothing that would preclude churches from aligning themselves with or against a candidate for political office," and he cites certain court rulings. I will not recite those because of time.

"The courts also have never used Thomas Jefferson's celebrated 1802 metaphor about a wall of separation between church and state to stifle church's support or opposition to a political candidate."

Another paragraph, "From a Constitutional perspective then, American churches have had every right to endorse or oppose political candidates. They have not participated in all elections, but they have been actively involved in some. For example, many Protestant churches and church leaders delivered sermons and published religious literature opposing Al Smith's bid to become the Nation's first Catholic President in 1928."

□ 2015

He cites some references there. Constitutional principles have not changed since 1928. Churches still have a constitutional right to endorse or oppose political candidates. However, then he gets into the issue of the Johnson amendment. What he is saying, that up until the Johnson amendment, there were no restrictions of speech, right or wrong. The preacher, the priest, the rabbi, the cleric had every right to talk about issues they thought were important to their church, to their State and to this Nation.

I just wanted to read that because this man, Dr. Davidson, is an expert on this issue. I wanted to cite that for the record tonight.

Mr. Speaker, I would like to take just a couple of more minutes now to say that the left has tried to say that if my bill or the bill of the gentleman from Illinois (Mr. CRANE) passed, then you are allowing the churches to get into the fund-raising business for political candidates. That is total hogwash. The bill that the Congress and the Senate passed, the 2002 campaign finance reform laws, says that if you are a nonprofit entity, which is a 501(c)(3), you cannot raise hard or soft money. So that is just a bogus argument from the extreme left that does not want to have the preachers to have the right to talk about these issues in their churches, synagogues and mosques.

Mr. Speaker, I want to thank the staff and you for giving me this time. I want to say that the strength of America depends, quite frankly, on our spiritual leaders being able to talk about the issues of the day, whether they be moral issues or political issues. I believe that the strength of this country is dependent on the fact that our spiritual leaders have total freedom of speech no matter what the issue might be. That is the best hope for this country. The spiritual leaders that I have met in the last year and a half I really believe are my brothers in Christ and I have great respect for them.

I want to say that this legislation is supported by such people as D. James Kennedy, Dr. Tim LaHaye and his wife Beverly, by also Ray Flynn, the former Ambassador to the Vatican and also Rabbi Daniel Lapin, a wonderful man of God from the west coast. I talked to him two or three times on this issue. Again, these spiritual leaders and I would say that probably the majority of the spiritual leaders maybe would not even want to discuss these issues in front of their congregation. Maybe they would choose to say, well, I don't want to talk about a political candidate here or there. But my point is, they should have the right to make that decision. They now do not have that right.

There is one other problem with this law. The IRS admitted during the hearing that they cannot enforce this law.

As I said earlier, they are dependent on a third party, a spy, if you will, to turn somebody in. I do not believe that that is what this great Nation stands for. Let me also say that they acknowledge that they cannot enforce this law adequately across the board. They have and they did admit they have been somewhat selective as to certain churches. I gave you an example of Floyd Flake who again is a wonderful man of our Lord in New York. All he did was to say to his congregation that he believes that Al Gore is the right man to lead this Nation. Then again I want to go back to the priest down in my district, there was a request made by a parishioner, Just say that George Bush is pro-life. These are just simple words. They have a right to say it. They should have that right. That is acknowledged by Davidson and even in Barry Lynn's letter, the first sentence. He is exactly right. They do have that right. Johnson took it away from them.

I also want to say that this country, I think, is a Nation, and some people will not agree with this, but it was founded on Judeo-Christian principles. That is the foundation of America and if America is going to remain strong, then we have got to be sure that our spiritual leaders have the freedom to talk about the biblical, the moral, and the political issues of the day. They must have that right.

Mr. Speaker, I always close when I come to the floor in a certain way. I spoke this morning and I close this way everywhere I go, because I think we are so fortunate to have our men and women in uniform who are protecting our national security and also protecting the first amendment, the second amendment and all the guarantees that we have in the Constitution. I close this way by saying, I ask God to please bless our men and women in uniform, I ask God to please bless the families of our men and women in uniform, I ask God to please bless the men and women who serve in the United States House and the United States Senate, I ask God to please bless the President of the United States so that he might make the right decisions for this Nation.

Mr. Speaker, I close this way by saying three times, I ask God: Please God, please God, please God, continue to bless America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GREEN of Texas (at the request of Mr. GEPHARDT) for today after 6:30 p.m. on account of business in the district.

Mrs. THURMAN (at the request of Mr. GEPHARDT) for today on account of a birth in the family.

Mr. THOMPSON of California (at the request of Mr. GEPHARDT) for September 25 after 4:00 p.m. and the balance of the week on account of official business.

Mr. ENGLISH (at the request of Mr. ARMEY) for today until noon on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. KUCINICH) to revise and extend their remarks and include extraneous material:

Ms. NORTON, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

The following Members (at the request of Mr. WELDON of Pennsylvania) to revise and extend their remarks and include extraneous material:

Mr. WELDON of Pennsylvania, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly an enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 640. An act to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 238. An act to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

S. 1175. An act to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on September 25, 2002 he presented to the President of the United States, for his approval, the following bills.

H.R. 486. For the relief of Barbara Makuch.

H.R. 487. For the relief of Eugene Makuch.

H.R. 4558. To extend the Irish Peach Process Cultural and Training Program.

ADJOURNMENT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Monday, September 30, 2002, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9368. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Fenamidone; Pesticide Tolerance [OPP-2002-0229; FRL-7196-8] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9369. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Glyphosate; Pesticide Tolerances [OPP-2002-0232; FRL-7200-2] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9370. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Lambda-cyhalothrin; Pesticide Tolerance [OPP-2002-0204; FRL-7200-1] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9371. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Cyfluthrin; Pesticide Tolerance [OPP-2002-0193; FRL-7199-8] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9372. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Dimethomorph; Pesticide Tolerances [OPP-2002-0221; FRL-7199-2] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9373. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clopyralid; Pesticide Tolerance [OPP-2002-0235; FRL-7198-4] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9374. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Triticonazole; Pesticide Tolerance [OPP-2002-0199; FRL-7200-6] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9375. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Spinosad; Pesticide Tolerance [OPP-2002-0195; FRL-7199-5] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9376. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pyraclostrobin; Pesticide Tolerance [OPP-2002-0225; FRL-7200-7] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9377. A letter from the Comptroller, Department of Defense, transmitting notification regarding authorizing the use of a multiyear procurement contract for the DDG-51 program; to the Committee on Armed Services.

9378. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Edwin P. Smith, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9379. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Freddy E. McFarren, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9380. A letter from the Secretary, Department of Defense, transmitting notification that the President approved changes to the 2002 Unified Command Plan; to the Committee on Armed Services.

9381. A letter from the Assistant General Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting the Department's final rule — Exception Payment Standard to Offset Increase in Utility Costs in the Housing Choice Voucher Program [Docket No. FR 4672-F-02] (RIN: 2577-AC29) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9382. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Louisiana; Control of Emissions of Nitrogen Oxides in the Baton Rouge Ozone Nonattainment Area [LA-62-1-7571; FRL-7384-5] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9383. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality State Implementation Plans (SIP); Louisiana; Emissions Reduction Credits Banking in Nonattainment Areas [LA-63-2-7569; FRL-7384-6] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9384. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans for Kentucky: Vehicle Emissions Control Programs [KY 134 & KY 136-200235(a); FRL-7381-2] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9385. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality State Implementation Plans (SIP); Louisiana: Substitute Contingency Measures [LA-61-1-7564; FRL-7382-6] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9386. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department's proposed Letter(s) of Offer and Acceptance (LOA) to North Atlantic Treaty Organization Consultation, Command, and Control Agency for defense articles and services (Transmittal No. 02-61), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9387. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Germany for defense articles and services (Transmittal No. 02-60), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9388. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Spain for defense articles and services (Transmittal No. 02-59), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9389. A letter from the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting the Department's final rule — Missile Technology Production Equipment and Facilities [Docket No. 020830206-2206-01] (RIN: 0694-AC51) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9390. A letter from the Acting White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9391. A letter from the Chairman, Postal Rate Commission, transmitting a report submitted in accordance with the Inspector General Act of 1978, as amended, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

9392. A letter from the Assistant Secretary — Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Outer Continental Shelf Oil and Gas Leasing-Clarifying Amendments (RIN: 1010-AC94) received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9393. A letter from the Regulations Coordinator, IHS, Department of Health and Human Services, transmitting the Department's final rule — Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character (RIN: 0917-AA02) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9394. A letter from the Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Announcement of Funding Opportunity to Submit Proposals for the Coastal Ecosystem Research Project In the Northern Gulf of Mexico [Docket No. 000202023-2049-03 I.D. 041502E] received July 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9395. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone off Alaska; "Other Rockfish" in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management area [Docket No. 011218304-1304-01; I.D. 090302A] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9396.. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 6 — Closure of the Commercial Fishery from Horse Mountain to Point Arena (Fort Bragg) [Docket No. 020430101-2101-01; I.D. 080202D] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9397. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 070802B] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9398. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 090302D] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9399. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 011218304-1304-01; I.D. 082202A] received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9400. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 5- Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 080202C] received September 11, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9401. A letter from the Staff Director, United States Commission On Civil Rights, transmitting the list of state advisory committees recently rechartered by the Commission; to the Committee on the Judiciary.

9402. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace, Springhill Airport, Springhill, LA [Airspace Docket No. 2002-ASW-2] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9403. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca S.A. Makila Models 1A, 1A1, and 1A2 Turboshaft Engines [Docket No. 2001-NE-42-AD; Amendment 39-12882; AD 2002-19-02] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9404. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA330F, SA330G, SA330J, AS332C, AS332L, and AS332L1 Helicopters [Docket No. 2001-SW-66-AD; Amendment 39-12879; AD 2002-18-05] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9405. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F and 914 F Series Reciprocating Engines; Correction [Docket No. 2002-

NE-08-AD; Amendment 39-12865; AD 2002-16-26] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9406. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc Models Spey 506-14A, 555-15, 555-15H, 555-15N, and 555-15P Turbojet Engines [Docket No. 2001-NE-14-AD; Amendment 39-12877; AD 2002-18-03] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9407. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-300, 747SP, and 747SR Series Airplanes [Docket No. 2001-NM-34-AD; Amendment 39-12878; AD 2002-18-04] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9408. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2002-NM-166-AD; Amendment 39-12845; AD 2002-16-06] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9409. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department's final rule — Procedures for Compensation of Air Carriers [Docket OST-2001-10885] (RIN: 2105-AD06) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9410 A letter from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's Annual Report on the Federal Work Force for Fiscal Year 2001, pursuant to 42 U.S.C. 2000e—4(e); jointly to the Committees on Government Reform and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 3802. A bill to amend the Education Land Grant Act to require the Secretary of Agriculture to pay the costs of environmental reviews with respect to conveyances under that Act (Rept. 107-698). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3765. A bill to designate the John L. Burton Trail in the Headwaters Forest Reserve, California (Rept. 107-699). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER:

H.R. 5469. A bill to suspend for a period of 6 months the determination of the Librarian of Congress of July 8, 2002, relating to rates and terms for the digital performance of sound recordings and ephemeral recordings; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself, Mr. PALLONE, Mr. ANDREWS, Mr. LOBIONDO, Mr. SAXTON, Mrs. ROUKEMA, Mr. FERGUSON, Mr. ROTHMAN, Mr. FRELINGHUYSEN, and Mr. HOLT):

H.R. 5470. A bill to establish the HARS-specific PCB effects level, expressed in a certain Memorandum of Agreement issued by the Environmental Protection Agency and the Corps of Engineers, as a final criterion; to the Committee on Transportation and Infrastructure.

By Mr. TOWNS (for himself, Mr. PHELPS, Mr. PETERSON of Minnesota, Mr. LIPINSKI, Mrs. CHRISTENSEN, Mr. HILLIARD, Mr. SHOWS, Mr. DEUTSCH, Mr. THOMPSON of Mississippi, Mr. BISHOP, Ms. CARSON of Indiana, Mr. SANDLIN, Ms. NORTON, and Mr. LUCAS of Kentucky):

H.R. 5471. A bill to extend Federal funding for operation of State high risk health insurance pools; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER:

H.R. 5472. A bill to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. WELDON of Pennsylvania (for himself, Mr. HOYER, Mr. ANDREWS, Mr. CASTLE, Mr. BARTLETT of Maryland, Mr. BORSKI, Mr. BRADY of Pennsylvania, Mr. CARDIN, Mr. COYNE, Mr. CUMMINGS, Mr. DOYLE, Mr. EHRLICH, Mr. ENGLISH, Mr. FATTAH, Mr. FERGUSON, Mr. FRELINGHUYSEN, Mr. GEKAS, Mr. GILCHREST, Mr. GREENWOOD, Ms. HART, Mr. HOEFFEL, Mr. HOLDEN, Mr. HOLT, Mr. KANJORSKI, Mr. LOBIONDO, Mr. MASCARA, Mr. MENENDEZ, Mrs. MORELLA, Mr. MURTHA, Mr. PALLONE, Mr. PASCRELL, Mr. PAYNE, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. PLATTS, Mr. ROTHMAN, Mrs. ROUKEMA, Mr. SAXTON, Mr. SHERWOOD, Mr. SHUSTER, Mr. SMITH of New Jersey, Mr. TOOMEY, and Mr. WYNN):

H.R. 5473. A bill to grant the consent of the Congress to the SMART Research and Development Compact; to the Committee on the Judiciary, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLECZKA (for himself and Mr. RYAN of Wisconsin):

H.R. 5474. A bill to amend the Gramm-Leach-Bliley Act to further protect customers of financial institutions whose identities are stolen from the financial institution, and for other purposes; to the Committee on Financial Services.

By Mr. ACEVEDO-VILÁ (for himself, Mr. FOLEY, Mr. LAMPSON, Mr. GUTIERREZ, Ms. VELÁZQUEZ, Mr. SERRANO, Mr. PALLONE, Mr. CRAMER, Mr. DUNCAN, and Mr. WICKER):

H.R. 5475. A bill to require that certain procedures are followed in Federal buildings when a child is reported missing; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself and Mr. SAXTON):

H.R. 5476. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of Korean immigration into the United States; to the Committee on Financial Services.

By Ms. BALDWIN (for herself, Mr. OWENS, Mr. SCHIFF, Mr. FROST, Ms. WOOLSEY, Mr. WAXMAN, Mr. SANDERS, Ms. KAPTUR, Mr. EVANS, Mr. REYES, Ms. LEE, and Mr. MCINTYRE):

H.R. 5477. A bill to amend title 38, United States Code, to improve compensation benefits for veterans in certain cases of loss of paired organs; to the Committee on Veterans' Affairs.

By Mr. BILIRAKIS (for himself, Mr. BROWN of Ohio, Mr. TAUZIN, Mr. DINGELL, Mr. UPTON, Mr. WAXMAN, Mr. GREENWOOD, Mr. BOUCHER, Mr. BURR of North Carolina, Mr. TOWNS, Mr. WHITFIELD, Mr. PALLONE, Mr. GANSKE, Mr. DEUTSCH, Mr. NORWOOD, Mr. RUSH, Mr. TERRY, Mr. ENGEL, Mr. SAWYER, Mr. WYNN, Mr. GREEN of Texas, Ms. MCCARTHY of Missouri, Ms. DEGETTE, Mr. BARRETT, Mr. DOYLE, Mr. JOHN, and Ms. HARMAN):

H.R. 5478. A bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CAMP:

H.R. 5479. A bill to provide for the development of new firefighting technology, and for other purposes; to the Committee on Science.

By Mr. CHAMBLISS (for himself, Mr. HAYES, Mr. BURR of North Carolina, Mr. KINGSTON, Mr. COBLE, Mr. BISHOP, Mr. JONES of North Carolina, and Mr. BALLENGER):

H.R. 5480. A bill to eliminate the Federal quota and price support programs for certain tobacco, to compensate quota owners and holders for the loss of tobacco quota asset value, to establish a tobacco community reinvestment program, and for other purposes; to the Committee on Agriculture.

By Mrs. JO ANN DAVIS of Virginia (for herself, Mr. TOM DAVIS of Virginia, Mr. MORAN of Virginia, Mr. WOLF, Mr. GREENWOOD, and Mrs. MORELLA):

H.R. 5481. A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes; to the Committee on Government Reform.

By Ms. DEGETTE (for herself, Mr. NETHERCUTT, Mr. BONILLA, Mrs. CHRISTENSEN, Mr. REYES, Ms. MILLENDER-MCDONALD, Mr. HAYWORTH, Mr. RODRIGUEZ, Mr. UNDERWOOD, Mr. JACKSON of Illinois, Mr. WELDON of Pennsylvania, Mr. LEWIS of Georgia, Mr. GREEN of Texas, Ms. NORTON, and Mr. HINOJOSA):

H.R. 5482. A bill to prevent and cure diabetes and to promote and improve the care of individuals with diabetes for the reduction of health disparities within racial and ethnic minority groups, including the African-American, Hispanic American, Asian American and Pacific Islander, and American Indian and Alaskan Native communities; to the Committee on Energy and Commerce.

By Mr. KINGSTON (for himself, Mr. Larson of Connecticut, Mr. Tom Davis of Virginia, and Mr. Lewis of Kentucky):

H.R. 5483. A bill to enhance homeland security by encouraging the development of regional comprehensive emergency preparedness and coordination plans; to the Committee on Transportation and Infrastructure.

By Mr. LEACH:

H.R. 5484. A bill to amend the Public Health Service Act to enhance research, training, and health information dissemination with respect to urologic diseases, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MORAN of Kansas (for himself, Mr. Osborne, and Mr. Thune):

H.R. 5485. A bill to eliminate the authority to reduce rental payments under the conservation reserve program in calendar year 2002 by reason of harvesting of forage or grazing on land in an emergency caused by a drought; to the Committee on Agriculture.

By Mr. MORAN of Kansas (for himself, Mr. Ryun of Kansas, Mr. Tiahrt, and Mr. Moore):

H.R. 5486. A bill to authorize the Secretary of the Interior to cooperate with the High Plains Aquifer States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer, and for other purposes; to the Committee on Resources.

By Mr. PALLONE:

H.R. 5487. A bill to authorize the Secretary of Education to make grants to eligible schools to assist such schools to discontinue use of a derogatory or discriminatory name or depiction as a team name, mascot, or nickname, and for other purposes; to the Committee on Education and the Workforce.

By Mr. PALLONE:

H.R. 5488. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with authority to recall food when there is a reasonable basis for believing that the food is adulterated and presents a risk to human health, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 5489. A bill to establish the Great Plains Historic Grasslands Wilderness Area, and for other purposes; to the Committee on Resources.

By Mr. PALLONE:

H.R. 5490. A bill to ensure the coordination and integration of Indian tribes in the National Homeland Security strategy and to establish an Office of Tribal Government Homeland Security within the Department of Homeland Security, and for other purposes; to the Committee on Resources.

By Mr. RANGEL (for himself, Mr. Gephardt, Mr. Cardin, Mr. Stark, Mr. Matsui, Mr. Coyne, Mr. Levin, Mr. McDermott, Mr. Kleczka, Mr. Neal of Massachusetts, Mr. McNulty, Mrs. Thurman, Mr. George Miller of California, and Ms. Slaughter):

H.R. 5491. A bill to provide economic security for America's workers; to the Committee on Ways and Means.

By Ms. SLAUGHTER:

H.R. 5492. A bill to require the Federal Government to give a preference in awarding any contract for a construction project to entities participating in qualified apprenticeship programs; to the Committee on Government Reform.

By Mr. STRICKLAND (for himself, Mr. Whitfield, Mr. Udall of Colorado, Mrs. Tauscher, Mr. Holden, Ms. Slaughter, Mr. Clement, Mr. Udall of New Mexico, Mr. Lucas of Kentucky, and Mr. Kanjorski):

H.R. 5493. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide benefits for contractor employees of the Department of Energy who were exposed to toxic substances at Department of Energy facilities, to provide coverage under subtitle B of that Act for certain additional individuals, to establish an ombudsman and otherwise reform the assistance provided to claimants under that Act, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP:

H.R. 5494. A bill to provide for the conveyance of certain Federal lands administered by the Bureau of Land Management in Maricopa County, Arizona, in exchange for private lands located in Yavapai County, Arizona; to the Committee on Resources.

By Mr. TAYLOR of Mississippi (for himself, Mr. Thompson of Mississippi, Mr. Wicker, Mr. Pickering, and Mr. Shows):

H.R. 5495. A bill to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the "Major Henry A. Commiskey, Sr. Post Office Building"; to the Committee on Government Reform.

By Mr. TIAHRT:

H.R. 5496. A bill to permit certain funds assessed for securities laws violations to be used to compensate employees who are victims of excessive pension fund investments in the securities of their employers, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Ms. Solis, and Mr. McGovern):

H.R. 5497. A bill to authorize assistance through eligible nongovernmental organizations to remove and dispose of unexploded ordnance in agriculturally-valuable lands in developing countries; to the Committee on International Relations.

By Ms. WOOLSEY (for herself and Mr. George Miller of California):

H.R. 5498. A bill to convey to the Board of Trustees of the California State University the balance of the National Oceanic and Atmospheric Administration property known as the Tiburon Laboratory, located in Tiburon, California; to the Committee on Science.

By Mr. HOLDEN (for himself and Mr. Phelps):

H. Con. Res. 488. Concurrent resolution directing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 2215; to the Committee on the Judiciary, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL (for himself, Mr. Flake, Mr. Jeff Miller of Florida, Mr. Hostettler, and Mr. Weldon of Florida):

H. Con. Res. 489. Concurrent resolution expressing the sense of the Congress that the United States should not rejoin the United Nations Educational, Scientific, and Cultural Organization (UNESCO); to the Committee on International Relations.

By Mr. GRAVES:

H. Con. Res. 490. Concurrent resolution to express the sense of Congress concerning the United States and its dependence on foreign sources of oil; to the Committee on Energy and Commerce.

By Mr. LaTOURETTE:

H. Con. Res. 491. Concurrent resolution supporting the goals and ideals of National Safety Forces Appreciation Week; to the Committee on Government Reform.

By Mr. COX (for himself, Mr. Frost, Mr. Dreier, Mr. Chabot, Mr. Ney, Mr. Hoyer, Mr. Baird, Mr. Vitter, Ms. Jackson-Lee of Texas, Mr. Langevin, Mr. Nadler, Mr. Ballenger, Mr. Bereuter, Mr. Camp, Mr. Coble, Mr. Crenshaw, Mrs. Cubin, Mr. Culberson, Mr. Tom Davis of Virginia, Mr. DeLay, Mr. DeMint, Mr. Diaz-Balart, Mr. Doolittle, Mr. Ehlers, Mr. Flake, Mr. Fletcher, Mr. Gibbons, Mr. Gilchrest, Mr. Gilman, Mr. Goss, Mr. Green of Wisconsin, Mr. Greenwood, Mr. Hayes, Mr. Hoekstra, Mr. Hulshof, Mr. Hyde, Mr. Issa, Mr. Jenkins, Mr. Johnson of Illinois, Mr. Jones of North Carolina, Mrs. Kelly, Mr. Kerns, Mr. Knollenberg, Mr. LaHood, Mr. LaTourette, Mr. Lewis of Kentucky, Mr. LoBiondo, Mr. McHugh, Mr. McInnis, Mr. McKeon, Mrs. Myrick, Mr. Peterson of Pennsylvania, Mr. Platts, Mr. Portman, Ms. Pryce of Ohio, Mr. Rohrabacher, Mr. Ryan of Wisconsin, Mr. Sensenbrenner, Mr. Sessions, Mr. Shadegg, Mr. Shays, Mr. Shaw, Mr. Shimkus, Mr. Simmons, Mr. Smith of Michigan, Mr. Stearns, Mr. Tancredo, Mr. Terry, Mr. Toomey, Mr. Watts of Oklahoma, Mr. Weldon of Florida, Mr. Weller, Mr. Wicker, Mr. Wilson of South Carolina, Mrs. Christensen, Mr. Davis of Florida, Mr. Delahunt, Ms. DeLauro, Mr. Edwards, Mr. Fattah, Mr. Gephardt, Mr. Gonzalez, Mr. Green of Texas, Mr. Hall of Texas, Mr. Hastings of Florida, Mr. Honda, Mr. Israel, Ms. Kaptur, Mr. Lipinski, Mr. Jefferson, Mrs. Jones of Ohio, Mr. Lewis of Georgia, Mr. Lynch, Ms. McCollum, Mr. McGovern, Mr. Menendez, Mr. Reyes, Mr. Rodriguez, Mr. Sandlin, Mr. Schiff, Mr. Sherman, Ms. Slaughter, Mr. Snyder, Mr. Stenholm, Mr. Wynn, Mr. Goode, Mr. Hefley, Mr. Hoeffel, and Mr. Jackson of Illinois):

H. Res. 559. A resolution expressing the sense of the House of Representatives that each State should examine its existing statutes, practices, and procedures governing special elections so that, in the event of a catastrophe, vacancies in the House of Representatives may be filled in a timely fashion; to the Committee on House Administration.

By Mr. CAMP:

H. Res. 560. A resolution expressing the sense of the House of Representatives regarding the restoration and protection of the Great Lakes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Resources, Science, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCKEON (for himself, Mr. BONILLA, Mr. HINOJOSA, Mr. BOEHNER, Mr. HOEKSTRA, Mr. GEORGE MILLER of California, Ms. SÁNCHEZ, Mr. GONZALEZ, Mr. REYES, Ms. VELÁZQUEZ, Mr. RODRIGUEZ, Mr. SERRANO, Mr. PASTOR, Mrs. NAPOLITANO, Mr. BECERRA, Mr. GUTIERREZ, Mr. DIAZ-BALART, and Ms. SOLIS):

H. Res. 561. A resolution recognizing the contributions of Hispanic-serving institutions; to the Committee on Education and the Workforce.

By Mr. PALLONE:

H. Res. 562. A resolution expressing the sense of the House of Representatives that a postage stamp should be issued in commemoration of Diwali, a festival celebrated by people of Indian origin; to the Committee on Government Reform.

By Mr. YOUNG of Florida (for himself, Mr. TOWNS, Mr. DAVIS of Illinois, Mr. FOLEY, Mr. CRANE, Mr. PENCE, Mr. BASS, Mr. SIMPSON, Mr. MASCARA, Mr. MORAN of Virginia, Mr. MEEKS of New York, Mrs. CAPPS, Mr. BENTSEN, Mrs. MALONEY of New York, Mr. GRAHAM, Mr. TOM DAVIS of Virginia, Mr. WATKINS, Mrs. MYRICK, Mr. CLAY, Mr. CARDIN, Mr. SOUDER, and Mr. SUNUNU):

H. Res. 563. A resolution expressing the sense of the House regarding the importance of bone marrow donation, honoring the National Marrow Donor Program for its work in increasing bone marrow donations, and supporting National Marrow Awareness Month, and for other purposes; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. ISRAEL and Mr. HAYES.

H.R. 389: Mr. PALLONE.

H.R. 709: Mr. KIND.

H.R. 826: Mr. DIAZ-BALART and Ms. PRYCE of Ohio.

H.R. 827: Mr. HOUGHTON.

H.R. 902: Ms. MCCARTHY of Missouri.

H.R. 951: Mr. VITTER.

H.R. 952: Mr. ALLEN and Ms. HART.

H.R. 967: Ms. RIVERS.

H.R. 975: Mr. VISCLOSKY.

H.R. 1035: Mr. ISSA.

H.R. 1200: Mr. DELAHUNT.

H.R. 1296: Mr. DAVIS of Florida.

H.R. 1368: Mr. PUTNAM.

H.R. 1520: Mr. KIRK, Mr. HAYES, Mr. DOGGETT, Mr. GRAHAM, and Mr. EDWARDS.

H.R. 1522: Mrs. MORELLA.

H.R. 1582: Ms. ROYBAL-ALLARD.

H.R. 1624: Mr. CARDIN.

H.R. 1723: Mr. DELAHUNT.

H.R. 1786: Mr. OLVER and Mr. SHUSTER.

H.R. 1862: Mr. MCNULTY.

H.R. 2037: Ms. PRYCE of Ohio.

H.R. 2063: Mr. SHAYS, Mr. PASCRELL, Mr. MEEKS of New York, Mr. BACA, Mr. LEACH, and Mr. VISCLOSKY.

H.R. 2071: Mr. JENKINS.

H.R. 2127: Mrs. MCCARTHY of New York.

H.R. 2163: Mr. BACA.

H.R. 2198: Mrs. MORELLA.

H.R. 2442: Ms. HOOLEY of Oregon and Mr. DEFAZIO.

H.R. 2458: Mrs. MALONEY of New York.

H.R. 2569: Mr. BROWN of South Carolina.

H.R. 2570: Ms. SÁNCHEZ.

H.R. 2573: Mrs. MALONEY of New York and Mr. JOHNSON of Illinois.

H.R. 2592: Mr. DELAHUNT.

H.R. 2693: Mr. WEINER, Mr. FRANK,, Mr. ABERCROMBIE, Mr. HOLDEN, Mr. FARR of California, Mr. OWENS, Mr. FROST, Mr. SCHIFF, and Mr. LIPINSKI.

H.R. 2770: Mr. BURR of North Carolina, MR. CRANE, Mr. DEMINT, Mr. DOOLEY of California, Mr. HOBSON, Mr. LATOURETTE, Mr. GRAVES, and Mr. ISAKSON.

H.R. 2799: Ms. MCCARTHY of Missouri and Mr. LANTOS.

H.R. 2874: Mr. SPRATT.

H.R. 3109: Mr. CALVERT, Mr. PICKERING, and Mr. SHOWS.

H.R. 3273: Mr. HAYES, Mr. OTTER, and Mrs. MORELLA.

H.R. 3414: Mr. LANTOS and Ms. WATERS.

H.R. 3424: Mr. LIPINSKI.

H.R. 3464: Mr. KILDEE.

H.R. 3613: Mr. BLAGOJEVICH, Mr. SHIMKUS, Mr. RUSH, Ms. SCHAKOWSKY, Mr. DAVIS of Illinois, Mr. COSTELLO, Mr. KIPINSKI, Mr. MANZULLO, Mr. EVANS, Mr. JACKSON of Illinois, Mr. JOHNSON of Illinois, and Mr. CRANE.

H.R. 3665: Mr. ISRAEL.

H.R. 3794: Mr. ALLEN.

H.R. 3831: Mr. MORAN of Kansas.

H.R. 3992: Ms. BALDWIN and Ms. SÁNCHEZ.

H.R. 4032: Ms. ESHOO.

H.R. 4061: Mr. BACA, Ms. NORTON, Ms. RIVERS, and Mr. DEFAZIO.

H.R. 4075: Ms. SLAUGHTER and Mr. OLVER.

H.R. 4099: Mr. CAMP.

H.R. 4482: Mr. MCDERMOTT, Mr HILLIARD, Mr. PETERSON of Minnesota, Mr. BROWN of Ohio, and Mr. HOEFFEL.

H.R. 4551: Mr. BARCIA.

H.R. 4614: Mrs. THURMAN and Ms. BALDWIN.

H.R. 4643: Mr. BAIRD.

H.R. 4659: Mr. GRAHAM.

H.R. 4678: Ms. HARMAN.

H.R. 4720: Ms. LOFGREN.

H.R. 4728: Mr. RAMSTAD.

H.R. 4730: Mr. CUMMINGS, Mr. PAYNE, and Mr. GEORGE MILLER of California.

H.R. 4753: Mr. KINGSTON.

H.R. 4754: Mrs. CLAYTON.

H.R. 4790: Mr. CANTOR.

H.R. 4803: Ms. SCHAKOWSKY.

H.R. 4821: Ms. SLAUGHTER.

H.R. 4887: Mr. WELLER and Mr. MCDERMOTT.

H.R. 4916: Mr. BONIOR and Mrs. JONES of Ohio.

H.R. 5013: Mr. EVERETT, Mr. KELLER, Mr. BALLENGER, Mr. CARSON of Oklahoma, Mr. PETERSON of Minnesota, Mr. LIPINSKI, Mr. JENKINS, Mr. GUTKNECHT, Mr. HALL of Texas, and Mr. RAMSTAD.

H.R. 5036: Mr. KUCINICH, Ms. CARSON of Indiana, Mr. PLATTS, and Mr. OWENS.

H.R. 5052: Mr. TERRY.

H.R. 5060: Mr. DOYLE.

H.R. 5085: Ms. SLAUGHTER.

H.R. 5089: Mr. KLECZKA.

H.R. 5119: Mr. MEEHAN.

H.R. 5124: Ms. MCCARTHY of Missouri.

H.R. 5197: Mrs. CLAYTON and Mr. ALLEN.

H.R. 5226: Ms. WOOLSEY, Mr. PRICE of North Carolina, Mr. STARK, Mr. UDALL of Colorado, Mr. MORAN of Virginia, Mr. BONIOR, Mr. SMITH of Washington, Ms. BERKLEY, Mr. SABO, Mr. GILCHREST, and Mr. SCHIFF.

H.R. 5230: Mr. STARK, Mr. BROWN of Florida, Mr. BROWN of Ohio, and Ms. ESHOO.

H.R. 5234: Mr. LIPINSKI and Mr. LATOURETTE.

H.R. 5249: Mr. DOYLE.

H.R. 5250: Mrs. JO ANN DAVIS of Virginia, Mr. GORDON, Mr. GRAHAM, Ms. HOOLEY of Oregon, Mr. LOBIONDO, Mr. PALLONE, Mr. JONES of North Carolina, Mr. RAHALL, Mr. FORBES, Mr. COSTELLO, Mr. SAXTON, and Mr. GIBBONS.

H.R. 5268: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5272: Ms. MCCARTHY of Missouri, Mr. FILNER, and Mr. PAYNE.

H.R. 5285: Mr. PHELPS.

H.R. 5310: Mr. SHIMKUS, Mr. LAHOOD, Mr. JOHNSON of Illinois, Mr. ENGLISH, and Mr. HAYES.

H.R. 5311: Mrs. MORELLA and Mr. JONES of North Carolina.

H.R. 5314: Ms. NORTON.

H.R. 5326: Mrs. THURMAN.

H.R. 5331: Mr. TERRY.

H.R. 5334: Mr. CARDIN, Mr. MCINTYRE, and Mr. OBERSTAR.

H.R. 5346: Mr. WATT of North Carolina, Mr. LEWIS of Georgia, Mr. JEFFERSON, Mr. DELAHUNT, Mr. GUTIERREZ, Mr. BLUMENAUER, Mr. HILLIARD, Mr. MOLLOHAN, Mr. DICKS, Mr. CROWLEY, Ms. MCCOLLUM, Ms. BALDWIN, MR. KENNEDY of Rhode Island, Mr. CLAY, Mr. LYNCH, Mr. BLAGOJEVICH, and Mr. NEAL of Massachusetts.

H.R. 5359: Mr. PHELPS and Mr. LARSEN of Washington.

H.R. 5380: Mr. AKIN, Mr. ENGLISH, and Mr. WELDON of Florida.

H.R. 5383: Mr. JOHNSON of Illinois, Mr. BARCIA, Mr. PHELPS, Ms. RIVERS, Ms. KAPTUR, and Mr. WALDEN of Oregon.

H.R. 5411: Mr. HALL of Texas, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MORAN of Virginia, Mr. KIND, Mr. LARSEN OF WASHINGTON, MR. CARSON of Oklahoma, Mr. DAVIS of Illinois, Mr. FROST, Mr. OBERSTAR, Mr. PETERSON of Minnesota, and Mrs. MORELLA.

H.R. 5414: Mrs. KELLY.

H.R. 5427: Mr. CASTLE, Mr. BOOZMAN, Mr. JEFF MILLER of Florida, Mr. KNOLLENBERG, Mr. ISTOOK, Mrs. NORTHUP, Mr. GOODLATTE, Mr. SIMPSON, Mr. TOOMEY, Mr. WELDON of Florida, Mr. UPTON, Mr. LATHAM, Mr. LAHOOD, Mr. MCKEON, Mr. MCCRERY, Mr. RYAN of Wisconsin, Mr. FLETCHER, Mr. CHABOT, Mr. REHBERG, Mr. SHAW, Mr. DAN MILLER of Florida, Mr. NETHERCUTT, Mr. WICKER, Mr. HAYES, Mr. HERGER, and Mr. ISAKSON.

H.R. 5429: Mr. BOUCHER.

H.R. 5432: Mr. LIPINSKI.

H.R. 5433: Mr. SHIMKUS and Mr. KIRK.

H.R. 5435: Mr. SANDERS.

H.R. 5445: Ms. PRYCE of Ohio.

H.J. Res. 31: Mr. FATTAH and Mr. RUSH.

H. Con. Res. 220: Mr. DEFAZIO.

H. Con. Res. 351: Mr. BLUMENAUER, Mr. BARRETT, Mr. FALEOMAVAEGA, Mr. GORDON, Mr. ISRAEL, Mr. KENNEDY of Rhode Island, Mr. LANGEVIN, Mr. LEVIN, Mr. MARKEY, Mr. MATHESON, Mrs. NORTHUP, Mr. SANDERS, Mr. UPTON, Mr. WU, and Mr. WYNN.

H. Con. Res. 406: Mr. LANGEVIN, Mr. BURTON of Indiana, Mr. TERRY, Mr. LUTHER, and Mr. WAXMAN.

H. Con. Res. 447: Mr. CLAY, Ms. CARSON of Indiana, and Mr. EVANS.

H. Con. Res. 462: Mr. RODRIGUEZ, Mr. MCGOVERN, Mrs. JONES of Ohio, Mr. WYNN, Mr. ENGLISH, Mr. PETERSON of Pennsylvania, Mr. PHELPS, and Mr. PLATTS.

H. Con. Res. 466: Mr. GREEN of Wisconsin and Mr. TURNER.

H. Con. Res. 473: Ms. CARSON of Indiana.

H. Con. Res. 476: Mr. WU, Mr. WEINER, Mr. GRUCCI, Mr. ETHERIDGE, Mr. SHAYS, Mr. FORBES, Mr. WILSON of South Carolina, Mr. HOLDEN, Mr. GRAHAM, Mr. GEKAS, Mr. KENNEDY of Rhode Island, Mr. ISRAEL, Mrs. ROUKEMA, Mr. CALVERT, Ms. BALDWIN, Mr. TOM DAVIS of Virginia, Mr. MCNULTY, Mr. WATTS of Oklahoma, and Mr. KING.

H. Con. Res. 484: Mr. McKEON, Mr. ISAKSON, Mr. GRAHAM, Mr. PLATTS, Mr. GREENWOOD, and Mr. BOEHNER.

H. Con. Res. 486: Mr. FROST and Mr. BAKER.

H. Res. 253: Mr. SMITH of Michigan.

H. Res. 398: Mr. TIERNEY and Mr. WAXMAN,

H. Res. 491: Mr. RANGEL.

H. Res. 522: Mr. HINOJOSA, Mr. PASTOR, and Ms. ROYBAL-ALLARD.

H. Res. 548: Mr. LEWIS of Georgia.

H. Res. 549: Mr. GEKAS, Mr. BEREUTER, Mr. McNULTY, Mr. GRAHAM, Mr. WYNN, Mr. WATTS of Oklahoma, Mr. SKELTON, Mr. GOODE, and Mr. COLLINS.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 12. September 24, 2002, by Mr. CONYERS on House Resolution 519, was signed by the following Members: John Conyers, Jr., Michael E. Capuano, William D. Delahunt, Lynn N. Rivers, John W. Olver, Michael R. McNulty, Eva M. Clayton, Joe Baca, Major R. Owens, Stephanie Tubbs Jones, Dennis Moore, Thomas M. Barrett, Zoe Lofgren, Dale E. Kildee, Lois Capps, Anna G. Eshoo, John Lewis, James P. McGovern, Betty McCollum, Lynn C. Woolsey, Jim McDermott, Janice D. Schakowsky, Nick Lampson, James P. Moran, David E. Bonior, Gary L. Ackerman, Xavier Becerra, Bill Pascrell, Jr., Chaka Fattah, Diane E. Watson, Jerrold Nadler, James A. Leach, Lane Evans, Henry A. Waxman, Tammy Baldwin, Rosa L. DeLauro, Patrick J. Kennedy, Sanford D. Bishop, Jr., James R. Langevin, David E. Price, Nydia M. Velázquez, Brad Sherman, Donald M. Payne, Juanita Millender-McDonald, Maxine Waters, Jane Harman, Sheila Jackson-Lee, Jay Inslee, Nancy Pelosi, Carrie P. Meek, Shelley Berkley, Gary A. Condit, Wm. Lacy Clay, Tom Sawyer, Sherrod Brown, Carolyn McCarthy, Lloyd Doggett, Constance A. Morella, Steve Israel, Alcee L. Hastings, Leonard L. Boswell, Martin Frost, Tom Lantos, Benjamin L. Cardin, Rush D. Holt, Thomas H. Allen, Robert T. Matsui, Hilda L. Solis, Lucille Roybal-Allard, Robert Menendez, Earl F. Hilliard, Barbara Lee, Eddie Bernice Johnson, Michael M. Honda, Earl Blumenauer, Charles A. Gonzalez, Solomon P. Ortiz, Peter A. DeFazio, Barney Frank, Calvin M. Dooley, Sam Farr, Jose E. Serrano, Grace F. Napolitano, John Elias Baldacci, Fortney Pete Stark, Steny H. Hoyer, Diana DeGette, Joseph M. Hoeffel, Robert E. Andrews, John D. Dingell, Howard L. Berman, Brian Baird, Susan A. Davis, George Miller, Ellen O. Tauscher, Nita M. Lowey, Mark Udall, John F. Tierney, Norman D. Dicks, Bart Stupak, Anthony D. Weiner, Corrine Brown, Gregory W. Meeks, Adam B. Schiff, Danny K. Davis, Ruben Hinojosa, Silvestre Reyes, Max Sandlin, Sander M. Levin, Frank Pallone, Jr., Dennis J. Kucinich, Darlene Hooley, James E. Clyburn, Bernard Sanders, Julia Carson, Elijah E. Cummings, Albert Russell Wynn, Neil Abercrombie, William J. Jefferson, Luis V. Gutierrez, Jim Davis, Joseph Crowley, Baron P. Hill, Adam Smith, Bennie G. Thompson, Tom Udall, Ed Pastor, Gene Green, Rick Larsen, Karen McCarthy, Rod R. Blagojevich, Carolyn C. Kilpatrick, Maurice D. Hinchey, Robert Wexler, Edolphus Towns, Bobby L. Rush, Bob Filner, Martin Olav Sabo, Charles B. Rangel, Robert A. Brady, Michael F. Doyle, Richard A. Gephardt, Ken Bentsen, David Wu, Ron Kind, Loretta Sánchez, Peter Deutsch, Cynthia A. McKinney, Louise McIntosh Slaughter, Stephen F. Lynch, Vic Snyder, John B. Larson, Robert A. Borski, Ciro D. Rodriguez, Nick J. Rahall II, Edward J. Markey, James H. Maloney, Paul E. Kanjorski, Harold E. Ford, Jr., Jesse L. Jackson, Jr., Ted Strickland, Marcy Kaptur, Bob Clement, John S. Tanner, and Ike Skelton.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 4, by Mr. CUNNINGHAM on House Resolution 271: Joseph M. Hoeffel and Dennis Moore.

Petition 11, by Mrs. THURMAN on House Resolution 517: David Wu, Lynn N. Rivers, Joe Baca, Silvestre Reyes, Stephen F. Lynch, Bart Stupak, Chaka Fattah, James A. Barcia, Gary A. Condit, Anthony D. Weiner, Dennis J. Kucinich, John J. LaFalce, Richard A. Gephardt, and William O. Lipinski.

Petition 1, by Mr. CARSON on House Resolution 146: Stephen F. Lynch.

The following Member's name was withdrawn from the following discharge petition:

Petition 11 by Mrs. THURMAN on House Resolution 517: Bart Gordon.

SENATE—*Thursday, September 26, 2002*

The Senate met at 9:15 a.m. and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, our hearts are often restless; we long to rest in You. We feel an inner emptiness only You can fill, a hunger only You can satisfy, a thirst only You can quench. All our needs are small in comparison to our deepest need for You. No human love can fulfill our yearning for Your grace. No position can satisfy our quest for significance. No achievement can substitute for Your acceptance. Our relationship with You is ultimately all that counts. There is no joy greater than knowing You, no peace more lasting than Your shalom in our souls, no power more energizing than Your enabling Spirit empowering us. This is the day You have made for us to enjoy and to serve You. Grant us the greatness of seeking Your best for our Nation and working together as patriots. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, September 26, 2002.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rues of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. REED thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. Prior to the Chair announcing morning business time, I would advise the Senate that we are going to be in a period of morning business until 11:15. At that time, we will resume consideration of the Homeland Security Act. Cloture was filed on the Gramm-Miller amendment to homeland security. Senators have until 1 p.m. to file first-degree amendments.

Senator DASCHLE and I, in private conversations, have indicated to the minority that we would be willing to move this vote to today. Under the rules, it is tomorrow. We would be willing to have the vote today. We are concerned, I am concerned, and we have been told by Senators on the other side, they have 30 speakers on this amendment. As people who know how the Senate works, that is a big flag for "we are stalling."

As I indicated, we will at the appropriate time ask that the vote be moved up until today. If they are serious about this legislation, this should indicate their seriousness.

When the Chair moves to morning business today, I ask unanimous consent, on the Democratic side, Senator BINGAMAN be recognized for 10 minutes and Senator LEAHY for 15 minutes. Senator BINGAMAN, of course, is chairman of the Energy and Natural Resources Committee and Senator LEAHY is chairman of the Judiciary Committee. Next is Senator JOHNSON for 10 minutes and Senator DORGAN after that for 20 minutes. I ask unanimous consent for that order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:15 a.m., with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time will be under the control of the majority leader or his designee. Pursuant to the order, the Senator from New Mexico is recognized.

THE ECONOMY AND IRAQ

Mr. BINGAMAN. Mr. President, I appreciate the opportunity to speak. I want to address a growing disconnect that I detect between what I am hearing in my home State of New Mexico and much of what I am hearing and reading here in Washington, DC. Frankly, I begin to worry when we are talking about one thing in Washington while the people we represent at home are talking about other things, or talking about them in different ways—in coffee klatsches, in barber shops, in various settings.

What do I mean by that? I mean in Washington in recent weeks the drumbeat has been about how we need to prepare for and pursue an attack on Iraq, and how the United Nations had better get its act together to pursue this effort in weeks rather than months or we would unilaterally act in its place.

In my State, there is talk about Iraq. Frankly, there is a great deal of concern about what is being planned and what is being contemplated, on what timetable. But the main issue I hear from people in my State relates to the economy and what is happening in the economy. Why would the economy be a major issue in New Mexico, somebody might ask? One reason is the article that appeared in the Albuquerque Journal yesterday with a headline that says, "New Mexico Tops U.S. for Poverty in 2001."

It indicates the poverty rate for the U.S. was at 11.7 percent last year, and in my State it was 17.7 percent of our population living below the poverty line. The median income for the same period dropped over $700 between 2000 and 2001. Income levels fell for every group. This is according to the U.S. Census. This is not some group with an axe to grind. This was the U.S. Census that reported that income levels fell for every group except the very richest and the very poorest. So that is one reason people are concerned about the economy.

Another reason is because of what is happening to their pension plans, to their 401(k)s. I heard a discussion a week or so ago where I thought one of the commentators made a very good point. He said there will be an October surprise this year. As we approach elections in this country there is always a concern on the part of people who watch the political comings and goings that there will be an October surprise; something will be done in October to try to change the outcome of the election. In fact, this commentator said there will be an October surprise, but

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the surprise will be when each person opens their quarterly report showing where their retirement savings now stand, where they stand in their 401(k). They will see a dramatic decline in the amount of retirement savings that they have because of what is happening in the economy.

More and more people are worried that nobody in Washington—and this is what I begin to pick up in my State—there is a concern that no one in Washington seems concerned. No one seems concerned about the economy. There is no talk about any strategy to improve the economy. There is no plan to improve the economy.

To hear the pronouncements that have come out of the administration in recent weeks and months, you would think the economy is just fine, that everything is humming right along. At least we are no longer hearing from the Secretary of Treasury and others that we are on the cusp of a rebound in the economy. That talk has faded. But certainly there is no talk about any plan or any suggestion about how we are going to strengthen the U.S. economy. And the fact that we are not talking about it is of concern.

It is possible I am just reading the wrong newspapers, watching the wrong TV reports. Maybe there is something being planned. Maybe there is some strategy that is being developed in the administration. I have not seen it. I hope there is. My strong belief, though, is that the administration's basic position on the economy is: Stay the course.

The problem with staying the course is this is not a very good course for the average American. It is not a very good course for the average person in my State. So I hope we will begin to hear something here in Washington about this issue which is dominating the discussion in my home State.

Let me also say something about this threatened war in Iraq. Obviously, Americans want to deal with any imminent threat to our Nation's security. I think much more so are we ready to do that after the catastrophe of 9/11. If weapons of mass destruction have been developed or are being developed with the intent to use those against us or against our allies, then that is a threat that requires us to act. I think there is general agreement on it.

We all share the goal of wanting to eliminate the threat of these weapons. But the question we need to debate is the means for accomplishing the goal. So far the means that the administration has insisted upon and put forward is a so-called regime change. That is the means. We are going to pursue a regime change. That is an interesting phrase. That is a euphemism for attacking Iraq, killing or capturing Saddam Hussein and his cadre of leaders, and replacing them with the leadership of our choice. There are some potential problems with pursuing that particular means to deal with these weapons of mass destruction. Let me just mention a few of those problems which have been discussed by others but need to be discussed even more.

One is what is the precedent we are setting? This is not a normal course for our country to pursue, attacking and invading another country without some imminent threat being demonstrated.

Second, the implications: What are the implications of such action for our relations with other Arab countries?

Third, what is the cost to us in resources? One figure we heard from the administration was $100 billion. What is the cost? What is the cost in American lives we must anticipate?

The question is, who would constitute the successor government if we are going to displace this government and put in place a government more to our liking; who would that be?

The questions of how large and how prolonged a commitment do the American people want to make to the rebuilding of Iraq, to bringing reforms to Iraq, the effect of such an attack on world oil markets and the price of oil, the spikes in the price of oil that might occur and what that might do to our own economy, are legitimate.

They are questions people in my State are concerned about and they are questions we need to have fully considered in Washington.

We need to look at other possible means besides just the simple approach of regime change. One set of ideas that has been put forward recently, that I think deserves attention and I want to just call it to the attention of my colleagues today, is a paper prepared by Jessica Mathews, President of the Carnegie Endowment for International Peace, entitled, "A New Approach, Coercive Inspections."

This is a serious proposal and one that deserves serious attention. Essentially, the idea is that if our primary goal is to deal with weapons of mass destruction and the threat that those weapons pose when held by Iraq, then we need to consider, perhaps, a middle ground between the unacceptable status quo, which none of us like, and this idea of full-scale invasion of Iraq in order to change the regime. It proposes a third approach. It proposes a new regime of coercive international inspections where we would have a multinational military force created by the Security Council, which we would participate in, and which would be there to ensure that inspections take place as the U.N. has indicated they would. There would be several advantages if we were able to pursue that kind of option.

It would have the advantage of assuring our allies that we want to work with them and not go it alone. It would assure the world that our priority is what we say it is, and that is eliminating the threat of weapons of mass destruction, not just evening old scores with Saddam Hussein. It avoids military conflict, if the goal of weapons inspection and weapons destruction can be achieved without military conflict. It reserves the option of force being used.

Frankly, pursuing a course such as this on Iraq would allow us to tone down the saber rattling, to calm anxieties here at home and in the world community. I think there is a great benefit that can be achieved from that, not only in our relations with our allies but I believe the economy also would benefit from believing we are pursuing a more measured course such as is described in this paper.

This is not the only proposal for how we should proceed. Maybe it is not the best, but it is certainly a serious proposal and one we should consider before we rush to authorize the President to use any and all force to bring justice and peace to that region of the world.

In conclusion, people in my State want to know what is going to happen on the economy, what this Government is going to do to help them pursue a better life and have greater economic opportunity in the future. They also, with regard to Iraq, expect us to think before we act. They hope—I hope—this President and this administration are not so committed to a single course of action that serious discussion and serious consideration of proposals such as this are precluded.

Mr. President, I appreciate the time and I yield the floor.

I ask unanimous consent the paper to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The papers in this collection grew out of discussions held at the Carnegie Endowment for International Peace from late April to late July of this year. The discussions included top regional and military experts, former inspectors with dozens of man-years' experience in Iraq, and individuals with intimate knowledge of the diplomatic situation at the United Nations.

A New Approach: Coercive Inspections

(By Jessica T. Matthews, President, Carnegie Endowment for International Peace)

The summary proposal that follows draws heavily on the expertise of all those who participated in the Carnegie discussions on Iraq and on the individually authored papers. Further explanation and greater detail on virtually every point, especially the proposal's military aspects, can be found therein.

With rising emphasis in recent months, the president has made clear that the United States' number one concern in Iraq is its pursuit of weapons of mass destruction (WMD). No link has yet been found between Baghdad's assertively secular regime and radical Islamist terrorists. There is much else about the Iraqi government that is fiercely objectionable but nothing that presents an imminent threat to the region, the

United States, or the world. Thus, the United States' primary goal is, and should be, to deal with the WMD threat.

In light of what is now a four-year-long absence of international inspectors from the country, it has been widely assumed that the United States has only two options regarding that threat: continue to do nothing to find and destroy Iraq's nuclear, chemical, biological, and missile programs, or pursue covert action or a full-scale military operation to overthrow Saddam Hussein. At best, the latter would be a unilateral initiative with grudging partners.

This paper proposes a third approach, a middle ground between an unacceptable status quo that allows Iraqi WMD programs to continue and the enormous costs and risks of an invasion. It proposes a new regime of coercive international inspections. A powerful, multinational military force, created by the UN Security Council, would enable UN and International Atomic Energy Agency (IAEA) inspection teams to carry out "comply or else" inspections. The "or else" is overthrow of the regime. The burden of choosing war is placed squarely on Saddam Hussein. The middle-ground option is a radical change from the earlier international inspection effort in which the playing field was tilted steeply in Iraq's favor. It requires a military commitment sufficient to pose a credible threat to Iraq and would take a vigorous diplomatic initiative on Washington's part to launch. Long-term success would require sustained unity of purpose among the major powers. These difficulties make this approach attractive only in comparison to the alternatives, but in that light, its virtues emerge sharply.

Inspections backed by a force authorized by the UN Security Council would carry unimpeachable legitimacy and command broad international support. The effort would therefore strengthen, rather than undermine, the cooperation the United States needs for long-term success in the war against terrorism. It would avoid setting a dangerous precedent of a unilateral right to attack in "preventive self-defense." Although not likely to be welcomed by Iraq's neighbors, it would be their clear choice over war. Regional assistance (basing, over-flight rights, and so on) should therefore be more forthcoming. If successful, it would reduce Iraq's WMD threat to negligible levels. If a failure, it would lay an operational and political basis for a transition to a war to oust Saddam. The United States would be seen to have worked through the United Nations with the rest of the world rather than alone, and Iraq's intent would have been cleanly tested and found wanting. Baghdad would be isolated. In these circumstances, the risks to the region of a war to overthrow Iraq's government-from domestic pressure on shaky governments (Pakistan) to government misreading U.S. intentions (Iran) to heightened Arab and Islamic anger toward the United States-would be sharply diminished.

Compared to a war aimed at regime change, the approach greatly reduces the risk of Saddam's using whatever WMD he has (probably against Israel) while a force aimed at his destruction is being assembled. On the political front, coercive inspections avoid the looming question of what regime would replace the current government. It would also avoid the risks of persistent instability in Iraq, its possible disintegration into Shia, Suni, and Kurdish regions, and the need to station tens of thousands of U.S. troops in the country for what could be a very long time.

A year ago, the approach would have been impossible. Since then, however, four factors have combined to make it achievable: Greatly increased concern about WMD in the wake of September 11; Iraq's continued lies and intransigence even after major reform of the UN sanctions regime; Russia's embrace of the United States after the September 11 attacks, and the Bush administration's threats of unilateral military action, which have opened a political space that did not exist before.

Together, these changes have restored a consensus among the Security Council's five permanent members (P–5) regarding the need for action on Iraq's WMD that has not existed for the past five years.

CORE PREMISES

Several key premises underlie the new approach.

Inspections can work. In their first five years, the United Nations Special Commission on Iraq (UNSCOM), which was responsible for inspecting and disarming Iraq's chemical, biological, and missile materials and capacities, and the IAEA Iraq Action Team, which did the same for Iraq's nuclear ones, achieved substantial successes. With sufficient human and technological resources, time, and political support, inspections can reduce Iraq's WMD threat, if not to zero, to a negligible level. (The term inspections encompasses a resumed discovery and disarmament phase and intrusive, ongoing monitoring and verification extending to dual-use facilities and the activities of key individuals.)

Saddam Hussein's overhelming priority is to stay in power. He will wilingly give up pursuit of WMD, but he will do so if convinced that the only alternative is his certain destruction and that of his regime.

A credible and continuing military threat involving substantial forces on Iraq's borders will be necessary both to get the inspectors back into Iraq and to enable them to do their job. The record from 1991 to the present makes clear that Iraq views UN WMD inspections as war by other means. There is no reason to expect this to change. Sanctions, inducements, negotiations, or periodic air strikes will not suffice to restore effective inspection. Negotiations in the present circumstances only serve Baghdad's goals of delay and diversion.

The UNSOM/IAEA successes also critically depended on unity of purpose within the UN Security Council. No amount of military force will be effective without unwavering political resolve behind it. Effective inspections cannot be reestablished until a way forward is found that the manor powers and key regional states can support under the UN Charter.

NEGOTIATING COERCIVE INSPECTIONS

From roughly 1997 until recently, determined Iraqi diplomacy succeeded in dividing the P–5. Today, principally due to Iraq's behavior, Russia's new geopolitical stance, and U.S.-led reform of the sanctions regime, a limited consensus has reemerged. There is now agreement that Iraq has not met its obligations under UN Resolution 687 (which created the inspections regime) and that there is a need for the return of inspectors to Iraq. There is also support behind the new, yet-to-be tested inspection team known as the UN Monitoring, Verification, and Inspection Commission (UNMOVIC, created in December 1999 under Resolution 1284). Because three members of the P–5 abstained on the vote to create UNMOVIC, this development is particularly noteworthy. The May 2002 adoption of a revised sanctions plan was further evidence of a still fragile but real and evolving convergence of view on the Security Council.

Perhaps paradoxically, U.S. threats to act unilaterally against Iraq have the potential to strengthen this limited consensus. France, Russia, and China strongly share the view that only the Security Council can authorize the use of a force—a view to which Great Britain is also sympathetic. All four know that after eleven years of the United Nations' handling of the issue, a U.S. decision to act unilaterally against Iraq would be a tremendous blow to the authority of the institution and the Security Council in particular. They want to avoid any further marginalization of the Council since that would translate into a diminution of their individual influence. Thus, U.S. threats provide these four countries with a shared interest in finding a formula for the use of force against Iraq that would be effective, acceptable to the United States, and able to be authorized by the Council as a whole. That formula could be found in a resolution authorizing multinational enforcement action to enable UNMOVIC to carry out its mandate.

Achieving such an outcome would require a tremendous diplomatic effort on Washington's part. That, however, should to be a seen as a serious deterrent. Achieving desired outcomes without resort to war is, in the first instance, what power is for. Launching the middle-ground approach would amount, in effect, to Washington and the rest of the P–5 re-seizing the diplomatic initiative from Baghdad.

The critical element will be that the United States makes clear that it forswears unilateral military action against Iraq for as long as international inspections are working. The United States would have to convince Iraq and others that this is not a perfunctory bow to international opinion preparatory to an invasion and that the United States' intent is to see inspections succeed, not a ruse to have them quickly fail. If Iraq is not convinced, it would have no reason to comply; indeed, quite the reverse because Baghdad would need whatever WMD it has to deter or fight with a U.S. attack. Given the past history, many countries will be deeply skeptical. To succeed, Washington will have to be steady, unequivocal, and unambiguous on this point.

This does not mean that Washington need alter its declaratory policy favoring regime change in Iraq. Its stance would be that the United States continues to support regime change but will not take action to force it while Iraq is in full compliance with international inspections. There would be nothing unusual in such a position. The United States has, for example, had a declaratory policy for regime change in Cuba for more than forty years.

Beyond the Security Council, U.S. diplomacy will need to recognize the significant differences in strategic interests among the states in the region. Some want a strong Iraq to offset Iran. Others fear a prosperous, pro-West Iraq producing oil to its full potential. Many fear and oppose U.S. military dominance in the region. Virtually all, however, agree that Iraq should be free of WMD, and they universally fear the instability that is likely to accompany a violent overthrow of the Iraqi government.

Moreover, notwithstanding the substantial U.S. presence required for enforced inspections and what will be widely felt to be an unfair double standard (acting against Iraq's WMD but not against Israel's), public opinion throughout the region would certainly be less aroused by multlaellateral inspections than by a unilateral U.S. invasion.

Thus, if faced with a choice between a war to achieve regime change and an armed, multilateral effort to eradicate Iraq's WMD, all the region's governments are likely to share a clear preference for the latter.

IMPLEMENTING COERCIVE INSPECTIONS

Under the coercive inspections plan, the Security Council would authorize the creation of an Inspections Implementation Force (IIF) to act as the enforcement arm for UNMOVIC and the IAEA task force. Under the new resolution, the inspections process is transformed from a game of cat and mouse punctuated by diversions and manufactured crises, in which conditions heavily favor Iraqi obstruction, into a last chance, "comply or else" operation. The inspection teams would return to Iraq accompanied by a military arm strong enough to force immediate entry into any site at any time with complete security for the inspection team. No terms would be negotiated regarding the dates, duration, or modalities of inspection. If Iraq chose not to accept, or established a record of noncompliance, the U.S. regime-change option or, better, a UN authorization of "use of all necessary means" would come into play.

Overall control is vested in the civilian executive chairman of the inspection teams. He would determine what sites will be inspected, without interference for the Security Council, and whether military forces should accompany any particular inspection. Some inspections—for example, personnel interviews—may be better conducted without any accompanying force; others will require maximum insurance of prompt entry and protection. The size and composition of the accompanying force would be the decision of the IIF commander, and its employment would be under his command.

The IIF must be strong and mobile enough to support full inspection of any site, including socalled sensitive sites and those previously designated as off limits. "No-fly" and "no-drive" zones near to-be-inspected sites would be imposed with minimal advance notice to Baghdad. Violations of these bans would subject the opposing forces to attack. Robust operational and communications security would allow surprise inspections. In the event surprise fails and "spontaneous" gatherings of civilians attempt to impede inspections, rapid response riot control units must be available.

The IIF must be highly mobile, composed principally of air and armored cavalry units. It might include an armored cavalry regiment or equivalent on the Jordan-Iraq border, an air-mobile brigade in eastern Turkey, and two or more brigades and corps-sized infrastructure based in Saudi Arabia and Kuwait. Air support including fighter and fighterbomber aircraft and continuous air and ground surveillance, provided by AWACS and JSTARS, will be required. The IIF must have a highly sophisticated intelligence capability. Iraq has become quite experienced in concealment and in its ability to penetrate and mislead inspection teams. It has had four unimpeded years to construct new underground sites, build mobile facilities, alter records, and so on. To overcome that advantage and ensure military success, the force must be equipped with the full range of reconnaissance, surveillance, listening, encryption, and photo interpretation capabilities.

The bulk of the force will be U.S. For critical political reasons, however, the IIF must be as multinational as possible and as small as practicable. Its design and composition should strive to make clear that the IIF is not a U.S. invasion force in disguise, but a UN enforcement force. Optimally, it would include, at a minimum, elements from all of the P-5, Turkey, Saudi Arabia, and Jordan, as well as others in the region.

Consistent with the IIF's mandate and UN origin, Washington will have to rigorously resist the temptation to use the force's access and the information it collects for purposes unrelated to its job. Nothing will more quickly sow division within the Security Council than excesses in this regard.

Operationally, on the civilian front, experts disagree as to whether UNMOVIC's mandate contains disabling weaknesses. Although some provisions could certainly be improved, it would be unwise to attempt to renegotiate Resolution 1284. Some of its weaknesses can be overcome in practice by tacit agreement (some have already been), some will be met by the vastly greater technological capabilities conferred by the IIF, and some can be corrected through the language of the IIF resolution. Four factors are critical:

Adequate time. The inspection process must not be placed under any arbitrary deadline because that would provide Baghdad with an enormous incentive for delay. It is in everyone's interest to complete the disarmament phase of the job as quickly as possible, but timelines cannot be fixed in advance.

Experienced personnel. UNMOVIC must not be forced to climb a learning curve as UNSCOM did but must be ready to operate with maximum effectiveness from the outset. To do so, it must be able to take full advantage of individuals with irreplaceable, on-the-ground experience.

Provision for two-way intelligence sharing with national governments. UNSCOM experience proves that provision for intelligence sharing with national governments is indispensable. Inspectors need must information not available from open sources or commercial satellites and prompt, direct access to defectors. For their part, intelligence agencies will not provide a flow of information without feedback on its value and accuracy. It must be accepted by all governments that such interactions are necessary and that the dialogue between providers and users would be on a strictly confidential, bilateral basis, protected from other governemnts. The individual in charge of information collection and assessment on the inspection team should have an intelligence background and command the trust of those governments that provide the bulk of the intelligence.

Ability to track Iraqi procurement activities outside the country. UNSCOM discovered covert transactions between Iraq and more than 500 companies from more than 40 countries between 1993 and 1998. Successful inspections would absolutely depend, therefore, on the team's authority to track procurement efforts both inside and outside Iraq, including at Iraqi embassies abroad. Accordingly, UNMOVIC should include a staff of specially trained customs experts, and inspections would need to include relevant ministries, commercial banks, and trading companies. As with military intelligence, tracking Iraqi procurement must not be used to collect unrelated commercial and technical intelligence or impede legal trade.

CONCLUSION

War should never be undertaken until the alternatives have been exhausted. In this case that moral imperative is buttressed by the very real possibility that a war to overthrow Saddam Hussein, even if successful in doing so, could subtract more from U.S. security and long-term political interests that it adds.

Political chaos in Iraq or an equally bad successor regime committed to WMD to prevent an invasion from ever happening again, possibly horrible costs to Israel, greater enmity toward the United States among Arab and other Muslim publics, a severe blow to the authority of the United Nations and the Security Council, and a giant step by the United States toward-in Zbigniew Brzezinski's phrase-political self-isolation are just some of the costs, in addition to potentially severe economic impacts and the loss of American and innocent Iraqi lives, that must be weighed.

In this case alternative does exist. It blends the imperative for military threat against a regime that has learned how to divide and conquer the major powers with the legitimacy of UN sanction and multilateral action. Technically and operationally, it is less demanding than a war. Diplomatically, it requires a much greater effort for a greater gain. The message of an unswerving international determination to halt WMD proliferation will be heard far beyond Iraq. The only real question is can the major powers see their mutual interest, act together, and stay the course? Who is more determined—Iraq or the P-5?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I am fortunate to represent a State whose citizens have long been involved in international affairs. Whether through military or diplomatic service, volunteering for the Peace Corps, studying abroad, or because we live on a great international border, Vermonters have strong views about these issues.

I was in Vermont this past weekend, and as always I had the opportunity to speak to many Vermonters from all walks of life. I can say, beyond any doubt, that Vermonters across the political spectrum are very concerned about our policy toward Iraq.

They are worried that we are shifting our focus away from ending the violence in the Middle East, eliminating al-Qaida, and rebuilding Afghanistan even though that Herculean task has barely begun.

The President has sent to Congress a proposed resolution for the use of military force against Iraq. It would permit the President to take any action whatsoever to "defend the national security interests of the United States against the threat posed by Iraq, and restore international peace and security in the region."

While I hope this is the beginning of a consultative, bipartisan process to produce a sensible resolution and to act on it at the appropriate time, the current proposal is an extraordinarily over-broad, open-ended resolution that would authorize the President to send American troops not only into war against Iraq, but also against any nation in the Gulf or Middle East region, however one defines it.

Declaring war, or providing the authority to wage war, is the single most important responsibility given to Congress under the Constitution. As history has shown, wars inevitably have unforeseen, terrible consequences, especially for innocent civilians.

Blank-check resolutions, such as the one the President proposes, can likewise be misinterpreted or used in ways that we do not intend or expect. It has happened before, in ways that many people, including Members of Congress, came to regret. That is why a thorough debate is so necessary. And that is also why this Vermonter will not vote for a blank check for this President or any President. My conscience and the Constitution do not allow it.

The timing of the debate is also important. Congress is being asked to send Americans into battle, even though diplomatic efforts have not yet been exhausted. Nor do we have a complete assessment by U.S. intelligence agencies of the threat that Iraq poses to the United States.

I will have more to say when the debate on the resolution occurs. But I do want to take a few minutes to share some initial thoughts as we begin to consider this difficult question.

The question we face is not whether Saddam Hussein is a menace to his people, to his neighbors and to our national security interests. The Iraqi regime has already invaded Iran and Kuwait, gassed members of its own population, and repeatedly flouted international conventions against armed aggression. It is clear that Iraq has tried to develop a range of weapons of mass destruction, including nuclear, chemical, and biological weapons, with which Iraq might threaten the entire Gulf region.

I would like to see Saddam Hussein gone as much as anyone. But the question is, how immediate is this threat and what is the best way to deal with it, without undercutting our principal goal of protecting the American people from terrorism, promoting peace in the Middle East, and other important U.S. national security priorities?

Some administration officials have suggested that to ask questions about going to war in Iraq is somehow unpatriotic, or indicative of a lack of concern about national security. That is nothing more than election year partisan politics at its worst. These questions are being asked by Americans in every State of the Union.

Until recently our focus has been, rightly so, on destroying al-Qaida and other terrorist networks. While that challenge has already cost billions of dollars and continues to occupy the attention and resources of the Department of Defense and the U.S. intelligence community, the administration has suddenly shifted gears and is now rushing headlong toward war with Iraq.

Some have argued that Congress must act now to strengthen the President's hand as the administration negotiates at the United Nations.

But what we would really be saying is that regardless of what the Security Council does, we have already decided to go our own way. I contrast that with the situation in 1990 when the United States successfully assembled a broad international coalition to fight the Gulf War. The Congress passed a resolution only after the U.N. acted.

President Bush deserves credit for focusing the world's attention on international terrorism and weapons of mass destruction. I have said this over and over again. But the process that has brought us to the brink of preparing for war with Iraq has been notable for its confusion.

The statements of administration officials have been fraught with inconsistencies. They claim to speak for the American people, but average Americans are urging the administration to proceed cautiously on Iraq and to work with the United Nations and the Congress. Our allies are confused and angry about the way this has been handled. Our friends in the Middle East are fearful of what lies ahead.

Fortunately, the President heeded calls to go to the United Nations, and in his speech to the General Assembly he described in great detail Saddam Hussein's long history of deception and defiance of U.N. resolutions. I commended that speech. I am also pleased that it focused on enforcing those resolutions, especially concerning weapons of mass destruction.

But the American people need to hear more than generalized accusations and threatening ultimatums. They need to know the scope and urgency of the problem, Saddam's current and future capabilities, the options for solving the problem, and the short and long-term implications of each course of action, including the very real dangers of unintended consequences.

I agree with the President when he says that Saddam Hussein cannot be trusted and that disarming Iraq is the goal. But the first way to try to accomplish this is not through precipitous, unilateral military action. Rather, it is by building an alliance and working through the United Nations.

Earlier this week, the former Chairman of the Joint Chiefs of Staff, General John Shalikashvili, warned the administration of the dangers of attacking Iraq without the backing of the United Nations:

> We are a global nation with global interests, and undermining the credibility of the United Nations does very little to help provide stability and security and safety to the rest of the world, where we have to operate for economic reasons and political reasons.

Working through the United Nations to readmit the weapons inspectors could be effective in disarming Iraq. Rolf Ekeus the former executive chairman of UNSCOM, has stated:

> International weapons inspectors, if properly backed up by international force, can unearth Saddam Hussein's weapons programs. If we believe that Iraq would be much less of a threat without such weapons, the obvious thing is to focus on getting rid of the weapons. Doing that through an inspection team is not only the most effective way, but would cost less in lives and destruction than an invasion.

A study by the Carnegie Endowment, co-authored by former U.S. military and United Nations officials, supports this view: "With sufficient human and technological resources, time, and political support, inspections can reduce Iraq's [weapons of mass destruction] threat, if not to zero, to a negligible level."

There are distinct advantages to this approach. For one, if Iraq again refuses to comply with U.N. demands, there will be a much stronger case for more forceful action.

It would also help mitigate potential damage to our relations with other nations whose support we need to achieve other important U.S. goals, such as capturing terrorists or promoting peace in the Middle East.

Diplomacy is often tedious. It does not usually make the headlines or the evening news, and much has been made of our past diplomatic failures. But history has shown over and over that diplomacy can not only protect our national interests, it can also enhance the effectiveness of military force when force becomes necessary.

Many experts believe that, despite deception by the Iraqis, the U.N. inspection process destroyed much of the Iraqi weapons program, and new inspections could succeed in substantially disarming Saddam. However, the U.N. regime broke down when Saddam Hussein starting blocking the inspections and the Security Council was divided on how to respond.

I support the unconditional return of inspectors backed up by an international military force. But, the world must not repeat the mistakes of 1998. We have already seen some troubling signs of diplomatic double talk from the Iraqis, particularly on the issue of unimpeded access for the inspectors. The international community cannot tolerate deception and defiance on the part of the Iraqis, and Secretary Powell is right to push for a new U.N. resolution.

Other members of the Security Council should join United States and British efforts to craft a strong new resolution with a deadline for Iraqi compliance. The U.N. has a responsibility to enforce its demands. If the U.N. does not act to ensure that the inspection regime is effectively structured, we will end up back where we were in 1998. Saddam will play the same cat and mouse game, the U.N. will look toothless, and we will be not be able to destroy the Iraqi weapons program.

We need a strengthened inspection regime that has preexisting authority from the Security Council to deploy military force to back up the inspectors if there is resistance from Iraq. I hope that the Administration works with the United Nations, not so much the other way around, to make this happen.

If Iraq resists the inspections, and the President decides to use military force, then the procedure is clear. He can seek a declaration of war from the Congress, and the Congress can vote. But voting on such a resolution at this time would be premature.

A decision to invade Iraq to topple Saddam Hussein should be based on a complete assessment of Iraq's arsenal of weapons of mass destruction, and the threat Iraq poses to the United States. What is the evidence—as opposed to assertions and assumptions—that Iraq is close to acquiring a nuclear weapon? What is the evidence that Iraq is capable of launching, or has any intention of launching, an attack against us or one of our allies?

And there are more questions that are as yet unanswered. What is the evidence that Saddam Hussein wants to commit suicide, which such an attack would guarantee? Why is containment, a strategy which kept the Soviet Union with its thousands of nuclear warheads and chemical and biological weapons at bay for 40 years, not valid for Saddam Hussein, a cold, calculating tyrant who cares above all about staying in power?

I am not sure how these questions can be answered without an updated National Intelligence Estimate. As the Washington Post has reported, there are conflicting views within the intelligence community on Iraq, and without this estimate, which pulls together the different assessments by various parts of the intelligence community, Congress is being asked to give a blank check without all of the facts. I am not going to write a blank check under any circumstances and I am certainly not going to do it with less than all of the facts.

We also must assess whether an attack could spin out of control and draw the entire Middle East into war. As Secretary Rumsfeld acknowledged, an Iraqi attack on Israel could spark a deadly spiral of escalation in which Israeli retaliation prompts responses from other Arab states. Israel has a right of self-defense, and Prime Minister Sharon has said that Israel would retaliate. At the very least, it would further inflame Arab populations whose governments are key to bringing lasting peace to the Middle East and reducing the breeding grounds for extremist Islamic fundamentalism and international terrorism. Some of those breeding grounds are within the borders of some of our closest friends in the region and we should not lose sight of that.

We also must fully assess the costs of a war. The Gulf War cost tens of billions of dollars, but ultimately other nations helped to defray those costs. The President's Economic Adviser said that this war could cost as much as two hundred billion dollars, and that assumes it does not spread beyond Iraq.

As the combat in Afghanistan showed, once again, we have the finest fighting forces in the world. We can be confident that we would win a war with Iraq, but there would be American lives lost, especially if Iraq lures U.S. troops into urban combat.

We have to remember that it is one thing to topple a regime, but it is equally important, and sometimes far more difficult, to rebuild a country to prevent it from becoming engulfed by factional fighting. If these nations cannot successfully rebuild, then they will once again become havens for terrorists.

The President would need to show that a post-Saddam Iraq would not be a continual source of instability and conflict in the region. While Iraq has a strong civil society that might be able to become a democracy, in the chaos of a post-Saddam Iraq another dictator could rise to the top or the country could splinter into ethnic or religious conflict.

To ensure that this does not happen, does the administration foresee basing thousands of U.S. troops in Iraq after the war, and if so, for how many years and for how many billions of dollars at a time when the U.S. economy is weakening, the Federal deficit is growing, and poverty is increasing here at home?

Is the administration committed to investing the resources it is going to take to rebuild Iraq, even when we are falling short of what is needed in Afghanistan?

In Afghanistan, the Taliban was vanquished with a minimum of U.S. casualties, but destroying al-Qaida, which is the primary goal of our efforts in Afghanistan, is proving far more difficult. We are told that while al-Qaida's leadership has been badly disrupted, its members have dispersed widely. Although there is a growing belief that Osama bin Laden is dead, we have no proof.

In addition, the humanitarian situation in Afghanistan is critical. There are thousands of homeless Afghans and a real threat of widespread hunger or famine this winter. There are families who lost loved ones or their homes were destroyed in the violence perpetrated by the Taliban, years of civil war, or from mistakes made during military operations by U.S. and coalition forces.

Yet the administration, despite calls by President Bush for a Marshall plan, did not ask for a single cent for Afghanistan for fiscal year 2003. In addition, $94 million for humanitarian, refugee, and reconstruction assistance to Afghanistan, which Congress added in the supplemental appropriations bill, was not deemed an emergency by the President.

Some relief organizations have already been told that they may have to shut down programs for lack of funds. This is happening in a country that so desperately needs the most basic staples such as water, education and medical help. Afghans who have returned to their homes from outside the country may become refugees once again.

Many other nations have yet to fulfill pledges of assistance to Afghanistan, but if the President is serious about a Marshall Plan, and I believe he is right, then we need to do much more to help rebuild that country.

Yet, as we continue to face difficult challenges in Afghanistan and hunting down members of al-Qaida, not to mention a number of challenges here at home such as the economy, we are suddenly being thrust into a debate about Iraq. It is a debate that will have lasting consequences for our standing in the world as a country that recognizes the importance of multilateral solutions to global problems and that respects international law.

General Wesley Clark, who headed the successful U.S. and NATO military campaign in Kosovo, recently addressed this problem directly, when he wrote:

> The longer this war [on terrorism] goes on—and by all accounts, it will go on for years—the more our success will depend on the willing cooperation and active participation of our allies to root out terrorist cells in Europe and Asia, to cut off funding and support of terrorists and to deal with Saddam Hussein and other threats. We are far more likely to gain the support we need by working through international institutions than outside of them.

The world cannot ignore Saddam Hussein. I can envision circumstances which would cause me to support the use of force against Iraq, if we cannot obtain unimpeded access for U.N. inspectors or the United States is threatened with imminent harm.

But like many Vermonters, based on what I know today, I believe that in order to solve this problem without potentially creating more enemies over the long run, we must act deliberately, not precipitously.

The President has taken the first step, by seeking support from the United Nations. Let us give that process time. If it fails, then we can cross that bridge when we come to it.

But I am reminded of my first year as a U.S. Senator. The year was 1975, and there were still 60 or 70 Senators here who had voted for the Tonkin Gulf resolution a decade earlier. That vote was 88–2, and many of those Senators, Democrats and Republicans, spoke of that vote as the greatest mistake of their careers.

That resolution was adopted hastily after reports of a minor incident which may, in fact, not have occurred at all.

It was interpreted by both the Johnson and Nixon administrations as carte blanche to wage war in Vietnam for over a decade, ultimately involving over half a million American troops and resulting in the deaths of over 58,000 Americans.

I am not suggesting that the administration is trying to deceive Congress or the American people, and I recognize that the situation in Iraq today is very different from Vietnam in 1964. But we learned some painful and important lessons back then. And one that is as relevant today as it was 38 years ago, is that the Senate should never give up its constitutional rights, responsibilities, and authority to the executive branch. It should never shrink from its Constitutional responsibilities, especially when the lives of American servicemen and women are at stake.

So when we consider the resolution on Iraq, I hope we will remember those lessons, because under no circumstances should the Congress pass a blank check and let the administration fill in the amount later. The Constitution does not allow that, and I will not do that.

The PRESIDING OFFICER. Under the previous order, the Senator from South Dakota is recognized.

IRAQ

Mr. JOHNSON. Mr. President, I rise today to state my intention to vote in favor of a resolution to authorize the use of military force against Iraq. At this point, final resolution language is begin arrived at, and I believe this effort will lead to a resolution which will gain broad, bipartisan support. I support the President, and as a member of the Appropriations Committee, look forward to working with him to ensure that our Armed Forces remain the best-equipped, best-trained fighting force in the world.

Simply put, the world would be a far safer place without Saddam Hussein. As long as he remains in power in Iraq, he will be a threat to the United States, to his neighbors, and to his own people. Over the past decade, he has systematically reneged on his commitments to the international community. He has refused to halt his weapons of mass destruction program, to renounce his support for international terrorism, and to stop threatening peace and stability in the region. The threat that Saddam Hussein continues to pose to our national security interests, and his failure to abide by previous United Nation's Security Council resolutions, provides sufficient justification should military action become necessary.

I am pleased that President Bush has come to the Congress to ask for authorization for the use of force in Iraq, and that the White House is continuing to work with us to develop the appropriate language for a congressional resolution. It is important for the people's representatives in Congress to have the opportunity to fully debate and vote on a matter of this importance. I hope we will move to this vote in an expeditious manner.

In addition, I back the administration's efforts to build support for our policy in Iraq with our allies and with the international community as a whole. Secretary of State Colin Powell has been particularly effective in making the case that Iraq has not complied with the relevant Security Council resolutions and that he remains a threat. Make no mistake, I believe the United States is within its rights to act alone militarily to protect our vital national security interests. I we are required by circumstances to act alone, I will support that decision. U.S. action should not be contingent upon the decisions made by other nations or organizations. My expectation, however, is that this resolution will strengthen the hand of the President at securing United Nations or other forms of international support and cooperation, and I encourage his on-going effort in that regard.

I believe that there is value in building an international coalition of nations and in having the full support of our allies. International support brings practical benefits, such as basing rights for U.S. soldiers and equipment in the region and authorization to use the airspace of neighboring countries to execute military strikes against Iraq. In addition, international support will increase the likelihood of success for our long-term strategy in Iraq and for the ongoing war on global terrorism. I encourage the President to continue his efforts to build a strong coalition of nations to support our Iraq policy.

Mr. President, this issue has particular significance for me—my son Brooks is on active duty in the Army and is a member of one of the three units that General Franks has identified as likely to prosecute this war. There is a strong possibility that I may be voting to send my own son into combat, and that give me special empathy for the families of other American servicemen and women whose own sons and daughters may also be sent to Iraq. Nevertheless, I am willing to cast this vote—one of the most important in my career both as a Senator and certainly as a father—because I recognize the threat that Saddam Hussein represents to world peace. It is my hope that we can move forward quickly, in a bipartisan manner, to approve a resolution that will give the President the authority he needs to defend our Nation.

The PRESIDING OFFICER (Mr. NELSON of Florida). Under the previous order, the Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, this is called the greatest deliberative body in the world. I have always been enormously proud to be a part of it. There are times I think we treat the light too seriously and then the serious too lightly, but in this time and place, the issue of national security is something all of us understand is serious.

This is a deadly serious business. The question of war with Iraq, the question of homeland security, are very important issues. I know there was some controversy yesterday beginning with stories in the newspaper and in the Senate Chamber about statements by the President.

I don't think there is a context in which it is ever appropriate for us to suggest or the President to suggest the opposing political party or members of the opposing political party do not support this country's national security. You will never, ever, hear me suggest a group of my colleagues don't care about this country's national security. I will never do that. It is not the appropriate thing to do.

When you read the President's statements at fundraisers about these matters and hear his suggestion, no matter the context, that the U.S. Senate doesn't seem to care about national security, or places special interests ahead of the Nation's interests with respect to security, that is wrong.

National security is deadly serious business. The issue has to do with the country of Iraq, but much more than that—a very troubled region of the world—the question of whether a tyrant, an international outlaw of sorts, is going to acquire nuclear weapons and threaten his region and the rest of the world, and what we might be considering doing about that, what we should do about it, and what the United Nations considers we should do about it. That is serious business.

Any discussion ever about sending our sons and daughters to war is serious business. It has no place in political fundraisers or in the normal routine of American political partisan activity leading up to an election.

Yesterday I attended a top secret briefing with Vice President CHENEY at his invitation. I happen to think we are all on the same side. We have a single relentless interest, and that is the interests of this country and its security.

Yesterday it was said some of this dispute relates to the discussions about homeland security and the position taken by some Members of the Senate with respect to homeland security. There is no right or wrong way to do homeland security. There are a lot of ideas on how one might address homeland security.

I happen to believe port security is very important. We have 5.7 million containers coming in on container ships every single year; 100,000 of them are inspected, and 5.6 million are not. If a terrorist were to want to introduce a weapon of mass destruction into this country, do you think they would not consider putting it in a container on a ship that is going to come up to a dock at 2 miles an hour and dock at one of our major ports, to be taken off and put on 18 wheels, driven across the country to its target?

No, we will spend $7 or $8 billion this year believing a rogue nation or terrorist will acquire an intercontinental ballistic missile, put a nuclear bomb on top of it; so we will spend $7 to $8 billion on national missile defense. Is that the smart thing to do, at a time when 5.6 million containers will show up at our docks and are uninspected? That is a decision this Congress ought to take a hard look at.

We have differences on the homeland security bill. It is not that one side believes in supporting this country's defense and this country's security and the other side doesn't. There are differences about it. Is putting 170,000 people into one agency, moving all these boxes around into one agency, is that going to make us better, more fit, more capable of defeating terrorism? Maybe. But big, slow, and bureaucratic is not the way to address terrorism. These 170,000 people will not include the CIA and the FBI. Just read the papers in the last couple of months and ask yourself, where have the problems been in the gathering and the interpretation of intelligence and information about prospective terrorists? They are not even a part of this.

Some say if the President doesn't have flexibility to deal with all of these workers in any appropriate way he thinks necessary, somehow it affects our country's security. It is as if taking 170,000 workers and putting them into one agency and providing some basic security, the kind of basic security they have had with respect to jobs, is counter to this Nation's security. I don't believe that at all.

Go back 100 years and ask yourself what happens in a country such as ours when you decide the Federal workforce shall become a part of patronage, Federal workers will have no security, but can be used at the whim of an executive agency. I am not talking about this one; I am talking about any executive agency or any administration. This country has been best served by making sure we have a Federal workforce that we can trust, that works hard, that is honest, that serves this country well, and that doesn't serve any partisan interest ever.

Some say let's get rid of all the worker protections, that is the way to handle homeland security. That doesn't make any sense to me. There is not a Republican or a Democratic way to develop the issue of security for this country. This is not about political parties. It is about trying to figure out what is the best approach to protect this country's interests, what is the best approach to do that.

Those who want to use this politically do no service to this country's interest. It is not about politics. It is, indeed, about security.

Let me make the next point. Yes, security with respect to people such as Saddam Hussein, and I hope at the end of the day we can find a way to pass a resolution in this Senate that has broad bipartisan support. I hope that is what happens. I believe that is what should happen. I hope at the end of the day we will have passed a homeland security bill that works, one that is effective, one that gives us confidence about defeating prospective terrorists and those prospective terrorists' acts against the American people.

Also, there is another issue with respect to security, and that is the security of our country with respect to the economy and what is happening inside our country. Take a look at the stock market these days. The stock market has collapsed like a pancake. Why? Because investors are nervous. There is no predictability, consistency, security. They are nervous.

We have had a circumstance in recent years where big budget surpluses that were projected for 10 years have turned to big budget deficits. We have had a recession. We have had a terrorist attack on our country that was the worst terrorist attack in the history of our country. We have had, in addition to that, a war against terrorists and a collapse of the technology bubble and a collapse of the stock market. We have had a corporate scandal unparalleled in the history of this country. It shakes the faith of the American people in this economic system of ours.

Even as we discuss all of these security issues, let's understand there is one additional security issue, and that is the economic security of the people in this country, an economy that, hopefully, grows and provides opportunities and jobs once again. This economy is in trouble, and it would serve this President and this Congress well to decide we ought to work together to do something about that as well.

More and more people are out of work. What does that mean? Is that a statistic? No, it is not just a statistic; it is someone who comes home from work one day and says: Honey, I have lost my job, a man or woman who is well trained and worked hard, and because the economy runs into some whitewater rapids and some trouble, they are laid off. Hundreds of thousands of Americans are losing their jobs. It is a big problem.

For those who lose their jobs, their statistic is 100-percent unemployment. They wonder whether there are people around here who care about that. Will there be people who care about economic security issues, trying to put the pieces back together in an economy that is troubled?

We are told the average 401(k) retirement savings account has lost about a third of its value. A North Dakotan who worked for the Enron Corporation for many years wrote to me and said: I had $330,000 in my 401(k) account. It was my life savings—$330,000. It is now worth $1,700.

Do you think that family cares about whether we try to do something to fix what is wrong with this economy? That also deals with security—economic security.

We have all across the central heartland of this Nation family farmers, in my judgment the economic all-stars of America. They raise the food that a hungry world so desperately needs. But a massive drought has occurred across much of this country. Many of those farmers and ranchers have produced nothing.

In my home area of southwestern North Dakota, the landscape looks like scorched earth. It looks like the moonscape, in fact, with no vegetation.

The question is: What about economic security for people who have suffered a natural disaster of a drought? This Senate answered that. The Senate said: Let's provide some emergency help, just as we do when tornadoes, earthquakes, fires, and floods happen. When these natural disasters occur, this country says to people affected: You are not alone; we are here with you; we want to help. So this Senate, with 79 votes, said: We want to help you; we want to help provide some economic security during a tough time, during a disaster. The drought was not your fault, we say to farmers and ranchers.

But the House of Representatives and the President do not support the bill we passed in the Senate that also deals with economic security.

Nobody in this Chamber has a farm someplace 15, 25 miles from town and has invested virtually everything they have in seeds to plant in the ground in the spring and then discovered it did not rain and those seeds are gone, there is no crop, and they do not have the money for family expenses to continue, so they are going to have to have an auction sale. No one in this Chamber suffers that fate—no one.

No one in this Chamber gets up to do chores in the morning—milk cows, feed the cattle, service farm machinery. Nobody does that. But this Chamber understands because 79 Members of the Senate voted for a disaster package to help family farmers during this disaster.

We hope that when we have all of this talk about security, which I think is deadly important and deadly serious—we hope security includes a discussion about economic security, and part of that economic security is providing a disaster bill and disaster help to family farmers when they need it. I ask the House of Representatives and the President to stop blocking that disaster bill.

Another part of this issue of economic security is fixing what is wrong with respect to corporate governance in dealing with corporate scandals. We passed a bill in the Senate dealing with that, but it is not quite enough. We must do more.

Senator SARBANES, in my judgment, deserves the hero's award for being able to put together the bill he did. I was proud to vote for it. One amendment, to give an example of the unfinished business, I tried to offer and which was blocked for 3 or 4 days by my colleague, Senator GRAMM from Texas, dealt with bankruptcy. That amendment is not now law. Let me give an example of what I was trying to do and why it is unfinished business if we are really going to provide economic security.

The Financial Times did a study of the 25 largest bankruptcies in America. Here is what they discovered: Of the 25 largest corporate bankruptcies in America, the year and a half before bankruptcy, 208 executives of those corporations took $3.3 billion out of the company. Then they went bankrupt.

My belief is, when executives are taking a company to bankruptcy and filling their pockets with gold, there is something fundamentally wrong. Investors lose their savings, employees lose their jobs, everybody else loses their shirt, and the top executives of the largest bankrupt companies in the country walk away to their homes behind gated walls someplace and count their money. They walked off with $3.3 billion in the 25 largest bankruptcies. Shame on them.

I wanted to offer an amendment that recaptures and disgorges those ill-gotten gains. Does anybody here believe that anybody, as they take a company into bankruptcy, the year before it goes to bankruptcy should be getting incentive payments and bonus payments for a company that is going down the tubes? Does anybody believe that? That is unfinished business, and there are other pieces dealing with this corporate issue to which we must respond.

The other unfinished business deals with health care, for example, and prescription drugs. We have not passed a prescription drug bill and put a prescription drug benefit in the Medicare Program despite all of our best efforts. That also deals with economic security because when someone needs lifesaving medicine and cannot afford it, it means that medicine saves no lives.

We have people in this country who desperately need prescription drugs to provide the miracle cures and the opportunities for a better life and cannot afford them. We believe putting a prescription drug benefit in the Medicare Program is the right thing to do. No, not some shell, not some phony gimmick by saying, as the House did, just cobbling up a little effort: By the way, let's call this a prescription drug benefit and let the managed care organizations handle it. That does not make any sense. They know it. We know it. They are just trying to create a defensive position to say they did something when, in fact, they did nothing.

We are going to do something, and we should, with respect to prescription drugs for senior citizens. We ought to do it right and do it well. That is another piece of unfinished business that deals with security—economic security and family security.

In Dickinson, ND, a woman went to her doctor with breast cancer and had surgery for breast cancer, and the doctor said to the woman on Medicare: In order to prevent a recurrence of breast cancer, the best chance to prevent a recurrence, you need to take these prescription drugs I am going to prescribe for you.

She said: Doctor, what does it cost? And he told her.

She said: Doctor, there is no way I can afford to buy those prescription drugs. I am just going to have to take my chances.

That is how the doctor testified at a forum I held at home in North Dakota. That is why it is important to complete the undone business dealing with economic security, security for American seniors, to put a prescription drug benefit in the Medicare Program that really works. We have not been able to do that because we are blocked by people who do not want that to happen.

Mr. REID. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. REID. The Senator has served in the House of Representatives and now in the Senate and understands, as well as anyone, the procedures that take place in both bodies. We have been on homeland security for the 4th week. I was told yesterday they had 30 people who wanted to speak on this amendment. As I mentioned earlier this morning, that is a code ward for "filibuster."

Is it not unusual that a President, who says he wants this bill so badly, has not helped move the bill in 4 weeks, and now the majority leader has arranged a procedure where they can have a vote on the so-called Gramm amendment and they are not taking yes for an answer? Do you think they are really serious about moving homeland security?

Mr. DORGAN. There is no evidence of that in the last 3 or 4 weeks. If ever you have seen an example of slow walking, this has been it.

We can, should, and will pass a homeland security bill. We are going to need help to do it. Those who say they want to pass this bill but have their heels dug in and are preventing action by the Senate, in my judgment, are delaying the inevitable. We will pass homeland security because we should.

We have an amendment on which we ought to vote. We do not need 40 speakers after 4 weeks. Have a vote on the amendment. That is the way to deal with this. I understand there are people who oppose the amendment. The opposition comes from people who either want it their way or they do not want it at all. They think, If we cannot get our way, we do not want legislation to move.

Mr. REID. If the Senator will yield, I have learned a lot from the Senator from North Dakota on agricultural matters because the State of North Dakota depends heavily on its agricultural base for everything in the State. As a result of that, I was 1 of 79 Senators who supported—because the case was made so clearly—farmers all over America who were in desperate need of help because of the drought that has struck the country. We have in the Interior appropriations bill, which is also part of what we have been doing for 4 weeks, a provision to give that aid.

I ask the Senator, would it not be better to do that now than to have this legislation hung up on how money will be distributed to fight fires?

Mr. DORGAN. There is an urgent need to get this bill completed. The Interior bill, as well, has been on the floor. For those who are listening to this discussion, we are working on two issues simultaneously. They call it dual tracking. We have homeland security and the Interior appropriations bill. Both have been on the floor for weeks.

With respect to the Interior bill, the 79 votes cast for the issue of providing disaster aid for family farmers demonstrates the strong support of this Senate for doing that. Yet it is part of an Interior bill that is being held up.

There is an urgent need to get this done. We have family farmers, and the families are sitting around their supper tables talking about their hopes and dreams, whether they are going to have to have an auction sale. Will they be able to make it? Or get through the winter? Or raise cattle in the spring? Or plant seed in the spring? They do not know. If we provide disaster help, they will. If we do not, many will not make it.

I have been pleased, and will always be pleased as a Member of this body, to support, in every circumstance, those around this country who suffer disasters. When Florida is hit by a devastating hurricane, or California by a devastating earthquake, or a dozen other natural disasters I could name, I am the first to say we ought to help. I always want to vote for it. I always want our country to say to those people affected by the disasters, you are not alone; the rest of the country is with you.

That is why I was so pleased with what the Senate did, by 79 votes, saying we need a disaster bill to deal with the devastating drought. In some areas it is as bad as it has been since the 1930s.

In answer to the question, there is urgent business in the Interior bill. We ought to get it done. Those who are blocking it ought to stop blocking it.

Mr. REID. Finally, because of the need to pass homeland security and certainly this drought assistance, and we are spending so much unnecessary time on it, I have said this is an effort to divert attention from all the issues of the economy, and I have heard the Senator from North Dakota ask on many occasions: Why are we not doing something about passing appropriations bills? Why are we not doing something to stimulate the economy? Why are we not doing something with bankruptcy reform? Election reform? Why aren't we doing something with generic drugs? The Senator talked about the Patients' Bill of Rights, terrorism insurance—on all the domestic issues, we have heard not a word and are getting no help from the majority in the House or the minority in the Senate, and certainly not from the White House.

Does the Senator acknowledge we are not spending much time on economic issues?

Mr. DORGAN. I talked about the issue of security and I said it is deadly serious business, national security, homeland security. But there is another area very important for the country. That is economic security. We are spending virtually no time on that. We ought to. The American people deserve to have a Congress that, yes, is concerned about national security, concerned about homeland security, but that is willing to tackle during tough economic times the economic security issues as well. This Congress has not been willing to do that.

Let me end as I began, because this is important. I will never minimize the importance of the security issues. In my judgment, the President and the Congress need to act and speak as one when we talk about the security of this country. No one will never, ever hear me say any Member in this Chamber does not believe in the security of this country or does not act to support the security of this country. I will never say that. I don't want to hear the President say it. I don't want to hear anyone else say it. I believe every Republican, Democrat, conservative and liberal, believes in their heart that whatever they are doing represents the security interests of this country. They love this country and believe in the country, and that goes for everyone serving this country. I don't want anyone to suggest in any way under any context there are those who believe in security more than others. We all love this country. We all want to do what is right and best for this country. I will strongly support the security of this country. It is national security. It is homeland security. It is economic security.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the second half of the time shall be under the control of the Republican leader or his designee.

The Senator from Pennsylvania.

HOMELAND SECURITY

Mr. SPECTER. Mr. President, I have sought recognition to encourage my Senate colleagues to pass legislation on homeland security and to send it to conference. There are many more agreements, much more agreement than disagreement, and the disagreements are relatively minor.

Last week, I said the Senate was dysfunctional because we had not passed a budget resolution. For the first time since the Budget Act was passed in 1974, the Congress has not passed a budget resolution. The Senate has not passed a budget resolution. Thirteen appropriations bills have not been passed. We have been on the Interior bill for weeks now and homeland security for weeks. Long speeches. Not getting to the point. Not voting. Not moving ahead with the legislation.

Last week, it was an accurate characterization to say the Senate was dysfunctional. This week, the Senate has become a chamber of rancor. It is plain that President Bush did not intend to impugn anyone's patriotism. He was commenting on two provisions of the homeland security bill related to labor-management relations. Even on those matters, the differences are relatively minor. The relationship between Republicans and Democrats is better characterized by the embrace between President Bush and the majority leader at the joint session of Congress shortly after September 11, 2001.

The current controversy may well be giving encouragement, aid, and comfort to Osama bin Laden, deep in some cave, and Saddam Hussein, in the bowels of some bomb shelter. However, we know who the enemies are. The enemies are the terrorists and the enemies are those who pose the risk of using weapons of mass destruction.

I believe it is vital to move ahead with the homeland security bill to correct major deficiencies which have been disclosed in the intelligence agencies in the United States. We had a veritable blueprint, prior to September 11, 2001, and if we had connected all of the dots, I think the chances were good that we could have avoided September 11. The Congress of the United States and the administration have a duty, a solemn duty, to do everything in our power to prevent another terrorist attack. We lost thousands of Americans and the official word from the administration, articulated by a number of ranking executive department officials, is that there will be another terrorist attack. It is not a matter of if, it is not a matter of whether, it is a matter of where or when.

I am not prepared to accept that conclusion. I believe the United States has the intelligence resources and can muster the intelligence resources to prevent another September 11.

When I served as chairman of the Intelligence Committee in the 104th Congress, I introduced legislation which would have brought all of the intelligence agencies under one umbrella. There have been repeated efforts to accomplish that, not just the legislation I introduced in 1996. There is on the President's desk a plan submitted by former National Security Adviser, General Scowcroft, to accomplish a coordination of all intelligence agencies. However, it has not been done because of the turf battles between the various intelligence agencies. Those turf battles regrettably are endemic and epidemic in Washington, DC. They have to come to a conclusion.

We have the mechanism now, the homeland security bill, to make those corrections. We knew prior to September 11, from the FBI Phoenix memorandum, about men taking flight training who had big pictures of Osama bin Laden. The report was disregarded. We knew prior to September 11 that there were two terrorists in Kuala Lumpur. The CIA knew about it, but did not tell the FBI or INS, and they turned out to be two of the pilots on September 11.

We know from the efforts made by the Minneapolis Office of the FBI to get a warrant under the Foreign Intelligence Surveillance Act as to Zacarias Moussaoui, which would have given us a veritable blueprint of al-Qaida's intention, that certainly it would have led us to the trail and could have prevented September 11.

Then we have the famous, or infamous, report coming to the National Security Agency on September 10 about an attack the very next day, which was not translated.

There is much more I could comment about, but the time is limited.

Mr. REID. Will the Senator yield for a question?

Mr. SPECTER. OK, on your time.

Mr. REID. We don't have any time, but I am sure if we need any time——

Mr. SPECTER. Senator DOMENICI, who is the only Senator waiting, says it is OK, so I will be glad to respond to the question.

Mr. REID. The reason I want to have an exchange with the Senator is I think maybe what the Senator said here today could resolve this homeland security matter.

I believe, as the Senator from Pennsylvania does, that if there are differences we have here in the Senate version of the bill, it will go to conference with the House. The House and the Senate will sit down, the White

House people will be involved, as they always are in important conferences, and we will come up with a product. I think instead of scrumming, as we are here, I think we would be better off, as the Senator has suggested, to get a bill out of here, get it to conference, and get something to the President's desk.

So I fully support, as I heard him, the Senator from Pennsylvania. I think that is the way to resolve this matter. Get a bill out of here, get it to the conference, and, as the Senator said—how much difference is there between the two versions of this amendment that is creating so much controversy? There are differences, but I am not sure they are as big as some think.

The labor-management issue, which seems to be a big problem, if that matter is as close as what the Senator from Pennsylvania said, I think it could be resolved in conference.

Mr. SPECTER. I thank the distinguished Senator from Nevada for that question, and I am glad to respond. I had intended to talk a little later about the differences. Let me take them up now to emphasize the point that the Senator from Nevada has made, that the differences are not very big.

I agree with the Senator from Nevada that we ought to send the bill to conference. When we had prescription drugs on the Senate floor, I voted for the Republican measure, Grassley-Snowe, and then I voted for the bill put up by the Democrats, by Senator GRAHAM of Florida. It seemed to me the important thing was to get the matter to conference so that the issue could be resolved with finality.

The two pending issues which are outstanding on labor relations, the difference between the bill offered by Senator GRAMM and the bill offered by Senator LIEBERMAN, with the Breaux amendment, boil down to this: It is the President's authority to waive the provisions on collective bargaining in the event of a national emergency.

Now, listen closely to what the President must do under existing law:

> The President may issue an order excluding any agency or subdivision thereof for coverage under this chapter, collective bargaining, if the President determines that, A, the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work; and the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

This is what Senator BREAUX wishes to add:

> The President could not use his authority without showing that, No. 1, the mission and responsibilities of the agencies or subdivision materially changed and, No. 2, a majority of such employees within such agencies or subdivision have as their primary duty: Intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

It is true the Breaux amendment does add a requirement for the President to exercise his authority. It is true that there is an additional requirement, and the President does lose a little power. However, the requirements of existing law which relate to intelligence, counterintelligence, and investigation are very similar to the provisions of the Breaux amendment which again relate to intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

The President must make an additional showing. However, it is a showing which is very much in line with what the President has to show under existing law.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. SPECTER. Mr. President, I ask unanimous consent for an additional 5 minutes.

Mr. DOMENICI. Reserving the right to object, what is the order following the distinguished Senator from Pennsylvania?

The PRESIDING OFFICER. There is no order of speakers.

Mr. DOMENICI. I ask unanimous consent that I follow him for up to 15 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. I thank the Chair.

Mr. SPECTER. I thank my colleague from New Mexico.

Mr. President, the other provision which is in controversy relates to the flexibility which the President is seeking on six categories. The Breaux amendment would allow the President to have the flexibility under four of the categories, and then in the event of disagreement between management and the union, the controversy would go to the Federal Services Impasse Panel.

There are seven members of that panel and all have been appointed by President Bush. It is customary for that panel to change when the administration changes. The four categories which are in the Breaux bill allow for performance appraisal, classification, pay raise system, and labor-management relations, all of which the President wants, and only the limitation going before the impasse panel, which should not be an obstacle, and then the other two are adverse actions and appeals.

So that if you boil it all down, our area of disagreement is really very minor. The bill which is going to come out of conference is obviously going to take up these issues. We know as a matter of practice when there is a Presidential veto or a firm statement about a Presidential veto, invariably the Congress relents on an individual point.

So it would be my hope that we could yet resolve this controversy. I talked to Senator BREAUX, Senator GRAMM of Texas, and Senator LIEBERMAN, and the parties are very close. I have not yet stated a preference for either position. I am being lobbied on both sides. It is a very major matter for my constituency on both sides, a very large labor constituency in Pennsylvania, and very grave concern on my part that the President's powers not be diminished in a way which would impede his efforts on a Department of Homeland Security.

When you take a look at where we are with the various problems of lapses in security—there have been a parade of witnesses before the joint intelligence committees of the House and Senate. We counted some of these, not all. In view of the limited time, Mr. President, I ask that there be added at the conclusion of my comments a recitation of a number of other warnings which were given, which could have provided a veritable blueprint.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Our job is plain, it seems to me, and that is to move ahead, to have a reconciliation, a rapprochement. Let us not have this as a chamber of rancor. Let us not have a dysfunctional Senate. We have many bills which are now pending in the conference committees, which have not been acted upon—the energy bill, the Patients' Bill of Rights, the voting machine correction bill, the terrorism reinsurance bill, the bankruptcy bill, and others, which are awaiting conference. We have a very heavy duty to the American people to complete the people's business, and we need to finish the appropriations bills and not have a continuing resolution.

I think it is becoming apparent to the American people that we have a dysfunctional Senate. We have to move away from that. We have to let our enemies—the terrorists and Saddam Hussein—know that the Democrat and Republican Party system is better characterized by that famous embrace between the President and Senate majority leader at the Joint Session of Congress shortly after September 11.

I intend to return to the floor to talk in more detail about the Breaux amendment, but I think it is plain by an analysis of what the Breaux amendment does that it ought to be resolved and it ought not to stop this Congress in legislating. It would be a travesty and a tragedy if we were to go over into next year without having a homeland security bill so that we can correct the major problems in the intelligence function of this country.

I again thank my colleague from New Mexico and yield the floor.

EXHIBIT 1

A VIRTUAL BLUEPRINT

NSA INTERCEPTS

The NSA intercepted two messages on the eve of September 11 attacks on the World Trade Center and the Pentagon warning that something was going to happen the next day, but the messages were not translated until September 12. The Arabic-language messages said, "the match is about to begin," and "Tomorrow is zero-hour." They came from sources—a location or phone number—that were of high enough priority to translate them within two days but were not put in the top priority category, which included communications from Usama bin Laden or his senior al Qaeda assistants.

MURAD

In January 1995, the Philippine National Police discovered Ramzi Yousef's bomb making lab in Manila and arrested an accomplice named Abdul Hakim Murad. Captured materials and interrogations of Murad revealed Yousef's plot to kill the Pope, bomb U.S. and Israeli embassies in Manila, blow up 12 U.S.-owned airliners over the Pacific Ocean, and crash a plane into CIA headquarters. Murad is a promoter of the same radical interpretation of Sunni Islam ideology as Usama bin Laden, who emerged during this time frame as promoting this radical ideology.

NOTE: This provided a data point on a terrorist group discussing a plan to use an aircraft as a weapon in the possession of the Intelligence Community.

PHOENIX MEMORANDUM

The FBI paid too little attention to a July 10, 2001 memorandum written by an FBI agent in Phoenix urging bureau headquarters to investigate Middle Eastern men enrolled in American flight schools. The "Phoenix Memo" cited Usama bin Laden by name and suggested that his followers could use the schools to train for terror operations.

Federal authorities have been aware for years that a small number of suspected terrorists with ties to bin Laden had received flight training at schools in the United States and abroad.

Pakistani terrorist plotter Murad, who had planned to blow up airliners over the Pacific, trained at four U.S. schools in the early 1990s.

CRAWFORD BRIEFING

President Bush and his top advisers were informed by the CIA in early August 2001 that terrorists associated with Usama bin Laden had discussed the possibility of hijacking airplanes. The top-secret briefing memo presented to President Bush on August 6 carried the headline, "Bin Laden Determined to Strike in US," and was primarily focused on recounting al Qaeda's past efforts to attack and infiltrate the United States.

MOUSSAOUI & MINNEAPOLIS FBI

Minneapolis FBI agents investigating terror suspect Zacarias Moussaoui last August were severely hampered by officials at FBI headquarters, who resisted seeking FISA surveillance and physical search warrants, applied erroneous probable cause standards, and admonished agents for seeking help from the CIA.

KUALA LUMPUR

The CIA tracked two of the Flight 77 (Pentagon) terrorists to a Qaeda summit in Malaysia in January 2000, then did not share the information as the terrorists reentered America and began preparations for September 11. The CIA tracked one of the terrorists, Nawaf Alhazami, as he flew from the meeting to Los Angeles, and discovered that another of the men, Khalid Almihdhar, had already obtained a multiple-entry visa that allowed him to enter and leave the United States as he pleased. The CIA did nothing with this information. Instead, during the year and nine months after the CIA identified them as terrorists, Alhazami and Almihdhar lived openly in the United States, using their real name, obtaining drivers licenses, opening bank accounts and enrolling in flight schools—until the morning of September 11, when they boarded American Airlines Flight 77 and crashed into the Pentagon.

BIN LADEN

On February 26, 1993, a bomb was detonated in the parking garage of the World Trade Center in New York City. On June 24, 1993, the FBI arrested eight individuals for plotting to bomb a number of New York City landmarks, including the United Nations building and the Lincoln and Holland tunnels. The central figures in these plots were Ramzi Yousef and Shaykh Omar Abd al-Rahman—both of whom have been linked to Usama Bin Laden and are now serving prison sentences.

Following the August 1998, bombings of two U.S. Embassies in East Africa, Intelligence Community leadership recognized how dangerous Bin Laden's network was and that he intended to strike in the United States. In December 1998 DCI George Tenet provided written guidance to his deputies at the CIA, declaring, in effect, "war" with Bin Laden.

Concern about Bin Laden continued to grow over time and reached peak levels in the spring and summer of 2001, as the Intelligence Community faced increasing numbers of reports of imminent al Qaeda attacks against U.S. interests. In July and August 2001, that rise in intelligence reporting began to decrease, just as three additional developments occurred in the United States: the Phoenix memo; the detention of Zacarias Moussaoui; and the Intelligence Community's realization that two individuals with ties to Usama Bin Laden's network—Nawaf Alhazami and Khalid Almihdhar—were possibly in the United States.

In June 1998, the Intelligence Community learned that Usama Bin Laden was considering attacks in the U.S., including Washington, DC, and New York. This information was provided to senior U.S. Government officials in July 1998.

In August 1998, the Intelligence Community obtained information that a group of unidentified Arabs planned to fly an explosive-laden plane from a foreign country into the World Trade Center. The FBI's New York office took no action on the information. The Intelligence Community has acquired additional information since then indicating links between this Arab group and al Qaeda.

In September 1998, the Intelligence Community obtained information that Usama Bin Laden's next operation could involve flying an aircraft loaded with explosives into a U.S. airport and detonating it; this information was provided to senior U.S. Government officials in late 1998.

In October 1998, the Intelligence Community obtained information that al Qaeda was trying to establish an operative cell within the United States. This information indicated there might be an effort underway to recruit U.S. citizen Islamists and U.S.-based expatriates from the Middle East and North Africa;

In the fall of 1998, the Intelligence Community received additional information concerning a Bin-Laden plot involving aircraft in the New York and Washington, DC, areas;

In November 1998, the Intelligence Community learned that a Bin Laden was attempting to recruit a group of five to seven young men from the United States to strike U.S. domestic targets.

In the spring of 1999, the Intelligence Community learned about a planned Bin Laden attack on a U.S. Government facility in Washington, DC. Additionally, in 1999, the threat of an explosive-laden aircraft being used in a suicide attack against the Pentagon, CIA headquarters, or the White House, was noted in a Library of Congress report to the National Intelligence Council.

In late 1999, the Intelligence Community learned of Bin Laden's possible plans to attack targets in Washington, DC, and New York City during the New Year's Millennium celebrations.

On December 14, 1999, an individual named Ahmed Ressam was arrested as he attempted to enter the United States from Canada with detonator materials in his car. Ressam's intended target was Los Angeles International Airport. Ressam, who has links to Usama Bin Laden's terrorist network, has not been formally sentenced yet.

In March 2000, the Intelligence Community obtained information regarding the types of targets that operatives in Bin Laden's network might strike. The Statue of Liberty was specifically mentioned, as were skyscrapers, ports, and airports, and nuclear power plants;

Between late March and September 2001, the Intelligence Community detected numerous indicators of an impeding terrorist attack, some of which pointed specifically to the United States as a possible target. Among these are:

Between May and July, the National Security Agency reported at least 33 communications indicating a possible, imminent terrorist attack—none of which were specific as to where, when, or how an attack might occur, nor was it clear that any of the individuals involved in these intercepted communications had any first-hand knowledge of where, when, or how an attack might occur. These reports were widely disseminated within the Intelligence Community.

In May 2001, the Intelligence Community obtained information that supporters of Usama Bin Laden were reportedly planning to infiltrate the United States via Canada in order to carry out a terrorist operation. This report mentioned an attack within the United States, though it did not say where in the U.S., or when, or how an attack might occur. In July 2001, this information was shared with the FBI, the Immigration and Naturalization Service (INS), U.S. Customs Service, and the State Department and was included in a closely held intelligence report for senior government officials in August 2001.

In May 2001, the Intelligence Community received information that seven individuals associated with Usama Bin Laden departed various locations for the United States;

In June 2001, the DCI's Counter Terrorism Center (CTC) had information that key operatives in Usama Bin Laden's organization were disappearing while others were preparing for martyrdom;

In July 2001, the DCI's CTC was aware of an individual who had recently been in Afghanistan who had reported, "Everyone is talking about an impending attack." The Intelligence Community was also aware that Bin Laden had stepped up his propaganda efforts in the preceding months;

In the late summer 2001, the Intelligence Community obtained information that an individual associated with al Qaeda was considering mounting terrorist operations in the United States. There was no information available as to the timing of possible attacks or on the alleged targets in the United States.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I say to Senator SPECTER, I am sure you had some more to say and I apologize, but it seems like the harder I try to get time here the worse it works out for me.

Mr. SPECTER. It is the Senator's turn, and I am anxious to hear what the Senator has to say.

Mr. DOMENICI. I thank the Senator.

THE BUDGET

Mr. DOMENICI. Mr. President, I made a few remarks 3 or 4 days ago talking about where we are and what we are doing, and I would like to finish those remarks today, perhaps start on a discussion of the American economy.

First, in less than 5 days the new fiscal year begins. That means if you are a businessman, no matter how small or how large, you would be closing down your books, you would be adding everything up, you would be doing a couple of additions and subtractions, and you would find out how well or how poorly you did—a very important event in the life of an ongoing business.

The United States is similar except it is much bigger. Frankly, it does not keep its books nearly as well as the small businesspeople of America, who must keep them much better than we do because of the Internal Revenue Service if nothing else. We are not audited by anybody. We do ours in some strange ways.

The truth is that the year ends October 1. I think both the occupant of the Chair and the Senator from New Mexico can remember when it was July. We found out that was too soon in the year. If you started a year in January, you started work, it was too quick to have everything done in July. So we had a completed year, since I have been a Senator, when we went to October. We had to fix that up. And now October was thought to be ample time to get our work done.

Not a single appropriations bill has been sent to the President. The last time this situation occurred, excluding last year after the attacks, was in 1995 during the infamous Government shutdown. You remember that, the shutdown period.

I come to the Senate because there has been a lot of talk about who is to blame for what. Frankly, I would like to suggest that the majority party and the majority leader bear the burden of running the Senate. They can run it with all the laments they can put forth and all the blame they can shed upon the situation, but the truth is, as difficult as it is, it is their job and the first and most important thing is that they are supposed to prepare and have a vote on a budget resolution. While it is not everything, to many things that transpire after it, it is a very big issue, a very big instrument.

So we find ourselves, as I indicated, where we are 5 days from the end of the year. All of those appropriations bills that are coming along that have not been finished pick up October 1 as the starting date because the other ones that we put in run out. So if we do not do something by October 1, most parts of Government will shut down.

We found that out in 1995 when there was a cleavage between the Congress and the President. The President would not sign some bills because he did not like certain items, and clearly he pinned the blame on Congress for sending those bills up to him in a manner that he would not sign and closed down the Government, one piece after another. So it was a job that we had to get done.

I believe my friend—the new chairman of the Budget Committee who took over in the middle of a 2-year cycle because the Democrats got one additional Member to vote with them, so everything went to them—went their way. I believe the answer was it was just too hard to get a budget.

The occupant of the chair knows how difficult it was. He sat there for days on end. But that wasn't anything new. Senators before him and Senators after him, if we still keep a budget, will sit there for hours on end trying to get it done. It should have been done. A budget resolution is an important issue upon which we should focus.

It is important we in the Senate understand we did not get a budget resolution because some thought it was not necessary. They were wrong. Some thought we would get along without it, but they were wrong. The American people are the ones suffering because we can't get our work done.

I don't believe there is any room to lay blame for that on this side of the aisle. It is that side of the aisle—the majority party of the Senate now, this particular month—that has to bear the blame.

Back in May, the majority leader blamed the lack of a budget on an evenly divided membership in the Senate. Early this month, the chairman of the Democratic National Committee—who has a propensity, because he speaks well, to put his nose in legislative business as if he were one of us—said on the Sunday show, "Face the Nation":

> We couldn't do it because we need 60 votes and we couldn't get 60 votes.

Wrong, wrong, wrong. A budget resolution needs 50 votes—not 60.

The occupant of the chair, as a valued member of the Budget Committee, knows that. Every Senator knows that. There are many votes that are 60 votes because you did not get a budget resolution—because the law says you are punished in some instances. Some things can't get passed with a majority, even though we require a majority. That the budget laws say without the budget, you have to have 60 votes, but not to pass it.

The budget should have been passed. We should have gone back to it on a number of occasions, and it should have been done.

Finally, just last week the chairman of the Senate Budget Committee, referring to an amendment that was voted on by the Senate on June 20, clearly implying it was the Senate budget, literally said here on the floor, and I quote:

> We got 59 votes for that proposal on a bipartisan basis. We needed a supermajority of 60.

That is wrong. You needed 60 votes. Because you didn't have a budget which did not permit you to do what he was suggesting, we didn't get 60 votes.

So that ought to be corrected. Everybody should know the fact we did not have a budget caused it; not that we were voting on a budget that needed 60 votes.

I want to be very clear. We have not voted on a budget resolution in the Senate this year. This will be the first time the Budget Act in its life—which, incidentally, is not a very long life. It is only 27 years old. That means Senator DOMENICI could have been here for its entire life. I have been. I could have been on the committee for its entire life. I was. I could have been the chairman for ½ of its time in existence. I was—maybe 2 years less than ½.

In any event, we split it when we were controlling the Senate. That is who deemed that.

There has not been a budget resolution brought before the Senate to be debated on the floor this year. The chairman of the Budget Committee knows this, and he knows the majority leader knows this, and to even hint we would have considered a budget but didn't pass it is not so.

We have now learned—and I hope they have learned—that if the Democrats are still in control next year, which I doubt—but if they are, we should have learned you had better bring it up, even if you are one or two votes short. And you had better spend 2 weeks debating and see what happens. At least you will have tried, and you might be surprised. Somebody around who would rather there not be a budget would say I will vote to report it out.

I have been, as I indicated, on the Budget Committee since its beginning in the 94th Congress. I have been honored to serve on it. I am very embarrassed by what is happening to it because it is getting very close to becoming something we use as an instrument to require 60 votes for certain things we do and don't do. But as far as it being the policy determiner we expected, it is beginning to fall apart as we speak and as we vote. I know what a budget is. I think I know what we should have done.

Just last week the Chairman of the Senate Budget Committee, referring to an amendment that was voted on in the Senate on June 20, clearly implying that it was a Senate budget, literally said here on the floor and I quote: ". . . we got 59 votes for that proposal on a bipartisan basis. We needed a supermajority, which is 60."

Mr. President, let me be as clear as I can possibly be—we have not voted on a budget resolution in the Senate this year. This will be the first time in the Budget Act's nearly 27 year history that the Senate has not adopted a budget blueprint.

No budget resolution has ever been brought to the Senate floor to be debated and voted on this year. The Chairman of the Budget Committee knows this, the Majority Leader knows this, and to even hint that we have considered a budget, is an absolute insult to those of us that have worked to make the budget process a functioning part of the fiscal decisionmaking mechanism here in the Senate.

I think I know what a budget is, and let me assure those who may care, it does not take 60 votes to adopt a budget in the Senate. Despite what the Majority Leader, the current Chairman, or the Democratic National Committee Chairman says.

In fact, of those nearly 32 budget conference resolutions the Senate has adopted over the years, almost half, fourteen, were adopted with less than 60 votes.

And last year, as Chairman of the Budget Committee, in an evenly divided Senate, I had considered and we adopted a budget resolution for FY 2002. It was tough but we worked hard and in that evenly divided Senate, the Senate passed its budget blueprint by a vote of 65–35.

So let us be clear, it does not take 60 votes to adopt a budget.

So what other excuse is given for not adopting a congressional budget this year?

Unbelievable, the Chairman of the Budget Committee comes to the floor and says because the House of Representatives adopted a budget that used OMB assumptions or did not make 10 year estimates, that it was impossible for the Senate to adopt a budget.

Mr. President, to blame somehow the House of Representatives for adopting their own budget resolution as the reason why the Senate did not consider its own, simply defies logic.

That is why the Budget Act created a concurrent resolution, that is why the Budget Act established a conference on a House-passed and Senate-passed budget resolution. I have been in many conferences on budget resolutions, and they were tough, but the fact that I knew they were going to be tough, never stopped me from doing my job as Chairman of the Budget Committee, and again the Senate has always adopted a budget resolution.

So what other excuse is made for the Senate not acting on a budget? The President's budget submitted way back in February is the other excuse for us not acting here in the Senate.

This has to be the weakest of all excuses. This is not the President's budget we are expected to adopt. This is not the President's budget resolution. This is the "congressional budget."

We are an equal branch of government in this balancing act between the Executive and the Legislative over fiscal policy.

I have never been shy about expressing differences with Presidents of either party over the years when I though their budget proposals needed modifications. The same holds true for President Bush's executive budget plan transmitted to Congress last February.

But I have always guarded the congressional prerogative to produce a "congressional budget." This is our responsibility under the Budget Act and I would also go so far as to say, under the Constitution. Because the President has a budget plan that might differ from one that Congress might produce, is certainly no reason for the Congress not to act. In fact, I would argue it is a reason for the Congress to act.

I do not think it should be any surprise that we begin a new fiscal year with no appropriation bills at the President's desk to sign. The failure of this Senate to consider and act on a budget blueprint, to sit down and tough it out back in the spring, has made the appropriation process stumble and fall this year.

Last year in the aftermath of the September 11 attacks, Congress also did not have any regular appropriation bills enacted before the beginning of this fiscal year. This was understandable under the circumstances.

But I contend the major reason the appropriation process has failed this year, is because we were not willing to adopt a budget resolution. You have to go back to 1996 to find the last time no appropriations were enacted before the beginning of the fiscal year. A time under President Clinton and the infamous 26 days of government shut-down and 14 continuing resolutions.

No, there is no other way to say it and it is tough. This Majority Leader and this Chairman of the Budget Committee and this Senate failed in their one basic responsibility under the Budget Act—produce a budget resolution. And now everybody else is to blame but ourselves. I think those who take the time to understand what is going on here can see the hypocrisy of the Majority Leader and Chairman's statements.

THE ECONOMY

Mr. DOMENICI. Mr. President, I have a statement I want to start and then put the remainder in the RECORD, and if we get time in the next 2 weeks, I will come back a couple of times.

The economy is much in the air now. It is not as much as perhaps the Iraq situation. But the Democratic Party and their leaders want to make it the important issue and put the war in the backseat.

I don't think that is going to happen because the people of this country know the war is an imminent problem. And, if we have a war, the amount of money we plan to spend in the budget will probably get changed in a mammoth way to accommodate the needs of the war.

When we had the war in the gulf the last time, our allies paid most of the bill. I recall looking at the formula that was drawn by the OMB. Actually, our allies just took the formula and said we are bound by the formula, and wrote the checks. Some of those paid as much as $13 billion for that war. That was our friend we were all arguing about which has a little oil. Here is our share. Japan didn't enter that war. They wrote a big check. We didn't pay much for that war. We don't have such an agreement now. Maybe somebody will start thinking about it.

Let me talk about the economy.

Federal Reserve Board Chairman Alan Greenspan said recently the U.S. economy has confronted very significant challenges over the past year: Major declines in the equity markets, which none of us thought would ever happen. Many Americans thought it would go on forever. The equity market had ballooned out of all proportion, and people such as Alan Greenspan were giving us warnings. It did begin its downward trend and it still is continuing on that path.

To date, Dr. Greenspan said the economy appears to have withstood this set of blows very well—the blows being the investment spending, the retrenchment, the tragic terrorist attacks of last September. The Federal budget has been able to withstand that, and the economy has been able to withstand that.

The economy is not in great shape right now. But not in great shape either at this time are many individual problems in this country. Consumption is strong. Unemployment gains are creeping back up.

But to blame President Bush is pure unadulterated, partisan politics. For those who talk about it being his problem, the issue would be what would they do to fix it? Some would raise taxes by an enormous amount; or by repealing the cuts that were made. Nobody with their right mind about the economy would suggest that.

But when you say it is not in very good shape today, what would you do about it? We will blame the President. What would you do positive about it? A large group would say raise taxes.

I find it hard to believe if we had to do that and came to that point, very many people would vote for it when they finally understood the negative consequences of that.

I want to mention every now and then I look to a Democratic economist who is of renown, and is of the other party, and everybody knows who he is; that is, Democratic economist Joe Stiglitz. He was Vice Chairman of the Federal Reserve under President Clinton. He has written many articles and books on the economy.

He has indicated, and I quote:

> This economy was slipping, and it was slipping into a recession even before Bush took office as President and before the corporate scandals—

That we haven't yet determined the breadth and number of them, but even before they started—

> were rocking America.

That was earlier yet than when the President took office.

He says we were moving into a recession. What we did were the right things to get out of the recession. We cut taxes, and we increased spending of things that would spend quickly.

We also at the same time, working with the Federal Reserve Chairman, got interest rates to come down. You remember how many times he cut them. And so you had the triad that would help a recession.

I wonder how bad it would be if we had not done that. I wonder how bad the economy would be if we had not cut taxes at the right time and if, in fact, we did not have the Federal Reserve working in harmony reducing the interest rates, and if we had not spent some additional money, some which came because of the war costs.

So the economic growth has started slowing down. It started in mid-2000, well before the President took office. In 1997, more than 3 years before he was elected, you could begin to see, as you analyze corporate profits, they were coming down. This is 3 years before he went out on the steps and took the oath and became President of the United States.

Rather than call this a Bush recession, we ought to call it a Clinton hangover. If you want to use another word for each one so there is nothing negative about it, that would be all right.

In the late 1990s, we had a stock market boom and an investment boom.

Much of the rise in the stock market and investment was sustainable, but some of it was not.

We are now making up for the excesses of that period. We are finally coming to grips with the need to make sure companies are honest when they account for their profits.

It seems as though for a few years there in the late-90s, some CEOs forgot about ethics and morals. They could say just about anything about their profits and no one was there to check. As long as the stock market was going up, no one seemed to care ethics and morals, and laws were not enforced.

But now we're checking. Now the SEC is doing its job of making sure shareholders aren't getting ripped-off. Now we're going after the corporate criminals.

A few years ago, the federal government looked the other way. Now, thanks in large part to President Bush, that's not happening any more.

Having said that, I believe that when the economic history of this era is written, what will strike people is not that we had a recession but that things were not worse.

In early 2000 the NASDAQ hit 5000. If you had told people that two years later the NASDAQ would be treading water at about 1200, as it is now, they might have assumed we had gone through some sort of Depression. Well, as bad as things got last year, we did not have a Depression.

The policies we enacted over the past two years have made the economy better, not worse. If it weren't for those policies who knows how weak the economy would be now.

Over and over again we hear that our policies are bad for the economy because they turned surpluses into deficits. That is just not true.

I have staked a large part of my career arguing for fiscal discipline, much of it when it was unpopular, even with many members of my own party. But now is not the time quibble about the budget deficit.

The deficit this year will be about 1.6 percent of GDP. But look at the same point in previous business cycles. Back in the 1976 recovery, the deficit was 4.2 percent of GDP. In the 1980s it peaked at 6 percent. In the early 1990s it peaked at 4.7 percent. So 1.6 percent is not large considering we are in the early stages of a recovery and in a war.

If fiscal mismanagement were hurting the economy we would see rising interest rates. But interest rates are going down, not up. The rate on 10-year Treasury Notes is the lowest in 40 years. Homeowners are refinancing their mortgages at a record rate. Notice that those who claimed the Bush tax cut would lead to higher interest rates have been very quiet of late regarding that key point in their argument.

Yes, things could be better. But long term, our economic fundamentals are strong. Productivity is growing at about a 5 percent rate and new innovations continue.

Cutting taxes was the right thing to do and we did it just in the nick of time. I am proud of the work we did this year and last year in cutting taxes and my fellow Republicans and a few Democrats should be proud too.

I thank the Senate for yielding time to me, and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I listened to my distinguished colleague with great interest. If my colleague wishes to speak for a few more minutes, I will follow my colleague. I say to the Senator, I was very interested in what you were saying.

Does my colleague wish to take some additional time?

Mr. DOMENICI. I say to the Senator, that is very nice of you to offer. When you want to speak on the floor, you take the gamble. I have some other things to do. I had to wait a little longer for my position. You can rest assured that since I think it is pretty good, the Senate will hear more before we go out. And they will hear another one on two subjects that have to do with who is to blame for what, suggesting we ought to get on with doing things rather than blaming, which is what I think the American people would like.

Thank you very much, I say to the Senator.

Mr. WARNER. Mr. President, I thank my colleague. He is clearly one of the elder statesmen of this institution, with some almost 30 years of service in the Senate.

THE GRAMM-MILLER AMENDMENT TO THE HOMELAND SECURITY BILL

Mr. WARNER. Mr. President, I rise today, with other colleagues, to support the Gramm-Miller amendment. I wish to address very specifically some provisions.

The overall amendment addresses the concerns which I had very early on and are outlined in a letter to the Governmental Affairs Committee. At that time, I said to the then-chairman, in writing, I had specific concerns. This particular amendment by GRAMM and MILLER has taken care of those concerns. It is for that reason I lend my support.

It provides the President with the authority he needs to organize our Government at this critical time to deal with these most unusual threats that are confronting our Nation today.

The Presiding Officer and I are privileged to serve together on the Armed Services Committee, and he full well appreciates the diversity and the unprecedented threats that face this Nation today.

I think Senators GRAMM and MILLER have gone about this in a very balanced way. I specifically thank the Senator from Texas and the Senator from Georgia because I approached them, asking that they include a provision in their bill which I had devised with the help of my colleague from Tennessee, Mr. THOMPSON, my colleague from Utah, who is in the Chamber, and my colleague from Virginia, Senator ALLEN. Senator ALLEN and Senator BENNETT have taken the lead in the high-tech caucus.

In the course of one of our periodic meetings on this subject, the group brought to our attention the need to have this type of indemnity legislation, and once Senator BENNETT, Senator ALLEN, and I approached the Gramm-Miller team, they accepted this amendment. I wish to talk about it today and the importance of that amendment within the amendment that is on the floor now.

The legislation I am proposing with others would authorize the President to apply basically the same indemnification authorities now available to the Secretary of Defense, such that it can be applied to a much larger number of the departments and agencies of the Federal Government, as well as State and local—as well as State and local—governments so these entities of the Federal and State government can go about the business of contracting with our private sector and enable the contractors to have certain protections regarding the products which are the subject of the contract or the services, which products and services are directly contributing to the war on terrorism and the protection of our Nation.

It is quite interesting, I find there is an urgent need for this authority. It has existed in the Department of Defense for so many years. I was privileged to serve in the Department of Defense from 1969 through 1974 as Secretary and Under Secretary of the Navy. The Presiding Officer, I think, was on active duty at that time and had an exemplary career in the military.

But, for example, contractors today would not sell the chemical and biological detectors to a wider range of Federal agencies and departments, and State and local, but they can take the same product and sell it to the Department of Defense. So we are kind of caught up in interpretations of a Presidential directive, the existing law. I think we do not have the time to sort it out in the courts, and it is best to clarify it here in Congress.

This is a bipartisan effort, I assure the Presiding Officer and others.

Some of our Nation's top defense contractors simply cannot sell these products to the other agencies, State and Federal, today. In the meantime, our vulnerability here in the United States, in my own experience, is of great concern to me.

We should give the President the option that he currently does not have of deciding whether other departments and agencies, Federal and State, should have this authority.

The liability risk has been a longstanding deterrent to the private sector, freely contracting with the Department of Defense, but now wishes to broaden its contracting with other departments and agencies.

Congress has acted in the past to authorize the indemnification of contracts. I find this history fascinating. For example, on December 18, 1941, just a short time after the tragic Pearl Harbor experience—2 weeks—the Congress enacted title II of the First War Powers Act of 1941. By providing authority to the President to indemnify contracts, this legislation and its successor pieces of legislation have enabled the private sector to enter into contracts that involve a substantial liability risk occasioned by their services and products.

Administrations since President Franklin Roosevelt's day have used these authorities to indemnify or share the risk with defense contractors. This was required to jump-start the "arsenal of democracy," as described by the President in 1941.

It was true again in 1958, when the nuclear and missile programs were facilitated by the indemnification of risk associated with the use of nuclear power and highly volatile missile fuels.

It is true today for technology solutions required by agencies engaged in the war against terrorism. And that is the purpose of this legislation.

This war is going to be different in many ways—many ways—we cannot envision at this moment or in the future. For one, much of the Nation's homeland defense activities are going to be conducted by State and local governments. It is, thus, imperative to ensure that State and local governments can access vital antiterrorism technologies and not let the contractor be subjected to undue risk.

To facilitate this, my amendment would require the establishment of a Federal contracting vehicle to which State and local governments could turn to rapidly buy antiterrorism solutions from the Federal Government. The President would also be authorized, if he deemed it necessary, to indemnify these purchases. Again, discretion rests with the President, and he, in turn, has delegated this authority to the Secretary of Defense. I presume if this legislation becomes law, he will delegate it to other heads of departments and agencies.

Again, I wish to emphasize two points: One, that this authority is discretionary. The President, on a case-by-case basis, may decide whether to indemnify contracts.

I expect the President will use the authority much as it has been used at the Department of Defense, carefully and thoughtfully, and only for those products the Government cannot obtain without the use of this authority.

The second point I want to emphasize is that indemnification is not in conflict with any efforts to limit or cap liability. My legislation should not be seen as an alternative for tort reform, but merely as one tool that can be used by the President to ensure that vitally needed technologies necessary for homeland defense are placed into the hands of those who need them.

During World War II and all subsequent wars, conflicts and emergencies in which the U.S. has been involved, we have needed domestic contractors to be innovative, resourceful and ready to support efforts at home and abroad. In 1941, the Congress wanted contractors to know that if they were willing to engage in unusually hazardous activities for the national defense, then the U.S. Government would address the potential liability exposure associated with the conduct of such activities. Our position should be no different now.

I conclude with remarks about another matter connected with the Gramm-Miller amendment. There are many aspects in the creation of this new department of homeland defense that are unprecedented. Contentious civil service issues have largely driven the debate on homeland security in this Chamber in the past days and weeks. Over 170,000 employees from 22 agencies will be transferred to the new Department of Homeland Security, including an estimated 43,000 Federal employees represented by 18 different unions.

Since President Bush proposed the creation of homeland security, I have been involved in discussions with a number of my colleagues on both sides of the aisle and with the Federal employee unions and their members about the potential consequences to Federal employees. In order to successfully achieve this complex collaboration, I recognize the importance of the President's request for increased flexibility in managing the new Department.

The uncertainty, however, of the administration's intentions with additional labor and management flexibility has fostered mistrust, understandably so, among these Federal employees. The administration in no way should put into question basic labor rights and civil service protections for these employees.

The administration cannot ignore the impact this is having on morale, not only on the employees being transferred, but throughout the Federal workforce. With no firm commitment from the administration that collective bargaining rights will not be weakened outside of reasons directly related to national security, I cannot blame these Federal employees for being anxious.

I can personally attest to the dedication of civil service employees throughout the Federal Government. There has never been reason to question that during a national crisis, Federal employees perform their duties first, setting aside personal grievances. Federal employees have been relocated, reassigned and worked long hours under strenuous circumstances with no complaints since the September 11 attacks. Their loyalty is first and foremost to their country. Federal employees have proven this time and again.

I have carefully considered several compromise proposals on the civil service provisions in the homeland security legislation. I am strongly concerned about initiatives that would weaken or interfere with the President's authority under current law to exclude Federal employees from collective bargaining if those employees are primarily involved in national security work. Every President, since it became law in 1978, has exercised this authority in the interest of national security. There can be no argument that this new department's primary purpose and focus is protecting our national security interests.

That said, I would strongly encourage the administration to engage in further discussions with the Federal employee unions and assuage some of their concerns. Information should be available on an ongoing basis concerning the administration's actions and intentions regarding creation and management of the new department.

It is my hope that before the House of Representatives and Senate vote on the final version of homeland security legislation, some provisions can be agreed upon to lessen the tension, the fear that exists in the civil service ranks.

I have been privileged to have lived my life in Virginia, the greater metropolitan area, and have had the opportunity to be in the civil service in a number of positions, all the way from a letter carrier and forest firefighter, in 1943–1944, and service in the military to Secretary of the Navy, where I was privileged to have, as a part of my department, several hundred thousand Federal service employees.

I guarantee you, the ranks of the Federal civil service employees are no less patriotic than the ranks of the military. They are fine, loyal, hardworking Americans. I am hopeful the distinguished manager of the bill and others can listen and take into consideration their concerns and somehow put into this bill those provisions which will lessen the fear and the concern among these brave citizens in our country.

Mr. GRAMM. Will the Senator yield?

Mr. WARNER. Yes.

Mr. GRAMM. Mr. President, no one has been clearer or more effective or more concerned about trying to protect the rights of people who work for the Federal Government than the Senator from Virginia. It would have been easy for the Senator from Virginia to simply look the other way, forget about the terrorist threat, and be on the other side of this issue. It has not escaped my attention many people who are Government employees work in the Senator's State.

I thank the Senator for making this bill, supported by the President, better by his input. I thank him for looking at the big picture. If we could keep everything the way it is and provide for the national security of the country, there would not be much of a debate. But, unfortunately, in real life, it is not black and white, right or wrong; it is tough choices.

Maybe it is because the Senator has the background of having been involved in defending the Nation himself, having been Secretary of the Navy, or maybe it is simply because he just has the big picture. I thank him for his leadership on this issue.

I assure him, if there is any way we can work out an agreement on a bipartisan basis to find a solution, I want to do that.

There is one constraint: We cannot give the President a law that won't get the job done. If he says he needs a pickup truck, we can't give him this beautiful, shiny pickup truck with no steering wheel.

I look forward to working with the Senator. I appreciate his leadership and, quite frankly, his courage on this issue.

Mr. WARNER. Mr. President, I thank my colleague for his very thoughtful remarks. If I may say, in conversations in the presence of the President of the United States on this subject and the importance of homeland security—and I have attended several meetings along with other colleagues—this matter has been raised. I detect in the President no concern that Government employees are secondhand citizens, but they are entitled to their rights.

That is the purpose of this legislative body, to bridge the gaps to the extent we can and protect all the people.

I thank my colleague and yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. EDWARDS). Morning business is closed.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Gramm/Miller amendment No. 4738 (to amendment No. 4471), of a perfecting nature, to prevent terrorist attacks within the United States.

Nelson (NE.) amendment No. 4740 (to amendment No. 4738), to modify certain personnel provisions.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that at 3:45 p.m. today the motion to proceed to the motion to reconsider be agreed to, the motion to reconsider be agreed to, and without further intervening action or debate, the Senate proceed to vote on a motion to invoke cloture on the Lieberman substitute amendment, for H.R. 5005, the Homeland Security legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we are in a parliamentary posture where we will have a vote tomorrow at such time as may be determined, either that or an hour after we come in. The majority leader has said privately and has authorized me to say publicly that we would be willing to have that vote today, the reason being, of course, we have been told by the minority that we are not going to get cloture. It is hard to comprehend that, but that is what they said. It would seem to me it would be in everyone's best interest to see if that, in fact, is the case today, if, in fact, we did get cloture, and the 30 hours could run and it would not interfere with the duties of the other Senators, except those who wish to speak. Postcloture, a Senator has up to 1 hour.

There are lots of things going on at home. This is election time, as we know. It appears to me, as I said earlier today, we have had so many code words. This is a filibuster. We were told yesterday there were 30 speakers on this amendment. Realistically, what amendment ever had 30 speakers? There won't be 30 speakers on this amendment, but there will be a lot of people moving around, stalling for time, which has happened now for 4 weeks on this bill.

I said yesterday, and I am beginning to believe more all the time, and it appears clear to me, that there does not seem to be any intention of either the White House or the Republican majority in the House or the minority in the Senate, of wanting to move this bill forward.

There is general agreement that the bill the Senators from Connecticut and Tennessee came up with is a bill we should have passed very quickly. There are problems that could have been resolved in the House and the Senate conference. For every day we spend talking about Iraq—and I think we should spend some time every day talking about Iraq and homeland security—it is 1 day we do not have to deal with the stumbling, staggering, faltering economy.

If we spend each day on issues focusing away from the economy and what needs to be done in the Senate, including doing something about terrorism insurance, doing something about a Patients' Bill of Rights, which the Presiding Officer worked very hard on—we need to do something on a generic drug bill. There was the fiasco that took place in Florida. Again, 2 years after the fiasco of all time with the elections, still nothing can be done because the House will not let us do anything.

The energy conference is moving forward by tiny steps, but it is one of the few things happening.

It is obvious to me there is an effort to do everything that can be done so we do not focus on the economy. It is too bad. We can either formally come in later and offer the vote on the cloture motion set for tomorrow or do it today. But the offer is there.

For all the Senators worried about what is going to happen tomorrow, they should understand—and I understand there are some on the other side who do not even care if they are here or not because they really do not need them on a vote because we have to try to get 60 votes. But that is OK; we will still do everything we can. On this side we are going to move forward on this bill. We will, as the leader indicated, work weekends, we will work nights, whatever it takes, to try to move forward on this bill. I am disappointed we are being told there will not be cloture on this until tomorrow.

That is, I repeat, only an effort to stall moving forward on this legislation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will respond to the distinguished Democratic floor leader by simply going back and reviewing the facts and setting out the obvious blueprint that will solve our problems. I remind my colleagues we have been on this bill for over 4 weeks largely because of the debate on the Byrd amendment, and not a minute of that time was wasted because we were convinced by the major premise of the Byrd amendment. In the Gramm-Miller substitute we deal with that problem by maintaining the power of the purse, which is the fundamental constitutional power of the Congress.

I am not complaining about the fact that we have spent the bulk of our time on an amendment that is still pending because the plain truth is we learned something "we" being Senator MILLER and I. We learned something. We concluded that Senator BYRD was right on and we changed our substitute. By the way, we have never voted on the Byrd amendment.

The plain truth is the great bulk of the time we have been on this bill we have been debating that amendment, and it is yet to be resolved.

I remind my colleagues that Senator THOMPSON, the ranking Republican on the committee, offered a simple amendment that said we ought not tell the President how to set up the White House. This amendment was partly controversial in terms of the President's National Security Adviser and his terrorism adviser. That amendment was, sure enough, adopted. But only after 6 days of delay on the part of our Democrat colleagues. And then there were other delays before it was ever added to the bill.

The problem is, they have delayed this bill, and not us. Everybody is entitled to their own opinion. They are just not entitled to their own facts. The weakness our colleagues on the other side of this issue have is that the facts are against them. What is the old deal in law? When the facts are against you, argue the law.

What is the current holdup? The President of the United States, working with a Democrat and a Republican, has spent 4 weeks listening to things that have been said and concerns that have been raised, starting with Senator BYRD. We have made 25 major changes in the President's proposal. In terms of the President's personnel flexibility, we have limited his power to eliminate exactly the concerns that have been raised by every opponent of the President who has spoken out on this issue.

Does the fact that we have eliminated the ability to discriminate while preserving basic workers' rights in terms of being judged on merit change the rhetoric of the debate? No. When people are debating, they still act as if the President could be arbitrary or capricious. But the point is he cannot be under our bipartisan substitute that the President supports.

We are at war. We were attacked on September 11. Thousands of our people were killed. The President has asked us to bring together 170,000 people in the Federal Government to help him prosecute this war and protect American lives.

After listening to many concerns, changing the President's proposal, and adopting 95 percent of the Lieberman proposal Senator LIEBERMAN says: You have taken 95 percent of my bill. What is wrong with it, if you are for 95 percent of it?

It is like a nice, shiny, fancy red truck—I remember our ranking member drove one in the campaign—still legendary—but it is only missing a steering wheel. What Senator MILLER and I have done, working with some 45 of our colleagues, is we have taken that truck and we have put a steering wheel in it.

In wartime, with American lives at risk, the President of the United States, asks only one thing: Give him a vote on his homeland security bill. Some people may view that as an extraordinarily extreme request. But I submit that there is not a State in the Union, whether it is Connecticut or Nebraska, Tennessee, New Jersey, or North Carolina, where you could go into any coffee bar in any drugstore or restaurant, and sit down and gather a group of people around and ask them the following question: When the President has asked for powers to defend American lives during wartime, should we give him these powers that he says that he needs? My guess is you would have a hard time finding somebody in Nebraska who would say no.

All we are asking is something very different. We would like him to be given the tools to do the job. We are simply asking that we have a vote on his proposal.

Our Democrat colleagues say: No, we are not going to give you an up-or-down vote on the President's proposal. We are going to make you vote on it the way we want to write it, before we let you vote on it the way the President wants it. Under the rules of the Senate, they can do that. Under the rules of the Senate, if they have the votes, they can do whatever they want to do. The Democrats have the right to deny the President an up-or-down vote. They have the right to do it under the Senate rules. We know at this very moment that terrorists are plotting the murder of our citizens, we know this and worry about it every day. Under these extraordinary circumstances, the question is not what they have a right to do, but rather it is what is right to do.

Let me say this. We have this little gimmick going on. It is too cute by half. The gimmick is that by using the parliamentary procedure of cloture, they are going to put the President's proposal into a straitjacket where they get to change it before it is voted on.

Look, I have used parliamentary procedure myself. Every Member has a right to do it. But do you think the American people are stupid? Do you think the American people are not going to figure out what the game is here? Do you think the American people are not going to get it straight, that not only are you not with the man and do not support the President's request for the tools he wants, but you won't even give him a vote on the tools? You have the power to do it under the rules of the Senate, but you have to have the votes, and you don't have the votes. So we are going to play this game.

I hope everybody is watching this—I hope a lot of people are watching it. I can tell you one thing. I used to think, before I got old, that I had reasonable political abilities. But I could not defend the position of the opposition. There is no city in my State that I could go into and take the position of the opponents of the President and walk out of there with my hat, much less with my head.

The bottom line is we are going to go through a little parliamentary gimmick tomorrow where we are going to vote on cloture to try to put the President into a parliamentary straitjacket where he never gets a vote on his proposal. But there is a problem. It takes 60 votes to get cloture, and our Democrat colleagues do not have 60 votes, and they are not going to get 60 votes.

So, rather than playing all these games while American lives are in jeopardy, the obvious thing to do is to give us a vote. I would be happy to propound a unanimous consent request to have a vote at 11 o'clock on Tuesday, up or down, on the President's proposal. We want a vote on the President's proposal. Look, I know people back home. They are trying to pay the bills. They are trying to figure out how to get Sarah off to school. They are not quite paying attention. But I do not think they are going to believe that the President does not want his own proposal to be voted on. Again, they may be confused. They are not paying attention. They are busy. They are counting on us to do the right thing. But they are not stupid.

The way to solve this thing and get on with this bill is to do something you are going to end up doing anyway, and that is, give the President a vote.

Let me reiterate that no one has proposed a compromise that I have not set down and talked to him about. It continues to dumbfound me that we have had an issue of life and death for American citizens become a partisan issue. I think every person in the Chamber who has been involved in this debate will have to grudgingly say that this is true.

Now before somebody comes out here and starts screaming let me tell you what partisan issue is. It is an issue where you draw the line right down the middle of the Senate and almost everybody on the left side of the Senate is on one side and almost everybody on the right side of the Senate is on the other side. That is how we define issues becoming partisan.

How did it ever happen, when you saw the way we all felt after 9/11?

Let me tell you how it happened. It happened because it is not easy to provide for homeland security. The vote on Iraq is an easy vote because, so far as I know, there is no organized, active political constituency for Saddam Hussein. He doesn't have an organized political group in America that is actively lobbying on his behalf, of which I am aware.

There are some people who believe we ought to turn over American security to the U.N. I understand that view. I reject it. When the lives of my people are at stake, it is my responsibility and it is the responsibility of our Government. It is not the responsibility of our allies, not the responsibility of the U.N. I am not willing to delegate it to anybody else. But I respect differences of opinion.

But that is an easy issue compared to this issue. The reason it is an easy issue compared to this issue is that you cannot promote homeland security without having to make tradeoffs.

That is why we are here. We all want to protect Americans. I would never say—and I don't believe that my Democrat colleagues are—we are not concerned about national security. The problem concerns that it is not free. The problem concerns that there are tradeoffs. And the tradeoff is, if we are going to give the President the power to hire the right person, put them in the right place, and at the right time, if we are going to allow the President to have the tools to fight an enemy that did show up anywhere and could kill thousands of our people, we have to be willing to change the way we do business in a Federal bureaucracy.

The Federal bureaucracy does not want to change the way we do business. Unlike Iraq, this is an issue where there are strong political forces that are against giving the President this power because they do not want to change the way they run their business.

Look, I am not going to stand up here and state that the position that the rights of public employees is morally inferior to the position that lives are more important than "workers' rights." I believe it is a law of order. But that is a moral judgment somebody else has to make.

All I am saying is the reason this has become such a contentious issue is that we have one of the most powerful political forces in America—the public employee labor unions and the Federal bureaucracy—and to have an effective homeland security system, you cannot have the horse-and-buggy civil service that we have today.

Interestingly enough, there are only 20,000 members of the union who would be among the 170,000 people who will be brought together in this agency. And only 20,000 of them are members of unions. Yet, remarkably, we have an amendment pending that would give unions that represent 20,000 workers veto power over the President's decision with regard to 170,000 workers.

I don't think that would make a whole lot of sense where I am from, and I don't think it makes sense where you are from. But that is why we have a battle.

Let me also say that I think part of our problem was, when this bill was written in committee, and when it was being debated early on, nobody was paying much attention to it except organized special interests in Washington, DC. As a result, this was written as sort of a business-as-usual bill. But business is not usual. When workers' rights interfere with people's right to their life and their freedom, then I think there has to be some flexibility.

I am going to talk more in a moment about the bill. Maybe I should let other people talk before I do. But let me just sum up by saying we have been on this bill for over 4 weeks because the opponents of the bill have taken that tack. We have been on this bill for 4 weeks because it took 6 days to get a vote on the amendment offered by Senator THOMPSON, and even then it was 3 more days before it was added to the bill.

All we want is to have a vote on the President's proposal. We are going to get it. We can go through all kinds of games. We can fill up the tree, as they say. We can use parliamentary procedure. We can try to get cloture and put the President in a box. But the American people are not going to be deceived because they are not stupid. In the end, they want the President to have the tools he needs. But they are never, ever going to accept not even giving him a vote.

Maybe you can justify this. Maybe this makes sense where you are from. But there are a lot of things at night when I get down to say my prayers for which I thank God. One of them is, I don't have to defend a position of the people on the other side of this issue, because I am totally incapable of doing it. I don't think it is defensible.

I want to urge them once again, let us work out a compromise.

I am going to in a moment—this is the last point I will make because others are getting ready to speak—outline why this amendment by Senator NELSON is anything but a compromise. I am going to outline for only a moment how this totally destroys the ability of the President to get the job done. I think most people, when they listen to that, and who are objecting, will understand what the issue is about.

But I have given the Senator in writing the changes he would have to make for the President to be able to accept it. In the previous offer that was brought forward, we gave one simple change—preserving the supremacy of the President on national security. Every President since Jimmy Carter has had the ability in the name of national security to make personnel changes. But, remarkably, the Senator's amendment and the underlying bill take away from President Bush powers that he had the day before the terrorist attacks.

How many Americans would be absolutely stunned to know that in the name of homeland security we are debating a bill that takes away power from the President to use national security powers?

Somewhere, somehow, somebody's priorities have gotten way off base. Either the President and those of us who support him are completely lost in terms of any weighting of the reality of the world we are in, or the people who oppose the President have gotten badly off base and out of tune with the reality we face.

Obviously, I don't make the judgment about which side is lost in the wilderness. But I would have to say I believe the American people are going to reach the conclusion that the President is right and reasonable and the people who oppose him are wrong and unreasonable.

There is a way out of this mess. But the President can't do it alone.

I urge my colleagues to end this charade, reach an agreement, and let us have a bipartisan bill. And, if you are not willing to do that, you are going to have to give the President an up-or-down vote. There is no other way you are going to be able to do it without it. We can go through the process. We can vote on cloture tomorrow. We are not going to get cloture. We can do it next week. But in the end, the President is going to get a vote. But what the President wants is not a vote but a compromise with one constraint—the President has only got one constraint: Give me something that can work. Give me the tools to finish the job. But don't give me tools that won't work. He has a little bit harder time than his opponents because their proposals don't have to work. His proposals do.

That is my plea.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, after the exchanges that were heard on the floor yesterday, I must say I hope we can come back to this debate on homeland security and focus more directly on all the common ground we have with a spirit of compromise and clearheaded perceptions that can bring us together so we can get this done.

I find the comments of the Senator from Texas, who is about to leave the floor, so full of misunderstandings or misperceptions and so full of inflexibility that I must respond to them.

The Senator talks about delay.

Let me just recite some history on this bill. It was in October of last year—almost a year ago—that Senator ARLEN SPECTER, our distinguished Republican colleague from Pennsylvania, and I introduced a bill, a piece of legislation, to create a Department of Homeland Security. That measure came from work our committee had done.

But these special interests that Mr. GRAMM, the Senator from Texas, invokes, throws around, they were not involved in the construction of that legislation. That legislation came from public hearings we had, and primarily and largely from a nonpartisan citizens commission created according to legislation sponsored by the former Speaker of the House, Newt Gingrich, chaired by two distinguished former Senators, Republican Warren Rudman of New Hampshire and Democrat Gary Hart of Colorado, who suggested a Department of Homeland Security.

That was October. Talk about delay. The President of the United States took the position then that the executive office he had created with Governor Ridge could handle the urgent and enormous new responsibility post-September 11 of homeland security. We respectfully disagreed.

I must say, just to harken back to the debate of yesterday, that was a disagreement on substance. I never would have thought to suggest that the President of the United States was putting the bureaucratic opposition to the new Department of Homeland Security ahead of the national security interests of the United States, which was suggested earlier this week by the President himself in referring to this marginal dispute—significant but marginal dispute—that we are having over how best or whether to protect the rights of homeland security workers.

So that was October, November, December, January, February, March, April, May. In May, the Senate Governmental Affairs Committee reported out a bill, based on the one Senator SPECTER and I put in, on a 9-to-7 vote, creating a Department of Homeland Security.

President Bush and most of my Republican colleagues—the seven Republicans on the committee who voted on that—were opposed to the Department at that point.

Because we are talking about delay, the truth is, if we had all gotten together last fall, this Department would be up and protecting us today. But we had a difference of opinion about it.

On June 6, President Bush announced that he endorsed the idea of a Department of Homeland Security. That was the turning point that led us to what I thought was the inevitability that we would create such a Department because of the urgent need to do so post-September 11, 2001.

We worked together on a bipartisan basis with the White House. We accepted some of the changes that the White House had in our legislation. We worked with colleagues on the committee and outside—Republican and Democrat—to improve our bill.

At the end of July, after 2 days in markup, the committee reported out the bill. I said at that point that 90 percent of our committee bill was in concert, was in agreement, with what President Bush had in his bill—90 percent.

Senator GRAMM, after his considerable work on the Gramm-Miller substitute, said that—he raised me 5—95 percent of his substitute was the same as our bill.

So can't we agree on that 5 or 10 percent on which we have disagreement? Can't we come together in the interests of the urgent national need for homeland security?

No one is delaying on this side. Right now, the reality is that the Senator from Texas is leading an effective filibuster against moving ahead on this bill. And why? Because we have achieved a compromise on the major outstanding point of division, which is, how do you protect the rights of homeland security workers? It is a bipartisan compromise because one Senator, the courageous Senator from Rhode Island, has decided that he is going to find common ground in the interest of preserving the national security authority of the President while giving a little bit of due process to Federal workers. That is all this does.

I think there may be some others of our colleagues on the Republican side who would support this compromise because it is reasonable and it meets the test that the White House set up that they did not want any diminution of the President's authority. Under this compromise, there is none. Senator NELSON of Nebraska will speak about this in a moment. He is an architect of this proposal.

So the fact is, my friend from Texas does not have the votes. We have at least 51 on our side. And for that reason, he is not going to let us go ahead and vote. He asks that there be an up-or-down vote on the President's proposal, but what he is asking for is something that is pretty much unheard of around here: Don't allow any amendments.

The President is a good man. The Senator from Texas is a good man. But they are not infallible. None of us is infallible. The Senate has a right to amend. In fact, we are asking here for one amendment.

I wish the Senator from Texas were on the floor because I would ask him, wasn't he aware that the President's proposal in the House—the Republican-controlled House—didn't get voted on without amendment? There were amendments offered. They improved it. The Gramm-Miller substitute changes the proposal the President initially made because that is the way this process works.

So if there is any inflexibility here, I say, respectfully, it is on the side of the Senator from Texas and those who stand with him. We are so close to having a reasonable compromise and a good bill to create a Department of Homeland Security. And he is right; the terrorists are out there. They are planning right now to do us damage. And we remain dangerously disorganized in the Federal Government.

One of the things our bill will do is to plug the gaps, close the inconsistencies, break down the walls that the investigation of the Joint Intelligence Committee has shown us contributed, I believe measurably, to the vulnerability that the terrorists took advantage of in September of 2001—September 11.

So I am sorry we are back to this futile, foolish debate. This is a good compromise, the Nelson-Chafee-Breaux compromise. Senator NELSON will speak to it in more detail in a moment. We agree on 90 to 95 percent of the underlying bill. We have the same departments. Let's get this done and stop this inflexibility.

Mr. President, as a show of good will, I want to offer here on the floor now what we informally offered to the Senator from Texas yesterday off the floor. He asks for something that usually does not happen around here, which is an up-or-down vote in the sense of without the right to amend.

But just to show how anxious we are to move forward, Mr. President, I ask unanimous consent that immediately upon the disposition of Senator NELSON's amendment, Senator GRAMM be recognized to offer a further second-degree amendment, which is the text of the President's proposal as contained in amendment No. 4738, and that the Senate then vote immediately on his amendment.

The PRESIDING OFFICER (Mr. JOHNSON). Is there objection?

Mr. THOMPSON. Mr. President, reserving the right to object, I have not had an opportunity to either consider the suggested unanimous consent request or to talk to my other colleagues, some of whom are not on the floor, who are directly involved in these negotiations. So for that reason, at this time, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LIEBERMAN. Mr. President, that offer remains pending. I hope Senator GRAMM will consider it. It says that the Nelson-Chafee-Breaux amendment, compromise, would be voted on first, and then we give Senator GRAMM the opportunity to have the President's proposal voted on.

Now, is he worried that that means he might not have the votes for the President's proposal without the Nelson-Chafee-Breaux amendment on it?

I ask him to consider that because it would both give him what he asks for and it would allow the Senate to move forward and complete our business, pass this legislation, get it to conference with the House, and create a Department of Homeland Security to protect the American people.

There has been too much nonsense in this debate, too much irrelevancy, and not enough appreciation in this hour of urgent vulnerability for our country about how critically important it is for us not to do business as usual but to rise above the normal nonsense and do what we are supposed to do on foreign and defense policy, which is to forget our party labels, to leave our ideological rigidity at the door, and come here and reason together in the interest of the beloved country we are privileged to serve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I appreciate the opportunity to be here today and speak in favor of the amendment which, together with Senators CHAFEE and BREAUX, I have submitted for consideration to the homeland security debate.

I wish my good friend and colleague from Texas was in the Chamber because I have hunted with him. He is an excellent hunter. He is a great sharpshooter. Today his shots miss the target. The truth is, he is right on one point: The people of America are smart. They are smart enough to know that you are not entitled to your own set of facts, but it is pretty easy for somebody to mischaracterize or restate the facts in a way that will make their case.

That is what happened on the floor this morning. If you want to attack an amendment, then refer to those who support the amendment as opponents of the President. Everybody knows Senator CHAFEE, Senator BREAUX, and I are not opponents of the President. This is an area where I thought we had agreement with the White House.

Let me characterize the facts not as I see them but as they have been stated by others. I refer, first, to the letter from Governor Ridge, dated September 5, to Senator LIEBERMAN. I quote:

> The President seeks for this new department the same prerogatives that Congress has provided other departments and agencies throughout the executive branch.

Then there are several examples set forth as bullets. The third bullet point reads:

> Personnel flexibility as currently enjoyed by the Federal Aviation Administration.

He also adds the Internal Revenue Service and the Transportation Security Administration.

This proposal adopts the language of the Internal Revenue Service in connection with the reorganization of that Department. I thought we were in the position to offer exactly what was being requested. I am a little bit confused about this because I happened to be presiding the day my good friend from Texas appeared on the floor and said, with regard to providing Presidential authority: We have done the same thing in the past with the Federal Aviation Administration. But interestingly enough, in one area we have granted a tremendous amount of flexibility, when we decided to reform the Internal Revenue Service. We gave the executive branch of Government tremendous flexibility in hiring, firing, pay, and promotion because we were so concerned about the inefficiency and the potential corruption in the Internal Revenue Service.

He went on to ask his colleagues, if we believed it worked there, then why do we not believe it can work here?

That is exactly what we have offered. Now we find that is not acceptable.

I have already referred to the concern I have; that is, when the goalposts are moved and the rules change in the middle of the game or the circumstances around you continue to be in flux, how in the world can you ever meet the expectations of the other side?

What my colleagues and I have tried to do is offer a compromise that will bridge the gap to bring together that last 5 percent Senator LIEBERMAN and Senator GRAMM referred to, to close the gap, fill the last 5 percent, end the debate, and do what we need to do—vote to pass a homeland security bill so it can go to conference and we can have national security.

It has been suggested that perhaps we are not as interested in national security as we are in other interests. National security is not only the primary interest, it is the driving force behind the homeland security bill. It has been suggested that there is another interest, as though that is going to take away from national security.

That is not going to take away from national security because this amendment provides enough support for the President's powers, the President's authority to do what the President needs to do. It is consistent with what Governor Ridge has suggested, and it is consistent with what our good friend and colleague from Texas asked for on the floor of the Senate over a week ago.

Characterization is important. But the important thing the American people understand is that on the floor of the Senate sometimes losing becomes winning. While the same set of facts are stated there, they can be characterized in different ways. You have seen a characterization today that is different than what the facts truly are.

It is hard to find another interpretation from what my good friend, the Senator from Texas, has said on the floor of the Senate or what Governor Ridge has written very clearly in his letter.

It seems to me we can, in fact, close the gap, stop the debate, and move forward and pass this legislation.

Senator LIEBERMAN made a good point: In the Congress of the United States, it is rare that a bill that is introduced in one form is in that same form by the time it has completed its process. There are amendments. There are amendments because there are different ideas in which we try to approach these very important issues, to find legislation that will solve the problems we face.

This bill is different now than it was at the very beginning. I can tell you today that, if we can accept this amendment, we can, in fact, close the gap.

I have met with Senator GRAMM. He is absolutely right. He has always offered to meet to discuss this or any other issue to see if we can close the gap. We are continuing to have discussions. I hope we are able to close the gap. But if the conditions change, it is very difficult to close the gap.

I hope we will be able to move beyond what appear to be partisan remarks this morning to what will be American remarks about how we can find a solution—not to characterize it as Republican or Democrat, but to characterize it as an American solution to an American problem facing the American people. And it is the American way to debate, compromise, and ultimately come up with a solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I would like to directly respond to the Senator from Nebraska. As I understand his point, it is that his compromise, which is looked upon as the bipartisan compromise because a Republican has joined in it—what Senator GRAMM's efforts have done, along with Senator MILLER, apparently is not looked upon as a bipartisan compromise, even though a Democrat has joined in that; that is just a matter of terminology—the Nelson compromise purports to give the President flexibility because it gives the President flexibility that the IRS has.

He is absolutely right. The IRS has been mentioned in conjunction with this debate as one of those agencies where we have given the President flexibility.

What the Senator fails to point out is that also a part of that debate has been the discussion of other agencies where we have given the President much more flexibility than we have given the IRS.

The flexibility we gave the IRS was hotly contested and hotly debated, but the IRS had so many problems. They had spent billions of dollars trying to get their computers to talk to each other. We had hearings about their problems. This is one agency now. This is just one organization. Because of all the difficulties they had, we decided to give them flexibility with regard to pay, hiring, and some other items. But as a part of that, there was a procedure that required negotiation with the employees union. It required, I believe, a written agreement, and it required, if an agreement was not reached, it had to go before the Federal Services Impasses Panel.

The Senator adopted those provisions and put it in the compromise and said: OK, we have given you what the IRS has.

The only problem with that is we have given flexibility to the FAA, we have given flexibility to the Transportation Security Agency, we have given flexibility to the GAO, none of which require the head of those agencies to go before the Federal Services Impasses Panel.

It is only with regard to the IRS and a hotly contested compromise that we placed that burden on the leadership of IRS. In these other agencies where we gave additional flexibility, we did not put the impasses panel as a part of that. So our friends on the other side find one area where the people running the Department have to go through additional hurdles to interject any flexibility, and they adopt that one instead of the example we have given in other agencies.

What about that? Maybe we made the right decision with regard to the IRS and the wrong decision with the GAO, the wrong decision on FAA, the wrong decision on TSA. What is the right decision?

Let's forget about the fact that it is 3 to 1. Let's ask ourselves, what is the right decision?

I point out that we are not trying to fix one dysfunctional agency. Goodness knows, the Government is full of them. Instead of addressing them in a general fashion, what we have done is when they get so bad, they come before us and we give them something, some flexibility of one kind or another. But we are not trying to do that here.

What the President is trying to do and what the Gramm-Miller substitute amendment is trying to do is to pull together 170,000 Federal employees, requiring the coordination of 17 different unions, 77 existing collective bargaining agreements—77 existing collective bargaining agreements—7 payroll systems, 80 different personnel management systems, an overwhelming task under any circumstances.

Are we to equate that with the IRS, especially in light of the fact we impose these same requirements on these other agencies to which we gave flexibility? The IRS example should not be the high water mark. The IRS example is the low water mark. That is the least flexibility we can give, less than what we gave to these other agencies and certainly less than what we should give the President when we are reorganizing an entire major section of the Government involving 77 different collective bargaining agreements, 7 payroll systems, and 80 different personnel management systems.

We are comparing elephants to peanuts. With what are we left? We are left with a system that takes the crux of the labor-management difficulties we have seen in times past where we spend months and years negotiating items in these collective bargaining agreements, such as color of uniforms, whether or not the smoking area should be lit and heated, whether or not the cancellation of the annual picnic was in violation of the collective bargaining agreement. It took 6 years on an army base in St. Louis to resolve that one.

With regard to issues such as those, collective bargaining and the myriad levels of appeals and the indefinite amount of time it takes, all the way to the Supreme Court of the United States, if they can get that far, this compromise so-called takes that totally off the table—totally off the table. This compromise does not allow the new Homeland Security Department to make any changes with regard to labor-management relations under chapter 71 or with regard to appeals under chapter 77.

If one looks at page 3, at least in the copy I have, of the amendment, chapter 97, Department of Homeland Security, my friend from Nebraska and his colleagues establish a human resources management system. OK, sounds good so far because, goodness knows, we need to establish a new system. We have seen the failures of the past, the creations of the 1920s and the 1940s that some would insist we bring over lock, stock, and barrel into the 21st century.

Then it says: Any new system established under this subsection shall, one, be flexible; two, be contemporary but not waive, modify, or otherwise affect a whole list of items, including labor-management relations, chapter 71, and the appeals section under chapter 77.

There are many other issues that are taken off the table, too: chapter 41, chapter 45, chapter 47, chapter 55, chapter 57, chapter 59, chapter 72, chapter 73, chapter 79. This bill takes all of those off the table and says you cannot touch them in your new system.

Mr. SPECTER. Mr. President, will the Senator from Tennessee yield for a question?

Mr. THOMPSON. I will be happy to yield.

Mr. SPECTER. I have been trying to determine whether the provisions of the Nelson-Chafee-Breaux amendment supplements the provisions to title 5 of 7103(b)(1) which says:

> The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—
>
> (A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and
>
> (B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

The language submitted by the Nelson amendment says: The President could not use his authority without showing that the mission and responsibilities of the agency or subdivision materially changed and, two, a majority of such employees within such agency or subdivision have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorist investigation.

If I might have the attention also of the Senator from Connecticut, I had raised this question with the Senator from Connecticut and also the Senator from Nebraska, or talked to their staff, and have been told that the provisions of the Nelson amendment supplement which is now in existing law.

I have been advised by people from the administration personnel department that the Nelson provision replaces existing law which then would leave out the language of national security requirements.

My question to one of the managers of the bill, the Senator from Tennessee who has the floor, is whether this is a replacement for or an addition to?

Mr. BREAUX. Will the Senator yield?

Mr. THOMPSON. Let me address it first, if I may.

I don't know whether you would call it a replacement, total replacement, or an addition to. The significant thing, in answer to the Senator's question, under any definition it is a diminution of the President's authority from existing law. It is a diminution in this way: Under existing law, the President can make a determination that an agency or a subdivision of an agency is primarily involved in intelligence, counterintelligence, investigative, or national security work, and he can set aside the collective bargaining agreement.

Under the Nelson amendment, there is an additional requirement for the President. He must also go through the requirement of determining the mission and responsibility of the agency materially changed.

If you have a situation where a person was, in times past, doing a certain thing, and he is going to be brought into the new agency—and perhaps he is doing pretty much the same job; his job has not changed that much. What has changed is the rest of the world. September 11 changed it. Our heightened requirement in security changed.

That whole job where the President has not exercised his authority in times past might take on a different dimension, although he is doing the same job. In the first place, the President might not be able to make this finding. In the second instance, he would be setting himself up for another hurdle, for someone to challenge him in court.

I believe the Senator will agree there has been one instance under current law where people have gone to court to challenge the President, and the President and persons got an arbitrary and capricious standard overcome. It is a tough challenge for a plaintiff to overcome, but the President has to go in there and made a determination as to how much he says. We are talking about national security. How much do you divulge? How much can you get in camera and all of that business? That is current law.

Under this, he has an additional establishment that he has to make that there is a material change, not with regard to the work of the agency, as in current law, but with regard to the majority of the employees working in that agency.

Mr. SPECTER. Mr. President, I agree with the Senator from Tennessee that there is an additional requirement. I might differ with him as to how substantial it is.

Mr. THOMPSON. If I could add to my answer, under present law the President has the authority to make that determination based on the primary function of an agency involving national security. Under this, national security does not appear. It says primary duty: intelligence, counterintelligence, or investigative work. It does not say national security.

What it does say is that it must be directly related to terrorism. Terrorism is important. But there are national security concerns that do not necessarily have to do with terrorism. It is a limiting of the circumstances under which a President can make a determination.

Mr. SPECTER. Mr. President, if the international security consideration is stricken, there is an enormous difference. But that goes to the basic question as to whether this is in place of or in addition to. If there is a national security consideration, it is nonjustifiable. You cannot take appeals.

All the President has to do is come to court and say it is national security. If national security is not in the requirement, then you get into the arbitrary capriciousness, et cetera, on administering appeals.

Perhaps, if I might have the attention of the Senator from Tennessee, I think in listening to the Senator and looking at this, in regard to what you are talking about, it is clearly a replacement. It would be clearly redundant if it were not. It says: No agency shall be excluded as a result of the President's authority unless the President establishes these things.

I don't see how it could be more clear. I don't see how it could rest side by side with current law.

If it is a "replacement," it makes an enormous difference.

I was on the floor earlier in morning business saying if it is in addition to, it is a diminution of the President's power but not very much because of the similarity. But if it is a substitute for—Senator NELSON is on the floor. If I might have leave of the Senator from Tennessee to direct the question to Senator NELSON or Senator LIEBERMAN, is it a substitute for or in addition to?

Mr. THOMPSON. If I may do so without yielding my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, responding to the Senator from Pennsylvania, I will begin and still leave the floor with Senator THOMPSON. I think Senator NELSON may want to respond also.

It is my understanding that it is the clear intention of the sponsors of what I call the Morella-Nelson-Chafee-Breaux amendment that it supplement, not replace, existing language.

I say to the Senator from Pennsylvania, this concern he expresses is real. This is a concern that does not go to the intentions of the sponsors of the amendment. I have not talked to him, but let us reason together how we can make clear in this legislation, in this amendment, what the intentions are. It is not to alter this.

If I were to describe—and I stand to be corrected by the sponsors of the amendment—if I were to describe what the amendment does in this regard, regarding collective bargaining rights, it says to the approximately 43,000 to 47,000 currently unionized employees of various departments that will be moved to the new Department of Homeland Security—and remember, some of these people have worked for decades; some have worked for a few years—while the existing authority that this President, the previous President, all Presidents back to President Carter have had, to suspend collective bargaining rights in the interest of national security, these folks have continued to keep their jobs and be in unions because no previous President has believed that national security was inconsistent with their jobs being unionized.

All we are saying in this compromise amendment is to now, simply because they have been moved from where they are—Border Patrol, Customs agents, FEMA, Coast Guard, civilian employees, whatever—they have been moved to the Department of Homeland Security, to take their right to belong to a union away, you have to show their job has changed.

The President has to declare it and that is it. There is no appeal.

That is my understanding of the intention of the amendment. But on the question, Is the amendment supplementary or does it replace, it is intended to be supplementary. We will work with the Senator from Pennsylvania to make that clear.

I wonder if the Senator from Tennessee would mind if the cosponsor of the amendment spoke.

Mr. THOMPSON. Without losing my right.

Mr. NELSON of Nebraska. If I might respond, I agree with my friend and colleague from Connecticut. It is our intent this be additional authority, an additional opportunity for the President to make a decision about national security. I agree also that were it to be appealed, the national security would just simply eliminate the appeal. I am confident.

If it is not as clear as it needs to be, we will certainly, with our good friend from Pennsylvania, help make it clear. Perhaps this will resolve the concern the White House has about this language. Our goal is to make it supplemental.

Mr. BREAUX. Will the Senator yield?

Mr. THOMPSON. I am happy to yield to the Senator from Louisiana.

Mr. BREAUX. I think it is very clear it is a supplement to the existing language in section 7103. If you read our amendment it says that:

> No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United

States Code, as a result of any order issued under section 7103(b)(1).

Section 7103(b)(1) is the existing language setting out what the President has to do. Ours is added to that. So it doesn't replace the original 7103(b)(1). That is still intact. This is a supplement to that and is to be read in connection with both of them together. The President makes that determination and it is his decision. It is like a teacher giving a test and the teacher is grading the test. The President in this case is the teacher and he grades his own test. He makes that determination and they are both to be read together, so national security is still a part of it.

Mr. SPECTER. Mr. President, I have one additional question, if I might.

Mr. THOMPSON. Before we get off that point, it doesn't matter if you call it in addition or supplement to. It places requirements on the President and the hurdles before the President that are not in existing law.

Do you or do you not, in this amendment, require the President to establish the mission and responsibilities of the agency have materially changed?

Mr. BREAUX. Will the Senator yield for a response to that?

Mr. THOMPSON. Yes.

Mr. BREAUX. The answer is yes. But I would also say, the point you made earlier, if you have the same agency today that, somehow, because things have changed in this country, is in fact moved to a different location, they are doing the same type of work, but instead of doing it with regard to domestic security they are doing it because of an outside threat by terrorists, for instance, that mission has substantially changed. Their mission is no longer to stop, perhaps, Mexicans from crossing the U.S. border into Texas. Their mission is now to stop terrorists from entering the United States. That mission has substantially changed. That meets the test. Who gives the test? The President. Who grades the test? The President. So that mission has changed if the enemy has changed. That is very clear. It is a decision the President would make.

Mr. THOMPSON. If I may respond to that, the ultimate arbiter is not the President in this case. It is some Federal district judge. If the Senator from Louisiana was making this determination, I would be satisfied and happy and content the right conclusion would come. But the Senator has just given a scenario of his opinion as to what would constitute material change. Others may or may not agree with that. But there can be no dispute there is an additional requirement placed on the President.

You can argue it is justified, that we didn't place that requirement on Jimmy Carter or Bill Clinton or the former President Bush or Ronald Reagan, but we are going to place it on this President at this time. You can make that argument. But I must say I have difficulty in seeing how one can argue this does not place additional requirements on this President to make additional determinations, on the one hand, and with regard to a more narrow area of things, that is terrorism, on the other.

Mr. BREAUX. Will the Senator yield on that point?

Mr. THOMPSON. Yes.

Mr. BREAUX. The point is it is for the last 30 years under the existing law the President having to make this decision, that it has always been possible to go to Federal court under Federal law if someone thought the President hadn't met the existing standard. They could take him to court. We are not changing that at all. In the last 30 years there has been one case. The one case ultimately said the President was within his authority to do exactly what he wanted to do—one case in 30 years.

The existing law says the standard the President has to meet is always subject to going to court saying he didn't meet the standard. We are not changing that at all.

Mr. THOMPSON. I may say in response, the issue is not jurisdiction of the court, whether you go to court. I agree with that. The issue is what happens once you get there. Under the current law, all the President has to establish is as an agency it is primarily involved in national security.

Under this amendment, the President would have to establish something similar to that, and, in addition, the primary purpose of most of the employees within that agency had changed. That is a factual determination that is a colossal headache. It is a hurdle.

Again, you can say the President ought to have that additional hurdle at this time. But again I hardly see how one can make the argument this is not a change in existing law and we are opening up, not just one but at least two, avenues for Federal district court recommendations.

Mr. BREAUX. May I make one final point and then I will sit down.

Mr. THOMPSON. I am happy to yield for that purpose.

Mr. BREAUX. I think we are probably not going to agree on this. I suggest to the distinguished ranking member, what we need around here is a little law and order, and perhaps we could go ahead and vote on it. We could resolve it very quickly. Let's just vote on it and then move on to the next step.

Mr. THOMPSON. I agree with that.

Mr. SPECTER. One additional question.

Mr. THOMPSON. I am happy to yield to the Senator from Pennsylvania.

Mr. SPECTER. Senator GRAMM had made the comment in his earlier presentation that every President since President Carter has had the power to make personnel decisions on national security grounds. We have just had a discussion with some of the people from the personnel department. We have been cited to no authority as to the personnel decisions under chapter 43, chapter 51, chapter 53, chapter 75 and chapter 77. These are all provisions of the Gramm bill. The only exception for national security is one on labor relations—labor-management relations in chapter 71.

The question I have for the manager of the bill, the distinguished Senator from Tennessee, is whether he knows of any provision, statutory provision or other provision, which will give the President the authority to make personnel decisions on national security grounds?

Mr. THOMPSON. I know of no other. Obviously, if I am proven incorrect on that, we will supplement this record. But this is clearly the area—which points out the importance of it, which points out the whole personnel issue—getting the right people in the right place at the right time with the right pay and the right responsibilities and the right accountability is what this is all about. Therefore, Congress—many years ago, President Kennedy signed the bill—decided that the President should have the right, in personnel, with regard to matters of national security. And even broader than that: Intelligence, counterintelligence, and investigative, which is something I know my friend from Pennsylvania knows a great deal about—investigative.

I do not know whether that has ever been exercised, that particular provision, but it is a pretty broad provision. Every President since Jimmy Carter has exercised that provision. As far as I know, it has not been controversial.

This President Bush exercised it not too long ago with regard to the U.S. attorneys. There was a hue and cry that went up. It was said they may be prosecuting terrorists and we may have to move them around somewhat and all that. Well and good, but you included the secretaries.

Mr. SPECTER. That was on collective bargaining, was it not, as opposed to personnel?

Mr. THOMPSON. I beg your pardon?

Mr. SPECTER. The President exercised his authority under national security grounds on a collective bargaining issue as opposed to a personnel issue?

Mr. THOMPSON. You could say that, but it was under this (B)(3) authority on national security grounds.

Mr. SPECTER. Correct.

Mr. THOMPSON. The secretaries were a part of the unit and the assistant U.S. attorneys wanted to be organized. I am not familiar with that concept. When I was assistant U.S. attorney, when I was brought in. I stayed as long as they wanted me or I wanted to stay. When they elected another President, I was gone. Nowadays we have a civil service system and folks there were trying to take it one step further and unionize.

In light of what is going on in the world, the determination was made it is not a good idea to have people prosecuting terrorists, bogged down with negotiating some of these things, some of which are quite foolish, we have been describing. For better or for worse, that decision was made.

The secretaries were incorporated because the President's authority only goes to taking action with regard to agencies or subdivisions of the agencies. So the suggestion was made to the union representatives at that time, as I understand it, in talking to the OPM people, let's change the law so we can carve out secretaries. And they said: Oh, no, no, no. We don't want to do that.

We do not like the issue framed just the way it is. That created some controversy with regard to the only time this President has exercised authority there. But as far as I know, historically, all Presidents have exercised it. It happens to be controversial.

I simply do not understand. If we are going to debate whether or not this is merely supplemental, and we don't want to really do anything with regard to the President's authority, why in the world can't we go back to the traditional authority that every President has had?

What is the message we are sending to the American people? Do some of our colleagues distrust this President who seems to have the trust of the American people with regard to matters of life and death? From all the polls I can read, I think he is doing the best he can. I think all Presidents always do the best they can. We rally around them in times of war and in times of great national issues.

Do we really want to be fighting for days on end as to whether or not you can say it is significant or you can say it is insignificant? You can say it is in addition to, you can say it is a modification, and you can say it is supplemental. But do we really want to change that now for the sake of—if it is not 40,000 union employees, it is 20,000—those who are in bargaining units? Only 20,000 are union members out of 170,000.

My colleagues who support the Nelson amendment would suggest that we put up these additional hurdles with regard to the President's national security authority only with regard to homeland security. The area where he needs the authority the most is the only waiver area which they would take away. The Labor Department is not affected by this. The Energy Department is not affected by this. It is only the homeland security area. I have great difficulty in understanding the wisdom behind doing that at this time.

Mr. BENNETT. Mr. President, will the Senator yield for a further question?

Mr. THOMPSON. I would be happy to yield.

Mr. BENNETT. Mr. President, I have heard this debate. It reminds me of why I didn't go to law school. It is easier to hire people with the expertise of the Senators here who have gone to law school to try to explain this than it is to understand it yourself.

I have a very simple question coming from a more simple attitude about this whole thing. Is it not true that the President of the United States has said he will veto this bill if it has this in it? If that is the fact, it doesn't matter if we have 99.400-percent agreement on everything else. The legislation is not going to go forward.

I ask the Senator from Tennessee, who is in closer touch with the White House than I am, if it is not true that the President said he will veto this bill if this is in it?

Mr. THOMPSON. That is my understanding. I think it is important to understand the rationale behind that.

Mr. BENNETT. I am not challenging that. I don't want to trigger another discussion of all the rationality. I want to cut to the question that the Senator from Connecticut asked: Why can't we come together, as we always do with legislation, and get this thing moving forward? I ask the Senator from Tennessee, Should we be aware of the fact that, right or wrong, the President, as is his right under the Constitution, has made his intentions very clear? And shouldn't we be paying attention to that as we make our negotiations as well as all the other issues that have been discussed on the floor?

Mr. THOMPSON. Yes. Indeed. I do not think any of us want to spend all this time and effort on something that basically we think ought to happen in terms of reorganization of an important part of Government for naught and go before the American people and say we have failed because we insist on the status quo with regard to managing this thing but not the status quo with regard to the President's national security authority.

I can't read the President's mind. We learned that our CIA Director declared war to his people some time ago, and he is taking a lot of criticism and abuse, quite frankly, from some of our people who are our allies—one, in particular, I think in a particularly shameless fashion, in order to get reelected in Germany, has said some things which I think is going to haunt the relationship between the United States and Germany for a while. In the midst of all that—albeit he was talking about the Iraq issue and not this one—I think it put the President in a difficult position when we are spending all this time debating.

Again, this is the one area where we do not like status quo. Whether it is small, whether it is large, whether you slice it thin or you slice it thick, any way you cut it, it is additional steps that the President has to make, and additional opportunities for somebody to take into court, and things of that nature.

I don't think it says there is no basis for a President saying he is going to veto something and I wouldn't support him just because he threatened a veto. I am sure that I have opposed Presidents who threatened vetoes before. My attitude was to let them veto it because I didn't think it was sound, or I didn't think there was a rationale for it.

I am not afraid to say that one should look past that. I think it is going to be extremely difficult to go before the American people to explain why we insist on passing something that the President says he won't sign. But it is even more important that we look at the underlying rationale.

I have been on the Governmental Affairs Committee ever since I have been in the Senate. The thing I leave the Senate with—the sentiment, the idea, the notion, the feeling—is how difficult it is to make even a little change in the way Government works.

We have seen from Department to Department to Department overlap, duplication, billions of dollars wasted, $20 billion in 1 year, dysfunction, inability to incorporate information technology systems that private industry has been able to do for years, and human capital crises. We are going to be losing 45 percent of our workforce in about 5 years. We are keeping the wrong people and losing the right people. And we can't pay people what we ought to be paying them. We have seen all of that happen in the operation of government services, money, and so forth. It will hurt us if we incorporate all of that into this new homeland security bill.

You take all of that history, all those GAO reports, all of those IG reports we have seen year after year saying the Government is a mess in many respects, and it cannot pass an audit. It is a management mess. People say "Tut, tut." And you see an article in the paper every once in a while.

We bring them down and chastise them. They go back for another year. The next year they come back, they are still on the high-risk list and nothing has changed.

Take that in context then to the President. We are at war. We now perceive the need to organize our Government—at least a part of our Government—in a different way. We see that old systems in many respects simply need to be redone.

We have a President who the American people are behind and support, and we still can't make any change in our system in terms of how we manage this new Department, in terms of a civil service system that Paul Volcker down at Brookings—it is not a conservative, liberal thing—Paul Volcker and everybody agrees is a broken system that underwhelms itself at every task it takes. And we still, at long last, even in light of this history of failure, even with the loss of thousands of Americans, even if we agreed on the need to reorganize, can't make any changes in a system that is at the heart of the changes that need to be made.

The right people with the right pay and the right motivation and right accountability at the right place at the right time is what it is all about. Yet we are endangering—as we endanger as we speak—not being able to pass a bill to do one thing at long last.

I fear for my country. Once this issue is over, I fear that it will be so difficult to make any changes in the way the Government operates that it is going to collapse administratively of its own weight. There is enough fault to go around. There are a lot of years. This did not happen overnight. But that is the only way, apparently, that we can change anything around here. We cannot come together and agree on changes that need to be made, apparently.

I fear for my Government because if we cannot administer these departments, and we cannot make them run, we cannot get the right kind of people in the right places, none of this other stuff will work.

It all gets back to personnel. You say: Well, we're OK 90, 95 percent. That 5 percent is the nut that holds the propeller on the airplane. It is just a little nut—bolt, let's say—it is very small in weight in comparison to the weight of the airplane, but it is just what holds everything together.

It is a depressing situation when, in light of all this, at long last, we are hung up on some of these issues. The other side says: Well, you shouldn't be hung up. You ought to agree with us. And we are saying the same thing. But I will just pass on the merits of the case for a moment.

We are not making much progress on doing things differently than we have done before, except with regard to the President's national security authority—we ought to diminish that somewhat.

Mr. LIEBERMAN. Will the Senator yield the floor without losing his right to the floor for a moment?

Mr. THOMPSON. Yes.

The PRESIDING OFFICER (Mr. MILLER). Without objection, it is so ordered.

Mr. LIEBERMAN. I thank my friend from Tennessee.

I want to take a moment to try to answer the very good question the Senator from Utah has asked which is, regardless of what our positions are on this particular amendment—Nelson-Chafee-Breaux, a bipartisan amendment—hasn't the President said he would veto the bill if it was attached? I have not heard that specifically with regard to this amendment. Maybe I missed it. And I am glad I have not heard it because of the history I want to recite now.

The President, or somebody in the White House—maybe the President himself—said if the bill, as it came out of our committee, had the provisions with regard to Federal employees, homeland security workers, in it, that the President probably would veto the bill.

I must say when that was said and the media asked me about it. I said: I can't believe the President would veto this bill based on that difference because we agree on 90 to 95 percent of the components of the bill. It is creating a new Department. We all agree it is urgent. Let's get it done. We can argue about this.

As a matter of fact, Governor Ridge was good and honorable enough to say to me at a meeting about this subject a week or 2 ago: I do remember at the beginning you, Senator LIEBERMAN, said to me, Please, let's not get into a fight over civil service. Let's pass the bill. And then we can come back in 6 months—in fact, our committee bill requires the new Secretary to come back in 6 months.

OK. We went ahead. We adopted the Voinovich-Akaka bipartisan reform on civil service in our committee bill. But we did not give the President any of the waivers he asked for and other provisions of civil service.

On the question of this extraordinary authority that Presidents have had since President Carter to remove collective bargaining rights, we set up essentially an appeals process to a Federal board, the FLRA, of which the President appoints two of the three members. That is the one the President made clear he believed would be a cut in his national security authority and said he would veto.

We came to the floor in a spirit of compromise, with my full encouragement. Senator NELSON and Senator BREAUX began to see if we could find some common ground with the White House and the folks on the other side of the aisle. And there was substantial movement. In fact, I think we have been quite flexible in that regard. We may disagree, but one thing I want to say is, at least as I interpret it, we have ended up with a compromise amendment which does not at all diminish the national security authority of this President or any future President if it is passed.

With regard to civil service, it gives the President new authority to change civil service law. It asks that, as we have done quite successfully with the IRS—and it is done in the public sector all the time—the best way to get changes in work rules is to not shove them down the throats of workers; try to negotiate them.

So this bill says: Try to negotiate them with your workers. And if that does not work, send it to the Federal Services Impasses Panel, which has seven members, all appointed by the current President. So it is not a hostile board.

In regard to the collective bargaining rights, we say now—and there is no appeal to the board I mentioned before. The compromise says the President has to make his case, incidentally, not just job by job; the order is he simply has to claim that the mission and responsibilities of the agency or subdivision have materially changed, as Senator BREAUX said, and the majority of the employees within the agency are involved in national security work. That is final.

Incidentally, there has been one court case, as Senator BREAUX said—we are going to get it, look at it, and maybe enter it in the Record—which said the substantive determination on a question of national security is not reviewable by a court.

Mr. BREAUX. Will the Senator yield?

Mr. LIEBERMAN. I will.

Mr. BREAUX. I didn't know we had the floor.

Mr. LIEBERMAN. Through the courtesy of the Senator from Tennessee.

Mr. THOMPSON. The Senator does not have the floor. That is OK. I will be happy to yield to the Senator from Louisiana.

Mr. BREAUX. I don't want to belabor this any longer. But I say to the ranking member, there is only one case out of the 30 years where the President's authority was ever challenged to do what he did in moving employees around. And in that case, which was a case in the U.S. Court of Appeals for the District of Columbia, on the question of whether the President had proved the reason for making the decision that he made, the court said—I will have it printed in the Record—

> The executive order under review cited accurately the statutory source of authority therefor, and purported to amend an earlier order that indubitably was . . . proper. . . .The act does not itself require or even suggest that any finding be reproduced in the order.

I would say, in layman's language, that basically said: Look, once the President says I am doing this because the mission and responsibilities have materially changed, he does not have to make a finding. That statement in itself is a declaration that the court looks to only. It does not require any supporting findings or any other determination other than the President citing the statute by which he has made that decision. And that is the only decision we had on this issue by a court of appeals.

I ask unanimous consent that decision be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

American Federation of Government Employees, AFL–CIO, International Council of U.S. Marshals Service Locals, 210 et al. v. Ronald Reagan, President of the United States, et al., Appellants

No. 87–5335

United States Court of Appeals for the District of Columbia Circuit

(276 U.S. App. D.C. 309; 870 F.2d 723; 1989 U.S. App. LEXIS 3700; 130 L.R.R.M. 3031)

April 8, 1988, Argued

March 24, 1989, Decided

Prior History: [**1] Appeal from the United States District Court for the District of Columbia, Civil Action No. 86–01587.

Counsel: Randy L. Levine, Associate Deputy Attorney General, with whom John R. Bolton, Assistant Attorney General, Richard K. Willard, Assistant Attorney General, Jay P. Stephens, United States Attorney, Joseph E. diGenova, United States Attorney, Douglas N. Letter and Jay S. Bybee, Attorneys, Department of Justice, were on the briefs, for Appellants. John Facciola and Michael J. * * * assistant United States Attorneys, also entered * * * for Appellants.

Joe Goldberg, with whom Mark D. Roth and Charles A. Hobbie were on the briefs, for Appellees.

Judges: Wald, Chief Judge, and Robinson and Starr, Circuit Judges. Opinion for the Court filed by Circuit Judge Robinson.

Opinion by: Robinson.

Opinion: [*724] Robinson, Circuit Judge

This appeal summons us to decide whether a presidential executive order purportedly exerting a statutorily-conferred power is legally ineffective because it does not show facially and affirmately that the President made the determines upon which exercise of the power is conditioned. We hold that the challenged order is entitled [**2] to a rebuttable presumption of regularity, and on the record before us we sustain it.

I

Since 1962, collective bargaining has been available to most federal employees. n1 In 1978, Congress enacted the Federal Service Labor-Management Relations Act, n2 the first legislation comprehensively governing labor relations between federal managers and employees, Congress did not, however, include the entire federal workforce within this regime. The Act itself exempted several federal agencies from coverage; n3 additionally Section [*725] 7103 (b)(1) authorized the President, under specified conditions, to make further exceptions:

The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—

(A) The agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work; and

(B) The provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations. n4

n1 See Exec. Order No. 10,988, 3 C.F.R. 321 (1959–1963).

n2 Pub. L. No. 95–454, tit. VII, 92 Stat. 1111, 1191–1218 (1978) (codified at 5 U.S.C. §§7101 et seq. (1982 & Supp. IV 1986)). [**3]

n3 See 5 U.S.C. §7103 (a)(3) (1982).

n4 Id. §7103(b)(1).

In 1979, President Carter issued Executive Order 12171 n5 which, after paraphrasing Section 7103(b)(1), eliminated a number of agencies and subdivisions from coverage. In 1986, President Reagan promulgated Executive Order 12559, which undertook to amend the 1979 order to exclude certain subdivisions of the United States Marshals Service. n6 Appelles then instituted an action in the District Court attacking the legality of the latter order. The court rejected their claim that federal marshals are not engaged in protection of the national security, and consequently that the order was invalid on this account, ruling instead that judicial authority to reassess the facts underlying the order was lacking. n7 The court concluded, however, that it retained "general power to ensure that the authority was correctly invoked," n8 and that this necessitated measurement of the order by the conditions specified in Section 7103(b)(1). n9 The court held that inclusion in the order of the President's determinations was a condition precedent to lawful exercise of the power, n10 only in this way, the court felt, could it be demonstrated [**4] that the circumstances contemplated by the Act existed. n11 The court further held that Executive Order 12559 was not saved merely by the fact that it sought only to amend the 1979 order, which did contain the recitation * * * necessary, n12 Accordingly, the court granted summary judgment in favor of appellees, n13 and appellants came here.

n5 3 C.F.R. 458 (1979).

n6 In relevant part, Exec. Order No. 12,559 provides:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b) of Title V of the United States Code, and in order to excempt certain agencies or subdivisions thereof from coverage of the Federal Labor-Management Relations Program, it is hereby ordered as follows: Executive Order No. 12171, as amended, is further amended by deleting Section 1–209 and inserting in its place:

Section 1–209 Agencies or Subdivisions of the Department of Justice:

* * *b. The Office of Special Operations, the Threat Analysis Group, the Enforcement Operations Division, the Witness Security Division and the Court Security Division in the Office of the Director and the Enforcement Division in offices of the United States Marshals in the United States Marshals Service.

3 C.F.R. 217 (1986) (footnote omitted). [**5]

n7 AFGE v. Reagan, Civ. No. 86–1587 (D.D.C. Sept. 23, 1986) (opinion on preliminary-injunction and dismissal motions) at 5–7, Joint Appendix (J. App.) 22–24 [hereinafter First Opinion]. This contention is not before us on this appeal.

n8 Id at 7, J. App. 24.

n9 AFGE v. Reagan, 665 F. Supp. 31 (D.D.C. 1987) (opinion on summary-judgement motions) at 4, J. App. 32 [hereinafter Second Opinion].

n10 First Opinion, supra note 7, at 7. J. App. 23.

n11 Id. at 8, J. App. 25; Second Opinion, supra note 9, at 4–7, J. App. 32–35.

n12 Second Opinion, supra note 9, at 7–9, J. App. 35–37.

n13 AFGE v. Reagan, 665 F. Supp. 31 (D.D.C. 1987) (order), at 7–9, App. 39.

II

We first must address appellants' contention that the case is moot. In 1988, after the District Court ruled, the President issued Executive Order 12632, which provides for the same exclusions that Executive Order 12559 does, and contains all that the court deemed essential. n14 Since [*726] the 1988 order conforms fully to the court's standard, the question areas whether a controversy still exists. Appellants, while maintaining that the 1986 order remains [**6] valid, assert that the 1988 order fully resolves the dispute over validity of the 1986 order, and urge us to vacate the District Court's judgment and dismiss the appeal. n15

n14 Exec. Ord No. 12,632, 53 Fed. Reg. 9852 (1988).

n15 Defendants-Appellants' Suggestion of Mootness, AFGE v. Reagan, No. 87–5335 (D.C. Cir.) (filed Mar 28, 1988) at 2–5.

Important collateral consequences flowing from the 1986 order lead us to the conclusion that the controversy remains very much alive. Since issuance of the 1986 order, the Marshals Service has unilaterally abrogated the collective bargaining agreement as to affected deputy marshals, thereby depriving them of grievance procedures and other benefits, and has terminated checkoff of union dues, to the serious financial detriment of the union. n16 On this account, appellees have filed unfair labor practice charges with the Federal Labor Relations Authority, n17 which is holding the charges in abeyance pending the outcome of this appeal. n18 Resolution of the charges depends up the validity of the 1986 order—the precise question now before us.

n16 Plaintiffs-Appellees' Response to Suggestion of Mootness, AFGE v. Reagan, No. 87–5335 (D.C. Cir.) (filed Apr. 4, 1988) at 3–5. [**7]

n17 Id. at 4.

n18 Letter from S. Jesse Reuben to Wallace Roney and Tom Mulhern (Nov. 30, 1987), Attachment C to Appellees' Response to Suggestion, supra note 16 at 2.

In these circumstances, it cannot be said that the 1988 order has "completely and irrevocably eradicated the effects of the alleged violation" n19—the annulment of Executive Order 12559. n20 We accordingly put the suggestion of mootness aside and turn to the merits.

n19 County of Los Angeles v. Davis, 440 U.S. 625, 631, 99 S. Ct. 1379, 1384, 59 L. Ed. 2d 642, 649 (1979).

n20 Id. The Government urges us to dispose of all collateral consequences by treating the 1988 order as a "curative act" and extending its vitality as such back to the date of the 1986 order. Id. at 4–5. It suffices to point out that curative governmental action is not to be given such retroactivity as to demolish intervening vested rights—here those asserted by appellees with a view of remediation. See, e.g., Hodges v. Snyder, 261 U.S. 600, 603–604, 43 S. Ct. 435, 436, 67 L. Ed. 819, 822 (1923) (subsequent act may not deprive a person of a private right established under a previous law); Forbes Pioneer Boat Line v. Board of Comm'rs, 258 U.S. 338, 42 S. Ct. 325, 66 L. Ed. 647 (1921) (legislation may not retroactively abolish vested rights); DeRodulfa v. United States, 149 U.S. App. D.C. 154, 171, 461, F.2d 1240, 1257 (1972) ("a vested cause of action, whether emanating from contract or common law principles, may constitute property beyond the power of the legislature to take away" (footnote omitted)). [**8]

III

Appellants argue that the District Court improperly imposed upon the President a requirement not supported by the Act. n21 They insist that a presumption of regularity surrounded the promulgation of Executive Order 12559, and thus that there was no need to explicate findings by the President. n22 Appellants also claim that any infirmity in the order is rendered immaterial by the fact that it simply amended the 1979 order, which incorporated findings of the sort believed to be necessary. n23 n21 Brief for Appellants at 9, 13.

n22 Id. at 11.

n23 Id. at 16–19, 22–26.

Appellees contend that the 1986 order did not comply with the Act. n24 They insist that Congress designed the findings as preconditions to the President's resort to the exemption authority; that the courts are the instrumentalities for ensuring that the authority is properly exercised; and that the courts must see some proof that these prerequisites were satisfied. n25 Appellees point to other cases in which courts have invalidated executive action that did not satisfy statutory demands. n26

n24 Brief for Appellees at 13.

n25 Id. at 13–15.

n26 Id. at 15–17, citing National Fed'n of Fed. Employees Local 1622 v. Brown, 207 U.S. App. D.C. 92, 645 F.2d 1017, cert. denied, 454 U.S. 820, 102 S. Ct. 103, 70 L. Ed. 2d 92 (1981); NTEU v. Nixon, 160 U.S. App. D.C. 321, 492 F.2d 587 (1974); Levy v. Urbach, 651 F.2d 1278, 1282 (9th Cir. 1981). In National Federation, this court invalidated an attempt by the President to define the "public interest," with respect to the pay of certain federal workers, "without reliance on the explicit standards" set by Congress. 207 U.S. App. D.C. at 100, 645 F.2d at 1017. In NTEU, this court issued a declaratory judgment that the President's failure to perform an express, statutory and non-discretionary duty violated his constitutional obligation to faithfully execute the laws. 160 U.S. App. D.C. at 326–336, 350, 492 F.2d at 592–603, 616. In Levy, the Ninth Circuit held that an executive order had to comport with the authorizing statute to be valid. 651 F.2d at 1282. Appellants do not take issue with these unexceptional holdings, and we merely observe that they land no assistance in solving the problem confronting us. [**9]

[*727] Section 7103(b)(1) makes clear that the President may exclude an agency from the Act's coverage whenever he "determines" that the conditions statutorily specified exist. n27 That section does not expressly call upon the President to insert written findings into an exempting order, or indeed to utilize any particular format for such an order. The District Court, by mandating a presidential demonstration of compliance wish the section, engrafted just such a demand onto the * * *.

n27 See text supra at note 4.

We deem the familiar presumption of regularity decisive here. It "supports the official acts of public officers and, in the absence of clear evidence to the contrary, courts presume that they have properly discharged their official duties." n28 This presumption has been recognized since the early days of the Republic. In the summer of 1812, President Madison exercised a statutorily-conferred power to call forth state militiaman "whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe." n29 In Martin v. Mott, n30 a militiaman objected on the ground that the order did not show facially that the President [**10] had determined that there was an imminent danger of invasion. p31 The Supreme Court responded:

It is the opinion of the Court, that this objection cannot be maintained. When the President exercises an authority confided to him by law, the presumption is that it is exercised in pursuance of law. Every public official is presumed to act in obedience to his duty, until the contrary is shown; and a fortiori this presumption ought to be favorably applied to the chief magistrate of the Union. It is not necessary to aver, that the act which he may rightfully do, was so done. n32

n28 United States v. Chemical Found. 272 U.S. I, 14–15, 47 S. Ct. 1, 6, 71 L. Ed. 131, 142–143 (1926).

n29 Act of Feb. 28, 1795, 1 Stat. 424.

n30 25 U.S. (12 Wheat.) 19, 6 L. Ed. 537 (1827).

n31 Id. at 32, 6 L. Ed. at 541.

n32 Id. 32–33, 6 L. Ed. at 541.

Over the many years since Martin v. Mott, the presumption of regularity has been applied in a variety of contexts, n33 and [*728] it is clearly applicable to the case at bar. The executive order under review cited accurately the statutory source of authority therefor, and purported to amend an earlier order that indubitably was * * * not itself require or even suggest that any finding be, reproduced in the order. No more than the District Court have appellants suggested any actual irregularity in the President's factfinding process or activity. In these circumstances, we encounter no difficulty in presuming executive regularity. We cannot allow a breach of the presumption of regularity by an unwarranted assumption that the President was indifferent to the purposes and requirements of the Act, or acted deliberately in contravention of them.

n33 The cases doing so are legion. The following are typical: INS v. Miranda, 459 U.S. 14, 18, 103 S. Ct. 281, 283, 74 L. Ed. 2d 12, 16–17 (1982) (specific evidence is required to overcome presumption that public officers have executed their responsibilities properly); Citizens to preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 415, 91 S. Ct. 814, 823; 28 L. Ed. 2d 136, 133 (1971) (where statute prohibited approval by Secretary of Transportation of federal financing for construction of roadways through parks unless there was no feasible and prudent alternative route, and Secretary approved financing for such a project without making formal findings, Secretary's decisionmaking process was entitled to presumption of regularity); Michigan v. Doran, 439 U.S. 282, 290, 99 S. Ct. 530, 536, 58 L. Ed. 2d 521, 528 (1978) (in extradition hearing, presumption of regularity insulates demanding state's probable cause determination from review in asylum state); Philadelphia & T. Ry. v. Stimpson, 39 U.S. (14 Pet.) 448, 458, 10 L. Ed. 535, 541 (1840) (where statute required certain conditions to be met before corrected patent could issue, signatures of President and Secretary of State on corrected patent raised presumption that all requisite conditions were satisfied, despite absence of recitals so indicating on face of patent); Udall v. Washington, Va. & Md. Coach Co., 130 U.S. App. D.C. 171, 175, 398 F.2d 765, 769, cert. denied, 393 U.S. 1017, 89 S. Ct. 620, 21 L. Ed. 3d 561 (1968) (Secretary of Interior's determination that limitation of commercial bus service on portion of George Washington Parkway was required to preserve area's natural scenic beauty was entitled to presumption of validity, and burden was upon challenger to overcome it); National Lawyers Guild v. Brownell, 96 U.S. App. D.C. 252, 255, 225 F.2d 552, 555 (1955), cert, denied, 351 U.S. 927, 76 S. Ct. 778, 100 L. Ed. 1457 (1956) ("we cannot assume in advance of a hearing that a responsible executive official of the Government will fail to carry out his manifest duty" by reaching a final decision on a matter before complete record required by law was compiled). [**12]

In ruling to the contrary, the District Court relied heavily upon the prevailing opinion of the Supreme Court in Panama Refining Co. v. Ryan. n34 There the Court, focusing on what it regarded as an excessive statutory delegation of legislative power to the President. n35 set for naught an executive order issued pursuant to the National Industrial Recovery Act by striking down the authorizing provision of the statute, n36 The Court held in the alternative that even if the statute was valid, the order would still be ineffective because it did not set forth express findings on the existence of conditions prerequisite to exercise of the authority conferred. n37 The Court observed that to hold that [the President] is free to select as he chooses from the many and various objects generally described in the [relevant] section, and then to act without making any finding with respect to any object that he does select, and the circumstances properly related to that object, would be in effect to make the conditions inoperative and to invest him with an uncontrolled legislative power. n38

n34 293 U.S. 388, 55S. Ct. 241, 79 L. Ed. 446 (1935).

n35 Id. at 414–430, 55 S. Ct. at 246–253, 79 L. Ed. at 456–464. [**13]

n36 Id. at 430, 55 S Ct. at 252–253, 79 L. Ed. at 464.

n37 Id. at 431, 55 S. Ct. at 253, 79 L. Ed. at 464–465.

n38 Id. at 431–432, 55 S. Ct. at 253, 79 L. Ed. at 464–465.

Just what situations this declaration encompasses may to many remain quite obscure. That one situation, however, is beyond its ken is crystal clear. The majority opinion cautioned that the Court was "not dealing with . . . the presumption attaching to executive action. . . . We are concerned with the question of the delegation of legislative power." n39 The Court cited approvingly several cases, including importantly Martin v. Mott, in which the presumption of regularity was applied. n40 Our proper course, then, is evident; we are to abide the Court's admonition that was Panama Refining does is in applicable here, and that, as in Martin v. Mott, the presumption of regularity is pivotal. Indeed, the Supreme Court has never given Panama Refining the interpretation it received in the District Court, nor, so far as we can ascertain, has any other court.

n39 Id. 293 U.S. at 432, 55 S Ct. at 253, 79 L. Ed. at 465.

n 40 Id. at 432 n. 15, 55 S Ct. at 253 n.15, 79 L. Ed. at 465 n.15. [**14]

We hold that Executive Order 12559 is effective, and has been from the date of its promulgation. The judgment of the District Court is accordingly reversed, and the case is remanded for further proceedings consistent with this opinion.

So ordered.

Mr. GRAMM. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. THOMPSON. I yield for a question.

Mr. GRAMM. Is our Senator aware, while our colleague from Louisiana cites a court case that upheld the President's power to grant a waiver under national security, that the Senator's own amendment changes the criterion from national security to terrorism?

Mr. BREAUX. It does not.

Mr. GRAMM. That, in fact, the very standard that the court has upheld is a standard that he changes. It is clear to those who are looking at making this work that a standard based on terrorism is not as strong as a standard based on national security. So I think what we are seeing, over and over again, is one discussion but another reality.

I just ask the Senator if he is aware that part of what is being done is a change from the standard that gives the President the ability to waive on national security concerns to a standard to waive on terrorism concerns, where there is no comparable litigation, and where there are no comparable precedents?

Mr. THOMPSON. In answer to that, the Senator is correct in that the Nelson language does not mention national security in the section that I am looking at that I think is the operable section and requires that the duty of the "majority of the employees" be engaged in "intelligence, counterintelligence, or investigative work," and that all of it, or any of it, must be "directly related to terrorism investigation."

Mr. GRAMM. That is right.

Mr. THOMPSON. If it is not related to terrorism, the President does not have the authority, the way this is drafted. But I suppose what I wonder is if, in effect, what we are saying—and the Senator is right; we are comparing apples and oranges, it sounds like with this prior case—but if what we are saying is that we want to make it so the President's actions are not judicially reviewable at all, why are we having this debate?

I assume it is because we have an additional hurdle in there that every once in a while an honest President just couldn't make, such as the job changing. If the President is going to say, I have the authority, I can say whatever I want to say, I guess he could do that then. But if the President really does want to go to the trouble of determining whether or not the jobs of a majority of the people inside of an agency have changed, then that would be a situation where the President could not morally make such a determination.

Mr. GRAMM. Will the Senator yield?

Mr. THOMPSON. Yes.

Mr. GRAMM. Is the Senator also aware that making the determination on the basis of terrorism is very different than making the determination on the basis of national security? In fact, the roots of the President's national security powers go back to the Constitution. It is unclear how the courts would interpret or define terrorism.

Let me ask the following question. I think the Senator made a relevant point. If we all want the President to have national security powers, why are we having this debate? If you want to take the clothing off this amendment, is the Senator aware that in the last provision in the amendment that it strikes a provision in the pending substitute that guarantees that any power the President had under national security the day before the terrorist attack, he would continue to have after this bill? Is the Senator aware that provision is stricken by this amendment?

Can the Senator imagine, if our colleagues really, sincerely want the President to have emergency powers, why they would want to strike that provision?

Mr. THOMPSON. In answer to the Senator, I am aware of that. It is because if that section were in there, it would be inconsistent with this section.

Mr. BREAUX. Will the Senator yield?

Mr. THOMPSON. I am happy to yield.

Mr. BREAUX. Just to make two quick points. No. 1, it is very clear that the Nelson-Chafee-Breaux amendment is a supplement and not replacing the original section 7103(b)(1). We are not replacing the language talking about national security.

The second point, the debate on the floor has been the question about how difficult it would be for the President to make a showing that the mission and responsibilities of the agency have materially changed. I would say very clearly that the only court case in 30 years that has ever challenged the President's authority in making this determination said very clearly that this section makes clear that the President may exclude an agency from the act's coverage whenever he determines that the conditions statutorily specified exist. This section does not expressly call upon the President to insert any written findings into his exempting order or, indeed, to utilize any particular format for such an order.

That is as clear as you can say it. When the President says these conditions exist, that is all he has to show, period. That is the end of it.

I hope that will address the concerns of the ranking minority member about the President having to make findings and do things that he is incapable of doing. This case, the only case interpreting this, says he doesn't have to make any findings. It is left up to him. When he says, I have determined that these conditions exist, I can do it, that is not reviewable. The national security statute is still in place. It is still there. It has not been removed.

Our amendment is an amendment to the existing 7103. The national security language is still in place. It is not struck by our amendment in any way.

The President makes the determination and his determination is not reviewable by court based on the fact that these conditions do not exist. It is very clear.

Mr. THOMPSON. Mr. President, how in the world can we say that the Nelson amendment is a supplement to the current law, when the current law says the President may, and the Nelson amendment says the President may not? Square that one with me.

Mr. BREAUX. Will the Senator yield?

Mr. THOMPSON. In a moment. The current law says the President may issue an order if he determines that the agency or subdivision has a primary function of intelligence, counterintelligence, investigative, or national security work. The Nelson amendment says no agency shall be excluded because of the President's authority, unless the determination is made that the mission and responsibility of the agency or subdivision has materially changed.

You call that supplemental to, or whatever you want to call it, but it was not there before.

Mr. BREAUX. Will the Senator yield on that point?

Mr. THOMPSON. For a majority of the employees, current law says the agency has a primary function. The amendment says the majority of the employees within the agency have as their primary duty. The current law says, intelligence, counterintelligence, investigative, or national security. The amendment says intelligence, counterintelligence, or investigative work directly related to terrorism.

You can call it anything you want on the Senate floor, but the fact is, the current law is designed to give the President authority. The amendment is designed to limit the President's authority. It could not be any simpler.

I yield for a question, if I may.

The PRESIDING OFFICER. The Senator retains the floor.

Mr. BREAUX. For one moment, just to respond specifically to the language in the existing statute that says the President can, if he does certain things. Our language says, he cannot do it unless he does certain things. The end result is exactly the same. Our language says that if the President makes a determination that these things exist, he can do whatever he needs to do in this area. The language in the existing statute simply phrases it differently, by saying the President can do this if he shows the following. The end result is exactly the same.

Mr. THOMPSON. May I ask the Senator, if the end result is exactly the same, why does he insist on proposing this amendment?

Mr. BREAUX. There are two different points to be made here. The first point is, the way the language was drafted it was intended to do the same thing by saying the President can take action if he does certain things. The answer to that question is, absolutely, yes. It is phrased differently. One is in the negative. One is in the positive. But the end result is that the President can do these things if he shows the following.

The amendment we have says, for the first time in history, you are not talking about moving 5 people or 10 people or 100 people; you are talking about moving thousands and thousands of people. Over 100,000 people are going to be changed. At least we ought to show that the majority of them have something to do with this issue. That is an additional requirement. It is one that he determines.

Mr. THOMPSON. Maybe we have finally settled it. I heard the phrase "additional requirement." You can argue that because this is such a massive job, we ought to hamstring the President a little bit or you can argue because this is such a massive job that we should not.

But the Senator is absolutely correct in that he has laid on an additional requirement. That is the only thing I think we have been trying to establish.

Mr. LIEBERMAN. Will the Senator yield for a question?

Mr. THOMPSON. I am happy to yield.

Mr. LIEBERMAN. Let me say something first and then ask the question. The effect of the Nelson-Chafee-Breaux amendment is to add these two criteria for a judgment by the President in the specific case of the 43,000 currently unionized employees who will be moved to the new Department of Homeland Security. That is all.

The reason it does that is there is some apprehension, even though they have been doing these jobs for years and no previous President has found they are inconsistent with national security and being a member of the union, they want the President to make that determination. But here is the point I want to make about the court case.

There is actually no lessening of the President's authority because the underlying statute says in title 5 7103(b)(1):

> The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter—

Which is the collective bargaining chapter.

Mr. GRAMM. Seventy-one?

Mr. LIEBERMAN. It is 7103(b)(1). Then it says:

> if the President determines that—

And in the current statute which relates to the entire Federal workforce, it says:

> the agency . . . has as a primary function, intelligence, counterintelligence, investigative, or national security work, and the provisions of this chapter—

Collective bargaining—

> cannot be applied to that agency . . . in a manner consistent with national security. . . .

The Nelson-Breaux-Chafee amendment adds two other factors solely with regard to the employees who will be transferred to the new Department: The missions and responsibilities, not of the individual jobs but the agency or subdivision of change, and a majority of the employees within the agency have as their primary duties activities related to terrorism.

Here is the point I want to make as I read it. That is why I think there is not even a hair of difference between us in what we are saying. The basic operative point here is the language in the current statute—"if the President determines that." It is up to the President to determine the standards under the current law and the two standards for employees transferred to the new Department that Nelson-Chafee-Breaux adds. The Federal court has said the President's determination under this statute is not reviewable. That goes not just for national security, it goes for the two basic underlying and the two additional requirements that are added under this provision for employees of the new Department.

This is not effectively appealable. In other words, Senators Nelson, Chafee, and Breaux tried to come up with an amendment which responded to the concerns expressed by the White House and our colleagues on the floor that in some way the committee's bill in this regard was lessening the national security powers of the President by subjecting it to an appeal to the Federal Labor Relations Authority. We cut that out now.

I must say, I believe because we are so interested in getting this done we have been quite flexible on this side. I ask my colleagues on the other side, particularly the Senator from Texas, to take a close look at this because of the urgency of creating a homeland security agency. Let's try to find common ground and agree the President has essentially unassailable authority under this provision, exactly what he wants. It gives a small degree of what might be called due process to Federal homeland security workers against an arbitrary action by a President.

Frankly, under this wording and based on that court decision, the odds are a President could act arbitrarily here, too, if he invoked national security.

I thank the Senator from Tennessee for yielding. I guess my question is: Does the Senator not agree with me?

Mr. THOMPSON. Mr. President, let me pose a question to my friend from Connecticut. Is it the Senator's determination that this language he quoted under subsection (2) that "The President may issue an order suspending any provision of this chapter . . . if the President determines that the suspension is necessary in the interest of national security," is it the Senator's understanding that would supersede the new requirement that he find the responsibilities of the agency have materially changed?

Mr. LIEBERMAN. Looking at that section—incidentally, the language, the Nelson-Chafee-Breaux amendment amends decisions made under 7103(b)(1). (b)(2) I think gives the President authority to suspend any provision of the chapter specifically with respect to any installation or activity located outside the United States of America.

It is not diminished at all, not really affected at all.

Mr. THOMPSON. The Senator points out the provision I just quoted is with respect to an agency or activity located outside.

Mr. LIEBERMAN. In responding to the Senator from Tennessee, my reading of that section (2) is simply to restate the President's authority, not only with regard to employees of the Federal Government within the United States of America and the District of Columbia but outside the United States of America and the District of Columbia.

Mr. THOMPSON. Mr. President, that is a big difference. I do not think it has anything to do with employees inside the United States of America. I think that section only has to do with employees outside the United States of America.

Mr. LIEBERMAN. I think that is right.

Mr. GRAMM. Will the Senator yield?

Mr. THOMPSON. Which would leave us, once again, in a situation where the President is having to make a new determination because there is "concern"—concern we did not have with regard to any of these other Presidents, but we have concern with this President at this time. One can argue it is minimal. One can argue it is almost the same.

We are creating some interesting legislative history here. I wonder how anybody can ever contest the President after this discussion, quite frankly, but if that is the case, why in the world do we want to announce to the world we want to spend 2, 3, 4 days arguing over whether or not to diminish the President's authority a little bit or whether or not to put up an additional hurdle before him, when he is saying to us and the world—presumably, I do not know how onerous this is going to be; perhaps it will not be very onerous at all. It is just not right. It is just not right to diminish the President's authority or to put up additional requirements of him at this time.

Mr. GRAMM. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. BENNETT. Mr. President, I ask unanimous consent I be allowed to make a comment without the Senator from Tennessee losing the floor.

Mr. THOMPSON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have been here for an hour and a half now listening to this debate, listening to the argument going back and forth, and the conclusion I think I hear from the Senator from Louisiana and the Senator from Connecticut is an interesting one. It may not be the conclusion they really think they came to, but the conclusion I hear them saying, particularly in the final statements that took place, is they put this in the amendment to give the labor unions a sense of security but, in fact, that security is not there, so we can vote for the amendment with a clear conscience; that they did what the unions wanted them to do so they would not feel nervous about being put into this new Department, but reading their interpretation of the law, they are saying it really does not make any difference.

The last comment from the Senator from Connecticut that even an arbitrary and capricious action by a President—and he made it clear he did not expect this President to do that, and I appreciate his graciousness in that, but then in a hypothetical, an arbitrary or capricious action by a President could still go unchecked under this amendment and, therefore, we ought to embrace it.

If that is, in fact, the case—I will look at it very closely with some help from people who are burdened with a legal education, as I am not—if that is, in fact, the case, I think the Senator from Connecticut has just exposed himself to a little criticism from the unions.

How can he have misled them into thinking he was doing something substantive on their behalf and at their behest if, in fact, it is not substantive and the President would get everything he wants?

Of course, the same question arises from the White House. If, in fact, the White House is seeing no substantive change and this is more of a cosmetic kind of a thing, why are they threatening to veto?

So I am now going to leave the floor and go to lunch. I have some time scheduled later in the afternoon when I will talk about something else, but I have found this to be a very interesting exchange. Without in any way attempting to diminish the sincerity, integrity, or intelligence of those who have engaged in the debate on both sides, it strikes me a little like the medieval debate about the number of angels who can dance on the head of a pin.

If, in fact, as the Senator from Louisiana said and then the Senator from Connecticut summarized, the net effect of this amendment in this area is to not change the law or ultimately take any of the President's power away——

Mr. GRAMM. If that were the effect.

Mr. BENNETT. The question arises, why are we doing it? Either there has been a misleading of the unions so they feel a false sense of security that they do not really get or there is, in fact, some substantive change that we are supposed to not notice on this side of the aisle.

As I say, I do not challenge the intelligence, the integrity, or the motives of anybody who has engaged in this debate, but as a layman, standing here for an hour and a half, listening to the debate go back and forth, I draw that conclusion. I find myself quite perplexed over the intensity with which this battle has been fought if indeed that is where we are.

I see the Senator from Connecticut is on the floor, and I will be happy to yield to him for whatever comment he may wish to make.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. I want to respond, and then I will yield the floor. I know other Members in the Chamber wish to speak.

I appreciate what the Senator from Utah has said because I think he has come to the nub of it. Part of what this dialogue has reflected is how much people on our side, including the folks from the Federal worker organizations, want to get this bill passed. There has been a substantial change from the original wording of the committee bill, which did allow an appeal to the Federal Labor Relations Authority from the decision of the Secretary—or administration in these cases.

Effectively what we have done is to add two more criteria for the President to base his decision on as to whether union membership is inconsistent with national security, but we have not diminished the President's authority to make that decision. In other words, the same high authority he has had, sustained by the court decision we have cited and the two criteria that are there now, he has that same power under the two we have added.

The Senator asks: What have we done then? By adding two more standards, what we have done is to establish a kind of protection against truly arbitrary use by some future President of this extraordinary power the statute gives. What is the protection against arbitrary? The President has to make the case that he has determined, and let me read from the Nelson-Breaux-Chafee amendment: Mission and responsibilities of the agency or subdivision has materially changed—and this is only with regard to these employees who have now been moved to this Department; the President's authority remains unchanged with regard to every other Department—and that a majority of employees within the agency or subdivision have jobs directly related to terrorism.

I agree with the Senator. I have forgotten the word he used, and I wish I could recall it, but the Senator is wondering now why we are spending all of this time arguing about this. In my opinion, we should not. We should be adopting the whole bill and sending it to a conference committee so we can get it done soon and everybody, beginning with the President, can claim a victory in the name of national and homeland security.

Mr. BENNETT. Mr. President, I thank my friend from Connecticut, the chairman of the committee, for his attitude and his approach to this. I will, in good faith, go back and examine it. In honesty, though, I must indicate I am not sure examining it is going to change my position, for this reason: The Senator from Connecticut has magnanimously, and I think accurately, said he does not believe our current President will abuse this power, and he has referred to some future arbitrary President.

Nonetheless, he says there will be some kind of review. At the risk of sounding paranoid myself, I think that is enough of an opening, enough of a crack in the door, for some future union leader, who might not have the same kind of motives that are being attributed to our current President, to go through that opening and, for reasons totally unrelated to the mission of the Department, reasons totally unrelated to the protection of the American homeland, decide that he or she wants to pick a fight with the President and set in motion a series of hearings and activities within the civil service procedure.

I do not know how many other Members of this body have served in the executive branch and been involved in civil service procedures. I have. I went into the executive branch thinking I knew something about personnel. I had hired and fired, I had been involved in difficult challenges, and I thought I understood the process. I was the biggest babe of all the babes in the woods when I got into that circumstance. I ended up with an employee who was totally incompetent, totally unqualified for the position into which I innocently and foolishly placed her. I immediately tried to get rid of her.

I served in the administration for 2 years. Then I left the administration, and while I was in my private life, I got a phone call saying I had been summoned to a civil service hearing on the case of this woman X number of years after I had left the Government. I went to her hearing, and I testified in her hearing as to the situation. I was astounded that it was 3 or 4 years—whatever the amount was—after we had initiated the action to remove her from the position for which she was totally unqualified. It had dragged on that long. I had finished my service in the executive branch. I was out in private practice. I was called back in to testify, and it was made clear to me that this hearing was by no means going to be dispositive of the case; it would go on beyond that.

If there are additional hurdles being placed on the President's authority in this Department by this amendment, in all good faith, with a sincere attempt on the part of my friends who are working on this amendment to try to come to a resolution, my hesitancy stems from that experience. If indeed some labor leader decides he or she wants to pick a fight with the President and use those additional hurdles for some motive unconnected with national security, I am not comfortable giving them that opportunity, particularly when they do not have it now.

The argument is being made, they are being transferred into a new Department and so they need to be protected. The statement by the Senator from Connecticut, that I quoted back to him and he said I was probably right, is this is being done to give them a sense of protection and comfort but that substantively it is not any different. It may very well be that at the end of the day, after it goes through the courts, substantively it will not be any different. The position taken by the Senators from Louisiana, Connecticut, and Nebraska will be exactly right. But if that day comes after 6 years of adjudication and fooling around, with a Department that must be almost at hair-trigger capacity to deal with the threat, I am not going to accept that. That is my concern. To say at the end of the procedure the President will not have lost any power, all he will have had to do is go through some additional procedures to exercise his power and therefore nothing is threatened, is to say we are not focusing on the mission of the Department.

The whole reason we are creating the Department is so we will have faster response time, so we will have better coordination on a threat that did not exist when these situations were created in the first place.

Mr. NELSON of Nebraska. Will the Senator yield?

Mr. BENNETT. I am happy to yield, with the understanding I do not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. I suggest the Senator from Utah makes a good point in terms of not wanting this to go through an endless review process that will take years. It can take a substantial amount of time and tie in knots the entire operation. The reason that is unlikely, and most likely impossible, is the court case, the one case in 30 years, where it is made clear that if the President performs by making all the points that would be required by law, that is essentially nonreviewable.

All that is being proposed here is that there are two additional requirements that can be met, as well, and if the President dots the i's and crosses the t's and in good faith makes a determination that the court is not going to review it. It is important the court would not review it if he did not dot all the i's or cross the t's. I expect this President and the future President to do the right thing under the law.

That being the case, there is absolutely no reason to believe this will be tied up in court or there will be endless appeals by those who feel aggrieved by the determination. That is why it is important, whether you transfer these individuals or you go with the status quo, this body in the past and I think this body today has dealt with establishing requirements that must be met so that when they are met, due process has been achieved, the courts are not going to meddle in this process, and they are not going to review the administrations of the Congress when it comes to national security.

Mr. BENNETT. I thank my friend from Nebraska. But he comes back to the basic statement I made to the Senator from Connecticut. If in fact this is not really changing anything, and in fact there will be no significant delays, and if in fact the President has not lost any power, why is the amendment being offered? Why don't you just say if, in fact, nothing is going to change, we will not change it? And the issue that has been raised again and again is that the Senator from Texas put that exact statement in his amendment, he and the Senator from Georgia, that says nothing in this bill shall diminish the existing power of the President and the amendment before the Senate makes it very clear that statement has to go.

There has to be, by definition, some diminution of the power of the President.

I remember in such few Supreme Court cases I have reviewed one situation where the Court was confused what Congress was doing—surprising the Court would ever be unclear what we do; it is always so clear—the Court came down on the one side of the case with this comment. It said: We cannot assume that Congress committed a vacuous act. Therefore, they must have intended to have changed something or they wouldn't have passed this.

That is where we are here. We must, if we adopt the amendment proposed by the Senator from Nebraska, be assuming some diminution of the President's power. If not, why are we doing it?

Once again, I am perfectly willing to talk about diminution of the President's power if it is arbitrary and capricious and if it is damaging to the due process of employees. But this Department is not the place to experiment with that. This Department is the Department that is geared for quick action, for quick protection of Americans under attack, and of all places where the President's ability, the Secretary's ability to move quickly should not be hampered by additional requirements, this is the place. This is the Department where that should not happen.

To turn that proposition on its head and say that the President's power is as it is in every other Department, but it will be slowed down in this Department, is something I don't understand.

Mr. NELSON of Nebraska. If I thought this would slow down the process, if I thought this was a diminution of the President's authority to make determinations, I would not offer it.

It is important to distinguish between the threshold requirement and the President's power. If you want to defeat this, people will say it diminishes the President's power. It does not diminish the President's authority to make determinations. It does not, through the court cases, diminish the President's power and authority to make certain determinations.

In this particular situation, the threshold decision about whether or not the President meets that decision without regard to the President's power to make the decision that there has been a material change, that clearly is a reasonable requirement in this particular situation because you are moving one group from their current situation to another situation. The question will be, Is there a material change as it relates to those responsibilities that are set out? It does not diminish the President's power or authority.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. BENNETT. I will yield the floor. The Senator from Texas wants to get into this, and I am more than happy to facilitate that for him.

Let me close my statement with this comment. By virtue of my own background and my committee assignments, I happen to find myself in front of groups made up of executives perhaps more often than not. I asked this question, whenever this subject comes up, to the executives that are talking to me about this Department.

The first question: Have any of you ever been involved in a major corporate merger? Immediately, the smiles start around the room as the understanding of the implications of that question get through to them. They nod, yes.

I ask: Has it been a pleasant experience? In every case, the answer is no. Mergers are always difficult.

Here is a merger involving 170,000 employees gathered together from some 22 different agencies, each with its own culture, background, personnel procedures, and understanding. Anyone who thinks Government employees live in a monolithic world, regardless of which agency they work in, lives in "Alice in Wonderland." Every agency has its own culture and its own way of doing things, and it is almost impossible to get them to deal with each other.

Then I say to them: If you were tapped by the President to be the chief executive officer of this new agency and you were told the employees who came into the agency in the process of it being created brought with them, by law, all of the personnel procedures and activities they had in their previous agencies, would you take the job?

I have not found a single volunteer yet. Basically, aside from the legalities of this—which, again, as a layman I hear the lawyers arguing back and forth—aside from the legalities, that is what drives me in this debate. I want to view this as an agency which is governable when it is created.

As I said on the floor before, I lived through the creation of the Department of Transportation and all of the difficulties connected with bringing those groups together—a big Department but, compared to this, relatively small. I was at the shoulder of the second Secretary of Transportation, John Volpe, as he wrestled with those problems. I saw firsthand how essential it was for him to have flexibility in a variety of ways which the organized government employees unions did not want to give him. He got it in the creation of that Department by congressional mandate, and he was able to do what he was able to do by virtue of that.

I was not around, but I can read about the creation of the Department of Defense, which was on the scale that we are talking about here. It is not beyond the importance of our understanding how significant this challenge is going to be for us to recognize that the first Secretary of Defense committed suicide under the pressures of trying to make this all work. The Department of Defense probably never did work until after the Goldwater-Nichols Act, some 15 or 20 years after it was formed.

Let us understand as we go forward that we should be erring on the side of giving the Secretary and the President more flexibility, more authority, more ability to move quickly rather than less.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I do not know how much you learn by having this job, but one thing you learn is patience.

Let me say it is probably a good thing I didn't get the floor earlier because I would have gotten up and accused my colleagues of insulting my intelligence. But now I realize that the authors of this amendment have not the foggiest idea of what this amendment is about or what it does.

Let me just start. There are a lot of points I want to make, but let me just begin with some English points. Before we get to legal points or security points, let's just talk about the English language.

Our colleague from Nebraska said: I wouldn't do the amendment if I thought it limited the President's power.

I would like to ask him to read the words of his amendment, on page 12, under the section that has to do with the President's labor-management powers. Remembering the President has the power in the name of national security to not put people out of the unions. That is a made-up term that the opponents of the President use over and over and over again. It is totally false. Nobody can take people out of unions. What it does is set aside work rules that inhibit the ability of the Department to do the job of providing national security. So the President has this exclusionary authority under the name of national security.

Our colleague from Nebraska, Senator NELSON, says his amendment does not reduce the President's power. Let me start with the English language, and let me read line 10 on page 12. This is a heading, and the heading is: "Limitation On Exclusionary Power."

If it is not limiting the President's power, what is it doing?

Mr. NELSON of Nebraska. Will the Senator yield?

Mr. GRAMM. Let me make my point. I have listened here for 2 hours, trying to get the floor.

If this is not limiting his exclusionary power, this is false advertising. It does, in fact, go on and limit his power. But that is not the end of it.

Then, on page 14, you have a new section heading, and what do you think the first words of it are? "Limitation Related To Position Or Employees."

Our colleague from Utah said he is not a lawyer and this is a hard debate. I am not a lawyer either although I guess over the years you learn how to read legal documents. But I do know a little bit about the English language. When heading after heading after heading is about limitation of power, you are talking about limiting power.

Let me just start from the beginning because our colleague from Utah came over, listened to a lot of things that didn't make any sense to him, and he made a point. The point was, either this amendment does nothing or the authors of the amendment are not explaining what the amendment does.

I will—certainly to my satisfaction, hopefully to others'—convince people that this amendment does a great deal. This is not some cosmetic change, where members of organized labor are being deceived. It looks to me as if they wrote the amendment and they knew exactly what they were doing. Let me start with just some obvious points.

Besides the fact that the amendment is full of sections with the word "limitations" in the title, the amendment strikes the following language from the pending Gramm-Miller substitute. Let me read the language. You heard our colleague from Nebraska say we are not trying to take power away from the President. Let me read you the language they strike.

The language reads as follows:

> notwithstanding any other provision of this act . . .

I think people understand English. That means no matter what this act says.

The language they strike says:

> . . . nothing in this act shall be construed to take away the statutory authority of the President to act in a manner consistent with national security requirements and considerations as existed on the day of the terrorist attack on September 11, 2001.

In other words, no matter what else this amendment said, if it had not struck this language, the President would have the same national security power after this bill became law that he had on that horrible day, September 11. But guess what. This language is stricken by the amendment of the Senators. If they were not changing the President's powers, why did they strike this provision? They struck this provision because they may not know they are changing the President's powers but the people who wrote the amendment know they are changing the President's powers. And if they did not strike this provision, then everything they did in limiting his power would be nullified.

Let's just start with what they did. Let me remind my colleagues of something that the opponents of the President desperately want you to forget. The President, in terms of waiving these labor agreements that limit his ability to hire new people, move people, and to put the right person in the right place is also limited by these agreements that restrict the ability to change policy concerning carrying firearms, to change the physical makeup of inspection areas at customs, and to deploy a Border Patrol agent in an area where there is no laundry.

Mr. LIEBERMAN. Will the Senator yield for a very brief question?

Mr. GRAMM. I will be happy to yield, but let me just get through my basic points, and I will be happy to yield. I want some coherence to it.

Mr. LIEBERMAN. It is a factual question. I think the Senator is confusing the situation.

Mr. GRAMM. Let me go ahead and yield if the Senator is going to talk.

Mr. LIEBERMAN. The Senator refers to the power of the President in reference to waiving elements of collective bargaining agreements. That is not affected by this section. I think it is the right to join unions or remain in unions the President can override here, not elements of the collective bargaining agreement.

Mr. GRAMM. Let me reclaim my time. It is the collective bargaining agreement and elements of it that the whole waiver is about. And I will get back to that.

Let me go back to my point. The President did not ask for any additional authority in the name of homeland security to waive collective bargaining agreements. He never asked for additional power because every President since Jimmy Carter has had that power and every President since Jimmy Carter has used that power.

You might ask yourself, if the President never asked for that power, why are we debating it? Why are we debating the President's waiver power if he didn't even ask for new power?

The reason we are debating it is the underlying Lieberman amendment and the amendment that is proposed by Senator NELSON take power away from this President that every President since Jimmy Carter has had.

We are in the remarkable circumstance that terrorists have attacked America. They killed thousands of our people. We are writing a bill to give the President the tools he needs to fight and win the war. The first provision in this bill is to take away from the President powers that every President since Jimmy Carter has had. It almost sounds unbelievable. But believe it.

A second point that is interestingly enough even more unbelievable: Under this bill and this amendment, the members of Government who are moved into the Homeland Security Department would find themselves in a position that the President, in the name of national security, has fewer powers in hiring the right person, putting them in the right place, and moving them than he does at the Labor Department or the Office of Personnel Management or any other part of the Government. Interestingly enough, this bill and their amendment limits the President's emergency powers—not for the Government as a whole but only for the Department of Homeland Security.

My third point is that we have heard this talk about these court rulings. It is a very good point. But, unfortunately, it makes the case against their amendment. These court rulings are on the basis of national security. The Constitution gives the President power as Commander in Chief.

When the President in the past has made a ruling based on national security—Senator BREAUX made the point, repeated by Senator NELSON—those decisions have not been judicially reviewable or the court has deemed them not to be judicially reviewable. That is a pretty substantial power. But it is a power rooted in the Constitution.

Guess what they do with this amendment. They change the President's power so the President has the power to move only in terms of their waiver—not on the basis of national security but on the basis of terrorism.

Terrorism is not mentioned in the Constitution. Terrorism has not been litigated. Maybe it will be litigated and the power will be upheld. But the Office of Personnel Management, the experts in this area, the person who will probably be the Secretary, and the President of the United States, believe that changing the President's waiver power and basing it on terrorism rather than national security is a diminution of his power.

If somebody didn't think so, why is it being done?

Let me go my fourth point. We have heard a lot of discussion but let me try to get down to the facts. Again, we are all entitled to our own opinions. We are not all entitled to our own facts.

There are 20,000 union members among the 170,000 people who are going to be moved into this Department. There are 20,000 other people who are covered by collective bargaining. But they are not union members.

Under this amendment, rather than the President having his broad exemptive power to put the right persons in the right place at the right time, the President would now have to enter into negotiations. So we set up the Department. We are trying to get moving. We are trying to prevent another attack. We are trying to prevent Americans from dying. This is pretty serious business, in other words.

What does the new Secretary have to do? He shows up, and 170,000 people are moved. He comes into his office. What is the first thing he has to do under this amendment? Double the number of people at the principal ports of entry? No. Change the disposition of agents to keep nuclear weapons from being brought into New York Harbor? No.

The first thing the President has to do is to enter into binding arbitration with a labor union that represents 20,000 of the 170,000 people who work for the Secretary.

Under this amendment, 20,000 union members and their unions would negotiate on behalf of 170,000 people, and 20,000 of them aren't even members of the union.

Talk about a power grab—this is an extraordinary power grab.

Before the Secretary can do anything, he has to enter into binding arbitration with these 17 unions that are representing 20,000 of the 170,000 people in this Department, and only 20,000 of them are union members. He has to enter into a binding arbitration with those unions that will bind the work rules for 150,000 people who are not even union members.

What happens if the unions won't agree to the change in rules that would change the disposition of people in the Department to try to prevent a terrorist attack? What happens? You have binding arbitration. So here we are trying to protect people's lives, and rather than sending agents where we need them to go, we are in binding arbitration.

Then a panel, which has the historic role of making decisions about whether a governmental department had the right to cancel a Christmas party or not, is now going to be making a decision governing the running of the Homeland Security Department.

Mr. SESSIONS. Mr. President, will the Senator yield for a question on that point?

Mr. GRAMM. Yes. I would be happy to.

Mr. SESSIONS. Mr. President, I served in the Federal Government bureaucracy for about 15 years as a Federal attorney and as a U.S. attorney. Trust me, Federal employees, as Senator BENNETT said, have tremendous rights.

I was rather shocked, in connection with some of the things Senator GRAMM has been saying, to read some recent developments.

After September 11, is the Senator aware that the Customs Service wanted to require its inspectors—management—at 301 ports of entry to wear radiation detection pagers to help detect attempts to import nuclear and radiological materials across our borders, and that the National Treasury Employees Union—members of which are some of my good friends—objected saying that wearing the pagers should be voluntary and fought to invoke collective bargaining on the issue, which would have taken at least a year to resolve?

Mr. GRAMM. First of all, I have to say to my colleagues that I am not aware of that case. But I am aware of the case at the Boston airport where Customs wanted to change the makeup of the inspection room to make it more efficient, and the National Treasury Employees Union appealed it to the FLRA, and they sided against Customs and the changes were not made.

I am also aware that when there was an effort by INS to put more agents at the airport at Honolulu because of the large number of flights coming in and more inspectors were needed. In this case, the labor union representing the INS employees in Honolulu filed a case with FLRA saying it violated their contract to hire more agents. Guess what. The FLRA ruled in their favor.

Maybe someday you could get it straightened out. But what happens if by not getting it straightened out in time somebody's mama or somebody's child ends up being killed?

Mr. SESSIONS. Is the Senator aware that after September 11 the Customs Service signed a cooperative agreement with several foreign ports because we are concerned about ports being used to ship weapons of mass destruction here, and the best way to do it is to identify that as a foreign port before it gets here—that they signed a cooperative agreement allowing our inspectors to preinspect cargo abroad before it sailed here.

The Customs Service wanted to send its best agents to these ports because these are sensitive foreign assignments, and the National Treasury Employees Union objected, saying that internal union rules should determine who should be sent on these assignments, not the Customs Service managers.

Mr. GRAMM. I am aware of the case where an effort was made, in terms of foreign deployment, to pick the most able people because you have a limited number of people. That decision was overridden by the FLRA. They said you had to send the most "senior" people in terms of seniority.

I would say these are exactly the kinds of problems the President is trying to deal with. The President is not trying to deny people the ability to pay union dues, if they choose. The President is not trying to discriminate against people based on race, color, creed, national origin. The President is trying to put the best person in the best place at the right time. The Senator has just outlined several examples of where we have not been able to get the job done in the past, and even where we have gotten the job done, that it has often been 14 months later.

The point is, these terrorists—and we know there are thousands of them—are not taking a sabbatical while we are having this debate.

Mr. SESSIONS. If the Senator will yield, in reference to Senator BENNETT's comments, merging these agencies is a difficult task. They come with different backgrounds and legal prerogatives and cultures that they have had. As a U.S. attorney, I represented every Federal agency in my district, which would include the Corps of Engineers, the Coast Guard, Treasury, Customs, the INS, the DEA, the FBI—every agency that was there. They all have a little bit different rules.

If we are going to form a new agency, we ought not diminish the President's power because it is going to be difficult enough as it is to bring this thing together in a coherent whole.

I believe the Senator is making a good point. I have listened to the debate that has gone on for some time. It seems to me quite clear the amendments that have been offered—the objections that have been made to your bipartisan bill, the Gramm-Miller bipartisan bill—have been designed to diminish the Executive's ability to coordinate quickly that new critical agency for our defense.

I thank the Senator for his leadership on it. I think it is important. The President should not allow his office and the office of future Presidents to have an even more difficult time than we already have with personnel.

For example, I have had many agency heads come to me and ask me about criminal activity by Federal employees. And I would say: Why don't you just fire them? They would say: You don't know how hard it is. We have a criminal case. Please prosecute this case; otherwise, we will be years removing this person.

It is amazing sometimes for the public to learn how difficult it is to manage in a Federal agency. It is far more difficult than private agencies. In the end, it hurts good employees of which there are so many of them out there. It keeps them from being promoted, and it undermines the ability of the agency to be effective.

I thank the Senator for his courageous leadership.

(Mrs. CLINTON assumed the chair.)

Mr. GRAMM. Madam President, let me finish up my remarks because I have spoken a long time.

Although I could give a lot of concrete examples, let me just give a couple of them: Under current law, the President has the ability, by declaring a national emergency, to change the work rules for the Border Patrol. And every President since President Carter has had that power. This amendment would take away these emergency powers from the President because under a current agreement which the Border Patrol operates, there cannot be any prolonged deployment of Border Patrol agents in areas that do not have a series of amenities, including drycleaners.

Under existing law, the President would have the ability to declare a national emergency and move Border Patrol agents to areas where there was a critical threat. He would not have that power under this amendment. Let me explain why.

In order for the President to be able to use his emergency powers, the President would have to find, after the Department is created, that the position and duties of the person had been materially changed. By the way, you guessed it, the first word of the heading on page 14 of this amendment is "Limitation"—"imitation Relating To Positions Or Employees". Who are we limiting here? The President. Every one of these headings on limitation represents a limitation of the President's power.

Let me give you an example. A Border Patrol agent is a Border Patrol agent, and after the creation of this Department, they will still be a Border Patrol agent.

I asked that the amendment be changed to say that either the function had changed or the threat had changed. That proposal has not been accepted.

What it would mean here is that if the President tried to use his powers to station a Border Patrol agent, on a prolonged basis, on one of the many areas along the border that did not have restaurants, churches, or drycleaners, there could not be a waiver to station them in that area. Now, I represent more of the border than any other Senator besides my colleague from Texas and I know that there are many such areas.

The problem is that while they are doing the same thing, the threat is different. Before it was a bale of marijuana or a box of cocaine or an illegal alien we were talking about. Today we are talking about an anthrax capsule or a chemical weapons vial or a biological agent thermos or a nuclear device. But yet, under this amendment, the President would not have the power to make that necessary change.

Our colleagues say a Border Patrol agent is still a Border Patrol agent and nothing has changed.

Madam President, everything has changed. After 9/11, the world has changed, but not the thinking of the President's opponents. It has not changed.

So let me sum up by simply pointing out why this amendment is unacceptable to the President, why he has said he would veto a bill that contained this amendment, and why we can't fight and win the war on terrorism with this amendment as part of the law.

Now, there is no guarantee that we are going to be successful in stopping terrorism with a good plan, but General Eisenhower once said: A good plan does not guarantee success, but a bad plan does guarantee failure.

This is what this amendment does. It takes away power that every President since President Carter has had and used. It sets a higher standard for using national security powers in the one agency of Government that is designated to protect the homeland security than it does any other Department of Government. So OPM would still have the same emergency powers that are denied to the President for homeland security, but he would not have them here. The whole standard by which the President could intervene is changed from national security to terrorism.

We take a system where we in essence say to the President: OK, you want these 170,000 people brought together in one agency. We want you to give up national security power. If you will give it up, we will put together the Department. In other words, we will put it together if we can take away your power to actually run it.

What this amendment would do is allow unions that have only 20,000 members out of the 170,000 people that will be brought into the agency, and it makes them the bargaining agent for all 170,000. We are going to hire somebody to fight terrorism. He is going to think he is coming in to fight terrorism, and he is immediately going to be in binding arbitration. And then, if the unions won't agree to his plan, it goes to a labor board that has the historic function of deciding whether a department can cancel Christmas parties or the color of uniforms or things of that nature. We set up an unworkable system.

Finally, powers the President says he must have, powers related to labor-management relations and appeals, are taken away. So the amendment before us is no effort at compromise. I don't doubt the goodwill of the people who have offered it. But the plain truth is, it is further away from where the President can go than the last time we were discussing this issue.

There has been only one compromise, and that compromise is the Gramm-Miller substitute which made 25 changes in the President's bill and preserved for Congress the power of the purse. It also did restrict the President's emergency powers but in ways that made sense. We said the President can't be arbitrary and capricious. We said the President cannot discriminate on the basis of race, color, creed, national origin, and the list goes on. But the bottom line is that we realized we were fighting a war against vicious killers and the President needed the power to get the job done.

We need to give the President that power. Our colleagues talk about the President using that power. The way it is now restricted, the only thing the President can use the power for is to fight terrorism, to put the right person in the right place at the right time.

My point is, this amendment is not significantly different from the underlying bill in that it takes away powers the President already has, and it does not give him the flexibility he needs. The President has said he would veto it.

In the end, if we want to get a bill, the logical thing we should do is try to reach a compromise. I do not see this as a compromise. I don't see anything in it that is a compromise. It takes power away from the President he has today. I believe it is totally unacceptable.

I have given the authors of the amendment, in working with the White House, the changes they would have to make for the President to be able to accept it. I hope they will consider them. But the problem is, in order to give the President the power he needs to fight and win the war on terrorism, you have to change business as usual in Washington.

If there has ever been an amendment that was committed to the status quo of business as usual, don't change anything, this is it. The amendment and the underlying bill are really based on the premise that government is to serve the people who work for the government, not to serve the people of this country, and the rights of these workers, as we have defined them in a bill that is now over 50 years old in its fundamental components. This is the equivalent of operating a horse and buggy on an interstate highway. When we are talking about protecting the lives of our people and homeland security, this amendment and the underlying bill still hew too much to the idea business as usual is more important than an effective program to help the President fight and win a war on terrorism.

We are apparently going to have a cloture vote tomorrow. That cloture vote is going to fail. It is a gimmick and a game being played to try to deny the President the right to have an up-or-down vote on his proposal. Our colleagues who oppose the President have every right under the rules of the Senate to do what they are doing. I am not complaining about it. I am just trying to be sure people understand. If they can invoke cloture, they could put the President's program into a straitjacket where he does not get a straight up-or-down vote, where the first vote will be on this amendment which basically cuts the heart out of the President's program so people who oppose the President never have to vote up or down on the President's program.

Our colleagues who oppose the President have the right to do this. I am not complaining about it. It is completely within the rules of the Senate. But I don't believe under the circumstances it is defensible.

Basically, those of us who support the President are going to resist. We are going to deny cloture, and we are going to continue until the President gets an up-or-down vote.

I don't think this is going to confuse anybody. I know sometime later today and probably in the morning, someone is going to stand up and say: Well, don't the people who support the President want to bring the debate to an end and give the President a vote?

I don't believe people are going to be deceived. It is easy to give the President a vote. All you have to do is to set a time when the President's proposal can be voted on. That is all you have to do.

Under these circumstances, we are not going to let business-as-usual practices in the Senate prevail. We are not going to let the President be denied an up-or-down vote on his proposal.

It may be those who oppose the President will be successful. It may be they can defeat the President. It may be they can pass a bill the President has sworn to veto. It may be they can prevent the President from having a Department of Homeland Security in this Congress. They may do that. But what they cannot do is deny the President a vote.

There was earlier a unanimous consent request propounded concerning allowing a vote on the pending amendment. So no one is confused, I would like to ask unanimous consent that at 11 a.m. on Tuesday, there be an up-or-down vote, yes or no, on the President's program, which is the Gramm-Miller substitute.

Mr. LIEBERMAN. Objection.

The PRESIDING OFFICER. Objection is heard.

The Senator from Texas retains the floor. Has he given up the floor?

Mr. GRAMM. I have spoken beyond my limit of knowledge. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, while the Senator from Texas is on the floor, I want to renew a unanimous consent proposal I made earlier when he was off the floor which would give him the up-or-down vote he wants on the President's proposal. It is highly unusual. He is asking to deprive the Senate of the opportunity to amend. No one is infallible, but to give him the offer.

Madam President, I ask unanimous consent that immediately upon the disposition of Senator NELSON's amendment, Senator GRAMM be recognized to offer a further second-degree amendment, which is the text of the President's proposal as contained in amendment No. 4738, and that the Senate then vote immediately on his amendment.

That should give the Senator from Texas what he wants—an up-or-down vote on the President's proposal.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, Madam President, getting to amend the President's proposal before he gets a chance to have a vote is not giving the President an opportunity for an up-or-down vote. I have to object, though I will say we are going to have a vote on the President's proposal. Why not set it for 11 o'clock on Tuesday? Let's have the vote. If you can defeat the President, then you will make many special interests in Washington happy. If you cannot, we will have a bill. But at least we will settle the issue.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. So my question back to the Senator from Texas is why deprive the Senator from Nebraska and the Senator from Rhode Island and the Senator from Louisiana the opportunity to have a vote on their amendment?

Mr. GRAMM. If the Senator will yield, I will respond. Madam President, it is obvious to a blind man that there have to be some people on the side of the aisle of the Senator from Connecticut who do not want to vote against the President's homeland security bill, and if you can amend it first with an amendment confusing people as to what you are really doing, then they are off the hook. You all are not doing this because it is fun. Obviously, you have your plan in mind. I have mine.

The PRESIDING OFFICER. Is the Senator from Texas objecting?

Mr. GRAMM. I object.

Mr. LIEBERMAN. Madam President, does the Senator from Texas understand that under the unanimous consent request I have proposed the vote would be on the President's proposal, the Gramm-Miller substitute, unamended, second degree?

Mr. GRAMM. Madam President, I have a lot of problems, but one of them is not not understanding. I understand perfectly that if people could be convinced—there is no sense getting into the details. I think we have overdone it. The President wants an up-or-down vote on his bill, and we are going to hold out for that vote. If you can defeat the President, you have defeated the President. But we want an up-or-down vote, and the way we have things structured in a parliamentary sense, you would have to get cloture on their amendment to vote on it, and you are not going to be able to get it.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I regret the objection of the Senator from Texas, and I fear what it reflects is an understanding that, primarily because of the courage of the Senator from Rhode Island, Mr. CHAFEE, who has created a common ground compromise preserving the President's national security powers and giving some, frankly, minimal due process to homeland security workers, that our friends on the other side do not have the votes anymore because they do not have the votes. They are going to filibuster effectively the adoption of a homeland security bill as amended by the Nelson-Chafee-Breaux amendment.

The Senator from Texas himself has said that 95 percent of his proposal is the same as our underlying committee proposal. The biggest difference between us is with regard to the rights of the homeland security workers and the right of the President to maintain national security powers. This compromise does it. I am disappointed——

Mr. GRAMM. Will the Senator yield so I can agree with him?

Mr. LIEBERMAN.——and I fear the White House is now blocking the early adoption by the Senate of legislation that would create a Department of Homeland Security.

Mr. GRAMM. Will the Senator yield?

Mr. LIEBERMAN. I will, for a question.

Mr. GRAMM. It is true our bills are 95 percent the same. It is like you are giving the President this nice, new, shiny truck, only yours does not have a steering wheel. That is the fundamental difference. There is only 5 percent. It is like the plane that does not have the bolt that holds the tail on. That is the fundamental difference.

Look, we are not holding it up. We are ready to vote. Set the vote for Tuesday. Let's have an up-or-down vote and see where we are.

Mr. LIEBERMAN. Madam President, in responding to the Senator, the vehicle that we would give the President has a great steering wheel. About the only thing that is probably changed is the color of the plastic on the rear lights. The differences, as elucidated in previous debate, are so minimal as to certainly be not worth blocking the creation of a Department of Homeland Security which is urgently needed because the terrorists are still out there.

I see my friend from Nebraska on the floor. He is a lead sponsor of the amendment. He has been waiting a while to speak. I will yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, the Senator from Texas has made a number of points that I think I will try to respond to as briefly as I possibly can but at the same time respond to the suggestions.

First of all, I am new to this Washington-style posturing and spin doctoring, but I think I am getting the hang of it—maybe slowly, but I am beginning to get the hang of it.

I agree that we are not entitled to our own set of facts. We may have interpretations, we may even have our own thoughts about a set of facts, but we are not entitled to characterize those facts differently just because we choose.

When one looks at a letter or a statement, the statement and/or the letter will speak for itself. I ask unanimous consent to print in the RECORD a letter from Governor Ridge, dated September 5, 2002, to Senator LIEBERMAN in which he says:

> . . . the President seeks for this new Department the same management prerogatives that Congress has provided other departments. . . .

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 5, 2002.

Senator JOSEPH I. LIEBERMAN,
Chairman, Senate Governmental Affairs Committee, U.S. Senate, Washington, DC.

DEAR SENATOR LIEBERMAN: During the past several months you and I have engaged in both public advocacy and private efforts to create a Department of Homeland Security. I have read your article in Tuesday's Washington Post and would like to respond to some of the observations and conclusions. You and I agree that the events of September 11, 2001 tragically underscore the critical need to reorganize a significant portion of the Executive Branch of government and to create a Department whose primary responsibility is securing the homeland. I certainly agree with your observation that never before has there been government "disorganization so consequential and the case for change so compelling."

It is critical to our mutual effort however, to do more than simply realign the many departments and agencies included in the Senate measure under one new Cabinet-level department. This new department must be equipped with the flexibility and agility to respond effectively to threats against this country and to move people and resources in response to those threats. The President has made it clear that the bill as presently written fails to achieve these critical objectives in several ways.

In your article you refer to the President's concerns with your bill as "detours," "secondary" issues, and "unnecessary roadblocks." I am at a loss to understand why the President's insistence that, as Commander-in-Chief, he be the final arbiter of this country's national security interests is a "detour" in this debate. Similarly, I am puzzled as to why his resolve that his new Secretary be given the flexibility to move people and resources in response to terrorist threats is being characterized as a "secondary" issue. In fact these very issues are critical to the success of this new Department.

The Administration believes that the new Secretary must have the freedom to put the right people in the right job, at the right time, and to hold them accountable. He or she must have the freedom to manage and the freedom to reorganize. One of the inescapable truths of this new war on terrorism is that we know that we cannot conduct "business as usual." I was surprised at your assertion that "the president's pleas for additional 'flexibility' would give his administration unprecedented power to undercut the civil service system, rewrite laws by fiat and spend taxpayers' money without congressional checks and balances." This is simply inaccurate. Senator, the President seeks for this new Department the same management prerogatives that Congress has provided other departments and agencies throughout the Executive Branch. For example: budget transfer authority ranging from one to seven percent is granted in various forms to several departments, including the Department of Health and Human Services, the Department of Agriculture, and the Department of Energy; reorganization authority was granted with the establishment of the Department of Energy and Education and government-wide reorganization authority was previously enjoyed by every President until 1984; and, personnel flexibility is currently enjoyed by the Federal Aviation Administration, the Internal Revenue Service, and the Transportation Security Administration.

Furthermore, the new Department of Homeland Security, as well as its new Secretary, will be fully accountable to Congress and subject to especially intensive reporting requirements and Congressional oversight.

Your conclusion that "the President and the Secretary of Homeland Security would, in fact, have more flexibility to run an efficient, effective and performance-driven department than the law now provides" is contrary to the literal language of the bill itself. As written the Senate bill places severe restrictions on the Secretary's ability to manage the Department and fails to provide the authority that the Secretary needs to effectively secure the homeland. Through a variety of separate provisions, the Senate legislation clearly prohibits the new Secretary from reorganizing, reallocating or delegating most of the agency functions in the new Department. It would preclude, for example, even the most basic consolidation of Federal inspectors at our border entry.

Moreover, the idea that "With the powers in existing law and new ones added in our bill, the administration would be able to promptly hire new talent, swiftly move employees around, discipline and fire poor performers" is seriously misleading. While the Senate bill introduces very narrow changes to the personnel system, such modest reforms and corrections are woefully inadequate to meet the President's basic goal of creating a workforce at the Department of Homeland Security with the flexibility, mobility, and agility needed to protect our nation from multiple and constantly changing threats. In fact, the Senate bill leaves in place a 50-year-old, rigid, statutorily mandated, and unalterable personnel system. This kind of organizational rigidity in the face of an agile and aggressive enemy is unacceptable to the Administration.

Your op-ed also mistakenly claims that the Senate bill would allow the President to "remove employees from collective bargaining units when national security is at stake." In fact, the Committee proposal includes language on Federal Labor Relations which would significantly restrict the President's existing, government-wide authority to prohibit collective bargaining for reasons of national security. The bill would in effect deny the President this authority over the Department of Homeland Security—an illogical result given that the President will continue to have the authority for every other department and agency of the Federal government. As every President since Jimmy Carter has shown, there are times where the needs of national security must take precedence over collective bargaining. Each of these Presidents—both Democrats and Republicans—has used this authority precisely and with restraint. It is unfathomable—and again simply unacceptable—that the Senate would choose a time of war to weaken the President's authority to protect national security.

While we continue to have considerable substantive disagreements with the measure presently before the Senate, as you begin the debate to establish the Department of Homeland Security, we must keep in mind the common goal of an accountable, effective agency with the resources and authorities necessary to protect the American people. At the end of the day, we must resolve out differences to reflect our mutual obligation to protect our special interest—America.

With Respect,

GOVERNOR TOM RIDGE,
Homeland Security Advisor.

Mr. NELSON of Nebraska. Madam President, he points out the Internal Revenue Service, which is exactly what we have included in this amendment, hardly opposing the President unless, Heaven forbid, Director Ridge opposes the President. He suggested it.

Then, Madam President, I do not need to enter—it is already a matter of record—the remarks of the good Senator from Texas in which he suggested that the current situation might be remedied by including the IRS formula that was included in the reorganization of the IRS.

I would not suggest for a minute that he opposes the President.

We have had some explanations or recharacterizations of what these documents mean. The recharacterization does not change the language, does not change the meaning, but now what seems to have changed is the goalposts have been moved, the rules have been changed, and now in good faith we proposed what we thought the White House and others, who were suggesting we ought to do it differently, we thought, what they were asking for.

As with mischaracterizations, I think anybody today watching us would feel as if they have been watching a little bit of "Alice in Wonderland." This is the only place I can imagine where if you have an amendment, you are an opponent of the President. I am not an opponent of the President. I do not oppose the President. I am here trying to find a way to close the gap.

I would like to find the steering wheel for the car of the good Senator from Texas so that it is 100 percent complete, not 95 percent complete, as the example he gave before.

I am intrigued by mischaracterization, but I am not persuaded by it, and nor will my colleagues be persuaded by it as well.

The Senator from Texas referred to page 12 of our amendment and read from it the language he said was now taking away authority of the President. The title is: "Limitation on Exclusionary Authority." He says we are excluding the President's authority. The truth is, this is just a reference to existing law, and it has to have some sort of a heading.

Let's move away from the heading and see what this particular provision does. It says no agency that is transferred to the Department will be excluded from the coverage of chapter 71 of title 5, United States Code 7103(b)(1).

What does that have reference to? The President's authority. It says the agency will not be exempt from the President's authority.

What is that President's authority this has reference to? It says that the President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines the agency or subdivision has as their primary function intelligence, counterintelligence, investigative or national security work, and the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

It also says that the President may issue an order suspending any provision of the chapter or activity if somebody is located outside of the United States and the District of Columbia. The truth is, this reference incorporates the President's current authority. It does not exclude it. It does not change it. It does not limit it.

What I agree with, which the Senator does point out, is it does then set some additional tests the President ought to apply in making a determination. That is not limiting authority. That is saying these are the tests that ought to be considered and have to be considered before the order is issued. The President has the same authority as before, but now it has a reference to dealing with there being a material change in the responsibility.

The good Senator has also made a suggestion maybe we ought to look at wording that says "or the threats have changed." When the good Senator suggests a change to the existing law, he is not opposing the President, but when we make a suggestion, we are opposing. I think we have to use the same terminology and say we are both trying to improve the existing situation.

If the Senator from Texas makes a suggestion we add language, I am not going to suggest he is opposing the President. I am not even going to suggest he is opposing me. He is trying to make something he disagrees with better, but it does not make us opponents.

What we have heard today is a lot of discussion with a lot of hyperbole and changing the rules as we go along. Of course, I think anybody watching from the outside looking in will not be misled by this kind of spin-doctoring or this kind of labeling.

My hope is we can set aside partisan discussions and talk about the essence of what it is we are about. What we are about is finding a way to close the gap.

I have said to the Senator from Texas, and I say it again, if there is language—and we are looking at his suggestion there—that will make this clearer and stronger, we are very much in favor of considering that. But I do not think it will make either of us opponents of the President if we agree on that language, which is different from the current Gramm-Miller bill that is referred to as the President's bill.

So I think we must, in fact, put aside who is opposing and let us start talking about how we can amend, improve and close the gap so the good Senator's car will have its steering wheel and he can drive forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. REID. Will the Senator yield for a question?

Mr. NICKLES. Yes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I had a brief conversation privately with the Senator from Oklahoma, and while the Senator from Texas is in the Chamber, I say we have a vote scheduled for 3:45 this afternoon. It would seem to me the most logical and sensible thing to do, since we have been told by several people on the other side of the aisle we are not going to get cloture tomorrow when we vote an hour after we come in, instead of having the vote at 3:45 on the cloture that is now set we should have it on the amendment the Senator from Texas said we will not get cloture on, which makes more sense.

If we are not going to get it tomorrow, it would seem it would be in everyone's best interest, with all the things going on in Washington tomorrow, we have the vote today and allow people who are concerned about some of the things that might take place tomorrow in the District to be able to go to their home in the suburbs or in the District or back to the States.

If the Senator is right that we will not get cloture—and if, in fact, we did get cloture, it would allow a lot of people not to be here because the 30 hours runs and, of course, we have one hour at a pop. I am not going to formally ask at this time, but I ask the distinguished Republican assistant leader to see what he could do about working that out. It seems to me it would be in the best interest of the Senate and it would be in the best interest of those we are trying to work to some finality in this bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I will be happy to work with him on trying to schedule things that are convenient for all colleagues.

I rise today to make a few comments I really wish I did not have to make. Yesterday, the majority leader of the Senate made a very strong, impassioned speech. I missed most of it, but I caught a lot of it last night on "Nightline." I caught a transcript of it and then I saw it again. I will read part of it. Senator DASCHLE said: I can't believe any President or administration would politicize the war. But then I read in the paper this morning, now even the President, the President is quoted in the Washington Post this morning as saying that the Democratic—the Democratic-controlled Senate is not interested in the security of the American people.

Senator DASCHLE was reading from The Washington Post. Unfortunately, though, he did not quote The Washington Post correctly and he certainly did not quote the President of the United States correctly.

It is a very strong accusation saying the President of the United States would politicize the war and he quotes the President of the United States, but he quoted the President of the United States inaccurately.

One, we should keep politics off the floor of the Senate, particularly when we are talking about issues of very significant importance such as war, war resolutions, or a resolution dealing with Iraq, which has been a troublesome spot for the United States. We have had several debates and discussions on Iraq. We should not be playing partisan politics. I do not think we should be attacking the President of the United States on a quote in the Washington Post, which may or may not be accurate. The way it was stated by Senator DASCHLE was inaccurate, and I will read the President's quote from the Washington Post which was alluded to, and then I will again read Senator DASCHLE's quote and we will see directly they are not the same.

What the President said when he was in New Jersey on September 24 was:

> So I asked the Congress to give me the flexibility necessary to be able to deal with the true threats of the 21st century by being able to move the right people to the right place at the right time, so we can better assure America we're doing everything possible. The House responded, but the Senate is more interested in special interests in Washington and not interested in the security of the American people. I will not accept a Department of Homeland Security that does not allow this President, and future Presidents, to better keep the American people secure.

The President goes on to say:

> And people are working hard in Washington to get it right in Washington, both Republicans and Democrats. See, this isn't a partisan issue. This is an American issue. This is an issue which is vital to our future. It'll help us determine how secure we'll be. Senator GRAMM, a Republican, Senator MILLER, a Democrat, are working hard to bring people together. And the Senate must listen to them.

That is what the President said, and to take out of that a statement that says the Democratic-controlled Senate is not interested in the security of the American people, is not what the President said. If someone is making a statement that receives a lot of attention, there must have been notification to the press this is going to be a very important statement, and to make a statement misquoting the President of the United States on an issue like this and accuse him of politicizing the war, when the issue was homeland security, I think is a real injustice to the President of the United States and to the quality and flavor of debate we should be having in the Senate.

We should not be politicizing a debate dealing with war and talking about international repercussions. And there are repercussions when we make speeches, particularly when the Democrat leader makes a speech. I cannot help but think the headlines that came out as a result of his speech brought about some comfort for those who really oppose the United States policies or those who are opposed to formulating an international coalition the administration is presently trying to put together in the United Nations, in Europe, and in the Middle East.

This President, like his father, was trying to build an international coalition. I can't help but think when they read that the Democrat leader of the Senate is accusing the President of politicizing the war and misquoting the President, that gives them a lot of ammo. That gives them a lot of justification for Saddam Hussein or others to say: See, I told you they are just politicizing this war. They want to do this for political purposes, when that was not what the President said.

Again, when I first heard of this I thought, well, let me find out what the President said. I am a friend of the President's. I am willing to defend him, but I wanted to see what he had to say. I know the President very well and I said, I can't believe he would say Senate Democrats are not concerned about national security because that is not factual.

But then when I read these comments, not only did he not say it, he didn't say anything close to it. Then in the next sentence down he said:

> And people are working hard in Washington to get it right in Washington, both Republicans and Democrats.

I wish Senator DASCHLE would have read that. I wish he would have read that he compliments both Senator GRAMM, a Republican, and Senator MILLER, a Democrat, and he never once said what was said on the floor yesterday. He never once said Senate Democrats are not interested in national security. He didn't say it. But that was the attack that was made yesterday.

I just think of the international repercussions, and I am thinking of this enormous challenge to build an international coalition, one that President Bush 1 was able to do in 1990 and 1991, an enormous coalition, but it was not easy to build. It is a coalition, I might mention, that was put together, and very successfully, in 1991, that dissipated over the next 8 years and is now gone. So President Bush, this President Bush at the present time, is trying to rebuild the coalition. Then to be attacked by the majority leader, misquoting him, I think is very inappropriate.

I also wish to make a comment about Vice President Gore.

Before I do that, I want to read another. The President made two speeches. I scanned both. I didn't want to misstate what the President said. I like to be factually accurate. If I ever misquote anybody, it will be a mistake.

So I read the President's speech that he made at another event. This goes to the same subject. I believe this was made on September 25th.

> Right now in the Senate the Senate feels like they want to micromanage the process, not all Senators but some Senators. They feel they have to have a pile of books this thick that will hamstring future administrations how to protect our homeland. I am not going to stand for it.
>
> I appreciate John's vote on a good homeland security bill. And the Senate must hear this, because the American people understand it. They should not respond to special interests—they ought to respond to this interest: protecting the American people from a future attack.

Again, he didn't say anything about the Democrat Senate not supporting national security.

But there was a real political statement made the other day. That was by former Vice President Al Gore. Again, I would like to think that Presidents and former Presidents and former Vice Presidents wouldn't undercut the existing President and Vice President on the floor—while they are trying to build coalitions. That is exactly what the former Vice President did. Former Vice President Gore, in speaking to, a group of Democrats or a group of people in San Francisco, had a lot of outlandish things to say.

I read—well, he is trying to garner support from the political left or right, and I guess he has that right to do so. But I would think he would have the dignity to try to maintain the dignity of the Office of Vice President and not undermine an existing administration that has a difficult challenge to try to rebuild a coalition. This is one of the things Vice President Gore said on September 23:

> To begin with, to put things first, I believe we ought to be focusing on efforts first and foremost against those who attacked us on September 11 and who have thus far gotten away with it.

For Vice President Gore to say that is grossly irresponsible, and is very inconsistent, I might say, with some of the things he had to say in the past.

It is very troubling to me, when I look at the previous administration and what they did or didn't do in response to previous acts of terrorism, for him to be blaming this administration for not being aggressive enough in fighting the war on terrorism, and I see terrorist attacks that happened during Vice President Gore's administration, President Clinton's administration, and I look at the response they had against terrorism and I say, Where is it?

For him to be critical of this President when this President has made an aggressive effort to combat terrorism and basically eliminating it—going into Afghanistan, helped in liberating the Afghan people, dispersing al-Qaida, going after and rounding up and killing hundreds of terrorists—for the Vice President to be critical of this administration is mind-boggling.

I remember when the U.S. Embassies were bombed in Kenya and Tanzania on August 7, 1998; 224 people were killed, including 12 Americans, almost all of those were employees of the United States. Five thousand people were wounded.

And what did we do? Well, we lobbed a few cruise missiles hoping maybe we would get Bin Laden and then we didn't do anything else. That was in August of 1998. Yet we didn't do anything, after that for the next couple of years; the previous administration did nothing.

And then the U.S.S. *Cole* was attacked on October 12, the year 2000; 17 U.S. sailors were killed; 39 were wounded. The entire ship could have sunk.

What did we do? Nothing.

President Clinton said:

> If, as it now appears this was an act of terrorism, it was a despicable and cowardly act. We will find out who was responsible and hold them accountable. If their intention was to deter us from our mission in promoting peace and security in the Middle East, they will fail utterly.

President Clinton, as a result of the bombings of the U.S. Embassies, on August 7 of 1998 said:

> These acts of terrorist violence are abhorrent. They are inhuman. We will use all the means at our disposal to bring those responsible to justice no matter what or how long it takes.

That was President Clinton's remarks, and I would assume Vice President Gore would agree with those remarks, but we didn't do anything. And we didn't follow up. We did lob a few cruise missiles, but we didn't stay after Bin Laden. We could have. We could have sent some special forces. We could have sent some airplanes over there. We could have been very aggressive in trying to hunt down the people who killed hundreds of people in those two attacks, but we didn't do it. We flat didn't do it. As a result, some of the people who planned those two activities also planned and carried out the airplane bombings in the World Trade Center and the Pentagon and in the fields of Pennsylvania—probably headed towards the Capitol—because we didn't follow up. We didn't pursue them as aggressively as we should have in 1998, 1999, 2000.

Then to have the former Vice President be critical of this administration, that has moved aggressively to combat terrorism and go after the terrorism—I am very troubled by that. Very troubled by it, indeed. We are all entitled to our opinions. We are all entitled to state what we think should be done. But I happen to be one who believes that when you are in a war, you should be working together and not try to undermine the President of the United States.

I am afraid, as a result of both the comments that were made by the majority leader and the comments that were made by the former Vice President, I think it does undermine our united efforts to combat terrorism and to go after those people who are directly responsible.

Finally, I want to make a couple of other comments. In dealing with the bill we have before us, Senator GRAMM has mentioned that he has an amendment, supported by the President, endorsed by Senator MILLER. I compliment them for their work on this issue. Unfortunately, the amendment tree is filled. I don't want to get too bogged down in the parliamentary jargon, but I am looking at this tree. I want to read a quote Senator DASCHLE once said in June. He said:

> I announced at the very beginning of my tenure as majority leader I will never fill the tree to preclude amendments. I am going to hold to that promise.

That was made on June 10. I happen to be one who doesn't like filling the tree, either. But this tree is filled and why is it filled? It is to deny people a vote, the Senator from Texas and Georgia having a right to a vote on their amendments next. They want to obscure it so we vote on other amendments first.

Then the issue of cloture—we are going to have a vote tonight or we are going to have a vote tomorrow. Well, the purpose of cloture is to deny them the vote and it is to falsely allude to—maybe people on this side of the aisle are filling the tree, which is false. We are not filibustering the Interior bill.

I said that several times, and I happen to consider myself a person of my word. I will let you know if I am filibustering a bill. The Senator from Nevada knows me pretty well. I will let him know if I am filibustering a bill. He will know it. No one is filibustering this bill. Well, "We are going to file cloture." They know they have to get 60 votes for cloture. They won't have it today and they won't have it tomorrow.

The Senators from Texas and Georgia introduced the President's package. It has been modified to accommodate a lot of Senators and to make sure we don't have anything that would be intrusive against public employees. It has a lot of protections in it. It is a well-thought-out amendment and is very similar to many of the adoptions made in the House of Representatives. They are entitled to their vote. Will cloture deny them that opportunity? This amendment would not be germane postcloture. It would fall.

I have said repeatedly that they are entitled to their vote, and they are going to get their vote.

I urge my colleagues, we could do a lot better in legislating if we didn't fill trees, if we didn't file cloture every other day, and if we worked together to come up with a reasonable alternative to allow people to vote on this alternative, to vote on the Gramm-Miller alternative, to vote on other alternatives and be finished with the bill.

The same thing with the Interior bill—if we had a vote on the various proposals dealing with fire. Let us vote. That is what we are paid to do. Let us vote. I urge my colleagues, let us not use the floor of the Senate to be accusing this President of politicizing the war; the Vice President as well. I think that undermines the Senate and is not worthy of debate in the Senate.

Mr. BYRD. Madam President, will the Senator yield?

Mr. NICKLES. I would be happy to yield.

Mr. BYRD. I just want to say this: I agree with what the Senator said in respect to the appropriations bills. We had this talk—those of us who agreed on appropriations bills. He is ready to vote on them. So am I.

I hope the leadership will attempt to get some of the other appropriations bills up. Let us see who is holding up appropriations bills. We have to do the Health and Human Services bill. We have that. We have all of these bills backed up, and not a single one of the 13 appropriations bills has been sent to the Senate.

I thank the Senator for making that point. He is ready. Let us vote on those bills.

Mr. NICKLES. I appreciate the chairman of the Appropriations Committee. I do know that when we have appropriations we have disputes on amendments. The way to dispose of those amendments is not to file cloture because it won't work. The way to dispose of those amendments is to, if you do not like it, move to table it, or accept it. Maybe you accept it, or drop it. But you deal with the amendment.

I am embarrassed that we have been on two bills for 4 weeks and we have made so little progress. We have spent the entire month of September, and the end of the fiscal year is next month, and we haven't passed one appropriations bill this month—not one. We have only had three or four votes on each bill—both the Interior bill and the homeland security bill. That is pretty pathetic progress.

As a result, we have only passed three appropriations bills out of the Senate. It is maybe one of the worst records we have had in a long time. That is not acceptable.

I can't help but think if the majority or minority would get together and say let us bring up these bills, move them quickly; let us table nongermane amendments; let us get our work done; that it would help make the process work a lot better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I, as every Senator who serves here, came to the Senate for the purpose of being a public servant and to try to do things that help our respective States and the country. That is why we are here. People at home, in many instances, are somewhat jaundiced of the process. They think things we do here are political in nature and in the negative sense, and that we are really not here for the good of the country. I don't want to believe that. But there were times when even I became suspect about what is going on here.

TOM DASCHLE, the majority leader of the Senate, came to the floor twice yesterday. He was concerned because blazed across the country in the newspapers is something that has not been said once, but during the last month the President of the United States has said on six different occasions—four times at fundraisers—that the Senate—specifically on occasion Senate Democrats—weren't concerned about national security.

Mr. NICKLES. Will the Senator yield?

Mr. REID. I yield for a question.

Mr. NICKLES. I just want to correct the record and say I have scrutinized the President's speech. And I have never seen where this quote—I just gave it to the clerk—this quote comes from Monday. I looked at the President's speech. I have the President's speech. I will enter it into the RECORD. But it did not say the Democratic-controlled Senate is not interested in the security of the people.

Again, we have to be factually accurate. If we are going to quote the President of the United States and accuse him of politicizing the war, let us have an accurate quote. You can't take only part of a newspaper, the part that says the Democrat Senate—I guess what was not in quotes. But it was read on the floor like it was quotes; like it was a direct quote from the President. The President did not say that. Even the Washington Post didn't say it. You can't say, well, the Washington Post had it wrong; that the Washington Post inferred that he meant the Democrat Senate. But that is not what he said.

When it is something of this significance, when it has international repercussions, and when it can undermine our efforts in trying to get countries such as Egypt, Jordan, Germany, Italy, and others to be on our side; to say the President said the Democratic-controlled Senate is not interested in national security, when he didn't say it, is a real injustice.

Mr. REID. Folks listen. Listen. Six times within the past month—four times at fundraisers—the President said the same thing.

When the majority leader came to the floor, he said a number of things.

First of all, he quoted correctly that at a fundraiser, Dowd, one of the Republican pollsters, was quoted, and I quote:

> Number-one driver for our base motivationally is this war.

Then, of course, we go to Karl Rove. Karl Rove, prior to the President being elected, no one knew who he was. We in Nevada knew him because he is from Nevada. But now everybody knows Karl Rove because he is known as the President's closest confidant. Of course, in June a floppy disk was found at Lafayette Park, right across from the White House. No one has denied that Karl Rove said what was on this floppy disk. Basically, it said focus on the war. There is the key point that should be centered on White House desire to maintain a positive issue environment. That positive issue environment is focus on the war and not on the stumbling economy.

Then we go to Andrew Card. Andrew Card said from a marketing point of view, you don't introduce new products in August.

Then we have the Vice President, and then we have the President. OK. Now.

Mr. NICKLES. Will the Senator yield?

Mr. REID. No. I will not.

Today, the Republican National Committee—of course, who leads the Republican National Committee? It is the President of the United States. Just like when we have a Democratic President, he is the leader of the Democratic National Committee. We have e-mail now. For some people, e-mail is not what we are used to. But we have an e-mail. Who was this e-mail sent to? It was sent to GOP team leaders. And it also gives you information if you want to become a GOP team leader. Who do you get to become one? We know how. Money.

What does this say? Maybe this is what this is all about—fundraising; seeing if they can raise some more money for the midterm elections.

> Tell Your Senators to support President Bush's Homeland Security. Democrat Senators Put Special Interests Over Security.

Among other things, this said the Senate is more interested in special interests in Washington and not the security of the American people.

It goes on to say.

> This bipartisan approach is stalled in the Senate because some Senate Democrats have chosen to put special interest, Federal Government employee unions, over the security of the American people.

Mr. NICKLES. Will the Senator yield?

Mr. REID. I will not yield until I finish. Just be patient.

Madam President, this is what it is all about—raising money for the midterm elections and accusing me of being not for the interests of this Nation.

I was the first Democrat to publicly support this President's father. I came to this floor right here—first Democrat—to say go to Iraq and do what you have to do. And to accuse me of not being for the Nation's security—as Senator DASCHLE pointed out, back here is a man who is missing an arm that was blown off when he was in the Second World War. As he said, he was a very young man. MAX CLELAND came in. He has one arm. He is missing both legs and an arm. He is not for the security of this Nation?

Talk to FRITZ HOLLINGS, a man nearly 80 years old, who was in World War II as an officer and fought in combat.

DANNY AKAKA. Now, most of us here don't have Congressional Medals of Honor like DAN INOUYE has. And let us not forget JOHN KERRY and TOM CARPER. But vicariously I have served in the Senate and the House of Representatives trying to do what I could to have this a secure nation. And to have anyone accuse me of not being for a secure nation is accusing me of not being patriotic. That is not right.

They can accuse me of being too liberal on an issue, too conservative on an issue, being a big spender, not spending enough, but don't accuse me—I didn't come back here to be called names. That is what I am being called.

Now, you can criticize TOM DASCHLE all you want, but, remember, the American people know he is right. You can't do what has been done.

We want to pass homeland security. This is a good man, Senator LIEBERMAN. He is one of the most conservative people we have in the Democratic caucus. He started working on this bill before September 11. Does he not want this bill? Of course he wants this bill.

We are being told we can't have cloture. Why did we file cloture? Because for 4 weeks we have been trying to pass a bill for this President, whose chairman of the Republican National Committee is sending out this trash.

So I think we should debate the issues. I am proud of TOM DASCHLE for standing up and bringing attention to what is going on.

What is going on? That the No. 1 driver for the Republicans is the war. It should not be.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will just repeat to my colleague, you may find a quote from the RNC, and I am sure we could finds things from the Democratic National Committee to be quite partisan. What I stated was that the President did not state what was alluded to yesterday on the floor when the majority leader said that, quote: the Democratic Senate is not interested in the security of the American people.

That is what he said. I am just saying, quite frankly, the President of the United States did not say it. I reviewed the entire speech.

I ask unanimous consent to have that speech printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENT CALLS ON CONGRESS TO ACT

Army National Guard Aviation Support Facility, Trenton, NJ, September 23, 2002

The President: Thanks a lot for coming out this morning. It is my honor to be—it is my honor to be back in New Jersey. I want to thank you all for coming out. I want to thank the people of the New Jersey Army and Air National Guard for your hospitality. (Applause.) I'm here to talk about how best to make America a stronger country, a safer country, and a better country for all of us.

There is an old bridge over the Delaware River that says: Trenton makes, the world takes. (Applause.) It talks about the work ethic of the people of this part of our country, it talks about the creativity, it talks about the true strength of America. The true strength of America are our fellow citizens. The strength of our country is the people of America. And I'm honored to be with such hardworking people. (Applause.)

Congress can help. Congress needs to work hard before they go home. Congress needs to get some things done, which means a homeland security department, a budget that reflects our priorities. They've got to make sure they don't overspend your money. They've got to remember, everything they do must go to make sure America is a stronger and safer and better place. (Applause.)

I want to thank Brigadier General Glenn Rieth for opening up this hangar and for inviting me to this base. I want to thank all the Guard personnel who serve the United States of America. I want to thank you for your service, I want to thank you for your sacrifice. (Applause.) I want to thank your governor for being here today. I appreciate Governor McGreevey being at the steps of Air Force One. I'm thankful for his hospitality. I appreciate him coming to say, hello, and I'm honored he's here today to hear this speech. Governor, thank you for coming.

I appreciate members of the congressional delegation. Congressmen Ferguson, Saxton and Smith from New Jersey, thank you all for being here. (Applause.) I want to thank Bob Prunetti who is the Mercer County Executive, for greeting me here, as well. And I want to thank you all for coming.

Here's what's on my mind: I want our people to work here in America. Any time somebody who wants to work can't find a job, it means we've got a problem in this country. And we will not rest until people can find work. A stronger America means a strong economy. A stronger country means that our good, hardworking Americans are able to put food on the table for their families.

Now, we're making progress. Listen, interest rates are low, inflation is low, we've got the best workers in the world. We've got the best, hardest workers and smartest workers in the world. We've got the ingredients for growth. But what has taken place so far is not good enough for me. And I hope it's not good enough for the Congress. What's happening in the economy is not good enough for a stronger America. And Congress can help.

Listen, I come from the school of thought that says, if you've got an economic problem—and remember, for the first three quarters of my administration we were in negative growth; the stock market started to decline in March of 2000; economic growth started to show down in the summer of 2000; we were in recession in the first three quarters of 2001.

In order to make sure the country was stronger, I pulled this page out of the economic textbook, the page that says, if you let people keep more of their own money, they're going to spend it on a good or a service. If they spend it on a good or a service, somebody will produce the good and service. And if somebody produces a good or service, some American is more likely to find work. The tax relief came right at the right time for economic growth and jobs. (Applause.)

And if Congress wants to help in job creation, they need to make the tax relief permanent. They need to make the tax relief permanent so our New Jersey small businesses and entrepreneurs can plan for the future. After all, most growth of new jobs comes from small businesses all across America.

Congress also must understand they've got to pass an energy bill. You see, an energy bill will be good for jobs. An energy bill will be good for national security. We need an energy bill that encourages consumption [sic], encourages new technologies so our cars are cleaner, encourages new renewable energy sources, but at the same time encourages increase of supply here at home, so we're less dependent on foreign sources of crude oil. (Applause.)

Congress needs to get some work done before they go home. And one of the most important things they can do is to pass an antiterrorism insurance bill. See, we need an insurance bill to cover potential terrorist acts, so that hard hats in America can get back to work. And I want a bill on my desk that says we care more about the working people and less about the trial lawyers. We want a bill that puts the hard hats back to work, not enriches the trial lawyers here in America. (Applause.)

In order to make sure our country is stronger and our economy grows, Congress must be wise with your money. Notice I said "your money." When it comes time to budgeting and appropriations, which means spending, sometimes in Washington they forget whose money they're talking about. You hear them talking about the government's money. No,the money in Washington is not the government's money, the money in Washington is your money. And we better be careful about how we spend your money. And if Congress overspends, it's going to a problem for making America's economy continue to grow. And so my message to Congress is: remember whose money you're spending.

Now, one of the problems we have is that any time you're worried about spending, you set a budget. That's what you do. The Senate hasn't been able to do so. They don't have a budget, which means it's likely they're going to overspend. See, every idea in Washington is a good idea. Everybody's idea sounds good, except the price tag is generally in the billions. In order to make sure the country is stronger, we need fiscal responsibility in Washington, D.C. We need to make sure that Congress does not overspend. Without a budget, they're likely to overspend.

They set deadlines on you, when it comes to paying-your IRS, paying your taxes. There ought to be a deadline on them in order to get a budget passed and to get bills passed. Now, because they haven't been able to move, they're going to send my desk soon what looks like what they call a temporary spending bill. And that temporary spending bill should not be an excuse for excessive federal spending. The temporary spending bill ought to remember whose money they're spending. A temporary spending bill ought to be clean, so that we don't overspend as the economy is trying to continue to grow. What we need in Washington is fiscal responsibility, fiscal sanity. We need to set priorities with your money. And the most important priority I have is to defend the homeland; is to defend the homeland from a bunch of killers who hate America. (Applause.)

It's very important for the school children here to listen to what I'm about to say. You're probably wondering why America is under attack. And you need to know why. We're under attack because we love freedom, is why we're under attack. And our enemy hates freedom. They hate and we love. They hate the thought that this country is a country in which people from all walks of life can worship an almighty God any way he or she fits. They hate the thought that we have honest and open discourse. They hate the thought that we're a beacon of liberty and freedom.

We differ from our enemy because we love. We not only love our freedoms and love our values, we love life, itself. In America, everybody matters, everybody counts, every human life is a life of dignity. And that's not the way our enemy thinks. Our enemy hates innocent life; they're willing to kill in the name of a great religion. (Applause.) And as long as we love freedom and love liberty and value every human life, they're going to try to hurt us. And so our most important job is to defend the freedom, defend the homeland—is to make sure what happened on September the 11th doesn't happen again, we must do everything we can—everything in our power—to keep America safe.

There are a lot of good people working hard to keep you safe. There are people at the federal level and at the state level, a lot of fine folks here at the local level, doing everything we can to run down every lead. If we find any kind of hint, we're moving on it—all within the confines and all within the structure of the United States Constitution. We're chasing down every possible lead because we understand there's an enemy out there which hates America.

I asked the Congress to work with me to come up with a new Department of Homeland Security, to make sure that not only can this administration function better, but future administrations will be able to deal with the true threats we face as we get into the 21st century. A homeland security department which takes over the hundred different agencies and brings them under one umbrella so that there's a single priority and a new culture, all aimed at dealing with the threats.

I mean, after all, on our border we need to know who's coming into America, what they're bringing into America, are they leaving when they're supposed to be leaving America. (Applause.) Yet, when you look at the border, there are three different federal agencies dealing with the border: there is Customs and INS and Border Patrol. And sometimes they work together and sometimes they don't—they don't. They've got different work rules. They've got different customs. Sometimes they have different strategies. And that's not right.

So I asked Congress go give me the flexibility necessary to be able to deal with the true threats of the 21st century by being able to move the right people to the right place at the right time, so we can better assure America we're doing everything possible. The House responded, but the Senate is more interested in special interests in Washington and not interested in the security of the American people. I will not accept a Department of Homeland Security that does not allow this President, and future Presidents, to better keep the American people secure. (Applause.)

And people are working hard in Washington to get it right in Washington, both Republicans and Democrats. See, this isn't a partisan issue. this is an American issue. This is an issue which is vital to our future. It'll help us determine how secure we'll be.

Senator Gramm, a Republican, Senator Miller, a Democrat, are working hard to bring people together. And the Senate must listen to them. It's a good bill. It's a bill I can accept. It's a bill that will make America more secure. And anything less than that is a bill which I will not accept, it's a bill which I will not saddle this administration and future administrations with allowing the United States Senate to micro-manage the process. The enemy is too quick for that. We must be flexible, we must be strong, we must be ready to take the enemy on anywhere he decides to hit us, whether it's America or anywhere else in the globe. (Applause.)

But the best way to secure our homeland, the only sure way to make sure our children are free and our children's children are free, is to hunt the killers down, wherever they hide, is to hunt them down, one by one, and bring them to justice. (Applause.)

As far as I'm concerned, it doesn't matter how long it takes. See, we're talking about our freedom and our future. There's no cave deep enough, as far as I'm concerned; and there's no cave deep enough, as far as the United States military is concerned, either. I want you all to know, if you wear the uniform of our great country, I'm proud of you. I've got confidence in you. I believe that you can handle any mission. (Applause.)

No, it's a different kind of war than our nation has seen in the past. One thing that's different is oceans no longer keep us safe. The second thing is, in the old days, you could measure progress by looking at how many tanks the enemy had one day, and how many he had the next day, whether or not his airplanes were flying or whether or not his ships were floating on the seas. It's a different kind of war. And America has begun to adjust its thinking about this kind of war.

See, this is the kind of war where the leaders of the enemy hide. They go into big cities—or as I mentioned, caves—and they send youngsters to their suicidal death. That's the kind of war we're having. It's not measured in equipment destroyed, it's going to be measured in people brought to justice. And we're making progress. I had made it clear to the world that either you're with us or you're with the enemy, and that doctrine still stands. (Applause.) And as a result of the hard work by our United States military and the militaries and law enforcement officers of other countries, we've arrested or brought to justice a couple thousand or more. Slowly but surely, we're finding them where we think they can hide.

We brought one of them in the other day. He thought he was going to be the 20th hijacker, or at least he was bragging that way. I don't know if he's bragging now. But, see, he thought he was immune, he thought he was invisible, he thought he could hide from the long arm of justice. And like many—about the like number haven't been so lucky as the 20th hijacker. They met their fate.

We're getting them on the run, and we're keeping them on the run. They're going to be—as part of our doctrine, we're going to make sure that there's no place for them to alight, no place for them to hide. These are haters, and they're killers. And we owe it to the American people and we owe it to our friends and allies to pursue them, no matter where they try to hide.

And that's why I asked the Congress for the largest increase in defense spending since Ronald Reagan was the President. I did so because I firmly believe that any time we commit our troops into harm's way, you deserve the best pay, the best training and the best possible equipment. (Applause.) I also asked for a large increase because I wanted to send a clear signal to the rest of the world that we're in this for the long haul; that there is no calendar on my desk that says, by such and such a day we're going to quit, that by such and such a day we will all have grown weary, we're too tried, and therefore we're coming home.

That's not the way we think in America. See, we understand obligation and responsibility. We have a responsibility to our children to fight for freedom. We have a responsibility to our citizens to defend the homeland. And that only means—not only means dealing with real, immediate threats, it also means anticipating threats before they occur, before things happen. It means we've got to look out into the future and understand the new world in which we live and deal with threats before it's too late.

And that's why I went into the United Nations the other day. And I said to the United Nations, we have a true threat that faces America; a threat that faces the world; and a threat which diminishes your capacity. And I'm talking about Iraq. That country has got a leader which has attacked two nations in the neighborhood; a leader who has killed thousands of people; a leader who is brutal—see, remember, we believe every life matters and every life is precious—a leader, if there is dissent, will kill the dissenter; a leader who told the United Nations and the world he would not develop weapons of mass destruction, and for 11 long years has stiffed the world.

He looked at the United Nations and said this is a paper tiger, their resolutions mean nothing. For 11 years he has deceived and denied. For 11 years he's claimed he has had no weapons and, yet, we know he has.

So I went to the United Nations and said, either you can become the League of Nations, either you can become an organization which is nothing but a debating society—or you can be an organization which is robust enough and strong enough to help keep the peace; your choice.

But I also told them that if they would not act, if they would not deal with this true threat we face in America, if they would not recognize that America is no longer protected by oceans and that this man is the man who would use weapons of mass destruction at the drop of a hat, a man who would be willing to team up with terrorist organizations with weapons of mass destruction to threaten America and our allies, if they wouldn't act, the United States will—we will not allow the world's worst leaders to threaten us with the world's worst weapons. (Applause.)

I want to see strong resolutions coming out of that U.N.; a resolution which says the old ways of deceit are gone; a resolution which will hold this man to account; a resolution which will allow freedom-loving countries to disarm Saddam Hussein before he threatens his neighborhood, before he threatens freedom, before he threatens America and before he threatens civilization. We owe it to our children and we owe it to our grandchildren to keep this nation strong and free. (Applause.)

And as we work to make America a stronger place and a safer place, we always must remember that we've got to work to make America a better place, too—a better place. And that starts with making sure every single child in America gets a great education. (Applause.) Make sure that every child—make sure that we focus on each child, every child. It says we expect and believe our children can learn to read and write and add and subtract. As a society, we will challenge the soft bigotry of low expectations.

We believe every child can learn, every child matters, and therefore we expect to be told whether or not the children are learning to read and write and add and subtract. And if we find they're not, if we find there are certain children who aren't learning and the systems are just shuffling through as if they don't matter, we must challenge the status quo. Failure is unacceptable in America. Every child matters, and no child should be left behind in this great country. (Applause.)

A better America, a better America is one which makes sure that our health care systems are responsive to the patient and make sure our health care systems, particularly for the elderly, are modern. We need prescription drug benefits for elderly Americans. The Medicare system must be reformed, must be made to work so that we have a better tomorrow for all citizens in this country. (Applause.)

A better America is one that understands as we're helping people go from dependency to freedom, from welfare, we must help them find work. A better America understands that when people work, there is dignity in their lives. A better America is America which understands the power of our faith-based institutions in our country. It's in our churches and synagogues and mosques that we find universal love and universal compassion. (Applause.)

You know what's really interesting about what's taking place in America is this: the enemy hit us, but out of the evil done to America is going to come some incredible good, because of the nature of our soul, the nature of our being. On the one hand, I believe we can achieve peace. Oh, I know the kids hear all the war rhetoric and tough talk, and that's necessary to send a message

> to friend and foe alike that we're plenty tough, if you rouse this country, and we're not going to relent.
>
> But we're not going to relent because my desire is to achieve peace. I want there to be a peaceful world. I want children all across our globe to grow up in a peaceful society. Oh, I know the hurdles are going to be high to achieving that peace. There's going to be some tough decisions to make, some tough action for some to take. But it's all aimed at making America safe and secure and peaceful, but other places around the world, too. I believe this—I believe that if our country—and it will—remains strong and tough and we fight terror wherever terror exists, that we can achieve peace. We can achieve peace in the Middle East, we can achieve peace in South Asia. We can achieve peace.
>
> No, out of the evil done to America can come a peaceful world. And at home, out of the evil done to our country can come some incredible good, as well. We've got to understand, in America there are pockets of despair and hopelessness, places where people hurt because they're not sure if America is meant for them, places where people are addicted. And government can help eradicate these pockets by handing out money. But what government cannot do is put hope in people's hearts or a sense of purpose in people's lives. That's done when neighbor loves neighbor. That's done when this country hears the universal call to love a neighbor just like you'd like to be loved yourself.
>
> No, out of the evil done to America is coming some incredible good, because we've got citizens all across this land—whether they be a part of our faith-based institutions or charitable institutions—citizens all across this land who have heard the call that if you want to fight evil, do some good. if you want to resist the evil done to America, love your neighbor; mentor a child; put your arm around an elderly citizen who is shut-in, and say, I love you; start a Boy Scout or Girl Scout troop; go to your Boys and Girls Clubs; help somebody in need.
>
> No, this country, this country has heard the call. This country is a country full of such incredibly decent and warm-hearted and compassionate citizens that there's people all across New Jersey and all across America who without one government act, without government law are in fact trying to make the communities in which they live a more responsive and compassionate and loving place.
>
> Today I met Bob and Chris Morgan, USA Freedom Corps greeters, who coordinate blood drives right here in New Jersey for the American Red Cross. Nobody told them they had to do that. There wasn't a law that said, you will be a part of collecting blood. They decided to do it because they want to make America more able to address emergency and help people in need. Whether it's teaching a child to read, whether it's delivering food to the hungry or helping those who need a—housing, you can make a huge difference in the lives of our fellow Americans.
>
> See, societies change one heart, one conscience, one soul at a time. Everybody has worth and everybody matters. No, out of the evil done to America is going to come a compassionate society. (Applause.) Now this great country will show the world what we're made out of. This great country, by responding to the challenges we face will leave behind a legacy of sacrifice, a legacy of compassion, a legacy of peace, a legacy of decency for future generations of people fortunate enough to be called an American.
>
> There's no question in my mind—I hope you can tell, I'm an optimistic fellow about our future. I believe we can overcome any difficulty that's put in our path. I believe we can cross any hurdle, climb any mountain, because this is the greatest nation on the face of the earth, full of the most decent, hardworking, honorable citizens.
>
> May God bless you all, and may God bless America. Thank you, all. (Applause.)

Mr. NICKLES. I read the speech.

Read the next paragraph. I have read the one paragraph. Read the next paragraph. The Senator from West Virginia will be interested in this. I will read the two relevant paragraphs again:

> The House responded, but the Senate is more interested in special interests in Washington and not interested in the security of the American people.

He didn't say the Democrats in the Senate. He didn't say what was stated on the floor. Let's be factual. Let's be honest. Let's say exactly what was said. Let's not construe and say something else.

Let me go on. The President said:

> I will not accept a Department of Homeland Security that does not allow this President, and future Presidents, to better keep the American people secure.
>
> And people are working hard in Washington to get it right in Washington, both Republicans and Democrats.

That is in the President's speech. That doesn't sound very partisan to me.

> See—

This is again the President:

> See, this isn't a partisan issue. This is an American issue. This is an issue which is vital to our future. It'll help us determine how secure we'll be.
>
> Senator GRAMM, a Republican, Senator MILLER, a Democrat, are working hard to bring people together.

That is not a partisan speech. That is not flailing all Senate Democrats. That is not accusing all Senate Democrats as being unpatriotic. Quite far from it.

So to stand on the floor and say, well, the President said that six times in the last few days, I don't believe is factually accurate. And to send signals to our allies and our adversaries that this is politicizing the war, or that some people think we might be, is politicizing the war, and it is wrong. And it sends the wrong signal. It sends all kinds of wrong signals, and it shouldn't be done.

If you are going to quote the President of the United States, not his election committee, not some mysterious tape that shows up someplace, but if you are going to quote the President of the United States, you ought to quote him accurately. And that was not done. And it is probably one of the harshest attacks I have ever seen on a sitting President of the United States in my 22 years in the Senate—the harshest. And at a time when we are in the process of trying to build an international coalition, the timing could not be much worse.

Also, I am bothered that people would say: Well, he said it. I'm just sure he did.

Well, he didn't say it. And if somebody has a quote—an accurate quote—that shows I am incorrect, I will stand here and say, oops, I'm wrong, because I believe more than anything my integrity means more to me than whatever somebody else says. I want to be factually accurate.

Before I came down yesterday to the floor, I said: Give me a transcript of the speech. I wanted to see exactly what it said. I didn't want to say: It didn't sound like something President Bush would say to me. And I have heard him give many campaign speeches. I know him pretty well. That doesn't sound like him. Where is it in his speech? Oh, he didn't say that.

He even went on to say both Democrats and Republicans are working to pass a good bill. And he never castigated all Senate Democrats as being unpatriotic or not interested in national security—he didn't say it.

Surprisingly enough, just because something is in the Washington Post does not make it right. The Washington Post was not even quoted accurately. I mean, come on now. This is a serious issue.

I want to conclude with a statement.

The Senate of the United States is a great institution, and I don't think it behooves us to quote a flier from the Republican National Committee, or the Democrat National Committee, and play a lot of politics, and say let's see what we can pull out of these documents. We are talking about a quote from the President not these fliers and statements from other people.

I can pull out more quotes right now from President Clinton and Vice President Gore stating their efforts to repudiate Saddam Hussein, the need for strong enforcement of resolutions, and on and on, that they never enforced—that they never enforced.

There were 16 resolutions passed in the United Nations dealing with Iraq, and the previous administration talked tough, lobbed a few bombs, a few cruise missiles, but we never enforced them. The net result is there have been no arms control inspections going on in Iraq for the last four years.

It is a lot more dangerous today than it was four years ago.

When I read these previous statements, both by President Clinton and Vice President Gore, about how we have to get tough against Iraq, and then we didn't do anything, it makes me wonder: Wait a minute, what is going on?

So now we are saying we should adopt a resolution that is not too far different than what we adopted unanimously in 1998 with almost no debate, and people are acting like: Wait a minute, the sky is falling. Or they try to move an issue from homeland security into the war on Iraq. I don't know if that is deliberate or just a mistake, but there is a real problem there. You can't be sending mixed signals to our potential adversaries and/or our potential allies, when we are trying to get people on our side, and misquote the President of the United States on something that important.

Mr. LIEBERMAN. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I am happy to yield.

Mr. LIEBERMAN. Of course, I am working with colleagues on both sides of the aisle and with the White House to see that we can fashion a strong resolution giving the President authority to take whatever actions are necessary in Iraq.

But will the Senator from Oklahoma help me understand, what did the President mean when he said, at a fundraiser for Mr. Forrester, in New Jersey, Monday: "And my message to the Senate is: You need to worry less about special interests in Washington and more about the security of the American people"? At a welcome ceremony in Trenton, Monday, he said: "The House responded, but the Senate is more interested in special interests in Washington and not interested in the security of the American people."

At a meeting with Cabinet members on Tuesday, the President said: "My message, of course, is that—to the senators up here that are more interested in special interests, you better pay attention to the overall interests of protecting the American people."

Then, finally, on Tuesday, at a fundraiser for Mr. THUNE, from South Dakota: "I appreciate John's vote on a good homeland security bill. And the Senate must hear this, because the American people understand it: They should not respond to special interests. They ought to respond to this interest: protecting the American people from a future attack."

So I say the problem here is we have a disagreement about how to best protect homeland security workers or whether to protect them, and also how to preserve the authority of the President over national security. That is a good-faith dispute which we are having.

But I think the concern is that the President was questioning the patriotism of those who do not agree with him on that issue.

Mr. NICKLES. I will be happy to respond to my colleague. I actually read both of those quotes. I put one in the RECORD. I will put both quotes in the RECORD so the American people can see this.

I read the President's comments. You only read one line. I read three paragraphs—he never said, "The Democrats in the Senate are not interested in national security." That was the maddening quote. He never said it—never said it. Yet it was accepted that he said it. That is wrong. It was stated on last night's TV, stated in this morning's floor debate. I heard one or two people say he impugned the integrity of the entire Democratic caucus. No, he didn't. Read what the President said. He even complimented Democrats. He said both Republicans and Democrats are working hard to pass a good bill.

There are consequences to words. Words are important. I read the President's statements both at the Forrester event and the Thune event. They were not offensive, and they never stated what was said on the floor of the Senate. They were misconstrued somehow, some way. That is unfortunate because there are consequences to our words.

There are some people who listen. There are headlines. I haven't read what the European papers have said, but I don't look forward to that because I am afraid it sends the wrong signals.

I do agree with my colleagues, we should improve the quality of debate in the Senate. If we ever quote anybody, we should quote them accurately. We should never impugn the motives or integrity of any Member. That has happened more frequently around here than it should. Nor should we impugn the motives or integrity of the President of the United States. Certainly if we are going to quote the President, an equal branch of Government, we should do it accurately. That wasn't done in this case.

I don't think we should be reading from campaign flyers because we could do that all day long. We don't want to turn this into a political brawl. We want to legislate. We need to pass a Department of Homeland Security bill. We need to work out the issues. There is a legitimate debate, a difference of whether or not we should change the President's power or authority in dealing with employees. Should he have a national security waiver? Every President, going all the way back—most people said since Jimmy Carter—I believe to John F. Kennedy, has had a national security waiver in dealing with employees. The President of the United States needs flexibility to put people in, do different things.

Senator GRAMM has shown me a complaint filed by a union that was upset because of higher notification status—they didn't negotiate that with the union. That is absurd. The President should not have to negotiate with the union; if he feels compelled to issue a higher security threat to the Nation's people, he should not have to negotiate that with the union. One union has already filed a complaint, I guess before the NLRB, about that.

Again, I will not impugn the integrity or the motives or the patriotism of a colleague because they may have a difference with me on that particular issue.

Mr. BYRD. Will the Senator yield?

Mr. NICKLES. I am happy to yield.

Mr. BYRD. Who has the floor?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BYRD. I want to inquire as to how long the Senator believes he will be needing the floor.

Mr. NICKLES. I will conclude very shortly.

Mr. BYRD. I am not complaining.

I would also like to quote George Romney, who used to be Governor of Michigan.

Mr. NICKLES. I remember George Romney.

Mr. BYRD. Here is what he said: I didn't say that I didn't say it. I said that I didn't say that I said that. I want to make that perfectly clear.

Mr. NICKLES. I appreciate the chairman of the Appropriations Committee for his enlightening the debate.

I will yield the floor.

Again, I want to help restore the dignity and integrity of Senate debate. I want to help repair some of the damage that might have been done between the legislative branch and the executive branch. It is critically important. I say this mindful that I used to be one of the leaders when there was a Democrat in the White House. I didn't agree with President Clinton many times, and I stated so on the floor with great energy many times. I may have crossed the line sometimes. I am not sure. But I think it is very important that we respect the office of the President of the United States and that we not misquote the office of the President of the United States, nor that we ever misquote colleagues.

I am very insistent that we be accurate in our positions, our statements, our numbers, our quotes. If not, it is demeaning to the body.

Vice President Gore's speech to a San Francisco group was very demeaning to the office of the former Vice President because I think it undercuts the existing administration's dealing with some problems that were left by the previous administration.

Mr. LIEBERMAN. Will the Senator respond to a question briefly?

Mr. NICKLES. I am happy to.

Mr. LIEBERMAN. I agree with everything the Senator has said. We have so much important work to do. We ought to go about it, even when there are differences of opinion, not impugning—to use his term—each other's motives.

Would the Senator not agree that the processes of government would also be made not only more productive but more respectable if the President himself would not impugn the motives of Members of Congress of either party when they disagree with him?

Mr. NICKLES. I will tell my friend and colleague, I just read the quotes. I don't think he was impugning our motives. He did not say Senate Democrats. If there is anything else from this dialog and speech, I hope the press and others will realize, the President never said, "Senate Democrats aren't interested in national security." That is a misquote, and I am afraid a misquote that has done some damage. Hopefully, it can be repaired.

I listened to the President. I don't think I have heard him impugn the motives of colleagues.

I yield the floor.

The PRESIDING OFFICER. The deputy majority leader.

Mr. REID. Mr. President, I want printed in the RECORD this statement from this e-mail, the title of which is "Urgent: Effectively defending our homeland at stake." This was sent out today. It quotes the President of the United States, George W. Bush. It says:

> The House responded, but the Senate is more interested in special interests in Washington and not interested in the security of the American people.

That is a quote, supposedly, that the Republican National Committee sent out quoting President Bush. It goes on further in another paragraph to say:

> This bipartisan approach is stalled in the Senate because some Senate Democrats have chosen to put special interest, federal government employee unions over the security of the American people.

I want that in the RECORD. That is what is sent out today as a fundraiser from the Republican National Committee, the leader of which is the President of the United States, George W. Bush.

I ask unanimous consent to print the document in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Effectively Defending Our Homeland at Stake!

TELL YOUR SENATORS TO SUPPORT PRESIDENT BUSH'S HOMELAND SECURITY; DEMOCRAT SENATORS PUT SPECIAL INTERESTS OVER SECURITY.

"I asked Congress to give me the flexibility necessary to be able to deal with the true threats of the 21st century by being able to move the right people to the right place at the right time, so we can better assure America we're doing everything possible. The House responded, but the Senate is more interested in special interests in Washington and not interested in the security of the American people. I will not accept a Department of Homeland Security that does not allow this President, and future Presidents, to better keep the American people secure." —President George Bush, September 23, 2002.

President Bush has called on the Senate to pass the bipartisan plan by Senators Gramm and Miller that creates a homeland security agency with the flexibility and freedom to manage the needs to keep America safe. This bipartisan approach is stalled in the Senate because some Senate Democrats have chosen to put special interest, federal government employee unions over the security of the American people. Instead of providing President Bush with the power he needs to protect the homeland, these Senate Democrats would strip the Presidency of a vital national security tool every President since John F. Kennedy has had—the power to suspend collective bargaining agreements during times of national emergency. Learn why this is critical to our homeland defense: http://www.gopteamleader.com/myissues/view issue asp?id=3;

This week the Washington Post exposed why some Democrat Senators have put special interests over our national interests by reporting that "lawmakers are loath to cross them just weeks before critical elections," saying that Democrats have received "$50 million in donations in this cycle" alone. Tell these Democrat Senators that our homeland security is more important than partisan politics and that they need to support the bipartisan bill endorsed by President Bush. We need a single homeland security agency that:

Protects the President's existing National Security authority over the federal workforce:

Gives the new Secretary of Homeland Security the flexibility and freedom to manage to meet new threats;

Protects every employee of the new department against illegal discrimination, and builds a culture in which federal employees know they are keeping their fellow citizens safe through their service to America.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Did the Senator want me to yield to him?

Mr. GRAMM. I wanted to put something in the RECORD.

Mr. BYRD. I yield to the distinguished Senator without losing my right to the floor.

Mr. GRAMM. Mr. President, we were debating homeland security at one point earlier today. A perfect example of the kind of problem I am concerned about has just come to my attention. That is a complaint that has been filed by the National Treasury Employees Union against a system that we are all familiar with. When there is concern about a potential terrorist attack, the Government has set up threat priorities. Green is a low threat, blue is a guarded threat, yellow is an elevated threat, orange is a high threat, and red is a severe threat.

We have just gotten word that the National Treasury Employees Union—and I want to put this in the RECORD—has filed a complaint basically contending that this system of ratings violates their union contract because the Department was required to negotiate with them before it sent out a warning system.

I also want to put in the RECORD the statement from the White House release on it that said:

> In effect, the union is saying that the Customs Service has no right to implement the President's homeland security direction without entering into lengthy negotiations. And since the Customs Service went ahead anyway, it is now suing the Customs Service in the Federal Labor Relations Authority.

This is a case that just happened that we ought to be looking at as we write this bill.

I thank the Senator for yielding. To save money for the taxpayers, we produced one document on one side of the paper, and the other document on the other side of the paper. So when we put it in the RECORD, look on both sides of the paper. I ask unanimous consent that these documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

United States of America, Federal Labor Relations Authority—Charge Against an Agency

1. Charged Activity or Agency: United States Customs Service, 1300 Pennsylvania Avenue, NW, Room 2.3–D, Washington, DC 20229, (202) 927–2733, fax. (202) 927–0558.

2. Charging Party (Labor Organization or Individual): National Treasury Employees Union, 901 E. Street, NW, Suite 600, Washington, DC 20004, (202) 783–4444, fax. (202) 783–4085.

3. Charged Activity or Agency Contact Information: Sheila Brown, Director Labor Relations, 1300 Pennsylvania Avenue, NW, Washington, DC 20229, (202) 927–3309, fax. (202) 927–0558.

4. Charging Party Contact Information: Jonathan S. Levine, Asst. Counsel for Negotiations, 901 E St., NW, Suite 600, Washington, DC 20004, (202) 783–4444, fax. (202) 783–4085.

5. Which subsection(s) of 5 U.S.C. 7116(a) do you believe have been violated? (See reverse) (1) and (5).

6. Tell exactly WHAT the activity (or agency) did. Start with the DATE and LOCATION, state WHO was involved, including titles.

On or about August 20, 2002, Customs issued a Customs Alert Protective Measures Directive without first notifying NTEU and affording it the opportunity to negotiate in violation of 5 U.S.C. 7116(a)(1) and (5).

TIMELINE

March 11: President signed Homeland Security Policy Directive 3 (Attachment A), which called for the creation of the five-level Homeland Security Advisory System. The key idea of this system was that federal state, and local agencies would adopt standardized protective measures for the different threat levels. This began a formal 135 day comment period.

July 26: Attorney General Ashcroft and Governor Ridge reported to the President that the system was ready to put into effect.

July 28: The White House directed all agencies to conform their protective security conditions to the new five tiered system.

August 20: The Commission of Customs, Judge Rob Bonner, complied with this directive from the President by issuing a Customs Alert Protective Measures directive to the entire customs Service (Attachment B).

September 10: The President decided to raise the threat level from yellow (level 3) to orange (level 4). The Customs Service and many other federal, state, and local security agencies responded by increasing their protective measures to the next level. Virtually all experts agreed this is a better system that what we had before.

September 18: The National Treasury Employee Union, which represents some officers of the Customs Service, filed a grievance with the Federal Labor Relations Authority (Attachment C) against the customs Service for issuing the directive.

[Their grievance reads: "On or about August 20, 2002, Customs issued a Customs Alert Protective Measures Directive without first notifying and affording it the opportunity to negotiate in violation of 5 U.S.C. 7116(a)(1) and (5)." (5 U.S.C. 7116(a)(1) and (5) is the standard statute under which ULP grievances are customarily filed.)]

> In effect, the union is saying that the Customs service has no right to implement the President's homeland security direction without entering into lengthy negotiations. And since the Customs Service went ahead anyway, it is now suing the Customs Service in the Federal Labor Relations Authority.

The PRESIDING OFFICER. The Senator from West Virginia.

IRAQ

Mr. BYRD. Mr. President, amidst the wall-to-wall reporting on Iraq that has become daily grist for the Nation's news media, a headline in this morning's USA Today leaped out from the front page: "In Iraq's arsenal, Nature's deadliest poison."

The article describes the horrors of botulinum toxin, a potential weapon in Iraq's biological warfare arsenal. According to the Journal of the American Medical Association, botulinum toxin is the most poisonous substance known. We know that Saddam Hussein produced thousands of litres of botulinum toxin in the run up to the Gulf war. We also know where some of the toxin came from. Guess. The United States, which approved shipments of botulinum toxin from a nonprofit scientific specimen repository to the government of Iraq in 1986 and 1988.

I recently asked Defense Secretary Donald Rumsfeld about these shipments during an Armed Services Committee hearing a week ago. I repeat today what I said to him then: In the event of a war with Iraq, might the United States be facing the possibility of reaping what it has sown?

The threat of chemical and biological warfare is one of the most terrifying prospects of a war with Iraq, and it is one that should give us serious pause before we embark on a course of action that might lead to an all-out, no-holds-barred conflict.

Earlier this week, British Prime Minister Tony Blair released an assessment of Iraq's weapons of mass destruction program which contained the jolting conclusion that Iraq could launch chemical or biological warheads within 45 minutes of getting the green light from Saddam Hussein.

The British government assessment, while putting Iraq's chemical and biological capabilities in starker terms than perhaps we have seen before, closely tracks with what U.S. officials have been warning for some time: namely, Saddam Hussein has the means and the know-how to wage biological and chemical warfare, and he has demonstrated his willingness to use such weapons. By the grace of God, he apparently has not yet achieved nuclear capability.

On the matter of biological warfare, Gen. Richard Myers, Chairman of the Joint Chiefs of Staff, testified before the Senate Armed Services Committee last week that many improvements have been made to the protective gear worn by American soldiers and to the sensors used to detect chemical or biological agents.

But according to the USA Today article on botulinum toxin, U.S. troops would be just as vulnerable to botulinum toxin today as they were during the Gulf war.

This is what the article states:

> There's still no government-approved vaccine, and the only antitoxin is made by extracting antibodies from the blood of vaccinated horses using decades-old technology.

Last year's anthrax attack on the U.S. Senate gave all of us in this Chamber firsthand experience with biological warfare and new insight into the insidious nature of biological weapons. And that attack—hear me now—involved only about a teaspoon or so of anthrax sealed in an envelope. The potential consequences of a massive bioweapons attack against American soldiers on the battlefield boggle the imagination.

My concerns over biological warfare were heightened last week when I came across a report in Newsweek that the U.S. Government had cleared numerous shipments of viruses, bacteria, fungi, and protozoa to the Government of Iraq in the mid-1980s, at a time when the U.S. was cultivating Saddam Hussein as an ally against Iran. The shipments included anthrax and botulinum toxin.

Moreover, during the same time period, the Centers for Disease Control, CDC, was also shipping deadly toxins to Iraq, including vials of West Nile fever virus and Dengue fever.

This is not mere speculation. I have the letters from the CDC and the American Type Culture Collection laying out the dates of shipments, to whom they were sent, and what they included. This list is extensive and scary anthrax, botulinin toxin, and gas gangrene to name just a few. There were dozens and dozens of these pathogens shipped to various ministries within the Government of Iraq.

Why does this matter today? Why do I care about something that happened nearly 20 years ago when Saddam Hussein was considered to be a potential ally and Iran's Ayatollah Khomeni was public enemy No. 1 in the United States? I care because it is relevant to today's debate on Iraq. This is not yesterday's news. This is tomorrow's news.

Federal agencies have documents detailing exactly what biological material was shipped to Iraq from the United States. We have a paper trail. We not only know that Iraq has biological weapons, we know the type, the strain, and the batch number of the germs that may have been used to fashion those weapons. We know the dates they were shipped, and the addresses to which they were shipped.

We have in our hands—now get this—the equivalent of a Betty Crocker cookbook of ingredients that the U.S. allowed Iraq to obtain and that may well have been used to concoct biological weapons. At last week's Armed Services Committee hearing, Secretary Rumsfeld said he has no knowledge of any such shipments, and doubted that they ever occurred. He seemed to be a little affronted at the very idea that the United States would ever countenance entering into such a deal with the devil.

Secretary Rumsfeld should not shy away from this information. On the contrary, he should seek it out if he does not know it. Let's find out. No one is alleging that the United States deliberately sneaked biological weapons to Iraq under the table during the Iran-Iraq war. I am not suggesting that. I am confident that our Government is not that stupid. It was simply a matter of business as usual, I suppose. We freely exchange information and technology including scientific research with our friends. At the time, I suppose, Iraq was our friend. If there is any lesson to be learned from the Iraq experience, it is that we should choose our friends more carefully, see further down the road and exercise tighter controls on the export of materials that could be turned against us. Today's friend may be tomorrow's enemy.

This is not the first time I have advocated stricter controls on exports. In fact, I added an amendment to the 1996 Defense Authorization Act that was specifically designed to curb the export of dual-use technology to potential adversaries of the United States.

In the case of the biological materials shipped to Iraq, the Commerce Department and the CDC have lists of the shipments. The Defense Department ought to have the same lists so that the decisionmakers will know exactly what types of biological agents American soldiers may face in the field. Doesn't that make sense? Shouldn't the Defense Department know what is out there, so that the generals can know what counter-measures they might need to take to protect their troops?

I believe the answer to those questions is yes, and so I am sending the information I have to Secretary Rumsfeld. He said he did not have any such information so I am going to send it to Secretary Rumsfeld. No matter how repugnant he finds the idea of the U.S. even inadvertently aiding Saddam Hussein in his quest to obtain biological weapons, the Secretary should have this information at hand, and should make sure that his field commanders also have it.

The most deadly of the biological agents that came from the U.S. were shipped to the government of Iraq by the American Type Culture Collection, ATCC, a non-profit organization that provides biological materials to industry, government, and educational institutions around the world. According to its own records, the ATCC sent 11 separate shipments of biological materials to the government of Iraq between 1985 and 1988. The shipments included a witches brew of pathogens including anthrax, botulinum toxin, and gangrene.

Meanwhile, the CDC was shipping toxic specimens to Iraq—including West Nile virus and dengue fever—from January 1980 until October 13, 1993.

The nexus between the U.S.-approved shipments of pathogens and the development of Iraq's biological weapons program is particularly disturbing. Consider the following chain of events: In May of 1986, the ATCC reported the first shipments of anthrax and botulinum toxin to Iraq. A second shipment including anthrax and botulinum toxin was sent to Iraq in September of 1988.

At approximately the same time that the first shipment was sent in April of 1986, Iraq turned from studying literature on biological warfare to experimenting with actual samples of anthrax and botulinum toxin. The turning point, according a report to the United Nations Security Council from the U.N. weapons inspection team, came when "bacterial strains were received from overseas" and delivered to an Iraqi biological weapons laboratory.

In April of 1988, the U.N. weapons inspectors reported that Iraq began research on the biological agent Clostridium perfringens, more commonly known as gas gangrene. Clostridium perfringens cultures were among the materials shipped to Iraq by the ATCC in both 1986 and 1988.

These are only a few examples of the pathogens that Iraq is known to have imported from the United States. It is not known how many of these materials were destroyed following the Persian Gulf war, or how many Iraq continues to possess, whether they are still viable, or whether in its pursuit of biological weapons, Iraq has developed ways to extend the shelf life of toxic biological agents. There is much that we do not know about Iraq's biological warfare program. But there are two important facts in which we can have great confidence: Iraq has biological weapons, and Iraq obtained biological materials from the United States in the 1980s.

I asked Secretary Rumsfeld, at last week's Armed Services Committee hearing, whether we might be reaping what we have sown in Iraq, in terms of biological weapons. The question was rhetorical, but the link between shipments of biological material from the United States and the development of Iraq's biological weapons program is more than just an historical footnote.

The role that the U.S. may have played in helping Iraq to pursue biological warfare in the 1980s should serve as a strong warning to the President that policy decisions regarding Iraq today could have far reaching ramifications on the Middle East and on the United States in the future. In the 1980s, the Ayatollah Khomeni was America's sworn enemy, and the U.S. Government courted Saddam Hussein in an effort to undermine the Ayatollah and Iran. Today, oh, how different. Saddam Hussein is America's biggest enemy, America's greatest enemy, America's most dangerous enemy, and the U.S. is said to be making overtures today to Iran.

The Washington Post reported today that the President is expected to authorize military training for at least 1,000 members of the Iraqi opposition to help overthrow Saddam Hussein. The opposition groups include the Kurds in the north, and the Shiite Muslims in the south.

The decision to provide military training to Iraqi opponents of Saddam Hussein would mark a major change in U.S. policy, ending a prohibition on lethal assistance to the Iraqi opposition. It is not a decision that should be undertaken lightly.

Although administration officials told the Post that initial plans called for modest steps that would allow members of the Iraqi opposition to provide liaison to the local population and perhaps guard prisoners of war, the officials did not shut the door on providing training and equipment for more lethal activities.

"Nobody is talking about giving them guns yet," one official was quoted as saying. "That would be a dramatic step, but there are many dramatic steps yet to be taken."

Has the administration adequately explored the potential ramifications of creating ethnic armies of dissidents in Iraq? Could the U.S. be laying the groundwork for a brutal civil war in Iraq? Could this proposed policy change precipitate a deadly border conflict between the Kurds and Turkey? Could we perhaps be setting the stage for a Shite-ruled Iraq that could align itself with Iran and result in the domination of the Middle East by hard-line Shiite Muslims along the lines of the Ayatollah Khomeni?

These are legitimate questions. They are troubling questions. And they should be carefully thought through before we unleash an open-ended attack on Iraq. We had better think about these questions. We better ask these questions. The administration had better listen and so had the American people.

There are many outstanding questions that the United States should consider before marching in lockstep down the path of committing America's military forces to effect the immediate overthrow of Saddam Hussein. The peril of biological weapons is only one of those considerations, but it is an important one.

Has it been thought out? Has it been discussed? Has the administration said anything to Congress about this, whether or not the administration has explored these questions? Here are the questions. Don't say they were not asked. The more we know now, the better off our troops will be in the future.

Decisions involving war and peace—the most fundamental life and death decisions—should never be rushed through this Senate. I say that again. Decisions involving war and peace—the most fundamental of life and death decisions—they affect your sons and daughters out there, your blood. Such decisions should never be rushed through, never be rushed through or muscled through in haste.

Our Founding Fathers understood that and they wisely vested in the Congress—not in the President, not in any President, Democrat or Republican—the power to declare war.

We are going to discuss this. There is going to be a discussion of it. It is not going to be rammed through all that fast.

Congress has been presented with a Presidential request for authorization to use military force against Iraq. We now have the responsibility to consider that request, consider it carefully, consider it thoroughly, and consider it on our own timetable. I urge my colleagues to do just that and avoid the pressure—avoid the pressure to rush to judgment on such an important and vital and far-reaching and momentous matter.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent at the conclusion of the vote on the motion to invoke cloture on the Lieberman substitute amendment, regardless of the outcome, the Senate stand in recess until 5:15 p.m. today; further, notwithstanding rule XXII, the vote on the motion to invoke cloture on the Gramm-Miller amendment No. 4738 occur at 5:30 today, with the time between 5:15 and 5:30 equally divided and controlled between the two leaders or their designees; and that second-degree amendments to the Gramm-Miller amendment may be filed until 6 p.m. today.

When this vote is completed, we will be in recess until 5:15. Both parties are having conferences. Following that, there will be 15 minutes of debate and then there will be a vote on cloture on the Gramm-Miller amendment.

I would say this has been a long struggle getting to where we are today. I express my appreciation to the manager of the bill, Senator THOMPSON, and of course the person we have heard a lot from in the last several days, my friend, the distinguished senior Senator from Texas, Mr. GRAMM.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Lieberman substitute amendment No. 4471 for H.R. 5005, the Homeland Security bill:
>
> Debbie Stabenow, Harry Reid, Charles Schumer, Evan Bayh, Mark Dayton, Jeff Sessions, John Edwards, Jim Jeffords, Joseph Lieberman, Bill Nelson of Florida, Blanche L. Lincoln, Byron L. Dorgan, Jack Reed, Patrick Leahy, Robert C. Byrd, Mary Landrieu, Max Baucus.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the Lieberman amendment No. 4471 to H.R. 5005, an act to establish the Department of Homeland Security and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

The PRESIDING OFFICER (Mrs. LINCOLN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—50

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NAYS—49

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—1

Landrieu

The PRESIDING OFFICER. Upon reconsideration, on this vote the yeas are 50, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 2003—CONFERENCE REPORT

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of the conference report to accompany H.R. 1646, just received from the House; that the report be considered and agreed to; that the correcting resolution, H. Con. Res. 483 at the desk be agreed to; the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements related to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The report is printed in the House proceedings of the RECORD of September 23, 2002.)

Mr. BIDEN. Mr. President, I am pleased to present to the Senate the conference report on H.R. 1646, the Foreign Relations Authorization Act for fiscal year 2003.

The bill contains two divisions. Division A is the State Department Authorization Act, and contains authorization of appropriations for the Department of State, and other foreign policy programs, and also contains several policy provisions. Division B contains the Security Assistance Act, which provides authorizations and legal authorities under the Arms Export Control Act and the Foreign Assistance Act.

This bill includes several important items, including the completion of a project that Senator HELMS and I began in 1997, the legislation to authorize payment of our back dues to the United Nations in exchange for reform in that organization. The conference report would facilitate the final installment of $244 million in arrears to the UN and other international organizations. I salute the former Chairman of the Committee, Senator HELMS, for initiating this project six years ago and for sticking with it. It has made a material difference in improving the relationship between the United States and the United Nations.

The bill includes two other provisions important to continuing the improvement of our relationship with the United Nations. First, the bill clears the way for the payment of nearly $80 million in new arrears which have accumulated in the last few years. Second, the bill authorizes the payment of our dues to the UN at the beginning of the calendar year, rather than the current system whereby we pay our dues at the start of the U.S. fiscal year. That late payment of our dues is detrimental, not only to UN operations, but to U.S.-UN relations. I hope the Administration will embrace this provision and request the necessary funds in the fiscal year 2004 budget.

Further, the bill authorizes funding at levels equal to or exceeding the President's budget request for the Department of State, embassy security, contributions for international organizations and international peacekeeping, and international broadcasting. The United States is a great power, and it has substantial responsibilities around the world. In order to meet those responsibilities, it must have a well-funded and well-equipped diplomatic corps. And if we are going to deploy our diplomats around the world, we must protect them. We cannot provide perfect security for our people, but we can and must take all reasonable precautions against known dangers. In 1999, Congress provided an authorization of $4.5 billion over five years—or $900 million per year, for embassy construction and security. This bill adds an additional $100 million to this authorization for fiscal year 2003.

Division B of this bill is the Security Assistance Act of 2002. It includes: foreign military assistance, including Foreign Military Financing and International Military Education and Training; international arms transfers; and many of our arms control, nonproliferation and antiterrorism programs.

This division includes some significant initiatives. For example, several provisions are designed to streamline the arms export control system, so as to make it more efficient and responsive to competitive requirements in a global economy, without sacrificing controls that serve foreign policy or nonproliferation purposes. This is a vital enterprise. U.S. industry depends upon the efficient processing of arms export applications, and U.S. firms lose contracts when the U.S. Government cannot make up its mind expeditiously.

At the same time, however, an ill-advised export license could lead to sensitive equipment getting into the hands of enemies or of unstable regimes. So there is a tension between the need for efficiency and the need not to make a mistake that ends up putting U.S. lives at risk. This bill addresses that tension providing funds for improved staffing levels, information and communications to enable the State Department to make quicker and smarter export licensing decisions. It also raises modestly the prior notice thresholds for most arms sales to our NATO allies, Australia, New Zealand or Japan. On the other hand, this bill adds a prior notice requirement for some sales of small arms and light weapons and strengthens the prior notice requirement for changes in the United States Munitions List.

Division B includes several new nonproliferation and antiterrorism measures. For example, the ban on arms sales to state supporters of terrorism, in section 40(d) of the Arms Export Control Act, is broadened to include states engaging in the proliferation of chemical, biological or radiological weapons.

This bill requires the President to establish an interagency mechanism to coordinate nonproliferation programs directed at the independent states of the former Soviet Union. This provision is based on S. 673, a bill introduced by Senator HAGEL and me with the cosponsorship of Senators DOMENICI and LUGAR. It will ensure continuing, high-level coordination of our many nonproliferation programs, so that we can be more confident that they will mesh with each other. The need for better coordination has been cited in several reports, including last year's report of the Russia Task Force of the Secretary of Energy Advisory Board, chaired by former Senator Howard Baker and former White House counsel Lloyd Cutler.

This bill encourages the Secretary of State to seek an increase in the regular budget of the International Atomic Energy Agency, beyond that required to keep pace with inflation. Because the IAEA's budget for 2003 has already been adopted, this bill authorizes an increase in the U.S. voluntary contribution to IAEA programs. This organization is vital to our nuclear nonproliferation efforts, its workload is increasing, and now it has begun a major program to locate and secure "orphaned" radioactive sources that could otherwise show up in a terrorist's radiological weapon.

Subtitle XIII–B of this bill is the "Russian Federation Debt for Nonproliferation Act of 2002," a provision that Senator LUGAR and I introduced, with the support of Senator HELMS. This subtitle authorizes the President to offer Soviet-era debt reduction to the Russian Federation in the context of an arrangement whereby the savings to Russia would be invested in agreed nonproliferation programs or projects. Debt reduction is a potentially important means of funding the costs of securing Russia's stockpiles of sensitive nuclear material, chemical weapons and dangerous pathogens, of destroying its chemical weapons and dismantling strategic weapons, and of helping its former weapons experts to find civilian careers and resist offers from rogue states or terrorists.

Three months ago, the Bush Administration persuaded the G–8 countries to take a significant step: they agreed to what is known as "10 plus 10 over 10," a commitment to provide the Russian Federation $10 billion in U.S. nonproliferation assistance and $10 billion in assistance from the other G–8 members over the next 10 years. This joint willingness to provide $20 billion opens new possibilities in Russian nonproliferation. It also sends a message to Moscow that working with the West or nonproliferation will be more profitable than selling dangerous technology to Iran.

The G–8 agreement included the important possibility of the leading economic powers using debt reduction to finance this assistance, and the Administration worked with us to ensure that this subtitle gives the President the flexibility he would need if he chose to use debt reduction. Pursuant to the Federal Credit Reform Act of 1990, he must still obtain appropriations for the cost of reducing any debt pursuant to this section. I have every hope, however, that we will see the day when both the United States and several of our allies use debt reduction to increase our nonproliferation assistance to Russia.

In closing, I thank my colleagues on the conference committee, particularly Chairman HYDE and Representative LANTOS in the other body, and Senator HELMS, for their cooperation in putting together this bill.

I would also like to recognize the hard work of all the staff on both the House and Senate committees, who did much of the preliminary work to prepare the bill for consideration by the conference committee. Equally important, I want to recognize the invaluable contributions and tireless efforts of the Deputy Legislative Counsel in the Senate, Art Rynearson. Mr. Rynearson labored many hours, including all of this past weekend, to assist the Committee staff in preparing and refining the legislative language in the conference report. This report would not have been ready for consideration at this time without his hard work.

This conference report is important to the operation of our U.S. foreign policy agencies. It has received strong approval in the other body. I urge its approval by the Senate.

Mr. HELMS. Mr. President, this legislation is the culmination of a bipartisan effort begun early in the 107th Congress. Senator BIDEN chaired our conference committee and was a tremendous leader in finalizing the bill and ensuring its bipartisan support. I thank him for his leadership of the committee and his friendship over the past 30 years.

Given the strange events of the 107th Congress, this bill in fact had bipartisan authorship. We provided a first draft of this legislation to Senator BIDEN in May 2001, when the Senate leadership changed hands. The bill approved by the conference committee is similar to that draft in many respects. It contains important details that advance our national interest and reflect shifts in priorities that followed the terrorist attacks on our country of September 2001.

The bill allows for the payment of our U.N. assessments in a manner that encourages that organization to embrace improved financial practices and to complete the reforms that were initiated at our insistence, including the critical issue of appropriate representation of American personnel in U.N. positions.

This bill accomplishes a number of other important objectives. It reaffirms Congress's strong support for Israel as an important ally in a turbulent region by recognizing the right of Israel to name Jerusalem as its own capitol and by financial backing to ensure its national security. It promotes stability in the Taiwan Straits by reaffirming our insistence that any resolution of that long-standing conflict must be peaceful and based on the freely expressed assent of the people of Taiwan.

We have, I hope conclusively, clarified the status of the American Institute in Taiwan by requiring that the American flag be flown just as proudly over that Institute as it is over all American diplomatic facilities.

The legislation recognizes the importance of maintaining pressure on the repressive Castro regime in Cuba and moves us toward the goal of liberating the Cuban people. It does this by specifically authorizing continued radio broadcasting to Cuba.

The bill provides Secretary Powell with additional authorities to meet the increasing need for effective American diplomacy in the present crisis and to enhance the capacity of Diplomatic Security agents. It also makes equitable pay, personnel and travel adjustments for the benefit of State Department personnel.

We also extended indefinitely the reporting requirement on international child abductions, reflecting our dissatisfaction with the lack of success in reuniting American parents with their children when they are kidnapped overseas by the other parent. We established new reporting obligations that ensure that Congress is notified when individuals who have previously engaged in terrorist activities are granted visas for entry into the United States.

The progress that Russia has made toward becoming a real democracy has been painful but necessary. This bill emphasizes the establishment in Russia of a free press and the rule of law as indispensable institutions in a functioning democracy. These institutions would focus public attention on dangerous activities that are ignored or condoned by government officials. I expect that these institutions, once firmly established, would have a restraining effect on highly questionable activities, such as Russian support for the Iranian nuclear program, and help curtail the proliferation of weapons technology and expertise, nuclear know-how is just as dangerous as nuclear material. This bill also encourages the Russian Government to make serious contributions to nonproliferation efforts in order to give them a stake in these efforts and complement our efforts in Russia.

The Tibet Policy Act in this bill culminates the Senate's decades-long support for the Tibetan people. It bolsters Administration efforts by specifying investment guidelines to invigorate the Tibetan economy while preserving the distinct identity of the people. Most notably, this will end any dispute over the importance of the Special Coordinator for Tibet by legally mandating such a position.

The Security Assistance portion of this bill contains several important provisions, particularly those regarding the proliferation of weapons of mass destruction. While I support the overarching framework of the Russian debt-for-nonproliferation provision in Title XIII, I harbor deep concerns about continued Russian proliferation to such state sponsors of terrorism as Iran. Thus, the Title includes a provision that places restriction on this debt reduction authority by requiring the President to certify that the Russian Federation has made and continues to make "material progress" in stemming the flow of sensitive goods, technologies, material, and know-how related to weapons of mass destruction to states that are international sponsors of terrorism. In this era of uncertainty, it is critical that we address this threat. Following in this vein, the Iran Nonproliferation Act of 2000 has been amended to require additional information be provided in required reports on transfers of weapons or weapons-related technologies to Iran.

With nonproliferation and disarmament issues taking a front seat in this bill, a provision has been included to allow development assistance to be spent for the destruction of surplus stockpiles of small arms, light weapons and other munitions in developing countries. This is indeed an important activity for developing countries as they emerge from periods of civil war or ethnic conflict.

The Security Assistance title of this bill also recognizes that South Asia is a critical theater of operations in our war against terrorism, and encourages the U.S. Government to continue to work on issues of nuclear and missile proliferation in this region. To this end, this section states that it shall be the policy of the United States, consistent with its obligations under the Treaty on the Nonproliferation of Nuclear Weapons, to encourage and work with the Governments of India and Pakistan to achieve a specific set of nonproliferation objectives by September 30, 2003. The Administration must continue to make this a high priority in its key foreign policy objectives.

Title XI affirms strong support for the profoundly important responsibilities of the Verification and Compliance Bureau to promote compliance analysis and enforce countries' compliance with their legal and political nonproliferation commitments. The title authorizes a larger budget than requested for this Bureau, including $1.8 million for additional personnel to adequately staff the mission of this critical Bureau and to improve verification capabilities. This Bureau is essential to ensuring that treaties and agreements are more than simple parchment, and should be adequately funded to carry out its mission.

Furthermore, I am happy to support a Title XII provision that provides the President with the authority to enter into bilateral or multilateral agreements for post-undergraduate flying and tactical leadership training at facilities in Southwest Asia. This is critical addition for our war against terrorism, as it enables the United States to maintain a positive influence in the region and enables our forces to have access to training and range facilities. Additionally, Title XIV recognizes the important work of the Office of Defense Trade Controls, and supports additional authorities so that it can achieve a greater level of efficiency in processing munitions licenses.

Finally, every Senator knows that no bill is possible without many long hours and hard work by staff. I can't tell these young men and women often enough what a great service they do for the Senate and for the country. I am particularly grateful to Patti McNerney, the Committee's Republican Staff Director, Rich Douglas, the Chief Republican Counsel, Senior Staff Members Mark Lagon and Mark Esper, Republican Counsel Jeff Gibbs, and Professional Staff Members Carolyn Leddy and Maurice Perkins. I am grateful for the work of the rest of the Committee's Republican Staff: Skip Fischer, Walter Lohman, Jed Royal, Jose Cardenas, Brian Fox, Susan Williams, David Merkel, Kelly Siekman, Sara Battaglia, Philip Griffin, Lester Munson, Kris Klaich, Hannah Williams, and Sarah Bardinelli.

The cooperative efforts and hard work of the Democratic Committee staff members, especially Brian McKeon, the Committee's Chief Counsel, Ed Levine, and Jofi Joseph, as well as the current and former staff directors, Tony Blinken and Ed Hall.

Last—but by no means least—I note that Art Rynearson, the Deputy Legislative Counsel of the Senate, has done his usual superb job of putting this conference report into proper legislative form. I say thank you to all.

The conference report was agreed to.

The concurrent resolution (H. Con. Res. 483) was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 5:15 p.m.

Thereupon,, the Senate, at 4:17 p.m, recessed until 5:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. REID).

HOMELAND SECURITY ACT OF 2002—Continued

AMENDMENT NO. 4738

The PRESIDING OFFICER. Under the order previously entered, there are 15 minutes equally divided between the two managers of the bill.

Who yields time?

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I yield myself up to 3½ minutes.

One of my favorite expressions is: Only in America, this great country of ours. I was thinking, as we approach this debate on the motion to invoke cloture, that only in the Senate, the great deliberative body we are, would we find Members about to do what I fear they are going to do, which is to vote against a proposal that they themselves have made because they want to vote on it without anyone else having a right to amend it. That is where we are.

We have had a good debate. We have the Gramm-Miller substitute amendment to the underlying Senate Governmental Affairs Committee proposal that created the Homeland Security Department. Senator GRAMM and Senator MILLER said their proposal and ours are 95 percent the same. We have a disagreement about how to protect homeland security workers in the new Department and still retain the authority of the President over national security.

Senator BEN NELSON of Nebraska and Senator JOHN BREAUX of Louisiana, working together with Senator LINCOLN CHAFEE of Rhode Island, have found common ground. They presented and crafted an amendment that gives a little bit of reassurance against arbitrary action to the Federal workers before they have their union rights, collective bargaining rights, taken away because the President determines those rights are in conflict with national security. It gives the President some new authority to reform the civil service system but encourages him to try to negotiate those changes with the unions. If that does not work out, then it is decided by a board, where the

President appoints all the members. This achieves some due process and fairness for homeland security workers but does not diminish the final word of the President of the United States at all.

In short, with all respect, I say to my colleagues who support Gramm-Miller but who are going to oppose the end of a filibuster of Gramm-Miller, they do not know how to accept a yes to the question they have asked. The Nelson-Chafee-Breaux amendment says yes to the question they have asked: How can we create a Department of Homeland Security, retain the authority of the President, and still protect some fairness and due process for homeland security workers?

What they are asking for is an up-or-down vote on the Gramm-Miller proposal, the President's proposal, denying us, apparently—the majority of us, now 51—the right to vote on an amendment which, incidentally, is pretty much the exact same amendment Congresswoman CONNIE MORELLA, a Republican of the House, was allowed by the Republican leadership of the House to put on the President's proposal. We can at least offer the same courtesy and rights to three bipartisan Members of the Senate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Mr. President, I yield such time as the Senator from Nebraska requires.

The PRESIDING OFFICER. The Senator from Nebraska has up to 4 minutes.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague from Connecticut for this opportunity to speak on this amendment.

Quite frankly, I think my colleague from Connecticut is absolutely right, and I ask my friends on both sides to take yes for an answer because I truly think this amendment will be the kind of yes that has been sought in the past.

I am puzzled, as I think perhaps anybody watching and many of us here today are puzzled, by the characterization of this amendment as being in opposition to the President. Anytime you are trying to close the gap, anytime you are trying to bring about a resolution of compromise, it is hardly an exercise in opposition. I think, if anything, we should be looked at as friends of the process in trying to bring this together.

To also suggest cloture would be inappropriate now is also very startling because I always thought cloture was how we finally brought the end of debate to get a vote for or against legislation to move it forward. Right now it seems the vote against cloture is to stall and have more opportunity for debate.

So if people are a bit puzzled, I can only appreciate that fact because I am puzzled, too.

In this exercise, I have learned a lot about the spin as opposed to the appropriate characterization of letters or of comments on the floor. I thought we were giving Governor Ridge and Senator GRAMM exactly what they were asking for because that is the way I read Senator GRAMM's comments. I presided the day he was presenting them, and I thought I understood him. I am surprised to find out I did not understand what he was saying. I am surprised I cannot read a letter from Governor Ridge in which he says the same management authority that is now provided in the IRS model is what we are after. We provide that in this amendment. Now we find that is not the case, either.

This is a puzzling day for me. It is perhaps puzzling others who are watching it, because when it appears yes cannot be taken for an answer, I do not know what kind of an answer will be appropriate. If there is other language, I have said I will take a look at it, but I do not think the answer is no language. In fact, what we have is an opportunity to present something that ought to close the gap, fill in the last 5 percent, so we have 100 percent legislation that does what the President needs to be able to do and also protects national security.

National security is lost in this debate over nits and little differences of opinion about this piece of the amendment or that piece of the amendment. We can close them, but we have to be able to be in a position to know when they are closed and when enough will be enough.

Right now I would not know even how to begin to try to close this if it remains open, but it seems to me we can vote for cloture and then let's have the opportunity to finish this bill, get an up-or-down vote, as has been requested, move on and make national security the important point it is and have a Homeland Defense Department.

I yield the floor.

The PRESIDING OFFICER. Senator BURNS is under the time controlled by Senator THOMPSON. The Senator from Montana.

Mr. BURNS. I congratulate my friends from Nebraska and Connecticut who were just talking. It seems like yesterday we came to this body. You didn't get my goat, either.

We have all been involved in conferences. Anytime we pass legislation in this body and then it is passed in the House, we go to conference. In conference is where we settle our differences. It usually comes down to one or two items where there starts to be an impasse.

Basically, those one or two items were not dealt with in the amendment of my friend from Nebraska. It is still there and even adds another layer or hurdle for the President to jump in the management of this Department before a final decision can be made on the movement of money or personnel and their responsibilities in this particular national security Department.

We have not dealt with the two very important ones, and nobody puts it better than the ranking member of the committee of jurisdiction. So I caution Senators this is a bold attempt to find a compromise, but even though you pass their amendment, it does not deal with the heart of this debate.

So whenever Senators start looking at this, they should look into it deeply, and they will find a compromise was attempted, but it did not get us to where we should be if they think the President should have the flexibility to manage money and personnel in this very important new Department we are creating.

I yield the floor.

Mr. STEVENS. I am proud to be an original cosponsor of this bipartisan substitute, and I am here to urge its adoption as the most effective way to create a new Department of Homeland Security to protect our Nation from the threat of terrorism.

I take this opportunity to highlight four important provisions of the bipartisan substitute that are significant improvements to the committee-endorsed legislation before the Senate.

These provisions address the use of appropriated funds, presidential reorganization authority, and the status of the Coast Guard within the Department.

Section 738 of the bipartisan substitute includes the appropriations-related language that the committee endorsed to maintain the appropriate checks and balances between the legislative and executive branches with respect to the use of appropriated funds.

It improves on that language by authorizing an appropriation of $160 million, and general transfer authority of $140 million, to begin operating the new Department. Both amounts would be subject to reasonable Congressional oversight and decisions.

Section 739 requires the submission of a multi-year spending plan for the Department so that Congress and the American people can fully understand, and support, the magnitude of funds needed to conduct an effective homeland defense.

Senator COLLINS and I authored the Coast Guard language in the bipartisan substitute—Section 761. This language preserves the non-homeland security missions of the Coast Guard and its capabilities to perform those missions.

The language also ensures that the Coast Guard Commandant can report directly to the homeland security secretary without being required to report through any other official of the Department.

I believe this language improves upon the Committee bill by removing the Coast Guard from the Directorate of

Border and Transportation Protection—the new directorate—and by making it a freestanding organization—still the Coast Guard—operating within the department and answering directly to the Secretary.

This action ensures that there is no ambiguity about the independent and distinct status of the Coast Guard within the Department, or about the Commandant's direct reporting authority. He will report directly to the Secretary.

Finally, Section 734 provides the President with the authority to propose further reorganization plans for the Department of Homeland Security and to have those plans considered by the Congress under expedited procedures.

This language guarantees that Congress will play a significant role in deciding any further reorganizations, and that these proposals will be debated and acted upon without delay.

I would like to discuss the use of appropriated funds.

The improved appropriations related language and reorganization plan language in the bipartisan substitute recognize that the need to establish the new Department can be addressed while still preserving the Constitution, especially with respect to maintaining Congress's "power of the purse."

That "power" is the primary way Congress holds the executive branch accountable for the use of funds, and it ensures that Congress has a central role in determining how hard-earned tax dollars will be expended.

Section 738 of the bipartisan substitute reinforces existing law on how appropriated funds are used and how property is disposed of. It requires congressional approval of any plans to modify or eliminate any of the organizations being transferred to the new Department.

Congress must approve, in advance, the reallocation of transferred funds away from their originally intended purposes.

Accordingly, the proposed statutory language preserves the statutory and administrative requirements needed to ensure that any funds made available to the new Department are used effectively and efficiently and according to the will of the people as reflected through their elected Senators and Representatives.

Our amendment demonstrates that the necessary funding mechanisms and flexibility already exist to enable the new Department of Homeland Security to perform its mission.

These procedures are embodied in the appropriations process, which can provide the funds needed for the Department without delay through a combination of new appropriations, supplementals, or reprogramming actions.

We already have the opportunity to consider new appropriations to create the Department in several of the funding bills working their way through the congressional process at this very moment. These bills will be considered in some format before September 30 or at least before we recess for the election period.

Funds to continue the operations of the organizations transferring to the Department also will be provided in these appropriations measures.

The bipartisan substitute underscores the importance of providing in the appropriations process the $160 million in new appropriations and the $140 million in general transfer authority.

These allocations total $300 million, which is a very large sum of money. This amount should be more than enough to create the new Department and to provide for any initial staffing, equipment, and other expenses.

I pledge to do my very best to provide these amounts in the appropriations process as needed.

The bipartisan substitute reaffirms the regular appropriations process and that it will work to allocate the needed start-up funding and to prevent disrupting the ongoing operations of the transferred organizations.

With regard to reorganization authority the originally proposed legislation for the Department of Homeland Security would have granted the new Secretary almost unlimited authority to establish, consolidate, alter, or discontinue any organizational units within the Department after giving Congress 90 days notice.

Under the Constitution, Congress has the responsibility to appropriate funds by law for the executive branch departments, agencies, and other organizations that have constitutional responsibilities to execute our laws.

Congress should not allow the many agencies transferring to the Department to be altered, merged, disbanded, or replaced solely and unilaterally by executive branch fiat.

We have the responsibility to ensure that the people's elected Senators and Representatives are part of the process of creating, modifying, or disbanding the organizations that spend the people's hard-earned tax dollars.

Congress's constitutional role in our system of Government is to set priorities for the use of appropriated funds and to oversee their use to ensure that these funds are expended effectively and efficiently.

The creation of a new and effective Department of Homeland Security is a shared responsibility between the executive and legislative branches. For the Department to be successful, both branches of Government—really each branch of Government—must cooperate with each other.

Congress and the executive branch should forge a relationship that is based on the mutual trust and shared compromise that the Framers of the Constitution envisioned in creating a system of checks and balances. Such a relationship is necessary for the effective functioning of the Federal Government.

In section 734, the bipartisan substitute preserves Congress's rightful role in this process by requiring that both the Senate and the House of Representatives approve any proposed reorganization plans under expedited procedures.

With regard to submission of a multiyear homeland security budget plan, section 739 of the bipartisan substitute requires the submission of a multiyear, homeland security spending plan with each budget request for the new Department, beginning with the fiscal year 2005 request.

This section will enable the Congress and the executive branch to fully understand the annual and multi-year funding requirements to make our homeland secure.

It will assist us in determining the most appropriate funding levels to protect the American people from terrorist threats.

The recommended statutory language requires that the Future Years Homeland Security Program be structured as, and include the same type of information and level of detail as, the Future Years Defense Program required by law to be submitted to Congress by the Department of Defense.

We have a section preserving the Coast Guard's mission performance. Finally, section 761 of the bipartisan substitute is highly important language Senator COLLINS and I authored to maintain the structural and operational integrity of the Coast Guard, the authority of the Commandant, the nonhomeland security missions of the Coast Guard, and the service's capabilities to carry out these missions even as it is transferred to the new Department.

In addition to transferring the Coast Guard as an independent, distinct entity reporting directly to the Secretary, the language states that the Secretary may not make any substantial or significant change to any of the nonhomeland security missions and capabilities of the Coast Guard without the prior approval by Congress in a subsequent statute.

The President may waive this restriction for no more than 90 days upon his declaration and certification to the Congress that a clear, compelling, and immediate state of national emergency exists that justifies such a waiver.

The language further directs that the Coast Guard's authorities, functions, assets, organizational structure, units, personnel, and nonhomeland security missions shall be maintained intact and without reduction after the transfer unless the Congress specifies otherwise in subsequent acts. This language does permit the Coast Guard to replace or upgrade any asset with an asset of equivalent or greater capabilities.

It also states that Coast Guard missions, functions, personnel, and assets—including ships, aircraft, helicopters, and vehicles—may not be transferred to the operational control of, or be diverted to the principal and continuing use of, any other organization, unit, or entity of the Department except under limited conditions.

Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary and not through any other official of the Department.

The inspector general of the Department shall annually assess the Coast Guard's performance of all its missions with a particular emphasis on examining the nonhomeland security missions. The detailed results of this assessment shall be provided to Congress annually.

None of the conditions in the recommended language shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

The Coast Guard's nonhomeland security missions—and the service's capabilities to accomplish them—are as vital to the 30 coastal and Great Lakes States as are its homeland security missions and capabilities.

No state is better than Alaska for demonstrating the importance of the Coast Guard's nonhomeland security missions.

The United States has a coastline of 96,000 miles. Alaska has a coastline of 47,300 miles, or almost 50 percent, of our Nation's total.

Alaska's fisheries are a billion dollar industry that delivers food to tables all across America and around the world. We harvested 5 billion pounds of seafood last year.

The Coast Guard plays an indispensable role in protecting and supporting this industry, and in promoting the safety of its participants. Just this summer, the Coast Guard dispatched additional assets to the maritime boundary line in the Bering Sea to guard against intrusions by Russian trawlers.

The Coast Guard's nonhomeland security missions are marine safety, search and rescue, aids to navigation, living marine resources—including fisheries law enforcement, marine environmental protection, and ice operations. They all are critical to the well-being of Alaskans, and we rely on the Coast Guard virtually every day for protection and assistance in these mission areas.

The service's homeland security missions are ports, waterways and coastal security, drug interdiction, migrant interdiction, defense readiness, and other law enforcement.

The language in the bipartisan substitute is intended to assure that the important homeland security priorities of the new Department will not eclipse the Coast Guard's crucial nonhomeland security missions and capabilities.

This language modifies the committee provisions to reflect suggestions made by the Commandant and his senior staff after they analyzed the original language at my request.

Our additional language allows the Coast Guard to conduct joint operations more effectively with other entities in the Department, to assign a limited number of Coast Guard military members or civilian employees to these entities for liaison, coordination, and operational purposes, and to replace or upgrade assets or change nonhomeland security capabilities with equivalent or greater assets or capabilities.

With the Bipartisan Substitute, I believe the Coast Guard will be in an even stronger position to carry out both its vital non-homeland security missions and its important homeland security responsibilities.

Finally, there have been claims that the improved statutory language I have highlighted today still may restrict the President's flexibility to establish and operate the new Department.

It is my understanding that the White House was a key participant in the crafting of the Bipartisan Substitute, and that any significant language was reviewed for acceptability by the President's advisors.

The President has stated repeatedly that he supports the language in the Bipartisan Substitute.

In his Radio Address to the Nation last Saturday, September 21, the President specifically stated that the Bipartisan Substitute would, and I quote, "provide the new Secretary of Homeland Security much of the flexibility he needs to move people and resources to meet new threats."

I ask unanimous request to insert into the RECORD at the conclusion of my remarks the recent statements by the President and his spokesman that strongly endorse the bipartisan substitute.

I also ask unanimous request that an explanation of the start-up funding authorized in the bipartisan substitute be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1).

Mr. President, the bipartisan substitute underscores Congress's legitimate role in the ongoing process to meet our Nation's homeland security requirements responsibly and effectively. It is a significant improvement over the committee legislation which I did vote for.

I urge the Senate to adopt it without delay.

I thank my friend from Texas, Senator GRAMM, for working with us so closely in adopting the portions of the bill from the substitute I just described. I thank the leadership for their cooperation.

EXHIBIT 1

PRESIDENT ENDORSES GRAMM-MILLER BIPARTISAN SUBSTITUTE

President urges Congress to pass Iraq resolution promptly, September 24, 2002, White House:

It's time to get a homeland security bill done, one which will allow this President and this administration, and future Presidents—give us the tools necessary to protect the homeland. And we're working as hard as we can with Phil Gramm and Zell Miller to get this bill moving. It's a good bill. It's a bill that both Republicans and Democrats can and should support.

President Bush calls on Congress to act on Nation's priorities, September 23, 2002, Army National Guard Aviation Support Facility, Trenton, New Jersey, September 23, 2002:

Senator Gramm, a Republican, Senator Miller, a Democrat, are working hard to bring people together. And the Senate must listen to them. It's a good bill. It's a bill I can accept. It's a bill that will make America more secure. And anything less than that is a bill which I will not accept, it's a bill which I will not saddle this administration and future administrations with allowing the United States Senate to micro-manage the process. The enemy is too quick for that. We must be flexible, we must be strong, we must be ready to take the enemy on anywhere he decides to hit us, whether it's America or anywhere else in the globe.

Radio address by the President to the Nation, September 21, 2002:

In an effort to break the logjam in the Senate, Senator Miller and Republican Senator Phil Gramm have taken the lead in crafting a bipartisan alternative to the current flawed Senate bill. I commend them, and support their approach. Their proposal would provide the new secretary of homeland security much of the flexibility he needs to move people and resources to meet new threats. It will protect every employee of the new department against illegal discrimination, and build a culture in which federal employees know they are keeping their fellow citizens safe through their service to America.

I ask you to call your senators and to urge them to vote for this bipartisan alternative. Senators Miller and Gramm, along with Senator Fred Thompson, have made great progress in putting the national interest ahead of partisan interest.

Press briefing by Ari Fleischer, September 19, 2002:

Mr. FLEISCHER. The President today is going to announce his support for a bipartisan compromise, the Miller-Gramm compromise.

BASIS OF COST ESTIMATE INCLUDED IN BIPARTISAN SUBSTITUTE

The authorization of $160 million to begin departmental operations is based primarily on a CBO cost estimate. That estimate is the best estimate we have.

OMB's position is that no new funds are needed because start-up costs will be paid with funds diverted from agencies transferred to the Department.

However, the transferred agencies will need these funds to accomplish their missions.

Also, Congress should not relinquish its authority and oversight over funding reallocations in the Executive Branch.

Most of the CBO's estimate for FY03 would be spent on one-time costs to hire, house, and equip key personnel to manage the new Department.

There are four major cost categories:

$50 million for salaries and other personnel expenses;

$50 million to rent new space or renovate existing space for about 500 personnel;

$50 million for a basic computer network and telecommunications system; and

$10 million to plan for a more sophisticated computer/communications system to operationally integrate major agencies in the Department.

The 140 million estimate for general transfer authority was created by Committee staff to give the Department a $300 million total for first year operations.

The personnel costs assume that the new management team and its support structure will be phased in over the next two years.

These include the Secretary, his Deputy, the Under and Assistant Secretaries, and key managers such as the General Counsel and Inspector General.

It also includes "corporate". personnel, such as those needed for policy development, legislative affairs, and budget and finance activities.

The office space estimate is based on GSA experience in housing new agencies.

The basic computer, date processing, and telecommunications systems will perform the Department's administrative functions—budgeting, accounting, personnel records, etc.

A more sophisticated and interoperatble computer and communications network to integrate the major operational entities, such as the Coast Guard, INS, Customs, Secret Service, and the Border Patrol, may cost more than $1 billion in later years.

Mr. CORZINE. Mr. President, I rise today in strong opposition to the labor provisions in the Gramm-Miller substitute amendment. This approach to homeland security undermines longstanding labor protections and a national commitment to the right to organize.

This amendment seems to rely on the unsupported premise that workers rights are somehow incongruous with national security. There is no objective basis for that view. In fact, I would argue labor protections are directly in our national interest.

The people of the United States trust federal employees to stand at the frontlines in the war on terrorism and protect our nation against the myriad vulnerabilities that we may confront in the years to come. Border guards, INS workers, and customs agents are people who have the patriotic interest of our nation at heart. They guard our waterways and now protect our airports. Just as we are emphasizing the United States' increasing reliance on these workers, it would demonstrate tremendous chutzpah for the United States to remove essential labor protections and question the commitment and responsiveness of these workers to our national challenges. Working Americans have often sacrificed much to save our nation and to subject them to political and unchecked managerial discretion is an abdication of America's long held belief in the political independence of our government operations.

But that is precisely what this amendment would do: eliminate hard fought labor protections as America calls on its employees to take on even greater responsibilities in the War on Terrorism.

For instance, in the name of management flexibility, the substitute amendment being considered here would eviscerate the civil service system, and I fear put all Americans at risk.

The new Department we are discussing today should not be a Republican Department or a Democratic Department but an American Department from start to finish. There is no room for partisan politics when it comes to defending the American people. This cabinet department is being created for security, a truly nonpartisan objective and its operation after its creation should stay that way.

In the event that this substitute amendment is accepted by the Senate, employees of the Department of Homeland Security whose views are out of sync with the official line could be dismissed or transferred with little of no justification. This would have a chilling effect on the ability of employees in this critically important department to perform their jobs with the competence and creativity that everyone would expect.

Furthermore, this amendment could undermine vital whistleblower protections designed to ensure that the Congress and the American public are kept aware of severe problems that might develop in the new Department. The so-called "management flexibility" provisions would have the effect of silencing criticism in official forms, criticism that is desperately needed to improve America's ability to defend its borders and protect its people. In fact, incentives to leak critical views would be drastically increased as official forms would no longer be easily available.

Let us be clear: the primary supporters of this amendment have never been supportive of the various labor protections provided to government employees. They never liked the civil service system, despite the fact that it prevents bureaucratic decisions from getting mired in politics. They oppose the application of Davis-Bacon laws to the new Department, despite the fact that requiring federal government contractors to pay the prevailing wage encourages higher quality work. And they oppose collective bargaining agreements, despite the fact that the underlying legislation allows broad authority for the president to waive collective bargaining rights for job activities directly related to national security. The driver behind this amendment appears to be a political and philosophical view opposing the concepts embedded in the right to organize, not in protecting national security.

The fact is, that this Governmental reorganization provided opponents of labor rights with a golden opportunity to undermine the very protection that they have long opposed. This is not a new approach to a new situation, but an old familiar refrain from opponents of labor policies that empower our federal employees. Supporters of this amendment claim the whole purpose of the change is to increase management flexibility in the interests of national security, but make no mistake: this debate is about an ideological opposition to fundamental components of American labor law.

With all the waiver authority provided the President in Senator LIEBERMAN's bill, it is difficult to see just how this legislation would tie the hands of the President. Few reasonable analyses believe it will.

When tragedy struck on September 11, thousands of firefighters and police officers rushed to the world trade center. They risked life and limb to save their fellow Americans. Their union membership did not make them any less patriotic. Union membership of law enforcement and firefighters across the nation is unquestioned and standard procedure. Their collective bargaining rights did not undermine national security. And their work rules did not stop them from demonstrating a high level of professionalism on that horrific day or any other day.

Mr. President, I for one, do not believe we should allow American workers to lose hard-fought labor protections while we are asking them to take on even greater responsibilities and to assimilate into a new department. Clearly the authors of the Gramm-Miller amendment disagree.

I urge my colleagues to oppose the Gramm-Miller amendment.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Who yields time?

Mr. GRAMM. Mr. President, I will be brief. By using cloture, this is an effort to put us into a straitjacket that will guarantee the President will not get an up-or-down vote on his program.

Now one may be against the President; they may believe there are some priorities higher than the life and safety of our citizens. I do not. But whether one agrees with the President or not, when thousands of our citizens have been killed, when we are at war with terrorism, the President of the United States has the right to have an up-or-down vote on his program. That is what we insist on. We will not get that if cloture is voted for.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Could I inquire as to how much time we have remaining?

The PRESIDING OFFICER. Three and a half minutes.

Mr. THOMPSON. Mr. President, before we vote, it is important we understand the parameters of the Nelson-Chafee-Breaux amendment. Two points: One has to do with the President's national security authority, and the other has to do with flexibility. This amendment is purported to be a compromise. Senator GRAMM has worked diligently, and he and Senator MILLER have made about 25 changes. They have a compromise that is a good one and one the President supports. The compromise represented by the Nelson-Chafee-Breaux amendment is not really a good compromise, with all due respect to those who have made this effort, because of those two areas I mentioned. With regard to the President's national security authority, it changes the current law which says if the President makes a determination the primary function of an agency has to do with national security, he can act under that law to protect the national security.

The changes in the Nelson amendment would make it so the President would have to make a determination the activity involved would have to be related to terrorist activities, and then this additional requirement that the new position to which the people in the agency have been transferred, the majority of those people have essentially had a change in the function of their job and those things are reviewable by courts.

I understood my friend from Louisiana to say and debate awhile ago this court case we were all talking about basically did not give any judicial review. Maybe I misunderstood him because when I look at the case, it is quite clear there is judicial review under current law and under the Nelson amendment. However, under current law, the President only has one hurdle. He has to make a determination with regard to national security.

Under the Nelson amendment, he has to make a determination with regard to terrorism, but he also has to make a determination with regard to the nature of the actual work being carried out by the various employees—the President of the United States. Two challenges now can be made to the President's activity. Now when you go to court, the President has a rebuttable presumption of regulator. There is still jurisdiction there, there is still an additional hurdle. Why in the world do we want to impose an additional hurdle for this President that we have not imposed on prior Presidents? That is No. 1.

Second, with regard to flexibility, the House sent over six areas of flexibility. The Nelson amendment takes two of those areas off the table altogether. The Nelson amendment says the new Secretary cannot touch the labor-management chapter. It says the new Secretary cannot touch the appeals chapter. Both are areas we know need changing. Both are areas we know need improvement. We cannot even negotiate with regard to those areas. They are totally off the table.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. THOMPSON. I appreciate the attentiveness of the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, the Senator from Texas has asked us to consider what is best for the security of the American people. What is best for the security of the American people is to quickly adopt legislation that creates a Department of Homeland Security to protect them, and not to maintain a stubborn insistence that before you are willing to do that, the President must have an up-or-down vote on his proposal. That is something on which the Republican House did not insist. They gave Members the opportunity to introduce amendments, including one just like this.

I urge my colleagues, vote for cloture. Let's adopt this bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The majority leader asked me to announce this is the last vote today. The next vote will occur at approximately 5 or 5:30 on Monday afternoon.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to Rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Gramm-Miller amendment No. 4738 to H.R. 5005, the Homeland Security legislation:

Harry Reid, Ben Nelson of Nebraska, Hillary Rodham Clinton, Debbie Stabenow, Mark Dayton, Patrick Leahy, John Breaux, Tom Carper, Tom Daschle, Byron L. Dorgan, Jack Reed, Jim Jeffords, Tim Johnson, Mary Landrieu, Max Baucus, Daniel K. Inouye.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Gramm-Miller amendment numbered 4738 to H.R. 5005, the homeland security bill, shall be brought to a close? The yeas and nays are required under rule XXII.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 53, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Breaux
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kerry
Kohl
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Schumer
Stabenow
Torricelli
Wellstone
Wyden

NAYS—53

Allard
Allen
Bennett
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Campbell
Cochran
Collins
Craig
Crapo
Daschle
DeWine
Ensign
Enzi
Feingold
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kennedy
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—3

Domenici
Helms
Landrieu

The PRESIDING OFFICER. On this vote the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DASCHLE. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on the Gramm-Miller amendment No. 4738.

The PRESIDING OFFICER. The leader has that right. The motion is entered.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Gramm-Miller amendment No. 4738:

Joseph Lieberman, Max Baucus, Ben Nelson of Nebraska, Dianne Feinstein, Tim Johnson, Patrick Leahy, Jeff Bingaman, Jack Reed, Hillary Rodham Clinton, Jim Jeffords, Debbie Stabenow, Daniel K. Akaka, Harry Reid, Maria Cantwell, Byron L. Dorgan, Herb Kohl.

Mr. LEVIN. Mr. President, I would like to say a few words about the Freedom of Information Act compromise that Senators BENNETT and LEAHY and I were able to achieve and which is included in both the Lieberman and Gramm-Miller amendments.

One of the primary functions of the new Department of Homeland Security, DHS, will be to safeguard the nation's infrastructure, much of which is run by private companies. The DHS will need to work in partnership with private companies to ensure that our critical infrastructure is secure. To do so, the homeland security legislation asks companies to voluntarily provide the DHS with information about their own vulnerabilities; the hope being that one company's problems or solutions to its problems will help other companies with problems they may be having with their own critical infrastructure.

Some companies expressed concern that current law did not adequately protect their confidential business information that they are being asked to provide to the new DHS from public disclosure under the Freedom of Information Act. They argued that without a specific statutory exemption they would be less likely to voluntarily submit information to the DHS about critical infrastructure vulnerabilities. However, the Freedom of Information Act and the case law developed with respect to it already provide the protections these companies seek.

The language of our amendment protects from public disclosure the records of concern to these companies ,while preserving the existing rights of public access under FOIA. The amendment would protect from public disclosure any record furnished voluntarily and submitted to DHS that: No. 1, pertains to the vulnerability of and threats to critical infrastructure, such as attacks, response and recovery efforts; No. 2, the provider would not customarily make available to the public; No. 3, are designated and certified by the provider as confidential and not customarily made available to the public.

The amendment makes clear that records that an agency obtains independently of DHS are not subject to the protections I just enumerated. Thus, if the records currently are subject to disclosure by another agency under FOIA, they will remain available under FOIA even if a private company submits the same information to DHS. The language also allows the provider of voluntarily submitted information to change a designation and certification and to make the record subject to disclosure under FOIA. The language requires that DHS develop procedures for the receipt, designation, marking, certification, care and storage of voluntarily provided information as well as the protection and maintenance of the confidentiality of the voluntarily provided records.

The amendment defines the terms "critical infrastructure" and "furnished voluntarily." "Critical infrastructure" is the same as that found in the USA Patriot Act. The term "furnished voluntarily" excludes records that DHS requires an entity to submit and that are used to satisfy a legal obligation or requirement or obtain a grant, permit, benefit, or other government approval. This means that records used to satisfy a legal obligation or requirement or to obtain a grant, permit, benefit or other government approval are ineligible for protection under this amendment. In addition, this language does not preempt state or local openness laws. Finally, the language requires the General Accounting Office to prepare a report tracking the voluntarily submitted information to DHS, the number of FOIA requests for voluntarily submitted information and whether those requests were granted or denied, and recommendations for improving the collection and analysis of information held by the private sector.

It is important to protect the public's right to access information as the White House's recent national strategy for homeland security points out. The White House report also notes that any limitation on public disclosure must be done "without compromising the principles of openness that ensure government accountability." I agree. We must move cautiously when enacting any legislation to withhold information that is not already exempt from disclosure under FOIA and national security classifications.

The principles of open government and the right-to-know of the people are cornerstones upon which our country was built. We cannot and will not hastily and foolishly sacrifice them in the name of protecting them. This compromise achieves the balancing that is needed between openness and security. I thank Senators BENNETT and LEAHY for their work on developing this amendment.

Mr. LEAHY. Mr. President, in the wake of the terrorist attacks of September 11, bipartisan support in the Senate grew for the concept of a Cabinet-level officer with a new department to coordinate homeland security. In fact, Chairman LIEBERMAN of the Governmental Affairs Committee and Senator SPECTER must be commended for their hard work and prescience in introducing legislation within weeks of the attacks to create a new Department of Homeland Security.

The administration initially differed with this approach. Instead, the President invited Governor Ridge to serve as the Director of a new Office of Homeland Security. I invited Governor Ridge in October, 2001, to testify before the Judiciary Committee about how he would improve the coordination of law enforcement and intelligence efforts, and his views on the role of the National Guard in carrying out the homeland security mission, but he declined.

Without Governor Ridge's input, the Judiciary Committee continued oversight work that had begun in the summer of 2001, before the terrorist attacks, on improving the effectiveness of the U.S. Department of Justice, the lead Federal agency with responsibility for domestic security. This task has involved oversight hearings with the Attorney General and with officials of the Federal Bureau of Investigation and the Immigration and Naturalization Service. In the weeks immediately after the attacks, the Committee turned its attention to hearings on legislative proposals to enhance the legal tools available to detect, investigate and prosecute those who threaten Americans both here and abroad. Committee members worked in partnership with the White House and the House to craft the new antiterrorism law, the USA PATRIOT Act, which was enacted on October 26, 2001.

We were prepared to include in the new anti-terrorism law provisions creating a new cabinet-level officer heading a new Department of Homeland Security but did not, at the request of the White House. Indeed, from September, 2001 until June, 2002, the Administration was steadfastly opposed to the creation of a Cabinet-level Department to protect homeland security. Governor Ridge stated in an interview with National Journal reporters on May 30 that if Congress put a bill on the President's desk to make his position statutory, he would "probably recommend that he veto it." That same month, the White House spokesman also objected to a new Department and told reporters, "You still will have agencies within the federal government that have to be coordinated. So the answer is: Creating a Cabinet post doesn't solve anything."

In one respect, the White House was correct: Simply moving agencies around among Departments does not address the problems inside agencies such as the FBI or the INS—problems like outdated computers; hostility to employees who report problems; lapses in intelligence sharing; lack of translation and analytical capabilities; along with what many have termed, "cultural problems." The Judiciary Committee and its subcommittees have been focusing on identifying those problems and finding constructive solutions to fix them. To that end, the Committee unanimously reported the FBI Reform Act, S.1974, to improve the FBI, especially at this time when the country needs the FBI to be as effective as it can be in the war against terrorism. Unfortunately, that bill has been stalled on the Senate floor by an anonymous Republican hold.

The White House made an abrupt about-face on June 6, 2002, on the issue of whether our national security could benefit from the creation of a new Department of Homeland Security. This was the same day that the Judiciary Committee was continuing its oversight responsibility and was scheduled to hear from FBI Director Robert Mueller and FBI Special Agent Coleen Rowley, who was highly critical of the manner in which FBI Headquarters handled the investigation of Zacarias Moussaoui.

Thirty minutes before the nationally televised testimony from an FBI agent about intelligence failures before the September 11 terrorist attacks, word emerged from the White House that the President had changed his position and announced that he supported the formation of a new Homeland Security Department along the lines that Senator LIEBERMAN and Senator SPECTER had suggested, though the draft of the President's proposal was not yet completed. Indeed, press reports that day indicate that "Administration officials said the White House hoped to use the reorganization to deflect attention from the public backbiting that broke out among federal agencies as Congress began investigating intelligence failures surrounding the Sept. 11 attacks." Washington Post, June 6, 2002, at 12:52 PM.

Two weeks later, on June 18, 2002, Governor Ridge transmitted a specific legislative proposal to create a new homeland security department. It should be apparent to all of us that knitting together a new agency will not by itself fix existing problems. In writing the charter for this new department, we must be careful not to generate new management problems and accountability issues. Yet the Administration's proposal would have exempted the new department from many legal requirements that apply to other agencies. The Freedom of Information Act would not apply; the conflicts of interest and accountability rules for agency advisors would not apply. The new Department head would have the power to suspend the Whistleblower Protection Act, the normal procurement rules, and to intervene in Inspector General investigations. In these respects, the Administration asked us to put this new Department above the law and outside the checks and balances these laws are put there to ensure.

Exempting the new Department from laws that ensure accountability to the Congress and to the American people makes for soggy ground and a tenuous start—not the sure footing we all want for the success and endurance of this endeavor.

Specifically, the administration's June proposal contained, in section 204, a new exemption requiring nondisclosure under the Freedom of Information Act, FOIA, of any "information" "voluntarily" provided to the new Department of Homeland Security by "non-Federal entities or individuals" pertaining to "infrastructure vulnerabilities or other vulnerabilities to terrorism" in the possession of, or that passed through, the new department. Critical terms, such as "voluntarily provided," were undefined.

The Judiciary Committee had an opportunity to query Governor Ridge about the Administration's proposal on June 26, 2002, when he testified in his capacity as the Director of the Transition Planning Office for the proposed Department of Homeland Security. At that hearing, a number of Senators made clear that the President should not play politics with the proposal to create a new Department. One senior Republican member of the Judiciary Committee put it bluntly that action on the new Department should take place "without political gamesmanship," I share that view.

We all wanted to work with the President to meet his ambitious timetable for setting up the new department. We all know that one sure way to slow up the legislation would be to use the new department as the excuse for the Administration to undermine or repeal laws it did not like or to stick unrelated political items in the bill under the heading of "management flexibility." We all want the same end goal of an efficiently operating Homeland Security Department, but as the same senior Republican member of the Judiciary Committee advised at the June 26 hearing, for the sake of getting the new department underway, "[t]here may well be areas of debate or issues that we in Congress need to save for another day."

At that hearing, I cautioned the administration not to use the proposal for the new Department of Homeland Security to: No. 1, increase secrecy in government by creating a huge new exemption to the Freedom of Information Act for private sector security problems; No. 2, weaken whistleblower protections for dedicated Government workers who help fight Government waste, fraud and abuse; or No. 3, cut wages and job security for hardworking Government employees.

Governor Ridge's testimony at that hearing is instructive. He appeared to appreciate the concerns expressed by Members about the President's June 18th proposal and to be willing to work with us in the legislative process find common ground to get the legislation done. On the FOIA, he described the Administration's goal to craft "a limited statutory exemption to the Freedom of Information Act" to help "the Department's most important missions [which] will be to protect our Nation's critical infrastructure." Governor Ridge explained that to accomplish this, the Department must be able to "collect information, identifying key assets and components of that infrastructure, evaluate vulnerabilities, and match threat assessments against those vulnerabilities."

The FOIA already exempts from disclosure matters that are classified; trade secret and commercial and financial information, which is privileged and confidential; various law enforcement records and information, including confidential source and informant information; and FBI records pertaining to foreign intelligence or counterintelligence, or international terrorism. These already broad exemptions in the FOIA are designed to protect national security and public safety.

Indeed, the head of National Infrastructure Protection Center, NIPC, testified over 5 years ago, in September, 1998, that the private sector's FOIA excuse for failing to share information with the Government was, in essence, baseless. He explained the broad application of FOIA exemptions to protect from disclosure information received in the context of a criminal investigation or a "national security intelligence" investigation, including information submitted confidentially or even anonymously. This is from the Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information, "Hearing on Critical Infrastructure Protection: Toward a New Policy Directive," on March 17 and June 10, 1998. The FBI also used the confidential business record exemption under (b)(4) "to protect sensitive corporate information, and has, on specific occasions, entered into agreements indicating that it would do so prospectively with reference to information yet to be received." NIPC was developing policies "to grant owners of information certain opportunities to assist in the protection of the information (e.g., by sanitizing the information themselves) and to be involved in decisions regarding further dissemination by the NIPC." In short, the former administration witness stated:

> Sharing between the private sector and the government occasionally is hampered by a perception in the private sector that the government cannot adequately protect private sector information from disclosure under the Freedom of Information Act (FOIA). The NIPC believes that this perception is flawed in that both investigative and infrastructure protection information submitted to NIPC are protected from FOIA disclosure under current law.

Nevertheless, businesses have continued to seek a broad FOIA exemption. I expressed my concern that an overly-broad FOIA exemption would encourage government complicity with private firms to keep secret information about critical infrastructure vulnerabilities, reduce the incentive to fix the problems and end up hurting rather than helping our national security. In the end, more secrecy may undermine rather than foster security.

Governor Ridge seemed to appreciate these risks and said he was "anxious to work with the Chairman and other members of the committee to assure that the concerns that [I had] raised are properly addressed." He assured us that "[t]his Administration is ready to work together with you in partnership to get the job done. This is our priority, and I believe it is yours as well."

Almost before the ink was dry on the Administration's earlier proposal, on

July 10, the Administration proposed to substitute a much broader FOIA exemption that would (1) exempt from disclosure under the FOIA critical infrastructure information voluntarily submitted to the new department that was designated as confidential by the submitter without the submitter's prior written consent, (2) provide limited civil immunity for use of the information in civil actions against the company, with the likely result that regulatory actions would be preceded by litigation by companies that submitted designated information to the department over whether the regulatory action was prompted by a confidential disclosure, (3) preempt state sunshine laws if the designated information is shared with state or local government agencies, (4) impose criminal penalties of up to one year imprisonment on government employees who disclosed the designated information, and (5) extend antitrust immunity to companies that joined together with agency components designated by the President to promote critical infrastructure security.

Despite the Administration's promulgation of two separate proposals for new FOIA exemption in as many weeks, in July, Governor Ridge's Office of Homeland Security released The National Strategy for Homeland Security, which appeared to call for more study of the issue before legislating. Specifically, this report called upon the Attorney General to "convene a panel to propose any legal changes necessary to enable sharing of essential homeland security information between the government and the private sector."

The need for more study of the Administration's proposed new FOIA exemption was made amply clear by its possible adverse environmental, public health and safety affect. Keeping secret problems in a variety of critical infrastructures would simply remove public pressure to fix the problems. Moreover, several environmental groups pointed out that, under the Administration's proposal, companies could avoid enforcement action by "voluntarily" providing information about environmental violations to the EPA, which would then be unable to use the information to hold the company accountable and also would be required to keep the information confidential. It would bar the government from disclosing information about spills or other violations without the written consent of the company that caused the pollution.

At the request of Chairman LIEBERMAN for the Judiciary Committee's views on the new department, I shared my concerns about the Administration's proposed FOIA exemption and then worked with Members of the Governmental Affairs Committee—and in particular, with Senator LEVIN and Senator BENNETT—to craft a more narrow and responsible exemption that accomplishes the Administration's goal of encouraging private companies to share records of critical infrastructure vulnerabilities with the new Department of Homeland Security, without providing incentives to "game" the system of enforcement of environmental and other laws designed to protect the nation's public health and safety.

I commend Chairman LIEBERMAN and Senators LEVIN and BENNETT and their staffs for diligently working with me to refine the FOIA exemption in a manner that satisfies the Administration's stated goal, while limiting the risks of abuse by private companies or government agencies.

Specifically, section 198 on "Protection of Voluntarily Furnished Confidential Information" of the Lieberman Amendment to H.R. 5005 reflects the compromise solution we reached with the Administration and other Members interested in this important issue. This section exempts from the FOIA certain records pertaining to critical infrastructure threats and vulnerabilities that are furnished voluntarily to the new Department and designated by the provider as confidential and not customarily made available to the public. This provision improves on the Administration's July 18 proposal in the following ways:

First, section 198 limits the FOIA exemption to "records" submitted by the private sector, not "information" from the private sector. Therefore, if companies provide information to the new Department that is documented in an agency-created record, that record will be subject to the FOIA and not exempt simply because private sector information is referenced or contained in the record. Moreover, this section makes clear that portions of records that are not covered by the exemption should be released pursuant to FOIA requests, unlike the Administration proposals which would have allowed the withholding of entire records if any part is exempt.

Second, section 198 limits the FOIA exemption to records pertaining to "the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts)" not all "critical infrastructure information."

Third, section 198 does not provide any civil liability or antitrust immunity that could be used to immunize bad actors or frustrate regulatory enforcement action.

Fourth, section 198 limits the FOIA exemption to records submitted to the new Department of Homeland Security, as in the administration's initial June 18 proposal, since the stated goal of the exemption is to help that Department provide a centralized function of collection, review and analysis of critical infrastructure vulnerabilities. Records submitted by private companies to other agencies are not covered by the new exemption, even if the same document is also submitted to the new Department.

Fifth, section 198 does not preempt state or local sunshine laws.

Sixth, section 198 narrowly defines "furnished voluntarily" to ensure that records submitted by companies to obtain grants, permits, licenses or other government benefits are not exempt, but are still subject to the FOIA process.

This section is a significant improvement over both versions of the Administration's proposed new FOIA exemptions.

Unfortunately, other critical areas that were mentioned at the June 26 hearing with Governor Ridge, on which he assured us he would work with us to find common ground, remain stumbling blocks. The Administration has threatened a veto over the issue of "management flexibility." At the same time we are seeking to motivate the government workers who will be moved to the new Department with an enhanced security mission, the Administration is insisting on provisions that threaten the job security for these hardworking government employees. The Administration should not use this transition as an excuse to cut the wages and current workplace security and rights of the brave employees who have been defending the nation. That is not the way to encourage retention or recruitment of the vital human resources on which we will need to rely, and it is a sure way to destroy the bipartisanship we need.

Mr. ALLEN. Mr. President, I rise to speak in support of an amendment that I have offered to assist Federal employees who have been injured on the job. My good colleagues, Senator WARNER of Virginia and Senators CLINTON and SCHUMER of New York, join me in this important effort. This provision was inspired by Mrs. Louise Kurtz, a Federal employee who was severely injured in the September 11 attack on the Pentagon. She suffered burns over 70 percent of her body, lost her fingers, yet fights daily in rehabilitation and hopes to return to work one day. Current law does not allow Mrs. Kurtz to contribute to her retirement program while she is recuperating and receiving Office of Worker's Compensation Programs disability payments. As a result, after returning to work she will find herself inadequately prepared and unable to afford to retire because of the lack of contributions during her recuperation period.

As Mrs. Kurtz's situation reveals, Federal employees under the Federal Employees Retirement System who have sustained an on-the-job injury and are receiving disability compensation from the Department of Labor's

Office of Worker's Compensation Programs are unable to make contributions or payments into Social Security or the Thrift Saving Plan. Therefore, the future retirement benefits from both sources are reduced.

The provision I have offered corrects this shortfall in the Federal Employees Retirement System, FERS. By increasing a Federal employee's FERS direct benefit by 1 percent for a period of extended convalescence resulting from a work related injury, the future reductions on Social Security and Thrift Savings Plan, TSP, benefits that result from the inability to make contributions during periods of disability are offset.

The retirement program for Federal Employees Retirement System employees has three distinct parts: Social Security, Federal Employees Retirement System Defined Benefits, and Thrift Savings Plan. Social Security taxes and benefits are the same for all participants. The Federal Employees Retirement System Defined Benefit and the Thrift Savings Plan are similar to defined benefit and 401(k) plans in the private sector. Unlike the impact on Social Security and the Thrift Savings Plan, periods during which an individual is receiving Office of Worker's Compensation Programs disability payments have no impact when calculating the length of service for determining the Federal Employees Retirement System Defined Benefit retirement payments. To explain how the provision will work, I offer the following illustration.

As you know, Mr. President, the goal of the Federal Employees Retirement System is to provide retirement pay totaling about 56 percent of their "high three" annual salary. Under the old Civil Service Retirement System, a direct benefit plan, two percent of a person's salary was set aside to provide the retirement benefit of 56 percent employees did not pay into Social Security or a vested savings plan. Under Federal Employees Retirement System, one percent of a person's salary is set aside to provide the Federal Employees Retirement System Direct Benefit retirement payment of 26 percent of their "high three" annual salary with Social Security and Thrift Savings Plan retirement pay contributing the remaining 30 percent for a total of 56 percent. By increasing the Federal Employees Retirement System Direct Benefit calculation by one percentage point for extended periods of disability, one can adequately offset reduction in Social Security and Thrift Savings Plan payments resulting from the lack to payments into the systems during periods of disability caused by on the job injuries.

Louise Kurtz has earned our appreciation for the role she and her husband Michael have played in identifying this shortfall in Federal Employees Retirement System and in persevering in getting legislation introduced to address the problem. Indeed, Mrs. Kurtz continues to serve the American public even while recuperating from injuries sustained in the terrorist attack upon the Pentagon.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Wisconsin has been waiting for a long time. The Senator from Pennsylvania is here to offer a unanimous consent request. It is my understanding that it would take 2 minutes. So I appreciate the courtesy of the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UNANIMOUS CONSENT REQUEST—H.R. 4695

Mr. SANTORUM. Mr. President, I thank the Senators from Wisconsin and Nevada.

I rise to offer a unanimous consent request for the Senate to consider the partial-birth abortion bill that passed the House recently. We have been working diligently for the past 18 months, since the Supreme Court decision, to craft a partial-birth abortion bill that meets the constitutionality muster of the Nebraska decision. We think we have accomplished that, and I would argue that the House agrees with us.

The House recently passed this legislation 274 to 151. I understand time is short, and we have held this bill at the desk. I am hopeful and have been working to try to get a unanimous consent agreement that we can bring up this legislation for debate and discussion. We are willing to do it on a very limited time agreement, limited amendments, or as many amendments as the other side thinks is necessary.

This is an important piece of legislation. It is one the President said he would sign. It is one that received an overwhelming bipartisan vote in the House. I believe it will have a very strong bipartisan vote in the Senate.

While I understand this unanimous consent will be objected to this evening, I am hopeful we can continue to work together to try to bring up this very important piece of legislation that has been voted on here at least in the last three sessions of Congress with very strong majorities. Unfortunately, it was vetoed by President Clinton. We now have a President who will sign it. We have language that will meet constitutional muster. We will continue to work and seek the unanimous consent request to bring this up.

I now offer that request. I ask unanimous consent that at a time determined by the majority leader, after consultation with the Republican leader, the Senate proceed to the consideration of Calendar No. 521, H.R. 4965, a bill to prohibit the procedure commonly known as partial-birth abortion. I further ask unanimous consent that there be one relevant amendment on each side, with 1 hour of debate equally divided on each amendment, and that there be 2 hours for debate equally divided between the two leaders or their designees; provided further that following the use or yielding back of time, the bill be read the third time and the Senate proceed to a vote on passage of the bill, with no further intervening action or debate.

Mr. REID. Reserving the right to object, Mr. President, the Senator from Pennsylvania is absolutely right. Time is so critical. Separate and apart from the time involving this matter, there are a number of Senators who have spoken to me personally about their objection to proceeding to this matter, if it came to the floor while I was here. Senator FEINSTEIN was the last to have spoken to me in this regard.

I note an objection.

The PRESIDING OFFICER. Objection is heard.

The Senator from Wisconsin.

IRAQ

Mr. FEINGOLD. Mr. President, I rise to comment on the administration's "discussion draft" of a resolution authorizing the use of force against Iraq.

This proposal is unacceptable. The administration has been talking about war in Iraq for quite some time now. Surely they had the time to draft a more careful, thoughtful proposal than the irresponsibly broad and sweeping language that they sent to Congress.

Apparently the administration put forward such broad language as a negotiating tactic—asking for everything in the hopes of getting merely a lot.

But we are not haggling over a used car. We are making decisions that could send young Americans to war and decisions that could have far-reaching consequences for the global campaign against terrorism and for America's role in the world in the twenty-first century.

To put forth such irresponsible language is to suggest that the President actually wants the authority to do anything he pleases in the Middle East—and that suggestion is likely to raise tensions in an already explosive region. To pepper the resolution with so many completely different justifications for taking action signals a lack of seriousness of purpose, and it obscures the nature of the mission on the table. And then to insist on immediate action while remaining largely incapable of pointing to any imminent threat and unwilling to flesh out the operation actually being proposed reveals a troubling approach to our national security.

The administration has a responsibility to define what the threat is. Is it a link between the Iraqi Government and al-Qaida, or is it Iraq's pursuit of weapons of mass destruction?

So far I certainly would conclude that there is insufficient evidence to support the first charge about al-Qaida, but the administration keeps using it whenever they feel like without information. Why? Are they trying to gloss over the real possibility that this focus on Iraq, if not managed with diplomatic skill, will, indeed, do harm to the global campaign against terrorism?

The threat we know is real—Iraq's pursuit of weapons of mass destruction or WMD—is unquestionably a very serious issue. What is the mission? Is the mission on the table disarmament or is it regime change? Has anyone heard a credible plan for securing the weapons of mass destruction sites as part of a military operation in Iraq? Has anyone heard any credible plan for what steps the United States intends to take to ensure that weapons of mass destruction do not remain a problem in Iraq beyond the facile "get rid of Saddam Hussein" rallying cry?

Saddam Hussein is a vile man with a reckless and brutal history, and I have no problem agreeing that the United States should support regime change. I agree with those who assert that Americans, Iraqis, and the people of the Middle East would be much better off if he were no longer in power. But he is not the sole personification of a destabilizing WMD program. Once Hussein's control is absent, we have either a group of independent, self-interested actors with access to WMD or an unknown quantity of a new regime. We may face a period of some chaos, wherein a violent power struggle ensues as actors maneuver to succeed Saddam.

Has anyone heard the administration articulate its plan for the day after? Is the administration talking about a long-term occupation? If we act unilaterally, that could mean a vast number of Americans on the ground in a region where, sadly, we are often regarded as an imperialistic enemy.

Given the disarray in Afghanistan and the less than concerted American response to it, why should anyone believe that we will take Iraq more seriously? Certainly, it is undesirable for the United States to do this alone, to occupy a Middle Eastern country, and make our troops the target of anti-American sentiment.

Of course, Mr. President, I am sure you and I would agree, none of these concerns is a rationale for inaction. Let me repeat that. None of these concerns is a rationale for inaction. This is not about being a hawk or a dove. This is not about believing that Saddam Hussein is somehow misunderstood. He is a monster. Iraq's weapons programs are real, and only a fool would believe that the United States should simply hope for the best and allow recent trends to continue.

Equally, Mr. President, only a person lacking in wisdom would send American troops wading into this mire with a half-baked plan premised on the notion that the Iraqis will welcome us with open arms; that somehow the WMD threat will disappear with Saddam, and that U.S. military action to overthrow the Government of Iraq will somehow bring the winds of democratic change throughout the entire Middle Eastern region.

We do not make decisions crucial to our national security on a leap of faith. Congress is the body constitutionally responsible for authorizing the use of our military forces in such a matter. We cannot duck these tough issues by simply assuring our constituents that somehow the administration will "work it out." That is not good enough. We must not fail to demand a policy that makes sense.

Let me be clear about another important point: Maybe a policy that makes sense involves the United Nations, but maybe it does not. It is less important whether our actions have a formal U.N. seal of approval. What is important is whether or not action has international support. More important still is whether or not action will promote international hostility toward the United States.

In the context of this debate on Iraq, we are being asked to embrace a sweeping new national doctrine. I am troubled by the administration's emphasis on preemption and by its suggestion that, in effect, deterrence and containment are obsolete. What the administration is talking about in Iraq really sounds much more like prevention, and I wonder if they are not using these terms, "preemption" and "prevention" interchangeably. Preemption is knowing that an enemy plans an attack and not waiting to defend oneself.

Prevention is believing that another may possibly someday attack, or may desire to attack, and justifying the immediate use of force on those grounds. It is the difference between having information to suggest that an attack is imminent and believing that a given government is antagonistic toward the United States and continues to build up its military capacity.

It is the difference between having intelligence indicating that a country is in negotiations with an unquestionably hostile and violent enemy like al-Qaida to provide them with weapons of mass destruction and worrying, on the other hand, that someday that country might engage in such negotiations.

Of course, prevention does have an important role in our national security planning. It certainly should. We should use a range of tools in a focused way to tackle prevention—diplomatic, sometimes multilateral, economic. That is one of the core elements of any foreign policy, and I stand ready to work with my President and my colleagues to bolster those preventive measures and to work on the long-term aspects of prevention, including meaningful and sustained engagement in places that have been far too neglected.

Unilaterally using our military might to pursue a policy of prevention around the world is not likely to be seen as self-defense abroad, and I am not at all certain that casting ourselves in this role will make the United States any safer. Would a world in which the most powerful countries use military force in this fashion be a safer world? Would it be the kind of world in which our national values could thrive? Would it be one in which terrorism would wither or would it be one in which terrorist recruits will increase in number every day?

Announcing that we intend to play by our own rules, which look as if we will make up as we go along, may not be conducive to building a strong global coalition against terrorism, and it may not be conducive to combating the anti-American propaganda that passes for news in so much of the world.

Fundamentally, I think broadly applying this new doctrine is at odds with our historical national character. We will defend ourselves fiercely if attacked, but we are not looking for a fight. To put it plainly: Our country historically has not sought to use force to make over the world as we see fit.

I am also concerned this approach may be seen as a green light for other countries to engage in their own preemptive or preventive campaigns. Is the United States really eager to see a world in which such campaigns are launched in South Asia or by China or are we willing to say this strategy is suitable for us but dangerous in the hands of anybody else?

The United States does have to rethink our approach to security threats in the wake of September 11, but it is highly questionable to suggest that containment is dead, that deterrence is dead, particularly in cases in which the threat in question is associated with a state and not nonstate actors, and it is highly questionable to embark on this sweeping strategy of preventive military operations.

So as we seek to debate Iraq and other issues critical to our national security, I intend to ask questions, to demand answers, and to keep our global campaign against terrorism at the very top of the priority list. This Senate is responsible to all of the citizens of the United States, to the core values of this country, and to future generations of Americans. We will not flinch from defending ourselves and protecting our national security, but we will not take action that subordinates what this country stands for. It is a tall order, but I am confident that America will rise to the occasion.

I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, is the Senate in a period of morning business?

The ACTING PRESIDENT pro tempore. We are not.

Mr. REID. Mr. President, I ask, therefore, unanimous consent the Senate proceed to a period of morning business, with Senators allowed to speak therein for a period of 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO U.S. COAST GUARD PORT SECURITY UNIT 308

Mr. LOTT. Mr. President, I rise today to honor U.S. Coast Guard Port Security Unit 308 from Gulfport, MS. Port Security Unit 308 deployed to Southwest Asia for 6 months in support of Operation Southern Watch in March 2002 after the terrorist attack on the World Trade Center and Pentagon. The unit was able to quickly restructure and produce a 53-person detachment for harbor security operations in support of enhanced Force Protection of United States Assets in the Arabian Gulf.

The brave men and women of Port Security Unit 308 Detachment Foxtrot provided around the clock anti-terrorism Force Protection for all Fifth Fleet Naval assets located in the Mina Salmon area of responsibility. Waterside patrols logged over 4300 underway hours that included 291 escorts of U.S. Fifth Fleet Naval ships along with performing 1,481 intercepts. In addition to the escorts and intercepts, over 320 inspections were conducted. During the past six months while performing AT/FP, USCG PSU 308 Detachment Foxtrot was responsible for the safety of over 25,000 military personnel.

I would also like to recognize MK1 Eddie Spann and BM2 Billy Mcleod who were recognized for their outstanding performance by being selected as Sailors of the Month, June 2002, for Naval Security Forces, Naval Support Activity, Bahrain.

I ask all my colleagues to join me in a round of applause for the fine individuals who are dedicated to winning the war on terrorism.

The following members from Port Security Unit 308 deployed in support of Operation Southern Watch:

LTJG Edward Ahlstrand, PSC James Altiere, PS1 Michael Beshears, BM3 Shannon Brewer, PS2 Ronald Brown, QMC David Conner, BM3 William Courtenay, PS1 Blevin Davis, CAPT Ronald Davis, GM3 Robert Dambrino, BM3 Samuel Edwards, TCC Patrecia Geistfeld, LCDR Robert Grassino, MK1 Kenneth Hall, BM3 Charles Hartley, GM3 William Harvey, BM2 Roger Holland, PS2 Darrell Holsenback, BM3 John Hughes, YN1 Brian Hutchinson, HS1 Jason Jordan, BM2 Jim Kinney, MKCM Potenciano Ladut, BM3 Gene Lipps, BM3 Bradford Margherio, PS3 Marcella McDow, BM3 James McKnight, BM2 Billy McLeod, YN2 Tamara Mims, BM3 Paul Muscat, DC3 Jonathan Pajeaud, BM3 Jonathan Phillips, BMC Lisa Pilko, BM1 Darren Rankin, LCDR Michael Rost, SK1 George Scherff, BM3 Terry Sercovich, PS3 David Simonson, PS3 Russell Shoultz, PS3 Benjamin Smith, LT Robert Smyth, MK1 Eddie Spann, BM3 Jordan Stafford, ET2 Stephen Strausbaugh, BM3 James Strempel, PS2 Jon Traxler, ENS Ted Trujillo, LT Timothy Weisend, PS2 Danny Welch, GMC Edward West, GM3 Lewis West, PS3 David Wood, GM3 Joshua Yarborough.

TRIBUTE TO U.S. SENATOR STROM THURMOND

Mr. INOUYE. STROM THURMOND will go down in the history of our Nation as an extraordinary citizen and an extraordinary patriot.

Few people can match his record of achievements:

> He was commissioned as an officer in the United States Army Reserve nearly 80 years ago. In 1959, he retired as a major general after serving 36 years in reserve and active duty.
>
> On D-day, June 6, 1944, Lieutenant Colonel Thurmond boarded an Army CG4A glider and flew behind enemy lines into Normandy.
>
> He served as Governor of South Carolina. Later, he was a candidate for President of the United States, receiving the third-largest independent electoral vote in U.S. History.
>
> In 1954, he was elected to the U.S. Senate as a write-in candidate. Today, he is the oldest and longest serving Member of the Senate.

I have been privileged to know and work with Senator THURMOND for nearly 40 years. I wish to thank him for his wealth of wisdom. I will always cherish his friendship.

But Senator THURMOND is not only my colleague and friend, he is also my brother-in-arms. During World War II, anti-tank gunners from my regiment, the 442nd Regimental Combat Team, assaulted southern France in 1944. Like Senator THURMOND, they went into battle aboard gliders without armor. Glider-borne assaults were extremely dangerous and risky; some would even say they were suicidal missions. However, they were a necessary component of the United States' invasion and liberation of Nazi-occupied France.

Senator THURMOND demonstrated rare courage, patriotism, and leadership as gliderman of the 82nd Airborne Division. Most glider descents were "controlled crashes," and that was the case when Senator THURMOND'S glider landed in Normandy. Although he was injured, he managed to safely lead his men to the 82nd Airborne Division headquarters at daybreak. The 82nd went on to accomplish its difficult objective of seizing and securing key positions in enemy territory.

I am pleased to report that Senator THURMOND'S distinguished military service will be honored with the naming of a new section of the Airborne and Special Operations Museum in Fayetteville, NC. The Thurmond Wing will house an exhibit dedicated to the courageous combat gliderman of World War II.

As a Senator, STROM THURMOND has often taken positions that were not universally supported. Yet one could always be certain that his decisions were honest. He is passionate in his beliefs, and his commitment to serving his constituents has been exemplary. At the end of our service in the Congress, we, his fellow Senate Members, can only hope that we will be able to say we have served our people with the diligence and devotion that Senator THURMOND has served his people. Indeed, Senator THURMOND can leave this Chamber and say, with confidence and without hesitation, that he has faithfully served the people of South Carolina.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 20, 2001 in Brighton, MI. Two white men assaulted a black state trooper who was dancing with a white woman. The assailants, who did not believe that the state trooper should be dancing with a white woman, attacked the trooper and yelled racial slurs. The attackers were charged with assault with a dangerous weapon and ethnic intimidation in connection with the incident.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE DROP IN FEDERALLY LICENSED FIREARMS DEALERS IN AMERICA

Mr. LEVIN. Mr. President, earlier this week the Violence Policy Center, VPC, released a new study entitled "The Drop in Federally Licensed Firearms Dealers in America." It found that the number of gun dealers holding Type 1 Federal Firearms Licenses, FFLs, a basic license to sell guns, dropped 74 percent from 245,628 in January 1994 to 63,881 in April 2002 or more than 181,000. The State of Michigan experienced the third largest reduction in the U.S., a drop of 75 percent from 12,076 dealers in 1994 to 3,016 in 2002.

According to the study, the decrease is the result of licensing and renewal criteria contained in the Brady Law and 1994 Federal crime bill. These changes were designed to reduce the number of private, unlicenced gun dealers who operate out of their homes and garages. I voted for the Brady Bill and Federal crime bill, and I am pleased that they appear to be working the way Congress intended. The study also suggests that enhanced enforcement and prosecution of gun laws at the federal, state, and local level have had a significant impact.

The drop in gun dealers is an important step in the effort to reduce firearms violence in the U.S. But despite this decline, private, unlicenced dealers are still supplying guns to gangs, drug dealers, and street criminals. In light of their findings, the Violence Policy Center proposed several recommendations to keep guns out of the hands of criminals. One of the VPC recommendations is to close the loophole which allows dealers to shift firearms from their business inventory to their personal collections and then sell those guns without performing a background check. This proposal deserves serious consideration to evaluate whether it will help to keep guns out of the hands of criminals and those prohibited under law from possessing a gun.

I urge my colleagues to support commonsense gun safety legislation.

DEWINE NEXT GENERATION LIGHTING INITIATIVE

Mr. DORGAN. Mr. President, I am a cosponsor of the DeWine amendment to the Interior appropriations bill and am pleased to rise in support of it. The Next Generation Lighting Initiative is a research initiative designed to promote new, alternative, highly efficient technology for lighting to save energy and money, and reduce emissions. It would leapfrog over current technology. We use essentially the same light bulbs that Thomas Edison invented over 90 years ago. If successful, the Next Generation Lighting Initiative would make available new solid-state lighting that would be ten times more efficient than today's incandescent light bulbs. The concept is similar to fuel cells that also would leapfrog to a technology of the future and reduce our dependence on the traditional internal combustion engine.

I joined 22 other Senators in signing a letter to Appropriations Chairman BYRD and Ranking Member BURNS to support $30 million in increased funding for this new lighting technology research initiative.

The current Interior appropriations bill provides $4 million for this Initiative. The amendment being offered today would increase this funding to $10 million. While a sizable increase, this $10 million would still be only 33 percent of what we had initially sought.

Specifically, the increased funding is needed to overcome pre-competitive research hurdles associated with white light illumination from solid-state devices. It is important to fund new, clean energy technologies to provide sustainable economic development for the future.

Lighting consumes about 20 percent of the energy generated in the United States. Over the next 20 years, this new next generation lighting technology could reduce global electricity usage for lighting by 50 percent and reduce total global electricity consumption by 10 percent.

Many groups and Members support increased funding for this important initiative. Mr. President, I thank my colleagues from Ohio and New Mexico for their work on this effort, and the chairman of the Appropriations Committee for his assistance and for his good work on this bill.

DANIEL PATRICK MOYNIHAN LAKE CHAMPLAIN BASIN PROGRAM ACT OF 2002

Mrs. CLINTON. Mr. President, I am pleased to have joined with Senator JEFFORDS, as well as Senators LEAHY and SCHUMER, in introducing the "Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002."

I thank Chairman JEFFORDS, with whom I have the honor and pleasure of serving on the Senate Environment and Public Works Committee, for introducing this legislation and naming it in tribute to my predecessor, New York Senator Daniel Patrick Moynihan. Senator JEFFORDS is a great Chairman, a great environmental leader, and a great supporter of this natural and cultural resource that our states share—the Lake Champlain Basin and the Champlain Valley. I am proud also to be a sponsor of legislation authored by Senator JEFFORDS to establish the Champlain Valley National Heritage Partnership.

The Lake Champlain Basin is a unique and beautiful region, bounded by the Green Mountains of Vermont and the Adirondack Mountains of New York. It is a place of majestic mountain peaks; deep, blue waters; and abundant cultural, historic, and natural resources. The Lake is the sixth largest natural freshwater lake in the United States, and home to a many species of fish, birds and other wildlife.

We need to protect and enhance the environmental integrity and the social and economic benefits of the Lake Champlain basin. And that is precisely what we aim to do through this legislation, which will authorize $55 million over the next 5 years for this purpose.

That this legislation and this program are being named after Senator Daniel Patrick Moynihan is a most fitting tribute. Senator Moynihan was, and still is, a great advocate of Lake Champlain and the Champlain Valley, whether supporting the rich heritage and history of the area, or protecting the environmental quality of the Lake and Basin.

Senator Moynihan appreciates that the environmental quality of the Lake and basin are key to the vitality of the area as a whole, and worked tirelessly during his tenure to protect the health of the basin. Naming the Lake Champlain Basin Program Act and the program itself after Senator Moynihan is a fitting tribute to his efforts to ensure that this natural treasure will survive for generations to come.

As we all remember, it was in 1990 that Senator Moynihan joined with Senator JEFFORDS, as I am joining with him today, in sponsoring the invaluable Lake Champlain Special Designation Act. The act outlined an unprecedented collaboration among broad interest groups to protect the environmentally sensitive Lake Champlain basin, as well as spark recreational activity and economic revitalization in the basin area. Under the act, the Lake Champlain Management Conference was created and charged with developing a comprehensive plan for pollution prevention and water quality restoration.

The legislation that we are introducing builds upon the Lake Champlain Special Designation Act of 1990, in which Senator Moynihan played a key role during the 101st Congress. It also builds upon the plan that came out of that 1990 legislation, entitled "Opportunities for Action." The plan was approved by the Lake Champlain Steering Committee earlier this year and is the guiding document for this new legislation, which will provide new and important resources for countries in Vermont and for Clinton, Essex, Franklin, Hamilton, Warren and Washingotn counties in New York State.

This is important environmental legislation, but it is also important economic development legislation for key areas of upstate New York. Therefore, I am proud to sponsor this legislation with Chairman JEFFORDS, and to name this legislation after my illustrious and esteemed predecessor, Senator Daniel Patrick Moynihan.

SUPPORT OF RENEWABLE FUELS PROVISION

Mr. JOHNSON. Mr. President, I rise to urge the House-Senate Energy Bill conferees to resist any efforts from House Republican conferees to alter or weaken the renewable fuels standard that was included in the Senate energy bill. The new standard was crafted in a consensus manner and supported by a strong majority in the Senate. It must remain intact in the conference report.

Earlier this Congress, I introduced a bill with Senator CHUCK HAGEL of Nebraska, the Renewable Fuels for Energy Security Act of 2001, S. 1006, to ensure future growth for ethanol and biodiesel through the creation of a new, renewable fuels content standard in all motor fuel produced and used in the United States. The framework of this bill was included in the Senate energy bill, requiring that 5 billions gallons of transportation fuel be comprised of renewable fuel by 2012, nearly a tripling of the current ethanol production. While the House of Representatives version of the bill did not include a renewable fuels standard, this issue was thoroughly debated on the Senate floor during consideration of the energy bill. Several amendments were offered to weaken or eliminate the renewable fuels standard but all of those efforts were soundly defeated. And for good reason: increased renewable fuel production lessens our dependence upon foreign oil, strengthens energy security, increases farm income, creates jobs, helps the environment, helps our international balance of trade, and would lower annual federal farm payments by $6.6 billion.

In addition, the new standard boosts economic growth in rural America. I do not need to convince anyone in South Dakota and other rural States of the benefits of ethanol to the environment and the economies of rural communities. Farmer-owned ethanol plants in South Dakota, and in neighboring States, demonstrate the hard work and commitment being expended to serve a growing market for clean domestic fuels.

In South Dakota, six ethanol plants are operating to produce approximately 116 million gallons per year. Four other ethanol projects are under construction, with a combined capacity to produce an additional 139 million gallons of ethanol annually.

Increasingly, modern ethanol plants in South Dakota are equipped to produce 40 million gallons of ethanol per year, such as the plants operating in Wentworth, Watertown, and near Milbank, as well as the proposed sites under construction in Chancellor and Groton. The economic benefits of one, 40 million gallon ethanol plant are significant, including an increase of household income for the community by $20 million annually.

The bill has other important provisions, including an orderly phase-down of MTBE use and removal of the oxygen content requirement for reformulated gasoline, RFG. The new standard has strong bipartisan support and is the result of long and comprehensive negotiations between farm groups, the oil industry and environmentalists. It is the first time that a substantive agreement has been reached on this issue.

Including the Senate-passed renewable fuels standard in the conference will go a long way towards increasing the Nation's domestic energy supply and making it more secure in the future. However, after no renewable fuels provision was included in the House energy bill, House Republican conferees, have chosen to introduce an unworkable alternative at the eleventh hour that has received no debate and has no consensus.

This is not acceptable. The conference should adopt the Senate-passed standard immediately. After a long debate, a consensus has been reached on this issue, demonstrating bipartisan support for a broader, deeper and more diverse energy portfolio, one that ensures we have clean, reliable and affordable domestic sources of energy. Let's move forward and enact the Senate language into law.

ADDITIONAL STATEMENTS

HOME SAFETY MISHAPS COST AMERICANS DEARLY

• Mr. EDWARDS. Mr. President, this morning on the National Mall a report entitled "State of Home Safety in America" was unveiled by David Oliver, Executive Director of the Home Safety Council. The study, conducted by Dr. Carol Runyan of the University of North Carolina at Chapel Hill and recognized by Dr. Sue Binder of the Center for Disease Control and Prevention, paints a picture of far too many Americans being hurt by unintentional injuries and deaths in this nation.

For instance, the study found that: Unintentional injuries are the fifth leading cause of death in the United States. Unintentional injuries in the home result in nearly 20,000 deaths and 13 million medical visits. Unintentional home injuries cost nearly $380 billion each year and account for an estimated 10 percent of all visits to emergency rooms.

The Home Safety Council, a not-for-profit organization devoted to home safety, has already been working to educate Americans on the risks they face every day in their own homes. The Great Safety Adventure is a traveling hands-on educational experience that teaches basic life skills to help children, families and communities.

Americans need to know the risks that exist in their homes and what they can do to prevent home injuries. This study will be an important resource for all Americans and will be a benchmark for examining future trends in home injury prevention.

I urge my colleagues to join me in this monumental effort to educate and save American lives by informing our constituents of the risks present in their homes and the steps they can take to prevent unintentional home injuries and keep families safe. More details are available through the Home Safety Council's Web site, www.homesafetycouncil.org.

For commissioning this important study and for raising the issue of home safety in the Congress, I congratulate the Home Safety Council and its distinguished board of directors.•

TRIBUTE TO THE GRADUATES OF THE BOSTON DIGITAL BRIDGE FOUNDATION TECHNOLOGY PROGRAMS

• Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to the impressive achievements of those who have graduated this year as part of the Boston Digital Bridge Foundation's Technology Goes Home and TechBoston programs.

This evening at Franklin Park in Dorchester, MA, the City and the Boston Digital Bridge Foundation are hosting "Evening on the Bridge 2.0," a celebration honoring the graduates of these two programs.

Working with businesses, universities, schools, government, families and community-based organizations, the Boston Digital Bridge Foundation organizes and facilitates partnerships to link Boston public school students and their parents to the Internet. These programs have helped over 5,000 Boston Public School students and their families.

Technology Goes Home is a ten-week technology training program for low-income families. It has a rigorous selection process and a community service requirement at the completion of the program. Upon graduating from the program, each family receives a new computer, printer and Internet access.

TechBoston provides advanced technology courses for Boston Public School students at the middle and high-school level. They teach high-tech skills essential for success in careers and post-secondary education. Currently, over 2,500 Public School Students are enrolled in these classes.

Technology skills are no longer a luxury for students, they are a necessity. Without knowledge of computers and the Internet, today's students will have great difficulty competing in tomorrow's economy. When used effectively in the classroom and at home, modern technology can help level the playing field and open extraordinary new horizons and opportunities for all students and their parents.

That's why we are so strongly committed to the Boston Digital Bridge Foundation. The City is at the cutting edge of education technology and has become a national model, thanks to the leadership of Mayor Thomas M.

Menino and the skillful work of the community partners involved in these two innovative programs. Over 4,000 participants in six Boston neighborhoods, every high school, and ten middle schools are enrolled in the programs.

We are all proud of the remarkable progress that Boston has made in helping to close the digital divide. A coalition of leaders in business, labor, education and government has worked successfully together to connect all of Boston public schools to the Internet, and is in the process of bringing this technology home to all Boston Public School families.

Dozens of large and small organizations have made donations to these programs. America Online, AT&T Broadband, the Barr Foundation, the Bill and Melinda Gates Foundation, the Boston Redevelopment Authority, FleetBoston Financial, Hewlett-Packard, HiQ Computers, Intel, Keane Inc., Lexmark, Microsoft, PARTNERS+simons, Sallie Mae Foundation, 3Com, Verizon and Xintra and others have done more than their share, donating products and services to schools, including wiring, network equipment, computers and other supplies. All the equipment donated by these firms is new, and Verizon and America Online have donated free Internet access. This kind of participation has become a model for the nation.

Thanks to the Boston Digital Bridge Foundation and its supporters, we can now guarantee that Boston Public School students and their families have access to the Internet and the opportunities that it creates. We are doing all we can to see that every student in every Boston neighborhood will soon have the same opportunity.

I commend these Boston families and students for their efforts and accomplishments in expanding employment opportunities, improving school grades, and strengthening their community. To all involved, it is a job well done. I ask to have printed in the Record the names of this year's graduates of these programs of the Boston Digital Bridge Foundation.

The material is as follows:

2002 Boston Digital Bridge Foundation Graduates

ALLSTON BRIGHTON NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Mayram Antillon and Layla Antillon; Gabriella Campozano and Nicholas Campozano-Hill; Marta Gonzalez and Jonathan Ramos; Jie Lin and Pei Lin; Zaheruddin Mohammadi and Zaba Mohammadi; Berta Morales and Adriana Rodriguez; Sofia Nikollara and Teodor Nikollara; Tahera Amin and Shakir Amin; Diana Chaves and Julian Chaves; Kesi Garabilez and Jeanykay Simon; Magnolia Giraldo and David Mejia; Li Zhen Huang and Shirley Li; Wanda Jusino and Raul Jusino; Donna O'Brien and Derek O'Brien; Patricia Ready and Tyler Maddock; Selso Regalis and Glorisel Regalis; Rosetta Robinson and Quanasia Robinson; Clara Baez and Naiyelly Montero; Maria Berardi and Maria Santa; Foujia Chowdhury and Isteaque Chowdhury; Ana Gonzalez and Gisselle Gonzalez; Natasha Iftica and Kostian Iftica; Princess Johnson and Bianca Tsolias; Monica Montes De Oca and Savannah Cosby; Yaneth Pacheco and Melvin Alfredo Alas; Sandra Palomo and Charlie Palomo; Sherma Stewart and Desiree Joseph.

CODMAN SQUARE NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Carmen Bakhit and Lyla Bakhit; Rosalind Bogues and Robin Bogues; Kimberly Bordley and Geoffery Woodbery; Ernest Brown and Seth Brown; Amando Cruz and Tyra Robinson; Amelia Destouche and Donna-Lee Destouche; Darriel Dorsey and Darriel Dorsey III; Joy Gonzalez and Anntoinette Francis; Catherine Heraldo and Terqueena Heraldo; Sabrina Lawrence and Nekeya Mayhew; Suze Louis and Ornella Louis; Eduardo Martinez and Eduardo Jr. Martinez; Keesha Moody and Tashawn Moody-Whitley; Carolyn Muldrew and Shontia Taylor; Altonato Richelien and Daly Hamilton; The Strothers family; Judith Sylvestre-Piqu and Myriam Piquant; Euronna Taylor and Chace Taylor; Isaura Vega Samitt and Moises Geronimo; Mary White and Jonathan White; Venita Williams and Nadine Samuel; Virginia Bennett and Tiffany Bennett; Barbara Buryiak and Gregory Buryiak; Sandra Campbell and Laticie Allen; Cleta Capitolin and Jeanel Capitolin; Bridgette Curry and Deneena Curry; Marie Dimanche and Rachel Dimanche; Will Dunn and Chris Scott; Mabel DuVal and April Du Val; Althea Forde and Jason Forde; Danielle Francillon and Rodely Destine; Maurella Francois and Steve Philippe Blaise; Jessie Freeman and Christopher Freeman; Abigail Harding and Kern Timothy; Roger Houston and Jeffrey M. Houston; Sandra Johnson and Deanna Marie Johnson; Althea Jones and Dewanda Jones; Edmond Lewis and David Moloney; Evelyn Louis-Jean and Andy Louis-Jean; Marita Mcphail and Shameika Sandiford; Donnette Redmond and Dena Cattledge; Lorraine Riley and Bryan Trench; Charlene Townsend and DeAnde Townsend; Nam Truong and Minh Truong; Tira Brown and Damonte Brown; Annette Calloway and Zeyanna Defortunato; Anastasie Destouche and Vandel Fontaine; Soraida Flores and Angelina; Mary Hobson and Thanee Hobson; Judy Juba and Marlon Juba; Marguerite McClinton and Shayla McClinton; Latasha Ponlls and Toney Ponlls; Vonetta Smith and Natasha Smith; Denise Stevens and Jerry Stevens; Marva Stowe and Akim Callender.

GROVE HALL NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Ida Allen and Jessica Allen; Joyce Bowden and Rashad Bowden; Joseph Higginbottom and Dionne Higginbottom; Phyllis Langione and Malika Gordon; Debra Owens and Amanda Owens; Jennifer Queen and Durrell Queen; Bonnie Reynolds and Brandon Reynolds; Beverly Barclay and Cynthia Burrell; Sonia Galvez and Cecily Galvez; Kimberly Harrison and Ira Harrison; Sherri Marshall-White and Jasmine Miller; Diahanne Miller and Thuron Green; Helen Miskel and Dwayne Riley; Leontine Robinson and Nefitai Robinson; Shirley Straughter and Jasmine Harris; Dawn Thomas and Malcolm; Diane Valentine and Brandon Valentine; Wanda Aviles and Johnny D. Guante; Moni Bryant and Princess Bryant; Phyllis Clemons and Charles Clemons III; Muriel Cummins and Juelle Cummins; Crystal Edwards and Kennette Pannell; Mildred Freeman and Rasool Adkins; Tracey Green and Tiandra Wells; Annette Lavia and Shaniquewka Lavia; Deborha McRae and Shalaan Williams; Carlo Milfort and Christina Milfort; Angel Smiley and Angelica Smiley; Vivian Smith and Jaheem Smith-Garcia; Sharon Stephens and Sharon White; Brenda Trimble and Trevor Cargill; Regina Walker and Samara Walker; Tashema Woods and Mickiel James; Christine Brown and Phito Gondre; Cynthia Cornelius and Kennette Cornelius; Bettie Cutler and Tanzenia Smith; Tanya Gayle and Shakira Sanders; Sandra Good and Terrance Good; Larry Gray Sr. and Larry A. Gray Jr.; Ortiz Milvia and Dianilet Bautista; Brion Rock and Beverly A. Rock; Bridgette Sanders and Jamil Sanders; Maxine Underwood and Shelton T. Veale; Frances Valentine and Courtney Valentine; Keila Price and Keila Cooper.

LOWER ROXBURY NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Miosotty Baez and Ramon Baez; Lyda Cartwright and Cortland Cartwright; Sheryl DeBarros and Cortney Carter; Latonya Perry and Shakena Perry; Michelle Santos-Thomas and Tatiana Dancy; Stephanie Swan and Tanesha Swan; Scotland Williams and Scotland Williams, Jr.; Iris Yates and Nakia Weaver; Evander Young and Ebony Jones; Jewel Cash and Jewel Cash Van Stokes; Maryse L. Cazeau and Nastajha Cazeau; Deborah Coleman and Kyron Coleman; Ann Haynes and Latrecia Brown-Haynes; Troy Huff and Jovan Huff; Grace Johnson and Edwin Johnson; Michelle Jones and Deshon Jones; Gwendolyn McLean and Harold Kirkl; Francine Patterson and Brittany Patterson; Rochelle Reid and Kristien Reid; Velda Singleton and Travis Singleton; Alisha Beasley and Isah Beasley; Venitte Burke and Rushanna Gordan; Joynett Gray and Shereena Lee; Gloria Heckstall and Joshua Heckstall; Diane Joseph and Michael Cummings; Melvin Maldonado and Benjamin Cruz; Lorraine Maryland and Christina Maryl; Vashti Massaquoi and Shavaysha Massaquoi; Brenda Peeples and Deanna Peeples; Antoinette Ross and Isaiah Thomas; Cheryl Young and Terrance Hill; Julissa Diaz and Katrine Diaz; Helen Lopez and Nasha Padron; Mayra Munoz and Gabriella Ventura; Guadalupe Rodriguez and Nicolas Rodriguez; Joselin Ruiz and Perla Ruiz; Ibelisse Ruiz and Pamela Moquete; Ideana Tejeda and Jennifer Rodriguez; Jaqueline Zayas and Jacelyn Zayas; Eneida Figueroa-Lopez and Jeneida Felix; Vijay Bangari and Pamela Bangari; Kathy Byner and Shanquita Byner; Judy James and Charles Branden James; Evangelene Lacombe and Rashid Lacombe; Norma Yolanda Medina and Janick Rene Medina; Patricia Rogers and Dominique Rogers; Gloria Taylor and Brandon Taylor; June Wallace and Robert Leaster.

MISSION HILL/FENWAY NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Sentayehu Bezualam and Noah Tewelde; Carmen Cordero and Carmen Lopez; Thelma Cunningham and Charlie Haymon; Clara Ejogo and Nneka Lamarre; Abadit Ghidey and Bethlehem Ghidey; Charlene Hunt and Isiah Hunt; Diane Jackson and Dana Jackson; Latonia Miles and Zaira Miles; Leyda Rodriguez and Jose Lara; Andrea Turner and DeCosta Turner; Enid Williams and Shauntia Williams; Carmen Andino and Shey Carrasquillo; Edith Cotto and Nicholas Cotto; Albertha Davis and Charles Steed; Becsaida Flores and Andres Brea; Edith Jones and Keyarra Jones; Sobeida Martinez-

Alston and Alea A. Martinez; Charline Perry and Amyna Perry; Carolyn Robles and Anthony Perry; Carmen Villinueva and Franchesca Castro; Rosemary Warren and Chimika Warren; Elsa Carrasquillo and Ashley Osorio; Diane Everett and Ivanna Everett; Anet Garcia and Jose Cosme; Michael Holley and Nora Holley & Nathalia Freeman; Abdulaziz Mohamed and Idil Osman; Ceila Perez and Athena Ellis; Sharon Pough and Ernest Pough II; Elaine Rodriguez and Johnathan Rodriguez; Nilsa Santiago and Lisette Santiago; Sobeida Soto and Omar Gonzalez; Delmy Suarez and Victoria Suarez.

UPHAMS CORNER NEIGHBORHOOD TECHNOLOGY COLLABORATIVE

Yubettys Baez and Paola Baez; Maria Barros and Jassira Barros; Lydia Becerril and Alheli Ortiz; Rosa DePina and Yara Goncalves; Maria Lobo and Dirma Lobo; Natia Mitchell and Debra McLean; Kathy Nollie and Ayesha McCray; Christine Porter and Jasyre Porter; Carmen Rodriguez and Janira Negron; Karen Sheers and Tinisha Wynn; Sonia Villaroel and Dashawn Triplett; Towanna Bowden and Dennis Privott; Tatasha Coles and Tashea Coles; Sandra Correa and Raymond Sanabia; Latoya Cromartie and Danielle Cromartie; Erica Daniels and Brittnay Walker; Vivian Izuchi and Lotachi Izuchi; Michael Latson and Jalonnie Heath; Ketley Mondesir and Kenny Mondesir; Sara Phillips and Paulette Phillips; Arlindo Pires and Arnaldo Pires; Maria Barbosa and Dulce Mendes; Annette Bonds and Jason Bloom; Delores Dell and Deshawn Dell; Sophia Rice and Dathan Rice; Seraphina Taylor and Gregory Taylor; Barbara Williams and Randy Williams; Jacqueline Rodriguez and Marione Silva; Dorothy Anderson and Lareek Anderson.•

TRIBUTE TO CARL THOMPSON

• Mr. FEINGOLD. Mr. President, today I pay tribute to the memory of Carl Thompson, one of the founders of Wisconsin's modern Democratic Party. I was proud to know Carl, and had the pleasure of serving with him in the Wisconsin State Senate. Wisconsin was lucky to have him as a leading voice for progressivism in our State.

Carl was the youngest delegate at the founding convention of the State Progressive Party in Wisconsin. From those early days he never wavered from his commitment to an honest Government that truly served the interests of the people.

Twice the Democratic candidate for Governor, Carl spent a lifetime dedicated to serving Wisconsin, whether he was running for the State's top office or serving 30 years in the Wisconsin State Senate. He also served as a member of the State's Labor and Industry Review Commission.

When I served with Carl in the 1980s, I was struck, as was everyone who knew Carl Thompson, by his dedication to the great State of Wisconsin, and to the people he served. He was a powerful advocate for veterans' housing, and was one of the State's leading voices on the importance of preserving our First Amendment freedoms. Carl Thompson was also a great storyteller with a wonderful wit and sense of humor.

I am deeply saddened by Carl Thompson's passing, but I know that his leadership has left a lasting mark on the Wisconsin Democratic Party, and our State. He will be remembered for many years to come.•

MESSAGE FROM THE HOUSE

At 11:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2982. An act to authorize the establishment of a memorial to victims who died as a result of terrorist acts against the United States or its people, at home or abroad.

H.R. 4691. An act to prohibit certain abortion-related discrimination in governmental activities.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 297. Concurrent resolution recognizing the historical significance of 100 years of Korean immigration to the United States.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 238. An act to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

S. 1175. An act to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes.

H.R. 640. An act to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

At 5:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4600. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on September 26, 2002, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 111. A joint resolution making continuing appropriations for the fiscal year 2003, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on September 26, 2002, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 111. A joint resolution making continuing appropriations for the fiscal year 2003, and for other purposes.

The joint resolution was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2982. An act to authorize the establishment of a memorial to victims who died as a result of terrorist acts against the United States or its people, at home or abroad; to the Committee on Energy and Natural Resources.

H.R. 4600. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 297. Concurrent resolution recognizing the historical significance of 100 years of Korean immigration to the United States; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4691. An act to prohibit certain abortion-related discrimination in governmental activities.

S. 3009. A bill to provide economic security for America's workers.

The following joint resolution was read the first time:

S.J. Res. 45. Joint resolution to authorize the use of United States Armed Forces against Iraq.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-308. A House joint memorial that was adopted by the Legislature of the State of Washington relative to the National Guard; to the Committee on Armed Services.

HOUSE JOINT MEMORIAL 4017

Whereas, Within days of the September 11, 2001, terrorist attacks in New York City and Washington D.C., the nation's governors activated National Guard soldiers and airmen to augment security at 422 of the nation's international airports; and

Whereas, In true state-federal partnership, National Guard forces are providing aerial port security under the command and control of the sovereign states, territories, and the District of Columbia and the federal government is funding such duties "in the service of the United States" under Title 32 U.S.C., Section 502(f), hereinafter referred to as "Title 32 duty"; and

Whereas, Title 32 duty has been used, inter alia, for more than twenty years for National Guard full-time staffing, for National Guard support for local, state, and federal law enforcement agencies under Governors' Counter-Drug Plans for more than twelve years, for National Guard Civil Support Team technical assistance for local first responders for more than two years, and for aerial port security following the attacks of September 11. Of particular note, the National Guard Counter-Drug Program has long included Title 32 support for United States Customs, Border Patrol, and Immigration and Naturalization Service activities at United States Ports of Entry; and

Whereas, In the aftermath of the September 11 attacks, increased security and inadequate federal staffing have limited the flow of persons, goods, and services across our nation's borders. These factors have contributed to a serious weakening of the American and Canadian economies, especially in states such as Washington; and

Whereas, The governors of northern tier border states wrote President Bush in November 2001 offering to provide Title 32 National Guard augmentation for United States Customs, Border Patrol, and Immigration and Naturalization Service operations at United States ports of entry. Such relief could have been, and still can be, effected within days of acceptance by the federal government; and

Whereas, There is still no relief at our borders due to inaction on the governors' offer of Title 32 National Guard assistance and conflicting Department of Defense proposals to federalize the National Guard or otherwise enhance border security with active duty military personnel instead of Title 32 National Guard members; and

Whereas, Federalizing the National Guard under Title 10 U.S.C. would degrade the combat readiness of units from which Guardsmen would be mobilized, interfere with effective state force management, and prevent personal accommodations for soldiers and their civilian employers; and

Whereas, Stationing federal military forces at the United States-Canada border would be an unprecedented unilateral action by the United States; and

Whereas, The nation's border states need prompt relief which can best be provided by Title 32 National Guard forces being deployed to assist lead federal agencies at the borders "in the service of the United States," but under continued state command and control; and

Whereas, The Washington State Legislature opposes federalization of the National Guard or assignment of federal military forces for United States border security: Now, therefore,

Your Memorialists respectfully pray that Congress assures prompt augmentation of lead federal agencies at the borders by accepting the governors' offer of National Guard forces under state command and control pursuant to 32 U.S.C. Sec. 502(f); be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-309. A joint resolution adopted by the Legislature of the State of Alabama relative to ratifying the Seventeenth Amendment to the United States Constitution; to the Committee on the Judiciary.

HOUSE JOINT RESOLUTION 12

Whereas, the Seventeenth Amendment to the United States Constitution provides as follows:

"Amendment XVII.

"[Popular Election of Senators]

"The senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

"When vacancies happen in the representation of any state in the senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, that the legislature of any state may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

"This amendment shall not be construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution."; and

Whereas, the Seventeenth Amendment was ratified May 31, 1913; Now therefore, be it

Resolved by the Legislature of Alabama, both Houses thereof concurring, That we hereby ratify the Seventeenth Amendment to the United States Constitution.

Resolved further, That a copy of this resolution be sent to the Archivist of the United States, and to the Speaker of the House of Representatives and the President of the Senate of the United States Congress.

POM-310. A joint resolution adopted by the Legislature of the State of Alabama relative to ratifying the Twenty-Third Amendment to the United States Constitution; to the Committee on the Judiciary.

HOUSE JOINT RESOLUTION 13

Whereas, the Twenty-Third Amendment of the United States Constitution provides as follows:

"Amendment XXIII

"Section 1.

"[Electors for President and Vice President in District of Columbia]

"The district constituting the seat of government of the United States shall appoint in such manner as the congress may direct:

"A number of electors of president and vice president equal to the whole number of senators and representatives in congress to which the district would be entitled if it were a state, but in no event more than the least populous state, they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of president and vice president, to be electors appointed by a state; and they shall meet in the district and perform such duties as provided by the twelfth article of amendment.

"Section 2.

"[Power to Enforce Article]

"The congress shall have the power to enforce this article by appropriate legislation."; and

Whereas, the Twenty-Third Amendment was ratified April 13, 1961: Now therefore, be it

Resolved by the Legislature of Alabama, both Houses thereof concurring, That we hereby ratify the Twenty-Third Amendment to the United States Constitution.

Resolved further, That a copy of this resolution be sent to the Archivist of the United States, and to the Speaker of the House of Representatives and the President of the Senate of the United States Congress.

POM-311. A joint resolution adopted by the Legislature of the State of Alabama a relative to ratifying the Twenty-Fourth Amendment to the United States Constitution; to the Committee on the Judiciary.

HOUSE JOINT RESOLUTION 14

Whereas, Twenty-Fourth Amendment to the United States Constitution provides as follows:

"Amendment XXIV.

"Section 1.

"[Poll Tax Payment Not Required to Vote in Federal Elections]

"The right of citizens of the United States to vote in any primary or other election for president or vice president, for electors for president or vice president, or for senator or representative in congress, shall not be denied or abridged by the United States or any state by reason of failure to pay any poll tax or other tax.

"Section 2.

"[Power to Enforce Article]

"The congress shall have power to enforce this article by appropriate legislation."; and

Whereas, Twenty-Fourth Amendment was ratified February 4, 1964: Now therefore, be it

Resolved by the Legislature of Alabama, both House thereof concurring, That we hereby ratify the Twenty-fourth Amendment to the United States Constitution.

Resolved further, That a copy of this resolution be sent to the Archivist of the United States, and to the Speaker of the House of Representatives and the President of the Senate of the United States Congress.

POM-312. A resolution adopted by the General Assembly of the State of New Jersey relative to federal funds authorized for highway purposes; to the Committee on Appropriations.

ASSEMBLY RESOLUTION

Whereas, In 1998 the Congress of the United States passed with significant bipartisan support H.R. 2400, the "Transportation Equity Act for the 21st Century" (TEA-21), which was subsequently signed into law as Public Law 105-178 by the President of the United States; and

Whereas, It was the intent of Congress to assure that guaranteed levels of federal funds for various highway purposes would be made available to the nation for a six-year period from federal fiscal year 1998 through federal fiscal year 2003; and

Whereas, Federal funds appropriated by Congress in recent years for highway purposes have reflected the intended levels of federal financial support authorized by TEA-21; and

Whereas, New Jersey and the several other states have developed highway master plans and initiated work on projects based, in part, on receiving the annual levels of federal funds authorized by TEA-21; and

Whereas, The President of the United States has proposed a level of federal funding for highway purposes in federal fiscal year 2003 that is almost 30 percent below the amount available to the various states in federal fiscal year 2002; and

Whereas, The proposed reduction in the federal fiscal year 2003 funding level for highway purposes is inconsistent with the level of federal funding authorized by TEA–21, places an undue financial burden on the various states by requiring them to defer plans and projects that were originally designed to provide timely, cost effective highway improvements for their citizens, and would establish an unfortunate financing precedent for Congress and the various states if the successor to TEA–21 is subsequently authorized at similar, lower funding levels: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The Congress of the United States is memorialized to appropriate funds out of the federal Highway Trust Fund for various highway purposes in federal fiscal year 2003 at a level that is no less than the amount authorized by TEA–21, and to assure timely distribution of these funds to all states.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the Majority and Minority leaders of the United States Senate and the United States House of Representatives, and all other Members of Congress.

POM–313. A resolution adopted by the General Assembly of the State of New Jersey relative to designating the fifteenth of May as National Senior Citizen's Day; to the Committee on the Judiciary.

ASSEMBLY RESOLUTION

Whereas, It is desirable to increase the nation's awareness of the accomplishments and experiences of the senior citizens of our country; and

Whereas, Senior citizens 65 years of age and older are in increasing segment of the population, currently comprising 12% of the nation's population, and 13% of New Jersey's population; and

Whereas, Younger generations benefit from the honoring and remembrance of the accomplishments, experiences and wisdom which senior citizens have amassed during their lives; and

Whereas, Senior citizens are deserving of a day of recognition honoring their numerous contributions to society and their survival through wartimes as well as their endurance of many hardships: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The Congress and the President of the United States are respectfully memorialized to enact legislation honoring all the senior citizens of the United States by designating May 15th as National Senior Citizens Day.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk of the General Assembly, shall be forwarded to the President of the United States, the Secretary of Health and Human Services of the United States, the presiding officers of the United States Senate and the House of Representatives, and each of the members of the Congress of the United States elected from the State of New Jersey.

POM–314. A resolution adopted by the General Assembly of the State of New Jersey relative to National Grandparents Day; to the Committee on the Judiciary.

ASSEMBLY RESOLUTION

Whereas, In 1979, Congress approved House Joint Resolution No. 244, which authorized and requested the President to issue annually a proclamation designating the first Sunday of September following Labor Day of each year as "National Grandparents Day"; and

Whereas, In 1994, Congress approved Senate Joint Resolution No. 198, which recognized that grandparents bring a tremendous amount of love to their grandchildren's lives, deepen a child's roots, strengthen a child's development and often serve as the primary caregiver for their grandchildren by providing stable and supportive home environments, and designated 1995 as the "Year of the Grandparent"; and

Whereas, In making these designations, Congress acknowledged the important role grandparents play within families and their many contributions which enhance and further the value of families and their traditions, and recognized that public awareness of and appreciation for grandparents' many contributions should be strengthened; and

Whereas, For both "National Grandparents Day," and the "Year of the Grandparent" in 1995, Congress called on the people of the United States and interested groups and organizations to observe the day and year with appropriate ceremonies and activities; and

Whereas, Despite the acknowledgement of the tremendous contributions grandparents make to their families' lives, the permanent designation of a day to observe "National Grandparents Day," the year-long designation of 1995 as the "Year of the Grandparent," as well as the call for appropriate ceremonies and activities, the actual observance of appropriate ceremonies and activities has been lacking; and

Whereas, A wholehearted national effort to encourage people and organizations to celebrate "National Grandparents Day" by planning appropriate programs, ceremonies and activities would go a long way to commemorate and honor the wonderful and vital contributions that grandparents make to the lives of their families: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The Congress and President of the United States are respectfully memorialized to make a wholehearted national effort to encourage people and organizations to celebrate "National Grandparents Day" by planning appropriate programs, ceremonies and activities that commemorate and honor the wonderful and vital contributions that grandparents make to the lives of their families.

2. Duty authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk of the General Assembly, shall be forwarded to the President of the United States, the Secretary of Health and Human Services of the United States, the presiding officers of the United States Senate and the House of Representatives, and each of the members of the Congress of the United States elected from the State of New Jersey.

POM–315. A resolution adopted by the General Assembly of the State of New Jersey relative to the designation of a National Police, Firefighter and Emergency Services Personnel Recognition Day; to the Committee on the Judiciary.

ASSEMBLY RESOLUTION

Whereas, Police officers, firefighters and emergency services personnel throughout the nation are called upon to serve and protect their fellow citizens by responding to horrendous events and acting heroically to save the lives of others in spite of the clear danger to their own lives; and

Whereas, Police officers, firefighters and emergency services personnel are routinely thrown into extraordinarily dangerous situations, called upon to work overtime without proper sleep and spend time away from their families and loved ones; and

Whereas, Since the dastardly terrorist attacks on this nation of September 11, 2001, police officers, firefighters and emergency services personnel throughout the United States have been called upon to make even greater sacrifices to ensure the safety and security of Americans; and

Whereas, The third Sunday in May of each year has been designated "Police, Firemen and First Aid Recognition Day" in the State of New Jersey in recognition of the dedicated service the members of police and fire departments and the various first aid, ambulance and rescue services in the State have rendered to their fellow citizens; and

Whereas, Numerous other states throughout the country have designated an annual day whereby they recognize the services provided by their police officers, firefighters and emergency services personnel; and

Whereas, There is no national day of recognition to honor police officers, firefighters and emergency services personnel; and

Whereas, It is fitting and proper that a National Police, Firefighter and Emergency Services Personnel Recognition Day be established to salute the contributions of police officers, firefighters and emergency services personnel to the security and well-being of this country; Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The General Assembly of the State of New Jersey memorializes the Congress of the United States to adopt a resolution which designates one day each year as "National Police, Firefighter and Emergency Services Personnel Recognition Day."

2. Duly authenticated copies of this resolution, signed by the Speaker and attested by the Clerk thereof, shall be transmitted to the Vice President of the United States and the Speaker of the House of Representatives, and to each of the members of Congress elected from this State.

POM–316. A resolution adopted by the General Assembly of the State of New Jersey relative to Clean Air Act requirements; to the Committee on Environment and Public Works.

ASSEMBLY RESOLUTION

Whereas, Studies by the 37-state Ozone Transport Assessment Group have demonstrated that sulfur dioxide and nitrogen oxide can travel up to 500 miles in the right climatic conditions, and the transport of these pollutants, generally in a northeastern pattern, can have significant impacts on the ozone problem in downwind northeast states such as New Jersey; and

Whereas, On December 3, 1999, then New Jersey Governor Whitman announced that the State would join the federal government and other states in taking legal action to require Midwestern power plants to clean up their emissions; and

Whereas, On February 14, 2002, President Bush announced his Clear Skies and Global Climate Change Initiatives which would replace current federal air pollution control rules with a national emissions cap and trade system, and as a result would likely provide Midwestern power plants, refineries and other industrial sources with an exemption from the New Source Review program; and

Whereas, Implementation of the New Source Review program would require installation of air pollution controls when older power plants refineries and other industrial facilities are expanded or significantly changed; and

Whereas, Earlier this year, New Jersey's largest utility agreed to install state-of-the-art pollution controls on two power plants in the State as part of a settlement with the United States Department of Justice and the Environmental Protection Agency regarding the New Source Review program; and

Whereas, While this action is a significant step in New Jersey's efforts to control air pollution from in-State sources, there must be strong federal enforcement of clean air standards in upwind states in order to protect the citizens of New Jersey, and out-of-State power plants should be required to install similar state-of-the-art pollution controls in order to achieve lasting improvements in air quality; and

Whereas, The current proposed federal regulatory changes to the Clean Air Act standards would significantly compromise the gains New Jersey and the nation have made in air pollution control, would undermine the efforts the United States Department of Justice has taken to enforce compliance with federal Clean Air Act requirements, and would be detrimental to the environment and the public health of citizens of this State; Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. This House urges the President of the United States and the Administrator of the United States Environmental Protection Agency to not weaken federal Clean Air Act requirements. The President and Administrator are further urged to support the lawsuits filed by the United States Department of Justice against power plants and other facilities who have violated the requirements of the federal Clean Air Act.

Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice-President of the United States, the Speaker of the United States House of Representatives, the majority and minority leaders of the United States Senate and the United States Congress elected from this State, the Administrator of the United States Environmental Protection Agency, and the Commissioner of the New Jersey Department of Environmental Protection.

POM–317. A resolution adopted by the General Assembly of the State of New Jersey relative to enacting legislation to permit retired members of the Armed Forces with service-connected disabilities to be paid both military retired pay and veterans' disability compensation; to the Committee on Armed Services.

ASSEMBLY RESOLUTION

Whereas, An obscure 19th Century law requires military retired pay to be offset, dollar for dollar, by the amount of disability compensation received from the Department of Veterans Affairs; and

Whereas, This longstanding inequity forces thousands of disabled career military retirees to fund their own veterans' disability compensation from their earned military retired pay; and

Whereas, Retired pay and veterans' disability compensation are two entirely different compensation elements—retired pay is provided to recognize a career of arduous, uniformed service while Department of Veterans Affairs disability compensation is recompense for pain, suffering and lost future earning power due to service-connected disabilities; and

Whereas, Thousands of career officers must forfeit their entire military retired pay because this 19th Century law reduces their retirement benefit by the amount they receive in disability compensation; and

Whereas, Companion bills pending before the 107th Congress, S. 170 and H.R. 303, would permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs; and

Whereas, There is significant support in the 107th Congress for this legislation to correct the inequity, as S. 170 has 77 cosponsors and H.R. 303 has 379 cosponsors: Now, therefore, be it

Resolved, by the General Assembly of the State of New Jersey:

1. The President of the United States and the Congress of the United States is respectfully memorialized to enact the "Retired Pay Restoration Act of 2001" as embodied in S. 170 and H.R. 303, now pending before the 107th Congress of the United States. These bills would amend Title 10 of the United States Code to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice President of the United States, the Majority and Minority Leader of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, and every member of Congress elected from this State.

POM–318. A resolution adopted by the General Assembly of the State of New Jersey relative to noise reduction of aircraft traffic patterns over New Jersey; to the Committee on Commerce, Science, and Transportation.

ASSEMBLY RESOLUTION

Whereas, Residents of New Jersey suffer from extreme and unwarranted levels of intrusive aircraft noise; and

Whereas, Aircraft noise deprives residents of the full use and benefit of their homes and living areas; and

Whereas, Aircraft noise contributes to the substantial lowering of property values on residences owned by New Jersey residents; and

Whereas, The Federal Aviation Administration, hereafter the "FAA," is currently undertaking a major redesign of the aircraft traffic patterns over New Jersey; and

Whereas, The FAA's stated goals for the redesign include only reducing delays affecting airline schedules, and reducing pilot and air traffic controller workloads, while enhancing safety; and

Whereas, The FAA, despite repeated public promises to substantially reduce aircraft noise as part of the redesign, has refused to include such noise reduction as a primary goal of the redesign: now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The President and the Congress of the United States are respectfully memorialized to direct the Federal Aviation Administration to include the reduction of aircraft noise as a major goal in the redesign of aircraft traffic patterns over New Jersey.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and the Vice President of the United States, the Speaker of the United States House of Representatives, every member of Congress elected from this State, the Secretary of the United States Department of Transportation, and the Administrator of the Federal Aviation Administration.

POM–319. A resolution adopted by the General Assembly of the State of New Jersey relative to the federal court decision ruling that recitation of the Pledge of Allegiance in public schools is unconstitutional; to the Committee on the Judiciary.

ASSEMBLY RESOLUTION

Whereas, In a 2–1 decision, the 9th U.S. Circuit Court of Appeals ruled on June 26, 2002, that the Pledge of Allegiance cannot be recited in public schools because the phrase "under God" endorses religion; and

Whereas, The words of the pledge first appeared in the periodical, The Youth's Companion, in 1892, and the pledge was officially sanctioned by the United States Congress in 1942; and

Whereas, President Dwight D. Eisenhower approved adding the words "under God" to the pledge on Flag Day, June 14, 1954; and

Whereas, In authorizing the additional words, President Eisenhower wrote that "millions of our schoolchildren will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our nation and our people to the Almighty"; and

Whereas, Circuit Judge Ferdinand Fernandez, in his dissenting opinion, noted that such phrases as "under God" have "no tendency to establish religion in this country except in the eyes of those who most fervently would like to drive all tincture of religion out of the public life of our polity"; and

Whereas, The court decision has been roundly condemned by members of Congress from both sides of the aisle, and the Department of Justice has vowed to fight the ruling: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. This House strongly condemns the June 26, 2002, federal court decision declaring the Pledge of Allegiance to be unconstitutional and urges the Department of Justice to appeal the decision immediately and without reservation.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice-President of the United States, the Speaker of the House of Representatives, the federal Department of Justice, and every member of Congress elected from this State.

POM–320. A resolution adopted by the General Assembly of the State of New Jersey relative to Amtrak; to the Committee on Commerce, Science, and Transportation.

ASSEMBLY RESOLUTION

Whereas, President David Gunn of the National Rail Passenger Corporation, Amtrak, has warned that without a loan guarantee of

$200 million or similar federal support, Amtrak will run out of operating funds in the near future and will have to shut down operations; and

Whereas, While Federal support appears to be forthcoming to provide a short-term reprieve for Amtrak that will permit it to continue operations until October 1, 2002, such short-term support begs the question of the long-term support for the continuation of national rail passenger service; and

Whereas, The Federal Government under the Constitution of the United States has the responsibility for the regulation of interstate commerce and has taken on the responsibility by legislation for the creation of an Interstate Highway System and a national airport system, both of which receive substantial financial support from federal appropriations; and

Whereas, With the formation of Amtrak, the Congress of the United States emphasized the importance of a federal commitment to a national rail passenger system, but now the President of the United States and the federal administration have begun to weaken the federal commitment in favor of actions by the individual states; and

Whereas, The United States is one Nation and can ill afford a fragmented and decentralized national rail passenger transportation system; and

Whereas, The dismantling of Amtrak will not only deprive the Nation as a whole of a national rail passenger system but will create an intolerable burden on the individual states, with the Northeastern states in particular being forced to assume responsibility for a $12 billion maintenance backlog on the Northeast Corridor; and

Whereas, The cost of continuing Amtrak and providing for proper maintenance and repair of its infrastructure is modest compared to the enormous sums spent for the support of the Nation's highways and aviation system; and

Whereas, In a time of national emergency, a national rail passenger system plays an important role in the national security of the United States, as manifested by the fact that during the September 11, 2001 crisis, the rail system was the only functioning practical interstate transportation operation nationally; and

Whereas, The dismantling of the Amtrak system would have a disastrous effect on the greater New York-New Jersey metropolitan region, leading to the overburdening of an already heavily burdened road system, the paralysis of the local rail transportation system affecting local commuting into and out of New York City, exacerbating problems of air pollution, leading to economic decline or stagnation which would deleteriously affect federal tax revenues from one of the most productive and vibrant economic regions of the country: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The General Assembly of the State of New Jersey, for the public policy reasons stated in the preamble of this resolution, memorializes the Congress and the President of the United States to enact a long-term solution to the Nation's rail crisis by providing for the continuation of national passenger rail service by Amtrak.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the Majority and Minority leaders of the United States Senate and the United States House of Representatives, and all other members of Congress.

POM–321. A resolution adopted by the General Assembly of the State of New Jersey relative to the cable television industry; to the Committee on Commerce, Science, and Transportation.

Assembly Resolution

Whereas, The "Cable Communication Policy Act of 1984" totally deregulated the cable television industry and specifically prohibited the States from regulating either cable rates or cable programming; and

Whereas, Subsequent to the 1984 deregulation of the cable industry, rapidly escalating cable rates and declining levels of service led to the passage of the "Cable Television Consumer Protection and Competition Act of 1992" which essentially restored governmental rate regulation of the cable industry; and

Whereas, The federal "Telecommunications Act of 1996" was adopted to promote greater competition as a means of addressing the cable industry's problems and eliminated most of the "Cable Television Consumer Protection and Competition Act of 1992" by the end of 1999, including the phasing out of federal price controls over cable rates; and

Whereas, Following passage of the federal "Telecommunications Act of 1996," cable programming service rates have increased by over 60 percent, or of which increase zero percent is attributable to State law, and which 60 percent increase represents about seven times the aggregate rate of inflation for the past three years, according to the New Jersey Board of Public Utilities, and federal price controls over most cable rates were terminated on March 31, 1999; and

Whereas, The cable rate increases over the past several years once again indicate that a competitive free market fails to restrain the predatory practices that occur when cable television companies enjoy de facto monopolies unregulated by the areas they serve; and

Whereas, In light of the cable rate increases of the past few years, it is appropriate for Congress to reconsider the deregulation of the cable television industry as enacted by the federal "Telecommunications Act of 1996" and the "Cable Communications Policy Act of 1984" and permit States to fully regulate the cable television industry, including the regulation of cable television rates, in order to curb the anti-consumer practices of the cable company, monopolies; and

Whereas, It is altogether fitting and proper for this House, as representatives of the residents of this State, which itself established a regulatory framework for cable television in the 1972 "Cable Television Act," to call upon Congress to reconsider the deregulation of the cable television industry as enacted by the federal "Telecommunications Act of 1996" and the "Cable Communications Policy Act of 1984" and permit States to fully regulate the cable television industry, including the regulation of cable television rates: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The Congress of the United States is respectfully memorialized to reconsider the deregulation of the cable television industry and permit States to fully regulate the cable television industry.

2. That duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested to by the Clerk thereof, shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each Member of Congress from the State of New Jersey.

POM–322. A resolution adopted by the General Court of the Commonwealth of Massachusetts relative to anti-semitism; to the Committee on Foreign Relations.

Resolutions

Whereas, in 2002, 57 years after the Holocaust, anti-Semitism is still among the most enduring and pernicious forms of hate that humankind has known; and

Whereas, anti-Semitism is on the rise in Europe and many other places around the globe and Jews are being attacked in the streets, synagogues are being vandalized and cemeteries are being desecrated; and

Whereas, in many corners of the world, Jews are being demonized by political leaders, clergy and the mainstream media; and

Whereas, Jewish citizens and Jewish institutions in Massachusetts have been targeted for hate mail, hateful speech and hateful acts; and

Whereas, in the wake of this rising tide of anti-Semitism too many governments and institutions have been silent; and

Whereas, the time has come to speak out against the wave of hate: Therefore be it

Resolved, That the Massachusetts General Court urges the Congress of the United States to pass a resolution condemning anti-Semitism and asking other leaders, governments and citizens to speak strongly against the spread of hate; and be it further

Resolved, That copies of these resolutions be forwarded by the clerk of the House of Representatives to the President of the United States, the Presiding Officer of each branch of Congress and to the Members thereof from this Commonwealth.

POM–323. A Senate concurrent resolution adopted by Legislature of the State of Louisiana relative to imported seafood; to the Committee on Health, Education, Labor, and Pensions.

Senate Concurrent Resolution No. 16

Whereas, over the past few years there has been an influx of imported seafood being dumped into the United States of America; and

Whereas, the vast majority of these imported products have come from the countries of Thailand, India, Mexico, Ecuador and Indonesia; and

Whereas, the magazine, Quick Frozen Foods International noted in a January, 2002 article, that Asian shrimp tested in Germany had traces of an antibiotic called "chloramphenicol"; and

Whereas, this antibiotic is banned in the European Union countries because it is believed to cause bone marrow damage; and

Whereas, because the United States does not require such testing, much of this imported shrimp flooded the American market for prices much lower than American shrimp and may be in violation of anti-dumping laws; and

Whereas, such flooding of the domestic market has greatly affected the price of American shrimp to levels not seen in twenty years; and

Whereas, Louisiana residents can help Louisiana fishermen by demanding and buying Louisiana shrimp: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to impose a quota on certain imported seafood such as shrimp; be it further

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to support, demand, and insist on testing of all imported seafood products before such products are allowed to enter the country and to require wholesalers to indicate the source and origin after purchase; be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–324. A Senate Joint Memorial adopted by the Legislature of the State of Colorado relative to the return of the USS Pueblo to the United States Navy; to the Committee on Foreign Relations.

Senate Joint Memorial 02–001

Whereas, The USS Pueblo, which was attacked and captured by the North Korean Navy on January 23, 1968, was the first United States Navy ship to be hijacked on the high seas by a foreign military force in over 150 years; and

Whereas, One member of the USS Pueblo crew, Duane Hodges, was killed in the assault while the other 82 crew members were held in captivity, often under inhumane conditions, for 11 months; and

Whereas, The USS Pueblo, an intelligence collection auxiliary vessel, was operating in international waters at the time of the capture, and therefore did not violate North Korean territorial waters; and

Whereas, The capture of the USS Pueblo has resulted in no reprisals against the government or people of North Korea and no military action was taken at the time of the vessel's capture or at any later date; and

Whereas, The USS Pueblo, though still the property of the United States Navy, has been retained by North Korea for more than 30 years, was subjected to exhibition in the North Korean cities of Wonsan and Hungham, and is now on display in Pyongyang, the capital city of North Korea; and

Whereas, United States Senator Ben Nighthorse Campbell recently began a legislative effort in Congress to demand that North Korea return the USS Pueblo to the United States Navy: Now, therefore, be it

Resolved by the Senate of the Sixty-third General Assembly of the State of Colorado, the House of Representatives concurring herein:

That we, the members of the Sixty-third General Assembly, hereby memorialize Congress to demand that the USS Pueblo be returned to the United States Navy; be it further

Resolved, That copies of this Joint Memorial be transmitted to the President of the United States, George W. Bush; the United States Secretary of Defense, Donald Rumsfeld; the United States Secretary of State, Colin Powell; the United States House of Representatives; and to each member of Colorado's delegation of the United States Congress.

POM–325. A Resolution adopted by the House of the Commonwealth of Pennsylvania relative to funding for the National Park Service to purchase the Schwoebel Tract, which lies in the boundaries of the Valley Forge National Historical Park; to the Committee on Energy and Natural Resources.

House Resolution No. 401

Whereas, Approximately 460 acres of the 3,466 acres that comprise the Valley Forge National Historical Park are privately owned; and

Whereas, A 62-acre tract of the privately owned land is currently under consideration as the site of a subdivision for approximately 62 luxury homes; and

Whereas, The construction of homes within the Valley Forge National Historical Park will detract from the historic and cultural environment the park provides for millions of people who visit each year; and

Whereas, The owners of the 62-acre tract of land are willing to sell the land to the National park Service: Therefore be it

Resolved, That the Congress of the United States appropriate sufficient funds for the National Park Service to purchase the privately owned 62-acre tract of land, which will help to ensure the preservation of the park as a national historic site; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the United States Senate and to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–326. A Resolution adopted by the House of the Commonwealth of Pennsylvania relative to Federal relief for steel industry retiree health care costs; to the Committee on Health, Education, Labor, and Pensions.

House Resolution No. 488

Whereas, Much of the domestic steel industry is heavily burdened by overwhelming retiree health care costs, or legacy costs, due to the massive layoffs of the 1970s and 1980s which were necessary to make domestic steel producers some of the most efficient and competitive in this advanced global market; and

Whereas, These layoffs increased the retiree-to-employee ratio to nearly three to one and increased the difficulty for domestic steel producers to maintain benefits for retired employees; and

Whereas, An average of 10% of the costs of a ton of steel goes directly to retiree pension and health care funds for many of the largest producers of steel in the United States; and

Whereas, Approximately 600,000 retirees, surviving spouses and dependents receive health care benefits from domestic steel companies, with the largest and most vulnerable of these companies providing retiree health care benefits to approximately 100,000 retirees, surviving spouses and dependents; and

Whereas, Because 29 domestic steel companies have declared bankruptcy since the Asian financial crisis of 1998, retirees health care benefits are at risk as a cost-cutting measure; and

Whereas, Retirees displaced by plant shutdowns shoulder the burden of their medical costs as they may be unable to afford or qualify for private health insurance programs or may not qualify for Medicare coverage; and

Whereas, The United Steelworkers of America, realizing the risk to individuals and families, has called for Federal action to protect the health care benefits of domestic steelworker retirees: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the President and Congress of the United States to take all necessary action to preserve the health care benefits of steel industry retirees; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–327. A Joint Resolution adopted by the Assembly of the State of California relative to the Mexicali/Calexico border crossing; to the Committee on the Judiciary.

Assembly Joint Resolution No. 35

Whereas, Persons wishing to cross the international border between Mexico and California have traditionally been subject to long wait times during peak periods; and

Whereas, An unfortunate byproduct of the heightened security regime implemented since the September 11, 2001, terrorist attacks on the United States has been an increase in already long wait times at the border; and

Whereas, The economic well-being of the border regions in both the United States and Mexico is dependent on flows of people and goods across the border with a minimum of delay; and

Whereas, The economy of Imperial County depends heavily on shoppers from Mexico; and

Whereas, Federal officials have successfully implemented reduced border crossing times for persons qualifying for use of the Secure Electronic Network For Travelers Rapid Inspection (SENTRI) program, which provides access to a dedicated commuter land and uses automated vehicle identification technology at a limited number of United States international border crossings, including the Otay Mesa crossing near Tijuana/San Diego; and

Whereas, Persons eligible for the SENTRI program have been previously identified as low risk persons who regularly use the border crossing; and

Whereas, The SENTRI program provides law enforcement with good, solid information about program participants, and avoids the need to continuously inspect these precleared individuals; and

Whereas, It would be beneficial to commerce and tourism on both sides of the border to implement the SENTRI program at the Mexicali/Calexico border crossing in order to decrease the border wait times for both United States and Mexican citizens; and

Whereas, The government of the State of Baja California has indicated its interest in expansion of the SENTRI program: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the United States Congress and federal agencies, including the Immigration and Naturalization Service and the United States Customs Service, to take the necessary steps to implement the SENTRI program at the Mexicali/Calexico border crossing; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Chairpersons of the House and Senate Judiciary Committees, to each Senator and Representative from California in the Congress of the United States, and to the Immigration and Naturalization Service and the United States Customs Service.

POM–328. A Senate Concurrent Resolution adopted by the Legislature of the State of Louisiana relative to the use of Title I funds to address the educational needs of students; to the Committee on Health, Education, Labor, and Pensions.

Senate Concurrent Resolution No. 22

Whereas, Title I of the reauthorized Elementary and Secondary Education Act, a federal aid program from which funds flow through the state education agencies to the local education agencies, is a significant funding mechanism of great value to the local school systems in Louisiana that aims to provide extra resources to improve high poverty schools and enable at-risk children to meet challenging state content and student performance standards; and

Whereas, Louisiana's total Title I allocation for 2001-2002 of over one hundred and ninety-one million dollars is distributed to local education agencies and targets eight hundred and seventy-three elementary and secondary schools with the highest percentages of children from low-income families to provide additional academic support and learning opportunities to address the academic needs for the benefit of approximately three hundred, eighty-four thousand and five hundred students throughout the state; and

Whereas, the state education agency is responsible for monitoring the effective use of Title I dollars through compliance reviews, and may, pursuant to federal regulation, temporarily withhold Title I payments to a local education agency if the state finds that a local education agency is in noncompliance with any applicable federal or state law or regulation or has been notified of a significant irregularity or problem with the administration of the funds based on a certified audit of such funds; and

Whereas, while a primary goal of Title I is to help disadvantaged students in elementary and secondary schools meet the same high standards expected of all students, continued funding is critical to the academic achievement of all children throughout the state, and any disruption or interruption of services can be devastating to financially strapped local school systems and may limit the opportunities for at-risk students to acquire the knowledge and skills necessary to succeed; and

Whereas, the Legislature of Louisiana recognizes it is ultimately the responsibility of the local education agencies to document and implement the effective use of federal dollars and meet compliance requirements through federal and state law; and

Whereas, the Legislature of Louisiana also recognizes that the consequences of any disruption of services will adversely impact the economically and educationally disadvantaged child—the child for whom the program is intended to serve: Therefore, be it

Resolved, That the Legislature of Louisiana hereby memoralizes the Congress of the United States to request the appropriate officials at the United States Department of Education to review the federal laws and guidelines with respect to assuring that the approved use of Title I funds to address the educational needs of students is not jeopardized in cases in which the management and implementation of such funds by a local education agency are being examined; be it further

Resolved, That a copy of this Resolution be forwarded to each member of the Louisiana Congressional delegation and to the presiding officers of the United States House of Representatives and the United States Senate.

POM-329. A Resolution adopted by the Senate of the Legislature of the State of Louisiana relative to a tax credit for companies for the cost of converting from groundwater to reclaimed water and to provide interest free loans to municipalities to construct waste water treatment/reclamation projects; to the Committee on Finance.

SENATE RESOLUTION NO. 27

Whereas, the Federal Energy Policy Bill is being debated in Congress and energy and electricity production are vital to Louisiana; and

Whereas, merchant power plants and other energy producers currently using groundwater should be encouraged to change to alternative sources; and

Whereas, the largest producers of waste water in the state are municipalities and many of those rural municipalities are facing tougher standards from the U.S. Environmental Protection Agency to update their waste water treatment systems yet these municipalities lack funding to do so; and

Whereas, by creating a market for the reclaimed water, the municipalities could justify the loans to build the waste water treatment facilities; and

Whereas, currently, companies have no incentive to spend the money necessary to convert to surface water or waste water because it is cheaper to mine the pure drinking water from the ground and allowing a tax credit to business to convert to reclaimed water would allow the companies to ultimately save money and to update their water collection/cooling systems;

Whereas, updating company technology would benefit the overall efficiency of the industrial facility and the environment; and

Whereas, Louisiana farmers would also benefit from increased water resources necessary for irrigation; and

Whereas, in order for a municipality to get the interest free loan, the municipality must agree to sell the reclaimed water to industry and other buyers at a cost lower than industry pays to mine groundwater: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to provide a tax credit to companies for the cost of converting from groundwater to reclaimed water and provide interest free loans to municipalities to construct waste water treatment/reclamation projects; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation of the United States Congress.

POM-330. A Resolution adopted by the Senate of the Legislature of the State of Alaska relative to the Pledge of Allegiance; to the Committee on the Judiciary.

SENATE RESOLVE NO. 2

Whereas this country was founded on religious freedom by founders, many of whom were deeply religious; and

Whereas the First Amendment to the United States Constitution embodies principles intended to guarantee freedom of religion both through the free exercise of religion and by prohibiting the government's establishing a religion; and

Whereas the Pledge of Allegiance was written by Francis Bellamy, a Baptist minister, and was first published in the September 8, 1892, issue of Youth's Companion; and

Whereas, in 1954, the United States Congress added the words "under God" to the Pledge of Allegiance; and

Whereas President Eisenhower, in adding these words, said "These words will remind Americans that despite our great physical strength we must remain humble. They will help us to keep constantly in our minds and hearts the spiritual and moral principles which alone give dignity to man, and upon which our way of life is founded."; and

Whereas, for nearly 50 years, the Pledge of Allegiance has included references to the United States flag and the country; this country, has been established as a union, "under God" being dedicated to securing "liberty and justice for all"; and

Whereas, in 1954, the United States Congress believed it was acting constitutionally when it revised the Pledge of Allegiance; and

Whereas the Senate of the 107th United States Congress believes that the Pledge of Allegiance is not an unconstitutional expression of patriotism; and

Whereas patriotic songs, engravings on United States legal tender, engravings on federal buildings, and the Preamble to the Constitution of the State of Alaska also contain general references to "God"; and

Whereas, in accordance with decisions of the United States Supreme Court, public school students cannot be forced to recite the Pledge of Allegiance without violating their First Amendment rights; and

Whereas the Congress expects that the United States Court of Appeals for the Ninth Circuit will rehear the case of Newdow v. U.S. Congress, en banc, and resolves to instruct the Senate Legal Counsel to seek to intervene in the case to defend the constitutionality of the Pledge of Allegiance; be it

Resolved, That the Alaska State Senate concurs with and supports the United States Senate in challenging the United States Court of Appeals for the Ninth Circuit in its decision of Newdow v. U.S. Congress, en banc.

POM-331. A Senate Concurrent Resolution adopted by the Legislation of the State of Louisiana relative to voluntary prayer in public schools; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 58

Whereas, one of the founding principles of the United States of America was the free exercise of religion and religious belief; and

Whereas, the First Amendment to the Constitution of the United States provides that Congress shall make no law establishing a religion, or prohibiting the free exercise of religion; and

Whereas, Article I, Section 8, of the Louisiana Constitution of 1974 similarly prohibits the enactment of law respecting an establishment of religion or prohibiting the free exercise of religion; and

Whereas, a Joint Resolution was introduced in the 107th Congress, 1st Session, proposing an amendment to the Constitution of the United States to provide that neither the United States, nor any state shall establish an official religion, but that the people's right to pray and to recognize their religious beliefs, heritage and traditions on public property, including schools, shall not be infringed; and

Whereas, the Legislature of Louisiana has repeatedly expressed its support for the concept of voluntary prayer in public schools, including, most recently, a House Concurrent Resolution memorializing Congress to adopt and submit to the states a proposed amendment to the United State Constitution permitting prayer in schools; and

Whereas, while the United States does not have a provision for a national referendum, Congress may vote to place a national referendum on a constitutional amendment to allow prayer in public schools, thus allowing the true will of the people to be heard: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the

United States to adopt and place on the ballot a national referendum on a constitutional amendment to allow voluntary prayer in public schools; be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM-332. A Senate Concurrent Resolution adopted by the Legislature of the State of Louisiana relative to the creation of a Center of Excellence in Biological and Chemical Warfare Medicine in Louisiana; to the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION NO. 56

Whereas, with the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, and the anthrax attacks on Congress immediately following, Americans became acutely aware of the vulnerability of their homeland to attacks by terrorist organizations; and

Whereas, it is the duty of every level of government—federal, state, and local—to protect the citizens of this country from the consequences of all terrorist activities; and

Whereas, the resources necessary to provide this protection must be comprehensive so as to prevent, detect, or minimize any terrorist action and must be developed and be available for deployment as quickly as possible; and

Whereas, because of the state's significant investment in a public hospital system, the close proximity of the Louisiana State University and Tulane University Medical Schools, its widely recognized research facilities at the Pennington Biomedical Research Facility and the Louisiana State University Veterinary School and Agricultural Experiment Stations, Louisiana is uniquely positioned to conduct and coordinate research, clinical trials and applications, education, and outreach activities aimed at developing detection programs, prevention programs, and defenses that would mitigate and minimize the affect that biological and chemical agents would have on people, livestock, and agricultural crops; and

Whereas, the utilization of the vast compendium of research, clinical applications, and education resources that already exist in Louisiana would facilitate the rapid development of vaccines, pharmaceuticals, and antidotes for the protection of humans, livestock, and agricultural crops from biological and chemical agents deployed by terrorist groups; and

Whereas, United States Senator Mary Landrieu and members of the Louisiana Congressional Delegation have undertaken efforts to create a Center of Excellence in Biological and Chemical Warfare Medicine which would lead to significant investment of federal funds in public health, animal health, and agricultural crop clinical applications, education, and research infrastructure which already exist in Louisiana thereby making Louisiana the preeminent location in the country for the development of protocols for surveillance, detection, prevention, and treatment for the protection of human and animal life and agricultural crops; and

Whereas, the designation of Louisiana for such a center would maximize the opportunity for the immediate development of appropriate and effective responses to biological and chemical terrorist activity and, at the same time, provide new economic opportunities for the state in an area that is in the forefront of Louisiana's new economic vision; and

Whereas, the state of Louisiana has undertaken efforts to become a national leader in the area of biomedical research: Therefore, be it

Resolved, That the Senate of the Legislature of Louisiana hereby expresses full support to the efforts of the Louisiana Congressional Delegation for the creation of a Center of Excellence in Biological and Chemical Warfare Medicine in Louisiana; be it further

Resolved, That the Senate of the Legislature of Louisiana further expresses that, utilizing the state's vast array of public and private clinical, research, and educational facilities, such a facility is in the best interest of the citizens of this state and this nation; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress.

POM-333. A Resolution adopted by the House of the General Assembly of the State of North Carolina relative to a Federal/State partnership to use local county veterans service officers to assist the United States Department of Veterans' Affairs in eliminating the veterans claims processing backlog; to the Committee on Veterans' Affairs.

HOUSE RESOLUTION 1780

Whereas, the United States presently has a population of over 25 million veterans from its previous wars, with the majority of that veteran population from World War II and the Korean War; and

Whereas, the World War II and Korean War veteran population is presently over 70 years of age, and that group is passing away at the rate of 1,000 veterans per day; and

Whereas, the United States government has acknowledged its responsibility to provide medical care or compensation for medical problems, as well as other benefits, to those veterans who served their country in time of war; and

Whereas, the United States Department of Veterans Affairs is charged with administering the federal benefits program for veterans; and

Whereas, there presently exists a backlog of over 601,000 claims, some of which have been outstanding for one year or more; and

Whereas, a significant portion of these claims involve World War II and Korean War veterans, and despite determined efforts by the United States Department of Veterans Affairs to eliminate this backlog, the backlog continues; and

Whereas, there exists a trained group of individuals known as county veterans service officers located in 37 of the 50 states, representing 700 countries and a workforce of over 2,400 full-time local government employees; and

Whereas, these county veterans service officers were established in 1945 after World War II for the purpose of helping returning veterans reenter civilian life, and have continued to do so for all veterans of all wars since then; and

Whereas, these county veterans service officers are highly trained individuals who have continued to provide assistance to all veterans for over 50 years and are already familiar with the United States Department of Veterans Affairs claim policies and procedures; and

Whereas, for example, in North Carolina county veterans service officers annually assist North Carolina veterans obtain monetary benefits in excess of $812,000,000 by assisting these veterans in filing over 50,000 claims annually with the United States Department of Veterans Affairs; and

Whereas, this claims processing backlog needs to be urgently reduced while our World War II and Korean War veterans are still with us; and

Whereas, the United States Department of Veterans Affairs could enter into a partnership with state and local governments to utilize these highly trained county veterans service officers to eliminate the present claims processing backlog by expanding the county veterans service officers' roles; and

Whereas, this would be a cost-effective way of reducing the claims processing backlog by eliminating the need for a substantial increase in federal employees; and

Whereas, these county veterans service officers, as represented by the North Carolina Association of County Veterans Service Officers and the National Association of County Veterans Service Officers, have offered to assist the United States Department of Veterans Affairs in exchange for block grants to the various states based upon each state's veterans population to compensate county veterans service officers for their expanded role; Now, therefore, be it

Resolved by the House of Representatives:

Section 1. The House of Representatives urges the Congress of the United States and the President to support and enact legislation that would establish a federal/state partnership to use the knowledge and skills of the local county veterans service officers to assist the United States Department of Veterans Affairs in eliminating the veterans claims processing backlog in order that America's veterans can take advantage of the benefits that the United States has authorized for them for their faithful and loyal service to a grateful nation.

Section 2. The Principal Clerk shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, the Majority Leader of the Senate, and to each Senator and Representative from North Carolina in the Congress of the United States.

Section 3. This resolution is effective upon adoption.

POM-334. A Resolution adopted by the Senate of the State of Alaska relative to the Pledge of Allegiance; to the Committee on the Judiciary.

SENATE RESOLVE NO. 2

Whereas this country was founded on religious freedom by founders, many of whom were deeply religious; and

Whereas the First Amendment to the United States Constitution embodies principles intended to guarantee freedom of religion both through the free exercise of religion and by prohibiting the government's establishing a religion; and

Whereas the Pledge of Allegiance was written by Francis Bellamy, a Baptist minister, and was first published in the September 8, 1892, issue of Youth's Companion; and

Whereas, in 1954, the United States Congress added the words “under God” to the Pledge of Allegiance; and

Whereas President Eisenhower, in adding these words, said “These words will remind Americans that despite our great physical strength we must remain humble. They will help us to keep constantly in our minds and hearts the spiritual and moral principles which alone give dignity to man, and upon which our way of life is founded.”; and

Whereas, for nearly 50 years, the Pledge of Allegiance has included references to the United States flag and the country; this country, has been established as a union, "under God" being dedicated to securing "liberty and justice for all"; and

Whereas, in 1954, the United States Congress believed it was acting constitutionally when it revised the Pledge of Allegiance; and

Whereas the Senate of the 107th United States Congress believes that the Pledge of Allegiance is not an unconstitutional expression of patriotism; and

Whereas patriotic songs, engravings on United States legal tender, engravings on federal buildings, and the Preamble to the Constitution of the State of Alaska also contain general references to "God"; and

Whereas, in accordance with decisions of the United States Supreme Court, public school students cannot be forced to recite the Pledge of Allegiance without violating their First Amendment rights; and

Whereas the Congress expects that the United States Court of Appeals for the Ninth Circuit will rehear the case of Newdow v. U.S. Congress, en banc, and resolves to instruct the Senate Legal Counsel to seek to intervene in the case to defend the constitutionality of the Pledge of Allegiance; be it

Resolved, That the Alaska State Senate concurs with and supports the United States Senate in challenging the United States Court of Appeals for the Ninth Circuit in its decision of Newdow v. U.S. Congress, en banc.

POM-335. A Resolution adopted by the Senate of the State of Texas relative to bestowing the Congressional Medal of Honor to a citizen of the State of Texas; to the Committee on Armed Services.

SENATE RESOLUTION NO. 1206

Whereas, World War II hero Doris "Dorie" Miller exhibited unparalleled courage during the attack on Pearl Harbor, and this bravery has not received the just honors and recognition it merits; and

Whereas, A native Texan, Dorie was born in Waco in 1919 and enlisted in the United States Navy in 1939; and

Whereas, Dorie's ship, the USS *West Virginia* was among those attacked in the early morning of December 7, 1941; and

Whereas, With little regard for his own personal safety, the 22-year-old Dorie assisted his mortally wounded captain out of the line of fire to shelter; and

Whereas, While struggling back to the bridge amid heavy fire and detonating bombs, Dorie came upon a machine gun whose gunner had been killed; although Dorie had never been trained to use the weapon, he began firing at the Japanese planes with telling effect and continued firing until the crew was ordered to abandon the ship; and

Whereas, For his heroism on board the *West Virginia*, Dorie Miller received the Navy Cross, the United States Navy's highest honor, from Admiral Chester Nimitz during a ceremony on the flight deck of the USS *Enterprise* at Pearl Harbor on May 27, 1942; Dorie was the first African American to receive the award; and

Whereas, Later assigned to the USS *Liscome Bay* in the Pacific, Dorie was on board on November 24, 1943, when the light aircraft carrier was sunk by a submarine; 272 sailors survived but 646 were lost, and Dorie was officially presumed dead a year and a day after the carrier went down; and

Whereas, Citizens across the State of Texas believe that Dorie Miller should be awarded the highest honor that a member of the United States Armed Forces can receive, the Congressional Medal of Honor; a man of great gallantry, Dorie Miller is entitled to the respect and gratitude of our nation; Now, therefore, be it

Resolved, That the Senate of the State of Texas, 77th Legislature, hereby respectfully request the Congress of the United States of America to bestow on Doris Miller the Congressional Medal of Honor; and, be it further . . . .

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

H.R. 2595: A bill to direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia.

H.R. 4044: To authorize the Secretary of the Interior to provide assistance to the State of Maryland and the State of Louisiana for implementation of a program to eradicate or control nutria and restore marshland damaged by nutria.

H.R. 4727: A bill to reauthorize the national dam safety program, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

*Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

*Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

*Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DAYTON (for himself and Mr. SESSIONS):

S. 3007. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain overseas pay of members of the Armed Forces of the United States, and for other purposes; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. STEVENS):

S. 3008. A bill to amend the Higher Education act of 1965 to expand the loan forgiveness and loan cancellation programs for teachers, to provide loan forgiveness and loan cancellation programs for nurses, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WELLSTONE (for himself, Mrs. CLINTON, Mr. KENNEDY, Ms. LANDRIEU, Mrs. CARNAHAN, Mr. SMITH of Oregon, Mr. BAYH, Mr. SARBANES, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. TORRICELLI, Mr. DURBIN, Mr. BINGAMAN, Mr. KERRY, Mr. DODD, Mr. REED, Ms. CANTWELL, Mrs. BOXER, Mrs. FEINSTEIN, Mr. BIDEN , Mr. LEVIN, Mr. CORZINE, Mr. REID, Mr. SCHUMER, Ms. STABENOW, Mr. LEAHY, and Mr. LIEBERMAN):

S. 3009. A bill to provide economic security for America's workers; read the first time.

By Mr. BAYH:

S. 3010. A bill to provide information and advice to pension plan participants to assist them in making decisions regarding the investment of their pension plan assets, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS:

S. 3011. A bill to amend title 23, United States Code, to establish programs to encourage economic growth in the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DODD:

S. 3012. A bill to amend the Internal Revenue Code of 1986 to exclude from income and employment taxes and wage withholding property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders; to the Committee on Finance.

By Mr. KYL (for himself, Mr. MCCAIN, Mr. DOMENICI, and Mr. BINGAMAN):

S. 3013. A bill to amend the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL:

S. 3014. A bill for the relief of Jesus Raul Apodaca-Madrid and certain of his family members; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself and Mr. LOTT):

S.J. Res. 45. A joint resolution to authorize the use of United States Armed Forces against Iraq; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK (for himself and Mr. NELSON of Nebraska):

S. Con. Res. 148. A concurrent resolution recognizing the significance of bread in American history, culture, and daily diet; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 1226

At the request of Mr. CAMPBELL, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1226, a bill to require the display of the POW/MIA flag at the World War II memorial, the Korean War Veterans

Memorial, and the Vietnam Veterans Memorial.

S. 1655

At the request of Mr. MURKOWSKI, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 2215

At the request of Mr. SANTORUM, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2611

At the request of Mr. REED, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2611, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 2626

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2626, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2678

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2678, a bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund, and for other purposes.

S. 2700

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2700, a bill to amend titles II and XVI of the Social Security Act to limit the amount of attorney assessments for representation of claimants and to extend the attorney fee payment system to claims under title XVI of that Act.

S. 2770

At the request of Mr. DODD, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2770, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas.

S. 2816

At the request of Mr. BAUCUS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2816, a bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

S. 2847

At the request of Mr. FEINGOLD, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2847, a bill to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2897

At the request of Mr. JEFFORDS, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2897, a bill to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

S. 2903

At the request of Mr. JOHNSON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 2906

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. 2906, a bill to amend title 23, United States Code, to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways.

S. 2936

At the request of Mr. ALLEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2936, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes.

S. RES. 270

At the request of Mr. CAMPBELL, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Res. 270, A resolution designating the week of October 13, 2002, through October 19 , 2002, as "National Cystic Fibrosis Awareness Week".

S. RES. 307

At the request of Mr. TORRICELLI, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. Res. 307, A resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 325

At the request of Mr. SESSIONS, the names of the Senator from Alaska (Mr. STEVENS), the Senator from California (Mrs. BOXER), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Virginia (Mr. WARNER), the Senator from Michigan (Ms. STABENOW), the Senator from Georgia (Mr. CLELAND), the Senator from New York (Mr. SCHUMER), the Senator from Minnesota (Mr. DAYTON), the Senator from Montana (Mr. BURNS), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Maine (Ms. COLLINS), the Senator from Maryland (Ms. MIKULSKI), the Senator from Indiana (Mr. BAYH), the Senator from Wisconsin (Mr. KOHL), the Senator from Rhode Island (Mr. REED), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Illinois (Mr. DURBIN), the Senator from Connecticut (Mr. DODD) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. Res. 325, Resolution designating the month of September 2002 as "National Prostate Cancer Awareness Month".

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. Con. Res. 11, A concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Colorado (Mr. ALLARD) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. Con. Res. 142, A concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

S. CON. RES. 143

At the request of Mr. INHOFE, the names of the Senator from Arkansas (Mr. HUTCHINSON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. DAYTON) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. Con. Res. 143, A concurrent resolution designating October 6, 2002, through October 12, 2002, as "National 4-H Youth Development Program Week".

S. CON. RES. 145

At the request of Mr. KENNEDY, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. Con. Res. 145, A concurrent resolution recognizing and commending Mary Baker Eddy's achievements and the Mary Baker Eddy Library for the Betterment of Humanity.

AMENDMENT NO. 4653

At the request of Mr. DURBIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of amendment No. 4653 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4731

At the request of Mr. ALLEN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 4731 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself and Mr. STEVENS):

S. 3008. A bill to amend the Higher Education Act of 1965 to expand the loan forgiveness and loan cancellation programs for teachers, to provide loan forgiveness and loan cancellation programs for nurses, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today I, along with my good friend from Alaska, Senator STEVENS, am introducing legislation that will help bolster two critical components of Iowa's and the Nation's economic future: healthcare and education.

Across Iowa and America, we face a critical and worsening shortage of nurses and teachers. By 2010 there will be a shortage of 725,000 nurses. By 2020, that shortage will increase to 1.2 million as the baby boomers begin to retire and need more care.

It's much the same case for teachers. In Iowa, 40 percent of our teachers will be eligible to retire in the next 10 years. And 17 percent of Iowa first year teachers leave the classroom after only one year. This is almost twice the national average. We'll need more than 2 million teachers nationwide just to replace the teachers that retire or leave the profession.

Clearly, a shortage of nurses or teachers will have a profound impact on the quality of education for our children and the quality of health care for every Iowan. We have to do more to attract young people to these difficult yet rewarding careers.

One reason young people aren't taking on teaching or nursing is because they're buried in college loan debt. According to the "Burden of Borrowing", a report by the United States Public Interest Research Group, 64 percent of students graduated in 1999–2000 with Federal education loan debt. Further, the average student loan debt has nearly doubled over the past eight years to $16,928. Young people simply can't pursue careers that are critical to Iowa's and America's future because their college debt causes them to enter into unmanageable repayment plans.

Earlier this year, I spoke with college students from schools across central Iowa. Many of these students will walk away from college with a diploma in one hand and a $20,000 student loan bill in the other. When students loan debt keeps our kids from becoming Iowa's next teachers and nurses there's something very wrong with America's priorities.

That's why I, along with my good friend from Alaska, Senator STEVENS, am introducing a plan to offer up to $17,500 of loan forgiveness to students who go into teaching or nursing for at least 5 years. Under our plan, students would get needed relief from loan debt and Iowa and America would get its next generation of nurses and teachers. That's a good investment in education, health care, and our nation's future.

I think we've got a good chance of moving this proposal forward. President Bush has proposed a similar plan aimed just at teachers in a few subject areas. However, I am aware that school districts throughout the United States are faced with problems attracting and retaining teachers in more than just the areas of special education, math and science. Since the White House has embraced the general approach, I am hopeful they'll also support our broader plan for teachers and nurses. It's a common sense proposal that's focused on Iowa and America's future.

I ask unanimous consent that letters of support for our legislation be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN NURSES ASSOCIATION,
Washington, DC, August 30, 2002.

Hon. TOM HARKIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HARKIN: I write on behalf of the American Nurses Association (ANA) to express gratitude and support for your intent to introduce legislation to provide loan forgiveness and loan cancellation programs for registered nurses.

ANA is the only full-service association representing the nation's registered nurses through its 54 constituent member nurse associations. The ANA represents registered nurses of all educational preparation in all practice settings.

ANA supports your legislation because it aims to address the impending nursing shortage. This shortage is projected to soon reach crisis proportions, just as the baby boom population begins to place great demands on the health care system.

A reason for the emerging nurse shortage is a decreasing number of young people entering the nursing profession. As you may well be aware, enrollments in nursing programs have dropped by 17 percent since 1995. Current projections show that the number of nurses per capita will fall 20 percent below requirements by 2020. Your legislation will help reverse the trend and encourage entry into the profession.

As nurses are the largest single group of health care professionals in America, the nurse shortage threatens the very fabric of our health care delivery system. An adequately prepared and supported nursing workforce is essential for the health of our nation.

ANA thanks you for your strong support of nursing issues and for introducing this important legislation.

Sincerely,

ROSE GONZALEZ,
Director, Government Affairs.

AMERICANS FOR NURSING
SHORTAGE RELIEF,
August 19, 2002.

Hon. TOM HARKIN,
Hart Senate Office Building, U.S. Senate, Washington, DC.
Hon. TED STEVENS,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATORS HARKIN AND STEVENS: The undersigned members of the ANSR Alliance (Americans for Nursing Shortage Relief) strongly support your draft bill to amend the *Higher Education Act of 1965* and increase nursing education loan opportunities within the Department of Education. As delineated in the bill, this positive move to bring more individuals into the nursing profession and support the creation of nurse educators will be accomplished through loan cancellation and forgiveness after five years of service in a clinical setting or at an accredited school of nursing. We greatly appreciate your understanding of the need for multiple programs throughout the federal government to alleviate the critical nursing shortage that is facing us today and which will continue to do so unless we stem its growth.

A key issue in ensuring public access to high quality nursing services is the growing faculty shortage and implications for the preparation of new nursing professionals. The median age of nurse faculty is 52 years old, and the impending retirement of seasoned faculty over the next decade will significantly impact the ability of schools and universities to sustain quality nursing educational programs that prepare an adequate supply of nurses to meet the Nation's needs. The educational incentives described in the proposed legislation hold promise as effective tools to insure monies are available to train critically needed nurse faculty.

The ANSR Alliance thanks you for your commitment to advancing an innovative solution to help alleviate the nursing shortage in the United States. We look forward to working with you to ensure passage of this important piece of legislation.

Sincerely yours,

American Academy of Ambulatory Care Nursing.
American Academy of Nurse Practitioners.
American Association of Colleges of Nursing.
American Association of Critical Care Nurses.
American Association of Nurse Anesthetists.
American College of Nurse-Midwives.
American College of Nurse Practitioners.
American Nephrology Nurses Association.
American Organization of Nurse Executives.
American Society of Pain Management Nurses.
American Society of Perianesthesia Nurses.
American Society of Plastic Surgical Nurses.
Association of Faculties of Pediatric Nurse Practitioners.
Association of periOperative Registered Nurses.
Association of State and Territorial Directors of Nursing.
Association of Women's Health, Obstetric and Neonatal Nurses.
Emergency Nurses Association.
National Alaska Native American Indian Nurses Association.
National Association of Clinical Nurse Specialists.
National Association of Neonatal Nurses.
National Association of Orthopaedic Nurses.
National Association of Pediatric Nurse Practitioners.
National Association of School Nurses.
National Black Nurses Association, Inc.
National Conference of Gerontological Nurse Practitioners.
National Council of State Boards of Nursing, Inc.
National League for Nursing.
National Nursing Centers Consortium.
National Organization of Nurse Practitioner Faculties.
National Student Nurses' Association, Inc.
Nurses Organization of Veterans Affairs.
Oncology Nursing Society.
Society of Gastroenterology Nurses and Associates, Inc.
Society of Pediatric Nurses.

AMERICAN COUNCIL ON EDUCATION,
OFFICE OF THE PRESIDENT,
Washington, DC, September 25, 2002.

Re support of the Teacher and Nurse Support Act of 2002.

Hon. TOM HARKIN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN, On behalf of the American Council on Education (ACE) and the organization listed below, I thank you for introducing legislation to expand and extend loan forgiveness and cancellation programs for teachers and nurses. We are grateful to you for working so hard to alleviate the financial burden of America's students, particularly our teachers and nurses. These highly valued but underpaid professionals are educated and prepared in our institutions. We will work with you in building support for these good measures and we will wholeheartedly support your bill when it comes up for consideration.

Providing financial incentives to nursing and teaching students via federal loan programs is one of the best ways to attract and retain talented individuals to pursue academic study and careers in these important fields.

As individuals retire and the vacancies for nurses and teachers grow, the United States will need to replace and supplement these essential vocations with qualified personnel. These types of programs and incentives are especially helpful for individuals who choose to dedicate their time and energy to careers that are rarely financially lucrative.

Thank you again for your leadership on this important issues.

Sincerely,

DAVID WARD,
President.

On behalf of:

American Association of Colleges for Teacher Education.
American Association of Colleges of Nursing.
American Association of State Colleges and Universities.
American Council on Education.
Association of American Universities.
Association of Jesuit Colleges and Universities.
National Association for Equal Opportunity in Higher Education.
National Association of College and University Business Officers.
National Association of Independent Colleges and Universities.
National Association of State Universities and Land-Grant Colleges.
The State PIRGs' Higher Education Project.
United States Student Association.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, September 26, 2002.

Senator TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: On behalf of the National Education Association's (NEA) 2.7 million members, we would like to express our support for the Teacher and Nurse Support Act of 2002.

We are very pleased that your legislation seeks to address the nation's growing teacher shortage by providing student loan forgiveness for individuals who enter the profession. New teacher quality standards coupled with a national teacher shortage make attracting and retaining quality teachers even more important, particilary in high-poverty areas. Unfortunately, too many of today's students rely on loans in order to afford higher education. The resulting debt burden often limits career choices and prevents many talented students from pursuing careers in public service, including as teachers.

By expanding loan forgiveness and targeting it more toward teachers in high poverty schools, rather than toward limited academic disciplines, your bill will help encourage talented individuals to enter the teaching profession and to bring their skills to schools with the greatest need. In addition, by providing for mandatory spending, the bill will ensure that teachers who qualify will receive the loan forgiveness they need.

We thank you for your leadership on this important issue and look forward to continuing to work with you in support of children and public education.

Sincerely,

DIANE SHUST,
Director of Government Relations.
RANDALL MOODY,
Manager of Federal Policy and Politics.

By Mr. WELLSTONE (for himself, Mrs. CLINTON, Mr. KENNEDY, Ms. LANDRIEU, Mrs. CARNAHAN, Mr. SMITH of Oregon, Mr. BAYH, Mr. SARBANES, Mr. DASCHLE, Mr. ROCKEFELLER, Mr. TORRICELLI, Mr. DURBIN, Mr. BINGAMAN, Mr. KERRY, Mr. DODD, Mr. REED, Ms. CANTWELL, Mrs. BOXER, Mrs. FEINSTEIN, Mr. BIDEN, Mr. LEVIN, Mr. CORZINE, Mr. REID, Mr. SCHUMER, Ms. STABENOW, Mr. LEAHY, and Mr. LIEBERMAN):

S. 3009. A bill to provide econonmic security for America's workers; read the first time.

Mr. WELLSTONE. Mr. President, I am proud to introduce, on behalf of myself and a large and bipartisan group of my colleagues, the Emergency Unemployment Compensation Act of 2002. I want to especially acknowledge the hard, really the relentless work, in particular of Senator CLINTON and Senator KENNEDY on this issue. They care deeply about the plight of hard-working men and women in their States and around the country, who are struggling, through no fault of their own, to deal with the effects of our flagging economy. I commend their work.

We cannot have a secure Nation if we do not address issues of our economic security as well.

Working men and women around the country and in Minnesota, blue collar and white collar, are hurting.

The economy, battered by corporate accountability scandals, plummeting stock prices, and now flagging consumer confidence, is deteriorating.

And the jobs simply are not there. Minnesota has lost more than 40,000 jobs in the past 18 months. There are currently 123,000 Minnesotans unemployed. In the second quarter of this year, unemployed workers in Minnesota looking for jobs outnumbered unfilled jobs by 2–1.

The national picture is no different. Nationally, more than 2 million jobs have been lost over the last 18 months. We have more than 8 million men and women out of work. This is the only Administration in the past 50 years that has presided over a decline in private sector jobs.

What's more, long term unemployment is up sharply. Nationally, nearly 1 in five of the 8 million unemployed workers have been out of work for 6 months or more. Between May and July of this year, around 900,000 workers exhausted the extended unemployment benefits made available through the unemployment insurance extension in March. By the end of 2002 we expect over 2 million workers to exhaust these benefits.

In Minnesota, through the end of July, over 17,000 workers had exhausted the benefits that we temporarily extended back in March of this year, with thousands more likely to exhaust in the future.

That is why we are announcing today the introduction of the "Economic Security Act of 2002." It does the following: Extends, through July 2003, the temporary extended benefits program, due to expire on December 31st. Provides another 13 weeks of extended benefits for workers running out of benefits in all states and another 20 weeks in high unemployment states.

This mirrors the benefit extensions signed into law by Bush, Sr.

The triggers used to determine "high unemployment" are: A 4 percent Adjusted Insured Unemployment Rate (AUIR) or a 6 percent Total Unemployment Rate (TUR).

The AUIR and the TUR are exactly the same triggers used in the early 90's. The levels are different to reflect the new reality of a significantly lower natural unemployment rate. [In the 90's we used a 5 percent AUIR and a 9 percent TUR, virtually no states would trigger at these levels today].

In the 90's we extended benefits 5 times, by large bi-partisan votes. Three of those votes (91–2; 94–2; and 93–3) were during Bush 1.

And the need is even greater now. By year's end we expect 2.2 million workers to have exhausted. In 1992, for a comparable period, there were only 1.4 million workers who exhausted benefits.

The need is urgent—we should pass this measure immediately.

Mrs. CLINTON. Mr. President, on September 12, 2001, hundreds of thousands of New Yorkers woke up to a changed world, thousands had lost family, friends and co-workers to the terrorist attacks of September 11 and hundreds of thousands more New Yorkers had lost their jobs. America watched the scenes of New York and felt pride in the firefighters, the police officers, the emergency workers, and the construction workers who had all fled to Ground Zero to help with recovery.

The images that our Nation did not see as prominently were the faces of the hundreds of thousands of New Yorkers who were left jobless. There were the workers whose jobs were literally destroyed when the Twin Towers collapsed, the janitors, the doormen, the waiters and waitresses, the secretaries, and messengers. Or, the workers who did not work in lower Manhattan, but who felt the ripple effect of the so-called frozen zone, primarily the hotel workers and small businesses owners.

In the months following September 11, these individuals streamed into my office and called on the phone pleading for my assistance. At first, New York was able to offer displaced workers needed assistance through regular unemployment insurance, UI. And, for those workers who did not qualify for regular UI, either because they worked for a small business or they were new employees, they were able to receive Disaster Unemployment Assistance, DUA, provided through the Federal Emergency Management Administration, FEMA.

In September 2001, the unemployment rate in New York City was 6.3 percent. And, in the period following September 2001, this rate began to spike up such that we experienced unemployment rates that we had not seen since the recession of the early 1990s. In December 2001, the unemployment rate rose to 7.4 percent, 2.4 percent above the national average for the same period. In March 2002, the unemployment rate climbed to 7.5 percent and in June 2002 it reached 8 percent. New York City lost 150,000 jobs in the aftermath of September 11 and the City is not expected to rebound until 2004. New York City was not alone, New York State saw a climbing unemployment rate for the same period. In September 2001, the unemployment rate in the state was at 5.2 percent; it went up to 5.7 percent in December 2001, to 5.9 percent in March 2002, and to 6.1 percent in June 2002.

Once it became clear that the economy was not going to recover quickly and that it was going to take New York State and New York City years to rebuild the economy, I immediately began to fight for the extension of Unemployment Insurance and Disaster Unemployment Assistance so that New Yorkers could receive a small bit of short-term economic security while they searched for jobs. On November 1, 2001, I introduced a bill to extend Disaster Unemployment Assistance for an additional 13-weeks and, at the same time, I urged the Congressional Leadership to include an extension of regular unemployment insurance in the economic stimulus package.

After sustained work on these bills, I was pleased in March 2002 to join my colleagues in voting for an economic stimulus package that included a 13-week extension of Unemployment Insurance and, in the same month, I was pleased that we passed the bill to extend Disaster Unemployment Assistance for 13 more weeks.

These extensions, however, were short-lived. The economy continued to weaken with corporate scandals and little job growth.

In June, I started to hear from thousands of my constituents who were still out of work and concerned that their extended unemployment benefits would soon run out. They were frightened and unsettled and looking to me to help. I saw that this was a serious problem for many New Yorkers so I introduced a bill on July 19, 2002, to provide for another 13-week extension of unemployment insurance. This bill, S. 2714, garnered eight co-sponsors. I also introduced a companion bill, S. 2715, to extend Disaster Unemployment Assistance. Six of my colleagues joined me in co-sponsoring it. I also worked with my colleagues on the House to introduce a companion bill. Rep. CHARLIE RANGEL, from New York City, introduced H.R. 5089, which received 34 co-sponsors, including fourteen members of the New York Congressional delegation.

The need to help struggling workers in New York and throughout the Nation, however, was not breaking through. On September 13, 2002, I made my case for the need to extend unemployment insurance through an op-ed in the New York Times, which I would like to submit for the RECORD today. In this article, I refer to Felix Batista, a father of four who lost his job as a result of September 11 and has not been able to get back on his feet. Felix came to Washington to testify at a HELP Committee hearing on September 12, 2002, and told his story to all the members of the Committee. I was pleased to meet with him and the hundreds of other unemployed New Yorkers who came to town to ask that Congress extend unemployment benefits.

On September 15, 2002, I appeared on Meet the Press with Tim Russert and again mentioned the dramatic rise in long-term unemployment and the need to extend benefits and help those who are suffering as a result of the economy. Last week, I delivered a floor statement on this bill to again reinforce the message that I have been trying to get out to all of my colleagues. And yesterday, I worked with Senator KENNEDY to organize a press conference to draw attention to this issue. There, I introduced Vera Matty, a former executive assistant at BMG who lost her job last November as a result of the recession.

Today, 24 of my colleagues and I are introducing a bill to extend Unemployment Insurance for another 13 weeks and 20 weeks for states like New York that are suffering from high unemployment. In addition, today the Environment and Public Works Committee approved my bill to extend Disaster Unemployment Assistance for another 13 weeks. I am pleased that the EPW Committee is taking action on this bill, S. 2715, and I hope that the Senate will move quickly to approve it.

New Yorkers are suffering. We have suffered a double blow as a result of September 11 and the recession. And on September 20, 2002 there was an article in the New York Times stating that New York City's poverty rate is growing for the first time in five years.

This economy was in a recession on September 10. It was devastated on September 11 and the people who have exhausted their unemployment benefits need our help now.

Too many Americans are out of work and having a hard time providing for their families. Too many have lost their jobs and watched their pensions and retirement securities disappear because of the illegal and unethical and inexplicable behavior of corporate executives. And despite their steadfast efforts to find work and their overwhelming desire to get back to work, they remain out of work and struggle to make ends meet.

In New York, there are 135,000 New Yorkers who have exhausted their benefits. Across the country, the number of people who have been unemployed for 6 months or longer has almost doubled from 900,000 to 1.5 million in the last year. And that number is expected to increase to 2.2 million by December.

And what has Congress done to ease Americans financial burden during these uncertain times? We have extended benefits only once. Contrast that with the recession of the early 90's when Congress extended temporary benefits five times. This year, even in the wake of massive terrorist attacks on our own soil, we have extended benefits only once, and once is not enough.

Congress must extend unemployment insurance and disaster unemployment assistance, each for an additional 13 weeks. With more people losing their benefits every day, these extensions have to be passed before Congress adjourns.

Extending unemployment insurance is not just the right thing to do; it is also the smart thing. According to a 1999 Department of Labor study, unemployment insurance stimulates the economy. Every dollar spent on unemployment insurance adds $2.5 to the Gross Domestic Product. Unemployment Insurance acts as a stimulus because it puts money into the hands of people who are likely to spend it immediately? They have to buy food. They have to pay rent. They have to pay their car payments. So the money goes right into the economy, and it provides a stimulus.

Today, the outlook for job seekers is grim. When President Bush took office back in January of 2001; there was approximately 1 job seeker for every job. In just a little over a year, those numbers have changed to nearly 1 job opening for every 3 applicants. The number of people who cannot find jobs for six months or longer, has grown by almost 90 percent in the past year.

In fact, the share of the unemployed today who have been without work for more than 26 weeks exceeds that of the recessions of the early 90s and the early 80s. But only looking at the unemployment rate does not paint a complete picture of the economy. My constituents describe an endless job search—the hopeless feeling that comes from looking for a job for months and months without success.

Two years ago, America was on the right track when it came to the economy: 22 million new jobs, budget surpluses, and historic growth. For reasons that escape me, we threw all that good work away. Now we're back into deficits. We're not creating jobs. And we're not taking care of the unemployed.

It's time for us to extend benefits just as we did during the recession in the early 90's, and stimulate the economy. People are hurting and they are running out of benefits and they need Congress to act now. We must not adjourn until we pass these needed extensions of unemployment insurance.

I ask unanimous consent that the New York Times article of September 20, 2002 be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 20, 2002]

HELPING THE JOBLESS

(By Hillary Rodham Clinton)

For 23 years, Felix Batista rode the elevator up 106 floors to work as a member of the wait staff at the Windows on the World restaurant. On Sept. 11, everything changed. Mr. Batista was on vacation with his family, and that decision saved his life. That day, he lost 73 coworkers and his job.

While the first anniversary of the Sept. 11 attacks has come and gone, in New York the needs born out of that tragedy remain. Each step that we take—whether it is investing $20.9 billion for cleanup and recovery or financing programs to track the health of rescue workers and volunteers at ground zero—will bring New York closer to recovery.

But today, the city's unemployment rate has skyrocketed to 8 percent. Across the state, 553,000 New Yorkers are out of work, with company layoffs and plant closings happening everywhere from Niagara Falls to Rochester. Now 135,000 New Yorkers like Mr. Batista have exhausted their unemployment benefits and are struggling to pay their bills.

At this time last year, 800,000 Americans had been out of work for six months or longer. That number has nearly doubled to 1.5 million and it is expected to increase to more than 2 million by December.

Congress must act quickly to extend unemployment insurance and disaster unemployment assistance, each for an additional 13 weeks. With more people losing their benefits every day, these extensions have to be passed before Congress adjourns.

During the recession of the early 90's, Congress extended temporary benefits five times. This year, even in the wake of massive terrorist attacks on our own soil, we have extended benefits only once, and once is not enough.

The economy was already in a recession on Sept. 1. It was devastated on Sept. 11, and is stalled now. Some forecasters say we are experiencing a "jobless recovery"—one in which stockbrokers, electricians, insurance agents, computer technicians, textile workers and restaurant workers have formed lines many blocks long to attend job fairs. New revelations about corporate irresponsibility and illegality have added more doubt to an already weakened economy.

Extending unemployment insurance would put money into the hands of the very people who will turn right around and put it back into our economy. In 1999, the Department of Labor found that when unemployment insurance is extended, every dollar in benefits generates $2.15 in gross domestic product. Giving more purchasing power to the more than 8 million Americans who are currently unemployed would be a powerful stimulus for our economy.

After Sept. 11, it was clear we needed a serious push for homeland security. Now we need to restore a measure of economic security to all Americans, and extending unemployment benefits is a responsible and affordable way to do so.

By Mr. BAUCUS:

S. 3011. A bill to amend title 23, United States Code, to establish programs to encourage economic growth in the United States, and for other purposes; to the Committee on Environment and Public Works.

Mr. BAUCUS. Mr. President, I rise today to introduce the MEGA Safe Act. Maximum Economic Growth for America Through Safety Improvements.

Safer roads save lives. Improving traffic and roadway safety is one of the biggest challenges facing the government today. Traffic deaths are consistently one of the top ten causes of deaths each year. Accidents involving motor vehicles affect all of us.

This bill is only a beginning in our Nation's efforts to curb roadway accidents and deaths, in a way that best addresses the needs of our States. .

A large cause of accidents is the poor quality of signs in and around crosswalks, school and bicycle crossings. Highway signs marking pedestrian, bicycle, and school zone crossings help to alert motorists to the increased risks associated with these locations.

This bill establishes a grant program to improve safety at pedestrian, school and bicycle crossings by marking them with fluorescent yellow-green, signs. FYG signs are currently the most reflective signs available.

The Secretary of Transportation is directed to set aside $25 million each fiscal year from the Surface Transportation Program to finance these safety improvement grants. The funds may be obligated for eligible projects located on any public road.

I've been hearing from County Commissioners from Montana as well as other States, about how much they need direct funding for local roads. These localities are hard pressed for funds and many of these roads are unsafe. This bill would establish a pilot program, at $200 million annually from fiscal year 2004-2009, to address safety on rural local roads. Funds could be used only on local roads and rural minor collectors, roads that are not Federal-aid highways.

The program does not affect distribution of funds among States, as funds will be distributed to each of the 50 States in accord with their relative formula share under 23 U.S.C. 105. Funds could be used only for projects or activities that have a safety benefit. By January 1, 2009 the Secretary of Transportation is to report on progress under the provision and whether any modifications are recommended.

This bill takes a different approach to the issue of aggressive driving. Rather than sanctioning drivers who display aggressive behavior, this section seeks to lessen that negative behavior by removing some of the frustration that causes that behavior.

This section applies to all Federal interstates. It names the left lane as the "National Passing Lane." It requires all vehicles to use the left lane for passing only. It further requires that all drivers allow other vehicles to pass them in the left lane. I believe that one of the big frustrations of drivers in this country is being held up by someone going slow in the left lane. It contributes to driver aggression and to congestion. The MEGA Safe Act seeks to alleviate that.

An amount of no less than $1 million will be given to each State each year of the bill, 6 years, to educate the driving public about this new law and the proper behavior.

Each State will decide how to best enforce this law, for example, enforcement of ticketable offenses such as if a driver does not allow another to pass or the driver is holding up the left lane with a line of cars behind him.

Additionally, the bill funds a study to make recommendations on instituting measures that will help the federal government and states teach motorists and truck drivers how to effectively share the road with each other.

Recently the American Automobile Association, AAA, unveiled a study that shows that the majority of highway crashes that involved trucks are caused by the car or cars involved.

MEGA Safe would give $1 million to the American Trucking Associations, ATA, and AAA to issue a report making recommendations on how the Federal and State governments can better teach car drivers and more carriers how to share the road.

It requires a preliminary report in a year and the final report a year later.

Finally, the MEGA Safe Act would address Work Zone Safety by ensuring that, for each project that uses Federal funds, a trained and certified person would be given the responsibility for assuring that the traffic control plan is effectively administered. This would help reduce the number of deaths occurring in work zone safety areas.

The MEGA Safe Act is by no means a comprehensive safety proposal, but I believe that these ideas are a good foundation for our safety policies as we embark on the Reauthorization of TEA 21.

By Mr. DODD:

S. 3012. A bill to amend the Internal Revenue Code of 1986 to exclude from income and employment taxes and wage withholding property tax rebates and other benefits provided to volunteer firefighters and emergency medical responders; to the Committee on Finance.

Mr. DODD. Mr. President, I am pleased to rise today with my colleague Senator LIEBERMAN to introduce legislation that would amend the Internal Revenue Code to exclude property tax abatements, provided by local governments to volunteer firefighters and emergency medical responders, from the definition of income and wages. Last week, Congressman JOHN LARSON of Connecticut, the chief author of this proposal, introduced identical legislation in the House.

This bill would allow local governments around the country the opportunity to provide incentives, such as property tax abatements, to their volunteer firefighters and emergency medical responders. These incentives will help local governments recruit local volunteer firefighters and emergency medical responders in order to ensure their communities are adequately prepared to respond to emergencies.

Police officers, firefighters, and emergency service workers are America's front-line defenders in the face of fires, medical emergencies, terrorist threats, incidents with hazardous materials and other emergencies. Many of them are salaried employees of their respective State or local government. Many of them are volunteers, as well. Many States and localities lack adequate resources to recruit these vital public servants and therefore to fully respond to the full range of possible threats this country faces.

Many small towns cannot afford full-time paid firefighters, therefore a majority of municipalities and counties throughout the country depend on volunteer firefighters and volunteer emergency service workers to cover their front lines. Every day, volunteers throughout the country make a commitment, on top of their work schedules, to put their lives on the line for their communities. Volunteer firefighters comprise 75 percent of firefighters in our country. Unfortunately, statistics show that the number of volunteer firefighters and emergency responders have been declining over the years at an alarming rate. The number of volunteer firefighters around the country has declined by 5 to 10 percent since 1983, while the number of emergency calls made has sharply increased.

Many local governments recruit and retain volunteer firefighters and emergency service workers by offering volunteers a property tax abatement that directly reduces their property taxes. For example, Connecticut enacted a law in 1999 allowing municipalities to offer abatements of up to $1,000 per year on local taxes to firefighters, emergency medical technicians, paramedics or ambulance drivers. This abatement has helped local fire department in their volunteer recruitment efforts throughout the state.

Despite these successful recruitment efforts, the IRS recently ruled that property tax abatements to volunteers should be treated as wages and income. This ruling would pose real hardship on firefighters and the communities where they live and work, in Connecticut and in many other States, as well. While State and local governments are working to increase incentives to volunteer, this ruling would undermine those efforts. Some may argue that volunteering for the community should be without any compensation, including abatements. However, the reality is that when both heads of household hold full-time employment, it is often too difficult for them to take time away from their families without some form of compensation. A $1,000 property tax break is not a large request for the great service these men and women provide to our communities. These men and women risk their lives for others. The least we can do is allow states and towns to offer them modest incentives to serve. For some, counting this abatement as income may put them in a higher tax bracket, therefore forcing them to pay substantially more in taxes. Also, because of the extra paperwork required and costs due to the IRS decision, some municipalities are having to reconsider providing abatement programs. For many towns and municipalities it would be entirely too expensive to have to both pay FICA taxes, and lose property tax revenues. Municipalities across the nation have enough trouble recruiting volunteer firefighters and emergency medical personnel without also having to face obstacles from the IRS.

This ruling undermines the good intentions and creative efforts of many localities. If our municipalities are willing to forgo their local tax revenues in order to ensure they have enough volunteer firefighters and emergency service providers to protect their communities, and if members of the community are doing their part by volunteering, then we, the Federal government, should do our part and support local efforts to ensure that all our communities have adequate protection.

I hope that my colleagues will join me in supporting this legislation so that we can ensure that state and local governments have the flexibility to design and implement recruiting and retention programs that benefit not only the volunteer firefighters and emergency medical providers, but also the communities they protect.

By Mr. KYL (for himself, Mr. McCAIN, Mr. DOMENICI, and Mr. BINGAMAN):

S. 3013. A bill to amend the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens; to the Committee on Health, Education, Labor, and Pensions.

Mr. McCAIN. Mr. President, I am pleased to once again join my good friend from Arizona, Senator KYL, in introducing a bill to address a critical issue affecting our State, and other border States. Today we are introducing the Local Emergency Health Services Reimbursement Act of 2002 in order to provide appropriate Federal reimbursement to States and localities whose budgets are disproportionately affected by the emergency health costs associated with illegal immigration.

Arizona and other border States now face a medical and financial crisis. A report released today by the U.S./Mexico Border Counties Coalition found that our Nation's border hospitals spent close to $190 million in 2000 to provide health care to illegal immigrants—$31 million of which was spent by hospitals in Arizona alone. Clearly, the staggering cost of providing medical care to illegal immigrants further burdens an already challenged medical system.

The Federal Government maintains the sole authority to control immigration in this country. Despite that fact, the Federal Government often fails to take financial responsibility for the costs associated with immigration. Much of the financial burden has shifted to State and local governments.

Compounding the problem, Federal law requires hospital emergency rooms to accept and treat all patients in need of medical care, regardless of immigration status. Unfortunately, this mandate does not ensure that these hospitals receive adequate compensation for the care they provide. Recently, this growing problem in the Southwest has been exacerbated by the increasingly desperate measures taken by undocumented aliens to cross our border with Mexico.

The Local Emergency Health Services Reimbursement Act of 2002 would modify and extend federal funding to the States, local governments, and health care providers for medical costs that arise from the uncompensated treatment of illegal immigrants. Such funding previously flowed to all 50 States, the District of Columbia, and several U.S. territories. In fiscal year 2000 alone, approximately 360 local jurisdictions across the United States applied for these Federal monies. However these funds expired in 2001, and States and local governments are now suffering as a result.

I have long worked to bolster enforcement against illegal immigration along our Southwest border, and I will continue to do so. However, I believe that States and local communities should not be left to foot the bill for what is a Federal responsibility. Although our bill gives special consideration to States with unusually high concentrations of illegal aliens and States with high concentrations of apprehended undocumented aliens, it would benefit communities across the Nation. As my colleagues know, illegal immigrants who successfully transit our Southwest border rapidly disperse throughout the United States. Although this situation is most critical in our border regions, if left unaddressed, it will surely become a national emergency. I hope the Senate will act expeditiously on this important legislation to alleviate those pressures by compensating State and local governments and health care providers for the costs they incur as unwitting hosts to undocumented aliens.

Mr. KYL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Local Emergency Health Services Reimbursement Act of 2002".

SEC. 2. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

Section 4723 of the Balanced Budget Act of 1997 (8 U.S.C. 1611 note) is amended to read as follows:

"SEC. 4723. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

"(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, $200,000,000 for each of fiscal years 2003 through 2007, for the purpose of making allotments under this section to States described in paragraph (1) or (2) of subsection (b).

"(b) STATE ALLOTMENTS.—

"(1) BASED ON HIGHEST NUMBER OF UNDOCUMENTED ALIENS.—

"(A) DETERMINATION OF ALLOTMENTS.—

"(i) IN GENERAL.—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use $134,000,000 of such amount to compute an allotment for each such fiscal year for each of the 17 States with the highest number of undocumented aliens.

"(ii) FORMULA.—The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under this paragraph for the fiscal year as the ratio of the number of undocumented aliens in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year.

"(iii) AVAILABILITY OF FUNDS.—The amount of an allotment provided to a State under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

"(B) DATA.—For purposes of subparagraph (A), the number of undocumented aliens in a State shall be determined based on estimates of the resident undocumented alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved).

"(2) BASED ON NUMBER OF UNDOCUMENTED ALIEN APPREHENSION STATES.—

"(A) IN GENERAL.—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use $66,000,000 of such amount to compute an allotment for each such fiscal year for each of the 6 States with the highest number of undocumented alien apprehensions for such fiscal year.

"(B) DETERMINATION OF ALLOTMENTS.—The amount of such allotment for each such State for a fiscal year shall bear the same ratio to the total amount available for allotments under this paragraph for the fiscal year as the ratio of the number of undocumented alien apprehensions in the State in the fiscal year bears to the total of such numbers for all such States for such fiscal year.

"(C) DATA.—For purposes of this paragraph, the highest number of undocumented alien apprehensions for a fiscal year shall be based on the 4 most recent quarterly apprehension rates for undocumented aliens in such States, as reported by the Immigration and Naturalization Service.

"(D) AVAILABILITY OF FUNDS.—The amount of an allotment provided to a State under this paragraph for a fiscal year that is not paid out under subsection (c) shall be available for payment during the subsequent fiscal year.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State that is described in both of paragraphs (1) and (2) from receiving an allotment under both such paragraphs for a fiscal year.

"(c) USE OF FUNDS.—The Secretary shall pay, from the allotments made for a State under paragraphs (1) and, if applicable, (2) of subsection (b) for a fiscal year, to each State and directly to local governments, hospitals, or other providers located in the State (including providers of services received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act)) that provide uncompensated emergency health services furnished to undocumented aliens during that fiscal year, such amounts (subject to the total amount available from such allotments) as the State, local governments, hospitals, or providers demonstrate were incurred for the provision of such services during that fiscal year.

"(d) DEFINITIONS.—In this section:

"(1) HOSPITAL.—The term 'hospital' has the meaning given such term in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)).

"(2) PROVIDER.—The term 'provider' includes a physician, any other health care professional licensed under State law, and any other entity that furnishes emergency health services, including ambulance services.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(4) STATE.—The term 'State' means the 50 States and the District of Columbia.

"(e) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts provided under this section.".

By Mr. CAMPBELL:

S. 3014. A bill for the relief of Jesus Raul Apodaca-Madrid and certain of his family members; to the Committee on the Judiciary.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the text of the bill be printed in RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Jesus Raul Apodaca-Madrid and the persons named in section 3, who are members of his family, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Jesus Raul Apodaca-Madrid and the persons named in section 3, as provided in section 1, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

SEC. 3. ADDITIONAL BENEFICIARIES FOR RELIEF.

The family members of Jesus Raul Apodaca-Madrid named in this section are the following: Adan Apodaca-Bejarano, Maria de Jesus Madrid-Tarango, Francisco Javier Apodaca-Madrid, Alma Delia Apodaca-Madrid, Maria Isabel Apodaca-Madrid, Laura Apodaca-Madrid, and Luis Bernardo Chavez-Apodaca.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 148—RECOGNIZING THE SIGNIFICANCE OF BREAD IN AMERICAN HISTORY, CULTURE AND DAILY DIET

Mr. BROWNBACK (for himself and Mr. NELSON of Nebraska) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 148

Whereas bread is a gift of friendship in the United States;

Whereas bread is used as a symbol of unity for families and friends;

Whereas the expression "breaking bread together" means sharing friendship, peace, and goodwill, and the actual breaking of bread together can help restore a sense of normalcy and encourage a sense of community;

Whereas bread, the staff of life, not only nourishes the body but symbolizes nourishment for the human spirit;

Whereas bread is used in many cultures to commemorate milestones such as births, weddings, and deaths;

Whereas bread is the most consumed of grain foods, is recognized by the Department of Agriculture as part of the most important food group, and plays a vital role in American diets;

Whereas Americans consume an average of 60 pounds of bread annually;

Whereas bread has been a staple of American diets for hundreds of years;

Whereas Americans are demonstrating a new interest in artisan and home-style types of breads, increasingly found in cafes, bakeries, restaurants, and homes across the country;

Whereas bread sustained the Pilgrims during their long ocean voyage to America and was used to celebrate their first harvest in the American wilderness; and

Whereas bread remains an important part of the family meal when Americans celebrate Thanksgiving, and the designation of November 2002 as National Bread Month would recognize the significance of bread in American history, culture, and daily diet: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President should issue a proclamation—

(1) designating November 2002 as National Bread Month in recognition of the significance of bread in American history, culture, and daily diet; and

(2) calling on the people of the United States to observe such month with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4753. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4754. Mr. JEFFORDS (for himself, Mr. SMITH of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4755. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4756. Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4757. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4758. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4759. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4760. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4761. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4762. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4763. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4764. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4765. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4766. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4767. Mr. GRASSLEY (for himself, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4768. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4769. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4770. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4771. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4772. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4773. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4774. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4775. Mr. STEVENS (for himself, Ms. Collins, Ms. Snowe, and Mr. Hollings) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4776. Mr. STEVENS (for himself, Ms. Collins, Ms. Snowe, and Mr. Hollings) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4777. Mr. STEVENS (for himself, Ms. Collins, Ms. Snowe, and Mr. Hollings) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4778. Mr. STEVENS (for himself, Ms. Collins, Ms. Snowe, and Mr. Hollings) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4779. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4780. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4781. Mr. AKAKA (for himself, Mr. Grassley, and Mr. Levin) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4782. Mr. AKAKA (for himself and Mr. Carper) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4783. Mrs. CLINTON (for herself, Mr. Inhofe, Mr. Leahy, and Mr. Jeffords) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4784. Mrs. CLINTON (for herself and Mr. Inhofe) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4785. Mrs. CLINTON (for herself and Ms. Snowe) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4786. Mrs. CLINTON (for herself and Mr. Specter) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4787. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4788. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4789. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4790. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4791. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4792. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4793. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4794. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4795. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4796. Mr. FEINGOLD (for himself, Mr. Kennedy, and Mr. Corzine) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4797. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4798. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4799. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4800. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4801. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr.

Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4802. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4803. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4804. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4805. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4806. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4807. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4808. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4809. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4810. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr.Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4811. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4812. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4813. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4814. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4815. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4816. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4817. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4818. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4819. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4820. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4821. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4822. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4823. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4824. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4825. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4826. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4827. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4828. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4829. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4830. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4831. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4832. Mr. JEFFORDS (for himself, Mr. SMITH, of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H .R. 5005, supra; which was ordered to lie on the table.

SA 4833. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H .R. 5005, supra; which was ordered to lie on the table.

SA 4834. Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4835. Mr. DEWINE (for himself, Mr. BINGAMAN, Mr. DORGAN, Mr. DOMENICI, Mr. THURMOND, Ms. CANTWELL, Mr. HELMS, Mr. ALLARD, Mr. LIEBERMAN, Mr. CARPER, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

SA 4836. Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. CARPER, and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4837. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill H.R. 4085, To amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation for veterans with service-connected disability and dependency and indemnity compensation for surviving spouses of such veterans, to expand certain benefits for veterans and their survivors, and for other purposes.

SA 4838. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 2237, to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and, for other purposes.

TEXT OF AMENDMENTS

SA 4753. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 173. FIRST RESPONDER PERSONNEL COSTS.

Local governments receiving Federal homeland security funding under this Act, whether directly or as a pass-through from the States, may use up to 20 percent of Federal funds received for first time responder personnel costs, including overtime costs.

SA 4754. Mr. JEFFORDS (for himself, and Mr. SMITH of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

Subtitle G—First Responder Terrorism Preparedness

SEC. 199A. SHORT TITLE.

This subtitle may be cited as the "First Responder Terrorism Preparedness Act of 2002".

SEC. 199B. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(3) to address issues relating to urban search and rescue task forces.

SEC. 199C. DEFINITIONS.

(a) MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

(b) WEAPON OF MASS DESTRUCTION.—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

"(11) WEAPON OF MASS DESTRUCTION.—The term 'weapon of mass destruction' has the meaning given the term in section 2302 of title 50, United States Code.".

SEC. 199D. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

"SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.

"(a) IN GENERAL.—There is established in the Federal Emergency Management Agency an office to be known as the 'Office of National Preparedness' (referred to in this section as the 'Office').

"(b) APPOINTMENT OF ASSOCIATE DIRECTOR.—

"(1) IN GENERAL.—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) COMPENSATION.—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) DUTIES.—The Office shall—

"(1) lead a coordinated and integrated overall effort to build, exercise, and ensure viable terrorism preparedness and response capability at all levels of government;

"(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

"(3) establish and coordinate an integrated capability for Federal, State, tribal, and local governments and emergency responders to plan for and address potential consequences of terrorism;

"(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

"(5) establish standards for a national, interoperable emergency communications and warning system;

"(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

"(7) carry out such other related activities as are approved by the Director.

"(d) DESIGNATION OF REGIONAL CONTACTS.—The Associate Director shall designate an officer or employee of the Federal Emergency Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

"(e) USE OF EXISTING RESOURCES.—In carrying out this section, the Associate Director shall—

"(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

"(2) consult with and use—

"(A) existing Federal interagency boards and committees;

"(B) existing government agencies; and

"(C) nongovernmental organizations.".

SEC. 199E. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

"SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

"(a) DEFINITIONS.—In this section:

"(1) FIRST RESPONDER.—The term 'first responder' means—

"(A) fire, emergency medical service, and law enforcement personnel; and

"(B) such other personnel as are identified by the Director.

"(2) LOCAL ENTITY.—The term 'local entity' has the meaning given the term by regulation promulgated by the Director.

"(3) PROGRAM.—The term 'program' means the program established under subsection (b).

"(b) PROGRAM TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

"(2) FEDERAL SHARE.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

"(3) FORMS OF ASSISTANCE.—Assistance provided under paragraph (1) may consist of—

"(A) grants; and

"(B) such other forms of assistance as the Director determines to be appropriate.

"(c) USES OF ASSISTANCE.—Assistance provided under subsection (b)—

"(1) shall be used—

"(A) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

"(B) to train first responders, consistent with guidelines and standards developed by the Director;

"(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

"(D) to develop, construct, or upgrade emergency operating centers;

"(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

"(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

"(G) to conduct exercises; and

"(H) to carry out such other related activities as are approved by the Director; and

"(2) shall not be used to provide compensation to first responders (including payment for overtime).

"(d) Allocation of Funds.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

"(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, $3,000,000; and

"(2) to each State (other than a State specified in paragraph (1))—

"(A) a base amount of $15,000,000; and

"(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

"(i) population;

"(ii) location of vital infrastructure, including—

"(I) military installations;

"(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

"(III) nuclear power plants;

"(IV) chemical plants; and

"(V) national landmarks; and

"(iii) proximity to international borders.

"(e) Provision of Funds to Local Governments and Local Entities.—

"(1) In general.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

"(2) Allocation of funds.—Under paragraph (1), a State shall allocate assistance to local governments and local entities within the State in accordance with criteria established by the Director, such as the criteria specified in subsection (d)(2)(B).

"(3) Deadline for provision of funds.—Under paragraph (1), a State shall provide all assistance to local government and local entities not later than 45 days after the date on which the State receives the assistance.

"(4) Coordination.—Each State shall coordinate with local governments and local entities concerning the use of assistance provided to local governments and local entities under paragraph (1).

"(f) Administrative Expenses.—

"(1) Director.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

"(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

"(B)(i) for fiscal year 2003, $75,000,000; and

"(ii) for each of fiscal years 2004 through 2006, $50,000,000.

"(2) Recipients of assistance.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

"(g) Maintenance of Expenditures.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

"(h) Reports.—

"(1) Annual report to the director.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

"(2) Exercise and report to congress.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

"(A) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

"(B) submit a report on the results of the exercise to—

"(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

"(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

"(i) Coordination.—

"(1) With federal agencies.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

"(A) the Administrator of the United States Fire Administration in connection with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A–360));

"(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)); and

"(C) other appropriate Federal agencies.

"(2) With indian tribes.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

"(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act. (25 U.S.C. 450b)) and other tribal organizations; and

"(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.".

(b) Cost Sharing for Emergency Operating Centers.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting "(other than section 630)" after "carry out this title"; and

(2) by inserting "(other than section 630)" after "under this title".

SEC. 199F. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199E(a)) is amended by adding at the end the following:

"SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

"(a) Definitions.—In this section:

"(1) First responder.—The term 'first responder' has the meaning given the term in section 630(a).

"(2) Harmful substance.—The term 'harmful substance' means a substance that the President determines may be harmful to human health.

"(3) Program.—The term 'program' means a program described in subsection (b)(1).

"(b) Program.—

"(1) In general.—If the President determines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major disaster area under this Act, the President shall carry out a program with respect to the area for the protection, assessment, monitoring, and study of the health and safety of first responders.

"(2) Activities.—A program shall include—

"(A) collection and analysis of environmental and exposure data;

"(B) development and dissemination of educational materials;

"(C) provision of information on releases of a harmful substance;

"(D) identification of, performance of baseline health assessments on, taking biological samples from, and establishment of an exposure registry of first responders exposed to a harmful substance;

"(E) study of the long-term health impacts of any exposures of first responders to a harmful substance through epidemiological studies; and

"(F) provision of assistance to participants in registries and studies under subparagraphs (D) and (E) in determining eligibility for health coverage and identifying appropriate health services.

"(3) Participation in registries and studies.—

"(A) In general.—Participation in any registry or study under subparagraph (D) or (E) of paragraph (2) shall be voluntary.

"(B) Protection of privacy.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

"(4) Cooperative agreements.—The President may carry out a program through a cooperative agreement with a medical or academic institution, or a consortium of such institutions, that is—

"(A) located in close proximity to the major disaster area with respect to which the program is carried out; and

"(B) experienced in the area of environmental or occupational health and safety, including experience in—

"(i) conducting long-term epidemiological studies;

"(ii) conducting long-term mental health studies; and "(iii) establishing and maintaining environmental exposure or disease registries.

"(c) REPORTS AND RESPONSES TO STUDIES.—

"(1) REPORTS.—Not later than 1 year after the date of completion of a study under subsection (b)(2)(E), the President, or the medical or academic institution or consortium of such institutions that entered into the cooperative agreement under subsection (b)(4), shall submit to the Director, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Environmental Protection Agency a report on the study.

"(2) CHANGES IN PROCEDURES.—To protect the health and safety of first responders, the President shall make such changes in procedures as the President determines to be necessary based on the findings of a report submitted under paragraph (1).".

SEC. 199G. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199F) is amended by adding at the end the following:

"SEC. 632. URBAN SEARCH AND RESCUE TASK FORCES.

"(a) DEFINITIONS.—In this section:

"(1) URBAN SEARCH AND RESCUE EQUIPMENT.—The term 'urban search and rescue equipment' means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

"(2) URBAN SEARCH AND RESCUE TASK FORCE.—The term 'urban search and rescue task force' means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

"(b) ASSISTANCE.—

"(1) MANDATORY GRANTS FOR COSTS OF OPERATIONS.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than $1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

"(2) DISCRETIONARY GRANTS.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

"(A) operations in excess of the funds provided under paragraph (1);

"(B) urban search and rescue equipment;

"(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

"(D) training, including training for operating in an environment described in subparagraph (C);

"(E) transportation;

"(F) expansion of the urban search and rescue task force; and

"(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

"(3) PRIORITY FOR FUNDING.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

"(c) GRANT REQUIREMENTS.—The Director shall establish such requirements as are necessary to provide grants under this section.

"(d) ESTABLISHMENT OF ADDITIONAL URBAN SEARCH AND RESCUE TASK FORCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

"(2) REQUIREMENT OF FULL FUNDING OF EXISTING URBAN SEARCH AND RESCUE TASK FORCES.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.".

SEC. 199H. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 632).

"(2) PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.—There are authorized to be appropriated to carry out section 630—

"(A) $3,340,000,000 for fiscal year 2003; and

"(B) $3,458,000,000 for each of fiscal years 2004 through 2006.

"(3) URBAN SEARCH AND RESCUE TASK FORCES.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out section 632—

"(i) $160,000,000 for fiscal year 2003; and

"(ii) $42,000,000 for each of fiscal years 2004 through 2006.

"(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.".

SA 4755. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 68, strike lines 14 through 23 and insert the following:

SEC. 134. FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) HOMELAND SECURITY DUTIES.—

(1) IN GENERAL.—The Federal Emergency Management Agency shall be responsible for the emergency preparedness and response functions of the Department.

(2) FUNCTION.—Except as provided in paragraph (3) and subsections (b) through (e), nothing in this Act affects the administration or administrative jurisdiction of the Federal Emergency Management Agency as in existence on the day before the date of enactment of this Act.

(3) DIRECTOR.—In carrying out responsibilities of the Federal Emergency Management Agency under all applicable law, the Director of the Federal Emergency Management Agency shall report—

(A) to the President directly, with respect to all matters relating to a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) to the Secretary, with respect to all other matters.

On page 69, strike lines 1 through 7 and insert the following:

(b) SPECIFIC RESPONSIBILITIES.—The Director of the Federal Emergency Management Agency shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities of the Department.

SA 4756. Mr. JEFFORDS (for himself, and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 8, strike "terrorism, natural disasters," and insert "terrorism".

On page 11, strike lines 6 through 13 and insert the following:

homeland threats within the United States; and

(C) reduce the vulnerability of the United States to terrorism and other homeland threats.

On page 12, line 23, strike "emergency preparedness and response,".

On page 13, strike lines 3 through 5 and insert the following:

transportation security and critical infrastructure protection.

On page 15, line 14, insert "and the Director of the Federal Emergency Management Agency" after "Defense".

On page 16, strike lines 13 through 16.

On page 16, line 17, strike "(15)" and insert "(14)".

On page 16, line 20, strike "(16)" and insert "(15)".

On page 16, line 24, strike "(17)" and insert "(16)".

On page 17, line 4, strike "(18)" and insert "(17)".

On page 17, line 8, strike "(19)" and insert "(18)".

Beginning on page 68, strike line 14 and all that follows through page 75, line 3.

On page 75, line 3, strike "135" and insert 134".

On page 103, line 13, strike "136" and insert 135".

On page 103, line 17, strike "137" and insert 136".

On page 109, line 10, strike "of the Department".

On page 112, line 5, strike "138" and insert 137".

On page 112, line 10, strike "139" and insert 138".

On page 112, between lines 4 and 5, insert the following:

(f) COORDINATION WITH FEDERAL EMERGENCY MANAGEMENT AGENCY.—

(1) IN GENERAL.—In carrying out all responsibilities of the Secretary under this section, the Secretary shall coordinate with the Director of the Federal Emergency Management Agency.

(2) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

On page 114, line 6, strike "140" and insert 139".

On page 114, strike lines 13 and 14.

On page 115, line 3, strike "in the Department" and insert "within the Federal Emergency Management Agency".

On page 116, line 21, strike "Department" and insert "Federal Emergency Management Agency".

Beginning on page 128, strike line 22 and all that follows through page 129, line 5, and insert the following:

(a) In General.—Full disclosure among relevant agencies shall be made in accordance with this section.

(b) Public Health Emergency.—During the

On page 129, strike lines 15 and 16 and insert the following:

(c) Potential Public Health Emergency.—In cases involving, or potentially involving,

On page 186, line 25, and page 187, line 1, strike "emergency preparation and response,".

On page 187, insert "emergency preparedness and response," after "assets,".

Beginning on page 161, strike line 19 and all that follows through page 162, line 2, and insert the following:

(b) Biennial Report.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall submit to Congress a report assessing the resources and requirements of executive agencies relating to border security.

SA 4757. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 4438 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 156, between lines 11 and 12, insert the following:

Subtitle H—Identity Theft

SEC. 771. SHORT TITLE.

This subtitle may be cited as the "Identity Theft Victims Assistance Act of 2002".

SEC. 772. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) In General.—Chapter 47 title 18, United States Code, is amended by adding after section 1028 the following:

"§1028A. Treatment of identity theft mitigation

"(a) Definitions.—As used in this section—

"(1) the term 'business entity' means any corporation, trust, partnership, sole proprietorship, or unincorporated association, including any financial service provider, financial information repository, creditor (as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), telecommunications, utilities, or other service provider;

"(2) the term 'consumer' means an individual;

"(3) the term 'financial information' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

"(A) account numbers and balances;

"(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

"(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

"(4) the term 'financial information repository' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person;

"(5) the term 'identity theft' means an actual or potential violation of section 1028 or any other similar provision of Federal or State law;

"(6) the term 'means of identification' has the same meaning given the term in section 1028; and

"(7) the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

"(b) Information Available to Victims.—

"(1) In general.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a commercial transaction, provided credit, provided, for consideration, products, goods, or services, accepted payment, or otherwise done business for consideration with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 20 days after the receipt of a written request by the victim, meeting the requirements of subsection (c), and in compliance with subsection (d), provide, without charge, a copy of all application and business transaction information related to the transaction being alleged as an identity theft to—

"(A) the victim;

"(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim; or

"(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

"(2) Rule of construction.—

"(A) In general.—No provision of Federal or State law prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this section.

"(B) Limitation.—Except as provided in subparagraph (A), nothing in this section requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law.

"(c) Verification of Identity and Claim.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (b)(1), the victim shall provide to the business entity—

"(1) as proof of positive identification, at the election of the business entity—

"(A) the presentation of a government-issued identification card;

"(B) if providing proof by mail, a copy of a government-issued identification card;

"(C) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

"(D) personally identifying information that the business entity typically requests from new applicants or for new transactions at the time of the victim's request for information; and

"(2) as proof of a claim of identity theft, at the election of the business entity—

"(A) a copy of a police report evidencing the claim of the victim of identity theft;

"(B) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

"(C) any affidavit of fact that is acceptable to the business entity for that purpose.

"(d) Verification Standard.—Prior to releasing records pursuant to subsection (b), a business entity shall take reasonable steps to verify the identity of the victim requesting such records.

"(e) Limitation on Liability.—No business entity may be held liable for a disclosure, made in good faith and reasonable judgment, to provide information under this section with respect to an individual in connection with an identity theft to other business entities, law enforcement authorities, victims, or any person alleging to be a victim, if—

"(1) the business entity complies with subsection (c); and

"(2) such disclosure was made—

"(A) for the purpose of detection, investigation, or prosecution of identity theft; or

"(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

"(f) Authority to Decline to Provide Information.—A business entity may decline to provide information under subsection (b) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

"(1) this section does not require disclosure of the information;

"(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information; or

"(3) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

"(g) No New Recordkeeping Obligation.—Nothing in this section creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

"(h) Enforcement.—

"(1) Civil actions.—

"(A) In general.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this section by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

"(i) enjoin that practice;

"(ii) enforce compliance of this section;

"(iii) obtain damages—

"(I) in the sum of actual damages, restitution, and other compensation on behalf of the residents of the State; and

"(II) punitive damages, if the violation is willful or intentional; and

"(iv) obtain such other equitable relief as the court may consider to be appropriate.

"(B) Notice.—Before bringing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General of the United States—

"(i) written notice of the action; and

"(ii) a copy of the complaint for the action.

"(C) Affirmative defense.—In any civil action brought to enforce this section, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

"(i) the business entity has made a reasonably diligent search of its available business records; and

"(ii) the records requested under this section do not exist or are not available.

"(D) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to provide a private right of action or claim for relief.

"(2) INTERVENTION.—

"(A) IN GENERAL.—On receiving notice of an action under paragraph (1)(B), the Attorney General of the United States shall have the right to intervene in that action.

"(B) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under this subsection, the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

"(C) SERVICE OF PROCESS.—Upon request of the Attorney General of the United States, the attorney general of a State that has filed an action under this subsection shall, pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Government with—

"(i) a copy of the complaint; and

"(ii) written disclosure of substantially all material evidence and information in the possession of the attorney general of the State.

"(3) CONSTRUCTION.—For purposes of bringing any civil action under this subsection, nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State—

"(A) to conduct investigations;

"(B) to administer oaths or affirmations; or

"(C) to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for a violation of this section, no State may, during the pendency of that action, institute an action under this subsection against any defendant named in the complaint in that action for violation of that practice.

"(5) VENUE; SERVICE OF PROCESS.—

"(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States—

"(i) where the defendant resides;

"(ii) where the defendant is doing business; or

"(iii) that meets applicable requirements relating to venue under section 1391 of title 28.

"(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

"(i) resides;

"(ii) is doing business; or

"(iii) may be found.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

"1028A. Treatment of identity theft mitigation.".

SEC. 773. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) CONSUMER REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681*i*) is amended by adding at the end the following:

"(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

"(1) BLOCK.—Except as provided in paragraphs (4) and (5) and not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported.

"(2) REINVESTIGATION.—A consumer reporting agency shall reinvestigate any information that a consumer has requested to be blocked under paragraph (1) in accordance with the requirements of subsections (a) through (d).

"(3) NOTIFICATION.—A consumer reporting agency shall, within the time period specified in subsection (a)(2)(A)—

"(A) provide the furnisher of the information identified by the consumer under paragraph (1) with the information described in subsection (a)(2); and

"(B) notify the furnisher—

"(i) that the information may be a result of identity theft;

"(ii) that a police report has been filed;

"(iii) that a block has been requested under this subsection; and

"(iv) of the effective date of the block.

"(4) AUTHORITY TO DECLINE OR RESCIND.—

"(A) IN GENERAL.—A consumer reporting agency may at any time decline to block, or may rescind any block, of consumer information under this subsection if—

"(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency finds that—

"(I) the block was issued, or the request for a block was made, based on a misrepresentation of fact by the consumer relevant to the request to block; or

"(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions;

"(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error; or

"(iii) the consumer reporting agency determines—

"(I) that the consumer's dispute is frivolous or irrelevant in accordance with subsection (a)(3); or

"(II) after completion of its reinvestigation under subsection (a)(1), that the information disputed by the consumer is accurate, complete, and verifiable in accordance with subsection (a)(5).

"(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified, in the same manner and within the same time period as consumers are notified of the reinsertion of information under subsection (a)(5)(B).

"(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.

"(5) EXCEPTIONS.—

"(A) NEGATIVE INFORMATION DATA.—A consumer reporting agency shall not be required to comply with this subsection when such agency is issuing information for authorizations, for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

"(i) dishonored checks;

"(ii) accounts closed for cause;

"(iii) substantial overdrafts;

"(iv) abuse of automated teller machines; or

"(v) other information which indicates a risk of fraud occurring.

"(B) RESELLERS.—The provisions of this subsection do not apply to a consumer reporting agency if the consumer reporting agency—

"(i) does not maintain a file on the consumer from which consumer reports are produced;

"(ii) is not, at the time of the request of the consumer under paragraph (1), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

"(iii) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.".

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(j) Any person who knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681*i*(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.".

(c) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

"SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

"(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

"(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 4 years from the date of the defendant's violation if—

"(1) the plaintiff is the victim of an identity theft; or

"(2) the plaintiff—

"(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

"(B) has not materially and willfully misrepresented such a claim.".

SEC. 774. COORDINATING COMMITTEE STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking "and the Commissioner of Immigration and Naturalization" and inserting "the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,"; and

(2) in subsection (c), by striking "2 years after the effective date of this Act." and inserting "on December 28, 2004.".

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) CONSULTATION.—In discharging its duties, the coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 773 of the Identity Theft Victims Assistance Act of 2002), including telecommunications and utility companies, and organizations representing consumers.".

(c) REPORT DISTRIBUTION AND CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by subsection (b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the coordinating committee, shall report on the activities of the coordinating committee to—

"(A) the Committee on the Judiciary of the Senate;

"(B) the Committee on the Judiciary of the House of Representatives;

"(C) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(D) the Committee on Financial Services of the House of Representatives.";

(2) in subparagraph (E), by striking "and" at the end; and

(3) by striking subparagraph (F) and inserting the following:

"(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

"(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft;

"(H) a comprehensive description of how the Federal Government can best provide State and local law enforcement agencies with timely and current information regarding terrorists or terrorist activity where such information specifically relates to identity theft; and

"(I) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

"(i) facilitate more effective investigation and prosecution of cases involving—

"(I) identity theft; and

"(II) the creation and distribution of false identification documents;

"(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and

"(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person.".

SA 4758. Mr. HATCH submitted an amendment intended to be proposed by him to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 98, strike line 13 and all that follows through page 99, line 7, and insert the following:

(4) ASSISTANCE IN ESTABLISHING DEPARTMENT.—At the request of the Under Secretary, the Department of Energy shall provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department for purposes of assisting in the establishment or organization of the technical programs of the Department through an agreement that includes provisions for minimizing conflicts between work assignments of such personnel.

(k) OFFICE OF TECHNOLOGY TRANSFER AND STANDARDS.—

(1) ESTABLISHMENT.—There is established within the Directorate of Science and Technology the Office of Technology Transfer and Standards (in this subsection referred to as the "OTTS").

(2) ASSISTANT SECRETARY.—

(A) APPOINTMENT.—There shall be an Assistant Secretary for Technology Transfer and Standards (in this subsection referred to as the "Assistant Secretary"), who shall report to the Under Secretary for Science and Technology, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) PRINCIPAL RESPONSIBILITY.—The principal responsibility of the Assistant Secretary shall be to effectively and efficiently manage technology transfer and standards development and utilization within the Department.

(3) OTHER RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—The Assistant Secretary shall—

(A) encourage and coordinate the use of cooperative research and development agreements or other partnerships authorized by law within all Directorates of the Department, including—

(i) all cooperative research and development agreements under section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710);

(ii) the licensing of intellectual property in accordance with Federal law; and

(iii) all licensing agreements with nongovernmental organizations;

(B) establish the criteria, and make recommendations to the Under Secretary of Science and Technology, regarding the licensing or transfer of intellectual property to nongovernmental organizations;

(C) coordinate, in consultation with the Chief Information Officer, all standards utilized by the Department in the development of technology for homeland security, including—

(i) participation in standards development organizations within and outside of the Federal Government;

(ii) coordination of all efforts within the Department to ensure expeditious implementation and consistency of standards within and outside of the Department; and

(D) promulgate regulations and procedures necessary to accomplish the duties of the OTTS.

SA 4759. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, between lines 12 and 13, insert the following:

(n) UNIVERSITY-BASED CENTERS FOR TECHNOLOGY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall administer research, development, demonstration, testing, and evaluation programs to—

(A) ensure that colleges, universities, private research institutes, and companies (and consortia thereof) from as many areas of the United States as practicable participate; and

(B) distribute funds through grants, cooperative agreements, and contracts consistent with the policies and methods in this Act.

(2) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish, within 1 year of the date of enactment of this Act, a university-based center or centers for homeland security.

(3) PURPOSE.—The purpose of the center or centers established pursuant to paragraph (2) shall be to create a coordinated, university-based system to enhance the Nation's homeland security.

(4) SELECTION CRITERIA.—In selecting colleges or universities as centers for homeland security, the Secretary shall consider each institution's—

(i) demonstrated expertise in the training of first responders;

(ii) demonstrated expertise in responding to incidents involving weapons of mass destruction and biological warfare;

(iii) demonstrated expertise in emergency medical services;

(iv) demonstrated expertise in chemical, biological, radiological, and nuclear countermeasures;

(v) strong affiliations with animal and plant diagnostic laboratories;

(vi) demonstrated expertise in food safety;

(vii) affiliation with Department of Agriculture laboratories or training centers;

(viii) demonstrated expertise in water and wastewater operations;

(ix) demonstrated expertise in port and waterway security;

(x) demonstrated expertise in multi-modal transportation;

(xi) nationally recognized programs in information security;

(xii) nationally recognized programs in engineering;

(xiii) demonstrated expertise in educational outreach and technical assistance;

(xiv) demonstrated expertise in border transportation and security; and

(xv) demonstrated expertise in interdisciplinary public policy research and communication outreach regarding science, technology, and public policy.

(5) DISCRETION OF THE SECRETARY.—The Secretary shall have the discretion to—

(A) determine the number of centers for homeland security that will be established; and

(B) consider additional criteria as necessary to meet the evolving needs of homeland security.

(6) REPORT.—The Secretary shall report to Congress concerning the implementation of this subsection, as necessary.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SA 4760. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, line 6, insert "(other than the proviso in section 103(a)(1) of the Immigration and Nationality Act)" after "appears".

On page 226, strike lines 19 and 20.

On page 226, line 21, strike "(C)" and insert "(B)".

On page 226, line 23, strike "(D)" and insert "(C)".

On page 243, line 10, strike "All functions" and insert "Except as provided in title XIII, or any amendment made by that title, all functions".

Beginning on page 252, strike line 22 and all that follows through line 5 on page 253.

Beginning on page 304, strike line 1 and all that follows through line 15 on page 312 and insert the following:

TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

SEC. 1301. LEGAL STATUS OF EOIR.

(a) EXISTENCE OF EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1302.

SEC. 1302. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

"POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY, AND THE ATTORNEY GENERAL";

(2) in subsection (a)—

(A) by inserting "Attorney General," after "President,"; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104–208), and (9) (as added by section 372 of Public Law 104–208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

"(g) ATTORNEY GENERAL.—

"(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act as may be necessary to carry out the authorities and functions of immigration judges, administrative law judges, and to carry out such immigration appellate review functions as may be necessary, under this Act through the Executive Office of Immigration Review of the Department of Justice.

"(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.".

SEC. 1303. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1302, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

SA 4761. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I of division A, add the following:

SEC. 172. ADMINISTRATIVE SUBPOENAS FOR TERRORISM INVESTIGATIONS.

Section 3486(a)(1)(A)(i)(I) of title 18, United States Code, is amended—

(1) by striking "; or (II)" and inserting ", (II)"; and

(2) by inserting "or (III) any investigation under chapter 113B," after "children,".

SA 4762. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I of division A, add the following:

SEC. 172. ADMINISTRATIVE SUBPOENAS TO APPREHEND FUGITIVES.

(a) IN GENERAL.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

"§ 1075. Administrative subpoenas to apprehend fugitives

"(a) DEFINITIONS.—In this section:

"(1) FUGITIVE.—The term 'fugitive' means a person who—

"(A) having been accused by complaint, information, or indictment under Federal law or having been convicted of committing a felony under Federal law, flees or attempts to flee from or evades or attempts to evade the jurisdiction of the court with jurisdiction over the felony;

"(B) having been accused by complaint, information, or indictment under State law or having been convicted of committing a felony under State law, flees or attempts to flee from, or evades or attempts to evade, the jurisdiction of the court with jurisdiction over the felony;

"(C) escapes from lawful Federal or State custody after having been accused by complaint, information, or indictment or having been convicted of committing a felony under Federal or State law; or

"(D) is in violation of subparagraph (2) or (3) of the first undesignated paragraph of section 1073.

"(2) INVESTIGATION.—The term 'investigation' means, with respect to a State fugitive described in subparagraph (B) or (C) of paragraph (1), an investigation in which there is reason to believe that the fugitive fled from or evaded, or attempted to flee from or evade, the jurisdiction of the court, or escaped from custody, in or affecting, or using any facility of, interstate or foreign commerce, or as to whom an appropriate law enforcement officer or official of a State or political subdivision has requested the Attorney General to assist in the investigation, and the Attorney General finds that the particular circumstances of the request give rise to a Federal interest sufficient for the exercise of Federal jurisdiction pursuant to section 1075.

"(b) SUBPOENAS AND WITNESSES.—

"(1) SUBPOENAS.—In any investigation with respect to the apprehension of a fugitive, the Attorney General may subpoena witnesses for the purpose of the production of any records (including books, papers, documents, electronic data, and other tangible and intangible items that constitute or contain evidence) that the Attorney General finds, based on articulable facts, are relevant to discerning the whereabouts of the fugitive. A subpoena under this subsection shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

"(2) WITNESSES.—The attendance of witnesses and the production of records may be required from any place in any State or other place subject to the jurisdiction of the United States at any designated place where the witness was served with a subpoena, except that a witness shall not be required to appear more than 500 miles distant from the place where the witness was served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(c) SERVICE.—

"(1) AGENT.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

"(2) NATURAL PERSON.—Service upon a natural person may be made by personal delivery of the subpoena to that person or by certified mail with return receipt requested.

"(3) CORPORATION.—Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) AFFIDAVIT.—The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(d) CONTUMACY OR REFUSAL.—

"(1) IN GENERAL.—In the case of the contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records if so ordered.

"(2) CONTEMPT.—Any failure to obey the order of the court may be punishable by the court as contempt thereof.

"(3) PROCESS.—All process in any case to enforce an order under this subsection may be served in any judicial district in which the person may be found.

"(4) RIGHTS OF SUBPOENA RECIPIENT.—Not later than 20 days after the date of service of an administrative subpoena under this section upon any person, or at any time before the return date specified in the subpoena, whichever period is shorter, such person may file, in the district within which such person resides, is found, or transacts business, a petition to modify or quash such subpoena on grounds that—

"(A) the terms of the subpoena are unreasonable or oppressive;

"(B) the subpoena fails to meet the requirements of this section; or

"(C) the subpoena violates the constitutional rights or any other legal rights or privilege of the subpoenaed party.

"(e) GUIDELINES.—

"(1) IN GENERAL.—The Attorney General shall issue guidelines governing the issuance of administrative subpoenas pursuant to this section.

"(2) Review.—The guidelines required by this subsection shall mandate that administrative subpoenas may be issued only after review and approval of senior supervisory personnel within the respective investigative agency or component of the Department of Justice and of the United States Attorney for the judicial district in which the administrative subpoena shall be served.

"(f) Nondisclosure Requirements.—

"(1) In general.—Except as otherwise provided by law, the Attorney General may apply to a court for an order requiring the party to whom an administrative subpoena is directed to refrain from notifying any other party of the existence of the subpoena or court order for such period as the court deems appropriate.

"(2) Order.—The court shall enter such order if it determines that there is reason to believe that notification of the existence of the administrative subpoena will result in—

"(A) endangering the life or physical safety of an individual;

"(B) flight from prosecution;

"(C) destruction of or tampering with evidence;

"(D) intimidation of potential witnesses; or

"(E) otherwise seriously jeopardizing an investigation or undue delay of a trial.

"(g) Immunity From Civil Liability.—Any person, including officers, agents, and employees, who in good faith produce the records or items requested in a subpoena shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer, in compliance with the terms of a court order for nondisclosure.".

(b) Technical and Conforming Amendment.—The analysis for chapter 49 of title 18, United States Code, is amended by adding at the end the following:

"1075. Administrative subpoenas to apprehend fugitives.".

SA 4763. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Insert after section 312, the following:

SEC. 313. PROTECTIONS FOR HUMAN RESEARCH SUBJECTS.

The Secretary shall ensure that all research conducted or supported by the Department complies with the protections for human research subjects, as described in part 46 of title 45, Code of Federal Regulations, or in equivalent regulations as promulgated by the Secretary.

SA 4764. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 304 and 305 and insert the following:

SEC. 304. RESEARCH PROJECTS.

With respect to civilian human health-related research and development activities relating to countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities, goals, objectives, and policies and develop a coordinated strategy for such activities in collaboration with the Secretary to ensure consistency with the national policies and strategic plans for such activities.

SA 4765. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In section 503, strike paragraph (6) and insert the following:

(b) Strategic National Stockpile and Smallpox Vaccine Development.—

(1) In general.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188; 42 U.S.C. 300hh-12) is amended—

(A) in subsection (a)(1)—

(i) by striking "Secretary of Health and Human Services" and inserting "Secretary of Homeland Security";

(ii) by inserting "the Secretary of Health and Human Services and" between "in coordination with" and "the Secretary of Veterans Affairs"; and

(iii) by inserting "of Health and Human Services" after "as are determined by the Secretary"; and

(B) in subsections (a)(2) and (b), by inserting "of Health and Human Services" after "Secretary" each place it appears.

(2) Effective date.—The amendments made by this subsection shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SA 4766. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. . ESTABLISHMENT OF ENTITY TO INVEST IN NEW TECHNOLOGIES.

The Secretary may provide financial support, to a nonprofit, nongovernment enterprise established by the Secretary for the purpose of identifying and investment mew technology that show promise for homeland security applications.

SA 4767. Mr. GRASSLEY (for himself, Mr. Levin, and Mr. Akaka) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 98, strike lines 3 and 4, and insert the following:

"(B)(i) any provision of section 2302, relating to prohibited personnel practices; or

"(ii) any provision of law implementing any provision of law referred to in paragraphs (8) and (9) of section 2302(b);".

SA 4768. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, strike line 20 and all that follows through page 90, line 2, and insert the following:

(c) Notification Required.—If the Secretary exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit to the President of the Senate, the Speaker of the House of Representatives, and appropriate committees and subcommittees of Congress, a copy of such notice and a written response to such notice that includes—

(1) a statement as to whether the Inspector General agrees or disagrees with such exercise; and

(2) the reasons for any disagreement.

(d) Access to Information by Congress.—The exercise of authority by the Secretary described in subsection (b) should not be construed as limiting the right of Congress or any committee of Congress to access any information that Congress or the committee seeks.

(e) Oversight Responsibility.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8I the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"Sec. 8J. Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.".

SA 4769. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 24, after paragraph (19), insert the following:

(20) Developing and implementing a system of Interagency Homeland Security Fusion Centers, including regional centers, which shall—

(A) be responsible for coordinating the interagency fusion of tactical homeland security intelligence;

(B) facilitate information sharing between all of the participating agencies;

(C) provide intelligence cueing to the appropriate agencies concerning threats to the homeland security of the United States;

(D) be composed of individuals designated by the Secretary, and may include representatives of—

(i) the agencies described in clauses (i) and (ii) of subsection (a)(1)(B);

(ii) agencies within the Department;

(iii) any other Federal, State, or local agency the Secretary deems necessary; and

(iv) representatives of such foreign governments as the President may direct;

(E) be established in an appropriate number to adequately accomplish their mission;

(F) operate in conjunction with or in place of other intelligence or fusion centers currently in existence; and

(G) have an implementation plan submitted to Congress no later than 1 year after the date of enactment of this Act.

SA 4770. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

SEC. ——. REPORT ON ACCELERATING THE INTEGRATED DEEPWATER SYSTEM.

No later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System for 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SA 4771. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. . REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

(a) REQUIREMENT.—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing;

(C) tents, tarpaulins, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

(f) EXCEPTION FOR CERTAIN FOODS.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(g) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(h) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) GEOGRAPHIC COVERAGE.—In this section, the term "United States" includes the possessions of the United States.

SA 4772. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REVIEW OF FOOD SAFETY.

(a) REVIEW OF FOOD SAFETY LAWS AND FOOD SAFETY ORGANIZATIONAL STRUCTURE.—The Secretary shall enter into an agreement with and provide funding to the National Academy of Sciences to conduct a detailed, comprehensive study which shall—

(1) review all Federal statutes and regulations affecting the safety and security of the food supply to determine the effectiveness of the statutes and regulations at protecting the food supply from deliberate contamination; and

(2) review the organizational structure of Federal food safety oversight to determine the efficiency and effectiveness of the organizational structure at protecting the food supply from deliberate contamination.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall prepare and submit to the President, the Secretary, and Congress a comprehensive report containing—

(A) the findings and conclusions derived from the reviews conducted under subsection (a); and

(B) specific recommendations for improving—

(i) the effectiveness and efficiency of Federal food safety and security statutes and regulations; and

(ii) the organizational structure of Federal food safety oversight.

(2) CONTENTS.—In conjunction with the recommendations under paragraph (1), the report under paragraph (1) shall address—

(A) the effectiveness with which Federal food safety statutes and regulations protect public health and ensure the food supply remains free from contamination;

(B) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(C) the application of resources among Federal food safety oversight agencies;

(D) the effectiveness and efficiency of the organizational structure of Federal food safety oversight;

(E) the shortfalls, redundancies, and inconsistencies of the organizational structure of Federal food safety oversight; and

(F) the merits of a unified, central organizational structure of Federal food safety oversight.

(c) Response of the Secretary.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress the response of the Department to the recommendations of the report and recommendations of the Department to further protect the food supply from contamination.

SA 4773. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) Definition.—In this section, the term "enterprise architecture"—

(1) means—

(A) a strategic information asset base, which defines the mission;

(B) the information necessary to perform the mission;

(C) the technologies necessary to perform the mission; and

(D) the transitional processes for implementing new technologies in response to changing mission needs; and

(2) includes—

(A) a baseline architecture;

(B) a target architecture; and

(C) a sequencing plan.

(b) Responsibilities of the Secretary.—The Secretary shall—

(1) endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable;

(2) in furtherance of paragraph (1), oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation;

(3) as the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (2); and

(4) report to Congress on the development and implementation of the enterprise architecture under paragraph (2) in—

(A) each implementation progress report required under this Act; and

(B) each biennial report required under this Act.

(c) Responsibilities of the Director of the Office of Management and Budget.—

(1) In general.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(A) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(B) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(2) Timetables.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan under paragraph (1).

(3) Implementation.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall—

(A) ensure the implementation of the enterprise architecture developed under paragraph (1)(A); and

(B) coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (1)(A).

(4) Updated versions.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under paragraph (1), as necessary.

(5) Report.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan under paragraph (1).

(6) Consultation.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan under paragraph (1).

(7) Principal officer.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget, whose primary responsibility shall be to carry out the duties of the Director under this subsection.

(d) Agency Cooperation.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (c).

(e) Content.—The enterprise architecture developed under subsection (c), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

(1) rapid deployment;

(2) a highly secure environment, providing data access only to authorized users; and

(3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

SA 4774. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle —National Emergency Preparedness Enhancement

SEC. 1. SHORT TITLE.

This subtitle may be cited as the "National Emergency Preparedness Enhancement Act of 2002".

SEC. 2. PREPAREDNESS INFORMATION AND EDUCATION.

(a) Establishment of Clearinghouse.—There is established in the Department a National Clearinghouse on Emergency Preparedness (referred to in this section as the "Clearinghouse"). The Clearinghouse shall be headed by a Director.

(b) Consultation.—The Clearinghouse shall consult with such heads of agencies, such task forces appointed by Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to the Strategy.

(c) Duties.—

(1) Dissemination of information.—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) Center.—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, a telephone number, and staff, through which information shall be made available on—

(A) ways in which States, political subdivisions, and private entities can access Federal grants;

(B) emergency preparedness education and awareness tools that businesses, schools, and the general public can use; and

(C) other information as appropriate.

(3) Public awareness campaign.—The Clearinghouse shall develop a public awareness campaign. The campaign shall be ongoing, and shall include an annual theme to be implemented during the National Emergency Preparedness Week established under section 4. The Clearinghouse shall work with heads of agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(4) Best practices information.—The Clearinghouse shall compile and disseminate information on best practices for emergency preparedness identified by the Secretary and the heads of other agencies.

SEC. 3. PILOT PROGRAM.

(a) Emergency Preparedness Enhancement Pilot Program.—The Department shall award grants to private entities to pay for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness.

(b) Use of Funds.—An entity that receives a grant under this subsection may use the funds made available through the grant to—

(1) develop evacuation plans and drills;

(2) plan additional or improved security measures, with an emphasis on innovative technologies or practices;

(3) deploy innovative emergency preparedness technologies; or

(4) educate employees and customers about the development and planning activities described in paragraphs (1) and (2) in innovative ways.

(c) Federal Share.—The Federal share of the cost described in subsection (a) shall be

50 percent, up to a maximum of $250,000 per grant recipient.

(d) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 4. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) National Week.—

(1) Designation.—Each week that includes September 11 is "National Emergency Preparedness Week".

(2) Proclamation.—The President is requested every year to issue a proclamation calling on the people of the United States (including State and local governments and the private sector) to observe the week with appropriate activities and programs.

(b) Federal Agency Activities.—In conjunction with National Emergency Preparedness Week, the head of each agency, as appropriate, shall coordinate with the Department to inform and educate the private sector and the general public about emergency preparedness activities, resources, and tools, giving a high priority to emergency preparedness efforts designed to address terrorist attacks.

SA 4775. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, line 9, insert after the comma "the Commandant of the Coast Guard,".

SA 4776. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 152, line 24, insert after the word "assets" and before the comma insert the following—"(including ships, aircraft, helicopters, vehicles, the National Distress Response System, and other command/control/communications/computers/intelligence/surveillance/reconnaissance capabilities)".

SA 4777. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, line 10, strike the words "and vehicles" and insert in lieu thereof "vehicles, the National Distress Response System, and other command/control/communications/computers/intelligence/surveillance/reconnaissance capabilities)".

SA 4778. Mr. STEVENS (for himself, Ms. COLLINS, Ms. SNOWE, and Mr. HOLLINGS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 156, between lines 11 and 12 insert the following—

(i) Coordination With Department of Transportation.—The Coast Guard shall continue to coordinate with the Department of Transportation concerning regulatory matters that will remain under the authority of the Department of Transportation, but for which the Coast Guard has enforcement or other authority.

(j) Consultation With Commission on Ocean Policy.—The Secretary shall consult with the Commission on Ocean Policy not later than February 1, 2003 regarding plans for integration and maintenance of living marine resources, marine environmental protection, and aids to navigation missions within the Department, and with respect to coordination with other federal agencies having authority in such areas.

(k) Resource Evaluation.—

(1) In general.—No later than 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, that—

(A) compares Coast Guard expenditures by mission area on an annualized basis before and after the terrorist attacks of September 11, 2001;

(B) estimates—

(i) annual funding amounts and personnel levels that would restore all Coast Guard mission areas to the readiness levels that existed before September 11, 2001;

(ii) annual funding amounts and personnel levels required to fulfill the Coast Guard's additional responsibilities for homeland security missions after September 11, 2001; and

(C) generally describes the services provided by the Coast Guard to the Department of Defense after September 11, 2001, states the cost of such services and identifies the Federal agency or agencies providing funds for those services.

(2) Annual report.—Within 30 days after the end of each fiscal year, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House a report identifying resource allocations on an hourly and monetary basis for each non-homeland security and homeland security Coast Guard mission for the fiscal year just ended.

(l) Strategic Plan.—(1) Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a strategic plan to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House identifying mission targets for each Coast Guard mission for fiscal years 2003, 2004 and 2005 and the specific steps necessary to achieve those targets. Such plan shall also provide an analysis and recommendations for maximizing the efficient use of Federal resources and technologies to achieve all mission requirements.

(2) The Commandant shall consult with the Secretary of Commerce and other relevant agencies to ensure the plan provides for, e.g. coordinated development and application of communications and other technologies for use in meeting non-homeland security mission targets, such as conservation and management of living marine resources, and for setting priorities for fisheries enforcement.

(3) The Inspector General shall review the final plan, and provide an independent report with its views to the Committees within 90 days after the plan has been submitted by the Commandant.

(m) Report on Accelerating the Integrated Deepwater System.—No later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard shall submit a report to the Committee on Commerce, Science, and Transportiaton of the Senate, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System from 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SA 4779. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAHAM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) Review of Transportation Vulnerabilities and Federal Transportation Security Efforts.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail,

motor carrier, motor coach, pipeline, highway, and transit facilities and equipment.

(2) review all available information on vulnerabilities on the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) Report.

(1) Context.—Not later than 1 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report, without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible the cost of implementing the steps.

(2) Format.—The Comptroller General may submit the reporting in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) Response of the Secretary.

(1) In general.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) Formats.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) Reports Provided to Committees.—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, and the House of Representatives Committee on Transportation and Infrastructure.

SA 4780. Mr. McCain submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(a) Investigation and Surveillance Activities.—Section 20105 of title 49, United States Code, is amended—

(1) by striking "Secretary of Transportation" in the first sentence of subsection (a) and inserting "Secretary concerned";

(2) by striking "Secretary" each place it appears (except the first sentence of subsection (a)) and inserting "Secretary concerned";

(3) by striking "Secretary's duties under chapters 203–213 of this title" in subsection (d) and inserting "duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)";

(4) by striking "chapter." in subsection (f) and inserting "chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)."; and

(5) by adding at the end the following new subsection:

"(g) Definitions.—In this section—

"(1) the term 'safety' includes security; and

"(2) the term 'Secretary concerned' means—

"(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

"(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary."

(b) Regulations and Orders.—Section 20103(a) of such title is amended by inserting after "1970." the following: "When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary."

(c) National Uniformity of Regulation.—Section 20106 of such title is amended—

(1) by inserting "and laws, regulations, and order related to railroad security" after "safety" in the first sentence;

(2) by inserting "or security" after "safety" each place it appears after the first sentence; and

(3) by striking "Transportation" in the second sentence and inserting "Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters),".

SEC. . HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.

(a) General Regulatory Authority.—Section 5103 of title 49, United States Code, is amended—

(1) by striking "transportation" the first place it appears in subsection (b)(1) and inserting "transportation, including security,";

(2) by striking "aspects" in subsection (b)(1)(B) and inserting "aspects, including security,"; and

(3) by adding at the end the following:

"(c) Consultation with Secretary of Homeland Security.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.".

(b) Preemption.—Section 5125 of that title is amended—

(1) by striking "chapter or a regulation prescribed under this chapter" in subsection (a)(1) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security";

(2) by striking "chapter or a regulation prescribed under this chapter." in subsection (a)(2) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security."; and

(3) by striking "chapter or a regulation prescribed under this chapter," in subsection (b)(1) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security,".

SA 4781. Mr. Akaka (for himself, Mr. Grassley, and Mr. Levin) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 620; 49 U.S.C. 44935 note) is amended—

(1) by striking "(d) Screener Personnel.—Notwithstanding any other provision of law," and inserting the following:

"(d) Screener Personnel.—

"(1) In general.—Notwithstanding any other provision of law (except as provided under paragraph (2))"; and

(2) by adding at the end the following:

"(2) Whistleblower protection.—

"(A) Definition.—In this paragraph, the term "security screener" means—

"(i) any Federal employee hired as a security screener under subsection (e) of section 44935 of title 49, United States Code, or

"(ii) an applicant for the position of a security screener under that subsection.

"(B) In general.—Notwithstanding paragraph (1)—

"(i) section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener; and

"(ii) chapters 12, 23, and 75 of that title shall apply with respect to a security screener to the extent necessary to implement clause (i).

"(C) Covered position.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion would prevent the implementation of subparagraph (B) of this paragraph.".

SEC. . WHISTLEBLOWER PROTECTION FOR CERTAIN AIRPORT EMPLOYEES.

(a) In General.—Section 4212(a) of title 49, 12 United States Code, is amended—

(1) by striking "(a) Discrimination Against Airline Employees.—No air carrier or contractor or subcontractor of an air carrier" and inserting the following:

"(a) Discrimination Against Employees.—

"(1) In general.—No air carrier, contractor, subcontractor, or employer described under paragraph (2)";

(2) by redesignating paragraph (1) through (4) as subparagraphs (A) through (D), respectively; and

(3) by adding at the end the following:

"(2) APPLICABLE EMPLOYERS.—Paragraph (1) shall apply to—

"(A) an air carrier or contractor or subcontractor of an air carrier;

"(B) an employer of airport security screening personnel, other than the Federal Government, including a State or municipal government, or an airport authority, or a contractor of such government or airport authority; or

"(C) an employer of private screening personnel described in section 44919 or 44920 of this title.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

Section 42121(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i), by striking "paragraphs (1) through (4) of subsection (a)" and inserting "subparagraphs (A) through (D) of subsection (a)(1)"; and (2) in clause (iii), by striking "paragraphs (1) through (4) of subsection (a)" and inserting "subparagraphs (A) through (D) of subsection (a)(1)".

SA 4782. Mr. AKAKA (for himself and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(a) IN GENERAL.—For each entity transferred into the Department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the director of such entity, shall report to the Secretary, the Comptroller General, and the appropriate committees of Congress on the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.

(b) CONTENTS.—The report referred to in subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees who carry out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel, or otherwise, currently used to carry out those functions;

(2) contain information related to the roles, responsibilities, missions, organization structure, capabilities, personnel assets, and annual budgets, specifically with respect to the capabilities of the entity to accomplish its non-homeland security missions without any diminishment; and

(3) contain information regarding whether any changes are required to the roles, responsibilities, missions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish its non-homeland security missions without diminishment.

(c) TIMING.—Each director shall provide the report referred to in subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SA 4783. Mrs. CLINTON (for herself, Mr. INHOFE, Mr. LEAHY, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 12 and 13, insert the following:

(7) coordinating existing mental health services and interventions to ensure that the Department of Health and Human Services, the Department of Education, the Department of Justice, the Department of Defense, the Federal Emergency Management Agency, and the Department of Veterans Affairs, including the National Center for Post-Traumatic Stress Disorder, in conjunction with the Department, assess, prepare, and respond to the psychological consequences of terrorist attacks or major disasters; and

SA 4784. Mrs. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 12 and 13, insert the following:

(7) coordinating existing mental health services and interventions to ensure that the Department of Health and Human Services, the Department of Education, the Department of Justice, the Department of Defense, the Federal Emergency Management Agency, and the Department of Veterans Affairs, in conjunction with the Department, assess, prepare, and respond to the psychological consequences of terrorist attacks or major disasters; and

SA 4785. Mrs. CLINTON (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, between lines 7 and 8, insert the following:

(6) increase the security of the border between the United States and Canada and the ports of entry located along that border, and improving the coordination between the agencies responsible for maintaining that security; and

SA 4786. Mrs. CLINTON (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 24, insert between lines 5 and 6 the following:

In this subsection, the term "key resources" includes National Park Service sites identified by the Secretary of the Interior that are so universally recognized as symbols of the United States and so heavily visited by the American and international public that such sites would likely be identified as targets of terrorist attacks, including the Statue of Liberty, Independence Hall and the Liberty Bell, the Arch in St. Louis, Missouri, Mt. Rushmore, and memorials and monuments in Washington, D.C.

SA 4787. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 135, between lines 10 and 11, insert the following:

SEC. 739C. LABOR STANDARDS.

(a) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this Act, except for Federal funds expended for disaster relief as provided in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), other than pursuant to section 405 (42 U.S.C. 5171), shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a et seq.).

(b) SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the enforcement of labor standards under subsection (a), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (48 Stat. 948, chapter 482; 40 U.S.C. 276c).

SA 4788. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CONGRESSIONAL APPROVAL REQUIREMENT FOR TIPS.

Any and all activities of the Federal Government to implement the proposed component program of the Citizens Corps known as Operation TIPS (Terrorism Information and

Prevention System) are hereby prohibited, unless expressly authorized by statute.

SA 4789. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, strike lines 10 and 11 and insert the following:

TITLE VI—LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2002

SEC. 601. SHORT TITLE.

This title may be cited as the "Law Enforcement Officers Safety Act of 2002".

SEC. 602. EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

"§926B. Carrying of concealed firearms by qualified law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified law enforcement officer' means an employee of a governmental agency who—

"(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

"(2) is authorized by the agency to carry a firearm;

"(3) is not the subject of any disciplinary action by the agency;

"(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm; and

"(5) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is, or was, employed as a law enforcement officer.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 926A the following:

"926B. Carrying of concealed firearms by qualified law enforcement officers.".

SEC. 603. EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is further amended by inserting after section 926B the following:

"§926C. Carrying of concealed firearms by qualified retired law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified retired law enforcement officer' means an individual who—

"(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

"(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

"(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

"(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

"(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

"(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms; and

"(6) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is photographic identification issued by the agency for which the individual was employed as a law enforcement officer.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is further amended by inserting after the item relating to section 926B the following:

"926C. Carrying of concealed firearms by qualified retired law enforcement officers.".

SA 4790. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 14, insert "tribal," after "State,".

On page 7, after line 25, insert the following:

(8) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 8, line 1, strike "(8)" and insert "(9)".

On page 8, strike lines 5 through 8 and insert the following:

(10) LOCAL GOVERNMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "local government" has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(B) EXCLUSION.—The term "local government" does not include an Indian tribe or tribal government.

On page 8, line 9, strike "(10)" and insert "(11)".

On page 8, line 13, strike "(11)" and insert "(12)".

On page 8, line 15, strike "(12)" and insert "(13)".

On page 8, strike line 17 and insert the following:

(14) TRIBAL GOVERNMENT.—The term "tribal government" means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.

(15) UNITED STATES.—The term "United

On page 10, line 22, insert ", tribal," after "State".

On page 17, line 24, insert ", tribal," after "State".

On page 19, line 1, insert ", tribal," after "State".

On page 19, line 9, insert ", tribal," after "State".

On page 19, line 20, insert ", tribal," after "State".

On page 20, line 7, insert ", tribal," after "State".

On page 20, line 16, insert ", tribal," after "State".

On page 20, line 22, insert ", tribal," after "State".

On page 21, line 13, insert ", tribal," after "State".

On page 22, line 10, insert ", tribal," after "State".

On page 23, line 13, insert ", tribal," after "State".

On page 23, line 21, insert "tribal," after "State,".

On page 31, line 1, insert ", tribal," after "State".

On page 34, line 12, insert ", tribal," after "State".

On page 34, line 13, insert ", tribal," after "State".

On page 34, line 23, insert ", tribal," after "State".

On page 35, line 8, insert ", tribal," after "State".

On page 38, line 1, strike "state," and insert "State, tribal,".

On page 42, line 5, insert "and the Indian Health Service" after "Service".

On page 42, line 23, insert "and the Indian Health Service" after "Service".

On page 52, line 3, insert ", tribal," after "State".

On page 81, line 7, insert "tribal," after "State,".

On page 83, line 17, insert "tribal," after "State,".

On page 83, line 21, insert "and the Indian Health Service" after "Service".

On page 87, line 12, insert ", tribal," after "State".

On page 87, line 15, insert ", tribal," after "State".

On page 87, line 22, insert ", tribal," after "State".

On page 88, line 2, insert ", tribal," after "State".

On page 88, line 6, insert ", tribal," after "State".

On page 136, line 14, insert "**, tribal,**" after "**state**".

On page 136, line 20, insert ", a tribal government," after "State".

On page 137, line 1, insert ", a tribal government," after "State".

On page 137, line 11, insert ", tribal," after "State".

On page 137, line 19, insert "**, tribal,**" after "**state**".

On page 137, line 23, insert ", Indian tribes," after "States".

On page 138, line 12, insert ", TRIBAL," after "STATE".

On page 138, line 16, insert ", tribal government," after "State".

On page 138, line 23, insert ", Indian tribes," after "States".

On page 139, line 4, insert ", Indian tribes," after "States".

On page 139, line 11, insert "or Indian tribe" after "State".

On page 139, line 21, insert ", Indian tribe," after "State".

On page 140, line 6, insert ", Indian tribes," after "States".

On page 140, line 11, insert ", Indian tribes," after "States".

On page 140, line 14, insert "or Indian tribe" after "State".

On page 141, line 2, insert "or Indian tribe" after "State".

On page 141, lines 6 and 7, strike "State and localities within the State" and insert "State or Indian tribe".

On page 141, line 9, insert ", Indian tribe," after "State".

On page 141, line 11, insert ", Indian tribe," after "State".

On page 143, between lines 7 and 8, insert the following:

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 143, line 8, strike "(4)" and insert "(5)".

On page 143, line 13, strike "(5)" and insert "(6)".

On page 143, lines 16 through 18, strike "an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior".

SA 4791. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REORGANIZATION AUTHORITY.

(a) EXPEDITED PROCEDURES.—

(1) DEFINITIONS.—As used in this section, the following definitions shall apply:

(A) AGENCY.—The term "agency" shall have the meaning given such term in section 181(1).

(B) IMPLEMENTATION BILL.—The term "implementation bill" means a bill—

(i) introduced as provided under subsection (e)(1); and

(ii) containing the proposed legislation included in the reorganization plan submitted to Congress under paragraph (3).

(C) CALENDAR DAY.—The term "calendar day" means a calendar day other than one on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(2) IN GENERAL.—During the first 2 years after the date of enactment of this Act, if the President determines that changes in the organization of the Department, requiring a change in law, are necessary to carry out any policy set forth in this Act, the President shall prepare a reorganization plan, including proposed legislation to implement the plan, specifying the reorganizations that the President determines are necessary. Any such plan may only provide for—

(A) the abolition of all or a part of an agency transferred into the Department, provided that all functions vested by law in the agency are preserved within the Department;

(B) the elimination of a statutory position transferred into the Department, provided that all functions vested by law in the position are preserved within the Department;

(C) the creation of a new agency or subagency within the Department;

(D) the consolidation or coordination of the whole or a part of an agency within the Department, or of the whole or a part of the functions thereof, with the whole or a part of another agency within the Department, provided that all functions vested by law in the affected agencies are preserved within the Department; or

(E) the transfer within the Department of functions that were transferred into the Department.

(3) TRANSMITTAL.—

(A) IN GENERAL.—The President shall transmit to Congress the reorganization plan, which shall include a detailed explanation.

(B) TIMING.—The reorganization plan shall be delivered to both Houses on the same day and to each House while it is in session, except that no more than 2 plans may be pending before Congress at one time.

(4) CONTENT.—

(A) IN GENERAL.—The transmittal message of the reorganization plan shall—

(i) include an estimate of any reduction or increase in expenditures (itemized so far as practicable);

(ii) include detailed information addressing the impacts of the reorganization on the employees of any agency affected by the plan, and what steps will be taken to mitigate any impacts of the plan on the employees of the agency; and

(iii) describe any improvements in homeland security management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan.

(B) IMPLEMENTATION.—In addition, the transmittal message shall include an implementation section which shall—

(i) describe in detail—

(I) the actions necessary or planned to complete the reorganization; and

(II) the anticipated nature and substance of any orders, directives, and other administrative and operations actions which are expected to be required for completing or implementing the reorganization; and

(ii) contain a projected timetable for completion of the implementation process.

(C) BACKGROUND INFORMATION.—The President shall also submit such further background or other information as Congress may require for its consideration of the plan.

(5) AMENDMENTS TO PLAN.—Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any legislation has been ordered reported in either House, the President, or the designee of the President, may make amendments or modifications to the plan, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section, except the President may not modify the proposed legislation included in the plan. The President, or the designee of the President, may withdraw the plan at any time, without prejudice to the right to resubmit a modified plan.

(b) ADDITIONAL CONTENTS OF REORGANIZATION PLAN.—A reorganization plan—

(1) may change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and 1 or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the message transmitting the plan declares that, by reason of a reorganization made by the plan, the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan containing provisions authorized by paragraph (2) may provide that the head of an agency be an individual or a commission or board with more than 1 member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than 4 years, the pay may not be at a rate in excess of that found to be applicable to comparable officers in the executive branch, by and with the advice and consent of the Senate. Any reorganization plan containing provisions required by paragraph (4) shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

(c) EFFECT ON OTHER LAWS, PENDING LEGAL PROCEEDINGS.—

(1) EFFECT ON LAWS.—

(A) DEFINITION.—In this paragraph, the term "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) EFFECT.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) Pending legal proceedings.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(d) Rules of Senate and House of Representatives on Reorganization Plans.—Subsections (e) through (h) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementation bills with respect to any reorganization plans transmitted to Congress (in accordance with subsection (a)(3)); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) Introduction, Referral, and Report or Discharge.—

(1) Introduction.—On the first calendar day on which both Houses are in session, on or immediately following the date on which a reorganization plan is submitted to Congress under subsection (a)(3), a single implementation bill shall be introduced (by request)—

(A) in the Senate—

(i) by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate; or

(ii) by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives—

(i) by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives; or

(ii) by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) Referral.—

(A) In general.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee with primary jurisdiction in the House of Representatives.

(B) Committee may report with amendments.—A committee to which an implementation bill is referred under subparagraph (A) may report such bill to the respective House with amendments proposed to be adopted.

(C) Germaneness requirement.—No amendment under subparagraph (B) may be proposed unless such amendment is—

(i) germane to the implementation bill; and

(ii) within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (a)(2).

(3) Report on discharge.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 75th calendar day after the date of introduction of such bill—

(A) a motion to have the implementation bill discharged shall be in order and highly privileged, with debate limited to 1 hour equally divided; and

(B) upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(f) Procedure After Report or Discharge of Committees; Debate; Vote on Final Passage.—

(1) Procedure.—When the committee has reported, or has been deemed to be discharged (under subsection (e)) from further consideration of, an implementation bill, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the implementation bill. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the implementation bill shall remain the unfinished business of the respective House until disposed.

(2) Debate.—

(A) Implementation bill.—Debate on the implementation bill, and on all debatable amendments, motions, and appeals in connection therewith, shall be limited to not more than 20 hours, which shall be divided equally between individuals favoring and individuals opposing the implementation bill.

(B) Amendments.—Debate on amendments offered on the floor shall be limited to not more than 10 hours, to be divided equally between individuals favoring and opposing the bill.

(C) Germaneness requirement.—No amendment shall be in order which is not germane to the bill and within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (a)(2).

(D) Subsequent motions.—A motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is passed or rejected shall not be in order.

(3) Vote on final passage.—Immediately following the conclusion of the debate on the implementation bill, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the implementation bill shall occur.

(4) Appeals.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to an implementation bill shall be decided without debate.

(g) Conference.—

(1) Appointment of conferees.—In the Senate, a motion to elect or to authorize the appointment of conferees by the presiding officer shall not be debatable.

(2) Conference report.—Not later than 20 calendar days after the appointment of conferees, the conferees shall report to their respective Houses.

(h) Coast Guard Functions and Personnel.—Implementation bills shall not be considered subsequent Acts for the purposes of section 131(e) of this Act.

SA 4792. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Insert on page 24, line 4, of the Gramm-Miller Amendment No. 4738 to Lieberman Amendment No. 4471, a new (d)(19) to read as follows:

(d) Responsibilities of Under Secretary.—

(19) On behalf of the Secretary, pursuant to regulations promulgated in consultation with the statutory members of the National Security Council and advisors thereto, directing the intelligence community agencies as defined in this section, and other federal agencies to provide intelligence information, analyses of intelligence information and such other intelligence-related information that may be collected, possessed or prepared by the agency, subject to the disapproval of the President.

Insert on page 24, line 6, of the Gramm-Miller Amendment No. 4738 to Lieberman Amendment No. 4471, a new section 202 entitled "HOMELAND SECURITY ASSESSMENT CENTER." After inserting the title, insert attached text with designated edits. Then strike page 24, line 6, through page 25, line 17 of the Gramm-Miller Amendment No. 4738 to Lieberman Amendment No. 4471, and renumber sections, subsections, paragraphs and subparagraphs accordingly, beginning the renumbering with "FUNCTIONS TRANSFERRED" which is currently on page 25, line 18, of the Gramm-Miller Amendment No. 4738 to Lieberman Amendment No. 4471.

SEC. 202. HOMELAND SECURITY ASSESSMENT.

(a) Establishment.—There is established in the Department the Homeland Security Assessment Center.

(b) Head.—The Assistant Secretary of Homeland Security for Information Analysis shall be the head of the Center.

(c) Responsibilities.—The responsibilities of the Center shall be as follows:

(1) To assist the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection in discharging the responsibilities under section 201.

(2) To provide intelligence and information analysis and support to other elements of the Department.

(3) To perform such other duties as the Secretary shall provide.

(d) Staff

(1) In general.—The Secretary shall provide the Center with a staff of analysts having appropriate expertise and experience to

assist the Center in discharging the responsibilities under this section.

(2) PRIVATE SECTOR ANALYSTS.—Analysts under this subsection may include analysts from the private sector.

(3) SECURITY CLEARANCES.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(e) COOPERATION WITHIN DEPARTMENT.—The Secretary shall ensure that the Center cooperates closely with other officials of the Department having responsibility for infrastructure protection in order to provide the Secretary with a complete and comprehensive understanding of threats to homeland security and the actual or potential vulnerabilities of the United States in light of such threats.

(f) SUPPORT.—

(1) IN GENERAL.—The following elements of the Federal government shall provide personnel and resource support to the Center:

(A) Other elements of the Department designated by the Secretary for that purpose.

(B) The Federal Bureau of Investigation.

(C) Other elements of the intelligence community, as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(D) Such other elements of the Federal Government as the President considers appropriate.

(2) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into one or more memoranda of understanding with the head of an element referred to in paragraph (1) regarding the provision of support to the Center under that paragraph.

(g) DETAIL OF PERSONNEL.—

(1) IN GENERAL.—In order to assist the Center in discharging the responsibilities under subsection 70(c), personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) COVERED AGENCIES.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Other elements of the intelligence community as defined in this section.

(H) Any other agency of the Federal Government that the Secretary considers appropriate.

(3) COOPERATIVE AGREEMENTS.—Personnel shall be detailed under this subsection pursuant to cooperative agreements entered into for that purpose by the Secretary and the head of the agency concerned.

(4) BASIS.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(h) STUDY OF PLACEMENT WITHIN INTELLIGENCE COMMUNITY.—Not later than 90 days after the effective date of this Act, the President shall submit to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Government Reform and the Permanent select Committee on Intelligence of the House of Representatives a report assessing the advisability of the following:

(1) Placing the elements of the Center concerned with the analysis of foreign intelligence information within the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) Placing such elements within the National Foreign Intelligence Program for budgetary purposes.

SA 4793. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN TO THE BILL H.R. 5005, TO ESTABLISH THE DEPARTMENT of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, between lines 20 and 21, insert the following:

(11) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department; and

---

SA 4794. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 48 after line 25, insert the following:

(c) LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT.

(i) AUTHORIZATION.—Government-owned, contractor-operated laboratories that receive funds available to the Department for national security programs are authorized to carry out laboratory-directed research and development, as defined in section 3132 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(d)).

(ii) REGULATIONS.—The Secretary shall prescribe regulations for the conduct of laboratory-directed research and development at laboratories under subsection (a).

(iii) FUNDING.—Of the funds provided by the Department to laboratories under subsection (a) for national security activities, the Secretary shall provide a specific amount, not to exceed 6 percent of such funds, to be used by such laboratories for laboratory-directed research and development.

SA 4795. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, between lines 8 and 9, insert the following:

(e) OPERATIONAL TEST AND EVALUATION—

(1) PRINCIPAL OFFICIAL FOR OPERATIONAL TEST AND EVALUATION.—The Under Secretary is the official within the Department who, under the Secretary, is responsible for operational test and evaluation activities of the Department. As such, the Under Secretary is the principal adviser to the Secretary regarding such activities and, subject to the authority, direction, and control of the Secretary, shall, with respect to the conduct of such activities, prescribe policies and procedures, engage in monitoring and review, require prompt reporting and disclosure within the Department, and coordinate joint operational testing involving two or more Under Secretaries.

(2) ANNUAL REPORT TO CONGRESS.—The Under Secretary shall submit an annual report to Congress not later than February 15 of each year on the conduct of operational test and evaluation activities of the Department, which shall include an assessment of the operational test and evaluation infrastructure of the Department and, for each major system operationally tested and evaluated during the year covered by the report, information regarding the major system's mission, background technical and programmatic data, and the results of tests and evaluations performed thereon.

(3) DEFINITIONS.—In this paragraph:

(A) MAJOR SYSTEM.—The term "major system" has the meaning given such term in section 4(9) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(9)).

(B) OPERATIONAL TEST AND EVALUATION.—The term "operational test and evaluation," means a test, under realistic conditions, of any item (or key component) of a technology, of a device, or of equipment for the purpose of determining the effectiveness and suitability of the technology, device, or equipment for use by typical users to meet homeland security needs or objectives, together with an evaluation of the results of such test.

SA 4796. Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. CORZINE) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, insert before line 16 the following:

SEC. 1124. STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

"(2) EXCEPTIONS.—Portions of a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—

"(A) and with the consent of the alien, to preserve the confidentiality of applications for—

"(i) asylum;

"(ii) withholding of removal;

"(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

"(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1902); or "(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence; or

"(B) to protect the national security by preventing the disclosure of—

"(i) classified information; or

"(ii) the identity of a confidential informant.".

SA 4797. Mr. FEINGOLD (for himself, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 707. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 708. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 709. REPEAL OF IMMUNITY FOR CUSTOMS OFFICERS IN CONDUCTING CERTAIN SEARCHES.

(a) IN GENERAL.—Section 3061 of the Revised Statutes is amended—

(1) in subsection (a), by striking "(a)"; and

(2) by striking subsection (b).

(b) TRADE ACT OF 2002.—The Trade Act of 2002 is amended—

(1) by striking section 341; and

(2) in the table of contents, by striking the item relating to section 341.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in chapter 4 of title III of the Trade Act of 2002.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4798. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4799. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) In General.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) Responsibilities.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) In General.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) Establishment.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) Review of the Department of Homeland Security.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) Additional Provisions With Respect to the Inspector General of the Department of Homeland Security.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE
DEPARTMENT OF HOMELAND SECURITY

"Sec. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve the national security; or

"(C) prevent significant impairment to the national interests of the United States.

"(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

"(A) the President of the Senate;

"(B) the Speaker of the House of Representatives;

"(C) the Committee on Governmental Affairs of the Senate;

"(D) the Committee on Government Reform of the House of Representatives; and

"(E) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.".

(e) Technical and Conforming Amendments.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SA 4800. Mr. FEINGOLD (for himself and Mr. Kennedy) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 707. CIVIL RIGHTS OFFICER.

(a) In General.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 708. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 709. STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

"(2) EXCEPTIONS.—Portions of a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—

"(A) and with the consent of the alien, to preserve the confidentiality of applications for—

"(i) asylum;

"(ii) withholding of removal;

"(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

"(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1902); or

"(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence; or

"(B) to protect the national security by preventing the disclosure of—

"(i) classified information; or

"(ii) the identity of a confidential informant.".

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate; shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4801. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 706. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 707. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 708. REPEAL OF IMMUNITY FOR CUSTOMS OFFICERS IN CONDUCTING CERTAIN SEARCHES.

(a) IN GENERAL.—Section 3061 of the Revised Statutes is amended—

(1) in subsection (a), by striking "(a)"; and

(2) by striking subsection (b).

(b) TRADE ACT OF 2002.—The Trade Act of 2002 is amended—

(1) by striking section 341; and

(2) in the table of contents, by striking the item relating to section 341.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in chapter 4 of title III of the Trade Act of 2002.

SEC. 709. STANDARDS FOR CLOSING REMOVAL HEARINGS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) STANDARDS FOR CLOSING REMOVAL HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a removal proceeding under this section shall be open to the public.

"(2) EXCEPTIONS.—Portions of a removal proceeding under this section may be closed to the public, on a case by case basis, when necessary—

"(A) and with the consent of the alien, to preserve the confidentiality of applications for—

"(i) asylum;

"(ii) withholding of removal;

"(iii) relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

"(iv) relief under the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1902); or

"(v) other applications for relief involving confidential personal information or where portions of the removal hearing involve minors or issues relating to domestic violence; or

"(B) to protect the national security by preventing the disclosure of—

"(i) classified information; or

"(ii) the identity of a confidential informant.".

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4802. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

( ) SEC. . Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386; 114 Stat. 1542) is amended—

(1) in subsection (a)(2)(A)(ii)—

(A) by striking "February 17, 1999," and inserting "May 17, 1996, May 7, 1997, February 17, 1999, October 22, 1999, December 15, 1999 (or who has or could have been subsequently joined in a suit filed on December 15, 1999 pursuant to Fed. R. Civ. P. 20(a))," and

(B) by striking "or July 27, 2000" and inserting "April 3, 2000, October 27, 2000, or July 27, 2000";

(2) by amending subsection (b)(1) to read as follows:

"(b)(1) JUDGMENTS AGAINST DESIGNATED STATE SPONSORS OF TERRORISM.—For purposes of funding the payments under subsection (a) in the case of judgments and sanctions entered against a government of a designated state sponsor of terrorism or its entities, the President shall vest and liquidate up to and not exceeding the amount of property of such government (including the agencies or instrumentalities controlled in fact by such government or in which such government owns directly or indirectly controlling interest) and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1702), or any other proclamation, order, or regulation issued thereunder."

(3) by amending subsection (b)(2)(B) to read as follows:

"(B) the Iran Foreign Military Sales Program Account within the Foreign Military Sales Fund on the date of enactment of this Act (less amounts therein as to which the United States has an interest in subrogation arising prior to the date of enactment of this Act);"; and

(4) in subsection (c)—

(A) by inserting after the phrase "to the extent of the payments" the phrase "made prior to the date of enactment of this Act".

SA 4803. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department; or

(ii) independent contractors retained by the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department; or

(iii) independent contractors employed by the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SA 4804. Mr. FEINGOLD (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. McCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(C) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(D) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(E) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SA 4805. Mr. FEINGOLD (for himself, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department; or

(ii) any unit of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SA 4806. Mr. FEINGOLD (for himself, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Civil Rights Oversight and Inspector General

SEC. 708. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 709. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Civil Rights Officer of any complaints of violations of civil rights or civil liberties, and consult with the Civil Rights Officer regarding the investigation of such complaints, upon request or as appropriate ;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

“(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.

“(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

“(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.”.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.

SA 4807. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. McCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, strike lines 1 through 8.

SA 4808. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. McCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, insert between lines 7 and 8 the following:

SEC. 702. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland;

(4) develop a process for receiving meaningful input from State and local government to assist the development of homeland security activities; and

(5) prepare an annual report, that contains—

(A) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) DESIGNATION.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) DUTIES.—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research, and technical support to assist local efforts at securing the homeland;

(B) provide coordination between the Department and State and local first responders, including—

(i) law enforcement agencies;

(ii) fire and rescue agencies;

(iii) medical providers;

(iv) emergency service providers; and

(v) relief agencies;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

(i) address shared vulnerabilities; and

(ii) identify opportunities to achieve efficiencies through interstate activities .

(d) FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS AND STATE, LOCAL, AND CROSS-JURISDICTIONAL ISSUES.—

(1) IN GENERAL.—There is established an Interagency Committee on First Responders and State, Local, and Cross-jurisdictional Issues (in this section referred to as the “Interagency Committee”, that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement;

(iii) fire and rescue operations; and

(iv) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) MEMBERSHIP.—The Interagency Committee shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee.

(3) ADMINISTRATION.—The Department shall provide administrative support to the

Interagency Committee and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) Leadership.—The members of the Interagency Committee shall select annually a chairperson.

(5) Meetings.—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) Advisory Council for the Interagency Committee.—

(1) Establishment.—There is established an Advisory Council for the Interagency Committee (in this section referred to as the "Advisory Council").

(2) Membership.—

(A) In general.—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee.

(B) Duties.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) Representation.—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) Chairperson.—The Advisory Council shall select annually a chairperson from among its members.

(4) Compensation of members.—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) Meetings.—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

SA 4809. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 111, line 21, strike all through page 125, line 5 and insert the following:

SEC. . REORGANIZATIONS AND DELEGATIONS.

(a) Reorganization Authority.—

(1) In general.—The Secretary may, as necessary and appropriate—

(A) allocate, or reallocate, functions among officers of the Department; and

(B) establish, consolidate, alter, or discontinue organizational entities within the Department.

(2) Limitation.—Paragraph (1) does not apply to—

(A) any office, bureau, unit, or other entity established by law and transferred to the Department;

(B) any function vested by law in an entity referred to in subparagraph (A) or vested by law in an officer of such an entity; or

(C) the alteration of the assignment or delegation of functions assigned by this Act to any officer or organizational entity of the Department.

(b) Expedited Procedures.—

(1) Definitions.—In subsections (b) through (i), the following definitions shall apply:

(A) Agency.—The term "agency" shall have the meaning given such term in section 181(1).

(B) Implementation bill.—The term "implementation bill" means a bill—

(i) introduced as provided under subsection (f)(1); and

(ii) containing the proposed legislation included in the reorganization plan submitted to Congress under subsection (b)(3).

(C) Calendar day.—The term "calendar day" means a calendar day other than one on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(2) In general.—During the first 2 years after the date of enactment of this Act, if the President determines that changes in the organization of the Department, requiring a change in law, are necessary to carry out any policy set forth in this Act, the President shall prepare a reorganization plan, including proposed legislation to implement the plan, specifying the reorganizations that the President determines are necessary. Any such plan may only provide for—

(A) the abolition of all or a part of an agency transferred into the Department, provided that all functions vested by law in the agency are preserved within the Department;

(B) the elimination of a statutory position transferred into the Department, provided that all functions vested by law in the position are preserved within the Department;

(C) the creation of a new agency or subagency within the Department;

(D) the consolidation or coordination of the whole or a part of an agency within the Department, or of the whole or a part of the functions thereof, with the whole or a part of another agency within the Department, provided that all functions vested by law in the affected agencies are preserved within the Department; or

(E) the transfer within the Department of functions that were transferred into the Department.

(3) Transmittal.—

(A) In general.—The President shall transmit to Congress the reorganization plan, which shall include a detailed explanation.

(B) Timing.—The reorganization plan shall be delivered to both Houses on the same day and to each House while it is in session, except that no more than 2 plans may be pending before Congress at 1 time.

(4) Content.—

(A) In general.—The transmittal message of the reorganization plan shall—

(i) include an estimate of any reduction or increase in expenditures (itemized so far as practicable);

(ii) include detailed information addressing the impacts of the reorganization on the employees of any agency affected by the plan, and what steps will be taken to mitigate any impacts of the plan on the employees of the agency; and

(iii) describe any improvements in homeland security management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan.

(B) Implementation.—In addition, the transmittal message shall include an implementation section which shall—

(i) describe in detail—

(I) the actions necessary or planned to complete the reorganization; and

(II) the anticipated nature and substance of any orders, directives, and other administrative and operations actions which are expected to be required for completing or implementing the reorganization; and

(ii) contain a projected timetable for completion of the implementation process.

(C) Background information.—The President shall also submit such further background or other information as Congress may require for its consideration of the plan.

(5) Amendments to plan.—Any time during the period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any legislation has been ordered reported in either House, the President, or the designee of the President, may make amendments or modifications to the plan, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section, except the President may not modify the proposed legislation included in the plan. The President, or the designee of the President, may withdraw the plan at any time, without prejudice to the right to resubmit a modified plan.

(c) Additional Contents of Reorganization Plan.—A reorganization plan—

(1) may change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and 1 or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the message transmitting the plan declares that, by reason of a reorganization made by the plan, the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan containing provisions authorized by paragraph (2) may provide that the head of an agency be an individual or a commission or board with more than 1 member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than 4 years, the pay may not be at a rate in excess of that found to be applicable to comparable officers in the executive branch, by and with the advice and consent of the Senate. Any reorganization plan containing provisions required by paragraph (4) shall provide for the transfer of unexpended balances and other funds only if such balances are used for the purposes for which the appropriation was originally made.

(d) EFFECT ON OTHER LAWS, PENDING LEGAL PROCEEDINGS.—

(1) EFFECT ON LAWS.—

(A) DEFINITION.—In this paragraph, the term "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) EFFECT.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) PENDING LEGAL PROCEEDINGS.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(e) RULES OF SENATE AND HOUSE OF REPRESENTATIVES ON REORGANIZATION PLANS.—Subsections (f) through (i) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementation bills with respect to any reorganization plans transmitted to Congress (in accordance with subsection (b)(3)); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(f) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day on which both Houses are in session, on or immediately following the date on which a reorganization plan is submitted to Congress under subsection (b)(3), a single implementation bill shall be introduced (by request)—

(A) in the Senate—

(i) by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate; or

(ii) by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives—

(i) by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives; or

(ii) by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) REFERRAL.—

(A) IN GENERAL.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee with primary jurisdiction in the House of Representatives.

(B) COMMITTEE MAY REPORT WITH AMENDMENTS.—A committee to which an implementation bill is referred under subparagraph (A) may report such bill to the respective House with amendments proposed to be adopted.

(C) GERMANENESS REQUIREMENT.—No amendment under subparagraph (B) may be proposed unless such amendment is—

(i) germane to the implementation bill; and

(ii) within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (b)(2).

(3) REPORT ON DISCHARGE.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 75th calendar day after the date of introduction of such bill—

(A) a motion to have the implementation bill discharged shall be in order and highly privileged, with debate limited to 1 hour equally divided; and

(B) upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(g) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEES; DEBATE; VOTE ON FINAL PASSAGE.—

(1) PROCEDURE.—When the committee has reported, or has been deemed to be discharged (under subsection (f)) from further consideration of, an implementation bill, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the implementation bill. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the implementation bill shall remain the unfinished business of the respective House until disposed.

(2) DEBATE.—

(A) IMPLEMENTATION BILL.—Debate on the implementation bill, and on all debatable amendments, motions, and appeals in connection therewith, shall be limited to not more than 20 hours, which shall be divided equally between individuals favoring and individuals opposing the implementation bill.

(B) AMENDMENTS.—Debate on amendments offered on the floor shall be limited to not more than 10 hours, to be divided equally between individuals favoring and opposing the bill.

(C) GERMANENESS REQUIREMENT.—No amendment shall be in order which is not germane to the bill and within the scope of the criteria listed in subparagraphs (A) through (D) of subsection (b)(2).

(D) SUBSEQUENT MOTIONS.—A motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is passed or rejected shall not be in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the implementation bill, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the implementation bill shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to an implementation bill shall be decided without debate.

(h) CONFERENCE.—

(1) APPOINTMENT OF CONFEREES.—In the Senate, a motion to elect or to authorize the appointment of conferees by the presiding officer shall not be debatable.

(2) CONFERENCE REPORT.—No later than 20 calendar days after the appointment of conferees, the conferees shall report to their respective Houses.

(i) COAST GUARD FUNCTIONS AND PERSONNEL.—Implementation bills shall not be considered subsequent Acts for the purposes of section 131(e) of this Act.

(j) DELEGATION AUTHORITY.—

(1) SECRETARY.—The Secretary may—

(A) delegate any of the functions of the Secretary; and

(B) authorize successive redelegations of functions of the Secretary to other officers and employees of the Department.

(2) OFFICERS.—An officer of the Department may—

(A) delegate any function assigned to the officer by law; and

(B) authorize successive redelegations of functions assigned to the officer by law to other officers and employees of the Department.

(3) LIMITATIONS.—

(A) INTERUNIT DELEGATION.—Any function assigned by this title to an organizational unit of the Department or to the head of an organizational unit of the Department may not be delegated to an officer or employee outside of that unit.

(B) FUNCTIONS.—Any function vested by law in an entity established by law and transferred to the Department or vested by law in an officer of such an entity may not be delegated to an officer or employee outside of that entity.

SA 4810. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, strike line 1 and all that follows through page 31, line 2, and insert the following:

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

SEC. 201. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—

(A) IN GENERAL.—There is established a Directorate of Intelligence which shall serve as a national-level focal point for information available to the United States Government relating to the plans, intentions, and capabilities of terrorists and terrorist organizations for the purpose of supporting the mission of the Department.

(B) SUPPORT TO DIRECTORATE.—The Directorate of Intelligence shall communicate, coordinate, and cooperate with—

(i) the Federal Bureau of Investigation;

(ii) the intelligence community, as defined under section 3 of the National Security Act of 1947 (50 U.S.C. 401a), including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the Bureau of Intelligence and Research of the Department of State; and

(iii) other agencies or entities, including those within the Department, as determined by the Secretary.

(C) INFORMATION ON INTERNATIONAL TERRORISM.—

(i) DEFINITIONS.—In this subparagraph, the terms "foreign intelligence" and "counterintelligence" shall have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(ii) PROVISION OF INFORMATION TO COUNTERTERRORIST CENTER.—In order to ensure that the Secretary is provided with appropriate analytical products, assessments, and warnings relating to threats of terrorism against the United States and other threats to homeland security, the Director of Central Intelligence (as head of the intelligence community with respect to foreign intelligence and counterintelligence), the Attorney General, and the heads of other agencies of the Federal Government shall ensure that all intelligence and other information relating to international terrorism is provided to the Director of Central Intelligence's Counterterrorist Center.

(iii) ANALYSIS OF INFORMATION.—The Director of Central Intelligence shall ensure the analysis by the Counterterrorist Center of all intelligence and other information provided the Counterterrorist Center under clause (ii).

(iv) ANALYSIS OF FOREIGN INTELLIGENCE.—The Counterterrorist Center shall have primary responsibility for the analysis of foreign intelligence relating to international terrorism.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1)(A) Receiving and analyzing law enforcement and other information from agencies of the United States Government, State and local government agencies (including law enforcement agencies), and private sector entities, and fusing such information and analysis with analytical products, assessments, and warnings concerning foreign intelligence from the Director of Central Intelligence's Counterterrorist Center in order to—

(i) identify and assess the nature and scope of threats to the homeland; and

(ii) detect and identify threats of terrorism against the United States and other threats to homeland security.

(B) Nothing in this paragraph shall be construed to prohibit the Directorate from conducting supplemental analysis of foreign intelligence relating to threats of terrorism against the United States and other threats to homeland security.

(2) Ensuring timely and efficient access by the Directorate to—

(A) information from agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, private sector entities; and

(B) open source information.

(3) Representing the Department in procedures to establish requirements and priorities in the collection of national intelligence for purposes of the provision to the executive branch under section 103 of the National Security Act of 1947 (50 U.S.C. 403-3) of national intelligence relating to foreign terrorist threats to the homeland.

(4) Consulting with the Attorney General or the designees of the Attorney General, and other officials of the United States Government to establish overall collection priorities and strategies for information, including law enforcement information, relating to domestic threats, such as terrorism, to the homeland.

(5) Disseminating information to the Directorate of Critical Infrastructure Protection, the agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, and private sector entities to assist in the deterrence, prevention, preemption, and response to threats of terrorism against the United States and other threats to homeland security.

(6) Establishing and utilizing, in conjunction with the Chief Information Officer of the Department and the appropriate officers of the agencies described under subsection (a)(1)(B), a secure communications and information technology infrastructure, and advanced analytical tools, to carry out the mission of the Directorate.

(7) Developing, in conjunction with the Chief Information Officer of the Department and appropriate officers of the agencies described under subsection (a)(1)(B), appropriate software, hardware, and other information technology, and security and formatting protocols, to ensure that Federal Government databases and information technology systems containing information relevant to terrorist threats, and other threats against the United States, are—

(A) compatible with the secure communications and information technology infrastructure referred to under paragraph (6); and

(B) comply with Federal laws concerning privacy and the prevention of unauthorized disclosure.

(8) Ensuring, in conjunction with the Director of Central Intelligence and the Attorney General, that all material received by the Department is protected against unauthorized disclosure and is utilized by the Department only in the course and for the purposes of fulfillment of official duties, and is transmitted, retained, handled, and disseminated consistent with—

(A) the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures; or

(B) as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information, and the privacy interest of United States persons as defined under section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(9) Providing, through the Secretary, to the appropriate law enforcement or intelligence agency, information and analysis relating to threats.

(10) Coordinating, or where appropriate providing, training and other support as necessary to providers of information to the Department, or consumers of information from the Department, to allow such providers or consumers to identify and share intelligence information revealed in their ordinary duties or utilize information received from the Department, including training and support under section 908 of the USA PATRIOT Act of 201 (Public Law 107-56).

(11) Reviewing, analyzing and making recommendations through the Secretary for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to threats of terrorism against the United States and other threats to homeland security within the United States Government and between the United States Government and State and local governments, local law enforcement and intelligence agencies, and private sector entities.

(12) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(13) Performing other related and appropriate duties as assigned by the Secretary.

(c) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Unless otherwise directed by the President, the Secretary shall have access to, and United States Government agencies shall provide, all reports, assessments, analytical information, and information, and information, including unevaluated intelligence, relating to the plans, intentions, capabilities, and activities of terrorists and terrorist organizations, and to other areas of responsibility as described in this division, that may be collected, possessed, or prepared, by any other United States Government agency.

(2) ADDITIONAL INFORMATION.—As the President may further provide, the Secretary shall receive additional information requested by the Secretary from the agencies described under subsection (a)(1)(B).

(3) OBTAINING INFORMATION.—All information shall be provided to the Secretary consistent with the requirements of subsection (b)(8) unless otherwise determined by the President.

(4) COOPERATIVE ARRANGEMENTS.—The Secretary may enter into cooperative arrangements with agencies described under subsection (a)(1)(B) to share material on a regular or routine basis, including arrangements involving broad categories of material, and regardless of whether the Secretary has entered into any such cooperative arrangement, all agencies described under subsection (a)(1)(B) shall promptly provide information under this subsection.

(d) AUTHORIZATION TO SHARE LAW ENFORCEMENT INFORMATION.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, or national security official for purposes of information sharing provisions of—

(1) section 203(d) of the USA PATRIOT Act of 2001 (Public Law 107–56);

(2) section 2517(6) of title 18, United States Code; and

(3) rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(e) ADDITIONAL RISK ANALYSIS AND RISK MANAGEMENT RESPONSIBILITIES.—The Under Secretary for Intelligence shall, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, be responsible for—

(1) developing analysis concerning the means and methods terrorists might employ to exploit vulnerabilities in the homeland security infrastructure;

(2) supporting experiments, tests, and inspections to identify weaknesses in homeland defenses;

(3) developing countersurveillance techniques to prevent attacks;

(4) conducting risk assessments to determine the risk posed by specific kinds of terrorist attacks, the probability of successful attacks, and the feasibility of specific countermeasures.

(f) MANAGEMENT AND STAFFING.—

(1) IN GENERAL.—The Directorate of Intelligence shall be staffed, in part, by analysts as requested by the Secretary and assigned by the agencies described under subsection (a)(1)(B). The analysts shall be assigned by reimbursable detail for periods as determined necessary by the Secretary in conjunction with the head of the assigning agency. No such detail may be undertaken without the consent of the assigning agency.

(2) EMPLOYEES ASSIGNED WITHIN DEPARTMENT.—The Secretary may assign employees of the Department by reimbursable detail to the Directorate.

(3) SERVICE AS FACTOR FOR SELECTION.—The President, or the designee of the President, shall prescribe regulations to provide that service described under paragraph (1) or (2), or service by employees within the Directorate, shall be considered a positive factor for selection to positions of greater authority within all agencies described under subsection (a)(1)(B).

(4) PERSONNEL SECURITY STANDARDS.—The employment of personnel in the Directorate shall be in accordance with such personnel security standards for access to classified information and intelligence as the Secretary, in conjunction with the Director of Central Intelligence, shall establish for this subsection.

(5) PERFORMANCE EVALUATION.—The Secretary shall evaluate the performance of all personnel detailed to the Directorate, or delegate such responsibility to the Under Secretary for Intelligence.

(g) INTELLIGENCE COMMUNITY.—Those portions of the Directorate of Intelligence under subsection (b)(1), and the intelligence-related components of agencies transferred by this division to the Department, including the United States Coast Guard, shall be—

(1) considered to be part of the United States intelligence community within the meaning of section 32 of the National Security Act of 1947 (50 U.S.C. 401a); and

(2) for budgetary purposes, within the National Foreign Intelligence Program.

SEC. 202. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Critical Infrastructure Protection shall be responsible for the following:

(1) Receiving relevant intelligence from the Directorate of Intelligence, law enforcement information, and other information in order to comprehensively assess the vulnerabilities of the key resources and critical infrastructures in the United States.

(2) Integrating relevant information, intelligence analysis, and vulnerability assessments (whether such information, analyses, or assessments are provided by the Department or others) to identify priorities and support protective measures by the Department, by the other agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities, to protect the key resources and critical infrastructures in the United States.

(3) Developing a comprehensive national plan for securing the key resources and critical infrastructure in the United States.

(4) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate. This shall include, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, establishing procedures, mechanisms, or units for the purpose of utilizing intelligence to identify vulnerabilities and protective measures in—

(A) public health infrastructure;

(B) food and water storage, production and distribution;

(C) commerce systems, including banking and finance;

(D) energy systems, including electric power and oil and gas production and storage;

(E) transportation systems, including pipelines;

SA 4811. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

DIVISION E—E-GOVERNMENT ACT OF 2002

SEC. 3001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "E-Government Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 3001. Short title; table of contents.
Sec. 3002. Findings and purposes.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 3101. Management and promotion of electronic Government services.
Sec. 3102. Conforming amendments.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 3201. Definitions.
Sec. 3202. Federal agency responsibilities.
Sec. 3203. Compatibility of Executive agency methods for use and acceptance of electronic signatures.
Sec. 3204. Federal Internet portal.
Sec. 3205. Federal courts.
Sec. 3206. Regulatory agencies.
Sec. 3207. Accessibility, usability, and preservation of Government information.
Sec. 3208. Privacy provisions.
Sec. 3209. Federal Information Technology workforce development.
Sec. 3210. Common protocols for geographic information systems.
Sec. 3211. Share-in-savings program improvements.
Sec. 3212. Integrated reporting study and pilot projects.
Sec. 3213. Community technology centers.
Sec. 3214. Enhancing crisis management through advanced information technology.
Sec. 3215. Disparities in access to the Internet.
Sec. 3216. Notification of obsolete or counterproductive provisions.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

Sec. 3301. Information security.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 3401. Authorization of appropriations.
Sec. 3402. Effective dates.

SEC. 3002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this division are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and

processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decisionmaking by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 3101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

“CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

“Sec.
“3601. Definitions.
“3602. Office of Electronic Government:
“3603. Chief Information Officers Council.
“3604. E-Government Fund.
“3605. E-Government report.

“§ 3601. Definitions

“In this chapter, the definitions under section 3502 shall apply, and the term—

“(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

“(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

“(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

“(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

“(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

“(4) ‘enterprise architecture’—

“(A) means—

“(i) a strategic information asset base, which defines the mission;

“(ii) the information necessary to perform the mission;

“(iii) the technologies necessary to perform the mission; and

“(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

“(B) includes—

“(i) a baseline architecture;

“(ii) a target architecture; and

“(iii) a sequencing plan;

“(5) ‘Fund’ means the E-Government Fund established under section 3604;

“(6) ‘interoperability’ means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

“(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

“(8) ‘tribal government’ means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“§ 3602. Office of Electronic Government

“(a) There is established in the Office of Management and Budget an Office of Electronic Government.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

“(c) The Administrator shall assist the Director in carrying out—

“(1) all functions under this chapter;

“(2) all of the functions assigned to the Director under title XXXII of the E-Government Act of 2002; and

“(3) other electronic government initiatives, consistent with other statutes.

“(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

“(1) chapter 35;

“(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104–106; 40 U.S.C. 1401 et seq.);

“(3) section 552a of title 5 (commonly referred to as the Privacy Act);

“(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

“(5) the Government Information Security Reform Act; and

“(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

“(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

“(1) capital planning and investment control for information technology;

“(2) the development of enterprise architectures;

“(3) information security;

“(4) privacy;

“(5) access to, dissemination of, and preservation of Government information;

“(6) accessibility of information technology for persons with disabilities; and

“(7) other areas of electronic Government.

“(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

“(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

“(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

“(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

“(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

“(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(9) Sponsor ongoing dialogue that—

“(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

"(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

"(C) may include—

"(i) development of innovative models—

"(I) for electronic Government management and Government information technology contracts; and

"(II) that may be developed through focused discussions or using separately sponsored research;

"(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

"(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

"(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

"(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

"(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

"(12) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

"(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

"(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

"(B) ensuring compliance with those standards through the budget review process and other means.

"(14) Oversee the development of enterprise architectures within and across agencies.

"(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

"(16) Administer the Office of Electronic Government established under section 3602.

"(17) Assist the Director in preparing the E-Government report established under section 3605.

"(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

"§ 3603. Chief Information Officers Council

"(a) There is established in the executive branch a Chief Information Officers Council.

"(b) The members of the Council shall be as follows:

"(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

"(2) The Administrator of the Office of Electronic Government.

"(3) The Administrator of the Office of Information and Regulatory Affairs.

"(4) The chief information officer of each agency described under section 901(b) of title 31.

"(5) The chief information officer of the Central Intelligence Agency.

"(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

"(7) Any other officer or employee of the United States designated by the chairperson.

"(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

"(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

"(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

"(3) The Administrator of General Services shall provide administrative and other support for the Council.

"(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

"(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

"(f) The Council shall perform functions that include the following:

"(1) Develop recommendations for the Director on Government information resources management policies and requirements.

"(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

"(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

"(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title XXII of the E-Government Act of 2002.

"(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

"(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

"(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

"(C) Standards and guidelines for Federal Government computer system efficiency and security.

"(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

"(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

"§ 3604. E-Government Fund

"(a)(1) There is established in the Treasury of the United States the E-Government Fund.

"(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

"(3) Projects under this subsection may include efforts to—

"(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

"(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

"(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

"(b)(1) The Administrator shall—

"(A) establish procedures for accepting and reviewing proposals for funding;

"(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

"(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

"(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

"(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

"(B) Projects shall adhere to fundamental capital planning and investment control processes.

"(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

"(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

"(E) Agencies shall assess the results of funded projects.

"(c) In determining which proposals to recommend for funding, the Administrator—

"(1) shall consider criteria that include whether a proposal—

"(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

“(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

“(C) ensures proper security and protects privacy;

“(D) is interagency in scope, including projects implemented by a primary or single agency that—

“(i) could confer benefits on multiple agencies; and

“(ii) have the support of other agencies; and

“(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

“(2) may also rank proposals based on criteria that include whether a proposal—

“(A) has Governmentwide application or implications;

“(B) has demonstrated support by the public to be served;

“(C) integrates Federal with State, local, or tribal approaches to service delivery;

“(D) identifies resource commitments from nongovernmental sectors;

“(E) identifies resource commitments from the agencies involved;

“(F) uses web-based technologies to achieve objectives;

“(G) identifies records management and records access strategies;

“(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

“(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

“(J) supports integrated service delivery;

“(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

“(L) is new or innovative and does not supplant existing funding streams within agencies.

“(d) The Fund may be used to fund the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

“(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

“(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

“(2) The report under paragraph (1) shall describe—

“(A) all projects which the Director has approved for funding from the Fund; and

“(B) the results that have been achieved to date for these funded projects.

“(g)(1) There are authorized to be appropriated to the Fund—

“(A) $45,000,000 for fiscal year 2003;

“(B) $50,000,000 for fiscal year 2004;

“(C) $100,000,000 for fiscal year 2005;

“(D) $150,000,000 for fiscal year 2006; and

“(E) such sums as are necessary for fiscal year 2007.

“(2) Funds appropriated under this subsection shall remain available until expended.

“§ 3605. E-Government report

“(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“(b) The report under subsection (a) shall contain—

“(1) a summary of the information reported by agencies under section 3202(f) of the E-Government Act of 2002;

“(2) the information required to be reported by section 3604(f); and

“(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“36. Management and Promotion of Electronic Government Services .. 3601”.

SEC. 3102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

“SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

“The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

“Sec. 113. Electronic Government and information technologies.”.

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

“(5) Chair the Chief Information Officers Council established under section 3603 of title 44.”.

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

“§ 507. Office of Electronic Government

“The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

“507. Office of Electronic Government.”.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 3201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 3202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this division (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this division by the Director, and the information technology standards promulgated under this division by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 3204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this division shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) SPONSORED ACTIVITIES.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this division by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-GOVERNMENT STATUS REPORT.—

(1) IN GENERAL.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) SUBMISSION.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) USE OF TECHNOLOGY.—Nothing in this division supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) NATIONAL SECURITY SYSTEMS.—

(1) INAPPLICABILITY.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

(2) APPLICABILITY.—Sections 3202, 3203, 3210, and 3214 of this title do apply to national security systems to the extent practicable and consistent with law.

SEC. 3203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) PURPOSE.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681-749 through 2681-751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) AUTHORITY FOR ELECTRONIC SIGNATURES.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, $8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3204. FEDERAL INTERNET PORTAL.

(a) IN GENERAL.—

(1) PUBLIC ACCESS.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) CRITERIA.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 3205. FEDERAL COURTS.

(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) MAINTENANCE OF DATA ONLINE.—

(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) ELECTRONIC FILINGS.—

(1) IN GENERAL.—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) EXCEPTIONS.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) PRIVACY AND SECURITY CONCERNS.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) DOCKETS WITH LINKS TO DOCUMENTS.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary,".

(f) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) DEFERRAL.—

(1) IN GENERAL.—

(A) ELECTION.—

(i) NOTIFICATION.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) REPORT.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 3206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) Information Provided by Agencies Online.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) Submissions by Electronic Means.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) Electronic Docketing.—

(1) In general.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) Information available.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) Time Limitation.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 3207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) Purpose.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) Definitions.—In this section, the term—

(1) "Committee" means the Interagency Committee on Government Information established under subsection (c); and

(2) "directory" means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) Interagency Committee.—

(1) Establishment.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) Membership.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) Functions.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) Termination.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) Categorizing of Information.—

(1) Committee functions.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(iii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) Functions of the director.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) Modification of policies.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) Agency functions.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) Public Access to Electronic Information.—

(1) Committee functions.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) Functions of the archivist.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) Modification of policies.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) Agency functions.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) Availability of Government Information on the Internet.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 3202(g).

(2) Update.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(g) Access to Federally Funded Research and Development.—

(1) Development and maintenance of governmentwide repository and website.—

(A) Repository and website.—The Director of the National Science Foundation, working with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development center; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) Oversight.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) Agency functions.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) Committee functions.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) Functions of the director.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(5) Authorization of appropriations.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(h) Public Domain Directory of Public Federal Government Websites.—

(1) Establishment.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of public Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 3204.

(2) Development.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

(i) agency librarians;

(ii) information technology managers;

(iii) program managers;

(iv) records managers;

(v) Federal depository librarians; and

(vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(3) Update.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(i) Standards for Agency Websites.—Not later than 18 months after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

(A) speed of retrieval of search results;

(B) the relevance of the results;

(C) tools to aggregate and disaggregate data; and

(D) security protocols to protect information.

SEC. 3208. PRIVACY PROVISIONS.

(a) Purpose.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) Privacy Impact Assessments.—

(1) Responsibilities of agencies.—

(A) In general.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) Agency activities.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) Sensitive information.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) Copy to director.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) Contents of a privacy impact assessment.—

(A) In general.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) Guidance.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act).

(3) Responsibilities of the director.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) Privacy Protections on Agency Websites.—

(1) Privacy policies on websites.—

(A) Guidelines for notices.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) Contents.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) Privacy policies in machine-readable formats.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 3209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) Purpose.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) In General.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(c) Employee Participation.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this section, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) Purposes.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) Definition.—In this section, the term "geographic information" means information systems that involve locational data, such as maps or other geospatial information resources.

(c) In General.—

(1) Common protocols.—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) Interagency group.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) Director.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) Common Protocols.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 3211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

(1) in subsection (a)—

(A) by striking "the heads of two executive agencies to carry out" and inserting "heads of executive agencies to carry out a total of 5 projects under";

(B) by striking "and" at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting "; and"; and

(D) by adding at the end the following:

"(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

"(A) to retain, until expended, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

"(i) the total amount of the savings; over

"(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

"(B) to use the retained amount to acquire additional information technology.";

(2) in subsection (b)—

(A) by inserting "a project under" after "authorized to carry out"; and

(B) by striking "carry out one project and"; and

(3) in subsection (c), by inserting before the period "and the Administrator for the Office of Electronic Government"; and

(4) by inserting after subsection (c) the following:

"(d) Report.—

"(1) In general.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(2) Contents.—The report under paragraph (1) shall include—

"(A) a description of the reduced costs and other measurable benefits of the pilot projects;

"(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

"(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.".

SEC. 3212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) Purposes.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) Definitions.—In this section, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) "person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) Report.—

(1) In general.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) Contents.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) Pilot Projects To Encourage Integrated Collection and Management of

DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

(1) IN GENERAL.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) GOALS OF PILOT PROJECTS.—

(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) GOALS.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) PRIVACY PROTECTIONS.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 3213. COMMUNITY TECHNOLOGY CENTERS.

(a) PURPOSES.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Department of Education shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Secretary of Education, in consultation with the Director of the Institute of Museum and Library Services, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 3214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of,the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 3215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) CONTENTS.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation $950,000 in fiscal year 2003 to carry out this section.

SEC. 3216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this division (including any amendment made by this division) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE XXIII—GOVERNMENT INFORMATION SECURITY

SEC. 3301. INFORMATION SECURITY.

(a) ADDITION OF SHORT TITLE.—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-266) is amended by inserting after the heading for the subtitle the following new section:

"SEC. 1060. SHORT TITLE.

"This subtitle may be cited as the 'Government Information Security Reform Act'.".

(b) CONTINUATION OF AUTHORITY.—

(1) IN GENERAL.—Section 3536 of title 44, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title XXXI or XXXII, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles XXXI and XXXII for each of fiscal years 2003 through 2007.

SEC. 3402. EFFECTIVE DATES.

(a) TITLES XXXI AND XXXII.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles XXXI and XXXII and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 3207, 3214, 3215, and 3216 shall take effect on the date of enactment of this Act.

(b) TITLES XXXIII AND XXXIV.—Title XXXIII and this title shall take effect on the date of enactment of this Act.

SA 4812. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 82, line 10, strike all through page 84, line 7, and insert the following:

(5) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

(a) IN GENERAL.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. DEFINITION.

SA 4813. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 9 and all that follows through page 90, line 2, and insert the following:

SEC. 710. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(b) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve the national security; or

"(C) prevent significant impairment to the national interests of the United States.

"(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

"(A) the President of the Senate;

"(B) the Speaker of the House of Representatives;

"(C) the Committee on Governmental Affairs of the Senate;

"(D) the Committee on Government Reform of the House of Representatives; and

"(E) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SA 4814. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 9 and all that follows through page 90, line 2, and insert the following:

SEC. 710. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(b) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ASSISTANT IG.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Civil Rights and Civil Liberties who shall have experience and demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) DUTIES.—The Assistant Inspector General for Civil Rights and Civil Liberties shall—

(A) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) if appropriate, investigate such complaints in a timely manner;

(C) publicize in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the official; and

(ii) instructions on how to contact the official; and

(D) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection;

(ii) detailing any civil rights abuses under paragraph (1); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the 'Inspector General') shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the 'Secretary') with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.".

"(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

"(A) the President of the Senate;

"(B) the Speaker of the House of Representatives;

"(C) the Committee on Governmental Affairs of the Senate;

"(D) the Committee on Government Reform of the House of Representatives; and

"(E) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SA 4815. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNEL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, after line 23, insert the following:

SEC. 105. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SA 4816. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, after line 23, insert the following:

SEC. 105. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SA 4817. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, line 14, strike all through page 110, line 4.

SA 4818. Mr. LIEBERMAN SUBMITTED AN AMENDMENT INTENDED TO BE PROPOSED TO AMENDMENT SA 4738 PROPOSED BY Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN TO THE BILL H.R. 5005, TO ESTABLISH THE DEPARTMENT of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, strike lines 6 through 12, and insert the following:

(e) OTHER OFFICERS.—

(1) IN GENERAL.—To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President:

(A) A Director of the Secret Service.

(B) A Chief Information Officer.

(C) A Chief Human Capital Officer.

(2) CHIEF FINANCIAL OFFICER.—

(A) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(B) ESTABLISHMENT.—Section 901(b)(1) of title 31, United States Code, is amended—

(i) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(ii) by inserting after subparagraph (F) the following:

"(G) The Department of Homeland Security.".

(3) SECTION 603 NOT EFFECTIVE.—Notwithstanding any other provision of this Act, including any effective date provision, section 603 shall not take effect.

SA 4819. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, strike lines 10–24 and all that follows through page 53, line 14.

SA 4820. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, strike line 22 and all that follows through page 43, line 14, and insert the following:

SEC. 305. RESEARCH IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) AUTHORIZATION.—The Secretary may carry out human health biodefense-related biological, biomedical, and infectious disease research and development (including vaccine research and development) in collaboration with the Secretary of Health and Human Services.

(b) JOINT STRATEGIC PRIORITIZATION AGREEMENTS.—

(1) IN GENERAL.—Research supported by funding appropriated to the National Institutes of Health for bioterrorism research and related facilities development shall be conducted through the National Institutes of Health under joint strategic prioritization agreements between the Secretary and the Secretary of Health and Human Services.

(2) GENERAL RESEARCH PRIORITIES.—The Secretary shall have the authority to establish general research priorities, which shall be embodied in the agreements under paragraph (1).

(3) SPECIFIC SCIENTIFIC RESEARCH AGENDA.—The specific scientific research agenda to implement agreements under paragraph (1) shall be developed by the Secretary of Health and Human Services, who shall consult the Secretary to ensure that the agreements conform with homeland security priorities.

(4) MANAGEMENT OF RESEARCH PROGRAMS.—All research programs established under the agreements under paragraph (1) shall be managed and awarded by the Director of the National Institutes of Health consistent with those agreements.

(5) TRANSFER OF FUNDS.—The Secretary may transfer funds to the Department of Health and Human Services in connection with the agreements under paragraph (1).

SA 4821. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Privacy, Civil Rights, and Inspector General

SEC. 708. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 709. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(b) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve the national security; or

"(C) prevent significant impairment to the national interests of the United States.

"(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

"(A) the President of the Senate;

"(B) the Speaker of the House of Representatives;

"(C) the Committee on Governmental Affairs of the Senate;

"(D) the Committee on Government Reform of the House of Representatives; and

"(E) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SA 4822. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, strike line 8 and all that follows through page 90, line 2, and insert the following:

Subtitle B—Privacy, Civil Rights, and Inspector General

SEC. 708. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 709. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 710. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(b) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ASSISTANT IG.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Civil Rights and Civil Liberties who shall have experience and demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) DUTIES.—The Assistant Inspector General for Civil Rights and Civil Liberties shall—

(A) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(B) if appropriate, investigate such complaints in a timely manner;

(C) publicize in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the official; and

(ii) instructions on how to contact the official; and

(D) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection;

(ii) detailing any civil rights abuses under paragraph (1); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(c) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the 'Inspector General') shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the 'Secretary') with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.".

"(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

"(A) the President of the Senate;

"(B) the Speaker of the House of Representatives;

"(C) the Committee on Governmental Affairs of the Senate;

"(D) the Committee on Government Reform of the House of Representatives; and

"(E) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector

General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SA 4823. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, strike lines 12–15.

SA 4824. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (FOR HIMSELF, MR. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, strike lines 12–15.

On page 52, strike lines 10–24 and all that follows through page 53, line 14.

SA 4825. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Homeland Security and Combating Terrorism Act of 2002".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 5 divisions as follows:

(1) Division A—National Homeland Security and Combating Terrorism.

(2) Division B—Immigration Reform, Accountability, and Security Enhancement Act of 2002.

(3) Division C—Federal Workforce Improvement.

(4) Division D—E-Government Act of 2002.

(5) Division E—Flight and Cabin Security on Passenger Aircraft.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

Sec. 100. Definitions.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

Sec. 101. Establishment of the Department of Homeland Security.
Sec. 102. Secretary of Homeland Security.
Sec. 103. Deputy Secretary of Homeland Security.
Sec. 104. Under Secretary for Management.
Sec. 105. Assistant Secretaries.
Sec. 106. Inspector General.
Sec. 107. Chief Financial Officer.
Sec. 108. Chief Information Officer.
Sec. 109. General Counsel.
Sec. 110. Civil Rights Officer.
Sec. 111. Privacy Officer.
Sec. 112. Chief Human Capital Officer.
Sec. 113. Office of International Affairs.
Sec. 114. Executive Schedule positions.

Subtitle B—Establishment of Directorates and Offices

Sec. 131. Directorate of Border and Transportation Protection.
Sec. 132. Directorate of Intelligence.
Sec. 133. Directorate of Critical Infrastructure Protection.
Sec. 134. Directorate of Emergency Preparedness and Response.
Sec. 135. Directorate of Science and Technology.
Sec. 136. Directorate of Immigration Affairs.
Sec. 137. Office for State and Local Government Coordination.
Sec. 138. United States Secret Service.
Sec. 139. Border Coordination Working Group.
Sec. 140. Office for National Capital Region Coordination.
Sec. 141. Executive Schedule positions.

Subtitle C—National Emergency Preparedness Enhancement

Sec. 151. Short title.
Sec. 152. Preparedness information and education.
Sec. 153. Pilot program.
Sec. 154. Designation of National Emergency Preparedness Week.

Subtitle D—Miscellaneous Provisions

Sec. 161. National Bio-Weapons Defense Analysis Center.
Sec. 162. Review of food safety.
Sec. 163. Exchange of employees between agencies and State or local governments.
Sec. 164. Whistleblower protection for Federal employees who are airport security screeners.
Sec. 165. Whistleblower protection for certain airport employees.
Sec. 166. Bioterrorism preparedness and response division.
Sec. 167. Coordination with the Department of Health and Human Services under the Public Health Service Act.
Sec. 168. Rail security enhancements.
Sec. 169. Grants for firefighting personnel.
Sec. 170. Review of transportation security enhancements.
Sec. 171. Interoperability of information systems.
Sec. 172. Extension of customs user fees.
Sec. 173. Conforming amendments regarding laws administered by the Secretary of Veterans Affairs.
Sec. 174. Prohibition on contracts with corporate expatriates.
Sec. 175. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 176. Coordination of information and information technology.

Subtitle E—Transition Provisions

Sec. 181. Definitions.
Sec. 182. Transfer of agencies.
Sec. 183. Transitional authorities.
Sec. 184. Incidental transfers and transfer of related functions.
Sec. 185. Implementation progress reports and legislative recommendations.
Sec. 186. Transfer and allocation.
Sec. 187. Savings provisions.
Sec. 188. Transition plan.
Sec. 189. Use of appropriated funds.

Subtitle F—Administrative Provisions

Sec. 191. Reorganizations and delegations.
Sec. 192. Reporting requirements.
Sec. 193. Environmental protection, safety, and health requirements.
Sec. 194. Labor standards.
Sec. 195. Procurement of temporary and intermittent services.
Sec. 196. Preserving non-homeland security mission performance.
Sec. 197. Future Years Homeland Security Program.
Sec. 198. Protection of voluntarily furnished confidential information.
Sec. 199. Establishment of human resources management system.
Sec. 199A. Labor-management relations.
Sec. 199B. Authorization of appropriations.

TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS

Sec. 201. Law enforcement powers of Inspector General agents.

TITLE III—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Temporary Flexibility for Certain Procurements

Sec. 301. Definition.
Sec. 302. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 303. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
Sec. 304. Increased micro-purchase threshold for certain procurements.
Sec. 305. Application of certain commercial items authorities to certain procurements.
Sec. 306. Use of streamlined procedures.
Sec. 307. Review and report by Comptroller General.

Subtitle B—Other Matters

Sec. 311. Identification of new entrants into the Federal marketplace.

TITLE IV—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Sec. 401. Establishment of Commission.
Sec. 402. Purposes.
Sec. 403. Composition of the Commission.

Sec. 404. Functions of the Commission.
Sec. 405. Powers of the Commission.
Sec. 406. Staff of the Commission.
Sec. 407. Compensation and travel expenses.
Sec. 408. Security clearances for Commission members and staff.
Sec. 409. Reports of the Commission; termination.
Sec. 410. Authorization of appropriations.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

TITLE X—SHORT TITLE AND DEFINITIONS

Sec. 1001. Short title.
Sec. 1002. Definitions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

Sec. 1101. Abolition of INS.
Sec. 1102. Establishment of Directorate of Immigration Affairs.
Sec. 1103. Under Secretary of Homeland Security for Immigration Affairs.
Sec. 1104. Bureau of Immigration Services.
Sec. 1105. Bureau of Enforcement and Border Affairs.
Sec. 1106. Office of the Ombudsman within the Directorate.
Sec. 1107. Office of Immigration Statistics within the Directorate.
Sec. 1108. Clerical amendments.

Subtitle B—Transition Provisions

Sec. 1111. Transfer of functions.
Sec. 1112. Transfer of personnel and other resources.
Sec. 1113. Determinations with respect to functions and resources.
Sec. 1114. Delegation and reservation of functions.
Sec. 1115. Allocation of personnel and other resources.
Sec. 1116. Savings provisions.
Sec. 1117. Interim service of the Commissioner of Immigration and Naturalization.
Sec. 1118. Executive Office for Immigration review authorities not affected.
Sec. 1119. Other authorities not affected.
Sec. 1120. Transition funding.

Subtitle C—Miscellaneous Provisions

Sec. 1121. Funding adjudication and naturalization services.
Sec. 1122. Application of Internet-based technologies.
Sec. 1123. Alternatives to detention of asylum seekers.

Subtitle D—Effective Date

Sec. 1131. Effective date.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

Sec. 1201. Short title.
Sec. 1202. Definitions.

Subtitle A—Structural Changes

Sec. 1211. Responsibilities of the Office of Refugee Resettlement with respect to unaccompanied alien children.
Sec. 1212. Establishment of Interagency Task Force on Unaccompanied Alien Children.
Sec. 1213. Transition provisions.
Sec. 1214. Effective date.

Subtitle B—Custody, Release, Family Reunification, and Detention

Sec. 1221. Procedures when encountering unaccompanied alien children.
Sec. 1222. Family reunification for unaccompanied alien children with relatives in the United States.
Sec. 1223. Appropriate conditions for detention of unaccompanied alien children.
Sec. 1224. Repatriated unaccompanied alien children.
Sec. 1225. Establishing the age of an unaccompanied alien child.
Sec. 1226. Effective date.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

Sec. 1231. Right of unaccompanied alien children to guardians ad litem.
Sec. 1232. Right of unaccompanied alien children to counsel.
Sec. 1233. Effective date; applicability.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

Sec. 1241. Special immigrant juvenile visa.
Sec. 1242. Training for officials and certain private parties who come into contact with unaccompanied alien children.
Sec. 1243. Effective date.

Subtitle E—Children Refugee and Asylum Seekers

Sec. 1251. Guidelines for children's asylum claims.
Sec. 1252. Unaccompanied refugee children.

Subtitle F—Authorization of Appropriations

Sec. 1261. Authorization of appropriations.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function

Sec. 1301. Establishment.
Sec. 1302. Director of the agency.
Sec. 1303. Board of Immigration Appeals.
Sec. 1304. Chief Immigration Judge.
Sec. 1305. Chief Administrative Hearing Officer.
Sec. 1306. Removal of judges.
Sec. 1307. Authorization of appropriations.

Subtitle B—Transfer of Functions and Savings Provisions

Sec. 1311. Transition provisions.

Subtitle C—Effective Date

Sec. 1321. Effective date.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

Sec. 2101. Short title.
Sec. 2102. Agency Chief Human Capital Officers.
Sec. 2103. Chief Human Capital Officers Council.
Sec. 2104. Strategic human capital management.
Sec. 2105. Effective date.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 2201. Inclusion of agency human capital strategic planning in performance plans and program performance reports.
Sec. 2202. Reform of the competitive service hiring process.
Sec. 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 2204. Student volunteer transit subsidy.

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

Sec. 2301. Repeal of recertification requirements of senior executives.
Sec. 2302. Adjustment of limitation on total annual compensation.

TITLE XXIV—ACADEMIC TRAINING

Sec. 2401. Academic training.
Sec. 2402. Modifications to National Security Education Program.
Sec. 2403. Compensatory time off for travel.

DIVISION D—E-GOVERNMENT ACT OF 2002

TITLE XXX—SHORT TITLE; FINDINGS AND PURPOSES

Sec. 3001. Short title.
Sec. 3002. Findings and purposes.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 3101. Management and promotion of electronic Government services.
Sec. 3102. Conforming amendments.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 3201. Definitions.
Sec. 3202. Federal agency responsibilities.
Sec. 3203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 3204. Federal Internet portal.
Sec. 3205. Federal courts.
Sec. 3206. Regulatory agencies.
Sec. 3207. Accessibility, usability, and preservation of Government information.
Sec. 3208. Privacy provisions.
Sec. 3209. Federal information technology workforce development.
Sec. 3210. Common protocols for geographic information systems.
Sec. 3211. Share-in-savings program improvements.
Sec. 3212. Integrated reporting study and pilot projects.
Sec. 3213. Community technology centers.
Sec. 3214. Enhancing crisis management through advanced information technology.
Sec. 3215. Disparities in access to the Internet.
Sec. 3216. Notification of obsolete or counterproductive provisions.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

Sec. 3301. Information security.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 3401. Authorization of appropriations.
Sec. 3402. Effective dates.

DIVISION E—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

TITLE XLI—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

Sec. 4101. Short title.
Sec. 4102. Findings.
Sec. 4103. Federal flight deck officer program.
Sec. 4104. Cabin security.
Sec. 4105. Prohibition on opening cockpit doors in flight.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

SEC. 100. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:

(1) AGENCY.—Except for purposes of subtitle E of title I, the term "agency"—

(A) means—

(i) an Executive agency as defined under section 105 of title 5, United States Code;

(ii) a military department as defined under section 102 of title 5, United States Code;

(iii) the United States Postal Service; and

(B) does not include the General Accounting Office.

(2) ASSETS.—The term "assets" includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(3) DEPARTMENT.—The term "Department" means the Department of Homeland Security established under title I.

(4) ENTERPRISE ARCHITECTURE.—The term "enterprise architecture"—

(A) means—

(i) a strategic information asset base, which defines the mission;

(ii) the information necessary to perform the mission;

(iii) the technologies necessary to perform the mission; and

(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

(B) includes—

(i) a baseline architecture;

(ii) a target architecture; and

(iii) a sequencing plan.

(5) FEDERAL TERRORISM PREVENTION AND RESPONSE AGENCY.—The term "Federal terrorism prevention and response agency" means any Federal department or agency charged with responsibilities for carrying out a homeland security strategy.

(6) FUNCTIONS.—The term "functions" includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(7) HOMELAND.—The term "homeland" means the United States, in a geographic sense.

(8) LOCAL GOVERNMENT.—The term "local government" has the meaning given under section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288).

(9) PERSONNEL.—The term "personnel" means officers and employees.

(10) RISK ANALYSIS AND RISK MANAGEMENT.—The term "risk analysis and risk management" means the assessment, analysis, management, mitigation, and communication of homeland security threats, vulnerabilities, criticalities, and risks.

(11) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(12) UNITED STATES.—The term "United States", when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288)), any possession of the United States, and any waters within the jurisdiction of the United States.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

SEC. 101. ESTABLISHMENT OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—There is established the Department of National Homeland Security.

(b) EXECUTIVE DEPARTMENT.—Section 101 of title 5, United States Code, is amended by adding at the end the following:

"The Department of Homeland Security.".

(c) MISSION OF DEPARTMENT.—

(1) HOMELAND SECURITY.—The mission of the Department is to—

(A) promote homeland security, particularly with regard to terrorism;

(B) prevent terrorist attacks or other homeland threats within the United States;

(C) reduce the vulnerability of the United States to terrorism, natural disasters, and other homeland threats; and

(D) minimize the damage, and assist in the recovery, from terrorist attacks or other natural or man-made crises that occur within the United States.

(2) OTHER MISSIONS.—The Department shall be responsible for carrying out the other functions, and promoting the other missions, of entities transferred to the Department as provided by law.

(d) SEAL.—The Secretary shall procure a proper seal, with such suitable inscriptions and devices as the President shall approve. This seal, to be known as the official seal of the Department of Homeland Security, shall be kept and used to verify official documents, under such rules and regulations as the Secretary may prescribe. Judicial notice shall be taken of the seal.

SEC. 102. SECRETARY OF HOMELAND SECURITY.

(a) IN GENERAL.—The Secretary of Homeland Security shall be the head of the Department. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The responsibilities of the Secretary shall be the following:

(1) To develop policies, goals, objectives, priorities, and plans for the United States for the promotion of homeland security, particularly with regard to terrorism.

(2) To administer, carry out, and promote the other established missions of the entities transferred to the Department.

(3) To develop a comprehensive strategy for combating terrorism and the homeland security response.

(4) To make budget recommendations relating to a homeland security strategy, border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion related to homeland security, and Federal support for State and local activities.

(5) To plan, coordinate, and integrate those Federal Government activities relating to border and transportation security, critical infrastructure protection, all-hazards emergency preparedness, response, recovery, and mitigation.

(6) To serve as a national focal point to analyze all information available to the United States related to threats of terrorism and other homeland threats.

(7) To establish and manage a comprehensive risk analysis and risk management program that directs and coordinates the supporting risk analysis and risk management activities of the Directorates and ensures coordination with entities outside the Department engaged in such activities.

(8) To identify and promote key scientific and technological advances that will enhance homeland security.

(9) To include, as appropriate, State and local governments and other entities in the full range of activities undertaken by the Department to promote homeland security, including—

(A) providing State and local government personnel, agencies, and authorities, with appropriate intelligence information, including warnings, regarding threats posed by terrorism in a timely and secure manner;

(B) facilitating efforts by State and local law enforcement and other officials to assist in the collection and dissemination of intelligence information and to provide information to the Department, and other agencies, in a timely and secure manner;

(C) coordinating with State, regional, and local government personnel, agencies, and authorities and, as appropriate, with the private sector, other entities, and the public, to ensure adequate planning, team work, coordination, information sharing, equipment, training, and exercise activities;

(D) consulting State and local governments, and other entities as appropriate, in developing a homeland security strategy; and

(E) systematically identifying and removing obstacles to developing effective partnerships between the Department, other agencies, and State, regional, and local government personnel, agencies, and authorities, the private sector, other entities, and the public to secure the homeland.

(10)(A) To consult and coordinate with the Secretary of Defense and the governors of the several States regarding integration of the United States military, including the National Guard, into all aspects of a homeland security strategy and its implementation, including detection, prevention, protection, response, and recovery.

(B) To consult and coordinate with the Secretary of Defense and make recommendations concerning organizational structure, equipment, and positioning of military assets determined critical to executing a homeland security strategy.

(C) To consult and coordinate with the Secretary of Defense regarding the training of personnel to respond to terrorist attacks involving chemical or biological agents.

(11) To seek to ensure effective day-to-day coordination of homeland security operations, and establish effective mechanisms for such coordination, among the elements constituting the Department and with other involved and affected Federal, State, and local departments and agencies.

(12) To administer the Homeland Security Advisory System, exercising primary responsibility for public threat advisories, and (in coordination with other agencies) providing specific warning information to State and local government personnel, agencies and authorities, the private sector, other entities, and the public, and advice about appropriate protective actions and countermeasures.

(13) To conduct exercise and training programs for employees of the Department and other involved agencies, and establish effective command and control procedures for the full range of potential contingencies regarding United States homeland security, including contingencies that require the substantial support of military assets.

(14) To annually review, update, and amend the Federal response plan for homeland security and emergency preparedness with regard to terrorism and other manmade and natural disasters.

(15) To direct the acquisition and management of all of the information resources of the Department, including communications resources.

(16) To endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable.

(17) In furtherance of paragraph (16), to oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation.

(18) As the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17).

(19) To report to Congress on the development and implementation of the enterprise architecture under paragraph (17) in—

(A) each implementation progress report required under section 185; and

(B) each biennial report required under section 192(b).

(c) Visa Issuance by the Secretary.—

(1) Definition.—In this subsection, the term "consular officer" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(2) In general.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided under paragraph (3), the Secretary—

(A) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority .to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(B)(i) may delegate in whole or part the authority under subparagraph (A) to the Secretary of State; and

(ii) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in subparagraph (A).

(3) Authority of the Secretary of State.—

(A) In general.—The Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State considers such refusal necessary or advisable in the foreign policy or security interests of the United States.

(B) Statutory construction.—Nothing in this subsection shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(i) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(15)(A)).

(ii) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(iii) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(iv) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)(3)(B)(vi)(II)).

(v) Section 212(a)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(vi) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(vii) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(viii) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(ix) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(x) Section 104 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034).

(xi) Section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (Public Law 105–277).

(xii) Section 103(f) of the Chemical Weapons Convention Implementation Act of 1998 (112 Stat. 2681–865).

(xiii) Section 801 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2002 and 2001 (113 Stat. 1501A–468).

(xiv) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(xv) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(xvi) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption).

(4) Consular officers and chiefs of missions.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(5) Assignment of homeland security employees to diplomatic and consular posts.—

(A) In general.—The Secretary is authorized to assign employees of the Department to diplomatic and consular posts abroad to perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to matters under the jurisdiction of the Secretary.

(B) Permanent assignment; participation in terrorist lookout committee.—When appropriate, employees of the Department assigned to perform functions described in subparagraph (A) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(C) Training and hiring.—

(i) In general.—The Secretary shall ensure that any employees of the Department assigned to perform functions described under subparagraph (A) and, as appropriate, consular officers, shall be provided all necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(ii) Foreign language proficiency.—Before assigning employees of the Department to perform the functions described under subparagraph (A), the Secretary shall promulgate regulations establishing foreign language proficiency requirements for employees of the Department performing the functions described under subparagraph (A) and providing that preference shall be given to individuals who meet such requirements in hiring employees for the performance of such functions.

(iii) Use of center.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in clause (i).

(6) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(7) Effective date.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(d) Membership on the National Security Council.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following:

"(5) the Secretary of Homeland Security; and

"(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.".

SEC. 103. DEPUTY SECRETARY OF HOMELAND SECURITY.

(a) In General.—There shall be in the Department a Deputy Secretary of Homeland Security, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The Deputy Secretary of Homeland Security shall—

(1) assist the Secretary in the administration and operations of the Department;

(2) perform such responsibilities as the Secretary shall prescribe; and

(3) act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.

SEC. 104. UNDER SECRETARY FOR MANAGEMENT.

(a) In General.—There shall be in the Department an Under Secretary for Management, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The Under Secretary for Management shall report to the Secretary, who may assign to the Under Secretary such functions related to the management and administration of the Department as the Secretary may prescribe, including—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 105. ASSISTANT SECRETARIES.

(a) In General.—There shall be in the Department not more than 5 Assistant Secretaries (not including the 2 Assistant Secretaries appointed under division B), each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—

(1) In general.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall describe the general responsibilities that such appointee will exercise upon taking office.

(2) ASSIGNMENT.—Subject to paragraph (1), the Secretary shall assign to each Assistant Secretary such functions as the Secretary considers appropriate.

SEC. 106. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting “Homeland Security,” after “Health and Human Services,”; and

(2) in paragraph (2), by inserting “Homeland Security,” after “Health and Human Services,”.

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

“SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the “Inspector General”) shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the “Secretary”) with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

“(A) intelligence or counterintelligence matters;

“(B) ongoing criminal investigations or proceedings;

“(C) undercover operations;

“(D) the identity of confidential sources, including protected witnesses;

“(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

“(i) section 3056 of title 18, United States Code;

“(ii) section 202 of title 3, United States Code; or

“(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

“(F) other matters the disclosure of which would constitute a serious threat to national security.

“(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

“(A) prevent the disclosure of any information described under paragraph (1);

“(B) preserve the national security; or

“(C) prevent significant impairment to the national interests of the United States.

“(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

“(A) the President of the Senate;

“(B) the Speaker of the House of Representatives;

“(C) the Committee on Governmental Affairs of the Senate;

“(D) the Committee on Government Reform of the House of Representatives; and

“(E) other appropriate committees or subcommittees of Congress.

“(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

“(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

“(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

“(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

“(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

“(1) the President of the Senate;

“(2) the Speaker of the House of Representatives;

“(3) the Committee on Governmental Affairs of the Senate; and

“(4) the Committee on Government Reform of the House of Representatives.”.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking “8F” each place it appears and inserting “8G”; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking “or 8H” and inserting “, 8H, or 8I”.”

SEC. 107. CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(b) ESTABLISHMENT.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

“(G) The Department of Homeland Security.”.

SEC. 108. CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Information Officer, who shall be designated in the manner prescribed under section 3506(a)(2)(A) of title 44, United States Code.

(b) RESPONSIBILITIES.—The Chief Information Officer shall assist the Secretary with Department-wide information resources management and perform those duties prescribed by law for chief information officers of agencies.

SEC. 109. GENERAL COUNSEL.

(a) IN GENERAL.—There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The General Counsel shall—

(1) serve as the chief legal officer of the Department;

(2) provide legal assistance to the Secretary concerning the programs and policies of the Department; and

(3) advise and assist the Secretary in carrying out the responsibilities under section 102(b).

SEC. 110. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 111. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 112. CHIEF HUMAN CAPITAL OFFICER.

(a) IN GENERAL.—The Secretary shall appoint or designate a Chief Human Capital Officer, who shall—

(1) advise and assist the Secretary and other officers of the Department in ensuring that the workforce of the Department has the necessary skills and training, and that the recruitment and retention policies of the Department allow the Department to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the Department to achieve its missions;

(2) oversee the implementation of the laws, rules and regulations of the President and the Office of Personnel Management governing the civil service within the Department; and

(3) advise and assist the Secretary in planning and reporting under the Government Performance and Results Act of 1993 (including the amendments made by that Act), with respect to the human capital resources and needs of the Department for achieving the plans and goals of the Department.

(b) RESPONSIBILITIES.—The responsibilities of the Chief Human Capital Officer shall include—

(1) setting the workforce development strategy of the Department;

(2) assessing workforce characteristics and future needs based on the mission and strategic plan of the Department;

(3) aligning the human resources policies and programs of the Department with organization mission, strategic goals, and performance outcomes;

(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

(5) identifying best practices and benchmarking studies;

(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth; and

(7) providing employee training and professional development.

SEC. 113. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, an Office of International Affairs. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall have the following responsibilities:

(1) To promote information and education exchange with foreign nations in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include—

(A) joint research and development on countermeasures;

(B) joint training exercises of first responders; and

(C) exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage activities under this section and other international activities within the Department in consultation with the Department of State and other relevant Federal officials.

(5) To initially concentrate on fostering cooperation with countries that are already highly focused on homeland security issues and that have demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

SEC. 114. EXECUTIVE SCHEDULE POSITIONS.

(a) EXECUTIVE SCHEDULE LEVEL I POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

"Secretary of Homeland Security.".

(b) EXECUTIVE SCHEDULE LEVEL II POSITION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Secretary of Homeland Security.".

(c) EXECUTIVE SCHEDULE LEVEL III POSITION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary for Management, Department of Homeland Security.".

(d) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretaries of Homeland Security (5).

"Inspector General, Department of Homeland Security.

"Chief Financial Officer, Department of Homeland Security.

"Chief Information Officer, Department of Homeland Security.

"General Counsel, Department of Homeland Security.".

Subtitle B—Establishment of Directorates and Offices

SEC. 131. DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Border and Transportation Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Border and Transportation, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Border and Transportation Protection shall be responsible for the following:

(1) Securing the borders, territorial waters, ports, terminals, waterways and air, land (including rail), and sea transportation systems of the United States, including coordinating governmental activities at ports of entry.

(2) Receiving and providing relevant intelligence on threats of terrorism and other homeland threats.

(3) Administering, carrying out, and promoting other established missions of the entities transferred to the Directorate.

(4) Using intelligence from the Directorate of Intelligence and other Federal intelligence organizations under section 132(a)(1)(B) to establish inspection priorities to identify products and other goods imported from suspect locations recognized by the intelligence community as having terrorist activities, unusual human health or agriculture disease outbreaks, or harboring terrorists.

(5) Providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities that have established partnerships with the Federal Law Enforcement Training Center.

(6) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(7) Consistent with section 175, conducting agricultural import and entry inspection functions transferred under section 175.

(8) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—Except as provided under subsection (d), the authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The United States Customs Service, which shall be maintained as a distinct entity within the Department.

(2) The United States Coast Guard, which shall be maintained as a distinct entity within the Department.

(3) The Transportation Security Administration of the Department of Transportation.

(4) The Federal Law Enforcement Training Center of the Department of the Treasury.

(d) EXERCISE OF CUSTOMS REVENUE AUTHORITY.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—Notwithstanding subsection (c), authority that was vested in the Secretary of the Treasury by law to issue regulations related to customs revenue functions before the effective date of this section under the provisions of law set forth under paragraph (2) shall not be transferred to the Secretary by reason of this Act. The Secretary of the Treasury, with the concurrence of the Secretary, shall exercise this authority. The Commissioner of Customs is authorized to engage in activities to develop and support the issuance of the regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.

(B) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under paragraph (2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

(C) LIABILITY.—Neither the Secretary of the Treasury nor the Department of the Treasury shall be liable for or named in any legal action concerning the implementation and enforcement of regulations issued under this paragraph on or after the date on which the United States Customs Service is transferred under this division.

(2) APPLICABLE LAWS.—The provisions of law referred to under paragraph (1) are those sections of the following statutes that relate to customs revenue functions:

(A) The Tariff Act of 1930 (19 U.S.C. 1304 et seq.).

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974 (19 U.S.C. 2101 et seq.).

(J) The Trade Agreements Act of 1979 (19 U.S.C. 2502 et seq.).

(K) The North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 et seq.).

(L) The Uruguay Round Agreements Act (19 U.S.C. 3501 et seq.).

(M) The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.).

(N) The Andean Trade Preference Act (19 U.S.C. 3201 et seq.).

(O) The African Growth and Opportunity Act (19 U.S.C. 3701 et seq.).

(P) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) DEFINITION OF CUSTOMS REVENUE FUNCTIONS.—In this subsection, the term "customs revenue functions" means—

(A) assessing, collecting, and refunding duties (including any special duties), excise taxes, fees, and any liquidated damages or penalties due on imported merchandise, including classifying and valuing merchandise and the procedures for "entry" as that term is defined in the United States Customs laws;

(B) administering section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

(e) PRESERVING COAST GUARD MISSION PERFORMANCE.—

(1) DEFINITIONS.—In this subsection:

(A) NON-HOMELAND SECURITY MISSIONS.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(i) Marine safety.

(ii) Search and rescue.

(iii) Aids to navigation.

(iv) Living marine resources (fisheries law enforcement).

(v) Marine environmental protection.

(vi) Ice operations.

(B) HOMELAND SECURITY MISSIONS.—The term "homeland security missions" means the following missions of the Coast Guard:

(i) Ports, waterways and coastal security.

(ii) Drug interdiction.

(iii) Migrant interdiction.

(iv) Defense readiness.

(v) Other law enforcement.

(2) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, assets, organizational structure, units, personnel, and non-homeland security missions of the Coast Guard shall be maintained intact and without reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts.

(3) CERTAIN TRANSFERS PROHIBITED.—None of the missions, functions, personnel, and assets (including for purposes of this subsection ships, aircraft, helicopters, and vehicles) of the Coast Guard may be transferred to the operational control of, or diverted to the principal and continuing use of, any other organization, unit, or entity of the Department.

(4) CHANGES TO NON-HOMELAND SECURITY MISSIONS.—

(A) PROHIBITION.—The Secretary may not make any substantial or significant change to any of the non-homeland security missions of the Coast Guard, or to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, without the prior approval of Congress as expressed in a subsequent Act.

(B) WAIVER.—The President may waive the restrictions under subparagraph (A) for a period of not to exceed 90 days upon a declaration and certification by the President to Congress that a clear, compelling, and immediate state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively to the national emergency if the restrictions under subparagraph (A) are not waived.

(5) ANNUAL REVIEW.—

(A) IN GENERAL.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(B) REPORT.—The report under this paragraph shall be submitted not later than March 1 of each year to—

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Government Reform of the House of Representatives;

(iii) the Committees on Appropriations of the Senate and the House of Representatives;

(iv) the Committee on Commerce, Science, and Transportation of the Senate; and

(v) the Committee on Transportation and Infrastructure of the House of Representatives.

(6) DIRECT REPORTING TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(7) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this subsection shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

(f) CONTINUATION OF CERTAIN FUNCTIONS OF THE CUSTOMS SERVICE.—

(1) IN GENERAL.—

(A) PRESERVATION OF CUSTOMS FUNDS.—Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(1) through (8)) may be transferred for use by any other agency or office in the Department.

(B) CUSTOMS AUTOMATION.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(i) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).";

(ii) in paragraph (4), by striking "(other than the excess fees determined by the Secretary under paragraph (5))"; and

(iii) by striking paragraph (5) and inserting the following:

"(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

"(B) There is authorized to be appropriated from the Customs Commercial and Homeland Security Automation Account for each of fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

"(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Customs Commercial and Homeland Security Automation Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.".

(2) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—Section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 19 U.S.C. 2071 note) is amended—

(A) in paragraph (1), by inserting "in consultation with the Secretary of Homeland Security" after "Secretary of the Treasury";

(B) in paragraph (2)(A), by inserting "in consultation with the Secretary of Homeland Security" after "Secretary of the Treasury";

(C) in paragraph (3)(A), by inserting "and the Secretary of Homeland Security" after "Secretary of the Treasury"; and

(D) in paragraph (4)—

(i) by inserting "and the Under Secretary of Homeland Security for Border and Transportation" after "for Enforcement"; and

(ii) by inserting "jointly" after "shall preside".

(3) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107–210) is amended by striking paragraph (2).

SEC. 132. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—

(A) IN GENERAL.—There is established a Directorate of Intelligence which shall serve as a national-level focal point for information available to the United States Government relating to the plans, intentions, and capabilities of terrorists and terrorist organizations for the purpose of supporting the mission of the Department.

(B) SUPPORT TO DIRECTORATE.—The Directorate of Intelligence shall communicate, coordinate, and cooperate with—

(i) the Federal Bureau of Investigation;

(ii) the intelligence community, as defined under section 3 of the National Security Act of 1947 (50 U.S.C. 401a), including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the Bureau of Intelligence and Research of the Department of State; and

(iii) other agencies or entities, including those within the Department, as determined by the Secretary.

(C) INFORMATION ON INTERNATIONAL TERRORISM.—

(i) DEFINITIONS.—In this subparagraph, the terms "foreign intelligence" and "counterintelligence" shall have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(ii) PROVISION OF INFORMATION TO COUNTERTERRORIST CENTER.—In order to ensure that the Secretary is provided with appropriate analytical products, assessments, and warnings relating to threats of terrorism against the United States and other threats to homeland security, the Director of Central Intelligence (as head of the intelligence community with respect to foreign intelligence and counterintelligence), the Attorney General, and the heads of other agencies of the Federal Government shall ensure that all intelligence and other information relating to international terrorism is provided to the Director of Central Intelligence's Counterterrorist Center.

(iii) ANALYSIS OF INFORMATION.—The Director of Central Intelligence shall ensure the analysis by the Counterterrorist Center of all intelligence and other information provided the Counterterrorist Center under clause (ii).

(iv) ANALYSIS OF FOREIGN INTELLIGENCE.—The Counterterrorist Center shall have primary responsibility for the analysis of foreign intelligence relating to international terrorism.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1)(A) Receiving and analyzing law enforcement and other information from agencies of the United States Government, State and local government agencies (including law enforcement agencies), and private sector entities, and fusing such information and analysis with analytical products, assessments, and warnings concerning foreign intelligence from the Director of Central Intelligence's Counterterrorist Center in order to—

(i) identify and assess the nature and scope of threats to the homeland; and

(ii) detect and identify threats of terrorism against the United States and other threats to homeland security.

(B) Nothing in this paragraph shall be construed to prohibit the Directorate from conducting supplemental analysis of foreign intelligence relating to threats of terrorism against the United States and other threats to homeland security.

(2) Ensuring timely and efficient access by the Directorate to—

(A) information from agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, private sector entities; and

(B) open source information.

(3) Representing the Department in procedures to establish requirements and priorities in the collection of national intelligence for purposes of the provision to the executive branch under section 103 of the National Security Act of 1947 (50 U.S.C. 403-3) of national intelligence relating to foreign terrorist threats to the homeland.

(4) Consulting with the Attorney General or the designees of the Attorney General, and other officials of the United States Government to establish overall collection priorities and strategies for information, including law enforcement information, relating to domestic threats, such as terrorism, to the homeland.

(5) Disseminating information to the Directorate of Critical Infrastructure Protection, the agencies described under subsection (a)(1)(B); State and local governments, local law enforcement and intelligence agencies, and private sector entities to assist in the deterrence, prevention, preemption, and response to threats of terrorism against the United States and other threats to homeland security.

(6) Establishing and utilizing, in conjunction with the Chief Information Officer of the Department and the appropriate officers of the agencies described under subsection (a)(1)(B), a secure communications and information technology infrastructure, and advanced analytical tools, to carry out the mission of the Directorate.

(7) Developing, in conjunction with the Chief Information Officer of the Department and appropriate officers of the agencies described under subsection (a)(1)(B), appropriate software, hardware, and other information technology, and security and formatting protocols, to ensure that Federal Government databases and information technology systems containing information relevant to terrorist threats, and other threats against the United States, are—

(A) compatible with the secure communications and information technology infrastructure referred to under paragraph (6); and

(B) comply with Federal laws concerning privacy and the prevention of unauthorized disclosure.

(8) Ensuring, in conjunction with the Director of Central Intelligence and the Attorney General, that all material received by the Department is protected against unauthorized disclosure and is utilized by the Department only in the course and for the purpose of fulfillment of official duties, and is transmitted, retained, handled, and disseminated consistent with—

(A) the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures; or

(B) as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information, and the privacy interests of United States persons as defined under section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(9) Providing, through the Secretary, to the appropriate law enforcement or intelligence agency, information and analysis relating to threats.

(10) Coordinating, or where appropriate providing, training and other support as necessary to providers of information to the Department, or consumers of information from the Department, to allow such providers or consumers to identify and share intelligence information revealed in their ordinary duties or utilize information received from the Department, including training and support under section 908 of the USA PATRIOT Act of 2001 (Public Law 107-56).

(11) Reviewing, analyzing, and making recommendations through the Secretary for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to threats of terrorism against the United States and other threats to homeland security within the United States Government and between the United States Government and State and local governments, local law enforcement and intelligence agencies, and private sector entities.

(12) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(13) Performing other related and appropriate duties as assigned by the Secretary.

(c) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Unless otherwise directed by the President, the Secretary shall have access to, and United States Government agencies shall provide, all reports, assessments, analytical information, and information, including unevaluated intelligence, relating to the plans, intentions, capabilities, and activities of terrorists and terrorist organizations, and to other areas of responsibility as described in this division, that may be collected, possessed, or prepared, by any other United States Government agency.

(2) ADDITIONAL INFORMATION.—As the President may further provide, the Secretary shall receive additional information requested by the Secretary from the agencies described under subsection (a)(1)(B).

(3) OBTAINING INFORMATION.—All information shall be provided to the Secretary consistent with the requirements of subsection (b)(8), unless otherwise determined by the President.

(4) COOPERATIVE ARRANGEMENTS.—The Secretary may enter into cooperative arrangements with agencies described under subsection (a)(1)(B) to share material on a regular or routine basis, including arrangements involving broad categories of material, and regardless of whether the Secretary has entered into any such cooperative arrangement, all agencies described under subsection (a)(1)(B) shall promptly provide information under this subsection.

(d) AUTHORIZATION TO SHARE LAW ENFORCEMENT INFORMATION.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, or national security official for purposes of information sharing provisions of—

(1) section 203(d) of the USA PATRIOT Act of 2001 (Public Law 107-56);

(2) section 2517(6) of title 18, United States Code; and

(3) rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(e) ADDITIONAL RISK ANALYSIS AND RISK MANAGEMENT RESPONSIBILITIES.—The Under Secretary for Intelligence shall, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, be responsible for—

(1) developing analysis concerning the means and methods terrorists might employ

to exploit vulnerabilities in the homeland security infrastructure;

(2) supporting experiments, tests, and inspections to identify weaknesses in homeland defenses;

(3) developing countersurveillance techniques to prevent attacks;

(4) conducting risk assessments to determine the risk posed by specific kinds of terrorist attacks, the probability of successful attacks, and the feasibility of specific countermeasures.

(f) MANAGEMENT AND STAFFING.—

(1) IN GENERAL.—The Directorate of Intelligence shall be staffed, in part, by analysts as requested by the Secretary and assigned by the agencies described under subsection (a)(1)(B). The analysts shall be assigned by reimbursable detail for periods as determined necessary by the Secretary in conjunction with the head of the assigning agency. No such detail may be undertaken without the consent of the assigning agency.

(2) EMPLOYEES ASSIGNED WITHIN DEPARTMENT.—The Secretary may assign employees of the Department by reimbursable detail to the Directorate.

(3) SERVICE AS FACTOR FOR SELECTION.—The President, or the designee of the President, shall prescribe regulations to provide that service described under paragraph (1) or (2), or service by employees within the Directorate, shall be considered a positive factor for selection to positions of greater authority within all agencies described under subsection (a)(1)(B).

(4) PERSONNEL SECURITY STANDARDS.—The employment of personnel in the Directorate shall be in accordance with such personnel security standards for access to classified information and intelligence as the Secretary, in conjunction with the Director of Central Intelligence, shall establish for this subsection.

(5) PERFORMANCE EVALUATION.—The Secretary shall evaluate the performance of all personnel detailed to the Directorate, or delegate such responsibility to the Under Secretary for Intelligence.

(g) INTELLIGENCE COMMUNITY.—Those portions of the Directorate of Intelligence under subsection (b)(1), and the intelligence-related components of agencies transferred by this division to the Department, including the United States Coast Guard, shall be—

(1) considered to be part of the United States intelligence community within the meaning of section 3 of the National Security Act of 1947 (50 U.S.C. 401a); and

(2) for budgetary purposes, within the National Foreign Intelligence Program.

SEC. 133. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Critical Infrastructure Protection shall be responsible for the following:

(1) Receiving relevant intelligence from the Directorate of Intelligence, law enforcement information, and other information in order to comprehensively assess the vulnerabilities of the key resources and critical infrastructures in the United States.

(2) Integrating relevant information, intelligence analysis, and vulnerability assessments (whether such information, analyses, or assessments are provided by the Department or others) to identify priorities and support protective measures by the Department, by other agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities, to protect the key resources and critical infrastructures in the United States.

(3) As part of a homeland security strategy, developing a comprehensive national plan for securing the key resources and critical infrastructure in the United States.

(4) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate. This shall include, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, establishing procedures, mechanisms, or units for the purpose of utilizing intelligence to identify vulnerabilities and protective measures in—

(A) public health infrastructure;

(B) food and water storage, production and distribution;

(C) commerce systems, including banking and finance;

(D) energy systems, including electric power and oil and gas production and storage;

(E) transportation systems, including pipelines;

(F) information and communication systems;

(G) continuity of government services; and

(H) other systems or facilities the destruction or disruption of which could cause substantial harm to health, safety, property, or the environment.

(5) Enhancing the sharing of information regarding cyber security and physical security of the United States, developing appropriate security standards, tracking vulnerabilities, proposing improved risk management policies, and delineating the roles of various Government agencies in preventing, defending, and recovering from attacks.

(6) Acting as the Critical Information Technology, Assurance, and Security Officer of the Department and assuming the responsibilities carried out by the Critical Infrastructure Assurance Office and the National Infrastructure Protection Center before the effective date of this division.

(7) Coordinating the activities of the Information Sharing and Analysis Centers to share information, between the public and private sectors, on threats, vulnerabilities, individual incidents, and privacy issues regarding homeland security.

(8) Working closely with the Department of State on cyber security issues with respect to international bodies and coordinating with appropriate agencies in helping to establish cyber security policy, standards, and enforcement mechanisms.

(9) Establishing the necessary organizational structure within the Directorate to provide leadership and focus on both cyber security and physical security, and ensuring the maintenance of a nucleus of cyber security and physical security experts within the United States Government.

(10) Performing such other duties as assigned by the Secretary.

In this subsection, the term "key resources" includes National Park Service sites identified by the Secretary of the Interior that are so universally recognized as symbols of the United States and so heavily visited by the American and international public that such sites would likely be identified as targets of terrorist attacks, including the Statue of Liberty, Independence Hall and the Liberty Bell, the Arch in St. Louis, Missouri, Mt. Rushmore, and memorials and monuments in Washington, D.C.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Critical Infrastructure Assurance Office of the Department of Commerce.

(2) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section).

(3) The National Communications System of the Department of Defense.

(4) The Computer Security Division of the National Institute of Standards and Technology of the Department of Commerce.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.

(6) The Federal Computer Incident Response Center of the General Services Administration.

(7) The Energy Security and Assurance Program of the Department of Energy.

(8) The Federal Protective Service of the General Services Administration.

SEC. 134. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Assuming the responsibilities carried out by the National Domestic Preparedness Office before the effective date of this division.

(3) Organizing and training local entities to respond to emergencies and providing State and local authorities with equipment for detection, protection, and decontamination in an emergency involving weapons of mass destruction.

(4) Overseeing Federal, State, and local emergency preparedness training and exercise programs in keeping with intelligence estimates and coordinating Federal assistance for any emergency, including emergencies caused by natural disasters, manmade accidents, human or agricultural health emergencies, or terrorist attacks.

(5) Creating a National Crisis Action Center to act as the focal point for—

(A) monitoring emergencies;

(B) notifying affected agencies and State and local governments; and

(C) coordinating Federal support for State and local governments and the private sector in crises.

(6) Managing and updating the Federal response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(7) Coordinating activities among private sector entities, including entities within the

medical community, and animal health and plant disease communities, with respect to recovery, consequence management, and planning for continuity of services.

(8) Developing and managing a single response system for national incidents in coordination with all appropriate agencies.

(9) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(10) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(5).

(11) Collaborating with the Under Secretary for Science and Technology, Secretary of Agriculture, and the Director of the Centers for Disease Control and Prevention in establishing and updating the list of potential threat agents or toxins relating to the functions described in subsection (c)(6)(B).

(12) Developing a plan to address the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(13) Activate and coordinate the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(14) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(15) Performing such other duties as assigned by the Secretary.

(c) Transfer of Authorities, Functions, Personnel, and Assets to the Department.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department.

(2) The National Office of Domestic Preparedness of the Federal Bureau of Investigation of the Department of Justice.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(5) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(6)(A) Except as provided in subparagraph (B)—

(i) the functions of the Select Agent Registration Program of the Department of Health and Human Services, including all functions of the Secretary of Health and Human Services under title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188); and

(ii) the functions of the Department of Agriculture under the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(B)(i) The Secretary shall collaborate with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a).

(ii) The Secretary shall collaborate with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401).

(C) In promulgating regulations pursuant to the functions described in subparagraph (A), the Secretary shall act in collaboration with the Secretary of Health and Human Services and the Secretary of Agriculture.

(d) Appointment as Under Secretary and Director.—

(1) In general.—An individual may serve as both the Under Secretary for Emergency Preparedness and Response and the Director of the Federal Emergency Management Agency if appointed by the President, by and with the advice and consent of the Senate, to each office.

(2) Pay.—Nothing in paragraph (1) shall be construed to authorize an individual appointed to both positions to receive pay at a rate of pay in excess of the rate of pay payable for the position to which the higher rate of pay applies.

(e) Report.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of a national medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

SEC. 135. DIRECTORATE OF SCIENCE AND TECHNOLOGY.

(a) Purpose.—The purpose of this section is to establish a Directorate of Science and Technology that will support the mission of the Department and the directorates of the Department by—

(1) establishing, funding, managing, and supporting research, development, demonstration, testing, and evaluation activities to meet national homeland security needs and objectives;

(2) setting national research and development goals and priorities pursuant to the mission of the Department, and developing strategies and policies in furtherance of such goals and priorities;

(3) coordinating and collaborating with other Federal departments and agencies, and State, local, academic, and private sector entities, to advance the research and development agenda of the Department;

(4) advising the Secretary on all scientific and technical matters relevant to homeland security; and

(5) facilitating the transfer and deployment of technologies that will serve to enhance homeland security goals.

(b) Definitions.—In this section:

(1) Council.—The term "Council" means the Homeland Security Science and Technology Council established under this section.

(2) Fund.—The term "Fund" means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.

(3) Homeland security research and development.—The term "homeland security research and development" means research and development applicable to the detection of, prevention of, protection against, response to, and recovery from homeland security threats, particularly acts of terrorism.

(4) OSTP.—The term "OSTP" means the Office of Science and Technology Policy.

(5) SARPA.—The term "SARPA" means the Security Advanced Research Projects Agency established under this section.

(6) Technology roadmap.—The term "technology roadmap" means a plan or framework in which goals, priorities, and milestones for desired future technological capabilities and functions are established, and research and development alternatives or means for achieving those goals, priorities, and milestones are identified and analyzed in order to guide decisions on resource allocation and investments.

(7) Under secretary.—The term "Under Secretary" means the Under Secretary for Science and Technology.

(c) Directorate of Science and Technology.—

(1) Establishment.—There is established a Directorate of Science and Technology within the Department.

(2) Under secretary.—There shall be an Under Secretary for Science and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate. The principal responsibility of the Under Secretary shall be to effectively and efficiently carry out the purposes of the Directorate of Science and Technology under subsection (a). In addition, the Under Secretary shall undertake the following activities in furtherance of such purposes:

(A) Coordinating with the OSTP and other appropriate entities in developing and executing the research and development agenda of the Department.

(B) Developing a technology roadmap that shall be updated biannually for achieving technological goals relevant to homeland security needs.

(C) Instituting mechanisms to promote, facilitate, and expedite the transfer and deployment of technologies relevant to homeland security needs, including dual-use capabilities.

(D) Assisting the Secretary and the Director of OSTP to ensure that science and technology priorities are clearly reflected and considered in a homeland security Strategy.

(E) Establishing mechanisms for the sharing and dissemination of key homeland security research and technology developments and opportunities with appropriate Federal, State, local, and private sector entities.

(F) Establishing, in coordination with the Under Secretary for Critical Infrastructure Protection and the Under Secretary for Emergency Preparedness and Response and relevant programs under their direction, a National Emergency Technology Guard, comprised of teams of volunteers with expertise in relevant areas of science and technology, to assist local communities in responding to and recovering from emergency contingencies requiring specialized scientific and technical capabilities. In carrying out this responsibility, the Under Secretary shall establish and manage a database of National Emergency Technology Guard volunteers, and prescribe procedures for organizing, certifying, mobilizing, and deploying National Emergency Technology Guard teams.

(G) Chairing the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(H) Assisting the Secretary in developing a homeland security strategy for Countermeasure Research described under subsection (k).

(I) Assisting the Secretary and acting on behalf of the Secretary in contracting with, commissioning, or establishing federally funded research and development centers determined useful and appropriate by the Secretary for the purpose of providing the Department with independent analysis and support.

(J) Assisting the Secretary and acting on behalf of the Secretary in entering into joint sponsorship agreements with the Department of Energy regarding the use of the national laboratories or sites.

(K) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(L) Carrying out other appropriate activities as directed by the Secretary.

(3) RESEARCH AND DEVELOPMENT-RELATED AUTHORITIES.—The Secretary shall exercise the following authorities relating to the research, development, testing, and evaluation activities of the Directorate of Science and Technology:

(A) With respect to research and development expenditures under this section, the authority (subject to the same limitations and conditions) as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), for a period of 5 years beginning on the date of enactment of this Act. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph. The annual report required under subsection (h) of such section, as applied to the Secretary by this subparagraph, shall—

(i) be submitted to the President of the Senate, the Speaker of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives; and

(ii) report on other transactions entered into under subparagraph (B).

(B) Authority to carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), for a period of 5 years beginning on the date of enactment of this Act. In applying the authorities of such section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) of that section. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph.

(C) In hiring personnel to assist in research, development, testing, and evaluation activities within the Directorate of Science and Technology, the authority to exercise the personnel hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261), with the stipulation that the Secretary shall exercise such authority for a period of 7 years commencing on the date of enactment of this Act, that a maximum of 100 persons may be hired under such authority, and that the term of appointment for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extensions under subsection (c)(2) of that section.

(D) With respect to such research, development, testing, and evaluation responsibilities under this section (except as provided in subparagraph (E)) as the Secretary may elect to carry out through agencies other than the Department (under agreements with their respective heads), the Secretary may transfer funds to such heads. Of the funds authorized to be appropriated under subsection (d)(4) for the Fund, not less than 10 percent of such funds for each fiscal year through 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways, and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways, and coastal security mission.

(E) The Secretary may carry out human health biodefense-related biological, biomedical, and infectious disease research and development (including vaccine research and development) in collaboration with the Secretary of Health and Human Services. Research supported by funding appropriated to the National Institutes of Health for bioterrorism research and related facilities development shall be conducted through the National Institutes of Health under joint strategic prioritization agreements between the Secretary and the Secretary of Health and Human Services. The Secretary shall have the authority to establish general research priorities, which shall be embodied in the joint strategic prioritization agreements with the Secretary of Health and Human Services. The specific scientific research agenda to implement agreements under this subparagraph shall be developed by the Secretary of Health and Human Services, who shall consult the Secretary to ensure that the agreements conform with homeland security priorities. All research programs established under those agreements shall be managed and awarded by the Director of the National Institutes of Health consistent with those agreements. The Secretary may transfer funds to the Department of Health and Human Services in connection with those agreements.

(d) ACCELERATION FUND.—

(1) ESTABLISHMENT.—There is established an Acceleration Fund to support research and development of technologies relevant to homeland security.

(2) FUNCTION.—The Fund shall be used to stimulate and support research and development projects selected by SARPA under subsection (f), and to facilitate the rapid transfer of research and technology derived from such projects.

(3) RECIPIENTS.—Fund monies may be made available through grants, contracts, cooperative agreements, and other transactions under subsection (c)(3) (A) and (B) to—

(A) public sector entities, including Federal, State, or local entities;

(B) private sector entities, including corporations, partnerships, or individuals; and

(C) other nongovernmental entities, including universities, federally funded research and development centers, and other academic or research institutions.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for the Fund for fiscal year 2003, and such sums as are necessary in subsequent fiscal years.

(e) SCIENCE AND TECHNOLOGY COUNCIL.—

(1) ESTABLISHMENT.—There is established the Homeland Security Science and Technology Council within the Directorate of Science and Technology. The Under Secretary shall chair the Council and have the authority to convene meetings. At the discretion of the Under Secretary and the Director of OSTP, the Council may be constituted as a subcommittee of the National Science and Technology Council.

(2) COMPOSITION.—The Council shall be composed of the following:

(A) Senior research and development officials representing agencies engaged in research and development relevant to homeland security and combating terrorism needs. Each representative shall be appointed by the head of the representative's respective agency with the advice and consent of the Under Secretary.

(B) The Director of SARPA and other appropriate officials within the Department.

(C) The Director of the OSTP and other senior officials of the Executive Office of the President as designated by the President.

(3) RESPONSIBILITIES.—The Council shall—

(A) provide the Under Secretary with recommendations on priorities and strategies, including those related to funding and portfolio management, for homeland security research and development;

(B) facilitate effective coordination and communication among agencies, other entities of the Federal Government, and entities in the private sector and academia, with respect to the conduct of research and development related to homeland security;

(C) recommend specific technology areas for which the Fund and other research and development resources shall be used, among other things, to rapidly transition homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities;

(D) assist and advise the Under Secretary in developing the technology roadmap referred to under subsection (c)(2)(B); and

(E) perform other appropriate activities as directed by the Under Secretary.

(4) ADVISORY PANEL.—The Under Secretary may establish an advisory panel consisting of representatives from industry, academia, and other non-Federal entities to advise and support the Council.

(5) WORKING GROUPS.—At the discretion of the Under Secretary, the Council may establish working groups in specific homeland security areas consisting of individuals with

relevant expertise in each articulated area. Working groups established for bioterrorism and public health-related research shall be fully coordinated with the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(f) Security Advanced Research Projects Agency.—

(1) Establishment.—There is established the Security Advanced Research Projects Agency within the Directorate of Science and Technology.

(2) Responsibilities.—SARPA shall—

(A) undertake and stimulate basic and applied research and development, leverage existing research and development, and accelerate the transition and deployment of technologies that will serve to enhance homeland defense;

(B) identify, fund, develop, and transition high-risk, high-payoff homeland security research and development opportunities that—

(i) may lie outside the purview or capabilities of the existing Federal agencies; and

(ii) emphasize revolutionary rather than evolutionary or incremental advances;

(C) provide selected projects with single or multiyear funding, and require such projects to provide interim progress reports, no less often than annually;

(D) administer the Acceleration Fund to carry out the purposes of this paragraph;

(E) advise the Secretary and Under Secretary on funding priorities under subsection (c)(3)(E); and

(F) perform other appropriate activities as directed by the Under Secretary.

(g) Office of Risk Analysis and Assessment.—

(1) Establishment.—There is established an Office of Risk Analysis and Assessment within the Directorate of Science and Technology.

(2) Functions.—The Office of Risk Analysis and Assessment shall assist the Secretary, the Under Secretary, and other Directorates with respect to their risk analysis and risk management activities by providing scientific or technical support for such activities. Such support shall include, as appropriate—

(A) identification and characterization of homeland security threats;

(B) evaluation and delineation of the risk of these threats;

(C) pinpointing of vulnerabilities or linked vulnerabilities to these threats;

(D) determination of criticality of possible threats;

(E) analysis of possible technologies, research, and protocols to mitigate or eliminate threats, vulnerabilities, and criticalities;

(F) evaluation of the effectiveness of various forms of risk communication; and

(G) other appropriate activities as directed by the Secretary.

(3) Methods.—In performing the activities described under paragraph (2), the Office of Risk Analysis and Assessment may support or conduct, or commission from federally funded research and development centers or other entities, work involving modeling, statistical analyses, field tests and exercises (including red teaming), testbed development, development of standards and metrics.

(h) Office for Technology Evaluation and Transition.—

(1) Establishment.—There is established an Office for Technology Evaluation and Transition within the Directorate of Science and Technology.

(2) Function.—The Office for Technology Evaluation and Transition shall, with respect to technologies relevant to homeland security needs—

(A) serve as the principal, national point-of-contact and clearinghouse for receiving and processing proposals or inquiries regarding such technologies;

(B) identify and evaluate promising new technologies;

(C) undertake testing and evaluation of, and assist in transitioning, such technologies into deployable, fielded systems;

(D) consult with and advise agencies regarding the development, acquisition, and deployment of such technologies;

(E) coordinate with SARPA to accelerate the transition of technologies developed by SARPA and ensure transition paths for such technologies; and

(F) perform other appropriate activities as directed by the Under Secretary.

(3) Technical support working group.—The functions described under this subsection may be carried out through, or in coordination with, or through an entity established by the Secretary and modeled after, the Technical Support Working Group (organized under the April, 1982, National Security Decision Directive Numbered 30) that provides an interagency forum to coordinate research and development of technologies for combating terrorism.

(i) Office of Laboratory Research.—

(1) Establishment.—There is established an Office of Laboratory Research within the Directorate of Science and Technology.

(2) Research and development functions transferred.—There shall be transferred to the Department, to be administered by the Under Secretary, the functions, personnel, assets, and liabilities of the following programs and activities:

(A) Within the Department of Energy (but not including programs and activities relating to the strategic nuclear defense posture of the United States) the following:

(i) The chemical and biological national security and supporting programs and activities supporting domestic response of the nonproliferation and verification research and development program.

(ii) The nuclear smuggling programs and activities, and other programs and activities directly related to homeland security, within the proliferation detection program of the nonproliferation and verification research and development program, except that the programs and activities described in this clause may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(iii) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(iv) The Environmental Measurements Laboratory.

(B) Within the Department of Defense, the National Bio-Weapons Defense Analysis Center established under section 161.

(3) Responsibilities.—The Office of Laboratory Research shall—

(A) supervise the activities of the entities transferred under this subsection;

(B) administer the disbursement and undertake oversight of research and development funds transferred from the Department to other agencies outside of the Department, including funds transferred to the Department of Health and Human Services consistent with subsection (c)(3)(E);

(C) establish and direct new research and development facilities as the Secretary determines appropriate;

(D) include a science advisor to the Under Secretary on research priorities related to biological and chemical weapons, with supporting scientific staff, who shall advise on and support research priorities with respect to—

(i) research on countermeasures for biological weapons, including research on the development of drugs, devices, and biologics; and

(ii) research on biological and chemical threat agents; and

(E) other appropriate activities as directed by the Under Secretary.

(j) Office for National Laboratories.—

(1) Establishment.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(2) Joint sponsorship arrangements.—

(A) National laboratories.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work on behalf of the Department.

(B) Department of energy site.—The Department may be a joint sponsor of Department of Energy sites in the performance of work as if such sites were federally funded research and development centers and the work were performed under a multiple agency sponsorship arrangement with the Department.

(C) Primary sponsor.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement entered into under subparagraph (A) or (B).

(D) Conditions.—A joint sponsorship arrangement under this subsection shall—

(i) provide for the direct funding and management by the Department of the work being carried out on behalf of the Department; and

(ii) include procedures for addressing the coordination of resources and tasks to minimize conflicts between work undertaken on behalf of either Department.

(E) Lead agent and federal acquisition regulation.—

(i) Lead agent.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship agreement between the Department and a Department of Energy national laboratory or site for work on homeland security.

(ii) Compliance with federal acquisition regulation.—Any work performed by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017 of the Federal Acquisition Regulation.

(F) Funding.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of subparagraph (B).

(3) OTHER ARRANGEMENTS.—The Office for National Laboratories may enter into other arrangements with Department of Energy national laboratories or sites to carry out work to support the missions of the Department under applicable law, except that the Department of Energy may not charge or apply administrative fees for work on behalf of the Department.

(4) TECHNOLOGY TRANSFER.—The Office for National Laboratories may exercise the authorities in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) to permit the Director of a Department of Energy national laboratory to enter into cooperative research and development agreements, or to negotiate licensing agreements, pertaining to work supported by the Department at the Department of Energy national laboratory.

(5) ASSISTANCE IN ESTABLISHING DEPARTMENT.—At the request of the Under Secretary, the Department of Energy shall provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department for purposes of assisting in the establishment or organization of the technical programs of the Department through an agreement that includes provisions for minimizing conflicts between work assignments of such personnel.

(k) STRATEGY FOR COUNTERMEASURE RESEARCH.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall develop a comprehensive, long-term strategy and plan for engaging non-Federal entities, particularly including private, for-profit entities, in the research, development, and production of homeland security countermeasures for biological, chemical, and radiological weapons.

(2) TIMEFRAME.—The strategy and plan under this subsection, together with recommendations for the enactment of supporting or enabling legislation, shall be submitted to the Congress within 270 days after the date of enactment of this Act.

(3) COORDINATION.—In developing the strategy and plan under this subsection, the Secretary shall consult with—

(A) other agencies with expertise in research, development, and production of countermeasures;

(B) private, for-profit entities and entrepreneurs with appropriate expertise and technology regarding countermeasures;

(C) investors that fund such entities;

(D) nonprofit research universities and institutions;

(E) public health and other interested private sector and government entities; and

(F) governments allied with the United States in the war on terrorism.

(4) PURPOSE.—The strategy and plan under this subsection shall evaluate proposals to assure that—

(A) research on countermeasures by non-Federal entities leads to the expeditious development and production of countermeasures that may be procured and deployed in the homeland security interests of the United States;

(B) capital is available to fund the expenses associated with such research, development, and production, including Government grants and contracts and appropriate capital formation tax incentives that apply to non-Federal entities with and without tax liability;

(C) the terms for procurement of such countermeasures are defined in advance so that such entities may accurately and reliably assess the potential countermeasures market and the potential rate of return;

(D) appropriate intellectual property, risk protection, and Government approval standards are applicable to such countermeasures;

(E) Government-funded research is conducted and prioritized so that such research complements, and does not unnecessarily duplicate, research by non-Federal entities and that such Government-funded research is made available, transferred, and licensed on commercially reasonable terms to such entities for development; and

(F) universities and research institutions play a vital role as partners in research and development and technology transfer, with appropriate progress benchmarks for such activities, with for-profit entities.

(5) REPORTING.—The Secretary shall report periodically to the Congress on the status of non-Federal entity countermeasure research, development, and production, and submit additional recommendations for legislation as needed.

(l) CLASSIFICATION OF RESEARCH.—

(1) IN GENERAL.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(2) CLASSIFICATION AND REVIEW.—The Under Secretary shall—

(A)(i) decide whether classification is appropriate before the award of a research grant, contract, cooperative agreement, or other transaction by the Department; and

(ii) if the decision under clause (i) is one of classification, control the research results through standard classification procedures; and

(B) periodically review all classified research grants, contracts, cooperative agreements, and other transactions issued by the Department to determine whether classification is still necessary.

(3) RESTRICTIONS.—No restrictions shall be placed upon the conduct or reporting of federally funded fundamental research that has not received national security classification, except as provided under applicable provisions of law.

(m) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—The National Science and Technology Policy, Organization, and Priorities Act is amended in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting "homeland security," after "national security,".

SEC. 136. DIRECTORATE OF IMMIGRATION AFFAIRS.

The Directorate of Immigration Affairs shall be established and shall carry out all functions of that Directorate in accordance with division B of this Act.

SEC. 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland;

(4) develop a process for receiving meaningful input from State and local government to assist the development of homeland security activities; and

(5) prepare an annual report, that contains—

(A) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) DESIGNATION.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) DUTIES.—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research, and technical support to assist local efforts at securing the homeland;

(B) provide coordination between the Department and State and local first responders, including—

(i) law enforcement agencies;

(ii) fire and rescue agencies;

(iii) medical providers;

(iv) emergency service providers; and

(v) relief agencies;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

(i) address shared vulnerabilities; and

(ii) identify opportunities to achieve efficiencies through interstate activities .

(d) FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS AND STATE, LOCAL, AND CROSS-JURISDICTIONAL ISSUES.—

(1) IN GENERAL.—There is established an Interagency Committee on First Responders

and State, Local, and Cross-jurisdictional Issues (in this section referred to as the "Interagency Committee", that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement;

(iii) fire and rescue operations; and

(iv) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) MEMBERSHIP.—The Interagency Committee shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee.

(3) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) LEADERSHIP.—The members of the Interagency Committee shall select annually a chairperson.

(5) MEETINGS.—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) ADVISORY COUNCIL FOR THE INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an Advisory Council for the Interagency Committee (in this section referred to as the "Advisory Council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee.

(B) DUTIES.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) REPRESENTATION.—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) CHAIRPERSON.—The Advisory Council shall select annually a chairperson from among its members.

(4) COMPENSATION OF MEMBERS.—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) MEETINGS.—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

SEC. 138. UNITED STATES SECRET SERVICE.

There are transferred to the Department the authorities, functions, personnel, and assets of the United States Secret Service, which shall be maintained as a distinct entity within the Department.

SEC. 139. BORDER COORDINATION WORKING GROUP.

(a) DEFINITIONS.—In this section:

(1) BORDER SECURITY FUNCTIONS.—The term "border security functions" means the securing of the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States.

(2) RELEVANT AGENCIES.—The term "relevant agencies" means any department or agency of the United States that the President determines to be relevant to performing border security functions.

(b) ESTABLISHMENT.—The Secretary shall establish a border security working group (in this section referred to as the "Working Group"), composed of the Secretary or the designee of the Secretary, the Under Secretary for Border and Transportation Protection, and the Under Secretary for Immigration Affairs.

(c) FUNCTIONS.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements in the coverage and geographic distribution of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced scrutiny for high-risk traffic, travel, and commerce; and

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems.

(d) RELEVANT AGENCIES.—The Secretary shall consult representatives of relevant agencies with respect to deliberations under subsection (c), and may include representatives of such agencies in Working Group deliberations, as appropriate.

SEC. 140. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Homeland Security Liaison Officers for Maryland, Virginia, and the District of Columbia within the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 141. EXECUTIVE SCHEDULE POSITIONS.

Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary for Border and Transportation, Department of Homeland Security.

"Under Secretary for Critical Infrastructure Protection, Department of Homeland Security.

"Under Secretary for Emergency Preparedness and Response, Department of Homeland Security.

"Under Secretary for Immigration, Department of Homeland Security.

"Under Secretary for Intelligence, Department of Homeland Security.

"Under Secretary for Science and Technology, Department of Homeland Security.".

Subtitle C—National Emergency Preparedness Enhancement

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "National Emergency Preparedness Enhancement Act of 2002".

SEC. 152. PREPAREDNESS INFORMATION AND EDUCATION.

(a) ESTABLISHMENT OF CLEARINGHOUSE.—There is established in the Department a National Clearinghouse on Emergency Preparedness (referred to in this section as the "Clearinghouse"). The Clearinghouse shall be headed by a Director.

(b) CONSULTATION.—The Clearinghouse shall consult with such heads of agencies, such task forces appointed by Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to a homeland security strategy.

(c) DUTIES.—

(1) DISSEMINATION OF INFORMATION.—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) CENTER.—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, a telephone number, and staff, through which information shall be made available on—

(A) ways in which States, political subdivisions, and private entities can access Federal grants;

(B) emergency preparedness education and awareness tools that businesses, schools, and the general public can use; and

(C) other information as appropriate.

(3) PUBLIC AWARENESS CAMPAIGN.—The Clearinghouse shall develop a public awareness campaign. The campaign shall be ongoing, and shall include an annual theme to be implemented during the National Emergency Preparedness Week established under section 154. The Clearinghouse shall work with heads of agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(4) BEST PRACTICES INFORMATION.—The Clearinghouse shall compile and disseminate information on best practices for emergency preparedness identified by the Secretary and the heads of other agencies.

SEC. 153. PILOT PROGRAM.

(a) EMERGENCY PREPAREDNESS ENHANCEMENT PILOT PROGRAM.—The Department shall award grants to private entities to pay for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness.

(b) USE OF FUNDS.—An entity that receives a grant under this subsection may use the funds made available through the grant to—

(1) develop evacuation plans and drills;

(2) plan additional or improved security measures, with an emphasis on innovative technologies or practices;

(3) deploy innovative emergency preparedness technologies; or

(4) educate employees and customers about the development and planning activities described in paragraphs (1) and (2) in innovative ways.

(c) FEDERAL SHARE.—The Federal share of the cost described in subsection (a) shall be 50 percent, up to a maximum of $250,000 per grant recipient.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 154. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) NATIONAL WEEK.—

(1) DESIGNATION.—Each week that includes September 11 is "National Emergency Preparedness Week".

(2) PROCLAMATION.—The President is requested every year to issue a proclamation calling on the people of the United States (including State and local governments and the private sector) to observe the week with appropriate activities and programs.

(b) FEDERAL AGENCY ACTIVITIES.—In conjunction with National Emergency Preparedness Week, the head of each agency, as appropriate, shall coordinate with the Department to inform and educate the private sector and the general public about emergency preparedness activities, resources, and tools, giving a high priority to emergency preparedness efforts designed to address terrorist attacks.

Subtitle D—Miscellaneous Provisions

SEC. 161. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

(a) ESTABLISHMENT.—There is established within the Department of Defense a National Bio-Weapons Defense Analysis Center (in this section referred to as the "Center").

(b) MISSION.—The mission of the Center is to develop countermeasures to potential attacks by terrorists using biological or chemical weapons that are weapons of mass destruction (as defined under section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) and conduct research and analysis concerning such weapons.

SEC. 162. REVIEW OF FOOD SAFETY.

(a) REVIEW OF FOOD SAFETY LAWS AND FOOD SAFETY ORGANIZATIONAL STRUCTURE.—The Secretary shall enter into an agreement with and provide funding to the National Academy of Sciences to conduct a detailed, comprehensive study which shall—

(1) review all Federal statutes and regulations affecting the safety and security of the food supply to determine the effectiveness of the statutes and regulations at protecting the food supply from deliberate contamination; and

(2) review the organizational structure of Federal food safety oversight to determine the efficiency and effectiveness of the organizational structure at protecting the food supply from deliberate contamination.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall prepare and submit to the President, the Secretary, and Congress a comprehensive report containing—

(A) the findings and conclusions derived from the reviews conducted under subsection (a); and

(B) specific recommendations for improving—

(i) the effectiveness and efficiency of Federal food safety and security statutes and regulations; and

(ii) the organizational structure of Federal food safety oversight.

(2) CONTENTS.—In conjunction with the recommendations under paragraph (1), the report under paragraph (1) shall address—

(A) the effectiveness with which Federal food safety statutes and regulations protect public health and ensure the food supply remains free from contamination;

(B) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(C) the application of resources among Federal food safety oversight agencies;

(D) the effectiveness and efficiency of the organizational structure of Federal food safety oversight;

(E) the shortfalls, redundancies, and inconsistencies of the organizational structure of Federal food safety oversight; and

(F) the merits of a unified, central organizational structure of Federal food safety oversight.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress the response of the Department to the recommendations of the report and recommendations of the Department to further protect the food supply from contamination.

SEC. 163. EXCHANGE OF EMPLOYEES BETWEEN AGENCIES AND STATE OR LOCAL GOVERNMENTS.

(a) FINDINGS.—Congress finds that—

(1) information sharing between Federal, State, and local agencies is vital to securing the homeland against terrorist attacks;

(2) Federal, State, and local employees working cooperatively can learn from one another and resolve complex issues;

(3) Federal, State, and local employees have specialized knowledge that should be consistently shared between and among agencies at all levels of government; and

(4) providing training and other support, such as staffing, to the appropriate Federal, State, and local agencies can enhance the ability of an agency to analyze and assess threats against the homeland, develop appropriate responses, and inform the United States public.

(b) EXCHANGE OF EMPLOYEES.—

(1) IN GENERAL.—The Secretary may provide for the exchange of employees of the Department and State and local agencies in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(2) CONDITIONS.—With respect to exchanges described under this subsection, the Secretary shall ensure that—

(A) any assigned employee shall have appropriate training or experience to perform the work required by the assignment; and

(B) any assignment occurs under conditions that appropriately safeguard classified and other sensitive information.

SEC. 164. WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 620; 49 U.S.C. 44935 note) is amended—

(1) by striking "(d) Screener Personnel.—Notwithstanding any other provision of law," and inserting the following:

"(d) Screener Personnel.—

"(1) In general.—Notwithstanding any other provision of law (except as provided under paragraph (2)),"; and

(2) by adding at the end the following:

"(2) Whistleblower protection.—

"(A) Definition.—In this paragraph, the term "security screener" means—

"(i) any Federal employee hired as a security screener under subsection (e) of section 44935 of title 49, United States Code; or

"(ii) an applicant for the position of a security screener under that subsection.

"(B) In general.—Notwithstanding paragraph (1)—

"(i) section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener; and

"(ii) chapters 12, 23, and 75 of that title shall apply with respect to a security screener to the extent necessary to implement clause (i).

"(C) Covered position.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion would prevent the implementation of subparagraph (B) of this paragraph.".

SEC. 165. WHISTLEBLOWER PROTECTION FOR CERTAIN AIRPORT EMPLOYEES.

(a) In General.—Section 42121(a) of title 49, United States Code, is amended—

(1) by striking "(a) Discrimination Against Airline Employees.—No air carrier or contractor or subcontractor of an air carrier" and inserting the following:

"(a) Discrimination Against Employees.—

"(1) In general.—No air carrier, contractor, subcontractor, or employer described under paragraph (2)";

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(3) by adding at the end the following:

"(2) Applicable employers.—Paragraph (1) shall apply to—

"(A) an air carrier or contractor or subcontractor of an air carrier;

"(B) an employer of airport security screening personnel, other than the Federal Government, including a State or municipal government, or an airport authority, or a contractor of such government or airport authority; or

"(C) an employer of private screening personnel described in section 44919 or 44920 of this title.".

(b) Technical and Conforming Amendments.—Section 42121(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i), by striking "paragraphs (1) through (4) of subsection (a)" and inserting "subparagraphs (A) through (D) of subsection (a)(1)"; and

(2) in clause (iii), by striking "paragraphs (1) through (4) of subsection (a)" and inserting "subparagraphs (A) through (D) of subsection (a)(1)".

SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472–4) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b), the following:

"(c) Bioterrorism Preparedness and Response Division.—

"(1) Establishment.—There is established within the Office of the Director of the Centers for Disease Control and Prevention a Bioterrorism Preparedness and Response Division (in this subsection referred to as the 'Division').

"(2) Mission.—The Division shall have the following primary missions:

"(A) To lead and coordinate the activities and responsibilities of the Centers for Disease Control and Prevention with respect to countering bioterrorism.

"(B) To coordinate and facilitate the interaction of Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, in so doing, serve as a major contact point for 2-way communications between the jurisdictions of homeland security and public health.

"(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

"(3) Responsibilities.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

"(A) The Bioterrorism Preparedness and Response Program.

"(B) The Strategic National Stockpile.

"(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

"(4) Director.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

"(5) Staffing.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

"(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

"(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.".

SEC. 167. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) In General.—The annual Federal response plan developed by the Secretary under sections 102(b)(14) and 134(b)(7) shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) Disclosures Among Relevant Agencies.—

(1) In general.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) Public health emergency.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) Potential public health emergency.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) In General.—There are authorized to be appropriated to the Department, for the benefit of Amtrak, for the 2-year period beginning on the date of enactment of this Act—

(1) $375,000,000 for grants to finance the cost of enhancements to the security and safety of Amtrak rail passenger service;

(2) $778,000,000 for grants for life safety improvements to 6 New York Amtrak tunnels built in 1910, the Baltimore and Potomac Amtrak tunnel built in 1872, and the Washington, D.C. Union Station Amtrak tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings; and

(3) $55,000,000 for the emergency repair, and returning to service of Amtrak passenger cars and locomotives.

(b) Availability of Funds.—Amounts appropriated under subsection (a) shall remain available until expended.

(c) Coordination With Existing Law.—Amounts made available to Amtrak under this section shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

SEC. 169. GRANTS FOR FIREFIGHTING PERSONNEL.

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

"(c) Personnel Grants.—

"(1) Exclusion.—Grants awarded under subsection (b) to hire 'employees engaged in fire protection', as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203), shall not be subject to paragraphs (10) or (11) of subsection (b).

"(2) Duration.—Grants awarded under paragraph (1) shall be for a 3-year period.

"(3) Maximum amount.—The total amount of grants awarded under paragraph (1) shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

"(4) Federal share.—

"(A) In general.—Notwithstanding subsection (b)(6), the Federal share of a grant under paragraph (1) shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

"(B) Waiver.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

"(5) Application.—In addition to the information under subsection (b)(5), an application for a grant under paragraph (1), shall include—

"(A) an explanation for the need for Federal assistance; and

"(B) specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

"(6) MAINTENANCE OF EFFORT.—Grants awarded under paragraph (1) shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources."; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

"(3) $1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).".

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) REVIEW OF TRANSPORTATION VULNERABILITIES AND FEDERAL TRANSPORTATION SECURITY EFFORTS.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit facilities and equipment;

(2) review all available information on vulnerabilities of the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) REPORT.—

(1) CONTENT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible, the cost of implementing the steps.

(2) FORMAT.—The Comptroller General may submit the report in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) RESPONSE OF THE SECRETARY.—

(1) IN GENERAL.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) FORMATS.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) REPORTS PROVIDED TO COMMITTEES.—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 171. INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(1) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(2) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(b) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan referred to in subsection (a).

(c) IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall ensure the implementation of the enterprise architecture developed under subsection (a)(1), and shall coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (a)(1).

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (a)(1).

(e) CONTENT.—The enterprise architecture developed under subsection (a)(1), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

(1) rapid deployment;

(2) a highly secure environment, providing data access only to authorized users; and

(3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(f) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under subsection (a), as necessary.

(g) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(h) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(i) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the duties of the Director under this section.

SEC. 172. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "March 31, 2004".

SEC. 173. CONFORMING AMENDMENTS REGARDING LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

(a) TITLE 38, UNITED STATES CODE.—

(1) SECRETARY OF HOMELAND SECURITY AS HEAD OF COAST GUARD.—Title 38, United States Code, is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security" in each of the following provisions:

(A) Section 101(25)(D).

(B) Section 1974(a)(5).

(C) Section 3002(5).

(D) Section 3011(a)(1)(A)(ii), both places it appears.

(E) Section 3012(b)(1)(A)(v).

(F) Section 3012(b)(1)(B)(ii)(V).

(G) Section 3018A(a)(3).

(H) Section 3018B(a)(1)(C).

(I) Section 3018B(a)(2)(C).

(J) Section 3018C(a)(5).

(K) Section 3020(m)(4).

(L) Section 3035(d).

(M) Section 6105(c).

(2) DEPARTMENT OF HOMELAND SECURITY AS EXECUTIVE DEPARTMENT OF COAST GUARD.—Title 38, United States Code, is amended by striking "Department of Transportation" and inserting "Department of Homeland Security" in each of the following provisions:

(A) Section 1560(a).

(B) Section 3035(b)(2).

(C) Section 3035(c).

(D) Section 3035(d).

(E) Section 3035(e)(1)(C).

(F) Section 3680A(g).

(b) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—The Soldiers' and Sailors' Civil Relief Act of 1940 is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security" in each of the following provisions:

(1) Section 105 (50 U.S.C. App. 515), both places it appears.

(2) Section 300(c) (50 U.S.C. App. 530).

(c) OTHER LAWS AND DOCUMENTS.—(1) Any reference to the Secretary of Transportation, in that Secretary's capacity as the head of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Secretary of Homeland Security.

(2) Any reference to the Department of Transportation, in its capacity as the executive department of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Department of Homeland Security.

SEC. 174. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 50 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term "expanded affiliated group" means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting "more than 50 percent" for "at least 80 percent" each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term "foreign incorporated entity" means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms "person", "domestic", and "foreign" have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

(e) EFFECTIVE DATE.—This section shall take effect 1 day after the date of the enactment of this Act.

SEC. 175. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) DEFINITION OF COVERED LAW.—In this section, the term "covered law" means—

(1) the first section of the Act of August 31, 1922 (commonly known as the "Honeybee Act") (7 U.S.C. 281);

(2) title III of the Federal Seed Act (7 U.S.C. 1581 et seq.);

(3) the Plant Protection Act (7 U.S.C. 7701 et seq.);

(4) the Animal Health Protection Act (7 U.S.C. 8301 et seq.);

(5) section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(6) the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.); and

(7) the eighth paragraph under the heading "BUREAU OF ANIMAL INDUSTRY" in the Act of March 4, 1913 (commonly known as the "Virus-Serum-Toxin Act") (21 U.S.C. 151 et seq.);

(b) TRANSFER.—

(1) IN GENERAL.—Subject to paragraph (2), there is transferred to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under each covered law.

(2) QUARANTINE ACTIVITIES.—The functions transferred under paragraph (1) shall not include any quarantine activity carried out under a covered law.

(c) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred under subsection (b) shall be exercised by the Secretary of Homeland Security in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of each covered law.

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary of Homeland Security in any case in which the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (b) under a covered law.

(3) EFFECTIVE ADMINISTRATION.—The Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred under subsection (b).

(d) TRANSFER AGREEMENT.—

(1) IN GENERAL.—Before the completion of the transition period (as defined in section 181), the Secretary of Agriculture and the Secretary of Homeland Security shall enter into an agreement to carry out this section.

(2) REQUIRED TERMS.—The agreement required by this subsection shall provide for—

(A) the supervision by the Secretary of Agriculture of the training of employees of the Secretary of Homeland Security to carry out the functions transferred under subsection (b);

(B) the transfer of funds to the Secretary of Homeland Security under subsection (e);

(C) authority under which the Secretary of Homeland Security may perform functions that—

(i) are delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants; but

(ii) are not transferred to the Secretary of Homeland Security under subsection (b); and

(D) authority under which the Secretary of Agriculture may use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(3) REVIEW AND REVISION.—After the date of execution of the agreement described in paragraph (1), the Secretary of Agriculture and the Secretary of Homeland Security—

(A) shall periodically review the agreement; and

(B) may jointly revise the agreement, as necessary.

(e) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Subject to paragraph (2), out of any funds collected as fees under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall periodically transfer to the Secretary of Homeland Security, in accordance with the agreement under subsection (d), funds for activities carried out by the Secretary of Homeland Security for which the fees were collected.

(2) LIMITATION.—The proportion of fees collected under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a) that are transferred to the Secretary of Homeland Security under paragraph (1) may not exceed the proportion that—

(A) the costs incurred by the Secretary of Homeland Security to carry out activities funded by those fees; bears to

(B) the costs incurred by the Federal Government to carry out activities funded by those fees.

(f) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period (as defined in section 181), the Secretary of Agriculture shall transfer to the Department of Homeland Security not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(g) PROTECTION OF INSPECTION ANIMALS.—

(1) DEFINITION OF SECRETARY CONCERNED.—Title V of the Agricultural Risk Protection Act of 2000 is amended—

(A) by redesignating sections 501 and 502 (7 U.S.C. 2279e, 2279f) as sections 502 and 503, respectively; and

(B) by inserting before section 502 (as redesignated by subparagraph (A)) the following:

"SEC. 501. DEFINITION OF SECRETARY CONCERNED.

"In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

(2) CONFORMING AMENDMENTS.—

(A) Section 502 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended—

(i) in subsection (a)—

(I) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(II) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture"; and

(ii) by striking "Secretary" each place it appears (other than in subsections (a) and (e)) and inserting "Secretary concerned".

(B) Section 503 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended by striking "501" each place it appears and inserting "502".

(C) Section 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8411) is repealed.

SEC. 176. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term "affected agency" means—

(1) the Department of Homeland Security;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary of Homeland Security.

(b) COORDINATION.—Consistent with section 171, the Secretary of Homeland Security, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall ensure that appropriate information (as determined by the Secretary of Homeland Security) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) REPORT AND PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

Subtitle E—Transition Provisions

SEC. 181. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term "agency" includes any entity, organizational unit, or function transferred or to be transferred under this title.

(2) TRANSITION PERIOD.—The term "transition period" means the 1-year period beginning on the effective date of this division.

SEC. 182. TRANSFER OF AGENCIES.

The transfer of an agency to the Department, as authorized by this title, shall occur when the President so directs, but in no event later than the end of the transition period.

SEC. 183. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until an agency is transferred to the Department, any official having authority over, or functions relating to, the agency immediately before the effective date of this division shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may reasonably request in preparing for the transfer and integration of the agency into the Department.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Secretary, the head of any agency (as defined under section 2) may, on a reimbursable basis, provide services and detail personnel to assist with the transition.

(c) ACTING OFFICIALS.—

(1) DESIGNATION.—During the transition period, pending the nomination and advice and consent of the Senate to the appointment of an officer required by this division to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent, and who continues as such an officer, to act in such office until the office is filled as provided in this division.

(2) COMPENSATION.—While serving as an acting officer under paragraph (1), the officer shall receive compensation at the higher of the rate provided—

(A) under this division for the office in which that officer acts; or

(B) for the office held at the time of designation.

(3) PERIOD OF SERVICE.—The person serving as an acting officer under paragraph (1) may serve in the office for the periods described under section 3346 of title 5, United States Code, as if the office became vacant on the effective date of this division.

(d) EXCEPTION TO ADVICE AND CONSENT REQUIREMENT.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer—

(1) whose agency is transferred to the Department under this Act;

(2) whose appointment was by and with the advice and consent of the Senate;

(3) who is proposed to serve in a directorate or office of the Department that is similar to the transferred agency in which the officer served; and

(4) whose authority and responsibilities following such transfer would be equivalent to those performed prior to such transfer.

SEC. 184. INCIDENTAL TRANSFERS AND TRANSFER OF RELATED FUNCTIONS.

(a) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this title, as the Director determines necessary to accomplish the purposes of this title.

(b) ADJUDICATORY OR REVIEW FUNCTIONS.—

(1) IN GENERAL.—At the time an agency is transferred to the Department, the President may also transfer to the Department any agency established to carry out or support adjudicatory or review functions in relation to the transferred agency.

(2) EXCEPTION.—The President may not transfer the Executive Office of Immigration Review of the Department of Justice under this subsection.

(c) TRANSFER OF RELATED FUNCTIONS.—The transfer, under this title, of an agency that is a subdivision of a department before such transfer shall include the transfer to the Secretary of any function relating to such agency that, on the date before the transfer, was exercised by the head of the department from which such agency is transferred.

(d) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, delegation of authority, or other document pertaining to an agency transferred under this title that refers to the head of the department from which such agency is transferred is deemed to refer to the Secretary.

SEC. 185. IMPLEMENTATION PROGRESS REPORTS AND LEGISLATIVE RECOMMENDATIONS.

(a) IN GENERAL.—In consultation with the President and in accordance with this section, the Secretary shall prepare implementation progress reports and submit such reports to—

(1) the President of the Senate and the Speaker of the House of Representatives for referral to the appropriate committees; and

(2) the Comptroller General of the United States.

(b) REPORT FREQUENCY.—

(1) INITIAL REPORT.—As soon as practicable, and not later than 6 months after the date of enactment of this Act, the Secretary shall submit the first implementation progress report.

(2) SEMIANNUAL REPORTS.—Following the submission of the report under paragraph (1), the Secretary shall submit additional implementation progress reports not less frequently than once every 6 months until all transfers to the Department under this title have been completed.

(3) FINAL REPORT.—Not later than 6 months after all transfers to the Department under this title have been completed, the Secretary shall submit a final implementation progress report.

(c) CONTENTS.—

(1) IN GENERAL.—Each implementation progress report shall report on the progress made in implementing titles I and XI, including fulfillment of the functions transferred under this Act, and shall include all of the information specified under paragraph (2) that the Secretary has gathered as of the date of submission. Information contained in an earlier report may be referenced, rather than set out in full, in a subsequent report. The final implementation progress report shall include any required information not yet provided.

(2) SPECIFICATIONS.—Each implementation progress report shall contain, to the extent available—

(A) with respect to the transfer and incorporation of entities, organizational units, and functions—

(i) the actions needed to transfer and incorporate entities, organizational units, and functions into the Department;

(ii) a projected schedule, with milestones, for completing the various phases of the transition;

(iii) a progress report on taking those actions and meeting the schedule;

(iv) the organizational structure of the Department, including a listing of the respective directorates, the field offices of the Department, and the executive positions that will be filled by political appointees or career executives;

(v) the location of Department headquarters, including a timeframe for relocating to the new location, an estimate of cost for the relocation, and information about which elements of the various agencies will be located at headquarters;

(vi) unexpended funds and assets, liabilities, and personnel that will be transferred, and the proposed allocations and disposition within the Department; and

(vii) the costs of implementing the transition;

(B) with respect to human capital planning—

(i) a description of the workforce planning undertaken for the Department, including the preparation of an inventory of skills and competencies available to the Department, to identify any gaps, and to plan for the training, recruitment, and retention policies necessary to attract and retain a workforce to meet the needs of the Department;

(ii) the past and anticipated future record of the Department with respect to recruitment and retention of personnel;

(iii) plans or progress reports on the utilization by the Department of existing personnel flexibility, provided by law or through regulations of the President and the Office of Personnel Management, to achieve the human capital needs of the Department;

(iv) any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation under this division of functions, entities, and personnel previously covered by disparate personnel systems; and

(v) efforts to address the disparities under clause (iv) using existing personnel flexibility;

(C) with respect to information technology—

(i) an assessment of the existing and planned information systems of the Department; and

(ii) a report on the development and implementation of enterprise architecture and of the plan to achieve interoperability;

(D) with respect to programmatic implementation—

(i) the progress in implementing the programmatic responsibilities of this division;

(ii) the progress in implementing the mission of each entity, organizational unit, and function transferred to the Department;

(iii) recommendations of any other governmental entities, organizational units, or functions that need to be incorporated into the Department in order for the Department to function effectively; and

(iv) recommendations of any entities, organizational units, or functions not related to homeland security transferred to the Department that need to be transferred from the Department or terminated for the Department to function effectively.

(d) LEGISLATIVE RECOMMENDATIONS.—

(1) INCLUSION IN REPORT.—The Secretary, after consultation with the appropriate committees of Congress, shall include in the report under this section, recommendations for legislation that the Secretary determines is necessary to—

(A) facilitate the integration of transferred entities, organizational units, and functions into the Department;

(B) reorganize agencies, executive positions, and the assignment of functions within the Department;

(C) address any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation of agencies, functions, and personnel previously covered by disparate personnel systems;

(D) enable the Secretary to engage in procurement essential to the mission of the Department;

(E) otherwise help further the mission of the Department; and

(F) make technical and conforming amendments to existing law to reflect the changes made by titles I and XI.

(2) SEPARATE SUBMISSION OF PROPOSED LEGISLATION.—The Secretary may submit the proposed legislation under paragraph (1) to Congress before submitting the balance of the report under this section.

SEC. 186. TRANSFER AND ALLOCATION.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the agencies transferred under this title, shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and to section 1531 of title 31, United States Code. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 187. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, recognitions of labor organizations, collective bargaining agreements, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(2) which are in effect at the time this division takes effect, or were final before the effective date of this division and are to become effective on or after the effective date of this division,

shall, to the extent related to such functions, continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary or other authorized official, or a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this division, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against an agency, or by or against any individual in the official capacity of such individual as an officer of an agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by an agency relating to a function transferred under this title may be continued by the Department with the same effect as if this title had not been enacted.

(f) EMPLOYMENT AND PERSONNEL.—

(1) TERMS AND CONDITIONS OF EMPLOYMENT.—The transfer of an employee to the Department under this Act shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(2) CONDITIONS AND CRITERIA FOR APPOINTMENT.—Any qualifications, conditions, or criteria required by law for appointments to a position in an agency, or subdivision thereof, transferred to the Department under this title, including a requirement that an appointment be made by the President, by and with the advice and consent of the Senate, shall continue to apply with respect to any appointment to the position made after such transfer to the Department has occurred.

(3) WHISTLEBLOWER PROTECTION.—The President may not exclude any position transferred to the Department as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion subject to that authority was not made before the date of enactment of this Act.

(g) NO EFFECT ON INTELLIGENCE AUTHORITIES.—The transfer of authorities, functions, personnel, and assets of elements of the United States Government under this title, or the assumption of authorities and functions by the Department under this title, shall not be construed, in cases where such authorities, functions, personnel, and assets are engaged in intelligence activities as defined in the National Security Act of 1947, as affecting the authorities of the Director of Central Intelligence, the Secretary of Defense, or the heads of departments and agencies within the intelligence community.

SEC. 188. TRANSITION PLAN.

(a) IN GENERAL.—Not later than September 15, 2002, the President shall submit to Congress a transition plan as set forth in subsection (b).

(b) CONTENTS.—

(1) IN GENERAL.—The transition plan under subsection (a) shall include a detailed—

(A) plan for the transition to the Department and implementation of this title and division B; and

(B) proposal for the financing of those operations and needs of the Department that do not represent solely the continuation of functions for which appropriations already are available.

(2) FINANCING PROPOSAL.—The financing proposal under paragraph (1)(B) may consist of any combination of specific appropriations transfers, specific reprogrammings, and new specific appropriations as the President considers advisable.

SEC. 189. USE OF APPROPRIATED FUNDS.

(a) APPLICABILITY OF THIS SECTION.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance, use, and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act.

(b) Authorization of Appropriations To Create Department.—There is authorized to be appropriated $160,000,000 for the Office of Homeland Security in the Executive Office of the President to be transferred without delay to the Department upon its creation by enactment of this Act, notwithstanding subsection (c)(1)(C) such funds shall be available only for the payment of necessary salaries and expenses associated with the initiation of operations of the Department.

(c) Use of Transferred Funds.—

(1) In general.—Except as may be provided in this subsection or in an appropriations Act in accordance with subsection (e), balances of appropriations and any other funds or assets transferred under this Act—

(A) shall be available only for the purposes for which they were originally available;

(B) shall remain subject to the same conditions and limitations provided by the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; and

(C) shall not be used to fund any new position established under this Act.

(2) Transfer of funds.—

(A) In general.—After the creation of the Department and the swearing in of its Secretary, and upon determination by the Secretary that such action is necessary in the national interest, the Secretary is authorized to transfer, with the approval of the Office of Management and Budget, not to exceed $140,000,000 of unobligated funds from organizations and entities transferred to the new Department by this Act.

(B) Limitation.—Notwithstanding paragraph (1)(C), funds authorized to be transferred by subparagraph (A) shall be available only for payment of necessary costs, including funding of new positions, for the initiation of operations of the Department and may not be transferred unless the Committees on Appropriations are notified at least 15 days in advance of any proposed transfer and have approved such transfer in advance.

(C) Notification.—The notification required in subparagraph (B) shall include a detailed justification of the purposes for which the funds are to be used and a detailed statement of the impact on the program or organization that is the source of the funds, and shall be submitted in accordance with reprogramming procedures to be established by the Committees on Appropriations.

(D) Use for other items.—The authority to transfer funds established in this section may not be used unless for higher priority items, based on demonstrated homeland security requirements, than those for which funds originally were appropriated and in no case where the item for which funds are requested has been denied by Congress.

(d) Notification Regarding Transfers.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(e) Additional Uses of Funds During Transition.—Subject to subsections (c) and (d), amounts transferred to, or otherwise made available to, the Department may be used during the transition period, as defined in section 801(2), for purposes in addition to those for which such amounts were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(f) Disposal of Property.—

(1) Strict compliance.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) Deposit of proceeds.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(g) Gifts.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(h) Budget Request.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

Subtitle F—Administrative Provisions

SEC. 191. REORGANIZATIONS AND DELEGATIONS.

(a) Reorganization Authority.—

(1) In general.—The Secretary may, as necessary and appropriate—

(A) allocate, or reallocate, functions among officers of the Department; and

(B) establish, consolidate, alter, or discontinue organizational entities within the Department.

(2) Limitation.—Paragraph (1) does not apply to—

(A) any office, bureau, unit, or other entity established by law and transferred to the Department;

(B) any function vested by law in an entity referred to in subparagraph (A) or vested by law in an officer of such an entity; or

(C) the alteration of the assignment or delegation of functions assigned by this Act to any officer or organizational entity of the Department.

(b) Delegation Authority.—

(1) Secretary.—The Secretary may—

(A) delegate any of the functions of the Secretary; and

(B) authorize successive redelegations of functions of the Secretary to other officers and employees of the Department.

(2) Officers.—An officer of the Department may—

(A) delegate any function assigned to the officer by law; and

(B) authorize successive redelegations of functions assigned to the officer by law to other officers and employees of the Department.

(3) Limitations.—

(A) Interunit delegation.—Any function assigned by this title to an organizational unit of the Department or to the head of an organizational unit of the Department may not be delegated to an officer or employee outside of that unit.

(B) Functions.—Any function vested by law in an entity established by law and transferred to the Department or vested by law in an officer of such an entity may not be delegated to an officer or employee outside of that entity.

SEC. 192. REPORTING REQUIREMENTS.

(a) Annual Evaluations.—The Comptroller General of the United States shall monitor and evaluate the implementation of this title and title XI. Not later than 15 months after the effective date of this division, and every year thereafter for the succeeding 5 years, the Comptroller General shall submit a report to Congress containing—

(1) an evaluation of the implementation progress reports submitted to Congress and the Comptroller General by the Secretary under section 185;

(2) the findings and conclusions of the Comptroller General of the United States resulting from the monitoring and evaluation conducted under this subsection, including evaluations of how successfully the Department is meeting—

(A) the homeland security missions of the Department; and

(B) the other missions of the Department; and

(3) any recommendations for legislation or administrative action the Comptroller General considers appropriate.

(b) Biennial Reports.—Every 2 years the Secretary shall submit to Congress—

(1) a report assessing the resources and requirements of executive agencies relating to border security and emergency preparedness issues; and

(2) a report certifying the preparedness of the United States to prevent, protect against, and respond to natural disasters, cyber attacks, and incidents involving weapons of mass destruction.

(c) Point of Entry Management Report.—Not later than 1 year after the effective date of this division, the Secretary shall submit to Congress a report outlining proposed steps to consolidate management authority for Federal operations at key points of entry into the United States.

(d) Combating Terrorism and Homeland Security.—Not later than 270 days after the date of enactment of this Act, the Secretary shall—

(1) in consultation with the head of each department or agency affected by titles I, II, III, and XI, develop definitions of the terms "combating terrorism" and "homeland security" for purposes of those titles and shall consider such definitions in determining the mission of the Department; and

(2) submit a report to Congress on such definitions.

(e) Results-Based Management.—

(1) Strategic plan.—

(A) In general.—Not later than September 30, 2003, consistent with the requirements of section 306 of title 5, United States Code, the Secretary, in consultation with Congress, shall prepare and submit to the Director of the Office of Management and Budget and to Congress a strategic plan for the program activities of the Department.

(B) Period; revisions.—The strategic plan shall cover a period of not less than 5 years from the fiscal year in which it is submitted and it shall be updated and revised at least every 3 years.

(C) Contents.—The strategic plan shall describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(2) Performance plan.—

(A) In general.—In accordance with section 1115 of title 31, United States Code, the Secretary shall prepare an annual performance plan covering each program activity set forth in the budget of the Department.

(B) CONTENTS.—The performance plan shall include—

(i) the goals to be achieved during the year;

(ii) strategies and resources required to meet the goals; and

(iii) the means used to verify and validate measured values.

(C) SCOPE.—The performance plan should describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(3) PERFORMANCE REPORT.—

(A) IN GENERAL.—In accordance with section 1116 of title 31, United States Code, the Secretary shall prepare and submit to the President and Congress an annual report on program performance for each fiscal year.

(B) CONTENTS.—The performance report shall include the actual results achieved during the year compared to the goals expressed in the performance plan for that year.

SEC. 193. ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH REQUIREMENTS.

The Secretary shall—

(1) ensure that the Department complies with all applicable environmental, safety, and health statutes and requirements; and

(2) develop procedures for meeting such requirements.

SEC. 194. LABOR STANDARDS.

(a) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance authorized under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a et seq.).

(b) SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the enforcement of labor standards under subsection (a), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (48 Stat. 948, chapter 482; 40 U.S.C. 276c).

SEC. 195. PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.

The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 196. PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(a) IN GENERAL.—For each entity transferred into the Department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the head of such entity, shall report to the Secretary, the Comptroller General, and the appropriate committees of Congress on the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.

(b) CONTENTS.—The report referred to in subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees who carry out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel or otherwise, currently used to carry out those functions;

(2) contain information related to the roles, responsibilities, missions, organizational structure, capabilities, personnel assets, and annual budgets, specifically with respect to the capabilities of the entity to accomplish its non-homeland security missions without any diminishment; and

(3) contain information regarding whether any changes are required to the roles, responsibilities, missions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish its non-homeland security missions without diminishment.

(c) TIMING.—Each Under Secretary shall provide the report referred to in subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SEC. 197. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, and each budget request submitted to Congress for the National Terrorism Prevention and Response Program shall be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and the fiscal year 2005 budget request for the National Terrorism Prevention and Response Program, and for any subsequent fiscal year.

SEC. 198. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL INFRASTRUCTURE.—The term "critical infrastructure" has the meaning given that term in section 1016(e) of the USA PATRIOT ACT of 2001 (42 U.S.C. 5195(e)).

(2) FURNISHED VOLUNTARILY.—

(A) DEFINITION.—The term "furnished voluntarily" means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) BENEFIT.—In this paragraph, the term "benefit" does not include any warning, alert, or other risk analysis by the Department.

(b) IN GENERAL.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) RECORDS SHARED WITH OTHER AGENCIES.—

(1) IN GENERAL.—

(A) RESPONSE TO REQUEST.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) SEGREGABLE PORTION OF RECORD.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED RECORDS.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) WITHDRAWAL OF CONFIDENTIAL DESIGNATION.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) PROCEDURES.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 199. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.

"9701. Establishment of human resources management system.

"§ 9701. Establishment of human resources management system

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

"(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 71, 72, 73, 77, and 79, and this chapter.

"(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of this title; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of this title;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of this title in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) NOTICE OF PROPOSAL.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) PREIMPLEMENTATION REQUIREMENTS.— If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(3) WRITTEN AGREEMENT.—Notwithstanding any other provision of this part, employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any system provided under this section unless the exclusive representative and the Secretary have entered into a written agreement, which specifically provides for the inclusion of such employees within such system. Such written agreement may be imposed by the Federal Service Impasses Panel under section 7119, after negotiations consistent with section 7117.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 181 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 199A. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of title 5, United States Code, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SEC. 199B. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to—

(1) enable the Secretary to administer and manage the Department; and

(2) carry out the functions of the Department other than those transferred to the Department under this Act.

TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS

SEC. 201. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

"(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

"(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

"(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

"(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

"(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

"(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

"(5) Powers authorized for an Office of Inspector General under paragraph (1) shall be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

"(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

"(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.".

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector

General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) In general.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) Minimum requirements.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) No lapse of authority.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) Effective Dates.—

(1) In general.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) Initial guidelines.—Subsection (b) shall take effect on the date of enactment of this Act.

TITLE III—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Temporary Flexibility for Certain Procurements

SEC. 301. DEFINITION.

In this title, the term "executive agency" has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 302. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 303. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) Temporary Threshold Amounts.—For a procurement referred to in section 302 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $250,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $500,000.

(b) Simplified Acquisition Threshold Definitions.—In this section, the term "simplified acquisition threshold definitions" means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) Small Business Reserve.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 304. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 302, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $10,000.

SEC. 305. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) Authority.—

(1) In general.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 302 without regard to whether the property or services are commercial items.

(2) Commercial item laws.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) Inapplicability of Limitation on Use of Simplified Acquisition Procedures.—

(1) In general.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB guidance.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) Continuation of Authority for Simplified Purchase Procedures.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 306. USE OF STREAMLINED PROCEDURES.

(a) Required Use.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 302, including authorities and procedures that are provided under the following provisions of law:

(1) Federal property and administrative services act of 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) Title 10, united states code.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) Office of federal procurement policy act.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) Waiver of Certain Small Business Threshold Requirements.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 302.

SEC. 307. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) Requirements.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) Content of Report.—The report under subsection (a)(2) shall include the following matters:

(1) Assessment.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) Recommendations.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) Consultation.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

Subtitle B—Other Matters

SEC. 311. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

TITLE IV—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 401. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 402. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 403. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 404. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation; and

(vii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 405. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the vice chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CLOSED MEETINGS.—

(1) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) ADDITIONAL AUTHORITY.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they

may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 406. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 407. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 408. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 409. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) ADDITIONAL REPORTS.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This division shall take effect 30 days after the date of enactment of this Act or, if enacted within 30 days before January 1, 2003, on January 1, 2003.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

TITLE X—SHORT TITLE AND DEFINITIONS.

SEC. 1001. SHORT TITLE.

This division may be cited as the "Immigration Reform, Accountability, and Security Enhancement Act of 2002".

SEC. 1002. DEFINITIONS.

In this division:

(1) ENFORCEMENT BUREAU.—The term "Enforcement Bureau" means the Bureau of Enforcement and Border Affairs established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) FUNCTION.—The term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) IMMIGRATION ENFORCEMENT FUNCTIONS.—The term "immigration enforcement functions" has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.

(4) IMMIGRATION LAWS OF THE UNITED STATES.—The term "immigration laws of the United States" has the meaning given the term in section 111(e) of the Immigration and Nationality Act, as added by section 1102 of this Act.

(5) IMMIGRATION POLICY, ADMINISTRATION, AND INSPECTION FUNCTIONS.—The term "immigration policy, administration, and inspection functions" has the meaning given the term in section 112(b)(3) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(6) IMMIGRATION SERVICE FUNCTIONS.—The term "immigration service functions" has the meaning given the term in section 113(b)(2) of the Immigration and Nationality Act, as added by section 1104 of this Act.

(7) OFFICE.—The term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(8) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(9) SERVICE BUREAU.—The term "Service Bureau" means the Bureau of Immigration Services established in section 113 of the Immigration and Nationality Act, as added by section 1104 of this Act.

(10) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of the Immigration and Nationality Act, as added by section 1103 of this Act.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

SEC. 1101. ABOLITION OF INS.

(a) IN GENERAL.—The Immigration and Naturalization Service is abolished.

(b) REPEAL.—Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service), is repealed.

SEC. 1102. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

(a) ESTABLISHMENT.—Title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) by inserting "**CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES**" after "**TITLE I—GENERAL**"; and

(2) by adding at the end the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"SEC. 111. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

"(a) ESTABLISHMENT.—There is established within the Department of Homeland Security the Directorate of Immigration Affairs.

"(b) PRINCIPAL OFFICERS.—The principal officers of the Directorate are the following:

"(1) The Under Secretary of Homeland Security for Immigration Affairs appointed under section 112.

"(2) The Assistant Secretary of Homeland Security for Immigration Services appointed under section 113.

"(3) The Assistant Secretary of Homeland Security for Enforcement and Border Affairs appointed under section 114.

"(c) FUNCTIONS.—Under the authority of the Secretary of Homeland Security, the Directorate shall perform the following functions:

"(1) Immigration policy, administration, and inspection functions, as defined in section 112(b).

"(2) Immigration service and adjudication functions, as defined in section 113(b).

"(3) Immigration enforcement functions, as defined in section 114(b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out the functions of the Directorate.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

"(e) IMMIGRATION LAWS OF THE UNITED STATES DEFINED.—In this chapter, the term 'immigration laws of the United States' means the following:

"(1) This Act.

"(2) Such other statutes, Executive orders, regulations, or directives, treaties, or other international agreements to which the

United States is a party, insofar as they relate to the admission to, detention in, or removal from the United States of aliens, insofar as they relate to the naturalization of aliens, or insofar as they otherwise relate to the status of aliens.".

(b) Conforming Amendments.—(1) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) by striking section 101(a)(34) (8 U.S.C. 1101(a)(34)) and inserting the following:

"(34) The term 'Directorate' means the Directorate of Immigration Affairs established by section 111.";

(B) by adding at the end of section 101(a) the following new paragraphs:

"(51) The term 'Secretary' means the Secretary of Homeland Security.

"(52) The term 'Department' means the Department of Homeland Security.";

(C) by striking "Attorney General" and "Department of Justice" each place it appears and inserting "Secretary" and "Department", respectively;

(D) in section 101(a)(17) (8 U.S.C. 1101(a)(17)), by striking "The" and inserting "Except as otherwise provided in section 111(e), the; and

(E) by striking "Immigration and Naturalization Service", "Service", and "Service's" each place they appear and inserting "Directorate of Immigration Affairs", "Directorate", and "Directorate's", respectively.

(2) Section 6 of the Act entitled "An Act to authorize certain administrative expenses for the Department of Justice, and for other purposes", approved July 28, 1950 (64 Stat. 380), is amended—

(A) by striking "Immigration and Naturalization Service" and inserting "Directorate of Immigration Affairs";

(B) by striking clause (a); and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) References.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1103. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

"SEC. 112. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

"(a) Under Secretary of Immigration Affairs.—The Directorate shall be headed by an Under Secretary of Homeland Security for Immigration Affairs who shall be appointed in accordance with section 103(c) of the Immigration and Nationality Act.

"(b) Responsibilities of the Under Secretary.—

"(1) In general.—The Under Secretary shall be charged with any and all responsibilities and authority in the administration of the Directorate and of this Act which are conferred upon the Secretary as may be delegated to the Under Secretary by the Secretary or which may be prescribed by the Secretary.

"(2) Duties.—Subject to the authority of the Secretary under paragraph (1), the Under Secretary shall have the following duties:

"(A) Immigration policy.—The Under Secretary shall develop and implement policy under the immigration laws of the United States. The Under Secretary shall propose, promulgate, and issue rules, regulations, and statements of policy with respect to any function within the jurisdiction of the Directorate.

"(B) Administration.—The Under Secretary shall have responsibility for—

"(i) the administration and enforcement of the functions conferred upon the Directorate under section 1111(c) of this Act; and

"(ii) the administration of the Directorate, including the direction, supervision, and coordination of the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

"(C) Inspections.—The Under Secretary shall be directly responsible for the administration and enforcement of the functions of the Directorate under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

"(3) Activities.—As part of the duties described in paragraph (2), the Under Secretary shall do the following:

"(A) Resources and personnel management.—The Under Secretary shall manage the resources, personnel, and other support requirements of the Directorate.

"(B) Information resources management.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including the maintenance of records and databases and the coordination of records and other information within the Directorate, and shall ensure that the Directorate obtains and maintains adequate information technology systems to carry out its functions.

"(C) Coordination of response to civil rights violations.—The Under Secretary shall coordinate, with the Civil Rights Officer of the Department of Homeland Security or other officials, as appropriate, the resolution of immigration issues that involve civil rights violations.

"(D) Risk analysis and risk management.—Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

"(3) Definition.—In this chapter, the term "immigration policy, administration, and inspection functions" means the duties, activities, and powers described in this subsection.

"(c) General Counsel.—

"(1) In general.—There shall be within the Directorate a General Counsel, who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary.

"(2) Function.—The General Counsel shall—

"(A) serve as the chief legal officer for the Directorate; and

"(B) be responsible for providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Under Secretary with respect to legal matters affecting the Directorate, and any of its components.

"(d) Financial Officers for the Directorate of Immigration Affairs.—

"(1) Chief financial officer.—

"(A) In general.—There shall be within the Directorate a Chief Financial Officer. The position of Chief Financial Officer shall be a career reserved position in the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Directorate. For purposes of section 902(a)(1) of such title, the Under Secretary shall be deemed to be an agency head.

"(B) Functions.—The Chief Financial Officer shall be responsible for directing, supervising, and coordinating all budget formulas and execution for the Directorate.

"(2) Deputy chief financial officer.—The Directorate shall be deemed to be an agency for purposes of section 903 of such title (relating to Deputy Chief Financial Officers).

"(e) Chief of Policy.—

"(1) In general.—There shall be within the Directorate a Chief of Policy. Under the authority of the Under Secretary, the Chief of Policy shall be responsible for—

"(A) establishing national immigration policy and priorities;

"(B) performing policy research and analysis on issues arising under the immigration laws of the United States; and

"(C) coordinating immigration policy between the Directorate, the Service Bureau, and the Enforcement Bureau.

"(2) Within the senior executive service.—The position of Chief of Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

"(f) Chief of Congressional, Intergovernmental, and Public Affairs.—

"(1) In general.—There shall be within the Directorate a Chief of Congressional, Intergovernmental, and Public Affairs. Under the authority of the Under Secretary, the Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

"(A) providing to Congress information relating to issues arising under the immigration laws of the United States, including information on specific cases;

"(B) serving as a liaison with other Federal agencies on immigration issues; and

"(C) responding to inquiries from, and providing information to, the media on immigration issues.

"(2) Within the senior executive service.—The position of Chief of Congressional, Intergovernmental, and Public Affairs shall be a Senior Executive Service position under section 5382 of title 5, United States Code.".

(b) Compensation of the Under Secretary.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Immigration Affairs, Department of Justice.".

(c) Compensation of General Counsel and Chief Financial Officer.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel, Directorate of Immigration Affairs, Department of Homeland Security.

"Chief Financial Officer, Directorate of Immigration Affairs, Department of Homeland Security.".

(d) Repeals.—The following provisions of law are repealed:

(1) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(2) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of assistant commissioners and district directors).

(3) Section 1 of the Act of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(e) Conforming Amendments.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:

"(8) The term 'Under Secretary' means the Under Secretary of Homeland Security for Immigration Affairs who is appointed under section 103(c).".

(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking "Commissioner of Immigration and Naturalization" and "Commissioner" each place they appear and inserting "Under Secretary of Homeland Security for Immigration Affairs" and "Under Secretary", respectively.

(C) The amendments made by subparagraph (B) do not apply to references to the "Commissioner of Social Security" in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

(2) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended—

(A) in subsection (c), by striking "Commissioner" and inserting "Under Secretary";

(B) in the section heading, by striking "Commissioner" and inserting "Under Secretary";

(C) in subsection (d), by striking "Commissioner" and inserting "Under Secretary"; and

(D) in subsection (e), by striking "Commissioner" and inserting "Under Secretary".

(3) Sections 104 and 105 of the Immigration and Nationality Act (8 U.S.C. 1104, 1105) are amended by striking "Director" each place it appears and inserting "Assistant Secretary of State for Consular Affairs".

(4) Section 104(c) of the Immigration and Nationality Act (8 U.S.C. 1104(c)) is amended—

(A) in the first sentence, by striking "Passport Office, a Visa Office," and inserting "a Passport Services office, a Visa Services office, an Overseas Citizen Services office,"; and

(B) in the second sentence, by striking "the Passport Office and the Visa Office" and inserting "the Passport Services office and the Visa Services office".

(5) Section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Immigration and Naturalization, Department of Justice.".

(f) References.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Commissioner of Immigration and Naturalization shall be deemed to refer to the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1104. BUREAU OF IMMIGRATION SERVICES.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"SEC. 113. BUREAU OF IMMIGRATION SERVICES.

"(a) Establishment of Bureau.—

"(1) In general.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the 'Service Bureau').

"(2) Assistant secretary.—The head of the Service Bureau shall be the Assistant Secretary of Homeland Security for Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) Responsibilities of the Assistant Secretary.—

"(1) In general.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Services shall administer the immigration service functions of the Directorate.

"(2) Immigration service functions defined.—In this chapter, the term 'immigration service functions' means the following functions under the immigration laws of the United States:

"(A) Adjudications of petitions for classification of nonimmigrant and immigrant status.

"(B) Adjudications of applications for adjustment of status and change of status.

"(C) Adjudications of naturalization applications.

"(D) Adjudications of asylum and refugee applications.

"(E) Adjudications performed at Service centers.

"(F) Determinations concerning custody and parole of asylum seekers who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, including determinations under section 236B.

"(G) All other adjudications under the immigration laws of the United States.

"(c) Chief Budget Officer of the Service Bureau.—There shall be within the Service Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Service Bureau shall be responsible for monitoring and supervising all financial activities of the Service Bureau.

"(d) Quality Assurance.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to the immigration service functions of the Directorate are properly implemented; and

"(2) ensure that Service Bureau policies or practices result in sound records management and efficient and accurate service.

"(e) Office of Professional Responsibility.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Service Bureau and for receiving and investigating charges of misconduct or ill treatment made by the public.

"(f) Training of Personnel.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.".

(b) Compensation of Assistant Secretary of Service Bureau.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Homeland Security for Immigration Services, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) Service Bureau Offices.—

(1) In general.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Services, shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consider the location's proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.

(2) Transition provision.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1105. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103 and 1104, is further amended by adding at the end the following:

"SEC. 114. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

"(a) Establishment of Bureau.—

"(1) In general.—There is established within the Directorate a bureau to be known as the Bureau of Enforcement and Border Affairs (in this chapter referred to as the 'Enforcement Bureau').

"(2) Assistant secretary.—The head of the Enforcement Bureau shall be the Assistant Secretary of Homeland Security for Enforcement and Border Affairs (in this chapter referred to as the 'Assistant Secretary for Immigration Enforcement'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) Responsibilities of the Assistant Secretary.—

"(1) In general.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Enforcement shall administer the immigration enforcement functions of the Directorate.

"(2) Immigration enforcement functions defined.—In this chapter, the term 'immigration enforcement functions' means the following functions under the immigration laws of the United States:

"(A) The border patrol function.

"(B) The detention function, except as specified in section 113(b)(2)(F).

"(C) The removal function.

"(D) The intelligence function.

"(E) The investigations function.

"(c) Chief Budget Officer of the Enforcement Bureau.—There shall be within the Enforcement Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Enforcement Bureau shall be responsible for monitoring and supervising all financial activities of the Enforcement Bureau.

“(d) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Enforcement Bureau and receiving charges of misconduct or ill treatment made by the public and investigating the charges.

“(e) OFFICE OF QUALITY ASSURANCE.—There shall be within the Enforcement Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

“(1) ensure that the Directorate's policies with respect to immigration enforcement functions are properly implemented; and

“(2) ensure that Enforcement Bureau policies or practices result in sound record management and efficient and accurate recordkeeping.

“(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Enforcement Bureau.”.

(b) COMPENSATION OF ASSISTANT SECRETARY OF ENFORCEMENT BUREAU.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

“Assistant Security of Homeland Security for Enforcement and Border Affairs, Directorate of Immigration Affairs, Department of Homeland Security.”.

(c) ENFORCEMENT BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Enforcement, shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall make selections according to trends in unlawful entry and unlawful presence, alien smuggling, national security concerns, the number of Federal prosecutions of immigration-related offenses in a given geographic area, and other enforcement considerations. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Enforcement Bureau offices adequately serve enforcement needs.

(2) TRANSITION PROVISION.—In determining the location of Enforcement Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1106. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

“SEC. 115. OFFICE OF THE OMBUDSMAN FOR IMMIGRATION AFFAIRS.

“(a) IN GENERAL.—There is established within the Directorate the Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

“(b) OMBUDSMAN.—

“(1) APPOINTMENT.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

“(2) COMPENSATION.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of Homeland Security so determines, at a rate fixed under section 9503 of such title.

“(c) FUNCTIONS OF OFFICE.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

“(1) to assist individuals in resolving problems with the Directorate or any component thereof;

“(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

“(3) to propose changes in the administrative practices or regulations of the Directorate, or any component thereof, to mitigate problems identified under paragraph (2);

“(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

“(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

“(d) PERSONNEL ACTIONS.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems.

“(e) ANNUAL REPORT.—Not later than December 31 of each year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

“(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

“(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

“(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action;

“(4) an accounting of the items described in paragraphs (1) and (2) for which action remains to be completed;

“(5) an accounting of the items described in paragraphs (1) and (2) for which no action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction;

“(6) recommendations as may be appropriate to resolve problems encountered by the public;

“(7) recommendations as may be appropriate to resolve problems encountered by the public, including problems created by backlogs in the adjudication and processing of petitions and applications;

“(8) recommendations to resolve problems caused by inadequate funding or staffing; and

“(9) such other information as the Ombudsman may deem advisable.

“(f) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Office of the Ombudsman such sums as may be necessary to carry out its functions.

“(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.”.

SEC. 1107. OFFICE OF IMMIGRATION STATISTICS WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

“SEC. 116. OFFICE OF IMMIGRATION STATISTICS.

“(a) ESTABLISHMENT.—There is established within the Directorate an Office of Immigration Statistics (in this section referred to as the ‘Office’), which shall be headed by a Director who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Office shall collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Directorate and the Executive Office for Immigration Review (or its successor entity).

“(b) RESPONSIBILITIES OF DIRECTOR.—The Director of the Office shall be responsible for the following:

“(1) STATISTICAL INFORMATION.—Maintenance of all immigration statistical information of the Directorate of Immigration Affairs.

“(2) STANDARDS OF RELIABILITY AND VALIDITY.—Establishment of standards of reliability and validity for immigration statistics collected by the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity).

“(c) RELATION TO THE DIRECTORATE OF IMMIGRATION AFFAIRS AND THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.—

“(1) OTHER AUTHORITIES.—The Directorate and the Executive Office for Immigration Review (or its successor entity) shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review (or its successor entity), respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

“(2) DATABASES.—The Director of the Office, under the direction of the Secretary, shall ensure the interoperability of the databases of the Directorate, the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity) to permit the Director of the Office to perform the duties of such office.”.

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Directorate of Immigration Affairs for exercise by the Under Secretary through the Office of Immigration Statistics established by section 116 of the Immigration and Nationality Act, as added by subsection (a), the functions performed by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service, and the statistical functions performed by the Executive Office for Immigration Review (or its successor entity), on the day before the effective date of this title.

SEC. 1108. CLERICAL AMENDMENTS.

The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to the heading for title I the following:

“CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES”;

(2) by striking the item relating to section 103 and inserting the following:

"Sec. 103. Powers and duties of the Secretary of Homeland Security and the Under Secretary of Homeland Security for Immigration Affairs.";

and

(3) by inserting after the item relating to section 106 the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"Sec. 111. Establishment of Directorate of Immigration Affairs.
"Sec. 112. Under Secretary of Homeland Security for Immigration Affairs.
"Sec. 113. Bureau of Immigration Services.
"Sec. 114. Bureau of Enforcement and Border Affairs.
"Sec. 115. Office of the Ombudsman for Immigration Affairs.
"Sec. 116. Office of Immigration Statistics.".

Subtitle B—Transition Provisions

SEC. 1111. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—

(1) FUNCTIONS OF THE ATTORNEY GENERAL.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Attorney General, immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Secretary through the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(2) FUNCTIONS OF THE COMMISSIONER OR THE INS.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Directorate of Immigration Affairs on such effective date for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Directorate of Immigration Affairs under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 1112. TRANSFER OF PERSONNEL AND OTHER RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the Under Secretary for appropriate allocation in accordance with section 1115—

(1) the personnel of the Department of Justice employed in connection with the functions transferred under this title; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title.

SEC. 1113. DETERMINATIONS WITH RESPECT TO FUNCTIONS AND RESOURCES.

Under the direction of the Secretary, the Under Secretary shall determine, in accordance with the corresponding criteria set forth in sections 1112(b), 1113(b), and 1114(b) of the Immigration and Nationality Act (as added by this title)—

(1) which of the functions transferred under section 1111 are—

(A) immigration policy, administration, and inspection functions;

(B) immigration service functions; and

(C) immigration enforcement functions; and

(2) which of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112 were held or used, arose from, were available to, or were made available, in connection with the performance of the respective functions specified in paragraph (1) immediately prior to the effective date of this title.

SEC. 1114. DELEGATION AND RESERVATION OF FUNCTIONS.

(a) IN GENERAL.—

(1) DELEGATION TO THE BUREAUS.—Under the direction of the Secretary, and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), the Under Secretary shall delegate—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement.

(2) RESERVATION OF FUNCTIONS.—Subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), immigration policy, administration, and inspection functions shall be reserved for exercise by the Under Secretary.

(b) NONEXCLUSIVE DELEGATIONS AUTHORIZED.—Delegations made under subsection (a) may be on a nonexclusive basis as the Under Secretary may determine may be necessary to ensure the faithful execution of the Under Secretary's responsibilities and duties under law.

(c) EFFECT OF DELEGATIONS.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Under Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau, respectively, as the Under Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

(d) STATUTORY CONSTRUCTION.—Nothing in this division may be construed to limit the authority of the Under Secretary, acting directly or by delegation under the Secretary, to establish such offices or positions within the Directorate of Immigration Affairs, in addition to those specified by this division, as the Under Secretary may determine to be necessary to carry out the functions of the Directorate.

SEC. 1115. ALLOCATION OF PERSONNEL AND OTHER RESOURCES.

(a) AUTHORITY OF THE UNDER SECRETARY.—

(1) IN GENERAL.—Subject to paragraph (2) and section 1114(b), the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the performance of the respective functions, as determined under section 1113, in accordance with the delegation of functions and the reservation of functions made under section 1114.

(2) LIMITATION.—Unexpended funds transferred pursuant to section 1112 shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) AUTHORITY TO TERMINATE AFFAIRS OF INS.—The Attorney General in consultation with the Secretary, shall provide for the termination of the affairs of the Immigration and Naturalization Service and such further measures and dispositions as may be necessary to effectuate the purposes of this division.

(c) TREATMENT OF SHARED RESOURCES.—The Under Secretary is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau. The Under Secretary shall maintain oversight and control over the shared computer databases and systems and records management.

SEC. 1116. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) PROCEEDINGS.—

(1) PENDING.—Sections 111 through 116 of the Immigration and Nationality Act, as added by subtitle A of this title, shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred under this title, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This title, and the amendments made by this title, shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title, and the amendments made by this title, had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and such function is transferred under this title to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred under this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred.

SEC. 1117. INTERIM SERVICE OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

The individual serving as the Commissioner of Immigration and Naturalization on the day before the effective date of this title may serve as Under Secretary until the date on which an Under Secretary is appointed under section 112 of the Immigration and Nationality Act, as added by section 1103.

SEC. 1118. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by the Executive Office for Immigration Review of the Department of Justice (or its successor entity), or any officer, employee, or component thereof immediately prior to the effective date of this title.

SEC. 1119. OTHER AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Basic Authorities Act of 1956, or under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to the issuance and use of passports and visas;

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(3) except as otherwise specifically provided in this division, any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

SEC. 1120. TRANSITION FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS FOR TRANSITION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—

(A) to effect—

(i) the abolition of the Immigration and Naturalization Service;

(ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement and Border Affairs; and

(iii) the transfer of functions required to be made under this division; and

(B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) ACTIVITIES SUPPORTED.—Activities supported under paragraph (1) include—

(A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration Affairs, including the preparation of any reports and implementation plans necessary for such transfer;

(B) the division, acquisition, and disposition of—

(i) buildings and facilities;

(ii) support and infrastructure resources; and

(iii) computer hardware, software, and related documentation;

(C) other capital expenditures necessary to effect the transfer of functions described in this paragraph;

(D) revision of forms, stationery, logos, and signage;

(E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and

(F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) TRANSITION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the "Directorate of Immigration Affairs Transition Account" (in this section referred to as the "Account").

(2) USE OF ACCOUNT.—There shall be deposited into the Account, all amounts appropriated under subsection (a) and amounts reprogrammed for the purposes described in subsection (a).

(d) REPORT TO CONGRESS ON TRANSITION.—Beginning not later than 90 days after the effective date of division A of this Act, and at the end of each fiscal year in which appropriations are made pursuant to subsection (c), the Secretary of Homeland Security shall submit a report to Congress concerning the availability of funds to cover transition costs, including—

(1) any unobligated balances available for such purposes; and

(2) a calculation of the amount of appropriations that would be necessary to fully fund the activities described in subsection (a).

(e) EFFECTIVE DATE.—This section shall take effect 1 year after the effective date of division A of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1121. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

(a) LEVEL OF FEES.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants" and inserting "services".

(b) USE OF FEES.—

(1) IN GENERAL.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refugee applicants.

(2) PROHIBITION.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of operation.

(c) REFUGEE AND ASYLUM ADJUDICATION SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as may be otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.

(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) SEPARATION OF FUNDING.—

(1) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other collections available for the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

(2) FEES.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(3) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs for purposes not authorized by section 286 of the Immigration and Nationality Act, as amended by subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS FOR BACKLOG REDUCTION.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out the Immigration Services and Infrastructure Improvement Act of 2000 (title II of Public Law 106–313).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) INFRASTRUCTURE IMPROVEMENT ACCOUNT.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvements Account established by section 204(a)(2) of title II of Public Law 106–313.

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF ON-LINE DATABASE.—

(1) IN GENERAL.—Not later than 2 years after the effective date of division A, the Secretary, in consultation with the Under Secretary and the Technology Advisory Committee, shall establish an Internet-based system that will permit an immigrant, nonimmigrant, employer, or other person who files any application, petition, or other request for any benefit under the immigration laws of the United States access to on-line information about the processing status of the application, petition, or other request.

(2) PRIVACY CONSIDERATIONS.—The Under Secretary shall consider all applicable privacy issues in the establishment of the Internet system described in paragraph (1). No personally identifying information shall be accessible to unauthorized persons.

(3) MEANS OF ACCESS.—The on-line information under the Internet system described in

paragraph (1) shall be accessible to the persons described in paragraph (1) through a personal identification number (PIN) or other personalized password.

(4) PROHIBITION ON FEES.—The Under Secretary shall not charge any immigrant, nonimmigrant, employer, or other person described in paragraph (1) a fee for access to the information in the database that pertains to that person.

(b) FEASIBILITY STUDY FOR ON-LINE FILING AND IMPROVED PROCESSING.—

(1) ON-LINE FILING.—

(A) IN GENERAL.—The Under Secretary, in consultation with the Technology Advisory Committee, shall conduct a study to determine the feasibility of on-line filing of the documents described in subsection (a).

(B) STUDY ELEMENTS.—The study shall—

(i) include a review of computerization and technology of the Immigration and Naturalization Service (or successor agency) relating to immigration services and the processing of such documents;

(ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and

(iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.

(2) REPORT.—Not later than 2 years after the effective date of division A, the Under Secretary shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the findings of the study conducted under this subsection.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 1 year after the effective date of division A, the Under Secretary shall establish, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Under Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of—

(A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and

(B) representatives of persons or entities who may use the tracking system described in subsection (a) and the on-line filing system described in subsection (b)(1).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) ASSIGNMENTS OF ASYLUM OFFICERS.—The Under Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take steps to ensure that asylum officers participate in the inspections process.

(b) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 236A the following new section:

"SEC. 236B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

"(a) DEVELOPMENT OF ALTERNATIVES TO DETENTION.—The Under Secretary shall—

"(1) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and

"(2) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

"(b) SPECIFIC ALTERNATIVES FOR CONSIDERATION.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):

"(1) Parole from detention.

"(2) For individuals not otherwise qualified for parole under paragraph (1), parole with appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-secure shelter care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(4) Noninstitutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(c) REGULATIONS.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

"(d) DEFINITION.—In this section, the term 'asylum seeker' means any applicant for asylum under section 208 or any alien who indicates an intention to apply for asylum under that section.".

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236A the following new item:

"Sec. 236B. Alternatives to detention of asylum seekers.".

Subtitle D—Effective Date

SEC. 1131. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect one year after the effective date of division A of this Act.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Unaccompanied Alien Child Protection Act of 2002".

SEC. 1202. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) DIRECTOR.—The term "Director" means the Director of the Office.

(2) OFFICE.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act.

(3) SERVICE.—The term "Service" means the Immigration and Naturalization Service (or, upon the effective date of title XI, the Directorate of Immigration Affairs).

(4) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(5) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children as licensed by the appropriate State and certified by the Director of the Office of Refugee Resettlement.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(53) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(54) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

Subtitle A—Structural Changes

SEC. 1211. RESPONSIBILITIES OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—

(1) RESPONSIBILITIES OF THE OFFICE.—The Office shall be responsible for—

(A) coordinating and implementing the care and placement for unaccompanied alien children who are in Federal custody by reason of their immigration status; and

(B) ensuring minimum standards of detention for all unaccompanied alien children.

(2) DUTIES OF THE DIRECTOR WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.—The Director shall be responsible under this title for—

(A) ensuring that the best interests of the child are considered in decisions and actions relating to the care and placement of an unaccompanied alien child;

(B) making placement, release, and detention determinations for all unaccompanied alien children in the custody of the Office;

(C) implementing the placement, release, and detention determinations made by the Office;

(D) convening, in the absence of the Assistant Secretary, Administration for Children and Families of the Department of Health and Human Services, the Interagency Task Force on Unaccompanied Alien Children established in section 1212;

(E) identifying a sufficient number of qualified persons, entities, and facilities to house unaccompanied alien children in accordance with sections 1222 and 1223;

(F) overseeing the persons, entities, and facilities described in sections 1222 and 1223 to ensure their compliance with such provisions;

(G) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to contract with the Office to provide the services described in sections 1231 and 1232;

(H) maintaining statistical information and other data on unaccompanied alien children in the Office's custody and care, which shall include—

(i) biographical information such as the child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody, including each instance in which such child came into the custody of—

(I) the Service; or

(II) the Office;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the detention; and

(v) the disposition of any actions in which the child is the subject;

(I) collecting and compiling statistical information from the Service, including Border Patrol and inspections officers, on the unaccompanied alien children with whom they come into contact; and

(J) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (3)(F), the Director is encouraged to utilize the refugee children foster care system established under section 412(d)(2) of the Immigration and Nationality Act for the placement of unaccompanied alien children.

(4) POWERS.—In carrying out the duties under paragraph (3), the Director shall have the power to—

(A) contract with service providers to perform the services described in sections 1222, 1223, 1231, and 1232; and

(B) compel compliance with the terms and conditions set forth in section 1223, including the power to terminate the contracts of providers that are not in compliance with such conditions and reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(b) NO EFFECT ON SERVICE, EOIR, AND DEPARTMENT OF STATE ADJUDICATORY RESPONSIBILITIES.—Nothing in this title may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act from the authority of any official of the Service, the Executive Office of Immigration Review (or successor entity), or the Department of State.

SEC. 1212. ESTABLISHMENT OF INTERAGENCY TASK FORCE ON UNACCOMPANIED ALIEN CHILDREN.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Unaccompanied Alien Children.

(b) COMPOSITION.—The Task Force shall consist of the following members:

(1) The Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(2) The Under Secretary of Homeland Security for Immigration Affairs.

(3) The Assistant Secretary of State for Population, Refugees, and Migration.

(4) The Director.

(5) Such other officials in the executive branch of Government as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(d) ACTIVITIES OF THE TASK FORCE.—In consultation with nongovernmental organizations, the Task Force shall—

(1) measure and evaluate the progress of the United States in treating unaccompanied alien children in United States custody; and

(2) expand interagency procedures to collect and organize data, including significant research and resource information on the needs and treatment of unaccompanied alien children in the custody of the United States Government.

SEC. 1213. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions with respect to the care and custody of unaccompanied alien children under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component thereof), immediately prior to the effective date of this subtitle, are transferred to the Office.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1221. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act; and

(B) remove such child from the United States.

(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—

(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(ii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iii) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right.

(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United

States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) Custody of Unaccompanied Alien Children Found in the Interior of the United States.—

(1) Establishment of jurisdiction.—

(A) In general.—Except as otherwise provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) Exception for children who have committed crimes.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act, while such charges are pending; or

(ii) has been convicted of any such felony.

(C) Exception for children who threaten national security.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of an unaccompanied alien child if the Secretary of Homeland Security has substantial evidence that such child endangers the national security of the United States.

(2) Notification.—Upon apprehension of an unaccompanied alien child, the Secretary shall promptly notify the Office.

(3) Transfer of unaccompanied alien children.—

(A) Transfer to the office.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child; or

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), immediately following a determination that the child no longer meets the description set forth in such paragraph.

(B) Transfer to the service.—Upon determining that a child in the custody of the Office is described in paragraph (1) (B) or (C), the Director shall promptly make arrangements to transfer the care and custody of such child to the Service.

(c) Age Determinations.—In any case in which the age of an alien is in question and the resolution of questions about such alien's age would affect the alien's eligibility for treatment under the provisions of this title, a determination of whether such alien meets the age requirements of this title shall be made in accordance with the provisions of section 1225.

SEC. 1222. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) Placement Authority.—

(1) Order of preference.—Subject to the Director's discretion under paragraph (4) and section 1223(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with one of the following individuals in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the child's well-being.

(E) A State-licensed juvenile shelter, group home, or foster home willing to accept legal custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

(2) Home study.—Notwithstanding the provisions of paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid home-study conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such a study, or by an appropriate voluntary agency contracted with the Office to conduct such studies has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) Right of parent or legal guardian to custody of unaccompanied alien child.—

(A) Placement with parent or legal guardian.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) Rule of construction.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Programme of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) Protection from smugglers and traffickers.—The Director shall take affirmative steps to ensure that unaccompanied alien children are protected from smugglers, traffickers, or others seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity. Attorneys involved in such activities should be reported to their State bar associations for disciplinary action.

(5) Grants and contracts.—Subject to the availability of appropriations, the Director is authorized to make grants to, and enter into contracts with, voluntary agencies to carry out the provisions of this section.

(6) Reimbursement of state expenses.—Subject to the availability of appropriations, the Director is authorized to reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title.

(b) Confidentiality.—All information obtained by the Office relating to the immigration status of a person listed in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

SEC. 1223. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) Standards for Placement.—

(1) Prohibition of detention in certain facilities.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) Detention in appropriate facilities.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) State licensure.—In the case of a placement of a child with an entity described in section 1222(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) Conditions of detention.—

(A) In general.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) Notification of children.—Such regulations shall provide that all children are notified orally and in writing of such standards.

(b) Prohibition of Certain Practices.—The Director and the Secretary of Homeland Security shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) Rule of Construction.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 1224. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) Country Conditions.—

(1) Sense of congress.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) Assessment of conditions.—

(A) In general.—In carrying out repatriations of unaccompanied alien children, the Office shall conduct assessments of country conditions to determine the extent to which the country to which a child is being repatriated has a child welfare system capable of ensuring the child's well being.

(B) Factors for assessment.—In assessing country conditions, the Office shall, to the maximum extent practicable, examine the conditions specific to the locale of the child's repatriation.

(b) Report on Repatriation of Unaccompanied Alien Children.—Beginning not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Judiciary Committees of the House of Representatives and Senate on the Director's efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(1) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(2) A description of the type of immigration relief sought and denied to such children.

(3) A statement of the nationalities, ages, and gender of such children.

(4) A description of the procedures used to effect the removal of such children from the United States.

(5) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(6) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 1225. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

The Director shall develop procedures that permit the presentation and consideration of a variety of forms of evidence, including testimony of a child and other persons, to determine an unaccompanied alien child's age for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge. Radiographs shall not be the sole means of determining age.

SEC. 1226. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 1231. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM.

(a) GUARDIAN AD LITEM.—

(1) APPOINTMENT.—The Director shall appoint a guardian ad litem who meets the qualifications described in paragraph (2) for each unaccompanied alien child in the custody of the Office not later than 72 hours after the Office assumes physical or constructive custody of such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.'

(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—

(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Service.

(3) DUTIES.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) ensure that the child's best interests are promoted while the child participates in, or is subject to, proceedings or actions under the Immigration and Nationality Act;

(F) ensure that the child understands such determinations and proceedings; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed,

(B) the child departs the United States,

(C) the child is granted permanent resident status in the United States,

(D) the child attains the age of 18, or

(E) the child is placed in the custody of a parent or legal guardian,

whichever occurs first.

(5) POWERS.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings involving the child that are held in connection with proceedings under the Immigration and Nationality Act, and shall be given a reasonable opportunity to be present at such hearings; and

(E) shall be permitted to consult with the child during any hearing or interview involving such child.

(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the circumstances and conditions that unaccompanied alien children face as well as in the various immigration benefits for which such a child might be eligible.

SEC. 1232. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office or in the custody of the Service who are not described in section 1221(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of pro bono attorneys who agree to provide representation to such children without charge.

(3) GOVERNMENT FUNDED REPRESENTATION.—

(A) APPOINTMENT OF COMPETENT COUNSEL.—Notwithstanding section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) or any other provision of law, when no competent counsel is available to represent an unaccompanied alien child without charge, the Director shall appoint competent counsel for such child at the expense of the Government.

(B) LIMITATION ON ATTORNEY FEES.—Counsel appointed under subparagraph (A) may not be compensated at a rate in excess of the rate provided under section 3006A of title 18, United States Code.

(C) ASSUMPTION OF THE COST OF GOVERNMENT-PAID COUNSEL.—In the case of a child for whom counsel is appointed under subparagraph (A) who is subsequently placed in the physical custody of a parent or legal guardian, such parent or legal guardian may elect to retain the same counsel to continue representation of the child, at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

(4) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(5) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) INELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with such agencies, the Director shall ensure that no such agency is—

(i) a grantee or contractee for services provided under section 1222 or 1231; and

(ii) simultaneously a grantee or contractee for services provided under subparagraph (A).

(b) REQUIREMENT OF LEGAL REPRESENTATION.—The Director shall ensure that all unaccompanied alien children have legal representation within 7 days of the child coming into Federal custody.

(c) DUTIES.—Counsel shall represent the unaccompanied alien child all proceedings and actions relating to the child's immigration status or other actions involving the Service and appear in person for all individual merits hearings before the Executive Office for Immigration Review (or its successor entity) and interviews involving the Service.

(d) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(e) TERMINATION OF APPOINTMENT.—Counsel shall carry out the duties described in subsection (c) until—

(1) those duties are completed,

(2) the child departs the United States,

(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act,

(4) the child is granted protection under the Convention Against Torture,

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act,

(6) the child is granted permanent resident status in the United States, or

(7) the child attains 18 years of age,

whichever occurs first.

(f) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving

an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(g) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect one year after the effective date of division A of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant under the age of 18 on the date of application who is present in the United States—

"(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration Affairs that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien;

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2) (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply,";

(2) in subparagraph (B), by striking the period and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) the Secretary of Homeland Security may waive paragraph (2) (A) and (B) in the case of an offense which arose as a consequence of the child being unaccompanied.".

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), and who is in the custody of a State shall be eligible for all funds made available under section 412(d) of such Act.

SEC. 1242. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into currently existing education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF SERVICE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States border or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 1221(a)(2).

SEC. 1243. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the Service's implementation of such guidelines in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) TRAINING.—The Secretary of Homeland Security shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(f)(2) (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

Subtitle F—Authorization of Appropriations

SEC. 1261. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function

SEC. 1301. ESTABLISHMENT.

(a) IN GENERAL.—There is established within the Department of Justice the Agency for Immigration Hearings and Appeals (in this title referred to as the "Agency").

(b) ABOLITION OF EOIR.—The Executive Office for Immigration Review of the Department of Justice is hereby abolished.

SEC. 1302. DIRECTOR OF THE AGENCY.

(a) APPOINTMENT.—There shall be at the head of the Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) OFFICES.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

(c) RESPONSIBILITIES.—The Director shall—

(1) administer the Agency and be responsible for the promulgation of rules and regulations affecting the Agency;

(2) appoint each Member of the Board of Immigration Appeals, including a Chair;

(3) appoint the Chief Immigration Judge; and

(4) appoint and fix the compensation of attorneys, clerks, administrative assistants, and other personnel as may be necessary.

SEC. 1303. BOARD OF IMMIGRATION APPEALS.

(a) IN GENERAL.—The Board of Immigration Appeals (in this title referred to as the "Board") shall perform the appellate functions of the Agency. The Board shall consist of a Chair and not less than 14 other immigration appeals judges.

(b) APPOINTMENT.—Members of the Board shall be appointed by the Director, in consultation with the Chair of the Board of Immigration Appeals.

(c) QUALIFICATIONS.—The Chair and each other Member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(d) CHAIR.—The Chair shall direct, supervise, and establish the procedures and policies of the Board.

(e) JURISDICTION.—

(1) IN GENERAL.—The Board shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals (as in effect under the Executive Office of Immigration Review).

(2) DE NOVO REVIEW.—The Board shall have de novo review of any decision by an immigration judge, including any final order of removal.

(f) DECISIONS OF THE BOARD.—The decisions of the Board shall constitute final agency action, subject to review only as provided by the Immigration and Nationality Act and other applicable law.

(g) INDEPENDENCE OF BOARD MEMBERS.—The Members of the Board shall exercise their independent judgment and discretion in the cases coming before the Board.

SEC. 1304. CHIEF IMMIGRATION JUDGE.

(a) ESTABLISHMENT OF OFFICE.—There shall be within the Agency the position of Chief Immigration Judge, who shall administer the immigration courts.

(b) DUTIES OF THE CHIEF IMMIGRATION JUDGE.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resource and facilities and for the general management of immigration court dockets.

(c) APPOINTMENT OF IMMIGRATION JUDGES.—Immigration judges shall be appointed by the Director, in consultation with the Chief Immigration Judge.

(d) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(e) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the immigration courts within the Executive Office for Immigration Review of the Department of Justice.

(f) INDEPENDENCE OF IMMIGRATION JUDGES.—The immigration judges shall exercise their independent judgment and discretion in the cases coming before the Immigration Court.

SEC. 1305. CHIEF ADMINISTRATIVE HEARING OFFICER.

(a) ESTABLISHMENT OF POSITION.—There shall be within the Agency the position of Chief Administrative Hearing Officer.

(b) DUTIES OF THE CHIEF ADMINISTRATIVE HEARING OFFICER.—The Chief Administrative Hearing Officer shall hear cases brought under sections 274A, 274B, and 274C of the Immigration and Nationality Act.

SEC. 1306. REMOVAL OF JUDGES.

Immigration judges and Members of the Board may be removed from office only for good cause, including neglect of duty or malfeasance, by the Director, in consultation with the Chair of the Board, in the case of the removal of a Member of the Board, or in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Agency such sums as may be necessary to carry out this title.

Subtitle B—Transfer of Functions and Savings Provisions

SEC. 1311. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions under the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by section 1101(a)(2) of this Act) vested by statute in, or exercised by, the Executive Office of Immigration Review of the Department of Justice (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Agency.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Attorney General or the Executive Office of Immigration Review of the Department of Justice, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Agency, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Executive Office of Immigration Review, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle C—Effective Date

SEC. 1321. EFFECTIVE DATE.

This title shall take effect one year after the effective date of division A of this Act.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

SEC. 2101. SHORT TITLE.

This title may be cited as the "Chief Human Capital Officers Act of 2002".

SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec.

"1401. Establishment of agency Chief Human Capital Officers.

"1402. Authority and functions of agency Chief Human Capital Officers.

"§ 1401. Establishment of agency Chief Human Capital Officers

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

"(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

"(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

"(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§ 1402. Authority and functions of agency Chief Human Capital Officers

"(a) The functions of each Chief Human Capital Officer shall include—

"(1) setting the workforce development strategy of the agency;

"(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

“(3) aligning the agency’s human resources policies and programs with organization mission, strategic goals, and performance outcomes;

“(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

“(5) identifying best practices and benchmarking studies; and

“(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

“(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

“(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

“(A) are the property of the agency or are available to the agency; and

“(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

“(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.”.

(b) Technical and Conforming Amendment.—The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

“14. Chief Human Capital Officers ..... 1401”.

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) Establishment.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) Functions.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) Employee Labor Organizations at Meetings.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) Annual Report.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

“(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

“(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

“(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

“(ii) integrating those strategies into the budget and strategic plans of those agencies;

“(B) closing skill gaps in mission critical occupations;

“(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

“(D) sustaining a culture that cultivates and develops a high performing workforce;

“(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

“(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.”.

SEC. 2105. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this division.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAM PERFORMANCE REPORTS.

(a) Performance Plans.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

“(3) provide a description of how the performance goals and objectives are to be achieved, including the operational processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.”;

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

“(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).”.

(b) Program Performance Reports.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking “and” after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

“(5) include a review of the performance goals and evaluation of the performance plan relative to the agency’s strategic human capital management; and”.

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) In General.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking “and” after the semicolon;

(B) in paragraph (2), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(3) authority for agencies to appoint, without regard to the provisions of sections 3309 through 3318, candidates directly to positions for which—

“(A) public notice has been given; and

“(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.”; and

(2) by inserting after section 3318 the following:

“§ 3319. Alternative ranking and selection procedures

“(a)(1) the Office, in exercising its authority under section 3304; or

“(2) an agency to which the Office has delegated examining authority under section 1104(a)(2);

may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

“(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

“(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

“(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

“(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

“(1) the number of employees hired under that system;

“(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islander; and

“(3) the way in which managers were trained in the administration of that system.

“(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.”.

(b) Technical and Conforming Amendment.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

“3319. Alternative ranking and selection procedures.”.

SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) Voluntary Separation Incentive Payments.—

(1) In general.—

(A) Amendment to title 5, United States Code.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

“SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

“§ 3521. Definitions

“In this subchapter, the term—

"(1) 'agency' means an Executive agency as defined under section 105; and

"(2) 'employee'—

"(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

"(i) is serving under an appointment without time limitation; and

"(ii) has been currently employed for a continuous period of at least 3 years; and

"(B) shall not include—

"(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

"(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

"(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

"(vi) any employee who—

"(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

"(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

"(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

"§ 3522. Agency plans; approval

"(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

"(b) The plan of an agency under subsection (a) shall include—

"(1) the specific positions and functions to be reduced or eliminated;

"(2) a description of which categories of employees will be offered incentives;

"(3) the time period during which incentives may be paid;

"(4) the number and amounts of voluntary separation incentive payments to be offered; and

"(5) a description of how the agency will operate without the eliminated positions and functions.

"(c) The Director of the Office of Personnel Management shall review each agency's plan and may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Director of the Office of Personnel Management.

"§ 3523. Authority to provide voluntary separation incentive payments

"(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

"(b) A voluntary incentive payment—

"(1) shall be offered to agency employees on the basis of—

"(A) 1 or more organizational units;

"(B) 1 or more occupational series or levels;

"(C) 1 or more geographical locations;

"(D) skills, knowledge, or other factors related to a position;

"(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

"(F) any appropriate combination of such factors;

"(2) shall be paid in a lump sum after the employee's separation;

"(3) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

"(B) an amount determined by the agency head, not to exceed $25,000;

"(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

"(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

"(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on any other separation; and

"(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

"§ 3524. Effect of subsequent employment with the Government

"(a) The term 'employment'—

"(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

"(2) in subsection (c) does not include employment under such a contract.

"(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in the case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§ 3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT"; and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.
"3522. Agency plans; approval.
"3523. Authority to provide voluntary separation incentive payments.
"3524. Effect of subsequent employment with the Government.
"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors;".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 Stat. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENT.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a,";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable minimum retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 2302. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), the total payment referred to under such paragraph with respect to an employee paid under section 5372, 5376, or 5383 of title 5 or section 332(f), 603, or 604 of title 28 shall not exceed the total annual compensation payable to the Vice President under section 104 of title 3. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.".

TITLE XXIV—ACADEMIC TRAINING

SEC. 2401. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§ 4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systematic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or to qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the Senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policymaking, or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.— Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and".

SEC. 2403. COMPENSATORY TIME OFF FOR TRAVEL.

Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) An employee shall receive 1 hour of compensatory time off for each hour spent by the employee in travel status away from the official duty station of the employee, to the extent that the time spent in travel status is not otherwise compensable.

"(b) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

DIVISION D—E-GOVERNMENT ACT OF 2002

TITLE XXX—SHORT TITLE; FINDINGS AND PURPOSES

SEC. 3001. SHORT TITLE.

This division may be cited as the "E-Government Act of 2002".

SEC. 3002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this division are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decisionmaking by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 3101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

"CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

"Sec.
"3601. Definitions.
"3602. Office of Electronic Government.
"3603. Chief Information Officers Council.
"3604. E-Government Fund.
"3605. E-Government report.

"§ 3601. Definitions

"In this chapter, the definitions under section 3502 shall apply, and the term—

"(1) 'Administrator' means the Administrator of the Office of Electronic Government established under section 3602;

"(2) 'Council' means the Chief Information Officers Council established under section 3603;

"(3) 'electronic Government' means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

"(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

"(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

"(4) 'enterprise architecture'—

"(A) means—

"(i) a strategic information asset base, which defines the mission;

"(ii) the information necessary to perform the mission;

"(iii) the technologies necessary to perform the mission; and

"(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

"(B) includes—

"(i) a baseline architecture;

"(ii) a target architecture; and

"(iii) a sequencing plan;

"(5) 'Fund' means the E-Government Fund established under section 3604;

"(6) 'interoperability' means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

"(7) 'integrated service delivery' means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

"(8) 'tribal government' means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"§ 3602. Office of Electronic Government

"(a) There is established in the Office of Management and Budget an Office of Electronic Government.

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

"(c) The Administrator shall assist the Director in carrying out—

"(1) all functions under this chapter;

"(2) all of the functions assigned to the Director under title XXXII of the E-Government Act of 2002; and

"(3) other electronic government initiatives, consistent with other statutes.

"(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

"(1) chapter 35;

"(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104-106; 40 U.S.C. 1401 et seq.);

"(3) section 552a of title 5 (commonly referred to as the Privacy Act);

"(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

"(5) the Government Information Security Reform Act; and

"(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

"(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

"(1) capital planning and investment control for information technology;

"(2) the development of enterprise architectures;

"(3) information security;

"(4) privacy;

"(5) access to, dissemination of, and preservation of Government information;

"(6) accessibility of information technology for persons with disabilities; and

"(7) other areas of electronic Government.

"(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

"(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

"(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

"(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

"(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

"(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

"(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

"(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

"(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

"(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

"(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

"(C) Standards and guidelines for Federal Government computer system efficiency and security.

"(9) Sponsor ongoing dialogue that—

"(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

"(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

"(C) may include—

"(i) development of innovative models—

"(I) for electronic Government management and Government information technology contracts; and

"(II) that may be developed through focused discussions or using separately sponsored research;

"(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

"(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

"(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

"(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

"(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

"(12) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

"(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

"(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

"(B) ensuring compliance with those standards through the budget review process and other means.

"(14) Oversee the development of enterprise architectures within and across agencies.

"(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

"(16) Administer the Office of Electronic Government established under section 3602.

"(17) Assist the Director in preparing the E-Government report established under section 3605.

"(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

"§ 3603. Chief Information Officers Council

"(a) There is established in the executive branch a Chief Information Officers Council.

"(b) The members of the Council shall be as follows:

"(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

"(2) The Administrator of the Office of Electronic Government.

"(3) The Administrator of the Office of Information and Regulatory Affairs.

"(4) The chief information officer of each agency described under section 901(b) of title 31.

"(5) The chief information officer of the Central Intelligence Agency.

"(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

"(7) Any other officer or employee of the United States designated by the chairperson.

"(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

"(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

"(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

"(3) The Administrator of General Services shall provide administrative and other support for the Council.

"(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

"(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

"(f) The Council shall perform functions that include the following:

"(1) Develop recommendations for the Director on Government information resources management policies and requirements.

"(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

"(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

"(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title XXXII of the E-Government Act of 2002.

"(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

"(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

"(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

"(C) Standards and guidelines for Federal Government computer system efficiency and security.

"(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

"(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

"§ 3604. E-Government Fund

"(a)(1) There is established in the Treasury of the United States the E-Government Fund.

"(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

"(3) Projects under this subsection may include efforts to—

"(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

"(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

"(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

"(b)(1) The Administrator shall—

"(A) establish procedures for accepting and reviewing proposals for funding;

"(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

"(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

"(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

"(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

"(B) Projects shall adhere to fundamental capital planning and investment control processes.

"(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

"(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

"(E) Agencies shall assess the results of funded projects.

"(c) In determining which proposals to recommend for funding, the Administrator—

"(1) shall consider criteria that include whether a proposal—

"(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

"(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

"(C) ensures proper security and protects privacy;

"(D) is interagency in scope, including projects implemented by a primary or single agency that—

"(i) could confer benefits on multiple agencies; and

"(ii) have the support of other agencies; and

"(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

"(2) may also rank proposals based on criteria that include whether a proposal—

"(A) has Governmentwide application or implications;

"(B) has demonstrated support by the public to be served;

"(C) integrates Federal with State, local, or tribal approaches to service delivery;

"(D) identifies resource commitments from nongovernmental sectors;

"(E) identifies resource commitments from the agencies involved;

"(F) uses web-based technologies to achieve objectives;

"(G) identifies records management and records access strategies;

"(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

"(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

"(J) supports integrated service delivery;

"(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

"(L) is new or innovative and does not supplant existing funding streams within agencies.

"(d) The Fund may be used to fund the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

"(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

"(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

"(2) The report under paragraph (1) shall describe—

"(A) all projects which the Director has approved for funding from the Fund; and

"(B) the results that have been achieved to date for these funded projects.

"(g)(1) There are authorized to be appropriated to the Fund—

"(A) $45,000,000 for fiscal year 2003;

"(B) $50,000,000 for fiscal year 2004;

"(C) $100,000,000 for fiscal year 2005;

"(D) $150,000,000 for fiscal year 2006; and

"(E) such sums as are necessary for fiscal year 2007.

"(2) Funds appropriated under this subsection shall remain available until expended.

"§ 3605. E-Government report

"(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(b) The report under subsection (a) shall contain—

"(1) a summary of the information reported by agencies under section 3202(f) of the E-Government Act of 2002;

"(2) the information required to be reported by section 3604(f); and

"(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

"36. Management and Promotion of Electronic Government Services .. 3601".

SEC. 3102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by inserting after section 112 the following:

"SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

"The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 112 the following:

"Sec. 113. Electronic Government and information technologies.".

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) Chair the Chief Information Officers Council established under section 3603 of title 44.".

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

"§ 507. Office of Electronic Government

"The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

"507. Office of Electronic Government.".

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 3201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 3202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this division (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this division by the Director, and the information technology standards promulgated under this division by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 3204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this division shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) SPONSORED ACTIVITIES.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this division by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-GOVERNMENT STATUS REPORT.—

(1) IN GENERAL.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) SUBMISSION.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) USE OF TECHNOLOGY.—Nothing in this division supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) NATIONAL SECURITY SYSTEMS.—

(1) INAPPLICABILITY.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

(2) APPLICABILITY.—Sections 3202, 3203, 3210, and 3214 of this title do apply to national security systems to the extent practicable and consistent with law.

SEC. 3203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) PURPOSE.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) AUTHORITY FOR ELECTRONIC SIGNATURES.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, $8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3204. FEDERAL INTERNET PORTAL.

(a) IN GENERAL.—

(1) PUBLIC ACCESS.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) CRITERIA.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 3205. FEDERAL COURTS.

(a) Individual Court Websites.—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) Maintenance of Data Online.—

(1) Update of information.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) Closed cases.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) Electronic Filings.—

(1) In general.—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) Exceptions.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) Privacy and security concerns.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) Dockets With Links to Documents.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) Cost of Providing Electronic Docketing Information.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary,".

(f) Time Requirements.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) Deferral.—

(1) In general.—

(A) Election.—

(i) Notification.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) Contents.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) Exception.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) Report.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 3206. REGULATORY AGENCIES.

(a) Purposes.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) Information Provided by Agencies Online.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) Submissions by Electronic Means.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) Electronic Docketing.—

(1) In general.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) Information available.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) Time Limitation.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 3207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) Purpose.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) Definitions.—In this section, the term—

(1) "Committee" means the Interagency Committee on Government Information established under subsection (c); and

(2) "directory" means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) Interagency Committee.—

(1) Establishment.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) Membership.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) Functions.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) Termination.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) Categorizing of Information.—

(1) Committee functions.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) Functions of the director.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) Modification of policies.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) Agency functions.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) Public Access to Electronic Information.—

(1) Committee functions.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) Functions of the archivist.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) Modification of policies.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) Agency functions.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) Availability of Government Information on the Internet.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 3202(g).

(2) Update.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(g) Access to Federally Funded Research and Development.—

(1) Development and maintenance of governmentwide repository and website.—

(A) Repository and website.—The Director of the National Science Foundation, working with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development center; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) Oversight.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) Agency functions.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) Committee functions.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) Functions of the director.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(5) Authorization of appropriations.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(h) Public Domain Directory of Public Federal Government Websites.—

(1) Establishment.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of public Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 3204.

(2) Development.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

(i) agency librarians;

(ii) information technology managers;

(iii) program managers;

(iv) records managers;

(v) Federal depository librarians; and

(vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(3) Update.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(i) STANDARDS FOR AGENCY WEBSITES.—Not later than 18 months after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

(A) speed of retrieval of search results;

(B) the relevance of the results;

(C) tools to aggregate and disaggregate data; and

(D) security protocols to protect information.

SEC. 3208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 3209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(c) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this section, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term "geographic information" means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 3211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 5311 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 692; 40 U.S.C. 1491) is amended—

(1) in subsection (a)—

(A) by striking "the heads of two executive agencies to carry out" and inserting "heads of executive agencies to carry out a total of 5 projects under";

(B) by striking "and" at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting "; and"; and

(D) by adding at the end the following:

"(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

"(A) to retain, until expended, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

"(i) the total amount of the savings; over

"(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

"(B) to use the retained amount to acquire additional information technology.";

(2) in subsection (b)—

(A) by inserting "a project under" after "authorized to carry out"; and

(B) by striking "carry out one project and"; and

(3) in subsection (c), by inserting before the period "and the Administrator for the Office of Electronic Government"; and

(4) by inserting after subsection (c) the following:

"(d) Report.—

"(1) In general.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(2) Contents.—The report under paragraph (1) shall include—

"(A) a description of the reduced costs and other measurable benefits of the pilot projects;

"(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

"(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.".

SEC. 3212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) Purposes.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) Definitions.—In this section, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) "person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) Report.—

(1) In general.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) Contents.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) Pilot Projects To Encourage Integrated Collection and Management of Data and Interoperability of Federal Information Systems.—

(1) In general.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) Goals of pilot projects.—

(A) In general.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) Goals.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) Input.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) Privacy Protections.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b)(6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 3213. COMMUNITY TECHNOLOGY CENTERS.

(a) Purposes.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) Study and Report.—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) Contents.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) Cooperation.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) Assistance.—

(1) In general.—The Secretary of the Department of Education shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) Types of assistance.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) Online Tutorial.—

(1) In general.—The Secretary of Education, in consultation with the Director of the Institute of Museum and Library Services, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) Distribution.—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) Promotion of Community Technology Centers.—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) Authorization of Appropriations.—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 3214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) Purpose.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) In General.—

(1) Study on enhancement of crisis response.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) Contents.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) Report.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) Interagency cooperation.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) Authorization of appropriations.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) Pilot Projects.—Based on the results of the research conducted under subsection (b), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 3215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) Study and Report.—

(1) Study.—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) Report.—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) Contents.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) Recommendations.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the National Science Foundation $950,000 in fiscal year 2003 to carry out this section.

SEC. 3216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this division (including any amendment made by this division) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

SEC. 3301. INFORMATION SECURITY.

(a) Addition of Short Title.—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-266) is amended by inserting after the heading for the subtitle the following new section:

"**SEC. 1060. SHORT TITLE.**

"This subtitle may be cited as the 'Government Information Security Reform Act'.".

(b) Continuation of Authority.—

(1) In general.—Section 3536 of title 44, United States Code, is repealed.

(2) Technical and conforming amendment.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title XXXI or XXXII, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles XXXI and XXXII for each of fiscal years 2003 through 2007.

SEC. 3402. EFFECTIVE DATES.

(a) Titles XXXI and XXXII.—

(1) In general.—Except as provided under paragraph (2), titles XXXI and XXXII and the

amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 3207, 3214, 3215, and 3216 shall take effect on the date of enactment of this Act.

(b) TITLES XXXIII AND XXXIV.—Title XXXIII and this title shall take effect on the date of enactment of this Act.

DIVISION E—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

TITLE XLI—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

SECTION 4101. SHORT TITLE.

This title may be cited as the "Arming Pilots Against Terrorism and Cabin Defense Act of 2002".

SEC. 4102. FINDINGS.

Congress makes the following findings:

(1) Terrorist hijackers represent a profound threat to the American people.

(2) According to the Federal Aviation Administration, between 33,000 and 35,000 commercial flights occur every day in the United States.

(3) The Aviation and Transportation Security Act (Public Law 107–71) mandated that air marshals be on all high risk flights such as those targeted on September 11, 2001.

(4) Without air marshals, pilots and flight attendants are a passenger's first line of defense against terrorists.

(5) A comprehensive and strong terrorism prevention program is needed to defend the Nation's skies against acts of criminal violence and air piracy. Such a program should include—

(A) armed Federal air marshals;

(B) other Federal agents;

(C) reinforced cockpit doors;

(D) properly-trained armed pilots;

(E) flight attendants trained in self-defense and terrorism prevention; and

(F) electronic communications devices, such as real-time video monitoring and hands-free wireless communications devices to permit pilots to monitor activities in the cabin.

SEC. 4103. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44921. Federal flight deck officer program

"(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish a program to deputize qualified pilots of commercial cargo or passenger aircraft who volunteer for the program as Federal law enforcement officers to defend the flight decks of commercial aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'. The program shall be administered in connection with the Federal air marshal program.

"(b) QUALIFIED PILOT.—Under the program described in subsection (a), a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

"(1) is employed by an air carrier;

"(2) has demonstrated fitness to be a Federal flight deck officer in accordance with regulations promulgated pursuant to this title; and

"(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

"(c) TRAINING, SUPERVISION, AND EQUIPMENT.—The Under Secretary of Transportation for Security shall provide or make arrangements for training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot. Such training, qualifications, curriculum, and equipment shall be consistent with and equivalent to those required of Federal law enforcement officers and shall include periodic re-qualification as determined by the Under Secretary. The Under Secretary may approve private training programs which meet the Under Secretary's specifications and guidelines. Air carriers shall make accommodations to facilitate the training of their pilots as Federal flight deck officers and shall facilitate Federal flight deck officers in the conduct of their duties under this program.

"(d) DEPUTIZATION.—

"(1) IN GENERAL.—The Under Secretary of Transportation for Security shall train and deputize, as a Federal flight deck officer under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

"(2) INITIAL DEPUTIZATION.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

"(3) FULL IMPLEMENTATION.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

"(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

"(f) AUTHORITY TO CARRY FIREARMS.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer under this section to carry a firearm to defend the flight deck of a commercial passenger or cargo aircraft while engaged in providing air transportation or intrastate air transportation. No air carrier may prohibit a Federal flight deck officer from carrying a firearm in accordance with the provisions of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

"(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of a commercial aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

"(h) LIMITATION ON LIABILITY.—

"(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

"(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

"(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an 'employee of the Government while acting within the scope of his office or employment' with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy, for purposes of sections 1346(b), 2401(b), and 2671 through 2680 of title 28 United States Code.

"(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

"(j) PILOT DEFINED.—In this section, the term 'pilot' means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.".

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting after the item relating to section 44920 the following new item:

"44921. Federal flight deck officer program.".

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

(A) by aligning clause (iii) with clause (ii);

(B) by striking "and" at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting "; and"; and

(D) by adding at the end the following:

"(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.".

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is repealed.

SEC. 4104. CABIN SECURITY.

(a) TECHNICAL AMENDMENTS.—Section 44903, of title 49, United States Code, is amended—

(1) by redesignating subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of public law 107–71) as subsection (j); and

(2) by redesignating subsection (h) (relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as added by section 144 of public law 107–71) as subsection (k).

(b) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) IN GENERAL.—

"(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

"(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of

2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary. In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation. The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use force. Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.”;

(2) by striking subsection (b), and inserting the following new subsection:

“(b) Program Elements.—

“(1) In general.—The requirements prescribed under subsection (a) shall include, at a minimum, 28 hours of self-defense training that incorporates classroom and situational training that contains the following elements:

“(A) Determination of the seriousness of any occurrence.

“(B) Crew communication and coordination.

“(C) Appropriate responses to defend oneself, including a minimum of 16 hours of hands-on training, with reasonable and effective requirements on time allotment over a 4 week period, in the following levels of self-defense:

“(i) awareness, deterrence, and avoidance;

“(ii) verbalization;

“(iii) empty hand control;

“(iv) intermediate weapons and self-defense techniques; and

“(v) deadly force.

“(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator or Under Secretary).

“(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

“(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

“(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

“(2) Program elements for instructors.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

“(A) A certification program for the instructors who will provide the training described in paragraph (1).

“(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

“(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after receiving the requirements described in subsection (a).

“(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

“(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

“(3) Recurrent training.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

“(4) Initial training.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

“(5) Communication devices.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck.

“(6) Real-time video monitoring.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

“(A) maximizing the security of the flight deck;

“(B) enhancing the safety of the flight deck crew;

“(C) protecting the safety of the passengers and crew;

“(D) preventing acts of criminal violence or air piracy;

“(E) the cost of the program;

“(F) privacy concerns; and

“(G) the feasibility of installing such a device in the flight deck.”; and

(3) by adding at the end the following new subsections:

“(f) Rulemaking Authority.—Notwithstanding subsection (j) (relating to authority to arm flight deck crew with less than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

“(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

“(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

“(g) Limitation on Liability.—

“(1) Air carriers.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

“(2) Training instructors and cabin crew.—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.”.

(c) Nonlethal Weapons for Flight Attendants.—

(1) Study.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a nonlethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) Report.—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).

SEC. 4105. PROHIBITION ON OPENING COCKPIT DOORS IN FLIGHT.

(a) In General.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“§44917. Prohibition on opening cockpit doors in flight

“(a) In General.—The door to the flight deck of any aircraft engaged in passenger air transportation or interstate air transportation that is required to have a door between the passenger and pilot compartment under title 14, Code of Federal Regulations, shall remain closed and locked at all times during flight, except for mechanical or physiological emergencies.

“(b) Mantrap Door Exception.—It shall not be a violation of subsection (a) for an authorized person to enter or leave the flight deck during flight of any aircraft described in subsection (a) that is equipped with double doors between the flight deck and the passenger compartment that are designed so that—

“(1) any person entering or leaving the flight deck is required to lock the first door through which that person passes before the second door can be opened; and

“(2) the flight crew is able to monitor by remote camera the area between the 2 doors and prevent the door to the flight deck from being unlocked from that area.”.

(b) Conforming Amendment.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by inserting after the item relating to section 44916 the following:

“44917. Prohibition on opening cockpit doors in flight.”.

(c) Effective Date.—The amendments made by this section shall take effect 1 day after the date of enactment of this Act.

SA 4826. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 172. AIRLINE PASSENGER SCREENING.

Section 44901(b) of title 49, United States Code, is amended—

(1) by striking “All screening of passengers” and inserting:

“(1) In general.—All screening of passengers”; and

(2) by adding at the end the following:

“(2) Treatment of passengers.—Screening of passengers under this section shall be carried out in a manner that—

“(A) is not abusive or unnecessarily intrusive;

“(B) ensures protection of the passenger's personal property; and

“(C) provides adequate privacy for the passenger, if the screening involves the removal of clothing (other than shoes) or a search under the passenger's clothing.”.

SA 4827. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . NATIONAL DEFENSE RAIL CONNECTION.

(a) FINDINGS.—Congress finds that—

(1) A comprehensive rail transportation network is a key element of an integrated transportation system for the North American continent, and federal leadership is required to address the needs of a reliable, safe, and secure rail network, and to connect all areas of the United States for national defense and economic development, as previously done for the interstate highway system, the Federal aviation network, and the transcontinental railroad;

(2) The creation and use of joint use corridors for rail transportation, fiber optics, pipelines, and utilities are an efficient and appropriate approach to optimizing the nation's interconnectivity and national security;

(3) Government assistance and encouragement in the development of the transcontinental rail system successfully led to the growth of economically strong and socially stable communities throughout the western United States;

(4) Government assistance and encouragement in the development of the Alaska Railroad between Seward, Alaska and Fairbanks, Alaska successfully led to the growth of economically strong and socially stable communities along the route, which today provide homes for over 70% of Alaska's total population;

(5) While Alaska and the remainder of the continental United States has been connected by highway and air transportation, no rail connection exists despite the fact that Alaska is accessible by land routes and is a logical destination for the North American rail system;

(6) Rail transportation in otherwise isolated areas is an appropriate means of providing controlled access, reducing overall impacts to environmentally sensitive areas over other methods of land-based access;

(7) Because Congress originally authorized 1,000 miles of rail line to be built in Alaska, and because the system today covers only approximately half that distance, substantially limiting its beneficial effect on the economy of Alaska and the nation, it is appropriate to support the expansion of the Alaska system to ensure the originally planned benefits are achieved;

(8) Alaska has an abundance of natural resources, both material and aesthetic, access to which would significantly increase Alaska's contribution to the national economy;

(9) Alaska contains many key national defense installations, including sites chosen for the construction of the first phase of the National Missile Defense system, the cost of which could be significantly reduced if rail transportation were available for the movement of materials necessary for construction and for the secure movement of launch vehicles, fuel and other operational supplies;

(10) The 106th Congress recognized the potential benefits of establishing a rail connection to Alaska by enacting legislation to authorize a U.S.—Canada bilateral commission to study the feasibility of linking the rail system in Alaska to the nearest appropriate point in Canada of the North American rail network; and

(11) In support of pending bilateral activities between the United States and Canada, it is appropriate for the United States to undertake activities relating to elements within the United States.

(b) IDENTIFICATION OF NATIONAL DEFENSE RAILROAD-UTILITY CORRIDOR.—

(1) Within one year from the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of Transportation, the State of Alaska and the Alaska Railroad Corporation, shall identify a proposed national defense railroad-utility corridor linking the existing corridor of the Alaska Railroad to the vicinity of the proposed National Missile Defense facilities at Fort Greely, Alaska. The corridor shall be at least 500 feet wide and shall also identify land for such terminals, stations, maintenance facilities, switching yards, and material sites as are considered necessary.

(2) The identification of the corridor under paragraph (1) shall include information providing a complete legal description for and noting the current ownership of the proposed corridor and associated land.

(3) In identifying the corridor under paragraph (1), The Secretary shall consider, at a minimum, the following factors:

(A) The proximity of national defense installations and national defense considerations;

(B) The location of and access to natural resources that could contribute to economic development of the region;

(C) Grade and alignment standards that are commensurate with rail and utility construction standards and that minimize the prospect of at-grade railroad and highway crossings;

(D) Availability of construction materials;

(E) Safety;

(F) Effects on and service to adjacent communities and potential intermodal transportation connections;

(G) Environmental concerns;

(H) Use of public land to the maximum degree possible;

(I) Minimization of probable construction costs;

(J) An estimate of probable construction costs and methods of financing such costs through a combination of private, state, and federal sources; and

(K) Appropriate utility elements for the corridor, including but not limited to petroleum product pipelines, fiber-optic telecommunication facilities, and electrical power transmission lines, and

(L) Prior and established traditional uses.

(4) The Secretary may, as part of the corridor identification, include issues related to the further extension of such corridor to a connection with the nearest appropriate terminus of the North American rail network in Canada.

(c) NEGOTIATION AND LAND TRANSFER.—

(1) The Secretary of the Interior shall—

(A) upon completion of the corridor identification in subsection (b), negotiate the acquisition of any lands in the corridor which are not federally owned through an exchange for lands of equal or greater value held by the federal government elsewhere in Alaska; and

(B) upon completion of the acquisition of lands under paragraph (A), the Secretary shall convey to the Alaska Railroad Corporation, subject to valid existing rights, title to the lands identified under subsection (b) as necessary to complete the national defense railroad-utility corridor, on condition that the Alaska Railroad Corporation construct in the corridor an extension of the railroad system to the vicinity of the proposed national missile defense installation at Fort Greely, Alaska, together with such other utilities, including but not limited to fiber-optic transmission lines and electrical transmission lines, as it considers necessary and appropriate. The Federal interest in lands conveyed to the Alaska Railroad Corporation under this Act shall be the same as in lands conveyed pursuant to the Alaska Railroad Transfer Act (45 U.S.C. 1201 et seq.).

(d) APPLICABILITY OF OTHER LAWS.—

Actions authorized in this Act shall proceed immediately and to conclusion not withstanding the land-use planning provisions of Section 202 of the Federal Land Policy and Management Act of 1976, P.L. 94-579.

(e) AUTHORIZATOIN OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SA 4828. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FOOD AND DRINKING WATER SUPPLY SECURITY PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) section 413 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5180) authorizes the purchase of food commodities to provide adequate supplies of food for use in any area of the United States in the event of a major disaster or emergency in the area;

(2) the current terrorist threat was not envisioned when that Act was enacted, and the Act does not specifically require pre-positioning of food supplies;

(3) the maintenance of safe food and drinking water supplies is essential;

(4) stored food supplies for major cities are minimal;

(5) if terrorist activity were to disrupt the transportation system, affect food supplies directly, or create a situation in which a quarantine would have to be declared, it would require a considerable period of time to ensure delivery of safe food supplies;

(6) terrorist activity could also disrupt drinking water supplies; and

(7) accordingly, emergency food and drinking water repositories should be established at such locations as will ensure the availability of food and drinking water to populations in areas that are vulnerable to terrorist activity.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report with information necessary to the establishment of secure prepositioned emergency supplies of food and drinking water for major population centers for use in the event of a breakdown in the food supply and delivery chain.

(2) CONSIDERATIONS.—The report shall consider the likelihood of such breakdowns occurring from accidents and natural disasters as well as terrorist activity.

(3) CONTENTS.—The report shall—

(A) Identify the 20 most vulnerable metropolitan areas or population concentrations in the United States; and

(B) make recommendations regarding the appropriate number of days' supply of food to be maintained to ensure the security of the population in each such area.

(c) REPOSITORIES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall establish secure repositories for food and drinking water in each of the 20 areas identified in the report.

(2) ACCESSIBILITY.—The repositories shall be locally accessible without special equipment in the event of a major transportation breakdown.

(d) PURCHASE OF SUPPLIES.—

(1) IN GENERAL.—The Secretary of Agriculture shall purchase and maintain food and water stocks for each repository, consistent with determinations made by the Secretary of Homeland Security.

(2) PHASING IN.—Purchases and full stocking of repositories may be phased in over a period of not more than 3 years.

(3) PRODUCTS OF THE UNITED STATES.—The Secretary of Agriculture shall purchase for the repositories food and water supplies produced, processed, and packaged exclusively in the United States.

(4) SELECTION.—Food and water supplies for the repositories shall be selected and managed so as to provide—

(A) quantities and packaging suitable for immediate distribution to individuals and families;

(B) forms of food products suitable for immediate consumption in an emergency without heating and without further preparation;

(C) packaging that ensures that food products are maximally resistant to post-production contamination or adulteration;

(D) packaging and preservation technology to ensure that the quality of stored food and water is maintained for a minimum of 4 years at ambient temperatures;

(E) a range of food products, including meats, seafood, dairy, and vegetable (including fruit and grain) products, emphasizing, insofar as practicable—

(i) food products that meet multiple nutritional needs, such as those composed primarily of high-quality protein in combination with essential minerals; and

(ii) food products with a high ratio of nutrient value to cost;

(F) rotation of stock, in repositories on a regular basis at intervals of not longer than 3 years; and

(G) use of stocks of food being rotated out of repositories for other suitable purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 4829. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . AGE AND OTHER LIMITATIONS.

(a) GENERAL.—Notwithstanding any other provision of law, beginning on the date that is 6 months after the date of enactment of this Act—

(1) section 121.383(c) of title 14, Code of Federal Regulations, shall not apply;

(2) no certificate holder may use the services of any person as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 63 years of age or older; and

(3) no person may serve as a pilot on an airplane engaged in operations under part 121 of title 14, Code of Federal Regulations, if that person is 63 years of age or older.

(b) CERTIFICATE HOLDER.—For purposes of this section, the term "certificate holder" means a holder of a certificate to operate as an air carrier or commercial operator issued by the Federal Aviation Administration.

(c) RESERVATION OF SAFETY AUTHORITY.—Nothing in this section is intended to change the authority of the Federal Aviation Administration to take steps to ensure the safety of air transportation operations involving a pilot who has reached the age of 60, including its authority—

(1) to require such a pilot to undergo additional or more stringent medical, cognitive, or proficiency testing in order to retain certification; or

(2) to establish crew pairing standards for crews with such a pilot.

SA 4830. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 220, strike line 21 and all that follows through line 25 on page 230 and insert the following:

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Unaccompanied Alien Child Protection Act of 2002".

SEC. 1202. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) DIRECTOR.—The term "Director" means the Director of the Office.

(2) OFFICE.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act.

(3) SERVICE.—The term "Service" means the Immigration and Naturalization Service (or; upon the effective date of title XI, the Directorate of Immigration Affairs).

(4) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security (or, prior to the effective date of title XI, the Attorney General).

(5) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(6) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children as licensed by the appropriate State and certified by the Director of the Office of Refugee Resettlement.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(53) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(54) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

Subtitle A—Structural Changes

SEC. 1211. RESPONSIBILITIES OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—

(1) RESPONSIBILITIES OF THE OFFICE.—The Office shall be responsible for—

(A) coordinating and implementing the care and placement for unaccompanied alien children who are in Federal custody by reason of their immigration status; and

(B) ensuring minimum standards of detention for all unaccompanied alien children.

(2) DUTIES OF THE DIRECTOR WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.—The Director shall be responsible under this title for—

(A) ensuring that the best interests of the child are considered in decisions and actions relating to the care and placement of an unaccompanied alien child;

(B) making placement, release, and detention determinations for all unaccompanied alien children in the custody of the Office;

(C) implementing the placement, release, and detention determinations made by the Office;

(D) convening, in the absence of the Assistant Secretary, Administration for Children and Families of the Department of Health and Human Services, the Interagency Task Force on Unaccompanied Alien Children established in section 1212;

(E) identifying a sufficient number of qualified persons, entities, and facilities to house unaccompanied alien children in accordance with sections 1222 and 1223;

(F) overseeing the persons, entities, and facilities described in sections 1222 and 1223 to ensure their compliance with such provisions;

(G) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to contract with the Office to provide the services described in sections 1231 and 1232;

(H) maintaining statistical information and other data on unaccompanied alien children in the Office's custody and care, which shall include—

(i) biographical information such as the child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody, including each instance in which such child came into the custody of—

(I) the Service; or

(II) the Office;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the detention; and

(v) the disposition of any actions in which the child is the subject;

(I) collecting and compiling statistical information from the Service, including Border Patrol and inspections officers, on the unaccompanied alien children with whom they come into contact; and

(J) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (3)(F), the Director is encouraged to utilize the refugee children foster care system established under section 412(d)(2) of the Immigration and Nationality Act for the placement of unaccompanied alien children.

(4) POWERS.—In carrying out the duties under paragraph (3), the Director shall have the power to—

(A) contract with service providers to perform the services described in sections 1222, 1223, 1231, and 1232; and

(B) compel compliance with the terms and conditions set forth in section 1223, including the power to terminate the contracts of providers that are not in compliance with such conditions and reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(5) AUTHORITY TO HIRE PERSONNEL.—The Director is authorized to hire and fix the level of compensation of an adequate number of personnel to carry out the duties of the Office. In hiring such personnel, the Director may seek the transfer of personnel employed by the Department of Justice in connection with the functions transferred by section 1213.

(b) NO EFFECT ON SERVICE, EOIR, AND DEPARTMENT OF STATE ADJUDICATORY RESPONSIBILITIES.—Nothing in this title may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act from the authority of any official of the Service, the Executive Office of Immigration Review (or successor entity), or the Department of State.

SEC. 1212. ESTABLISHMENT OF INTERAGENCY TASK FORCE ON UNACCOMPANIED ALIEN CHILDREN.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Unaccompanied Alien Children.

(b) COMPOSITION.—The Task Force shall consist of the following members:

(1) The Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(2) The Commissioner of Immigration and Naturalization (or, upon the effective date of title XI, the Under Secretary of Homeland Security for Immigration Affairs).

(3) The Assistant Secretary of State for Population, Refugees, and Migration.

(4) The Director.

(5) Such other officials in the executive branch of Government as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(d) ACTIVITIES OF THE TASK FORCE.—In consultation with nongovernmental organizations, the Task Force shall—

(1) measure and evaluate the progress of the United States in treating unaccompanied alien children in United States custody; and

(2) expand interagency procedures to collect and organize data, including significant research and resource information on the needs and treatment of unaccompanied alien children in the custody of the United States Government.

SEC. 1213. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions with respect to the care and custody of unaccompanied alien children under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component thereof), immediately prior to the effective date of this subtitle, are transferred to the Office.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.—The liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect on the effective date of division A of this Act.

Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1221. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act; and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—

(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(ii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iii) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right.

(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.—

(1) ESTABLISHMENT OF JURISDICTION.—

(A) IN GENERAL.—Except as otherwise provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act, while such charges are pending; or

(ii) has been convicted of any such felony.

(C) EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence that such child endangers the national security of the United States.

(D) TRAFFICKING VICTIMS.—For the purposes of this Act, an unaccompanied alien child who is receiving services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386), shall be considered to be in the custody of the Office.

(2) NOTIFICATION.—Upon apprehension of an unaccompanied alien child, the Secretary shall promptly notify the Office.

(3) TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.—

(A) TRANSFER TO THE OFFICE.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child; or

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), immediately following a determination that the child no longer meets the description set forth in such paragraph.

(B) TRANSFER TO THE SERVICE.—Upon determining that a child in the custody of the Office is described in paragraph (1) (B) or (C), the Director shall promptly make arrangements to transfer the care and custody of such child to the Service.

(c) AGE DETERMINATIONS.—In any case in which the age of an alien is in question and the resolution of questions about such alien's age would affect the alien's eligibility for treatment under the provisions of this title, a determination of whether such alien meets the age requirements of this title shall be made in accordance with the provisions of section 1225.

SEC. 1222. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) PLACEMENT AUTHORITY.—

(1) ORDER OF PREFERENCE.—Subject to the Director's discretion under paragraph (4) and section 1223(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with one of the following individuals in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the child's well-being.

(E) A State-licensed juvenile shelter, group home, or foster home willing to accept legal custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

(2) HOME STUDY.—Notwithstanding the provisions of paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid home-study conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such a study, or by an appropriate voluntary agency contracted with the Office to conduct such studies has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Programme of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—

(A) POLICIES.—The Director shall establish policies to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(B) CRIMINAL INVESTIGATIONS AND PROSECUTIONS.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of being involved in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

(C) DISCIPLINARY ACTION.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of being involved in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member or other appropriate disciplinary authorities for appropriate disciplinary action that may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(5) GRANTS AND CONTRACTS.—Subject to the availability of appropriations, the Director is authorized to make grants to, and enter into contracts with, voluntary agencies to carry out the provisions of this section.

(6) REIMBURSEMENT OF STATE EXPENSES.—Subject to the availability of appropriations, the Director is authorized to reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title.

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person listed in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

SEC. 1223. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—In the case of a placement of a child with an entity described in section 1222(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Such regulations shall provide that all children are notified orally and in writing of such standards.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) Rule of Construction.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 1224. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) Country Conditions.—

(1) Sense of congress.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) Assessment of conditions.—

(A) In general.—The Office shall conduct assessments of country conditions to determine the extent to which the country to which a child is being repatriated has a child welfare system capable of ensuring the child's well being.

(B) Factors for assessment.—In assessing country conditions, the Office shall, to the maximum extent practicable, examine the conditions specific to the locale of the child's repatriation.

(b) Report on Repatriation of Unaccompanied Alien Children.—Beginning not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Judiciary Committees of the House of Representatives and Senate on the Director's efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(1) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(2) A description of the type of immigration relief sought and denied to such children.

(3) A statement of the nationalities, ages, and gender of such children.

(4) A description of the procedures used to effect the removal of such children from the United States.

(5) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(6) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 1225. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

The Director shall develop procedures that permit the presentation and consideration of a variety of forms of evidence, including testimony of a child and other persons, to determine an unaccompanied alien child's age for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge. Radiographs shall not be the sole means of determining age.

SEC. 1226. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the effective date of division A of this Act.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 1231. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM.

(a) Guardian Ad Litem.—

(1) Appointment.—The Director shall appoint a guardian ad litem who meets the qualifications described in paragraph (2) for each unaccompanied alien child in the custody of the Office not later than 72 hours after the Office assumes physical or constructive custody of such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) Qualifications of guardian ad litem.—

(A) In general.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) Prohibition.—A guardian ad litem shall not be an employee of the Service.

(3) Duties.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) ensure that the child's best interests are promoted while the child participates in, or is subject to, proceedings or actions under the Immigration and Nationality Act;

(F) ensure that the child understands such determinations and proceedings; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(4) Termination of appointment.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed,

(B) the child departs the United States,

(C) the child is granted permanent resident status in the United States,

(D) the child attains the age of 18, or

(E) the child is placed in the custody of a parent or legal guardian,

whichever occurs first.

(5) Powers.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings involving the child that are held in connection with proceedings under the Immigration and Nationality Act, and shall be given a reasonable opportunity to be present at such hearings; and

(E) shall be permitted to consult with the child during any hearing or interview involving such child.

(b) Training.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the circumstances and conditions that unaccompanied alien children face as well as in the various immigration benefits for which such a child might be eligible.

SEC. 1232. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO COUNSEL.

(a) Access to Counsel.—

(1) In general.—The Director shall ensure that all unaccompanied alien children in the custody of the Office or in the custody of the Service who are not described in section 1221(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) Pro bono representation.—To the maximum extent practicable, the Director shall utilize the services of pro bono attorneys who agree to provide representation to such children without charge.

(3) Government funded representation.—

(A) Appointment of competent counsel.—Notwithstanding section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) or any other provision of law, when no competent counsel is available to represent an unaccompanied alien child without charge, the Director shall appoint competent counsel for such child at the expense of the Government.

(B) Limitation on attorney fees.—Counsel appointed under subparagraph (A) may not be compensated at a rate in excess of the rate provided under section 3006A of title 18, United States Code.

(C) Assumption of the cost of government-paid counsel.—In the case of a child for whom counsel is appointed under subparagraph (A) who is subsequently placed in the physical custody of a parent or legal guardian, such parent or legal guardian may elect to retain the same counsel to continue representation of the child, at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

(4) Development of necessary infrastructures and systems.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(5) Contracting and grant making authority.—

(A) In general.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) Ineligibility for grants and contracts.—In making grants and entering into contracts with such agencies, the Director shall ensure that no such agency receiving funds under this subsection is a grantee or contractee for more than one of the following services:

(i) Services provided under section 1222.

(ii) Services provided under section 1231.

(iii) Services provided under paragraph (2).

(iv) Services provided under paragraph (3).

(b) Requirement of Legal Representation.—The Director shall ensure that all unaccompanied alien children have legal representation within 7 days of the child coming into Federal custody.

(c) Duties.—Counsel shall represent the unaccompanied alien child all proceedings and actions relating to the child's immigration status or other actions involving the Service and appear in person for all individual merits hearings before the Executive Office for Immigration Review (or its successor entity) and interviews involving the Service.

(d) Access to Child.—

(1) In general.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) Restriction on transfers.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(e) Termination of Appointment.—Counsel shall carry out the duties described in subsection (c) until—

(1) those duties are completed,

(2) the child departs the United States,

(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act,

(4) the child is granted protection under the Convention Against Torture,

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act,

(6) the child is granted permanent resident status in the United States, or

(7) the child attains 18 years of age, whichever occurs first.

(f) Notice to Counsel During Immigration Proceedings.—

(1) In general.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) Opportunity to consult with counsel.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(g) Access to Recommendations of Guardian Ad Litem.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) Effective Date.—This subtitle shall take effect 180 days after the effective date of division A of this Act.

(b) Applicability.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J Visa.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant under the age of 18 on the date of application who is present in the United States—

"(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration Affairs (or, prior to the effective date of title XI of the National Homeland Security and Combatting Terrorism Act of 2002, the Attorney General) that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) Adjustment of Status.—Section 245(h)(2) (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply,";

(2) in subparagraph (B), by striking the period and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) the Secretary of Homeland Security (or, prior to the effective date of title XI of the National Homeland Security and Combatting Terrorism Act of 2002, the Attorney General) may waive paragraph (2) (A) and (B) in the case of an offense which arose as a consequence of the child being unaccompanied.".

(c) Eligibility for Assistance.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), shall be eligible for all funds made available under section 412(d) of such Act until such time as the child attains the age designated in section 412(d)(2)(B) of such Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

SEC. 1242. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) Training of State and Local Officials and Certain Private Parties.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into currently existing education, training, or orientation modules or formats that are currently used by these professionals.

(b) Training of Service Personnel.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States border or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 1221(a)(2).

SEC. 1243. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) Sense of Congress.—Congress commends the Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the Service's implementation of such guidelines in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) Training.—The Secretary shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) Identifying Unaccompanied Refugee Children.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) Training on the Needs of Unaccompanied Refugee Children.—Section 207(f)(2) (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

(c) Model Guidelines on Legal Representation of Children.—

(1) Development of guidelines.—The Executive Office for Immigration Review (or its successor entity), in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration

proceedings based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(2) PURPOSE OF GUIDELINES.—Such guidelines shall be designed to help protect a child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(3) IMPLEMENTATION.—The Executive Office for Immigration Review (or its successor entity) shall adopt such guidelines and submit them for adoption by national, State, and local bar associations.

Subtitle F—Authorization of Appropriations

SEC. 1261. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SA 4831. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 220, strike line 21 and all that follows through line 25 on page 230 and insert the following:

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Unaccompanied Alien Child Protection Act of 2002".

SEC. 1202. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) DIRECTOR.—The term "Director" means the Director of the Office.

(2) OFFICE.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act.

(3) SERVICE.—The term "Service" means the Immigration and Naturalization Service (or, upon the effective date of title XI, the Directorate of Immigration Affairs).

(4) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security (or, prior to the effective date of title XI, the Attorney General).

(5) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(6) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children as licensed by the appropriate State and certified by the Director of the Office of Refugee Resettlement.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(53) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(54) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

Subtitle A—Structural Changes

SEC. 1211. RESPONSIBILITIES OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—

(1) RESPONSIBILITIES OF THE OFFICE.—The Office shall be responsible for—

(A) coordinating and implementing the care and placement for unaccompanied alien children who are in Federal custody by reason of their immigration status; and

(B) ensuring minimum standards of detention for all unaccompanied alien children.

(2) DUTIES OF THE DIRECTOR WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.—The Director shall be responsible under this title for—

(A) ensuring that the best interests of the child are considered in decisions and actions relating to the care and placement of an unaccompanied alien child;

(B) making placement, release, and detention determinations for all unaccompanied alien children in the custody of the Office;

(C) implementing the placement, release, and detention determinations made by the Office;

(D) convening, in the absence of the Assistant Secretary, Administration for Children and Families of the Department of Health and Human Services, the Interagency Task Force on Unaccompanied Alien Children established in section 1212;

(E) identifying a sufficient number of qualified persons, entities, and facilities to house unaccompanied alien children in accordance with sections 1222 and 1223;

(F) overseeing the persons, entities, and facilities described in sections 1222 and 1223 to ensure their compliance with such provisions;

(G) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to contract with the Office to provide the services described in sections 1231 and 1232;

(H) maintaining statistical information and other data on unaccompanied alien children in the Office's custody and care, which shall include—

(i) biographical information such as the child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody, including each instance in which such child came into the custody of—

(I) the Service; or

(II) the Office;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the detention; and

(v) the disposition of any actions in which the child is the subject;

(I) collecting and compiling statistical information from the Service, including Border Patrol and inspections officers, on the unaccompanied alien children with whom they come into contact; and

(J) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (3)(F), the Director is encouraged to utilize the refugee children foster care system established under section 412(d)(2) of the Immigration and Nationality Act for the placement of unaccompanied alien children.

(4) POWERS.—In carrying out the duties under paragraph (3), the Director shall have the power to—

(A) contract with service providers to perform the services described in sections 1222, 1223, 1231, and 1232; and

(B) compel compliance with the terms and conditions set forth in section 1223, including the power to terminate the contracts of providers that are not in compliance with such conditions and reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(5) AUTHORITY TO HIRE PERSONNEL.—The Director is authorized to hire and fix the level of compensation of an adequate number of personnel to carry out the duties of the Office. In hiring such personnel, the Director may seek the transfer of personnel employed by the Department of Justice in connection with the functions transferred by section 1213.

(b) NO EFFECT ON SERVICE, EOIR, AND DEPARTMENT OF STATE ADJUDICATORY RESPONSIBILITIES.—Nothing in this title may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act from the authority of any official of the Service, the Executive Office of Immigration Review (or successor entity), or the Department of State.

SEC. 1212. ESTABLISHMENT OF INTERAGENCY TASK FORCE ON UNACCOMPANIED ALIEN CHILDREN.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Unaccompanied Alien Children.

(b) COMPOSITION.—The Task Force shall consist of the following members:

(1) The Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(2) The Commissioner of Immigration and Naturalization (or, upon the effective date of title XI, the Under Secretary of Homeland Security for Immigration Affairs).

(3) The Assistant Secretary of State for Population, Refugees, and Migration.

(4) The Director.

(5) Such other officials in the executive branch of Government as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(d) ACTIVITIES OF THE TASK FORCE.—In consultation with nongovernmental organizations, the Task Force shall—

(1) measure and evaluate the progress of the United States in treating unaccompanied alien children in United States custody; and

(2) expand interagency procedures to collect and organize data, including significant research and resource information on the needs and treatment of unaccompanied alien

children in the custody of the United States Government.

SEC. 1213. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions with respect to the care and custody of unaccompanied alien children under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component thereof), immediately prior to the effective date of this subtitle, are transferred to the Office.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.—The liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect on the effective date of division A of this Act.

Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1221. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act; and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—

(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(ii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iii) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right.

(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.—

(1) ESTABLISHMENT OF JURISDICTION.—

(A) IN GENERAL.—Except as otherwise provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act, while such charges are pending; or

(ii) has been convicted of any such felony.

(C) EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence that such child endangers the national security of the United States.

(D) TRAFFICKING VICTIMS.—For the purposes of this Act, an unaccompanied alien child who is receiving services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386), shall be considered to be in the custody of the Office.

(2) NOTIFICATION.—Upon apprehension of an unaccompanied alien child, the Secretary shall promptly notify the Office.

(3) TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.—

(A) TRANSFER TO THE OFFICE.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child; or

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), immediately following a determination that the child no longer meets the description set forth in such paragraph.

(B) TRANSFER TO THE SERVICE.—Upon determining that a child in the custody of the Office is described in paragraph (1) (B) or (C), the Director shall promptly make arrangements to transfer the care and custody of such child to the Service.

(c) AGE DETERMINATIONS.—In any case in which the age of an alien is in question and the resolution of questions about such alien's age would affect the alien's eligibility for treatment under the provisions of this title, a determination of whether such alien meets the age requirements of this title shall be made in accordance with the provisions of section 1225.

SEC. 1222. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) PLACEMENT AUTHORITY.—

(1) ORDER OF PREFERENCE.—Subject to the Director's discretion under paragraph (4) and section 1223(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with one of the following individuals in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the child's well-being.

(E) A State-licensed juvenile shelter, group home, or foster home willing to accept legal custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

(2) HOME STUDY.—Notwithstanding the provisions of paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid home-study conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such a study, or by an appropriate voluntary agency contracted with the Office to conduct such studies has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Programme of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—

(A) POLICIES.—The Director shall establish policies to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(B) CRIMINAL INVESTIGATIONS AND PROSECUTIONS.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of being involved in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

(C) DISCIPLINARY ACTION.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of being involved in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member or other appropriate disciplinary authorities for appropriate disciplinary action that may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(5) GRANTS AND CONTRACTS.—Subject to the availability of appropriations, the Director is authorized to make grants to, and enter into contracts with, voluntary agencies to carry out the provisions of this section.

(6) REIMBURSEMENT OF STATE EXPENSES.—Subject to the availability of appropriations, the Director is authorized to reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title.

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person listed in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

SEC. 1223. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—In the case of a placement of a child with an entity described in section 1222(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Such regulations shall provide that all children are notified orally and in writing of such standards.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 1224. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) ASSESSMENT OF CONDITIONS.—

(A) IN GENERAL.—The Secretary of State shall include each year in the State Department Country Report on Human Rights an assessment of the degree to which each country protects children from smugglers and traffickers.

(B) FACTORS FOR ASSESSMENT.—The Office shall consult the State Department Country Report on Human Rights as one of the factors in assessing whether to repatriate an unaccompanied alien child to a particular country.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—Beginning not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Judiciary Committees of the House of Representatives and Senate on the Director's efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(1) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(2) A description of the type of immigration relief sought and denied to such children.

(3) A statement of the nationalities, ages, and gender of such children.

(4) A description of the procedures used to effect the removal of such children from the United States.

(5) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(6) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 1225. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

(a) IN GENERAL.—When the age of the alien is at issue, the Director shall develop procedures to determine the age of an alien who attests that he or she is under the age of 18. Such procedures shall permit the presentation of multiple forms of evidence, including testimony of the child, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge.

(b) PROHIBITION ON SOLE MEANS OF DETERMINING AGE.—Neither radiographs nor a child's attestation shall be used as the sole means of determining age for the purposes of determining a child's eligibility for treatment under this title.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the government.

SEC. 1226. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the effective date of division A of this Act.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 1231. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM.

(a) GUARDIAN AD LITEM.—

(1) APPOINTMENT.—The Director may, in the Director's discretion, appoint a guardian ad litem who meets the qualifications described in paragraph (2) for an unaccompanied alien child in the custody of the Office not later than 72 hours after the Office assumes physical or constructive custody of such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—

(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Service.

(3) DUTIES.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) ensure that the child's best interests are promoted while the child participates in, or is subject to, proceedings or actions under the Immigration and Nationality Act;

(F) ensure that the child understands such determinations and proceedings; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed,

(B) the child departs the United States,

(C) the child is granted permanent resident status in the United States,

(D) the child attains the age of 18, or

(E) the child is placed in the custody of a parent or legal guardian,

whichever occurs first.

(5) POWERS.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings involving the child that are held in connection with proceedings under the Immigration and Nationality Act, and shall be given a reasonable opportunity to be present at such hearings; and

(E) shall be permitted to consult with the child during any hearing or interview involving such child.

(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the circumstances and conditions that unaccompanied alien children face as well as in the various immigration benefits for which such a child might be eligible.

(c) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of the guardian ad litem provisions in this section.

(2) PURPOSE.—The purpose of the pilot program is to—

(A) study and assess the benefits of providing guardians ad litem to assist unaccompanied alien children involved in immigration proceedings;

(B) assess the most efficient and cost-effective means of implementing the guardian ad litem provisions in this section; and

(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.

(3) SCOPE OF PROGRAM.—

(A) The Director shall select three sites in which to operate the pilot program established by paragraph (1).

(B) To the greatest extent possible, each such site should have at least 25 children held in immigration custody at any given time.

(4) REPORT TO CONGRESS.—Not later than one year after the date on which the first pilot program established pursuant to paragraph (1) is established, the Director shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on subparagraphs (A) through (C) of paragraph (2).

SEC. 1232. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office or in the custody of the Service who are not described in section 1221(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of pro bono attorneys who agree to provide representation to such children without charge.

(3) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(4) CONTRACTING AND GRANTMAKING AUTHORITY.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) INELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with such agencies, the Director shall ensure that no such agency receiving funds under this subsection is a grantee or contractee for more than one of the following services:

(i) Services provided under section 1222.

(ii) Services provided under section 1231.

(iii) Services provided under paragraph (2).

(iv) Services provided under paragraph (3).

(b) REQUIREMENT OF LEGAL REPRESENTATION.—The Director shall ensure that all unaccompanied alien children have legal representation within 7 days of the child coming into Federal custody.

(c) DUTIES.—Counsel shall represent the unaccompanied alien child all proceedings and actions relating to the child's immigration status or other actions involving the Service and appear in person for all individual merits hearings before the Executive Office for Immigration Review (or its successor entity) and interviews involving the Service.

(d) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(e) TERMINATION OF APPOINTMENT.—Counsel shall carry out the duties described in subsection (c) until—

(1) those duties are completed,

(2) the child departs the United States,

(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act,

(4) the child is granted protection under the Convention Against Torture,

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act,

(6) the child is granted permanent resident status in the United States, or

(7) the child attains 18 years of age,

whichever occurs first.

(f) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(g) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect 180 days after the effective date of division A of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant under the age of 18 on the date of application who is present in the United States—

"(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration Affairs (or, prior to the effective date of title XI of the National Homeland Security and Combatting Terrorism Act of 2002, the Attorney General) that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2) (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply,";

(2) in subparagraph (B), by striking the period and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) the Secretary of Homeland Security (or, prior to the effective date of title XI of the National Homeland Security and Combatting Terrorism Act of 2002, the Attorney General) may waive paragraph (2) (A) and (B) in the case of an offense which arose as a consequence of the child being unaccompanied.".

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), shall be eligible for all funds made available under section 412(d) of such Act until such time as the child attains the age designated in section 412(d)(2)(B) of such Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

SEC. 1242. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into currently existing education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF SERVICE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States border or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 1221(a)(2).

SEC. 1243. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the Service's implementation of such guidelines in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) TRAINING.—The Secretary shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(f)(2) (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

(c) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(1) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review (or its successor entity), in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(2) PURPOSE OF GUIDELINES.—Such guidelines shall be designed to help protect a child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(3) IMPLEMENTATION.—The Executive Office for Immigration Review (or its successor entity) shall adopt such guidelines and submit them for adoption by national, State, and local bar associations.

Subtitle F—Authorization of Appropriations

SEC. 1261. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SA 4832. Mr. JEFFORDS (for himself, Mr. SMITH of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

Subtitle G—First Responder Terrorism Preparedness

SEC. 199A. SHORT TITLE.

This subtitle may be cited as the "First Responder Terrorism Preparedness Act of 2002".

SEC. 199B. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(3) to address issues relating to urban search and rescue task forces.

SEC. 199C. DEFINITIONS.

(a) MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

(b) WEAPON OF MASS DESTRUCTION.—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

"(11) WEAPON OF MASS DESTRUCTION.—The term 'weapon of mass destruction' has the meaning given the term in section 2302 of title 50, United States Code.".

SEC. 199D. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

"SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.

"(a) IN GENERAL.—There is established in the Federal Emergency Management Agency an office to be known as the 'Office of National Preparedness' (referred to in this section as the 'Office').

"(b) APPOINTMENT OF ASSOCIATE DIRECTOR.—

"(1) IN GENERAL.—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) COMPENSATION.—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) DUTIES.—The Office shall—

"(1) lead a coordinated and integrated overall effort to build, exercise, and ensure viable terrorism preparedness and response capability at all levels of government;

"(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

"(3) establish and coordinate an integrated capability for Federal, State, tribal, and local governments and emergency responders to plan for and address potential consequences of terrorism;

"(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

"(5) establish standards for a national, interoperable emergency communications and warning system;

"(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

"(7) carry out such other related activities as are approved by the Director.

"(d) DESIGNATION OF REGIONAL CONTACTS.—The Associate Director shall designate an officer or employee of the Federal Emergency Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

"(e) USE OF EXISTING RESOURCES.—In carrying out this section, the Associate Director shall—

"(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

"(2) consult with and use—

"(A) existing Federal interagency boards and committees;

"(B) existing government agencies; and

"(C) nongovernmental organizations.".

SEC. 199E. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

"SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

"(a) DEFINITIONS.—In this section:

"(1) FIRST RESPONDER.—The term 'first responder' means—

"(A) fire, emergency medical service, and law enforcement personnel; and

"(B) such other personnel as are identified by the Director.

"(2) LOCAL ENTITY.—The term 'local entity' has the meaning given the term by regulation promulgated by the Director.

"(3) PROGRAM.—The term 'program' means the program established under subsection (b).

"(b) PROGRAM TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

"(2) FEDERAL SHARE.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

"(3) FORMS OF ASSISTANCE.—Assistance provided under paragraph (1) may consist of—

"(A) grants; and

"(B) such other forms of assistance as the Director determines to be appropriate.

"(c) USES OF ASSISTANCE.—Assistance provided under subsection (b)—

"(1) shall be used—

"(A) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

"(B) to train first responders, consistent with guidelines and standards developed by the Director;

"(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

"(D) to develop, construct, or upgrade emergency operating centers;

"(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

"(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

"(G) to conduct exercises; and

"(H) to carry out such other related activities as are approved by the Director; and

"(2) shall not be used to provide compensation to first responders (including payment for overtime).

"(d) ALLOCATION OF FUNDS.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

"(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, $3,000,000; and

"(2) to each State (other than a State specified in paragraph (1))—

"(A) a base amount of $15,000,000; and

"(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

"(i) population;

"(ii) location of vital infrastructure, including—

"(I) military installations;

"(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

"(III) nuclear power plants;

"(IV) chemical plants; and

"(V) national landmarks; and

"(iii) proximity to international borders.

"(e) PROVISION OF FUNDS TO LOCAL GOVERNMENTS AND LOCAL ENTITIES.—

"(1) IN GENERAL.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

"(2) ALLOCATION OF FUNDS.—Under paragraph (1), a State shall allocate assistance to local governments and local entities within the State in accordance with criteria established by the Director, such as the criteria specified in subsection (d)(2)(B).

"(3) DEADLINE FOR PROVISION OF FUNDS.—Under paragraph (1), a State shall provide all assistance to local government and local entities not later than 45 days after the date on which the State receives the assistance.

"(4) COORDINATION.—Each State shall coordinate with local governments and local entities concerning the use of assistance provided to local governments and local entities under paragraph (1).

"(f) ADMINISTRATIVE EXPENSES.—

"(1) DIRECTOR.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

"(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

"(B)(i) for fiscal year 2003, $75,000,000; and

"(ii) for each of fiscal years 2004 through 2006, $50,000,000.

"(2) RECIPIENTS OF ASSISTANCE.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

"(g) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

"(h) REPORTS.—

"(1) ANNUAL REPORT TO THE DIRECTOR.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

"(2) EXERCISE AND REPORT TO CONGRESS.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

"(A) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

"(B) submit a report on the results of the exercise to—

"(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

"(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

"(i) Coordination.—

"(1) With federal agencies.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

"(A) the Administrator of the United States Fire Administration in connection with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A–360));

"(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)); and

"(C) other appropriate Federal agencies.

"(2) With Indian tribes.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

"(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

"(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.".

(b) Cost Sharing for Emergency Operating Centers.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting "(other than section 630)" after "carry out this title"; and

(2) by inserting "(other than section 630)" after "under this title".

SEC. 199F. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199E(a)) is amended by adding at the end the following:

"SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

"(a) Definitions.—In this section:

"(1) First responder.—The term 'first responder' has the meaning given the term in section 630(a).

"(2) Harmful substance.—The term 'harmful substance' means a substance that the President determines may be harmful to human health.

"(3) Program.—The term 'program' means a program described in subsection (b)(1).

"(b) Program.—

"(1) In general.—If the President determines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major disaster area under this Act, the President shall carry out a program with respect to the area for the protection, assessment, monitoring, and study of the health and safety of first responders.

"(2) Activities.—A program shall include—

"(A) collection and analysis of environmental and exposure data;

"(B) development and dissemination of educational materials;

"(C) provision of information on releases of a harmful substance;

"(D) identification of, performance of baseline health assessments on, taking biological samples from, and establishment of an exposure registry of first responders exposed to a harmful substance;

"(E) study of the long-term health impacts of any exposures of first responders to a harmful substance through epidemiological studies; and

"(F) provision of assistance to participants in registries and studies under subparagraphs (D) and (E) in determining eligibility for health coverage and identifying appropriate health services.

"(3) Participation in registries and studies.—

"(A) In general.—Participation in any registry or study under subparagraph (D) or (E) of paragraph (2) shall be voluntary.

"(B) Protection of privacy.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

"(4) Cooperative agreements.—The President may carry out a program through a cooperative agreement with a medical or academic institution, or a consortium of such institutions, that is—

"(A) located in close proximity to the major disaster area with respect to which the program is carried out; and

"(B) experienced in the area of environmental or occupational health and safety, including experience in—

"(i) conducting long-term epidemiological studies;

"(ii) conducting long-term mental health studies; and

"(iii) establishing and maintaining environmental exposure or disease registries.

"(c) Reports and Responses to Studies.—

"(1) Reports.—Not later than 1 year after the date of completion of a study under subsection (b)(2)(E), the President, or the medical or academic institution or consortium of such institutions that entered into the cooperative agreement under subsection (b)(4), shall submit to the Director, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Environmental Protection Agency a report on the study.

"(2) Changes in procedures.—To protect the health and safety of first responders, the President shall make such changes in procedures as the President determines to be necessary based on the findings of a report submitted under paragraph (1).".

SEC. 199G. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199F) is amended by adding at the end the following:

"SEC. 632. URBAN SEARCH AND RESCUE TASK FORCES.

"(a) Definitions.—In this section:

"(1) Urban search and rescue equipment.—The term 'urban search and rescue equipment' means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

"(2) Urban search and rescue task force.—The term 'urban search and rescue task force' means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

"(b) Assistance.—

"(1) Mandatory grants for costs of operations.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than $1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

"(2) Discretionary grants.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

"(A) operations in excess of the funds provided under paragraph (1);

"(B) urban search and rescue equipment;

"(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

"(D) training, including training for operating in an environment described in subparagraph (C);

"(E) transportation;

"(F) expansion of the urban search and rescue task force; and

"(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

"(3) Priority for funding.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

"(c) Grant Requirements.—The Director shall establish such requirements as are necessary to provide grants under this section.

"(d) Establishment of Additional Urban Search and Rescue Task Forces.—

"(1) In general.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

"(2) Requirement of full funding of existing urban search and rescue task forces.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.".

SEC. 199H. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

"(a) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 632).

"(2) Preparedness assistance for first responders.—There are authorized to be appropriated to carry out section 630—

"(A) $3,340,000,000 for fiscal year 2003; and

"(B) $3,458,000,000 for each of fiscal years 2004 through 2006.

"(3) URBAN SEARCH AND RESCUE TASK FORCES.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out section 632—

"(i) $160,000,000 for fiscal year 2003; and

"(ii) $42,000,000 for each of fiscal years 2004 through 2006.

"(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.".

SA 4833. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows;

On page 68, strike lines 14 through 23 and insert the following:

SEC. 134. FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) HOMELAND SECURITY DUTIES.—

(1) IN GENERAL.—The Federal Emergency Management Agency shall be responsible for the emergency preparedness and response functions of the Department.

(2) FUNCTION.—Except as provided in paragraph (3) and subsections (b) through (e), nothing in this Act affects the administration or administrative jurisdiction of the Federal Emergency Management Agency as in existence on the day before the date of enactment of this Act.

(3) DIRECTOR.—In carrying out responsibilities of the Federal Emergency Management Agency under all applicable law, the Director of the Federal Emergency Management Agency shall report—

(A) to the President directly, with respect to all matters relating to a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) to the Secretary, with respect to all other matters.

On page 69, strike lines 1 through 7 and insert the following:

(b) SPECIFIC RESPONSIBILITIES.—The Director of the Federal Emergency Management Agency shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities of the Department.

On page 69, line 23, strike "Creating a National Crisis Action Center to act" and inserting "Acting".

On page 72, line 4, strike "other".

On page 72, line 14, strike "Department" and insert "Federal Emergency Management Agency".

On page 72, strike lines 15 through 19.

On page 72, line 20, strike "(2)" and insert "(1)".

On page 72, line 23, strike "(3)" and insert "(2)".

On page 73, line 1, strike "(4)" and insert "(3)".

On page 73, line 17, strike "(5)" and insert "(4)".

On page 73, line 23, strike "(6)" and insert "(5)".

On page 74, strike lines 7 through 22 and insert the following:

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report

On page 75, between lines 2 and 3, insert the following:

(f) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

On page 114, strike lines 13 and 14.

On page 128, line 24, strike "134(b)(7)" and insert "134(b)".

SA 4834. Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows;

On page 11, line 8, strike "terrorism, natural disasters," and insert "terrorism".

On page 11, strike lines 6 through 13 and insert the following:

homeland threats within the United States; and

(C) reduce the vulnerability of the United States to terrorism and other homeland threats.

On page 12, line 23, strike "emergency preparedness and response,".

On page 13, strike lines 3 through 5 and insert the following:

transportation security and critical infrastructure protection.

On page 15, line 14, insert "and the Director of the Federal Emergency Management Agency" after "Defense".

On page 16, strike lines 13 through 16.

On page 16, line 17, strike "(15)" and insert "(14)".

On page 16, line 20, strike "(16)" and insert "(15)".

On page 16, line 24, strike "(17)" and insert "(16)".

On page 17, line 4, strike "(18)" and insert "(17)".

On page 17, line 8, strike "(19)" and insert "(18)".

Beginning on page 68, strike line 14 and all that follows through page 75, line 3.

On page 75, line 3, strike "**135**" and insert "**134**".

On page 103, line 13, strike "**136**" and insert "**135**".

On page 103, line 17, strike "**137**" and insert "**136**".

On page 109, line 10, strike "of the Department".

On page 112, line 5, strike "**138**" and insert "**137**".

On page 112, line 10, strike "**139**" and insert "**138**".

On page 112, between lines 4 and 5, insert the following:

(f) COORDINATION WITH FEDERAL EMERGENCY MANAGEMENT AGENCY.—

(1) IN GENERAL.—In carrying out all responsibilities of the Secretary under this section, the Secretary shall coordinate with the Director of the Federal Emergency Management Agency.

(2) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

On page 114, line 6, strike "**140**" and insert "**139**".

On page 114, strike lines 13 and 14.

On page 115, line 3, strike "in the Department" and insert "within the Federal Emergency Management Agency".

On page 116, line 21, strike "Department" and insert "Federal Emergency Management Agency".

Beginning on page 128, strike line 22 and all that follows through page 129, line 5, and insert the following:

(a) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this section.

(b) PUBLIC HEALTH EMERGENCY.—During the

On page 129, strike lines 15 and 16 and insert the following:

(c) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving,

On page 186, line 25, and page 187, line 1, strike "emergency preparation and response,".

On page 187, insert "emergency preparedness and response," after "assets,".

Beginning on page 161, strike line 19 and all that follows through page 162, line 2, and insert the following:

(b) BIENNIAL REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall submit to Congress a report assessing the resources and requirements of executive agencies relating to border security.

SA 4835. Mr. DEWINE (for himself, Mr. BINGAMAN, Mr. DORGAN, Mr. DOMENICI, Mr. THURMOND, Ms. CANTWELL, Mr. HELMS, Mr. ALLARD, Mr. LIEBERMAN, Mr. CARPER, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, line 20, strike "$75,695,000" and insert "$72,695,000".

On page 85, line 3, strike "$20,831,000" and insert "$17,831,000".

On page 85, line 19, strike "$921,741,000" and insert "$927,741,000".

On page 85, line 20, strike "until expended" and insert "until expended, of which not less than $10,000,000 shall be made available for the Next Generation of Lighting Initiative".

SA 4836. Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. CARPER, and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . RAIL SECURITY ENHANCEMENTS.

(a) EMERGENCY AMTRAK ASSISTANCE.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak—

(A) $430,000,000 for systemwide security upgrades, including the reimbursement of extraordinary security related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment; and

(B) $778,000,000 to be used to complete New York tunnel life safety projects and rehabilitate tunnels in Washington, D.C., and Baltimore, Maryland.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) PLAN REQUIRED.—Except for extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, which are subject to subparagraph (3)(C) of this paragraph, the Secretary may not make amounts available to Amtrak for obligation or expenditure under paragraph (1)—

(A) for implementing systemwide security upgrades until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the head of the department exercising the authority granted by section 114 of title 49, United States Code, if that department is not the Department of Transportation, a plan for such upgrades;

(B) for completing the tunnel life safety and rehabilitation projects until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, an engineering and financial plan for such projects; and

(C) Amtrak has submitted to the Secretary of Transportation such additional information as the Secretary may require in order to ensure full accountability for the obligation or expenditure of amounts made available to Amtrak for the purpose for which the funds are provided.

(4) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary of Transportation shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in paragraph (3)(B)—

(A) consider the extent to which rail carriers other than Amtrak use the tunnels;

(B) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(C) obtain financial contributions or commitments from such other rail carriers if feasible.

(5) REVIEW OF PLAN.—The Secretary of Transportation shall complete the review of the plan required by paragraph (3) and approve or disapprove the plan within 45 days after the date on which the plan is submitted by Amtrak. If the Secretary determines that the plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving a modified plan from Amtrak, the Secretary shall either approve the modified plan, or if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, release the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(6) 50-PERCENT TO BE SPENT OUTSIDE THE NORTHEAST CORRIDOR.—The Secretary of Transportation shall ensure that up to 50 percent of the amounts appropriated pursuant to paragraph (1)(A) is obligated or expended for projects outside the Northeast Corridor.

(7) ASSESSMENTS BY DOT INSPECTOR GENERAL.—

(A) INITIAL ASSESSMENT.—Within 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report—

(i) identifying any overlap between capital projects for which funds are provided under such funding documents, procedures, or arrangements and capital projects included in Amtrak's 20-year capital plan; and

(ii) indicating any adjustments that need to be made in that plan to exclude projects for which funds are appropriated or obligated pursuant to paragraph (1).

(B) OVERLAP REVIEW.—The Inspector General shall, as part of the Department's annual assessment of Amtrak's financial status and capital funding requirements review the obligations and expenditure of funds under each such funding document, procedure, or arrangement to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are provided under this Act.

(8) COORDINATION WITH EXISTING LAW.—Amounts made available to Amtrak under this subsection shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

(9) PROHIBITION ON USE OF EQUIPMENT FOR EMPLOYMENT-RELATED PURPOSES.—An employer may not use closed circuit television cameras purchased with amounts authorized by this section for employee disciplinary or monitoring purposes unrelated to transportation security.

(b) RAIL POLICE OFFICERS.—Section 28101 of title 49, United Stated Code, is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

SA 4837. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill H.R. 4085, to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation for veterans with service-connected disability and dependency and indemnity compensation for surviving spouses of such veterans to expand certain benefits for veterans and their survivors, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 2002".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2002, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2002.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2002, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2003, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

Amend the title to read: "An Act to increase, effective as of December 1, 2002, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.".

SA 4838. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 2237, to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes; as follows:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Benefits Improvement Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

Sec. 101. Clarification of entitlement to wartime disability compensation for women veterans who have service-connected mastectomies.
Sec. 102. Compensation for hearing loss in paired organs.

Sec. 103. Authority for presumption of service connection for hearing loss associated with particular military occupational specialties.
Sec. 104. Modification of authorities on Medal of Honor Roll special pension.
Sec. 105. Applicability of prohibition on assignment of veterans benefits to agreements on future receipt of certain benefits.
Sec. 106. Extension of income verification authority.

TITLE II—EDUCATION MATTERS

Sec. 201. Three-year increase in aggregate annual amount available for State approving agencies for administrative expenses.
Sec. 202. Clarifying improvement of various education authorities.

TITLE III—HOUSING MATTERS

Sec. 301. Authority to guarantee adjustable rate mortgages and hybrid adjustable rate mortgages.

TITLE IV—OTHER BENEFITS MATTERS

Sec. 401. Treatment of duty of National Guard mobilized by States for homeland security activities as military service under Soldiers' and Sailors' Civil Relief Act of 1940.
Sec. 402. Prohibition on certain additional benefits for persons committing capital crimes.
Sec. 403. Procedures for disqualification of persons committing capital crimes for interment or memorialization in national cemeteries.

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

Sec. 501. Standard for reversal by Court of Appeals for Veterans Claims of erroneous finding of fact by Board of Veterans' Appeals.
Sec. 502. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.
Sec. 503. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.
Sec. 504. Retroactive applicability of modifications of authority and requirements to assist claimants.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

SEC. 101. CLARIFICATION OF ENTITLEMENT TO WARTIME DISABILITY COMPENSATION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED MASTECTOMIES.

(a) In General.—Section 1114(k) is amended by inserting "of half or more of the tissue" after "anatomical loss" the second place it appears.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 102. COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

(a) Hearing Loss Required for Compensation.—Section 1160(a)(3) is amended—

(1) by striking "total deafness" the first place it appears and inserting "deafness compensable to a degree of 10 percent or more"; and

(2) by striking "total deafness" the second place it appears and inserting "deafness".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 103. AUTHORITY FOR PRESUMPTION OF SERVICE CONNECTION FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.

(a) In General.—(1) Subchapter II of chapter 11 is amended by adding at the end the following new section:

"§1119. Presumption of service connection for hearing loss associated with particular military occupational specialties

"(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both of a veteran who served on active military, naval, or air service during a period specified by the Secretary under subsection (b)(1) and was assigned during the period of such service to a military occupational specialty or equivalent described in subsection (b)(2) shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such hearing loss or tinnitus, as the case may be, during the period of such service.

"(b)(1) A period referred to in subsection (a) is a period, if any, that the Secretary determines in regulations prescribed under this section—

"(A) during which audiometric measures were consistently not adequate to assess individual hearing threshold shift; or

"(B) with respect to service in a military occupational specialty or equivalent described in paragraph (2), during which hearing conservation measures to prevent individual hearing threshold shift were unavailable or provided insufficient protection for members assigned to such military occupational specialty or equivalent.

"(2) A military occupational specialty or equivalent referred to in subsection (a) is a military occupational specialty or equivalent, if any, that the Secretary determines in regulations prescribed under this section in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

"(c) In making determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 103(c) of the Veterans Benefits Improvement Act of 2002.

"(d)(1) Not later than 60 days after the date on which the Secretary receives the report referred to in subsection (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both, as the case may be, of individuals assigned to each military occupational specidlty or equivalent, and during each period, identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent in which individuals are or were likely to be exposed during such period to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary.

"(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination, issue proposed regulations setting forth the Secretary's determination.

"(3) If the Secretary determines under paragraph (1) that a presumption of service connection is not warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination—

"(A) publish the determination in the Federal Register; and

"(B) submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the determination, including a justification for the determination.

"(e) Any regulations issued under subsection (d)(2) shall take effect on the date provided for in such regulations. No benefit may be paid under this section for any month that begins before that date.".

(2) The table of sections at the beginning of chapter 11 is amended by inserting after the item relating to section 1118 the following new item:

"1119. Presumption of service connection for hearing loss associated with particular military occupational specialties.".

(b) Presumption Rebuttable.—Section 1113 is amended by striking "or 1118" each place it appears and inserting "1118, or 1119".

(c) Assessment of Acoustic Trauma Associated With Various Military Occupational Specialties.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(2) Under the agreement under paragraph (1), the National Academy of Sciences shall—

(A) review and assess available data on occupational hearing loss;

(B) from such data, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

(C) in the case of each form of acoustic trauma identified under subparagraph (B)—

(i) determine how much exposure to such form of acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level; and

(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(I) immediate or delayed onset;

(II) cumulative;

(III) progressive; or

(IV) any combination of subclauses (I) through (III);

(D) review and assess the completeness and adequacy of data of the Department of Veterans Affairs and the Department of Defense on hearing threshold shift in a representative sample of individuals who were discharged or released from service in the Armed Forces following World War II, the Korean conflict, and the Vietnam era, and in peacetime during the period from the end of the Vietnam era to the beginning of the Persian Gulf War, and during the Persian Gulf War, with such sample to be selected so as to reflect an appropriate distribution of individuals among the various Armed Forces;

(E) identify each military occupational specialty or equivalent, if any, in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary of Veterans Affairs; and

(F) assess when, if ever—

(i) audiometric measures became adequate to evaluate individual hearing threshold shift; and

(ii) hearing conservation measures to prevent individual hearing threshold shift were available and provided sufficient protection for members assigned to each military occupational specialty or equivalent identified under subparagraph (E).

(3) Not later than 180 days after the date of the entry into the agreement referred to in paragraph (1), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subparagraphs (A) through (F) of paragraph (2).

(4) For purposes of paragraph (2)(D), the terms "World War II", "Korean conflict", "Vietnam era", and "Persian Gulf War" have the meanings given such terms in section 101 of title 38, United States Code.

(d) REPORT ON ADMINISTRATION OF BENEFITS FOR HEARING LOSS AND TINNITUS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both.

(B) Of the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during each such year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

SEC. 104. MODIFICATION OF AUTHORITIES ON MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1562 is amended by striking "$600" and inserting "$1,000, as adjusted from time to time under subsection (e)".

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following:

"(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i)).".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2002.

(d) PAYMENT OF LUMP SUM FOR PERIOD BETWEEN ACT OF VALOR AND COMMENCEMENT OF SPECIAL PENSION.—(1) The Secretary of Veterans Affairs shall pay, in a lump sum, to each person who is in receipt of special pension payable under section 1562 of title 38, United States Code, an amount equal to the total amount of special pension that the person would have received during the period beginning on the first day of the first month beginning after the date of the act for which the person was awarded the Medal of Honor and ending on the last day of the month preceding the month in which the person's special pension in fact commenced.

(2) For each month of a period referred to in paragraph (1), the amount of special pension payable to a person shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension during such month under laws for eligibility for special pension in effect at the beginning of such month.

SEC. 105. APPLICABILITY OF PROHIBITION ON ASSIGNMENT OF VETERANS BENEFITS TO AGREEMENTS ON FUTURE RECEIPT OF CERTAIN BENEFITS.

(a) IN GENERAL.—Section 5301(a) is amended—

(1) by inserting "(1)" after "(a)";

(2) by designating the last sentence as paragraph (2) and indenting such paragraph, as so designated, two ems from the left margin; and

(3) by adding at the end the following new paragraph:

"(3)(A) For purposes of this subsection, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, whether by payment from the beneficiary to such other person, deposit into an account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an assignment and is prohibited.

"(B) Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (A) is also prohibited.

"(C)(i) Any person who enters into an agreement that is prohibited under subparagraph (A), or an agreement or arrangement that is prohibited under subparagraph (B), shall be fined under title 18, imprisoned for not more than one year, or both.

"(ii) This subparagraph does not apply to a beneficiary with respect to compensation, pension, or dependency and indemnity compensation to which the beneficiary is entitled under a law administered by the Secretary.".

(b) EFFECTIVE DATE.—Paragraph (3) of section 5301(a) of title 38, United States Code (as added by subsection (a) of this section), shall apply with respect to any agreement or arrangement described in such paragraph that is entered into on or after the date of the enactment of this Act.

(c) OUTREACH.—The Secretary of Veterans Affairs shall, during the five-year period beginning on the date of the enactment of this Act, carry out a program of outreach to inform veterans and other recipients or potential recipients of compensation, pension, or dependency and indemnity compensation benefits under the laws administered by the Secretary of the prohibition on the assignment of such benefits under law. The program shall include information on various schemes to evade the prohibition, and means of avoiding such schemes.

SEC. 106. EXTENSION OF INCOME VERIFICATION AUTHORITY.

(a) TITLE 38, UNITED STATES CODE.—Section 5317(g) is amended by striking "September 30, 2008" and inserting "September 30, 2011".

(b) INTERNAL REVENUE CODE.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking "September 30, 2003" and inserting "September 30, 2011".

TITLE II—EDUCATION MATTERS

SEC. 201. THREE-YEAR INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES.

(a) INCREASE IN AMOUNT.—Section 3674(a)(4) is amended in the first sentence by striking "fiscal years 2001 and 2002, $14,000,000" and inserting "fiscal years 2003, 2004, and 2005, $18,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 202. CLARIFYING IMPROVEMENT OF VARIOUS EDUCATION AUTHORITIES.

(a) ELIGIBILITY OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS.—Section 3011(a)(1)(C)(ii) is amended by striking "on or".

(b) ACCELERATED PAYMENT OF ASSISTANCE FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.—(1) Subsection (b)(1) of section 3014A is amended by striking "employment in a high technology industry" and inserting "employment in a high technology occupation in a high technology industry".

(2)(A) The heading for section 3014A is amended to read as follows:

"§3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry".

(B) The table of sections at the beginning of chapter 30 is amended by striking the item relating to section 3014A and inserting the following new item:

"3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry.".

(c) SOURCE OF FUNDS FOR INCREASED USAGE OF ENTITLEMENT UNDER ENTITLEMENT TRANSFER AUTHORITY.—Section 3035(b) is amended—

(1) in paragraph (1), by striking "paragraphs (2) and (3) of this subsection," and inserting "paragraphs (2), (3), and (4),"; and

(2) by adding at the end the following new paragraph:

"(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Educations Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.".

(d) LICENSING OR CERTIFICATION TESTS.—(1) Section 3232(c)(1) is amended by striking "a licensing" and inserting "a particular licensing".

(2) Section 3689 is amended—

(A) in subsection (b)(1)(B), by inserting "and with such other standards as the Secretary may prescribe," after "practices,"; and

(B) in subsection (c)(1)(A), by inserting "and with such other standards as the Secretary may prescribe," after "practices,".

(3) Section 3689(c)(1)(B) is amended by striking "the test" and inserting "such test, or a test to certify or license in a similar or related occupation,".

(e) PERIOD OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' ASSISTANCE.—Section 3512(a) is amended—

(1) in paragraph (3), by striking "paragraph (4)" in the matter preceding subparagraph (A) and inserting "paragraph (4) or (5)";

(2) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement in accordance with that paragraph, the beginning date of the person's entitlement shall be the date of the Secretary's decision that the parent has a service-connected total disability permanent in nature, or that the parent's death was service-connected, whichever is applicable;"; and

(4) in paragraph (6), as so redesignated, by striking "paragraph (4)" and inserting "paragraph (5)".

TITLE III—HOUSING MATTERS

SEC. 301. AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES AND HYBRID ADJUSTABLE RATE MORTGAGES.

(a) THREE-YEAR EXTENSION OF AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES.—Subsection (a) of section 3707 is amended by striking "during fiscal years 1993, 1994, and 1995" and inserting "through fiscal year 2005".

(b) AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.—That section is further amended—

(1) in subsection (b), by striking "Interest rate adjustment provisions" and inserting "Except as provided in subsection (c)(1), interest rate adjustment provisions";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) Adjustable rate mortgages that are guaranteed under this section shall include adjustable rate mortgages (commonly referred to as 'hybrid adjustable rate mortgages') having interest rate adjustment provisions that—

"(1) are not subject to subsection (b)(1);

"(2) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

"(3) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (2); and

"(4) comply in such initial adjustment, and any subsequent adjustment, with paragraphs (2) through (4) of subsection (b).".

(c) IMPLEMENTATION OF AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.—The Secretary of Veterans Affairs shall exercise the authority under section 3707 of title 38, United States Code, as amended by this section, to guarantee adjustable rate mortgages described in subsection (c) of such section 3707, as so amended, in advance of any rulemaking otherwise required to implement such authority.

TITLE IV—OTHER BENEFITS MATTERS

SEC. 401. TREATMENT OF DUTY OF NATIONAL GUARD MOBILIZED BY STATES FOR HOMELAND SECURITY ACTIVITIES AS MILITARY SERVICE UNDER SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.

Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking "and all" and inserting "all"; and

(B) by inserting before the period the following: ", and all members of the National Guard on service described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: ", and shall include service in the National Guard, pursuant to a call or order to duty by the Governor of a State, upon the request of a Federal law enforcement agency and with the concurrence of the Secretary of Defense, to perform full-time duty under section 502(f) of title 32, United States Code, for purposes of carrying out homeland security activities".

SEC. 402. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.

(a) PRESIDENTIAL MEMORIAL CERTIFICATE.—Section 112 is amended by adding at the end the following new subsection:

"(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.".

(b) FLAG TO DRAPE CASKET.—Section 2301 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) A flag may not be furnished under this section on behalf of a deceased person described in section 2411(b) of this title.".

(c) HEADSTONE OR MARKER FOR GRAVE.—Section 2306 is amended by adding at the end the following new subsection:

"(g)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

"(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

"(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 403. PROCEDURES FOR DISQUALIFICATION OF PERSONS COMMITTING CAPITAL CRIMES FOR INTERMENT OR MEMORIALIZATION IN NATIONAL CEMETERIES.

Section 2411(a)(2) is amended—

(1) by striking "The prohibition" and inserting "In the case of a person described in subsection (b)(1) or (b)(2), the prohibition"; and

(2) by striking "or finding under subsection (b)" and inserting "referred to in subsection (b)(1) or (b)(2), as the case may be,".

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

SEC. 501. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.

(a) STANDARD FOR REVERSAL.—Paragraph (4) of subsection (a) of section 7261 is amended by striking "if the finding is clearly erroneous" and inserting "if the finding is adverse to the claimant and the Court determines that the finding is unsupported by substantial evidence of record, taking into account the Secretary's application of section 5107(b) of this title".

(b) SCOPE OF AUTHORITY.—That subsection is further amended—

(1) in the matter preceding paragraph (1), by striking "this chapter" and inserting "section 7252(a) of this title"; and

(2) in paragraph (4), as amended by subsection (a) of this section, by inserting "or reverse" after "set aside".

(c) MATTERS RELATING TO FINDINGS OF MATERIAL FACT.—That section is further amended by adding at the end the following new subsection:

"(e)(1) In making a determination on a finding of material fact under subsection (a)(4), the Court shall review the record of proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(b) of this title.

"(2) A determination on a finding of material fact under subsection (a)(4) shall specify the evidence or material on which the Court relied in making such determination.".

(d) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b)(2) shall apply with respect to any appeal filed with the United States Court of Appeals for Veterans Claims—

(A) on or after the date of the enactment of this Act; or

(B) before the date of the enactment of this Act, but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

SEC. 502. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.

(a) REVIEW.—(1) Subsection (a) of section 7292 is amended in the first sentence by inserting after "the validity of" the following: "a decision of the Court on a rule of law or of".

(2) Subsection (c) of that section is amended—

(A) in the first sentence, by inserting after "the validity of" the following: "a decision of the Court of Appeals for Veterans Claims on a rule of law or of"; and

(B) in the second sentence, by striking "such court" and inserting "the Court of Appeals for the Federal Circuit".

(b) APPLICABILITY.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any appeal—

(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 503. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 2412(d) of title 28, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

SEC. 504. RETROACTIVE APPLICABILITY OF MODIFICATIONS OF AUTHORITY AND REQUIREMENTS TO ASSIST CLAIMANTS.

(a) RETROACTIVE APPLICABILITY.—Except as specifically provided otherwise, the provisions of sections 5102, 5103, 5103A, and 5126 of title 38, United States Code, as amended by section 3 of the Veterans Claims Assistance Act of 2000 (Public Law 106–475; 114 Stat. 2096), apply to any claim—

(1) filed on or after November 9, 2000; or

(2) filed before November 9, 2000, and not final as of that date.

(b) READJUDICATION OF CERTAIN CLAIMS.—If the United States Court of Appeals for Veterans Claims, the United States Court of Appeals for the Federal Circuit, or the Supreme Court renders a decision during the period beginning on April 24, 2002, and ending on the date of the enactment of this Act holding that section 3(a) of the Veterans Claims Assistance Act of 2000 is not applicable to a case covered by the decision because such section 3(a) was not intended to be given retroactive effect, the Secretary of Veterans Affairs shall, upon request of the claimant or on the Secretary's own motion, order the claim readjudicated under chapter 51 of such title, as amended by the Veterans Claims Assistance Act of 2000, as if Board of Veterans' Appeals most recent denial of the claim concerned had not occurred.

Amend the title to read as follows: "A bill to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, September 26, 2002 at 9:30 a.m. in SD–406 to conduct a business meeting to consider the following items:

Legislation:

S. 606, the Ombudsman Reauthorization Act of 2001

S. 2065, the Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2002

S. 2715, a bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001

S. 2730, Restore the Apalachicola River Ecosystem Act of 2002

S. 2847, Crane Conservation Act of 2002

S. 2897, the Marine Turtle Conservation Act of 2002

S. 2928, the Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002

S. 2975, a bill to authorize the project for hurricane and storm damage reduction, Morganza, Louisiana, to the Gulf of Mexico, Mississippi River and Tributaries

S. 2978, a bill to modify the project for flood control, Little Calument River, IN

S. 2983, a bill to authorize a project for navigation, Chickamauga Lock and Dam, TN

S. 2984, a bill to authorize a project for ecosystem restoration at Smith Island, MD

S. 2985, the Anthrax Cleanup Assistance Act of 2002

S. 2999, a bill to authorize the project for environmental restoration, Pine Flat Dam, Fresno County, California.

H.R. 1070, the Great Lakes Legacy Act of 2002

H.R. 2595, a bill to direct the Secretary of the Army to convey a parcel of land to Chatham County, GA

H.R. 3908, the North American Weltands Conservation Reauthorization Act of 2002

H.R. 4044, a bill to authorize the Secretary of the Interior to provide assistance to the State of Maryland for implementation of a program to eradicate nutria and restore marshland damaged by nutria

H.R. 4727, the Dam Safety and Security Act of 2002

H.R. 4807, a bill to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge.

Courthouse Naming:

S. 2332, a bill to designate the Federal building and United States courthouse to be constructed at 10 East Commerce Street in Youngstown, Ohio, as the "Nathaniel R. Jones Federal Building And United States Courthouse".

Resolutions:

Committee Resolution for U.S. Army Corp of Engineers' study in the Chesapeake Bay Watershed, MD

Committee Resolution for the U.S. Army Corp of Engineers' study in Fall River Harbor, MA

Committee Resolution for the U.S. Army Corp of Engineers' study in Elliott Bay, WA

Numerous building and lease resolutions.

Other Items:

Subpoenas for new source review documentation to the Environmental Protection Agency and the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 26, 2002 at 10:30 a.m. to hold a hearing on Iraq.

AGENDA

Witnesses: The Honorable Madeleine K. Albright, Former Secretary of State, Chairman, National Democratic Institute, Washington, DC; The Honorable Henry A. Kissinger, Former Secretary of State, CEO, Kissinger Associates, Inc., New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 26, 2002 at 2:30 a.m. to hold a hearing on Iraq.

AGENDA

Witness: The Honorable Colin L. Powell, Secretary of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Internet Education: Exploring the Benefits and Challengers of Web-Based Education during the session of the Senate on Thursday, September 26 2002, at 10:00 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, September 26, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Intra-tribal Leadership Disputes and Tribal Governance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Judicial Nominations" on Thursday, September 26, 2002 in Dirksen Room 106 at 10:00 a.m.

Panel I: The Honorable John W. Warner, United States Senator (R–VA); The Honorable Charles E. Grassley, United States Senator (R–IA); The Honorable Tom Harkin, United States Senator (D–IA); The Honorable Phil Gramm, United States Senator (R–TX); The Honorable Kent Conrad, United States Senator (D–ND); The Honorable Byron Dorgan, United States Senator (D–ND); The Honorable Kay Bailey Hutchison, United States Senator (R–TX); The Honorable Robert Torricelli, United States Senator (D–NJ); The Honorable George Allen, United States Senator (R–VA); The Honorable Jon Corzine, United States Senator (D–NJ).

Panel II: Miguel Estrada, nominated to the D.C. Circuit.

Panel III: Stanley Chesler, to be United States District Court Judge for the District of New Jersey; Daniel Hovland, to be United States District Court Judge for the District of North Dakota; James Kinkeade, to be United States District Court Judge for the Northern District of Texas; Linda Reade, to be United Sates District Court Judge for the Northern District of Iowa; Freda Wolfson, to be United States District Court Judge for the District of New Jersey.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on intelligence be authorized to meet during the session of the Senate on Thursday, September 26, 2002 at 10:00 a.m. to hold a joint hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, September 26, 2002 from 10:00 a.m.–12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1040 through 1046 and 1048 through 1051; that the nominations be confirmed, the motions to reconsider be laid upon the table; that any statements thereon be printed in the RECORD; that the President be immediately notified of the Senate's action; and the Senate return to legislative session, all without any intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Michelle Guillermin, of Maryland, to be Chief Financial Officer Corporation for National and Community Service.

NATIONAL COUNCIL ON DISABILITY

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Milton Aponte, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2003.

Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

David Wenzel, of Pennsylvania, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now return to legislative session.

UNANIMOUS CONSENT AGREEMENT—H.J. RES. 111

Mr. REID. Mr. President, I ask unanimous consent when the Senate receives from the House H.J. Res. 111, a continuing resolution to fund the Government at 2002 levels and terms therein until October 4, that the joint resolution be considered read three times, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S.J. RES. 45

Mr. REID. Mr. President, S.J. Res. 45 was introduced earlier today by Senators DASCHLE and LOTT and is now at the desk. I therefore ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will report the joint resolution by title for the first time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 45) to authorize the use of United States Armed Forces against Iraq.

Mr. REID. Mr. President, I now ask for its second reading but object to my own request on behalf of the minority.

The ACTING PRESIDENT pro tempore. Objection having been heard, the joint resolution will receive its second reading on the next legislative day.

MEASURE READ THE FIRST TIME—S. 3009

Mr. REID. Mr. President, S. 3009 was introduced earlier today by Senator WELLSTONE and others and is now at the desk. I ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 3009) to provide economic security for America's workers.

Mr. REID. Mr. President, I now ask for its second reading but object to my own request.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will receive its second reading on the next legislative day.

MEASURE READ THE FIRST TIME—H.R. 4691

Mr. REID. Mr. President, I understand that H.R. 4691 is at the desk, and I ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 4691) to prohibit certain abortion-related discrimination in governmental activities.

Mr. REID. Mr. President, I ask for its second reading and object to my own request.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be read a second time on the next legislative day.

MODIFICATION OF CONFEREES TO H.R. 4628

Mr. REID. Mr. President, I ask unanimous consent that the list of conferees for H.R. 4628, the intelligence authorization, be modified to include, from the Committee on Armed Services, Senators REED of Rhode Island and WARNER.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VETERANS' AND SURVIVORS' BENEFITS EXPANSION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent the Veterans' Affairs Committee be discharged from further consideration of H.R. 4085 and the Senate proceed to its consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4085) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation for veterans with service-connected disability and dependency and indemnity compensation for surviving spouses of such veterans, to expand certain benefits for veterans and their survivors, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I thank my colleagues in the Senate for their support of this legislation that will provide a cost-of-living adjustment to veterans' compensation for next year. I thank my colleagues on the Veterans' Affairs Committee, ranking member ARLEN SPECTER, for his commitment to our Nation's veterans.

The Veterans' Compensation Cost-of-Living Adjustment Act of 2002 directs the Secretary of Veterans Affairs to increase, as of December 1, 2002, the rates of veterans' disability compensation, as well as compensation for eligible dependents and surviving spouses. The legislation raises compensation by the same percentage as the increase provided to Social Security recipients.

It is particularly important that we move this legislation as soon as possible. Veterans and their families depend on the cost-of-living increase to ensure that their well-deserved benefits are not eroded by inflation. Veterans' disability compensation rates must keep pace with the increasing cost of living.

I ask unanimous consent that the text of the legislation be printed in the RECORD following this statement.

Mr. REID. Mr. President, I ask unanimous consent that the Rockefeller substitute amendment at the desk be agreed to; the act, as amended, be read a third time, passed, and the motion to reconsider be laid on the table, with no intervening action or debate; and that any statements related thereto be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 4837) was agreed to, as follows:

AMENDMENT NO. 4837

(Purpose: To propose a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 2002".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2002, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2002.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2002, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2003, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

Amend the title to read: "An Act to increase, effective as of December 1, 2002, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.".

The bill (H.R. 4085), as amended, was read the third time and passed.

The amendment to the title was agreed to.

VETERANS BENEFITS IMPROVEMENT ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 542, S. 2237.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2237) to amend title 38, United States Code, to enhance compensation for veterans with hearing loss, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Matter to be stricken is shown in black brackets. Matter to be added is shown in italic.]

S. 2239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Veterans Hearing Loss Compensation Act of 2002".

[SEC. 2. COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

[(a) HEARING LOSS REQUIRED FOR COMPENSATION.—Section 1160(a)(3) of title 38, United States Code, is amended by striking "total" both places it appears.

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

[SEC. 3. AUTHORITY FOR PRESUMPTION OF SERVICE-CONNECTION FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.

[(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

["§ 1119. Presumption of service connection for hearing loss associated with particular military occupational specialties

["(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both of a veteran who while on active military, naval, or air service was assigned to a military occupational specialty or equivalent described in subsection (b) shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such hearing loss or tinnitus, as the case may be, during the period of such service.

["(b) A military occupational specialty or equivalent referred to in subsection (a) is a military occupational specialty or equivalent, if any, that the Secretary determines in regulations prescribed under this section in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

["(c) In making determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 3(c) of the Veterans Hearing Loss Compensation Act of 2002.

["(d)(1) Not later than 60 days after the date on which the Secretary receives the report referred to in subsection (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both, as the case may be, of individuals assigned to each military occupational specialty or equivalent identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent in which individuals are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary.

["(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination, issue proposed regulations setting forth the Secretary's determination.

["(3) If the Secretary determines under paragraph (1) that a presumption of service connection is not warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination—

["(A) publish the determination in the Federal Register; and

["(B) submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the determination, including a justification for the determination.

["(e) Any regulations issued under subsection (d)(2) shall take effect on the date provided for in such regulations. No benefit may be paid under this section for any month that begins before that date.".

[(2) The table of sections at the beginning of chapter 11 of that title is amended by inserting after the item relating to section 1118 the following new item:

["1119. Presumption of service connection for hearing loss associated with particular military occupational specialties.".

[(b) PRESUMPTION REBUTTABLE.—Section 1113 of title 38, United States Code, is amended by striking "or 1118" each place it appears and inserting "1118, or 1119".

[(c) ASSESSMENT OF ACOUSTIC TRAUMA ASSOCIATED WITH VARIOUS MILITARY OCCUPATIONAL SPECIALTIES.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

[(2) Under the agreement under paragraph (1), the National Academy of Sciences shall—

[(A) review and assess available data on occupational hearing loss;

[(B) from such data, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

[(C) in the case of each form of acoustic trauma identified under subparagraph (B)—

[(i) determine how much exposure to such form or acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level; and

[(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

[(I) immediate or delayed onset;

[(II) cumulative;

[(III) progressive; or

[(IV) any combination of subclauses (I) through (III);

[(D) review and assess the completeness and accuracy of data of the Department of Veterans Affairs and the Department of Defense on hearing threshold shift in individuals who were discharged or released from service in the Armed Forces during the period beginning on December 7, 1941, and ending on the date of the enactment of this Act upon their discharge or release from such service; and

[(E) identify each military occupational specialty or equivalent, if any, in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary of Veterans Affairs.

[(3) Not later than 180 days after the date of the entry into the agreement referred to in paragraph (1), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subparagraphs (A) through (F) of paragraph (2).

[(d) Report on Administration of Benefits for Hearing Loss and Tinnitus.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

[(2) The report under paragraph (1) shall include the following:

[(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both.

[(B) Of the claims referred to in subparagraph (A)—

[(i) the number of claims for which disability compensation was awarded, set forth by year;

[(ii) the number of claims assigned each disability rating; and

[(iii) the total amount of disability compensation paid on such claims during such years.

[(C) The total cost to the Department of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

[(D) The total number of veterans who sought treatment in Department of Veterans Affairs health facilities care in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

[(i) the number of veterans per year; and

[(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

[(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Veterans Benefits Improvement Act of 2002".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

Sec. 101. Clarification of entitlement to wartime disability compensation for women veterans who have service-connected mastectomies.
Sec. 102. Compensation for hearing loss in paired organs.
Sec. 103. Authority for presumption of service connection for hearing loss associated with particular military occupational specialties.
Sec. 104. Modification of authorities on Medal of Honor Roll special pension.
Sec. 105. Applicability of prohibition on assignment of veterans benefits to agreements on future receipt of certain benefits.
Sec. 106. Extension of income verification authority.

TITLE II—EDUCATION MATTERS

Sec. 201. Three-year increase in aggregate annual amount available for State approving agencies for administrative expenses.
Sec. 202. Clarifying improvement of various education authorities.

TITLE III—HOUSING MATTERS

Sec. 301. Authority to guarantee adjustable rate mortgages and hybrid adjustable rate mortgages.

TITLE IV—OTHER BENEFITS MATTERS

Sec. 401. Treatment of duty of National Guard mobilized by States for homeland security activities as military service under Soldiers' and Sailors' Civil Relief Act of 1940.
Sec. 402. Prohibition on certain additional benefits for persons committing capital crimes.
Sec. 403. Procedures for disqualification of persons committing capital crimes for interment or memorialization in national cemeteries.

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

Sec. 501. Standard for reversal by Court of Appeals for Veterans Claims of erroneous finding of fact by Board of Veterans' Appeals.
Sec. 502. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.
Sec. 503. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.
Sec. 504. Retroactive applicability of modifications of authority and requirements to assist claimants.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

SEC. 101. CLARIFICATION OF ENTITLEMENT TO WARTIME DISABILITY COMPENSATION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED MASTECTOMIES.

(a) In General.—Section 1114(k) is amended by inserting "of half or more of the tissue" after "anatomical loss" the second place it appears.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 102. COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

(a) Hearing Loss Required for Compensation.—Section 1160(a)(3) is amended by striking "total" both places it appears.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 103. AUTHORITY FOR PRESUMPTION OF SERVICE CONNECTION FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.

(a) In General.—(1) Subchapter II of chapter 11 is amended by adding at the end the following new section:

"§1119. Presumption of service connection for hearing loss associated with particular military occupational specialties

"(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both of a veteran who served on active military, naval, or air service during a period specified by the Secretary under subsection (b)(1) and was assigned during the period of such service to a military occupational specialty or equivalent described in subsection (b)(2) shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such hearing loss or tinnitus, as the case may be, during the period of such service.

"(b)(1) A period referred to in subsection (a) is a period, if any, that the Secretary determines in regulations prescribed under this section—

"(A) during which audiometric measures were consistently not adequate to assess individual hearing threshold shift; or

"(B) with respect to service in a military occupational specialty or equivalent described in paragraph (2), during which hearing conservation measures to prevent individual hearing threshold shift were unavailable or provided insufficient protection for members assigned to such military occupational specialty or equivalent.

"(2) A military occupational specialty or equivalent referred to in subsection (a) is a military occupational specialty or equivalent, if

any, that the Secretary determines in regulations prescribed under this section in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

"(c) In making determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 103(c) of the Veterans Benefits Improvement Act of 2002.

"(d)(1) Not later than 60 days after the date on which the Secretary receives the report referred to in subsection (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both, as the case may be, of individuals assigned to each military occupational specialty or equivalent, and during each period, identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent in which individuals are or were likely to be exposed during such period to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary.

"(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination, issue proposed regulations setting forth the Secretary's determination.

"(3) If the Secretary determines under paragraph (1) that a presumption of service connection is not warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination—

"(A) publish the determination in the Federal Register; and

"(B) submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the determination, including a justification for the determination.

"(e) Any regulations issued under subsection (d)(2) shall take effect on the date provided for in such regulations. No benefit may be paid under this section for any month that begins before that date.".

(2) The table of sections at the beginning of chapter 11 is amended by inserting after the item relating to section 1118 the following new item:

"1119. Presumption of service connection for hearing loss associated with particular military occupational specialties.".

(b) Presumption Rebuttable.—Section 1113 is amended by striking "or 1118" each place it appears and inserting "1118, or 1119".

(c) Assessment of Acoustic Trauma Associated With Various Military Occupational Specialties.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(2) Under the agreement under paragraph (1), the National Academy of Sciences shall—

(A) review and assess available data on occupational hearing loss;

(B) from such data, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

(C) in the case of each form of acoustic trauma identified under subparagraph (B)—

(i) determine how much exposure to such form of acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level; and

(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(I) immediate or delayed onset;

(II) cumulative;

(III) progressive; or

(IV) any combination of subclauses (I) through (III);

(D) review and assess the completeness and adequacy of data of the Department of Veterans Affairs and the Department of Defense on hearing threshold shift in a representative sample of individuals who were discharged or released from service in the Armed Forces following World War II, the Korean conflict, and the Vietnam era, and in peacetime during the period from the end of the Vietnam era to the beginning of the Persian Gulf War, and during the Persian Gulf War, with such sample to be selected so as to reflect an appropriate distribution of individuals among the various Armed Forces;

(E) identify each military occupational specialty or equivalent, if any, in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary of Veterans Affairs; and

(F) assess when, if ever—

(i) audiometric measures became adequate to evaluate individual hearing threshold shift; and

(ii) hearing conservation measures to prevent individual hearing threshold shift were available and provided sufficient protection for members assigned to each military occupational specialty or equivalent identified under subparagraph (E).

(3) Not later than 180 days after the date of the entry into the agreement referred to in paragraph (1), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subparagraphs (A) through (F) of paragraph (2).

(4) For purposes of paragraph (2)(D), the terms "World War II", "Korean conflict", "Vietnam era", and "Persian Gulf War" have the meanings given such terms in section 101 of title 38, United States Code.

(d) Report on Administration of Benefits for Hearing Loss and Tinnitus.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both.

(B) Of the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during each such year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

SEC. 104. MODIFICATION OF AUTHORITIES ON MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) Increase in Amount.—Subsection (a) of section 1562 is amended by striking "$600" and inserting "$1,000, as adjusted from time to time under subsection (e)".

(b) Annual Adjustment.—That section is further amended by adding at the end the following:

"(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i)).".

(c) Effective Date.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2002.

(d) Payment of Lump Sum for Period Between Act of Valor and Commencement of Special Pension.—(1) The Secretary of Veterans Affairs shall pay, in a lump sum, to each person who is in receipt of special pension payable under section 1562 of title 38, United States Code, an amount equal to the total amount of special pension that the person would have received during the period beginning on the first day of the first month beginning after the date of the act for which the person was awarded the Medal of Honor and ending on the last day of the month preceding the month in which the person's special pension in fact commenced.

(2) For each month of a period referred to in paragraph (1), the amount of special pension payable to a person shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension during such month under laws for eligibility for special pension in effect at the beginning of such month.

SEC. 105. APPLICABILITY OF PROHIBITION ON ASSIGNMENT OF VETERANS BENEFITS TO AGREEMENTS ON FUTURE RECEIPT OF CERTAIN BENEFITS.

(a) In General.—Section 5301(a) is amended—

(1) by inserting "(1)" after "(a)";

(2) by designating the last sentence as paragraph (2) and indenting such paragraph, as so designated, two ems from the left margin; and

(3) by adding at the end the following new paragraph:

"(3)(A) For purposes of this subsection, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, whether by payment from the beneficiary to such other person, deposit into an account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an assignment and is prohibited.

"(B) Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (A) is also prohibited.

"(C)(i) Any person who enters into an agreement that is prohibited under subparagraph (A), or an agreement or arrangement that is prohibited under subparagraph (B), shall be fined under title 18, imprisoned for not more than one year, or both.

"(ii) This subparagraph does not apply to a beneficiary with respect to compensation, pension, or dependency and indemnity compensation to which the beneficiary is entitled under a law administered by the Secretary.".

(b) Effective Date.—Paragraph (3) of section 5301(a) of title 38, United States Code (as added by subsection (a) of this section), shall apply with respect to any agreement or arrangement described in such paragraph that is entered into on or after the date of the enactment of this Act.

(c) Outreach.—The Secretary of Veterans Affairs shall, during the five-year period beginning on the date of the enactment of this Act, carry out a program of outreach to inform veterans and other recipients or potential recipients of compensation, pension, or dependency and indemnity compensation benefits under the laws administered by the Secretary of the prohibition on the assignment of such benefits under law. The program shall include information on various schemes to evade the prohibition, and means of avoiding such schemes.

SEC. 106. EXTENSION OF INCOME VERIFICATION AUTHORITY.

(a) Title 38, United States Code.—Section 5317(g) is amended by striking "September 30, 2008" and inserting "September 30, 2011".

(b) Internal Revenue Code.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking "September 30, 2003" and inserting "September 30, 2011".

TITLE II—EDUCATION MATTERS

SEC. 201. THREE-YEAR INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES.

(a) Increase in Amount.—Section 3674(a)(4) is amended in the first sentence by striking "fiscal years 2001 and 2002, $14,000,000" and inserting "fiscal years 2003, 2004, and 2005, $18,000,000".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 202. CLARIFYING IMPROVEMENT OF VARIOUS EDUCATION AUTHORITIES.

(a) Eligibility of Certain Additional Vietnam Era Veterans.—Section 3011(a)(1)(C)(ii) is amended by striking "on or".

(b) Accelerated Payment of Assistance for Education Leading to Employment in High Technology Industry.—(1) Subsection (b)(1) of section 3014A is amended by striking "employment in a high technology industry" and inserting "employment in a high technology occupation in a high technology industry".

(2)(A) The heading for section 3014A is amended to read as follows:

"§3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry".

(B) The table of sections at the beginning of chapter 30 is amended by striking the item relating to section 3014A and inserting the following new item:

"3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry.".

(c) Source of Funds for Increased Usage of Entitlement Under Entitlement Transfer Authority.—Section 3035(b) is amended—

(1) in paragraph (1), by striking "paragraphs (2) and (3) of this subsection," and inserting "paragraphs (2), (3), and (4),"; and

(2) by adding at the end the following new paragraph:

"(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Educations Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.".

(d) Licensing or Certification Tests.—(1) Section 3232(c)(1) is amended by striking "a licensing" and inserting "a particular licensing".

(2) Section 3689 is amended—

(A) in subsection (b)(1)(B), by inserting "and with such other standards as the Secretary may prescribe," after "practices,"; and

(B) in subsection (c)(1)(A), by inserting "and with such other standards as the Secretary may prescribe," after "practices,".

(3) Section 3689(c)(1)(B) is amended by striking "the test" and inserting "such test, or a test to certify or license in a similar or related occupation,".

(e) Period of Eligibility for Survivors' and Dependents' Assistance.—Section 3512(a) is amended—

(1) in paragraph (3), by striking "paragraph (4)" in the matter preceding subparagraph (A) and inserting "paragraph (4) or (5)";

(2) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement in accordance with that paragraph, the beginning date of the person's entitlement shall be the date of the Secretary's decision that the parent has a service-connected total disability permanent in nature, or that the parent's death was service-connected, whichever is applicable;"; and

(4) in paragraph (6), as so redesignated, by striking "paragraph (4)" and inserting "paragraph (5)".

TITLE III—HOUSING MATTERS

SEC. 301. AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES AND HYBRID ADJUSTABLE RATE MORTGAGES.

(a) Three-Year Extension of Authority To Guarantee Adjustable Rate Mortgages.—Subsection (a) of section 3707 is amended by striking "during fiscal years 1993, 1994, and 1995" and inserting "through fiscal year 2005".

(b) Authority To Guarantee Hybrid Adjustable Rate Mortgages.—That section is further amended—

(1) in subsection (b), by striking "Interest rate adjustment provisions" and inserting "Except as provided in subsection (c)(1), interest rate adjustment provisions";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) Adjustable rate mortgages that are guaranteed under this section shall include adjustable rate mortgages (commonly referred to as 'hybrid adjustable rate mortgages') having interest rate adjustment provisions that—

"(1) are not subject to subsection (b)(1);

"(2) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

"(3) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (2); and

"(4) comply in such initial adjustment, and any subsequent adjustment, with paragraphs (2) through (4) of subsection (b).".

(c) Implementation of Authority To Guarantee Hybrid Adjustable Rate Mortgages.—The Secretary of Veterans Affairs shall exercise the authority under section 3707 of title 38, United States Code, as amended by this section, to guarantee adjustable rate mortgages described in subsection (c) of such section 3707, as so amended, in advance of any rulemaking otherwise required to implement such authority.

TITLE IV—OTHER BENEFITS MATTERS

SEC. 401. TREATMENT OF DUTY OF NATIONAL GUARD MOBILIZED BY STATES FOR HOMELAND SECURITY ACTIVITIES AS MILITARY SERVICE UNDER SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.

Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking "and all" and inserting "all"; and

(B) by inserting before the period the following: ", and all members of the National Guard on service described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: ", and shall include service in the National Guard, pursuant to a call or order to duty by the Governor of a State, upon the request of a Federal law enforcement agency and with the concurrence of the Secretary of Defense, to perform full-time duty under section 502(f) of title 32, United States Code, for purposes of carrying out homeland security activities".

SEC. 402. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.

(a) Presidential Memorial Certificate.—Section 112 is amended by adding at the end the following new subsection:

"(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.".

(b) Flag to Drape Casket.—Section 2301 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) A flag may not be furnished under this section on behalf of a deceased person described in section 2411(b) of this title.".

(c) Headstone or Marker for Grave.—Section 2306 is amended by adding at the end the following new subsection:

"(g)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

"(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

"(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 403. PROCEDURES FOR DISQUALIFICATION OF PERSONS COMMITTING CAPITAL CRIMES FOR INTERMENT OR MEMORIALIZATION IN NATIONAL CEMETERIES.

Section 2411(a)(2) is amended—

(1) by striking "The prohibition" and inserting "In the case of a person described in subsection (b)(1) or (b)(2), the prohibition"; and

(2) by striking "or finding under subsection (b)" and inserting "referred to in subsection (b)(1) or (b)(2), as the case may be,".

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

SEC. 501. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.

(a) STANDARD FOR REVERSAL.—Paragraph (4) of subsection (a) of section 7261 is amended by striking "if the finding is clearly erroneous" and inserting "if the finding is adverse to the claimant and the Court determines that the finding is unsupported by substantial evidence of record, taking into account the Secretary's application of section 5107(b) of this title".

(b) SCOPE OF AUTHORITY.—That subsection is further amended—

(1) in the matter preceding paragraph (1), by striking "this chapter" and inserting "section 7252(a) of this title"; and

(2) in paragraph (4), as amended by subsection (a) of this section, by inserting "or reverse" after "set aside".

(c) MATTERS RELATING TO FINDINGS OF MATERIAL FACT.—That section is further amended by adding at the end the following new subsection:

"(e)(1) In making a determination on a finding of material fact under subsection (a)(4), the Court shall review the record of proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(b) of this title.

"(2) A determination on a finding of material fact under subsection (a)(4) shall specify the evidence or material on which the Court relied in making such determination.".

(d) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b)(2) shall apply with respect to any appeal filed with the United States Court of Appeals for Veterans Claims—

(A) on or after the date of the enactment of this Act; or

(B) before the date of the enactment of this Act, but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

SEC. 502. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.

(a) REVIEW.—(1) Subsection (a) of section 7292 is amended in the first sentence by inserting after "the validity of" the following: "a decision of the Court on a rule of law or of".

(2) Subsection (c) of that section is amended—

(A) in the first sentence, by inserting after "the validity of" the following: "a decision of the Court of Appeals for Veterans Claims on a rule of law or of"; and

(B) in the second sentence, by striking "such court" and inserting "the Court of Appeals for the Federal Circuit".

(b) APPLICABILITY.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any appeal—

(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 503. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 2412(d) of title 28, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

SEC. 504. RETROACTIVE APPLICABILITY OF MODIFICATIONS OF AUTHORITY AND REQUIREMENTS TO ASSIST CLAIMANTS.

(a) RETROACTIVE APPLICABILITY.—Except as specifically provided otherwise, the provisions of sections 5102, 5103, 5103A, and 5126 of title 38, United States Code, as amended by section 3 of the Veterans Claims Assistance Act of 2000 (Public Law 106–475; 114 Stat. 2096), apply to any claim—

(1) filed on or after November 9, 2000; or

(2) filed before November 9, 2000, and not final as of that date.

(b) READJUDICATION OF CERTAIN CLAIMS.—If the United States Court of Appeals for Veterans Claims, the United States Court of Appeals for the Federal Circuit, or the Supreme Court renders a decision during the period beginning on April 24, 2002, and ending on the date of the enactment of this Act holding that section 3(a) of the Veterans Claims Assistance Act of 2000 is not applicable to a case covered by the decision because such section 3(a) was not intended to be given retroactive effect, the Secretary of Veterans Affairs shall, upon request of the claimant or on the Secretary's own motion, order the claim readjudicated under chapter 51 of such title, as amended by the Veterans Claims Assistance Act of 2000, as if Board of Veterans' Appeals most recent denial of the claim concerned had not occurred.

Amend the title to read as follows: "A bill to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.".

Mr. REID. Mr. President, I ask unanimous consent that the Rockefeller substitute amendment be agreed to; that the committee amendment, in the nature of a substitute, as amended, be agreed to; that the bill, as amended, be read the third time and passed; that the amendment to the title be agreed to; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 4838) was agreed to.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge the Senate to pass S. 2237, the proposed "Veterans Benefits Improvement Act of 2002," as modified by a manager's amendment which I developed with the committee's ranking member, Senator SPECTER. I will describe the provisions of the amendment in a moment.

The pending omnibus measure would touch many parts of veterans' lives, from increasing pensions for those who have earned the Medal of Honor to ensuring that veterans' appeals get more than a cursory review. I thank Ranking Member SPECTER and his staff for their significant contributions to a bill I believe will substantially improve the benefits provided to those who have served our Nation.

S. 2237 as reported, which I will refer to as the "committee bill," improves numerous veterans' benefits. I will highlight some of the provisions of which I am most proud.

Congress last year authorized VA to offer special monthly compensation to women who had lost one or both breasts, including through surgery, as a result of their military service. VA subsequently released regulations that limited eligibility for this benefit to women who had suffered complete loss of all breast tissue through simple or radical mastectomy. Even if such a restriction does not influence medical decisions, it fails to acknowledge that tissue-sparing treatments still create physical, emotional, and financial challenges to returning to health. Section 101 of the committee bill would extend eligibility for benefits to women veterans who have experienced service-connected loss of half or more of a breast's tissue.

The number of claims that veterans submit for hearing loss and tinnitus grows each year, and hearing disorders now account for two of the most commonly claimed disabilities. In order to settle these claims, VA staff must determine whether a veteran's hearing loss is as likely to be linked to noise exposure during service as to other causes, a tough decision made even harder by incomplete medical records and uncertain clinical evidence. Aging veterans—many of whom received no hearing evaluation upon discharge from service—now struggle to prove that their hearing problems resulted from damage suffered decades ago, while VA battles a staggering backlog of claims. Not only must veterans with hearing loss wait for assistance, but all veterans must accept the delays that arise as VA sorts through an enormous number of hearing loss claims without a clear scientific standard on past exposures.

Section 103 of the committee bill would help VA and veterans understand whether service in certain military specialties might be associated with an increased risk of hearing loss later in life. The committee bill would require VA to contract with an independent scientific organization, such as the National Academy of Sciences, to review evidence on acoustic trauma during military service. Experts would be asked to consider the types of noise exposure that could contribute to hearing disorders, and to determine whether servicemembers' hearing loss would be immediate or cumulative. The scientists would also determine when the audiometric data collected by the military services became adequate for VA to assess individual exposures during subsequent hearing loss claims.

The committee bill would also require that VA review its own records on hearing loss or tinnitus in veterans, and estimate the cost of adjudicating these claims under the current system. With this information, Congress and VA should be in a better position to decide whether evidence warrants service connection of hearing loss or tinnitus for certain veterans, so that their claims can be decided as quickly and fairly as possible.

We currently provide a special pension of recipients of the Medal of Honor to recognize, in some small measure, their extraordinary heroism. Congress has periodically increased this pension to keep pace with inflation and the needs of its recipients, but these increases have been irregular in amount and frequency. For some recipients, delays between the dates of the recipient's act of valor and the actual awarding of the Medal of Honor have resulted in lower aggregate amounts of special pension, based only on differences in the timing of the official recognition.

Section 104 of the committee bill would increase the Medal of Honor special pension from $600 to $1,000. Beginning next year, the pension amount would be adjusted annually with inflation. Finally, it would provide for a one-time, lump-sum payment in the amount of pension the recipient would have received between the date of the act of valor and the date that the recipient's pension actually commenced. I want to thank Senators SPECTER and HUTCHINSON for their leadership on this issue, and for assisting the committee in reaffirming our commitment to these heroes.

Section 401 of the committee bill would extend certain protections currently offered to National Guard members called up for national defense to include those who may have been called up for homeland security activities but not federalized. The Soldiers and Sailor's Civil Relief Act of 1940, SSCRA, protects active duty servicemembers and their families from evictions, foreclosures, and certain legal judgements while they serve the Nation in federally funded national defense missions. However, SSCRA protections do not cover National Guard members called up under title 32 of the United States Code, which places the servicemembers under the command of their State Governors.

Following the events of September 11, many National Guard members activated under title 32 guarded commercial airports at the request of the Federal Government, serving for 4 to 6 months. Although they served a national mission, their title 32 status denied them SSCRA protections. Furthermore, the National Defense Authorization Act for Fiscal Year 2003, as passed by the Senate, specifically allows National Guard members to be called up for full-time homeland security duty under title 32. Should this provision be enacted into law, it is likely that National Guard members will be called upon more frequently to serve in this status.

Section 401 of the committee bill would expand SSCRA protections to include National Guard members serving full-time for homeland security purposes under title 32 upon an order of the Governor of a State, by request of the head of a Federal law enforcement agency, and with the concurrence of the Secretary of Defense. As America relies increasingly on the National Guard and reservists to support its all-volunteer forces, we must be sure that all of our servicemembers can focus on their duties when they leave home to serve their Nation.

Sections 501 and 502 of the committee bill would ensure that veterans receive a full judicial review when appealing claims denied by VA.

A long-standing tenet of veterans law is that the veteran receives the "benefit of the doubt." This "benefit of the doubt" rule is unique in administrative law and states that when the evidence in support of benefits is in equipoise the benefit of the doubt must be given to the veteran, recognizing the tremendous sacrifices made by the men and women who have serve in our Armed Forces. A number of veterans service organizations have expressed concern that the current appellate process is overly deferential to VA findings of fact that are adverse to veteran claimants. Specifically, these groups argue that the "clearly erroneous" standard applied by the U.S. Court of Appeals for Veterans Claims, CAVC, when reviewing Board of Veterans' Appeals, BVA, cases results in veteran claims receiving only cursory review on appeal, not allowing for full application of the "benefit of the doubt" rule.

Section 501 of the committee bill would change the standard of review the CAVC applies to BVA findings of fact from "clearly erroneous" to "unsupported by substantial evidence" with an explicit reference to VA's application of the "benefit of the doubt" provision. This would clearly instruct the court to perform a searching review of BVA findings of fact, yet allow the CAVC to give deference to BVA findings based on specific evidence.

Section 502 of the committee bill would improve appellate review of veterans claims by expanding the Federal Circuit's authority to review CAVC decisions based on rules of law that are not derived from a specific statute or regulation. This change would allow the Federal circuit to review comprehensively any CAVC decisions of law that adversely affect appellants.

Section 503 of the committee bill would allow nonattorney practitioners admitted to practice before the CAVC without the signature of a supervising attorney, such as veterans service organization representatives, to be awarded fees under the Equal Access to Justice Act. Currently, attorneys and nonattorney practitioners supervised by attorneys who represent claimants that satisfy certain statutory requirements may receive compensation for their services pursuant to the EAJA. This would allow well-deserved compensation to organizations that provide invaluable assistance to veterans.

The Veterans Claims Assistance Act of 2000, VCAA, required VA to take very specific steps to help veterans prepare their benefits claims, such as informing claimants of medical or lay evidence or helping them obtain evidence necessary to substantiate a claim. The Federal circuit, in two recent decisions—Dyment v. Principi and Bernklau v. Principi—found that certain provisions of the VCAA pertaining to VA's duty to assist cannot be applied retroactively to claims pending at the time of enactment. Section 504 states explicitly that VA's duty to assist will be applied retroactively to cases that were ongoing either at the various adjudication levels within VA or pending at the applicable Federal courts prior to the date of VCAA's enactment.

Section 504 of the committee bill would make it clear that VA's duty to assist can be applied retroactively to cases that were either ongoing within VA or pending at the applicable Federal courts prior to the date of VCAA's enactment. This clarification would give full force to the congressionally mandated duty to assist claimant veterans, and provide crucial assistance to the men and women who sacrified so much in service to our Nation.

I now turn to the manager's amendment, which would modify a section of the committee bill on evaluating service-connected hearing loss.

Section 102 of the committee bill, as modified by the manager's amendment, would address an issue of fairness for veterans who have both service-connected and non-service-connected hearing loss. Currently, when evaluating veterans' service-connected disabilities in paired organs or extremities—such as kidneys, lungs, feet, or hands—VA is authorized to consider any degree of damage to both organs, even if only one resulted from military service. However, total deafness in both ears is required for special consideration of hearing loss.

The committee bill would eliminate the "total deafness" requirement, allowing VA to consider partial non-service-connected hearing loss in one ear when rating disability for vetearns with at least 10 percent compensable service-connected hearing loss in the other ear. This change would mirror exceptions made for other "paired" organs and extremities and would help ensure fair compensation for veterans whose hearing has been more greatly impaired by service than it would have been had they not served.

In conclusion, I urge my colleagues to support these improvements to veterans benefits. In light of our increased military commitments—abroad and on American soil—this represents a critical bipartisan commitment to our Nation's Veterans.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The amendment to the title was agreed to.

The bill (S. 2237), as amended, was read the third time and passed, as follows:

S. 2237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Benefits Improvement Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

Sec. 101. Clarification of entitlement to wartime disability compensation for women veterans who have service-connected mastectomies.
Sec. 102. Compensation for hearing loss in paired organs.
Sec. 103. Authority for presumption of service connection for hearing loss associated with particular military occupational specialties.
Sec. 104. Modification of authorities on Medal of Honor Roll special pension.
Sec. 105. Applicability of prohibition on assignment of veterans benefits to agreements on future receipt of certain benefits.
Sec. 106. Extension of income verification authority.

TITLE II—EDUCATION MATTERS

Sec. 201. Three-year increase in aggregate annual amount available for State approving agencies for administrative expenses.
Sec. 202. Clarifying improvement of various education authorities.

TITLE III—HOUSING MATTERS

Sec. 301. Authority to guarantee adjustable rate mortgages and hybrid adjustable rate mortgages.

TITLE IV—OTHER BENEFITS MATTERS

Sec. 401. Treatment of duty of National Guard mobilized by States for homeland security activities as military service under Soldiers' and Sailors' Civil Relief Act of 1940.
Sec. 402. Prohibition on certain additional benefits for persons committing capital crimes.
Sec. 403. Procedures for disqualification of persons committing capital crimes for interment or memorialization in national cemeteries.

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

Sec. 501. Standard for reversal by Court of Appeals for Veterans Claims of erroneous finding of fact by Board of Veterans' Appeals.
Sec. 502. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.
Sec. 503. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.
Sec. 504. Retroactive applicability of modifications of authority and requirements to assist claimants.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

SEC. 101. CLARIFICATION OF ENTITLEMENT TO WARTIME DISABILITY COMPENSATION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED MASTECTOMIES.

(a) IN GENERAL.—Section 1114(k) is amended by inserting "of half or more of the tissue" after "anatomical loss" the second place it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 102. COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

(a) HEARING LOSS REQUIRED FOR COMPENSATION.—Section 1160(a)(3) is amended—

(1) by striking "total deafness" the first place it appears and inserting "deafness compensable to a degree of 10 percent or more"; and

(2) by striking "total deafness" the second place it appears and inserting "deafness".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 103. AUTHORITY FOR PRESUMPTION OF SERVICE CONNECTION FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 is amended by adding at the end the following new section:

"§ 1119. Presumption of service connection for hearing loss associated with particular military occupational specialties

"(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both of a veteran who served on active military, naval, or air service during a period specified by the Secretary under subsection (b)(1) and was assigned during the period of such service to a military occupational specialty or equivalent described in subsection (b)(2) shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such hearing loss or tinnitus, as the case may be, during the period of such service.

"(b)(1) A period referred to in subsection (a) is a period, if any, that the Secretary determines in regulations prescribed under this section—

"(A) during which audiometric measures were consistently not adequate to assess individual hearing threshold shift; or

"(B) with respect to service in a military occupational specialty or equivalent described in paragraph (2), during which hearing conservation measures to prevent individual hearing threshold shift were unavailable or provided insufficient protection for members assigned to such military occupational specialty or equivalent.

"(2) A military occupational specialty or equivalent referred to in subsection (a) is a military occupational specialty or equivalent, if any, that the Secretary determines in regulations prescribed under this section in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

"(c) In making determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 103(c) of the Veterans Benefits Improvement Act of 2002.

"(d)(1) Not later than 60 days after the date on which the Secretary receives the report referred to in subsection (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both, as the case may be, of individuals assigned to each military occupational specialty or equivalent, and during each period, identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent in which individuals are or were likely to be exposed during such period to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary.

"(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination, issue proposed regulations setting forth the Secretary's determination.

"(3) If the Secretary determines under paragraph (1) that a presumption of service connection is not warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination—

"(A) publish the determination in the Federal Register; and

"(B) submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the determination, including a justification for the determination.

"(e) Any regulations issued under subsection (d)(2) shall take effect on the date provided for in such regulations. No benefit may be paid under this section for any month that begins before that date.".

(2) The table of sections at the beginning of chapter 11 is amended by inserting after the item relating to section 1118 the following new item:

"1119. Presumption of service connection for hearing loss associated with particular military occupational specialties.".

(b) Presumption Rebuttable.—Section 1113 is amended by striking "or 1118" each place it appears and inserting "1118, or 1119".

(c) Assessment of Acoustic Trauma Associated With Various Military Occupational Specialties.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(2) Under the agreement under paragraph (1), the National Academy of Sciences shall—

(A) review and assess available data on occupational hearing loss;

(B) from such data, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

(C) in the case of each form of acoustic trauma identified under subparagraph (B)—

(i) determine how much exposure to such form of acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level; and

(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(I) immediate or delayed onset;

(II) cumulative;

(III) progressive; or

(IV) any combination of subclauses (I) through (III);

(D) review and assess the completeness and adequacy of data of the Department of Veterans Affairs and the Department of Defense on hearing threshold shift in a representative sample of individuals who were discharged or released from service in the Armed Forces following World War II, the Korean conflict, and the Vietnam era, and in peacetime during the period from the end of the Vietnam era to the beginning of the Persian Gulf War, and during the Persian Gulf War, with such sample to be selected so as to reflect an appropriate distribution of individuals among the various Armed Forces;

(E) identify each military occupational specialty or equivalent, if any, in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary of Veterans Affairs; and

(F) assess when, if ever—

(i) audiometric measures became adequate to evaluate individual hearing threshold shift; and

(ii) hearing conservation measures to prevent individual hearing threshold shift were available and provided sufficient protection for members assigned to each military occupational specialty or equivalent identified under subparagraph (E).

(3) Not later than 180 days after the date of the entry into the agreement referred to in paragraph (1), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subparagraphs (A) through (F) of paragraph (2).

(4) For purposes of paragraph (2)(D), the terms "World War II", "Korean conflict", "Vietnam era", and "Persian Gulf War" have the meanings given such terms in section 101 of title 38, United States Code.

(d) Report on Administration of Benefits for Hearing Loss and Tinnitus.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both.

(B) Of the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during each such year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

SEC. 104. MODIFICATION OF AUTHORITIES ON MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) Increase in Amount.—Subsection (a) of section 1562 is amended by striking "$600" and inserting "$1,000, as adjusted from time to time under subsection (e)".

(b) Annual Adjustment.—That section is further amended by adding at the end the following:

"(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i)).".

(c) Effective Date.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2002.

(d) Payment of Lump Sum for Period Between Act of Valor and Commencement of Special Pension.—(1) The Secretary of Veterans Affairs shall pay, in a lump sum, to each person who is in receipt of special pension payable under section 1562 of title 38, United States Code, an amount equal to the total amount of special pension that the person would have received during the period beginning on the first day of the first month beginning after the date of the act for which the person was awarded the Medal of Honor and ending on the last day of the month preceding the month in which the person's special pension in fact commenced.

(2) For each month of a period referred to in paragraph (1), the amount of special pension payable to a person shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension during such month under laws for eligibility for special pension in effect at the beginning of such month.

SEC. 105. APPLICABILITY OF PROHIBITION ON ASSIGNMENT OF VETERANS BENEFITS TO AGREEMENTS ON FUTURE RECEIPT OF CERTAIN BENEFITS.

(a) In General.—Section 5301(a) is amended—

(1) by inserting "(1)" after "(a)";

(2) by designating the last sentence as paragraph (2) and indenting such paragraph, as so designated, two ems from the left margin; and

(3) by adding at the end the following new paragraph:

"(3)(A) For purposes of this subsection, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, whether by payment from the beneficiary to such other person, deposit into an account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an assignment and is prohibited.

"(B) Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (A) is also prohibited.

"(C)(i) Any person who enters into an agreement that is prohibited under subparagraph (A), or an agreement or arrangement that is prohibited under subparagraph (B), shall be fined under title 18, imprisoned for not more than one year, or both.

"(ii) This subparagraph does not apply to a beneficiary with respect to compensation, pension, or dependency and indemnity compensation to which the beneficiary is entitled under a law administered by the Secretary.".

(b) Effective Date.—Paragraph (3) of section 5301(a) of title 38, United States Code (as added by subsection (a) of this section), shall apply with respect to any agreement or arrangement described in such paragraph that is entered into on or after the date of the enactment of this Act.

(c) Outreach.—The Secretary of Veterans Affairs shall, during the five-year period beginning on the date of the enactment of this Act, carry out a program of outreach to inform veterans and other recipients or potential recipients of compensation, pension, or dependency and indemnity compensation benefits under the laws administered by the Secretary of the prohibition on the assignment of such benefits under law. The program shall include information on various schemes to evade the prohibition, and means of avoiding such schemes.

SEC. 106. EXTENSION OF INCOME VERIFICATION AUTHORITY.

(a) Title 38, United States Code.—Section 5317(g) is amended by striking "September 30, 2008" and inserting "September 30, 2011".

(b) Internal Revenue Code.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking "September 30, 2003" and inserting "September 30, 2011".

TITLE II—EDUCATION MATTERS

SEC. 201. THREE-YEAR INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES.

(a) Increase in Amount.—Section 3674(a)(4) is amended in the first sentence by striking "fiscal years 2001 and 2002, $14,000,000" and inserting "fiscal years 2003, 2004, and 2005, $18,000,000".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 202. CLARIFYING IMPROVEMENT OF VARIOUS EDUCATION AUTHORITIES.

(a) Eligibility of Certain Additional Vietnam Era Veterans.—Section 3011(a)(1)(C)(ii) is amended by striking "on or".

(b) Accelerated Payment of Assistance for Education Leading to Employment in High Technology Industry.—(1) Subsection (b)(1) of section 3014A is amended by striking "employment in a high technology industry" and inserting "employment in a high technology occupation in a high technology industry".

(2)(A) The heading for section 3014A is amended to read as follows:

"§ 3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry".

(B) The table of sections at the beginning of chapter 30 is amended by striking the item relating to section 3014A and inserting the following new item:

"3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry.".

(c) Source of Funds for Increased Usage of Entitlement Under Entitlement Transfer Authority.—Section 3035(b) is amended—

(1) in paragraph (1), by striking "paragraphs (2) and (3) of this subsection," and inserting "paragraphs (2), (3), and (4),"; and

(2) by adding at the end the following new paragraph:

"(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Educations Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.".

(d) Licensing or Certification Tests.—(1) Section 3232(c)(1) is amended by striking "a licensing" and inserting "a particular licensing".

(2) Section 3689 is amended—

(A) in subsection (b)(1)(B), by inserting "and with such other standards as the Secretary may prescribe," after "practices,"; and

(B) in subsection (c)(1)(A), by inserting "and with such other standards as the Secretary may prescribe," after "practices,".

(3) Section 3689(c)(1)(B) is amended by striking "the test" and inserting "such test, or a test to certify or license in a similar or related occupation,".

(e) Period of Eligibility for Survivors' and Dependents' Assistance.—Section 3512(a) is amended—

(1) in paragraph (3), by striking "paragraph (4)" in the matter preceding subparagraph (A) and inserting "paragraph (4) or (5)";

(2) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement in accordance with that paragraph, the beginning date of the person's entitlement shall be the date of the Secretary's decision that the parent has a service-connected total disability permanent in nature, or that the parent's death was service-connected, whichever is applicable;"; and

(4) in paragraph (6), as so redesignated, by striking "paragraph (4)" and inserting "paragraph (5)".

TITLE III—HOUSING MATTERS

SEC. 301. AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES AND HYBRID ADJUSTABLE RATE MORTGAGES.

(a) Three-Year Extension of Authority To Guarantee Adjustable Rate Mortgages.—Subsection (a) of section 3707 is amended by striking "during fiscal years 1993, 1994, and 1995" and inserting "through fiscal year 2005".

(b) Authority To Guarantee Hybrid Adjustable Rate Mortgages.—That section is further amended—

(1) in subsection (b), by striking "Interest rate adjustment provisions" and inserting "Except as provided in subsection (c)(1), interest rate adjustment provisions";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) Adjustable rate mortgages that are guaranteed under this section shall include adjustable rate mortgages (commonly referred to as 'hybrid adjustable rate mortgages') having interest rate adjustment provisions that—

"(1) are not subject to subsection (b)(1);

"(2) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

"(3) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (2); and

"(4) comply in such initial adjustment, and any subsequent adjustment, with paragraphs (2) through (4) of subsection (b).".

(c) Implementation of Authority To Guarantee Hybrid Adjustable Rate Mortgages.—The Secretary of Veterans Affairs shall exercise the authority under section 3707 of title 38, United States Code, as amended by this section, to guarantee adjustable rate mortgages described in subsection (c) of such section 3707, as so amended, in advance of any rulemaking otherwise required to implement such authority.

TITLE IV—OTHER BENEFITS MATTERS

SEC. 401. TREATMENT OF DUTY OF NATIONAL GUARD MOBILIZED BY STATES FOR HOMELAND SECURITY ACTIVITIES AS MILITARY SERVICE UNDER SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.

Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking "and all" and inserting "all"; and

(B) by inserting before the period the following: ", and all members of the National Guard on service described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: ", and shall include service in the National Guard, pursuant to a call or order to duty by the Governor of a State, upon the request of a Federal law enforcement agency and with the concurrence of the Secretary of Defense, to perform full-time duty under section 502(f) of title 32, United States Code, for purposes of carrying out homeland security activities".

SEC. 402. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.

(a) Presidential Memorial Certificate.—Section 112 is amended by adding at the end the following new subsection:

"(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.".

(b) Flag to Drape Casket.—Section 2301 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) A flag may not be furnished under this section on behalf of a deceased person described in section 2411(b) of this title.".

(c) Headstone or Marker for Grave.—Section 2306 is amended by adding at the end the following new subsection:

"(g)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

"(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

"(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.".

(d) Effective Date.—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 403. PROCEDURES FOR DISQUALIFICATION OF PERSONS COMMITTING CAPITAL CRIMES FOR INTERMENT OR MEMORIALIZATION IN NATIONAL CEMETERIES.

Section 2411(a)(2) is amended—

(1) by striking "The prohibition" and inserting "In the case of a person described in subsection (b)(1) or (b)(2), the prohibition"; and

(2) by striking "or finding under subsection (b)" and inserting "referred to in subsection (b)(1) or (b)(2), as the case may be,".

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

SEC. 501. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.

(a) Standard for Reversal.—Paragraph (4) of subsection (a) of section 7261 is amended by striking "if the finding is clearly erroneous" and inserting "if the finding is adverse to the claimant and the Court determines that the finding is unsupported by substantial evidence of record, taking into account the Secretary's application of section 5107(b) of this title".

(b) Scope of Authority.—That subsection is further amended—

(1) in the matter preceding paragraph (1), by striking "this chapter" and inserting "section 7252(a) of this title"; and

(2) in paragraph (4), as amended by subsection (a) of this section, by inserting "or reverse" after "set aside".

(c) Matters Relating to Findings of Material Fact.—That section is further amended by adding at the end the following new subsection:

"(e)(1) In making a determination on a finding of material fact under subsection (a)(4), the Court shall review the record of proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(b) of this title.

"(2) A determination on a finding of material fact under subsection (a)(4) shall specify the evidence or material on which the Court relied in making such determination.".

(d) Applicability.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b)(2) shall apply with respect to any appeal filed with the United States Court of Appeals for Veterans Claims—

(A) on or after the date of the enactment of this Act; or

(B) before the date of the enactment of this Act, but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

SEC. 502. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.

(a) Review.—(1) Subsection (a) of section 7292 is amended in the first sentence by inserting after "the validity of" the following: "a decision of the Court on a rule of law or of".

(2) Subsection (c) of that section is amended—

(A) in the first sentence, by inserting after "the validity of" the following: "a decision of the Court of Appeals for Veterans Claims on a rule of law or of"; and

(B) in the second sentence, by striking "such court" and inserting "the Court of Appeals for the Federal Circuit".

(b) Applicability.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any appeal—

(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 503. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 2412(d) of title 28, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

SEC. 504. RETROACTIVE APPLICABILITY OF MODIFICATIONS OF AUTHORITY AND REQUIREMENTS TO ASSIST CLAIMANTS.

(a) Retroactive Applicability.—Except as specifically provided otherwise, the provisions of sections 5102, 5103, 5103A, and 5126 of title 38, United States Code, as amended by section 3 of the Veterans Claims Assistance Act of 2000 (Public Law 106-475; 114 Stat. 2096), apply to any claim—

(1) filed on or after November 9, 2000; or

(2) filed before November 9, 2000, and not final as of that date.

(b) Readjudication of Certain Claims.—If the United States Court of Appeals for Veterans Claims, the United States Court of Appeals for the Federal Circuit, or the Supreme Court renders a decision during the period beginning on April 24, 2002, and ending on the date of the enactment of this Act holding that section 3(a) of the Veterans Claims Assistance Act of 2000 is not applicable to a case covered by the decision because such section 3(a) was not intended to be given retroactive effect, the Secretary of Veterans Affairs shall, upon request of the claimant or on the Secretary's own motion, order the claim readjudicated under chapter 51 of such title, as amended by the Veterans Claims Assistance Act of 2000, as if Board of Veterans' Appeals most recent denial of the claim concerned had not occurred.

ORDERS FOR MONDAY, SEPTEMBER 30, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m. on Monday, September 30; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for the transaction of morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 2 p.m., the Senate resume consideration of the homeland security bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, another cloture motion was filed on the Gramm-Miller amendment to the homeland security bill. Senators, therefore, have until 1 p.m. on Monday to file first-degree amendments. We expect to reconsider the vote by which cloture was not invoked on the Gramm amendment to the homeland security bill at approximately 5:30 Monday evening.

ADJOURNMENT UNTIL 1 P.M., MONDAY, SEPTEMBER 30, 2002

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:34 p.m., adjourned until Monday, September, 30, 2002, at 1 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 26, 2002:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

MICHELLE GUILLERMIN, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

NATIONAL COUNCIL ON DISABILITY

GLENN BERNARD ANDERSON, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005.

MILTON APONTE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003.

BARBARA GILLCRIST, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005.

GRAHAM HILL, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005.

MARCO A. RODRIGUEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR TERM EXPIRING SEPTEMBER 17, 2005.

DAVID WENZEL, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004.

GLEN BERNARD ANDERSON, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

BARBARA GILLCRIST, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

GRAHAM HILL, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

MARCO A. RODRIGUEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE ON THE SENATE.

EXTENSIONS OF REMARKS

IN SUPPORT OF H. CON. RES. 177

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. RODRIGUEZ. Mr. Speaker, I rise to pay tribute to Dolores Huerta, the most prominent Chicana labor leader within the Latino community. Dolores Huerta is the co-founder and First Vice President Emeritus of the United Farm Workers Union of America (UFW), AFL–CIO. For decades she has dedicated her life to the struggle for justice and dignity for migrant farm workers. Honored with countless awards for her tireless commitment, she is a role model for the entire Hispanic community.

In the mid 1950's Dolores Huerta began her work empowering workers by joining the Community Service Organization (CSO), a Mexican American self help association founded in Los Angeles. Dolores understood early on that empowerment was the key to leveraging power within the Latino community. She registered voters, organized citizenship classes for immigrants, and pressed local governments for improvements in the poorest of barrio communities. Given her passion and determination the CSO sent her to lobby on behalf of these under served communities in Sacramento. It was in this capacity that Dolores began her historic work serving the needs of migrant workers.

Life for migrant farm workers is incredible harsh. They endure painful work conditions during the day—with the hot sun beating down on them as they spend long hours bent over picking strawberries, grapes, lettuce and other crops. The conditions did not improve in the evenings—they retired to run down shacks, if they were fortunate enough to have a home. Often their cars or the floor were their only retreat. The workers were paid nominal wages, $.10 to $.20 a basket, and often were subject to further deductions in pay for water they consumed in the hot sun. The majority of these workers were Mexican immigrants or Mexican Americans who were monolingual Spanish speakers and had no voice. Dolores would soon lend her voice, in fact shouts, for justice to their cause.

She joined the Agricultural Workers Association (AWA), a community interest group in northern California. Through her work with the AWA she met Cesar Chavez, at that time the director of the CSO in California and Arizona, soon to become her colleague in the organization which would improve the quality of life for migrant workers across the country the United Farm Workers Union (UFW). The UFW was founded in 1972 with a commitment to justice, heard through the shouts of si se puede or felt through the pounding rattle of their traditional unity claps, has won many significant struggles for Latino workers.

As a co-founder and second in command to Chavez, Dolores helped shape and guide the union and contributed to their significant successes. Her style has always been forceful and uncompromising, yet she has been able to build successful coalitions of feminists, community workers, religious groups, Latino associations, student organizations, peace activists and countless others. Many of Dolores activities on behalf of the UFW have placed her in personal danger. She has been arrested more than 22 times for non-violent peaceful protest and in 1988 during a demonstration in San Francisco, she was severely injured by baton swinging police officers. She suffered two broken ribs and a ruptured spleen. However, this painful and life threatening experience did not stop her resolve. After recovering from her life-threatening injuries, Dolores resumed her work on behalf of farm workers in the 1990's and today at 72 years of age she continues to make appearances, lobby, and advocate on behalf of Latino workers. She has truly devoted her life to ensure that workers in this country are treated with dignity and justice.

TRIBUTE TO CHRISTOPHER REEVE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. HOYER. Mr. Speaker, on the eve of Christopher Reeve's 50th birthday, I would like to recognize his unfailing courage, strength, and faith as he has worked to overcome paralysis. Not only has Christopher Reeve put a human face on spinal cord injury, but he has become a leading advocate for medical research, better care for people with spinal cord injury and for increased quality of life for the more than two million Americans living with paralysis.

After graduating from Cornell University in 1974 and studying at Julliard, Christopher Reeve made his broadway debut opposite Katherine Hepburn in A Matter of Gravity. Best known for his star role in Superman and its many sequels, Christopher Reeve has dazzled the big screen and stage in numerous productions, such as The Bostonians, Street Smart, Speechless, Noises Off, Above Suspicion, The Remains of the Day, and most recently, Rear Window. He made his directorial debut with "In the Gloaming" in 1997, which received five Emmy nominations and published his autobiography, *Still Me* in 1998, which spent eleven weeks on the New York Times Bestseller List.

But beyond his experience within the entertainment arena, Christopher Reeve has achieved great success in a new and much more challenging role: a survivor of spinal cord injury who is working toward a medical miracle. Christopher Reeve has become a beacon of hope for all people with spinal cord injury and paralysis. The recent news reports about his medical progress has been an inspiration for not only those living with paralysis, but also for the medical research community. For the first time since his accident in 1995, Christopher Reeve is able to wiggle his fingers and toes, experience sensation in his body, and tell the difference between hot and cold something that the medical community did not believe was possible in someone so far removed from the initial time of his accident.

Christopher Reeve's recovery and recent scientific evidence show that there is hope for those living with paralysis. At research centers in the United States, Europe and Japan, new techniques of rigorous exercise has helped an estimated 500 persons with paraplegia and limited sensations in their lower bodies to walk for short distances, either unassisted or using walkers.

While the results of these new methods are quite miraculous, the limits of what physical exercise can do for patients remains grossly understudied. While each person and each injury is unique, and some people recover spontaneously, an estimated 200,000 Americans are living with spinal cord injuries that have not improved. Which therapy or combination of therapies will work for each persons is unknown. Today 2 million Americans are living with paralysis, including spinal cord injury, stroke, cerebral palsy, multiple sclerosis, ALS and spina bifida. We need research to see how these new interventions work on the entire population of individuals living with paralysis.

Tomorrow, I will join my colleagues in introducing the Christopher Reeve Paralysis Act of 2002, which seeks to further advance the science needed to help those living with paralysis take that next step and at the same time build quality of life program in the state that will further advance full participation, independent living, self-sufficiency and equality of opportunity for individuals with paralysis and other physical disabilities.

Those living with paralysis face astronomical medical costs, and our best estimates tell us that only one-third of those individuals remain employed after paralysis. At least one-third of those living with paralysis have incomes of $15,000 or less. And over the past 20 years, overall days spent in the hospital and rehabilitation centers for those living with paralysis have been cut in half.

Christopher Reeve's recent triumphs in overcoming paralysis prove how close we are to achieving major breakthroughs for people who have paralysis. The Christopher Reeve Paralysis Act of 2002 will ensure that the federal government does its part to help the more than two million Americans with paralysis who are still waiting for their own breakthroughs.

As John F. Kennedy once said, "The stories of past courage can define that ingredient they can teach, they can offer hope, they can provide inspiration. But they cannot supply courage itself. For this each man must look into

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

his own soul". Since Christopher Reeve was injured, his tireless efforts to walk again, coupled with his faith, passion and commitment to improve quality of life for others living with paralysis, make him an inspiration to us all. Happy Birthday, Chris.

IN RECOGNITION OF NEW ALTERNATIVES FOR CHILDREN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mrs. MALONEY of New York. Mr. Speaker, I would like to pay tribute to New Alternatives for Children (NAC), on the occasion of the foundation's 20th Anniversary.

Founded in 1982, New Alternatives for Children is the New York City area's only child-welfare agency devoted exclusively to children with severe disabilities and chronic illnesses. NAC was founded in 1982 to find homes for disabled "broader babies children"—who were residing in hospitals long after they were medically ready for discharge, because their biological families were unable to care for them.

Since 1982, NAC has moved hundreds of children out of the hospital and into safe, loving, and permanent family homes through foster care, adoption, or extensive work with biological families to enable them to care for their children.

NAC consistently receives the highest rankings for foster care services and has reduced the average length of stay from foster-care placement to adoption to half as long as the New York City average. In addition, children who are reunified with their birth families average one year and three months in foster care at NAC, as opposed to the citywide average of four years.

NAC's tremendous efforts to help children with disabilities and chronic illnesses to meet their full potential has given these children an opportunity to lead healthy fulfilling lives. NAC not only provides innovative foster care, adoption, and prevention services, but offers on-site medical and mental health care, which is an invaluable service to families who might otherwise have great difficulty navigating among the many services they require.

Further, NAC provides support groups for the siblings of children with disabilities, mentoring, art therapy, and recreational services, including summer camp opportunities, and considerable help in making sure that families' homes are able to meet the requirements of children with disabilities.

NAC is providing our community with an immensely important service by preventing the institutionalization of disabled or chronically ill children.

NAC opens a world of opportunities and possibilities for medically fragile children and assists the entire family in reaching their potential as productive members of society.

NAC has strongly held onto the belief that all children have the right to grow up in a loving and safe family setting, and NAC has made this possible for hundreds of children. Within the community, NAC has provided comprehensive services to meet the physical, social, educational, recreational, and health care needs of these children so that they may have a smooth adjustment to living in the community.

In recognition of New Alternatives for Children's outstanding contributions to the community and their commitment to the quality of life of chronically ill and disabled children. I ask that my colleagues join me in saluting NAC on their 20th Anniversary.

L. MENDEL RIVERS AWARD FOR LEGISLATIVE ACTION

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. BILIRAKIS. Mr. Speaker, the Non Commissioned Officers Association of the United States of America (NCOA) will present its L. Mendel Rivers Award for Legislative Action to our colleague CHRISTOPHER H. SMITH of New Jersey today. The NCOA instituted this annual award to be presented to the legislator who, in their opinion, is most worthy of recognition for personal effort in furthering the ideals of democracy, freedom, and patriotism on behalf of our beloved Nation.

CHRIS' legislative efforts and achievements on behalf of all who serve or have served in the Armed Forces truly reflect the noble ideals and values of legislative service envisioned by the creation of the award in the honored name of L. Mendel Rivers, a distinguished former colleague of this House.

In selecting CHRIS to receive this coveted award, NCOA has declared to its worldwide membership his extraordinary legislative achievement. His leadership role as Chairman of the Committee of Veterans Affairs enabled him to champion legislation that has benefitted the men and women who serve or have served in the Uniformed Services of the United States and whose service and sacrifice have preserved the democracy and freedoms enjoyed by all Americans. His legislative leadership in 2001 resulted in new laws providing expanded services and benefits to America's 25 million military veterans. H.R. 1291 (now Public Law 107-103), the Veterans Education and Benefits Expansion Act of 2001, increases educational, housing, burial and disability benefits by $3.1 billion. This legislation also boosted the Montgomery GI Bill college education benefit amount by a record 46 percent within 3 years, increasing the lifetime college benefit for qualified veterans from $24,192 to $35,460. He is also being recognized for his advocacy to end homelessness among veterans. He has instituted creative programs designed to prevent homelessness by identifying at-risk veterans and has helped institute new nationwide programs to break the cycle of homelessness among veterans.

The Non Commissioned Officers Association (NCOA) is a federally chartered, non-profit, fraternal association founded in 1960. NCOA received its federal charter from Congress in 1988. Its purpose is to uphold and defend the Constitution of the United States; support a strong national defense with a focus on military personnel issues; promote health, prosperity and scholarship among its members and their families through legislative and benevolent programs; improve benefits for servicemembers, veterans, their family members and survivors; and assist servicemembers, veterans, their family members and survivors in filing benefit claims.

INTRODUCTION OF THE DIVIDED PAYMENT INCENTIVE ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. PETRI. Mr. Speaker, today, I have introduced legislation to authorize a deduction from corporate income for dividends paid to stockholders. The stock market's continued sluggish performance makes this bill particularly timely. The Dividend Payment Incentive Act of 2002 will help to boost overall stock market performance by providing a very real incentive for investors to put their hard earned money back into the stock market.

Allowing corporations a deduction for dividends paid is important for many reasons, including:

This legislation will end the double taxation of dividends. Today, there is a 35 percent tax on corporate income and then stockholders also pay regular income tax on dividends received. An investor in the 27 percent tax bracket receives less than 48 cents for each dollar of earnings a corporation designates for dividend payments.

Current tax policy provides a disincentive for corporations to transfer earnings to shareholders, and dividend payments have declined significantly. In fact, many corporations make no dividend distributions. My legislation will help to reverse this trend.

Clearly, the expectation of receiving regular dividend payments from profitable companies can persuade investors to return their money to our equity markets. Investors relying solely on capital gains may find little reason to purchase stocks. Moreover, it has been estimated that dividends comprised half of the average return to shareholders in the decades before 1990. Without dividend payments, and few reliable capital gains, investors will remain on the sidelines.

An increasing number of Americans have come to equate their financial well-being with the health of the stock market. The growth of stock investments held in retirement savings accounts makes it clear that this link is real. Encouraging the regular payment of dividends by ending this double taxation will have a strong positive impact on the retirement prospects of many people.

There are a number of different ways to eliminate the double taxation of dividends, and some of these proposals have been introduced by some of our colleagues. Whatever the merits of those other proposals, none will have as direct an impact on the health of America's stock markets. Allowing the deduction of dividends from corporate income will provide a strong incentive to corporations to return to the practice of making regular dividend payments. In turn, these dividends will provide a positive reason for investors to come back to the market. The time has come to enact this important tax reform.

WE ARE “GREAT BECAUSE WE ARE GOOD”

HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. WAMP. Mr. Speaker, as we observe the remembrance of September 11th, it is my hope that the citizens of the United States will honor the legacy of those who lost their lives and pay tribute to their survivors in time honored American ways like helping others in need, saying a kind word to a stranger, volunteering at a homeless shelter or sending relief to people around the world who we may never even meet. After all, our country is not great because of our military strength, our free enterprise system or even our right to vote (as awesome as these qualities are!). America is great as we give more than we take and as we are willing to serve and sacrifice for others.

We now know countless stories of heroism and remarkable bravery passengers on flight 93 that had the courage to stand up to terrorists giving their lives to protect hundreds of others, a Lieutenant Colonial who died trying to get his co-workers to safety or a firefighter who ran up the stairs of a building that was coming down on top of him. Although they didn't sign up to fight in the trenches of the War on Terrorism, fire fighters, EMT's, law enforcement officers, medical professionals and even airline passengers were willing to lay down their lives for people they had never even met.

The sacrifice and courage of our first responders on September 11th caused a swell of pride in all Americans, of every generation. What we witnessed when America came under attack was comparable to the noble actions of the Greatest Generation veterans on D-day when they stormed the beaches of Normandy or in the lonely courage of American heroes in the jungles of Vietnam.

The United States of America is at her best not when the Dow Jones average is above 10,000 points, or when we land on the moon, but when our citizens are willing to sacrifice themselves so that others might be secure.

I participated in a historic joint-session of Congress at Federal Hall in New York City, laid a wreath at Ground Zero and spoke at a memorial service in a Brooklyn church. On Wednesday, September 11th I attended the National Memorial Service at the Pentagon with President George W. Bush and Defense Secretary Donald Rumsfeld. That evening I listened with the rest of the world to President Bush speak about this past year and America's security in an unstable world.

As we bow our heads in respect, let us all be committed to honoring our country and those that have gone before us by giving of ourselves to help others. After all, every day of life is a gift from God and none of us know which might be our last. Let us stay united and make the most of every day!

RECOGNIZING 100TH ANNIVERSARY OF 4-H YOUTH DEVELOPMENT PROGRAM

SPEECH OF

HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. KENNEDY of Minnesota. Mr. Speaker, good afternoon. I'm proud to stand up today in support of House Concurrent Resolution 472 that recognizes the 100th anniversary of the 4–H Youth Development Program.

Both my wife and I, who I met when we were both Minnesota State 4–H Ambassadors, were born and have lived in rural Minnesota most of our lives.

Until graduating from college, I never lived in a town with more than one thousand people.

4–H enables kids to have fun, meet new people, learn new lifeskills, build self-confidence, learn responsibility, and set and achieve goals!

I will now recite the 4–H pledge.

I pledge: My head to clear thinking; my heart to greater loyalty; my hands to larger service; my health to better living; for my club, my community, my country, and my world.

The World would do well to live by this pledge.

DEBORAH HORWITZ 2002 COLONEL IRVING SALOMON HUMAN RELATIONS AWARD WINNER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. FILNER. Mr. Speaker, I rise to salute Deborah Horwitz for her selection as the 2002 Colonel Irving Salomon Human Relations Award recipient and in recognition of her outstanding community and civic leadership.

A native of Evanston, Illinois, Deborah received a Bachelor of Arts degree from Indiana University and Master's Degree from Northwestern University. Deborah has devoted her life to her two passions: her family and the community.

Deborah served as President of the San Diego Chapter of the American Jewish Committee (198891) and has actively participated on many national AJC training institutes, commissions and task forces. She currently serves on the Boards of AJC's Belfer Center for American Pluralism and AJC's Project Interchange. She has also been appointed as a National Vice President of the American Jewish Committee the first San Diegan to hold this honored position.

Deborah is also the Founder and former President of EdUCate!, a non-profit foundation supporting local public schools which is still being used as a model in other communities. In 1999, she was recognized for her support of public education and received the California Woman of the Year Award from the California State Legislature.

In addition, Deborah was on the founding steering committee of the San Diego County United Jewish Federation Task Force on Jewish Continuity and, during her five years of service, assisted with the creation of several successful community-building projects.

Deborah currently serves on the boards of the Lipinsky Institute for Judaic Studies at San Diego State University and the Northwestern University Alumni Club of San Diego. She is a founding member of the San Diego Women's Foundation, whose mission is to educate women about philanthropy and to improve the greater San Diego community through intelligent, focused giving.

Deborah Horwitz exemplifies a true leader of our community. I offer my congratulations to her on the receipt of the prestigious 2002 Colonel Irving Salomon Human Relations Award.

REMARKS DELIVERED ON THE FIRST ANNIVERSARY OF SEPTEMBER 11, 2002

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. ROTHMAN. Mr. Speaker, we come here today, as one community, to reflect on the events of September 11, 2001. On that terrible day, a group of evil men murdered more than 3,000 innocent American men, women, and children here on American soil as their co-conspirators attempted to kill thousands more.

Today, we still mourn the loss of our fellow citizens: those trying to reach safety and those who deliberately placed themselves in harms way (who saved literally tens of thousands of their fellow Americans in the process). We will also never forget those who were injured and who are still suffering from the wounds, physical and emotional, that were inflicted upon them. We will never forget the heroism and sacrifice of those many of whom are with us today who responded immediately and selflessly, who prevented a terrible ordeal from being even worse.

While we will always continue to remember what happened, we must also continue our nation's effort to bring to justice and punish those who perpetrated these terrible acts and those who are planning new ones. Government's first priority is, after all, to protect the people, and as your representative in Congress, I assure you that Congress is working to see that our government meets our country's needs for our homeland security and for our national defense: from strengthening our borders, to improving law enforcement and intelligence capabilities, to ensuring that our military is fighting with superior forces and weapons. We never forget that we Americans depend on our government to protect us.

We are forever grateful to the men and women in law enforcement and in our armed forces, here and around the world, who put their lives at risk so that we may keep our country and her people safe and free.

Is America a perfect nation? Are we as individuals perfect people? No, America is not perfect, and none of us has ever met a perfect person. But what we have in America is the greatest nation the world has ever known—a country committed to freedom, democracy, and equal justice under the law. An imperfect country, but one whose principles of freedom of speech and expression allow us and even demand us to continually seek to make our nation more perfect in its realization of our founding principles. We are still the shining beacon of hope and liberty for every nation in the world and every man, woman, and child on this planet.

Finally, we must always remember that in our 226 year history, America has prevailed over many more powerful enemies than the ones we face today. It took the lives and sacrifices of countless numbers of Americans. It took money. It took time. It took patience. And it took perseverance. But we prevailed. Make no mistake about it, my fellow Americans, America will prevail again today.

God bless you, my friends, and God bless the United States of America.

RECOGNITION OF GAREN AND SHARI STAGLIN

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. THOMPSON of California. Mr. Speaker, I rise today in recognition of Garen and Shari Staglin for their many contributions to the mental health community. As founders of Napa Valley's Music Festival for Mental Health, they have raised community and regional awareness about the importance of mental health services, as well as millions of dollars for mental health research and treatment programs.

Approximately one in five Americans are affected by some form of mental illness. Underfunded research programs and professional shortages, however, mean that those who are suffering from mental diseases and disorders cannot always get the treatment they need.

As long-standing supporters of the mental health community, Garen and Shari Staglin saw this unmet need and made a personal commitment to support programs that, research and treat mental illness. Garen and Shari actively work as both fundraisers, and educators, increasing community and national knowledge of mental disease as well as generating the funding that allows substantial progress in research and treatment.

Through the Music Festival for Mental Health, Garen, Shari, their family and their supporters have raised over $8.6 million since 1995. Funds have been donated to a variety of mental health research and treatment programs including those focusing on brain disorders, schizophrenia, depression and bipolar disorders.

Garen and Shari have made a critical difference but they have done so in the shadows. Not seeking any personal recognition for their efforts, they have advocated tirelessly on behalf of suffering people who may have never heard their name. They are not seeking fame or credit or even thanks; they would much prefer the spotlight to shine on the mental health community.

Desired or not, recognition is sincerely deserved. Garen and Shari's efforts have funded treatment programs, as well as the research that generates the medicines upon which many of those treatments are based. They have improved the lives of countless individuals, and they have done so with a quiet compassion and a singular focus that has prompted the involvement of their family, their friends and their community in their efforts.

Mr. Speaker, today I rise in honor of Garen and Shari Staglin. I congratulate them on the phenomenal success of the Music Festival for Mental Health and I join the mental health community in thanking them for their outstanding efforts on behalf of mental illness.

PANCREATIC ISLET CELL TRANSPLANTATION ACT OF 2002

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. NETHERCUTT. Mr. Speaker, on behalf of the Congressional Diabetes Caucus I am pleased to introduce the Pancreatic Islet Cell Transplantation Act of 2002.

I know first-hand about the difficulty involved in managing this disease, as my daughter was diagnosed with diabetes when she was six. I have hope in the rapid pace of research in this area and believe that one day soon there will be a cure for my daughter and the millions of Americans with diabetes. The legislation we are introducing today is an important step toward this goal.

It is a promising time for research on diabetes, and those suffering from the disease and their families are filled with hope. One of the most exciting recent advances, and the focus of this legislation, is pancreatic islet cell transplantation. Many have hailed the breakthrough in this area as the most important advance in diabetes research since the discovery of insulin in 1921.

In 2000, researchers in Edmonton, Canada were successful in isolating islets from donor pancreases and transplanting those cells into a person with diabetes through an injection. These injected islets then begin to function and produce insulin, and this procedure appears to offer the most immediate cure for diabetes. This procedure has become known as the Edmonton Protocol and of the approximately 100 patients who have been transplanted using variations of this protocol, nearly 80 percent remain insulin independent beyond two years. The research is moving forward quickly, and researchers around the world are trying to replicate and expand on this success and make it appropriate for children. As of January 2002, there were 68 islet transplantation centers around the world.

I am proud that exciting advances are underway in the state of Washington. Recently, a clinical research team at the JDRF Center for Human Islet Transplantation in Seattle has performed the first three human islet transplants in the Northwest. All of these individuals were suffering the effects of advanced diabetes complications prior to receiving the transplant, and all three have now achieved critical post-transplant success in the management of their blood sugar levels. I am heartened to know that the Seattle program plans to continue their research in the future.

The Pancreatic Islet Cell Transplantation Act of 2002 contains three provisions that I believe will help to move this research forward. The first section of the bill provides a regulatory incentive to organ procurement organizations (OPOs) to procure additional pancreases. One of the major challenges in promoting research on and transplantation of islet cells is the shortage of pancreases. Approximately 2,000 pancreases are donated each year, and only approximately 500 of those donated are available for use in islet cell transplants. Clearly, this is not nearly a large enough supply considering that millions of Americans have diabetes. Currently, OPOs do not receive credit from the Centers for Medicare and Medicaid Services (CMS), towards their certification, for pancreases retrieved and used for research or islet transplantation. The OPOs do receive credit for pancreases retrieved and used for whole pancreas transplants. This creates a disincentive for OPOs to retrieve pancreases for research or islet transplantation. My legislation attempts to provide an incentive to OPOs by directing CMS to provide credit to OPOs for pancreases retrieved and used for research and islet transplantation.

The second section of this legislation creates a federal inter-agency committee to coordinate efforts in the area of islet transplantation and to make recommendations to the Secretary of Health and Human Services on regulations and policies that would advance this exciting area of research.

Ultimately, the goal is to expand the human clinical trials, demonstrate success over a longer period of time, and move islet cell transplantation from an experimental procedure to standard therapy covered by insurance and appropriate for all individuals with diabetes. The third section of this legislation directs the Institute of Medicine to conduct a study on clinical outcomes and comprehensive cost-utility analysis that will be important in moving towards this goal.

I encourage all of my colleagues to join with me in supporting this important legislation.

PRESERVING THE LEGACY OF AN AMERICAN PRESIDENT

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. ROSS. Mr. Speaker, I rise today to thank my colleagues for your support of H.R. 3815, the Presidential Historic Site Study Act, a bipartisan bill I offered earlier this year.

This bill simply begins the normal process for preserving an important American presidential landmark. American Presidents are a hallmark of our society. The way in which Americans forever remember leadership of the greatest nation is through their policies, their words, and through the people and places that have shaped their lives. We place a great significance on the homes of Presidents because they are a part of our nation's history. They are where our leaders formed the beliefs and values that shaped their decisions and legacies. Anyone who has visited Mt. Vernon, Monticello, or Abraham Lincoln's birthplace at Spring Creek has felt a sense of the historic value of where they stood and what they saw. The birthplace home of President William Jefferson Clinton holds a piece of our presidential history, and it is only fitting for it to be designated as a National Historic Site.

I share the unique opportunity of being the Representative of former President Clinton's birthplace home, Hope, Arkansas. In fact, I am a 1979 graduate of Hope High School. In that small town called Hope, President Clinton was educated and encouraged by a loving family in a home at 117 South Hervey Street. This home stands as a marker of his heritage.

The Clinton Birthplace Foundation was formed several years ago, and has successfully renovated the home, turning it into a museum and visitors center. Today, the home is a tourist attraction on a local scale, and the Clinton Birthplace foundation is looking to have the home placed on the National Register of Historic Places as a National Landmark. In order for this to happen, a feasibility study must be completed. This study is only the first step in a lengthy process. H.R. 3815 will set this process in motion by authorizing the feasibility study.

The eventual designation as a National Historic Site will open the doors of economic opportunity by way of added tourism to Southwest Arkansas. Thirty-one of my fellow colleagues are cosponsoring this legislation with me, including the complete Arkansas delegation. Arkansas Governor Mike Huckabee, a Republican, is also supportive of this study. Arkansans view this home as part of our state history. This is not about politics, but instead about the rich history of Arkansas and our Nation. This site will help to celebrate that history and educate thousands of visitors, and perhaps most importantly, it will bring jobs, opportunities, and economic development to a part of our district that greatly needs it.

TRIBUTE TO COLONEL PAUL J. RICHTER

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. WALSH. Mr. Speaker, on 31 July 2002, Colonel Paul J. Richter retired as the Support Group Commander of the 174th Fighter Wing, New York Air National Guard in Syracuse, New York. He assumed this position in January 1994, and was responsible for over 100 full-time and 300 traditional guardsmen.

He was previously assigned as the Deputy Commander for Resources from 19871994, during which time he was activated in December 1990 to Al Kharj Air Base, Saudi Arabia for Operation Desert Storm, until the base deactivated in July 1991.

Colonel Richter was born on 28 November 1948 in St Louis, Missouri. He graduated St. Mary's High School in 1967, and attended St. Louis University on an AFROTC scholarship earning a Bachelor of Science Degree in Civil Engineering. His professional military education includes Squadron Officers School, 1984; Air Command and Staff School, 1986; and Air War College, Oct 1995.

Col Richter began his military career in 1971, gaining his commission in the Air Force through AFROTC. He was assigned to the 4789th Air Base Group, Hancock Field in Syracuse, New York. He served there for four years and was assigned to various staff positions in the Civil Engineering Squadron.

Col Richter entered the New York Air National Guard 174th Tactical Fighter Group's Civil Engineering Flight in 1975 as the full time Base Civil Engineer and traditional Engineering Staff Officer. He held numerous positions in the flight until assuming command in 1983. Subsequently, in 1987 he was assigned as the Deputy Commander for Resources. Upon activation for Operation Desert Storm, he was assigned as Assistant Deputy Commander for Resources at Al Kharj Air Base, Saudi Arabia. After the end of hostilities, he was given the job of Deputy Commander for Resources until the base deactivated in July of 1991. In December of 1998, he was selected for the Georgetown Capitol Hill Government Affairs Fellowship in Washington, D.C. from January until December 1999. During this fellowship, he was assigned to my staff where he worked closely on Military Construction and VAHUD sub-committee assignments, as well as the FY00 Defense Appropriations Bill. More recently, Col Richter was assigned as the First Commander for the Air Component for the military response to the World Trade Center attacks.

His military decorations include the Bronze Star, the Air Force Commendation Medal, the Air Force Outstanding Unit Award with Valor device and 4 Oak Leaf Clusters, National Defense Service Medal with 1 device, Southwest Asia Service Medal with 3 devices and the Kuwait Liberation Medal. His state awards include the New York State Long and Faithful Service Award, Operation Desert Storm Medal, and the Conspicuous Service Cross. Col Richter was promoted to his present rank and federally recognized on 3 Mar 99.

TRIBUTE TO MARCIA McQUERN—PUBLISHER, EDITOR, PRESIDENT AND CEO OF THE PRESS ENTERPRISE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to the community of Riverside County, CA, are exceptional. The County of Riverside has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give time and talent to making their communities a better place to live and work. Marcia McQuern is one of these individuals. On October 1, 2002, Marcia will be retiring after 30 years of dedicated service to the community as the Publisher, Editor, President and CEO of The Press Enterprise, the dominant news source for the Inland Empire. Her outstanding work in communicating with the public, in addition to her personal involvement in the community, will be celebrated at a luncheon her honor on October 8, 2002.

Marcia obtained her bachelor's degree in political science from the University of California, Santa Barbara and served as the editor of the student newspaper. She later obtained her master's degree from Northwestern University's Medill School of Journalism.

In her 30 years of exemplary employment with The Press Enterprise, Marcia has worked as the executive editor, managing editor/News, deputy managing editor/News, and city editor as well as holding numerous reporting positions. In 1992 she was named president of The Press Enterprise and in 1994 she was named publisher and editor. Under her excellent leadership the newspaper's daily circulation increased from 116,000 to more than 185,000.

Marcia has also been an actively involved in the community and industry, currently serving as a member and former president of the board of the California Newspaper Publishers Association. Marcia also serves on the board of the Riverside Community College Foundations; the University of California, Riverside (UCR) Foundation; the Mt. San Jacinto College Foundation; the Inland Empire Economic Partnership; and the Community Foundation for the Western Center for Archaeology and Paleontology. She is also a member of the Monday Morning Group, the Murrieta-Temecula Group and on the board of visitors for the UCR's College of Humanities, Arts and Social Sciences. Marcia has also served as a member of the boards of the American Society of Newspaper Editors; California Society of Newspaper Editors; the California Press Association; the University of California, Santa Barbara, Alumni Association; the editorial board of California Lawyer Magazine; and as a Pulitzer Prize juror.

In recognition of her outstanding work in the community, Marcia has been honored by the University of California, Santa Barbara as its Distinguished Alumni Award recipient in 2001; was inducted into the UCR Women's Hall of Fame in 1998; recognized as the California Press Association's Newspaper Executive of the Year in 2000; and honored as the Riverside YWCA Woman of Achievement in 1994.

Marcia's tireless work as the Publisher, Editor, President and CEO of The Press Enterprise has contributed unmeasurably to the betterment of Riverside County. Her involvement in community organizations makes me proud to call her a fellow community member, American and friend. I know that all of the residents of Riverside County are grateful for her service and salute her as she departs The Press Enterprise. I look forward to working with her in the future for the good of our community.

HONORING AN AMERICAN HERO: HAROLD BUTCH HOLDEN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. BARCIA. Mr. Speaker, I rise today to honor Harold Butch Holden upon his retirement after 34 years as a Boys Girls Clubs of America professional. After working his way through college in various positions with the

San Diego and El Cajon Clubs, Butch launched a Boys Girls Club career marked by great success and accomplishment. The Boys Girls Clubs of America is losing a great man.

Over the years, Butch ran Clubs in Lewiston, Idaho; Anchorage, Alaska; Portland, Oregon; and, Santa Barbara County, California. He then was named Pacific Regional Vice President for Boys Girls Clubs of America's national office, where he was responsible for the development and oversight of hundreds of local Clubs, serving hundreds of thousands of young people. From 1996 to present day, he closed out his career by building an organization consisting of nine Clubs now known as the Boys Girls Clubs of Central Oregon. All along the way, Butch has guided and looked after the young people in his Clubs as if they were his own children.

From 1967 to 1971, Butch served our country as a member of the U.S. Marine Corps, rising to the rank of Captain. He served two tours in Vietnam as a Platoon Leader and Company Commander, and was awarded the Silver Star for gallantry in action against superior enemy forces, two Bronze Stars for valor, three Purple Hearts, a Navy Commendation Medal for valor, the Vietnamese Cross of Gallantry with silver star, and the Combat Action Ribbon. All of these were personal decorations.

Finally, Mr. Speaker, I ask my colleagues to join me in saluting Butch Holden, a true American hero. Butch Holden is a man who has served his country in war and in peace. He has truly made it his life's mission to make America a better and safer place for our young people. Butch Holden has earned our respect and is a shining example of why America is the greatest nation on the face of the earth.

TRIBUTE IN HONOR OF MARIANNE AND DONALD KLEKAMP

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. PORTMAN. Mr. Speaker, I rise today in recognition of Marianne and Donald Klekamp, dear friends and community leaders, who will be honored at the 4th Annual Brain Injury Awards Dinner in Cincinnati on September 27, 2002.

Marianne and Don are both Cincinnati natives who have made a tremendous difference in our area. Marianne received a Bachelor of Science in Nutrition from the University of Cincinnati in 1956. Don received a Bachelor of Arts with honors from Xavier University in 1954, and went on to earn his law degree from the University of Cincinnati College of Law in 1957.

Marianne and Don were married in July, 1957. They briefly left the Cincinnati area while Don worked as a tax attorney in Cleveland with U.S. Steel Corporation. However, in 1959, they moved back to Cincinnati, when Don accepted a position with the law firm of Keating Muething, P.L.L., as it was known back then. Forty-three years later, Don is still working hard as a Senior Partner at the same firm, now known as Keating, Muething Klekamp, P.L.L. Don is an excellent lawyer, and is regularly included in the Best Lawyers in America.

Don's success at Keating, Muething Klekamp, P.L.L., would not have been possible without Marianne's hard work and dedication to their family and home. While raising their five children, Amy, Molly, Rebecca, Jody, and Peter, Marianne provided support to Don in his law practice and to his community activities.

Marianne and Don have also given a great deal to our local community. In addition to their children's school related activities, Marianne served as President of Cotillion, and more recently as a member of the Cincinnati Nutrition Council. Don recently served for eight years on the Indian Hill Council, the last four as Mayor of the Village. He also was a board member of the Indian Hill Historical Society, the Greater Cincinnati Dental Care Foundation of Children's Hospital, and the Citizens for Community Values. Don also was president of the Cincinnati Citizens Police Association, a former trustee of the Madeira and Indian Hill Joint Fire District and of the University of Cincinnati Foundation. In addition, Don is a founder and past president of the Ohio Right to Life Society, and he has received a number of awards and honors, including the Trustee's Award of the Cincinnati Bar Association and the Distinguished Alumnus Award from Xavier University.

Don currently serves on the Dean's Board of Visitors of the University of Cincinnati College of Law, and on the boards of the Legal Aid Society and the National Coalition of the Protection of Children and Families and Life Issues Institute. Don also serves on the board of directors for a number of companies, including Cintas Corporation.

Marianne and Don recently established the Donald P. Klekamp Professorship of Law at the University of Cincinnati College of Law and helped establish a scholarship in the Honors AB Program at Xavier University. They also were instrumental in providing funding for the acquisition and remodeling of the Donald P. Klekamp Community Law Center, the new location of the Legal Aid Society, which provides legal services to the poor and disadvantaged in Southwestern Ohio.

Mr. Speaker, Marianne and Don are outstanding individuals who have really made a difference in the Cincinnati area. All of us in Southwestern Ohio are thankful for their countless contributions to our community as they are honored at the 4th Annual Brain Injury Awards Dinner.

TRIBUTE TO LOUIS AND JOSEPHINE KOSON

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor and congratulate Louis and Josephine Koson on celebrating their 60th Wedding Anniversary this past August 29, 2002. This extraordinary couple embodies true commitment. They possess a love and dedication for each other that is remarkable.

Louis and Josephine met and married while Louis was an Air Force Military Police officer during World War II. They went on to have two children: John and Loretta. By way of their children, Louis and Josephine now have one grandchild, Tommy, and two great grandchildren, Sean and Matthew. I am proud to share their story with you.

Mr. Speaker, our Nation understands the value of strong families. Louis and Josephine are an example to us all that love endures all things. I hope that my colleagues will join me in recognizing their successful marriage and their 60th Wedding Anniversary.

SIGNING THE DISCHARGE PETITION FOR H.R. 1343, LOCAL LAW ENFORCEMENT HATE CRIMES PREVENTION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. STARK. Mr. Speaker, I am honored to join with my colleagues in demanding that Congress consider comprehensive hate crimes legislation. I hope my colleagues will join me in signing this discharge petition to bring H.R. 1343, the Local Law Enforcement Hate Crimes Prevention Act, to the floor for an immediate vote.

H.R. 1343 will expand the scope of the current Federal Hate Crimes Law by including crimes motivated by bias against a victim's sexual orientation, gender, or disability. It will help crack down on hate crimes by providing technical, forensic, and prosecutorial assistance to State and local law enforcement. It will also make grants available to State and local governments who have incurred great costs in investigating and prosecuting these crimes.

Unlike the Republican Leadership, I do not see violence based on prejudice as some abstract legal concept. I disagree that hate crimes cannot be discerned from other types of violence and thus do not deserve special penalties under the law.

Crimes based on hate must be viewed for their real consequence. Hate crimes are not just violent acts perpetrated upon an individual because of their skin color, gender, sexual orientation, or religion. This is wrong enough. But these crimes are also intended to terrorize a whole community of people, to let them know they too are susceptible to violence solely because of who they are or what they believe.

Hate crimes are also a direct assault upon the fundamental ideals of our Nation. They undermine our basic commitment to freedom, equality, and justice. They unbind the bonds of community and imperil the common character and common decency we aspire to as Americans.

The Republican Leadership ignores this greater threat alongside the real life impact these crimes can have on our citizens and communities. In my own districtone of the most ethnically and culturally diverse in the Nationhate crimes are not merely a cause for worry and concern, they are a reality.

In each of the communities I represent, people of different origins and backgrounds, religions and cultures live together as neighbors. But, there is always the prospect that they will be faced with acts of discrimination and violence.

Some of my constituents in Hayward have responded to this threat by launching their own effort against racial discrimination called the No Room for Racism campaign. They passed an ordinance condemning hatred and discrimination in their city and have inspired similar efforts in other communities. Their effort is the basis of the No Room for Racism resolution I introduced in Congress this year.

These constituents would tell each of us in this House that a comprehensive hate crimes law is a necessity not only to protect them from senseless reprisals, but also to uphold the character and decency of the larger community in which they live and raise their children.

September 11th has led to many pronouncements that Americans have come to reaffirm the moral imperatives on which our Nation was founded. But, its aftermath has also shown the immediacy of taking real steps to protect people's lives. Already, Federal authorities have seen a rise in violence against Arab Americans with nearly 5,000 documented incidents and several murders motivated by prejudice. This is in addition to countless acts of violence that are reported every year against African Americans, Asian Americans, Jews, gays and lesbians, and women among other minorities. The facts show that it is time that we enforce a no tolerance policy on acts of hate.

I urge my colleagues to stand up for our Nation's ideals, to stand united against hatred and intolerance, and demand action on this important hate crimes legislation.

IN HONOR OF THE ARMENIAN EVANGELICAL CHURCH OF HOLLYWOOD'S 20TH ANNIVERSARY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. SCHIFF. Mr. Speaker, we rise today to honor the Armenian Evangelical Church of Hollywood. On November 23, 2002, the church will celebrate its 20th Anniversary and we would like to offer our congratulations and good wishes on this most noteworthy occasion.

The Armenian Evangelical Church of Hollywood, founded in May of 1982, began as a ministry created by the Rev. Abraham Jizmejian and the Rev. Abraham Chaparian. The Hollywood Pastoral Ministry, as it was designated in the early days of the church, offered church services, fellowship groups, Bible study and a variety of other pastoral services.

In June of 1982, after the current day church had been formed, the church was officially accepted by the Armenian Evangelical Union of North America and from that time, the church has devoutly served its community. Today, the congregation numbers over 250 and is served by a number of church ministries, including Sunday school, men's and women's fellowship, Bible study and youth ministry.

Over the years, the church has always made a special commitment to the youth of its congregation and community. It was from this commitment that the church, nine years ago, founded New Direction For Armenian Youth, to serve at risk youth in church and surrounding areas. The program has helped countless young people and their families in coping with many of the harmful influences that pervade many of our communities.

We ask all Members of Congress to join us in honoring the Armenian Evangelical Church of Hollywood on the church's 20th Anniversary and wish the church many fulfilling days to come.

GOLDEN GATE NATIONAL RECREATION AREA

SPEECH OF

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2001

Ms. PELOSI. Mr. Speaker, I rise in support of S. 941, the Rancho Corral de Tierra Golden Gate Boundary Adjustment Act. This bill contains several provisions that will enhance preservation of our natural and cultural resources in California.

I applaud my colleague from California, Representative LANTOS, for championing the expansion of the Golden Gate National Recreation Area in San Mateo County. This bill would add close to five thousand acres to the park, including Rancho Corral de Tierra, one of the largest undeveloped properties on the San Francisco Peninsula and one of the few remaining ranchos from the era of Spanish land grants.

This acquisition, conducted through a public-private partnership, will allow the park service to protect spectacular views, three complete watersheds, and habitat of rare and endangered species and plants.

Of great importance for the future of the park, S. 941 also reauthorizes the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission. The Commission was established thirty years ago to provide for the free exchange of ideas between the National Park Service and the public, and it has ably carried out this mission.

I wish to acknowledge and thank all the members of the Commission for their dedicated service to the GGNRA and public, with special thanks to Chairman Richard Bartke and Vice Chair Amy Meyer. The GGNRA is one of the most complex parks in the country, and its diversity and vibrancy is due in no small part to the efforts of the Advisory Commission.

I look forward to working with Rep. LANTOS, my colleagues on the Resources Committee, and my colleagues in the Senate to ensure that this bill is signed into law before Congress adjourns this year.

AMERICAN FRONTIERS: A PUBLIC LANDS JOURNEY

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. CANNON. Mr. Speaker, from Native Americans to Mormon Pioneers to today's western travelers, people have long been captivated by the unique and beautiful landscape of my state. Utah's steep mountains, broad valleys, ancient rock formations and unique natural resources continue to draw visitors and many of my fellow Utahns to our public lands where a wide variety of outdoor activities can be enjoyed.

This coming Saturday, September 28, 2002, Utah and the Nation will celebrate National Public Lands Day. In Salt Lake City, we will welcome a special group of folks that spent the last two months on an incredible expedition. American Frontiers: A Public Lands Journey, is an educational project bringing the public lands story to life for thousands of school children and interested adults. Two teams of adventurers have been traveling entirely on public lands as they make their way from Canada and Mexico through six states on over 3,000 miles of rivers and trails, following in the pathways of pioneers and acting as modem explorers. American Frontiers has been made possible by a partnership involving dozens of organizations led by National Geographic Society, the U.S. Department of Interior, the U.S. Department of Agriculture, American Honda and the Coleman Company.

These modem explorers have produced wonderful and thoughtful stories about the diversity and value of the lands they traveled through in Utah and other states. I look forward to welcoming these adventurers to my home state on Saturday, and encourage every citizen to embrace the legacy of America's most beautiful lands on that day.

A TRIBUTE TO DARRYL HEUSTIS FOR 25 YEARS OF SERVICE TO VETERANS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. LEWIS of California. Mr. Speaker, I would like today to pay tribute to Dr. Darryl Gordon Heustis, who has made his entire medical career one of service to our Nation's veterans. After 25 years at the Jerry L. Pettis Memorial Veterans Administration Medical Center in Loma Linda, California, Dr. Heustis is retiring today as the medical center's chief of staff.

In our modern, fast-paced, mobile world, it's rare to find a homegrown talent who grows up to serve his community as well as Dr. Heustis has in the Inland Empire. A native of Riverside, Darryl Heustis received a bachelor's degree in biology from the University of California, Riverside, and an MD from Loma Linda University. He completed his residency in pathology in 1977 at Loma Linda University Medical Center, and immediately went to work for the nearby Jerry L. Pettis Memorial Veterans Administration Medical Center.

The medical center was newly completed in 1977, and Dr. Heustis became one of the original employees. He served as Director of Laboratories until 1986, and then Chief of Laboratory Service for the next three years. He continued his education even as he worked full time in these jobs, and in 1983 received a masters degree in management from Claremont Graduate School. In 1989 Dr. Heustis was named Vice President of Medical Affairs, and has served as the medical center's chief of staff to this day.

During his career at the medical center, Dr. Heustis has helped ease the transition of the Veterans Administration from a hospital-room oriented facility to one that provides care to most veterans on an outpatient basis. Although the number of beds at the medical center has been reduced from 500 to 97, patient visits have grown to more than 340,000 a year. I applaud Dr. Heustis for meeting the prime responsibility of providing the very best care to our Nation's veterans, while at the same time ensuring that Americans get maximum value from the taxes they pay.

Dr. Heustis has been a champion in the drive to ensure that our veterans are satisfied with the treatment they receive at the Pettis Memorial VA Medical Center. Under his leadership, the staff has met every challenge and has gained a reputation for quality care and sensitive treatment of veterans.

Over the years, the Jerry L. Pettis Memorial VA Medical Center has become highly respected as a teaching hospital. Working in close affiliation with Loma Linda University Medical Center, the VA medical center has provided a training ground for student doctors for nearly two decades. With its international reputation as a medical innovator, Loma Linda University has provided many benefits for the veterans at the VA, as well.

Dr. Heustis has taken a direct role in this relationship as a professor of pathology at the university, co-medical director of the School of Cytotechnology, and associate dean for veterans affairs. He has also published numerous articles in medical journals, and been a regular presenter at scientific symposiums. He has been named the highest-rated lecturer at sixteen symposiums since 1986, and received the Scissors Award from the Healthcare Leadership Institute in 2000.

Mr. Speaker, Dr. Darryl Heustis has met the highest professional standards as a medical doctor, ensured top-notch care for hundreds of thousands of veterans, and overseen the education of countless student doctors over the past 25 years. Please join me in thanking him for his service to his community and our Nation, and wishing him well in his future endeavors.

RESOLUTIONS TO TAKE ACTION AGAINST IRAQ

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. CONYERS. Mr. Speaker, Members of Congress face few decisions as important for their constituents as the issue of war or peacesending young men and women into combat. And now, protecting Americans from terror attacks in the U.S. is equally vital. These crucial questions truly call for us to put aside political calculation and do what is right and best for America. These issues also call for us to resist a rush to judgment. We must take time to ensure that they are carefully weighed and throughly aired.

I oppose the resolution requested by President Bush that would give him a blank check to start a war against Iraq at any time and in any manner that he chooses. This clearly is too broad. It authorizes the President to act unilaterally no matter what the U.N. decides or does. That would abdicate congressional responsibility and is reminiscent of the equally open-ended Tonkin Gulf Resolution in 1964. It also fails to limit his authority to working within the U.N. framework on peaceful measures to enforce U.N. sanctions. Finally, the President's proposal embodies his alarming new doctrine of pre-emptive U.S. attacks on other nations even when they pose no imminent threat to the U.S.

Instead, I join with many of my colleagues who support a more sensible, more justified and far less dangerous position: we advocate that the U.S. pursue inspections through the U.N., while continuing to deter Saddam Hussein, as we have been able to do for the past decade. To implement this view, we have introduced an alternative resolution endorsing President Bush's request for U.N. inspections.

The Administration simply has not made the case that Iraq threatens the United States with weapons of mass destruction, and that we are in such imminent danger of attack that U.S. military action is either the prudent or the justified course. Everyone agrees that Saddam Hussein is a very brutal dictator. He has: ruthlessly repressed his own people; committed aggression in the past; violated U.N. sanctions; sought to develop weapons of mass destruction; and remained hostile to the United States.

But that does not end the matter, for two reasons. First, the same could be said for any number of other countries, such as North Korea, China, and Iran. Will the U.S. attack each of them, and others, because some day they might be able to threaten us with weapons of mass destruction?

Second, even if a regime change in Iraq is desirable, that does not justify taking military action when it would risk so many dangers to America. Attacking Iraq will increase rather than decrease the likelihood of Saddam Hussein's launching whatever weapons he does have against Israel, against our other allies, or against U.S. forces stationed in that regiona risk that even Secretary of Defense Rumsfeld acknowledged in recent congressional testimony. At present, Hussein is deterred by our threat of retaliatory destruction. He knows that, if he were to use weapons of mass destruction against us, then we would retaliate and destroy him. There is no evidence that Hussein seeks to commit suicide. But if we attack first, after announcing an intent to wipe him out, then what reason would he have to hold back?

A U.S. attack poses other severe dangers: American military commanders fear it would dilute our fight against al Qaida. We have not yet captured those who killed thousands of Americans, and who, we know, are still trying to kill more. That is job number one.

America's attacking Iraq alone would ignite a firestorm of anti-American fervor in the Middle East and Muslim world and breed thousands of new potential terrorists.

As we see in Afghanistan, there would be chaos and inter-ethnic conflict following Saddam's departure. A post-war agreement among them to cooperate peacefully in a new political structure would not be self-executing. Iraq would hardly become overnight a shining model democracy for the Middle East. We would need a U.S. peacekeeping force and nation-building efforts there for years. Despite rosy predictions that the Iraqi people would welcome our soldiers and aid workers with open arms, they would be arriving after years of U.S.-led economic sanctions, followed by violent U.S. bombing and combat. They will be the constant target of local hostility and terrorist attacks.

If we violate the U.N. Charter and unilaterally assault another country when it is not yet a matter of necessary self-defense, then we will set a dangerous precedent, paving the way for any other nation that chooses to do so, too, including those with nuclear weapons such as India and Pakistan and China.

We will trigger an arms race of nations accelerating and expanding their efforts to develop weapons of destruction, so that they can deter pre-emptive hostile action by the U.S. Do we really want to open this Pandora's box?

The war, plus the need to rebuild Iraq and create a united, peaceful country, would cost billions of dollars badly needed at home. For millions of Americans, the biggest threat to their security in the lack of decent wage jobs, health insurance or affordable housing for their families. For senior citizens, it is their need to choose between buying enough food and buying prescription drugs. Indeed, most Americans are more frightened about security at our airports than about some strutting dictator thousands of miles away. Yet the Bush Administration's deficit budget won't even permit meeting the year-end deadline for installing new baggage and passenger screening systems to protect us against an immediate threat here at home.

The huge costs of war and nation building, which will increase our deficit, along with the impact of the likely sharp rise in oil prices, will deal a double-barreled blow to our currently fragile economy.

If it were plausible that we had to attack Iraq now, in order to head off strategic threats to the United States in the near futureand if alternatives had been exhausted, then that overriding concern might justify the risk of all these harmful consequences that are certain to follow U.S. military action. But the Bush Administration has not presented persuasive evidence that Saddam will soon be able to threaten America with weapons of mass destruction, or that he is likely to use them against us. Until then, a U.S. pre-emptive attack makes no sense, in light of the risks it would create and the clear harm it would cause to our national interests.

In fact, it is precisely because they lack such evidence that the President, Secretary Rumsfeld and Vice President CHENEY have increasingly downplayed claims of an impending nuclear threat from Iraq and have switched to elaborating on what a bad person Saddam has been.

But such a departure from the principles of our tradition—an unprovoked attack initiated by the U.S.—cannot be justified merely because we would prefer another regime in Baghdad, or because someday Saddam Hussein might present an actual strategic threat to U.S. security.

In addition, Americans should ask the White House and the Congress about the timing of the vote on any Iraq resolution. What's the rush? According to press reports, our military leaders have made clear they will not be ready to launch an attack for months, and would prefer to do so in January or February. Why, then, do we need to decide such a complex and consequential issue in a few days? Why cut short the national debate to which the American people are entitled? Is it because the Administration is aware that a growing number of Americans are troubled by all of the unanswered questions? Americans are puzzled why Iraq has suddenly become such a threat that the White House is prepared to go to war and shed the blood of American men and women, not to mention great numbers of innocent Iraqi civilians.

They are right to ask. What has changed in the last six months or year that suddenly makes an attack on Iraq the leading item on the Administration's agenda? All of the reasons now being cited by the White House Hussein's bad character, his past behavior, the outstanding unfulfilled U.N. resolutions and his continued pursuit of strategic weaponry were equally true back then.

I would hope that this headlong rush to judgment does not have anything to do with the November elections.

I expect the Bush Administration to present very soon some conveniently last-minute new evidence in order to support its promised new National Intelligence Estimate (NIE) assessing Iraq's capabilities. It is very odd that, as of last week so many months after Iraq had become the leading headline issue the Administration had still not completed an all-source, interagency assessment of Iraq's weapons of mass destruction and future capacity:

Is this because the White House knew it would be unhappy with the result?

Is it because the Administration was unable to pressure all of the intelligence agencies to reach the right conclusions?

Is it because the White House has been pressing the Intelligence Community to find some new evidence that could be artfully interpreted to support Administration policy?

Mr. Speaker, It is difficult to avoid the conclusion that one or more of these considerations played a role in the otherwise inexplicable delay. Therefore, I have asked the Chairman and Ranking Member of the House Committee on Intelligence to vigorously investigate what dissents any of the intelligence agencies may have registered from the NIE's overall conclusions, from its component findings and from its assumption either in the final document, or in earlier comments on discussion drafts.

This summer, several major newspapers reported that senior officers at the Pentagon, including members of the Joint Chiefs of Staff did not believe that Iraq posed a sufficient threat to the U.S. to warrant the risks and the costs of a war. Now they apparently have been brought on board a White House war train that is about to leave the station. Why have they suddenly reversed their position? I trust their initial professional judgment.

In these tense times, we should keep in mind the recent warning from another military leader, General Anthony Zinni, who was Marine Commandant and also has headed our Armed Forces Central Command, which guards our interests in the Middle East. He currently is a key advisor on that region to the Administration. General Zinni reminded us that military commanders, who know the full horrors of war are hesitant to plunge ahead unless the national interest is clearly at stake, while those who have never worn a uniform or seen combat often are the ones who most easily and enthusiastically beat the drums of war.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. ORTIZ. Mr. Speaker, due to business in my district, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated: rollcall No. 400 yea; rollcall No. 401 yea; rollcall No. 402 yea; and rollcall No. 403 yea.

COMMEMORATION OF SEPTEMBER 11, 2001

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. RAHALL. Mr. Speaker, We must consider that we shall be as a city upon a hill, the Puritan preacher John Winthrop proclaimed, as he and his followers sailed for America and freedom. The eyes of all people are upon us. And so they have remained for nearly four centuries. Many have looked to us in awe, inspired by a nation rooted in liberty. Others have hated the ideal we embody, and wished us ill. But none can remove us from their gaze.

Today, America's economic prosperity, military power, and technological advancement are without peer. Our daily comforts and conveniences exceed those available to most of the six billion people who inhabit the earth. But the ease of our lives does not render us soft, or reluctant to retaliate when attacked. A year ago, all the world watched in horror as a small gang of wicked men took three thousand innocent lives in New York, Washington, and Pennsylvania.

Since the moment the first airplane struck the first tower, Americans have shown, both on the battlefield and at home, the strength of our spirit, the mettle of our souls, and the force of our arms. From the firefighters climbing to their deaths, to the airline passengers who battled back, to the precious West Virginia sons and daughters who gave their lives in Afghanistan, the world has witnessed acts of American selflessness and bravery that rival the most revered in the annals of human history.

Just as Winthrop defined America's place in the world, he described how we must live to maintain it. We must delight in each other, he instructed. Make others' conditions our own; rejoice together; mourn together; labor and suffer together. Our whole nation suffered the same grievous wound on September 11. Those who delivered the blow hoped it would inaugurate our destruction. Instead, they inspired America's return to the community values and mutual commitment upon which our country was built.

The attacks, the ongoing war, and the continuing threats spur us to embrace again our founding ideas: that all men and women are created equal; that America's destiny is the world's destiny to secure life, liberty, and the pursuit of happiness; that we cannot allow the centuries-old, world-wide fight for freedom to falter. This recollection of our original rights and responsibilities is a fitting tribute, is an apt memorial, to the lives that were lost and devastated on that sad September day.

CELEBRATING THE LIFE OF DOROTHY DOTTIE KAY JACKSON

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Ms. WATSON of California. Mr. Speaker, Dorothy Kay Jackson was born on July 1, 1943 in Detroit, Michigan. She was the third child born to Lawrence Homer Moore, Sr. and Edna Moore Osborne who preceded her in death. In addition to her parents she was preceded in death by her second father, Willis Pops Osborne and her brother, John Alfred Moore. The family moved from Detroit in the summer of 1945 to Los Angeles. Dorothy attended public schools in Los Angeles and graduated from Los Angeles High School with honors in 1961.

As a youngster, Dottie as she was known to her family, was introduced to the arts at an early age taking up tap dance, piano, and choral lessons. Her love of music and the arts continued throughout her life. Baptized at Trinity Baptist Church, Dorothy accepted Christ at an early age. She attended church regularly and participated in Sunday school and Bible classes. She continued her involvement in church activities until her health failed.

An old African proverb states that It takes a whole village to raise a child. Dorothy epitomized this concept which became a reality in the community where she grew up known as the Hobart Street villagea group of families in her neighborhood who bonded and acted as a family unit. Dottie gave music lessons to younger children in the neighborhood and continued to teach music throughout her high school and college career. Although members of the village settled in areas world wide Poland, Paris, Massachusetts, Arizona, and of course California the Hobart family remains united and in touch today.

Dorothy attended public schools in Los Angeles and graduated from L.A. High School with honors in 1959. She earned an A.A. Degree at East Los Angeles Junior College. While attending East Los Angeles, she met and married Charles G. Jackson in 1962. From this union one daughter, Shelley Darnell Jackson, was born. Dorothy demonstrated diligence, dedication and determination in family matters. While she was pursuing her education, she provided exemplary care and nurturing to her daughter and children of other family members. Later she received a Bachelor of Arts and a Master of Arts Degree at California State University, Los Angeles.

In 1966 she began her career and pursuit of excellence in education for children by working in the Early Childhood Education Program at Normandie Avenue School and subsequently accepted a fourth-grade teaching position at Sixth Avenue School. This devoted educator served the Los Angeles Unified School District for 33 years as a Teacher, Title I Coordinator, Area Advisor, Assistant Principal and Principal. Her last administrative assignment was Principal at Glen Feliz Elementary School. Due to her commitment to and understanding of education, she was appointed to the California Textbook Commission by Assembly Speaker Willie Brown in 1991.

Dottie, a multi-talented educator, made tremendous contributions to the school and community and received many honors and accolades including the Woman of the Year from the California State Legislature. A scholarship was established in her name by BAPAC and continues today. She was actively involved in politics serving as the Chair of the Los Angeles Black American Political Association of California (BAPAC), President of the National Association of Minority Political Women (NAMPW), and a founding member of Los Angeles African American Women's Political Action Committee (LAAAWPAC). She was also a member of the Council of Black Administrators, Alpha Kappa Alpha Sorority, the Associated of Administrators of Los Angeles, and the New Frontier Democratic Club.

Dottie was well-traveled, spiritual, and an avid reader. She enjoyed going to movies, to plays and to political activities with her sister and friends, often bragging and telling you about the many accomplishments of her granddaughter, Dannielle Bowman.

Even though she was diagnosed at an early age with Lupus, she lived a full, active, and productive professional and personal life as evidenced by her many achievements and activities. Dorothy endured many years of aches and pains. But she never lost faith because she was grounded in the spirit of Christ. On September 11, 2002 after many physical battles she answered God's call.

She leaves to cherish her memory a devoted husband, Charles G. Jackson; one daughter, Shelley Jackson; a granddaughter, Dannielle Bowman; one sister, Gwen Moore Dobson (Ron); two brothers, Lawrence H. Moore (La Verne) and Arnold Osborne (Ellen); three brothers-in-law, William Jackson (Barbara), Gary Cooper (Brenda), and Johnny Charles Cooper (Shirley); five sisters-in-law, Karen Woo (Victor), Gwen, Patrice, Deniece and Jan Cooper; father-in-law, James L. Jackson (Shirley); two nephews, Ron Dobson (Tina) and Marc Moore (Tammie); two nieces, Lawri and Lani Moore; grand niece, Christina Carr; grand nephew, Dylan, Trey and Mason; and a host of friends and relatives.

IN HONOR OF ANN KAPLAN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mrs. MALONEY of New York. Mr. Speaker, I ask my colleagues to join me in honoring Ann Kaplan, who is celebrating her 25th anniversary at Goldman Sachs Co. A Managing Director at Goldman Sachs, Ms. Kaplan is one of the rare individuals who is a successful Captain of Industry and pragmatic idealist who finds ways to implement her ideas.

Joining Goldman Sachs in 1977, Ms. Kaplan quickly gained the respect of her colleagues for her hard work and strong management skills. She became a Partner in 1990 and a Managing Director in 1996. Currently, she is a member of the Investment Management Division and heads a group devoted to enhancing Goldman Sachs's outreach to private, corporate and governmental women clients worldwide. Previously, Ms. Kaplan managed Goldman Sachs's Municipal Bond business, where she was responsible for finance, syndicate, sales and trading of Municipal debt instruments, as well as financial advisory services for governmental and non-profit organizations.

As a measure of the esteem of her colleagues, Ms. Kaplan was asked to chair the Municipal Securities Division of The Bond Market Association and became a Board member of the Municipal Forum. Ms. Kaplan has also been active in the internal management of Goldman Sachs, having chaired the Firmwide Diversity Committee and served on the firm's Pension Services Board Committee, Partner's Practices Committee and Charitable Contributions Committee.

Ms. Kaplan is well known as a mentor to her colleagues, particularly young women. Studies show that women are most likely to be successful in business when they have a strong mentor, and Ms. Kaplan has undoubtedly helped many women find the path toward success. Ms. Kaplan is a member of The Committee of 200, a prominent women's business organization, and Chairwoman of the C200 Northeast Region. She also serves on the Boards of Smith College, the Girl Scout Council of Greater New York the Women's Leadership Board of the John F. Kennedy School of Government and the New York City Public/Private Initiatives Corporation, among others.

Recognizing that many young women graduate college ill-equipped to manage their personal finances, Ms. Kaplan and Goldman Sachs gave $2.5 million to create the Center for Women's Financial Independence at Smith College. The program supports a financial boot camp to educate seniors on personal financial issues as they near graduation. Financial literacy is particularly important for women, because women live longer than men but spend less time in the labor force and typically earn less money. According to a survey commissioned by Oppenheimer Funds, 53% of single woman ages 21 to 34 live paycheck to paycheck, compared with 41% of married women in the same age group and 42% of single men. Lacking familiar with managing their personal finances, women are less likely to plan for the future, leaving them vulnerable in old age.

Ms. Kaplan has been the recipient of numerous achievement awards, including the Columbia Business School Distinguished Alumnae Award, the Smith Medalist Award, the Clairol Mentor Award, the YWCA Academy of Women Achievers and the Women's Economic Roundtable Award in Finance, to name just a few. She also been recognized for her achievements with awards from both Mayor David Dinkins and Governor George Pataki.

Mr. Speaker, I ask my colleagues to join me in saluting Ann Kaplan, an outstanding businesswoman, an extraordinary role model and a great visionary.

IN HONOR OF SUSQUEHANNA TOWNSHIP OF PENNSYLVANIA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. GEKAS. Mr. Speaker, I am very pleased to bring to your attention the fiftieth anniversary of Susquehanna Township's establishment as a First Class Township. Susquehanna Township is located just outside the City of Harrisburg, my hometown.

Susquehanna Township owes its name to a local tribe of American Indians known as the Susquehannocks. In 1815, the township was first formed, cut from the larger Lower Paxtung Township.

The first settlement of Susquehanna Township, however, was much earlier. In 1757, Dr. John Cox, Jr. of Philadelphia, Pennsylvania laid out a section of the township which was first known as Coxestown, but was later renamed to Estherton after his wife, Esther. A man known only as Mr. Roberts settled the second known settlement of Susquehanna Township in 1774. That area today is known as Rockville. By 1815, the area of Progress in eastern Susquehanna Township was settled and continues to hold that name today.

As of 1928 the Township was a second class township in Pennsylvania. On January 2, 1952, Dauphin County Court acted upon a petition from the supervisors of Susquehanna Township re-establishing it as a First Class Township.

Susquehanna Township today is a booming municipality of the highest living standards for residents and businesses alike. Its assessed valuation well exceeds $1 billion. Twenty-two thousand people call Susquehanna Township home and over three thousand students are enrolled in its two elementary schools, one middle school, and one high school.

I commend the leaders of Susquehanna Township for guiding it through fifty years of success as a First Class Township. In addition, I want to recognize the residents and businesses of Susquehanna Township for their countless contributions to this wonderful

Central Pennsylvanian community. Congratulations, Susquehanna Township, on your Golden Anniversary!

TRAGIC EVENTS OF SEPTEMBER 11, 2001

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. BROWN of South Carolina. Mr. Speaker, I will never forget the tragic events of September 11, 2001. Although this unprovoked attack on our nation by faceless cowards sought to damage American will, there can be no doubt that we are more determined than ever to fight for our freedom and preserve our way of life. We have sent our sons and daughters into battle in Central Asia and throughout this world to bring the perpetrators to justice and to eradicate the scourge of terrorism from the face of the earth. I know that we will succeed.

During the past year, we have pulled together as Americans with a renewed sense of patriotism and pride in all of our institutions. Each of us has made a tremendous difference in so many ways like donating blood or food to relief efforts and flying the American flag outside our homes as a sign of solidarity. In the Congress, members of both parties worked together in a bipartisan fashion like never before to demonstrate our resolve to the world community and to care for the victims and their families. When we sang God Bless America on the Capitol steps that same night, it was an incredibly emotional moment that truly touched my soul.

It was a true honor to be in New York City at the special joint session of Congress. A couple of weeks after the attacks, I went to ground zero with other members to witness firsthand the devastation that had been wrought. The heroic determination of the firefighters, police officers and rescue workers will be etched into my mind for the rest of my life. When I returned to New York City, I was amazed of the progress that the people of this great city have made in the area where the Twin Towers once stood. It is truly a testament to the strength and heart of the citizens of New York and all Americans. It makes me proud to serve in the Congress.

Like so many other members of Congress, constituents from the first district of South Carolina and their families were among the victims on that tragic day. They will be sorely missed, but we will never forget them. As we commemorate the unity of this great nation on the first anniversary of these terrorist attacks, I pray for these families and all Americans. The foundation of this great land is strong, and we will never waiver from our cause. God Bless America.

AMERICAN FRONTIERS: A PUBLIC LANDS JOURNEY

HON. DENNIS R. REHBERG

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. REHBERG, Mr. Speaker, Westerners have an understanding about the importance of public lands to our region and its economy. We know there are forests for recreation and commodity production, ranch lands for grazing, wilderness for back country exploring, and national parks, monuments, rivers, and trails that welcome visitors by the millions each year. But a group of committed partners including federal agencies and organizations like the National Geographic Society organized a special trek to ensure that all Americans understand our common public lands legacy. American Frontiers: A Public Lands Journey, began July 31 and will conclude September 28 in Salt Lake City. Of the two groups making the 3,200-mile journey entirely on the public lands and waters, one started at Glacier National Park in my home state of Montana. At Pipestone Pass in the Beaverhead-Deerlodge National Forest, that group helped Montanans celebrate a newly constructed segment of the Continental divide National Scenic Trail at a ribbon-cutting ceremony. I congratulate the efforts of American Frontiers to foster a greater understanding of America's public lands legacy and am excited that they are bringing attention to the approximately 30 million acres of public lands in Montana. Special thanks to the Public Lands Interpretive Association that spearheaded this effort. I look forward to hearing accounts from this epic journey.

IN HONOR AND REMEMBRANCE OF FATHER JOHN M. GARRITY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Father John M. Garrity, Pastor of St. Mary's Catholic Church in Berea.

Father John M. Garrity led his flock at St. Mary's for twenty-five years, offering spiritual support to every member. In addition, Father Garrity was very active in the community, serving on many boards and assisting wherever he was needed.

From 1973 to 1988, Father Garrity served as Chaplain for the Cleveland Fire Department. Throughout his vocation, he remained consistently focused on helping those in need.

Father Garrity was an articulate and graceful liturgist. His sense of timing and wit, combined with his kindness and warmth, defined his ministry. Father Garrity leaves behind a rich legacy of a life dedicated to spiritual guidance and leadership, and healing and uplifting his congregation, and the entire community.

Mr. Speaker and colleagues, please join me in honor and remembrance of Father M. Garrity, whose compassion, understanding and inspiration in his words and deeds kept hope aloft in everyone he knew. Please join me as I extend my deepest condolences to the family, friends and congregation of Father John M. Garrity. Father Garrity's generous and vibrant spirit will live on in all of our hearts.

TRIBUTE TO KIMBERLY PARKER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to one of the thousands of unsung heroes who help make our communities safe in the face of disaster. Kimberly Parker is such a person, contributing her time and efforts to preparing local agencies and organizations to handle potential, large-scale emergencies. It is with great respect I stand to honor a woman who has dedicated herself to mitigating the terrible affects of unexpected tragedy.

As emergency manager for Mesa County in Colorado, Kimberly spends her time concerned with problems that rarely cross the minds of others. In fact, it is because of her the people in Mesa County rest assured knowing their communities and local agencies continuously get the training and expertise they need to handle the expected problems like Y2K, or the unforeseeable like a flash flood. She constantly stands ready to assess, coordinate, and respond to emergencies in order to minimize their impact on the public.

In the face of 9/11, Kimberly was quick to pull together all the emergency and security agencies to help create an appropriate and coordinated response through the county's Incident Management Group. She maintained a steady and important stream of accurate information to calm nerves and dispel the many rumors that proliferated in the aftermath surrounding the tragedy. Kimberly continues to share the lessons she has learned in her efforts to prepare for the future by training her Incident Management Group to better react to the new dangers that threaten our country and communities since 9/11.

Mr. Speaker, I rise today to praise Kimberly Parker before this body of Congress and our Nation. Her efforts on behalf of the communities of Mesa County highlight her commitment to preserving life and security. Kimberly's vigilant and expert handling of recent crises has made her a beacon of assurance in these turbulent times and deserves our praise.

HONORING THE LIFE OF CUNG PHAM AND HIS SERVICE TO ST. ANSELM'S CROSS-CULTURAL CENTER IN GARDEN GROVE

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Ms. SANCHEZ. Mr. Speaker, I rise today to honor the life of Cung Pham of Garden Grove, California.

Cung Pham served as the director of educational legislation and planning prior to the fall of the Republic of Vietnam in 1975. After the country's collapse, he was detained in a concentration camp for seven years before escaping by boat in 1982 to spend time in a refugee camp in Thailand.

Mr. Pham eventually ended up in the Orange County community. Using his understanding of the refugee experience, Mr. Pham worked as the director of the refugee resettlement program at St. Anselm's Cross Cultural Center in Garden Grove. His great compassion and organizational skills helped make the program a model for the entire country, helping thousands of refugees become assimilated to American life. He helped them with paperwork, enrolled them in English classes, and trained them for job interviews.

Sadly, at the young age of 63, Mr. Pham lost his battle to cancer on September 14, 2002. He was known for his quiet and gentle ways and was greatly admired by those he helped and those with whom he worked.

IN HONOR OF DR. MICHAEL SCHWARTZ, PRESIDENT OF CLEVELAND STATE UNIVERSITY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Dr. Michael Schwartz, who was named the fifth president of Cleveland State University.

With a life-long commitment to higher education, Dr. Schwartz continues to be a true advocate of the students he serves. A long-time proponent of open dialogue between students and faculty, Dr. Schwartz fosters a positive campus atmosphere where student learning, achievement, and services are the focus.

Dr. Schwartz brings extensive professional and educational experience to his role as President of Cleveland State University. He holds a Ph.D. in sociology, an M.A. in labor and industrial relations, and a B.S. in psychology, all from the University of Illinois. Dr. Schwartz served as professor and Chairman of Sociology, and Dean of the College of Social Science at Florida Atlantic University. While in Detroit, he taught sociology and psychology at Wayne State University, and served as research director for the Mayor's Committee for Community Action for Detroit Youth. Moreover, Dr. Schwartz served as President of Kent State University from 1982 to 1991, at which time he stepped down to resume teaching.

Mr. Speaker and Colleagues, please join me in honor and recognition of Dr. Michael Schwartz, recently named the fifth President of Cleveland State University. Cleveland State University has evolved as a beacon of achievement, learning and hope for past, current and future generations within our Cleveland community. The leadership of Dr. Schwartz sets a tone of confidence, achievement and excellence for every student, faculty and staff member at Cleveland State University. The current and future leadership and direction from Dr. Michael Schwartz holds the promise of guiding, strengthening and enhancing our most treasured educational institution for many years to come.

SEPTEMBER 11TH

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. TIERNEY. Mr. Speaker, On this somber anniversary of the terrible attacks on our country last September, we pause in remembrance of all those who died, and we stand in solidarity with the many families here in our communities and elsewhere who continue to live every day with the grief and pain of their unspeakable loss. Their lives and ours will never be the same, but we come together today in communities large and small across our nation not only to comfort one another and remember but to proclaim anew our values as Americans values that we as a nation have rediscovered in ourselves and each other since last September 11th; values that challenge us to live better, nurture our relationships, and serve our community; values that command us to respond to tragedy as all of these brave families have with courage and resolve, undaunted by acts of cowardice and hatred.

This gathering today is yet another step that we as a community, indeed we as a nation, are taking together to win this battle against the assault on innocent civilians living in a free society. While we continue to experience competing emotions of sorrow, anger and frustration, we refuse to allow these acts to rob us of our values and our spirit.

My colleagues and I will continue to work together with the President to bring about the end of terrorism. We have the ability and the wherewithal to confront this challenge as we have met so many others in the past so that when future generations pause in remembrance of this day in our history, they will do so in the shelter of a just and free and united country.

IN HONOR OF THE CLUB AZTECA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognition of the Club Azteca of Cleveland, Ohio, on the momentous occasion and celebration of their 70th anniversary.

Club Azteca was formed in 1932 as a social club that offered individuals and families of Mexican heritage an opportunity for support, entertainment, and a continuation of the traditions and culture of Mexico their beloved homeland. Club Azteca was progressive from the beginning. Since its inception in 1932, the Club admitted women on an equal basis, with the right to hold office and participate in all decisions concerning the organization.

Many Mexicans emigrated to America in search of greater opportuniy for themselves and their families. Like many immigrants, citizens of Mexican heritage brought with them their faith, strong sense of family, and rich culinary dance, and musical traditions and talents.

The Club Azteca has been a reflection of the Mexican American community in the Cleveland area for seven decades; its leaders continue their dedication to the celebration and promotion of their Mexican heritage and continue to provide cultural, educational and social services to its members.

Mr. Speaker, please join me in recognition of the founding and current members of the Club Azteca, as they celebrate their 70th anniversary. This wonderful organization has provided support for Mexican Americans, and has greatly enriched Cleveland with their contribution of Mexican culture and heritage a significant aspect of the multi-cultural fabric of our whole community.

TRIBUTE TO FRANK AND ELI MARTINEZ

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to two brothers who were recently honored by the Alamosa County Sheriff's Department and the San Luis Valley Chapter of the American Red Cross for saving the life of a disabled Blanca, Colorado man at San Luis Lake. Frank Martinez and his brother Eli Martinez, both of Capulin, Colorado saw three men in danger of drowning in the San Luis Lake and with a heroic effort managed to rescue two of them. Their acts of bravery and valor most certainly deserve the recognition of this body of Congress and this Nation.

On May 10, the Martinez brothers were enjoying themselves with a day by the lake. Nearby, Kelly Richard McNeil, 36, of Blanca was out boating with his son James Janus Edward McNeil, 16, and his son's friend Adam Stark, 16. The Martinez brothers witnessed Richard McNeil being blown from his boat into waves that were as high as four feet. McNeil's son and his friend jumped in immediately to try and help only to become victims of the rough waters. The Martinez brothers drove as close as they could and leaped into action. Through their quick response the brothers saved McNeil and helped Stark safely return to the boat.

When presented with a certificate for their extraordinary action and Red Cross skills, the brothers simply expressed regret that they could not save James too. Such heroics reflect the American values second nature to the former Conejos law enforcement officer, Frank, and his brother, Eli. Their efforts show the mettle that keeps this country strong.

Mr. Speaker, it is a great honor to recognize Frank and Eli Martinez for their courage and heroic actions. Their efforts saved the lives of their fellow man and their heroism is a tribute to their fine character. It is my honor to bring forth these acts of bravery for the praise of this body of Congress.

SEPTEMBER 11, 2002

HON. JOHN E. PETERSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. PETERSON of Pennsylvania. Mr. Speaker, one year ago, our Nation was attacked by terrorists who believed that by taking innocent life, they could destroy our spirit and tear down the principles, values, and freedoms that we hold dear. Despite our initial shock and horror on that fateful September morning, Americans from all walks of life proved the terrorists wrong by immediately joining hands to search for survivors, comfort those who lost loved ones, and bring about healing and renewal. There has never been a time when the world witnessed greater heroism, compassion, and unity.

Under the leadership of President Bush, our Nation has made great strides to bring justice to those who perpetrated this evil and improve our Nation's defenses against future terrorist attacks. Our men and women in uniform responded valiantly, toppling the Taliban regime and bringing freedom to a Nation that had served for many years as a haven for terrorism and oppression. The effort to protect our Nation from terrorism is ongoing, and patience will be necessary as we work to establish a permanent Department of Homeland Security and thwart the continued efforts of those who seek to kill innocent Americans in order to advance their political agenda.

Looking back over the past year, it is clear that the events of September 11th have strengthened our Nation and given us a greater appreciation for freedom. Americans have demonstrated that we are committed to working together to preserve our freedom so that we will continue to be a beacon of hope to freedom-loving people around the world.

HONORING CUYAHOGA COUNTY AGRICULTURAL SOCIETY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Cuyahoga County Agricultural Society, for their creation, organization, support and promotion of the annual Cuyahoga County Fairnow in its 106th year.

Although most of Cuyahoga County is no longer agricultural, the two hundred members of the Agricultural Society present the public with a glimpse of the agriculture and farming of days gone by, as well as current and future agricultural products and trends.

The Cuyahoga County Fair is an annual rite of summer for the entire Cleveland community. Reflecting the mission of the Cuyahoga County Agricultural Society, the Fair is a yearly opportunity for education, exhibits, and demonstrations of agricultural products, past and present, that are unique to our community. Annual outings to the Fair, as families have done for over one hundred years, provide all ages with a fun and educational experience, and create memories that connect each new generation of fair-goers.

Mr. Speaker, please join me in honor and recognition of the Cuyahoga County Agricultural Society, on the significant occasion of the Society's 106th Annual Cuyahoga County Fair. The County Fair has provided millions of citizens the opportunity to explore the County's agricultural existence in an educational, creative and inviting manner. This annual event has been a culturally significant aspect of our entire community, and a wonderful event for citizens of all ages.

U.S. SHOULD REDUCE DEPENDENCE ON FOREIGN OIL BY REDUCING OIL DEMAND

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. RODRIGUEZ. Mr. Speaker, the events of September 11 highlight the danger in continuing to ignore our oil dependence on other countries, especially our dependence on Middle East oil. More than 51 percent of the oil we use is imported. Our Nation is in a very vulnerable position, at the mercy of unstable regimes in the Middle East and other volatile regions. Our dependence on oil has many negative ramifications including the threatening of our environment and our economy.

Our oil dependency places a heavy burden on our environment. It contributes significantly to making the United States the world's largest emitter of carbon dioxide, responsible for one-fourth of the world's total global warming pollution. Our high demand for oil also pressures us to drill in our remaining unspoiled wilderness such as Utah's Redrock canyon county and the Arctic Wildlife Refuge. Our land, water, wildlife and the livelihood of coastal communities are also threatened by oil spills, an inevitable consequence of oil transportation.

Our oil dependency is also very costly to our economy. The United States spent $106 billion on imported crude oil and petroleum products in 2000. That is equivalent to almost one third of the total U.S. trade deficit. Over the past 30 years, Americans have transferred $1.16 trillion of their wealth to oil-producing countries.

As we develop our energy policy, we must ensure that it is one that can both reduce oil use and its burden on our environment and economy. Shifting the drilling for oil from one country to another will not resolve our oil crisis. We need to reduce our oil dependence by utilizing innovative technologies that focus on reducing oil use such as gasoline-electric hybrid vehicles which get double the mileage of today's cars. We must also encourage smart growth in our cities instead of suburban sprawl so that communities are more liveable with less driving.

The only effective way to reduce dependence on foreign oil, and at the same time protect our environment, is to reduce our oil demand. If we lower our oil consumption, more of America's wealth will stay in this country.

IN HONOR OF THE 100TH ANNIVERSARY OF ST. NICHOLAS CROATIAN BYZANTINE CHURCH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor, recognition and celebration of the 100th Anniversary Celebration of St. Nicholas Croatian Byzantine Church in Cleveland, Ohio.

St. Nicholas Church has been a significant spiritual, cultural and historical anchor for Croatian immigrants for one hundred years. In 1902, fifty families, who had recently immigrated to Cleveland from Croatia founded St. Nicholas Church. Father Mile Golubic arrived in the United States to celebrate first Divine Liturgy in an old building converted to accommodate liturgical services in spring of 1902. Parishioners, though very poor financially, were wealthy in spirit, hope and determination. Parishioners and church leaders kept St. Nicholas Church alive through their generous donations and volunteerism.

In 1913, after years of challenges and difficulties for the fledgling church, members collected enough money to purchase a church building on the corner of East 36th Street and St. Clairwhere St. Nicholas Church remains to this day.

St. Nicholas Church has endured many changes over the past hundred years. The membership has increased considerably, and the church itself has been rebuilt and restored. Yet from its simplest beginnings as a group of Croatian immigrants connected by faith, family, a past in Croatia and a future in America. The dreams, hopes, vision, and generous hearts that defined the founding members of St. Nicholas Church in the early days, carried the Church through a century, and remains the same today.

Mr. Speaker and colleagues, please join me in honor, recognition and celebration of St. Nicholas Croatian Byzantine Catholic Church, on the momentous and happy occasion of their 100th Anniversary. May St. Nicholas Church, and its leaders and parishioners, continue their dedication to the enhancement of the spiritual, historical and cultural life of Croatian Americans, which continues to enhance our entire community.

IN RECOGNITION OF PHELPS DODGE IN GREEN VALLEY, ARIZONA

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KOLBE. Mr. Speaker, I am very pleased to rise today to congratulate the employees and management of Phelps Dodge Sierrita in Green Valley, Arizona. They are one of the eight mining operations to recently receive the prestigious annual Sentinels of Safety award in recognition of their outstanding safety records during 2001. Begun in 1925 by then-Secretary of Commerce Herbert Hoover, this award is highly sought after and is the oldest established award for occupational safety. I commend Phelps Dodge Sierrita for their efforts to work safely each and every day.

It is an award that is not easily won. Mining operations that receive the award achieve the highest number of employee work-hours without an injury that resulted in lost time from work. What this translates to is that a company must compile at least 30,000 employee work-hours during the year without a lost-time injury or fatality. Phelps Dodge Sierrita recorded a staggering 453,936 consecutive employee hours well beyond the minimum required to receive the award. They are a stellar example to us all.

IN HONOR OF THE TENTH ANNIVERSARY OF UKRAINE'S PROCLAMATION OF INDEPENDENCE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise in honor and recognition of the tenth anniversary of the Ukraine Parliament's brave and historic Proclamation of Independence.

The Ukraine Parliament embraced democracy, and declared independence under the visionary leadership of Leonid Kravchuk, on August 24, 1991 after years of Soviet rule. The Proclamation of Independence was followed by a nationwide referendum in which over 90% of Ukraine's 53 million people voted in favor of independence and elected Kravchuk the first President of the Independent Ukraine. This courageous step ended centuries of foreign rule and allowed Ukraine to make tremendous strides towards freedom and democratic rule.

On this special day I recall the words of Ivan Plyushch, the Parliamentary chief as he proudly proclaimed at the 1991, inaugural ceremony, A European State has appeared on the map, and its name is Ukraine!! The bold actions of these patriotic leaders set a country that had known so much terror on a course of freedom, liberty and democracy.

Mr. Speaker, on this day of celebration, I also rise to honor the men and women who fought hard and suffered dearly in their country's struggle to break the bonds of oppression, and who made the ultimate sacrifice for their country's independence. It is due to their grandparents and parents dedication and bravery that the children of Ukraine breathe the air of freedom. I ask my colleagues to join me in honor and recognition of this momentous occasion.

TRIBUTE TO CAMPBELL'S FLOWERS AND GREENHOUSES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to a family company that has become a hallmark of civic virtue and quality through many years of service to their community. Campbell's Flowers and Greenhouses has been an integral part of community life in Pueblo, Colorado, for nearly a century and it is with pleasure I honor them today.

German immigrant Gerhard Fleischer founded Campbell's Flowers in the early 1900s under its original name, Fleischer's House of Flowers. His son, Wally, helped his father grow the business and moved it to its current location. But developing a business and selling flowers was not their only priority; they also helped cultivate a community. Gerhard planned many of the city's parks and Wally helped establish garden clubs, worked with city crews to landscape, and played Santa Claus amusing the local children at Christmas.

In 1958, the Fleischers sold the flower shop to Fred and Jim Campbell who changed the name, and the company continued to grow with the community it served. When current owner Gary and Kathy Stanifer purchased Campbell's Flowers along with partners in 1978, they kept the name and commitment to the community that came with it. By that time, Campbell's Flowers had already rooted itself deep into the economy and culture of Pueblo, and continues to stand out as mark of quality and excellence in the floral industry.

Mr. Speaker, I stand today to honor this company before this body of Congress and our Nation. Campbell's Flowers and Greenhouses and the hardworking, progressive men and women who have made it what it is today, stand as beacons of American spirit and industry. They are an example to us all and worthy of our praise.

IN HONOR AND REMEMBRANCE OF CONGRESSMAN DON J. PEASE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Congressman Don Pease civil leader, newspaperman, and professor and most importantly beloved family man, and friend and mentor to many.

As the long-time representative of District 13, Congressman Pease's dedication to public service was characterized by integrity, hard work, creativity and kindness. His life-long commitment to progressive ideals and civic involvement began in his own community in the sixties, when he served two terms as a Councilman in the city of Oberlin. Shortly thereafter, Congressman Pease was elected to the Ohio State Senate, where he served until he was elected to represent the residents of Ohio's District 13 as a United States Congressman. From 1976 to 1992, Congressman Pease worked toward the betterment of his constituents with determination, unwavering principles, and courage to take on controversial issues.

Congressman Pease was a gentleman and a scholar. His expertise and talent in the areas of writing, editing and managing a newspaper was clearly evident throughout his many years as writer and editor of the Oberlin News Tribune During that time, Congressman Pease garnered several editing and newspaper awards. Later, Congressman Pease brought his experience and knowledge to Oberlin College, in the position of Visiting Distinguished Professor of Politics.

Mr. Speaker and colleagues, please join me in honor and remembrance of Congressman Don J. Peasea truly outstanding individual, public servant, and above all beloved husband, father, and friend. I extend my deepest condolences to his wife Jeanne and daughter Jennifer, and also to his extended family and friends.

HONORING DOCTOR CHARLES DAVID LEE

HON. CHARLES W. CHIP PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. PICKERING. Mr. Speaker, I rise today to pay tribute to Doctor Charles David Lee, a constituent of mine from Forest, Mississippi, who recently announced his retirement after 44 years of service as a general medical practitioner in Forest. Dr. Lee, affectionately known as David to his many friends, is the son of the late Chief Justice and Mrs. Percy Mercer Lee. He is a 1948 graduate of Forest High School, where he excelled, in both academics and athletics.

Doctor Lee's undergraduate degree was attained at Mississippi College, and his Doctorate of Medicine was attained at Tulane University. While at Mississippi College, he was an outstanding athlete, participating in football, basketball and baseball. He served as Co-Captain of the football team his sophomore year, and during his juror year he was selected Little All American and at the same time picked up the nickname Dixie Dave which remains to this day. He has been recognized as one of Mississippi College's most outstanding athletes in school history. Because of his athletic achievements, he was named to the Mississippi College Sports Hall of Fame in 1972.

Doctor Lee entered Tulane Medical School in 1951 and graduated 4th in his class in 1956. After graduating and completing his internship, Doctor Lee entered the U.S. Army Medical Corps as a Captain, and spent two years of service in Okinawa where he became an expert in the treatment of military divers. Because of his exemplary military service, Doctor Lee was encouraged by his military superiors to remain in the Army and make it a career. After much thought and deliberation by he and his wife, Doctor Lee decided, to return to Forest and begin his medical practice. Doctor Lee was honorably discharged from the Army in 1958.

For 44 years Doctor Lee and his wife have faithfully served the Forest and Scott County community. He has focused on being a patient's doctor and is recognized among his peers as being a caring and loving physician with a concerned bedside manner. Over this time span, Doctor Lee has delivered more than 2,000 babies, and has served as the team Doctor for the Forest High School football team for more than 41 years.

The commitment of Doctor Lee to the town of Forest, the Scott County community, and the state of Mississippi, as well as, his love for athletics, is legendary and recognized by all those around him. To show their love and appreciation for Doctor and Mrs. Lee, the town of Forest, in the early 90's, named them Citizens of the Year.

Sid Salter, a close friend and newspaper reporter who normally accompanied Doctor Lee's to the high school athletic events said, Lee has rarely missed a Bearcat football game at home, or on the road in the last 43 years. He has treated more than three generations of Forest High School athletes.

Doctor and Mrs. Lee are the parents of two children David Lee, Jr., and Margy Thaxton. They have two grandchildren, Jacob Lee and Joni Tillman and one great-grandson Reese Tillman. In retirement, Doctor Lee plans to fish, hunt and travel.

Thus, it is indeed an honor for me to recognize, and call to the House's attention a great doctor, a great athlete, and a fine Christian gentleman, my friend from Forest, Mississippi Doctor Charles David Lee.

IN HONOR AND REMEMBRANCE OF STEVE YOKICH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today, in recognition and remembrance of Mr. Steve Yokich, former UAW President, family man, dedicated activist, and dear friend to many.

Mr. Yokich, an exceptional leader, leaves behind a rich legacy of enhancing, protecting, and tenaciously fighting for the rights of America's auto workers. For over four decades, Mr. Yokich was the unwavering voice and champion of thousands of auto worker and their families,

As a highly skilled tool and die maker, Mr. Yokich began his career as a dedicated and vocal union activist. As he ascended the ranks of the UAW, his strong leadership skills, tough negotiating skills, and creative conflict resolution abilities served him and his membership well in assisting the union in making major strides that greatly improved the lives of workers and their families. Additionally, Mr. Yokich procured strong relationships with other unions, including the United Steelworkers of America.

Mr. Speaker and colleagues, please join me in honor and remembrance of a truly outstanding individual, Mr. Steve Yokich, who dedicated forty-six years of his life toward the betterment of workers and their families. Please join me as I extend my sincerest condolences to the family and friends of Steve Yokich; and also to the members and leadership of the UAWall of whom were witness to his personal integrity, tenacity, kindness and determination to help others.

SPECIAL JOINT MEETING OF CONGRESS SEPTEMBER 6, 2002

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KING. Mr. Speaker, it is with great pride as an American and as a New Yorker that I commend my colleagues for taking part in this Special Joint Meeting of Congress in historic Federal Hall.

By meeting in this venerable hall in lower Manhattan just blocks from where the Twin Towers of the World Trade Center were destroyed less than one year ago the United States Senate and House of Representatives have demonstrated our governments lasting commitment to the people of New York. And by fighting back and emerging stronger than ever, New Yorkers have demonstrated their grit, their courage and their determination. On September 11, 2001 New York took our enemy's best shot and never waved or faltered. The police officers, fire fighters and all the rescue workers who raced into the inferno demonstrated unsurpassed courage and set the tone and standard for our nation and the world. Just as significantly, the families of the brave men and women who were murdered that day just because they went to work in the World Trade Center have demonstrated a class and dignity that defy comprehension.

None of us will ever forget where we were or what we were doing when we first heard the news of the terrorist attacks of September 11the attack on the World Trade Center, the attack on the Pentagon and the bringing down of Flight 93 in Pennsylvania by uncommonly heroic passengers. Nor will we forget how our nation rallied behind President Bush as he commanded the war against international terrorism. That war will be waged on many battlefields and in many ways for many years to come. But we know that America will prevail. It will prevail in large part because of the fighting spirit that rose from the flames and smoke which engulfed lower Manhattan. And it is that spirit that the United States Congress has honored and acknowledged by holding this extraordinary session in Federal Hall. God Bless America.

IN HONOR AND REMEMBRANCE OF CHRISTINA SUNGA RYOOK

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor, recognition, and remembrance of Christina Sunga Ryook, whose young and vibrant life was tragically cut short on the darkest day in the history of America.

Despite their profound sorrow and pain, Dae Jin Ryook and Kyung Woo Ryook, father and mother of Christina, have found the courage to speak of their beloved daughter to share their thoughts with the world, letting us know and understand the beauty within the heart, soul and spirit that characterized Christina.

Christina's love for life, and love for her parents, extended family and close circle of friends, was a true gifta gift she gave freely. She kindly extended her generosity, compassion and thoughfulness to everyone she knew, and her kind and loving spirit will live on forever in all who knew her.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Christina Sunga Ryook, who possessed a profound sense of joy for life, and whose inner light radiates within the hearts of everyone who loves her. Please join me as I extend my deepest condolences to Christina's beloved parentsDae Jin Ryook and Kyung Woo Ryook. May you both find solace and comfort by the light and memories of your special, cherished and beloved daughter, Christina Sunga Ryook.

CONDEMNING THE ATTACK ON THE SWAMINARAYAN TEMPLE IN GUJARAT

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. ROYCE. Mr. Speaker, this week, the world witnessed yet another act of senseless violence. I rise as the Co-Chairman of the Congressional Caucus on India and Indian Americans to express my condolences to the families of the victims of the brutal attack on the Swaminarayan Temple in Gujarat.

Thirty-two including many children died in an attack in Gandhinagar.

Last year, I led a congressional delegation to Gujarat immediately following the devastating earthquake that hit the state. From that trip and my dealings with the Gujarati community in the U.S., I have developed a deep fondness for the people of Gujarat.

During my visit, I visited the Swaminarayan Temple and witnessed first hand the efforts of the Swaminarayan Temple to assist victims of the earthquake. Our heart goes out to all Gujaratis harmed by this violent act.

The Swaminarayan organization was established in 1907. It is a religion that preaches religious tolerance and practical spirituality. I only wish that more people in this world shared those values.

IN HONOR AND REMEMBRANCE OF MADELINE L. RYAN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Madeline L. Ryan, social and community activist, and above all, devoted wife, mother and grandmother, and friend to many.

Mrs. Ryan was born in Collinwood, Ohio, to working class parents who instilled values of social action and personal responsibility regarding the American labor movement.

While working and raising her three sons, Mrs. Ryan also found time to volunteer on behalf of workers' rights. She was an active member of the Communications Workers of America, and later was elected Vice President of the CWA Retirees Club. She lived by example, teaching others that the path for change was action and involvement. Mrs. Ryan helped organize workers; she walked the picket line; attended countless meetings; and even traveled to Washington, DC, to lobby Congress to secure positive change on behalf of the CWA.

Mr. Speaker and colleagues, please join me in honor and remembrance of Madeline L. Ryan, whose eloquent dedication to social justice, in word and deed, significantly impacted all who knew her. I extend my deepest condolences to her beloved husband, Arthur Ryan, sons Michael, Jeff and John; and also to her grandchildren, great grandchild, and extended family and friends. Mrs. Ryan's devotion to family and community will never be forgotten.

CONGRATULATING THE CONGRESSIONAL COALITION ON ADOPTION INSTITUTE'S ANGELS IN ADOPTION PROGRAM AND THE HALLMARK CHANNEL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. OBERSTAR. Mr. Speaker, last night the Congressional Coalition on Adoption institute celebrated the fourth annual Angels in Adoption program. It was a remarkable celebration of the many heroes throughout the nation who have advanced the cause of adoption.

I had the great privilege to present to Lana Corbi, President and CEO of the Hallmark Channel, one of the 2002 National Angel Awards to recognize the Hallmark Channel's outstanding contributions to promote adoption through their television programming.

There are many who made the Angels in Adoption event such a tremendous success, among whom I would like to commend my Congressional Coalition on Adoption Co-Chairs, Senator LARRY CRAIG and Senator MARY LANDRIEU for their leadership and advocacy. I would also like to thank Maxine Baker and the Freddie Mac Foundation, and Paul Singer and the Target Corporation for their generous sponsorship of the Angels in Adoption celebration.

I want to add a special word of thanks to Kerry Hasenbalg, the Executive Director of the Congressional Coalition on Adoption Institute, and her marvelous and dedicated staff (Wendy Cosby, Lynnette Cole, Katie Richardson, Jenni Byrd, and summer interns Kaitlin McNew and Emily Bonhoff) who gave so tirelessly of their time and talent to make this event such a success. I also wish to thank Chip Gardiner of my staff, Brooke Roberts of Senator CRAIG's staff and Kathleen Strottman of Senator LANDRIEU's staff for their significant contributions to adoption advocacy.

Mr. Speaker, at this time I would like to enter in the RECORD my remarks from last evening's Angels in Adoption program.

REPRESENTATIVE OBERSTAR'S PRESENTATION OF THE 2002 NATIONAL ANGEL IN ADOPTION AWARD TO THE HALLMARK CHANNEL

Tonight, we celebrate the men, women and children who have made profound contributions to adoption in their communities. Each Angel in Adoption has been deeply moved by this life-changing and life-affirming experience. For the Members of the Congressional Coalition on Adoption, tonight is our opportunity to recognize their story, their experience. We are a better nation, and the lives of countless children and families have been touched in a powerful manner through adoption.

I have seen many families in my congressional district in Minnesota that have been touched by adoption, and I am delighted to recognize one of my constituents, Linda Forde from Deerwood, Minnesota for sharing her personal experience with adoption with me. Ms. Forde is an adoptive parent of two wonderful children who were born in Vietnam. Because of her concern regarding the treatment of U.S. families seeking to adopt from Vietnam, she contacted me to voice her support for these families. Through her advocacy, Ms. Forde has demonstrated that motivated citizens can make a difference to promote adoption. It is for this reason that I am pleased to recognize Ms. Forde for her dedication to orphans who seek their forever families.

Adoption changes lives—it changes families, neighborhoods, and communities. Adoption has also changed attitudes and beliefs. Through the advocacy and dedication of adoptive families and professionals, adoption has changed our nation and our world. My colleagues and I have seen adoption officials of other nations, upon experiencing the joy of the young children whom their government and people have allowed to be adopted by U.S. families, spontaneously make unexpected proclamations to expand their nation's adoption programs. I have heard powerful testimony of children in our foster care system describe their heart-moving desire for a forever family. As an adoptive parent, I also know the thrill and excitement of receiving The Call that told us that our son Ted would soon be with us.

The Nobel Prize Chilean poet, Gabriella Mistral wrote: We are guilty of many errors and faults, but our worst crime is abandoning children, neglecting the fountain of life. Many things we need can wait; the child cannot. To the child, we cannot answer: Tomorrow. The child's name is Today! Those words have particular meaning for the more than 117,000 children in foster care who are available for adoption, and to whom we must say: TODAY.

Until recently, the wonderful adoption experiences that we celebrate this evening were unreal and intangible to those unfamiliar with adoption. The Hallmark Channel travels into the households of 45 million subscribers around the globe. Thanks to Hallmark, families in the United States and throughout the world now have the opportunity to see the real stories of adoptive families.

In June of this year, the Hallmark Channel initiated their first original series entitled Adoption which is a non-scripted, reality program, that captures the journey and real life experience of birth parents, adopted children and adoptive parents. I want to commend and congratulate the Hallmark Channel for your leadership and vision to bring these great stories to life.

With the premiere of Adoption, Hallmark Channel has dedicated the network's inaugural national corporate outreach initiative to supporting and creating grassroots programs dedicated to positively impacting awareness of adoption in the U.S. By providing the tools that enable viewers to make a difference in their communities, Hallmark Channel hopes to dispel the myths surrounding adoption, and shed a positive light on the process. The Adoption initiative encompasses several elements that can be tailored to a variety of needs, including: turnkey promotions, public service announcements, educational tools, and programming elements to allow select markets to reach out and highlight relevant adoption stories in their community. This fall, as part of their corporate initiative, Hallmark will unveil a special ornament that celebrates adoption. They have generously included in each of your gift bags coupons that may be redeemed by mail for one of these ornaments.

At this time, I would like to direct your attention to the video monitors to see a short excerpt of the Hallmark Channel's programming from their wonderful Adoption series.

We are delighted to have Lana Corbi, President and CEO of Hallmark Channel, with us this evening to accept the 2002 National Angel in Adoption Award for the Hallmark Channel. Lana is a remarkable woman who has recently been named one of the 50 Most Powerful Black Executives in America by Fortune Magazine. The Congressional Coalition on Adoption Institute is very pleased to present this award to Lana Corbi in recognition of the Hallmark Channel's outstanding contributions to raise adoption awareness through leadership in television programming.

UKRANIAN AMERICAN VETERANS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Ukranian American Veterans, on the historic occasion of their 55th Annual National Convention.

American veterans of Ukranian heritage have a rich and significant history in defending our nation's democracy and freedoms, during times of peace and times of war. American veterans of Ukranian descent have been an ongoing and vital source of strength in every branch of the United States military, dating back to the dawn of America.

Ukranian American Veterans, here in Cleveland, and across our country, have reflected a dedication to promoting peace, goodwill, faith and community for all citizens.

Mr. Speaker and colleagues, please join me in honor of all Americans of Ukranian heritage especially our veterans who proudly joined the United States Armed Forces to defend the liberties of America. Let us not ever forget those veterans, of every heritage, who made the ultimate sacrifice on behalf of all Americans. Today, I congratulate the Ukranian American Veterans on the significant occasion of their 55th Annual National Convention. The deep dedication to justice and significant contribution to American society by Ukranian American Veterans has been, and continues to be, a vital strength within our community, and within our nation.

AMERICAN FRONTIERS: A PUBLIC LANDS JOURNEY

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. TANCREDO. Mr. Speaker, a unique expedition is now underway out West to draw attention to America's public lands legacy.

American Frontiers: A Public Lands Journey, began July 31 and will conclude September 28 in Salt Lake City. Two teams of adventurers are traveling by foot, horseback, ATV, canoe, boat and bicycle entirely over public lands on this 3,000-mile trek. Along the way, they are sharing their experiences and thoughts with school children, local communities and the world via videophones and an interactive Internet website, www.americanfrontiers.net.

In Colorado, as in much of the rugged American West, our public lands play an important role in our lives, our economies, and our communities. We take pleasure in hiking, biking, skiing, rafting and hunting on public lands. And the natural resources on our public lands provide us with the timber, energy, water, minerals and livestock forage that support our unique quality of life. I applaud this effort to encourage a better understanding of the importance of America's public lands spearheaded by the Public Lands Interpretive Association. Those participants in this endeavor who complete this journey should be congratulated for the pioneering and age-old spirit of the American West that they embody as they persevere along the trail.

I hope all Americans will join in celebrating our shared legacyand the accomplishments of the American Frontiers adventurers on National Public Lands Day, this Saturday, September 28.

TRIBUTE TO BISHOP BEUFORD J. TERRY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Bishop Beuford J. Terry, on the occasion of his consecration to the office of Jurisdictional Bishop of the Ohio Northeast Ecclesiastical Jurisdiction.

Bishop Terry, who is also the Presiding Prelate to the Ohio Northeast Ecclesiastical Jurisdiction, has dedicated his life to not only the spiritual enrichment of his congregation, but also to the overall enrichment and improvement of the East Cleveland community.

Bishop Terry continues to demonstrate his commitment and dedication to his faith, and to the individuals and families he serves. He is the reason why his church, the Community Temple Church of God in Christ, is an ongoing source of comfort and inspiration for its members. Moreover, Bishop Terry provides a light of hope and beacon of possibility for the entire East Cleveland neighborhood.

Mr. Speaker, please join me in honor and recognition of Bishop Beuford J. Terry, on the momentous occasion of his consecration to the office of Jurisdictional Bishop of the Ohio Northeast Ecclesiastical Jurisdiction. Bishop Terry's life-long dedication to helping others, as well as his spiritual guidance, generosity, and activism, significantly inspires the lives of his family, friends and congregation, and continues to positively impact our entire community.

RECOGNIZING HISTORICAL SIGNIFICANCE OF 100 YEARS OF KOREAN IMMIGRATION TO UNITED STATES

SPEECH OF

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. SCHIFF. Mr. Speaker, as a co-sponsor of this resolution, I am pleased to see it being considered by the House today and I urge my colleagues to support this bill.

In 2003, communities throughout the United States will celebrate the 100th anniversary of Korean immigration to the United States. Many Korean immigrants came to the United States in the early 1950's, fleeing from war, poverty and the threat of communism. As the hope to return to a united and democratic Korea diminished, Korean immigrants were left to build new communities and opportunities for themselves in the United States.

It was through sheer determination and hard work that many Korean Americans have been able to thrive in America, invigorating businesses, churches and academic communities throughout the United States. According to the United States Census, Korean Americans own and operate 135,571 businesses across the nation that have gross sales of $46,000,000,000 annually and employ 333,649 individuals.

Korean Americans have also left an indelible mark in our communities and government. Korean American community activists such as Angela Oh and Bong Hwan Kim worked tirelessly to bridge the racial tensions during the Los Angeles riots of 1992.

The Korean-American population of the U.S. has greatly added to the rich fabric of our Nation. I want to take this opportunity to commend Korean Americans for their historical and cultural contributions to this Nation, and again urge a YES vote on this resolution.

SPANISH AMERICAN COMMITTEE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Spanish American Committee, as they celebrate thirty-five years of service to Hispanic Americans in the Cleveland area.

Established in 1966, the Spanish American Committee, a United Way agency, is the oldest and largest non-profit social service organization in Ohio, existing to provide assistance for citizenry of Hispanic/Latino heritage in Northeast Ohio. This invaluable agency, comprised of caring, dedicated and hardworking individuals, provides essential services that improve the lives of families and individuals.

Since the dawn of our nation, citizens of Hispanic/Latino heritage have greatly contributed to, and enhanced, every facet of our society. And through their meaningful action, the members of this worthy organization have elevated the quality of life for thousands of Hispanic/Latino individuals and families. Some of the significant services provided by the Spanish American Committee include: Counseling and crisis intervention, employment services, daycare services, job referrals, housing services, tenant and landlord counseling, English language classes, translation services, and voter education and registration.

Mr. Speaker and colleagues, please join me in honor, recognition and admiration of the Spanish American Committee, as we join them in celebration of their 35th Anniversary. Please join me as I extend my deepest admiration and congratulations to the Spanish American Society, as its members continue to empower and assist Hispanic Americans to secure a brighter future for themselves casting a light of hope and accomplishment over our entire community.

HOUSE OF REPRESENTATIVES—*Monday, September 30, 2002*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. DAN MILLER of Florida).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 30, 2002.

I hereby appoint the Honorable DAN MILLER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Life is fragile and a lifetime but a moment before Your eternal presence, Almighty God. Today we mourn the loss of one of Your servants and dearly elected Members of this Congress: the Honorable PATSY MINK.

Reward this gentle woman for her gracious service in this House, to this Nation and the island people of Hawaii. We know she will be fondly remembered by many and richly rewarded by You, O Lord. You are the Lord and master of the living and the dead, and before You we will all have to appear and render an accounting.

Be now her loving Saviour. Help her staff, family, and many friends find some footing as You lead them on by Your kindly light of faith and sustaining love revealed in those around them. Be now their hope and consolation.

May the Honorable PATSY MINK of Hawaii rest in peace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Wisconsin (Mr. OBEY) come forward and lead the House in the Pledge of Allegiance.

Mr. OBEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4085. An act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation for veterans with service-connected disability and dependency and indemnity compensation for surviving spouses of such veterans, to expand certain benefits for veterans and their survivors, and for other purposes.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 2237. An act to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 27, 2002.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 27, 2002 at 9:25 a.m.

That the Senate passed without amendment H.J. Res. 111.

With best wishes, I am
Sincerely,

MARTHA C. MORRISON,
Deputy Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, Speaker pro tempore HANSEN signed the following enrolled joint resolution on Friday, September 27, 2002:

House Joint Resolution 111, making continuing appropriations for the fiscal year 2003, and for other purposes.

And Speaker pro tempore THORNBERRY signed the following enrolled bill on Monday, September 30, 2002:

H.R. 1646, to authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

NOTIFICATION OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. VISCLOSKY. Mr. Speaker, pursuant to clause 2(a)(1) of House rule IX, I rise to give notice of my intent to present a question of privilege of the House.

The form of the resolution is as follows:

A resolution, in accordance with House Rule IX, expressing a sense of the House that its integrity has been impugned and Constitutional duty hampered by the inability of the House to bring to the floor the Fiscal Year 2003 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, due to the severe under funding of Education within the President's Fiscal Year (FY) 2003 Budget.

Whereas under Article I, Section IX, of the Constitution states no money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

Whereas it is the fiscal duty of the Congress to appropriate annually the funds needed to support the execution of programs and operations of the Federal government.

Whereas to date the House has only considered five Appropriations bills.

Whereas as President, George W. Bush has been persistent in resonating public concern for better schools. He dedicated significant amounts of time and public dialogue during his first year in office to the passage of H.R. 1, the "Leave No Child Behind" Act, not only implying he favored more help to schools from the federal treasury but specifically authorizing large increases in a number of key program areas.

Whereas within weeks of signing H.R. 1, Public Law No: 107-110, the "No Child Left Behind" Act, the President submitted a budget that stopped six years of steady progress in federal support to local schools dead in its tracks.

Whereas instead of the strong and consistent growth in support to local schools that the federal government has provided for more than a decade, the President's FY 2003 Budget holds aid to local schools virtually flat. Furthermore, his Budget Director now insists that if Congress exceeds the budget request by even the smallest amount, the President will veto entire appropriation bills.

Whereas the future of our labor force and our economy is heavily dependent on elevating the education and skills of all future workers.

Whereas about one third of the 53.6 million children now in elementary and secondary

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

schools in America are at serious risk of being left behind. The achievement gap between these students and the rest of the student population remains large and has failed to close.

Whereas of the 53.6 million children currently enrolled in elementary and secondary schools in this country, 9.8 million, or nearly 20 percent, are from households defined by the Commerce Department as being in poverty.

Whereas the House is faced with the choice of supporting schools or supporting the President and his effort to reverse the trend of expanding federal support for local schools.

Whereas the Congress has provided states with an unfunded mandate by approving the "No Child Left Behind" Act without the necessary financial resources to fund it. Now, therefore, be it

Resolved that it is the sense of the House of Representatives that the Congress should provide states with the resources they need to fully implement the "No Child Left Behind" Act as it promised less than a year ago, by completing action on the Fiscal Year 2003 Labor, Health and Human Services, and Education, and Related Agencies Appropriations.

The SPEAKER pro tempore. Under rule IX, a resolution that is offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from Indiana will appear in the RECORD at this point.

The Chair does not at this point determine whether or not the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. VISCLOSKY. Mr. Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a question of privilege.

The SPEAKER pro tempore. That time will be designated.

NOTIFICATION OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. OBEY. Mr. Speaker, pursuant to clause 2(a)(1) of House rule IX, I rise to give notice of my intent to present a question of privileges of the House.

The form of the resolution is as follows:

Education Privileged Resolution

A resolution, in accordance with House Rule IX, expressing a sense of the House that its integrity has been impugned and Constitutional duty hampered by the failure of the House to bring to the floor on a timely basis the Fiscal Year 2003 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act.

Whereas Article I, Section IX, of the Constitution states that no money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

Whereas it is the fiscal duty of the Congress to appropriate annually, by October 1st of each year, the funds needed to support the execution of programs and operations of the Federal government.

Whereas the House to date has only considered five Appropriations bills, and has failed to consider the Fiscal Year 2003 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act which would provide funding for critical areas of national policy including pre-school, elementary and secondary education, special education, higher education and student loans.

Whereas as President, George W. Bush supported and signed into law Public Law 107-110, the "Leave No Child Behind Act," which imposes substantial accountability and performance mandates on elementary and secondary schools in every state and congressional district in the United States.

Whereas the "Leave No Child Behind Act" included the authorization of significant additional resources to assist the states and local education agencies to provide the mandated improved educational services to America's schoolchildren.

Whereas within weeks of signing the "Leave No Child Behind" Act, the President submitted the FY 2003 budget provides an increase in education funding of 0.5 percent (one half of one percent) compared with an average increase of 12 percent in the six years prior to enactment of the new law.

Whereas President Bush's FY 2003 education budget request fails to provide the promised level of funding to states and local education agencies which are required to implement significant educational reforms.

Whereas President Bush's FY 2003 budget would provide only 18 percent of the increase in compensatory education funding promise by the "Leave No Child Behind" Act.

Whereas about one third of the 53.6 million children now in elementary and secondary schools in America are at serious risk of educational failure without the resources promised in the "Leave No Child Behind" Act.

Whereas the funding level for improving teacher quality in President Bush's budget would not even keep pace with the current level of funding, let alone help promote the expanded teacher quality programs contained in the "Leave No Child Behind" Act.

Whereas the President's education budget also fails to provide the level of federal assistance for the Individuals with Disabilities Education Act that was promised to states more than 27 years ago.

Whereas by failing to appropriate the funds it has promised to pay for the new accountability requirements for students, teachers and schools, the Congress would bring discredit on itself and undermine the ability of our schools to provide the improved education services for which the House has overwhelmingly voted. Now therefore be it,

Resolved that it is the sense of the House of Representatives that the Congress should complete action on the Fiscal Year 2003 Labor, Health and Human Services, and Education, and Related Agencies Appropriations before recessing and should fund the "Leave No Child Behind" Act at levels commensurate with levels promised by the act less than a year ago.

□ 1415

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Under rule IX, a resolution that is offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from Wisconsin (Mr. OBEY) will appear in the RECORD at this point.

The Chair does not at this point determine whether or not the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. OBEY. Mr. Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a question of privilege.

The SPEAKER pro tempore. That time will be designated.

SPECIAL ORDERS

FREEDOM OF SPEECH FOR RELIGIOUS INSTITUTIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from North Carolina (Mr. JONES) is recognized for 60 minutes as the designee of the majority leader.

Mr. JONES of North Carolina. Mr. Speaker, I will not take more than 5 or 6 minutes, but I am back on the floor again to talk about an issue of freedom, freedom of speech in our churches, synagogues, and mosques throughout this country.

Most people do not realize that in 1954, Lyndon Baines Johnson, United States Senator, put an amendment on a revenue bill going through the Senate without any debate, no debate at all; and that amendment basically put the Internal Revenue Service into the churches and synagogues throughout this country.

Prior to 1954 and the beginning of this great Nation that we all know and love, the preachers and the priests and the rabbis at that time, all the way up until 1954, had no restriction of speech. If they wanted to talk about a cultural issue that maybe became a political issue of the day, they did so.

What happened was that with the Johnson amendment, because he was being attacked, so to speak, by the H.L. Hunt family in Texas, they were opposed to his reelection to the United States Senate, he put an amendment on a revenue bill going through the Senate that basically, again, was never debated. So the Internal Revenue Service has the authority to make judgments over what certain churches, meaning the preachers, the priests, the rabbis, might say that might be in their opinion of a political nature.

Mr. Speaker, this, in my opinion, is not what this great Nation stands for.

This great Nation stands for the first amendment rights of its people, and I support that first amendment right, and that includes the churches and the houses of worship throughout this Nation.

Let me also say that this bill is known as H.R. 2357, and in just a very few minutes I am going to show my colleagues some myths that the opposition is saying about this legislation. We had people like Dr. D. James Kennedy, who is a wonderful man of our Lord from Florida, to come up to testify on May 14; also, a Baptist minister here in Washington, D.C. who used to be a Member of the House, and his name is Pastor Walter Fauntroy. Pastor Fauntroy came to testify on behalf of this legislation; and the young man that helped me draft this legislation, an attorney with the American Center for Law and Justice, Kobe May, also testified.

Mr. Speaker, at that testimony, the IRS basically said they cannot even enforce this legislation. I want to read just a couple of comments very quickly that came out during the hearing. This one really probably is one that bothers me greatly, which is that in answer to a question from the gentleman from Georgia (Mr. LEWIS), the Internal Revenue Service acknowledged that they were not able to enforce this law; that they were dependent on a third party to enforce the law. In other words, Mr. Speaker, that kind of reminds me of the late 1930s in Germany when somebody reported somebody for saying something or doing something.

Again, let me remind my colleagues in the House that this was only an amendment offered by Johnson in 1954 that was never debated and accepted, that put the Internal Revenue Service into the churches. Let me also say, if I might read it at this time, a quote by Martin Luther, and Martin Luther said: "The church must be reminded that it is neither the master nor the servant of the State, but rather the conscience of the State." I believe that quote is so true.

Mr. Speaker, let me also make a couple of other points. We have over 700,000 houses of worship in this Nation. How in the world can the Internal Revenue Service, during the months of September and October and November, how in the world can they send a person to be at the churches and synagogues and mosques to see what they are saying?

Let me give an example very quickly. In the third district of North Carolina, which I represent, down in eastern North Carolina, a priest, Father Rudy at St. Paul's in New Bern, North Carolina, was asked by one of his parishioners, Jerry Schill, Jerry Schill asked, would you, Father Rudy, just say at the closing of the sermon, at the homily, just say that George Bush is pro-life. That is all he asked him to do, to say that George Bush is pro-life. He said no, I cannot do that. If I make that statement, it will violate the 501(c)(3) status of this church, and again, that is because of the Johnson amendment. If that had been in 1953 or 1945, the priest could have said whatever he wanted to say. He had the right to do so. The first amendment guarantees it.

Let me give another example on the other side of the fence. We have strong support, Mr. Speaker, from another former Member of Congress, Pastor Floyd Flake, Dr. Floyd Flake of one of the largest Baptist churches in New York; and what Dr. Flake did in the 2000 election, he had Presidential candidate Al Gore in his church, and when Mr. Gore finished his comments, Pastor Flake went up, put his arm on his shoulder and said to his congregation, I think this is the right man to lead this Nation.

Well, Dr. Flake, just like the priest down in my district, they would be saying this because they believe spiritually it is the right thing to do in their mind, and they should have the right to do it. It should not have been taken away from them by Lyndon Johnson.

Mr. Speaker, let me now very quickly run through a chart. The other side on this issue is saying that this bill is not needed. They say that houses of worship can already comment on political issues. I have just given two examples, and I can give more examples than that. In fact, let me give another example. One of the groups that is opposed to this opposition is the Americans for Separation of Church and State; and this one I always have a great deal of interest in for this reason. I am not going to read a page and a half, but just make a couple of points. He sends this out to 285,000 churches. That is what he said in a press release. He did not send it to 700,000, but 285,000. I wonder how he selected those 285,000, by the way.

But this is what he says; it is really kind of contradictory. The first sentence says: "The first amendment of the U.S. Constitution protects the rights of pastors and church leaders to speak out on religious, moral, and political issues." Mr. Speaker, I actually agree with him on that sentence. But he comes back with, "However, it is because of the Johnson amendment that churches and synagogues and mosques are barred from endorsing or opposing candidates for any political office and may not intervene directly or indirectly in partisan campaigns."

Mr. Speaker, this is not an effort by those of us who believe in the first amendment to say that churches and preachers and priests and rabbis should get involved in political activity. We do not believe that. Only if they believe there are certain topics that they want to talk about. If that priest in New Bern wanted to say that George Bush is pro-life, that is educational, Mr. Speaker. If Floyd Flake in New York wants to say Al Gore is the right man, if he believes that and he says it, that is also educational. The spiritual leaders in this country have got to have the freedom.

So that first myth that the other side is saying is absolutely wrong. The churches and the preachers and the priests, I have talked to many of them throughout this Nation, do not understand this law that Johnson passed; and they are concerned about violating the law so, therefore, they just would rather not say anything.

I want to make it perfectly clear again that should this bill become law, the preacher, the priest, the rabbi would have a choice. He would not have to talk about moral, political, or cultural issues if they did not want to. He can choose to do so. But the way it is now, he is restricted by the Federal Government.

That in itself brings up the second myth. Anyone who believes in separation of church and State cannot support this legislation. Well, my suggestion to those people is this, if you believe there should be a separation, then why should the Federal Government be able to have any influence or any chilling effect on what a preacher, priest, or rabbi should say in this Nation? So, therefore, that one is bogus also.

Then they say, they come right back, the houses of worship bill would compromise the integrity of houses of worship. Let me tell my colleagues that in itself is laughable, because I am going to give a quote now from a former Member of Congress whose name is George Hansen from Idaho; he served for 12 years. Mr. Speaker, to myth number three I would say, let me read the quote from George Hansen. Mr. Hansen said on the floor of this House: "It is impossible to have religious freedom in any Nation where churches are licensed to the government. That is the point." That is the point. When the churches and synagogues in this country were given a 501(c)3 status, there was no restriction at all. I have researched this issue, no restriction at all on speech; nothing. It was Lyndon Baines Johnson that put the Federal Government into our churches and synagogues.

Myth number four is H.R. 2357 is not constitutional. Let me say to those again that raise that bogus argument, this is constitutional. Everything that I have ever read from being a student in high school to a college student to being an older man, that the first amendment applies to each and everyone and that means our preachers, our priests, and rabbis. In fact, in 1830, when Alex De Toqueville came to America and he was so impressed with this great, beautiful country that God had blessed with natural beauty, and he was excited about the New Republic and this freedom we would have in this country, what he said, Mr. Speaker, when he traveled America was, what impressed him the most was the flame in the pulpit. Mr. Speaker, we know for sure that until the Johnson amendment that the churches, synagogues, and mosques had no restrictions of speech.

So, Mr. Speaker, I close this way with a couple of comments. Mr. Hansen was right. It is impossible to have religious freedom in any Nation where churches are licensed to the government. The IRS testified on May 14 they cannot even enforce this law; and yet we have certain groups in this country that intentionally send out letters to intimidate a lot of our pastors, priests, and rabbis. I believe, Mr. Speaker, with our men and women in uniform fighting today and at this very moment for this country, trying to protect our national security and protect our constitutional rights, and one of those is the freedom of speech and the freedom of participation, then our spiritual leaders should not be handcuffed. If this Nation is going to remain morally strong, Mr. Speaker, our spiritual leaders must talk about the issues of the day that they think are important, whether they be cultural issues or moral issues or political issues; and sometimes they intertwine, quite frankly.

So, Mr. Speaker, I am very hopeful that this bill will be debated sometime this week, and I certainly hope that the House will join me in passing this legislation. That will be the first step of restoring the First Amendment right to our spiritual leaders.

I close this way because I close this way every time I speak, whether it be in my district, here on the floor, or anywhere throughout, because I feel that this time that we are in as a Nation that, first of all, I have three military bases in my district. I have Camp LeJeune, I have Cherry Point Marine Air Station, New River Marine Base, and also Seymour Johnson Air Force Base. So I close, Mr. Speaker, by asking God to please bless our men and women in uniform. I ask God to please bless the families of our men and women in uniform. I ask God to please bless the American citizen. I ask God to please bless the men and women who serve in the House and the Senate, that we might do what is right in God's eyes. I ask God to please bless the President of the United States as he has many tough days and many tough decisions to make.

I close finally this way, Mr. Speaker, by saying three times, please, God, please, God, please God, continue to bless America.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly a joint resolution of the House of the following title, which was thereupon signed by Speaker pro tempore JAMES HANSEN on September 27, 2002.

H.J. Res. 111. Joint resolution making continuing appropriations for the fiscal year 2003, and for other purposes.

On September 30, 2002, Speaker pro tempore MAC THORNBERRY signed the following bill.

H.R. 1646. An act to authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1325. An act to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.

ADJOURNMENT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 29 minutes p.m.), under its previous order, the House adjourned until tomorrow, October 1, 2002, at 10:30 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9411. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of General Carlton W. Fulford, Jr., United States Marine Corps, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

9412. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Daniel R. Zanini, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9413. A letter from the Assistant Secretary, Health Affairs, Department of Defense, transmitting the Department's report entitled, "Quality of Health Care Furnished under the Defense Health Program During FY 2001"; to the Committee on Armed Services.

9414. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity (RIN: 1506-AA27) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9415. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Anti- Money Laundering Requirements — Correspondent Accounts for Foreign Shell Banks; Recordkeeping and Termination of Correspondent Accounts for Foreign Banks (RIN: 1505-AA87) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9416. A letter from the Director, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations — Requirement that Casinos and Card Clubs Report Suspicious Transactions (RIN: 1506-AA22) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9417. A letter from the Senior Paralegal (Regulations), Department of the Treasury, transmitting the Department's final rule — Alternative Mortgage Transaction Parity Act; Preemption [Docket No. 2002-43] (RIN: 1550-AB51) received September 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9418. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation; Georgia Transportation Conformity State Implementation Plan Memorandum of Agreement for the Atlanta Metropolitan Area [GA-200228(a); FRL-7382-2] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9419. A letter from the Principal Deputy Associate Administrator,. Environmental Protection Agency, transmitting the Agency's final rule — Correction of Implementation Plans; California [CA083-FRL-7376-2] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9420. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality State Implementation Plans; Louisiana: Motor Vehicle Inspection and Maintenance Program [LA-61-2-7566; FRL-7382-7] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9421. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Revisions to the Louisiana Department of Environmental Quality Title 33 Environmental Quality Part III Air Chapter 5, Permit Procedures, 504 Nonattainment New Source Review Procedures [LA-61-3-7565a; FRL-7384-7] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9422. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production [FRL-7382-4] (RIN: 2060-AE78) received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9423. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Section 112(l) Authority for Hazardous Air Pollutants; Delegation of Section 111 and Section 112 Standards; State of New Hampshire [FRL-7378-4] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9424. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Hawaii; Final Approval of State Underground Storage Tank Program [FRL-7381-6] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9425. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Hungary for defense articles and services (Transmittal No. 02-62), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9426. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Pakistan [Transmittal No. DTC 84-02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9427. A communication from the President of the United States, transmitting a report as part of his efforts to keep the Congress fully informed, consistent with the War Powers Resolution regarding the action in Cote d'Ivoire; (H. Doc. No. 107—268); to the Committee on International Relations and ordered to be printed.

9428. A letter from the Attorney/Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9429. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's annual report entitled, "Implementaion of the Federal Financial Assistance Management Improvement Act of 1999"; to the Committee on Government Reform.

9430. A letter from the Director, Office of Government Ethics, transmitting the Office's final rule — Technical Amendment to Executive Branch Regulation Governing the Reporting Period for Incumbent Public Financial Disclosure Reports (RIN: 3209-AA00) received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9431. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Amended Special Regulations for the Preble's Meadow Jumping Mouse (RIN: 1018-AF30) received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9432. A letter from the Director, Regulations and Forms Services Division, Department of Justice, transmitting the Department's final rule — Requiring Certification of all Service Approved Schools for Enrollment in the Student and Exchange Visitor Information System (SEVIS) [INS No. 2217-02] (RIN: 1115-AG71) received September 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9433. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — VISAS: Documentation of Immigrants — International Broadcasters (RIN: 1400-AB22) received September 17, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9434. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — VISAS: Documentation of Nonimmigrants under the Immigrants and Nationality Act, as Amended: Transitional Foreign Student Monitoring Program — received September 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9435. A letter from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting the Department's final rule — Recoupment of Severance Pay from VA Compensation (RIN: 2900-AK95) received September 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9436. A letter from the Commissioner, Social Security Administration, transmitting a draft bill to make amedments to the Supplemental Security Income program; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on September 26, 2002 the following reports were filed on September 30, 2002]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4125. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; with an amendment (Rept. 107-700). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4561. A bill to amend title 5, United States Code, to require that agencies, in promulgating rules, take into consideration the impact of such rules on the privacy of individuals, and for other purposes (Rept. 107-701). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. WATT of North Carolina (for himself, Mr. Frank, Ms. Lee, Mrs. Jones of Ohio, Mr. Price of North Carolina, Mrs. Meek of Florida, Ms. Carson of Indiana, Mr. Meeks of New York, Mr. Clay, Mr. Fattah, and Ms. Hart):

H.R. 5499. A bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes; to the Committee on Financial Services.

By Mr. ISRAEL:

H.R. 5500. A bill to provide that Members of Congress be made ineligible for coverage under the Federal employees health benefits program, and instead be made eligible for coverage under the Medicare Program; to the Committee on House Administration, and in addition to the Committees on Government Reform, Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETRI:

H.R. 5501. A bill to amend the Higher Education Act of 1965 to provide greater academic freedom for institutions of higher education, and for other purposes; to the Committee on Education and the Workforce.

By Mr. SPRATT:

H.R. 5502. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend the pay-as-you-go provisions through fiscal year 2007, and for other purposes; to the Committee on the Budget.

By Mr. WHITFIELD (for himself, Mr. Pallone, Mr. Sessions, Mr. Kleczka, Mr. Fletcher, Mr. Pascrell, and Mr. Stupak):

H.R. 5503. A bill to amend the Public Health Service Act to establish an electronic system for practitioner monitoring of the dispensing of any schedule II, III, or IV controlled substance, and for other purposes; to the Committee on Energy and Commerce.

By Ms. KAPTUR:

H. Res. 564. A resolution recognizing the accomplishments of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th Anniversary of the return of his remains to Poland; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII,

367. The SPEAKER presented a memorial of the General Assembly of the State of Maryland, relative to House Joint Resolution No. 35 memorializing the United States Congress to oppose cutting the $20 million designated in fiscal year 2002 for HIV/AIDS prevention and education programs in the Caribbean; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 792: Mr. Gilchrest, Mr. Meehan, Ms. Brown of Florida, Mr. Cantor, Mr. Baird, Mr. Cummings, Mr. Shaw, and Mr. Larsen of Washington.

H.R. 1918: Mr. Conyers, Mr. Ortiz, Mr. Serrano, Mr. Gutierrez, and Mr. Menendez.

H.R. 2693: Mr. Israel, Ms. Lofgren, and Mr. Visclosky.

H.R. 3063: Ms. Woolsey and Mr. Crowley.

H.R. 4720: Mr. Olver and Mr. Rehberg.

H.R. 4936: Mr. Hostettler.

H.R. 4974: Mr. Bartlett of Maryland and Mr. Paul.

H.R. 5031: Ms. Rivers, Ms. Berkley, Mr. John, Mr. Rothman, and Mr. Wexler.

H.R. 5089: Ms. Baldwin and Mr. Strickland.

H.R. 5285: Mr. Farr of California, Mrs. Morella, and Mr. Paul.

H.R. 5287: Mr. LaHood.

H.R. 5387: Mr. Farr of California and Ms. Lofgren.

H.R. 5414. Mr. Lucas of Kentucky and Ms. Norton.

H.R. 5432: Mr. Berman.

H. Con. Res. 197: Mrs. Morella.

H. Res. 548: Mr. Dingell.

SENATE—*Monday, September 30, 2002*

The Senate met at 1 p.m., and was called to order by the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation and Lord of our lives, grant us Your peace for the pressures of this week. May Your peace keep us calm when tensions mount and serene when strain causes stress. Remind us that You are in control and that there is enough time to do what You want us to accomplish.

Fill this Senate chamber with Your presence. May we hear Your whisper in our souls: "Be not afraid; I am with you." Bless the women and men of this Senate with a special measure of Your strength for the demanding schedule ahead. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable E. BENJAMIN NELSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, September 30, 2002.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable E. BENJAMIN NELSON, a Senator from the State of Nebraska, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mr. E. BENJAMIN NELSON thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with the Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first half of the time shall be under the control of the majority leader or his designee.

The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, originally we had announced there would be a vote this afternoon, but there will not be a vote today. The first vote will be approximately 12 p.m. on Tuesday on cloture on the Gramm-Miller amendment on homeland security.

I ask unanimous consent notwithstanding rule XXII, first degree amendments may be filed until 3 p.m. today and the live quorum with respect to the cloture motion filed be waived; further, the cloture vote on the Gramm-Miller amendment No. 4738 occur at 12 p.m. tomorrow, without further intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR—S.J. RES. 45, S. 3009, AND H.R. 4691

Mr. REID. Mr. President, I understand that S. 3009, H.R. 4691, and S.J. Res. 45, are now at the desk, having been read the first time. Is that right?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I ask unanimous consent it be in order for these bills and joint resolutions, en bloc, to receive a second reading, but then I would object to any further consideration.

The ACTING PRESIDENT pro tempore. The clerk will read the titles of the resolution and the bills for the second time.

The legislative clerk read as follows:

> A resolution (S.J. Res. 45) to authorize the use of United States Armed Forces against Iraq.
>
> A bill (S. 3009) to provide economic security for America's workers.
>
> A bill (H.R. 4691) to prohibit certain abortion-related discrimination in governmental activities.

The ACTING PRESIDENT pro tempore. Objection having been heard, the resolution and bills will be placed on the calendar.

ORDER OF PROCEDURE

Mr. REID. Mr. President, Senator LANDRIEU is in the Chamber to report to the Senate on the devastation of the hurricane that struck her State. I ask unanimous consent she have the full 30 minutes, which would extend the time to 1:35 and then the minority have their full 30 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

TROPICAL STORM ISIDORE

Ms. LANDRIEU. Mr. President, I come to the floor today regarding Tropical Storm Isidore, which made landfall last Wednesday just south of New Orleans and dumped nearly 25 inches of rain in 24 hours. This massive and destructive storm brought winds of 60 miles per hour to Southeast Louisiana and a storm surge of up to 6 feet.

I was able to see the flooding firsthand when I traveled to Louisiana on Thursday with the FEMA Director, Joe Allbaugh, to survey the damage.

I was relieved and grateful to learn that on Friday, the President declared a Federal disaster for the area. This declaration triggered the release of Federal funds to bring much-needed recovery assistance to the towns, communities, businesses, and citizens that suffered great loss. I would like to thank President Bush and FEMA Director Joe Allbaugh for their support of Louisiana's recovery efforts.

Although the final cost of Tropical Storm Isidore is still being determined, Louisianans know all too well the damage a storm on this particular path can bring. Had this storm reached the level of strength earlier predicted, it would have been a category 3 hurricane, packing winds of 130 miles per hour and a storm surge of up to 12 feet.

As nearly all of New Orleans area rests below sea level, a hurricane of that magnitude alone on the path that Tropical Storm Isidore has taken would devastate southeast Louisiana.

In Louisiana and throughout the Gulf South, we deal with the threat of hurricanes every year. From all reports, this storm could have been much worse, and we are thankful it was not. But I must take this opportunity to bring to light what is at stake when a hurricane or storm takes aim on the Louisiana coast. Not only is the safety, lives and property of Louisiana residents at risk the Nation's critical energy infrastructure and energy supply as well as crucial conservation measures are in danger.

Tropical Storm Isidore should serve as a wake-up call to the Federal Government, which must do more to protect the nation's resources in Louisiana.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Because the City of New Orleans is below sea level and surrounded by levees, every drop of rain that lands there must be pumped out. This important job is accomplished by local, State, and Federal agencies working together to ensure that the necessary infrastructure is in place and working—much of this work is done by the U.S. Army Corps of Engineers. However, in the President's budget request submitted to Congress this year, funding for the southeast Louisiana Flood Control Project, (SELA), was cut by an astonishing 50 pecent.

The SELA flood control project is a smart investment. By investing in these flood control projects, we could prevent the expenditure of hundreds of millions of dollars that will otherwise be spent in Federal flood insurance claims and other disaster assistance programs. Fortunately, the Senate Appropriations Committee understands this investment and has approved an increase for this project, which will allow the construction already underway to continue. However, this is not enough. I urge the administration to rethink its priorities and to include sufficient funding for the SELA project in its budget request for fiscal year 2004.

Although protecting life and property should be reason enough to invest in infrastructure in Louisiana, there is an even bigger problem that faces the entire Nation when severe flooding occurs in South Louisiana. More than 80 percent of the Nation's offshore oil and gas is produced off Louisiana's coast and 25 percent of all the Nation's foreign and domestic oil comes across Louisiana's shores by tanker, barge or pipeline. In fact, according to the Minerals Management Service, (MMS), of the 571 million barrels of oil produced from the Outer Continental Shelf in 2001, 502 million were produced offshore Louisiana. That translates to 88 percent of production.

Let me also tell you all about a very special highway in south Louisiana. This highway also happens to be a main artery for the Nation's energy supply. This highway is aptly named Louisiana Highway 1. Nearly one-fifth of the Nation's entire energy supply depends on Louisiana 1, and we cannot continue to leave its future to the whims of mother nature.

Louisiana Highway 1 connects Port Fourchon, Louisiana with the rest of the country. Why is it important? Consider these facts: 85 percent of the deep-water drilling rigs working in the Gulf are supported by Port Fourchon; the Department of Interior's Mineral Management Service has identified Port Fourchon as the focal point of deep-water activity in the Gulf; it is estimated that Port Fourchon services approximately 16 percent of the U.S. domestic crude oil; natural gas production and imported crude oil; the Gulf of Mexico has 20,000 miles of pipelines, which is the most extensive network of offshore oil and gas pipelines in the world; Louisiana 1 is the only road servicing Port Fourchon, and it spends heavy rain days underwater; Louisiana 1 is the only means of land access to the Louisiana Offshore Oil Port, (LOOP); LOOP is the only offshore oil terminal in the United States and alone is responsible for 13 percent of the United States' imported crude oil. LOOP transports approximately one million barrels of foreign oil a day and approximately 300,000 barrels of domestic crude from the Gulf of Mexico Outer Continental Shelf. The U.S. Army Corps of Engineers estimates that 60 percent of all the Louisiana offshore drilling over the next 30 years will be in the service area of Port Fourchon. In the event of a hurricane, this lonely little road is the way out for tens of thousands of my constituents.

Last year, after giving a similar speech on this floor about the critical importance of Louisiana 1, it was finally designated as a federal "high priority corridor." But Louisiana 1, like much of south Louisiana, is washing away, and we must act now to preserve it. You can see from this picture that even without a severe hurricane, this highway is in a precarious situation. Can you imagine what would happen if a hurricane hit us head on? It would be gone, and there would be great difficulty in servicing one-fifth of our nation's energy supply. I urge the administration and my Congressional colleagues to think about these facts and to invest more resources in critical improvements to this and other highway systems in south Louisiana.

Year after year, revenues from the oil and gas production off the coast of my State provides most of the funds for the Land and Water Conservation Fund but receives precious little in return. Since 1968, and for most of the life of the Land and Water Conservation Fund, OCS revenues have served as the primary source of funding. In fact, since 1990, OCS funds have accounted for more than 90 percent of the deposits in the Land and Water Conservation Fund each year.

While approximately 80 percent of the OCS revenues collected during this period came from offshore Louisiana, only 1.1 percent, $27 million, of the total Federal side Land and Water Conservation Fund allocated during this period actually went toward Louisiana. On the other hand, 23 percent, $650 million, of the funding allocated during this period from the Federal side of the fund went to California, but only 4 percent of the total OCS funds during this period came from offshore California. In addition, 11 percent, $327 million, of the funding allocated during this period went toward Florida but no OCS revenues come from offshore Florida. The Nation must beware. Louisiana cannot continue to serve as the Nation's energy and conservation platform for much longer without adequate revenue sharing and investment. If we do make these investments, there could be severe consequences to both the State and the Nation.

So, what is at stake? The wetlands in Louisiana that have vanished so far represent an area the size of Rhode Island. Every 30 minutes, a parcel of low lying land the size of a football field disappears. If current trends continue, this will result in the loss of nearly 40 percent of our Nation's coastal wetlands. Not only do these wetlands and barrier islands offer invaluable protection from hurricanes and storms such as Isidore for more than 2 million people living in the coastal zone, including the City of New Orleans, they also protect our Nation's energy infrastructure so much of which is found in Louisiana's coastal zone. Here one will find not only LOOP but also two storage sites for the Strategic Petroleum Reserve (SPR) and Henry Hub, one of the Nation's major natural gas distribution centers.

From Wednesday to Friday of last week, MMS estimated that 4.5 million barrels of oil and 25 billion cubic feet of natural gas were unavailable for U.S. consumption because of Isidore. With over 4,000 oil and gas platforms in the Gulf, storm events such as Isidore threaten 95 percent of crude oil and 60 percent of natural gas production from offshore federal lands. Louisiana's rapidly eroding wetlands are invaluable in absorbing the surge of storm events like Isidore. Without them, one can only imagine the damage a hurricane could wreak on South Louisiana and the nation's energy infrastructure.

One-third of the commercial fish harvested in the lower 48 States comes from Louisiana's coastal zone. As Louisiana's coastal wetlands disappear, so will these fisheries.

Louisiana's wetlands are home to the Nation's largest flyway, serving as habitat for more than five-million birds and many endangered species. As the wetlands wash away this habitat is lost. Also, they act as a buffer for the number one port system in the United States that moves the Nation's goods from middle America to world markets.

Louisiana takes pride in its role as the country's most crucial energy provider. Ours is a state rich in natural resources. However, given the contribution my State makes to the Nation, it is time for the Nation to carefully consider its deficient investment in South Louisiana and the Gulf Coast Region and to consider what would happen if, God forbid, a major hurricane travels the same path as Tropical Storm Isidore. The Land and Water Conservation Fund is just one example of a Federal revenue stream that will suffer. It is long past time for the Federal Government to adequately and fairly invest in a State that gives so much to the rest of the country.

As I said a few moments ago, Tropical Storm Isidore should serve as our wake-up call. The examples I mentioned today, the SELA flood control project, Louisiana Highway 1 and other highways such as Interstate 49, and our Nation's wetlands, are too important to ignore.

It is too early to tell what the final damage will be from Tropical Storm Isidore. However, one thing is guaranteed: it will not be the last. Let us act now to invest in the infrastructure necessary to protect the life and property of our citizens.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SENATE AGENDA

Mr. THOMAS. Mr. President, I rise to talk a little bit about what I think is the future of some of the things that are being talked about in terms of this Senate session which probably will expire in 2 weeks, and the many things that we have to do prior to that time.

Some of the things that are being talked about seem to me to be a little contradictory from time to time. I guess my hope is that we can together, of course, based on the leadership in the Senate, set some priorities, make some decisions, and accomplish some of the things that are necessary for us to accomplish prior to the recess.

Clearly, we have to do something about homeland defense. I can't imagine anything that is more important to us than to complete this discussion and allow the President to establish what is necessary for homeland defense. It is interesting. It reminds us. This morning, for example, over in the Hart Senate Office Building, we were told we couldn't leave our offices and no one could come in because there was a suspicious package over there on the floor. It reminds us that there is indeed a continuing threat of terrorism which we need to do something about.

Clearly, we have to make some decisions with regard to our position on Iraq. Whatever that decision is, it seems to me it is terribly important that Congress join with the President, and that we make some decisions which cause something to happen there. Hopefully, it will be some kind of a peaceful settlement. But that isn't going to happen—and it hasn't happened for years—until we do something that is very definitive. We can do that.

We clearly have to do something about defense appropriations. I suspect that we will end up—and I have no problem with that—with a continuing resolution for the rest of the appropriations, none of which we have passed at this time, so they can continue at last year's level until whenever—November or February. Defense appropriations and military construction have to be changed because the demands are higher for more money, and we can't go on last year's numbers.

These certainly are some of the things we must do. Then we have to have this continuing resolution.

I hope we will get back to this matter of homeland defense. The President made a recommendation, and the House passed a bill. It is something that is unusual, it is something that is different, and it is something patterned after the threats up to now. I think it has to have management flexibility.

That has been one of the controversial points—organizational flexibility, putting together a Department made up of a number of different departments that have had these specific responsibilities and bring it together so it will be coordinated.

Some of the things we are finding that might have been done better prior to September 11 will be done better in the future. We can do that. We have to assign personnel responsibilities, do budget transfers, and do many of these things that pretty clearly need to be done.

I think one of the interesting things that has happened in recent times because of Iraq and terrorism discussions and home defense discussions is that on homeland defense we see an effort being made increasingly to shift the division from the economy to these issues. I think both of these issues are very important. But when you have threats and you have terrorism, you aren't able to choose the time. When it is there, you have to do something about it.

Some of the talk, particularly in the media, I suppose comes basically from here. It has been interesting. One of the columnists in my home State of Wyoming—one of the few liberal columnists—has written one that I think is interesting. The first point he makes is that President Bush, in his campaign, was for bringing troops home. At that time, that was a reasonable thing to do. We were deployed over the world and beyond where we needed to be.

Now he said the contradiction is that he is willing to commit thousands of young people overseas. Times have changed. September 11 changed things. September 11 indicated to us that there is a different kind of threat from terrorism, and indeed a different kind of war in this world than there was before. Should our position change? It seems to me that it should.

Then he goes on to talk a little bit about the fact that the administration hasn't even shown the need to do this. It seems to me, if you go back and examine what happened in the last 10 years in Iraq, it is pretty clear that the agreements that were made after the 1991 war have not been lived up to. And that is the basis for the kind of threat we have now. It is pretty clear.

It is very interesting. He goes on to say we should never attack anyone unless we have been attacked. I wonder if he has forgotten the 3,000 people who died in New York City. It shows the different changes that have taken place. Years ago, an attack was by 17 divisions with tanks and landing barges. That is what you defended yourself against. That is not the case now. The case is you can bring some kind of a secret thing into a building in New York City and kill 3,000 people.

We are having some strange conversations—all of them valid. We need to go through it. We also hear from some of our friends on the other side of the aisle that we are no longer paying any attention to the economy.

I simply say that I believe we ought to review where we have been and where we could have been—and the number of things talked about here that have an impact on the economy that the leadership has not brought up, and has not been willing to go forward on. One of them is the budget. It is the first year in 20-some years that we haven't had a budget; that has something to do with an economy, of course.

Policy for energy: We have been moving along, but we still haven't gotten an energy policy. It is one of the things that most impacts both our economy and our safety against terrorism. We are hoping to get that. There is still no movement there.

Terrorism insurance on buildings, for example: We have reduced the ability of people to invest their money to help the economy. We haven't done anything with that.

Tax permanency and doing something about the estate tax so people will be more willing to invest their money—they don't want to do that, and they haven't brought it up. We need to be sure to take those items out of the committees.

Limits on liability, tort reform—that has something to do with the economy—we could do that. The leadership has chosen not to bring that up. So there are many things where there seems to be a contradiction.

All of us want to pass homeland security legislation. No one in this Chamber does not want to accomplish that. And we want to make it work. To do that, we need to move forward. There is no one in this body who does not want to see our economy strengthened, making life better for everyone in this country.

We have to make some decisions. We have to have some movement instead of being 4 weeks on the same thing and having not accomplished it.

Mr. President, I certainly hope we can move forward. I think all of us want to do that. We have a couple weeks in which to do it. Now is the time.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Utah.

Mr. BENNETT. Mr. President, may I inquire as to the parliamentary situation? Are we in morning business?

The ACTING PRESIDENT pro tempore. We are in morning business for 20 more minutes, according to the order.

Mr. BENNETT. For another 20 minutes?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BENNETT. I thank the Chair and ask unanimous consent that I be recognized for the next 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ECONOMY

Mr. BENNETT. Mr. President, we have had a lot of discussion on this floor about the economy recently. Since we are in an election period, we have a lot of discussion on the campaign trail about the economy, with a number of questions being raised—in raised voices—as often happens during a campaign.

One of the questions we have heard thunder forth on this floor is: Who lost the surplus? Where did the Government surplus go? Those who ask the question almost always answer it by saying: It was the Bush tax cut that destroyed the surplus. And it is the Bush tax cut that causes us now to be in deficit.

As I have contemplated responding to this, my mind has gone back to an old Peanuts cartoon. Charlie Brown and Lucy are having a conversation. In the first panel, Lucy is complaining about various problems in her life. In the second panel, Charlie Brown says: Yes, Lucy, life does have its ups and downs. In the third panel, Lucy makes her position very clear. She says: I don't want any downs. I only want ups. And in the fourth panel, she is marching off saying: Nothing but ups, ups, ups. And Charlie Brown responds with the time-honored comment: Good grief.

There are many people who view our economy the same way Lucy does. They do not want ups and downs; they just want ups: a continuum, as far as the eye can see, of years that are better economically than the years before.

There was a period of time, in the 1990s, when we were in the longest sustained expansion of our history, where people were saying: Lucy has finally got her wish. We have nothing but ups.

During that period, I had the opportunity to talk with Alan Greenspan when he appeared before the Banking Committee. I asked him the question—not necessarily in Lucy Van Pelt terms—but I said to him: Have we repealed the business cycle? As we look at the strength of the economy, and all of the years that are ups, have we now reached the point when the business cycle will not kick in and we will not see a downturn?

Well, Mr. President, as you know, Alan Greenspan is one who spoke of the new economy, who spoke of structural changes in the economy as a result of the information age and the application of technology to our decision making. But when I asked him the question with respect to the business cycle, he smiled that wry smile of his and said: No, Senator, we have not repealed the business cycle; it will still manifest itself in the years ahead. And it has.

I brought this chart to the Chamber to demonstrate when the business cycle started to give us a "down." You can see, in the third quarter of 1999, we were still in a strong "up" mode. In the fourth quarter, Christmastime, it was strong. While we did not do so well in the first quarter of 2000, we were still in the very strong "up" territory.

But by the third quarter of 2000, all of a sudden we were down dramatically. We were still not in a recession, because a recession technically is when the economy is shrinking rather than growing, but there was very anemic growth, indeed, of 0.6 percent in that quarter.

You get to the fourth quarter, Christmastime, where before you were up with a growth of 7.1 percent, and now you have a growth of 1.1 percent. It was not a recession technically, but it certainly felt like one.

Before, we had been in strong territory, through the 1990s and on into the first half of 2000, and suddenly we were down in this weak territory in the last half of 2000.

In the first quarter of 2001, we slipped into red territory and negative growth, minus 0.6 percent growth in the first quarter; minus 1.6 percent growth in the second quarter; coming back out of the business cycle, minus 0.4 percent growth in the third quarter; and then, in the fourth quarter of 2001, back into positive territory again.

In the first quarter of 2002, we have strong growth again. Then we are back to 1.3 percent growth. But these cross-hatched areas show what the economists are predicting for the remainder of the year.

So we go from the stronger period of the ups that Lucy Van Pelt loves, then the business cycle comes again, we have a recession, and then we start to come out of it again.

To those who say: Where did the surplus go? and, Wasn't it eaten by the tax cut? I say the answer is very clear: It was eaten by the business cycle.

What causes the business cycle? What causes things that have been going well for so long to suddenly go wrong? There are several reasons. Let me try to discuss each one of them.

The first thing that causes the business cycle is, quite frankly, bad decisions—bad decisions on the part of policymakers in Government, bad decisions on the part of business men and women, bad decisions on the part of managers.

One of the reasons we have seen the severity of the business cycle tamp down a little, so that the swings are not nearly as wide as they used to be in my father's business days or my grandfather's business days, where we do not have anything like the panic of 1873, we do not have anything like the Great Depression of the 1930s anymore, is that business men and women have better access to information and, therefore, they make fewer mistakes.

The classic business cycle in the manufacturing world would run like this—this is oversimplified, but it illustrates the point. You open a factory, and you start to produce widgets. You can see I went to business school because in business school they always talk about widgets as the generic product.

All right. You open a factory. You start to make widgets. Let's say your widgets sell pretty well. As the sales reports come in, you, as the manager of the factory, the manager of that business, say: We need to build more capacity. We need to make more widgets because there is demand for widgets out there.

So you double your shift. You put on two shifts, and you are having twice as many widgets come out of your factory. Pretty soon, people say to you: The wear and tear on our machinery is such that we need to build a new factory to meet this demand for widgets. So you invest in a new factory, and you are back to one shift, but now you are producing something like three times as many widgets as you were before. And you are now in the "up" period because people who make the raw materials that go into widgets are selling them to you, they are paying their employees, they are buying raw materials from their suppliers, and it is all running through the economy. There is prosperity.

While there is prosperity in the economy, there is prosperity in the Government, because all of the employees of all of these companies being hired to help you make more and more widgets are paying taxes on their income. They are paying taxes on the profits they make in selling supplies and other material to the widget maker.

Then one day, someone walks into your office as the head of that widget company and says: Have you noticed how many widgets we have in the storeroom? Have you noticed how big our inventory of widgets has gotten? We have so many extra widgets that we have not shipped that we need to shut the factory down until we work off the excess inventory. We need to shut down at least half of our capacity until all the widgets in the storeroom have been cleared out and sold.

You made a wrong decision to keep manufacturing widgets when the demand started to fall off or level off. You didn't realize it was the wrong decision. It didn't feel like the wrong decision, as you expanded capacity, but now the proof is in the inventory. It is piling up on the back lot, and it is overrunning your storehouses.

You have so many extra widgets, you have to say: Shut the factory down; mothball the extra factory we built because we are not going to be returning to that for quite a while; lay people off until we can get rid of all of the excess widgets we have.

So you go into the downside of the business cycle. You go into a recession. And as you stop manufacturing widgets, you stop ordering raw materials from all your suppliers, and they stop ordering goods and services from the people who supply them. And those people get laid off, and the Government doesn't get any taxes because none of those employees is taking home a paycheck. Indeed, they are now drawing unemployment compensation so the Government is seeing more money go out at the very time less money is coming in, and the Government starts to run deficits. We are in a recession and everybody gets concerned. Gloom and doom overhang the economy.

Then one day the same person who walked into your office and said, do you know how many widgets we have in the storeroom, walks into your office and says: Do you know how bare the storeroom is? We have sold all of those widgets. We have sold all the widgets that were in the back lot. We have sold all the widgets that were in the warehouse. We don't have any widgets. There is still a demand for them out there. You better gear up the factory.

So you get on the phone and you call your workers back and you say: We have to gear up the factory.

Once again, you should have done it earlier, but you made a mistake. You had bad information. In the 1950s, in the 1960s, in the 1970s, you were dependent on hand counts of inventory, sales figures that were sometimes weeks, if not months, after the fact, and it was inevitable that even the best manager would make the wrong decision on the upside and make the wrong decision on the downside, which meant that the business cycle was more and more extreme by virtue of bad information.

The main contribution of the information revolution to the business world has been good information with which a manager can now say: Wait a minute. There is a softening in widget demand. We will eliminate the second shift, but we will continue to operate both factories.

Instead of the wild swings that we used to have in the business cycle, today's swings are narrower and softer, but they are still there because, inevitably, at some point, someone will overestimate sales and thereby build too much capacity and then, on the other end, underestimate sales and have to turn around, and you will get a business cycle.

In historic terms, this recession, outlined on this chart, is milder than any we have had. Those with memories go back to the recession that started in the early 1990s. That recession was much sharper and more difficult and more painful than this one has been. If you have an even longer memory, go back to the recession of the double dip in the early 1980s when we had economic devastation that would make these kinds of numbers look like paradise.

I remember being taught in school that 6 percent unemployment was full employment, that the economy could not absorb any more than 94 percent of the available workers and when you got to 6 percent unemployment, you were at full employment. In the 1990s, we got down in some parts of the country to 2 and 3 percent unemployment. There were times in my State where employers could not hang on to workers because there were so many jobs. They said: Our biggest problem is trying to get labor.

Interestingly, at the height of the latest recession, at the time of greatest difficulty in the job market, there was wringing of hands, weeping and wailing and gnashing of teeth because we hit 6 percent unemployment. The unemployment rate has started to go down now from 6 percent, after hitting that peak.

So in historic terms, this is a mild recession, but what comfort is that to people who have lost their jobs and, more importantly, to the issue I started out to discuss: How about the surplus and what has happened to the surplus and who lost the surplus?

You can anticipate my answer to that. The surplus was lost to the business cycle. I said there were several things that cause a business cycle. I have given you the one that happens within the business cycle itself.

The other is that outside things come along. The oil shock that hit us in the 1970s helped trigger difficult times. September 11 hit us just as we were struggling with the economic downturn and made it deeper and longer than it would otherwise have been. Outside shocks and outside circumstances can also trigger a business cycle.

So it is not just bad decisions on the part of business leaders; it is also outside problems. We had both of those hit at the same time. The business cycle turned us down, and then September 11 hit us. We have still not recovered from September 11.

I was speaking to a good friend in the hospitality industry. He said: After September 11, we were off 20 percent from the norm. This is an industry that is bigger than the automobile industry in its total impact on the economy.

I spoke to this leader over the weekend and said: Have you recovered yet?

He said: No, we have come back in relative terms. We are now only 10 percent down from the norm.

But in that industry, 10 percent is huge. We have seen airlines that are faced with bankruptcy because people are afraid to fly. They are filling their planes, but they are filling their planes with cut rates that can't possibly give them an adequate rate of return.

What happened to the surplus? What happened to the surplus is that the economy got hit with business cycle problems and with outside shocks simultaneously and, as I was describing in the widget business, when the economy gets hit, the Government gets hit. Tax revenues go down as business activities go down.

As these numbers remain strongly blue and go strongly blue into the future, the tax revenues will come back. They will come back by virtue of the strength of the economy.

The fundamental rule I want everyone to understand is this: Money does not come from the budget.

Money comes from the economy. We can pass any kind of budget we want. We can make any kind of projections we want. But we will be humbled by the realities of the marketplace every single time. Sometimes the marketplace will produce more revenue than we budgeted for. That is what happened in the 1990s. We budgeted, hopefully, to get to a balance by 2002, and the economy surprised us and took us not only to balance, but surplus, in 1999. We were then budgeting surpluses for as long as the eye could see. The economy said: No, you are forgetting the business cycle. That, plus the attack of the terrorists, threw us into this situation, and Government revenues went down, regardless of what we budgeted.

Let us understand, when we talk about what happened to the surplus, that it was not the passage of the tax cut that caused the surplus to disappear, it was not really much of anything we did here on the floor—except as we reacted to the two realities that hit us unexpectedly. The business cycle came along and said I have not been repealed, and the economy slowed down, and then outside shocks hit us in the form of a terrorist attack that devastated large segments of the economy that have still not recovered.

Those of us who are so sure that we control this economy, and what it does by virtue of what we pass here, need to have a little more humility and a little more understanding and realize once again that the most important thing the Government can do in order to maximize Government revenues is to create an economic climate in which market forces can produce the greatest beneficial result. But even at those times, when the atmosphere is most conducive, the business cycle is still with us and will humble us if we keep thinking that, like Lucy Van Pelt, we can go through life with nothing but ups, ups, and ups, and never face the reality of the occasional down.

I appreciate the indulgence of my fellow Senators. I will have more to say on this at another time when we have a sufficient amount of morning business. I recognize the time has come to return to the debate of the bill on the floor.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mrs. LINCOLN). Under the previous order, morning business is closed.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Gramm/Miller amendment No. 4738 (to amendment No. 4471), of a perfecting nature, to prevent terrorist attacks within the United States.

Nelson (NE) amendment No. 4740 (to amendment No. 4738), to modify certain personnel provisions.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, I have spoken with Senator THOMPSON and he has indicated that he has a statement to make. There may be others on his side wishing to make statements on the bill. He indicated that there will be no unanimous consent requests related to this bill.

The leaders have announced there will be no votes today. My friend from Tennessee, I am sure, is aware of that. I look forward to his statement and whoever else wants to speak on this most important legislation.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Madam President, I thank my friend from Nevada. I concur in his analysis. There will be no unanimous consent request or additional amendments brought up, or anything of that nature. I also agree with him that we should have our colleagues down here discussing this bill, if they desire to do so. I encourage anyone who may be listening, if they have comments on this bill, come to the floor. There will be plenty of time this afternoon for us to continue to engage in this discussion. It is a very important discussion.

I think with regard to the several points of disagreement that we have, we should keep in mind the points of agreement we do have. I think, for example, all concerned agree that we need to bring many of these agencies that have to do with homeland security under one umbrella and that we must do it in a much better and more efficient way than we have carried out the operations of Government in many other respects. So let's build on that.

I hope we can build on that and address the points of disagreement and see if we cannot come together. I am still hopeful that in the waning days in which we have to address this issue, we will be able to come together and agree on not only the principle I just enunciated with regard to the merger, but also with regard to issues concerning the President's proper authority and appropriate flexibility that is going to be needed to manage this gargantuan enterprise we are setting out on. It is really a major endeavor. Nothing has been done like this in several decades in this country, and we are going to need all hands on deck, all the tools, all the resources, and all of the attention that we can bring to bear on this problem in order to make this country safer.

I think most of us realize now that we will probably never again be able to believe we are totally safe and that we can cover every border and every boat and every automobile and every airplane, all to the extent that we will have a failsafe situation and that we will not need to constantly keep our guard up.

There is a lot we can do. A lot has already been done. The President has taken charge and Tom Ridge in the Office of Homeland Security has taken charge. They have issued Executive orders that have addressed many of the burning issues that we face. I think our border situation is already better. Our transportation situation is better. But there is an awful lot to be done before we get to the point where we can say that we have done all that we can do.

It is a very difficult proposition. I said last week that one of the things that impresses me most about this body, about the Government in general, is how difficult it is to make any really substantive change to anything. If there is any difficulty connected with it at all, if it comes to spending money, or something like that, we can usually come together because it benefits those of us who are spending the money, benefits our constituents, and we get some short-term benefit from that all the way around. We sometimes pay long-term consequences for it, but spending money seems to be an easy thing to do.

Here, we are actually stepping on some people's toes and we are acknowledging some dysfunctional aspects of our Government and we are saying, let's change that. But there are a lot of vested interests out there who don't want to change. They want the status quo. In the abstract, they want the same end result we do—we want a better system—but they don't want to change things in order to achieve a better system.

We have been looking, listening, watching, and absorbing for many years in this Congress and in this Senate the various negative aspects of many of the agencies of our Government and how they are not working, how they are not doing what they are supposed to be doing, how they are rife with waste, fraud, and abuse, and billions of dollars are being sent out for things—like people who are deceased, for example. We find that we cannot incorporate high-tech information systems that have been incorporated in the private sector for years and years, to good effect. We cannot seem to bring that into the Government. The IRS has wasted billions and billions of dollars trying to get their computers to talk to each other. They are making real progress now, but for a long time they did not. And there are human resources problems, human capital problems.

We are losing people we ought to be keeping in Government, and too often keeping the people we ought to be losing because of old rules and regulations that were set up decades ago. We have seen all of this happen, all of this evolve as Government got bigger and bigger and more complex, with levels and upper levels—every Deputy Assistant Secretary has an assistant to the Deputy Assistant Secretary, and they have two, three, and four, and it keeps growing. It makes us less efficient and less responsive to the people we are supposed to be serving.

Now, we understand it is not just money and inefficiency and lack of service we have to be concerned about. We have to be concerned about our very safety—the No. 1 job of Government, self-protection.

Yet there are those who want to incorporate that system, this bureaucratic mess that has evolved into the new Homeland Security Department because they do not want to make any changes.

Unfortunately, a part of what has to be addressed Governmentwide is our civil service system. No one wants to deal with that because it is politically difficult, politically volatile, and you are going to be stepping on some people's toes. Yet there is unanimity among Democratic and Republican experts who have looked at this problem and have experienced this problem.

In the homeland security bill, we are trying to solve a Governmentwide problem. It is much too big. It is much too politically difficult. There are too many entrenched interests to successfully address that situation. We are trying to say, with regard to homeland security, with the issue most important to our country: Let's have a little flexibility in these civil service rules that we have not had in times past.

When President Carter asked for civil service reforms in the spring of 1978, he said the system "had become a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in redtape, delay, and confusion."

That was President Carter. Accordingly, Congress delivered the requested reforms in the Civil Service Reform Act of 1978. But a lot has happened since 1978 to prove that we still have a long ways to go.

The Brookings Institution report of 2002 quoted earlier now says:

> The civil service personnel system underwhelms at virtually every task it is asked to do. It is slow at hiring, interminable at firing, permissive at promoting, useless at disciplining, and penurious at rewarding.

That is the Brookings Institution's analysis of our civil service system.

This is not news to anybody. President Carter knew about it, spoke on it, and the Brookings Institution and others have spoken about it. We heard testimony in the Governmental Affairs Committee over the years about this issue. Something has to be done about it, and everybody wrings their hands and acknowledges it is not right that it takes 5 or 6 months to hire somebody. It is not right that it takes 18 months to fire a poor performer. But that is the way it is, and that is the way we have been doing business. We rock along tolerating that kind of a system because it is only Government and we really do not expect much out of Government anyway, do we?

Now we are in a different world, and we understand that what is at stake is not just aggravation or waiting in a longer line or putting some civil service employees out who are trying to get a job or trying to get promotion inside a system that only lets them move lockstep or waste a few billion dollars—it is not just that anymore. It is our very safety and survival as a nation because, if we adopt this kind of system into the Department of Homeland Security, we will get the same results as other agencies.

We will see not only waste, fraud, abuse, and mismanagement, overlap and duplication, but we will see the border not protected the way it should be, airline safety not being what it should be, cargoes will not be examined the way they should be, the information technology we need to tie all this together so we can keep up with the bad guys will not be what it should be because we have seen it has not worked in any other aspect of Government.

What makes us think that just by creating this new Department under the same old rules it will work any better in this new Department of Government? If anything, there will be new problems that will be created from this new Department of Government because we are talking about bringing together over 170,000 Federal employees. It will require the coordination of 17 different unions, 77 existing collective bargaining agreements, 7 different payroll systems, 80 different personnel management systems—80—an overwhelming task by any stretch of the imagination.

Again, with this more complex, more difficult, and more-important-than-ever task that we have on our plate now, do we really want to bring the old way of doing business into our Government that has produced these bad results? The answer is no.

We have to do business a little differently. We have to give the President authority that other Presidents have had—not take away his authority as the opposition to this bill would do, or diminish his authority, or set up new requirements for the President to prove. It means that we have to give the people who are going to be running this new Department some flexibility with regard to hiring, firing, promoting, rewarding, holding employees accountable—all those issues we should have done Governmentwide years ago and we do not have the political will to do.

At long last, with regard to the Department of Homeland Security, at least we ought to acknowledge that we have to look at these issues differently. We have done so with regard to several Departments. That is the irony. When the Transportation Security Administration came to us and said, We need a little additional flexibility in hiring, firing, promoting, rewarding, and disciplining, we gave it to them. When the GAO came to us and asked for the same flexibility, we gave it to them. When the IRS came to us and asked for the same flexibility, we gave it to them. When the FAA came to us and asked the same flexibility, we gave it to them. When the President comes today and asks for the same flexibility, we say no. At a time when it is needed the most and is being asked for by the person who needs it the most on behalf of his new Department, we say no. I think it defies logic.

It is not as if we are taking a step back from merit system principles or that we want to engage in prohibited personnel practices and we are going to abrogate civil service for Federal employees. That is not it at all.

The President has made it clear that the merit system principles that have been there for years will still be there. I am talking about principles such as veterans' preference; the requirement to recruit qualified individuals from all segments of society; select in advance employees on the basis of merit after fair and open competition. We keep that, of course. I am talking about treating employees and applicants fairly and equitably without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping conditions; we keep those principles.

Provide equal pay for equal work and reward excellent performance—of course, we keep those principles; maintain the high standards of integrity, conduct, concern, public interest, we keep that; manage the employees efficiently and effectively, we keep that. The requirement that we retain and separate employees on the basis of their performance and their performance alone, we keep that. Educate and train employees when it will result in individual performance, we keep that; protect employees from improper political influence, we keep that; protect employees against reprisal for lawful disclosure of information in whistleblower situations, that is, protect people who report things such as illegal or wasteful activities, we most certainly keep that. We want that. We value that as much as anyone.

All of those merit system principles we retain. We do nothing with regard to keeping those. Those are principles on which we all agree, and those who imply we are somehow, in the name of national security, eviscerating the rights of employees, is simply not true.

We can maintain the rights of employees but we are not wedded to 50-year-old operating principles. We can make some changes that make some sense in the light of current circumstances.

Well, they ask, what about prohibited personnel practices? In title V of the United States Code, as we all know, there are several prohibited personnel practices in which the managers of these agencies and the heads of these Departments cannot engage. They say employees who have the authority to take, direct others to take or approve personnel actions shall not discriminate on the basis of race, color, religion, national origin, age, handicap condition, marital status, and political affiliation. We retain that prohibition, for sure. May not solicit or consider employment recommendations based on factors other than personal knowledge or jobs or related activities or characteristics, we keep that; may not coerce an employee's political activity, we keep that; shall not deceive or willfully obstruct a person's right to compete for employment; shall not influence any person to withdraw from competition for any position or improve or injure the employment prospects of any other person; shall not give unauthorized preference or advantage to any person or improve or injure the employment prospects of any particular employee or applicant; shall not engage in nepotism; shall not retaliate against a whistleblower; shall not retaliate against employees or applicants who exercise their appeal rights; shall not discriminate based on personal conduct which is not adverse to on-the-job performance; shall not violate any law, rule, or regulation which implements or directly concerns the merit principles; shall not knowingly take or fail to take a personnel action if that action or failure to act would violate a statutory or regulatory veterans preference requirement.

All of those prohibitions stay. We retain every one of them. They are principles on which we all agree, and they are meaningful. They are protections that employees should have. They are protections we insist these employees retain.

Again, does that mean one cannot make any changes from a system that was created 50 years ago, in light of current circumstances? It does not. When you find somebody not doing their job, does that mean it should take years to do anything about it? Does that mean it should take months in order to hire someone because of rigorous steps and certain pools from which you have to draw and all of that kind of foolishness at a time when we are really in need of people with technology capability that we have not necessarily needed in times past? Of course not.

Does it mean we should not have a system whereby good performers can jump ahead and get paid more and not have to go in a one-step process all the way up where people who are doing their job, people who are doing an excellent job, people who are doing a mediocre job, and people who are doing a terrible job are all lockstep, just same old thing?

That system was created 50 years ago, with 15 different pay grades, 10 steps within each pay grade, when people would go in as a young person and lockstep their way all the way up through the process and retire after 20 years. That is not the world we live in anymore. Young people can do a lot better than that. We need to be able to pay them more. We need to be able to reward them more. We need for them to be able to jump grades, for example. Under less than very exceptional circumstances, it ought to be the rule for extraordinary performance.

By the same token, there needs to be accountability. These are not inconsistent with the merit principles I have enunciated. There is just a little bit of common sense. It does not mean we have to have collective bargaining agreements that go on for months and sometimes years over such issues as whether or not the annual picnic was rightfully called off.

There is a case at an Army base in St. Louis which lasted 6 years over that momentous issue.

The administrative process is rife with cases such as disputes over whether or not the smoking area should be lit. Sometimes it takes years in order to resolve issues that way. At a time of war, can't we bring a little common sense with regard to the Department of Homeland Security when there are such high stakes? Surely, we can. That is what the issues before us today on this homeland security have to do with. They are in regard to maintaining a rigorous status quo regime or giving the people in this new Department—we will have this Department for the rest of our lives and probably for generations to come. There will be Democrat Presidents and Republican Presidents. There will be Democrat and Republican Secretaries of the Department of Homeland Security. This is not a partisan Democratic or Republican issue; it is a common sense issue.

Doesn't the new Secretary need to be able to break through some of these old rules and procedures that have gotten us down into waste, fraud, abuse, inefficiency, overlap, duplication, and inability to function and have at least a shot at managing people under the 21st century rules in which we live, instead of rules of another time and another era? I think so. That is what this is all about. That is all we are asking.

I mentioned the various aspects with which the manager of this new Department—whoever that unfortunate soul turns out to be—will need some tools with which to manage. A good employee will welcome that with open arms. In fact, I think all of this would be welcome by employees, the overwhelming majority of whom are doing their job on a day-to-day basis. They are the unsung heroes throughout our Government. If those folks are offered an opportunity to say, look, we are going to make it easier for you to get hired, you are not going to have to be flailing around for 5 months and going through all these various steps, we are going to try to pay you more, once you get in and you do a good job, we are going to make it so you are rewarded commensurate with that, if you do not like what is happening and you file an appeal, or your union does on behalf of you, you are going to have, let's say, two steps instead of four in the appellate process, I think most employees would overwhelmingly embrace that tradeoff.

Ninety-nine percent of the employees are not afraid of bringing a little common sense to the appeals process or the ability to respond to poor performance. If one looks at surveys, they will quickly see the overwhelming number of good Government employees realize there are some poor performers, and nothing can be done with them. They have to be transferred from Department to Department. The political appointees are in there for a short period of time. They are not going to spend all of their time bogged down in administrative hearings and worried about trying to get rid of somebody who has been there—you know the old saying, we will be there when you come and we will be there when you go, and it is true. They are and they will be there. They transfer them around and these other employees see that. They are making the same pay sometimes that the good employees are making, and that is not right.

We do not need to put up with a situation such as that in our Government.

(Disturbance in the galleries.)

The PRESIDING OFFICER. The Sergeant at Arms will restore order to the Senate proceedings.

The Senator will continue.

Mr. THOMPSON. Madam President, chapter 43 goes beyond the intent of merit principles which provides employees who cannot or will not improve their performance to meet required standards should be separated. As a result, managers must give employees multiple opportunities to demonstrate their ability to perform the essential aspects of their position at an acceptable level. Such a requirement undermines the managers' willingness and ability to discipline poor performance and results in poor-performing employees remaining on the job for many months and sometimes years.

Section 4302(b)6 authorizes agencies to remove employees whose performance is unacceptable, but only after giving that employee an opportunity to improve performance. It defines unacceptable performance as failure in any single element of an employee's standards. Another section requires any such opportunity to improve must be provided within one year preceding the removal of the employee.

The combined impact of these provisions is poor performers are entitled to fail at each different element of their performance once each year without being subject to removal. If they are deficient in more than one, they have a year to see if they can improve on that, and if they prove to be deficient on another, they have another year on that. So the worse performing you are, the more time you have before anything can be done. What manager is going to spend his time going through that?

An OPM study conducted in the last administration estimated 3.7 percent of Federal civilian employees were poor performers. When applied to the total Federal workforce, that percentage works out to be 64,340 employees.

Last year, 434 individuals were removed for poor performance, so only .67 percent remained removed from service last year. In other words, of 1,000 Federal employees who did not do their job, 7 of them were let go. Let's hope that of that 1,000, they are not checking the bags or checking the cargos or checking the borders when you or I are there and our safety and our loved ones' safety is at stake. Perhaps we can afford that in some departments, but not in the Department of Homeland Security. That is all we are talking about.

The overwhelming number of good Federal employees and Federal performers see this and know who they are and know they are probably going to be making the same thing, and there is nothing that can be done about it. What does that do to morale? What does that do to workforce morale?

In 1993, a police sergeant with the Department of the Treasury was fired for providing false statements during an investigation. This action was not finally sustained until 5 years later when it was finally decided by the Supreme Court of the United States. During the intervening 5 years, there was a hearing before the MSPB, the administrative judge, a decision by the MSPB, an appeal to the Federal court, and a discussion by the U.S. Supreme Court. This was all regarding a police sergeant who lied during the investigation.

An employee of the Civil Service Administration removed for falsification of travel voucher claims contends the action was unjustified. Under chapter 707, that employee would be entitled to seek investigation and review by the Office of Special Counsel, an average of 4 months; hearing and decision by the regional Office of the Merit System Protection Board, average 4 months; review by the headquarters of the Merit Systems Protection Board, 4 months; review by the Equal Opportunity Commission, 36 months estimated; and review at all 3 levels of the Federal court system—district court, appeals court and Supreme Court—6 months to several years.

It is not that it would be a good idea to deprive people of their administrative rights. It is just a question of how many levels and how many avenues and how many claims and how long should all this take with regard to the Department of Homeland Security.

Are we doing the best we can do? Clearly, we are not. It is showing up Governmentwide. It has to do with much more than just the rather narrow issues we have been talking about in terms of the homeland security. In June of last year, before September 11, we put out a document called Government at the Brink. This was a document I put out as chairman of the Governmental Affairs Committee. It was subtitled Urgent Federal Government Management Problems Facing the Bush Administration. This was as the Bush administration was coming in. We were trying to inform the new administration of the situation they were going to be confronted with, as other presidents have been informed. We tried to summarize the problems the Federal Government was having. This was not an attempt just to bash the Federal Government. It was an attempt to try to make it work better.

We would have hearing after hearing after hearing. We would bring the GAO in. They would give us every year the high-risk list of agencies that were most subject to waste, fraud, abuse and mismanagement, overlap and duplication. The same agencies every year. No one ever got off of it. New ones kept coming on to it. We passed the RESULTS Act, which said every year: Now, you have not done very well at all. Some of you have done awful. You will have to start showing your results. We will have to start measuring your results.

We have spent years now and we are still in the middle of trying to make that work, and the reports we are getting in many cases from the RESULTS Act show they were producing the right kind of results, but they are incomprehensible themselves. So we are having trouble getting through some of the reports in order to decide whether we are getting any results.

Is Congress just laying on another requirement that will be unfulfilled? It is a very discouraging, long-term problem that has been developing for many years in our Government. It is getting worse and not better. My own view is that until we attach the appropriations process to these problem areas, we will probably never make any progress.

In other words, if these agencies keep coming up with bad performances, not only should people be held accountable, the agencies should be held accountable, and it should be reflected in their funding for the next year. How can you justify continuing to fund failure year after year after year? That would not happen in any other aspect of American society except the Government. Yet what happens if they get bad enough? Usually, we give them more money.

That is the situation. That is the backdrop. That is what we tried to summarize in this little booklet we put out.

We mentioned some of the examples that the new administration was going to have to deal with in term of Government management or mismanagement.

We mentioned the big dig, Boston Central Artery, the most expensive Federal infrastructure project in the Nation's history. Its cost continues to rise and is now estimated at $13.6 billion, an almost 525-percent increase from the original $2.6 billion in cost.

We mentioned abusing the trust of the American Indians. The Department of the Interior does not know what happened to more than $3 billion it holds in trust for American Indians. A judge overseeing this case called it fiscal and governmental irresponsibility in its purest form.

We mentioned the Department of Defense financial management. There is widespread agreement that the Department of Defense finances are a shambles. I hope they are better than when this report was written. It wastes billions of dollars each year, and it cannot account for much of what it spends.

We mentioned NASA, NASA mismanagement; the fact that it causes mission failures. In spectacular example after example, NASA lost billions because of mismanagement at some of its biggest programs. The cause of the Mars Polar Lander failure, for example, was that one team used English measurements—feet, inches, pounds—to design and program the vehicle while another used metric measurements.

We mentioned Medicare waste, fraud, and abuse. Medicare wastes almost $12 billion every year on improper payments. It misspent that $12 billion last year from the fee-for-service part of Medicare alone, which was about 7 percent of the total fee-for-service budget. The amounts wasted on improper Medicare payments would go a long way toward funding a prescription drug benefit or other program enhancement.

We mentioned security violations at the Department of Energy. The Department of Energy does not adequately safeguard America's nuclear secrets. In just one case, a party was dead for 11 months before Departmental officials noticed that he still had four secret documents signed out.

We talked about the IRS fiscal mismanagement. The IRS manages its finances worse than most Americans. The agency does not even know how much it collects in Social Security and Medicare taxes. GAO found significant delays, sometimes up to 12 years, in recording payments made by taxpayers.

We mentioned the Veterans Affairs and how they put patients' health at risk. The Department of Veterans Affairs IG found that the hospital food services shares the loading dock with the environmental management services hazardous waste containers. Dirty environmental management services and red biohazard carts were located next to the area where food is transported to the kitchen.

We mentioned the student financial aid program bilking taxpayers in that program. Federal student aid programs are rife with fraud and abuse. A cottage industry of criminals advises people on how to cheat to get Federal Government loans and grants. In one case, scam artists passed off senior citizens taking crafts classes as college students who qualified for Federal Pell grants.

Then we mentioned unemployment insurance fraud. A Las Vegas, NV, man illegally collected at least $230,000 in fraudulent unemployment insurance benefits from four different States between September of 1996 and November of 1999. He set up 13 fake companies and submitted bogus claims based on falsely reported wages for 36 nonexistent claimants using names and Social Security numbers of dead people, then collected claims by mail from California, Massachusetts, Texas, and Nevada.

These are just 10 examples of things we pointed out last year that were going on in our Government. For the most part, from the Government's standpoint, not counting the people who are out there always willing to take advantage of the Government, stealing from the Government, but for the most part this was not deliberate activity on behalf of people who work for the Government. These were just things that we let happen.

A lot of it had to do with our lack of managing these Departments, the turnover that we had, the inability to keep good people in developing these information technology programs. That is part of the IRS problem. Who wants to spend their time doing that, at that kind of pay? So we gave them flexibility. They are using it, and they are making some progress now. But this is the tip of the iceberg, and nobody pays any attention to it. We just kind of shake our heads, there is a newspaper story that comes out, and we go on and waste billions of dollars every year in the most egregious circumstances.

Again, I ask: Now we have been attacked. We have lost almost 3,000 people in one attack. We are going to bring some of these agencies together. If we just bring some of these agencies together, what have we accomplished except a bigger mess? We must do so, but we must do so with some ability to reward, punish, promote, demote, and get the right people in, raise some salaries, give some incentives, have some esprit de corps in some of these Departments, and be able to get rid of a poor performer with something less than 6 years in a case before the Supreme Court of the United States.

I mentioned earlier we have already given this kind of ability to manage to several of our Departments: The FAA, GAO, GSA, IRS, several of our agencies. Yet when it comes to the most sensitive area of all, homeland security, we are not willing to give the new Secretary that kind of flexibility and that kind of ability.

Someone might ask us: What about just giving the new Secretary for the Department of Homeland Security the kind of flexibility with regard to its employees that Members of Congress have? What about the same kind of flexibility to hire, fire, promote, set salaries that Members of Congress have?

I can assure anyone listening that Members of Congress have much more flexibility than what is being proposed for this new Department. But more on point, in keeping within the executive branch of Government, what about the flexibilities we have given these other Departments?

With regard to the IRS, there was a provision in there that basically said you must negotiate with the union, and if you do not, you must go to an impasses panel. That is what our friends, who would deny the Secretary this flexibility, suggest we should adopt for the Secretary. So one agency, and one agency alone, is all I can tell. We required them, when we gave them their flexibility—we required them to go through the administrative process that would wind up with some panel making the ultimate decision as to whether or not their actions were justified. We didn't do that with regard to the FAA, we didn't do it with regard to the GAO, we didn't do it with regard to the Transportation Security Agency. I submit that what we are about now, with 170,000 employees and 77 collective bargaining agreements and 80 different personnel management systems—that flexibility is needed more with regard to homeland security than any of these other agencies.

So we are not just comparing apples to oranges. We are comparing peanuts to elephants. We give these agencies this additional flexibility to manage with these relatively contained problems they have. But when we magnify the potential problems we know are going to come about with regard to the Department of Homeland Security, we don't want to give that to the new Secretary. I think we must if we want it to work, and if we want it to work differently, and we don't want to incorporate and adopt and inherit so many of the problems we have seen throughout Government—some of them relating to safety, some of them not—and expect we can keep doing the same old things the same old way after switching the boxes around and expect different results.

What do all these billions of dollars of waste, inefficiency, lost items, and inability to balance the books that the Government cannot do—in small part or as a whole cannot balance its own books—translate over into when you are talking about safety issues? I hope we don't have to find out.

We are suggesting the new Secretary have some of the same things these departments have—that we have already given flexibilities to have—in consultation with the Office of Personnel Management. This is a department headed by a Senate-confirmed person who is an expert in personnel rules, title V, and what the Government can and cannot do—the prohibitions I just read earlier, the principles I read earlier that we must adhere to—in consultation with that person to come up with some rules.

I should point out there is nothing in the Gramm-Miller substitute that mandates any changes. It is simply a law that allows those whose job it is and whose responsibility it is to make this a safer country to make those changes, and then come before Congress for appropriations and oversight—and all of the attention and sometimes aggravation and all of that—it will get as it justifies the changes it has made.

The House of Representatives recognized this need and necessity in passing their homeland security bill. There were basically six areas where this bill gives the new Secretary some flexibility.

There are many areas where no flexibility is sought at all. In fact, with regard to most of the personnel areas and flexibilities that are dealt with in title V, only a small percentage of them are being requested by the administration as being ones they need some flexibility in.

Let us talk about what is not being suggested that there be any flexibility in by the administration.

Chapter 21, general provisions; chapter 23, merit system principles; chapter 29, commission reports; chapter 41, authority for employment; chapter 33, examination and placement; chapter 34, part-time career employment opportunities; chapter 35, retention preference, restoration and reemployment; chapter 41, training; chapter 45, incentive awards; and chapter 47, personnel research programs and demonstration projects.

Again, I am just about halfway through here. But these are areas in which the administration says OK, we are not asking for any changes or for the ability to change anything in these areas.

Chapter 55, pay administration; chapter 57, travel, transportation and subsistence; chapter 59, allowances; chapter 61, hours of work; chapter 63, leave; chapter 72, antidiscrimination and right to petition Congress; chapter 73, suitability, security and conduct; chapter 79, services to employees; chapter 81, compensation for work injuries; chapter 83, retirement; chapter 84, Federal Employee Retirement System; chapter 85, unemployment compensation; chapter 87, life insurance; chapter 89, health insurance; chapter 90, long-term care insurance; and chapter 91, access to criminal history records for national security.

There are close to 30 areas here in title V where no flexibility is being asked for at all.

There are six areas where flexibility is being asked for: Chapter 43, performance appraisal; chapter 51, classification; chapter 53, pay rates; chapter 71, labor-management relations; chapter 75, adverse actions; and chapter 77, appeals.

With regard to those six areas, the House says OK, we will give the new Secretary some flexibility in those areas.

The Gramm-Miller amendment adopts those six areas.

The "compromise," so-called, before us—the Nelson-Chafee-Breaux amendment—would say we will give you four of those six areas. In other words, you have to add two more to the 30 or so you don't touch—labor-management and appeals. The new Secretary can do nothing with regard to the entire area of labor-management or appeals.

Unfortunately, labor-management and appeals has to do with the framework system by which you resolve disputes. If you control that process, you control everything else. Everything else has to go through it. So this is our difficulty.

When the Breaux-Chafee-Nelson amendment says we may not give the Secretary the authority to make any changes to labor-management relations or to appeals, it is simply a step too far or a step not far enough.

The President has said without this authority, the new Secretary would come in with his hands tied behind his back; he could not do all of the momentous things that are going to have to be done in terms of organizing and consolidating all these personnel systems without some flexibility in those areas as well.

The Nelson-Chafee-Breaux amendment also says—we were talking about six—we will give you four. But with regard to those four, you have to enter into negotiating agreements with the union. If the union refuses to enter into a negotiated agreement with you, you have to go to the Federal Services Impasses Panel.

I don't think it is as much a fact that we think the Federal Services Impasses Panel—whatever that is—is going to come up with terrible decisions; it is, again, do we really need to go through this kind of process with these kinds of decisions which other departments have the flexibility to go ahead and handle and take action on when we are dealing with homeland security, and we are dealing with the people who are going to be in charge of homeland security?

One of these areas has to do with classifications and pay rates and systems. I would like to think we could pay people better. I would like to think we could promote people more easily. I would like to think we could retain good people.

What if a union decides we are discriminating, we are taking this group of people and we want to give them more money, and we are taking another group of people and we don't want to give them any more money, and they represent all of them? So then we go through the Federal Services Impasses Panel. I cannot stand here and tell you how long it would take to go through this Federal Services Impasses Panel, but I can assure you it would be longer than it should.

So basically 17 unions are representing about one-fourth of the workforce of these 170,000 employees. Only 20,000 of them are in a union. Forty thousand of them are represented by unions, but 20,000 of them are in a union. About 25 percent of the workforce becomes the tail that wags the dog.

That is unnecessary. That is unwise. It, again, is placing restraints on this new Department that we have not placed on other Departments with much less serious mandates than we are giving this new Department.

There was one case where the union objected to a number of issues relating to the deployment of the National Guard to help in Customs' antiterrorism responsibilities. The union even demanded to bargain over arming the National Guardsmen. And they objected to Customs employees having any responsibility for storing National Guard weapons needed to fight terrorism.

In another example, the union has challenged Customs decisions to temporarily reassign inspectors to the northern border as the current union contract allows. Despite the continued terrorist threat after 9/11, the union has insisted on a new and time-consuming process that would require Customs to canvas thousands of employees nationwide for volunteers.

I guess most of us know by now that Customs has been sued because they put out a directive, pursuant to the President's direction, with regard to the color-coded warning system we have now: red, yellow, orange, whatever. So Customs was implementing that, and the labor union sued them because they said they should have negotiated that color system before it was put out.

So these are the kinds of things about which we are talking. None of them, in and of themselves, are the end of the world, but in case after case we have become consumed with procedure and process.

We can have due process. We can keep people from getting run over. I have spent most of my professional career trying to make sure that people didn't get run over. But you can do that without tying up the Government when it is trying to protect our borders. You can do it in less than a lifetime.

The Congress cannot do it. We cannot sit here and decide the details of a massive personnel system, and especially all the different personnel systems we are having to bring together. That is an administration job. They got elected. Let them come with a system that has a chance of getting the job done and working out the detail.

We will have oversight in this body. But I submit, we do not have the ability to micromanage a system such as that—which brings us to the President's national security authority. We have had a lot of discussion about that because a lot of people do not understand why, again, when we are creating a new Department that is going to be in charge of homeland security, we would give the President less authority with regard to this new Department not only than what other Presidents have had but than what other Departments have had and will have. So we will be taking the new Department, which needs the President's firm hand the most, and be providing him with less authority than other Departments have.

I think that perhaps it would be good if we considered the history of the President's authority in this regard. As we have been talking about now for several days on the floor, the law basically is that if a primary purpose of a particular agency or subdivision has to do with certain categories of work, such as intelligence, counterintelligence, investigative or national security, then the President can set aside collective bargaining agreements because national security is at stake and we simply do not have the time to go through some of this rigmarole I have been describing on the floor with regard to this limited number of areas.

The Nelson-Chafee-Breaux amendment would amend that and say that, No. 1, the President has to prove this work has to do with terrorism and not the broader definition of national security or he has to determine that; and, No. 2, the President has to also determine that the new people who are coming into the Department with regard to whom he is exercising this authority have had their jobs changed. In other words, additional requirements are being made upon the President to make additional determinations which could be challenged in court.

The President will have a presumption in his favor, for sure, with regard to the courts, but it will be a rebuttal presumption and it will be a situation where the President's representative has to decide to what extent, in a litigation situation, he wants to lay out these sensitive matters.

But any way you look at it, it is not the same authority that other Presidents have had. We are putting up additional hurdles for this President to overcome, for some reason. We are making additional requirements, additional determinations for this President to make, for some reason. We are not making it easier for him to exercise his national security authority because of September 11, we are making it more difficult.

There was an Executive order that President Kennedy signed, and it contained an exception for agencies and offices engaged in national security. But the exception did not even need to be invoked by the President. It could be invoked by a head of an agency.

Executive Order 109-88 said:

> This order shall not apply to the Federal Bureau of Investigation, the Central Intelligence Agency, or any other agency or other office, bureau, or entity within an agency

> primarily performing intelligence, investigative, or security functions if the head of the agency determines that the provisions of this order cannot be applied in a manner consistent with national security requirements and considerations when he deems it necessary in the national interest. And subject to such conditions as he may prescribe, the head of any agency may suspend any provision of this order with respect to any agency, installation, or activity which is located outside the United States.

President Kennedy's Executive order was based on the recommendations of a distinguished six-member task force chaired by then-Secretary of Labor Arthur Goldberg. It was known as the Goldberg Commission. The statement from the Goldberg Commission is the best rationale for the national security exception we have found. The felt need for such an exemption seems to have been so widely acknowledged that no extended argument was even necessary. The general point has been made by many others, however.

For example, President Franklin D Roosevelt said:

> All government employees should realize that the process of collective bargaining has its distinct and insurmountable limitations when applied to public personnel management because the obligation to serve the whole people is paramount.

President Kennedy, President Roosevelt. In 1969, President Nixon repealed the Kennedy order but recodified and expanded the rules of procedure for labor-management relations in Federal service. That order also contained an exemption for agencies and offices doing national security work and allowed the head of the agency to invoke the exception. Not the President, but the head of an agency could do it.

The current statute then was signed by President Carter. He concurred with the language the House and Senate presented to him. But his own bill which he sent to Congress earlier in 1978 also contained an exemption for the work of national security.

This is a well-established need that all Presidents have seen fit to exercise; to the extent, evidently, that extended debate back then was hardly even necessary. I don't know that there has ever been extended debate on the authority the President should have with regard to setting aside collective bargaining agreements in situations pertaining to national security and these other categories until now.

Ironically, while the opponents of the Gramm-Miller substitute and the President's preferred course of action want the status quo with regard to all other aspects of this bill except the organizational part, but the status quo with regard to the managerial part, they do not want the status quo when it comes to giving the President the authorities that Presidents have traditionally received.

The President can't accept that. He has said so. I hope it is not presented to him like that because we know what the fate of this bill would be. That would not be good for the country. We all know that.

I am hopeful that in these waning days we will be able to, with regard to these two issues, which opponents of Gramm-Miller say are not very significant but which the President says are extremely significant, which you would think would cause a basis for some compromise right there, but I would hope we would be able to address this issue of some flexibility that we have given other departments that we must give the new Secretary on the one hand and, secondly, maintaining the President's traditional position with regard to his national security responsibilities having to do with collective bargaining agreements.

I yield the floor.

The PRESIDING OFFICER (Mr. WYDEN). The Senator from Nevada.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period of up to 10 minutes each and that this time extend until 5:15 today.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY ACT OF 2002—Continued

Mr. REID. Mr. President, the Senator from Pennsylvania is here and he wishes to speak on the bill. I ask unanimous consent we return to the homeland security bill and that there would be a period for debate only, and the Senator be recognized for whatever period of time he wishes to speak, and that when the Senator from Pennsylvania finishes his statement, we go back into morning business under the previous request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it is my hope that the Senate will complete action on the pending homeland security legislation, that we will go to conference with the House of Representatives, and that this bill will be passed, signed into law by the President, before we adjourn because, in my judgment, the most important business the Congress has is to legislate is on homeland security and to do our utmost to prevent a recurrence of 9/11.

The intelligence communities have advised that there will be another terrorist attack. It is not a matter of whether or if, but it is a matter of when. I am not prepared to accept that. I believe another terrorist attack can be prevented. I believe had all of the so-called dots been put together before September 11, 2001, that there was a good chance that terrorist attack could have been prevented.

I say that because there were very important leads which were never coalesced, analyzed, or brought together. I refer to the FBI report out of Phoenix, in July of 2000, about a man taking flight training, had a big picture of Osama bin Laden, very suspicious. That report never got to the upper echelons of the FBI. We had the CIA tracking two members of al-Qaida in Kuala Lumpur. They turned out to be hijackers, two of the pilots involved in September 11. But the CIA never told the FBI or never told INS, and they gained admittance to the country and were part of the suicide bombers.

Then there is the famous, or perhaps infamous, national security agency report on September 10 that something dire was about to happen the very next day. It wasn't translated until September 12. Further, the very important effort by the Minneapolis branch of the FBI to get a warrant under the Foreign Intelligence Surveillance Act for Zacarias Moussaoui, who was supposed to have been the 20th member of the hijackers and suicide bombers, was never pursued properly because the FBI used the wrong standard.

We know from the 13-page single-spaced letter written by Special Agent Colleen Rowley that the U.S. Attorney's office in Minneapolis was applying the wrong standard—a 75 to 80 percent probability—and that Agent Colleen Rowley thought it was a standard of more probable than not, which would have been 51 percent. The appropriate legal standard, as defined by the Supreme Court of the United States in Gates v. Illinois, in an opinion by then Justice Rehnquist, was that probable cause is established on the totality of the circumstances based on suspicion. Had the Zacarias Moussaoui matter been integrated, there was a great deal of information available in Moussaoui's computer which was not acquired. The Intelligence Committee hearings have disclosed that in the past two weeks. All of these dots were on the screen, and even more. Had they been brought together, then there is a possibility that 9–11 may have been prevented. At least they would have been on inquiry.

I believe this was a veritable blueprint. I believe we have a very heavy duty to see that this legislation is enacted and all of the intelligence agencies are brought under one umbrella. I tried to do that in 1996 when I chaired the Senate Intelligence Committee. I wanted to bring them all under the CIA. I think it is not really critical under which umbrella, but under one umbrella. Now we have the chance to accomplish that with homeland security.

We have two provisions under the Labor-Management Act that are, so far, providing a controversy that has held the measure from going further. It is my suggestion these two provisions are not too far apart. The law, as set forth in 5 United States Code 7103 says:

> The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter [which is collective bargaining] if the President determines that (a) the agency or subdivision has a primary function, intelligence, counterintelligence, investigative, or national security work, and the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

That is the existing law which the President does not want changed, and there has been an effort by labor to what is called "shore up" those provisions of collective bargaining by this language in the Nelson-Chafee-Breaux amendment:

> The President could not use his authority without showing that (1) the mission and responsibilities of the agency or subdivision materially change, and (2) a majority of such employees within such agency or subdivision have as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

Now, there was a question on my mind as to whether the language of the Nelson amendment was in addition to or in substitution for the existing language on collective bargaining. We had an extensive discussion among Senator LIEBERMAN, Senator THOMPSON, Senator BREAUX, myself, and Senator NELSON was on the floor. At that time, the drafters of the amendment said it was not in substitution for, but in addition to.

Well, the main concern the President has expressed is he is concerned his authority under the provisions relating to national security would be taken away. But the drafters of the amendment tell us that is not what is intended because the language is "in addition to" and not "in place of."

If you look at the specifics of the existing language about intelligence, counterintelligence, investigation, and the language of the amendment, the duties, primary duty, intelligence, counterintelligence, or investigative work, they are not too far apart. I think we can reach an accommodation there.

The other provision that has provided the controversy is the issue of the President wanting flexibility, and the provisions of the Gramm-Miller amendment have picked up the language of the House bill, which would give the President flexibility on these six categories: Performance appraisal, classification, pay rates and systems, labor-management relations, adverse actions, and appeals. The amendment provided by Senator NELSON and Senator BREAUX would give the President four of those six. It would give the President, No. 1, performance appraisal; No. 2, classification; 3, pay rates and systems; 4, adverse actions. But that would be subject to review by the Federal Services Impasses Panel, a seven-appointee panel, all of whose appointees are the President's.

It seems to me we are very close here. I voted against cloture on the Lieberman bill because we do not have in the bill, as it is presently drafted, an adequate provision as to the directorate to have all of the intelligence agencies under one umbrella, and an adequate provision giving the Secretary of Homeland Defense direction to coordinate all of those agencies, to put all those dots on one screen, to have the best likelihood of preventing another 9–11.

I ask unanimous consent that the full text of the amendment I have already filed and have ready to propose be printed at the conclusion of my statement today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, I am opposed to cloture of the Lieberman bill until I have a chance to offer that amendment. I have also voted against cloture on the Gramm-Miller bill because, again, although I have had discussions with Senator GRAMM, as I have had discussions with Senator LIEBERMAN, we have not reached fruition. I want an opportunity to include this language about the intelligence directorate on the Gramm-Miller amendment.

While I have not taken a position, as I said on Thursday, on whether I will ultimately support the Nelson-Chafee-Breaux amendment, which is backed by labor, or whether I will support the Gramm-Miller amendment, which is the President's preference, it is my hope we can yet work out an accommodation. But I think it is much more important the Senate pass a bill and we go to conference with the House, whichever provisions are included. I grant the provisions labor wants included are important to labor, and I grant the provisions the President wants included are important to the President. But as important as all of those provisions are, they are not as important as getting a bill that can be conferenced with the House, which can be signed by the President, so we can set up this Department of Homeland Security and we can have, under one umbrella, all of the intelligence agencies. It is not that the Secretary is going to tell the CIA agents around the globe where to go, or the FBI agents where to go, or the National Security Agency what to do, or the Defense Intelligence Agency, but as to the analysis, they should all come under one umbrella. That really is the critical factor. That is why I believe the conclusion of this bill on that issue is of greater importance than any other matter in the bill and of greater importance than any other matter which the Congress will consider during this session. So I am prepared to vote for cloture on the Gramm-Miller amendment should I get the chance to offer my amendment.

I do not think, as the Senator from Texas said, that he is absolutely entitled to a vote on his proposal without amendment. The rules of the Senate provide that there can be amendments to the Gramm-Miller proposal, just as there can be amendments to the Lieberman bill, just as there can be amendments to any bill. To repeat, I have not yet taken a position as to whether I will favor what labor seeks through the Nelson-Chafee-Breaux proposal or what the President seeks through the Gramm-Miller proposal, but it is of greatest importance that this provision on the Directorate of Intelligence Analysis be adopted and everything be placed under one roof.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

(Purpose: To give the Directorate of Intelligence the authority, subject to disapproval by the President, to direct the intelligence community to provide necessary intelligence-related information)

In section 132(b), add at the end the following:

(14) On behalf of the Secretary, subject to disapproval by the President, directing the agencies described under subsection (a)(1)(B) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Under Secretary for Intelligence determines necessary.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON TRIP TO AFRICA

Mr. SPECTER. Mr. President, during the month of August, Senator SHELBY and I made an extensive trip to Africa. In Africa, we visited many countries and noted some very material changes. For example, the Government of the Sudan finally wants to have good relations with the United States and is willing to make significant concessions to the rebels in the south Sudan. Through the good offices of the President's emissary, former Senator Danforth, a treaty has been worked out which has great promise if implemented and if enforced.

The Muslim-Islamic military has come down from the northern part of Sudan, invaded Christian cities, killed all the men and taken the women and children and sold them into slavery, a practice which is really hard to believe in the 21st century. The peace treaty brokered by Senator Danforth has the promise of ending that. But as we talked to clerics in both Khartoum, Sudan, and in Eritrea, it will have to be enforced by the United States.

We saw in South Africa great advances since my last trip there in 1993 when there was so much contention between the blacks and the whites on apartheid. A government was formed in the 1994 elections. President Mandela has become the national hero and a great many of those problems are on their way to resolution. Great progress has been made.

We saw in Mauritius, an island off the east coast of Africa, tremendous progress being made on trade with a sweater factory yielding compensation up to $300 a week, whereas in some countries in Africa they do not earn more than $250 a year.

To reiterate, in accordance with my custom of reporting on my foreign travel, this is a brief summary of a trip with Senator RICHARD SHELBY, R-Alabama, from August 6–22 to Rio de Janeiro, Brazil, South Africa, Mauritius, Tanzania, Kenya, Sudan, Ethiopia, Eritrea and Sicily, Italy. We explored the emerging trade relationship with Africa during implementation of the 2000 African Growth and Opportunity Act, AGOA, and the 2002 Trade Promotion Authority, TPA, legislation. We also looked at health issues—primarily the African HIV/AIDS crisis and poverty and famine that impact upon the U.S. foreign aid posture and the issue of "trade versus aid."

The delegation travel began on Tuesday, August 6, 2002, stopping overnight in Rio de Janeiro, Brazil, en route to South Africa. Brazil's economy outweighs that of all other South American countries and will be aided in this respect by the new TPA and a $30 billion loan guarantee by the World Bank. I spoke about this with U.S. Consul General Mark Boulware. He is optimistic that the TPA will help further expand the economy of Brazil now that the Brazilian currency, the real, is no longer pegged to the U.S. dollar. Despite open anti-American protests following comments by U.S. Treasury Secretary Paul H. O'Neill suggesting widescale corruption in the Brazilian monetary system, our delegation was treated well and found the brief visit to Brazil informative.

The delegation proceeded to Cape Town, South Africa, where we were informed by U.S. Ambassador Cameron Hume that South Africa is a middle-income, developing country with an abundant supply of resources, well-developed financial, legal, communications, energy, and transport sectors, and a modern infrastructure supporting an efficient distribution of goods to major urban centers throughout the region. President Thabo Mbeki has vowed to promote economic growth and foreign investment, and to reduce poverty by relaxing restrictive labor laws, stepping up the pace of privatization, and cutting unneeded governmental spending.

However, President Mbeki has been disappointing in the battle against HIV/AIDS. Despite estimates that one in four South Africans is HIV-positive, Mbeki has refused to accept the premise that HIV causes AIDS, and did not attend this year's World HIV/AIDS Conference in New York City. Mbeki's inaction in the face of this crisis has recently been criticized by former South African President Nelson Mandela.

The United States continues to provide large sums of money and resources to confront this growing epidemic. In this year's supplemental appropriations bill, Senator RICHARD DURBIN, D-Illinois, and I proposed that $700 billion be allocated to confront AIDS in countries such as South Africa where it threatens large segments of the population. President Bush has proposed a compromise figure of $500 billion. The U.S. Centers for Disease Control, CDC, has assigned five employees to South Africa to work on the AIDS epidemic, and the National Institutes of Health has recently contributed $11 million. Ambassador Hume believes that we are essentially "force feeding" South Africa with assistance on this issue, suggesting that South Africa is still dragging its feet.

I questioned Ambassador Hume on the future of race relations in South Africa. Despite the existing divide, for the time being race relations are comparatively good, but the great conciliator Nelson Mandela is slowing down at age 84 and the technocrat Mbeki lacks his personal stature. Nonetheless, South Africa has come a long way with the assistance of the United States since the U.S. Senate voted to override President Reagan's 1986 veto of legislation forbidding certain U.S. corporate investments in South Africa's apartheid regime—an important moment in the relationship between our two countries.

Our delegation also conducted discussions of a classified nature with U.S. officials in South Africa and other countries we visited.

South Africa's fledgling post-apartheid government was the topic of discussion at a dinner hosted by Ambassador Hume with parliamentarians from South Africa's National Assembly and National Council of Provinces. Progress is being made in governance and oversight. I discussed with Johnny de Lange, the Chair of the National Assembly's Judicial Committee, the extent of permissible electronic surveillance and physical search undertaken under South African law.

Our next series of meetings occurred in Durban, South Africa. There we met with Consul General Liam Humphreys and his staff to explore, among other things, post-September 11 security procedures. Durban is an important "feeder port" for U.S.-bound goods, and the crews that accompany them. As such, potentially lethal materials and individuals traveling under false credentials may enter U.S. ports if authorities in Durban are not vigilant. It is therefore imperative that individual visas—and not blanket crew visas—be issued to individuals only after cross-referencing U.S. Federal Bureau of Investigation files for potentially derogatory information. It is important to continue our oversight of FBI information sharing for this purpose and to ensure the proper coordination of visa and cargo manifest procedures—particularly as proposals take shape for our new Department of Homeland Security.

Durban is geographically located in the KwaZulu Natal province of South Africa, the only province in which the ANC is not in power. At a dinner hosted by Consul General Humphreys, Senator SHELBY and I exchanged views with two leaders of the provincial majority Inkatha Freedom Party, IFP: Provincial Minister of Agriculture and Environmental Affairs and delegate to the National Council of Provinces Narend Singh, and Reverend Musa Zondi, a member of the National Assembly and the Deputy Minister of Public Works.

Minister Singh noted the tremendous progress of South Africa and the KwaZulu Natal region when compared to the rest of sub-Saharan Africa, where land reform—or more appropriately, the lack thereof—has been an unyielding challenge.

I questioned Deputy Minister Zondi about the nature of race relations in South Africa. Minister Zondi is optimistic about race relations, and noted that relations in South Africa are far better than Saudi Arabia or Egypt where radical Islamic tensions place these societies on the cusp of "a full-scale race war." Minister Zondi also noted with affection his friendship with the late Reverend Leon Sullivan of Philadelphia, a spiritual leader who promoted employment practice standards for U.S. companies doing business in South Africa. Zondi said that Reverend Sullivan did a great deal to make U.S. corporations more socially conscious. Minister Zondi visited Reverend Sullivan in Philadelphia in 1985 and believes strongly in the so-called "Sullivan Principles," the labor code promoted by Reverend Sullivan.

From Durban the delegation traveled to Mauritius to explore trade and other issues in advance of the Presidential visit for the AGOA Conference in January 2003. Since independence in 1968, Mauritius has developed from a low-income, agriculturally based economy to a middle-income diversified economy with growing industrial, financial, and tourist sectors. Mauritius has the highest median income in sub-Saharan Africa and an unusually high literacy rate. Investment in the banking sector alone has reached over $1 billion. Employment in Mauritius is at or above 95 percent, according to our dinner guest

Raouf Bundhun, the Vice President of Mauritius.

I asked the U.S. Ambassador to Mauritius, the Seychelles, and the Comoros, John Price, about the need for expanded commercial opportunities and enhanced security in the Indian Ocean region. I heard concern about the recent developments of official Seychelles passports reportedly being sold for $65,000 to those who wish to move freely in the Indian Ocean region. I also heard concern about aggressive recruitment in the Comoros by Islamic fundamentalists of young, impressionable individuals for schooling in radical theology and military training under the guise of Islamic education.

I also inquired about how the new TPA law and AGOA will help Mauritius further progress economically. Ambassador Price informed us that the new TPA will help entrepreneurs such as Sunil Hassamal, who showed us the sweater factory that he has built from the ground up and who now employs 2500 workers. On the labor front, we were assured by Ambassador Price that despite some recent unfavorable press coverage of the treatment of Chinese laborers at one problem factory, in Mauritius no child labor is being employed, that overtime is being paid, that working conditions are tolerable, and that a viable minimum wage is being paid along with appropriate benefits, and that a 60-hour work week is respected—as required by AGOA.

We met with Mauritian Prime Minister Sir Anerood Jugnauth and Deputy Prime Minister Paul Berenger to explore trade and security issues. Prime Minister Jugnauth is nearing the end of his term as Prime Minister, and will next year pass the reins to Deputy Prime Minister Berenger and assume the ceremonial role of President of Mauritius.

I questioned Prime Minister Jugnauth and Deputy Prime Minister Berenger about what the U.S. should do if Saddam Hussein does not respond to demands for inspections. Prime Minister Jugnauth responded that the U.S. should not attack Iraq without clear provocation, for this act would "lose the respect of the world." Jugnauth said that the U.S. must be careful that it is the U.S., and not Saddam, who will be perceived as "sympathetic." Berenger said that we should await a resolution to the Israeli-Palestinian crisis before addressing Iraq.

I asked Minister Berenger about U.S. security interests in the region. He seemed to qualify what we understood to be the official Mauritian position on the Chagossian island of Diego Garcia by stating that, in return for full sovereignty over all the other Chagossian islands, Mauritius would be willing to defer the issue of Diego Garcia—"agreeing to disagree" over its final status while seeking to build U.S. confidence in the prospect of eventual Mauritian succession.

On the situation in the Mid-East, Berenger favored a new arrangement within the Palestinian Authority, PA—involving the establishment of a purely symbolic President of the PA such as Yasser Arafat but with all real power going to a new PA Prime Minister.

Our delegation next traveled to Tanzania, beginning our oversight of regional and broader security and trade issues in the lesser-developed countries of sub-Saharan Africa. At a luncheon meeting with U.S. Ambassador Robert Royall and the Tanzania country team, we learned that Tanzania is one of the poorest countries in the world, with $250 per capita annual income. The economy is heavily dependent upon agriculture, which provides 85 percent of exports, and employs 80 percent of the workforce. The World Bank, the International Monetary Fund, and bilateral donors have reportedly been awaiting meaningful Tanzanian land reform prior to investing more heavily in the country. Under the government's socialist land policy, true private ownership is unlawful and investors can acquire merely leaseholds forfeitable at the government's discretion.

I was disappointed to hear that Tanzania is not yet fully prepared to export commodities to the U.S. without further local economic reform and development. Tanzania has the potential to follow the example of Mauritius, a country with an 85 percent literacy rate, 95 percent employment, and an entrepreneurial spirit. I suggested that a Tanzanian delegation visit Mauritius and learn from its example. I also noted that with the passage of TPA, Congress expects real movement in the direction of "trade rather than aid" and I suggested to Ambassador Royall that he should provide President Bush with a list of achievable goals for Tanzania.

We also discussed the AIDS epidemic. A team of researchers from the Centers for Disease Control, CDC, in Atlanta, Georgia, recently completed test kit evaluation in Tanzania, and has acquired data on which AIDS tests are the best performers in statistical pools. New CDC offices are also being constructed in Dar es Salaam, to assist with the disbursement of $7 million in U.S. aid, including $2 million dedicated to blood safety.

We also explored the economic and political issues surrounding the tourism industry and the problems with refugees flowing into Tanzania from war-torn countries on its long western border. Tanzania currently has approximately 550,000 recent refugees—80 percent Burundian and 20 percent Congolese and Rwandan—and 400,000 "old caseload" refugees from relocations in the 1970s.

Ambassador Royall is working to help return these refugees as soon as possible in a fair manner. Ambassador Royall is also working closely with USAID, the U.S. Department of the Interior, and local U.S. non-governmental organizations to assure that the system of national parks that supports Tanzania's tourism industry, accounting for approximately 60 percent of GDP, can be sustained and expanded in conjunction with private sector support. Organizations with which we met, such as the African Wildlife Foundation, work closely with the Tanzanian national park system and the U.S. government. For example, USAID is providing assistance to the Tanzanian Park Service in maintaining roads and natural habitats in two national parks to protect this segment of the Tanzanian economy.

The delegation also visited the United Nations' International Criminal Tribunal for Rwanda, ICTR, which is hosted by Tanzania and located in Arusha. At the ICTR, we were briefed by Lovemore Munlo, the Deputy Registrar, and Kingsley Moghalu, who serves as Special Assistant to the Registrar. Our visit to the ICTR coincided with the arrest by Angolan authorities of Augustin Bizimungu, Rwanda's former armed forces chief who had been indicted by the ICTR for a major role in the 1994 Rwanda genocide. His arrest came less than a month after the U.S. offered up to $5 million under the Justice Department's "Rewards for Justice" program for tips leading to the arrest of eight Rwandan genocide suspects, including Bizimungu. Currently, 21 individuals suspected of genocide or complicity therein are on trial in the ICTR in eight separate trials. Former Prime Minister Jean Kambanda of Rwanda confessed in 2000 to war crimes and was convicted by the ICTR. He was subsequently sentenced to life imprisonment. Currently, two-thirds of the top leadership of the Kambanda government are on trial for genocide and related war crimes. For lower-ranking participants in the genocide, Rwandan courts have prosecuted over 6,000 individuals—many of whom face the death penalty, which is not available at the ICTR.

Later, I questioned U.S. Ambassador to Kenya Johnnie Carson as to whether the U.S. was late in responding to the 1994 Rwandan genocide. While conceding that we were not swift, he assured me that we acted as quickly as we could and that the genocide would have continued—and would have been much worse—if we had not acted when we did. He suggested that the French were in a much better position to intervene to prevent the genocide.

The ICTR is expected to remain in existence until 2008 or 2009, by which point the last of the appeals should have run their course. We were able to observe the proceedings of the trial of Eliezer Niyitegeka, former Minister of Information in the interim government of Rwanda in 1994.

From Tanzania, the delegation proceeded to Nairobi, Kenya for additional trade and security meetings. Ambassador Carson led a country team briefing focused upon political stability after nearly a quarter century of rule by current President Daniel Moi, security arrangements for the war on terrorism, HIV/AIDS, and related matters. Carson's team noted that Presidents Clinton and Bush and Secretaries of State Albright and Powell have all been privately assured by Moi at various points that he will step down after his term ends and that free elections will be called, likely in the period December 1, 2002 through March 31, 2003. Moi is now backing as his successor Uhuru Kenyatta, the 41 year-old son of Kenya's independence leader, Jomo Kenyatta, and a leader in the majority Kenya African National Union, KANU, party. If he can hold the traditional KANU coalitions together, Kenyatta is favored to succeed Moi.

Kenya is a strong security partner of the United States. For example, the United States is the only country with which Kenya has entered a "Military Access Agreement," "MAA" allowing for U.S. military assets to be deployed there. Kenya appears well positioned to facilitate regional and other international security issues such as our global war against international terrorism.

I also asked whether we are doing enough to combat the AIDS epidemic in Kenya. According to Carson, the hard data shows that the rate of infection among adults appears to be decreasing in Kenya. The CDC is engaged in programs in West Kenya to find new vaccines, to provide education and awareness programs, and to support 40 counseling/testing centers. USAID is also active in AIDS education, prevention, and behavior change. The Peace Corps also plays a role in Kenyan public health projects relating to HIV/AIDS.

We next met with Kenya's Foreign Minister Marsden Madoka. Minister Madoka said that Kenya's cabinet had yet to discuss the Kenyan reaction if the U.S. were to move against Saddam Hussein for regime change. While noting that the cabinet would naturally have the final say, he did say, importantly, that "chances are that Kenya would support the U.S. under these circumstances." On the issue of HIV/AIDS, I asked Minister Madoka how serious the problem is and what the United States can do to help. Minister Madoka said that Kenya has lowered the prevalence rate from 14 percent to 13 percent nationwide. There is, however, a long way to go in addressing this crisis and its collateral effects.

We then traveled to Sudan. Sudan has been ravaged by civil war since 1956 with intermittent breaks. The Sudan country team, led by Charge de Affairs Jeffrey Millington, contrasted the Bush policy of engaging Sudan in light of recent reform efforts contrasted with the Clinton Administration's approach to maintain sanctions because of human rights violations and religious suppression. With the Bush engagement policy, peace talks between the government of Sudanese President Omar el-Bashier and Sudanese Peoples Liberation Movement, SPLM, leader John Garange are moving forward in talks in Machakos, Kenya. Sudan is not only attempting to remedy its own civil strife with the Machakos negotiations, but its leadership is at least speaking in terms of engaging the United States in its views toward democracy, human rights, religious freedom, and suppressing international terrorism.

On the domestic side, the government of President Bashier is conducting ongoing peace talks with the SPLM, which controls much of the southern regions of the Sudan. Former Senator John Danforth, with whom we met in Nairobi on August 18 after returning from Khartoum, accepted his role as Special Envoy to negotiate this conflict on September 6, 2001, and first visited the region on November 6, 2001. Senator Danforth is working with a small team made up of veteran diplomats including Michael Miller from the National Security Council East Africa staff, Charge Millington and Deputy Assistant Secretary of State Charles Snyder.

Senator Danforth has been successful to date. On July 20, 2002, breakthrough agreements were reached leading to the "famous handshake" between Sudanese President Omar el Bashier and SPLM leader John Garange on July 27, 2002 in Kampala. The July 20 Machakos round produced an agreement in principle not to apply Sharia (Islamic law) in the post-reconciliation South, and would provide the people of the South the right to self-determination after 6½ years (including a referendum on secession). Still to be determined in further Machakos rounds will be the precise form of government in the South for the 6½ year trial period such as judiciary, infrastructure, security, and the ultimate status of the SPLM, including whether John Garange can keep a standing army. Senator Danforth, in preparation for upcoming rounds, has skillfully tested the two sides' willingness to come together on four vital humanitarian issues: (1) continuation of a ceasefire in the Nuba Mountain region between North and South, where Evangelicals working with Christian populations have been the target of religious persecution; (2) a polio vaccination program; (3) prevention of attacks against civilians; and (4) prevention of "raiders," who with the encouragement of the government in Khartoum, have killed male populations and enslaved their women and children. Satisfaction of the four Danforth preconditions would lay the groundwork for final agreements in Machakos on a more permanent peace in the Sudan.

A key aspect of our trip involved gathering information on religious persecution. Persecution of religious minorities, focused particularly on Christians in Muslim countries such as Sudan, led in 1998 to the passage of the International Religious Freedom Act of 1998, "IRFA", which I introduced with Representative FRANK Wolf. The IRFA established the Office of International Religious Freedom and the U.S. Commission on International Religious Freedom with the mission of reviewing and making policy recommendations on religious freedom.

We met with Reverend Ezekiel Kondo, the Provincial Secretary of the Province of the Episcopal Church of the Sudan. Reverend Kondo raised the following issues: (1) the persecution of those who convert from Islam to Christianity, which is apparently continuing and is not covered by Machakos; (2) the withholding of permits to build new churches and to license existing churches, which remains a problem with non-Muslim clerics; (3) the refusal to grant visas for religious leaders to leave the country for professional conferences and for religious leaders from abroad to visit Sudan; and (4) the need for more precise coverage of the Nuba Mountain region dispute within the context of the Machakos agreements. Reverend Kondo is skeptical that Muslim attempts to reach out to non-Muslims will work if the basic rights for non-Muslims are not committed to in writing, implemented, monitored and enforced.

When I referenced this religious persecution with President Bashier's Peace Advisor, Dr. Ghazi Sulahaddin, and his Foreign Minister, Mustafa Ismail, I was told that the current Sudanese government should be given a chance to show the international community that the acts underlying the persecution have occurred during many years of civil war, and a process toward reconciliation only began in 1997. Both men assured us that Sudan is on the path to religious freedom and respect for human rights in general. President Bashier pledged that it is "the obligation of Muslims to provide religious freedom," and that he has made this issue a priority and has commanded local officials to "study this issue closely."

Dr. Sulahaddin, and Foreign Minister Ismail highlighted for us their views on U.S.-Sudan relations. Sulahaddin said there is a "huge" potential for normalization and improvement of relations between our countries and Sudan does not engage in terrorism because the taking of innocent life is contrary to Islamic beliefs. He argued that the U.S. had no basis for concluding that the Sudanese plant that was targeted for missile strikes by the U.S. in 1998 actually produced nerve gas. He emphasized the positive aspects of the new interaction between U.S. and Sudanese intelligence agencies, and the resulting shift toward more engagement and intensification of dialogue with the Bush administration.

Foreign Minister Ismail stressed that the international community, particularly the United States, should be patient with Sudan since the real beginning of movement toward democracy, human rights, religious freedom and other elements of a free society only began in 1997–1998 with the drafting of the new Sudanese Constitution. This in combination with the debilitating effects of the North-South war has caused "growing pains," according to Minister Ismail. Minister Ismail handed to Senator SHELBY a report that provides details that Sudan has done everything that it can to fight terrorism.

President Bashier stated his appreciation for the existing cooperation between the U.S. and Sudan, including the special role of our country and Senator Danforth in brokering the Machakos talks. In stressing the need for the ultimate unification of Sudan following the 6½ year trial period envisioned by Machakos, President Bashier drew an analogy between the Sudanese civil war and the U.S. Civil War. Bashier said that if the U.S. had not remained unified the Union could have ended up "more like Canada or Mexico."

On regime change in Iraq, Dr. Sulahaddin said, any attack on Iraq would fragment the Arab world, and urged the U.S. to seek a unified stance in the United Nations among various Arab countries. President Bashier said that he hopes that the U.S. will seek alternatives to military action because the Iraqi people have suffered enough.

Our delegation next moved to Addis Ababa, Ethiopia, to further explore trade, security and health issues. We met with the U.S. country team led by Charges de Affairs Thomas Hull. Hull briefed us about the state of Ethiopia in the wake of its two-year border war with Eritrea. The U.S. intelligence relationship with Ethiopia has grown even stronger after September 11. The Ethiopians believe that the war on terrorism serves their own domestic security interests, as Ethiopia must also contend with radical Islam as a constant threat. Other issues that were discussed included potential U.S. basing in Eritrea in preparation to act militarily against Saddam Hussein and the impact such basing might have on Ethiopian security concerns vis-à-vis Eritrea. Ethiopia is also concerned about cross border terrorist incursions into its country from Somalia.

We then met with Ethiopia's Prime Minister Meles Zanawi, who was quite articulate and spoke in depth about many subjects. He said that Ethiopia is a close ally in the war against terrorism, but for Ethiopian reasons. The reasons to which he refers is the constant threat of radical Islam to Ethiopia and its African neighbors. He referred to the war on terrorism as something of a godsend for Ethiopia, because it has focused the world on the practices of radical Islam. Ethiopia, according to the Prime Minister, is at the epicenter of terrorism and a secular island in the sea of Islam.

We questioned Prime Minister Meles about the U.S. policy of regime change in Iraq. He responded that Saddam should be removed in order to force countries like Saudi Arabia with large Islamic populations to choose whether to allow radical Islam to take hold or to fight against that very radicalism. He calls this a fight for their very survival.

Regarding trade, Ethiopia stands to gain by the combination of the AGOA and the TPA, and Meles appreciates the role of the United States in engaging sub-Saharan Africa on trade. He said Ethiopia wants access to the U.S.'s trillion-dollar economy.

We also sought the Prime Minister's views on the Sudanese peace process and its effect upon Ethiopia. According to Meles, the Sudanese Muslim government has already taken anti-Islamic actions by agreeing in principle to nonapplication of Sharia in the South. This, according to Meles, will make it easier to achieve breakthroughs on other issues. The Prime Minister also sees the exploitation of oil and gas reserves in a stable Sudan, and the willingness of the United States to engage the peace process, as positive incentives for the Sudanese to move the peace process forward.

With regard to Somalia, Prime Minister Meles compared Somalia to Afghanistan and Yemen as a potential haven for terrorists. When I asked what the U.S. should do to address the situation, Meles noted that the United States must devote nonmilitary resources rather than attempting to broker a Machakos-type agreement. Somalia is not ready for a negotiated agreement because there are too many actors on that stage.

We also discussed the HIV/AIDS crisis and human suffering in Ethiopia. The Prime Minister linked solutions to both crises to United States assistance in bolstering Ethiopian infrastructure and institutions, providing access to U.S. markets through expansion of trade, and removal of Ethiopia from the cycle of reliance on foreign aid.

U.S. appropriations for HIV/AIDS projects in Ethiopia have increased from $4 million to $18 million in the past two years. At this time, both USAID and the CDC are active in Ethiopia. USAID focuses both on famine relief, drought issues and along with the CDC, HIV/AIDS prevention and education efforts. CDC has also opened HIV/AIDS diagnostic clinics in Addis Ababa. While the HIV/AIDS rate is 13 percent, consistent with Kenya prevalence percentages, actual numbers of those with HIV/AIDS is higher in Ethiopia as the population is higher.

From Ethiopia we moved to neighboring Eritrea. Ethiopia's annexation of Eritrea as a province in 1962 started a 30-year struggle for independence that ended in 1991 with Eritrean rebels defeating governmental forces. A two and a half year border war with Ethiopia that erupted in 1998 ended under UN auspices on December 12, 2000. Final lines of demarcation are being arbitrated.

According to U.S. Ambassador to Eritrea Donald McConnell, the relationship between the United States and Eritrea is sweet and sour. Ambassador McConnell gives Eritrea an "A+" grade in joining with the United States in the war against terrorism. Eritrea may soon be assisting the United States to change the regime in Iraq by allowing our troops to use bases in Eritrea. Eritrean President Isaias Afwerki said in our meeting with him that there must be a change altogether in the Iraqi regime if Iraqi behavior is to change.

In terms of promoting stability in the region, Ambassador McConnell told us that Eritrea might face greater challenges from radical fundamentalism. President Isaias is skeptical of Sudanese intentions and believes that the Bashier government will continue to quietly encourage radical fundamentalists to further destabilize the region. President Isaias said that the Sudanese leadership is committed to radical Islam and are worse than bin Laden, and that they preach hatred under the guise of Islam. He believes that the United States must remain constructively engaged in the region to prevent radical Islamic views from overtaking neighboring countries or threatening their security.

While in Eritrea, we continued to hear of religious persecution in Sudan and the importance of the United States in stopping it. In separate discussions with Abune Philipos Woldetensae, the Patriarch of the Eritrean Orthodox Church, and Abba Menghisteab Tesfamariam, the Bishop of the Catholic Church of Eritrea, we were told that the Sudanese are oppressing Christians in southern Sudan. Abune Philipos went so far as to say, Christian believers in Sudan will not exist if the U.S. Government does not bring pressure to resolve their persecution by Islam. Bishop Menghisteab recounted how five of his fellow Catholic Bishops from Sudan have told him as recently as July 28, 2002 of Christian women and children being sold into slavery.

The Sudanese Bishops also told him that President Bashier is attempting to Islamize the entire country by using Sharia law to suppress Christians. According to both clerics, some new Eritrean churches may be facing problems obtaining permits to worship. These two men stay in close contact with the head of the Eritrean Muslim community, as well as leading Protestants, which make up the traditional four churches in Eritrea. The new churches not belonging to this traditional group of four have been told in recent weeks that they must register with the government and provide information on their activities and source of funding, according to Ambassador McConnell.

We discussed other human rights issues such as the detention without charge of two Eritrean employees of the U.S. embassy due to national security concerns. There is just so much the U.S. can do as it relates to the internal affairs of a country like Eritea, and we remain hopeful of an acceptable resolution of the detention of the two employees.

The United States can help Eritrea by remaining engaged in the region. Among other things, we can assist Eritrea in becoming an exporter of valuable products by focusing foreign aid on building their infrastructure. Then Eritrea can take advantage of AGOA and TPA and become a viable U.S. trade partner and thus expand our bilateral relationship.

Our codel then traveled to Sicily for refueling the night before returning to the United States.

Mr. President, I ask unanimous consent that copies of op-ed pieces which I have written for the Morning Call and the Harrisburg Patriot and the Pittsburgh Post-Gazette also be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Morning Call, Sept. 16, 2002]

Prosperity and Peace in Africa Will Help Fight AIDS

(By Arlen Specter)

PHILADELPHIA—"I want access to America's trillion-dollar economy," Ethiopian Prime Minister Meles Zanawi told Sen. Richard Shelby, a Republican from Alabama, and me in our mid-August fact-finding travels through Africa. If the developing nations of Africa can stop the spread of HIV and AIDS and end their bloody wars, the continent stands at the brink of real economic development with expanded foreign aid and new U.S. trade laws, which will open our markets.

Wherever we went—South Africa, Tanzania, Sudan, Ethiopia, Mauritius, and Eritrea—we heard of the debilitating effects of the AIDS epidemic. In many African countries, the U.S. National Institutes of Health and Center for Disease Control are providing funding and personnel to combat AIDS. President Bush recently announced a new $5 billion aid package to Africa to spur economic development and AIDS control. This year's World HIV/AIDS Conference in New York City is promoting education, testing, and treatment. Follow-up action by African governments and increased foreign aid offer some promise, but winning the war against AIDS will be very difficult.

Prospects for ending civil wars are brighter. On July 20, a breakthrough agreement was reached between the Sudan government and the Sudanese Peoples Liberation Movement (SPLM) largely due to the mediation efforts of former Sen. John Danforth. Sudan's President Omar el-Bashier told us of his keen interest to improve relations with the U.S. and to have his country taken off the terrorist list. This has led Sudan to offer unlimited, surprise visits by U.S. intelligence agents to its weapons factories and laboratories to assure it is not developing weapons of mass destruction, and Sudan has also agreed to grant religious freedom to Christians who have been persecuted and sold into slavery for decades by their Islamic oppressors. Much more needs to be done to, but our former colleague, Sen. Danforth, gave us a detailed report on the reasons for his optimism.

In Addis Ababa and Asmara, we heard assurances from Ethiopian Prime Minister Meles Zanawi and Eritrean President Isaias Afwerki that the war over their boundary dispute had been resolved. Both men, along with other regional leaders, were focusing on the conference for "Samalia Reconciliation" held in Kenya last week, sponsored by IGAD, the Intergovernmental Authority for Development. Anarchy in Somalia, with numerous war lords, causes regional instability and breeding grounds for al Qaeda.

In our visit to the Rwanda War Crimes Tribunal in Arusha, Tanzania, we observed a trial on charges of genocide. That Tribunal established an historic precedent in 2000 by convicting a head of state, former Prime Minister Jean Kambanda of Rwanda.

Perhaps the Rwanda criminal proceedings have even been a factor in ending the wars in Angola and Sierra Leone in the last few years. Peace negotiations are also now promising in Burundi and Congo. An optimistic note was sounded by Charles B. Snyder, deputy assistant secretary of state for Africa: "I like to think peace is contagious."

If answers can be found to war and AIDS, the isle of Mauritius, located 1,200 miles off the east coast of South Africa, is a prototype for economic prosperity. Mark Twain once said upon visiting the island that "One gets the impression that God made Mauritius first, and then modeled Heaven after it." We visited a sweater factory that was started by a Mauritian in 1985 and now employs, 2,500 people using the most modern equipment. Some of the piece workers there earn $300 a week, a stark contrast from the $250 annual earnings in Tanzania. Our Ambassador John Price and the factory owner, Sunil Hassamal, expect those earnings to increase as a result of the U.S. African Growth and Opportunity Act passed in 2000 and the newly enacted legislation on Trade Promotion Authority.

Perhaps the most remarkable development since my last trip to South Africa in 1993 is what has happened to that country. With the election victory of the African National Congress in 1994, apartheid has given way to a stable government where blacks and whites work together and Nelson Mandela is everybody's hero.

[From the Patriot News, Sept. 1, 2002]

Christians Face Many Obstacles in Sudan

(By Sen. Arlen Specter)

A peace agreement between the government of Sudan and the Sudanese Peoples Liberation Movement offers the prospect of ending slavery and the persecution of Christians in Sudan.

The civil war, which has raged since 1956 with only intermittent lapses, has seen governmental Muslim forces attack Christians in the south, kill the men and kidnap the women and children who are then sold into slavery.

In September 2001, President Bush appointed former Sen. John Danforth as his Special Envoy to broker a peace agreement between the warring factions. After intense negotiations, a break-through agreement was reached on July 20 leading to the "famous handshake" one week later between Sudanese President Omar el Bashier and SPLM leader John Garange.

Sen. Richard Shelby, R-Ala., and I traveled to Sudan in mid-August to discuss these issues with the parties with special emphasis on what was happening on religious persecution.

I tried to visit Sudan, but could not do so because of dangers from the civil war. Instead, I visited neighboring Eritrea where I met with Sudanese Christians in exile and I then traveled to Addis Ababa where I discussed religious persecution with Patriarch Abuna Paulos of the Ethiopian Orthodox Church.

These meetings plus fact finding in Egypt and Saudi Arabia in 1998 provided part of the bases for legislation that Rep. Frank Wolf, R-Va., and I introduced that later became the International Religious Freedom Act of 1998.

In Khartoum last month, Rev. Ezekiel Kondo, the Provincial Secretary of the Episcopal Church of Sudan, advised that persecution of Christians by the government of Sudan was continuing, but there was hope that a peace agreement would produce real change. Rev. Kondo said Christians weren't able to build churches, were denied visas to attend out-of-country conferences and Islam converts to Christianity faced death.

When we traveled to Asmara, Bishop Abba Menghisteab Tesfarmariam of the Eritrean Catholic Church told us about complaints of five Sudanese Catholic Bishops at a conference in Dar es Salaam, Tanzania in July, that Catholics were persecuted and sold into slavery by their Islam oppressors.

In Asmara, we also met with 97-year old Patriarch Abune Philipos Woldetensae of the Orthodox Church who emphasized that Christians will not be permitted to practice their religion even with guarantees in the peace agreement unless the U.S. makes it happen.

In our meetings with Sudan's top officials, Sen. Shelby and I stressed the importance of carrying out the guarantees for freedom of religion. President Omar el-Bashier, foreign Minister Mustafa Ismail and Peace Advisor Ghazi Sulahaddin all pledged to do so. When we discussed the issue with Eritrean President Isaias Afwerki, he scoffed at the prospects for Sudan to honor the commitment on religious freedom because Islam fundamentalists are fanatic about spreading their religious beliefs as part of gaining control of people and countries.

From meeting many people in the region and especially Sen. Danforth, it is my judgment that Sudan very much wants to gain favor from the U.S., which is the principal reason for a peace agreement with the SPLM.

Repeatedly, the Sudanese officials asked about being taken off the terrorist list.

Sudan's government has made other significant concessions such as giving U.S. intelligence agents unlimited access to weapons factories and laboratories for surprise "visits" to check for production of weapons of mass destruction.

The "Strategic Paper on Just Peace in the Framework of Comprehensive Political Settlement in Sudan" specifies "Religious belief and cultural identity are natural aspirations at the individual and group level, but cannot be imposed on others by any single party."

A final written agreement must spell out religious rights and deal with many specific pending issues.

Whatever the words, only the deeds matter.

Ultimately, U.S. pressure will be indispensable.

The International Religious Freedom Act of 1998 provides the mechanism to monitor and, where necessary, impose U.S. sanctions to guarantee religious freedom in Sudan and elsewhere.

[From the Pittsburgh Post-Gazette, Sept. 13, 2002]

TRY THE SUDAN MODEL FOR INSPECTIONS IN IRAQ

(By Arlen Specter)

WASHINGTON.—On a trip to Sudan in August, Sen. Richard Shelby and I learned about "visits" to Sudan's weapons factories and laboratories by U.S. intelligence agents that could provide a model for U.N. inspections in Iraq.

Sudan's president, Omar el-Bashir, told us his country was very eager to improve relations with the United States with a view to ultimately getting off the terrorist list. In addition to promising to stop persecuting Christians, Sudan is allowing U.S. agents unlimited, unannounced visits to any location—to break locks, inspect and photograph. Our agents told us they are confident that Sudan is not developing weapons of mass destruction at any of these installations.

Obviously, the situations between Iraq and Sudan are very different, so many questions would have to be answered. The first question is whether Saddam Hussein will ever honor his commitment to the United Nations to permit such inspections.

Last April, Secretary General Kofi Annan told me of his frustrations in dealing with Saddam's "cat and mouse" game. First, Saddam stalls, then his people say yes with qualifications, then another Iraqi official says no and meanwhile Saddam is free to do what he pleases. Since the United States downplays such inspections, there isn't much push to get them done. While it is true that no inspection regime can guard against factories or laboratories we don't know about, visits on the Sudan model would go a long way.

Then there is the doubt about whether the Bush administration really wants inspections. Inspections might delay a planned attack. In any event, Bush's team doubts their value. The President addressed the United Nations yesterday and stated that the U.N. Security Council resolutions must be adhered to by Iraq. Inspections are an integral part of those resolutions, and could be patterned after the inspections currently being used in Sudan. A very high-level expert in the U.S. intelligence community told me unrestricted, surprise inspections could provide adequate information on what Iraq is doing on WMD at those locations.

As President Bush has escalated the rhetoric for regime change, even his customary Republican allies have joined the international chorus in raising questions and insisting that he receive congressional authority to go to war against Iraq. Former National Security Adviser Brent Scowcroft, Republican Sen. Richard Lugar of Indiana, Jack Kemp and even columnist Robert Novak represent a strong conservative base in urging caution, restraint and even no action.

Former Secretary of State James Baker has proposed a U.N. resolution calling for the use of force to compel Saddam to honor his 1991 commitments to permit inspections. That could provide the basis for an international military coalition if the Security Council agrees and Iraq continues to resist. If the United Nations does not adopt the Baker idea, it gives the United States a strong reason to unilaterally enforce Iraq's inspection commitments if the United Nations won't.

In order to make the case for military action, President Bush will have to deal with other tough issues: the cost in casualties, who will replace Saddam and what will be the repercussions in the region and beyond. But if Saddam continues to turn away inspectors, this will raise the common-sense conclusion that he has something to hide, like weapons of mass destruction. And as the risk looms large that Saddam is continuing to develop such weapons, those issues will be subordinated to avoiding another Sept. 11 or worse.

Mr. SPECTER. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak as in morning business for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING CONGRESSWOMAN PATSY T. MINK

Mr. AKAKA. Mr. President, I rise to offer a few words in tribute to a distinguished colleague and dear friend, Congresswoman PATSY TAKEMOTO MINK, who passed away Saturday afternoon in Honolulu, HI. I am deeply saddened by the passing of my friend and colleague, PATSY MINK, and I join our Congressional delegation, and the people of Hawaii and the Nation in extending heartfelt sympathy to John and Wendy Mink, her husband and daughter, Eugene Takemoto, her brother, and all of PATSY's extended family and her loyal staff in Washington and Hawaii.

I feel a tremendous sense of loss at the untimely death of Congresswoman PATSY TAKEMOTO MINK. Her passing leaves a void in the House of Representatives, the Hawaii congressional delegation, and the political life of our Nation. It is difficult to put her spirit into words, but those that come immediately to mind as fitting characterizations of the woman we honor today include courageous, forthright, tenacious, gutsy, outspoken, bold, meticulous, and determined. She was my friend, a dedicated public servant for Hawaii, a strong pillar in our state's delegation, and an advocate for those in America who feel scared, small, alone, mistreated, neglected or forgotten.

PATSY was a petite woman with a powerful voice and a peerless reputation as a champion for equal opportunity, civil rights, and education. She was a courageous and tenacious leader whose lifetime of public service made Hawaii a better place. Her leadership in health, education, child welfare, and social services will endure and continue to benefit Hawaii's people and all Americans.

In the course of her life, PATSY was a pioneer, a trailblazer for women, workers, minorities, the poor, and the powerless. In the history of Hawaii and our Nation in the 20th century, PATSY MINK is one of the giants whose vision of hope and passion for justice led Hawaii to statehood and whose efforts broke down barriers and opened doors to opportunity for everyone, regardless of race, gender, or religion. Her passing silences a dynamic voice, but her many accomplishments, her unimpeachable integrity, and passion for justice stand as an incredible legacy to a magnificent woman.

I commend to my colleagues and all those interested in PATSY's remarkable life, a biography by Esther Arinaga and Rene Ojiri included in a book titled Called from Within: Early Women Lawyers of Hawaii, edited by Mari Matsuda. I wish to recap some of her brilliant life and career for the RECORD.

Born on December 6, 1927, in Paia, Maui, PATSY was independent and ambitious from the start. As an illustration, one family story recalls that she insisted at age four on beginning school a year early. She was driven throughout her young life, and was elected student body president at Maui High School. She graduated as valedictorian in 1944, a year marked by global strife and war.

PATSY's childhood curiosity about medicine led her to study zoology and chemistry at the University of Hawaii. After graduating in 1948, she applied to medical school, only to be rejected along with other bright young women aspiring to be doctors, in a time when women made up only 2 to 3 percent of an entering class. Another factor daunting her efforts was the return of our war veterans and a resulting boom in applications for graduate and postgraduate programs. Although discouraged, PATSY took wise counsel from a mentor and applied to law schools. She gained admission to the University of Chicago. It was during her years of law studies that she would meet and marry John Mink, a respected hydrologist and geologist, her loyal campaign advisor, and her lifelong companion. It was in Chicago that they would have their daughter, Wendy, a professor at Smith College.

Returning to Hawaii, PATSY gained admission to the Hawaii bar in 1953, but only after a successful challenge of a statute that required a woman to take the residency status of her husband, who was a native Pennsylvanian. Such an action represented only one of several challenges to sexism that she would undertake during her professional career. In being admitted to the bar, she also logged one of many firsts by becoming the first Japanese American woman to do so in Hawaii.

In the 1950s, PATSY began to take a serious interest in politics and make her mark on the Democratic Party by helping to build the party and draw many young people into its ranks. PATSY's first step into public elected office in the territorial legislature in 1956 awoke for Hawaii and the world a powerful voice that would only gain strength in its impact and not be silenced until the new millennium. From that moment forward, PATSY's professional and political record would run as if by perpetual motion.

The momentous year of 1959 brought Statehood for Hawaii, and by then, PATSY had easily won election to the territorial Senate. Leading up to Statehood, while the legislature worked on landmark issues that would lend shape to Hawaii's new society, PATSY authored an "equal pay for equal work" law and scrutinized the Department of Education toward improving education for Hawaii's children—a cause close to my heart, as one who previously served as a teacher and principal in Hawaii's schools.

In 1965, PATSY brought her views to the national stage when she became the first woman of color elected to the United States House of Representatives to represent Hawaii's 2nd Congressional District—a seat I was proud to hold for almost 14 years, before I entered the Senate. PATSY was articulate about the causes she tenaciously shepherded. President Franklin Delano Roosevelt's fireside chats, heard years ago on Maui by a young PATSY, had provided her with a foundation of ideals and rhetoric from which she would draw upon for many years in her political career.

During her first tenure in Congress, PATSY served her various constituencies, both in Hawaii and around this Nation, with a strong commitment to wide-ranging domestic issues, including education, the environment, child care, open Government, workers' rights, and equal opportunity. She introduced the first Early Childhood Education Act, authored the Women's Education Equity Act, supported strip mining regulation, and became an early critic of the Vietnam War. In 1971, she entered the Oregon Democratic Presidential primary. Her candidacy reflected her determined independence and frustration with Government cutbacks in social services spending and the ongoing war.

In 1971, in connection with planned underground nuclear tests at Amchitka Island in the Aleutian chain, she filed suit with 32 other Members of Congress to compel disclosure of reports under the Freedom of Information Act, FOIA. She took issue with alleged Presidential authority to exempt certain information from FOIA and withhold it from judicial or legislative review. In the final outcome, in what had been described by PATSY as a sort of Waterloo of the Freedom of Information Act, the U.S. Court of Appeals ruled that Congress could legislate new disclosure guidelines to permit judicial review of the President's actions. In the end, the case gained tremendous historical significance when the U.S. Supreme Court cited it as precedent for the release of the Watergate tapes.

In perhaps her farthest-reaching accomplishment, PATSY co-authored title IX of the Higher Education Act Amendments, which prohibits gender discrimination by educational institutions receiving Federal funds. The landmark provision was enacted in 1972 and has since, in its 30 years of existence, introduced equality in college sports and contributed greatly to the rise in women's athletics.

An unsuccessful Senate bid ended her first set of years in Federal office in 1977, but it did not quiet her political involvement or public service. Indeed, in 1990 she returned to the House. In the interim, she assumed the position of Assistant Secretary of State for Ocean and International, Environmental, and Scientific Affairs, where she helped to strengthen environmental policies, particularly with regard to protection of whales, toxic chemical disposal and ocean mining. In 1980, she took the helm as the first woman president of the Americans for Democratic Action. Two years later, she returned to elected office in Hawaii by taking the gavel as chairperson of the Honolulu City Council. She twice ran unsuccessfully for other office, this time for Governor and mayor of Honolulu, then triumphed in 1990 in a special election for the remainder of my term in the other body, at the passing of our beloved colleague, Spark Matsunaga.

Since 1990, she continued in characteristic style, advocating and articulating the ideals that she had espoused during her first terms in the other body. I remember PATSY marching up the Capitol steps with vigor, alongside her other female colleagues, to show her support for Anita Hill in 1991. I was pleased to work with PATSY, the distinguished senior Senator from Hawaii, Senator DAN INOUYE, the honorable Secretary of Transportation, Norm Mineta, and my other colleagues in the establishment of a Congressional caucus to address the needs of Asian Americans and Pacific Islanders in 1994.

I recall her leadership in 1996 on a successful boycott of a joint session speech by French President Jacques Chirac, in protest of French nuclear testing in the Pacific, much in line with our shared commitment to championing the disenfranchised peoples of the Pacific in our respective bodies. As we hope to complete action on a welfare reauthorization bill in this session, I remember PATSY's steadfast efforts before the passage of the 1996 welfare reform law in keeping us mindful about the possible effects of social policy changes on children. She had continued the battle cry with the current welfare reauthorization and ensured that the voices of the smallest and most vulnerable were heard.

PATSY was one of the last Members of the 107th Congress who served in the historic 89th Congress that passed much of the landmark Great Society legislation. PATSY's lifelong efforts to open educational access to countless Americans and ensure them the best educational opportunities were the achievements that brought her the greatest satisfaction. "Anything for the children," was PATSY's guiding conviction. I believe we shared the same view about education that this crucial area is where we can do the most good for the most people.

A great spirit has come and gone before us. PATSY's vigor and courage to tackle difficult issues in the wide realm of social policy will be sorely missed. There are fewer trails for women and minorities to blaze, thanks to PATSY's determination and spirit. Indeed, her trailblazing efforts will not end with her death, for the things she put into place will continue to benefit the lives of countless individuals, in our lifetime and for generations to come, in ways that may not ever be truly appreciated.

We are enjoined to carry forth the mission that my dear colleague pursued during her remarkable career. With great sadness, we bid a final farewell and aloha pumehana to a fearless and remarkable lady, the most honorable PATSY TAKEMOTO MINK.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. I ask unanimous consent to speak for as much time as I consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY

Mr. DORGAN. Mr. President, I have been hearing in recent days that, once again, the President is on the campaign trail across the country. Sometimes he does two, three, four, and five fundraisers a day. At most of these fundraisers, the President criticizes the Senate for not passing the homeland security bill exactly the way he would like it. I thought I might make a couple of comments about that.

First, we in the Senate are in the process of debating the homeland security bill. I hope the President will ultimately be willing to compromise with us on some key issues. I believe we will pass a homeland security bill, and I believe it will be soon if we get some willingness to compromise on the part of the White House. We will also, at the President's request, take up a resolution dealing with the question of Iraq and the use of force and the United Nations.

It is our intention on the majority side to have a good, aggressive debate on these issues, but at the same time work with the President and accommodate the President as much as possible.

But I want to make a few points that I think are important. Foremost among these is that I don't think it is appropriate for the President to be going around the country, doing multiple fundraisers every day and suggesting that the Senate or some Members of the Senate do not seem to care about national security. I think that is terribly inappropriate.

It is not inappropriate at all for the President to campaign. He certainly will and should do that, but I don't think he ought to use these campaign opportunities to do what he has been doing. I understand he has raised something like $130 million. He is a prodigious fundraiser, and he has every right to do that. But it is unfortunate that a President who has spoken of a desire to change the tone of political discourse in Washington, DC, is rushing around the country doing fundraisers and pointing the finger at the Democrats in the Senate, saying they don't care about the security of this country.

The fact of the matter is that Democrats proposed the creation of a Department of Homeland Security just one month after the terrorist attacks on September 11 of last year. Lest we forget, Senator LIEBERMAN—the prime sponsor—introduced in the Senate a bill to create a homeland security Cabinet agency exactly 30 days after the September 11 attacks.

The President opposed it. The White House opposed it. They said they didn't want it. They objected. Month after month after month, the White House opposed the creation of a Cabinet level agency dealing with Homeland Security.

In fact, when the legislation was marked up in the full committee chaired by Senator LIEBERMAN, the Republicans largely voted against it in the full committee because the White House opposed it, the President opposed it, the President didn't want it.

And then on June 6, a full 9 months after the September 11 attacks, the President did a 180 degree reversal and said: Now we want a new Department. And, by the way, we not only want this new Department, but we want the following provisions to apply to the 170,000 workers of the new Department, and we are not willing to compromise. We demand that it be done the way we intend it to be done. That was the message from the White House.

First, for 9 months they didn't want an agency. Now they not only want an agency, but they say we must have it their way and will not compromise. And then, in the middle of the Senate debate, the President goes on the campaign trail, and suggests that Democrats don't care about national security. That is nonsense.

The President said he wants to come to town to change the tone. There is precious little evidence of that in recent weeks, I would say. But I do think it is time to change the tone.

The right thing for the President and the Congress to do is to work together to reach a fair compromise and to find a way to do this in a thoughtful way. Changing the tone means you sit down together and try to get the best of what both sides have to offer. That is all we ask at this point.

We have been on this legislation for some 4 weeks. There is no reason we cannot have thoughtful and satisfactory compromises so we can pass a Department, a Cabinet level agency on homeland security, through this Senate, go to conference, and get a bill to the Senate he can sign. There is no reason we cannot do that and do that soon.

I believe that is the goal of Senator LIEBERMAN. I know it is the goal of Senator DASCHLE. I just visited with him. We want this to happen.

I said the other day that I would never, ever, under any set of circumstances, question whether anyone in this Chamber supports this country's national security. Everyone does—liberal, conservative, Republican, Democrat; we all strongly support the security of the United States. We may come at it from different angles or different approaches and have different ideas, but I believe everyone really has the best interests of this country at heart. I believe that of the President as well.

I think it is now time for the President to sit down with us and reach agreements and reach some compromises and get this piece of legislation moving. And I think it is time, long past the time, for the President to stop going out on the fundraising trail and using this issue in a divisive and inappropriate way.

We need to get this right. This debate isn't about politics. This is about effectively protecting the interests of this country. And we are all in this together.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

I thank my friend from North Dakota for what he said. It has gotten frustrating in the last couple of weeks, and all the more so because we agree on 90 to 95 percent of what ought to be in legislation creating a Department of Homeland Security.

The senior Senator from Texas, who is the lead advocate for the administration, for the White House, for the President, and for himself, has said the substitute he offered to the bipartisan bill that came out of our Governmental Affairs Committee is 95 percent the same as the Governmental Affairs Committee bill. We have a 5 to 10 percent difference, mostly focused on this question of how you protect and reassure Federal workers who are moved from other Departments to this new Department while not undercutting the President's authority over national security. Surely we can find a way to bridge that gap on a bipartisan basis. As my friend from North Dakota knows, Senator CHAFEE is taking a lead role in creating a bipartisan alternative to the parts of our committee bill that dealt with this question. And I accepted that compromise even though it wasn't the one our committee first adopted and I proposed, because I thought it was a way to break the logjam and allow us to create and enact into law that 95 percent which we all agree on. But the White House has remained unyielding.

Mr. DORGAN. Mr. President, if the Senator will yield for a question, is it not the case last week after several weeks where we had this impasse with the White House on this issue—the bipartisan proposal that tries to be the centrist proposal—it was once again blocked? The White House said, No, we are not interested in doing that either. It is either our way or no way. If it is not our way, we intend to go to fundraiser after fundraiser and criticize.

I have great respect for the President. I have supported him on many things. Especially in a political season with all of this discussion existing in this country about changing the tone, I am just not very happy seeing three to five fundraisers a day and using the opportunity to say, By the way, the Senate can't get this bill done. What is the bill? The bill is to create a Cabinet-level Department of Homeland Security proposition which the White House opposed for 9 straight months.

In fact, the ranking Member—I say to the Senator from Connecticut—voted against the proposal, and then, 2 weeks later, found out he was in favor of the proposal. He used a whimsical quote about being in favor of something which he voted against because the White House pivoted and said, No, we support it, but based on the notion of what we believe must happen. And, if that is not satisfactory to the Congress, we are going to go criticize the

Congress rather than reach a compromise.

Once again, I would like to see a change in tone, but I haven't seen it, at least in recent weeks.

Mr. LIEBERMAN. In response to my friend from North Dakota, he is absolutely right on a few of the points involved. Words have consequences, both in our personal lives and in our public lives. When you take the good-faith dispute we have had here about this single question of Federal employees' rights to be transferred to the new Department and suggest people in the Senate are putting those concerns ahead of national security by which you are questioning their motives, and even their patriotism, to some extent, it has consequences. It has consequences because we naturally feel we have been treated unfairly. It is unfortunate; it has consequences beyond this bill. It began to have consequences last week on questions related to a resolution that would authorize the President to take military action in Iraq, if necessary.

I think what my friend from North Dakota has said is very important to remember here. We have tried and have not always succeeded. But when we come to questions of national security, foreign and defense policy, as we always say, partisanship ends at the Nation's borders. We are in a new world post-September 11, 2001, where national security is within our borders. The questions of national security are within our borders. We should strive for the same absence of partisanship and debate this as we do internationally. That is why we have all got to lower our voices a bit and try to focus on the very narrow area of difference we have so we can get this job done to protect the security of the American people.

The Senator from North Dakota is right. The truth is, Senator ARLEN SPECTER, our Republican colleague from Pennsylvania, and I and others introduced a bill to create a Department of Homeland Security in October of last year. The administration had what I always respected as a good-faith difference of opinion. They didn't feel it was necessary. They felt the Office of Homeland Security the President created by Executive Order could do the job. I always felt, and Senator SPECTER felt, we needed a Department with a strong Secretary with budgetary authority and line authority over people serving under them. That dispute went on for 8 months until the President endorsed the idea on June 6. I never would have thought to say or allege, because the President and we had this dispute about how best to protect homeland security, somehow the President was putting that bureaucratic or ideological vision—whatever you call it—ahead of his commitment to national security. Obviously, that would have been unfair, just as I think some of the statements the President has made in the last week are unfair.

It is Monday, and it is a new week. Hope springs eternal. I hope we can sit and reason together with the biblical ideal—the prophet's vision—in our minds.

There is a danger lurking out there. The terrorists are still out there. They hide in the shadows. But they are at work planning to strike us again. Shame on us if we don't get together and create a Department that can prevent them from doing that. Let us do it this week. We can break this logjam. It is that simple.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I listened with interest while my two friends discussed this issue. I may as a footnote point out they really are my two friends. My mother used to say you could always tell how much a Senator hated another one by how many "distinguished" and "great friend" adjectives he used. But, in this case, it is genuine.

I think the Senator from North Dakota has raised a legitimate issue about the tone. I would like to do what I can to change the tone of this debate.

As I see it, speaking solely for myself as maybe the last Member of the committee, the fight here is about the President's ability—or, more appropriately, the new Secretary's ability—to manage the Department efficiently and effectively.

I do not see the history quite the same way in terms of the dispute, Should we have a Department or should we not have a Department in the months leading up to the President's request?

I believe that within the administration there was always an assumption that a Department, at some point, made sense, but the administration was not willing to identify a specific set of recommendations as to how that Department would be formed until the President made his statement.

So I do not think it was a matter of resisting, resisting, resisting, and suddenly changing his mind. I think it was: We are going to keep our options open. We will not endorse anything. Therefore, we will not endorse the Lieberman bill until we have decided what it is we want.

I think the Senator from Connecticut has been more than generous in his willingness to grant good faith to the administration on that issue. I think that is correct on both sides.

Now, as I understand the issue, listening to members of the administration, as we meet in our meetings, and listening to the debate both in committee and on the floor, there is no desire, at least substantively within the true policymakers of the administration, to turn this into a partisan fight. I will grant there are those who are willing to grab for any partisan advantage they can find. I would suggest that people who have that inclination exist on both sides of the aisle, populate both parties, and, indeed, may even be found in the Green Party or some other party that likes to pose as being above searching for a partisan advantage.

But I believe the problem in this circumstance stems from the high stakes that are involved in making sure the Department is done right. I have addressed this on the floor before, and the Senator from Connecticut has heard me address it in committee. The challenge of putting together a Department such as this is so overwhelming, and the possibilities that it will go wrong if it is not properly constructed in the first instance are so great, that things that might have been resolved on a more normal legislative question become sticking points on this one.

I have said on the Senate floor before that I was involved in the creation of the Department of Transportation, which has some similarities to this. Because we took the Coast Guard out of the Treasury Department—I say "we"; it was done in the Johnson administration. I was in the Nixon administration that inherited this shortly after it was created but while the problems still existed.

They took the Coast Guard out of the Treasury Department. They took the Highway Administration out of the Commerce Department. They took the FAA from its status as an independent agency. They took the Urban Mass Transit Administration out of the Department of Housing and Urban Development. And they took several other agencies of smaller stature, pasted them together into a single Department, and discovered major management challenges.

Whenever I address this issue in front of a group of business executives who say, Why can't we put this together very quickly, I always ask them the question, Have any of you ever been engaged in a major corporate merger? And when they nod their heads, I say, Do any of you have any thoughts that this will be easy?

It is at least twice as large as the challenge creating the Department of Transportation. This is not the same thing as creating the Department of Education, which simply took the Office of Education and slapped the "Department" label on it. It still had the same culture, the same work rules, the same procedures.

It is not the same thing as taking the Department of Veterans Affairs, which was simply taking an existing office, slapping a new label on it, and saying, OK, we are now going to take veterans and elevate them to Cabinet status. In this case, it is putting together so many disparate agencies, many of which have been functioning in an atmosphere where homeland security is a part, but almost an unimportant part, of their main mission, but because of where they are, they need to be pasted together in this new Department and have a major change.

As I listen to the White House individuals talk to us on the Republican side—as we talk about this, they say: This is not really a matter of union versus nonunion; this is a matter of the power of the President and, through the President, his delegate, the Secretary, to organize the Department in the most efficient way. And we are afraid—I am speaking now for the administration, which is maybe presumptuous on my part, but as I hear what they say, it is: We are afraid that if it comes in the form we are talking about here, we will end up with a Department that is unmanageable, and the President will have to go through so many hoops, laid out in departments that are not focused on homeland security, that it will be impossible for the new Secretary to function.

I ask all of my colleagues this rhetorical question—I have asked the Senator from Connecticut this question, and he has answered yes—but I ask all of the Senators this rhetorical question: Would you be willing to accept appointment as the new Secretary of this Department in the form in which it is being proposed to us under the Breaux-Chafee-Nelson amendment?

I have some management experience. I have been in the executive branch in a Cabinet-level Department. I could not honestly answer that question yes for myself because I watched as the first Republican Secretary of Transportation, John Volpe, wrestled with all of the problems of moving people around the Department. The Congress gave him a high degree of management flexibility. He could move people around without asking congressional approval for a certain period of time. I should probably research the exact period. My memory is that it was 3 years after the creation of the Department. He could move people, almost capriciously, for 3 years.

Secretary Boyd, who was the first Secretary of Transportation, did it for 18 months. I know Secretary Volpe did it until the time came. It was absolutely essential for me, in the office I organized for the Secretary, to have that kind of flexibility. I was moving people around, violating what had been their traditional kinds of protections, simply because the whole thing would not function if we did not have that kind of flexibility.

The Congress put a time limit on it because they wanted to make sure that the Secretary would not abuse that power. I remember how concerned Secretary Volpe was that the clock was running, and he had to get the reorganization done before midnight struck and suddenly everything would be frozen again.

We were talking about a Department dealing with entirely domestic issues, having no national security implications, in a situation where there was no external pressure, such as a potential attack. And it took 3 years or more before that Department came together and functioned.

As I have reminded Senators before, an even larger example of this kind of organization, which is the closest parallel we have to creating the Department of Homeland Security, was the reorganization of the Department of Defense that came after the Second World War. That was in 1947.

The Department of Defense probably did not fully function until the Goldwater-Nichols Act of Congress stepped in, what, 15 years later? Certainly more than a decade later. And it is instructive to remember that the first Secretary of Defense, faced with all of these challenges, committed suicide.

There are those who say, well, there were other problems in his life. And I am sure that is true. I will not attribute his ultimate depression and decision to end his life to the difficulties of managing the Department of Defense, but it certainly can be said that those difficulties did not help.

So if the President were to call me and say: Bob, you have had experience at Transportation; you have been in the executive branch; you have been an appropriator; you have a unique background; I want you to be the Secretary of Homeland Security and serve the country; I would have to say to him: Mr. President, not under the terms of this bill. My ability as the CEO would be hamstrung.

The Senator from Connecticut is exactly right. Through his good efforts and his willingness to be open, which is his hallmark and his trademark as a Member of this body, he has worked with the White House in crafting something that is agreeable to both sides 95 percent, maybe even more than 95 percent. There is no point in putting a firm number on it because the two are now tremendously close.

The remaining issue is the kind of issue that would cause me to turn down service in this position. May I hasten to say, I am not running for the position, lest anybody have any mistakes about this. I enjoy the Senate too much.

As I have tried to look at it as objectively as possible, I have decided that the President's statement that he would veto this bill is a correct one. It is not rooted in a desire to embarrass the Senate or impugn the integrity or the ability of the Senator from Connecticut or his committee on which I serve. It is rooted in a firm belief that the management procedures of this Department, as structured in this bill and as they would remain structured under the proposed amendment, would prevent the next Secretary, whomever he or she may be, from having absolutely essential authority to organize the Department.

I have said this before—I will say it again; no one has taken me up on it—I would be willing to put a time limit on the kind of flexibility I think we need. If indeed there are those who are nervous that some future President, even if they give this one every benefit of the doubt, those who are nervous that some future President might abuse this power, I would say: Let's give the President the power he wants on management flexibility and put a time limit on it and say his ability to move people around would expire after 5 years, I would think would be more logical, if he had the experience of something like 3 at the Department of Transportation.

On the issue of his ability to designate people for national security, the President probably does not want a time limit on that. He probably believes that every President should be preserved in the rights they have had. That one might be negotiated as well.

But as I understand it, these are the two challenges: First, the flexibility factor which, frankly, we have not been talking about on the Senate floor because we have been so hung up on other ones. That would be the one that would give me the most pause if I were the potential Secretary. I would be willing to see if we couldn't work that one out with a time limit. And then the second issue, the right of the President to make a national security decision, maybe we could find a way around that one, too, in terms of some sort of time circumstance. I don't think just because it was done with Jimmy Carter means that it has to remain sacrosanct forever. We can look at it in view of the threat, get some experience under our belt as to how the new Department works, and say that Congress will relook at this at X particular point.

My bottom line, speaking solely for myself and not for the administration—because I am not authorized to do that—is that I hope we can, in fact, reach out in the spirit the Senator from Connecticut has always shown, find some solution, but recognize that it is not a political fight to determine who is protecting unions and who is the most patriotic. It is a serious, legitimate, important management challenge as to how much power this President and future Presidents, the newly appointed Secretary and future Secretaries, are going to have to manage the Department in the most efficient possible way to preserve our homeland against attacks.

The reality is that the attacks will come. The reality is that some of them will get through. No matter how well the Department is manned, no matter how well the Department is structured, no matter how vigilant the employees of the Department will be—and I will stipulate, I expect that all of them will be vigilant, whether they are union members or nonunion members or don't care—an attack will make it through somehow, somewhere.

And then we want to look back on it and say: We did the very best we could to see to it that the Secretary had all of the tools he or she might need. And, yes, this attack got through, but these didn't because we put the Department together intelligently in the first place.

I will be happy to enter into whatever discussion the Senator from Connecticut may want to have, knowing that I don't speak for the administration, but I speak as a member of his committee from the other side of the aisle who has always had the highest respect for his willingness to listen, his willingness to cooperate, acknowledge that he has helped me on some of the issues I believe strongly about to his own political peril because there are some Members on his side who did not want to do some of the things I wanted to do. I would hope in the same spirit that he has mentioned here that something can be worked out.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend from Utah. I return his respect and trust quite directly. I appreciate what he said. I appreciate the tone in which the Senator from Utah spoke, and just to get the nonsense of last week behind us, that we can obviously disagree on issues related to this bill or other bills without questioning, without impugning each other's motives or, Lord knows, questioning each other's patriotism.

I agree, when we create this Department of Homeland Security—and we will create a Department of Homeland Security; we are going to find a way to do it before long, I hope—it is going to be a massive undertaking: 170,000 employees, clearly the largest reorganization of the Federal Government since the end of the 1940s, the post-Second World War reorganization of our national security and foreign policy apparatus.

As the Senator from Utah said, this is not just putting a new name on the door, "Department." This is taking a lot of different people from a lot of different places in our Government and bringing them together under a strong Secretary in focused divisions within that Department. Those are exactly the parts that are in common between the proposal from our committee and the White House proposal.

Why are we doing it? Simply because the current state of disorganization is dangerous. When you have three, four, or five different Federal Government agencies at a point of entry into the country at the border and they are each in separate offices—they may bump into each other, but they are not really working together in a coordinated way; they usually don't even have telecommunications equipment that speaks easily in a crisis to one another—that is dangerous disorganization.

If you have, as we know from the investigation of the Joint Intelligence Committees, a situation where there are bureaucratic barriers between the intelligence community, the law enforcement community, and information is not shared in a way that can put all the dots, as we keep saying, on a board so you can see the outlines of a potential terrorist attack so you can stop it, that is disorganization that is dangerous.

I could go on and on, to each of the five or six divisions of the new Department.

So that is why we are all proposing this step. It is going to be a big job. I want to make it clear. I know the Senator from Utah didn't mean to suggest this in reporting our conversation. I am not now, nor will I be a candidate for Secretary of the new Department of Homeland Security. When he asked me whether I would advise who was taking it to take it under the Nelson-Chafee-Breaux language—if they should accept—my answer was yes. I want to explain why, in the calm of a Monday afternoon. In this particular colloquy, we may have an opportunity to set more on the record as I see it than has gotten in to this point.

We have 170,000 employees to be moved to the new Department. The number I hear about union-represented employees is approximately 43,000 who will be moved to the new Department. There are two factors at work here. One is an anxiety among a lot of Federal workers that this existing statute, which has been referred to, that was adopted in the Carter administration, that gives the President of the United States extraordinary authority to declare that a particular category of Federal employees should not be allowed to belong to a union, an employee association, because that union membership would be inconsistent with national security—the existence of that statute applied 10 or 11 times since adoption in the late 1970s in the Carter administration, and usually in quite narrow areas—the Defense Intelligence Agency and in similar groups—the existence of that statute used for the first time by the current administration in January to deprive several hundred employees of the U.S. attorneys' offices around the country of the right to collectively bargain, to join unions, created widespread anxiety among Federal employees.

Senator THOMPSON and I had some discussion on this last week. I don't need to get into the details of what the administration intended to do and what the employees thought. From the employees' point of view, they were worried that this statute would be used in a broader way than ever before to deny them the right to collectively bargain. I must say, again, that the right to collectively bargain among Federal employees is quite limited; most notably and, of course appropriately, Federal employees belonging to a union do not have the right to strike. That is a law. There are various other items that are normally negotiated between management and unions that are not negotiated in the Federal employee case—most notably salary. We are the managers, in that sense, who set salary levels—we in the Congress.

So now we come to a recommendation that the Department of Homeland Security be created. There is great anxiety—and it remains so—among the 43,000 employees currently represented by unions who, when they are moved to this Department, because the name of the Department is Homeland Security, they might well be deprived of their collective bargaining rights. Our committee considered that and we came up with a proposal which, to state it in summary, would have allowed employees to appeal such a decision, such an order denying them collective bargaining rights to the Federal Labor Relations Authority—two-thirds of whose members, incidentally, are appointed by the sitting President. So, presumably, it would not have been a hostile board. When we came to the floor, and after that measure was in our proposal, the White House was quite adamant on the point that it would represent a lessening of the President's national security authority. Though the lessening would have been small, literally that was true. That would have been true because we would have subjected the Presidential decision on national security grounds to review by this administrative body and appeal to the administrative body. That is why, when I saw the gridlock here, and understanding that we agree on more than 90 percent of the two proposals—one White House and one committee—before the Senate now, I encouraged our colleagues, Senators NELSON and BREAUX, to pursue a compromise. They engaged Senator CHAFEE in these discussions and they came up on this one with a proposal that the President would retain the authority he has, but would have to more clearly enumerate the reasons why he was invoking this authority; and, particularly, he would have to make clear, or give a statement, that the agency whose employees he was denying the right to collectively bargain had had its mission changed from the many years since the Carter administration, when no previous President had said that doing the work of that agency was inconsistent with the union membership to national security, with no right of appeal to an administrative agency. To me, that creates what I might call a kind of minimal due process for Federal employees, just to require the President who, by the one court case in this statute that had been decided, the President's authority here in that court case was held to be substantial. I mean, this is a case where President Reagan removed collective bargaining rights from a group of Federal employees for national security reasons and did not recite a determination as to why he did it. I believe the district court sided with the employees. It was appealed to a circuit court, and the district court said the President has to at least recite a determination rather than just issue an order.

The circuit court actually said—I am paraphrasing and probably making something more complicated, a little more direct—the circuit court said they accept a presumption that though the President did not recite a determination, when it came to national security, his judgment was determinative. It set a very high standard for anyone questioning how a President would exercise this power the statute gives him.

So my own feeling is that in the Nelson-Chafee-Breaux compromise, we have now put in a little language to require a statement of why the President did it, and the work of this Department, or agency, or office that changed since they moved to the new Department, but effectively no appeal from that. So I think we achieved a little measure of due process for the employees, without at all diminishing the national security authority of the President.

On the question of civil service reforms, or changes, and so-called management flexibility, when the President first introduced his proposal and embraced the idea of a Department of Homeland Security, I remember speaking to Governor Ridge. He is a good man, and he was good enough to bring this up himself in a conversation we had a couple weeks ago. He said to me: I remember, Senator, that, as soon as the bill came out and you saw some of the changes we wanted on civil service, you appealed to me, why can't we put this aside for 6 months? This Department is going to take months to get up and functioning. I remember saying this to Tom Ridge—that this is a trap, a web, and we are going to get so entangled in it that it is going to run the risk of making it hard for us to adopt legislation creating a Department of Homeland Security.

This is one of those rare cases where my prediction was correct. I say that with some understandable humility. I fear that is where we have ourselves now. In the committee bill, we adopted some bipartisan civil service reforms, worked on with great diligence by Senators AKAKA and VOINOVICH over many months. Other than that, we didn't change the existing civil service law, except that we said we required the new Secretary of the new Department, 6 months after the effective date of the legislation, to come back to Congress and tell us whether he or she thought we needed to do anything more about management flexibility as the Department was taking place, based on the experience they had.

So that is where our committee bill was. The President came in with a series of reductions in civil service protections for employees who are longstanding and that deepened the anxiety of the Federal employees that this Department was going to be used as a way to cut back on their protections, on the accountability, on the kinds of protections that, at their best, don't create rigid bureaucracy, but help to create the climate in which the best people are attracted to Federal service. The President's bill gutted that.

Now comes the Nelson-Chafee-Breaux compromise, and here, too, I think they did something quite reasonable and progressive, which is they itemized four different areas where the President can exercise broad management flexibility, but they did something that builds on the best labor-management relations in the private sector and some very hopeful experiences with similar labor-management relations in Federal Departments, particularly the Internal Revenue Service. They said in the Nelson-Chafee-Breaux compromise: Mr. Secretary, we are giving you this flexibility in these areas of current civil service protections, but we require, before you implement them, to attempt to negotiate them with your workers. That is why I say in the best of modern private-sector labor-management relations, the old hostility is not there. It is: Let's sit down around the table and figure out what works best for the company; you want jobs, we want to make a profit; let's figure out how we can best do this together. Let me mention, this is exactly the authority Congress gave the Internal Revenue Service a few years ago. It has worked quite well. In other words, in that legislation we said: Director of Internal Revenue, you have the authority to negotiate changes in the civil service, but you have to do it with your employees. In fact, they have negotiated some very progressive agreements with both sides agreeing once they sat down around the table.

In that legislation and in this Nelson-Chafee-Breaux proposal, so again we protect the authority of the President, we say if the Secretary of Homeland Security and the workers in the Department cannot reach an agreement, then they have to take it to arbitration to the Federal Service Impasses Panel. This is a board, again, all of whose members are appointed by the current President, so it is not a hostile board, and that board makes the final decision.

I do believe that our colleagues, Senators BEN NELSON, LINCOLN CHAFEE, and JOHN BREAUX, have worked out a proposal, a genuine compromise that is different from what our committee reported out but provides a door opener both to management flexibility, to some progress in management, and does not diminish ultimately the authority of the President of the United States, certainly not with regard to his ability and capacity now to invoke national security with regard to union membership rights of Federal employees.

I am puzzled as to why the administration has not accepted this compromise proposal and the Senator from Texas is effectively involved in a filibuster of the overall bill. I remain open to discussion about parts of this. I appreciate what the Senator from Utah said about a time limit. Five years seems like a long time to me.

One of the issues we considered in the committee, and I know was considered in the negotiations, was the possibility, with regard to the civil service management flexibility, of giving—we call it demonstration authority, but the idea was for a limited period of time to give the President some of the authority he wanted, and then come back and see how it worked and consider whether we wanted to extend it.

I am grateful for the words of the Senator from Utah, and as we begin our new week, after some of the heat that was exchanged on the floor of the Senate, I am grateful for the coolness of his—in the best sense of that word—that is, the thoughtfulness of his remarks today. I will be glad to continue to talk with him to see if we can find common ground. We ought not to be in this gridlock on what I still consider to be a side issue from the main business of this Department: protecting the security of the American people.

As the Senator from Utah said, we never want to give the impression we do not think the employees who will move to this Department are as concerned about homeland security as we and the rest of the American people are. In fact, the evidence before us is quite ample that Federal employees are concerned.

The stories are legion and numerous of Federal employees—I think of FEMA employees—they were somewhere else and they rushed to the Pentagon to be of help; they flew to New York; they worked hours and hours of overtime. Of course, the most vivid demonstration of the way in which union membership is not inconsistent with national service or sacrifice is the firefighters in New York, several hundred of whom were off duty on September 11. When they heard what had happened, they just rushed to the scene. Nobody was thinking about whether this was supposed to be a day off under the collective bargaining agreement, what risks they were assuming, or they were going to be asked to do things that were not quite in their job description. Needless to say, a lot of them not only rushed into the building, but they never came out.

I hope we can find common ground. I offer anything I can do to supplement the extraordinary positive work of the previous triumvirate I mentioned, Senators NELSON, CHAFEE, and BREAUX, to get over this last big hurdle and get this bill adopted in the Senate, get it to a conference with the House, and then get it to the President's desk for signing.

Mr. LEAHY. Mr. President, I do not want to interrupt.

Mr. LIEBERMAN. The Senator's timing is good. That was the windup sentence.

Mr. LEAHY. I wonder if the Senator will yield to me? I wish to discuss another aspect of the war on terrorism, and that is what we can do through the Justice Department. I wonder if the President will allow me to speak about that.

Mr. LIEBERMAN. I will be happy to do so. I thank the Senator for coming to the floor and look forward to his remarks.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Vermont.

DEPARTMENT OF JUSTICE AUTHORIZATION

Mr. LEAHY. Madam President, I know we are getting down toward the end of the session and sometimes legislation falls by the wayside, but I have seen something in the last couple of days different from anything I have seen in 28 years in the Senate.

Last Thursday the other body passed the Department of Justice Appropriations Authorization Act and we filed a bipartisan conference report. I mention this because it has been 20 years since there has been such an authorization act for the Department of Justice because it has been so hard to bring people from across the political spectrum together. The House passed this conference report—by a vote of 400 to 4. I am not sure the way things are these days that we could get a vote of 400 to 4 to agree the Sun rises in the east and sets in the west.

The very same day I checked with every single member on this side of the aisle, every Democrat, and asked if they were willing to have it pass the Senate by voice vote, if need be, or a rollcall vote—it does not make any difference, but to pass it.

Every single Democrat—the distinguished Senator from Connecticut, myself, everybody else—agreed, yes, sure, go ahead and pass it. We were told there is an anonymous hold on the Republican side. This bipartisan legislation to authorize the Department of Justice is blocked—legislation to strengthen our Justice Department and the FBI that by agreement of all Members across the political spectrum will increase our preparedness against terrorist attacks, but also prevent crime and drug abuse in our cities and in our rural areas. It improves our intellectual property and antitrust laws. It would strengthen and protect our judiciary. It would give our children a safe place to go after school.

This legislation is as motherhood as one could imagine and yet the Republicans have said, no, even though the Republican-controlled House passed it 400 to 4. And even though every single Democrat in the Senate is ready to vote for it, the Republicans have said, no, we want to put an anonymous Republican hold on it and not allow it to go forward, years of work by both the Republicans and Democrats. This bill not only has my support in the Judiciary Committee, it has Senator HATCH's support. It has the support of Chairman SENSENBRENNER in the other body, as well as Representative HYDE. Every one of the House and Senate conferees, Republican and Democrat, signed the conference report. That conference report includes significant portions of at least 25 legislative initiatives, all to be flushed down the drain by a Republican hold.

When people go home this year to campaign about why they want to stop drugs in their schools, why they want to fight terrorism, why they want their courts strengthened, why they want the Attorney General of the Department of Justice to be able to be strengthened in their fight, let them point out that the reason it was not done was a Republican Senator who wants to do it anonymously. They do not even want to step forward and say who he may be.

For too many years, Republican and Democrat administrations have allowed the Department of Justice to escape its accountability to the Senate and the House of Representatives and, through them, to the American people. Congress, the people's representatives, have a strong constitutional interest in restoring that accountability. The House has recognized this. It has done its job. We need to do ours. Senate Democrats are prepared to proceed. Senate Republicans apparently are not. So let me tell you some of the things that are in this bipartisan conference report.

First, the conference report provides Federal, State, and local governments with additional tools to battle terrorism. It fortifies our border security by authorizing over $20 billion for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration. It authorizes funding for the Centers for Domestic Preparedness in Alabama, Texas, New Mexico, Louisiana, Nevada, Vermont, and Pennsylvania. It adds additional uses for grants from the Office of Domestic Preparedness to support State and local law enforcement agencies.

Why would anybody on the Republican side oppose that? Another measure in the bill would correct a glitch in a law that helps prosecutors combat the international financing of terrorism. I worked closely with the Bush White House to pass this provision in order to bring the United States into compliance with a treaty that bans terrorist financing—and this is something the Bush administration wants—but without this technical, noncontroversial change, the provision may not be usable. As the President has pointed out, this law is vital in stopping the flow of money to those who would harm Americans. Every Democrat is ready to pass that. It is something President Bush has asked for in his fight against terrorism. Every single Democrat in this body is ready to vote for it, but the Republicans are blocking it from going forward.

Worse yet, at a time when the President is going before the U.N. emphasizing our enemies are not complying with international law, by blocking this minor fix—something the President has asked for, something every Democrat is ready to vote for, only the Republicans are blocking—we are leaving ourselves open to a charge that we also are not in compliance with an important antiterrorism treaty.

Secondly, this conference report improves our law enforcement efforts. Among other things, it pushes the FBI to reform its outdated computer system. Right now it is something that kids in school 10 years ago had better computer systems. It provides danger pay for FBI agents performing hazardous duty abroad. It provides for increased sentencing enhancements when criminals use body armor in crimes of violence or drug trafficking crimes, something for which every single police agency I have talked with from New York to Texas has asked.

I am told the administration supports this and every single Democratic Senator supports this, but it is blocked by the Republicans.

It includes Senator CARNAHAN's Law Enforcement Tribute Act, which authorized grants to States, local governments, and Indian tribes for memorials to honor those who were killed or disabled while serving as law enforcement safety officers. It has the Feinstein-Sessions James Guelff and Chris McCurley Body Armor Act. That is blocked. These are things that had overwhelming Republican and Democratic support, still has unanimous Democratic support but is blocked by the Republicans. I believe the conference report the Senate Republicans are blocking could help prevent crime from occurring in the first place. We reached a bipartisan agreement to give the Boys and Girls Clubs the funds they need to establish 1,200 additional clubs across the Nation. As a former prosecutor, I know how valuable these are to prevent crime from happening in the first place, to give teenagers and youngsters a place to go.

Just last week, I joined with Senator HATCH at the Boys and Girls Club congressional breakfast honoring regional youth of the year and also honoring Senator STROM THURMOND. Republican Senator after Republican Senator praised the work of the Boys and Girls Club, as did I, but now some Republican Senators are anonymously holding up the authorization for the money for the Boys and Girls Club.

Senate Republicans are also blocking funding that will put an additional Assistant U.S. attorney in every district in the Nation to implement the President's Project Safe Neighborhoods Initiative aimed at preventing school violence. The President goes out and speaks in favor of this. I happen to agree with the President on this. Everybody agrees with him, and now, when doing what the administration has asked for, we put these assistant U.S. attorneys in there, but that is not going anywhere. Every single Democratic Senator supports it. An anonymous Republican hold blocks it.

The conference report strengthens our efforts to prevent domestic violence and protect its victims. By creating a new Violence Against Women Office in the Justice Department, we ensure an increased Federal focus on this tragic and recurring problem. I do not know why preventing domestic violence should be a partisan issue.

In my experience as a prosecutor, the police never said we have to determine whether this person who is beaten up in domestic violence is a Democrat or a Republican. You try to save the life of the person who is being beaten and to protect them.

This legislation also authorizes programs to reduce drug abuse and recidivism, from adult and juvenile courts, to increased funding for drug treatment in prisons, to funding for police training in South and Central Asia to reduce the flow of drugs into our Nation. All of these proposals are bipartisan. Actually, most of them were in the Hatch-Leahy Drug Abuse Education, Prevention and Treatment Act. Every Democrat is ready to vote for them, but we cannot because the Republicans have an anonymous hold.

The conference report contains a number of important intellectual property provisions that will help American innovators and businesses, both big and small. There is a probusiness provision, which includes the Leahy-Hatch Madrid Protocol Implementation Act that has been held up for over 1 year. Every single business organization in the country, big or small, has asked us to pass it. Every single Democrat has said they will vote for it. It is being held by an anonymous Republican hold.

This legislation would implement a treaty and allow American businesses to obtain "one stop" international trademark registration, a process available only to countries signatory to the Protocol. This would benefit American businesses and companies who need to protect their trademarks when they sell their goods and services in international markets, particularly over the Internet.

I hear from companies as large as IBM and Intel. They want this legislation, down to the little mom-and-pop manufacturers in my own State. I tell them all, every single Democrat will vote for that. It is in this bill, as 400 House Members of both parties voted for it. But I also tell everyone in the businesses that ask, it is being held up by an anonymous Republican hold.

Another important intellectual property provision is the Hatch-Leahy TEACH Act, to clarify the educational-use exemption in the copyright law and all educators to use the same rich material for distance material over the Internet as they use in face-to-face classroom instructions. The Presiding Officer represents one of the most beautiful areas in upstate New York, where I visit often. I think of my rural Vermont or rural Utah. This allows people in these small schools to be able to have access to what is available in the large metropolitan areas. Every Democrat will vote for it. It is being held up by an anonymous Republican hold.

The conference report has a provision modernizing Patent and Trademark Office specifically authorizing friends to augment the investigation and prosecution of intellectual property crimes of privacy online. There is no member of the business community that does not support it, from the largest to the smallest. Every Democratic Senator is ready to vote for it tonight. It is being held up by an anonymous Republican hold.

This conference report creates or extends 20 Federal judgeships. Those are more than all the judgeships created during the 6-plus years the Republican party controlled the United States Senate and blocked both Clinton administration judicial nominations and the creation of new Federal judicial positions. We have included new Federal judges in Arizona, Alabama, Texas, New Mexico, among others. I have heard repeatedly from our Republican friends that although they have blocked the creation of the judges during the previous administration, they want them now. I put them in. Every single Democrat is ready to vote for it and the Republicans are blocking. It is amazing. These judges we have needed for years, blocked during the last administration when the Democrats had the Presidency, now we put them in. I supported putting them in, from northern New York to Alabama. The Republicans say they want them. They will not be appointed by a Democratic president. They will be appointed by a Republican president. I don't know what is going on unless they want to make it look like we are holding this up. Every Democrat will vote for the new judges. But they are being held up by an anonymous Republican hold.

I do not want to hear bleeding and caterwauling from the White House or the political mouthpieces from the Department of Justice, asking, Where are the judges. All 50 Democratic Senators will vote for them, as 400 Republicans and Democrats in the House voted for them. It is being held up by an anonymous Republican hold.

The conference report prohibits mandatory arbitration in a motor vehicle franchise contract between manufacturers and automobile dealers, to the same effect as the Hatch-Feingold-Leahy-Grassley Motor Vehicle Franchise Contract Arbitration Act, S. 1140. That legislation has more than 60 cosponsors, Republicans and Democrats. The automobile dealers lobbied strongly for it. All 50 Democrats are ready to vote for it. Their friends on the Republican side are holding it up.

The conference report includes an amendment to the Radiation Exposure Compensation Act to expand eligibility for compensation for injured uranium miners, mill workers and ore transporters. Many Senators from western States, on a bipartisan basis, such as Senators DASCHLE, HATCH, JOHNSON, DOMENICI, strongly support these changes. We are all ready to vote for them. Republicans are holding it up.

Finally, the conference report includes several important immigration provisions to help underserved rural areas with a critical shortage of medical doctors. Women die in childbirth. Teenagers in an accident die because they did not get care. Older people do not get the preventive medicine they need. This allows foreign doctors who are educated in the United States to remain here if they will agree to practice in the underserved areas. It extends H–1B status for certain working aliens and makes it possible for children whose sponsoring parent has died to apply for citizenship, nonetheless. I don't need to tell the Presiding Officer, representing the great State of New York, there were children whose sponsoring parents died in this country.

These are all noncontroversial provisions, for all over the country. Every single Democrat Senator said they will vote for it. We cannot bring it to a vote because the Republicans have an anonymous hold. I would not feel as bad about the holds if the Senator holding it up would come forward and state why. Instead, it is a stealth hold. It is a "during the night" hold. It is the quiet, anonymous phone call hold that stops it. It repeats an unfortunate pattern of anonymous Republican holds on bipartisan legislation designed to improve our Nation's national security law enforcement, immigration policies, and judicial branch of the government.

I am sure my colleagues are tired of hearing how much I enjoyed my earlier career in law enforcement. For 8½ years I proudly carried a badge, proudly served as chief law enforcement officer of my county. We prosecuted a lot of people. We saw a lot of tragic situations. We helped a lot of people in cases of domestic violence, stopped crimes from happening. Those we were not able to stop, we oftentimes successfully prosecuted afterwards. I never recall anyone, either those in my office or any of the law enforcement agencies we talked about, whether we were dealing with a Democrat or Republican, asking whether someone who was beaten or killed was Democrat or Republican. You never asked a police officer if they were Democrat or Republican. No one asked when sending officers out to protect citizens, facing the potential of death, their political party affiliation. In working with my colleagues, both in the Senate and in the House, we did not look at this as Democrat and Republican. We talked about good law enforcement. That is why every single Democratic Senator has said they will vote for this bill.

Our caucus spans the political spectrum. I suspect if we were allowed to bring it to a vote, almost all of my colleagues on the other side of the aisle would vote for it, yet an anonymous hold is stopping this help to the law enforcement agencies, ranging from the smallest of our towns to our statewide law enforcement agencies, to our Federal law enforcement agencies. Nobody has spoken of any substantive question or issue of any provisions in this conference report. And there are not any. It passed the Republican-controlled house by 400–4.

It has been suggested the holds are merely partisan blocking to hold up legislative action and then blame the Democratic Senate majority for inaction created by Republican holds. I repeat, as I have over and over again on this bill, I have checked with every single Democrat Senator; we are ready to vote. We are all ready to vote.

If Republicans allowed this bill to come to a vote, it would pass immediately. It should have been passed last Thursday. We had an opportunity. Senator DASCHLE asked permission to pass it—Senator HATCH said we didn't each have to speak on it, we would put our speeches in afterward—asked to pass it by unanimous consent, but was told the Republicans objected.

For the sake of the Justice Department, the Congress, and the American people, we ought to pass it today. Twenty-one years fighting to get it, and here is what is in there: Combating terrorism, improving law enforcement, preventing crime, fighting drug abuse, enhancing intellectual property protection, strengthening the judiciary—adding 20 new judgeships and improving judicial disciplinary procedures—improving civil justice, and improving immigration procedures.

The irony is item after item was worked out with the support of the Bush White House. I spent an awful lot of time on this bill. A lot of my Republican colleagues spent a lot of time on this bill. And our staffs spent 10 times more time on this bill. I think somebody down at the White House, if they take time out from the fundraising and the campaigning, could take a couple of minutes to pick up the phone and call the party, the Members on the other side of the aisle, and say the criminal justice system needs this, the fight against terrorism needs this.

This is not just something abstract, this is real. Let's pass it. That is why the Republican-controlled House passed it. I am sorry my friends on the Republican side of the aisle are blocking it. I hope when they think about it, they will come to their senses and let it go through.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CLINTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. REID. Madam President, it is my understanding we are in a period of morning business; is that correct?

The PRESIDING OFFICER. The time for morning business was to have expired at 5:15.

Mr. REID. Madam President, I ask unanimous consent that the time be extended until 6:45 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY

Mr. NELSON of Nebraska. Madam President, as we enter our 5th week of debate on this Senate floor on the homeland security bill, I rise today to ponder exactly where we have been, and, perhaps much more importantly, where we are going.

In recent weeks, Democrats and Republicans have made little progress on the bill. Some have identified particular provisions they would like to have changed; some have not. The President offered his own proposal for consideration, and, as the RECORD will reflect, the Senate obliged him by allowing it to come to the floor for consideration.

My good friends, Senator GRAMM of Texas and Senator MILLER of Georgia, are championing the President's bill. He could have no two more noble or respected Senators as his gatekeepers.

Let me describe for you what this bill does. It will establish a new Federal Department, the largest Government reorganization since the establishment of the Department of Defense. It will affect 170,000 Federal employees and each and every American. It will restructure existing agencies and create new ones. It will relocate and reclassify employees and will establish the largest reaching intelligence-gathering operation in the history of civilization.

Is this the kind of legislation that Congress should approve blindly? Obviously not.

Some would have you believe that anyone who wants to make any change—no matter how slight—to this massive legislation is an opponent of the President.

I want to make a slight change to this bill, one I believe is supported by a majority of the Senate, but that does not make me an opponent, nor does my amendment make anyone an opponent. I support the President. I want to see him achieve his goal of establishing this new Federal bureaucracy.

What I do not support is sacrificing our constitutional responsibility for oversight of not just the Department, once it is established, but of the effort to create the Department in the first place.

Passing this bill comes down to one unresolved issue: the method of resolving differences as they pertain to labor-management in the new Department of Homeland Security.

I have joined together with my colleagues, Senator JOHN BREAUX and Senator LINCOLN CHAFEE, to put forth a compromise that has the support of a majority of the Senators, and should be embraced as a victory, not demagoged as a special interest protectionist measure.

The President's bill, the Gramm-Miller bill, does not have enough votes to pass, and it does not have enough votes to invoke cloture. The Lieberman bill does not have enough votes to pass, and it has not had enough votes to invoke cloture.

Without becoming unnecessarily bogged down with Senate procedure, it is important to point out that cloture means to shut off debate and a majority to pass a piece of legislation under these circumstances. Now, my amendment has enough to pass, but it does not have enough to shut off cloture. If my amendment were passed and passed on the Gramm-Miller bill, I believe that the bill would then have enough not only to shut off cloture but pass. That is what we are really trying to do.

Our compromise would give the President the authority he needs to hire and fire, promote or demote employees in the new Department. Indeed, it gives him exactly the authority he sought when Homeland Security Director Tom Ridge wrote the chairman of the Governmental Affairs Committee in early September.

I have here for everyone to see—even those watching through the electronic eye—Governor Ridge's comments to Senator LIEBERMAN. I will quote in part, but I can quote before or after. There is some question about the context of this particular legislation. It was in conjunction with explaining what the White House was interested in in terms of the flexibility that management would require over labor under this new agency. He said:

> Senator, the President seeks for this new department the same management prerogatives that Congress has provided other departments and agencies throughout the executive branch. For example—

Then he identifies a couple of other processes that are fairly innocuous. Then he says, relating to personnel flexibility:

> Personnel flexibility is currently enjoyed by the Federal Aviation Administration, the Internal Revenue Service, and the Transportation Security Administration.

We initially tried to embody the Federal Aviation Administration in our amendment, but it was ruled not to be germane. So we did the next obvious thing; we went to the Internal Revenue Service, which lays out under existing law—which made it germane—the nature of the flexibility, that personnel flexibility to which Governor Ridge had referred. We thought that would, in fact, do it.

Now, much to our surprise, that apparently does not do it because they have suggested that this is a nonstarter. It seemed to be starting back in September—the third of September—but it seems to be a nonstarter today. I don't know what has changed in that timeframe. My good friend, Senator GRAMM, said that everybody is entitled to their own opinion, but they are not entitled to their own set of facts. I think this is a set of facts that we have before us. It is hard to believe that there would be more than one opinion about what Governor Ridge had to say. There should be no more than one opinion about what his letter purported to deal with. So I think this is one set of facts, with one opinion. It is possible to mischaracterize facts, but I don't think there is any way to mischaracterize the plain and simple language when he said "the same management prerogatives." He didn't say "almost the same," or "slightly different"; he said "the same management prerogatives."

I said the other day that there are times on this floor when you find out you are having a disagreement and you cannot understand why it is a disagreement; you are not sure what it is about, and you feel like Lewis Carroll must have felt when he wrote Alice in Wonderland. I have not seen the cheshire cat, but when winning is described as winning in the media about this issue, I feel as if we are in Alice in Wonderland.

Let me also suggest that there have been some news reports that I made reference to from the past few days that might shed some light on this situation. On Friday, Paul Light, of the respected Brookings Institution, told the Chicago Tribune that the differences between the two sides in this fight—he calls it a "fight"—are relatively minor and that Democrats have already given the President almost everything he requested. I think Senator LIEBERMAN parenthetically has said he has given 95 percent. We have been looking for a way to close the gap. I quote from his story:

> I don't think the answer's in the legislation. I think it is a little bit about Iraq and a little bit about the election.

Mr. Light said the President should declare victory and move on. He said:

> Any President in history would celebrate the enormity of consensus that exists in Congress right now. The President has gotten 95 percent of what he wants.

I think it is closer to 99; obviously, it is not 100. Today's issue of Roll Call includes a news story and a column in which some Republican leaders outline a strategy to use the homeland security issue in the coming elections.

Mark Preston, a very able reporter from this respected publication, wrote:

> A disagreement over key labor issues in the homeland legislation might force this bill to be shelved until after November.

Mr. Preston quotes my good friend from Pennsylvania, the chairman of the Republican conference, Senator SANTORUM, as saying:

> There are issues not being acted upon here, and they would certainly be issues of great importance to the American people and therefore be of very great importance to a campaign.

Madam President, they are very important to the American people, and no more important for us to do today and tomorrow is to deal with national security as it relates to the American people, and put aside partisan politics, put aside this election and electioneering and resolve the differences and close the difference between 95 percent and 100 percent. The differences are, in fact, I think, as Mr. Light said, very small.

Accusations of obstructionism seem to be aimed at securing a campaign wedge, and what we really need to do is move away from obstructionism to constructionism. We can be constructive in developing this particular approach. There are some other issues besides the flexibility issue, and we thought we had pretty much closed the gap there as well.

The Morella amendment, as it was introduced in the House, relates to the question of collective bargaining. What this particular amendment does is go back and have Morella included in the amendment as it was introduced in the House. It may not be exactly what was requested, but we have suggested that if there are some particular questions or some particular interests in adding some language that would make this better, we are entirely interested in doing that.

The truth is that we have not had that opportunity to try to bring that about. We met Thursday, we met Friday, and we met today. I think it is time for us to stop meeting and time for us to find a way to solve the issue. We are beyond meeting, I believe, when it comes to this particular amendment. Flexibility is important and making sure that what we do in terms of this legislation is that we not adversely impact job security for national security, and certainly not unintentionally.

The White House has made it clear they have no plans to go in and make major wholesale changes. I take them at their word. I think if that is the case—and I take them at their word—then we ought to find, if not this language, some language that will permit us to close the gap to move this forward. If, in fact, it is everybody's plan to achieve a result here, then I think we can achieve one.

I truly believe it is important to the national interest to be able to deal with the personnel flexibility of the President. There is no question he needs to have the capacity to hire and fire, to promote and demote, and do what is in the best interests. There is no question about that. And adding that there be some requirement regarding the changing of authority or the changing of position in mission of the personnel is a slight adjustment. It certainly is not any kind of major intrusion on the Presidential authority.

To include the Morella language, in terms of flexibility, simply adds to that. I hope we will be able to move beyond meetings to closing the gap, bridging this debate so it brings about the best result that we can, not simply for the White House but for the people of this great country. This should not be about Republicans or Democrats. It should not be about the legislative branch or the executive branch. It ought to be about what is in the best interest, the national interest of our people, and for those who share the same desire for freedom and are struggling to achieve it in other parts of the world.

We have a great responsibility to the American people, but we also have a responsibility that is now being questioned and challenged around the world. One of the best ways for us to begin to resolve these issues is to take care of business at home. I cannot think of a better way than to adopt this amendment so we can adopt the Gramm-Miller proposal and move forward for national defense and our own homeland security.

Madam President, I appreciate the opportunity to speak, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON of Nebraska. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DAYTON). Without objection, it is so ordered.

A TRIBUTE TO THE LIFE OF HOLLADAY JOHNSTON RICHARDSON

Mr. THURMOND. Mr. President, early this morning, I lost one of my closest friends and staff members, Holly Johnston Richardson, who succumbed after a difficult battle with cancer. For nearly 30 years, she was a member of my extended family in every sense of the word. She was my right hand. My trusted advisor. My vital link to literally thousands of South Carolina friends, constituents, and family members.

But more than anything else, Mr. President, Holly Richardson was one of my dearest friends, and I will miss her more than words can convey.

To her husband, Phil, to her two wonderful children, Anne and Emmett, and to Holly's mother and father, Joanne and Coy Johnston of Summerville, South Carolina. I extend my heartfelt sympathies. I know my colleagues—so many of whom knew Holly very well—join me in expressing their support and offering their prayers during this very difficult time.

But it is Holly Richardson's life, and the courage she demonstrated throughout her illness, that is most on my mind today. I know I speak for everyone who knew and loved Holly as I did in saying that we deeply mourn her passing, and yet celebrate her wonderful life, a life dedicated to God, to her family, to her fellow man, and to her State and Nation.

Like all trusted staff members, Holly Richardson had my ear. What she probably never knew fully is that she also had my heart. On a personal level, she was—for my entire family—an unofficial "third daughter." Our confidant. Our friend. Our partner in so many aspects of our lives.

On a professional level, Holly and I were virtually inseparable. As anyone who has ever visited my Senate office knows, Holly's desk was always next to mine. We shared an office ever since she became my personal secretary in 1979. She could always be counted upon to work the longest hours, to handle the toughest jobs, and to render even-handed advice and counsel.

In fact, it was Holly who quietly bragged that she had broken in more than eight chiefs of staffs, five or six office press secretaries, eight committee chief counsels, and literally hundreds of staff assistants, aides and interns. She was, of course, correct. Holly was "the standard" when it came to professionalism, hard work, integrity and public service in a United States Senate office.

It is not an exaggeration to say that "everyone" knew Holly. Whether you were from South Carolina, or were a Washington, D.C. fixture, if you were around politics, you knew, and you came to love, Holly Richardson. From Presidents and First Ladies, to Senators and their spouses, to everyday working men and women who would call my office, Holly was beloved at every level of life.

Single-minded. Fiercely independent. Loyal and dedicated. She had the personal qualities that define what President Theodore Roosevelt once called the "courageous life."

But it was not until she was diagnosed with breast cancer less than a year ago, that people came to see just how courageous an individual Holly Richardson actually was.

Holly never wore her illness on her sleeve. She never asked you to feel sorry for her, share her burden, or wallow in her pity. In fact, few people outside of the office even knew Holly was sick. The reason was, of course, that she didn't feel sorry for herself. Holly summoned the courage of a warrior to fight her disease. And with quiet dignity and the help of the Almighty, she fought as bravely as any soldier I have ever known.

Her dedication to work, and to the people of South Carolina—whom she considered her "real bosses"—paled only to her devotion as a wife and a mother. Holly always made time for what was truly important in life. She and her husband Phil together built a loving home and were blessed with two wonderful children. She was an active member of her parish, Saint Paul's Episcopal Church, in Virginia, and managed to make time to be scout helper, soccer Mom and, above all, role model.

Holly's life was truly a gift, which she shared without reservation with everyone she knew and loved. That gift now lives on in all of us—for she inspired our lives, strengthened our spirits, and touched our hearts.

VALUE OF PUBLIC LANDS, NATIONAL PUBLIC LANDS DAY, SEPTEMBER 28, 2002

Mr. CRAIG. Mr. President, last Saturday was National Public Lands Day. It was a time for volunteers in states and communities across the country to give something back to America's public lands. National Public Lands Day is the largest grassroots, volunteer effort mounted on behalf of America's public parks, rivers, lakes, forest, rangelands, and beaches.

This year's National Public Lands Day theme was "Explore America's Backyard," recognizing that many volunteers go to nearby public lands for recreation and to enjoy the outdoors. These volunteers will put in a day of real work on needed projects ranging from trail construction and repairs to habitat restoration to making public lands more accessible for disabled visitors.

This year's signature event was held at Anacostia Park in Washington, D.C. where over 400 volunteers cleared brush, removed trash and debris, planted trees and grasses, and constructed benches and boardwalk trails. These volunteers were joined by key dignitaries: Washington, D.C. Mayor Anthony Williams, the current Miss USA, Shauntay Hinton, National Park Service Director Fran Mainella, Forest Service Assistant Chief Sally Collins, and Army Corps of Engineers Brigadier General Carl Strock.

The first National Public Lands Day, in 1994, was sponsored by three Federal agencies and attracted 700 volunteers in three sites. This year marks the ninth annual event which involved approximately 70,000 volunteers, who performed over eight million dollar's worth of improvements to our public lands at nearly 500 locations in every state. This effort involved over 19 Federal, State, local, and private partners on sites identified by eight Federal agencies.

I believe National Public Lands Day is an opportunity to build a sense of ownership by Americans—through personal involvement and conservation education.

In recognition of National Public Lands Day and this sense of ownership we should all have for our public lands, I want to spend a few minutes today and reflect on the value of our public lands and on what the future holds for them.

There are around 650 million acres of public lands in the United States. This represents a major portion of our total land mass. However, most of these lands are concentrated in the West, where as much as 82 percent of a state can be composed of Federal land. In fact, 63 percent of my own home State of Idaho is owned by the Federal Government.

This can be beneficial, as our public lands have a lot to offer. For starters, there are numerous resources available on our public lands—from renewable forests to opportunities to raise livestock to oil and minerals beneath the surface—public lands hold a great deal of the resources we all depend on to live the lives we enjoy.

Having resources available on public lands affords us the opportunity for a return on those resources to help fund government services, from schools to roads to national defense, and ease the burden on taxpayers.

Just as important, though, are the recreation opportunities our public lands offer. Every day, people hike and pack into the solitude of wilderness areas, climb rocks, ski, camp, snowmobile, use off-road vehicles, hunt, fish, picnic, boat, swim, and the list goes on. Because the lands are owned by all of us, the opportunity has existed for everyone to use the land within reasonable limits.

However, times are changing. We are in the midst of a slow and methodical attack on our access to public lands. It started with the resources industries. It will not stop there. At the same time some radical groups are fighting to halt all resource management on our public lands, they are working to restrict and, in some cases, eliminate human access to our public lands for recreation.

Yes, we must manage our public lands responsibly, which includes restrictions on some activities in some areas. What we must not do is unreasonably restrict or eliminate certain activities. Some people like to hike in backcountry areas where they can find peace and solitude while others prefer to ride ATVs into the woods. Some prefer to camp in more developed facilities while others prefer primitive spots. The point is that recreational opportunities on our public lands should be as diverse as the American public's interests.

On the same note, we can use the natural resources we need in an environmentally responsible manner and still have plenty of opportunities to recreate. In fact, recreation, resource, and environmental interests can team together to help each other out. In my own State of Idaho, on the Nez Perce National Forest, representatives of these interests and many others have come together through a stewardship project. These groups are working with the Forest Service to implement a project that works for everyone and addresses all of their needs in some fashion. In order to achieve such success, each group has had to compromise to agree on a prescription that works for everyone. This is just one example of differing interests working together to help each other out and improve the opportunities on our public lands for everyone. We need to see more of this around the country.

Public land management has become embroiled in fights, appeals, and litigation. The result is that the only ones who are winning are those who want to ensure we don't use our public lands. This must stop. Differing interests have to come together and realize that we all have one common goal—use of the land in a responsible manner. We can not continue to make the same mistakes of the past on our public lands.

That being said, I would like each of my colleagues to think about how public lands benefit their state and how they might work to support the new generation that is working to make each day National Public Lands Day.

ADDITIONAL STATEMENTS

JOHN STALLWORTH

• Mr. SESSIONS. Mr. President, I rise today to recognize the achievements of John Stallworth on the occasion of his recent induction into the Pro Football Hall of Fame on August 4, 2002.

Mr. Stallworth was born on July 15, 1952 in Tuscaloosa, AL. At the age of 5 he was told by doctors that he had polio, later found to be a mis-diagnosis. Mr. Stallworth overcame that hurdle to excel at a number of sports. In high school, he served as captain of his school's football team and went on to play his college ball at Alabama A&M located in Normal, Alabama just outside of Huntsville. While at Alabama A&M, Mr. Stallworth was an All-Southern Intercollegiate Athletic Conference receiver in 1972 and 1973 and became the Bulldogs' all-time leading receiver. He was also the first Alabama A&M player to be selected to participate in the Senior Bowl, college football's premiere all-star game in Mobile.

He was selected by the NFL Pittsburgh Steelers in the fourth round of the 1974 NFL draft, the 82nd player taken that year. I think a few teams around the league kicked themselves later for passing him up when they saw what he could do on the football field. After spending his first year as an understudy, he became a starter in his second season and held that job with the Steelers for the rest of his 14 year, 165-game career. The 6–2, 191 pound receiver teamed first with Lynn Swann and later with Louis Lipps to give the Steelers unusually potent pass-receiving tandems. Stallworth caught 537 passes for 8,723 yards and 63 touchdowns, all Steelers team records. Stallworth won four Super Bowl championships playing in Super Bowls IX, X, XIII, and XIV. He played in six AFC championship games and had 12 touchdowns and 17 consecutive postseason games with at least one reception. Stallworth, who scored the winning touchdown on a 73-yard reception in Super Bowl XIV, holds Super Bowl records for career average per catch—24.4 yards—and single game average, 40.33 yards, in Super Bowl XIV. He was an All-Pro in 1979 and played in four Pro-Bowls. He was voted MVP by his teammates twice: in 1979 and 1984. Terry Bradshaw and Jack Lambert are the only other players who have received that honor two times. Stallworth was named to the Steelers' All-Time Team in 1982 and the Alabama Sports Hall of Fame in 1989.

Never known for excessive celebration or as one who sought individual attention, Hall of Fame Coach Chuck Noll said of Stallworth:

> John is a very special person. He is very much a team man and you need that to be successful.

Following his Hall of Fame football career, Mr. Stallworth returned to Huntsville, Alabama completed his MBA from Alabama A&M. Since then, he has achieved great success in the field of business. He is Cofounder, President, and Chief Executive Officer of Madison Research Corporation in Huntsville, Alabama. Under Mr. Stallworth's leadership, the Madison Research Corporation has emerged as one of the premier technology companies in the State of Alabama with 2001 revenues of over $60 million and a current staff of over 650 people. Some of his company's clients include: the Department of Defense, all the military services, the Department of Energy, NASA, the Defense Intelligence Agency, and a number of Fortune 500 companies. As a result of Mr. Stallworth's leadership, Washington Technology Magazine ranked Madison Research Company #11 of the nation's top 25 small, minority-owned technology companies. The company also received the 1998 Better Business Bureau of North Alabama's Torch Award for market ethics. This award was presented in recognition of Madison Research's commitment to ethics in business. Mr. Stallworth also received the 1997 Region IV Minority Small Business Person of the Year Award, presented by the Small Business Administration.

Mr. Stallworth's dedication did not end with football or business. He has given of himself to the city of Huntsville and the people of Alabama and they recently recognized his accomplishments with "John Stallworth Day in Huntsville". At the celebration Mel Blount, himself a Hall of Famer, spoke of Stallworth:

> John Stallworth exemplifies what a true professional is all about, not just in football but in the business world and in life.

Mr. Stallworth has served on a number of boards including the United Way, the Museum of Aviation, the Madison County Chamber of Commerce, the U.S. Space Camp, Harris

Home for Underprivileged Children, and Alabama A&M University. He has been active with the Huntsville Boys and Girls Club, the United Negro College Fund, the Children's Advocacy Center, the Rotary Club of Huntsville, the Alzheimer's Association of Greater Huntsville, and Big Brothers/Big Sisters of North Alabama to name a few. He is also chairman of the Board of Directors of the John L. Stallworth Scholarship Foundation which helps to promote the education of our youth.

I have had the opportunity to get to know John Stallworth over the years and I can say that I am proud to call him my friend. He has served on my technology advisory committee and has been an asset to my work here in the Senate. He has never hesitated to provide me with expert counsel on important issues that have come before the Senate. It is very satisfying for me to see how he has overcome adversity in his life to achieve greatness as a professional and as a human being. His accomplishments on and off the field have inspired thousands of our young people to strive for excellence and I applaud his efforts. The People of the State of Alabama are proud to call him our native son.

I am proud to recognize the accomplishments of a great American and Alabamian, John Stallworth.•

TREATY TRIBES LOCATED IN THE STATE OF SOUTH DAKOTA

• Mr. JOHNSON. Mr. President, I am honored to represent a State that has nine treaty tribes. It has become increasingly clear that nothing is more important to the tribes of South Dakota than the recognition of the obligations this Nation has to the Indian people of South Dakota as spelled out by the treaties entered into by the United States Government and the tribes of South Dakota. Especially at the urging of President John Steele of the Oglala Sioux Tribe and Chairman Andrew Grey of the Sisseton-Wahpeton Sioux Tribe, I offer this statement pertaining to this issue of critical importance to the tribes located within my home State of South Dakota. As you know, the South Dakota tribes have a proud history of providing leadership to Indian issues. I thank President Steele and Chairman Grey for helping me understand this issue. It is with the utmost respect that I share with you some of our tribes' perspective on what treaties mean to them, as follows:

> It is important to note that each of the Tribes located in the State of South Dakota have entered into treaties with the Federal Government. All federally recognized Indian tribes and villages are often categorized into the same class. However, important rights were guaranteed to the South Dakota tribes by treaty, and many of these rights continue to be enforceable today. From the first treaty with the Delawares in 1787 until the end of treaty-making in 1871, hundreds of agreements were entered between the Federal Government and various bands and tribes of Indians. Provisions of the treaties differ widely, but it was common to include a guarantee of peace, a delineation of boundaries, often with a cession of specific lands from the tribe to the Federal Government, a guarantee of Indian hunting and fishing rights, often applying to the ceded land, a statement that the tribe recognized the authority or placed itself under the protection of the United States, and an agreement regarding the regulation of trade and travel of persons in the Indian territory. Treaties also commonly included agreements by each side to punish and compensate for acts of depredation by "bad men" among their own number, a clause that still can support a claim against the Unites States. See Tsosie v. United States, 825 F.2d 393 (Fed.Cir. 1987).
>
> Indian treaties stand on essentially the same footing as treaties with foreign nations. Because they are made pursuant to the Constitution, they take precedence over any conflicting State laws by reason of the Supremacy Clause. U.S. Const., Art. VI, Sec. 2; Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832). They are also the exclusive prerogative of the Federal Government. The First Trade and Intercourse Act, 1 Stat. 137 (1790), forbade the transfer of Indian lands to individuals or States except by treaty "under the authority of the United States." This provision, repeated in later Trade and Intercourse Acts, has become of tremendous importance in recent years, for several eastern States negotiated large land cessions from Indian tribes near the end of the eighteenth century. In County of Oneida v. Oneida Indian Nation, 470 U.S. 226, (1985), the Court held invalid a treaty entered in 1795 between the Oneidas and the State of New York. The treaty, which had been concluded without the participation of the Federal Government, transferred 100,000 acres of Indian lands to the state. The Court held that the tribe still had a viable claim for damages. Similar claims exist in other eastern states; in Maine, the likely invalidity of a 1795 state-tribal treaty clouded land titles covering about sixty percent of the State until legislation settled the issue. See *Joint Tribal Council of Passamaquoddy Tribe* v. *Morton*, 528 F.2d 370, 1st Cir. 1975; Maine Indian Claims Settlement Act, P.L. 96–420, 94 Stat. 1785, 1980.
>
> Not only is the treaty-making power exclusively federal, it is almost entirely presidential. While it is true that two-thirds of the Senate must concur in any treaty, the initiation of the process and the terms of negotiation are inevitably controlled by the executive branch. Indeed, there were many instances, especially in California, where executive officials negotiated treaties and acted upon them despite the failure of the Senate to ratify them. In the middle of the eighteenth century, Congress and particularly the House of Representatives grew increasingly resentful of being excluded from the direction of Indian affairs. The ultimate result was the passage in 1871 of a rider to an Indian appropriations act providing that "No Indian nation or tribe . . . shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty." 25 U.S.C.A. Sec. 71. The rider also specified that existing treaty obligations were not impaired. As an attempt to limit by statute the President's constitutional treaty-making power, the rider may well be invalid, but it accomplished its purpose nonetheless by making it clear that no further treaties would be ratified. Indian treaty-making consequently ended in 1871. Thereafter formal agreements made with the tribes were either approved by both houses of Congress or were simply embodied in statutes.
>
> Congress, in declaring that Indian tribes should no longer be acknowledged as independent political entities with whom the Untied States might contract by treaty, did not end the tribal organization of Indian communities. The solution to the 1871 Act was the use of "treaty substitutes that consisted of agreements that were directed and authorized by Congress. Yet, other agreements were negotiated by the Indian Office to solve particular needs or resulted from Indian initiative. Most concerned cessation of land or other modification of boundaries whereby the need to declare peace between two sovereign nations was no longer an essential goal. Although such agreements were similar to treaties, Tribal consent was no longer a prerequisite to establish a binding agreement.
>
> Many reservations were established by Executive Order issued by the President of the United States. Although no general law existed authorizing set asides for Indian use, Congress and the public acquiesced and the Courts upheld the action. Executive orders differed from treaties wherefore they could be easily changed and a new one substituted as occasion demanded. They were neither uniform in terminology nor scope. In addition, a reservation could be established by administrative action prior to the issuance of an executive order and later sanctioned by the official action taken by the President. A 1952 Report by the Commissioner of Indian Affairs found that of the total of 42,785,935 acres of Tribal trust land only 9,471,081 acres had been established by Treaty and the remaining 23,043,439 acres of trust land were established by executive order.
>
> Federally-recognized Indian tribes in South Dakota signed the Treaty of Fort Laramie with the desire to declare peace and thereby perpetuate a Nation-to-Nation relationship with the Federal Government. The common misperception that most Tribes have entered into treaties with the United States serves as a great injustice to Tribes who have entered into such formal and solemn agreements. In 1890 there were 162 established Tribes; 56 of those were established by executive order, 6 by executive order under the authority of Congress, 28 by acts of Congress, 15 by treaty and executive order, 5 by treaty or agreement and an act of Congress, 1 by unratified treaty and 51 by treaty or agreement. The treaty establishing the South Dakota Tribes is a contract negotiated between sovereign nations, relating to peace and alliance formally acknowledged by the signatories of the nations. The United States entered into such agreement because they desired peace and cessions of land from the Sioux Tribes, and in return they made promises that must be upheld. In conclusion, it is appropriate to recognize the special status of the treaty tribes located in South Dakota.•

GUADALUPE MOUNTAINS NATIONAL PARK

• Mr. BINGAMAN. Mr. President I rise today to congratulate the staff and supporters of Guadalupe Mountains National Park as we mark the 30th anniversary of this great natural treasure. Thirty years ago, the National Park Service established the Guadalupe

Mountains National Park along the southeastern border of New Mexico and west Texas.

Guadalupe Mountains National Park treasures and protects desert lowlands, canyons, and a relic forest of pines and firs. It also includes one of the world's greatest examples of a non-coral fossil reef. In addition, the rich cultural history and economic opportunities it provides to the region is part of the park's significance.

Throughout my time in the Senate I have worked to protect our natural, cultural, and historical resources. The Guadalupe Mountains National Park is a prime example of the natural beauty of the Southwest. I hope this refuge will provide enjoyment for many future generations.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 20, 2001 in Albany, NY. A gay man was beaten while sitting on a bench next to a bike path. The assailants, three teens, approached the victim, used anti-gay slurs, and repeatedly punched him in the head with their fists. Investigators believe the victim was targeted because of his sexual orientation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

WELCOMING TAIWAN'S FIRST LADY, WU SUE-JEN

● Mr. ALLEN. Mr. President, I want to welcome Madame Chen Wu Sue-jen, First Lady of Taiwan, to the United States.

Madame Chen is a great champion of democracy, both at home and abroad. I applaud her efforts to learn from America's experiences so that she can take those lessons back to Taiwan and its evolving democracy.

During her stay in the United States, Madame Chen has met with many of our nation's finest scholars and statesmen. She has brought with her a wonderful example of leadership, charity and devotion to the American people and continues to strive for human rights and justice at home.

I congratulate Madame Chen on her accomplishments and welcome her to the United States. We look forward to continued friendship with Madame Chen and the Taiwanese people.●

PEACEFUL END TO A TENSE BASEBALL SEASON

● Mr. LEAHY. Mr. President, yesterday marked the end of the Major League Baseball regular season. Fans everywhere have enjoyed a season with Barry Bonds leading the league in hitting, Alex Rodriguez hitting 57 home runs, and Randy Johnson and Curt Schilling combining as perhaps the greatest pitching duo ever. It has been a tremendous season of achievement for many teams. The Minnesota Twins, a team Commissioner Selig wanted to disband last off-season, won the American League Central Division. The Oakland A's set an American League record with a 20-game winning streak and won the American League's Western Division.

Eight teams, and fans from across the country and around the world, are now gearing up for an exciting playoff season. The Twins and the A's, as well as the Anaheim Angels, the St. Louis Cardinals and the San Francisco Giants, have earned the opportunity to continue into the playoffs, to compete for a pennant and even the World Series championship along with last year's champion Arizona Diamondbacks, the New York Yankees and the Atlanta Braves. They are not the eight teams with the highest payrolls or biggest markets. They do share a few things in common: talented players having outstanding seasons, great team play and exceptional management both on and off the field.

We are fortunate that this baseball season is being played to its rightful conclusion and that crisis was avoided on August 30, when negotiators for team owners and the Major League Baseball Players Union reached a new collective bargaining agreement. Announced just two hours before another work stoppage, this agreement saved professional baseball from a disastrous screeching halt to yet another baseball season.

With this agreement baseball can now go about the business of assessing the future of the sport in Montreal. It is unfortunate that this fine city, its team with a number of outstanding players, and its fans have been left in limbo for the past year over the future of the franchise. For a large number of Vermonters, Montreal provides the closest major league venue. This franchise is the major league affiliate for our own minor league Vermont Expos. There are many dedicated Expos fans in my State. Several local towns are doing their best to show their support for keeping the Expos in Montreal. I ask that a letter recently sent by the St. Albans Town Selectboard to the Mayor of Montreal be printed in the RECORD.

The letter follows:

AUGUST 12, 2002.

Mayor GERALD TREMBLAY,
Montreal, Quebec.

MAYOR TREMBLAY, the St. Albans Town Selectboard wishes to express our utmost hope that the city of Montreal tries everything possible to help retain the Montreal Expos.

Montreal is a beautiful international city with much diversity and many different types of cultures. We believe the Expos are a large part of the city and it serves to bring many people from Northern Vermont to your city every year.

With a downtown stadium, we believe the Expos can flourish once again and help attract many more tourists to your wonderful city. We hope that you and your government are trying everything possible to work with new-interested buyers.

If the Town of St. Albans can be of assistance please feel free to contact us.

Cordially Yours,

TAYT R. BROOKS,
Vice-Chair.

Mr. LEAHY. Mr. President, through repeated hearings in the Judiciary Committee, Congress has tried to help the Major League Baseball owners and players find common ground. After the last work stoppage, we culminated almost a decade of hearings examining labor strife and other problems in major league baseball, when we enacted the Curt Flood Act in 1998. Senator HATCH was the lead sponsor of that measure, and I was his principal cosponsor. It was a bipartisan effort to clarify the law. By that effort we hoped to promote labor peace in Major League Baseball.

The principle purpose of the law was to make clear that federal antitrust laws apply to the relationships between major league team owners and players. Clarifying the law was intended to contribute to an atmosphere in which management and labor, owners and players would resolve their differences through collective bargaining rather than through work stoppages. I hope that the Curt Flood Act and our efforts over the last several years, including the hearing we held this Congress at the requests of Senators WELLSTONE, DAYTON, DORGAN and JOHNSON, contributed in some small way to creating a legal framework and atmosphere in which the parties could resolve their differences through agreement.

Fortunately, baseball has avoided its ninth work stoppage since 1972. During the previous eight work stoppages, 1,736 games were lost—including 938 that were wiped out because of the 1994–95 labor war. Clearly, another work stoppage would have had serious consequences for the professional game. I congratulate Commissioner Selig, Bob Dupuy and their team and Don Fehr and his team on reaching an accord.

Earlier this year Forbes Magazine estimated that the New York Yankees were worth $730 million. The New York Mets were the next-highest valued franchise at $482 million, followed by the Los Angeles Dodgers ($435 million) and the Boston Red Sox ($426 million). Even, the Montreal Expos franchise was valued at over $100 million. The average annual salary for major league players this season reportedly is $2.8 million.

We all hope the recent labor agreement marks a new era of cooperation in Major League Baseball. I remind both the owners and the players that the responsibility for preserving the best of our national pastime—and for restoring the faith and enthusiasm of the fans across the United States—is their opportunity in the coming months and years.

May all of the fans of professional baseball enjoy an exciting post-season, and I wish each of the playoffs teams well.●

RONALD REAGAN

● Mr. HAGEL. Mr. President, I rise today to recognize one of our greatest American Presidents and one of the most important world leaders of the 20th century, the 40th President of the United States, Ronald Reagan.

One year ago, Kyung Hee University in Korea awarded President Reagan the Great World Peace Award for his commitment to world peace.

President Reagan was a steadfast and true friend of South -Korea. Former Secretary of State George Shultz wrote that "To Ronald Reagan, South Korea was a stalwart ally and a valiant symbol of resistance to communism." The Soviet downing of the Korean Airlines flight 007 in September 1983, and the terrorist bombing the next month that killed 16 South Koreans, including Foreign Minister Lee Bum Suk and 3 Cabinet ministers, only reinforced President Reagan's determination to visit the Republic of Korea that November. President Reagan addressed the Korean National Assembly on November 12, 1983, and said to the people of South Korea: "In these days of turmoil and testing, the American people are very thankful for such a constant and devoted ally. Today, America is grateful. to you."

President Reagan and his administration stood by South Korea during a volatile and historic period, including the North Korean terrorist bombing of Korean Airlines flight 858 in November 1987, which killed 115 South Korean citizens; the first peaceful transfer of power from President Chun Doo Hwan to President Roh Tae Woo in February 1988; and the 1988 Summer Olympics in Seoul.

As we see both opportunity and risk on the Korean Peninsula, including the recent ground breaking visit of Japanese Prime Minister Junichiro Koizumi to Pyongyang, the commitment of President Reagan and the United States to peace through strength on the Korean peninsula and throughout Asia and the world remains strong.

Mr. President, I ask that the statement of Ambassador Joseph Verner Reed, who last year accepted the Great World Peace Award on behalf of President Reagan, be printed in the RECORD.

The statement follows.

REMARKS BY AMBASSADOR JOSEPH VERNER REED ON THE OCCASION OF THE AWARDING TO PRESIDENT RONALD W. REAGAN THE GREAT WORLD PEACE AWARD, KYUNG HEE UNIVERSITY, SEOUL, REPUBLIC OF KOREA, SEPTEMBER 27, 2001

AMERICA

"One flag,
one land,
one heart,
one hand,
one Nation,
evermore."

—*Oliver Wendell Holmes*

Chancellor YOUNG SEEK CHOUE,

DISTINGUISHED FRIENDS: It is a signal honor for me to be in Seoul, the noble nation of the Republic of Korea to represent President Ronald W. Reagan and to accept on the President's behalf the Great World Peace Award from Keyung Hee University.

I have the highest regard for Chancellor Choue. I stand with great respect for the Chancellor's extraordinary achievements in the world of education and in his untiring quest to seek peace on our troubled planet. As the godfather of the International Day of Peace his legacy is assured by leaders around the globe. As a spirited leader in education in this great country of Korea his fame and presence in modern day Korean history is already set in granite. I salute the Chancellor.

President Reagan is a most deserving leader to receive this Award. The President's close friend and colleague Charles Z. Wick, who was a senior official in both Reagan Administrations, was to have journeyed to Seoul to accept the Award. The Day of Terror precluded that.

I stand humbly before you to accept the Award for the President. Having served in President Reagan's two Administrations—first as envoy to the Kingdom of Morocco and then as envoy to the United Nations, I appreciate and applaud what the President did in searching for peace—the President's vision brought stability to the globe. President Reagan defined and symbolized Peace—peace among mankind.

I stand before you as an American.

THE WAR AGAINST THE TERRORIST

September 11.—I was on my way to the United Nations to participate in the opening of the General Assembly on the very day when we should have been celebrating the International Day of Peace at the Parliament of Man.

8:48 a.m.—And the world as we knew it changed forever in a millisecond. The Day of Terror and the aftermath was, is and continues to be a shock for the world. Americans and friends around the globe are reeling from the attack on America's sovereignty.

As a diplomat working for you at your United Nations I have a perspective on the catastrophe. I am going to place my citizen of the United States hat on with these few observations—observations that I sincerely regret to make on an occasion when we should all be in celebration of Peace.

This war will be won or lost by the American citizens, not diplomats, politicians or soldiers.

In spite of what the media is telling us, this act was not committed by a group of mentally deranged fanatics. To dismiss them as such would be among the gravest of mistakes. This attack was committed by a ferocious, intelligent and dedicated adversary. Don't take this the wrong way. I don't admire these men and I deplore their tactics, but I respect their capabilities. The many parallels that have been made with the Japanese attack on Pearl Harbor are apropos. It was a brilliant sneak attack against a complacent America.

These men hate the United States with all of their being, and we must not underestimate the power of their moral commitment. Napoleon, perhaps the world's greatest combination of soldier and statesman, stated "the moral is the physical as three is to one." Our enemies are willing—better said, anxious—to give their lives for their cause.

In addition to the demonstration of great moral conviction, the recent attack demonstrated a mastery of some of the basic fundamentals of warfare namely: simplicity, security and surprise.

This was not a random act of violence, and we can expect the same sort of military competence to be displayed in the battle to come.

This war will escalate, and a good portion of it may happen right in the United States.

These men will not go easily into the night. They do not fear us. We must not fear them. In spite of our overwhelming conventional strength as the world's only "superpower", we are the underdog in this fight. As you listen to the carefully scripted rhetoric designed to prepare us for the march for war, please realize that America is not equipped or seriously trained for the battle ahead. To be certain, our soldiers are much better than the enemy; and we have some excellent "counter-terrorist" organizations, but they are mostly trained for hostage rescues, airfield seizures, or the occasional "body snatch," (Which may come in handy). We will be fighting a war of annihilation, because if their early efforts are any indication, our enemies are ready and willing to die to the last man. Eradicating the enemy will be costly and time consuming. They have already deployed their forces in as many as 20 countries. They are likely living the lives of everyday citizens as "next door." Simply put, our soldiers will be tasked with a search and destroy mission on multiple foreign landscapes, and the public must be patient and supportive until the strategy and tactics can be worked out.

For the most part, our military is still in the process of redefining itself and presided over by men and women who grew up with, and were promoted because they excelled in—"The Cold War—doctrine, strategy and tactics. This will not be linear warfare, there will be no clear "centers of gravity" to strike with high technology weapons.

America's vast technological edge will certainly be helpful, but it will not be decisive. Perhaps the perfect metaphor for the coming battle was introduced by the terrorists themselves aboard the hijacked aircraft—this will be "a knife fight", it will be won or lost by the ingenuity and will of citizens and soldiers, not by software or "smart bombs"'.

Unlike Americans, who are eager to put this messy time behind us, our adversaries have time on their side, and they will use it. They plan to flight a battle of attrition, hoping to drag the battle out until the American public loses its will to fight.

It is clear to me that the will of the American citizenry is the center of gravity the enemy has targeted. It will be the fulcrum upon which victory or defeat will turn.

The Prussian General Carl von Clausewitz, says that there is a "remarkable trinity of war" that is composed of (1) the will of the people, (2) the political leadership of the government, and (3) the chance and probability that plays out on the field of battle—in that order. Every American citizen, not just those who were unfortunate enough to be in the World Trade Center or Pentagon, was in the crosshairs of last Tuesday's attack. The will of the American people will decide this war.

If America is to win, it will be because we have what it takes to persevere through a few more hits, learn from our mistakes, improvise and adapt. If we can do that, we will eventually prevail.

New York's remarkable response to the catastrophic attack at the World Trade Center has been well documented. Above the tragic din, at the very highest level of government, have come the essential voices of sanity. In closing, may I say that after all that has just passed, all the lives taken and all the possibilities and hopes that died with them, it is natural to wonder if America's future is one of fear. Some speak of an age of terror. With the obscene toll of those lost climbing above 6,000, it is hard to speak without rage.

In Korea and on this Peninsula you have known all too well the ravages of war and occupation. It is therefore why I have taken your time today to share my observations on the world we live in and what we may have to expect. I know there are struggles ahead and dangers to face. As an American and a friend of the Republic of Korea I can say frankly that I believe America will define our times, not be defined by them. As long as the United States of America is determined and strong, this will not be the age of terror. This will be the age of liberty in America and across the world.

I know you will join me in extending our deepest sympathies to the thousands affected by the tragic events of September 11. It was a Day of Terror and the aftermath has been of unspeakable pain. Our hearts and prayers extend to all—the victims, their families and all those who hold America so dear.

Chancellor Choue—on behalf of President Ronald W. Reagan I extend great thanks to you for offering the President this Award. With humbleness, with honor and with great pride, I accept on behalf of President Ronald Reagan, this most distinguished Award—The Great World Peace Award.

Chancellor Choue, ladies and gentleman, keep faith in America—the outcome of the battle is certain.

God Bless America!

Thank you!

Happy Chusok.•

HONORING BIODIESEL-FUELED DRAGSTER

• Mrs. CARNAHAN. Mr. President, I wish to take this opportunity to recognize a remarkable achievement receiving worldwide attention from farmers, environmentalists, and racing fans. The Smith family of Puxico, MO, has set repeated world records with its biodiesel-fueled dragster named "Wild Thang." Wild Thang is a family affair for the Smiths. Mark Smith drives the dragster, assisted by his wife Shelia and sons Jared and Cannon. Their ingenuity has helped showcase the limitless potential of biofuels. They make me proud to be a Missourian.

Wild Thang is fueled 100 percent by biodiesel, a soybean-based renewable fuel that can help us rely on the Midwest, rather than the Middle East to meet our energy needs. The Smiths are proving in appearances across the Nation that soybean-based biodiesel can perform under the most rigorous conditions. Wild Thang produces 6,000 pounds of thrust and five g's of force against the driver's body while accelerating. In just 3.8 seconds, Wild Thang can travel ⅛ of a mile.

I commend the Smith family and their network of supporters for their hard work. They are tremendous ambassadors for rural Missouri and for biodiesel. I am confident that the future will prove that the efforts of the Smith family are playing a key role in promoting of farmer-produced biofuels. These fuels have unlimited potential to revitalize rural economies while preserving the environment. I commend the Smith family's achievements, and wish them continued success as they continue their exciting endeavor.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on September 30, 2002, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 1646. An act to authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

Under the authority of the order of the Senate of January 3, 2001, the enrolled bill was signed by the President pro tempore (Mr. BYRD) on September 30, 2002.

ENROLLED BILL SIGNED

At 2:41 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1325. An act to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

MEASURES PLACED ON THE CALENDAR

The following bills and joint resolution were read the second time, and placed on the calendar:

H.R. 4691. An act to prohibit certain abortion-related discrimination in governmental activities.

S. 3009. A bill to provide economic security for America's workers.

S.J. Res. 45. Joint resolution to authorize the use of United States Armed Forces against Iraq.

ENROLLED BILLS PRESENTED

The Secretary of the Senate announced that on today, September 30, 2002, she had presented to the President of the United States the following enrolled bills:

S. 238. An act to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

S. 1175. An act to modify the boundary of Vicksburg National Military Park to include the property known as Pemberton's Headquarters, and for other purposes.

S. 1325. An act to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.—

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with amendments:

S. 2998: A bill to reauthorize the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988, and for other purposes. (Rept. No. 107-292).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2949: A bill to provide for enhanced aviation security, and for other purposes. (Rept. No. 107-293).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1806: A bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 3015. A bill to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the "Santiago E. Campos United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. DASCHLE:

S. 3016. A bill to amend the Farm Security and Rural Investment Act of 2002 to require the Secretary of Agriculture to establish research, extension, and educational programs to implement biobased energy technologies, products, and economic diversification in rural areas of the United States; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEVIN:

S. 3017. A bill to amend title 18, United States Code, to provide retroactive effect to a sentencing safety valve provision; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself, Mr. LOTT, Mr. INOUYE, and Mr. AKAKA):

S. Res. 331. A resolution relative to the death of Representative Patsy T. Mink, of Hawaii; considered and agreed to.

ADDITIONAL COSPONSORS

S. 278

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 278, A bill to restore health care coverage to retired members of the uniformed services.

S. 710

At the request of Mr. KENNEDY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 710, A bill to require coverage for colorectal cancer screenings.

S. 1712

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1712, A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 2726

At the request of Mr. BINGAMAN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2726, A bill to treat certain motor dealer transitional assistance as an involuntary conversion, and for other purposes.

S. 2770

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 2770, A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Washington (Ms. CANTWELL) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2869, A bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2874

At the request of Mr. DAYTON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2874, A bill to provide benefits to domestic partners of Federal employees.

S. 2879

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2879, A bill to amend titles XVIII and XIV of the Social Security Act to improve the availability of accurate nursing facility staffing information, and for other purposes.

S. 2880

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2880, A bill to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes.

S. 2903

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2903, A bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 2933

At the request of Mr. BREAUX, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2933, A bill to promote elder justice, and for other purposes.

S. 3005

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3005, A bill to revise the boundary of the Kaloko-Honokohau National Historical Park in the State of Hawaii, and for other purposes.

S. RES. 322

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Res. 322, A resolution designating November 2002, as "National Epilepsy Awareness Month".

S. RES. 325

At the request of Mr. SESSIONS, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 325, Resolution designating the month of September 2002 as "National Prostate Cancer Awareness Month".

S. CON. RES. 94

At the request of Mr. MILLER, his name was added as a cosponsor of S. Con. Res. 94, A concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

S. CON. RES. 94

At the request of Mr. WYDEN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. Con. Res. 94, supra.

S. CON. RES. 135

At the request of Mr. NICKLES, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. Con. Res. 135, A concurrent resolution expressing the sense of Congress regarding housing affordability and urging fair and expeditious review by international trade tribunals to ensure a competitive North American market for softwood lumber.

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Con. Res. 138, A concurrent resolution expressing the sense of Congress that the Secretary of Health And Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Ms. SNOWE), the Senator from Arizona (Mr. MCCAIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Kentucky (Mr. BUNNING) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. Con. Res. 142, A concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

S. CON. RES. 143

At the request of Mr. INHOFE, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. Con. Res. 143, A concurrent resolution designating October 6, 2002, through October 12, 2002, as "National 4-H Youth Development Program Week".

S. CON. RES. 146

At the request of Mrs. LINCOLN, the names of the Senator from Montana (Mr. BURNS) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Con. Res. 146, A concurrent resolution supporting the goals and ideas of National Take Your Kids to Vote Day.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 3015. A bill to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the "Santiago E. Campos United States Courthouse"; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise today with my colleague Senator DOMENICI to introduce a bill to designate the United States Courthouse in Santa Fe, NM, as the "Honorable Santiago E. Campos United States Courthouse." Santiago Campos was appointed to the Federal Bench in 1978 by President Jimmy Carter and was the first Hispanic Federal judge in New Mexico. He held the title of Chief U.S. District Judge from February 5, 1987 to December 31, 1989, and took senior status in 1992. Judge Campos had his chambers in the courthouse in Santa Fe for over 22 years. He was also the prime mover in reestablishing Federal court judicial activity in Santa Fe and in renovating the courthouse there.

Sadly, Judge Campos passed away January 20, 2001 after a long battle with cancer. Judge Campos was not only a great man, but also a dedicated and passionate public servant who spent most of his life committed to working for the people of New Mexico and our Nation. Judge Campos was an extraordinary jurist and served as a role model and mentor to others in New Mexico. He was admired and respected by all that knew him. I believe that it would be an appropriate tribute to Judge Campos to have the courthouse in Santa Fe bear his name.

By Mr. DASCHLE:

S. 3016. A bill to amend the Farm Security and Rural Investment Act of 2002 to require the Secretary of Agriculture to establish research, extension, and educational programs to implement biobased energy technologies, products, and economic diversification in rural areas of the United States; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DASCHLE. Mr. President, today, I am introducing the Sun Grant Initiative for Renewable Energy and Biobased Products Act. The Sun Grant Initiative, or SGI, reflects a dynamic vision for the future of agriculture and rural America—a vision that can reduce our dependence on foreign energy, provide environmentally-friendly biobased alternative products, and infuse needed economic development for our nation's rural communities. SGI will build upon what our nation does best by using the power of innovation to open up new avenues of opportunity.

Specifically, SGI would identify new methods of converting various crop varieties and biobased natural resources into energy and other value-added products and provide a technology transfer of those products by:

Establishing a national consortium of land-grant universities to lead the SGI effort in coordination with the U.S. Departments of Agriculture and Energy.

The mission of the consortium would be to make significant advances—not only in technological developments, but also in making sure those new technologies make it to market, therefore providing income alternatives to farmers and ranchers and providing opportunities for economic diversification to rural communities.

Increasing our nation's investment in renewable fuels and other products like pharmaceuticals, building materials including bio-plastics, textiles, lubricants, solvents, and adhesives.

Providing a framework for new investments in necessary research, and for ensuring that producers, communities, and our nation as a whole benefit from the results of that research.

I am hopeful that Senators will review the legislation and consider cosponsoring this exciting effort to help build a biobased economy that can assist our nation in so many important ways.

By Mr. LEVIN:

S. 3017. A bill to amend title 18, United States Code, to provide retroactive effect to a sentencing safety valve provision; to the Committee on the Judiciary.

Mr. LEVIN. Mr. President, I am pleased to introduce the Safety Valve Fairness Act. This bill addresses inequities in sentencing that were created by the passage of "safety valve" provisions contained in the 1994 crime bill.

Mandatory minimum sentencing laws allow judges little or no discretion in making sentencing determinations. An unfortunate byproduct of this lack of discretion has been the imposition of disproportionately long sentences for some relatively low-level nonviolent offenders.

Congress acknowledged this in enacting so-called "safety valve" provisions as part of the 1994 crime bill. These provisions allowed a narrow class of offenders, that is individuals with no criminal history, who committed a nonviolent crime, were not leaders or organizers of the crime, and who cooperated fully with the government, to petition the court for a review of their sentence. However, the safety valve provisions did not apply to offenders sentenced before the bill became law in 1994. As a result, individuals who have arguably been most impacted by the mandatory minimum sentencing laws that the safety valve provisions sought to remedy, have been unable to benefit from their passage. This bill would rectify this situation by making the safety valve provisions retroactive to allow first-time nonviolent drug offenders convicted prior to the passage of the 1994 crime bill to petition the court for a reconsideration of their sentence.

The existing safety valve law is not a "get out of jail free" card. It simply allows prisoners to petition the courts for reconsideration. In order to have the mandatory minimum sentenced modified, offenders must first demonstrate to the court that they meet the criteria I mentioned earlier. It is up to the court to determine whether an individual is eligible to have their sentence modified and that a modification is appropriate in each case. I believe the original safety valve provisions appropriately restored discretion to the courts and it's only fair that the law be changed so it applies equally to all individuals without regard to when they were convicted.

Making the safety valve provisions retroactive would impact only an extremely small number of cases. According to the United States Sentencing Commission, only 25 to 40 currently incarcerated federal offenders would be eligible to petition the court to reconsider their sentences. All of these individuals have served at least eight years in prison and many have served significantly longer. Mr. President, I request unanimous consent to print a letter from the Sentencing Commission in the RECORD.

The same considerations that motivated the Senate's original passage of the safety valve legislation apply to those offenders who were sentenced before 1994. Fairness dictates that all those offenders who meet the criteria set out in the safety valve law should have their cases heard and I urge my colleagues to support this bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENTENCING COMMISSION,
Washington, DC, June 24, 2002.

Hon. CARL LEVIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEVIN: Thank you for your June 14, 2002, letter inquiring about the number of federal offenders who would be affected if the "safety valve" provision enacted on September 13, 1994, were made retroactive. We estimate that 25 to 40 federal offenders currently incarcerated would benefit if the safety valve provision of the 1994 Crime Bill were made retroactive to cases sentenced prior to September 13, 1994.

We cannot provide a more exact figure because of a number of data limitations. In order for the safety valve to apply, the sentencing judge must find that the offender meets certain criteria defined by Congress. For example, one such criterion is whether the defendant truthfully provided to the Government all information and evidence the defendant had concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. Because this criterion was not relevant to sentencing prior to the enactment of the safety valve provision, presentence reports for cases sentenced prior to September 13, 1994, do not necessarily address this factor. As a result, to respond to your inquiry we had to use receipt of a sentencing reduction for acceptance of responsibility as a rough proxy for this particular safety valve criterion, which may overstate or understate the actual number of offenders who would meet this criterion if the safety value were made retroactive. Proxies for certain other safety valve criterion also had to be used. In addition, the Commission does not have complete data with respect to release dates for offenders.

I hope you find this information helpful.

Sincerely,

DIANA E. MURPHY.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 331—RELATIVE TO THE DEATH OF REPRESENTATIVE PATSY T. MINK OF HAWAII

Mr. DASCHLE (for himself, Mr. LOTT, Mr. INOUYE, and Mr. AKAKA) submitted the following resolution; which was considered and agreed to:

S. RES. 331

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Patsy T. Mink, late a Representative from the State of Hawaii.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the deceased Representative.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4839. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4840. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4841. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4842. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the H.R. 5005, supra; which was ordered to lie on the table.

SA 4843. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4844. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4845. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4846. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4839. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 338, insert between lines 2 and 3 the following:

SEC. 2205. ADJUSTED DIFFERENTIALS.

(a) IN GENERAL.—Paragraph (1) of section 404(b) of the Federal Law Enforcement Pay Reform Act of 1990 (5 U.S.C. 5305 note) is amended by striking the matter after "follows:" and inserting the following:

"Area	Differential
Atlanta Consolidated Metropolitan Statistical Area	17.21%
Boston-Worcester-Lawrence, MA-NH-ME-CT-RI Consolidated Metropolitan Statistical Area	24.43%
Chicago-Gary-Kenosha, IL-IN-WI Consolidated Metropolitan Statistical Area	25.34%
Cincinnati-Hamilton, OH-KY-IN Consolidated Metropolitan Statistical Area	21.21%
Cleveland Consolidated Metropolitan Statistical Area	18.46%
Columbus Consolidated Metropolitan Statistical Area	17.75%
Dallas Consolidated Metropolitan Statistical Area	19.06%
Dayton Consolidated Metropolitan Statistical Area	16.50%
Denver-Boulder-Greeley, CO Consolidated Metropolitan Statistical Area	23.08%
Detroit-Ann Arbor-Flint, MI Consolidated Metropolitan Statistical Area	25.28%
Hartford, CT Consolidated Metropolitan Statistical Area	23.78%
Houston-Galveston-Brazoria, TX Consolidated Metropolitan Statistical Area	31.55%
Los Angeles-Riverside-Orange County, CA Consolidated Metropolitan Statistical Area	27.19%
Miami-Fort Lauderdale, FL Consolidated Metropolitan Statistical Area	21.79%
Milwaukee Consolidated Metropolitan Statistical Area	18.03%
Minneapolis-St. Paul, MN-WI Consolidated Metropolitan Statistical Area	20.21%
New York-Northern New Jersey-Long Island, NY-NJ-CT-PA Consolidated Metropolitan Statistical Area	26.44%
Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD Consolidated Metropolitan Statistical Area	21.14%
Pittsburgh Consolidated Metropolitan Statistical Area	15.97%
Portland-Salem, OR-WA Consolidated Metropolitan Statistical Area	20.90%
Richmond Consolidated Metropolitan Statistical Area	17.05%
RUS Consolidated Metropolitan Statistical Area	15.28%
Sacramento-Yolo, CA Consolidated Metropolitan Statistical Area	20.41%
San Diego, CA Consolidated Metropolitan Statistical Area	22.28%
San Francisco-Oakland-San Jose, CA Consolidated Metropolitan Statistical Area	33.06%
Seattle-Tacoma-Bremerton, WA Consolidated Metropolitan Statistical Area	20.99%
St. Louis Consolidated Metropolitan Statistical Area	15.65%
Washington-Baltimore, DC-MD-VA-WV Consolidated Metropolitan Statistical Area	20.01%".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)—

(1) shall take effect as if included in the Federal Law Enforcement Pay Reform Act of 1990 on the date of the enactment of such Act; and

(2) shall be effective only with respect to pay for service performed in pay periods beginning on or after the date of enactment of this Act.

SA 4840. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATIONS TO AVIATION AND TRANSPORTATION SECURITY ACT.

(a) SECURITY SCREENING OPT-OUT PROGRAM.—Section 44919(d) of title 49, United States Code, is amended—

(1) by striking "not more than 1 airport from each of the 5 airport security risk categories" and inserting "up to 40 airports equally distributed among the 5 airport security risk categories"; and

(2) by adding at the end the following: "The Under Secretary shall encourage large and medium hub airports to participate in the program".

(b) Extension of Deadline.—Section 110(c)(2) of the Aviation and Transportation Security Act is amended by striking "1 year after the date of enactment of this Act" and inserting "December 31, 2002".

SA 4841. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. 1 . REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

(a) Requirement.—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) Covered Items.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing;

(C) tents, tarpaulins, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) Availability Exception.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) Exception for Certain Procurements Outside the United States.—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(e) Exception for Specialty Metals and Chemical Warfare Protective Clothing.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

(f) Exception for Certain Foods.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(g) Exception for Small Purchases.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(h) Applicability to Contracts and Subcontracts for Procurement of Commercial Items.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) Geographic Coverage.—In this section, the term "United States" includes the possessions of the United States.

SA 4842. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutcinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in **TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS**, insert the following:

SEC. . NATIONAL CRITICAL INFRASTRUCTURE TESTBED.

There is established at the Idaho National Engineering and Environmental Laboratory a National Critical Infrastructure Testbed at which the Department of Homeland Security shall conduct necessary systems testing and demonstration of infrastructure target hardening methods.

SA 4843. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Homeland Security and Combating Terrorism Act of 2002".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) Divisions.—This Act is organized into 5 divisions as follows:

(1) Division A—National Homeland Security and Combating Terrorism.

(2) Division B—Immigration Reform, Accountability, and Security Enhancement Act of 2002.

(3) Division C—Federal Workforce Improvement.

(4) Division D—E-Government Act of 2002.

(5) Division E—Flight and Cabin Security on Passenger Aircraft.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

Sec. 100. Definitions.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

Sec. 101. Establishment of the Department of Homeland Security.
Sec. 102. Secretary of Homeland Security.
Sec. 103. Deputy Secretary of Homeland Security.
Sec. 104. Under Secretary for Management.
Sec. 105. Assistant Secretaries.
Sec. 106. Inspector General.
Sec. 107. Chief Financial Officer.
Sec. 108. Chief Information Officer.
Sec. 109. General Counsel.
Sec. 110. Civil Rights Officer.
Sec. 111. Privacy Officer.
Sec. 112. Chief Human Capital Officer.
Sec. 113. Office of International Affairs.
Sec. 114. Executive Schedule positions.

Subtitle B—Establishment of Directorates and Offices

Sec. 131. Directorate of Border and Transportation Protection.
Sec. 132. Directorate of Intelligence.
Sec. 133. Directorate of Critical Infrastructure Protection.
Sec. 134. Directorate of Emergency Preparedness and Response.
Sec. 135. Directorate of Science and Technology.
Sec. 136. Directorate of Immigration Affairs.
Sec. 137. Office for State and Local Government Coordination.
Sec. 138. United States Secret Service.
Sec. 139. Border Coordination Working Group.
Sec. 140. Office for National Capital Region Coordination.
Sec. 141. Executive Schedule positions.
Sec. 142. Preserving Coast Guard mission performance.

Subtitle C—National Emergency Preparedness Enhancement

Sec. 151. Short title.
Sec. 152. Preparedness information and education.
Sec. 153. Pilot program.
Sec. 154. Designation of National Emergency Preparedness Week.

Subtitle D—Miscellaneous Provisions

Sec. 161. National Bio-Weapons Defense Analysis Center.
Sec. 162. Review of food safety.
Sec. 163. Exchange of employees between agencies and State or local governments.
Sec. 164. Whistleblower protection for Federal employees who are airport security screeners.
Sec. 165. Whistleblower protection for certain airport employees.
Sec. 166. Bioterrorism preparedness and response division.
Sec. 167. Coordination with the Department of Health and Human Services under the Public Health Service Act.

Sec. 168. Rail security enhancements.
Sec. 169. Grants for firefighting personnel.
Sec. 170. Review of transportation security enhancements.
Sec. 171. Interoperability of information systems.
Sec. 172. Extension of customs user fees.
Sec. 173. Conforming amendments regarding laws administered by the Secretary of Veterans Affairs.
Sec. 174. Prohibition on contracts with corporate expatriates.
Sec. 175. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 176. Coordination of information and information technology.

Subtitle E—Transition Provisions

Sec. 181. Definitions.
Sec. 182. Transfer of agencies.
Sec. 183. Transitional authorities.
Sec. 184. Incidental transfers and transfer of related functions.
Sec. 185. Implementation progress reports and legislative recommendations.
Sec. 186. Transfer and allocation.
Sec. 187. Savings provisions.
Sec. 188. Transition plan.
Sec. 189. Use of appropriated funds.

Subtitle F—Administrative Provisions

Sec. 191. Reorganizations and delegations.
Sec. 192. Reporting requirements.
Sec. 193. Environmental protection, safety, and health requirements.
Sec. 194. Labor standards.
Sec. 195. Procurement of temporary and intermittent services.
Sec. 196. Preserving non-homeland security mission performance.
Sec. 197. Future Years Homeland Security Program.
Sec. 198. Protection of voluntarily furnished confidential information.
Sec. 199. Establishment of human resources management system.
Sec. 199A. Labor-management relations.
Sec. 199B. Authorization of appropriations.

TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS

Sec. 201. Law enforcement powers of Inspector General agents.

TITLE III—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Temporary Flexibility for Certain Procurements

Sec. 301. Definition.
Sec. 302. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 303. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
Sec. 304. Increased micro-purchase threshold for certain procurements.
Sec. 305. Application of certain commercial items authorities to certain procurements.
Sec. 306. Use of streamlined procedures.
Sec. 307. Review and report by Comptroller General.

Subtitle B—Other Matters

Sec. 311. Identification of new entrants into the Federal marketplace.

TITLE IV—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Sec. 401. Establishment of Commission.
Sec. 402. Purposes.
Sec. 403. Composition of the Commission.
Sec. 404. Functions of the Commission.
Sec. 405. Powers of the Commission.
Sec. 406. Staff of the Commission.
Sec. 407. Compensation and travel expenses.
Sec. 408. Security clearances for Commission members and staff.
Sec. 409. Reports of the Commission; termination.
Sec. 410. Authorization of appropriations.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

TITLE X—SHORT TITLE AND DEFINITIONS

Sec. 1001. Short title.
Sec. 1002. Definitions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

Sec. 1101. Abolition of INS.
Sec. 1102. Establishment of Directorate of Immigration Affairs.
Sec. 1103. Under Secretary of Homeland Security for Immigration Affairs.
Sec. 1104. Bureau of Immigration Services.
Sec. 1105. Bureau of Enforcement and Border Affairs.
Sec. 1106. Office of the Ombudsman within the Directorate.
Sec. 1107. Office of Immigration Statistics within the Directorate.
Sec. 1108. Clerical amendments.

Subtitle B—Transition Provisions

Sec. 1111. Transfer of functions.
Sec. 1112. Transfer of personnel and other resources.
Sec. 1113. Determinations with respect to functions and resources.
Sec. 1114. Delegation and reservation of functions.
Sec. 1115. Allocation of personnel and other resources.
Sec. 1116. Savings provisions.
Sec. 1117. Interim service of the Commissioner of Immigration and Naturalization.
Sec. 1118. Executive Office for Immigration review authorities not affected.
Sec. 1119. Other authorities not affected.
Sec. 1120. Transition funding.

Subtitle C—Miscellaneous Provisions

Sec. 1121. Funding adjudication and naturalization services.
Sec. 1122. Application of Internet-based technologies.
Sec. 1123. Alternatives to detention of asylum seekers.

Subtitle D—Effective Date

Sec. 1131. Effective date.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

Sec. 1201. Short title.
Sec. 1202. Definitions.

Subtitle A—Structural Changes

Sec. 1211. Responsibilities of the Office of Refugee Resettlement with respect to unaccompanied alien children.
Sec. 1212. Establishment of Interagency Task Force on Unaccompanied Alien Children.
Sec. 1213. Transition provisions.
Sec. 1214. Effective date.

Subtitle B—Custody, Release, Family Reunification, and Detention

Sec. 1221. Procedures when encountering unaccompanied alien children.
Sec. 1222. Family reunification for unaccompanied alien children with relatives in the United States.
Sec. 1223. Appropriate conditions for detention of unaccompanied alien children.
Sec. 1224. Repatriated unaccompanied alien children.
Sec. 1225. Establishing the age of an unaccompanied alien child.
Sec. 1226. Effective date.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

Sec. 1231. Right of unaccompanied alien children to guardians ad litem.
Sec. 1232. Right of unaccompanied alien children to counsel.
Sec. 1233. Effective date; applicability.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

Sec. 1241. Special immigrant juvenile visa.
Sec. 1242. Training for officials and certain private parties who come into contact with unaccompanied alien children.
Sec. 1243. Effective date.

Subtitle E—Children Refugee and Asylum Seekers

Sec. 1251. Guidelines for children's asylum claims.
Sec. 1252. Unaccompanied refugee children.

Subtitle F—Authorization of Appropriations

Sec. 1261. Authorization of appropriations.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function

Sec. 1301. Establishment.
Sec. 1302. Director of the agency.
Sec. 1303. Board of Immigration Appeals.
Sec. 1304. Chief Immigration Judge.
Sec. 1305. Chief Administrative Hearing Officer.
Sec. 1306. Removal of judges.
Sec. 1307. Authorization of appropriations.

Subtitle B—Transfer of Functions and Savings Provisions

Sec. 1311. Transition provisions.

Subtitle C—Effective Date

Sec. 1321. Effective date.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

Sec. 2101. Short title.
Sec. 2102. Agency Chief Human Capital Officers.
Sec. 2103. Chief Human Capital Officers Council.
Sec. 2104. Strategic human capital management.
Sec. 2105. Effective date.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 2201. Inclusion of agency human capital strategic planning in performance plans and program performance reports.
Sec. 2202. Reform of the competitive service hiring process.
Sec. 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 2204. Student volunteer transit subsidy.

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

Sec. 2301. Repeal of recertification requirements of senior executives.

Sec. 2302. Adjustment of limitation on total annual compensation.

TITLE XXIV—ACADEMIC TRAINING

Sec. 2401. Academic training.
Sec. 2402. Modifications to National Security Education Program.
Sec. 2403. Compensatory time off for travel.

DIVISION D—E-GOVERNMENT ACT OF 2002

TITLE XXX—SHORT TITLE; FINDINGS AND PURPOSES

Sec. 3001. Short title.
Sec. 3002. Findings and purposes.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 3101. Management and promotion of electronic Government services.
Sec. 3102. Conforming amendments.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 3201. Definitions.
Sec. 3202. Federal agency responsibilities.
Sec. 3203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 3204. Federal Internet portal.
Sec. 3205. Federal courts.
Sec. 3206. Regulatory agencies.
Sec. 3207. Accessibility, usability, and preservation of Government information.
Sec. 3208. Privacy provisions.
Sec. 3209. Federal information technology workforce development.
Sec. 3210. Common protocols for geographic information systems.
Sec. 3211. Share-in-savings program improvements.
Sec. 3212. Integrated reporting study and pilot projects.
Sec. 3213. Community technology centers.
Sec. 3214. Enhancing crisis management through advanced information technology.
Sec. 3215. Disparities in access to the Internet.
Sec. 3216. Notification of obsolete or counterproductive provisions.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

Sec. 3301. Information security.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 3401. Authorization of appropriations.
Sec. 3402. Effective dates.

DIVISION E—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

TITLE XLI—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

Sec. 4101. Short title.
Sec. 4102. Findings.
Sec. 4103. Federal flight deck officer program.
Sec. 4104. Cabin security.
Sec. 4105. Prohibition on opening cockpit doors in flight.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

SEC. 100. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:

(1) AGENCY.—Except for purposes of subtitle E of title I, the term "agency"—

(A) means—

(i) an Executive agency as defined under section 105 of title 5, United States Code;

(ii) a military department as defined under section 102 of title 5, United States Code;

(iii) the United States Postal Service; and

(B) does not include the General Accounting Office.

(2) ASSETS.—The term "assets" includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(3) DEPARTMENT.—The term "Department" means the Department of Homeland Security established under title I.

(4) ENTERPRISE ARCHITECTURE.—The term "enterprise architecture"—

(A) means—

(i) a strategic information asset base, which defines the mission;

(ii) the information necessary to perform the mission;

(iii) the technologies necessary to perform the mission; and

(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

(B) includes—

(i) a baseline architecture;

(ii) a target architecture; and

(iii) a sequencing plan.

(5) FEDERAL TERRORISM PREVENTION AND RESPONSE AGENCY.—The term "Federal terrorism prevention and response agency" means any Federal department or agency charged with responsibilities for carrying out a homeland security strategy.

(6) FUNCTIONS.—The term "functions" includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(7) HOMELAND.—The term "homeland" means the United States, in a geographic sense.

(8) LOCAL GOVERNMENT.—The term "local government" has the meaning given under section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288).

(9) PERSONNEL.—The term "personnel" means officers and employees.

(10) RISK ANALYSIS AND RISK MANAGEMENT.—The term "risk analysis and risk management" means the assessment, analysis, management, mitigation, and communication of homeland security threats, vulnerabilities, criticalities, and risks.

(11) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(12) UNITED STATES.—The term "United States", when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288)), any possession of the United States, and any waters within the jurisdiction of the United States.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

SEC. 101. ESTABLISHMENT OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—There is established the Department of National Homeland Security.

(b) EXECUTIVE DEPARTMENT.—Section 101 of title 5, United States Code, is amended by adding at the end the following:

"The Department of Homeland Security.".

(c) MISSION OF DEPARTMENT.—

(1) HOMELAND SECURITY.—The mission of the Department is to—

(A) promote homeland security, particularly with regard to terrorism;

(B) prevent terrorist attacks or other homeland threats within the United States;

(C) reduce the vulnerability of the United States to terrorism, natural disasters, and other homeland threats; and

(D) minimize the damage, and assist in the recovery, from terrorist attacks or other natural or man-made crises that occur within the United States.

(2) OTHER MISSIONS.—The Department shall be responsible for carrying out the other functions, and promoting the other missions, of entities transferred to the Department as provided by law.

(d) SEAL.—The Secretary shall procure a proper seal, with such suitable inscriptions and devices as the President shall approve. This seal, to be known as the official seal of the Department of Homeland Security, shall be kept and used to verify official documents, under such rules and regulations as the Secretary may prescribe. Judicial notice shall be taken of the seal.

SEC. 102. SECRETARY OF HOMELAND SECURITY.

(a) IN GENERAL.—The Secretary of Homeland Security shall be the head of the Department. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The responsibilities of the Secretary shall be the following:

(1) To develop policies, goals, objectives, priorities, and plans for the United States for the promotion of homeland security, particularly with regard to terrorism.

(2) To administer, carry out, and promote the other established missions of the entities transferred to the Department.

(3) To develop a comprehensive strategy for combating terrorism and the homeland security response.

(4) To make budget recommendations relating to a homeland security strategy, border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion related to homeland security, and Federal support for State and local activities.

(5) To plan, coordinate, and integrate those Federal Government activities relating to border and transportation security, critical infrastructure protection, all-hazards emergency preparedness, response, recovery, and mitigation.

(6) To serve as a national focal point to analyze all information available to the United States related to threats of terrorism and other homeland threats.

(7) To establish and manage a comprehensive risk analysis and risk management program that directs and coordinates the supporting risk analysis and risk management activities of the Directorates and ensures coordination with entities outside the Department engaged in such activities.

(8) To identify and promote key scientific and technological advances that will enhance homeland security.

(9) To include, as appropriate, State and local governments and other entities in the full range of activities undertaken by the Department to promote homeland security, including—

(A) providing State and local government personnel, agencies, and authorities, with appropriate intelligence information, including warnings, regarding threats posed by terrorism in a timely and secure manner;

(B) facilitating efforts by State and local law enforcement and other officials to assist in the collection and dissemination of intelligence information and to provide information to the Department, and other agencies, in a timely and secure manner;

(C) coordinating with State, regional, and local government personnel, agencies, and authorities and, as appropriate, with the private sector, other entities, and the public, to ensure adequate planning, team work, coordination, information sharing, equipment, training, and exercise activities;

(D) consulting State and local governments, and other entities as appropriate, in developing a homeland security strategy; and

(E) systematically identifying and removing obstacles to developing effective partnerships between the Department, other agencies, and State, regional, and local government personnel, agencies, and authorities, the private sector, other entities, and the public to secure the homeland.

(10)(A) To consult and coordinate with the Secretary of Defense and the governors of the several States regarding integration of the United States military, including the National Guard, into all aspects of a homeland security strategy and its implementation, including detection, prevention, protection, response, and recovery.

(B) To consult and coordinate with the Secretary of Defense and make recommendations concerning organizational structure, equipment, and positioning of military assets determined critical to executing a homeland security strategy.

(C) To consult and coordinate with the Secretary of Defense regarding the training of personnel to respond to terrorist attacks involving chemical or biological agents.

(11) To seek to ensure effective day-to-day coordination of homeland security operations, and establish effective mechanisms for such coordination, among the elements constituting the Department and with other involved and affected Federal, State, and local departments and agencies.

(12) To administer the Homeland Security Advisory System, exercising primary responsibility for public threat advisories, and (in coordination with other agencies) providing specific warning information to State and local government personnel, agencies and authorities, the private sector, other entities, and the public, and advice about appropriate protective actions and countermeasures.

(13) To conduct exercise and training programs for employees of the Department and other involved agencies, and establish effective command and control procedures for the full range of potential contingencies regarding United States homeland security, including contingencies that require the substantial support of military assets.

(14) To annually review, update, and amend the Federal response plan for homeland security and emergency preparedness with regard to terrorism and other manmade and natural disasters.

(15) To direct the acquisition and management of all of the information resources of the Department, including communications resources.

(16) To endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable.

(17) In furtherance of paragraph (16), to oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation.

(18) As the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17).

(19) To report to Congress on the development and implementation of the enterprise architecture under paragraph (17) in—

(A) each implementation progress report required under section 185; and

(B) each biennial report required under section 192(b).

(c) VISA ISSUANCE BY THE SECRETARY.—

(1) DEFINITION.—In this subsection, the term "consular officer" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(2) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided under paragraph (3), the Secretary—

(A) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(B)(i) may delegate in whole or part the authority under subparagraph (A) to the Secretary of State; and

(ii) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in subparagraph (A).

(3) AUTHORITY OF THE SECRETARY OF STATE.—

(A) IN GENERAL.—The Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State considers such refusal necessary or advisable in the foreign policy or security interests of the United States.

(B) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(i) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(15)(A)).

(ii) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(iii) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(iv) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)(3)(B)(vi)(II)).

(v) Section 212(a)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(vi) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(vii) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(viii) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(ix) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(x) Section 104 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034).

(xi) Section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (Public Law 105–277).

(xii) Section 103(f) of the Chemical Weapons Convention Implementation Act of 1998 (112 Stat. 2681–865).

(xiii) Section 801 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2002 and 2001 (113 Stat. 1501A–468).

(xiv) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(xv) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(xvi) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption).

(4) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(5) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(A) IN GENERAL.—The Secretary is authorized to assign employees of the Department to diplomatic and consular posts abroad to perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to matters under the jurisdiction of the Secretary.

(B) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in subparagraph (A) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(C) TRAINING AND HIRING.—

(i) IN GENERAL.—The Secretary shall ensure that any employees of the Department assigned to perform functions described under subparagraph (A) and, as appropriate, consular officers, shall be provided all necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(ii) FOREIGN LANGUAGE PROFICIENCY.—Before assigning employees of the Department to perform the functions described under subparagraph (A), the Secretary shall promulgate regulations establishing foreign language proficiency requirements for employees of the Department performing the functions described under subparagraph (A) and providing that preference shall be given to individuals who meet such requirements in hiring employees for the performance of such functions.

(iii) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center on a reimbursable basis, to obtain the training described in clause (i).

(6) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(7) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(d) MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following:

"(5) the Secretary of Homeland Security; and

"(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.".

SEC. 103. DEPUTY SECRETARY OF HOMELAND SECURITY.

(a) IN GENERAL.—There shall be in the Department a Deputy Secretary of Homeland Security, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Deputy Secretary of Homeland Security shall—

(1) assist the Secretary in the administration and operations of the Department;

(2) perform such responsibilities as the Secretary shall prescribe; and

(3) act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.

SEC. 104. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—There shall be in the Department an Under Secretary for Management, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Under Secretary for Management shall report to the Secretary, who may assign to the Under Secretary such functions related to the management and administration of the Department as the Secretary may prescribe, including—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 105. ASSISTANT SECRETARIES.

(a) IN GENERAL.—There shall be in the Department not more than 5 Assistant Secretaries (not including the 2 Assistant Secretaries appointed under division B), each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—

(1) IN GENERAL.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall describe the general responsibilities that such appointee will exercise upon taking office.

(2) ASSIGNMENT.—Subject to paragraph (1), the Secretary shall assign to each Assistant Secretary such functions as the Secretary considers appropriate.

SEC. 106. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve the national security; or

"(C) prevent significant impairment to the national interests of the United States.

"(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

"(A) the President of the Senate;

"(B) the Speaker of the House of Representatives;

"(C) the Committee on Governmental Affairs of the Senate;

"(D) the Committee on Government Reform of the House of Representatives; and

"(E) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking "or 8H" and inserting ", 8H, or 8I"."

SEC. 107. CHIEF FINANCIAL OFFICER.

(a) In General.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(b) Establishment.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

"(G) The Department of Homeland Security.".

SEC. 108. CHIEF INFORMATION OFFICER.

(a) In General.—There shall be in the Department a Chief Information Officer, who shall be designated in the manner prescribed under section 3506(a)(2)(A) of title 44, United States Code.

(b) Responsibilities.—The Chief Information Officer shall assist the Secretary with Department-wide information resources management and perform those duties prescribed by law for chief information officers of agencies.

SEC. 109. GENERAL COUNSEL.

(a) In General.—There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The General Counsel shall—

(1) serve as the chief legal officer of the Department;

(2) provide legal assistance to the Secretary concerning the programs and policies of the Department; and

(3) advise and assist the Secretary in carrying out the responsibilities under section 102(b).

SEC. 110. CIVIL RIGHTS OFFICER.

(a) In General.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 111. PRIVACY OFFICER.

(a) In General.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) Responsibilities.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 112. CHIEF HUMAN CAPITAL OFFICER.

(a) In General.—The Secretary shall appoint or designate a Chief Human Capital Officer, who shall—

(1) advise and assist the Secretary and other officers of the Department in ensuring that the workforce of the Department has the necessary skills and training, and that the recruitment and retention policies of the Department allow the Department to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the Department to achieve its missions;

(2) oversee the implementation of the laws, rules and regulations of the President and the Office of Personnel Management governing the civil service within the Department; and

(3) advise and assist the Secretary in planning and reporting under the Government Performance and Results Act of 1993 (including the amendments made by that Act), with respect to the human capital resources and needs of the Department for achieving the plans and goals of the Department.

(b) Responsibilities.—The responsibilities of the Chief Human Capital Officer shall include—

(1) setting the workforce development strategy of the Department;

(2) assessing workforce characteristics and future needs based on the mission and strategic plan of the Department;

(3) aligning the human resources policies and programs of the Department with organization mission, strategic goals, and performance outcomes;

(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

(5) identifying best practices and benchmarking studies;

(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth; and

(7) providing employee training and professional development.

SEC. 113. OFFICE OF INTERNATIONAL AFFAIRS.

(a) Establishment.—There is established within the Office of the Secretary, an Office of International Affairs. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) Responsibilities of the Director.—The Director shall have the following responsibilities:

(1) To promote information and education exchange with foreign nations in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include—

(A) joint research and development on countermeasures;

(B) joint training exercises of first responders; and

(C) exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage activities under this section and other international activities within the Department in consultation with the Department of State and other relevant Federal officials.

(5) To initially concentrate on fostering cooperation with countries that are already highly focused on homeland security issues and that have demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

SEC. 114. EXECUTIVE SCHEDULE POSITIONS.

(a) Executive Schedule Level I Position.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

"Secretary of Homeland Security.".

(b) Executive Schedule Level II Position.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Secretary of Homeland Security.".

(c) Executive Schedule Level III Position.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary for Management, Department of Homeland Security.".

(d) Executive Schedule Level IV Positions.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretaries of Homeland Security (5).

"Inspector General, Department of Homeland Security.

"Chief Financial Officer, Department of Homeland Security.

"Chief Information Officer, Department of Homeland Security.

"General Counsel, Department of Homeland Security.".

Subtitle B—Establishment of Directorates and Offices

SEC. 131. DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.

(a) Establishment.—

(1) Directorate.—There is established within the Department the Directorate of Border and Transportation Protection.

(2) Under Secretary.—There shall be an Under Secretary for Border and Transportation, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The Directorate of Border and Transportation Protection shall be responsible for the following:

(1) Securing the borders, territorial waters, ports, terminals, waterways and air, land (including rail), and sea transportation systems of the United States, including coordinating governmental activities at ports of entry.

(2) Receiving and providing relevant intelligence on threats of terrorism and other homeland threats.

(3) Administering, carrying out, and promoting other established missions of the entities transferred to the Directorate.

(4) Using intelligence from the Directorate of Intelligence and other Federal intelligence organizations under section 132(a)(1)(B) to establish inspection priorities to identify products and other goods imported from suspect locations recognized by the intelligence community as having terrorist activities, unusual human health or agriculture disease outbreaks, or harboring terrorists.

(5) Providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities that have established partnerships with the Federal Law Enforcement Training Center.

(6) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(7) Consistent with section 175, conducting agricultural import and entry inspection functions transferred under section 175.

(8) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—Except as provided under subsection (d), the authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The United States Customs Service, which shall be maintained as a distinct entity within the Department.

(2) The Transportation Security Administration of the Department of Transportation.

(3) The Federal Law Enforcement Training Center of the Department of the Treasury.

(d) EXERCISE OF CUSTOMS REVENUE AUTHORITY.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—Notwithstanding subsection (c), authority that was vested in the Secretary of the Treasury by law to issue regulations related to customs revenue functions before the effective date of this section under the provisions of law set forth under paragraph (2) shall not be transferred to the Secretary by reason of this Act. The Secretary of the Treasury, with the concurrence of the Secretary, shall exercise this authority. The Commissioner of Customs is authorized to engage in activities to develop and support the issuance of the regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.

(B) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under paragraph (2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

(C) LIABILITY.—Neither the Secretary of the Treasury nor the Department of the Treasury shall be liable for or named in any legal action concerning the implementation and enforcement of regulations issued under this paragraph on or after the date on which the United States Customs Service is transferred under this division.

(2) APPLICABLE LAWS.—The provisions of law referred to under paragraph (1) are those sections of the following statutes that relate to customs revenue functions:

(A) The Tariff Act of 1930 (19 U.S.C. 1304 et seq.).

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974 (19 U.S.C. 2101 et seq.).

(J) The Trade Agreements Act of 1979 (19 U.S.C. 2502 et seq.).

(K) The North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 et seq.).

(L) The Uruguay Round Agreements Act (19 U.S.C. 3501 et seq.).

(M) The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.).

(N) The Andean Trade Preference Act (19 U.S.C. 3201 et seq.).

(O) The African Growth and Opportunity Act (19 U.S.C. 3701 et seq.).

(P) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) DEFINITION OF CUSTOMS REVENUE FUNCTIONS.—In this subsection, the term "customs revenue functions" means—

(A) assessing, collecting, and refunding duties (including any special duties), excise taxes, fees, and any liquidated damages or penalties due on imported merchandise, including classifying and valuing merchandise and the procedures for "entry" as that term is defined in the United States Customs laws;

(B) administering section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

(e) CONTINUATION OF CERTAIN FUNCTIONS OF THE CUSTOMS SERVICE.—

(1) IN GENERAL.—

(A) PRESERVATION OF CUSTOMS FUNDS.—Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(1) through (8)) may be transferred for use by any other agency or office in the Department.

(B) CUSTOMS AUTOMATION.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(i) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).";

(ii) in paragraph (4), by striking "(other than the excess fees determined by the Secretary under paragraph (5))"; and

(iii) by striking paragraph (5) and inserting the following:

"(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

"(B) There is authorized to be appropriated from the Customs Commercial and Homeland Security Automation Account for each of fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

"(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Customs Commercial and Homeland Security Automation Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.".

(2) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—Section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 19 U.S.C. 2071 note) is amended—

(A) in paragraph (1), by inserting "in consultation with the Secretary of Homeland Security" after "Secretary of the Treasury";

(B) in paragraph (2)(A), by inserting "in consultation with the Secretary of Homeland Security" after "Secretary of the Treasury";

(C) in paragraph (3)(A), by inserting "and the Secretary of Homeland Security" after "Secretary of the Treasury"; and

(D) in paragraph (4)—

(i) by inserting "and the Under Secretary of Homeland Security for Border and Transportation" after "for Enforcement"; and

(ii) by inserting "jointly" after "shall preside".

(3) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107-210) is amended by striking paragraph (2).

SEC. 132. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—

(A) IN GENERAL.—There is established a Directorate of Intelligence which shall serve as a national-level focal point for information available to the United States Government relating to the plans, intentions, and capabilities of terrorists and terrorist organizations for the purpose of supporting the mission of the Department.

(B) SUPPORT TO DIRECTORATE.—The Directorate of Intelligence shall communicate, coordinate, and cooperate with—

(i) the Federal Bureau of Investigation;

(ii) the intelligence community, as defined under section 3 of the National Security Act of 1947 (50 U.S.C. 401a), including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the Bureau of Intelligence and Research of the Department of State; and

(iii) other agencies or entities, including those within the Department, as determined by the Secretary.

(C) INFORMATION ON INTERNATIONAL TERRORISM.—

(i) DEFINITIONS.—In this subparagraph, the terms "foreign intelligence" and "counterintelligence" shall have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(ii) PROVISION OF INFORMATION TO COUNTERTERRORIST CENTER.—In order to ensure that the Secretary is provided with appropriate analytical products, assessments, and warnings relating to threats of terrorism against the United States and other threats to homeland security, the Director of Central Intelligence (as head of the intelligence community with respect to foreign intelligence and counterintelligence), the Attorney General, and the heads of other agencies of the Federal Government shall ensure that all intelligence and other information relating to international terrorism is provided to the Director of Central Intelligence's Counterterrorist Center.

(iii) ANALYSIS OF INFORMATION.—The Director of Central Intelligence shall ensure the analysis by the Counterterrorist Center of all intelligence and other information provided the Counterterrorist Center under clause (ii).

(iv) ANALYSIS OF FOREIGN INTELLIGENCE.—The Counterterrorist Center shall have primary responsibility for the analysis of foreign intelligence relating to international terrorism.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1)(A) Receiving and analyzing law enforcement and other information from agencies of the United States Government, State and local government agencies (including law enforcement agencies), and private sector entities, and fusing such information and analysis with analytical products, assessments, and warnings concerning foreign intelligence from the Director of Central Intelligence's Counterterrorist Center in order to—

(i) identify and assess the nature and scope of threats to the homeland; and

(ii) detect and identify threats of terrorism against the United States and other threats to homeland security.

(B) Nothing in this paragraph shall be construed to prohibit the Directorate from conducting supplemental analysis of foreign intelligence relating to threats of terrorism against the United States and other threats to homeland security.

(2) Ensuring timely and efficient access by the Directorate to—

(A) information from agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, private sector entities; and

(B) open source information.

(3) Representing the Department in procedures to establish requirements and priorities in the collection of national intelligence for purposes of the provision to the executive branch under section 103 of the National Security Act of 1947 (50 U.S.C. 403–3) of national intelligence relating to foreign terrorist threats to the homeland.

(4) Consulting with the Attorney General or the designees of the Attorney General, and other officials of the United States Government to establish overall collection priorities and strategies for information, including law enforcement information, relating to domestic threats, such as terrorism, to the homeland.

(5) Disseminating information to the Directorate of Critical Infrastructure Protection, the agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, and private sector entities to assist in the deterrence, prevention, preemption, and response to threats of terrorism against the United States and other threats to homeland security.

(6) Establishing and utilizing, in conjunction with the Chief Information Officer of the Department and the appropriate officers of the agencies described under subsection (a)(1)(B), a secure communications and information technology infrastructure, and advanced analytical tools, to carry out the mission of the Directorate.

(7) Developing, in conjunction with the Chief Information Officer of the Department and appropriate officers of the agencies described under subsection (a)(1)(B), appropriate software, hardware, and other information technology, and security and formatting protocols, to ensure that Federal Government databases and information technology systems containing information relevant to terrorist threats, and other threats against the United States, are—

(A) compatible with the secure communications and information technology infrastructure referred to under paragraph (6); and

(B) comply with Federal laws concerning privacy and the prevention of unauthorized disclosure.

(8) Ensuring, in conjunction with the Director of Central Intelligence and the Attorney General, that all material received by the Department is protected against unauthorized disclosure and is utilized by the Department only in the course and for the purpose of fulfillment of official duties, and is transmitted, retained, handled, and disseminated consistent with—

(A) the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures; or

(B) as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information, and the privacy interests of United States persons as defined under section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(9) Providing, through the Secretary, to the appropriate law enforcement or intelligence agency, information and analysis relating to threats.

(10) Coordinating, or where appropriate providing, training and other support as necessary to providers of information to the Department, or consumers of information from the Department, to allow such providers or consumers to identify and share intelligence information revealed in their ordinary duties or utilize information received from the Department, including training and support under section 908 of the USA PATRIOT Act of 2001 (Public Law 107–56).

(11) Reviewing, analyzing, and making recommendations through the Secretary for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to threats of terrorism against the United States and other threats to homeland security within the United States Government and between the United States Government and State and local governments, local law enforcement and intelligence agencies, and private sector entities.

(12) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(13) Performing other related and appropriate duties as assigned by the Secretary.

(c) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Unless otherwise directed by the President, the Secretary shall have access to, and United States Government agencies shall provide, all reports, assessments, analytical information, and information, including unevaluated intelligence, relating to the plans, intentions, capabilities, and activities of terrorists and terrorist organizations, and to other areas of responsibility as described in this division, that may be collected, possessed, or prepared, by any other United States Government agency.

(2) ADDITIONAL INFORMATION.—As the President may further provide, the Secretary shall receive additional information requested by the Secretary from the agencies described under subsection (a)(1)(B).

(3) OBTAINING INFORMATION.—All information shall be provided to the Secretary consistent with the requirements of subsection (b)(8), unless otherwise determined by the President.

(4) COOPERATIVE ARRANGEMENTS.—The Secretary may enter into cooperative arrangements with agencies described under subsection (a)(1)(B) to share material on a regular or routine basis, including arrangements involving broad categories of material, and regardless of whether the Secretary has entered into any such cooperative arrangement, all agencies described under subsection (a)(1)(B) shall promptly provide information under this subsection.

(d) AUTHORIZATION TO SHARE LAW ENFORCEMENT INFORMATION.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, or national security official for purposes of information sharing provisions of—

(1) section 203(d) of the USA PATRIOT Act of 2001 (Public Law 107–56);

(2) section 2517(6) of title 18, United States Code; and

(3) rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(e) ADDITIONAL RISK ANALYSIS AND RISK MANAGEMENT RESPONSIBILITIES.—The Under Secretary for Intelligence shall, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, be responsible for—

(1) developing analysis concerning the means and methods terrorists might employ to exploit vulnerabilities in the homeland security infrastructure;

(2) supporting experiments, tests, and inspections to identify weaknesses in homeland defenses;

(3) developing countersurveillance techniques to prevent attacks;

(4) conducting risk assessments to determine the risk posed by specific kinds of terrorist attacks, the probability of successful attacks, and the feasibility of specific countermeasures.

(f) MANAGEMENT AND STAFFING.—

(1) IN GENERAL.—The Directorate of Intelligence shall be staffed, in part, by analysts as requested by the Secretary and assigned by the agencies described under subsection (a)(1)(B). The analysts shall be assigned by

reimbursable detail for periods as determined necessary by the Secretary in conjunction with the head of the assigning agency. No such detail may be undertaken without the consent of the assigning agency.

(2) EMPLOYEES ASSIGNED WITHIN DEPARTMENT.—The Secretary may assign employees of the Department by reimbursable detail to the Directorate.

(3) SERVICE AS FACTOR FOR SELECTION.—The President, or the designee of the President, shall prescribe regulations to provide that service described under paragraph (1) or (2), or service by employees within the Directorate, shall be considered a positive factor for selection to positions of greater authority within all agencies described under subsection (a)(1)(B).

(4) PERSONNEL SECURITY STANDARDS.—The employment of personnel in the Directorate shall be in accordance with such personnel security standards for access to classified information and intelligence as the Secretary, in conjunction with the Director of Central Intelligence, shall establish for this subsection.

(5) PERFORMANCE EVALUATION.—The Secretary shall evaluate the performance of all personnel detailed to the Directorate, or delegate such responsibility to the Under Secretary for Intelligence.

(g) INTELLIGENCE COMMUNITY.—Those portions of the Directorate of Intelligence under subsection (b)(1), and the intelligence-related components of agencies transferred by this division to the Department, including the United States Coast Guard, shall be—

(1) considered to be part of the United States intelligence community within the meaning of section 3 of the National Security Act of 1947 (50 U.S.C. 401a); and

(2) for budgetary purposes, within the National Foreign Intelligence Program.

SEC. 133. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Critical Infrastructure Protection shall be responsible for the following:

(1) Receiving relevant intelligence from the Directorate of Intelligence, law enforcement information, and other information in order to comprehensively assess the vulnerabilities of the key resources and critical infrastructures in the United States.

(2) Integrating relevant information, intelligence analysis, and vulnerability assessments (whether such information, analyses, or assessments are provided by the Department or others) to identify priorities and support protective measures by the Department, by other agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities, to protect the key resources and critical infrastructures in the United States.

(3) As part of a homeland security strategy, developing a comprehensive national plan for securing the key resources and critical infrastructure in the United States.

(4) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate. This shall include, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, establishing procedures, mechanisms, or units for the purpose of utilizing intelligence to identify vulnerabilities and protective measures in—

(A) public health infrastructure;

(B) food and water storage, production and distribution;

(C) commerce systems, including banking and finance;

(D) energy systems, including electric power and oil and gas production and storage;

(E) transportation systems, including pipelines;

(F) information and communication systems;

(G) continuity of government services; and

(H) other systems or facilities the destruction or disruption of which could cause substantial harm to health, safety, property, or the environment.

(5) Enhancing the sharing of information regarding cyber security and physical security of the United States, developing appropriate security standards, tracking vulnerabilities, proposing improved risk management policies, and delineating the roles of various Government agencies in preventing, defending, and recovering from attacks.

(6) Acting as the Critical Information Technology, Assurance, and Security Officer of the Department and assuming the responsibilities carried out by the Critical Infrastructure Assurance Office and the National Infrastructure Protection Center before the effective date of this division.

(7) Coordinating the activities of the Information Sharing and Analysis Centers to share information, between the public and private sectors, on threats, vulnerabilities, individual incidents, and privacy issues regarding homeland security.

(8) Working closely with the Department of State on cyber security issues with respect to international bodies and coordinating with appropriate agencies in helping to establish cyber security policy, standards, and enforcement mechanisms.

(9) Establishing the necessary organizational structure within the Directorate to provide leadership and focus on both cyber security and physical security, and ensuring the maintenance of a nucleus of cyber security and physical security experts within the United States Government.

(10) Performing such other duties as assigned by the Secretary.

In this subsection, the term "key resources" includes National Park Service sites identified by the Secretary of the Interior that are so universally recognized as symbols of the United States and so heavily visited by the American and international public that such sites would likely be identified as targets of terrorist attacks, including the Statue of Liberty, Independence Hall and the Liberty Bell, the Arch in St. Louis, Missouri, Mt. Rushmore, and memorials and monuments in Washington, D.C.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Critical Infrastructure Assurance Office of the Department of Commerce.

(2) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section).

(3) The National Communications System of the Department of Defense.

(4) The Computer Security Division of the National Institute of Standards and Technology of the Department of Commerce.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.

(6) The Federal Computer Incident Response Center of the General Services Administration.

(7) The Energy Security and Assurance Program of the Department of Energy.

(8) The Federal Protective Service of the General Services Administration.

SEC. 134. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Assuming the responsibilities carried out by the National Domestic Preparedness Office before the effective date of this division.

(3) Organizing and training local entities to respond to emergencies and providing State and local authorities with equipment for detection, protection, and decontamination in an emergency involving weapons of mass destruction.

(4) Overseeing Federal, State, and local emergency preparedness training and exercise programs in keeping with intelligence estimates and coordinating Federal assistance for any emergency, including emergencies caused by natural disasters, man-made accidents, human or agricultural health emergencies, or terrorist attacks.

(5) Creating a National Crisis Action Center to act as the focal point for—

(A) monitoring emergencies;

(B) notifying affected agencies and State and local governments; and

(C) coordinating Federal support for State and local governments and the private sector in crises.

(6) Managing and updating the Federal response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(7) Coordinating activities among private sector entities, including entities within the medical community, and animal health and plant disease communities, with respect to recovery, consequence management, and planning for continuity of services.

(8) Developing and managing a single response system for national incidents in coordination with all appropriate agencies.

(9) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(10) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(5).

(11) Collaborating with the Under Secretary for Science and Technology, Secretary of Agriculture, and the Director of

the Centers for Disease Control and Prevention in establishing and updating the list of potential threat agents or toxins relating to the functions described in subsection (c)(6)(B).

(12) Developing a plan to address the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(13) Activate and coordinate the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(14) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(15) Performing such other duties as assigned by the Secretary.

(c) Transfer of Authorities, Functions, Personnel, and Assets to the Department.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department.

(2) The National Office of Domestic Preparedness of the Federal Bureau of Investigation of the Department of Justice.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(5) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(6)(A) Except as provided in subparagraph (B)—

(i) the functions of the Select Agent Registration Program of the Department of Health and Human Services, including all functions of the Secretary of Health and Human Services under title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188); and

(ii) the functions of the Department of Agriculture under the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(B)(i) The Secretary shall collaborate with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a).

(ii) The Secretary shall collaborate with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401).

(C) In promulgating regulations pursuant to the functions described in subparagraph (A), the Secretary shall act in collaboration with the Secretary of Health and Human Services and the Secretary of Agriculture.

(d) Appointment as Under Secretary and Director.—

(1) In general.—An individual may serve as both the Under Secretary for Emergency Preparedness and Response and the Director of the Federal Emergency Management Agency if appointed by the President, by and with the advice and consent of the Senate, to each office.

(2) Pay.—Nothing in paragraph (1) shall be construed to authorize an individual appointed to both positions to receive pay at a rate of pay in excess of the rate of pay payable for the position to which the higher rate of pay applies.

(e) Report.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of a national medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

SEC. 135. DIRECTORATE OF SCIENCE AND TECHNOLOGY.

(a) Purpose.—The purpose of this section is to establish a Directorate of Science and Technology that will support the mission of the Department and the directorates of the Department by—

(1) establishing, funding, managing, and supporting research, development, demonstration, testing, and evaluation activities to meet national homeland security needs and objectives;

(2) setting national research and development goals and priorities pursuant to the mission of the Department, and developing strategies and policies in furtherance of such goals and priorities;

(3) coordinating and collaborating with other Federal departments and agencies, and State, local, academic, and private sector entities, to advance the research and development agenda of the Department;

(4) advising the Secretary on all scientific and technical matters relevant to homeland security; and

(5) facilitating the transfer and deployment of technologies that will serve to enhance homeland security goals.

(b) Definitions.—In this section:

(1) Council.—The term "Council" means the Homeland Security Science and Technology Council established under this section.

(2) Fund.—The term "Fund" means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.

(3) Homeland security research and development.—The term "homeland security research and development" means research and development applicable to the detection of, prevention of, protection against, response to, and recovery from homeland security threats, particularly acts of terrorism.

(4) OSTP.—The term "OSTP" means the Office of Science and Technology Policy.

(5) SARPA.—The term "SARPA" means the Security Advanced Research Projects Agency established under this section.

(6) Technology roadmap.—The term "technology roadmap" means a plan or framework in which goals, priorities, and milestones for desired future technological capabilities and functions are established, and research and development alternatives or means for achieving those goals, priorities, and milestones are identified and analyzed in order to guide decisions on resource allocation and investments.

(7) Under secretary.—The term "Under Secretary" means the Under Secretary for Science and Technology.

(c) Directorate of Science and Technology.—

(1) Establishment.—There is established a Directorate of Science and Technology within the Department.

(2) Under secretary.—There shall be an Under Secretary for Science and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate. The principal responsibility of the Under Secretary shall be to effectively and efficiently carry out the purposes of the Directorate of Science and Technology under subsection (a). In addition, the Under Secretary shall undertake the following activities in furtherance of such purposes:

(A) Coordinating with the OSTP and other appropriate entities in developing and executing the research and development agenda of the Department.

(B) Developing a technology roadmap that shall be updated biannually for achieving technological goals relevant to homeland security needs.

(C) Instituting mechanisms to promote, facilitate, and expedite the transfer and deployment of technologies relevant to homeland security needs, including dual-use capabilities.

(D) Assisting the Secretary and the Director of OSTP to ensure that science and technology priorities are clearly reflected and considered in a homeland security Strategy.

(E) Establishing mechanisms for the sharing and dissemination of key homeland security research and technology developments and opportunities with appropriate Federal, State, local, and private sector entities.

(F) Establishing, in coordination with the Under Secretary for Critical Infrastructure Protection and the Under Secretary for Emergency Preparedness and Response and relevant programs under their direction, a National Emergency Technology Guard, comprised of teams of volunteers with expertise in relevant areas of science and technology, to assist local communities in responding to and recovering from emergency contingencies requiring specialized scientific and technical capabilities. In carrying out this responsibility, the Under Secretary shall establish and manage a database of National Emergency Technology Guard volunteers, and prescribe procedures for organizing, certifying, mobilizing, and deploying National Emergency Technology Guard teams.

(G) Chairing the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(H) Assisting the Secretary in developing a homeland security strategy for Countermeasure Research described under subsection (k).

(I) Assisting the Secretary and acting on behalf of the Secretary in contracting with, commissioning, or establishing federally funded research and development centers determined useful and appropriate by the Secretary for the purpose of providing the Department with independent analysis and support.

(J) Assisting the Secretary and acting on behalf of the Secretary in entering into joint sponsorship agreements with the Department of Energy regarding the use of the national laboratories or sites.

(K) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(L) Carrying out other appropriate activities as directed by the Secretary.

(3) RESEARCH AND DEVELOPMENT-RELATED AUTHORITIES.—The Secretary shall exercise the following authorities relating to the research, development, testing, and evaluation activities of the Directorate of Science and Technology:

(A) With respect to research and development expenditures under this section, the authority (subject to the same limitations and conditions) as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), for a period of 5 years beginning on the date of enactment of this Act. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph. The annual report required under subsection (h) of such section, as applied to the Secretary by this subparagraph, shall—

(i) be submitted to the President of the Senate, the Speaker of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives; and

(ii) report on other transactions entered into under subparagraph (B).

(B) Authority to carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), for a period of 5 years beginning on the date of enactment of this Act. In applying the authorities of such section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) of that section. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph.

(C) In hiring personnel to assist in research, development, testing, and evaluation activities within the Directorate of Science and Technology, the authority to exercise the personnel hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261), with the stipulation that the Secretary shall exercise such authority for a period of 7 years commencing on the date of enactment of this Act, that a maximum of 100 persons may be hired under such authority, and that the term of appointment for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extensions under subsection (c)(2) of that section.

(D) With respect to such research, development, testing, and evaluation responsibilities under this section (except as provided in subparagraph (E)) as the Secretary may elect to carry out through agencies other than the Department (under agreements with their respective heads), the Secretary may transfer funds to such heads. Of the funds authorized to be appropriated under subsection (d)(4) for the Fund, not less than 10 percent of such funds for each fiscal year through 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways, and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways, and coastal security mission.

(E) The Secretary may carry out human health biodefense-related biological, biomedical, and infectious disease research and development (including vaccine research and development) in collaboration with the Secretary of Health and Human Services. Research supported by funding appropriated to the National Institutes of Health for bioterrorism research and related facilities development shall be conducted through the National Institutes of Health under joint strategic prioritization agreements between the Secretary and the Secretary of Health and Human Services. The Secretary shall have the authority to establish general research priorities, which shall be embodied in the joint strategic prioritization agreements with the Secretary of Health and Human Services. The specific scientific research agenda to implement agreements under this subparagraph shall be developed by the Secretary of Health and Human Services, who shall consult the Secretary to ensure that the agreements conform with homeland security priorities. All research programs established under those agreements shall be managed and awarded by the Director of the National Institutes of Health consistent with those agreements. The Secretary may transfer funds to the Department of Health and Human Services in connection with those agreements.

(d) ACCELERATION FUND.—

(1) ESTABLISHMENT.—There is established an Acceleration Fund to support research and development of technologies relevant to homeland security.

(2) FUNCTION.—The Fund shall be used to stimulate and support research and development projects selected by SARPA under subsection (f), and to facilitate the rapid transfer of research and technology derived from such projects.

(3) RECIPIENTS.—Fund monies may be made available through grants, contracts, cooperative agreements, and other transactions under subsection (c)(3) (A) and (B) to—

(A) public sector entities, including Federal, State, or local entities;

(B) private sector entities, including corporations, partnerships, or individuals; and

(C) other nongovernmental entities, including universities, federally funded research and development centers, and other academic or research institutions.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for the Fund for fiscal year 2003, and such sums as are necessary in subsequent fiscal years.

(e) SCIENCE AND TECHNOLOGY COUNCIL.—

(1) ESTABLISHMENT.—There is established the Homeland Security Science and Technology Council within the Directorate of Science and Technology. The Under Secretary shall chair the Council and have the authority to convene meetings. At the discretion of the Under Secretary and the Director of OSTP, the Council may be constituted as a subcommittee of the National Science and Technology Council.

(2) COMPOSITION.—The Council shall be composed of the following:

(A) Senior research and development officials representing agencies engaged in research and development relevant to homeland security and combating terrorism needs. Each representative shall be appointed by the head of the representative's respective agency with the advice and consent of the Under Secretary.

(B) The Director of SARPA and other appropriate officials within the Department.

(C) The Director of the OSTP and other senior officials of the Executive Office of the President as designated by the President.

(3) RESPONSIBILITIES.—The Council shall—

(A) provide the Under Secretary with recommendations on priorities and strategies, including those related to funding and portfolio management, for homeland security research and development;

(B) facilitate effective coordination and communication among agencies, other entities of the Federal Government, and entities in the private sector and academia, with respect to the conduct of research and development related to homeland security;

(C) recommend specific technology areas for which the Fund and other research and development resources shall be used, among other things, to rapidly transition homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities;

(D) assist and advise the Under Secretary in developing the technology roadmap referred to under subsection (c)(2)(B); and

(E) perform other appropriate activities as directed by the Under Secretary.

(4) ADVISORY PANEL.—The Under Secretary may establish an advisory panel consisting of representatives from industry, academia, and other non-Federal entities to advise and support the Council.

(5) WORKING GROUPS.—At the discretion of the Under Secretary, the Council may establish working groups in specific homeland security areas consisting of individuals with relevant expertise in each articulated area. Working groups established for bioterrorism and public health-related research shall be fully coordinated with the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(f) SECURITY ADVANCED RESEARCH PROJECTS AGENCY.—

(1) ESTABLISHMENT.—There is established the Security Advanced Research Projects Agency within the Directorate of Science and Technology.

(2) RESPONSIBILITIES.—SARPA shall—

(A) undertake and stimulate basic and applied research and development, leverage existing research and development, and accelerate the transition and deployment of technologies that will serve to enhance homeland defense;

(B) identify, fund, develop, and transition high-risk, high-payoff homeland security research and development opportunities that—

(i) may lie outside the purview or capabilities of the existing Federal agencies; and

(ii) emphasize revolutionary rather than evolutionary or incremental advances;

(C) provide selected projects with single or multiyear funding, and require such projects to provide interim progress reports, no less often than annually;

(D) administer the Acceleration Fund to carry out the purposes of this paragraph;

(E) advise the Secretary and Under Secretary on funding priorities under subsection (c)(3)(E); and

(F) perform other appropriate activities as directed by the Under Secretary.

(g) OFFICE OF RISK ANALYSIS AND ASSESSMENT.—

(1) ESTABLISHMENT.—There is established an Office of Risk Analysis and Assessment within the Directorate of Science and Technology.

(2) FUNCTIONS.—The Office of Risk Analysis and Assessment shall assist the Secretary, the Under Secretary, and other Directorates with respect to their risk analysis and risk management activities by providing scientific or technical support for such activities. Such support shall include, as appropriate—

(A) identification and characterization of homeland security threats;

(B) evaluation and delineation of the risk of these threats;

(C) pinpointing of vulnerabilities or linked vulnerabilities to these threats;

(D) determination of criticality of possible threats;

(E) analysis of possible technologies, research, and protocols to mitigate or eliminate threats, vulnerabilities, and criticalities;

(F) evaluation of the effectiveness of various forms of risk communication; and

(G) other appropriate activities as directed by the Secretary.

(3) METHODS.—In performing the activities described under paragraph (2), the Office of Risk Analysis and Assessment may support or conduct, or commission from federally funded research and development centers or other entities, work involving modeling, statistical analyses, field tests and exercises (including red teaming), testbed development, development of standards and metrics.

(h) OFFICE FOR TECHNOLOGY EVALUATION AND TRANSITION.—

(1) ESTABLISHMENT.—There is established an Office for Technology Evaluation and Transition within the Directorate of Science and Technology.

(2) FUNCTION.—The Office for Technology Evaluation and Transition shall, with respect to technologies relevant to homeland security needs—

(A) serve as the principal, national point-of-contact and clearinghouse for receiving and processing proposals or inquiries regarding such technologies;

(B) identify and evaluate promising new technologies;

(C) undertake testing and evaluation of, and assist in transitioning, such technologies into deployable, fielded systems;

(D) consult with and advise agencies regarding the development, acquisition, and deployment of such technologies;

(E) coordinate with SARPA to accelerate the transition of technologies developed by SARPA and ensure transition paths for such technologies; and

(F) perform other appropriate activities as directed by the Under Secretary.

(3) TECHNICAL SUPPORT WORKING GROUP.—The functions described under this subsection may be carried out through, or in coordination with, or through an entity established by the Secretary and modeled after, the Technical Support Working Group (organized under the April, 1982, National Security Decision Directive Numbered 30) that provides an interagency forum to coordinate research and development of technologies for combating terrorism.

(i) OFFICE OF LABORATORY RESEARCH.—

(1) ESTABLISHMENT.—There is established an Office of Laboratory Research within the Directorate of Science and Technology.

(2) RESEARCH AND DEVELOPMENT FUNCTIONS TRANSFERRED.—There shall be transferred to the Department, to be administered by the Under Secretary, the functions, personnel, assets, and liabilities of the following programs and activities:

(A) Within the Department of Energy (but not including programs and activities relating to the strategic nuclear defense posture of the United States) the following:

(i) The chemical and biological national security and supporting programs and activities supporting domestic response of the nonproliferation and verification research and development program.

(ii) The nuclear smuggling programs and activities, and other programs and activities directly related to homeland security, within the proliferation detection program of the nonproliferation and verification research and development program, except that the programs and activities described in this clause may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(iii) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(iv) The Environmental Measurements Laboratory.

(B) Within the Department of Defense, the National Bio-Weapons Defense Analysis Center established under section 161.

(3) RESPONSIBILITIES.—The Office of Laboratory Research shall—

(A) supervise the activities of the entities transferred under this subsection;

(B) administer the disbursement and undertake oversight of research and development funds transferred from the Department to other agencies outside of the Department, including funds transferred to the Department of Health and Human Services consistent with subsection (c)(3)(E);

(C) establish and direct new research and development facilities as the Secretary determines appropriate;

(D) include a science advisor to the Under Secretary on research priorities related to biological and chemical weapons, with supporting scientific staff, who shall advise on and support research priorities with respect to—

(i) research on countermeasures for biological weapons, including research on the development of drugs, devices, and biologics; and

(ii) research on biological and chemical threat agents; and

(E) other appropriate activities as directed by the Under Secretary.

(j) OFFICE FOR NATIONAL LABORATORIES.—

(1) ESTABLISHMENT.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(2) JOINT SPONSORSHIP ARRANGEMENTS.—

(A) NATIONAL LABORATORIES.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work on behalf of the Department.

(B) DEPARTMENT OF ENERGY SITE.—The Department may be a joint sponsor of Department of Energy sites in the performance of work as if such sites were federally funded research and development centers and the work were performed under a multiple agency sponsorship arrangement with the Department.

(C) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement entered into under subparagraph (A) or (B).

(D) CONDITIONS.—A joint sponsorship arrangement under this subsection shall—

(i) provide for the direct funding and management by the Department of the work being carried out on behalf of the Department; and

(ii) include procedures for addressing the coordination of resources and tasks to minimize conflicts between work undertaken on behalf of either Department.

(E) LEAD AGENT AND FEDERAL ACQUISITION REGULATION.—

(i) LEAD AGENT.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship agreement between the Department and a Department of Energy national laboratory or site for work on homeland security.

(ii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATION.—Any work performed by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017 of the Federal Acquisition Regulation.

(F) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of subparagraph (B).

(3) OTHER ARRANGEMENTS.—The Office for National Laboratories may enter into other arrangements with Department of Energy national laboratories or sites to carry out work to support the missions of the Department under applicable law, except that the Department of Energy may not charge or apply administrative fees for work on behalf of the Department.

(4) TECHNOLOGY TRANSFER.—The Office for National Laboratories may exercise the authorities in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) to permit the Director of a Department of Energy national laboratory to enter into cooperative research and development agreements, or to negotiate licensing

agreements, pertaining to work supported by the Department at the Department of Energy national laboratory.

(5) ASSISTANCE IN ESTABLISHING DEPARTMENT.—At the request of the Under Secretary, the Department of Energy shall provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department for purposes of assisting in the establishment or organization of the technical programs of the Department through an agreement that includes provisions for minimizing conflicts between work assignments of such personnel.

(k) STRATEGY FOR COUNTERMEASURE RESEARCH.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall develop a comprehensive, long-term strategy and plan for engaging non-Federal entities, particularly including private, for-profit entities, in the research, development, and production of homeland security countermeasures for biological, chemical, and radiological weapons.

(2) TIMEFRAME.—The strategy and plan under this subsection, together with recommendations for the enactment of supporting or enabling legislation, shall be submitted to the Congress within 270 days after the date of enactment of this Act.

(3) COORDINATION.—In developing the strategy and plan under this subsection, the Secretary shall consult with—

(A) other agencies with expertise in research, development, and production of countermeasures;

(B) private, for-profit entities and entrepreneurs with appropriate expertise and technology regarding countermeasures;

(C) investors that fund such entities;

(D) nonprofit research universities and institutions;

(E) public health and other interested private sector and government entities; and

(F) governments allied with the United States in the war on terrorism.

(4) PURPOSE.—The strategy and plan under this subsection shall evaluate proposals to assure that—

(A) research on countermeasures by non-Federal entities leads to the expeditious development and production of countermeasures that may be procured and deployed in the homeland security interests of the United States;

(B) capital is available to fund the expenses associated with such research, development, and production, including Government grants and contracts and appropriate capital formation tax incentives that apply to non-Federal entities with and without tax liability;

(C) the terms for procurement of such countermeasures are defined in advance so that such entities may accurately and reliably assess the potential countermeasures market and the potential rate of return;

(D) appropriate intellectual property, risk protection, and Government approval standards are applicable to such countermeasures;

(E) Government-funded research is conducted and prioritized so that such research complements, and does not unnecessarily duplicate, research by non-Federal entities and that such Government-funded research is made available, transferred, and licensed on commercially reasonable terms to such entities for development; and

(F) universities and research institutions play a vital role as partners in research and development and technology transfer, with appropriate progress benchmarks for such activities, with for-profit entities.

(5) REPORTING.—The Secretary shall report periodically to the Congress on the status of non-Federal entity countermeasure research, development, and production, and submit additional recommendations for legislation as needed.

(l) CLASSIFICATION OF RESEARCH.—

(1) IN GENERAL.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(2) CLASSIFICATION AND REVIEW.—The Under Secretary shall—

(A)(i) decide whether classification is appropriate before the award of a research grant, contract, cooperative agreement, or other transaction by the Department; and

(ii) if the decision under clause (i) is one of classification, control the research results through standard classification procedures; and

(B) periodically review all classified research grants, contracts, cooperative agreements, and other transactions issued by the Department to determine whether classification is still necessary.

(3) RESTRICTIONS.—No restrictions shall be placed upon the conduct or reporting of federally funded fundamental research that has not received national security classification, except as provided under applicable provisions of law.

(m) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—The National Science and Technology Policy, Organization, and Priorities Act is amended in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting "homeland security," after "national security,".

SEC. 136. DIRECTORATE OF IMMIGRATION AFFAIRS.

The Directorate of Immigration Affairs shall be established and shall carry out all functions of that Directorate in accordance with division B of this Act.

SEC. 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland;

(4) develop a process for receiving meaningful input from State and local government to assist the development of homeland security activities; and

(5) prepare an annual report, that contains—

(A) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) DESIGNATION.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) DUTIES.—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research, and technical support to assist local efforts at securing the homeland;

(B) provide coordination between the Department and State and local first responders, including—

(i) law enforcement agencies;

(ii) fire and rescue agencies;

(iii) medical providers;

(iv) emergency service providers; and

(v) relief agencies;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

(i) address shared vulnerabilities; and

(ii) identify opportunities to achieve efficiencies through interstate activities.

(d) FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS AND STATE, LOCAL, AND CROSS-JURISDICTIONAL ISSUES.—

(1) IN GENERAL.—There is established an Interagency Committee on First Responders and State, Local, and Cross-jurisdictional Issues (in this section referred to as the "Interagency Committee", that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement;

(iii) fire and rescue operations; and

(iv) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) MEMBERSHIP.—The Interagency Committee shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee.

(3) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) LEADERSHIP.—The members of the Interagency Committee shall select annually a chairperson.

(5) MEETINGS.—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) ADVISORY COUNCIL FOR THE INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an Advisory Council for the Interagency Committee (in this section referred to as the "Advisory Council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee.

(B) DUTIES.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) REPRESENTATION.—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) CHAIRPERSON.—The Advisory Council shall select annually a chairperson from among its members.

(4) COMPENSATION OF MEMBERS.—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) MEETINGS.—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

SEC. 138. UNITED STATES SECRET SERVICE.

There are transferred to the Department the authorities, functions, personnel, and assets of the United States Secret Service, which shall be maintained as a distinct entity within the Department.

SEC. 139. BORDER COORDINATION WORKING GROUP.

(a) DEFINITIONS.—In this section:

(1) BORDER SECURITY FUNCTIONS.—The term "border security functions" means the securing of the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States.

(2) RELEVANT AGENCIES.—The term "relevant agencies" means any department or agency of the United States that the President determines to be relevant to performing border security functions.

(b) ESTABLISHMENT.—The Secretary shall establish a border security working group (in this section referred to as the "Working Group"), composed of the Secretary or the designee of the Secretary, the Under Secretary for Border and Transportation Protection, and the Under Secretary for Immigration Affairs.

(c) FUNCTIONS.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements in the coverage and geographic distribution of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced scrutiny for high-risk traffic, travel, and commerce; and

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems.

(d) RELEVANT AGENCIES.—The Secretary shall consult representatives of relevant agencies with respect to deliberations under subsection (c), and may include representatives of such agencies in Working Group deliberations, as appropriate.

SEC. 140. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Homeland Security Liaison Officers for Maryland, Virginia, and the District of Columbia within the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 141. EXECUTIVE SCHEDULE POSITIONS.

Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary for Border and Transportation, Department of Homeland Security.

"Under Secretary for Critical Infrastructure Protection, Department of Homeland Security.

"Under Secretary for Emergency Preparedness and Response, Department of Homeland Security.

"Under Secretary for Immigration, Department of Homeland Security.

"Under Secretary for Intelligence, Department of Homeland Security.

"Under Secretary for Science and Technology, Department of Homeland Security.".

SEC. 142. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) Definitions.—In this section:

(1) Non-homeland security missions.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (e.g., fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) Homeland security missions.—The term "homeland security missions" means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) Transfer.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) Maintenance of Status of Functions and Assets.—Notwithstanding any other provision of this Act, the authorities, functions, assets, organizational structure, units, personnel, and non-homeland security missions of the Coast Guard shall be maintained intact and without reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts. Nothing in this paragraph shall prevent the Coast Guard from replacing or upgrading any asset with an asset of equivalent or greater capabilities.

(d) Certain Transfers Prohibited.—

(1) In general.—None of the missions, functions, personnel, and assets (including ships, aircraft, helicopters, and vehicles) of the Coast Guard may be transferred to the operational control of, or diverted to the principal and continuing use of, any other organization, unit, or entity of the Department.

(2) Applicability.—The restrictions in paragraph (1) shall not apply—

(A) to any joint operation of less than 90 days between the Coast Guard and other entities and organizations of the Department; or

(B) to any detail or assignment of any individual member or civilian employee of the Coast Guard to any other entity or organization of the Department for the purposes of ensuring effective liaison, coordination, and operations of the Coast Guard and that entity or organization, except that the total number of individuals detailed or assigned in this capacity may not exceed 50 individuals during any fiscal year.

(e) Changes to Non-Homeland Security Missions.—

(1) Prohibition.—The Secretary may not make any substantial or significant change to any of the non-homeland security missions of the Coast Guard, or to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, without the prior approval of Congress as expressed in a subsequent Act. With respect to a change to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, the restrictions in this paragraph shall not apply when such change shall result in an increase in those capabilities.

(2) Waiver.—The President may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the President to Congress that a clear, compelling, and immediate state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively to the national emergency if the restrictions under paragraph (1) are not waived.

(f) Annual Review.—

(1) In general.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) Report.—The Inspector General shall submit the detailed results of the annual review and assessment required by paragraph (1) not later than March 1 of each year directly to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) Direct Reporting to Secretary.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) Operation as a Service in the Navy.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

Subtitle C—National Emergency Preparedness Enhancement

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "National Emergency Preparedness Enhancement Act of 2002".

SEC. 152. PREPAREDNESS INFORMATION AND EDUCATION.

(a) Establishment of Clearinghouse.—There is established in the Department a National Clearinghouse on Emergency Preparedness (referred to in this section as the "Clearinghouse"). The Clearinghouse shall be headed by a Director.

(b) Consultation.—The Clearinghouse shall consult with such heads of agencies, such task forces appointed by Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to a homeland security strategy.

(c) Duties.—

(1) Dissemination of information.—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) Center.—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, a telephone number, and staff, through which information shall be made available on—

(A) ways in which States, political subdivisions, and private entities can access Federal grants;

(B) emergency preparedness education and awareness tools that businesses, schools, and the general public can use; and

(C) other information as appropriate.

(3) Public awareness campaign.—The Clearinghouse shall develop a public awareness campaign. The campaign shall be ongoing, and shall include an annual theme to be implemented during the National Emergency Preparedness Week established under section 154. The Clearinghouse shall work with heads of agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(4) Best practices information.—The Clearinghouse shall compile and disseminate information on best practices for emergency preparedness identified by the Secretary and the heads of other agencies.

SEC. 153. PILOT PROGRAM.

(a) Emergency Preparedness Enhancement Pilot Program.—The Department shall award grants to private entities to pay for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness.

(b) Use of Funds.—An entity that receives a grant under this subsection may use the funds made available through the grant to—

(1) develop evacuation plans and drills;

(2) plan additional or improved security measures, with an emphasis on innovative technologies or practices;

(3) deploy innovative emergency preparedness technologies; or

(4) educate employees and customers about the development and planning activities described in paragraphs (1) and (2) in innovative ways.

(c) Federal Share.—The Federal share of the cost described in subsection (a) shall be 50 percent, up to a maximum of $250,000 per grant recipient.

(d) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 154. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) National Week.—

(1) Designation.—Each week that includes September 11 is "National Emergency Preparedness Week".

(2) Proclamation.—The President is requested every year to issue a proclamation calling on the people of the United States (including State and local governments and the private sector) to observe the week with appropriate activities and programs.

(b) Federal Agency Activities.—In conjunction with National Emergency Preparedness Week, the head of each agency, as appropriate, shall coordinate with the Department to inform and educate the private sector and the general public about emergency preparedness activities, resources, and tools, giving a high priority to emergency preparedness efforts designed to address terrorist attacks.

Subtitle D—Miscellaneous Provisions

SEC. 161. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

(a) ESTABLISHMENT.—There is established within the Department of Defense a National Bio-Weapons Defense Analysis Center (in this section referred to as the "Center").

(b) MISSION.—The mission of the Center is to develop countermeasures to potential attacks by terrorists using biological or chemical weapons that are weapons of mass destruction (as defined under section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) and conduct research and analysis concerning such weapons.

SEC. 162. REVIEW OF FOOD SAFETY.

(a) REVIEW OF FOOD SAFETY LAWS AND FOOD SAFETY ORGANIZATIONAL STRUCTURE.—The Secretary shall enter into an agreement with and provide funding to the National Academy of Sciences to conduct a detailed, comprehensive study which shall—

(1) review all Federal statutes and regulations affecting the safety and security of the food supply to determine the effectiveness of the statutes and regulations at protecting the food supply from deliberate contamination; and

(2) review the organizational structure of Federal food safety oversight to determine the efficiency and effectiveness of the organizational structure at protecting the food supply from deliberate contamination.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall prepare and submit to the President, the Secretary, and Congress a comprehensive report containing—

(A) the findings and conclusions derived from the reviews conducted under subsection (a); and

(B) specific recommendations for improving—

(i) the effectiveness and efficiency of Federal food safety and security statutes and regulations; and

(ii) the organizational structure of Federal food safety oversight.

(2) CONTENTS.—In conjunction with the recommendations under paragraph (1), the report under paragraph (1) shall address—

(A) the effectiveness with which Federal food safety statutes and regulations protect public health and ensure the food supply remains free from contamination;

(B) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(C) the application of resources among Federal food safety oversight agencies;

(D) the effectiveness and efficiency of the organizational structure of Federal food safety oversight;

(E) the shortfalls, redundancies, and inconsistencies of the organizational structure of Federal food safety oversight; and

(F) the merits of a unified, central organizational structure of Federal food safety oversight.

(c) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress the response of the Department to the recommendations of the report and recommendations of the Department to further protect the food supply from contamination.

SEC. 163. EXCHANGE OF EMPLOYEES BETWEEN AGENCIES AND STATE OR LOCAL GOVERNMENTS.

(a) FINDINGS.—Congress finds that—

(1) information sharing between Federal, State, and local agencies is vital to securing the homeland against terrorist attacks;

(2) Federal, State, and local employees working cooperatively can learn from one another and resolve complex issues;

(3) Federal, State, and local employees have specialized knowledge that should be consistently shared between and among agencies at all levels of government; and

(4) providing training and other support, such as staffing, to the appropriate Federal, State, and local agencies can enhance the ability of an agency to analyze and assess threats against the homeland, develop appropriate responses, and inform the United States public.

(b) EXCHANGE OF EMPLOYEES.—

(1) IN GENERAL.—The Secretary may provide for the exchange of employees of the Department and State and local agencies in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(2) CONDITIONS.—With respect to exchanges described under this subsection, the Secretary shall ensure that—

(A) any assigned employee shall have appropriate training or experience to perform the work required by the assignment; and

(B) any assignment occurs under conditions that appropriately safeguard classified and other sensitive information.

SEC. 164. WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107-71; 115 Stat. 620; 49 U.S.C. 44935 note) is amended—

(1) by striking "(d) SCREENER PERSONNEL.—Notwithstanding any other provision of law," and inserting the following:

"(d) SCREENER PERSONNEL.—

"(1) IN GENERAL.—Notwithstanding any other provision of law (except as provided under paragraph (2)),"; and

(2) by adding at the end the following:

"(2) WHISTLEBLOWER PROTECTION.—

"(A) DEFINITION.—In this paragraph, the term "security screener" means—

"(i) any Federal employee hired as a security screener under subsection (e) of section 44935 of title 49, United States Code; or

"(ii) an applicant for the position of a security screener under that subsection.

"(B) IN GENERAL.—Notwithstanding paragraph (1)—

"(i) section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener; and

"(ii) chapters 12, 23, and 75 of that title shall apply with respect to a security screener to the extent necessary to implement clause (i).

"(C) COVERED POSITION.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion would prevent the implementation of subparagraph (B) of this paragraph.".

SEC. 165. WHISTLEBLOWER PROTECTION FOR CERTAIN AIRPORT EMPLOYEES.

(a) IN GENERAL.—Section 42121(a) of title 49, United States Code, is amended—

(1) by striking "(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier" and inserting the following:

"(a) DISCRIMINATION AGAINST EMPLOYEES.—

"(1) IN GENERAL.—No air carrier, contractor, subcontractor, or employer described under paragraph (2)";

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(3) by adding at the end the following:

"(2) APPLICABLE EMPLOYERS.—Paragraph (1) shall apply to—

"(A) an air carrier or contractor or subcontractor of an air carrier;

"(B) an employer of airport security screening personnel, other than the Federal Government, including a State or municipal government, or an airport authority, or a contractor of such government or airport authority; or

"(C) an employer of private screening personnel described in section 44919 or 44920 of this title.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 42121(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i), by striking "paragraphs (1) through (4) of subsection (a)" and inserting "subparagraphs (A) through (D) of subsection (a)(1)"; and

(2) in clause (iii), by striking "paragraphs (1) through (4) of subsection (a)" and inserting "subparagraphs (A) through (D) of subsection (a)(1)".

SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472-4) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b), the following:

"(c) BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.—

"(1) ESTABLISHMENT.—There is established within the Office of the Director of the Centers for Disease Control and Prevention a Bioterrorism Preparedness and Response Division (in this subsection referred to as the 'Division').

"(2) MISSION.—The Division shall have the following primary missions:

"(A) To lead and coordinate the activities and responsibilities of the Centers for Disease Control and Prevention with respect to countering bioterrorism.

"(B) To coordinate and facilitate the interaction of Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, in so doing, serve as a major contact point for 2-way communications between the jurisdictions of homeland security and public health.

"(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

"(3) RESPONSIBILITIES.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

"(A) The Bioterrorism Preparedness and Response Program.

"(B) The Strategic National Stockpile.

"(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

"(4) DIRECTOR.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

"(5) Staffing.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

"(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

"(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.".

SEC. 167. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) In General.—The annual Federal response plan developed by the Secretary under sections 102(b)(14) and 134(b)(7) shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) Disclosures Among Relevant Agencies.—

(1) In general.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) Public health emergency.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) Potential public health emergency.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) In General.—There are authorized to be appropriated to the Department, for the benefit of Amtrak, for the 2-year period beginning on the date of enactment of this Act—

(1) $375,000,000 for grants to finance the cost of enhancements to the security and safety of Amtrak rail passenger service;

(2) $778,000,000 for grants for life safety improvements to 6 New York Amtrak tunnels built in 1910, the Baltimore and Potomac Amtrak tunnel built in 1872, and the Washington, D.C. Union Station Amtrak tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings; and

(3) $55,000,000 for the emergency repair, and returning to service of Amtrak passenger cars and locomotives.

(b) Availability of Funds.—Amounts appropriated under subsection (a) shall remain available until expended.

(c) Coordination With Existing Law.—Amounts made available to Amtrak under this section shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

SEC. 169. GRANTS FOR FIREFIGHTING PERSONNEL.

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

"(c) Personnel Grants.—

"(1) In general.—In addition to the grants authorized under subsection (b)(1), the Director may award grants to fire departments of a State for the purpose of hiring 'employees engaged in fire protection' as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203).

"(2) Duration.—Grants awarded under this subsection shall be for a 3-year period.

"(3) Maximum amount.—The total amount of grants awarded under this subsection shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

"(4) Federal share.—

"(A) In general.—The Federal share of a grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

"(B) Waiver.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

"(5) Application.—An application for a grant under this subsection, shall—

"(A) meet the requirements under subsection (b)(5);

"(B) include an explanation for the applicant's need for Federal assistance; and

"(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

"(6) Maintenance of effort.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources."; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

"(3) $1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).".

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) Review of Transportation Vulnerabilities and Federal Transportation Security Efforts.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit facilities and equipment;

(2) review all available information on vulnerabilities of the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) Report.—

(1) Content.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible, the cost of implementing the steps.

(2) Format.—The Comptroller General may submit the report in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) Response of the Secretary.—

(1) In general.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) Formats.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) Reports Provided to Committees.—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 171. INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) In General.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(1) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(2) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(b) Timetables.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan referred to in subsection (a).

(c) Implementation.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall ensure the implementation of the enterprise architecture developed under subsection (a)(1), and shall coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (a)(1).

(d) Agency Cooperation.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (a)(1).

(e) CONTENT.—The enterprise architecture developed under subsection (a)(1), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

(1) rapid deployment;

(2) a highly secure environment, providing data access only to authorized users; and

(3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(f) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under subsection (a), as necessary.

(g) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(h) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(i) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the duties of the Director under this section.

SEC. 172. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "March 31, 2004".

SEC. 173. CONFORMING AMENDMENTS REGARDING LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

(a) TITLE 38, UNITED STATES CODE.—

(1) SECRETARY OF HOMELAND SECURITY AS HEAD OF COAST GUARD.—Title 38, United States Code, is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security" in each of the following provisions:

(A) Section 101(25)(D).
(B) Section 1974(a)(5).
(C) Section 3002(5).
(D) Section 3011(a)(1)(A)(ii), both places it appears.
(E) Section 3012(b)(1)(A)(v).
(F) Section 3012(b)(1)(B)(ii)(V).
(G) Section 3018A(a)(3).
(H) Section 3018B(a)(1)(C).
(I) Section 3018B(a)(2)(C).
(J) Section 3018C(a)(5).
(K) Section 3020(m)(4).
(L) Section 3035(d).
(M) Section 6105(c).

(2) DEPARTMENT OF HOMELAND SECURITY AS EXECUTIVE DEPARTMENT OF COAST GUARD.—Title 38, United States Code, is amended by striking "Department of Transportation" and inserting "Department of Homeland Security" in each of the following provisions:

(A) Section 1560(a).
(B) Section 3035(b)(2).
(C) Section 3035(c).
(D) Section 3035(d).
(E) Section 3035(e)(2)(C).
(F) Section 3680A(g).

(b) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—The Soldiers' and Sailors' Civil Relief Act of 1940 is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security" in each of the following provisions:

(1) Section 105 (50 U.S.C. App. 515), both places it appears.

(2) Section 300(c) (50 U.S.C. App. 530).

(c) OTHER LAWS AND DOCUMENTS.—(1) Any reference to the Secretary of Transportation, in that Secretary's capacity as the head of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Secretary of Homeland Security.

(2) Any reference to the Department of Transportation, in its capacity as the executive department of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Department of Homeland Security.

SEC. 174. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 50 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term "expanded affiliated group" means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting "more than 50 percent" for "at least 80 percent" each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term "foreign incorporated entity" means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms "person", "domestic", and "foreign" have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

(e) EFFECTIVE DATE.—This section shall take effect 1 day after the date of the enactment of this Act.

SEC. 175. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) DEFINITION OF COVERED LAW.—In this section, the term "covered law" means—

(1) the first section of the Act of August 31, 1922 (commonly known as the "Honeybee Act") (7 U.S.C. 281);

(2) title III of the Federal Seed Act (7 U.S.C. 1581 et seq.);

(3) the Plant Protection Act (7 U.S.C. 7701 et seq.);

(4) the Animal Health Protection Act (7 U.S.C. 8301 et seq.);

(5) section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(6) the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.); and

(7) the eighth paragraph under the heading "BUREAU OF ANIMAL INDUSTRY" in the Act of March 4, 1913 (commonly known as the "Virus-Serum-Toxin Act") (21 U.S.C. 151 et seq.);

(b) TRANSFER.—

(1) IN GENERAL.—Subject to paragraph (2), there is transferred to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under each covered law.

(2) QUARANTINE ACTIVITIES.—The functions transferred under paragraph (1) shall not include any quarantine activity carried out under a covered law.

(c) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred under subsection (b) shall be exercised by the Secretary of Homeland Security in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of each covered law.

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary of Homeland Security in any case in which the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (b) under a covered law.

(3) EFFECTIVE ADMINISTRATION.—The Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred under subsection (b).

(d) TRANSFER AGREEMENT.—

(1) IN GENERAL.—Before the completion of the transition period (as defined in section 181), the Secretary of Agriculture and the Secretary of Homeland Security shall enter into an agreement to carry out this section.

(2) REQUIRED TERMS.—The agreement required by this subsection shall provide for—

(A) the supervision by the Secretary of Agriculture of the training of employees of the Secretary of Homeland Security to carry out the functions transferred under subsection (b);

(B) the transfer of funds to the Secretary of Homeland Security under subsection (e);

(C) authority under which the Secretary of Homeland Security may perform functions that—

(i) are delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants; but

(ii) are not transferred to the Secretary of Homeland Security under subsection (b); and

(D) authority under which the Secretary of Agriculture may use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(3) REVIEW AND REVISION.—After the date of execution of the agreement described in paragraph (1), the Secretary of Agriculture and the Secretary of Homeland Security—

(A) shall periodically review the agreement; and

(B) may jointly revise the agreement, as necessary.

(e) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Subject to paragraph (2), out of any funds collected as fees under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall periodically transfer to the Secretary of Homeland Security, in accordance with the agreement under subsection (d), funds for activities carried out by the Secretary of Homeland Security for which the fees were collected.

(2) LIMITATION.—The proportion of fees collected under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a) that are transferred to the Secretary of Homeland Security under paragraph (1) may not exceed the proportion that—

(A) the costs incurred by the Secretary of Homeland Security to carry out activities funded by those fees; bears to

(B) the costs incurred by the Federal Government to carry out activities funded by those fees.

(f) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period (as defined in section 181), the Secretary of Agriculture shall transfer to the Department of Homeland Security not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(g) PROTECTION OF INSPECTION ANIMALS.—

(1) DEFINITION OF SECRETARY CONCERNED.—Title V of the Agricultural Risk Protection Act of 2000 is amended—

(A) by redesignating sections 501 and 502 (7 U.S.C. 2279e, 2279f) as sections 502 and 503, respectively; and

(B) by inserting before section 502 (as redesignated by subparagraph (A)) the following:

"SEC. 501. DEFINITION OF SECRETARY CONCERNED.

"In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

(2) CONFORMING AMENDMENTS.—

(A) Section 502 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended—

(i) in subsection (a)—

(I) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(II) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture"; and

(ii) by striking "Secretary" each place it appears (other than in subsections (a) and (e)) and inserting "Secretary concerned".

(B) Section 503 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended by striking "501" each place it appears and inserting "502".

(C) Section 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8411) is repealed.

SEC. 176. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term "affected agency" means—

(1) the Department of Homeland Security;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary of Homeland Security.

(b) COORDINATION.—Consistent with section 171, the Secretary of Homeland Security, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall ensure that appropriate information (as determined by the Secretary of Homeland Security) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) REPORT AND PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

Subtitle E—Transition Provisions

SEC. 181. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term "agency" includes any entity, organizational unit, or function transferred or to be transferred under this title.

(2) TRANSITION PERIOD.—The term "transition period" means the 1-year period beginning on the effective date of this division.

SEC. 182. TRANSFER OF AGENCIES.

The transfer of an agency to the Department, as authorized by this title, shall occur when the President so directs, but in no event later than the end of the transition period.

SEC. 183. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until an agency is transferred to the Department, any official having authority over, or functions relating to, the agency immediately before the effective date of this division shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may reasonably request in preparing for the transfer and integration of the agency into the Department.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Secretary, the head of any agency (as defined under section 2) may, on a reimbursable basis, provide services and detail personnel to assist with the transition.

(c) ACTING OFFICIALS.—

(1) DESIGNATION.—During the transition period, pending the nomination and advice and consent of the Senate to the appointment of an officer required by this division to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent, and who continues as such an officer, to act in such office until the office is filled as provided in this division.

(2) COMPENSATION.—While serving as an acting officer under paragraph (1), the officer shall receive compensation at the higher of the rate provided—

(A) under this division for the office in which that officer acts; or

(B) for the office held at the time of designation.

(3) PERIOD OF SERVICE.—The person serving as an acting officer under paragraph (1) may serve in the office for the periods described under section 3346 of title 5, United States Code, as if the office became vacant on the effective date of this division.

(d) EXCEPTION TO ADVICE AND CONSENT REQUIREMENT.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer—

(1) whose agency is transferred to the Department under this Act;

(2) whose appointment was by and with the advice and consent of the Senate;

(3) who is proposed to serve in a directorate or office of the Department that is similar to the transferred agency in which the officer served; and

(4) whose authority and responsibilities following such transfer would be equivalent to those performed prior to such transfer.

SEC. 184. INCIDENTAL TRANSFERS AND TRANSFER OF RELATED FUNCTIONS.

(a) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this title, as the Director determines necessary to accomplish the purposes of this title.

(b) ADJUDICATORY OR REVIEW FUNCTIONS.—

(1) IN GENERAL.—At the time an agency is transferred to the Department, the President may also transfer to the Department any agency established to carry out or support adjudicatory or review functions in relation to the transferred agency.

(2) EXCEPTION.—The President may not transfer the Executive Office of Immigration Review of the Department of Justice under this subsection.

(c) TRANSFER OF RELATED FUNCTIONS.—The transfer, under this title, of an agency that is a subdivision of a department before such transfer shall include the transfer to the Secretary of any function relating to such agency that, on the date before the transfer, was exercised by the head of the department from which such agency is transferred.

(d) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, delegation of authority, or other document pertaining to an agency transferred under this title that refers to the head of the department from which such agency is transferred is deemed to refer to the Secretary.

SEC. 185. IMPLEMENTATION PROGRESS REPORTS AND LEGISLATIVE RECOMMENDATIONS.

(a) IN GENERAL.—In consultation with the President and in accordance with this section, the Secretary shall prepare implementation progress reports and submit such reports to—

(1) the President of the Senate and the Speaker of the House of Representatives for referral to the appropriate committees; and

(2) the Comptroller General of the United States.

(b) REPORT FREQUENCY.—

(1) INITIAL REPORT.—As soon as practicable, and not later than 6 months after the date of enactment of this Act, the Secretary shall submit the first implementation progress report.

(2) SEMIANNUAL REPORTS.—Following the submission of the report under paragraph (1), the Secretary shall submit additional implementation progress reports not less frequently than once every 6 months until all transfers to the Department under this title have been completed.

(3) FINAL REPORT.—Not later than 6 months after all transfers to the Department under this title have been completed, the Secretary shall submit a final implementation progress report.

(c) CONTENTS.—

(1) IN GENERAL.—Each implementation progress report shall report on the progress made in implementing titles I and XI, including fulfillment of the functions transferred under this Act, and shall include all of the information specified under paragraph (2) that the Secretary has gathered as of the date of submission. Information contained in an earlier report may be referenced, rather than set out in full, in a subsequent report. The final implementation progress report shall include any required information not yet provided.

(2) SPECIFICATIONS.—Each implementation progress report shall contain, to the extent available—

(A) with respect to the transfer and incorporation of entities, organizational units, and functions—

(i) the actions needed to transfer and incorporate entities, organizational units, and functions into the Department;

(ii) a projected schedule, with milestones, for completing the various phases of the transition;

(iii) a progress report on taking those actions and meeting the schedule;

(iv) the organizational structure of the Department, including a listing of the respective directorates, the field offices of the Department, and the executive positions that will be filled by political appointees or career executives;

(v) the location of Department headquarters, including a timeframe for relocating to the new location, an estimate of cost for the relocation, and information about which elements of the various agencies will be located at headquarters;

(vi) unexpended funds and assets, liabilities, and personnel that will be transferred, and the proposed allocations and disposition within the Department; and

(vii) the costs of implementing the transition;

(B) with respect to human capital planning—

(i) a description of the workforce planning undertaken for the Department, including the preparation of an inventory of skills and competencies available to the Department, to identify any gaps, and to plan for the training, recruitment, and retention policies necessary to attract and retain a workforce to meet the needs of the Department;

(ii) the past and anticipated future record of the Department with respect to recruitment and retention of personnel;

(iii) plans or progress reports on the utilization by the Department of existing personnel flexibility, provided by law or through regulations of the President and the Office of Personnel Management, to achieve the human capital needs of the Department;

(iv) any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation under this division of functions, entities, and personnel previously covered by disparate personnel systems; and

(v) efforts to address the disparities under clause (iv) using existing personnel flexibility;

(C) with respect to information technology—

(i) an assessment of the existing and planned information systems of the Department; and

(ii) a report on the development and implementation of enterprise architecture and of the plan to achieve interoperability;

(D) with respect to programmatic implementation—

(i) the progress in implementing the programmatic responsibilities of this division;

(ii) the progress in implementing the mission of each entity, organizational unit, and function transferred to the Department;

(iii) recommendations of any other governmental entities, organizational units, or functions that need to be incorporated into the Department in order for the Department to function effectively; and

(iv) recommendations of any entities, organizational units, or functions not related to homeland security transferred to the Department that need to be transferred from the Department or terminated for the Department to function effectively.

(d) LEGISLATIVE RECOMMENDATIONS.—

(1) INCLUSION IN REPORT.—The Secretary, after consultation with the appropriate committees of Congress, shall include in the report under this section, recommendations for legislation that the Secretary determines is necessary to—

(A) facilitate the integration of transferred entities, organizational units, and functions into the Department;

(B) reorganize agencies, executive positions, and the assignment of functions within the Department;

(C) address any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation of agencies, functions, and personnel previously covered by disparate personnel systems;

(D) enable the Secretary to engage in procurement essential to the mission of the Department;

(E) otherwise help further the mission of the Department; and

(F) make technical and conforming amendments to existing law to reflect the changes made by titles I and XI.

(2) SEPARATE SUBMISSION OF PROPOSED LEGISLATION.—The Secretary may submit the proposed legislation under paragraph (1) to Congress before submitting the balance of the report under this section.

SEC. 186. TRANSFER AND ALLOCATION.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the agencies transferred under this title, shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and to section 1531 of title 31, United States Code. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 187. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, recognitions of labor organizations, collective bargaining agreements, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(2) which are in effect at the time this division takes effect, or were final before the effective date of this division and are to become effective on or after the effective date of this division,

shall, to the extent related to such functions, continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary or other authorized official, or a court of competent jurisdiction, or by operation of law.

(b) Proceedings Not Affected.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) Suits Not Affected.—The provisions of this title shall not affect suits commenced before the effective date of this division, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against an agency, or by or against any individual in the official capacity of such individual as an officer of an agency, shall abate by reason of the enactment of this title.

(e) Administrative Actions Relating to Promulgation of Regulations.—Any administrative action relating to the preparation or promulgation of a regulation by an agency relating to a function transferred under this title may be continued by the Department with the same effect as if this title had not been enacted.

(f) Employment and Personnel.—

(1) Terms and conditions of employment.—The transfer of an employee to the Department under this Act shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(2) Conditions and criteria for appointment.—Any qualifications, conditions, or criteria required by law for appointments to a position in an agency, or subdivision thereof, transferred to the Department under this title, including a requirement that an appointment be made by the President, by and with the advice and consent of the Senate, shall continue to apply with respect to any appointment to the position made after such transfer to the Department has occurred.

(3) Whistleblower protection.—The President may not exclude any position transferred to the Department as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion subject to that authority was not made before the date of enactment of this Act.

(g) No Effect on Intelligence Authorities.—The transfer of authorities, functions, personnel, and assets of elements of the United States Government under this title, or the assumption of authorities and functions by the Department under this title, shall not be construed, in cases where such authorities, functions, personnel, and assets are engaged in intelligence activities as defined in the National Security Act of 1947, as affecting the authorities of the Director of Central Intelligence, the Secretary of Defense, or the heads of departments and agencies within the intelligence community.

SEC. 188. TRANSITION PLAN.

(a) In General.—Not later than September 15, 2002, the President shall submit to Congress a transition plan as set forth in subsection (b).

(b) Contents.—

(1) In general.—The transition plan under subsection (a) shall include a detailed—

(A) plan for the transition to the Department and implementation of this title and division B; and

(B) proposal for the financing of those operations and needs of the Department that do not represent solely the continuation of functions for which appropriations already are available.

(2) Financing proposal.—The financing proposal under paragraph (1)(B) may consist of any combination of specific appropriations transfers, specific reprogrammings, and new specific appropriations as the President considers advisable.

SEC. 189. USE OF APPROPRIATED FUNDS.

(a) Applicability of This Section.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance, use, and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act.

(b) Authorization of Appropriations To Create Department.—There is authorized to be appropriated $160,000,000 for the Office of Homeland Security in the Executive Office of the President to be transferred without delay to the Department upon its creation by enactment of this Act, notwithstanding subsection (c)(1)(C) such funds shall be available only for the payment of necessary salaries and expenses associated with the initiation of operations of the Department.

(c) Use of Transferred Funds.—

(1) In general.—Except as may be provided in this subsection or in an appropriations Act in accordance with subsection (e), balances of appropriations and any other funds or assets transferred under this Act—

(A) shall be available only for the purposes for which they were originally available;

(B) shall remain subject to the same conditions and limitations provided by the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; and

(C) shall not be used to fund any new position established under this Act.

(2) Transfer of funds.—

(A) In general.—After the creation of the Department and the swearing in of its Secretary, and upon determination by the Secretary that such action is necessary in the national interest, the Secretary is authorized to transfer, with the approval of the Office of Management and Budget, not to exceed $140,000,000 of unobligated funds from organizations and entities transferred to the new Department by this Act.

(B) Limitation.—Notwithstanding paragraph (1)(C), funds authorized to be transferred by subparagraph (A) shall be available only for payment of necessary costs, including funding of new positions, for the initiation of operations of the Department and may not be transferred unless the Committees on Appropriations are notified at least 15 days in advance of any proposed transfer and have approved such transfer in advance.

(C) Notification.—The notification required in subparagraph (B) shall include a detailed justification of the purposes for which the funds are to be used and a detailed statement of the impact on the program or organization that is the source of the funds, and shall be submitted in accordance with reprogramming procedures to be established by the Committees on Appropriations.

(D) Use for other items.—The authority to transfer funds established in this section may not be used unless for higher priority items, based on demonstrated homeland security requirements, than those for which funds originally were appropriated and in no case where the item for which funds are requested has been denied by Congress.

(d) Notification Regarding Transfers.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(e) Additional Uses of Funds During Transition.—Subject to subsections (c) and (d), amounts transferred to, or otherwise made available to, the Department may be used during the transition period, as defined in section 801(2), for purposes in addition to those for which such amounts were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(f) Disposal of Property.—

(1) Strict compliance.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with subchapter IV of chapter 5 of title 40, United States Code.

(2) Deposit of proceeds.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(g) Gifts.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(h) Budget Request.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

Subtitle F—Administrative Provisions

SEC. 191. REORGANIZATIONS AND DELEGATIONS.

(a) Reorganization Authority.—

(1) In general.—The Secretary may, as necessary and appropriate—

(A) allocate, or reallocate, functions among officers of the Department; and

(B) establish, consolidate, alter, or discontinue organizational entities within the Department.

(2) Limitation.—Paragraph (1) does not apply to—

(A) any office, bureau, unit, or other entity established by law and transferred to the Department;

(B) any function vested by law in an entity referred to in subparagraph (A) or vested by law in an officer of such an entity; or

(C) the alteration of the assignment or delegation of functions assigned by this Act to any officer or organizational entity of the Department.

(b) DELEGATION AUTHORITY.—

(1) SECRETARY.—The Secretary may—

(A) delegate any of the functions of the Secretary; and

(B) authorize successive redelegations of functions of the Secretary to other officers and employees of the Department.

(2) OFFICERS.—An officer of the Department may—

(A) delegate any function assigned to the officer by law; and

(B) authorize successive redelegations of functions assigned to the officer by law to other officers and employees of the Department.

(3) LIMITATIONS.—

(A) INTERUNIT DELEGATION.—Any function assigned by this title to an organizational unit of the Department or to the head of an organizational unit of the Department may not be delegated to an officer or employee outside of that unit.

(B) FUNCTIONS.—Any function vested by law in an entity established by law and transferred to the Department or vested by law in an officer of such an entity may not be delegated to an officer or employee outside of that entity.

SEC. 192. REPORTING REQUIREMENTS.

(a) ANNUAL EVALUATIONS.—The Comptroller General of the United States shall monitor and evaluate the implementation of this title and title XI. Not later than 15 months after the effective date of this division, and every year thereafter for the succeeding 5 years, the Comptroller General shall submit a report to Congress containing—

(1) an evaluation of the implementation progress reports submitted to Congress and the Comptroller General by the Secretary under section 185;

(2) the findings and conclusions of the Comptroller General of the United States resulting from the monitoring and evaluation conducted under this subsection, including evaluations of how successfully the Department is meeting—

(A) the homeland security missions of the Department; and

(B) the other missions of the Department; and

(3) any recommendations for legislation or administrative action the Comptroller General considers appropriate.

(b) BIENNIAL REPORTS.—Every 2 years the Secretary shall submit to Congress—

(1) a report assessing the resources and requirements of executive agencies relating to border security and emergency preparedness issues; and

(2) a report certifying the preparedness of the United States to prevent, protect against, and respond to natural disasters, cyber attacks, and incidents involving weapons of mass destruction.

(c) POINT OF ENTRY MANAGEMENT REPORT.—Not later than 1 year after the effective date of this division, the Secretary shall submit to Congress a report outlining proposed steps to consolidate management authority for Federal operations at key points of entry into the United States.

(d) COMBATING TERRORISM AND HOMELAND SECURITY.—Not later than 270 days after the date of enactment of this Act, the Secretary shall—

(1) in consultation with the head of each department or agency affected by titles I, II, III, and XI, develop definitions of the terms "combating terrorism" and "homeland security" for purposes of those titles and shall consider such definitions in determining the mission of the Department; and

(2) submit a report to Congress on such definitions.

(e) RESULTS-BASED MANAGEMENT.—

(1) STRATEGIC PLAN.—

(A) IN GENERAL.—Not later than September 30, 2003, consistent with the requirements of section 306 of title 5, United States Code, the Secretary, in consultation with Congress, shall prepare and submit to the Director of the Office of Management and Budget and to Congress a strategic plan for the program activities of the Department.

(B) PERIOD; REVISIONS.—The strategic plan shall cover a period of not less than 5 years from the fiscal year in which it is submitted and it shall be updated and revised at least every 3 years.

(C) CONTENTS.—The strategic plan shall describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(2) PERFORMANCE PLAN.—

(A) IN GENERAL.—In accordance with section 1115 of title 31, United States Code, the Secretary shall prepare an annual performance plan covering each program activity set forth in the budget of the Department.

(B) CONTENTS.—The performance plan shall include—

(i) the goals to be achieved during the year;

(ii) strategies and resources required to meet the goals; and

(iii) the means used to verify and validate measured values.

(C) SCOPE.—The performance plan should describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(3) PERFORMANCE REPORT.—

(A) IN GENERAL.—In accordance with section 1116 of title 31, United States Code, the Secretary shall prepare and submit to the President and Congress an annual report on program performance for each fiscal year.

(B) CONTENTS.—The performance report shall include the actual results achieved during the year compared to the goals expressed in the performance plan for that year.

SEC. 193. ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH REQUIREMENTS.

The Secretary shall—

(1) ensure that the Department complies with all applicable environmental, safety, and health statutes and requirements; and

(2) develop procedures for meeting such requirements.

SEC. 194. LABOR STANDARDS.

(a) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance authorized under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act").

(b) SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the enforcement of labor standards under subsection (a), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40, United States Code.

SEC. 195. PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.

The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 196. PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(a) IN GENERAL.—For each entity transferred into the Department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the head of such entity, shall report to the Secretary, the Comptroller General, and the appropriate committees of Congress on the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.

(b) CONTENTS.—The report referred to in subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees who carry out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel or otherwise, currently used to carry out those functions;

(2) contain information related to the roles, responsibilities, missions, organizational structure, capabilities, personnel assets, and annual budgets, specifically with respect to the capabilities of the entity to accomplish its non-homeland security missions without any diminishment; and

(3) contain information regarding whether any changes are required to the roles, responsibilities, missions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish its non-homeland security missions without diminishment.

(c) TIMING.—Each Under Secretary shall provide the report referred to in subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SEC. 197. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, and each budget request submitted to Congress for the National Terrorism Prevention and Response Program shall be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and the fiscal year 2005 budget request for the National Terrorism Prevention and Response Program, and for any subsequent fiscal year.

SEC. 198. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL INFRASTRUCTURE.—The term "critical infrastructure" has the meaning

given that term in section 1016(e) of the USA PATRIOT ACT of 2001 (42 U.S.C. 5195(e)).

(2) Furnished voluntarily.—

(A) Definition.—The term "furnished voluntarily" means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) Benefit.—In this paragraph, the term "benefit" does not include any warning, alert, or other risk analysis by the Department.

(b) In General.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) Records Shared With Other Agencies.—

(1) In general.—

(A) Response to request.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) Segregable portion of record.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) Disclosure of independently furnished records.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) Withdrawal of Confidential Designation.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) Procedures.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) Effect on State and Local Law.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) Report.—

(1) Requirement.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) Committees of congress.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) Form.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 199. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) Authority.—

(1) Sense of congress.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) In general.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.
"9701. Establishment of human resources management system.

"§9701. Establishment of human resources management system

"(a) In General.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

"(b) System Requirements.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) Other Nonwaivable Provisions.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 71, 72, 73, 77, and 79, and this chapter.

"(d) Limitations Relating to Pay.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of this title; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of this title;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of this title in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) Provisions To Ensure Collaboration With Employee Representatives.—

"(1) In general.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) Notice of proposal.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) PREIMPLEMENTATION REQUIREMENTS.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(3) WRITTEN AGREEMENT.—Notwithstanding any other provision of this part, employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any system provided under this section unless the exclusive representative and the Secretary have entered into a written agreement, which specifically provides for the inclusion of such employees within such system. Such written agreement may be imposed by the Federal Service Impasses Panel under section 7119, after negotiations consistent with section 7117.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 181 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 199A. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of title 5, United States Code, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SEC. 199B. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to—

(1) enable the Secretary to administer and manage the Department; and

(2) carry out the functions of the Department other than those transferred to the Department under this Act.

TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS

SEC. 201. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

"(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

"(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

"(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

"(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

"(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

"(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

"(5) Powers authorized for an Office of Inspector General under paragraph (1) shall be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

"(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

"(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.".

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LAPSE OF AUTHORITY.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

TITLE III—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Temporary Flexibility for Certain Procurements

SEC. 301. DEFINITION.

In this title, the term "executive agency" has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 302. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 303. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 302 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $250,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $500,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term "simplified acquisition threshold definitions" means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 304. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 302, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $10,000.

SEC. 305. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 302 without regard to whether the property or services are commercial items.

(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 306. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 302, including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 302.

SEC. 307. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) REQUIREMENTS.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) CONTENT OF REPORT.—The report under subsection (a)(2) shall include the following matters:

(1) ASSESSMENT.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) RECOMMENDATIONS.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) CONSULTATION.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

Subtitle B—Other Matters

SEC. 311. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

TITLE IV—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 401. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 402. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 403. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 404. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation; and

(vii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 405. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the vice chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CLOSED MEETINGS.—

(1) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) ADDITIONAL AUTHORITY.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 406. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 407. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 408. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 409. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) ADDITIONAL REPORTS.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This division shall take effect 30 days after the date of enactment of this Act or, if enacted within 30 days before January 1, 2003, on January 1, 2003.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

TITLE X—SHORT TITLE AND DEFINITIONS.

SEC. 1001. SHORT TITLE.

This division may be cited as the "Immigration Reform, Accountability, and Security Enhancement Act of 2002".

SEC. 1002. DEFINITIONS.

In this division:

(1) ENFORCEMENT BUREAU.—The term "Enforcement Bureau" means the Bureau of Enforcement and Border Affairs established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) FUNCTION.—The term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) IMMIGRATION ENFORCEMENT FUNCTIONS.—The term "immigration enforcement functions" has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.

(4) IMMIGRATION LAWS OF THE UNITED STATES.—The term "immigration laws of the United States" has the meaning given the term in section 111(e) of the Immigration and Nationality Act, as added by section 1102 of this Act.

(5) IMMIGRATION POLICY, ADMINISTRATION, AND INSPECTION FUNCTIONS.—The term "immigration policy, administration, and inspection functions" has the meaning given the term in section 112(b)(3) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(6) IMMIGRATION SERVICE FUNCTIONS.—The term "immigration service functions" has the meaning given the term in section 113(b)(2) of the Immigration and Nationality Act, as added by section 1104 of this Act.

(7) OFFICE.—The term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(8) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(9) SERVICE BUREAU.—The term "Service Bureau" means the Bureau of Immigration Services established in section 113 of the Immigration and Nationality Act, as added by section 1104 of this Act.

(10) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of the Immigration and Nationality Act, as added by section 1103 of this Act.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

SEC. 1101. ABOLITION OF INS.

(a) IN GENERAL.—The Immigration and Naturalization Service is abolished.

(b) REPEAL.—Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service), is repealed.

SEC. 1102. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

(a) ESTABLISHMENT.—Title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) by inserting "**CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES**" after "**TITLE I—GENERAL**"; and

(2) by adding at the end the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"SEC. 111. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

"(a) ESTABLISHMENT.—There is established within the Department of Homeland Security the Directorate of Immigration Affairs.

"(b) PRINCIPAL OFFICERS.—The principal officers of the Directorate are the following:

"(1) The Under Secretary of Homeland Security for Immigration Affairs appointed under section 112.

"(2) The Assistant Secretary of Homeland Security for Immigration Services appointed under section 113.

"(3) The Assistant Secretary of Homeland Security for Enforcement and Border Affairs appointed under section 114.

"(c) FUNCTIONS.—Under the authority of the Secretary of Homeland Security, the Directorate shall perform the following functions:

"(1) Immigration policy, administration, and inspection functions, as defined in section 112(b).

"(2) Immigration service and adjudication functions, as defined in section 113(b).

"(3) Immigration enforcement functions, as defined in section 114(b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out the functions of the Directorate.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

"(e) IMMIGRATION LAWS OF THE UNITED STATES DEFINED.—In this chapter, the term 'immigration laws of the United States' means the following:

"(1) This Act.

"(2) Such other statutes, Executive orders, regulations, or directives, treaties, or other international agreements to which the United States is a party, insofar as they relate to the admission to, detention in, or removal from the United States of aliens, insofar as they relate to the naturalization of aliens, or insofar as they otherwise relate to the status of aliens.".

(b) CONFORMING AMENDMENTS.—(1) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) by striking section 101(a)(34) (8 U.S.C. 1101(a)(34)) and inserting the following:

"(34) The term 'Directorate' means the Directorate of Immigration Affairs established by section 111.";

(B) by adding at the end of section 101(a) the following new paragraphs:

"(51) The term 'Secretary' means the Secretary of Homeland Security.

"(52) The term 'Department' means the Department of Homeland Security.";

(C) by striking "Attorney General" and "Department of Justice" each place it appears and inserting "Secretary" and "Department", respectively;

(D) in section 101(a)(17) (8 U.S.C. 1101(a)(17)), by striking "The" and inserting "Except as otherwise provided in section 111(e), the"; and

(E) by striking "Immigration and Naturalization Service", "Service", and "Service's" each place they appear and inserting "Directorate of Immigration Affairs", "Directorate", and "Directorate's", respectively.

(2) Section 6 of the Act entitled "An Act to authorize certain administrative expenses for the Department of Justice, and for other purposes", approved July 28, 1950 (64 Stat. 380), is amended—

(A) by striking "Immigration and Naturalization Service" and inserting "Directorate of Immigration Affairs";

(B) by striking clause (a); and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1103. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

"SEC. 112. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

"(a) UNDER SECRETARY OF IMMIGRATION AFFAIRS.—The Directorate shall be headed by an Under Secretary of Homeland Security for Immigration Affairs who shall be appointed in accordance with section 103(c) of the Immigration and Nationality Act.

"(b) RESPONSIBILITIES OF THE UNDER SECRETARY.—

"(1) IN GENERAL.—The Under Secretary shall be charged with any and all responsibilities and authority in the administration of the Directorate and of this Act which are conferred upon the Secretary as may be delegated to the Under Secretary by the Secretary or which may be prescribed by the Secretary.

"(2) DUTIES.—Subject to the authority of the Secretary under paragraph (1), the Under Secretary shall have the following duties:

"(A) IMMIGRATION POLICY.—The Under Secretary shall develop and implement policy under the immigration laws of the United States. The Under Secretary shall propose, promulgate, and issue rules, regulations, and statements of policy with respect to any function within the jurisdiction of the Directorate.

"(B) ADMINISTRATION.—The Under Secretary shall have responsibility for—

"(i) the administration and enforcement of the functions conferred upon the Directorate under section 1111(c) of this Act; and

"(ii) the administration of the Directorate, including the direction, supervision, and coordination of the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

"(C) INSPECTIONS.—The Under Secretary shall be directly responsible for the administration and enforcement of the functions of the Directorate under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

"(3) ACTIVITIES.—As part of the duties described in paragraph (2), the Under Secretary shall do the following:

"(A) RESOURCES AND PERSONNEL MANAGEMENT.—The Under Secretary shall manage the resources, personnel, and other support requirements of the Directorate.

"(B) INFORMATION RESOURCES MANAGEMENT.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including the maintenance of records and databases and the coordination of records and other information within the Directorate, and shall ensure that the Directorate obtains and maintains adequate information technology systems to carry out its functions.

"(C) COORDINATION OF RESPONSE TO CIVIL RIGHTS VIOLATIONS.—The Under Secretary shall coordinate, with the Civil Rights Officer of the Department of Homeland Security or other officials, as appropriate, the resolution of immigration issues that involve civil rights violations.

"(D) Risk analysis and risk management.—Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

"(3) Definition.—In this chapter, the term "immigration policy, administration, and inspection functions" means the duties, activities, and powers described in this subsection.

"(c) General Counsel.—

"(1) In general.—There shall be within the Directorate a General Counsel, who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary.

"(2) Function.—The General Counsel shall—

"(A) serve as the chief legal officer for the Directorate; and

"(B) be responsible for providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Under Secretary with respect to legal matters affecting the Directorate, and any of its components.

"(d) Financial Officers for the Directorate of Immigration Affairs.—

"(1) Chief financial officer.—

"(A) In general.—There shall be within the Directorate a Chief Financial Officer. The position of Chief Financial Officer shall be a career reserved position in the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Directorate. For purposes of section 902(a)(1) of such title, the Under Secretary shall be deemed to be an agency head.

"(B) Functions.—The Chief Financial Officer shall be responsible for directing, supervising, and coordinating all budget formulas and execution for the Directorate.

"(2) Deputy chief financial officer.—The Directorate shall be deemed to be an agency for purposes of section 903 of such title (relating to Deputy Chief Financial Officers).

"(e) Chief of Policy.—

"(1) In general.—There shall be within the Directorate a Chief of Policy. Under the authority of the Under Secretary, the Chief of Policy shall be responsible for—

"(A) establishing national immigration policy and priorities;

"(B) performing policy research and analysis on issues arising under the immigration laws of the United States; and

"(C) coordinating immigration policy between the Directorate, the Service Bureau, and the Enforcement Bureau.

"(2) Within the senior executive service.—The position of Chief of Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

"(f) Chief of Congressional, Intergovernmental, and Public Affairs.—

"(1) In general.—There shall be within the Directorate a Chief of Congressional, Intergovernmental, and Public Affairs. Under the authority of the Under Secretary, the Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

"(A) providing to Congress information relating to issues arising under the immigration laws of the United States, including information on specific cases;

"(B) serving as a liaison with other Federal agencies on immigration issues; and

"(C) responding to inquiries from, and providing information to, the media on immigration issues.

"(2) Within the senior executive service.—The position of Chief of Congressional, Intergovernmental, and Public Affairs shall be a Senior Executive Service position under section 5382 of title 5, United States Code.".

(b) Compensation of the Under Secretary.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Immigration Affairs, Department of Justice.".

(c) Compensation of General Counsel and Chief Financial Officer.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel, Directorate of Immigration Affairs, Department of Homeland Security.

"Chief Financial Officer, Directorate of Immigration Affairs, Department of Homeland Security.".

(d) Repeals.—The following provisions of law are repealed:

(1) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(2) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of assistant commissioners and district directors).

(3) Section 1 of the Act of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(e) Conforming Amendments.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:

"(8) The term 'Under Secretary' means the Under Secretary of Homeland Security for Immigration Affairs who is appointed under section 103(c).".

(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking "Commissioner of Immigration and Naturalization" and "Commissioner" each place they appear and inserting "Under Secretary of Homeland Security for Immigration Affairs" and "Under Secretary", respectively.

(C) The amendments made by subparagraph (B) do not apply to references to the "Commissioner of Social Security" in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

(2) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended—

(A) in subsection (c), by striking "Commissioner" and inserting "Under Secretary";

(B) in the section heading, by striking "COMMISSIONER" and inserting "UNDER SECRETARY";

(C) in subsection (d), by striking "Commissioner" and inserting "Under Secretary"; and

(D) in subsection (e), by striking "Commissioner" and inserting "Under Secretary".

(3) Sections 104 and 105 of the Immigration and Nationality Act (8 U.S.C. 1104, 1105) are amended by striking "Director" each place it appears and inserting "Assistant Secretary of State for Consular Affairs".

(4) Section 104(c) of the Immigration and Nationality Act (8 U.S.C. 1104(c)) is amended—

(A) in the first sentence, by striking "Passport Office, a Visa Office," and inserting "a Passport Services office, a Visa Services office, an Overseas Citizen Services office,"; and

(B) in the second sentence, by striking "the Passport Office and the Visa Office" and inserting "the Passport Services office and the Visa Services office".

(5) Section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Immigration and Naturalization, Department of Justice.".

(f) References.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Commissioner of Immigration and Naturalization shall be deemed to refer to the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1104. BUREAU OF IMMIGRATION SERVICES.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"SEC. 113. BUREAU OF IMMIGRATION SERVICES.

"(a) Establishment of Bureau.—

"(1) In general.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the 'Service Bureau').

"(2) Assistant secretary.—The head of the Service Bureau shall be the Assistant Secretary of Homeland Security for Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) Responsibilities of the Assistant Secretary.—

"(1) In general.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Services shall administer the immigration service functions of the Directorate.

"(2) Immigration service functions defined.—In this chapter, the term 'immigration service functions' means the following functions under the immigration laws of the United States:

"(A) Adjudications of petitions for classification of nonimmigrant and immigrant status.

"(B) Adjudications of applications for adjustment of status and change of status.

"(C) Adjudications of naturalization applications.

"(D) Adjudications of asylum and refugee applications.

"(E) Adjudications performed at Service centers.

"(F) Determinations concerning custody and parole of asylum seekers who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, including determinations under section 236B.

"(G) All other adjudications under the immigration laws of the United States.

"(c) Chief Budget Officer of the Service Bureau.—There shall be within the Service Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Service Bureau shall be responsible for monitoring and supervising all financial activities of the Service Bureau.

"(d) Quality Assurance.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to the immigration service functions of the Directorate are properly implemented; and

"(2) ensure that Service Bureau policies or practices result in sound records management and efficient and accurate service.

"(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Service Bureau and for receiving and investigating charges of misconduct or ill treatment made by the public.

"(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.".

(b) COMPENSATION OF ASSISTANT SECRETARY OF SERVICE BUREAU.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Homeland Security for Immigration Services, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) SERVICE BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Services, shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consider the location's proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.

(2) TRANSITION PROVISION.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1105. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103 and 1104, is further amended by adding at the end the following:

"SEC. 114. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

"(a) ESTABLISHMENT OF BUREAU.—

"(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Enforcement and Border Affairs (in this chapter referred to as the 'Enforcement Bureau').

"(2) ASSISTANT SECRETARY.—The head of the Enforcement Bureau shall be the Assistant Secretary of Homeland Security for Enforcement and Border Affairs (in this chapter referred to as the 'Assistant Secretary for Immigration Enforcement'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

"(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Enforcement shall administer the immigration enforcement functions of the Directorate.

"(2) IMMIGRATION ENFORCEMENT FUNCTIONS DEFINED.—In this chapter, the term 'immigration enforcement functions' means the following functions under the immigration laws of the United States:

"(A) The border patrol function.

"(B) The detention function, except as specified in section 113(b)(2)(F).

"(C) The removal function.

"(D) The intelligence function.

"(E) The investigations function.

"(c) CHIEF BUDGET OFFICER OF THE ENFORCEMENT BUREAU.—There shall be within the Enforcement Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Enforcement Bureau shall be responsible for monitoring and supervising all financial activities of the Enforcement Bureau.

"(d) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Enforcement Bureau and receiving charges of misconduct or ill treatment made by the public and investigating the charges.

"(e) OFFICE OF QUALITY ASSURANCE.—There shall be within the Enforcement Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to immigration enforcement functions are properly implemented; and

"(2) ensure that Enforcement Bureau policies or practices result in sound record management and efficient and accurate recordkeeping.

"(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Enforcement Bureau.".

(b) COMPENSATION OF ASSISTANT SECRETARY OF ENFORCEMENT BUREAU.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Security of Homeland Security for Enforcement and Border Affairs, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) ENFORCEMENT BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Enforcement, shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall make selections according to trends in unlawful entry and unlawful presence, alien smuggling, national security concerns, the number of Federal prosecutions of immigration-related offenses in a given geographic area, and other enforcement considerations. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Enforcement Bureau offices adequately serve enforcement needs.

(2) TRANSITION PROVISION.—In determining the location of Enforcement Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1106. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 115. OFFICE OF THE OMBUDSMAN FOR IMMIGRATION AFFAIRS.

"(a) IN GENERAL.—There is established within the Directorate the Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

"(b) OMBUDSMAN.—

"(1) APPOINTMENT.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

"(2) COMPENSATION.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of Homeland Security so determines, at a rate fixed under section 9503 of such title.

"(c) FUNCTIONS OF OFFICE.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

"(1) to assist individuals in resolving problems with the Directorate or any component thereof;

"(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

"(3) to propose changes in the administrative practices or regulations of the Directorate, or any component thereof, to mitigate problems identified under paragraph (2);

"(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

"(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

"(d) PERSONNEL ACTIONS.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems.

"(e) ANNUAL REPORT.—Not later than December 31 of each year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

"(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

"(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

"(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action;

"(4) an accounting of the items described in paragraphs (1) and (2) for which action remains to be completed;

"(5) an accounting of the items described in paragraphs (1) and (2) for which no action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction;

"(6) recommendations as may be appropriate to resolve problems encountered by the public;

"(7) recommendations as may be appropriate to resolve problems encountered by the public, including problems created by backlogs in the adjudication and processing of petitions and applications;

"(8) recommendations to resolve problems caused by inadequate funding or staffing; and

"(9) such other information as the Ombudsman may deem advisable.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Office of the Ombudsman such sums as may be necessary to carry out its functions.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.".

SEC. 1107. OFFICE OF IMMIGRATION STATISTICS WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 116. OFFICE OF IMMIGRATION STATISTICS.

"(a) ESTABLISHMENT.—There is established within the Directorate an Office of Immigration Statistics (in this section referred to as the 'Office'), which shall be headed by a Director who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Office shall collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Directorate and the Executive Office for Immigration Review (or its successor entity).

"(b) RESPONSIBILITIES OF DIRECTOR.—The Director of the Office shall be responsible for the following:

"(1) STATISTICAL INFORMATION.—Maintenance of all immigration statistical information of the Directorate of Immigration Affairs.

"(2) STANDARDS OF RELIABILITY AND VALIDITY.—Establishment of standards of reliability and validity for immigration statistics collected by the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity).

"(c) RELATION TO THE DIRECTORATE OF IMMIGRATION AFFAIRS AND THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.—

"(1) OTHER AUTHORITIES.—The Directorate and the Executive Office for Immigration Review (or its successor entity) shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review (or its successor entity), respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

"(2) DATABASES.—The Director of the Office, under the direction of the Secretary, shall ensure the interoperability of the databases of the Directorate, the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity) to permit the Director of the Office to perform the duties of such office.".

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Directorate of Immigration Affairs for exercise by the Under Secretary through the Office of Immigration Statistics established by section 116 of the Immigration and Nationality Act, as added by subsection (a), the functions performed by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service, and the statistical functions performed by the Executive Office for Immigration Review (or its successor entity), on the day before the effective date of this title.

SEC. 1108. CLERICAL AMENDMENTS.

The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to the heading for title I the following:

"CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES";

(2) by striking the item relating to section 103 and inserting the following:

"Sec. 103. Powers and duties of the Secretary of Homeland Security and the Under Secretary of Homeland Security for Immigration Affairs.";

and

(3) by inserting after the item relating to section 106 the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"Sec. 111. Establishment of Directorate of Immigration Affairs.
"Sec. 112. Under Secretary of Homeland Security for Immigration Affairs.
"Sec. 113. Bureau of Immigration Services.
"Sec. 114. Bureau of Enforcement and Border Affairs.
"Sec. 115. Office of the Ombudsman for Immigration Affairs.
"Sec. 116. Office of Immigration Statistics.".

Subtitle B—Transition Provisions

SEC. 1111. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—

(1) FUNCTIONS OF THE ATTORNEY GENERAL.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Attorney General, immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Secretary through the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(2) FUNCTIONS OF THE COMMISSIONER OR THE INS.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Directorate of Immigration Affairs on such effective date for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Directorate of Immigration Affairs under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 1112. TRANSFER OF PERSONNEL AND OTHER RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the Under Secretary for appropriate allocation in accordance with section 1115—

(1) the personnel of the Department of Justice employed in connection with the functions transferred under this title; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title.

SEC. 1113. DETERMINATIONS WITH RESPECT TO FUNCTIONS AND RESOURCES.

Under the direction of the Secretary, the Under Secretary shall determine, in accordance with the corresponding criteria set forth in sections 1112(b), 1113(b), and 1114(b) of the Immigration and Nationality Act (as added by this title)—

(1) which of the functions transferred under section 1111 are—

(A) immigration policy, administration, and inspection functions;

(B) immigration service functions; and

(C) immigration enforcement functions; and

(2) which of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112 were held or used, arose from, were available to, or were made available, in connection with the performance of the respective functions specified in paragraph (1) immediately prior to the effective date of this title.

SEC. 1114. DELEGATION AND RESERVATION OF FUNCTIONS.

(a) IN GENERAL.—

(1) DELEGATION TO THE BUREAUS.—Under the direction of the Secretary, and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), the Under Secretary shall delegate—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement.

(2) RESERVATION OF FUNCTIONS.—Subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), immigration policy, administration, and inspection functions shall be reserved for exercise by the Under Secretary.

(b) NONEXCLUSIVE DELEGATIONS AUTHORIZED.—Delegations made under subsection (a) may be on a nonexclusive basis as the Under Secretary may determine may be necessary to ensure the faithful execution of the Under Secretary's responsibilities and duties under law.

(c) EFFECT OF DELEGATIONS.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Under Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary, the Service

Bureau, and the Enforcement Bureau, respectively, as the Under Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

(d) STATUTORY CONSTRUCTION.—Nothing in this division may be construed to limit the authority of the Under Secretary, acting directly or by delegation under the Secretary, to establish such offices or positions within the Directorate of Immigration Affairs, in addition to those specified by this division, as the Under Secretary may determine to be necessary to carry out the functions of the Directorate.

SEC. 1115. ALLOCATION OF PERSONNEL AND OTHER RESOURCES.

(a) AUTHORITY OF THE UNDER SECRETARY.—

(1) IN GENERAL.—Subject to paragraph (2) and section 1114(b), the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the performance of the respective functions, as determined under section 1113, in accordance with the delegation of functions and the reservation of functions made under section 1114.

(2) LIMITATION.—Unexpended funds transferred pursuant to section 1112 shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) AUTHORITY TO TERMINATE AFFAIRS OF INS.—The Attorney General in consultation with the Secretary, shall provide for the termination of the affairs of the Immigration and Naturalization Service and such further measures and dispositions as may be necessary to effectuate the purposes of this division.

(c) TREATMENT OF SHARED RESOURCES.—The Under Secretary is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau. The Under Secretary shall maintain oversight and control over the shared computer databases and systems and records management.

SEC. 1116. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) PROCEEDINGS.—

(1) PENDING.—Sections 111 through 116 of the Immigration and Nationality Act, as added by subtitle A of this title, shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred under this title, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This title, and the amendments made by this title, shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title, and the amendments made by this title, had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and such function is transferred under this title to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred under this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred.

SEC. 1117. INTERIM SERVICE OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

The individual serving as the Commissioner of Immigration and Naturalization on the day before the effective date of this title may serve as Under Secretary until the date on which an Under Secretary is appointed under section 112 of the Immigration and Nationality Act, as added by section 1103.

SEC. 1118. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by the Executive Office for Immigration Review of the Department of Justice (or its successor entity), or any officer, employee, or component thereof immediately prior to the effective date of this title.

SEC. 1119. OTHER AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Basic Authorities Act of 1956, or under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to the issuance and use of passports and visas;

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(3) except as otherwise specifically provided in this division, any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

SEC. 1120. TRANSITION FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS FOR TRANSITION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—

(A) to effect—

(i) the abolition of the Immigration and Naturalization Service;

(ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement and Border Affairs; and

(iii) the transfer of functions required to be made under this division; and

(B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) ACTIVITIES SUPPORTED.—Activities supported under paragraph (1) include—

(A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration Affairs, including the preparation of any reports and implementation plans necessary for such transfer;

(B) the division, acquisition, and disposition of—

(i) buildings and facilities;

(ii) support and infrastructure resources; and

(iii) computer hardware, software, and related documentation;

(C) other capital expenditures necessary to effect the transfer of functions described in this paragraph;

(D) revision of forms, stationery, logos, and signage;

(E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and

(F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) TRANSITION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the "Directorate of Immigration Affairs Transition Account" (in this section referred to as the "Account").

(2) USE OF ACCOUNT.—There shall be deposited into the Account all amounts appropriated under subsection (a) and amounts reprogrammed for the purposes described in subsection (a).

(d) REPORT TO CONGRESS ON TRANSITION.—Beginning not later than 90 days after the effective date of division A of this Act, and at the end of each fiscal year in which appropriations are made pursuant to subsection (c), the Secretary of Homeland Security shall submit a report to Congress concerning the availability of funds to cover transition costs, including—

(1) any unobligated balances available for such purposes; and

(2) a calculation of the amount of appropriations that would be necessary to fully fund the activities described in subsection (a).

(e) EFFECTIVE DATE.—This section shall take effect 1 year after the effective date of division A of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1121. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

(a) LEVEL OF FEES.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants" and inserting "services".

(b) USE OF FEES.—

(1) IN GENERAL.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refugee applicants.

(2) PROHIBITION.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of operation.

(c) REFUGEE AND ASYLUM ADJUDICATION SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as may be otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.

(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) SEPARATION OF FUNDING.—

(1) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other collections available for the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

(2) FEES.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(3) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs for purposes not authorized by section 286 of the Immigration and Nationality Act, as amended by subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS FOR BACKLOG REDUCTION.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out the Immigration Services and Infrastructure Improvement Act of 2000 (title II of Public Law 106–313).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) INFRASTRUCTURE IMPROVEMENT ACCOUNT.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvements Account established by section 204(a)(2) of title II of Public Law 106–313.

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF ON-LINE DATABASE.—

(1) IN GENERAL.—Not later than 2 years after the effective date of division A, the Secretary, in consultation with the Under Secretary and the Technology Advisory Committee, shall establish an Internet-based system that will permit an immigrant, nonimmigrant, employer, or other person who files any application, petition, or other request for any benefit under the immigration laws of the United States access to on-line information about the processing status of the application, petition, or other request.

(2) PRIVACY CONSIDERATIONS.—The Under Secretary shall consider all applicable privacy issues in the establishment of the Internet system described in paragraph (1). No personally identifying information shall be accessible to unauthorized persons.

(3) MEANS OF ACCESS.—The on-line information under the Internet system described in paragraph (1) shall be accessible to the persons described in paragraph (1) through a personal identification number (PIN) or other personalized password.

(4) PROHIBITION ON FEES.—The Under Secretary shall not charge any immigrant, nonimmigrant, employer, or other person described in paragraph (1) a fee for access to the information in the database that pertains to that person.

(b) FEASIBILITY STUDY FOR ON-LINE FILING AND IMPROVED PROCESSING.—

(1) ON-LINE FILING.—

(A) IN GENERAL.—The Under Secretary, in consultation with the Technology Advisory Committee, shall conduct a study to determine the feasibility of on-line filing of the documents described in subsection (a).

(B) STUDY ELEMENTS.—The study shall—

(i) include a review of computerization and technology of the Immigration and Naturalization Service (or successor agency) relating to immigration services and the processing of such documents;

(ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and

(iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.

(2) REPORT.—Not later than 2 years after the effective date of division A, the Under Secretary shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the findings of the study conducted under this subsection.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 1 year after the effective date of division A, the Under Secretary shall establish, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Under Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of—

(A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and

(B) representatives of persons or entities who may use the tracking system described in subsection (a) and the on-line filing system described in subsection (b)(1).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) ASSIGNMENTS OF ASYLUM OFFICERS.—The Under Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take steps to ensure that asylum officers participate in the inspections process.

(b) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 236A the following new section:

"SEC. 236B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

"(a) DEVELOPMENT OF ALTERNATIVES TO DETENTION.—The Under Secretary shall—

"(1) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and

"(2) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

"(b) SPECIFIC ALTERNATIVES FOR CONSIDERATION.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):

"(1) Parole from detention.

"(2) For individuals not otherwise qualified for parole under paragraph (1), parole with appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-secure shelter care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(4) Noninstitutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(c) REGULATIONS.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

"(d) DEFINITION.—In this section, the term 'asylum seeker' means any applicant for asylum under section 208 or any alien who indicates an intention to apply for asylum under that section.".

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236A the following new item:

"Sec. 236B. Alternatives to detention of asylum seekers.".

Subtitle D—Effective Date

SEC. 1131. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect one year after the effective date of division A of this Act.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Unaccompanied Alien Child Protection Act of 2002".

SEC. 1202. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) DIRECTOR.—The term "Director" means the Director of the Office.

(2) OFFICE.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act.

(3) SERVICE.—The term "Service" means the Immigration and Naturalization Service (or, upon the effective date of title XI, the Directorate of Immigration Affairs).

(4) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(5) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children as licensed by the appropriate State and certified by the Director of the Office of Refugee Resettlement.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(53) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(54) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

Subtitle A—Structural Changes

SEC. 1211. RESPONSIBILITIES OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—

(1) RESPONSIBILITIES OF THE OFFICE.—The Office shall be responsible for—

(A) coordinating and implementing the care and placement for unaccompanied alien children who are in Federal custody by reason of their immigration status; and

(B) ensuring minimum standards of detention for all unaccompanied alien children.

(2) DUTIES OF THE DIRECTOR WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.—The Director shall be responsible under this title for—

(A) ensuring that the best interests of the child are considered in decisions and actions relating to the care and placement of an unaccompanied alien child;

(B) making placement, release, and detention determinations for all unaccompanied alien children in the custody of the Office;

(C) implementing the placement, release, and detention determinations made by the Office;

(D) convening, in the absence of the Assistant Secretary, Administration for Children and Families of the Department of Health and Human Services, the Interagency Task Force on Unaccompanied Alien Children established in section 1212;

(E) identifying a sufficient number of qualified persons, entities, and facilities to house unaccompanied alien children in accordance with sections 1222 and 1223;

(F) overseeing the persons, entities, and facilities described in sections 1222 and 1223 to ensure their compliance with such provisions;

(G) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to contract with the Office to provide the services described in sections 1231 and 1232;

(H) maintaining statistical information and other data on unaccompanied alien children in the Office's custody and care, which shall include—

(i) biographical information such as the child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody, including each instance in which such child came into the custody of—

(I) the Service; or

(II) the Office;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the detention; and

(v) the disposition of any actions in which the child is the subject;

(I) collecting and compiling statistical information from the Service, including Border Patrol and inspections officers, on the unaccompanied alien children with whom they come into contact; and

(J) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (3)(F), the Director is encouraged to utilize the refugee children foster care system established under section 412(d)(2) of the Immigration and Nationality Act for the placement of unaccompanied alien children.

(4) POWERS.—In carrying out the duties under paragraph (3), the Director shall have the power to—

(A) contract with service providers to perform the services described in sections 1222, 1223, 1231, and 1232; and

(B) compel compliance with the terms and conditions set forth in section 1223, including the power to terminate the contracts of providers that are not in compliance with such conditions and reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(b) NO EFFECT ON SERVICE, EOIR, AND DEPARTMENT OF STATE ADJUDICATORY RESPONSIBILITIES.—Nothing in this title may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act from the authority of any official of the Service, the Executive Office of Immigration Review (or successor entity), or the Department of State.

SEC. 1212. ESTABLISHMENT OF INTERAGENCY TASK FORCE ON UNACCOMPANIED ALIEN CHILDREN.

(a) ESTABLISHMENT.—There is established an Interagency Task Force on Unaccompanied Alien Children.

(b) COMPOSITION.—The Task Force shall consist of the following members:

(1) The Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(2) The Under Secretary of Homeland Security for Immigration Affairs.

(3) The Assistant Secretary of State for Population, Refugees, and Migration.

(4) The Director.

(5) Such other officials in the executive branch of Government as may be designated by the President.

(c) CHAIRMAN.—The Task Force shall be chaired by the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(d) ACTIVITIES OF THE TASK FORCE.—In consultation with nongovernmental organizations, the Task Force shall—

(1) measure and evaluate the progress of the United States in treating unaccompanied alien children in United States custody; and

(2) expand interagency procedures to collect and organize data, including significant research and resource information on the needs and treatment of unaccompanied alien children in the custody of the United States Government.

SEC. 1213. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions with respect to the care and custody of unaccompanied alien children under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component thereof), immediately prior to the effective date of this subtitle, are transferred to the Office.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date

of this subtitle before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1221. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act; and

(B) remove such child from the United States.

(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—

(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(ii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iii) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right.

(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.—

(1) ESTABLISHMENT OF JURISDICTION.—

(A) IN GENERAL.—Except as otherwise provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act, while such charges are pending; or

(ii) has been convicted of any such felony.

(C) EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of an unaccompanied alien child if the Secretary of Homeland Security has substantial evidence that such child endangers the national security of the United States.

(2) NOTIFICATION.—Upon apprehension of an unaccompanied alien child, the Secretary shall promptly notify the Office.

(3) TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.—

(A) TRANSFER TO THE OFFICE.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child; or

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), immediately following a determination that the child no longer meets the description set forth in such paragraph.

(B) TRANSFER TO THE SERVICE.—Upon determining that a child in the custody of the Office is described in paragraph (1) (B) or (C), the Director shall promptly make arrangements to transfer the care and custody of such child to the Service.

(c) AGE DETERMINATIONS.—In any case in which the age of an alien is in question and the resolution of questions about such alien's age would affect the alien's eligibility for treatment under the provisions of this title, a determination of whether such alien meets the age requirements of this title shall be made in accordance with the provisions of section 1225.

SEC. 1222. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) PLACEMENT AUTHORITY.—

(1) ORDER OF PREFERENCE.—Subject to the Director's discretion under paragraph (4) and section 1223(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with one of the following individuals in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the child's well-being.

(E) A State-licensed juvenile shelter, group home, or foster home willing to accept legal custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

(2) HOME STUDY.—Notwithstanding the provisions of paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid home-study conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such a study, or by an appropriate voluntary agency contracted with the Office to conduct such studies has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Programme of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—The Director shall take affirmative steps to ensure that unaccompanied alien children are protected from smugglers,

traffickers, or others seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity. Attorneys involved in such activities should be reported to their State bar associations for disciplinary action.

(5) Grants and contracts.—Subject to the availability of appropriations, the Director is authorized to make grants to, and enter into contracts with, voluntary agencies to carry out the provisions of this section.

(6) Reimbursement of state expenses.—Subject to the availability of appropriations, the Director is authorized to reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title.

(b) Confidentiality.—All information obtained by the Office relating to the immigration status of a person listed in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

SEC. 1223. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) Standards for Placement.—

(1) Prohibition of detention in certain facilities.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) Detention in appropriate facilities.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) State licensure.—In the case of a placement of a child with an entity described in section 1222(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) Conditions of detention.—

(A) In general.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) Notification of children.—Such regulations shall provide that all children are notified orally and in writing of such standards.

(b) Prohibition of Certain Practices.—The Director and the Secretary of Homeland Security shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) Rule of Construction.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 1224. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) Country Conditions.—

(1) Sense of congress.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) Assessment of conditions.—

(A) In general.—In carrying out repatriations of unaccompanied alien children, the Office shall conduct assessments of country conditions to determine the extent to which the country to which a child is being repatriated has a child welfare system capable of ensuring the child's well being.

(B) Factors for assessment.—In assessing country conditions, the Office shall, to the maximum extent practicable, examine the conditions specific to the locale of the child's repatriation.

(b) Report on Repatriation of Unaccompanied Alien Children.—Beginning not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Judiciary Committees of the House of Representatives and Senate on the Director's efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(1) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(2) A description of the type of immigration relief sought and denied to such children.

(3) A statement of the nationalities, ages, and gender of such children.

(4) A description of the procedures used to effect the removal of such children from the United States.

(5) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(6) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 1225. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

The Director shall develop procedures that permit the presentation and consideration of a variety of forms of evidence, including testimony of a child and other persons, to determine an unaccompanied alien child's age for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge. Radiographs shall not be the sole means of determining age.

SEC. 1226. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 1231. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM.

(a) Guardian Ad Litem.—

(1) Appointment.—The Director shall appoint a guardian ad litem who meets the qualifications described in paragraph (2) for each unaccompanied alien child in the custody of the Office not later than 72 hours after the Office assumes physical or constructive custody of such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) Qualifications of guardian ad litem.—

(A) In general.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) Prohibition.—A guardian ad litem shall not be an employee of the Service.

(3) Duties.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) ensure that the child's best interests are promoted while the child participates in, or is subject to, proceedings or actions under the Immigration and Nationality Act;

(F) ensure that the child understands such determinations and proceedings; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(4) Termination of appointment.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed,

(B) the child departs the United States,

(C) the child is granted permanent resident status in the United States,

(D) the child attains the age of 18, or

(E) the child is placed in the custody of a parent or legal guardian,

whichever occurs first.

(5) Powers.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings involving the child that are held in connection with proceedings under the Immigration and Nationality Act, and shall be given a reasonable opportunity to be present at such hearings; and

(E) shall be permitted to consult with the child during any hearing or interview involving such child.

(b) Training.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the circumstances and conditions that unaccompanied alien children face as well as in the various immigration benefits for which such a child might be eligible.

SEC. 1232. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO COUNSEL.

(a) Access to Counsel.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office or in the custody of the Service who are not described in section 1221(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of pro bono attorneys who agree to provide representation to such children without charge.

(3) GOVERNMENT FUNDED REPRESENTATION.—

(A) APPOINTMENT OF COMPETENT COUNSEL.—Notwithstanding section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) or any other provision of law, when no competent counsel is available to represent an unaccompanied alien child without charge, the Director shall appoint competent counsel for such child at the expense of the Government.

(B) LIMITATION ON ATTORNEY FEES.—Counsel appointed under subparagraph (A) may not be compensated at a rate in excess of the rate provided under section 3006A of title 18, United States Code.

(C) ASSUMPTION OF THE COST OF GOVERNMENT-PAID COUNSEL.—In the case of a child for whom counsel is appointed under subparagraph (A) who is subsequently placed in the physical custody of a parent or legal guardian, such parent or legal guardian may elect to retain the same counsel to continue representation of the child, at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

(4) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(5) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) INELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with such agencies, the Director shall ensure that no such agency is—

(i) a grantee or contractee for services provided under section 1222 or 1231; and

(ii) simultaneously a grantee or contractee for services provided under subparagraph (A).

(b) REQUIREMENT OF LEGAL REPRESENTATION.—The Director shall ensure that all unaccompanied alien children have legal representation within 7 days of the child coming into Federal custody.

(c) DUTIES.—Counsel shall represent the unaccompanied alien child all proceedings and actions relating to the child's immigration status or other actions involving the Service and appear in person for all individual merits hearings before the Executive Office for Immigration Review (or its successor entity) and interviews involving the Service.

(d) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(e) TERMINATION OF APPOINTMENT.—Counsel shall carry out the duties described in subsection (c) until—

(1) those duties are completed,

(2) the child departs the United States,

(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act,

(4) the child is granted protection under the Convention Against Torture,

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act,

(6) the child is granted permanent resident status in the United States, or

(7) the child attains 18 years of age, whichever occurs first.

(f) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(g) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect one year after the effective date of division A of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant under the age of 18 on the date of application who is present in the United States—

"(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration Affairs that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2) (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply,";

(2) in subparagraph (B), by striking the period and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) the Secretary of Homeland Security may waive paragraph (2) (A) and (B) in the case of an offense which arose as a consequence of the child being unaccompanied.".

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), and who is in the custody of a State shall be eligible for all funds made available under section 412(d) of such Act.

SEC. 1242. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into currently existing education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF SERVICE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States border or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 1221(a)(2).

SEC. 1243. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the Service's implementation of such guidelines in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the

"Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) Training.—The Secretary of Homeland Security shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) Identifying Unaccompanied Refugee Children.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) Training on the Needs of Unaccompanied Refugee Children.—Section 207(f)(2) (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

Subtitle F—Authorization of Appropriations

SEC. 1261. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) Availability of Funds.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function

SEC. 1301. ESTABLISHMENT.

(a) In General.—There is established within the Department of Justice the Agency for Immigration Hearings and Appeals (in this title referred to as the "Agency").

(b) Abolition of EOIR.—The Executive Office for Immigration Review of the Department of Justice is hereby abolished.

SEC. 1302. DIRECTOR OF THE AGENCY.

(a) Appointment.—There shall be at the head of the Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Offices.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

(c) Responsibilities.—The Director shall—

(1) administer the Agency and be responsible for the promulgation of rules and regulations affecting the Agency;

(2) appoint each Member of the Board of Immigration Appeals, including a Chair;

(3) appoint the Chief Immigration Judge; and

(4) appoint and fix the compensation of attorneys, clerks, administrative assistants, and other personnel as may be necessary.

SEC. 1303. BOARD OF IMMIGRATION APPEALS.

(a) In General.—The Board of Immigration Appeals (in this title referred to as the "Board") shall perform the appellate functions of the Agency. The Board shall consist of a Chair and not less than 14 other immigration appeals judges.

(b) Appointment.—Members of the Board shall be appointed by the Director, in consultation with the Chair of the Board of Immigration Appeals.

(c) Qualifications.—The Chair and each other Member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(d) Chair.—The Chair shall direct, supervise, and establish the procedures and policies of the Board.

(e) Jurisdiction.—

(1) In general.—The Board shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals (as in effect under the Executive Office of Immigration Review).

(2) De novo review.—The Board shall have de novo review of any decision by an immigration judge, including any final order of removal.

(f) Decisions of the Board.—The decisions of the Board shall constitute final agency action, subject to review only as provided by the Immigration and Nationality Act and other applicable law.

(g) Independence of Board Members.—The Members of the Board shall exercise their independent judgment and discretion in the cases coming before the Board.

SEC. 1304. CHIEF IMMIGRATION JUDGE.

(a) Establishment of Office.—There shall be within the Agency the position of Chief Immigration Judge, who shall administer the immigration courts.

(b) Duties of the Chief Immigration Judge.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resource and facilities and for the general management of immigration court dockets.

(c) Appointment of Immigration Judges.—Immigration judges shall be appointed by the Director, in consultation with the Chief Immigration Judge.

(d) Qualifications.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(e) Jurisdiction and Authority of Immigration Courts.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the immigration courts within the Executive Office for Immigration Review of the Department of Justice.

(f) Independence of Immigration Judges.—The immigration judges shall exercise their independent judgment and discretion in the cases coming before the Immigration Court.

SEC. 1305. CHIEF ADMINISTRATIVE HEARING OFFICER.

(a) Establishment of Position.—There shall be within the Agency the position of Chief Administrative Hearing Officer.

(b) Duties of the Chief Administrative Hearing Officer.—The Chief Administrative Hearing Officer shall hear cases brought under sections 274A, 274B, and 274C of the Immigration and Nationality Act.

SEC. 1306. REMOVAL OF JUDGES.

Immigration judges and Members of the Board may be removed from office only for good cause, including neglect of duty or malfeasance, by the Director, in consultation with the Chair of the Board, in the case of the removal of a Member of the Board, or in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Agency such sums as may be necessary to carry out this title.

Subtitle B—Transfer of Functions and Savings Provisions

SEC. 1311. TRANSITION PROVISIONS.

(a) Transfer of Functions.—All functions under the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by section 1101(a)(2) of this Act) vested by statute in, or exercised by, the Executive Office of Immigration Review of the Department of Justice (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Agency.

(b) Transfer and Allocations of Appropriations and Personnel.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) Legal Documents.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Attorney General or the Executive Office of Immigration Review of the Department of Justice, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Agency, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) Proceedings.—

(1) Pending.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred pursuant to this section, but

such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Executive Office of Immigration Review, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle C—Effective Date

SEC. 1321. EFFECTIVE DATE.

This title shall take effect one year after the effective date of division A of this Act.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

SEC. 2101. SHORT TITLE.

This title may be cited as the "Chief Human Capital Officers Act of 2002".

SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec.
"1401. Establishment of agency Chief Human Capital Officers.
"1402. Authority and functions of agency Chief Human Capital Officers.

"§ 1401. Establishment of agency Chief Human Capital Officers

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

"(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

"(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

"(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§ 1402. Authority and functions of agency Chief Human Capital Officers

"(a) The functions of each Chief Human Capital Officer shall include—

"(1) setting the workforce development strategy of the agency;

"(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

"(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

"(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

"(5) identifying best practices and benchmarking studies; and

"(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

"(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

"(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

"(A) are the property of the agency or are available to the agency; and

"(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

"(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"14. Chief Human Capital Officers ..... 1401".

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

"(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

"(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

"(ii) integrating those strategies into the budget and strategic plans of those agencies;

"(B) closing skill gaps in mission critical occupations;

"(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

"(D) sustaining a culture that cultivates and develops a high performing workforce;

"(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

"(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.".

SEC. 2105. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this division.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAM PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) provide a description of how the performance goals and objectives are to be achieved, including the operational processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

"(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).".

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

‘‘(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and’’.

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking ‘‘and’’ after the semicolon;

(B) in paragraph (2), by striking the period and inserting ‘‘; and’’; and

(C) by adding at the end the following:

‘‘(3) authority for agencies to appoint, without regard to the provisions of sections 3309 through 3318, candidates directly to positions for which—

‘‘(A) public notice has been given; and

‘‘(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.’’; and

(2) by inserting after section 3318 the following:

‘‘§ 3319. Alternative ranking and selection procedures

‘‘(a)(1) the Office, in exercising its authority under section 3304; or

‘‘(2) an agency to which the Office has delegated examining authority under section 1104(a)(2);

may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

‘‘(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference-eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

‘‘(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

‘‘(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

‘‘(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

‘‘(1) the number of employees hired under that system;

‘‘(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islander; and

‘‘(3) the way in which managers were trained in the administration of that system.

‘‘(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.’’.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

‘‘3319. Alternative ranking and selection procedures.’’.

SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

‘‘SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

‘‘§ 3521. Definitions

‘‘In this subchapter, the term—

‘‘(1) ‘agency’ means an Executive agency as defined under section 105; and

‘‘(2) ‘employee’—

‘‘(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

‘‘(i) is serving under an appointment without time limitation; and

‘‘(ii) has been currently employed for a continuous period of at least 3 years; and

‘‘(B) shall not include—

‘‘(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

‘‘(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

‘‘(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

‘‘(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

‘‘(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

‘‘(vi) any employee who—

‘‘(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

‘‘(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

‘‘(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

‘‘§ 3522. Agency plans; approval

‘‘(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

‘‘(b) The plan of an agency under subsection (a) shall include—

‘‘(1) the specific positions and functions to be reduced or eliminated;

‘‘(2) a description of which categories of employees will be offered incentives;

‘‘(3) the time period during which incentives may be paid;

‘‘(4) the number and amounts of voluntary separation incentive payments to be offered; and

‘‘(5) a description of how the agency will operate without the eliminated positions and functions.

‘‘(c) The Director of the Office of Personnel Management shall review each agency's plan and may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Director of the Office of Personnel Management.

‘‘§ 3523. Authority to provide voluntary separation incentive payments

‘‘(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

‘‘(b) A voluntary incentive payment—

‘‘(1) shall be offered to agency employees on the basis of—

‘‘(A) 1 or more organizational units;

‘‘(B) 1 or more occupational series or levels;

‘‘(C) 1 or more geographical locations;

‘‘(D) skills, knowledge, or other factors related to a position;

‘‘(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

‘‘(F) any appropriate combination of such factors;

‘‘(2) shall be paid in a lump sum after the employee's separation;

‘‘(3) shall be equal to the lesser of—

‘‘(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

‘‘(B) an amount determined by the agency head, not to exceed $25,000;

‘‘(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

‘‘(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

‘‘(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on any other separation; and

‘‘(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

‘‘§ 3524. Effect of subsequent employment with the Government

‘‘(a) The term ‘employment’—

‘‘(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

‘‘(2) in subsection (c) does not include employment under such a contract.

‘‘(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in the case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§ 3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT"; and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.
"3522. Agency plans; approval.
"3523. Authority to provide voluntary separation incentive payments.
"3524. Effect of subsequent employment with the Government.
"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors;".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 Stat. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENT.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a,";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable minimum retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 2302. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), the total payment referred to under such paragraph with respect to an employee paid under section 5372, 5376, or 5383 of title 5 or section 332(f), 603, or 604 of title 28 shall not exceed the total annual compensation payable to the Vice President under section 104 of title 3. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.".

TITLE XXIV—ACADEMIC TRAINING

SEC. 2401. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§ 4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systematic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or to qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the Senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policymaking, or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.— Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and".

SEC. 2403. COMPENSATORY TIME OFF FOR TRAVEL.

Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) An employee shall receive 1 hour of compensatory time off for each hour spent by the employee in travel status away from the official duty station of the employee, to the extent that the time spent in travel status is not otherwise compensable.

"(b) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

DIVISION D—E-GOVERNMENT ACT OF 2002

TITLE XXX—SHORT TITLE; FINDINGS AND PURPOSES

SEC. 3001. SHORT TITLE.

This division may be cited as the "E-Government Act of 2002".

SEC. 3002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based

technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this division are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decisionmaking by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 3101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

“CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

“Sec.
“3601. Definitions.
“3602. Office of Electronic Government.
“3603. Chief Information Officers Council.
“3604. E-Government Fund.
“3605. E-Government report.

“§ 3601. Definitions

“In this chapter, the definitions under section 3502 shall apply, and the term—

“(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

“(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

“(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

“(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

“(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

“(4) ‘enterprise architecture’—

“(A) means—

“(i) a strategic information asset base, which defines the mission;

“(ii) the information necessary to perform the mission;

“(iii) the technologies necessary to perform the mission; and

“(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

“(B) includes—

“(i) a baseline architecture;

“(ii) a target architecture; and

“(iii) a sequencing plan;

“(5) ‘Fund’ means the E-Government Fund established under section 3604;

“(6) ‘interoperability’ means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

“(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

“(8) ‘tribal government’ means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“§ 3602. Office of Electronic Government

“(a) There is established in the Office of Management and Budget an Office of Electronic Government.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

“(c) The Administrator shall assist the Director in carrying out—

“(1) all functions under this chapter;

“(2) all of the functions assigned to the Director under title XXXII of the E-Government Act of 2002; and

“(3) other electronic government initiatives, consistent with other statutes.

“(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

“(1) chapter 35;

“(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104-106; 40 U.S.C. 1401 et seq.);

“(3) section 552a of title 5 (commonly referred to as the Privacy Act);

“(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

“(5) the Government Information Security Reform Act; and

“(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

“(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

“(1) capital planning and investment control for information technology;

“(2) the development of enterprise architectures;

“(3) information security;

“(4) privacy;

“(5) access to, dissemination of, and preservation of Government information;

“(6) accessibility of information technology for persons with disabilities; and

“(7) other areas of electronic Government.

“(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

“(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

“(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

“(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

“(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

“(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

"(9) Sponsor ongoing dialogue that—

"(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

"(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

"(C) may include—

"(i) development of innovative models—

"(I) for electronic Government management and Government information technology contracts; and

"(II) that may be developed through focused discussions or using separately sponsored research;

"(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

"(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

"(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

"(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

"(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

"(12) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

"(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

"(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

"(B) ensuring compliance with those standards through the budget review process and other means.

"(14) Oversee the development of enterprise architectures within and across agencies.

"(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

"(16) Administer the Office of Electronic Government established under section 3602.

"(17) Assist the Director in preparing the E-Government report established under section 3605.

"(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

"§ 3603. Chief Information Officers Council

"(a) There is established in the executive branch a Chief Information Officers Council.

"(b) The members of the Council shall be as follows:

"(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

"(2) The Administrator of the Office of Electronic Government.

"(3) The Administrator of the Office of Information and Regulatory Affairs.

"(4) The chief information officer of each agency described under section 901(b) of title 31.

"(5) The chief information officer of the Central Intelligence Agency.

"(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

"(7) Any other officer or employee of the United States designated by the chairperson.

"(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

"(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

"(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

"(3) The Administrator of General Services shall provide administrative and other support for the Council.

"(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

"(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

"(f) The Council shall perform functions that include the following:

"(1) Develop recommendations for the Director on Government information resources management policies and requirements.

"(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

"(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

"(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title XXXII of the E-Government Act of 2002.

"(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

"(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

"(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

"(C) Standards and guidelines for Federal Government computer system efficiency and security.

"(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

"(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

"§ 3604. E-Government Fund

"(a)(1) There is established in the Treasury of the United States the E-Government Fund.

"(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

"(3) Projects under this subsection may include efforts to—

"(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

"(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

"(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

"(b)(1) The Administrator shall—

"(A) establish procedures for accepting and reviewing proposals for funding;

"(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

"(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

"(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

"(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agency-wide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

"(B) Projects shall adhere to fundamental capital planning and investment control processes.

"(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

"(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

"(E) Agencies shall assess the results of funded projects.

"(c) In determining which proposals to recommend for funding, the Administrator—

"(1) shall consider criteria that include whether a proposal—

"(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

"(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

"(C) ensures proper security and protects privacy;

"(D) is interagency in scope, including projects implemented by a primary or single agency that—

"(i) could confer benefits on multiple agencies; and

"(ii) have the support of other agencies; and

"(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

"(2) may also rank proposals based on criteria that include whether a proposal—

"(A) has Governmentwide application or implications;

"(B) has demonstrated support by the public to be served;

"(C) integrates Federal with State, local, or tribal approaches to service delivery;

"(D) identifies resource commitments from nongovernmental sectors;

"(E) identifies resource commitments from the agencies involved;

"(F) uses web-based technologies to achieve objectives;

"(G) identifies records management and records access strategies;

"(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

"(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

"(J) supports integrated service delivery;

"(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

"(L) is new or innovative and does not supplant existing funding streams within agencies.

"(d) The Fund may be used to fund the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

"(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

"(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

"(2) The report under paragraph (1) shall describe—

"(A) all projects which the Director has approved for funding from the Fund; and

"(B) the results that have been achieved to date for these funded projects.

"(g)(1) There are authorized to be appropriated to the Fund—

"(A) $45,000,000 for fiscal year 2003;

"(B) $50,000,000 for fiscal year 2004;

"(C) $100,000,000 for fiscal year 2005;

"(D) $150,000,000 for fiscal year 2006; and

"(E) such sums as are necessary for fiscal year 2007.

"(2) Funds appropriated under this subsection shall remain available until expended.

"§ 3605. E-Government report

"(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(b) The report under subsection (a) shall contain—

"(1) a summary of the information reported by agencies under section 3202(f) of the E-Government Act of 2002;

"(2) the information required to be reported by section 3604(f); and

"(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

"36. Management and Promotion of Electronic Government Services .. 3601".

SEC. 3102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—Chapter 3 of title 40, United States Code, is amended by inserting after section 304 the following:

"SEC. 305. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

"The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 40, United States Code, is amended by inserting after the item relating to section 304 the following:

"Sec. 305. Electronic Government and information technologies.".

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) Chair the Chief Information Officers Council established under section 3603 of title 44.".

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

"§ 507. Office of Electronic Government

"The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

"507. Office of Electronic Government.".

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 3201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 3202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this division (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this division by the Director, and the information technology standards promulgated under this division by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 3204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider inolude—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this division shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) Sponsored Activities.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) Chief Information Officers.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this division by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-Government Status Report.—

(1) In general.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) Submission.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) Use of Technology.—Nothing in this division supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) National Security Systems.—

(1) Inapplicability.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 11103 of title 40, United States Code.

(2) Applicability.—Sections 3202, 3203, 3210, and 3214 of this title do apply to national security systems to the extent practicable and consistent with law.

SEC. 3203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) Purpose.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) Electronic Signatures.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) Authority for Electronic Signatures.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, $8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3204. FEDERAL INTERNET PORTAL.

(a) In General.—

(1) Public access.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) Criteria.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 3205. FEDERAL COURTS.

(a) Individual Court Websites.—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) Maintenance of Data Online.—

(1) Update of information.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) Closed cases.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) Electronic Filings.—

(1) In general.—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) Exceptions.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) Privacy and security concerns.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) Dockets With Links to Documents.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) Cost of Providing Electronic Docketing Information.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary,".

(f) Time Requirements.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) Deferral.—

(1) In general.—

(A) Election.—

(i) Notification.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) Contents.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) Exception.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) Report.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 3206. REGULATORY AGENCIES.

(a) Purposes.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 3207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) "Committee" means the Interagency Committee on Government Information established under subsection (c); and

(2) "directory" means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(iii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—.

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 3202(g).

(2) UPDATE.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the National Science Foundation, working with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development center; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) Oversight.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) Agency functions.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) Committee functions.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) Functions of the director.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(5) Authorization of appropriations.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(h) Public Domain Directory of Public Federal Government Websites.—

(1) Establishment.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of public Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 3204.

(2) Development.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

(i) agency librarians;

(ii) information technology managers;

(iii) program managers;

(iv) records managers;

(v) Federal depository librarians; and

(vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(3) Update.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(i) Standards for Agency Websites.—Not later than 18 months after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

(A) speed of retrieval of search results;

(B) the relevance of the results;

(C) tools to aggregate and disaggregate data; and

(D) security protocols to protect information.

SEC. 3208. PRIVACY PROVISIONS.

(a) Purpose.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) Privacy Impact Assessments.—

(1) Responsibilities of agencies.—

(A) In general.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) Agency activities.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) Sensitive information.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) Copy to director.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) Contents of a privacy impact assessment.—

(A) In general.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) Guidance.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the Privacy Act).

(3) Responsibilities of the director.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) Privacy Protections on Agency Websites.—

(1) Privacy policies on websites.—

(A) Guidelines for notices.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) Contents.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 3209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(c) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this section, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term "geographic information" means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 3211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 11521 of title 40, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "the heads of two executive agencies to carry out" and inserting "heads of executive agencies to carry out a total of 5 projects under";

(B) by striking "and" at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting "; and"; and

(D) by adding at the end the following:

"(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

"(A) to retain, until expended, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

"(i) the total amount of the savings; over

"(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

"(B) to use the retained amount to acquire additional information technology.";

(2) in subsection (b)—

(A) by inserting "a project under" after "authorized to carry out"; and

(B) by striking "carry out one project and"; and

(3) in subsection (c), by inserting before the period "and the Administrator for the Office of Electronic Government"; and

(4) by inserting after subsection (c) the following:

"(d) REPORT.—

"(1) IN GENERAL.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(2) CONTENTS.—The report under paragraph (1) shall include—

"(A) a description of the reduced costs and other measurable benefits of the pilot projects;

"(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

"(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.".

SEC. 3212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) PURPOSES.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) DEFINITIONS.—In this section, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) "person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) CONTENTS.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) Pilot Projects To Encourage Integrated Collection and Management of Data and Interoperability of Federal Information Systems.—

(1) In general.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) Goals of pilot projects.—

(A) In general.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) Goals.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) Input.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) Privacy Protections.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 3213. COMMUNITY TECHNOLOGY CENTERS.

(a) Purposes.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) Study and Report.—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) Contents.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) Cooperation.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) Assistance.—

(1) In general.—The Secretary of the Department of Education shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) Types of assistance.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) Online Tutorial.—

(1) In general.—The Secretary of Education, in consultation with the Director of the Institute of Museum and Library Services, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) Distribution.—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) Promotion of Community Technology Centers.—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) Authorization of Appropriations.—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 3214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) Purpose.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) In General.—

(1) Study on enhancement of crisis response.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) Contents.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) Report.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) Interagency cooperation.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) Authorization of appropriations.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) Pilot Projects.—Based on the results of the research conducted under subsection (b), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 3215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) Study and Report.—

(1) Study.—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) Report.—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) Contents.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) Recommendations.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the National Science Foundation $950,000 in fiscal year 2003 to carry out this section.

SEC. 3216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this division (including any amendment made by this division) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

SEC. 3301. INFORMATION SECURITY.

(a) Addition of Short Title.—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–266) is amended by inserting after the heading for the subtitle the following new section:

"SEC. 1060. SHORT TITLE.

"This subtitle may be cited as the 'Government Information Security Reform Act'.".

(b) Continuation of Authority.—

(1) In general.—Section 3536 of title 44, United States Code, is repealed.

(2) Technical and conforming amendment.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title XXXI or XXXII, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles XXXI and XXXII for each of fiscal years 2003 through 2007.

SEC. 3402. EFFECTIVE DATES.

(a) Titles XXXI and XXXII.—

(1) In general.—Except as provided under paragraph (2), titles XXXI and XXXII and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) Immediate enactment.—Sections 3207, 3214, 3215, and 3216 shall take effect on the date of enactment of this Act.

(b) Titles XXXIII and XXXIV.—Title XXXIII and this title shall take effect on the date of enactment of this Act.

DIVISION E—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

TITLE XLI—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

SECTION 4101. SHORT TITLE.

This title may be cited as the "Arming Pilots Against Terrorism and Cabin Defense Act of 2002".

SEC. 4102. FINDINGS.

Congress makes the following findings:

(1) Terrorist hijackers represent a profound threat to the American people.

(2) According to the Federal Aviation Administration, between 33,000 and 35,000 commercial flights occur every day in the United States.

(3) The Aviation and Transportation Security Act (public law 107–71) mandated that air marshals be on all high risk flights such as those targeted on September 11, 2001.

(4) Without air marshals, pilots and flight attendants are a passenger's first line of defense against terrorists.

(5) A comprehensive and strong terrorism prevention program is needed to defend the Nation's skies against acts of criminal violence and air piracy. Such a program should include—

(A) armed Federal air marshals;

(B) other Federal agents;

(C) reinforced cockpit doors;

(D) properly-trained armed pilots;

(E) flight attendants trained in self-defense and terrorism prevention; and

(F) electronic communications devices, such as real-time video monitoring and hands-free wireless communications devices to permit pilots to monitor activities in the cabin.

SEC. 4103. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) In General.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44921. Federal flight deck officer program

"(a) Establishment.—Not later than 90 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish a program to deputize qualified pilots of commercial cargo or passenger aircraft who volunteer for the program as Federal law enforcement officers to defend the flight decks of commercial aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'. The program shall be administered in connection with the Federal air marshal program.

"(b) Qualified Pilot.—Under the program described in subsection (a), a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

"(1) is employed by an air carrier;

"(2) has demonstrated fitness to be a Federal flight deck officer in accordance with regulations promulgated pursuant to this title; and

"(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

"(c) Training, Supervision, and Equipment.—The Under Secretary of Transportation for Security shall provide or make arrangements for training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot. Such training, qualifications, curriculum, and equipment shall be consistent with and equivalent to those required of Federal law enforcement officers and shall include periodic re-qualification as determined by the Under Secretary. The Under Secretary may approve private training programs which meet the Under Secretary's specifications and guidelines. Air carriers shall make accommodations to facilitate the training of their pilots as Federal flight deck officers and shall facilitate Federal flight deck officers in the conduct of their duties under this program.

"(d) Deputization.—

"(1) In general.—The Under Secretary of Transportation for Security shall train and deputize, as a Federal flight deck officer under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

"(2) Initial deputization.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

"(3) Full implementation.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

"(e) Compensation.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

"(f) Authority To Carry Firearms.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer under this section to carry a firearm to defend the flight deck of a commercial passenger or cargo aircraft while engaged in providing air transportation or intrastate air transportation. No air carrier may prohibit a Federal flight deck officer from carrying a firearm in accordance with the provisions of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

"(g) Authority To Use Force.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of a commercial aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

“(h) LIMITATION ON LIABILITY.—

“(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

“(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

“(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an ‘employee of the Government while acting within the scope of his office or employment’ with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy, for purposes of sections 1346(b), 2401(b), and 2671 through 2680 of title 28 United States Code.

“(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

“(j) PILOT DEFINED.—In this section, the term ‘pilot’ means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.”.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting after the item relating to section 44920 the following new item:

“44921. Federal flight deck officer program.”.

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

(A) by aligning clause (iii) with clause (ii);

(B) by striking “and” at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting “; and”; and

(D) by adding at the end the following:

“(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.”.

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is repealed.

SEC. 4104. CABIN SECURITY.

(a) TECHNICAL AMENDMENTS.—Section 44903, of title 49, United States Code, is amended—

(1) by redesignating subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of public law 107-71) as subsection (j); and

(2) by redesignating subsection (h) (relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as added by section 144 of public law 107-71) as subsection (k).

(b) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) IN GENERAL.—

“(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

“(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary. In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation. The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use force. Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.”;

(2) by striking subsection (b), and inserting the following new subsection:

“(b) PROGRAM ELEMENTS.—

“(1) IN GENERAL.—The requirements prescribed under subsection (a) shall include, at a minimum, 28 hours of self-defense training that incorporates classroom and situational training that contains the following elements:

“(A) Determination of the seriousness of any occurrence.

“(B) Crew communication and coordination.

“(C) Appropriate responses to defend oneself, including a minimum of 16 hours of hands-on training, with reasonable and effective requirements on time allotment over a 4 week period, in the following levels of self-defense:

“(i) awareness, deterrence, and avoidance;

“(ii) verbalization;

“(iii) empty hand control;

“(iv) intermediate weapons and self-defense techniques; and

“(v) deadly force.

“(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator or Under Secretary).

“(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

“(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

“(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

“(2) PROGRAM ELEMENTS FOR INSTRUCTORS.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

“(A) A certification program for the instructors who will provide the training described in paragraph (1).

“(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

“(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after receiving the requirements described in subsection (a).

“(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

“(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

“(3) RECURRENT TRAINING.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

“(4) INITIAL TRAINING.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

“(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck.

“(6) REAL-TIME VIDEO MONITORING.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

“(A) maximizing the security of the flight deck;

“(B) enhancing the safety of the flight deck crew;

“(C) protecting the safety of the passengers and crew;

“(D) preventing acts of criminal violence or air piracy;

“(E) the cost of the program;

“(F) privacy concerns; and

“(G) the feasibility of installing such a device in the flight deck.”; and

(3) by adding at the end the following new subsections:

“(f) RULEMAKING AUTHORITY.—Notwithstanding subsection (j) (relating to authority to arm flight deck crew with less than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

“(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

“(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

“(g) LIMITATION ON LIABILITY.—

“(1) AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

"(2) TRAINING INSTRUCTORS AND CABIN CREW.—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.".

(c) NONLETHAL WEAPONS FOR FLIGHT ATTENDANTS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a nonlethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).

SEC. 4105. PROHIBITION ON OPENING COCKPIT DOORS IN FLIGHT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44917. Prohibition on opening cockpit doors in flight

"(a) IN GENERAL.—The door to the flight deck of any aircraft engaged in passenger air transportation or interstate air transportation that is required to have a door between the passenger and pilot compartment under title 14, Code of Federal Regulations, shall remain closed and locked at all times during flight, except for mechanical or physiological emergencies.

"(b) MANTRAP DOOR EXCEPTION.—It shall not be a violation of subsection (a) for an authorized person to enter or leave the flight deck during flight of any aircraft described in subsection (a) that is equipped with double doors between the flight deck and the passenger compartment that are designed so that—

"(1) any person entering or leaving the flight deck is required to lock the first door through which that person passes before the second door can be opened; and

"(2) the flight crew is able to monitor by remote camera the area between the 2 doors and prevent the door to the flight deck from being unlocked from that area.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by inserting after the item relating to section 44916 the following:

"44917. Prohibition on opening cockpit doors in flight.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 day after the date of enactment of this Act.

SA 4844. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS.

(a) FINDINGS.—Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the world are often put in harm's way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism launched by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a $6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a "Johnny Micheal Spann Patriot Trust".

(c) REQUIREMENTS FOR THE DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government, whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, law enforcement operations, or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107-40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) No part of the activities of any Johnny Micheal Spann Patriot Trust shall be used for distributing propaganda or otherwise attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than $1,000,000 must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12 months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in subsection (c)(1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in subsection (c)(1).

(d) TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Each Johnny Micheal Spann Patriot Trust shall refrain from conducting the activities described in clauses (i) and (ii) of section 301(20)(A) of the Federal

Election Campaign Act of 1971 so that a general solicitation of funds by an individual described in paragraph (1) of section 323(e) of such Act will be permissible if such solicitation meets the requirements of paragraph (4)(A) of such section.

(e) NOTIFICATION OF TRUST BENEFICIARIES.—Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods, sensitive law enforcement information, and other sensitive national security information, the Secretary of Defense, the Director of the Federal Bureau of Investigation, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), or (D) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust; provided that, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

(f) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

SA 4845. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 220 of the amendment, after the item inserted by line 15, insert the following:

SEC. 1124. PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—The Commissioner of Immigration and Naturalization shall establish a pilot program of cooperation between inspectors of the Immigration and Naturalization Service and State and local law enforcement officials that uses video conferencing—

(1) to evaluate the legal status of aliens in the custody of State and local law enforcement; and

(2) to initiate deportation proceedings under the Immigration and Nationality Act where warranted.

(b) IMPLEMENTATION.—The pilot program described in subsection (a) shall include at least ten States. States selected to participate should be those with the largest number of violations of the Immigration and Nationality Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 to 2007 to carry out this section.

SA 4846. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. MILLER, Mr. MCCONNELL, Mr. THOMPSON, Mr. STEVENS, Mr. HAGEL, Mr. HUTCHINSON, and Mr. BUNNING) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 220 of the amendment, after the item inserted by line 15, insert the following:

SEC. 1124. TAKING CUSTODY OF ILLEGAL ALIENS DETAINED BY STATE OR LOCAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.), as amended by this Act, is further amended by inserting after section 236B the following new section:

"SEC. 236C. TAKING CUSTODY OF ILLEGAL ALIENS DETAINED BY STATE OR LOCAL LAW ENFORCEMENT OFFICIALS.

"(a) IN GENERAL.—Whenever a State or local law enforcement official detains an individual with reasonable belief that the individual is removable from the United States under section 237 and immediately notifies the Service of such detention, the Commissioner shall, within 48 hours of that notification—

"(1) inform the State or local law enforcement official in writing that the individual is not unlawfully present in the United States and does not pose a danger to the public; or

"(2) take physical custody of the individual from the State or local law enforcement official.

"(b) TRANSPORTATION.—If the Service fails to comply with subsection (a) within 48 hours of notification, the Commissioner shall—

"(1) accept custody of the individual at the nearest regional office of the Service; and

"(2) promptly reimburse the State or local law enforcement official for the cost of transporting the individual to the regional office by public or private means.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary $1,000,000 for each of the fiscal years 2003 through 2007 to carry out section 236C of the Immigration and Nationality Act, as added by subsection (a).

(2) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(c) CONFORMING AMENDMENT.—The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 236B the following new item:

"Sec. 236C. Taking custody of aliens detained by State or local law enforcement officials.".

BUSINESS OF THE SENATE

Mr. REID. Mr. President, we have had another unproductive day. As you know, we are starting the fifth week on Homeland Security and the Interior appropriations bill. As I said a few weeks ago, it appears the other side does not want us to pass these two bills, and they are accomplishing what they set out to do. We are not doing the work of the country.

As the Presiding Officer knows, we have lost 2 million jobs in the last 18 months. We have had the weakest economic growth in some 50 years. Business investment has been down in each of the last six quarters, the weakest trend in 50 years. There has been a $4.5 trillion loss in stock market wealth, the sharpest decline since President Hoover—$440 billion lost in 401(k) and IRA retirement savings this past year—and the median family income was down last year, the first decrease in 12 years. The Nasdaq stock exchange was down to its lowest level in 6 years. Of course, it dropped again today. The Dow Jones dropped again today. The poverty rate is up for the first time in 10 years.

We have a lot of problems with the economy, and we are not addressing them. We are focused on Iraq. I have no problem focusing on Iraq, but we can focus on more than one issue, and we have not done that. I do not think that is good for the people of the State I represent, the people the Presiding Officer represents, or anyplace else in the country.

I hope we can change direction from what we are doing now.

A FOND FAREWELL

Mr. REID. Mr. President, I came to the Congress 10 years ago. One of the people with whom I came was BOB TORRICELLI. He and I have been friends for 20 years now. I didn't know him before he and I were elected to the House of Representatives. Today, he announced he was not going to continue in his election, and I feel terrible about it. It shows the class he has. I talked to Senator TORRICELLI this afternoon. He recognizes the Senate seat in New Jersey is more important than him. As a result of that, he knows it would be better for the institution, the Senate, that he not continue in his election contest.

For me, the memories of having served with this fine man are very significant. The work he did first as the assistant to Senator BOB KERREY's campaign committee and then as chairman of the campaign committee will be written in the history books. He did the impossible. He did what only he said could be done. Most of us did not believe he could do what he did, and that is elect all the Democrats he was responsible for because he made us competitive. He was a voracious fundraiser.

I extend my best wishes to BOB TORRICELLI. I congratulate him for the 20 years of service to the State of New Jersey and the country as a Member of the U.S. Congress. I do hope his great talents will be used. He is a fine speaker. He has a great mind. His knowledge of foreign affairs is unsurpassed.

He and I served together on that committee in the House of Representatives. I wish I had words to describe the affection I have for Senator TORRICELLI and the expression I would like to make of the courage he showed this afternoon.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 107-17

Mr. REID. Mr. President, I ask unanimous consent the injunction of secrecy be removed from the following treaty transmitted to the Senate on September 30, 2002, by the President of the United States:

Partial Revision of Radio Regulations (Treaty Document No. 107-17).

I further ask the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the 1992 Partial Revision of the Radio Regulations (Geneva, 1979), with appendices, signed by the United States at Malaga-Torremolinos on March 3, 1992 (the "1992 Partial Revision"), together with declarations and reservations of the United States as contained in the Final Acts of the World Administrative Radio Conference for Dealing with Frequency Allocations in Certain Parts of the Spectrum (WARC-92). I transmit also, for the information of the Senate, the report of the Department of State concerning these revisions.

The 1992 Partial Revision, which was adopted at WARC-92, constitutes a revision of the International Telecommunication Union (ITU) Radio Regulations (Geneva, 1979), as revised, to which the United States is a party. It provides for additional spectrum for new or expanding telecommunication services, primarily terrestrial and satellite broadcasting, terrestrial and satellite mobile and space services and is consistent with the proposals and positions taken by the United States at the conference.

Subject to the U.S. declarations and reservations mentioned above, I believe that the United States should become a party to the 1992 Partial Revision, which provides additional spectrum for existing and new telecommunication services in which the United States plays a significant leadership role. It is my hope that the Senate will take early action on this matter and give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 30, 2002.*

EXECUTIVE SESSION

NOMINATIONS DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to executive session and the Commerce Committee filing of nomination No. 1047 and the nominations placed on the Secretary's desk be vitiated; that the Committee be discharged from further consideration of these nominations; that the nominations be confirmed, the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action; that any statements relating thereto be printed in the RECORD; and that the Senate resume legislative session, with the preceding occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

COAST GUARD

The following named officer for appointment to the grade indicated under Title 14, U.S.C., Section 271 and to serve as the Director of the Coast Guard Reserve pursuant to Title 14, U.S.C. Section 53:

To be rear admiral (lower half)

REAR ADM. (SELECTEE) ROBERT J. PAPP, 7417

PN2194 Coast Guard nominations (2) beginning Kurt J. Colella, and ending Lucretia Flammang, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 24, 2002.

PN2195 Coast Guard nominations (120) beginning Alan N Arsenault, and ending Matthew J Zamary, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 24, 2002.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DEATH OF REPRESENTATIVE PATSY T. MINK OF HAWAII

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of S. Res. 331 submitted earlier today by the majority and the Republican leaders.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 331) relative to the death of Representative Patsy T. Mink of Hawaii.

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. REID. I ask unanimous consent the resolution be agreed to and the motion to reconsider laid on the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 331) was agreed to, as follows:

S. RES. 331

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Patsy T. Mink, late a Representative from the State of Hawaii.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the deceased Representative.

NATIONAL PROSTATE CANCER AWARENESS MONTH

Mr. REID. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 325 and the Senate now proceed to that matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 325) designating the month of September as "National Prostate Cancer Awareness Month."

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 325) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas over 1,000,000 American families live with prostate cancer;

Whereas 1 American man in 6 will be diagnosed with prostate cancer in his lifetime;

Whereas over the past decade prostate cancer has been the most commonly diagnosed nonskin cancer and the second most common cancer killer of American men;

Whereas 189,000 American men will be diagnosed with prostate cancer and 30,200 American men will die of prostate cancer in 2002, according to American Cancer Society estimates;

Whereas fully ¼ of new cases of prostate cancer occur in men during their prime working years;

Whereas African-Americans have the highest incidence and mortality rates of prostate cancer in the world;

Whereas screening by both digit rectal examination and prostate-specific antigen blood test (PSA) can diagnose the disease in earlier and more treatable stages and has reduced prostate cancer mortality;

Whereas the research pipeline promises further improvements in prostate cancer prevention, early detection, and treatments; and

Whereas educating Americans, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting our families: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of September 2002 as "National Prostate Cancer Awareness Month";

(2) declares that the Federal Government has a responsibility—

(A) to raise awareness about the importance of screening methods and treatment of prostate cancer;

(B) to increase research funding that is commensurate with the burden of the disease so that the causes of, and improved methods for screening, treating, and curing prostate cancer may be discovered; and

(C) to continue to consider ways for improving access to, and the quality of, health care services for detecting and treating prostate cancer; and

(3) requests the President to issue a proclamation calling upon the people of the United States, interested groups, and affected persons to promote awareness of prostate cancer, to take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy, and to observe the month of September 2002 with appropriate ceremonies and activities.

ORDERS FOR TUESDAY, OCTOBER 1, 2002

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow morning, Tuesday, October 1st; that following the prayer and pledge, the morning hour be deemed expired, the Journal of Proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the Republican leader or his designee, and the second half of the time under the control of Senator DASCHLE or his designee; that at 11 a.m. the Senate resume consideration of the Homeland Security Act with 1 hour of debate equally divided between the two leaders or their designees, prior to a 12 noon vote on cloture on the Gramm-Miller amendment to homeland security; further, that the Senate recess from 12:30 to 2:15 p.m. for the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Senators have until 11 a.m. tomorrow to file second-degree amendments to the Homeland Security Act.

ADJOURNMENT UNTIL 9:30 A.M., TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the parameters of S. Res. 331, as a further mark of respect to the memory of the deceased PATSY MINK.

There being no objection, the Senate, at 6:16 p.m., adjourned until Tuesday, October 1, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 30, 2002:

DEPARTMENT OF AGRICULTURE

THOMAS C. DORR, OF IOWA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT, VICE JILL L. LONG, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

THOMAS C. DORR, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE JILL L. LONG, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EXPORT-IMPORT BANK OF THE UNITED STATES

PHILIP MERRILL, OF MARYLAND, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 2005, VICE JOHN E. ROBSON.

CORPORATION FOR PUBLIC BROADCASTING

CHERYL FELDMAN HALPERN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2008, VICE HEIDI H. SCHULMAN, TERM EXPIRED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MERIT SYSTEMS PROTECTION BOARD

SUSANNE T. MARSHALL, OF VIRGINIA, TO BE CHAIRMAN OF THE MERIT SYSTEMS PROTECTION BOARD, VICE BETH SUSAN SLAVET, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

POSTAL RATE COMMISSION

TONY HAMMOND, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 14, 2004, VICE EDWARD JAY GLEIMAN, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

UNITED STATES POSTAL SERVICE

ALBERT CASEY, OF TEXAS, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2009, VICE TIRSO DEL JUNCO, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

W. SCOTT RAILTON, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2007, VICE GARY L. VISSCHER, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate September 30, 2002:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271 AND TO SERVE AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C. SECTION 53:

To be rear admiral (lower half)

REAR ADM. (SELECTEE) ROBERT J. PAPP

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COAST GUARD NOMINATIONS BEGINNING KURT J. COLELLA AND ENDING LUCRETIA FLAMMANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 24, 2002.

COAST GUARD NOMINATIONS BEGINNING ALAN N. ARSENAULT AND ENDING MATTHEW J. ZAMARY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 24, 2002.

EXTENSIONS OF REMARKS

A PROCLAMATION RECOGNIZING BRIAN GOSSETT

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. NEY. Mr. Speaker, whereas, Brian Gossett has been awarded the Rodney D. Hanson Memorial Scholarship for the 2002–03 academic year; and

Whereas, Brian Gossett is a senior at Ohio University Eastern majoring in middle childhood education; and

Whereas, Brian Gossett should be commended for his dedication and hard work; and

Whereas, Brian Gossett has demonstrated a steadfast commitment to meeting challenges in juggling work and classes with enthusiasm and confidence;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Brian Gossett for his outstanding accomplishment.

HONORING HERBERT H. PEARCE FOR HIS DEDICATED SERVICE TO THE COMMUNITY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Ms. DELAURO. Mr. Speaker, it gives me great pleasure to rise today to recognize an outstanding community member and my good friend, Herbert H. Pearce, as he is honored by the New Haven Colony Historical Society with the Seal of the City Award.

The Seal of the City Award is presented annually to an individual or individuals who have strived to improve the quality of life for New Haven residents and have demonstrated a commitment to the overall improvement of the community. First presented to Mayor Richard C. Lee in 1992, this award reflects the dedication which we, the New Haven community, have toward the continued growth and revitalization of our city. Today, Herb will receive this award as a token of our sincere appreciation for his contributions to our community.

A New Haven native, Herb has a long and proud history of service to our community. He has been a strong leader in business and a vocal advocate for many local non-profit organizations. The founder of H. Pearce Real Estate, Herb has directed this company since its inception nearly half a century ago, introducing a number of innovative ideas in advertising and promotion. He also served as President of the Connecticut Association of Realtors and was a member of the National Board of Realtors.

The Quinnipiac Council of Boy Scouts, Yale-New Haven Hospital, American Red Cross and the New Haven Symphony are just some of the local, state and national organizations who have benefitted from his dedicated work. Past President of the Greater New Haven Chamber of Commerce and the United Way of Greater New Haven, Herb's efforts have made a real difference in the lives of many. His generosity and good will are reflected in the myriad of awards and recognitions he has received throughout his lifetime. The City of New Haven is indeed fortunate to have such a dedicated individual working on behalf of our community.

His support of and active participation with non-profit organizations has served to enhance the quality and prosperity of the City of New Haven. I am proud to join with family, friends, and community members to recognize Herbert U. Pearce, as he is honored with this very special award. His outstanding record of service is an example for other community leaders—an embodiment of the very spirit of the Seal of the City Award.

HONORING TONY HALL

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Ms. PRYCE of Ohio. Mr. Speaker, I rise to congratulate and celebrate the accomplishments of my fellow Ohioan and good friend, TONY HALL, as he is confirmed today as the United States Ambassador to the United Nations Food and Agriculture Organization in Rome, Italy.

Over the years, I had the pleasure of working with TONY on the House Rules Committee, as well as on many issues important to our state. TONY has done so much good work for the people of Ohio. However, I rise today not just to recognize his service to my state, but to emphasize the immeasurable contributions he has made to our nation and our global community.

TONY was a voice of conscious to all of us and kept us keenly aware of human rights conditions around the world. Through his far reaching travels to the Philippines, East Timor, Paraguay, North Korea, Romania, and the former Soviet Union, TONY took an interest in relieving human suffering wherever it exists. With his personal experience, TONY was able to present us with a greater understanding of the realities of the human condition.

I will always remember TONY's life-long determination to fight and alleviate hunger in our poorest neighborhoods, towns, and cities at home and around the world. For four years, TONY served as the Chairman of the Select Committee on Hunger, and he went on hunger strike to protest the abolition of the committee. He founded and chaired the Congressional Hunger Center. He sponsored innumerable legislative efforts to provide food to war-torn areas around the globe, increase assistance to low-income Americans, and fight hunger-related disease.

His devotion and tireless effort to rid the world of hunger have been widely respected and recognized. TONY received the 1992 Silver World Food Day Medal from the Food and Agriculture Organization of the United Nations, the United States Committee for UNICEF 1995 Children's Legislative Advocate Award, the U.S. AID Presidential End Hunger Award, the 1992 Oxfam America Partners Award, the Bread for the World Distinguished Service Against Hunger Award, and the NCAA Silver Anniversary Award. He has been nominated for the Nobel Peace Prize no less than three times so far in his career.

I can think of no individual with more expertise, better experience, or a bigger heart to take on this position with the United Nations Food and Agriculture Organization.

TONY has a long and proud record of public service—as a member of the Peace Corps, the Ohio House of Representatives, the Ohio Senate, and finally as a member of Congress for nearly 24 years. I know that in his new role, he will serve the United States with the same dignity and dedication with which he has served in all his prior roles.

TONY, you will be truly missed around here. We have shared our happiness for legislative victories for our state, and shared our grief when we lost our children to cancer. You may no longer be a fellow-Member of the House, but you will always be a friend.

I congratulate TONY on his life of accomplishments and wish him the best of luck in his new position. He will be greatly missed by all of us here, and his legacy of passion, determination, and perseverance will be remembered and followed here in Congress for years to come.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATES FOR H.R. 4919

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. HANSEN. Mr. Speaker, I request that the attached cost estimates for H.R. 4919 be submitted for the RECORD under General Leave.

As you know, H.R. 4919 passed the House under suspension of the rules on Tuesday, September 24, 2002. At the time of passage, the Committee on Resources had not yet received a cost estimate from the Congressional Budget Office.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 24, 2002.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4919, the Tonto and Coconino National Forests Land Exchange Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,
BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 4919—Tonto and Coconino National Forests Land Exchange Act—As ordered reported by the House Committee on Resources on September 12, 2002

CBO estimates that enacting H.R. 4919 would not significantly affect the federal budget. The bill would affect direct spending (including offsetting receipts); therefore, pay-as-you-go procedures would apply, but we estimate that any net change in direct spending would be insignificant. H.R. 4919 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

H.R. 4919 would authorize the Secretary of Agriculture to convey to two private parties about 330 acres of federal lands in Arizona in exchange for roughly 760 acres of lands owned by those parties. If the value of those lands are not equal, the Secretary could make or accept cash equalization payments. The bill would authorize the Secretary to spend any receipts from such payments to acquire nonfederal lands in Arizona.

CBO estimates that enactment of H.R. 4919 would result in an insignificant increase in direct spending. According to the agency, the federal lands to be conveyed currently generate offsetting receipts (a credit against direct spending) from special use permits totaling less than $20,000 a year. Those receipts would be forgone if H.R. 4919 is enacted. Based on information from the agency, we estimate that any cash equalization payments received under H.R. 4919 would total less than $500,000. We also estimate that the agency would spend receipts from such payments in the same year they are received and that any resulting net change in direct spending would be negligible.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

HONORING THE 180TH ANNIVERSARY CELEBRATION OF THE BRENTSVILLE HISTORIC COURTHOUSE SEPTEMBER 26, 2002

HON. TOM DAVIS

OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, September 26, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor the anniversary of the historic Brentsville Courthouse in Brentsville, Virginia.

On Saturday, September 28, 2002, the first annual "Brentsville Court Day" will commemorate the national significance of this courthouse and the prominent position it held in Prince William County during the 19th Century. The day will be filled with activities designed to entertain and educate citizens of all ages on the key role this courthouse played 180 years ago.

When the Brentsville Courthouse was first in use, Washington City had been the Nation's Capital for only twenty-two years and the U.S. Constitution had been in place for a mere thirty-four. It is believed that the first Fourth of July in Prince William County was celebrated on the front steps of the Brentsville Courthouse, with a speech given by Dr. Thomas Ewell, a noted surgeon of that time.

Recapturing the patriotic spirit of the American Revolution was of growing importance at that time, as the war generation was aging and memories of their sacrifices were fading. As a result, speeches honoring these patriots became the norm. Yet research undertaken by local historians indicates the speech given by Dr. Ewell that day was extraordinary.

The research uncovered twenty-five letters spanning twenty years of correspondence between Dr. Ewell and Thomas Jefferson. In his letter responding to Dr. Ewell's July 4th oration, Jefferson recognized Ewell's July 4, 1823 speech—on the 50th anniversary of the United States—as a reflection of "the true spirit of '76."

The 180th anniversary celebration will occur, Mr. Speaker, in a town new to the 11th Congressional district of Virginia, but rich in American history.

Mr. Speaker, in closing, given the historical significance and roots of Brentsville Courthouse, we have great reason to celebrate today. Accordingly, I extend my warmest congratulations on its 180th Anniversary. The Courthouse is a national treasure and a source of pride for both my constituents and me. I call upon my colleagues to join me in applauding 180 years of excellence and American spirit.

A PROCLAMATION CONGRATULATING 5 B'S

HON. ROBERT W. NEY

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, September 26, 2002

Mr. NEY. Mr. Speaker, whereas, 5 B's of Zanesville is successfully responding to Chapter 11 Bankruptcy and has been simultaneously expanding services and opportunities for employees; and

Whereas, 5 B's amazing success story is due to the determination, sacrifice, vision, and hard work of the company's owner, Lee Biles, and employees; and

Whereas, 5 B's has brought employment, investment, and progress to the Ohio valley; and

Whereas, the founders and employees must be commended for their long hours and commitment to excellence, which has allowed 5 B's to succeed;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in celebrating 5 B's record of determination and exceptional service.

HONORING THE BETHEL AFRICAN METHODIST EPISCOPAL CHURCH ON THEIR 165TH ANNIVERSARY

HON. ROSA L. DeLAURO

OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Thursday, September 26, 2002

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join Reverend Daylan Greer, Sr. and the congregation of the Bethel African Methodist Episcopal Church of New Haven, Connecticut as they celebrate their 165th Anniversary—a tremendous milestone for this New Haven institution.

Founded in Philadelphia in response to discrimination found in the Methodist Church, the first Bethel African Methodist Episcopal Church, now fondly known as Mother Bethel, opened its doors in 1794. The vision of the Reverend Richard Allen, a freed slave, the African Methodist Episcopal Church was the successful development of a separate religious identity for African Americans and was the first fully independent black denomination in America. Upon his election as the first Bishop of the A.M.E., Reverend Allen set the stage for the church in New England by sending preachers to cities that had a population of one hundred or more African Americans. New Haven was one of those cities.

The year 1838 is marked with the Reverend Eli N. Hall as becoming the first pastor of the Bethel-New Haven, Connecticut. Under the direction of Reverend Hall and the many pastors who followed, the church has flourished and become an important fixture in the Dixwell community. It is the dedication and commitment of their congregation that has made this church such a great success. Our churches play a vital role in our communities—providing people with a place to turn to for comfort when they are most in need. In over a century, there have been many who have worshiped within their halls and many who have found peace and strength in the outstretched arms of the congregation.

It is with honor and the deepest thanks and appreciation for all of their good work that I rise today to extend my sincere congratulations to the Bethel African Methodist Episcopal Church of New Haven on their 165th Anniversary.

IN MEMORY OF THE TRAGEDY OF SEPTEMBER 11, 2001

HON. DEBORAH PRYCE

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, September 26, 2002

Ms. PRYCE of Ohio. Mr. Speaker, I rise today, just over one year after the tragic events that touched the life of every American, to give solemn remembrance to that darkest of days.

As do all Americans', my heart continues to ache when I think about the countless victims and families struck by the sad and shocking attacks of September 11, 2001. But, there is also pride in my heart for our great nation and the men and women who have responded so resolutely and valiantly to this challenge to our very way of life.

The stories of tragedy, and the compelling stories of heroism, that emerged from the smoke and shattered buildings will forever be a part of our memory that day.

When I rose to the House floor one-year ago filled with so many deep and powerful emotions, I pledged that we would not let the days that followed be remembered just for our sadness and anger, but for our national resolve. As a nation, we have pulled together in so many ways to overcome the vicious attempt to break our national spirit.

We are living in historic times, and I have been so proud of the American people. New York City has been the personification of American strength and resiliency.

I have also been proud of our work here in Congress to put aside politics to provide our armed forces and law enforcement officers with the resources and tools they need to fight the war on terrorism, and to make this nation safer than it was on September 10, 2001. This war is not an issue of politics, it is an issue of patriotism.

Those responsible for last year's horrific events seriously miscalculated the strength and resolve of Americans. Our sense of security may have been temporarily unsteadied, but our unity is unwavering. Our bonds of liberty, our bonds of freedom, our bonds of democracy are stronger and run deeper than any individual, than any building, than any monument. No act of violence, no sharpened razor, can sever them.

America has been committed through this last year to the difficult realities of living in the shadows of war. We have gone on living our lives because to do otherwise would be giving in to the evil behind September 11. But there should be no doubt that we will remain committed until those responsible learn the steep cost of taking innocent lives—innocent American lives—on American soil. We will never stop working to make America safe and secure.

The flame of liberty remains bright and will continue to shine upon the world, casting deep into the dark shadows of violence, intolerance, and extremism. This is a time of remembrance. But it is also a time to renew our dedication to fighting until America is free from the threat of terrorism.

ABORTION NON-DISCRIMINATION ACT OF 2002

SPEECH OF

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. STEARNS. Mr. Speaker, I come to the Floor this morning to express my strong support of the Abortion Non-Discrimination Act (ANDA). I believe the rights of religious hospitals and other health care entities who may be opposed, in conscience to abortion, from ever having to perform, provide medical training or fund induced abortions should be protected.

Lynn Wardle, Professor of Law at Brigham Young University, in his testimony before the Energy and Commerce Committee this summer noted, ANDA, "The basic issue in the Abortion Non-Discrimination Act is forced abortion. A forced abortion occurs not only when a woman is forced to have an abortion she does not want, but also when a healthcare provider is forced to provide or participate in an abortion against her will. The right of individuals and organizations of individuals to choose in accordance with their conscience to not have and to not participate in abortion must be protected against extremists who are trying to coerce others to provide abortion services that these extremists want but which others find morally repugnant. That is what ANDA is about." The rights of individuals to choose according to their conscience must be protected; it is the principle of freedom that we have the duty to defend.

As we face an ever-increasing rise in the cost of managed care many smaller, private, sometimes religious hospitals are forced to merge with larger hospitals in order to survive. Conscience protection would ensure that these smaller, often denominational, hospitals would not have to choose between providing services that violate their conscience and closing their doors. These hospitals were often first organized to serve the poor and needy, it is these very people that will suffer should these hospitals be forced to close. The heart of the matter is this: Health care entities, as well as individuals, deserve the right to choose.

Currently, 49 states have some kind of conscience protection for health care providers. It is time we clarify in law once and for all every doctor, hospital, and individual's right to act according to his or her conscience.

PERSONAL EXPLANATION

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. BACHUS. Mr. Speaker, on Wednesday, September 25th I missed rollcall votes 411, 412, 413, 414 and 415 due to a family emergency. If I had been present I would have voted "nay" on rollcall 411, "yea" on rollcall 412, "yea" on rollcall 413, "yea" on rollcall 414 and "yea" on rollcall 415.

ANNIVERSARY OF THE SEPTEMBER 11TH TERRORIST ATTACK—SPECIAL JOINT MEETING OF CONGRESS IN NEW YORK CITY

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. BALDACCI. Mr. Speaker, like every American, I will always remember September 11th. Today we gather to mourn our nation's losses and to demonstrate our resolve that America will not be slowed or diminished by terrorist attacks.

September 11th was an unsettling day for each of us, wherever we were. Nearly 3,000 Americans lost their lives that day. All of us lost the sense of security that we as Americans had long taken for granted.

The victims came from all across the country and every walk of life. They had one thing in common—they were simply going about their business. It was a crisp, clear, sunny morning. I will never forget the contrast between the beautiful weather and the acrid smoke, dust and rubble at each of the impact sites.

Each of us shares the grief of families who lost loved ones. Each of us mourns the loss of innocence that resulted from the attacks.

Even in those darkest hours, however, America's light shined through. Millions of us joined together to donate blood and money to help the victims and their families. I visited the Pentagon to encourage rescue workers, and worked with the FAA to ensure that medical supplies would continue to arrive at Maine hospitals during the shutdown of airline service. Maine businesses and individuals donated food and supplies for workers and displaced families.

The great irony of September 11th is that the terrorists sought to drive America apart, but instead brought us together as a nation. Our people have once again shown an incredible resilience and an ability to come together in times of need. America is, indeed, one nation, under God, indivisible.

The acts of terrorism perpetrated against our country have reminded us of the precarious nature of life and of the lives of those around us. We will always carry in our hearts the memories of those who were lost on September 11th. May we also always remember the patriotism and unity that we have experienced in its aftermath.

We stand together today as Americans, united in mourning and also in our resolve to triumph over factions that would tear us apart. Together, we will ensure that hope, freedom and justice will prevail.

BARBARA ANN "BOBBIE" HOUSEHOLDER

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. DUNCAN. Mr. Speaker, Barbara Ann "Bobbie" Householder, one of my constituents, passed away last week after losing a battle with cancer.

Barbara Ann was a longtime community volunteer and was well-known in my District for her extensive community service, as well as her years of association with the Blount County Chamber of Commerce. Barbara Ann helped organize events for the Adopt-A-School program, she volunteered for Leadership Blount and the Blount County Dogwood Arts Festival and also was a great volunteer in her church.

She retired with the title of vice president of community development for the Blount County Chamber of Commerce. Although retired, she continued to work hard on her volunteer work. Up until a week before her death, she was recruiting volunteers for the United Way from her hospital bed.

Bobbie Householder was one of the finest people I have ever known and will be greatly missed by the whole community. Her efforts and achievements are an inspiration to us all, and I would like to call a newspaper article that was printed in the Maryville Daily Times about her life to the attention of my colleagues and other readers of the RECORD.

[From the Daily Times, Aug. 22, 2002]

VOLUNTEER, FORMER CHAMBER OFFICIAL HOUSEHOLDER DIES OF CANCER AT 74

(From Staff Reports)

Longtime community volunteer Barbara Ann "Bobbie" Householder of Alcoa died Wednesday morning at Blount Memorial Hospital after a battle with cancer.

Although she was never elected to public office, Householder was one of Blount County's best-known people through her volunteer work and her years of association with the Blount County Chamber of Commerce.

"To many people in Blount County and throughout the area, Bobbie was the chamber of commerce," chamber President and CEO Fred Forster said Wednesday. "She was the core of enthusiasm in this community for many years. Many of the things we enjoy here now are the fruits of her work over the years.

"All of us in the chamber family will miss her," Forster said.

Householder, 74, was a native of Knoxville. She and Glen, her husband of 56 years, moved to Blount County in 1952 and became the parents of two sons and a daughter.

Not long after the Householders' move to Blount County, she went to the Chamber of Commerce-United Way office, then located at the Maryville Municipal Building, to help out for a few days. Her volunteer work with the chamber led to a full-time job there, and she retired in 1994 after 33 years with the organization.

Early in her career with the chamber, the staff consisted of the executive director, a bookkeeper and Householder. She handled office responsibilities and coordinated chamber projects, including coordination of Blount County's United Way campaigns for 25 years.

By the end of her tenure with the chamber, Householder was vice president of the Blount County Chamber of Commerce, the Chamber Foundation and the Smoky Mountain Visitors Bureau, three of the four organizations under the Blount Partnership's administrative umbrella.

In addition to her other duties, Householder helped organize and coordinate Homecoming '86 for Blount County, the Adopt-A-School program, Leadership Blount and the Blount County Dogwood Arts Festival. She also was extremely active in the Maryville-Alcoa Jaycettes, an organization involved in initial promotion of tourism efforts.

She retired with the title of vice president of community development for the Blount County Chamber of Commerce.

Retirement did little to slow Householder, and her efforts to better her community were recognized when she received the 2001 Pride of Tennessee Award. The award is given to one person each year who has a history of community involvement.

Since 1994 she has served as president of the Friends of the Library, a member of the Keep Blount Beautiful Board of Directors, a member of the Blount County Bicentennial Committee, an officer with the Blount County Education Foundation, and co-chairman of the Blount County Millennium Committee.

Householder also served several years as chairman for the United Way of Blount County's Day of Caring and in other volunteer roles for United Way.

"She was a great lady with great ideas, but the best thing about Bobbie was that you could count on her," United Way Executive Director Sandra Davis said Wednesday.

"She was still recruiting United Way volunteers from her hospital bed as recently as last week," Davis said. "She was one of the best volunteers any nonprofit organization could ask for—always willing to go the extra mile."

Davis said she and Householder also shared an interest in activities through the Methodist church, not only at the local level but at the conference level as well. Her work in the church included service as communications coordinator for the Holston Conference United Methodist Women.

Householder was a member of Broadway United Methodist Church. Her pastor, the Rev. James Dougherty, will officiate at a celebration of her life at 8 p.m. Friday at the church. The family will receive friends from 6:30 p.m. until 8 p.m. Friday at the church.

In addition to her husband, she is survived by her son and daughter-in-law, Gary and Janet Householder of Louisville, KY, her son Alan Householder of Cosby, and her daughter and son-in-law, Glenda and Darrell Eastridge of Alcoa, grandchildren Cindy and Brian Householder of Louisville, Ky., and Jeff and Amy Eastridge of Alcoa. She is also survived by her sister, Grace Goode of Maryville, her brother, Richard Hubbs of Johnson City, and several nieces and nephews.

The family suggests no flowers. Memorials may be made to Broadway United Methodist Church, to the Blount County Education Foundation, to Friends of the Library or to the United Way of Blount County.

A PROCLAMATION RECOGNIZING COLLEEN GEREG

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. NEY. Mr. Speaker, whereas, Colleen Gereg has been awarded the Rodney D. Hanson Memorial Scholarship for the 2002–03 academic year; and

Whereas, Colleen Gereg is a senior at Ohio University Eastern majoring in education; and

Whereas, Colleen Gereg should be commended for her dedication and hard work; and

Whereas, Colleen Gereg has demonstrated a steadfast commitment to meeting challenges in juggling work and classes with enthusiasm and confidence;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Colleen Gereg for her outstanding accomplishment.

HONORING FRANCES "BITSIE" CLARK ON HER RETIREMENT FROM THE ARTS COUNCIL OF GREATER NEW HAVEN

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the New Haven community in extending my sincere congratulations to an outstanding member of our community and a dear friend, Frances "Bitsie" Clark, as she celebrates her retirement.

As the Executive Director of the Arts Council of Greater New Haven for the last twenty years, Bitsie has been the driving force behind the rejuvenation of New Haven's Arts community. Under her leadership, the Arts Council worked diligently, partnering with many local organizations to bring the magic of the arts to our community. During her tenure, I have had the opportunity to work with Bitsie on a variety of projects. Her commitment and dedication is unparalleled and I am in awe of her seemingly endless energy. The City of New Haven has been truly fortunate to have such an advocate.

The Arts Council has taken the lead in supporting cultural development throughout Southern Connecticut. Much of their success can be credited to Bitsie's vision of making New Haven the creative capitol of Connecticut. In the last two decades, we have witnessed the completion of the Audubon Development project, which included the building of 55 Whitney Avenue, the Audubon Court condominium and retail complex and the Audubon Parking Garage; the construction of 70 Audubon Street which houses the offices of the Arts Council, the Community Foundation, and Artspace. We have seen the creation of programs and services like Women in the Arts Month, the African Carribean Festival Commission, the Hearts for Life Aids benefit and the New Haven Inner City Cultural Development Program and many others—all of which were possible because of the support they received from the Arts Council.

The arts in any medium, play a vital role in all of our lives. They are not only a vehicle of expression, but a means by which our culture and traditions are passed from one generation to another. Bitsie embraced this idea and through her efforts many talented artists and creative individuals were able to realize their dreams—there is no greater gift.

Bitsie's tremendous work and many contributions have left an indelible mark on our community. It is with my deepest thanks and appreciation that I stand today to join the many friends, family, and community members who have gathered today to extend my very best wishes to Frances "Bitsie" Clark as she celebrates her retirement. We will not forget the difference her generosity and commitment have made.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATES FOR H.R. 5099

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. HANSEN. Mr. Speaker, I request that the attached cost estimates for H.R. 5099 be submitted for the record under General Leave.

As you know, H.R. 5099 passed the House under suspension of the rules on Tuesday, September 24, 2002. At the time of passage, the Committee on Resources had not yet received a cost estimate for the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 24, 2002.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5099, a bill to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,
BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 5099: A bill to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins—As ordered reported by the House Committee on Resources on September 12, 2002

Summary.—H.R. 5099 would amend the current authorization of appropriations for implementing endangered fish recovery programs in the Upper Colorado and San Juan River Basins. That authority will expire in fiscal year 2005 for the Upper Colorado program and in fiscal year 2007 for the San Juan program. H.R. 5099 would extend the authorization for both programs until 2008.

CBO estimates that implementing H.R. 5509 would have no significant net impact on the federal budget. We estimate that the bill would reduce direct spending by about $5 million over the 2003–2005 period and increase it by the same amount over the 2006–2008 period. because enacting H.R. 5099 would affect direct spending, pay-as-you-go procedures would apply. H.R. 5099 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the federal government.—The estimated budgetary impact of H.R. 5099 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

h1By fiscal year, in millions of dollars—

	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
Changes in direct spending					
Estimated Budget Authority	-2	(1)	-3	(1)	2
Estimated Outlays	-2	(1)	-3	(1)	2
Spending subject to appropriation					
Spending Under Current Law:					
Estimated Authorization Level [2]	6	6	6	0	0
Estimated Outlays	4	5	5	2	2
Proposed Changes:					
Estimated Authorization Level	0	0	0	0	0
Estimated Outlays	-1	-2	-2	1	1
Spending Under H.R. 5099:					
Estimated Authorization Level [2]	6	6	6	0	0
Estimated Outlays	3	3	3	3	3

[1] Less than $500,000.

[2] The estimated authorization levels reflect the current balance of authorized funding for the Bureau of Reclamation to carry out fish recovery programs in the Upper Colorado and San Juan River-Basins. For this estimate, CBO assumes that the remaining $18 million to be appropriated for these programs will be provided in equal increments over the next three years.

Basis of estimate.—H.R. 5099 would extend current authority to implement fish recovery programs in the Upper Colorado and San Juan River Basins until 2008. For this estimate, CBO assumes that H.R. 5099 will be enacted near the start of fiscal year 2003 and that funds already authorized for the two fish recovery programs will be appropriated over the next three years.

Direct Spending.—The net effect of H.R. 5099 on direct spending would be insignificant. Under current law, the Western Area Power Administration (WAPA) is authorized to pay for its share of the fish recovery programs by borrowing up to $17 million from the Colorado Water Conservation Board Construction Fund (a fund of the state government). To date, WAPA has borrowed $5.5 million from that fund. WAPA expects to pay for its remaining costs of $11.5 million either through borrowing from the state or by spending receipts generated from the sale of electricity. This bill would modify the expected timing of that future spending.

Under this bill, CBO estimates that WAPA's would delay spending about $5 million over fiscal years 2003 through 2005, but this near-term cash savings would be offset by an increase in spending of an equal amount over fiscal years 2006 through 2008.

Spending Subject to Appropriation.—The net effect of H.R. 5099 on spending also would be insignificant. Under current law, $46 million is authorized to be appropriated to the Bureau of Reclamation for its share of the fish recovery programs. To date, the bureau has spent $28 million on these programs. Assuming appropriation of the remaining $18 million, CBO estimates that there would be a delay in spending of about $5 million over fiscal years 2003 through 2005, but this near-term cash savings would be offset by an increase in spending of an equal amount over fiscal years 2006 through 2008.

Pay-as-you-go considerations.—The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through fiscal year 2006 are counted.

h1By fiscal year, in millions of dollars—

	By fiscal year, in millions of dollars—										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	0	-2	0	-3	0	2	3	0	0	0	0
Changes in receipts	Not applicable										

Intergovernmental and private-sector impact.—H.R. 5099 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by.—Federal Costs: Julie Middleton; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Cecil McPherson.

Estimate approved by.—Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERSONAL EXPLANATION

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. McDERMOTT. Mr. Speaker, I missed some votes because I was traveling. I left for Iraq yesterday to get a better understanding of how a preemptive U.S. military strike against Iraq will affect the Iraqi people.

Had I been able to, I would have voted: No on H. Res. 547 (Rollcall vote #413); no on H. Res. 540 (Rollcall vote #414); no on H. Res. 544 (Rollcall vote #415).

HONORING JOHN J. BIONDI

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. ROTHMAN. Mr. Speaker, I rise today to pay tribute to a man who has spent his entire career dedicated to improving the education of our children, particularly those in New Jersey. As a key figure at the New Jersey Education Association, Mr. John J. Biondi demonstrated the type of leadership this country needs to advance its educational system so that students receive the education they deserve and need to compete in the twenty-first century global economy.

Born and raised in New Jersey, Mr. Biondi is a product of the Garden State's school system, where as a teacher he became a part of the school system as well. For 31 years, Mr. Biondi has served as a member of the New Jersey Education Association where his colleagues described him in every positive way possible. Whether it was from the integrity and responsibility he brought to the job each and everyday or his resourcefulness and creativity that helped him meet the changing needs of his organization, John Biondi's presence at the New Jersey Education Association, helped lead that group forward as it advanced its goals of improving the education system throughout the state.

This month, John Biondi is retiring from the New Jersey Education Association. In honor of his outstanding efforts, the Educational Community of Bergen County has proclaimed the Twenty-Ninth of September to be "John Biondi Day." I join my friends in the education community in saluting this incredible man whose commitment to an improved education system has proved invaluable for countless New Jersey students.

TRIBUTE TO REVEREND WILLIAM HALL HARTER

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SHUSTER. Mr. Speaker, I rise today to extend my thanks to Reverend William Hall Harter for his faithful and diligent service to his community. Reverend Harter became the minister to the Presbyterian Church of Falling Spring in Chambersburg, Pennsylvania in 1977, and 25 years later, continues to be an exemplary spiritual leader. He began his career of service as a tutor and adjunct lecturer in the New Testament at the Union Theological Seminary, during which time he also served as the minister at the Margaretville and New Kingston United Presbyterian Churches in the Catskill Mountains of New York. After serving in New York for approximately 10 years, Reverend Harter, his wife Linda, and their children moved to the Chambersburg area where he continued to minister and give of his own time to contribute to the betterment of the local community.

In addition to serving as minister to the Falling Spring congregation, Reverend Harter is very involved with numerous community projects and endeavors. Like so many spiritual leaders in communities around the country, Reverend Harter had known the value of faith-based community action programs long before they became a topic of national debate. President George W. Bush is also a great supporter of faith-based programs and has praised their effectiveness because he knows how beneficial they can be to people in all regions of the country. In his own community, Reverend Harter has been instrumental in establishing programs that make a marked improvement in the lives of community residents and provide an atmosphere that allows for their spiritual and personal growth. Some examples of these programs are: Franklin County for the Homeless, Committee for Annual Holocaust Memorial Service, Community Worship Committee, Committee for Annual Martin Luther King, Jr. Memorial Service, Building Our Pride in Chambersburg, Inc., Carlisle Presbytery Camps and Conference Committee, and the Chambersburg Ministerium.

I would like to commend Reverend William Hall Harter again for his contributions and thank him for his first 25 years of service at the Presbyterian Church of Falling Spring in Chambersburg, Pennsylvania. I wish him all the best as he continues to better his community through his ministry and involvement with so many worthy organizations.

A PROCLAMATION RECOGNIZING ERIC J. ROUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. NEY. Mr. Speaker, whereas, Eric Rouse is a professional teacher of American history and social studies at Swiss Hills Career Center; and

Whereas, Eric Rouse has been awarded a James Madison Fellowship by the James Madison Fellowship Foundation in its tenth annual competition; and

Whereas, Eric Rouse should be commended for reaching this milestone;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Eric Rouse for his outstanding accomplishment.

TRIBUTE TO JIM LLOYD

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. DREIER. Mr. Speaker, I want to take this opportunity to extend warmest 80th birthday wishes to our former colleague and good friend from West Covina, California, Jim Lloyd.

Jim was first elected to Congress in 1974 and served until 1981, representing the people of the San Gabriel Valley with distinction. And while many of us remember his tenure on the Armed Services Committee and Science and Technology Committee, where he served as Chairman of the Investigation and Oversight Subcommittee, Jim Lloyd came to the House with an already distinguished record of public service.

From 1942 to 1963, Jim served as an officer in the United States Navy, flying combat missions during World War II and, at the onset of the Cold War, completed his last duty assignment at Guantanamo Bay, Cuba, during the Bay of Pigs and Cuban Missile Crisis. The flying and the excitement had only just begun.

Stateside, Jim owned and operated a small public relations and advertising firm with his beautiful wife, Jackie, in West Covina. He also caught the political bug, ably serving on the West Covina City Council from 1968 to 1974, and as Mayor from 1973 to 1974. In 1974, Jim was elected to the United States House of Representatives, where he served for three terms. And he kept on flying, receiving his helicopter rating and fixed wing license.

Since leaving the House, Jim has served as a consultant for a number of local, national, and international clients. But, most of all, he has maintained his love for flying, logging in over 14,000 hours in approximately 150 different types of aircraft ranging from the single engine Cessna Citation, to the F–18 and F–16 fighter aircraft, to the 747 jumbo jet, and also flying with the British, French, and Israeli Air Forces. Today, Jim owns a Piper Commanche and is still regularly in the air.

I am proud to call Jim Lloyd a friend, and invite my colleagues to join me, his wife Jackie, son Brian Patrick, and grandsons Cameron Scott and Seth James, in saluting him on the happy occasion of his 80th birthday and wishing him many more years in the wild blue yonder.

TRIBUTE TO TOM CASTRONOVA

HON. MICHAEL FERGUSON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. FERGUSON. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I rise today to honor Tom Castronova, who has been operating his pharmacy, serving the community of Warren, New Jersey, since 1962.

Tonight, with the community leaders from Warren attending, Tom Castronova will be honored for 40 years of service to the community of Warren.

So I stand before you today to honor a man who embodies the American spirit. He is a small businessman, a family businessman, a man who followed his father into the pharmacy business.

He has lived and worked through many changes—changes in the healthcare industry—and changes in the growth of New Jersey. But his care and work ethic over the years has remained the same and I believe Tom has made the difference in his pharmacy's longevity.

I commend Tom Castronova and wish him all the best with the continued success of Edgewood Pharmacy.

TRIBUTE TO GEORGE THOMPSON

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. GARY G. MILLER of California. Mr. Speaker, I rise to pay tribute and honor the outstanding accomplishments of George Thompson, who is retiring after 28 exemplary years as Scout Master of Boy Scout Troop 762 in Yorba Linda, California.

During this time, Mr. Thompson impacted the lives of more than 440 young men ages 11 to 18 years of age. The leadership, guidance and support he provided, played a great role in 47 of those young men attaining the elite rank of Eagle Scout, the highest award that a Boy Scout can receive.

Mr. Thompson has been the worthy recipient of many honors and awards for his ongoing dedication and service, among them, the Order of the Arrow, 1973; Scouter's Training Award, 1974; Scouter's Key, 1981; District Award of Merit, 1981; National Eagle Scout Association Regional Award of Excellence, 1986 and the Silver Beaver in 1988.

Mr. Thompson's commitment to scouting has earned him the admiration and respect of those who have had the privilege of working with him. I would like to congratulate him on these impressive accomplishments and sincerely thank him for the difference that he has made in his community.

A PROCLAMATION IN MEMORY OF J. HARVEY GOODMAN

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. NEY. Mr. Speaker, I hereby offer my heartfelt condolences to the family and friends of J. Harvey Goodman upon the death of this outstanding person.

J. Harvey Goodman was born May 25, 1912 and has lived in the St. Clairsville area since the 1940's. J. Harvey Goodman was chief executive officer of the Goodman realty firm . His contributions will continue to bless the community, including the St. Clairsville Council of Churches Food Pantry.

Mr. Goodman will certainly be remembered by all those who knew him for his personal sacrifices of time and energy to his family, friends, and community. The understanding and kindness to which he gave to others will stand as a monument to a truly fine person. His life and love gave joy to all who knew him.

I offer this token of profound sympathy to the family and friends of J. Harvey Goodman.

U.S. POSTAL STAMP IN HONOR OF DIWALI, THE FESTIVAL OF LIGHT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. PALLONE. Mr. Speaker, I am pleased to introduce a resolution today that expresses the Sense of Congress that the United States Postal Service should issue a stamp honoring the holiday "Diwali", also known as the Festival of Lights.

The Citizens Stamp Advisory Commission under the U.S. Postal Service currently issues many stamps with holiday themes, including Christmas, Kwanzaa, Hanukkah, and most recently, Eid. The Commission has not issued a stamp honoring Diwali, and I am hopeful that we will soon have a U.S. postal stamp commemorating this beautiful festival celebrated in India and throughout the world.

Diwali is one of the most important and colorful of the Indian festivals and is celebrated enthusiastically by Indians all over the world. It marks the beginning of the Hindu New Year and is seen as a brand new beginning for all.

Traditionally Diwali is celebrated for five days, each day having its own significance, rituals and myths. Light, in the form of candles and lamps, is a crucial part of Diwali, representing the triumph of light over darkness, goodness over evil and hope for the future.

During Diwali people light small oil lamps and place them around the home to pray for health, wealth, knowledge, peace and fame. Fireworks are an exciting part of Diwali and the celebration of the festival is also customarily accompanied by exchanging sweets.

The rich culture associated with the Diwali tradition includes observation of this holiday by Hindus, Sikhs, Christians, Jains, Muslims and Buddhists. Diwali is a time for communal gatherings and spiritual enlightenment. People from across the world make an effort to visit their family, friends and neighbors on this wonderful holiday.

The spirit of Diwali has survived political, economic and social vicissitudes throughout history, while always carrying the universal symbolism of the triumph of light, goodness, knowledge and truth. Lastly, Mr. Speaker, Diwali is an exceptionally rich and culturally significant holiday that expresses hope and for these reasons, this holiday should be commemorated as a United States postal stamp.

Mr. Speaker, I feel that Diwali is truly a marvelous holiday that deserves recognition. As the Citizen's Stamp Advisory Committee continues it plans for issuing new stamps, I hope that it will consider issuing a Diwali stamp to honor this culturally significant holiday celebrated in the United States and abroad.

COMMEMORATIVE JOINT MEETING OF CONGRESS, FEDERAL HALL, NEW YORK, NEW YORK

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Ms. BALDWIN. Mr. Speaker, today we gather here in Federal Hall to honor and recognized the courage and determination of the survivors of the horrible terrorist attacks of September 11, 2001. It is fitting that we do so.

It was here in Federal Hall that the new Congress of the United States first met in 1789 to govern our new Nation. It was here in New York that our founding fathers passed the laws that are the foundation for our democratic political system. From this solid foundation, our Nation has grown and prospered. Our people have excelled in science, in the humanities, in art and culture. We have grown to be a great Nation, home to a great people, with tremendous hopes and incredible dreams for the future. And it all began right here in Federal Hall.

One year ago, terrorists attacked America. Their targets were not simply the buildings they destroyed and the people they murdered. They were attacking the very ideals that define what it means to be an American. They wanted to drive us apart and make us afraid.

Mr. Speaker, I am proud to say that they failed.

Faced with tragedy and destruction, the people of the United States, and particularly the people of New York, came together as one community. We gathered the emotional resources to survive and heal, and we pulled together the financial resources to rebuild. This has not been easy. It takes incredible courage to move forward after a tragedy like 9–11. But we did find that courage within ourselves.

That is why it is so fitting that we are here in New York today. One year after September 11, we are rededicating our Nation. The terrorists have not won. They have lost. Our Nation is stronger and more united. Our freedom, our courage, our determination, our unity, our diversity, our charity and our democracy are our strengths. New York has exhibited all of these strengths in abundance in the last year. And they are everywhere in America.

WELCOMING HER MAJESTY QUEEN SIRIKIT OF THAILAND TO THE UNITED STATES

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to welcome Her Majesty Queen Sirikit of Thailand on her visit to the United States from October 4 to 16, 2002.

Mr. Speaker, as many of my colleagues in the House are undoubtedly aware, Thailand and the United States have been friends for almost two centuries. Our formal relations extend back 169 years to the signing of the Treaty of Amity and Commerce between our two nations on March 20, 1833, during the Presidency of Andrew Jackson, the seventh United States President, and the reign of His Majesty King Phra Nang Klao, or King Rama III, of the Chakri Dynasty. This Treaty was the first such treaty that the United States had concluded with any Asian country and it contains a pledge to establish "a perpetual peace" between our two countries. I believe that this pledge has been honored during the long and happy relationship between Thailand and the United States as we have so often fought side by side and have made countless sacrifices for one another in defense of our common values. I'd also like to remind my colleagues that His Majesty King Bhumibol Adulyadej Maharaj, Thailand's present King, was born some 75 years ago in Cambridge, Massachusetts, where His father, His Royal Highness Prince Mahidol, was studying at the Harvard Medical School.

In addition to highlighting the strong ties between the United States and Thailand, the Queen's visit to the United States will allow also us to become more aware of the many charitable organizations which She has founded and has worked so hard to make successful. One of the more important of these is the Foundation for the Promotion of Supplementary Occupations and Related Techniques, or SUPPORT. SUPPORT was founded in 1976 under Her Majesty's royal patronage and chairmanship and provides outlets for local wares and handicrafts from all regions of the Kingdom. The promotion and sales of these items provide extra income-generating occupations for farmers who find it difficult to subsist on farm incomes alone. By supporting these cottage and indigenous industries, the Foundation also help keep alive dying arts, such as traditional clay "chao wang" dolls and tie-dye "mud-mee" silk. Many of my colleagues and I are looking forward to seeing the display of products and activities of the SUPPORT Foundation at the gala dinner which will be presided over by Her Majesty at the Jefferson Building of the Library of Congress on October 9.

One of the highlights of the Queen's visit will be to preside over the premier of the Thai film The Legend of Suriyothai at the John F. Kennedy Center for the Performing Arts here in Washington. This critically acclaimed film by one of Thailand's most experienced film[chyph]makers, Prince Chatrichalerm Yukol, is an epic historical motion picture that portrays one of Thailand's foremost heroines, Queen Phra Suriyothai. She fought and died to protect Her husband and king's life and Her actions united Her people to win a war against an invading army in the 14th century.

During Her visit to the United States, Queen Sirikit will also travel to Houston, Texas, where She will be presented with The University of Texas M.D. Anderson Cancer Center Award for Humanitarian Service. This award will recognize Her Majesty's lifelong dedication to improving the health and well being of the people of Thailand and for international leadership in health and the environment. Former President and Mrs. George Bush will also host tea for Her Majesty during Her stay in Houston.

Mr. Speaker, given the importance of our relationship with Thailand and in recognition all Queen Sirikit has done to improve the lives of Her subjects and people throughout the world, I rise today to welcome Her Majesty to the United States and to urge my colleagues in joining me in honoring one of the world's most respected humanitarians.

HONORING MR. MICHAEL G. ANZILOTTI FOR HIS YEARS OF DEDICATION TO HIS COMMUNITY

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to pay tribute to Mr. Michael G. Anzilotti for receiving the 2002 Gala & Community Leadership Award.

Mr. Anzilotti deserves praise for his long-time commitment, and the ongoing involvement of his firm, to community service. He graduated in 1971 from Virginia Polytechnic Institute and State University with a Bachelor's of Science Degree in marketing. In addition he has received a Masters's Degree in Business Administration from George Mason University and is a graduate of the Stonier Graduate School of Banking.

In 1971, Mr. Anzilotti joined First Virginia Bank as a management trainee in the accounting department. In recognition of his superior work, he was promoted to Senior Vice President and Chief Financial Officer in 1982. The following year, he was promoted as President of Northern Operations Center, Inc. Then, in 1986, he was promoted to the post of Executive Vice President and Chief Administrative Officer. Finally, in 1995, he was promoted to his current position, President and Chief Executive Officer.

Mr. Anzilotti is currently a member of the Board of Trustees of George Mason University Foundations, Inc. He is a member of the Boards of the Fairfax County School Superintendent's Business/Industry Advisory Council (BIAC), The Virginia Business Higher Educational Council, the Northern Virginia Business Roundtable, the Northern Virginia Transportation Alliance, and is chairman of the Virginia State Chamber of Commerce. He is also Past Chairman of the Fairfax County Chamber of Commerce, Past President of the Northern Virginia Community College Educational Foundation, Inc., and Past Chairman of the Arts Council of Fairfax County. All of these impressive accomplishments and titles, however, pale in comparison to his work to improve our schools, better our communities, and enhance the quality of life for all Virginians.

Mr. Anzilotti resides in Chantilly, Virginia with his wonderful wife, Jane Anzilotti. Together, they have raised two children, who are now fully grown.

Mr. Speaker, in closing, I wish the very best to Mr. Anzilotti as he is recognized for his years of service to the First Virginia Bank. He certainly has earned this recognition, and I call upon all of my colleagues to join me in applauding his remarkable service to our community.

TRIBUTE TO OLIVER W. WADDELL

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to Oliver W. Waddell, a distinguished constituent, dear friend and an accomplished business leader who will receive the National Multiple Sclerosis Society's Silver Hope Award at the 2002 Dinner of Champions on October 3, 2002. The Silver Hope Award is the highest honor given by the National Multiple Sclerosis Society, and Ollie is being honored for his dedication to ending the devastating effects of Multiple Sclerosis (MS).

Ollie is from Falmouth, Kentucky, and is perhaps best known from his long and very successful career with Star Bank (formerly the First National Bank of Cincinnati), which he joined in 1957 as a management trainee. In 1980, he was appointed president and director, and, in 1982, chief executive officer of Star Bank, N.A. Shortly thereafter, Ollie was made a director of Star Banc Corporation, the parent company of Star Bank, N.A. By August, 1990, Ollie was chairman, president and chief executive officer of Star Banc Corporation. Under his direction, Star Banc Corporation doubled in size, becoming a multi-state bank holding company with offices located in Ohio, Kentucky and Indiana.

Ollie was chairman, president and chief executive officer of Star Banc Corporation until May, 1993, when he stepped down as president and chief executive officer. Ollie cares deeply about his wife, Virgilee, and wanted to spend more time with her. Years before this decision, Virgilee was diagnosed with MS. Although the Waddells' battle against MS has been a very personal and private one, they recently made the decision to help others in that fight by creating the Waddell Center for Multiple Sclerosis through the University of Cincinnati. The Center will have an important role in helping to end the devastating effects of MS.

Over the years, Ollie has been very active in our community. He has served on the board of directors for several organizations which include: Star Banc Corporation; Star Bank, N.A; Cincinnati Gas and Electric Company; Myers Y. Cooper Company; Cincinnati/Northern Kentucky International Airport; and Ohio National Life Insurance Company. He also has been active in the community as a member of the Commercial Club, Commonwealth Club, Optimists Club, Queen City Club and Rotary Club.

Ollie is very dedicated to his family. Ollie and Virgilee have been married for 47 years. They have 3 children and 6 grandchildren.

Mr. Speaker, all of us in Southwestern Ohio thank Ollie for his commitment to fighting MS, and we congratulate him on receiving the prestigious Silver Hope Award. I hope my colleagues will join me in wishing Ollie and Virgilee the very best as they continue to fight their own battle against this difficult disease.

HONORING JANETT MARTIN

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Janett Martin, a very strong leader in the City of Tampa who devoted her life to her church and community.

Janett was a pioneer in the advancement of diversity and fairness in the workplace and will be greatly missed by family, friends, and admirers. She led the way by becoming Tampa's first African-American city clerk, as well as president of the American Society of Public Administrators. Many in the Tampa Bay area were drawn to her intelligence, hard work, and perseverance.

Janett took on as many responsibilities as possible, showing all heart and boundless determination. Even after she became ill, she still served a term as president of Tampa's League of Women Voters. Janett continued to make a difference in the African-American community by recently heading the Lincoln-Douglas Ball.

Without a doubt, Janett Martin left a unique mark throughout the entire Tampa Bay community. I would like to express my upmost admiration for the person Janett was and my condolences to the Martin family. She will be well-remembered for her integrity, strength, and commitment to her ideals.

ALOPECIA AREATA AWARENESS MONTH

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Ms. WOOLSEY. Mr. Speaker, I rise today to recognize that September is Alopecia Areata Awareness Month, and to commend the efforts of the National Alopecia Areata Foundation in San Rafael, CA, which is part of the district that I am privileged to represent. For over twenty years this organization has dedicated itself to researching this horrible disease and providing support for those with this condition.

Very few people may know about this disease, or have even heard of it, but alopecia areata is a serious condition that can affect the entire population, although it most commonly affects children. Alopecia areata is the partial to complete loss of hair over the entire body. Without eyelashes, eyebrows, and hair on the scalp, those affected are left unprotected from the weather and other environmental conditions. While not medically disabling or life threatening, this disease causes much emotional pain. Suffers of this disease may have difficulty adjusting to the changes to their body and the differences between themselves and others around them. Children may encounter frustrating situations at school with other children who do not understand this disease.

Alopecia ateata is an autoimmune disease, with no known cause and no known cure. Greater awareness and an increased investment in alopecia areata research are critical components in our quest for a cure. That is why the National Alopecia Areata Foundation plays an important role in the lives of those who suffer from this disease. This foundation provides funding for research, as well as support services and resources for the sufferers. I am so proud to represent this foundation in my district and offer them my continued support.

Mr. Speaker, especially during the month of September, as well as throughout the year, we must continue to raise awareness for alopecia areata and work to find a cure for this devastating disease.

ABORTION NON-DISCRIMINATION ACT OF 2002

SPEECH OF

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Ms. HARMAN. Mr. Speaker, let me begin by clarifying a point of debate.

Nothing in existing law requires hospitals, clinics, or any health care provider to perform an abortion against their religious or moral beliefs.

This is true at the Federal level, and this is true in California, where additional legislation protects individual doctors and nurses from retaliation if they do not wish to participate in an abortion.

The pending legislation claims to solve a problem that does not exist, and it does so by restricting women's access to information about abortion.

Clinics and hospitals are not required to offer abortion services, but in certain circumstances, are required to refer women to a doctor who will perform an abortion. The legislation we are debating today would allow a facility to accept federal funds for family planning, but not provide a woman information on what all of her options are. It would allow them to care for a Medicaid patient who has been raped, but not inform her that Medicaid would pay for an abortion, even if she asks for this information.

Mr. Speaker, we cannot have the right to choose without full information about our choices.

I would never advocate forcing an individual or organization to act against their conscience. And nothing in current law does so. But providing information is not the same thing as providing services. Women, particularly women who have been the victim of an attack, deserve information about all their choices, no matter where they get their health care.

I strongly oppose this legislation, and urge my colleagues to vote against it.

THE WILL OF THE AMERICAN PEOPLE

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. STEARNS. Mr. Speaker, recently, I came across an e-mail that had been circulated last year shortly after the September 11 attacks. It was sent by a former military professor in which he stated that the will of the American people is the fulcrum of this Nation's war on terrorism. He stated that the terrorists that attacked on 9–11 counted on a "soft and spoiled" America, who would eventually quit if retaliation did not result in immediate success.

What the author of the e-mail discovered was an outpouring of "what can I do" to help in response. And I believe this amply illustrates what we continue to see across the United States. What the terrorists actually demonstrated with their attacks on 9–11, was their profound ignorance of the American people and of history.

Military theorist Clausewitz, terms war as a "remarkable trinity composed of the primordial passions of the people, the rational policies of the state, and the combination of incidents in battle."

The "passions of the people" were awakened after Pearl Harbor and again were awakened after 9–11. One year later, the passions are still high. Americans are aware that what we are facing is that which America has never seen up close. We were attacked on our own soil by an organization of individuals bent—not on removing our presence from certain parts of the world—but on our utter destruction.

We are facing an enemy who despises our very existence. They are consumed by hatred for the United States, that despite its faults, is open to all people regardless race or religion. We operate under principles of freedom, the ability to pursue life, liberty and happiness. As such, our country is fighting with hope against terror and freedom against oppression. Our enemies will never know freedom, because they are imprisoned by hate; and for that they have already lost.

Former U.S. defense secretary, Caspar Weinberger, stated "The will of the American people once aroused . . . is capable of accomplishing all the things that have to be done." As long as we continue to maintain a moral high ground in this campaign against terrorism and its supporters and take the appropriate and precise responsive measures, the will of the people of this county will know no bounds.

CONDEMNING THE ATTACK ON THE SWAMINARAYAN TEMPLE IN GUJARAT

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. ROYCE. Mr. Speaker, this week, the world witnessed yet another act of senseless violence. I rise as the Co-Chairman of the Congressional Caucus on India and Indian Americans to express my condolences to the families of the victims of the brutal attack on the Swaminarayan Temple in Gujarat.

Thirty-two—including many children—died in an attack in Gandhinagar.

Last year, I led a congressional delegation to Gujarat immediately following the devastating earthquake that hit the state. From that trip and my dealings with the Gujarati community in the U.S., I have developed a deep fondness for the people of Gujarat.

During my visit, I visited the Swaminarayan Temple and witnessed first hand the efforts of the Swaminarayan Temple to assist victims of the earthquake. Our heart goes out to all Gujaratis harmed by this violent act.

The Swaminarayan organization was established in 1907. It is a religion that preaches religious tolerance and practical spirituality. I only wish that more people in this world shared those values.

ABORTION NON-DISCRIMINATION ACT OF 2002

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. MOORE. Mr. Speaker, I rise in opposition to this bill.

I support the right of an individual to follow his or her conscience and personally refuse to participate in abortion services, and if that was what this bill was about, I would be voting for it today.

Current law already allows health providers to refrain from providing any service to which they object. This bill goes too far by allowing insurance companies or HMOs to opt out of any reproductive services for any reason—not necessarily a religious or moral objection. It would even allow states to refuse to provide currently available abortion services to Medicaid beneficiaries who are victims of rape or incest or when the mother's life is in danger.

Most critically, this legislation bans the provision of information. People have many different opinions and beliefs about abortion. I believe women should be able to make their own decisions on this very personal matter. This bill goes too far by allowing restrictions on abortion information, counseling and referrals. Under this bill, emergency room physicians could be gagged from telling rape victims about emergency contraception. Even Title X clinics, which are funded by the federal government with the purpose of allowing women to make an informed choice from every available option, could be gagged if this legislation were to be signed into law.

Restricting information and choices is not the way to reduce the number of abortions in America. I challenge my colleagues today to reject election-year politics and work with me toward policies that prevent unintended pregnancies, improve reproductive health, and strongly encourage adoption.

TRIBUTE TO THE VICTIMS AND HEROES OF SEPTEMBER 11, 2001

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to the victims and heroes of September 11, 2001. Over the past year, this country has tried to come to terms with the tragedy we experienced on September 11th. Although I have written or spoken about that day many times, I have found that words often fail to describe the magnitude of that day. There are the haunting stories of loss and grief as well as stories of heroism and triumph. We learned about ourselves and our country that day and while we grieved for those we lost, we also cultivated a new sense of unity and patriotism. As a nation we renewed our belief in the American spirit and in the bravery of fellow Americans who would willingly risk their lives for a stranger. The stories of what ordinary men and women did under extraordinary circumstances continue to amaze me.

As we remember September 11, 2001, let us remember all the brave men and women who not only saved lives but saved our sense of brotherhood. Let us extend our prayers to all our brave men and women in the Armed Forces who right now are protecting our way of life and let us extend our deepest gratitude to our fire and police forces who have redefined the word 'sacrifice'.

COMMEMORATING SEPTEMBER 11, 2001

HON. DENNIS R. REHBERG

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. REHBERG. Mr. Speaker, Americans should be proud of how they've handled the past 12 months. Yes, September 11th changed America forever, but not in the way the terrorists anticipated.

Those who committed this horrible act of war were intent on destroying America and our way of life—but they failed miserably. They tried to make us question our dedication to democracy but they only increased our resolve in preserving the greatest form of government the world has ever known. They tried to destroy our economy—but the whole world knows America is still open for business, for farming, for travel. And they tried to extinguish the flame of liberty and hope in our country, but they only made it burn brighter. Yes, America has changed—we're stronger than ever.

CRISIS IN THE CHILD WELFARE SYSTEM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. GEORGE MILLER of California. Mr. Speaker, over the past few days, millions of Americans watched their television screens, transfixed by the horrific images of a woman repeatedly striking her 4-year-old daughter in a department store parking lot. As a result of intense media coverage, the mother eventually turned herself in and the state took protective custody of the child.

The unsettling incident has unfortunately played itself out in the media like a tragic movie of the week. Clearly, the child needs protection to determine if this violence was a pattern of abuse, and to prevent additional incidences of mistreatment. The mother faces up to three years in prison. The 4-year-old child is left to struggle with the emotional scars caused by the mother's physical abuse and the subsequent trauma of being removed from familiar, albeit dangerously dysfunctional, family surroundings.

The assumption and hope is that the child is now under the custody and supervision of the state and has been placed in a safe home. Unfortunately for the thousands of nameless children under the protective custody of state child welfare systems, the assurance of a safe and healthy environment is inconsistent with the reality.

Nationwide more than 550,000 children are currently in foster care. Class action lawsuits and multiple newspaper reports have documented the failure of states to meet the social service needs of vulnerable children and families in crisis, despite billions of dollars in federal assistance. Across the nation, allegations of limited access to services, improper placements, inadequate staff training, poor wage compensation coupled with massive caseloads, and high staff turnover rates are commonplace.

In the following article, the Columbus Dispatch identifies an innovative program aimed at meeting the challenging objective of ensuring child safety and providing much needed support services to parents in crisis. The Family to Family program detailed in the article is based on the belief that some families in crisis can receive services in their own homes. The family preservation program links troubled families with social service agencies, community centers, and other social service networks. The goal is to coordinate service delivery in efforts to increase quality and continuity of services.

The disturbing incident of child abuse caught on videotape taps into our greatest fears about abusive parents and the harmful experiences of children, who through no fault of their own, are subjected to inadequate care. This incident highlights the need for a competent child welfare system that swiftly and effectively meets the needs of vulnerable children and families in crisis. To that effect the following article presents one possible solution to this ongoing child welfare crisis.

The article follows:

[From The Columbus Dispatch, Sept. 22, 2002]

HELPING MEND TROUBLED FAMILIES; AGENCY'S INNOVATIVE PROGRAM KEEPS KIDS AT HOME OR NEARBY

(By Encarnacion Pyle)

Sabrina Martin's oldest daughter told a teacher last winter that her mother had whipped her so hard that she had bruises.

In the past, a social worker likely would have stopped by Martin's house, packed her two children's clothes into a garbage bag and dropped the kids off at a foster house far from their family, friends and school.

But under a new program, Franklin County Children Services worked with the single mother from South Linden to safely care for her daughters as it investigated the abuse charge.

Family to Family is built on the belief that families often can be helped to care for their children in their own homes. Or, when children need to be removed, that they should be placed with a relative, close friend or foster family in the neighborhood.

The program linked Martin, 31, to St. Stephen's Community House, where she learned new skills for being a parent and the girls learned ways to control their behavior.

During its investigation, Children Services discovered that a baby sitter had hit 8-year-old Sadie. And although Martin would rather not have been involved with the agency, she said, the Family to Family program helped her become a better parent.

"Parenting is hard, especially if you're single and your children are challenging," she said. "I used to be so hot-tempered, I'd snatch the girls up by their arms. But I've since learned better ways to discipline them and deal with stress."

Children Services and St. Stephen's introduced Family to Family in North and South Linden in 2000. It was so successful that the agency, with help from the Gladden Community House, expanded the program to Franklinton last year and hopes to start it on the Near East Side in October.

The Annie E. Casey Foundation in Baltimore created the program 10 years ago as a way of meeting the growing challenges facing the child-welfare system, said John Mattingly, the group's senior associate.

"It is not another social-services pilot, fad or new model for child-welfare work," he said. "There is no quick fix."

The number of children being cared for away from their parents' homes nationwide has more than doubled from 260,000 in the 1980s to more than 550,000 today, with only a few communities reporting a decline in the past few years.

In Ohio, 26,000 children are in foster care. In Franklin County, 2,585 children are in paid placement, which includes all temporary and permanent custody, said John Saros, executive director of Children Services.

As a result, social workers carry enormous caseloads, and children are staying longer in foster care and group homes and suffering more-difficult behavioral and physical problems.

At the same time, the number of foster families nationally has dropped, so that fewer than 50 percent of the children who need temporary placement are placed with foster families. The others go to group homes, institutions and—in some cities but not Columbus—to homeless shelters.

With Family to Family, instead of automatically taking custody of children, social workers from Children Services and the community centers meet with parents to work out ways to keep them home.

When that doesn't work, the parents are invited to sit down with foster parents and social workers to plan the child's care.

Friends, family, teachers, counselors, pastors, juvenile-justice workers and anyone else who can help the family are encouraged to attend. That's largely because children today have so many needs that parents must be experts in discipline, special education, learning disabilities, health care and mental health, said Marilyn Mehaffie, associate director of St. Stephens.

During the meetings, parents are praised for their strengths before their weaknesses are discussed.

"Before, we'd start by criticizing them for being a crack addict with no money and no food in the house," said Walter Torain, who heads Family to Family and Children Services' north region. "Now, we'd first praise them for being active in their children's schooling and caring enough to show up to the meeting."

Family to Family has placed nine children in foster homes in their Linden-area neighborhoods. Five more stayed in their own homes. Thirteen new foster homes were created in the area.

The biological parents are encouraged to tell the foster family what their children's favorite foods are, how they like their hair done, what makes them grumpy and how they can be comforted.

"That keeps birth parents from trying to find fault with the foster parents," said LaTisha Hines, Family to Family coordinator at St. Stephen's.

Children, who rarely were consulted about what is best for them, often are included in the discussion.

"It helps the kids from feeling like something is being forced on them," said Marika Sanders, a social worker at St. Stephens. "And it lessens their anxiety about divided loyalties."

To help limit the alienation that comes with removing children from their parents, friends, school and everything they know, Children Services heavily recruits foster parents in the neighborhood.

"Keeping kids in their community cuts down on the trauma," said Cordelia Foster, 53, who has cared for more than 65 children in 14 years as a foster mother.

The strategy represents an about-face to the traditional goal of child-welfare agencies of pulling children away from abusive or neglectful parents at all costs, often to the detriment of the child, said Richard Wexler, executive director of the National Coalition for Child Protection Reform in Alexandria, Va.

"It's the first good news I've heard about Franklin County Children Services in years."

Despite the benefits, the program's introduction presents formidable challenges, notably because child-welfare agencies have to accept a new way of doing business. Compounding the task are the traditionally ill feelings between foster parents and birth parents and the public's general mistrust of child-welfare agencies.

Still, Mattingly said, the program has flourished.

It began in Ohio and four other states, and now is in 32 communities nationwide. Combined, they've received nearly $75 million in grants and technical assistance from the Casey Foundation, a private organization that works to improve the lives of disadvantaged children.

"Child-welfare agencies can improve," Mattingly said, "but it's hard work."

To become more community-friendly, Children Services plans to hire more translators and workers who speak foreign languages, because of the growing diversity in the county. And it will create a committee of child-welfare workers, court officials and mental-health and addiction experts to help decide where to place children with severe behavioral and mental-health problems.

"We've had such great success with Family to Family, it's time for more-revolutionary changes," Saros said.

Sabrina Martin credits Family to Family with smoothing out her relationship with her daughters.

"I don't think we would have been able to get back on track without it," she said.

SUCCESS OF THE NAGORNO-KARABAKH PRESIDENTIAL ELECTION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SCHIFF. Mr. Speaker, on August 11, 2002, the men and women of Nagorno-Karabakh exercised their right to vote—a right which we have cherished for more than two centuries and a right that we hope will spread across the world.

Democracy, Mr. Speaker, is at the core of our existence as a nation, and democracy and democratic values are what we fought for in Europe during two World Wars and are continuing to fight for in the war on terrorism.

As freedom loving people who stood up against tyranny, we have a duty to applaud and support others who aspire to the principles that resulted in the Declaration of Independence and the Bill of Rights.

Mr. Speaker, on August 11, 2002, the people of Nagorno-Karabakh re-elected President Arkady Ghoukassian by a majority vote in what the independent election observers from the United States, Russia, Great Britain, France, Italy and Armenia called a free and transparent election.

The independent international observers, who monitored the election and the subsequent vote count, included a number of acting and former parliamentarians, former diplomats, foreign policy experts, and representatives of non-governmental human rights organizations. In addition, journalists from the United States, Russia, France, Spain, Great Britain and Armenia covered the course of the election.

The democratic presidential election of Nagorno-Karabakh, with an impressive 76 percent turnout, is evidence of the people's adherence to Western values and its determination to form a civil society and organize its affairs through a representative body based on the rule of law.

Observers from the British Helsinki Human Rights Group, which had observed 85 elections within the jurisdiction of the Organization of Security and Cooperation in Europe, stated that the election in Nagorno-Karabakh had surpassed many elections internationally recognized and approved by the OSCE and the Council of Europe, in particular, the elections in Bosnia and Kosovo.

The five independent observers from the United States, which included former high-ranking foreign service officers and foreign policy experts, were extremely impressed with the election process and the people's resolute determination to live in freedom. One observer described it as "an impressive exercise in democracy."

Mr. Speaker, last summer I visited Nagorno-Karabakh and saw first-hand the harsh yet dramatic terrain of Nagorno-Karabakh and the rugged individualism of its people and leadership. Their compassion and conviction to forge ahead despite the difficult challenges was reminiscent of our founding fathers, who when faced with the choice of liberty or tyranny fought to live in freedom.

The people of Nagorno-Karabakh continue to live with the daily reminders of the war—landmines, collapsed buildings, and the noticeable absence of fathers, brothers and sons. Yet, they have chosen to rebuild their lives and their towns so their children will live in freedom.

Congratulations President Ghoukassian and congratulations to the people of Nagorno-Karabakh for your spirit and your commitment to freedom and democracy.

TRIBUTE TO STERLING HEIGHTS FIREFIGHTERS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. LEVIN. Mr. Speaker, September 11, 2001 stands as a stark reminder of the valor, commitment, and sacrifice exhibited every day by firefighters and law enforcement officers throughout our nation. Like so many others in public life they serve the community, but they do so at great risk of peril to their own health and lives.

I am particularly pleased and proud to rise today in recognition of the careers of two distinguished firefighters from Sterling Heights, Michigan upon their retirement and as they embark upon a new phase of their lives.

Training Chief Rick Williams began his firefighting career in 1978. Since then, he has obtained numerous certifications ranging from appointment of Chief of Training in 1996, to receiving the Fire Chief's Award in 2002 for presenting the Fire Department's annual report and conducting many public education programs.

Fire Inspector John Vought was appointed a firefighter in 1978, and has received many certifications from receiving the Outstanding Firefighter of the Year Award presented by the Sterling Heights Elks Club in 1992 to the Meritorious Unit Citation for the rescue of three children from a house fire in 1989.

We are indeed grateful for the service that these two individuals have provided the community and the citizens of Sterling Heights over their long careers. They have served the public well and have received many letters of thanks and commendation from the community in response.

Mr. Speaker, I ask my colleagues to join me in thanking these men and wishing them a healthy and happy retirement.

THE NEW YORK SPECIAL JOINT SESSION OF CONGRESS

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. NADLER. Mr President, Mr. Speaker, today marks a historic occasion for New York and for the United States Congress. This is the first Congress that has convened here in New York since the First Congress convened here to watch President Washington take the oath of office and to pass the Bill of Rights.

We join here today not as Republicans or Democrats, but as Americans. The symbolic gesture of our joint meeting is both solemn and celebratory.

It is solemn because we come here today to honor a city devastated by the most terrible single attack on American soil in our history, and the thousands of innocent people lost in that attack. As the elected Representative for the area of New York most directly impacted by the attacks of September 11, 2001, I can tell you that my constituents are grateful for the act of solidarity with New York that we show here today. I can also tell you that they are even more grateful that Congress has rallied to help this City for the past year.

Our joint meeting today is also celebratory. One year ago, a group of vicious and heartless terrorists sought to cripple this city and this country by obliterating one of its great landmarks. It was their hope that not only would thousands be rendered lifeless, but that our way of life, our democracy, would be extinguished. Today, we celebrate the life and vibrancy of our democracy that still lives—and do so in a city that remains the most lively, diverse, and mighty on the face of the earth, despite the worst efforts of those terrorists.

It is only right that we seek out those who sought to destroy us. But bombs and bullets are merely the tools we use in our self-defense. Revenge against our foes will come not through bloodshed, but through acts defiant of their goals. For the last year, despite the aim of the terrorists to kill our national spirit, this nation has proudly and defiantly displayed the flag from our homes, our cars, our community centers, and our houses of worship. Despite the murderous foes who sought to divide us, our people have joined in concerts celebrating our country and its ideals, and vigils marking our unity.

Over two centuries ago, after stumbling through a government under the Articles of Confederation, with most of the world wishing to see our demise, we gathered here, defiant of the world and its wishes, resolved to make our great democratic experiment work. It is only fitting then, that we stand here again defiant of those who wish for our demise. Let there be no doubt, today we are telling the world that New York lives on, America lives on, and her ideals live on!

MISSLE DEFENSE

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SCHAFFER. Mr. Speaker, I respectfully submit the following correspondence for the RECORD regarding America's security. It conveys my objections to the Defense Science Board's recent report favoring a ground-based over a space-based missile defense system. As America stands in the face of growing threats of long-range ballistic missile attack, I consider the subject matter particularly timely.

HOUSE OF REPRESENTATIVES,
September 25, 2002.

Re "Missile Defense Choices Sought"—Defense Science Board

Congressman BOB STUMP,
Chairman, House Armed Services Committee, House of Representatives, Washington, DC.

DEAR BOB: A troubling Washington Post article appeared on September 3, 2002 relaying the principal points of a study conducted by the Defense Science Board to develop the architecture for the ballistic missile defense program of the Bush administration. Evidently under pressure to focus the program on achieving a narrow set of initial capabilities to reach deployment—believing this narrow focus to be the key to building a defense in an evolutionary approach—the Defense Science Board has discredited itself in embracing the plans and architecture for a ground-based defense while ignoring the advantages and feasibility of a space-based defense.

Its program has already redefined the architecture of the Bush administration's ballistic missile defense. It is becoming less a product of the president's well-stated vision on missile defense and more a carryover of the plans and programs of the preceding Clinton administration, which focused on building a limited defense comprised of ground-based interceptors deployed at a site in Alaska. It would have the potential for adding new sites.

With the exception of deploying the interceptors in Alaska rather than near an ICBM field or Washington D.C., it is a program for building an ABM Treaty-compliant defense, notwithstanding the Bush administration's withdrawal from that treaty. In its treatment of theater missile defense programs, the Board seems to be abandoning the comprehensive architecture articulated by President Bush in deference to the planning of the Clinton administration that sought to develop a reduced number of theater missile defense programs, although it hopes to utilize Navy Theater Wide in a national missile defense.

The Defense Science Board is presenting a conclusion made after the fact. It is not a study of ballistic missile defense architectures. It is a study supporting the decision of the previous Clinton administration to build an ABM Treaty-compliant defense with the exception of deployment in Alaska.

Such a defense would be expensive and relatively ineffective. The Clinton administration was fully aware its decision to build a ground-based, as opposed to a space-based defense, would result in forfeiting the technical advantages that accrue from deployment in space.

The Clinton administration adhered to the strategy of Mutual Assured Destruction introduced in the 1960's by Defense Secretary Robert McNamara. Mutual Assured Destruction required that the United States leave itself vulnerable to destruction carried by ballistic missiles to support Clinton's decision not to deploy a national ballistic missile defense. Under Mutual Assured Destruction, the ballistic missile assumed the role of an ultimate, indestructible weapon.

As often happens to pet theories, the continued viability of Mutual Assured Destruction was viewed as more important than the defense of the American people. It became more important for ballistic missiles to remain indestructible than to build a defense against those missiles. Mutual Assured Destruction thus created and reflected a wellspring of opposition toward the development of ballistic missile defenses and advanced technology for space.

Mutual Assured Destruction reflected a belief commonly held by "arms control" advocates that slowing down the pace of technological development would slow down the arms race. As the deployment of a ballistic missile defense would involve the application and development of advanced technology, especially technology for space, it would be criticized by those who wanted to "demilitarize" space, leaving space as an open avenue for ballistic missiles to carry weapons of mass destruction.

As feared by "arms control" proponents, the deployment of a space-based ballistic missile defense called for by President Reagan's Strategic Defense Initiative resulted in a technological surge, which benefited the economy while providing improved defensive capabilities. The development of space spurs the development of new technology. However, rather than create a new arms race, the Strategic Defense Initiative helped end the Cold War, and provided a new focus on the development of precision weapons rather than the construction of more weapons of mass destruction.

Mr. Chairman, the Defense Science Board has limited discussion as to how and why the Clinton administration decided to support the deployment of a ground-based over a space-based defense. Moreover, it has not questioned why, or even whether, the Bush administration has consented to Clinton's philosophy on this important matter.

In reaching their decision to support the deployment of a ground-based over a space-based ballistic missile defense, the Board is ignoring the revolutionary advantages provided by a space-based defense, which include global coverage, a boost-phase interception capability, and multiple opportunities for intercepting a missile.

You are aware, of course, how in 1993 the Clinton administration implemented its vision to take the stars out of "Star Wars" by terminating the Brilliant Pebbles space-based interceptor after it was fully approved as a Major Defense Acquisition Program in 1991, and cutting the Space Based Laser Program when it had reached a stage of technological maturity, enabling it to be considered for deployment. In 1995, three contractors prepared an estimate for building a Space-Based Laser defense, clearly indicating its technological feasibility.

Space-based ballistic missile defenses have been feasible for years, and would be more effective and less costly than a ground-based defense as noted by former SDIO Director Ambassador Henry F. Cooper and others. The Defense Science Board, however, focused on building a narrow set of initial capabilities in order to achieve deployment, which apparently stemmed from a belief that a ballistic missile defense must be built as an evolutionary capability, virtually precluding the use of space-based defenses.

Despite the protestations of the Clinton administration in presenting its 3+3 plan to develop and deploy a national missile defense that would be ABM Treaty-compliant requiring the use of ground-based interceptors (and which would cost only $5-6 billion, less than the Strategic Defense Initiative Organization's estimate of $22-24 billion in Fiscal Year 1991 dollars for an initial deployment of ground-based interceptors at a single site), the Congress is now facing the ramifications of having bought into narrow plans to build a ground-based interceptor defense.

To respond to issues surrounding the cost of a ground-based defense and its effectiveness, which should invite considerable comment and discussion, the Defense Science Board is presenting as a conclusion that a ground-based defense is the only feasible architecture, and requires an evolutionary approach that starts by focusing on achieving a narrow set of initial capabilities—the deployment of a very limited defense. The article noted the findings of the Defense Science Board seemingly reflected the thinking of Air Force Lt. Gen. Ronald Kadish, Director of the Missile Defense Agency. It was not an independent review, apparently.

Essentially, the findings of the Defense Science Board were pre-ordained by the limitations of the ABM Treaty, including those limitations unilaterally placed on U.S. ballistic missile defense programs by those who wished to liberally apply the treaty. The limited capability of a ground-based interceptor defense requires that its progress be measured by an evolutionary approach with a narrow set of initial capabilities.

By expressing a belief that a ballistic missile defense must be built in an evolutionary approach where a network is assembled "a piece at a time when it's ready," the feasibility of building a ballistic missile defense was redefined to accommodate the special views of General Kadish. This approach engenders itself to the construction of a single site of ground-based interceptors where additional sites could be added a piece at a time as their construction is finished. However, it is an inappropriate abridgement of design, reflecting an inherent bias against space.

To illustrate the differences in initial capability between deploying an evolutionary ground-based defense over a revolutionary space-based defense, the two defenses may be contrasted in terms of the capability that would result from an initial deployment. The ground-based approach would first call for deploying perhaps 100 interceptors at Alaska. This defense would provide limited protection against ballistic missiles coming in over the North Polar Region, presumably originating from North Korea. It may result in the defense having two shots at a missile during the mid-course phase.

In contrast, an initial deployment of 1,000 Brilliant Pebbles could provide global coverage, have a potential boost phase interception capability, and offer repeated shots at a missile—more than two in a shoot-look-shoot sequence.

In addition, a Brilliant Pebbles defense would be capable of intercepting ballistic missiles of all types—long, intermediate, and short-range down to ranges of about 300 miles—in even theater defense applications. This same capability for theater defense would not exist for the ground-based interceptor defense.

Alternatively, an initial deployment of 12 Space-Based Lasers could provide global coverage, boost-phase interception, and a powerful ability to discriminate decoys during the mid-course phase not duplicated by a ground-based defense. Similar to Brilliant Pebbles, Space-Based Lasers could engage ballistic missiles of all types, down to ranges as short as 75 miles. Either space-based defense—Brilliant Pebbles or Space-Based Lasers—would provide a broader set of initial capabilities than the initial deployment of 100 ground-based interceptors in Alaska.

I repeat the observation that Brilliant Pebbles had been fully approved as a Major Defense Acquisition Program in 1992. Progress on the Space-Based Laser was close behind but only lacked funding—the 1995 proposal for building a Space-Based Laser defense being one sign of its technological maturity. The principle should be clear. Deployment in space leverages the advantages to be obtained in an initial deployment. It provides a broader set of initial capabilities than can be achieved by a ground-based defense, and the technology has been feasible for years.

Another key principle for building an effective defense needs to be discussed—multiple layers, preferably capable of independent operation. An evolutionary ground-based defense can do very little to build a multiple layer defense. It may build larger, faster interceptors to attempt boost phase interception, and may build more sites. It lacks, however, the inherent advantages of a space-based defense where it can engage a missile during its boost phase and entire mid-course phase. In addition, a ground-based defense lacks the ability to use high-energy lasers and particle beams to intercept ballistic missiles during their boost phase, discriminate decoys, and for particle beams, internally destroy the warhead elements during the mid-course phase.

A key difference needs to be noted in how a space-based defense can use a distributed architecture for the command and control of independent, yet coordinated, layers, instead of requiring a centralized approach used in a ground-based defense. Unlike a ground-based defense, a space-based defense provides an autonomous operation capability, taking advantage of advances in computers. This type of architecture would be less susceptible to countermeasures directed against a centralized command-and-control center.

In addition, a space-based defense using Brilliant Pebbles and Space-Based Lasers would provide a complementary ability between the different layers. Space-Based Lasers could provide Brilliant Pebbles with key mid-course phase-discrimination information. Brilliant Pebbles could provide a mid-course phase defense capability. This multiple-layer defense employing different technologies and lethality mechanisms would be harder to defeat than a defense comprised solely of ground-based interceptors. Adding a layer of particle beams, which would provide a third method of lethality against ballistic missiles, would further improve the robustness of the defense.

The use of space for defense, science, or commercial purposes is an issue that transcends party line or division. It is neither Republican nor Democratic. The current ambiguity in administering the Missile Defense Agency compared to the Strategy Defense Initiative begun by President Reagan should be proof. Space is a broad and encompassing issue, including vision for its use and the development of technology. As noted, the development of space spurs the development of technology. A pro-space policy will necessarily support the development of advanced technology, benefiting the economy.

That the Missile Defense Agency and Defense Science Board are unable to advance the advantages and feasibility of a space-based defense after the United States developed Brilliant Pebbles and Space-Based Laser technology, and considering the over forty years experience the United States has had in developing space systems, is a statement of policy that opposes the use of space. The technology has existed for a decade to build a highly effective space-based ballistic missile defense. This policy of opposition to space may reflect a belief unable to comprehend a systems approach in building a multiple-layer defense, and unable to comprehend the revolutionary development of space-based defenses. Either omission is inexcusable.

The issues facing Congress over the deployment of a ballistic-missile defense transcend party line. The issue is space—whether Congress will confront the failings of the past administrations to develop space-based defenses. To remain silent is to tacitly embrace a policy of technological and military mediocrity, allowing the United States to be overtaken by China, which has made no secret of its ambitions for space, seeking to claim it as its "fourth territory" and making plans to build a space station and colonize the Moon.

Since the end of the Strategic Defense Initiative nearly a decade ago, the progress of the Ballistic Missile Defense Organization and Missile Defense Agency in deploying ballistic-missile defenses has been feeble. After nearly ten years, all that has come out is an initial deployment of PAC-3, a short range interceptor. Israel has benefited more from the Strategic Defense Initiative than the United States, achieving an operational deployment of the Arrow. This sad state of affairs will continue as long as the United States has no bold vision to put a ballistic-missile defense in space.

The United States will continue to develop an inferior ballistic-missile defense as long as it chooses to ignore the inherent and invaluable benefits of space. Its ballistic-missile defense programs will continue to swirl in controversy and increase in cost. More studies and more reviews will be created to answer an endless stream of questions, and demonstrate the seeming inability of the Missile Defense Agency to decide upon a final architecture, being unable to reconcile itself to taking advantage of the benefits that accrue from deployment in space.

The Defense Science Board supports the idea of building a ship-based ballistic missile defense—Navy Theater Wide. It concluded, however, that for Navy Theater Wide to participate in a national missile defense, it needed to develop a much faster interceptor than the Standard Missile-3. This solution, however, apparently neglected how Navy Theater Wide was an application of the LEAP (Lightweight Exo-atmospheric Projectile) technology developed for Brilliant Pebbles. Navy Theater Wide was an application of technology developed for a space-based defense! Had this understanding been present, the technical solution would have been clearer and more elegant.

The Defense Science Board should have recommended a restart of Brilliant Pebbles attended with a program for developing a second-generation Brilliant Pebbles that would reflect a new emphasis on miniaturization. The miniaturization of Brilliant Pebbles made it possible for LEAP technology to be applied to the Navy for ballistic-missile defense. Going back to the origin of Navy Theater Wide—going back to space—would provide a better solution than attempting to force the Navy to accommodate a more muscular interceptor. While some degree of effort would be needed to develop a faster interceptor, miniaturization of the payload would simplify that problem, and provide spin-offs into other ballistic missile defense programs using hit-to-kill technology.

The article is grossly misleading in saying, "work on space-based systems has remained beset by technical problems and congressional opposition." While there is little doubt about the technical challenges involved in developing space-based defenses, the article does not impart how space based ballistic missile defense technology was developed a decade ago. Both Brilliant Pebbles and the Space-Based Laser were noted for being well run programs. Space-based defenses have not been deployed because of opposition to the use of space as a matter of policy, not feasibility.

Notably, the article quoted one informed source as saying, "If you're going to meet the guidance to get something deployed, you're going to have to do some things faster than most of the panel thought that space-based could be done." However, as Brilliant Pebbles was approved for acquisition a decade ago, the correct statement is that a deep prejudice exists against the use of space for ballistic-missile defense, blinding even members of the scientific community who would not come to terms with the fact that space-based defenses were ready to move into their acquisition phase a decade ago. The question of whether space-based defenses could be deployed was settled years ago. The United States simply does not wish to defend itself using the advantages of a space-based defense.

It was very shocking that the Defense Science Board remained silent, unable to oppose the apparent plans of the Missile Defense Agency to disassemble the infrastructure and technology for the Space-Based Laser. The lack of professional integrity is most disturbing. The Missile Defense Agency deserves the very harshest of criticism for its plans to eliminate two decades of technological progress in building a highly effective defense, using Space-Based Lasers. It would ordinarily be thought that scientists would support science and technology, rather than remain voiceless over a deliberate regression.

Furthermore, it is unusual the Defense Science Board was unable to offer any opinion or suggestions for the technical difficulties encountered in completing the development of the Navy Area Wide interceptor, particularly its forward-looking fuze incorporating an infrared seeker and short-range radar. Some type of technical opinion would have been in order.

In conclusion Mr. Chairman, nearly two decades ago the Strategic Defense Initiative investigated and developed a number of different technologies for ballistic-missile defense. It studied the architecture of various ballistic-missile defenses. The results favored the deployment of space-based defenses, and recommended a multiple-layer approach involving technologies such as Brilliant Pebbles and Space-Based Lasers. Other technologies showed promise, including high-energy particle beams. While a ground-based defense would form a final, reserve layer, the front lines of the defense would be found in space.

On the contrary, the advent of the Clinton administration and its opposition to space-based defenses from a Democratic-controlled Congress of ten years ago wrought a perilous error of strategy as the United States turned its back on space. Instead of pursuing a space-based defense with Brilliant Pebbles, Space-based Lasers, and developing other advanced technologies, the United States chose to chase its tail around the deployment of an expensive and relatively ineffective ground-based defense, seeking to find refuge in the ABM Treaty and Mutual Assured Destruction.

This error of strategy haunts us today. Despite the bold and perceptive public pronouncements of President Bush, others in his administration seem to be moving us in a different direction evidently beholden to the programs and policies of the Clinton administration. I am inclined to believe our president would prefer something other than a technological regression of U.S. defense capabilities, not the recommendation to turn America's back on using the advantages of space for a ballistic-missile defense. This is unconscionable when the United States faces an increasing threat from ballistic missiles. Space, not the ground, is the battlefield of the ballistic missile. We must place our defenses in space. In so doing, we will realize the defensive advantages that accrue from space, and the development of a space-based defense will spur the development of advanced technology, benefiting the economy.

Very truly yours,
BOB SCHAFFER,
Member of Congress from Colorado.

A TRIBUTE TO AMBASSADOR NECDET KENT OF TURKEY, HOLOCAUST HERO

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. LANTOS. Mr. Speaker, it is with deep sorrow that I rise today, after learning of the passing of Ambassador Necdet Kent on Friday, September 20, at the age of 91. Ambassador Kent was a Turkish diplomat who served with distinction at many posts. Between 1941 and 1944, he was posted as deputy consul in the Turkish Consulate-General in Marseilles, France. He used that position to bestow Turkish citizenship on—and thereby save—dozens of Turkish Jews who were resident in France and otherwise lacked proper identity papers to prevent their deportation to Nazi gas chambers. Most of those Jews had left Turkey years earlier with no intention of returning but technically had remained Turkish citizens. Necdet Kent exploited their all-but-lapsed Turkish citizenship to stay their execution and spare their lives.

On one occasion, Kent boarded a train bound for Auschwitz after Nazi guards refused to honor his demand to allow all its passengers—some 70 Turkish Jews—to disembark. At subsequent stops, Nazi officials tried to persuade Kent to leave the train, assuring him that its passengers were not real Turks but merely Jews. Kent made clear that he and his nation made no such distinction, and he steadfastly refused to disembark without his fellow citizens. Finally, after an hour of effort to dissuade Kent from his course, the Nazi guards gave up. Apparently cautious not to create an international incident in this instance, the Nazis allowed the stunned Jews to leave the train with Kent and with their lives.

Mr. Speaker, Ambassador Kent had an uncommon love of humanity and an even more rare combination of moral and physical courage that saved many Jewish lives during the Holocaust. As a Holocaust survivor who was saved by the great Swedish diplomat Raoul Wallenberg, I am constantly mindful that I owe my life to that rare breed of humanity to which Necdet Kent belonged.

Although I never had the pleasure of meeting Ambassador Kent, I know from reading his words and seeing him in a documentary released last year that he was a very modest man—excessively so, in my opinion, since his modesty long precluded him from winning the widespread accolades that he so richly deserved. Necdet Kent was so special that he seemed unable to recognize his own extraordinary character. I recall his simple reply when asked how he summoned the courage to defy the Gestapo and board that Nazi cattle car with the 70 Turkish Jews, knowing that he could have been riding to his death. "I'm a human being," he said. "I couldn't do anything else." If only that statement were as true as it is humble, far more diplomats would have had the courage to behave similarly, and countless more lives could have been saved. Happily, towards the end of his life, Ambassador Kent received far more of the tributes and praise he earned, thanks mainly to the aforementioned documentary, called "Desperate Hours."

Mr. Speaker, Ambassador Kent leaves this world with the admiration and gratitude of humanitarians, and particularly Jews, everywhere. I avail myself of this opportunity and urge all of my colleagues to join me in expressing deep condolences to the Turkish nation, to Ambassador Kent's family, and to the wider human family to which he belonged, on the loss of one of its noblest representatives—a man who, as a mere deputy consul, truly granted "visas for life."

SUMMARY OF DRAFT NUCLEAR WORKERS COMPENSATION IMPROVEMENT AMENDMENTS

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. STRICKLAND. Mr. Speaker, I include the following for the RECORD.

TITLE I—WORKER COMPENSATION BENEFITS FOR DEPARTMENT OF ENERGY CONTRACTOR EMPLOYEES EXPOSED TO TOXIC SUBSTANCES

Overview: Title I revises EEOICPA Subtitle D (as currently enacted) to designate the Department of Labor (DOL) as the "willing payor" for disability claims for occupational illnesses arising out of employment at DOE facilities, instead of having the Department of Energy "assist" claimants with state worker compensation claims. DOL would evaluate disability and adjust payments accordingly. Without a uniform process to pay meritorious claims, it is possible that nearly half of the claims will have no "willing payor." Payment would match FECA levels of benefits, and use the same administrative processes now used by the DOL for radiation, beryllium and silica claims. Payments come from EEOICPA Fund as direct spending. Eliminates MOAs with states.

Section 3662—DOE Physician's Panels (appointed by HHS) will determine causation, based on DOE's Final Rule issued August 14, 2002. Authorizes DOE to send meritorious claims for payment to the DOL, instead of "assisting" claimants with state worker compensation systems. Authorizes the DOE to provide medical tests and exposure assessments required by Physicians Panel, and requires outreach. Retains the portions of DOE's final rule that will continue to apply to these amendments. DOE will adjudicate disputes of adverse Physician Panel findings.

Section 3663—Authorizes DOL to administer payment of disability and medical benefits that have been approved by DOE's Physicians Panel. Claims administered using the FECA to set level of benefits for partial and total disability, plus medical and survivor benefits. Benefits paid from EEOICPA Fund as direct spending. DOL will adjudicate disputes over amount of payments and degree of disability, but not disputes over causation. DOL to expand list of organs or physiological systems covered in its existing FECA rules to address the DOE claims.

Section 3664—Claims administered through a non-adversarial system and no statutes of limitations (same as Subtitle B claims).

Section 3665—DOL will reduce payments by the amounts that are being paid in a state worker comp proceeding.

Section 3666—DOL cannot recover costs from a contractor, state or insurer for benefits provided in this Title.

Section 3667—Benefits are tax exempt and cannot be offset against certain other federal programs, such as housing and transitional assistance payments.

Section 3668—Benefits cannot be offset from private insurance policies.

Section 3669—Convicted felons forfeiture of benefits.

Section 3670—This will be an exclusive remedy against the U.S. government or a contractor acting in its capacity as an employer, except for intentional torts or state worker comp.

Section 3671—For claimants who have received $150,000 lump sum for an illness, and is disabled and wants to file under Subtitle D, they can receive wage replacement benefits reduced by the $150,000 lump sum. This would form a wrap around payment. However, claimants cannot collect two sets of benefits for the same illness.

Section 3672—Compensation and claims for compensation are exempt from claims of creditors.

TITLE II—AMENDMENTS RELATING TO SUBTITLE B OF THE EEOICPA (RADIATION, BERYLLIUM, SILICA)

Overview: This section adds two illnesses related to uranium and beryllium, provides a means for incorporating latest science for listing radiogenic cancers, provides for an ombudsman to assist claimants, authorizes expanded dates of coverage for beryllium and atomic weapons vendors where there is significant residual contamination and NIOSH has issued recommended dates of coverage, sets forth time limits on dose reconstruction and Special Exposure Cohort petitions, and makes some improvements to the NIOSH IREP Model.

Section 201—Adds chronic renal disease as a covered illness eligible for lump sum payments for workers employed for at least 1 year at a covered uranium facility. DOE will define what are "covered" facilities based on whether the facility processed, machined, forged or enriched uranium for the DOE. RECA Amendments of 2002 currently provides a lump sum benefit for uranium millers and transporters, and this would provide parity.

Section 202—Adds lung cancer to the list of covered beryllium diseases. If the lung cancer arose 5 years after first exposure to beryllium in the course of employment at a covered facility, claimant would be eligible for lump sum payment. Beryllium is classified as a known human carcinogen with respect to lung cancer.

Section 203—Sets 150 day deadline for NIOSH to complete dose reconstruction, and 180 day deadline for NIOSH to responding to Special Exposure Cohort petitions. Petitions are granted if NIOSH fails to act within 180 day time frame.

Section 204—Removes consideration of smoking in the NIOSH Compensation model, and requires NIOSH to adjust its compensation model to provide claimants with the benefit of the doubt where there is reasonable scientific evidence to justify compensation. Where there is scientific uncertainty, model is now neutral.

Section 205—Authorizes NIOSH to recommend to Congress additional radiogenic cancers for the Special Exposure Cohort. Provides for public review and comment.

Section 206—Authorizes expanded dates of coverage for beryllium vendors and atomic weapons employer facilities based on the findings of the NIOSH Report to Congress required in the FY 02 Defense Authorization Act. NIOSH is to assess whether the presence of residual contamination from DOE funded activities could have substantially contributed to or caused the cancer or beryllium disease of a covered employee.

TITLE III—RELIEF FOR CLAIMANTS UNDER ANY SUBTITLE OF THE ACT

Section 301—When medical records necessary for processing a claim cannot be produced by DOE or a DOE contractor, this section authorizes DOE or DOL to consider affidavits (coupled with other available information) in evaluating medical evidence for a claim.

Section 302—Requires that the Secretaries of DOL and DOE maintain resource centers and outreach programs relating to the availability of benefits until September 30, 2004. Or, in the case of an under-served area, such center shall be maintained until demand is exhausted.

Section 303—Authorizes an Office of Ombudsman in the DOL to assist claimants with all three agencies, and directs an annual report to DOL and Congress on recommended improvements. Appointment by Secretary of Labor.

"SAY 'NO' TO UNESCO" ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. PAUL. Mr. Speaker, I rise today to introduce the "Say 'No' to UNESCO" act.

This bill expresses the sense of the Congress that the United States should not rejoin the United Nations Educational, Scientific, and Cultural Organization (UNESCO).

Mr. Speaker, in 1984 President Ronald Reagan withdrew the United States from membership in that UNESCO, citing egregious financial mis-management, blatant anti-Americanism, and UNESCO's general anti-freedom policies. President Reagan was correct in identifying UNESCO as an organization that does not act in America's interest, and he was correct in questioning why the United States should fund 25 percent of UNESCO's budget for that privilege.

Those calling for the United States to rejoin UNESCO claim that the organization has undertaken fundamental reforms and therefore the United States should re-join. It is strange that in the 18 years since the United States left UNESCO, we only started reading about the beginnings of reform in the year 2000. Are we to believe that after nearly two decades of no change in UNESCO's way of mis-managing itself things have changed so much in just two years? Is it worth spending $60 million dollars per year on an organization with such a terrible history of waste, corruption, and anti-Americanism?

Mr. Speaker, even if UNESCO has been "reforming" its finances over the past two years, its programmatic activities are still enough to cause great concern among those of us who value American sovereignty and honor our Constitution. Consider the following as a partial list of UNESCO's ongoing highly questionable activities:

UNESCO meddles in the education affairs of its member-countries and has sought to construct a UN-based school curriculum for American schools.

UNESCO has been fully supportive of the United Nations' Population Fund (UNFPA) in its assistance to China's brutal coercive population control program.

UNESCO has designated 47 U.N. Biosphere Reserves in the United States covering more than 70 million acres, without Congressional consultation.

UNESCO effectively bypasses Congressional authority to manage federal lands, by establishing management policies without Congressional consultation of approval.

Mr. Speaker, I hope all members of this body will join me in opposing renewed United

States membership in the United Nations Educational, Scientific, and Cultural Organization by co-sponsoring the "Say 'No' to UNESCO" act.

STATEMENT ON H.R. 4727

HON. JEFF FLAKE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. FLAKE. Mr. Speaker, on September 5, 2002, I voted against legislation to authorize the Dam Safety and Security Act of 2002. This bill is just another example of federal involvement in projects that are already being conducted by the states. The bill inserts federal management and funding into the already operating state-level programs that ensure the safety of the nation's dams. It establishes a review board to oversee and monitor state implementation but authorizes $35 million in government spending. Like many federal programs, the government seeks to lure states with federal tax dollars into ceding control of state responsibilities. The problem is, this program—and the additional spending—does nothing more to ensure the safety of dams than what individual states already do. State and local officials in Arizona determine what is required to ensure the safety of their dams, and what works in some instances might not work in others.

PERSONAL EXPLANATION

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. EVERETT. Mr. Speaker, due to events that required my return to my district, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 400—On agreeing to H. Res. 525, expressing the sense of the House of Representatives that the 107th Congress should complete action on and present to the President, before September 30, 2002, legislation extending and strengthing the successful 1996 welfare reforms.—"yes."

Rollcall No. 401—On agreeing to H. Res. 524, expressing the sense of the House that Congress should complete action on the Permanent Death Tax Repeal Act of 2002.—"yes."

Rollcall No. 402—On motion to suspend the rules and agree to H. Con. Res. 337, Recognizing the Teams and Players of the Negro Baseball Leagues for their Achievements, Dedication, Sacrifices, and Contributions to Baseball and the Nation.—"yes."

Rollcall No. 403—On motion to Instruct Conferees on H.R. 3295, the Help America Vote Act.—"yes."

SEPTEMBER 11, 2001

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. GRAVES. Mr. Speaker, on September 11, 2001, America awoke to the worst terrorist attack in history. As we went to work and school, we left with a feeling of security that we have long since forgotten. By the time we returned to our families, our lives and our Nation had forever changed. It had been many years since America felt so insecure, so vulnerable. On that morning, the American people's resolve was put to the ultimate test. Everything appeared to be so uncertain that day. Who would do such a thing? Why would they do it? Is there more to come? How can I protect my family?

But there was much that was certain that day. America made a promise to the victims and their families, to future generations of Americans, and to the world. The American people promised that this action would not go unanswered. We promised that this action would only strengthen and unite us, not divide us. We would respond forcefully to those who were responsible while tending to our neighbors, our fellow countrymen. Together, you and people across northwest Missouri and our Nation donated blood for the victims, and donated money for their families. Together, we prayed for those who lost so much that day. We prayed for our soldiers who stood ready—preparing to defend our freedom.

As we stop to remember that terrible day, some of the pain and fear has subsided. But our determination to defeat those who seek to terrorize us must never fall victim to the passage of time. In the coming months, the American people will face a choice: Live up to our responsibility by making tough choices and sacrifices to continue our assault on terrorism, or quit now and hope that they choose to stop planning future attacks. The American people should never have to endure such a tragedy again. As we have learned over the past year, we can do something about it. We must never mislead ourselves that we have to wait to be attacked again to continue our defense from terrorism. The more than 3,000 lives lost is all the justification we need to have to defend against a certain threat of terrorism. The United States must remain vigilant and prepared, so that we remain forever free.

H.R. 2982

SPEECH OF

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. FOSSELLA. Mr. Speaker, H.R. 2982 authorizing the establishment of a memorial within the District of Columbia to the victims of terrorist attacks on the United States.

Words are generally inadequate to give voice to the loss we suffered on September 11, 2001. Today, we will try to leave a more worthy token.

The enormity of what happened last year is still difficult to grasp, especially to those of us in the communities most directly affected. The scope of the casualty list is particularly overwhelming when considering each individual that was taken from us. Each had a name, a face, a family, a personality, a legacy that they have left behind.

Susan Conlon said goodbye to her 6-year-old daughter, Kimberly, before going to work that day in the World Trade Center, in an office she had occupied for less than 3 months. Robert Curatolo was a newlywed who charged into danger as one of all too many firemen that never returned that day. Vassill Haramis was a hero of the 1993 WTC bombing, an engineer who loved working there as he had since the 1970's, not long after coming to this country.

These stories, times a thousand and more, can only begin to trace the outline of the victims of the 9–11 attacks. I offer them as examples from my own district of heartbreaking losses.

I believe what we are proposing today will be an eloquent testament to the memory of the victims. By acting today, while the memory of that terrible day has not yet faded, we can be sure future generations will have a better understanding of the victims and heroes of September 11th, and their legacies will never be forgotten.

NEW YORK JOINT SESSION OF CONGRESS, SEPTEMBER 6, 2002

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. CUNNINGHAM. Mr. Speaker, 1 year ago, America watched with horror as the tragic events of September 11 unfolded here in New York City and in our Nation's capital. On that morning, already aghast at the attack on the Twin Towers, I looked out the window of my Capitol Hill Office and gasped in horror as I watched the black smoke billow out of the Pentagon and drift across the clear blue sky. Still stunned, I was quickly shuffled out of my office to safety.

Today, as I reflect on the profound loss that our nation faced in midst of these horrific attacks, I am also heartened by the selfless acts of valor, community spirit, and national unity that have followed this tragedy. Despite the stresses that our nation has experienced, the ties that bind our diverse country together are stronger than ever.

Immediately following, the terrorist attacks on America, President Bush called on all of us to volunteer to bring our country together and reestablish those local ties that often times are neglected. Americans responded. The resurgence of commitment to community can be found in our homes, our houses of worship, our schools, and our workplaces. From New York City to San Diego, citizens responded with soup kitchens, mentoring programs and charitable donations of goods and time. And the proud men and women of the U.S. military responded, allowing our country to take an aggressive lead in the War on Terrorism.

I have heard many stories of outstanding individuals who have gone above and beyond this call to aid those in their community through extraordinary service and exemplary acts. While we reflect on the American spirit, it is also important to highlight the measures we have taken to prevent future attacks of this magnitude.

The attacks on our Nation were motivated by intolerant and ignorant individuals seeking to forever change our way of life and destroy this great Nation. Much like Washington, Adams and Jefferson, we must seek to ensure that this country remains an example of democracy and freedom—we must be the Patriots of today.

Since September 11, 2001, all levels and branches of government have cooperated to strengthen aviation and border security, stockpile more medicines to defend against bio-terrorism, improve information sharing among our intelligence agencies and deploy more resources and personnel to protect our critical infrastructure.

At the same time, the changing nature of threats to our nation requires a new and reformed government structure to protect against enemies who can strike at any time with any number of weapons. As I write this column, no single government agency has homeland security as its primary mission. In fact, responsibilities for homeland security are dispersed among more than one hundred different government organizations. America needs a unified homeland security structure that will improve protection against today's threats and be flexible enough to help meet the unknown threats of the future.

President Bush has proposed the most significant transformation of the U.S. government in over a half-century by consolidating the current confusing patchwork of government activities into a single department called the Department of Homeland Security. Changing threats require a new government structure to meet these threats. The Department of Homeland Security will have in one place all the resources needed to do what it takes to protect our country. The reorganization of America's homeland security infrastructure is crucial to overcoming the enormous threat we face today.

The shocking and tragic events of September 11 reminded us of the frailty of life, but today's special session demonstrates our resilience and strength in the face of adversity. Thousands went to work on September 11 thinking about their jobs, their families, their friends—most likely not contemplating their own mortality. Yet in an instant, death and injury met them face to face. We must never forget those who perished, and we honor them again today. We owe it to their memory to ensure that we never face such a loss again. Regrouping as individuals and as a nation, we must continue rebuilding, and working to defeat the terrorists by growing even stronger as a nation.

TRIBUTE TO CHIEF ELECTRICIANS MATE (SUBMARINES) JOSEPH AIMON MANGIN, U.S. NAVY

HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to honor Chief Electricians Mate (Submarines) Joseph Aimon Mangin, United States Navy. Chief Petty Officer Mangin will retire on Monday, 30 September 2002 after 23 years of faithful service to our Nation.

Chief Mangin enlisted in the United States Army in September 1978. Following Army Basic Training and Army Cooking School at Fort Jackson, South Carolina, he reported to his first assignment as part of Headquarters and Headquarters Company, 1st Battalion, 70th Armor in Wiesbaden, Germany in January 1979. During his European tour he participated in several field exercises including Return of Forces to Germany (REFORGER) and exercises at the Fulda Gap.

In October 1981 Chief Mangin transferred to Headquarters and Headquarters Company, 1st Battalion, 14th Infantry (Golden Dragons) of the 25th Infantry Division at Schofield Barracks, Hawaii. While attached to the Golden Dragons he again participated in many field exercises including Team Spirit in Korea and jungle operations in the Republic of the Philippines. During his Hawaii tour Chief Mangin was named the battalion, brigade, division, and US Army Western Command Cook of the Year for 1982. In March 1984 Chief Mangin left the Army and spent nine months with the California National Guard.

In December 1984, feeling again the call to serve he joined the United States Navy. He attended Navy Recruit Training, Basic Electricity and Electronics School and Electricians' Mate 'A' School at Great Lakes, Illinois, graduating number one in his 'A' school class. Chief Mangin then completed Nuclear Power School in Orlando, Florida, and in May of 1986 was assigned for training to Nuclear Power Training Unit Idaho Falls, Idaho, where he was the first student in his class to graduate.

In February 1987 Chief Mangin joined the crew of USS *Olympia* (SSN 717) in Pearl Harbor. Serving as *Olympia*'s Command Career Counselor, his efforts helped the ship earn the Commander Pacific Submarine Force Silver Anchor award for retention excellence. During his time on *Olympia*, the ship completed three Western Pacific deployments and two northern deployments. After graduating first in his class at Radiological Controls Maintenance School, Chief Mangin completed a three-year tour assigned to SUBASE Pearl Harbor, qualifying as Radiological Controls Shift Supervisor and serving as Leading Petty Officer.

Chief Mangin then received orders to the USS *Oklahoma City* (SSN 723) in Norfolk, Virginia. Serving as Leading Petty Officer of Electrical Division, he was named *Oklahoma City*'s Sailor of the Year for 1995. During this tour, the ship completed a Mediterranean deployment. In 1996, following his selection as a Chief Petty Officer, Chief Mangin reported to USS *Norfolk* (SSN 714) as Electrical Division Leading Chief Petty Officer. In 1998, Chief Mangin relieved as the Navy's Submarine Pay (SUBPAY) Monitor, working on the staff of the Deputy Chief of Naval Operations at the Navy Annex in Washington DC. In this position, he oversaw all aspects of the $45M SUBPAY budget. His thorough analysis built the compelling business case that resulted in targeted increases to the SUBPAY program, the first increases in fifteen years.

Chief Mangin's contributions have had a direct and lasting impact on the overall readiness and effectiveness of Naval Submarine Force personnel. He is an individual of uncommon character and his professionalism will be sincerely missed. I am proud, Mr. Speaker, to thank him for his honorable service in the United States Navy, and to wish him fair winds and following seas as he closes his distinguished military career.

COMMENDING UNC PRESIDENT HANK BROWN

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SCHAFFER. Mr. Speaker, I rise today to honor a former congressional colleague and good friend, Senator Hank Brown. Senator Brown recently stepped down as president of the University of Northern Colorado, a highly regarded institution of nearly 11,000 students in Greeley, CO. As president of the University, Senator Brown combined his past experiences in law, business, politics, and higher education to truly transform the school into a leading university.

Prior to becoming president of the University of Northern Colorado, Senator Brown served a distinguished career in the Colorado State Legislature, U.S. House of Representatives and U.S. Senate. While a U.S. Senator, he also taught night classes in political science at Catholic University and public policy at the Graduate School at Georgetown University. I am honored to follow Senator Brown in serving the Fourth Congressional District of Colorado.

Mr. Speaker, the House will recall Senator Brown as a remarkable American. His service to the country was marked by his courage, thoughtful deliberative style, his cogent rhetorical manner, and his honest character. Hank Brown embodied Colorado in the Congress, and he still does today as Citizen Brown. He represented his state and country throughout the world with clarity of purpose and a noble vision steeped in the nation's glorious history. He was and remains an authentic statesman. Coloradans are forever grateful for Senator Brown's contributions to the state, for his leadership, and for his compassion. He's a Colorado hero.

Mr. Speaker, I have the great honor to know Senator Brown as a friend and mentor. From the time I served in the Colorado State Senate, while Brown was my Congressman, I relied on his counsel, wisdom and example. As his successor in Congress, I continue to be driven by his legacy in hopes that I might come close to achieving even a portion of

Senator Brown's accomplishments on behalf of the people of Colorado. The agenda he established for his constituency has clearly endured. It is a plan for freedom, liberty, and prosperity that has been followed by Senator WAYNE ALLARD, and me, and I am confident that my replacement here will likewise follow in the Hank Brown tradition. He is one of the most decent people I know. Moreover, I am continually assured by our colleagues who served with him that he earned from all in this Capitol the greatest degree of respect and admiration. Hardly a day goes by without someone saying, "Bob, please say 'hello' to Hank for me."

On October 18, 2002, Senator Brown will be honored at a roast on his behalf to benefit the Hank Brown Scholarship for Excellence Endowment Fund. The Endowment Fund will assist countless students in attending the University of Northern Colorado. There is no other individual more deserving of a UNC scholarship namesake than Senator Brown.

As UNC's 11th president, Senator Brown has made a profound impact upon the University. He has helped increase admissions standards three times while maintaining the lowest faculty-to-student teaching ratio of all four-year universities in Colorado. He has reduced the budget for administration by $6 million, redirecting funding to faculty salaries. Under Senator Brown's leadership, the UNC Foundation has doubled and total assets under management rose from $43.9 million to nearly $100 million. Additionally, Senator Brown has secured more than $270 million in state support for the building and renovation of educational and residential facilities on the campus, more than what had been received in the previous 30 years.

Mr. Speaker and Members of the House, please join me in commending Senator Hank Brown for his 22 years of public service and his deep commitment to the students and faculty at the University of Northern Colorado. It is fitting and appropriate for us to honor this man upon the establishment of the Hank Brown Scholarship for Excellence Endowment Fund. For generations to come, students will benefit from the opportunities presented by its lasting legacy.

IN RECOGNITION OF FORMER CONGRESSMAN ROMAN C. PUCINSKI

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. LIPINSKI. Mr. Speaker, I rise today to pay my respects to a former colleague and dear friend, Mr. Roman Pucinski. Mr. Pucinski, who passed away in Park Ridge, Illinois, on September 25, 2002, represented the northwest side of the City of Chicago in the U.S. House of Representatives from 1959 to 1973.

Pucinski grew up in a heavily Polish neighborhood now called Wicker Park. His youth was shaped by his father's abandonment of his mother and siblings when he was a child and by the Depression in his pre-teen years when he wore government-issued shoes, said his daughter Aurelia, who followed her father into politics and served as Cook County Circuit Court clerk from 1988 to 2000.

Pucinski, articulate and never at a loss for words, had an early interest in public affairs. After graduating from Northwestern University, he worked as a reporter, as a bombardier during World War II and as a bilingual chief investigator for a special House subcommittee investigating the Katyn Forest massacre of thousands of Polish military officers by the Soviets during the war. Urged by Mayor Richard J. Daley to run for Congress, Pucinski entered the 11th District race on the Northwest Side in 1958 and won.

From the start of his tenure in Congress, Representative Pucinski ("Pooch" to colleagues and friends) mounted a one-man effort to require airlines to install crash-proof cockpit voice recorders in airplanes. Despite organized opposition from the major airlines, Pucinski kept the pressure on and in 1964 the Federal Aviation Administration issued an order requiring air carriers to install crash-proof cockpit voice recorders in their aircraft. Commonly referred to as the "black box", cockpit voice recorders are now a critical component of aviation safety. Black boxes provide vital information about the final minutes of airline disasters to accident investigators and have helped determine the cause of several plane crashes.

As a decorated Air Force pilot, Pucinski knew that a recording of last minute cockpit conversations would provide vital clues to the cause of airline tragedies. During World War II, Pucinski led his bomber group in the first B–29 bombing raid over Tokyo. He flew 48 other combat missions over Japan and was awarded the Distinguished Flying Cross and Air Medal with Clusters. From his own personal experience as a pilot, Pucinski understood that, in the last few minutes preceding an air tragedy, the cockpit crew is far too busy trying to save their passengers and aircraft to radio formal reports to a ground station. However, a crash-proof tape recorder operating automatically during flight preserves a record of everything said in the cockpit for accident investigators.

As a result of Roman Pucinski's dedicated and courageous leadership in the establishment of crash-proof tape recorders in commercial airliners, accident investigation and aviation safety have been significantly advanced in the public interest, and outstanding results for the national aviation system have been achieved.

In addition, Pucinski spent much of his career serving Chicago's Polish community. After serving in Congress, Pucinski became the longtime president of the Illinois Division of the Polish American Congress, and he led a number of rallies in Chicago protesting communism in Poland. He supported Poland's Solidarity labor movement, and over the years he helped to raise $1.5 million as the movement gained international prominence.

Roman Pucinski's legacy will surely include his lasting contribution to aviation safety and involvement with the Polish American community, but it will also show him as a caring and dedicated leader. His daughter, Aurelia, has said of him "He understood that in order to get things done for ordinary people, you had to be in the position where people would listen to you. He loved the problem solving part of it. That energized him. He loved meeting people, loved wading into a room of strangers to find out what they were thinking, identify with them, and have the chance to represent them."

Mr. Speaker, Roman Pucinski was a committed public servant and was revered and respected by nearly all who knew him. I ask our colleagues to join me in honoring the memory of such a dedicated and courageous man. He will be greatly missed.

IN HONOR OF MS. DORELLA BOND

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. FROST. Mr. Speaker, I rise today in honor of Ms. Dorella Bond, from my district in Grand Prairie, Texas. On October 2nd of this year, Ms. Bond will celebrate her 50th anniversary working for Lockheed Martin Missiles and Fire Control and its predecessor companies.

Ms. Bond has spent a lifetime in dedicated service to her country and her company; a company that has produced many of the military's most recognizable defensive systems: systems that have helped guarantee our freedoms as Americans.

Dorella first joined the Lockheed Martin family at the tender age of 18 when, on October 2nd, 1952, she was hired by one of Lockheed Martin's predecessor companies, Temco Electronics and Missiles. Although she began her career as a Production Control Clerk-B, she quickly progressed up company ranks. Today, five decades later, Dorella serves as Executive Assistant to the Senior Vice President of Finance/Chief Financial Officer. She still displays the same tenacity and dedication that she brought to the job 50 years ago, and shows no sign of stopping.

Ms. Bond truly exemplifies the positive work ethic, experience, loyalty and dependability so important to our society today. She is truly a shining example of the American worker.

Mr. Speaker, fifty years of service with an organization is a tremendous accomplishment, one deserving special recognition and honor for a job well done. I know my colleagues will join me today in honoring a remarkable woman and a tireless worker. We salute Dorella Bond today, and wish her continued success and accomplishment at Lockheed Martin.

THE IDENTITY THEFT CONSUMER NOTIFICATION ACT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. KLECZKA. Mr. Speaker, earlier this year, hundreds of residents of Wisconsin were notified by their bank that their personal information had been stolen by a former employee. While the bank in question had discovered last September that this crime had taken place, it did not notify the victims until May 2002. This is completely unacceptable. In the meantime, those whose information had been compromised had no idea that their information had been sold to a ring of identity thieves, who were using the financial records to make purchases in the victims' names, including high-end automobiles.

Today I am introducing legislation that requires financial institutions to notify their customers if their personal information was compromised as the result of employee misconduct or computer hacking.

Identity theft is a crime that occurs with increasing frequency every year, and I have introduced legislation in three consecutive sessions of Congress to increase the level of control and protection one has over personal information. However, the fact that there is nothing in law that compels financial institutions to notify customers that their personal information had been compromised in a timely fashion requires action.

My legislation, the Identity Theft Consumer Notification Act, would require banks to promptly notify consumers that their information has been stolen, assist the customer in repairing his or her credit history, and cover any false charges made by the criminal for which the victim is liable. In addition, the annual privacy notices that financial institutions are required to send customers on an annual basis would have to include a description of the bank's obligation to provide notification and assistance in cases in which a customer's information had been compromised.

There could be instances in which identity theft is discovered, but law enforcement would be in a better position to successfully complete an investigatiozn and collect sufficient evidence for conviction if notification was delayed. As a result, this bill allows for a temporary waiver of disclosure if law enforcement makes such a request.

Lastly, a recent Supreme Court case limited the statue of limitations for victims seeking compensation from credit reporting agencies that allowed criminals to falsely use another person's financial information. The Court held that the statute of limitations begins to toll at the time a crime was committed, rather than at the time that the crime was eventually discovered by the victim. Given that the statute of limitation is only two years, it makes sense to start the clock at the time the crime is discovered, rather than at the time the crime was committed, since that abbreviated time limit leaves some victims unable to seek compensation.

This legislation will give consumers confidence that institutions that they have entrusted with their finances have an obligation to notify them if their personal information has been compromised, and that the institution will help them through the often arduous task of correcting their credit history and compensate them for losses incurred as a result of this crime. I urge my colleagues to cosponsor this legislation and give consumers the notification they need to minimize and quickly repair the damage done by identity thieves.

IN RECOGNITION OF THE 75TH ANNIVERSARY OF THE ROSEMEAD CHAMBER OF COMMERCE

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Ms. SOLIS. Mr. Speaker, on the eve of the 75th Anniversary of the Rosemead Chamber of Commerce, I rise to recognize the accomplishments of the Chamber.

Since its inception in 1924 as the Rosemead Improvement Association, the organization that three years after became the Rosemead Chamber of Commerce, has been instrumental in the operations and well-being of the city. Throughout the years, it has maintained its pivotal role as the commercial heart of the city by bringing together community leaders, business owners and residents.

The Rosemead Chamber of Commerce has made numerous contributions to Rosemead. It has fostered economic growth by giving the business sector a voice and has helped to establish a tradition of community events. At one point, these included Fiesta Day and the Halloween Parade; now they are composed of trade shows, career fairs and "One on One Breakfasts." The Rosemead Chamber of Commerce has changed according to the changing needs and interests of the city of Rosemead.

Over the past 75 years, the Chamber has played an important role in the lives of Rosemead residents and fostered a strong economy for the City. I wish the Chamber continued success and growth and I ask you to join me in honoring it for 75 years of service to the community.

COMMEMORATING SEPTEMBER 11, 2001

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SENSENBRENNER. Mr. Speaker, since September 11 last year, life has taken on new meaning. For some, that day's devastation has caused them to become more cynical, changed by the events of a few hours. For others, each day since then has taken on more significance as they realize what it means when people say that you can't take life for granted. But for all of us the memories of that day will live on as we not only think about the people trapped in the World Trade Center, the Pentagon, and the hijacked planes, but also remember their loved ones who were helpless to prevent the tragedies. As the President said in his Proclamation earlier this month, "Those whom we lost last September 11 will forever hold a cherished place in our hearts and in the history of our Nation. As we mark the first anniversary of that tragic day, we remember their sacrifice; and we commit ourselves to honoring their memory by pursuing peace and justice in the world and security at home."

Life after September 11 took on new meaning for Members of Congress too. We reacted by changing our priorities, and began work on legislation to respond to that day's horrific events. One of the first things we did was pass legislation authorizing the use of US Armed Forces against those responsible for the attacks. Since then, Congress passed numerous bills dealing with the issues that are widely believed to have allowed the events of September 11 to occur. They include: beefing up airline security, strengthening our nation's borders, restructuring the Immigration and Naturalization Service to make it a more efficient agency, and passing the USA–PATRIOT Act to improve information sharing between law enforcement and intelligence communities. More recently, the House passed legislation to create a new Department of Homeland Security in response to the President's request for a flexible, effective department, with the singular mission of protecting our nation. Financially, we have also passed legislation to provide the Department of Defense with the resources it will need to address the new challenges that now face the nation.

Many individuals have changed their priorities too. Spurred by our war against terrorism and the words of the Administration and various law enforcement agencies, Americans have begun to pay more attention to their surroundings and take better note of anything that appears out of the ordinary, particularly in airports. Gone are the days when one can easily dismiss peoples' errant behavior as harmless without making sure that that is indeed the case. As we learned, the price to pay for not checking can be awfully steep.

After the events of that Tuesday, life in Washington, DC, returned to some semblance of normalcy. Yet, a year later, although life appears the same as always, there is a difference. Certainly, Congress is in the middle of its appropriations debates as it almost always is this time of year and Republicans and Democrats are embroiled in many of the same arguments that typically take place around now. However, there is now an underlying sense of wariness in our nation that didn't exist before—but this is good, as it shows that we have learned from last year's events. It demonstrates that as a nation, we have grown. September 11, 2001, wasn't that long ago, but America has lived a lifetime in the year since that fateful day.

SENSE OF THE HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 3762, PENSION SECURITY ACT OF 2002

SPEECH OF

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. McKEON. Mr. Speaker, I rise in support of H. Res. 540. Nine months ago, in his State of the Union address, President George W. Bush called on Congress to enact important new safe guards to protect the pensions of millions of American workers. The President called on Congress to move quickly to enact these important reforms so that people who work hard and save for their retirement can have full confidence in our retirement system.

In response to the President's call, the House immediately took action by holding several hearings on the Enron Collapse and its implications for worker retirement security. We heard from hard working Americans who loyally dedicated decades of their lives to Enron only to loose their life savings when the company collapsed due to corporate corruption. These employees were not millionaire corporate big wigs. They were regular blue collar Americans who had diligently saved their hard earned money for their family's future. We also heard from honest employers who voluntarily offer their employees retirement plans.

But the House did more than just hold hearings.

In April, this body took action and passed a comprehensive Pension Security Act, which would give workers unprecedented new retirement security protections and new freedoms to diversify their retirement savings. The Senate has yet to pass a Pension Security Act.

In April, the House took action and passed a Pension Security Act that would have helped protect thousands of Enron and WorldCom employees who lost their savings during the collapses due to corporate corruption. The Senate has yet to pass a Pension Security Act.

Mr. Speaker, more than 160 days ago, the House took action to help hard working Americans protect their retirement savings. The Senate has not yet acted on the Pension Security Act.

The President is waiting for a bill to sign to protect worker retirement savings from corporate meltdowns.

Mr. Speaker, I strongly support this resolution because I strongly support the Pension Security Act passed by the House several months ago.

HONORING REAR ADMIRAL LESLIE GEHRES

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. REYNOLDS. Mr. Speaker, I rise today to salute a true American hero, Rear Admiral Leslie Gehres. A native of Newark in Wayne County, NY, Admiral Gehres will be honored by his community on Saturday, September 28, 2002, with the dedication of a monument and memorial exhibit at Newark High School.

Admiral Gehres began his long and illustrious naval career in 1914, when he enlisted in the New York Naval Militia. When his unit was mobilized on April 6, 1917, he was appointed to the rank of Ensign, and transferred to the regular navy, following completion of course work at the U.S. Naval Academy in Annapolis, MD.

Admiral Gehres became a Naval Aviator in 1927, and in 1929, trained and led "The Nine High Hats," a prestigious nine-plane acrobatic formation. After the outbreak of World War II, Admiral Gehres took command of Patrol Wing 4, and took part in the Aleutians campaigns. He was responsible for driving the Japanese out of the Aleutian Islands, and for his services, earned the Army's Distinguished Flying Cross, Legion of Merit, and Gold Star in lieu of a second Legion of Merit. He was also promoted to the rank of Commodore for his leadership in that campaign, a rank that had not been given to any naval officer since Commodore Oliver Hazard Perry in the War of 1812.

Following his detachment from Fleet Wing 4, Admiral Gehres assumed command of the USS *Franklin* in the Pacific Fleet. Admiral Gehres courageously and successfully returned that carrier to the Naval Yard in New York, after being heavily damaged by Japanese forces. "For extraordinary heroism as Commanding Officer of the USS *Franklin,*" read his Navy citation, Admiral Gehres was awarded the Navy Cross.

Mr. Speaker, Rear Admiral Leslie Edward Gehres passed away in 1975, but he will now be forever remembered for his heroism and selfless service to his nation, and I ask that this Congress join me in saluting his proud career, and in thanking the community of Newark, NY, for honoring his leadership and valor.

"LESS WE FORGET" THE TEN COMMANDMENTS

HON. BRIAN D. KERNS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. KERNS. Mr. Speaker, I rise today to bring to your attention an event which took place in my district over the weekend.

This past Saturday in Crawfordsville, Indiana, I had the honor of participating in a special ceremony to unveil the monument of the Ten Commandments. This monument was dedicated with over 100 of my fellow Hoosiers present. The monument depicts two tablets containing the Ten Commandments with the words "Less We Forget" inscribed between them.

La'Shar Sharp, who is only 15 years old is one of the key persons who made this memorial possible. Ms. Sharp had the vision of creating the Ten Commandments monument to be dedicated on the September 11 one year anniversary. The Hoosiers in my district took this young girl's vision and helped make it a reality. The Church of Pentecostals of Crawfordsville donated the land and the Allen Monument Company built the memorial. A number of other individuals, businesses and organizations contributed to the dedication ceremony, including the Veterans of Foreign Wars whose members raised the flag and served as the ceremonial color guard.

There is no better symbol for this memorial than the Ten Commandments. As you may know Mr. Speaker, the Crawfordsville Courthouse was forced to take down its depiction of the Ten Commandments. For this reason, I introduced legislation (H. Con. Res. 315), which would prominently display the Ten Commandments in both the House and Senate Chambers. It is important in these times of uncertainty that we be steadfast in our beliefs and mindful of our roots.

I would like to leave you with the words of Crawfordsville's Mayor Steve Gentry, who at the dedication said "The stone may, in time, grow old and become hard to read, but the words and their meaning will carry on for future generations. May God bless the effort that gave us this ceremony, and may God bless the United States of America."

FIRE PLAN ON FEDERAL LANDS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the efforts of the Colorado General Assembly concerning implementation of the National Fire Plan on Federal Lands. Joint Resolution 02S–1007, passed by Colorado's General Assembly, endorses H.R. 3948, introduced in the 107th U.S. Congress to improve the implementation of the National Fire Plan by reducing fuels in the wildland-urban interface. I commend the work of the Colorado General Assembly for its strong efforts toward the betterment of the state and well being of the people of the great state of Colorado.

I hereby submit for the RECORD Colorado House Joint Resolution 02S–1007.

HOUSE JOINT RESOLUTION 02S–1007

By Representative(s) Hefley, Alexander, Johnson, Madden, Snook, Witwer, Cloer, Coleman, Crane, Dean, Fritz, Harvey, Lawrence, Mace, Marshall, Plant, Rhodes, Romanoff, Smith, Spradley, Stafford, Tapia, Velga, Vigil; Williams S., Decker, and Weddig; also Senator(s) Fitz-Gerald, Isgar, Tupa, Hernandez, Phillips, and Windels.

CONCERNING IMPLEMENTATION OF THE NATIONAL FIRE PLAN ON FEDERAL LANDS.

Whereas, The paramount goal of fire policy must be the protection of lives, homes, and communities; and

Whereas, 1.3 million Colorado citizens reside in and adjacent to forested areas with high wildfire risk, and the number living in a wildland-urban interface is predicted to increase substantially over the next few decades; and

Whereas, Hundreds of firefighters heroically put their lives at risk to save homes and communities every year; and

Whereas, Intermixed land ownership means that Colorado's federal land managers, state land managers, and private property owners are all responsible for the protection of private property; and

Whereas, USDA Forest Service research has demonstrated that fuel reduction within the immediate vicinity of structures and the use of nonflammable building material are the most important factors determining whether a structure will survive a wildfire; and

Whereas, A primary purpose of the National Fire Plan is to reduce the risk of severe wildfires in the wildland-urban interface where communities adjoin or intermingle with federal public lands, and substantial funds have been appropriated to the federal land management agencies to implement this plan; and

Whereas, At a 1998 Colorado forest conference sponsored by Governor Romer and the USDA Forest Service, consensus developed between the environmental community, the timber industry, and the USDA wildland-urban interface red zone; and

Whereas, In January 2002, the General Accounting Office concluded that USDA Forest

Service accounting and tracking is so poor that there is no way to determine whether the USDA Forest Service had appropriately spent over $750 million allocated to thinning and prescribed fire in the wildland-urban interface red zone; and

Whereas, The USDA Forest Service has aggressively fought efforts to require 60% of the National Fire Plan funds to be spent on fuel reduction projects that will provide the greatest protection to the at-risk communities; and

Whereas, The federal land managers in Colorado are using National Fire Plan moneys in some instances to assist in the completion of projects that do little to reduce fuels in the wildland-urban interface; and

Whereas, Colorado Congressmen Joel Hefley and Mark Udall have recognized this problem and introduced a bipartisan resolution, H.R. 3948, to improve implementation of the National Fire Plan by reducing the build-up of fuels in the wildland-urban interface by establishing an interagency council to coordinate implementation of the National Fire Plan, directing the council to define consent criteria to identify the communities within the wildland-urban interface that are most at risk from severe wildfires, requiring that fuel reduction be accomplished in at-risk communities before other fuel reduction efforts are undertaken in the state, and directing the council to determine the most effective and appropriate methods to utilize fuel removed pursuant to the National Fire Plan; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-third General Assembly of the State of Colorado, the Senate concurring herein:

That the General Assembly endorses H.R. 3948 to improve the implementation of the National Fire Plan by reducing fuels in the wildland-urban interface, and urges the Colorado Congressional Delegation to support and cosponsor this resolution.

Be It Further Resolved, That copies of this Joint Resolution be sent to the President of the United States, the Secretary of the Interior, the Secretary of Agriculture, and each member of the Colorado Congressional Delegation.

DOUG DEAN,
Speaker of the House.
ED PERLMUTTER,
President Pro Tem of the Senate.
JUDITH RODRIGUE,
Chief Clerk of the House of Representatives.
KAREN GOLDMAN,
Secretary of the Senate.

SPECIAL JOINT MEETING OF CONGRESS IN NEW YORK ON SEPTEMBER 6, 2002

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. MALONEY. Mr. Speaker, it was a historic experience to join with my colleagues in the Special Joint Meeting of Congress held in New York City. I have visited New York many times since the terrorist attacks on September 11 2001. It is a city that has recovered from, but not forgotten, the events of that tragic day.

The families and friends of those who perished have endured a year of unbearable loss. They have my deepest sympathy. Rarely have we felt vile acts of terrorism perpetrated on our shores, and never on the scale of September 11th, 2001. Our response has shown the strength of character of the American people. The sadness that we all felt that day, and in the days since, has hardened into a resolve to honor the memories of those who perished, to heal our wounds so that our nation is even stronger than before, and to bring righteous justice to those who perpetrated the attacks.

The Congressional Session in New York was a fitting salute to that great metropolis, and a dramatic affirmation that all Americans stand united with the people of New York as we move forward to root out terrorism and build a free and secure world community.

TRAINING OUR FIRST RESPONDERS IN ROCKFORD, ILLINOIS

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. MANZULLO. Mr. Speaker, protecting the people of the United States is Congress' number one responsibility. Since the Sept. 11 terrorist attacks, we have passed laws in the House to improve our readiness at home, and our agencies are meeting with state and local governments to share information and formulate emergency plans with our first responders.

I wanted to let you know about a private initiative that took place this summer in the district I represent that will improve local readiness and help protect the people in northern Illinois.

On July 20, 2002, Marathon Ashland Petroleum invited members of the Winnebago, Rockford, Blackhawk, Win-Bur-Sew, West Suburban, Byron and North West fire departments, along with the Winnebago County Sheriff's Department and Bomb Disposal Team to a full-scale bomb drill at its Rockford terminal. The drill was designed to not only familiarize local, area and regional responders with the terminal's facilities and equipment, but to also train and prepare our first responders for a credible threat against the terminal. The drill was the first of its kind in the petroleum industry following the Sept. 11 attacks on our nation.

The all-day event began with tours of the facility and opportunities for police and fire responders to familiarize themselves with the equipment and set-up at the terminal, which can store up to 20 million gallons of fuel, including gasoline and diesel. The Winnebago County Bomb Squad then participated in a simulation where area Emergency Medical Technicians were able to familiarize themselves with the special suits that bomb squad members must wear.

The bomb squad commander, Chris Cowan, then briefed drill participants on likely tactics and targets within the terminal that terrorists might consider. A safety discussion and tips for locating a device followed.

The day was capped off with a detonation of a small explosive device designed to show the impact that even a small device can make.

Mr. Speaker, this is the kind of leadership from our local governments and our business community that we need to win the war on terrorism and protect our homeland. We in Congress have passed legislation to tighten security in America and provide funding to help our nation prepare. But our first responders in our communities are the ones who will make homeland security work.

The people at Marathon Ashland Petroleum and the brave police officers, firefighters, and EMTs from northern Illinois are leading the charge to protect our people. And I commend them for that.

COMMEMORATING ANNIVERSARY OF SEPTEMBER 11TH

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mrs. LOWEY. Mr. Speaker, today I rise in recognition of the one year anniversary of the tragic events of September 11, 2001.

Last September, the lives of all Americans were forever changed. Loved ones have been lost, and the grief we feel is as sharp now as it was one year ago. There is an emptiness in families, in offices, in communities, where sons and daughters, husbands and wives, parents, siblings and friends once were.

Our country has changed. We have focused intently on the task of ensuring our homeland security—a term seldom heard before this past year. We have invested billions of dollars in securing our ports and borders, water and food, and airways. We have enhanced the strength of our military and intelligence capacities, undertaking an unprecedented campaign to end the threat of international terrorism. We have a new appreciation for the hard work of our men and women in uniform—whether they are soldiers, police officers, emergency medical technicians, or firefighters.

We joined together with the President, the Governor, and former Mayor Giuliani in passing an emergency spending bill which provided $21 billion to fund the rescue and recovery efforts at the World Trade Center site and cleanup in lower Manhattan. This funding has also helped alleviate some of the economic ramifications of the terrorist attacks, provide counseling to New York schoolchildren affected by 9/11, and it is now being used to modernize the transportation systems that were devastated by the towers' collapse. The wounds remain, but our community has shown extraordinary courage in dealing with the challenges before us. We will never forget, but we will recover.

Shattering as this ordeal has been, the fundamental character of America has remained the same. And for this we should all be proud. We are still a strong and diverse nation, focused on the pleasures and challenges of everyday life, caught up in the struggle to provide good homes for our children, achieve meaning in our lives, and leave this world a better place after we've gone. We still believe in the importance of our democratic ideals—the foundation on which our country was built, and continues to thrive.

As a nation, we have joined together to provide support for our neighbors, friends, coworkers and fellow Americans. As I have traveled around New York, I have seen remarkable displays of the resilience of the American spirit as we have worked in the recovery effort, giving from both our hearts and our wallets. The tragedy of September 11th was once unimaginable as were the courage and empathy that were displayed that terrible day. Now, it is this strength and this concern for our fellow citizens that redefine us as Americans.

This is what gives us hope. And this is what gives us confidence that, despite the dangers of the world and the challenges our country faces, we will prevail in perpetuating the values we hold dear. I am humbled and honored to stand before you today in remembrance of the tragedy of September 11th and the heroism and patriotism of New Yorkers and all Americans over the past year.

THE THREAT OF WILDFIRES

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the efforts of the Colorado General Assembly concerning the mitigation of the threat of wildfires in the national forests through the removal of dead fuel. Resolution 02S–1002, passed by Colorado's General Assembly urges federal action on a fire strategy to comprehensively reduce the risk of catastrophic wildfire and improve the overall condition of Colorado's forests. The bill further supports utilizing an appropriate mix of fire-prevention activities and management practices including forest restoration, treatment of at-risk forest stands, grazing, selective tree removal, and other measures to control insects and pathogens, removal of excessive dead ground fuels, and small-scale prescribed burns. I commend the work of the Colorado General Assembly for its strong efforts toward the betterment of the state and well being of the people of the great state of Colorado.

I hereby submit for the RECORD Colorado House Resolution 02S–1002: 2002:

Whereas, The current condition of Colorado's national forest lands poses public health and safety risks to citizens of this state in the areas of air quality, water quality and quantity, and potential loss of human life and damage to property and threatens damage to municipal infrastructure; and

Whereas, The USDA Forest Service has allowed an unnatural volume of dead fuels to build up within national forest lands that poses an immediate threat to nearly 20 million forested acres in Colorado; and

Whereas, The number of forested acres in Colorado treated by the USDA Forest Service has been grossly insufficient to mitigate the threat of unnatural, catastrophic wildfires; and

Whereas, Insect and disease infestations have impacted over 500,000 acres throughout the state, and these conditions have exacerbated the already dangerous wildfire hazard; and

Whereas, Major wildfires that occur in Colorado's backcountry decrease wildlife habitat, including that of federally-listed species, and threaten to denude critical watersheds surrounding high-mountain reservoirs; and

Whereas, The wildfires in Colorado have burned 357,000 acres in 25 counties, cost $110 million, received 14 FEMA declarations, and burned over 1,000 structures; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-third General Assembly of the State of Colorado:

1. That we, the members of the House of Representatives, hereby recognize the dangerous conditions of Colorado's forests and urge aggressive action by the USDA Forest Service to mitigate the threat of wildfire on national forest lands in the State of Colorado through the removal of vast accumulations of dead fuels.

2. That we urge federal action on a fire strategy to comprehensively reduce the risk of catastrophic wildfire and improve the overall condition of Colorado's forests.

3. That we support all possible and necessary steps in order for projects to control various insect- and disease-impacted forests in Colorado.

4. That we support utilizing an appropriate mix of fire-prevention activities and management practices including forest restoration, treatment of at-risk forest stands, grazing, selective tree removal, and other measures to control insects and pathogens, removal of excessive dead ground fuels, and small-scale prescribed burns.

5. That we strongly encourage the Congress of the United States to expeditiously pass legislation, maintain sufficient National Fire Plan funding, and encourage refinements of current regulations to address the gridlock issue obstructing active land management by the USDA Forest Service and other federal land management agencies.

Be It Further Resolved, That copies of this Resolution be sent to the USDA Forest Service and to each member of the Colorado Congressional Delegation.

CONFERENCE REPORT ON H.R. 1646, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 2003

SPEECH OF

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 2002

Mr. KOLBE. Mr. Speaker, first let me congratulate the Chairman of the International Relations Committee, Mr. HYDE, for successfully managing this important piece of legislation. For many years it has proven difficult to reach the stage of final congressional approval of a freestanding State Department authorization act, but in his first term as Chairman he has managed to do just that.

I also congratulate him for including authorizations of appropriations for a number of accounts within the jurisdiction of the Appropriations Subcommittee on Foreign Operations, where I serve as Chairman. Funding is authorized for the International Military Education and Training account, the Foreign Military Financing account, the account for nonproliferation,, anti-terrorism, demining and related programs, and the account for Migration and Refugee Assistance. In the case of the last account, let me say that the Appropriations Committee has recommended a funding level for refugee assistance that is $95 million above the President's request, or a total of $800 million. This is due in large part because of the strong interest shown by Chairman HYDE and the International Relations Committee in providing adequate funds to assist overseas refugees. This is but one example of the ways in which the authorization committee and the Appropriations Committee can work together for the public good.

The conference report also follows the lead of the Appropriations Committee in authorizing an additional $200 million in anti-terrorism assistance for Israel, as well as authorizing ongoing assistance for Israel and Egypt.

However, I did not want this conference report to pass without expressing my strong concern about section 1224, which restricts assistance for Lebanon. This provision would reduce assistance for Lebanon by $10 million on an annual basis unless the armed forces of Lebanon have been deployed to the border between Israel and Lebanon, and unless the Government of Lebanon is effectively asserting its authority in that area.

Like all Americans, I strongly condemn terrorist attacks that have been launched from Lebanese territory by Hizballah. If I thought this provision would save one life, I would strongly support it.

However, Lebanon is currently not in control of its own destiny, and cannot control much of its own territory, due to the presence of a foreign occupying power. That power is Syria, and it is Syria that has tolerated and encouraged terrorism against Israel.

The effect of this language could be to cut the Lebanon assistance program from $35 million to $25 million. Very little of our assistance is provided to the Government; the cut will primarily affect assistance to American educational institutions in Lebanon such as the American University in Beirut and the Lebanese American University. The cut will also adversely impact the other major American program in Lebanon, which promotes community development in villages and towns throughout that country. It is designed to empower local communities by providing assistance for small-scale infrastructure, such as community centers and water systems, and for micro-enterprise activities. It also allows the United States to offer social and economic benefits to impoverished Lebanese citizens, rather than forcing them to rely on the social services that terrorist organizations such as Hamas and Hizballah may offer. In that sense, the provision is counterproductive and will have precisely the opposite effect of that intended by its author.

I hope we can revisit this issue very soon. If we don't, I think we will all regret the fact that this conference report will have diminished the ability of the United States to contribute to a positive future for the people of Lebanon.

INTRODUCTION OF A RESOLUTION RECOGNIZING THE CONTRIBUTIONS OF HISPANIC-SERVING INSTITUTIONS

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. MCKEON. Mr. Speaker, I rise today to introduce a House resolution honoring the contributions made by this country's Hispanic-serving institutions (HSI). In my congressional district in California, California State University-Northridge has been designated as a HSI and it is my privilege to recognize the dedication and service that it provides to the Los Angeles community.

Under Title V of the Higher Education Act of 1965, a Hispanic-serving institution (HSI) is an institution of postsecondary education with a student enrollment that is at least 25 percent Hispanic, with at least 50 percent of its Hispanic students coming from low-income families. These institutions play a vital role in providing a quality postsecondary education for all Americans, and are deserving of our recognition and continued support.

I am proud of the role that this body has played in aiding these important institutions. The Higher Education Amendments of 1998 created a program designed to aid HSIs in strengthening their institutions under Title V of the Higher Education Act. These chances included allowing institutions to use Federal money to build their endowments, and to provide scholarships and fellowships for needy students. Since 1998, we have increased our support for HSIs to $86 million. President Bush's budget, passed by the House in March, would increase support for these institutions by an additional 3.5 percent.

We have also taken other important steps to serve not only minority students, but all American students. For example, the Pell Grant program is, and has always been, our highest priority for postsecondary education. Since 1995, we have increased the maximum Pell Grant every year. For Fiscal Year 2002, the maximum Pell Grant reached a record high of $4,000; up from just $2,340 in FY 1995, and a 33 percent increase from FY 1998 level.

We have also passed the Higher Education Amendments of 198 to make college more affordable, simplified the student aid system, and stressed academic quality. That legislation ensured that student loans would continue to be available for all qualified students, and resulted in the lowest student loan interest rate in the history of the program. It also provided increased aid to the neediest students, strengthened important financial aid programs such as College Work Study, SEOG, Perkins Loans, and TRIO, and created the government's first Performance Based Organization (PBO) to improve service to schools, students, and parents.

This Nation's HSIs play a vital role in educating America's citizens. It is my goal and the goal of the Committee on Education and the Workforce to build on the record of academic excellence of students attending HSIs. This resolution honors the important work done at HSIs, and encourages all students to attend college and prepare for the challenges and opportunities of the 21st Century. I urge my colleagues to support this resolution.

A TRIBUTE TO THE 2002 CAROLINA COURAGE WOMEN'S SOCCER TEAM

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. MCINTYRE. Mr. Speaker, it is with great pleasure that I rise today to acknowledge the Women's United Soccer Association's (WUSA) Carolina Courage. On August 24, 2002, the Carolina Courage defeated the Washington Freedom to claim their first WUSA Championship and the Founders Cup.

From their modest beginnings only two short years ago, the WUSA has become one of the catalysts in increasing both interest and participation in soccer for young girls. While soccer remains the most popular sport worldwide, the teams comprising the WUSA have provided young girls with a group of positive, female role models.

In these two short years, the Carolina Courage has cultivated a fan base throughout the State of North Carolina. The women who make up this remarkable team hail from all over the world, and they have united together to form one of the most explosive and entertaining professional teams in the United States. These women work tirelessly to improve their soccer skills and to improve their communities.

My fellow colleagues, please join me in saluting the 2002 Carolina Courage for their efforts. May God's blessings be not only upon this great team, but also upon all of those teams within the WUSA which are setting positive examples for our young people across America.

DISASTER RELIEF

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the efforts of the Colorado General Assembly concerning the recognition of the ability of the state inmate population to provide disaster relief. Resolution 02S-1001, passed by Colorado's General Assembly supports the low-cost alternative of using the Colorado inmate population to assist communities in reestablishing their homes and businesses. I commend the work of the Colorado General Assembly for its strong efforts toward the betterment of the state and well being of the people of the great state of Colorado.

I hereby submit for the RECORD Colorado House Resolution 02S-1001:

House Resolution 02S-1001

By Representatives(s): Spradley, Cloer, Crane, Dean, Hefley, Hoppe, King, Miller, Rhodes, Schultheis, Stafford, T. Williams, and Young.

CONCERNING THE RECOGNITION OF THE ABILITY OF THE STATE INMATE POPULATION TO PROVIDE DISASTER RELIEF

Whereas, Colorado is in the midst of a widespread and lengthy drought, has experienced throughout this summer a plague of dangerous and destructive wildfires in various locations, and may be in danger of experiencing calamitous flash-flooding; and

Whereas, The extraordinary challenges of these and other natural disasters demand creative and innovative approaches to prevent and mitigate the destruction caused by these and other natural and man-made forces; and

Whereas, For decades the Colorado Department of Corrections has supervised the provision of valuable services to the state and its communities by hundreds of inmates; and

Whereas, The Colorado inmate population can provide reliable and needed assistance to combat the onslaught of these disasters and to mitigate their destruction and stands ready as a flexible, trained, and capable workforce for the state; and

Whereas, The Colorado Department of Corrections can easily and quickly train and mobilize hundreds of inmates to perform various critical tasks, including: Forest and vegetation management; mitigation of burned areas; flood control, reforestation and reseeding; trail and road rebuilding; and various reclamation projects; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-third General Assembly of the State of Colorado:

(1) That, although the state faces a severe budget crisis and must be fiscally responsible, we, the members of House of Representatives of the Sixty-third General Assembly, recognize that assistance for communities that have been devastated by wildfires is of paramount importance and needs to be accomplished in the most fiscally responsible manner possible, and we support the low-cost alternative of using the Colorado inmate population to assist communities in reestablishing their homes and businesses; and

(2) That we, the members of House of Representatives of the Sixty-third General Assembly, believe the use of inmates for mitigation and rehabilitation is a quicker and more cost-effective alternative for the citizens of Colorado in the current emergencies than the extensive long-term training needed to allow inmates to directly fight forest fires; and

(3) That we, the members the House of Representatives of the Sixty-third General Assembly hereby encourage all relevant agencies of federal, state, and local government to consider that the Colorado inmate population may be easily trained and mobilized on request to perform numerous assignments in preparing for and responding to various disasters; and

(4) That the Colorado Department of Corrections can provide the necessary training and supervision for those inmates to carry out those critical assignments.

Be It Further Resolved, That copies of this Resolution be sent to each member of the state's congressional delegation, to the President of the United States, to the Governor, to the Executive Director of the Department of Corrections, and to any statewide organizations representing counties and municipalities.

JUDITH RODRIGUE,
Chief Clerk of the House of Representatives.
DOUG DEAN,

Speaker of the House
of Representatives.

RECOGNIZING 100TH ANNIVERSARY OF 4-H YOUTH DEVELOPMENT PROGRAM

SPEECH OF

HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 2002

Mr. ACEVEDO-VILÁ. Mr. Speaker, I rise today in support of 4–H and I urge my colleagues to vote in favor of this important resolution. This is a wonderful time to cherish our country's youth and their achievements. However, it is important to remember those who have fought for farmer workers fair treatment. One great example is Dolores Huerta. As we mark National Hispanic Heritage Month. I urge the leadership to bring House Concurrent Resolution 177 to the floor. This Resolution recognizes the achievements of a great American; moreover, of a great woman. Dolores Huerta was a leader for farm workers' rights. She was the cofounder of American Farm Workers with Cesar Chavez. They have fought for fair wages, safe working conditions, and against harmful pesticides. The Women's Hall of Fame recognized her great achievements by inducting her in 1993. Additionally, she has recently been named as one of the six women sustaining the American Spirit by the National Women's History Project. It is important that we bring special attention to this woman's achievements. In closing, as an original cosponsor to H. Con. Res. 177, I urge you to bring this to the floor.

CONSUMER RENTAL PURCHASE AGREEMENT ACT

SPEECH OF

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 18, 2002

Ms. McCOLLUM. Mr. Speaker, I rise in opposition to H.R. 1701, the Consumer Rental Purchase Agreement Act. While supporters of this bill claim that it will protect the interests of consumers, it will do the exact opposite in my state of Minnesota and other states that have enacted strong protections against abuses by the "rent-to-own" industry.

If enacted, H.R. 1701 would pre-empt laws in Minnesota, New Jersey, Wisconsin and Vermont that currently treat "rent-to-own" as consumer credit transactions subject to state credit sales laws. These strong state laws protect consumers from being charged exorbitant prices for items purchased through "rent-to-own" transactions. Conversely, H.R. 1701 would require all states to treat these transactions as renewable leases subject to minimum disclosures.

H.R. 1701 would allow "rent-to-own" businesses to charge even more outrageous prices to consumers. While "rent-to-own" businesses must currently comply with usury laws that set maximum interests that may be charged for these transactions, H.R. 1701 will completely undermine this protection.

Further, this bill would allow the "rent-to-own" industry to avoid millions of dollars in legal penalties that are collected from businesses in violation of Minnesota's consumer protection laws. With strong enforcement of these laws, Minnesota courts have collected $30 million in penalties since 1997 from just one "rent-to-own" chain. Clearly, the "rent-to-own" industry stands to benefit greatly from the "get out of jail free" card that H.R. 1701 would provide.

During my time in the Minnesota House of Representatives, I fought attempts by the "rent-to-own" industry to strip these important protections from our state law. Now, as a member of Congress, I must fight these attempts again to protect the interests of the low- and moderate-income consumers who are targeted by the deceptive practices of the "rent-to-own" industry.

IMPACTS OF UNCOMPENSATED CARE ON SOUTHWEST BORDER COUNTIES

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. HUNTER. Mr. Speaker, this morning, the United States/Mexico Border Counties Coalition released an important report detailing the increased healthcare burden incurred by our nation's twenty-four counties that share a border with our southern neighbor, Mexico. I am privileged to represent a congressional district that includes nearly all of the California/Mexico international border. As a result, I can tell this body firsthand what the study proves—border communities suffer a significant financial burden from providing unreimburseable healthcare services to undocumented aliens.

The study, titled "Medical Emergency: Costs of Uncompensated Care in Southwest Border Counties," estimates that at least 25 percent of the border county hospitals uncompensated care costs, or $190 million in 2000, are incurred from providing services to undocumented aliens. In addition, emergency medical service providers lost about $13 million providing care and transportation for illegal aliens injured while crossing the border.

In 1998, Imperial County alone incurred nearly $1.3 million in unreimbursed healthcare services provided to undocumented aliens. Unfortunately, Imperial County is already one of the poorest counties in the country and certainly in the State of California. As a result, this financial burden is particularly difficult for this community to sustain. While the cost of healthcare delivery is high, it is not the only cost incurred on behalf of illegal aliens. In total, Imperial County estimates that, in 1998, it spent more than $5.4 million providing services to undocumented aliens and that amount continues to increase.

At the same time, San Diego County is also bearing a significant cost for unreimburseable services provided to illegal aliens. The County estimates that in 1998 they spent nearly $10.8 million for emergency medical care and over $50 million in total services provided. Clearly, this money would be better spent delivering services to needy county residents.

The impacts of uncompensated emergency services does not stop at an affected hospital's balance sheet. Healthcare costs and insurance premiums are on the rise, partially in order to cover the unreimburseable costs incurred by the healthcare institutions. Rising health insurance premiums are threatening employers' ability, particularly small businesses, to offer their employees affordable health care benefits. High liability costs and low levels of compensation are threatening the viability of emergency rooms and emergency transportation providers all along the border, and particularly in California where the healthcare system is already in crisis.

Throughout my tenure in Congress, I have fought for additional border security, not only to address safety concerns, but also as a way of addressing the financial impacts of caring for the undocumented alien population. The fact is, securing our international borders is the responsibility of the federal government. So it logically follows that providing necessary medical care for individuals who penetrate our border is also a federal responsibility.

To make matters worse, the federal border agencies, in order to avoid paying the costs associated with healthcare delivery to the injured alien, will report an emergency situation to local emergency personnel without officially taking control of the alien. As a result, when the ambulance picks up the undocumented alien for transport to the nearest hospital, they are also accepting total financial obligations for the immigrant. It is unacceptable for federal agencies to be passing on their responsibilities to our already financially-strapped local communities. This practice must come to an end.

The study makes several important recommendations for addressing these problems, all of which appear to have merit. The primary solution, however, is clear: border communities must be compensated for the costs incurred from caring for undocumented aliens. I plan to work closely with my colleagues who represent affected counties to find a solution to this problem and I hope my colleagues throughout the Congress will join us in this effort. After all, it is a matter of fairness and accepting responsibility of our federal obligations.

KYRGYZSTAN

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. PITTS. Mr. Speaker, earlier this week, the President of Kyrgyzstan, Askar Akayev, and the First Lady, visited the United States.

I rise to welcome them and thank them for their friendship.

Kyrgyzstan is centrally located along the Great Silk Road, an ancient economic and cultural trade route that connected Europe to Asia.

Kyrgyzstan has absorbed traditions from the East and the West, making its history rich and its people diverse.

Today, the Great Silk Road is being renewed and Kyrgyzstan, once again, is at the center.

Kyrgyzstan has made notable progress since its independence, but it still faces many challenges.

Over the past decade, Kyrgyzstan has moved to adopt democratic reforms and a market economy. However, the potential that Kyrgyzstan holds to be an example to the region has not yet been fully realized. The U.S. must work closely with President Akayev to encourage additional reforms.

Still, the Kyrgyz people are hungry for democracy and thirsty for economic prosperity. The future of Kyrgyzstan rests in the hands of its young people. And it is a bright future. With this in mind, it is encouraging to see the hard work of the First Lady of Kyrgyzstan on behalf of the children in her country. The U.S. must continue to support these efforts.

Kyrgyzstan has also been a strong supporter of the United States' war on terrorism. President Akayev has cooperated in allowing the use of an airbase in Bishkek and the government has helped with providing information on terrorist cells in the region.

A prosperous Kyrgyzstan is important for regional security and stability. Therefore, we must work together to continue building relations between Kyrgyzstan and the U.S.

116TH AIR CONTROL WING

HON. SAXBY CHAMBLISS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. CHAMBLISS. Mr. Speaker, as a member of the House Armed Services Committee, I support many of the transformation initiatives our military is undertaking. Through the vision and leadership of Secretary Roche and General Jumper, the Air Force has been a leading proponent of transformation. The Joint Surveillance Target Attack Radar System, or JSTARS, and the 116th Air National Guard unit at Robins Air Force Base are a prime example of a transformational mission. These unique units are on the verge of becoming even more transformational as they blend Air National Guard personnel into the active JSTARS unit.

On Monday, September 30, 2002 the Guard's 116th Bomb Wing and the active duty 93rd Air Control Wing will merge into a first of its kind "blended Wing." The new wing will operate all of the Air Force's Joint STARS aircraft. It is a mission of considerable importance. The J–STARS aircraft can find and track moving targets on the ground hundreds of miles into enemy territory and are prized assets and constantly in demand by theater commanders.

Developing a blended unit has proven to be a daunting task. However, the Air Force and members of both the 93rd Air Control wing and the 116th Bomb Wing have stepped up to the plate and cleared every hurdle in their way. Secretary Roche stated that "Outdated laws and policies would have to change to reflect requirements in command-and-control, fiscal, and personnel issues," and he was right. The members of the Air National Guard and the Air Force Reserve have worked tirelessly to achieve a "blended wing" and have done it in an exceptional fashion.

The Air Force has long been the model of full and seamless integration of the Reserve Components. Its Guard and Reserve associate programs are long-term success stories that maximize weapon system utilization while leveraging the expertise of Guard and Reserve personnel. Strong national defense rests on the foundation of a well-equipped, well-trained and mobile military force. The 116th has been and will continue to be the pinnacle of professionalism and honor; and will continue to be ready—Anytime-Anywhere.

I would like to commend the vision, leadership, and stalwart dedication that Major General David Poythress, Colonel Tom Lynn, Colonel David Fadok, and all the people that helped make this day possible. It is the strong commitment by everyone involved to their country, to the war-fighter, and to Robins that makes this day truly great.

IN REMEMBRANCE OF SEPTEMBER 11

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SANDERS. Mr. Speaker, our nation was forever changed on the morning of Sept. 11. The goal of Osama bin Laden was to demoralize us, create fear, uncertainty and instability in our country—he failed. Last week Congress met in New York to pay tribute to those who were killed, and I was reminded how strong and resilient our country truly is. Last September 11 we saw amazing displays of heroism and bravery. I will never forget the sight of firemen entering the World Trade Center risking their lives to save others.

We have also learned a great deal since Sept. 11. We've learned that we are a vulnerable nation, and that we must lead an international coalition against bigoted, religious fanatics who believe they have the right to kill in order to impose their reactionary ideology on others. Many of us also have learned that in order to be true to American values, we must not undermine the fundamental principles and constitutional rights that our country was founded on.

As an American and a Vermonter, I was enormously proud of how our people responded to this crisis in terms of blood donations, financial contributions and coming together as a community to support the victims and each other. It is my hope that we will continue to show that same sense of community that we demonstrated in the aftermath of the September 11 attacks.

HONORING JUDGE JOSEPH LODGE

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mrs. CAPPS. Mr. Speaker, today I would like to pay tribute to an extraordinary citizen of California's central coast, Judge Joseph Lodge. As both a judge and a teacher at the University of California, Santa Barbara, there is no question as to how much Judge Lodge has given to the Santa Barbara community and I am very pleased to have the opportunity to honor him.

In 1955, after graduating from the University of Michigan School of Law, Joe Lodge began his legal career by working as a clerk for the chief judge of the U.S. Court of Appeals, 6th Circuit. In 1956 Joe moved to Santa Barbara, which he has called home ever since. He became the first full-time attorney in the Santa Barbara suburb, Goleta, and in 1958, at the young age of 26, he made the decision to run for a part-time judgeship in a local court. In 1965, after the South Coast courts merged, Judge Lodge became a full-time judge in the municipal court, although he still found time to continue teaching at UCSB. In 1998, Judge Lodge was moved to the Superior Court, where he sits now.

Judge Lodge holds the distinction of being the longest sitting trial judge in the State of California. Not only has he dedicated the last 44 years to presiding on the bench, but he has also spent the last 42 years teaching an extremely popular criminal justice course at UCSB. Since Judge Lodge has vowed never to retire, the residents of the central coast decided to throw him an "In-Lieu-of-Retirement Party" on the evening of Thursday, September 26.

The Santa Barbara community has benefited greatly from the many, many years of service Judge Lodge has dedicated. His wisdom and fairness has played a part in so many people's lives and it is truly fitting that we have the opportunity to honor him today.

PAYING TRIBUTE TO: J. NICHOLAS McGRATH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. McINNIS. Mr. Speaker, it is with great sadness that I recognize the life and passing of J. Nicholas McGrath of Basalt, Colorado. Mr. McGrath was a very prominent and well-respected attorney not only in the State of Colorado but also throughout the entire nation. As his family mourns their loss, I would like to pay tribute to the life and accomplishments of Nicholas McGrath before this body of Congress and this nation.

Nicholas McGrath graduated from Columbia University Law School in 1965 magna cum laude. After law school he clerked for Supreme Court Justice Thurgood Marshall. He is listed in Who's Who in America, Who's Who in American Law, Who's Who in the world, and Bar Register of Preeminent Lawyers in the United States. Mr. McGrath specialized primarily in land use law and litigation with the firm of Oates, McGrath, and Jordan, in Aspen, Colorado.

Despite a demanding career, Mr. McGrath still found the time to become actively involved in his community. Mr. McGrath participated extensively in many Basalt recreational programs and was president of the Basalt soccer club. He was extremely dedicated to expanding many of Basalt's youth programs throughout the community and is responsible for providing many kids with the opportunity to play organized sports. At his own children's sporting events, he was always Nick and Molly's biggest fan.

Mr. Speaker, it is in earnest respect that I recognize the memory of Mr. J. Nicholas McGrath before this body of Congress and this nation for the irreplaceable contributions he made to the community of Basalt and the State of Colorado. My sincere condolences go out to his wife Rosemary and to his children Nicholas and Molly McGrath. While his loss will be deeply felt, the memory of his kindness and the recollection of his good deeds will transcend into future generations.

ON THE OCCASION OF THE SPECIAL JOINT SESSION OF CONGRESS IN NEW YORK CITY, NEW YORK

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. McNULTY. Mr. Speaker, on Friday, September 6 of this year, a special Joint Session of the United States Congress convened in New York City to reflect on the terrorist attacks of September 11, 2001. This most rare and somber session served as a necessary reminder of the human loss and heroism that the City and State of New York, our nation, and our world experienced on that fateful day. I am proud and blessed—as an American, and as a New Yorker—to have been able to take part.

We met at Federal Hall, the very same site where the first Congress met over two centuries ago. We met just blocks from where the World Trade Center towers once pierced the city's majestic skyline.

Mr. Speaker, most importantly, we remembered the almost 3,000 innocent civilians who died and their families. We prayed then—and we should pray now—for all of the victims of this most heinous terrorist act. Though a year has passed, the loss of every single person who perished that day is still felt by all those who loved them. The sons and daughters, the brothers and sisters, the mothers and fathers lost that day will never be replaced. We simply hope that the pain will subside, and that the memories will remain strong and vibrant.

Mr. Speaker, we also expressed our deepest gratitude to the firefighters, police officers and emergency personnel who served on that fateful day and in the weeks and months that followed. These brave men and women, and their peers across the country, put their lives on the line—day in and day out—to ensure the safety and well being of the citizens of our communities. Recognition of the heroism and service of our "First Responders" is overdue and well deserved. We must continue to acknowledge their bravery and sacrifice. And we in Congress must resolve to provide them with the support they need to continue to excel in their chosen duty—to save lives.

Finally, Mr. Speaker, we reaffirmed our commitment, as a Congress and as a nation, to eradicate the ability of terrorists to ever again carry out such a horrific and offensive act—against us or against other innocent people around the world. We reaffirmed our promise to bring these cowards to justice. A terrorist is, by definition, a coward. It is a person who cannot get what he wants by the power of persuasion, and therefore resorts to the killing of innocent men, women and children.

Mr. Speaker, the American men and women in our Armed Forces are now dispersed throughout the world, seeking out these cowards and introducing them to the might of a nation that finds its heart bruised but its strength renewed. Freedom is not free. We have paid a tremendous price for it. We must not forget those before us who gave their lives, or those who put their lives on the line today, to allow us the privilege of living in the freest and most open democracy on the face of the earth. Our patriots fight for the cause of freedom, and we shall support them every step of the way.

The events of September 11, 2001, were basic violations of the fundamental principle that life is to give—not to take. I am proud that this Congress gathered on September 6, in the shadow of Ground Zero, to remember and honor both the victims and the heroes—and to remind the world that the forces of evil shall never prevail.

REFORM OF ENERGY WORKERS COMPENSATION ACT (REWCA)

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. STRICKLAND. Mr. Speaker, today I am introducing a bill to reform the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA).

The Department of Energy (DOE) has conceded that, over the 50 year history of making nuclear weapons, it consistently placed production imperatives ahead of worker health and safety. In the fall of 1999, DOE admitted that it had placed these Cold War Veterans in harm's way without their knowledge or consent and that compensation was due.

In the spring of 2000, the President's National Economic Council issued a report that identified 14 DOE facilities where there was an excess rate of cancer which was attributable to radiation. This report also noted that state worker compensation systems were not well-suited for compensating occupational diseases due to a variety of hurdles, such as statutes of limitations. Also in the spring of 2000, the House and Senate introduced bipartisan legislation to establish a federal compensation program for these sick nuclear workers and their survivors. Congress held hearings in the House and Senate on legislation that would provide compensation to employees of DOE who were exposed to radiation, beryllium, silica and numerous other toxic substances used in making nuclear weapons.

The compromise which emerged from the conference committee in October 2000 created two separate programs: one for workers exposed to radiation, beryllium and silica which is administered by the Department of Labor, and a second for workers exposed to toxic substances and other hazardous materials which is administered, in part, by the Department of Energy. This second program, codified under Subtitle D, is the primary focus of the reform legislation today.

Under Subtitle D, the Department of Energy is required to use a Physician's Panel to review claims related to exposure to toxic substance. This Panel determines whether an illness is work related and relies upon individual state worker compensation programs to make payments for wage loss and medical costs. However, this approach, by DOE's own admission, will not work for these occupational illness cases because at least 50 percent of the claimants will not have a "willing payor" who will honor the findings of the Department of Energy Physician's Panel. Congress intended to create a uniform, adequate and equitable federal compensation program for these workers who toiled in the nation's nuclear weapons factories in service to our nation. It is simply unacceptable for the government to tell these workers that help is on the way, and then move forward with a program where potentially there is no one to pay as many as half the claims. This law needs to be fixed.

The introduction of REWCA, the Reform of Energy Workers Compensation Act, aims to fulfill Congress' original objectives and ensure all of the nation's nuclear workers who were made sick from their jobs in nuclear weapons factories through no fault of their own receive a measure of just compensation for their disabilities and illnesses.

PAYING TRIBUTE TO EDWARD R. HEATH SR.

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. McINNIS. Mr. Speaker, it is my privilege to recognize Mr. Edward R. Heath Sr. of Mechanic Falls, Maine for his dedication and commitment to the United States military and this nation. Mr. Heath, a disabled Vietnam Era Veteran, was recently elected National Commander of Disabled American Veterans. As we celebrate achievement, I would like to pay tribute to the achievements and contributions he has made to military veterans throughout the country.

Throughout his life, Mr. Heath has embodied the principles of courage, honor, and integrity that we, as Americans, have come to expect from the men and women in our nation's military. Mr. Heath enlisted in the U.S. Army in 1954, where he served in many foreign theatres including France, Germany, and Korea. Mr. Heath also served at a variety of army posts in the United States, including a tour with the 1st Armored Division during the Cuban Missile Crisis. In 1967, Mr. Heath was seriously injured in a car accident with a civilian vehicle, and due to his injuries, was forced to retire from the military in 1968.

Although his injuries were a major challenge, Mr. Heath would not let his misfortune impede his future service to his country. Mr. Heath went to and graduated from the University of Southern Maine. He continued his education by earning a law degree at the New England School of Law in Boston, MA, in 1978. From there, Mr. Heath began working for the Board of Veteran's appeals, which specializes in Veteran claims on issues such as radiation exposure and Post Traumatic Stress Disorder. In 1989, Mr. Heath began working for the Disabled American Veteran's (DAV), representing veterans at the U.S. Court of Appeals. In 2002, he was elected National Commander of the DAV at the Organization's National Convention in Dallas.

Mr. Speaker, it is my distinct privilege to recognize Mr. Edward R. Heath before this Congress and this nation for the extraordinary service he has given to the United States military and to disabled veterans throughout the country. As a soldier he served his country with courage and honor, as a lawyer he served with integrity and benevolence. Congratulations on your new achievement and good luck in your future endeavors.

INTRODUCING THE NATIVE ACT TO TRANSFORM IMAGERY IN VARIOUS ENVIRONMENTS (NATIVE) ACT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. PALLONE. Mr. Speaker, I rise today as a member of the Native American Caucus to introduce the Native Act to Transform Imagery in Various Environments (NATIVE) Act. This bill would provide funding for the establishment of an incentive program for schools to eliminate the use of names and symbols that are offensive to Native American people.

Many elementary and secondary schools across the country use words and symbols representing their schools that are demeaning to Native Americans. Nationally, more than 1,200 schools inappropriately use such offensive names or nicknames, often these become mascots. In addition, these names or symbols are used at athletic games for mascot characters, chants and other antics.

While I believe the intentions of these school communities is not to disrespect or harm Native Americans, that is the end result of allowing these offensive terms to continue in these educational institutions.

Once this bill is signed into law, the Secretary of Education would be authorized to make grants to eligible schools to assist such schools to discontinue use of a derogatory or discriminatory name or depiction as a team name, mascot, or nickname. Funding would be provided to schools to change their names and symbols on all equipment and apparel throughout the institution, including on team jerseys, signs, stationary, walls, fields and gymnasium floors. Schools participating in the program may also qualify for construction or renovation funds.

Given that the president's No Child Left Behind education plan does not include construction and renovation funding (with the exception of immediate danger areas), this would be a major incentive for schools to replace their offensive names and logos. Because of the federal government's trust responsibility and obligations to tribal governments, tribally-controlled schools would be eligible for construction or renovation funds, regardless of whether or not they alter their names and symbols.

The legislation would also provide for the establishment of a Committee of American Indian Relations to conduct cultural proficiency trainings at schools participating in the program to further assist the school communities with understanding and changing their behavior. The Committee would also assist the Secretary with reviewing proposals submitted by schools for eligibility determination and funding of grant purposes. The Committee would be headed by a Director, selected by the Secretary in consultation with tribal governments.

This program would receive federal funding for five years. During the first two years of the program, some funding would be devoted to establishing the Committee, identifying schools interested in participating and then working with those schools to actually change the offensive names and symbols. Over the remaining three years, funding would be devoted to any necessary construction and renovation required at the school sites.

I have developed this legislation in consultation with representatives from the National Indian Education Association, the Indian Teacher and Educational Personnel Program, the Capital Area Indian Resource Center and the California Rural Indian Health Board and would like to thank these tribal organizations and their staff for their commitment to bringing this bill to fruition.

The idea for this legislation came from a similar bill proposed in the California state legislature. The California bill would have mandated that all schools in the state with offensive Native American names and symbols change their identifying features in order to continue receiving state funding. This bill failed to receive the votes necessary to become state law.

I believe that forcing educational institutions to adhere to a new procedure without preparing them for such a change can have negative consequences. Educating the school community about why such change is important, and gradually gaining their support can make the transition easier and oftentimes leads to positive results.

This is why I am introducing this bill that would not mandate schools change, but instead provide incentives and activities building awareness in school communities as to why these names and symbols are not appropriate in educational environments.

I urge my colleagues to support and vote in favor of the Native Act to Transform Imagery in Various Environments (NATIVE) Act.

CELEBRATING THE FIESTA OF SAN DIMAS, PATRON SAINT OF THE VILLAGE OF MALESSO

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. UNDERWOOD. Mr. Speaker, I rise today to recognize the feast day of one of Guam's oldest patron saints. This Sunday, September 29, 2002, the residents of Guam will celebrate the feast day of San Dimas, the patron saint of Malesso, which is the island's southernmost village. For more than three centuries the San Dimas Catholic Church has stood as a center of faith and traditions for the community of Malesso. On the eve of the fiesta celebration, I would like to commemorate the rich history the San Dimas Church and the village of Malesso have brought to my district of Guam.

The history of Catholic missionaries in Guam began on June 9, 1671, when the Spanish ship Buen Socorro docked in Umatac Bay with four new padres for the Marianas Mission. The four had come to relieve three Fathers already working in the Marianas under the guidance of Father San Vitores. Two of the new priests, Father Francisco Esquerra and Father Francisco Solano, had come from the Philippines by way of Mexico.

The Padres worked hard in Hagatna, the capitol city of Guam, preaching to Spanish soldiers and lay workers, while maintaining carefully the devoted congregations formed by Father San Vitores. They rebuilt the Hagatna church, which had been destroyed in the typhoon of 1671. Father Esquerra and the other Padres soon were not content to work only in Hagatna, and began to make various mission journeys covering more than half the island.

Late in 1672, Father Esquerra became concerned at the great distance they had to travel to get to the usual anchorage of the ships, which was the port of San Antonio de Umatag (Umatac). He decided that it would be good to have a church in the southern part of the island which the Padres could settle. Father Esquerra decided upon the village of Malesso, and built a church there under the patronage of San Dimas. The Padre himself carefully attended the construction of the church. Two years later in 1674, Father Esquerra was martyred. However, the legacy of the San Dimas Church still lives today.

Thirty-one pastors have served the people of San Dimas Parish for 330 years. The Padres include:

1672–1674 Fr. Francisco Esquerra, S. J.; 1674–1799 Fr. Raphael Canicia, S. J. & other Jesuits; 1800–1805 Fr. Cristobal Ibanez; 1836–1848 Fr. Jose Ferrer; 1851–1860 Fr. Juan Fernandez; 1864–1869 Fr. Faustino Fernandez Del Corral; 1870–1886 Fr. Mariano Martinez; 1886–1890 Fr. Juan Herrero; 1890–1891 Fr. Jose Lamban; 1891–1893 Fr. Ildefonso Cabanilla; 1893–1899 Fr. Crisogono Ortin; 1908–1923 Fr. Cristobal de Canals; 1923–1927 Fr. Bemabe de Caseda; 1930–1934 Fr. Gil de Lagana; 1935–1936 Fr. Narcelo de Vallava; 1937–1940 Fr. Pastro de Arrayoz; 1940–1942 Fr. Marcian Pellet; 1942–1945 Fr. Jesus Duenas & Fr. Oscar Calvo ministered to the people of Guam during the War Occupation; 1945–1947 Fr. Marcian Pellet (Returns from a prison camp); 1947–1948 Adelbert Donlon; 1948–1950 Fr. Julius Sullivan; 1950–1953 Fr. Alexander Feeley; 1954–1956 Fr. Antonine Zimmeran; 1956–1957 Fr. Sylvan Conover; 1957–1967 Fr. Timothy Kavinaugh; 1967–1987 Fr. Lee Friel; 1987–1987 Fr. Felixberto Leon Guerrero; 1987–1988 Fr. Patrick Castro; 1988–1997 Fr. Jose Villagomez; 1997–1998 Fr. Eric Forbes; Archdiocesan Clergy; and 1998–Present Fr. Mike Crisostomo.

Nearly 80 percent of Guam's residents are Roman Catholics. This identity has profoundly shaped many of the island's culture and traditions. For more than three centuries, pastors and parishioners have given their time and skills with strong loyalty and devotion to the San Dimas Church. As a result, many others on the island have enjoyed the special traditions, particularly the San Dimas fiesta.

This year is especially gratifying since the church reopened its doors after four years of being closed to rebuild the church structure. Hundreds of church volunteers led by San Dimas' Pastor, Pale Mike Crisostomo, devoted thousands of hours working on the church's Finance Council, Demolition Crew, Worship Space Volunteer Committee, Dedication Committee, Parish Council, Pastoral Planning Committee, Finance Committee, Solicitation Committee, Building Committee, Cemetery Committee, Confraternity of Christian Mothers, Angel Tree Project, Faith Formation or "Eskuelan Pale", Ministers of Liturgy, Sacristan, Eucharistic Ministers, Acolytes, Altar Servers, Music Ministry, Knights of Columbus, Maintenance and Landscaping, and Office Staff, to make the rebuilding and rededication of San Dimas Church a great success.

The fiesta this weekend, a village-wide celebration of the patron saint San Dimas, promises to be Malesso's biggest and best celebration. I would like to recognize and commend the many individuals who will prepare the food for the village feast, set up all of the palapalas and tents, decorate the church and surrounding areas and the celebrants who will all help to ring in biggest event of Malesso this year. Biba San Dimas! Biba Malesso! Biba Guam!

IN RECOGNITION OF JOHN C. (JACK) MENG

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. GREEN of Wisconsin. Mr. Speaker, today before this House I'd like to recognize and honor Jack Meng, whose exceptional leadership and civic commitment have strengthened both Schreiber Foods, Inc. and Northeast Wisconsin for decades.

Jack's dedicated service at Schreiber Foods has spanned 30 years. During that time, he demonstrated an unwavering commitment to quality, honesty and integrity. He helped Schreiber Foods become both the largest brand cheese company in the world, and a shining example of sound customer service.

As a member of various community boards, Jack has used his business expertise and extensive leadership experience to make lasting contributions to our area and its proud citizens. His lifelong commitment to service has been an inspiration to us all.

Mr. Speaker, it is an honor and pleasure to recognize today the extraordinary contributions of Jack Meng. On behalf of my constituents, we wish him all the best as he steps into retirement.

HONORING UNIVERSITY OF MICHIGAN-FLINT ALUMNI ANNIVERSARY CELEBRATION

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. KILDEE. Mr. Speaker, I rise today to recognize an important event in the history of the University of Michigan-Flint. On October 25th, faculty, staff, alumni, and students of the University's Physical Therapy Department will celebrate the 50th anniversary of its founding, which originated on the University of Michigan Ann Arbor campus, and the 20th anniversary of its relocation to the Flint campus.

Professional education in physical therapy at the University of Michigan commenced in 1952 within the Department of Physical Medicine and Rehabilitation, in the Medical School on the Ann Arbor campus. It was the first professional preparation program in physical therapy in the State of Michigan. Graduates received a Bachelor of Science degree from the College of Literature, Science and the Arts and a Certificate in Physical Therapy from the Medical School. In 1982–83, in response to multiple professional developments, the educational program was relocated to the Flint campus of the University in order to achieve budgetary, curricular, logistical and administrative enhancements not possible on the Ann Arbor campus, due to changing Medical School priorities and a period of academic retrenchment.

In keeping with its tradition of academic leadership, the program became the first program in the state to make the transition to the professional (entry-level) MPT (Master of Physical Therapy), as well as offer a post-professional MPT degree for practicing clinicians. The university will also be the first in the state to offer the Doctor of Physical Therapy (DPT) degree, with the first class graduating in December 2002. This doctoral degree will be the first doctoral degree offered at one of the University of Michigan regional campuses.

Mr. Speaker, for 50 years the University of Michigan-Flint's Physical Therapy Department has prepared generalist physical therapy practitioners, many of whom have gone on to practice in specialty areas as well as teach in both academic and clinical settings, or who serve as managers and researchers within definitive areas of professional practice. Over 1700 graduates have served patient/clients not only in the state of Michigan but nationally and internationally. Many have assumed leadership positions in health care delivery systems and academic institutions. The long tradition of preparing practitioners who are outstanding clinicians who practice in a humanistic way has made the graduates of this program highly valued by client/patients and sought by employers. As a lifelong resident of Flint, I am exceptionally pleased with the accomplishments and advancements made at the university. It continues to serve as one of most valuable resources of my district. I ask my colleagues in the 107th Congress to please join me in congratulating the university, and the dedicated men and women that make up the Physical Therapy Department.

TRIBUTE TO THE COLORADO GENERAL ASSEMBLY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the efforts of the Colorado General Assembly concerning federal assistance for crop and livestock producers due to drought devastation. Joint Resolution 02S–1005, passed by Colorado's General Assembly, urges the U.S. Congress to adopt measures to allow producers of agricultural commodities to receive short-term assistance in coping with and responding to the drought conditions. I commend the work of the Colorado General Assembly for its strong efforts toward the betterment of the state and well being of the people of the great state of Colorado.

I hereby submit for the RECORD Colorado House Joint Resolution 02S–1005:

HOUSE JOINT RESOLUTION 02S–1005

By Representative(s) Coleman, Miller, Boyd, Dean, Groff, Grossman, Hefley, Hodge, Jahn, Jameson, Lee, Mace, Marshall, Ragsdale, Romanoff, Sanchez, Stafford, Tapia, Tochtrop, Veiga, Vigil, and Williams S.; also Senator(s) Entz, Hillman, Isgar, Matsunaka, and Taylor.

CONCERNING FEDERAL ASSISTANCE FOR CROP AND LIVESTOCK PRODUCERS DUE TO DROUGHT DEVASTATION

Whereas, Snowpack levels and precipitation from rainfall have been far below normal for many western states, including Colorado; and

Whereas, Facing one of the most severe droughts in the state's history, all Colorado counties have been designated disaster areas, as dry conditions have greatly reduced the ability of farmers and ranchers to produce their commodities and to provide related services; and

Whereas, The lack of moisture will drastically decrease the harvest of many Colorado crops, such as wheat which is expected to yield a crop that is 25–40 percent of a normal yield; and

Whereas, Irrigated farms on average have received only 15 percent of the water they normally use for crop production; and

Whereas, In addition to making it more difficult to raise crops, the extreme dryness also carries with it several secondary concerns, such as the loss of top soil, soil erosion, and an increased possibility of insect infestation; and

Whereas, The suffering state of agriculture directly impacts the prospects of raising livestock, by way of low-yielding feeder crops, limited harvest foliage and forage, and the increasing price of hay and other feed; and

Whereas, Livestock auction barns in the west are extending their sale hours to accommodate the large numbers of livestock being sold because ranchers cannot afford to feed their herds; and

Whereas, There is no insurance available for suffering livestock producers; and

Whereas, Livestock and crop prices alike have been low since 1997, giving producers very little financial cushion for hard times; and

Whereas, The financial impact caused by the drought could be devastating to Colorado's agricultural community, but also will have an overall effect on the economy of the entire state; and

Whereas, An allocation of nearly $2.5 billion for disaster assistance was originally included in the federal "Farm Security and Rural Investment Act of 2002", commonly known as the "2002 Farm Bill", but this allocation was removed during conference committee deliberations on the bill; and

Whereas, Members of Congress subsequently tried to make disaster assistance moneys available by including an allocation in another bill, but unfortunately, this attempt failed as well; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-third General Assembly of the State of Colorado, the Senate concurring herein:

That we, the members of the General Assembly, strongly urge the United States Congress:

(1) To examine and adopt measures to allow producers of agricultural commodities to receive short-term assistance in coping with and responding to the drought conditions, such as the following:

(a) Implementing tax code modifications that enable producers who are forced to sell livestock during periods of drought to receive additional time to reinvest the sale proceeds before having to pay capital gains tax on the earnings, thus allowing the producer to wait until the drought conditions have subsided before reinvesting;

(b) Providing crop and livestock producers with direct emergency assistance to be delivered through existing Farm Service Agency channels;

(2) To reexamine how drought relief assistance is provided and consider elevating the manner in which it is provided to place drought assistance on the same level of assistance that is provided to other natural disasters such as wildfires, hurricanes, and floods; and

(3) To examine the feasibility of prioritizing water allocations.

Be It Further Resolved, That copies of this Joint Resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate, the Majority Leader of the United States House of Representatives, the Minority Leader of the United States House of Representatives, and to each member of the Colorado Congressional Delegation.

DOUG DEAN
Speaker of the House of Representatives.
ED PERLMUTTER,
President Pro Tempore of the Senate.
JUDITH RODRIGUE,
Chief Clerk of the House of Representatives.
KAREN GOLDMAN,
Secretary of the Senate.

INTRODUCING THE GREAT PLAINS HISTORIC GRASSLAND WILDERNESS AREA ACT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. PALLONE. Mr. Speaker, I rise today as a member of the Native American Caucus to introduce the Great Plains Historic Grassland Wilderness Area Act and urge my colleagues to co-sponsor and vote for this legislation. This bill will ensure that the last remaining pristine grasslands are protected.

While ninety-nine percent of the original grasslands have been altered from their natural states for corporate interests, such as mining coal, oil and gas, one percent remains in pristine form. I believe this one percent must be protected.

Though humans continue to transform and extract "resources" from the natural environment, our earth maintains the ability to revitalize itself. In spite of this revitalization process, numerous species and natural environments have been destroyed because of our decisions.

While most of the remaining pristine grasslands are located on federal lands throughout the plains region, a small portion are on tribal government lands. I believe that the federal government, in conjunction with tribal governments of this region, should work together to ensure the continuance of these unique environments. Such efforts would provide these areas of the earth the time to replenish through natural processes.

In 1964, Congress vowed, "to secure for the American people of present and future generations the benefits of an enduring source of wilderness." I believe this promise has not been met and am introducing this legislation to reinforce Congess' commitment to protect these lands.

Once this bill is signed into law, federal lands that contain pristine grasslands would be protected and enhanced for the benefit and enjoyment of present and future generations. In addition, tribal governments which own such pristine grasslands or have such land held in trust by the federal government, could choose to participate in the benefits and programs provided under this bill.

Participating tribal governments would receive financial and technical assistance for their complete participation in the processes to manage, protect, and restore these natural environments with the federal government. I believe that these governments should have a greater role in managing federal grassland wilderness areas using their proven methods of environmental sustainability.

Tribal governments administer hospitals, law enforcement and public safety agencies, research centers, childcare facilities, primary and secondary schools, colleges, court systems, environmental protection agencies and carry out numerous other governmental functions.

As a result of such tribal governmental administration activity, Indian tribes provide major contributions to the local, regional and national economy by providing both revenue and employment opportunities to both Indian and non-Indian people of America. Clearly, such governments can effectively assist the federal government in managing federal grassland wilderness areas.

Tribal colleges of this region would be contracted to initiate and complete a study of the grasslands wilderness area to determine the original plant and animal species inhabiting the grasslands, their present condition and the steps necessary to restore such species to self-sustaining levels.

These administrative and research activities would be carried out through the Office of Native American Wilderness Management in the Department of the Interior. The Office would be headed by a Director, selected by the Secretary in consultation with tribal governments from the plains region.

I would like to thank all of the tribal government leaders who participated in the consultation sessions to design this bill. I would especially like to thank Ms. Charmaine White Face for her dedication and consistency to assisting in bringing this bill to fruition.

COMMENDING THE UNITED FILIPINO STUDENT ASSOCIATION OF GUAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. UNDERWOOD. Mr. Speaker, student activism is strong and commonplace on my home island of Guam. Historically, Guam students have joined organizations to gain a sense of comradery and to seize upon an opportunity to engage in noble charitable and civic activities that benefit the community. One particular organization that stands out among the rest for their service and dedicated membership is the United Filipino Student Association (UFSA).

The UFSA, comprised of University of Guam students and students from each of the four public high schools on Guam, provides a social environment that promotes the culture and unity of Filipino students on the island. The UFSA is also very civic-minded, adding to the membership's ability to recognize, understand and take action on issues relevant to their everyday experiences. Promoting the knowledge of the historical, political, social and economic conditions of Filipino people outside of the Philippines, the UFSA serves as a dependable resource and information source for issues affecting Filipino youth and community on Guam.

On September 30, 2002, this very prominent student organization will be swearing in its newly elected officers, marking another chapter in its already rich history, which spans over two decades. The first UFSA on Guam was founded at the University Of Guam in 1972, and after an eight year period of dormancy, the association was revived in 1993. The officers spearheading its renewed presence then were Patrick S. Luces, Marelito Calimlim, Leila Orden, Buena Fernandez, Analisa Retumban, Norman Analista, and Lawrence S. Luces.

In 1998, Mark Galang, Mike Cabral, and Kendrick De Vera succeeded in integrating UOG UFSA with UFSA of George Washington High School, John F. Kennedy High School, and Simon Sanchez High School. This organizational merging proved to empower the membership base and rejuvenate their work. In 2001, Southern High UFSA was chartered and joined the overall UFSA organization. This year, expansion efforts continue with the Guam Community College (GCC). Filipino Students at GCC are currently in the process of establishing an UFSA organization in their school.

Through the years, UFSA has reached out island-wide and touched an entire community. The Filipino youth of Guam, who worked so diligently to build the UFSA today are to be commended for their leadership and example. The UFSA has strengthened the education of so many, supplementing their classroom experiences with valuable civic commitment. The organization has served as a medium through which students have demonstrated the highest levels of citizenship. I commend the UFSA for their work and encourage their newly elected leadership to carry this torch of success for the future. I thank the outgoing President, Patrick Quitugua, and congratulate the incoming President, Andrew T. Solidum. I also congratulate Diane Reyes, the first Vice President who will serve an additional term, and Riza Marquez, the second Vice President who will also serve another term. Finally, I thank Lea' Beth Naholowaa, their advisor. With their leadership, I know many more good things for UFSA and Guam are to come.

HONORING THE 165TH ANNIVERSARY OF ALL SAINTS EPISCOPAL CHURCH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. KILDEE. Mr. Speaker, I ask the House of Representatives to join me in congratulating All Saints Church upon celebrating 165 years of worship, fellowship and outreach in Pontiac, Michigan.

All Saints Episcopal Church was started in 1837 as a mission. Reverend Algernon Hollister, of nearby St. John's Parish in Troy, first organized the parish to serve the one thousand persons living in the Pontiac area at that time. Initially called Zion Church, its first liturgy was celebrated on September 24 with 16 persons receiving the Eucharist that Sunday morning. The parish moved quickly to build a church. The original wooden structure built on the corner of Williams and Pike Streets was replaced with a stone church in 1854.

After struggling for years under several rectors, the parish experienced a transformation under the leadership of Reverend Lawrence Stevens. He assumed the rector's position in 1881. Known for his generosity to persons in need he was also noted for his ability to comfort the sick and mourning. His energy infused the parish and the congregation became a center in the community to assist the poor and suffering. Even after his stewardship of the parish was over, his influence could still be felt. When the parish hall was added in 1927 it was named in his honor.

The congregation decided to rename the parish in 1904. Now known as All Saints Episcopal Church, the parish suffered a blow the next year. Fire destroyed part of the church. Undaunted, the parish cleared away the rubble, erected a temporary roof and continued to celebrate the Eucharist until a new building was finished in 1908. The parish continued its growth and in 1922 two hundred families made it their spiritual home. That year Reverend Bates Burt became the church's new pastor. He remained in that post for the next 25 years and guided All Saints Church in several important missions. Together with his son, Alfred, and the church organist, Wihla Hutson, Reverend Burt composed several Christmas carols. They are now known as "Burt Carols" and sung in churches throughout the Anglican Communion. He was instrumental in the building of Stevens Hall and his vision shaped the use of that structure. He saw the parish hall as not only a meeting place for the congregation but of the community as a whole. His vision of social justice and interaction with all the citizens of Pontiac has guided the parish in the intervening years.

Through the Great Depression and World War II, All Saints Parish has been a beacon to those desperate to sustain body and soul. When the congregations of other denominations decided to leave the city of Pontiac during the period of the Fair Housing Covenant and mandatory school integration, All Saints Parish voted to remain in their home in the heart of the city. The parish members believed that God had placed the church in its location and they would be violating His mandate to desert the city in its time of crisis. With the advent of Reverend Catherine Waynick as rector in 1993, the people of All Saints Parish expanded their outreach and started the Bound Together program. Serving the children of Pontiac, it provides tutoring, social activities, arts and crafts and hot food to nourish both their physical and spiritual lives.

Three rectors of All Saints Parish have been elevated to the episcopate, the Reverend Herbert Fox, the Reverend Ivol Curtis and the Reverend Catherine Waynick. In 1997 the national Episcopal Church designated All Saints as a Jubilee Center. This honor was accorded to the parish to recognize its vibrant, ongoing partnership with the greater Pontiac community.

For 165 years All Saints Parish has been a dynamic force for the public good. At every time of social need or upheaval, the parishioners have resoundingly responded by living the gospel spoken every Sunday in the sanctuary. The inspiration for living by Christian ideals is repeated again and again in the lives of the clergy and congregation of this parish. Mr. Speaker, I ask the House of Representatives to rise with me and applaud the continuity of Christian life that has resonated for 16 decades and resonates today through All Saints Parish.

THE DAY LIBERTY CRIED

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. BAKER. Mr. Speaker, today I rise to read a poem entitled "The Day Liberty Cried" written by a constituent of mine, Scott Rogers.

THE DAY LIBERTY CRIED

(By Scott Rogers)

Just another Tuesday morn
As people went their way
The cars, the trains were bustling by
Another working day
Although diverse with many faces
These people shared one hue
They lived together with Liberty
Under the colors Red, White, and Blue

Liberty was the one thing that they shared
They nurtured Her in their heart
But little that morn did they realize
That their world would be torn apart
Liberty was strong She stood proud
But on this fateful morn She cried
In horror She watched as evil attacked
So many innocent people died

Liberty bowed Her head that day
For She felt somehow that She
Had allowed these acts to come to Her shores
To the Great Land of the free
But the evil that attacked Her
Could not begin to understand
That Liberty could not be destroyed
Nor our great love for this great land

Those who tried to hurt Her
Could not break Her soul
And proudly we fought to rebuild what was lost
Although heavy was our toll
Each brick that fell was carefully removed
Each victim we will always remember
And Liberty is there to remind us all

Each Eleventh of September
We will never forget, we must not forget
Yes, . . . Liberty did cry that day
But we will never stop pledging "In God we trust"
Because? . . . We love this U.S.A.

IN HONOR OF NICOLE MARIE TOTINO

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Nicole Marie Totino, New Jersey's Miss Bayonne Columbus 2002. In a grand ceremony, the Bayonne Columbus Committee will crown her at a dinner dance on Saturday, September 28, 2002, at the Chandelier Restaurant in Bayonne, New Jersey.

Nicole Totino graduated from Bayonne's Horace Mann School and St. Dominic Academy in Jersey City. An active participant at St. Dominic Academy, she served as President of the SDA National Honor Society, and was a member of numerous clubs, including the Math Club; Multicultural Club; Student Ambassador Club; Chess Club; Student Council; and the Outdoor Activities Club.

Her hard work and determination set her apart from her peers and during her senior year she was awarded the Class Valedictorian Award, SDA Spanish Foreign Language Medal, the Edward Bloustein Distinguished Scholar Award, and the New Jersey Scholar-Athlete Award.

An avid student, Nicole attended the prestigious New Jersey Governor's School for Sciences at Drew University, St. Peter's College Summer Scholar Program, the LEAD Business Program for Minorities at Duke University, and the Columbia University summer program for high school students.

She volunteers her time at Our Lady of the Assumption Church, where she works at the annual Feast/Carnival. Nicole will start college this fall and aspires to study Economics, Latin American Studies, and Finance.

Nicole Totino is the daughter of Nick and Edna Rodriguez-Cabrera Totino and sister of Sunilka.

Today, I ask my colleagues to join me in honoring Nicole Marie Totino, Miss Bayonne Columbus 2002. We are honored to have such an accomplished young woman representing our community.

PAYING TRIBUTE TO LUCINDA SULLIVAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. McINNIS. Mr. Speaker, it is my distinct privilege to recognize Mrs. Lucinda Sullivan of Redvale, Colorado. Mrs. Sullivan has recently been honored in the State of Mississippi as the oldest living relative of the Confederate President, Jefferson Davis.

Mrs. Sullivan grew up and has spent her life in southwestern Colorado after her grandparents relocated there in the 19th century. As Jefferson Davis' great granddaughter, Mrs. Sullivan is part of a proud legacy that is still revered throughout the South for Davis' leadership as President of the Confederacy during the Civil War. Davis was also an influential leader in the War with Mexico, and as the Secretary of War for the Franklin Pierce Administration.

In honor of her historic past, Mrs. Sullivan was anointed Queen of Pioneer Days, and has just recently traveled to the Mississippi Delta with 16 other family members for Davis' annual birthday celebration. The festivities were held at the Beavoir home and museum, and then a family reunion was prepared at Davis' other home. Both homes were owned by Davis after his former properties had been confiscated by Union soldiers after the Civil War.

Mr. Speaker, I am delighted to recognize Mrs. Lucinda Sullivan before this Congress and this nation for her participation in preserving our nation's rich and enduring history. It is through the continued efforts of citizens like Mrs. Sullivan that keeps American history alive today and I commend her for her efforts.

INTRODUCING THE TRIBAL GOVERNMENT HOMELAND SECURITY COORDINATION AND INTEGRATION ACT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 2002

Mr. PALLONE. Mr. Speaker, I rise today as a member of the Native American Caucus to introduce the Tribal Government Homeland Security Coordination and Integration Act and urge my colleagues to co-sponsor and vote for this legislation. This bill will help ensure that the United States is better prepared to prevent and respond to terrorist activities and other emergencies.

Once this bill is signed into law, federal, state, local and tribal governments within the United States will be fully integrated in a national homeland security strategy. Moreover, my bill will ensure that all levels of government are engaged in a coordinated effort and well equipped to defend against bioterrorism and to handle any other public health or safety emergency that threatens our land or people. For the first time in the history of our country, every government in America will be positioned and united to assist in the singular effort of protecting what we have here on our shores.

Ever since President Bush stated in his State of the Union Address earlier this year that State and local governments should have access to Federal homeland and anti-bioterrorism security funding, it has been my strong belief that tribal governments should participate in these programs and be included in the distribution of these funds.

However, since the president did not mandate the inclusion of tribal governments in homeland security and emergency preparedness programs, there has been confusion within the departments of the Federal Government as to whether or not Indian tribes should receive homeland security program or grant funds. Similar to State governments, tribal governments have citizens to serve and protect and their decisions often benefit the larger surrounding communities and states.

Tribal governments administer hospitals, law enforcement and public safety agencies, research centers, childcare facilities, primary and secondary schools, colleges, court systems, environmental protection agencies and carry out numerous other governmental functions. Tribal business interests include a full range of activities from agriculture to industrial production to business parks. As a result of such tribal governmental administration and commercial activity, Indian tribes provide major contributions to the local, regional and national economy by providing both revenue and employment opportunities to both Indian and non-Indian people of America.

During the first round of homeland security funding distribution every state was allocated $5 million in federal funds to develop their homeland emergency preparedness plans. However, tribal governments struggled to develop their emergency preparedness plans with their existing resources.

It is vital that Congress and the Administration guarantee that the Federal Government and State, local and tribal governments participate in an integrated and coordinated effort to protect our people and lands. A failure to integrate and coordinate with tribal governments in the homeland security plan could leave many weak governmental links in America's homeland security chain of protection. Since we are spending a great deal of time and resources developing a national homeland security strategic plan, we might as well strive to get it right the first time. Therefore, I urge my colleagues to support the Tribal Government Homeland Security Coordination and Integration Act.

During a House Energy and Commerce Committee hearing in March, I asked Health and Human Services Secretary Tommy Thompson if tribal governments would have access to homeland security funds administered by his Department, and if so, by what means would the Secretary inform tribes of their eligibility? Secretary Thompson responded by stating that to the best of his knowledge, tribal governments would be eligible for such funding and that he would notify the tribal governments of their ability to access these funds. I hoped that by informing tribal governments of their ability to request these funds, that this would encourage such governments to come forward and successfully receive the funds crucial to protecting their people and land and participate in the national strategy to protect America here at home.

Unfortunately, Secretary Thompson has failed to clarify the eligibility of tribal governments to participate in homeland security administered by the Health and Human Services Department. In addition, Secretary Thompson did not adequately contact tribes about their needs or reach out to provide them with homeland security information. Instead, he responded to my request by sending a letter to Governors reminding each that they should not overlook the existence of tribal governments within their borders.

While I was disappointed that Secretary Thompson had not chosen to reach out to tribal governments prior to March, I believed that the lack of communication between the new Administration and tribal governments stemmed from the President's non-issuance of an Executive Order requiring the Federal Government to establish a consultation policy with tribal governments. Without such an order, I believed tribal governments would have continued to be left out of the loop on Federal programs and other information that could dramatically benefit their governments and citizens.

In an attempt to address this situation, I sent a letter to the President, which was cosigned by twelve of my colleagues, asking that he clarify his policy position regarding consultation with tribal governments and I urged him to offer an Executive Order. I am pleased that the administration responded to my letter by reaffirming the existing Executive Order on tribal consultation.

After 6 months of communications concerning the necessary role of tribal consultation and requesting that the President issue a directive for such interaction, I am pleased that the Bush Administration has clarified his policy. In a letter dated June 19, Alberto Gonzales, Counsel to the President, wrote:

Dear Congressman Pallone: On behalf of President Bush, thank you for the letter you and some of your colleagues sent on March 20, 2002, regarding the issuance of an Executive Order on consultation and coordination with Indian tribal governments.

As you know, President Clinton issued Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments, on November 6, 2000. In early 2001, the Bush Administration reviewed the Executive Order and found it to be consistent with the views of the Administration on tribal consultation and coordination. Currently, the Administration is working to see that the order is implemented. It is our hope that growing experience with tribal consultation and the emergence of agency policies and procedures will result in better federal governance on issues of concern to tribal governments."

I applaud the administration for clarifying the role the federal departments will take in consulting with tribal governments on issues that affect them. Yet, I remain concerned about their record in implementing this policy. My bill will remedy the Administration's failure to establish tribal participation in homeland security activities and provide that tribes are treated as states, as appropriate, but there are many other instances in which federal programs need further clarification with respect to the eligibility of Indian tribes.

I want to thank all of my colleagues in Congress who supported my letter to the President requesting clarification of his tribal consultation procedure. I want to thank Representatives BACA, BLUMENAUER, FILNER, INSLEE, JEFFERSON, LEE, MALONEY, MCCOLLUM, REYES, ROYBAL-ALLARD, STUPAK AND UDALL, for their support on this initiative.

During this 107th session of Congress, the President and Congress have requested and approved substantial homeland security and emergency preparedness funding increases for federal and state governments in Fiscal Years 2002 and 2003. In an attempt to ensure tribal governments received access to these funds, I urged the Administration and my colleagues to mandate that a portion of these funds be made available to their governments. For the most part, such goals have gone unfulfilled and it is time to rectify this situation.

Since the terrorist attacks of Sept. 11, 2001, and the subsequent introduction of weapons grade anthrax into the United States postal system and congressional office buildings in Washington, DC, the President and the Congress have worked closely to respond to the need to rebuild and strengthen the nation's public health, national security and emergency response systems.

Current versions of Homeland Security Department legislation incorporate state and local governments, health officials and law enforcement entities. However, to make certain the United States is fully prepared to prevent and respond to terrorist activities on all fronts, I believe tribal governments must also be included.

Despite the government-to-government relationship between tribal governments and the United States, the United States has not honored its trust responsibility and failed to include and consult with tribal governments in homeland security planning. Moreover, there are no specific provisions for the BIA or the IHS to participate in homeland security programs and funding.

In an attempt to remedy these situations, I am introducing this bill to ensure the coordination and integration of tribal governments in the national homeland security strategy and to establish an Office of Tribal Government Homeland Security within the Department of Homeland Security. The bill will also designate specific provisions for the BIA and the IHS to participate in homeland security funding.

Throughout many areas of the United States, tribal, BIA and IHS facilities and services are the only sources available to provide emergency health services, disaster response, and law enforcement to tribal and surrounding non-tribal communities alike. Thus, enhancing the capacity of Tribes to plan, protect against and respond to bioterrorism or other public health or safety emergencies is vital to all Americans.

To ensure the bill meets the needs and honors the rights of tribal governments, I have consulted with representatives from the National Indian Health Board (NIHB), National Congress of American Indians, California Rural Indian Health Board and tribal governments in designing its contents. I am pleased that we are moving forward together on this initiative. I would like to acknowledge Ms. Lenna Aoki of NIHB for lending her expertise in government relations and strategic planning in this legislative effort.

Summary of events reestablishing tribal government participation in homeland security:

9/11/01, terrorists attack World Trade Center in New York City and shortly thereafter weapons grade anthrax is delivered into the United States postal system and congressional office buildings in Washington, D.C.

1/29/02, President Bush declares in his State of the Union Address that state governments should have access to federal homeland and anti-bioterrorism security funding. During his speech, the President fails to specify whether tribal governments are included in this homeland emergency preparedness plan, establishing great confusion within the departments of the federal government as to whether or not they have access to funds.

1/31/02, Health and Human Services Secretary Tommy Thompson writes a letter to all state governors in follow-up to his letter of 1/11/02 further advising them of the comprehensive financial resources that their states will be receiving, "in support of State and local public health measures to strengthen the nation against the threat of biological weapons." One billion dollars was made available to states to foster State and local preparedness. Each state received $5,000,000 to implement part one of the two-part plan. Tribal governments were not mentioned in this letter and therefore received zero funding from this funding source.

2/1–28/02, Congressman Frank Pallone, Jr., instructs his staff person, Mr. Mark LeBeau, to take the lead to ensure access for tribal governments to homeland security and anti-bioterrorism funding. Mr. LeBeau, on behalf of Congressman Pallone, began to consult with the national and regional organizations which represent tribal governments, as well as with tribal governments directly, on this initiative.

3/13/02, Congressman Pallone, during a House Energy and Commerce Committee hearing, presses Secretary Thompson as to whether or not tribal governments would have access to homeland security and anti-bioterrorism funds. Secretary Thompson responds by stating that tribal governments are eligible for both types of security funds. The Secretary stated that he would notify the tribes of their ability to access these funds.

3/20/02, Congressman Pallone sends a letter with twelve colleagues to the President asking the he clarify his procedure of consulting with tribal governments on all issues pertaining to Indian Country. In the letter, the Congressmen state, "we have spoken with numerous American Indian tribal representatives during the past six months, and have learned that they are incredibly concerned that the Administration has not issued an Executive Order on Consultation and Coordination with Indian Tribal Governments. Without such an Order, agencies and entities such as the Bureau of Indian Affairs and Homeland Security team have developed their own management systems without consulting the Indian tribal governments. Such non-inclusion stimulates confusion at the national, state and tribal level, and leaves Indian tribal governments out of the loop."

3/22/02, Health and Human Services Secretary Tommy Thompson writes a letter to all state governors requesting that, "State's plans take full advantage of the great resources and health care delivery systems that Tribes and the IHS have to offer and that you involve them to the maximum degree possible in both your planning and implementation."

5/13/02, Congressman Pallone sends "Dear Advocates of Indian Country" letter to tribal governments informing them of his effort to pressure the Bush Administration to make homeland security funds available to tribes.

5/17/02, Congressman Pallone publishes a column in Indian Country Today regarding the need for tribal governments to have access to federal homeland and anti-bioterrorism security funding, and urge such governments to request such funding from the federal government.

6/19/02, Alberto Gonzales, counsel to the President, responds to the letter sent by Congressman Pallone and the twelve colleagues regarding consultation with tribal governments. Mr. Gonzales writes, "In early 2001, the Bush Administration reviewed the Executive Order and found it to be consistent with the views of the Administration on tribal consultation and coordination. Currently, the Administration is working to see that the Order is implemented."

7/17/02, Congressman Pallone sends "Dear Advocates of Indian Country" letter to tribal governments, updating them on his decision to conduct a comprehensive review of the existing appropriations and authorization measures of the Anti-Terrorism Emergency spending bills; the president's budget request for FY 03 related to this initiative, as well as the newly planned homeland security department budget to determine where tribal governments can access such funding.

7/25/03, Congressman Pallone sends "Dear Advocates of Indian Country" letter to tribal governments informing them of the Administration's decision regarding the role the federal departments will take in consulting with tribal governments on all issues that affect them.

8/5/02, Congressman Pallone sends "Dear Advocates of Indian Country" letter to tribal governments updating them on the consultation meetings he has held with the National Indian Health Board regarding the proposed Homeland Security Department.

8/5/02, Health and Human Services Secretary Tommy Thompson writes a letter to Congressman Pallone to inform him of the recent efforts that the Department of Health and Human Services has made to ensure the inclusion of tribal leaders in bioterrorism and overall public health preparedness activities. The Secretary states, "though we did not specifically include American Indian and Alaska native tribes in the initial letter sent to governors, the HRSA Bioterrorism Hospital Preparedness Program cooperative agreement guidance dated February 15, 2002 recommended that tribal and IHS hospital take a leadership role in regional planning."

8/28/02, Congressman Pallone publishes a column in Indian Country Today regarding his decision to introduce a bill to ensure the coordination and integration of tribal governments in the national homeland security plan and to establish an Office of Tribal Government Homeland Security within the Department of Homeland Security. The bill, developed in consultation with tribal governments and their representative organizations, will also designate specific provisions for the BIA and the IHS to participate in homeland security funding.

9/26/03, Congressman Pallone introduces the Tribal Government Homeland Security Coordination and Integration Act.

SIKH AUTHOR AND SCHOLAR GURTEJ SINGH EXPOSES INDIAN TYRANNY

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Ms. McKINNEY. Mr. Speaker, recently a seminar was held in New York on the oppression of minorities in Hindu nationalist India. One of the speakers was the Sikh scholar and author Gurtej Singh, Professor of Sikhism. He is also the author of the book *Chakravyuh: Web of Indian Secularism.*

Professor Gurtej Singh discussed the history of Sikh independence and the Sikh religion. He exposed the connivance of Sikh leaders of all parties with the Indian government. He discussed the efforts of the Hindu nationalists to absorb the Sikh religion.

Professor Gurtej Singh has been honored by the Shiromani Gudrwara Prabandhak Committee, which runs the Gurdwaras (Sikh temples) in Punjab, Khalistan. He is a very well respected Sikh scholar.

The information he discussed underlies the need for the Sikhs in Punjab, Khalistan to work to achieve their freedom. Unfortunately, the Indian government has recently reaffirmed through its Ambassador to the U.S. that it will hold a plebiscite in Kashmir, as it promised in 1948, or in Punjab.

Since the United States was formed to be the bastion of freedom, we owe it to the people there to do what we can to support their freedom efforts. We should declare our support for a free and fair plebiscite in Punjab, Khalistan, in Kashmir, in primilarly Christian Nagaland, and elsewhere in the subcontinent where people are seeking freedom and independence. The democratic way is the best way to resolve issues. Until all people in India enjoy the full civil rights of democratic citizens, until human rights are respected, India should receive no American aid or trade. This is the best way that America can help bring freedom to that troubled region.

Mr. Speaker, the Council of Khalistan recently published a press release commending Professor Gurtej Singh for his work for human rights and his presentation at the New York panel. I would like to insert this press release into the RECORD at this time.

S. GURTEJ SINGH EXPOSES INDIAN TYRANNY AT SEMINAR

WASHINGTON, D.C., May 16, 2002.—The Sikh Nation appreciates the contributions of S. Gurtej Singh IAS, who spoke at a seminar in New York last week. He exposed the genocide of the Indian government and the betrayal and corruption of the Akali Dal leadership in his book, Chakravyuh: Web of Indian Secularism, and in his speech he gave historical facts about the sovereign, independent Sikh state and the independence of the Sikh religion since its inception. He explained how the Hindu majority wants to assimilate the Sikh religion and establish a Hindu Rashtra. We recommend that everyone read his book.

"S. Gurtej Singh has done an excellent job of exposing the connivance of the Akali leaders, such as Badal, Tohra, and Mann, with the Indian government in its campaign of terror against the Sikh Nation," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. "He is to be saluted," Dr. Aulakh said. "The Sikh Nation needs more good Sikhs like S. Gurtej Singh if it is ever to end the oppression." The Council of Khalistan is the government pro tempore of Khalistan, the Sikh homeland that declared its independence from India on October 7, 1987. The Council of Khalistan leads the Sikh Nation's struggle for independence.

"Gurtej Singh's presentation was excellent and he made a detailed presentation of the abuses and oppression of the Sikh Nation," Dr. Aulakh said. "The time has come to throw out the conniving Sikh leadership of the Akalis and Congress and unite behind committed, principled, pro-Sikh leaders who are committed to freedom," he said.

The Indian government has murdered over 250,000 Sikhs since 1984. Over 75,000 Kashmiri Muslims have been killed since 1988. More than 200,000 Christians have been killed since 1947, along with tens of thousands of Dalits, Tamils, Assamese, Bodos, Manipuris, and other minorities. Last month, police stood by as militant Hindus attacked Muslims in Gujarat. Over 5000 people died, according to the Indian newspaper The Hindu. The Indian government paid twice as much compensation to the families of Hindus who were killed as it paid to Muslims who were killed.

The U.S. State Department reported in 1994 that the Indian government paid out over 41,000 cash bounties to police officers for killing Sikhs. Since Christmas 1998, a wave of violence against Christians has seen priests murdered, nuns being raped, churches being burned, Christian schools and prayer halls destroyed, and no one has been punished for these acts. Militant Hindu fundamentalists allied with the pro-Fascist RSS, the parent organization of the ruling BJP, burned missionary Graham Staines and his two young sons to death.

"For the survival of the Sikh Nation, the time has come to launch a Shantmai Morcha (peaceful agitation) to liberate Khalistan from Indian occupation," Dr. Aulakh said. "I call on the Sikh leadership in Punjab to begin a Shantmai Morcha immediately. If they will not, the Sikh Nation should rid itself of them and support leaders who will do so," he said. "I also call on the United States government to support freedom for Khalistan and the other minority nations seeking their freedom from India," he said. "Sikhs are a separate nation and ruled Punjab until 1849. No Sikh has signed the Indian constitution," Dr. Aulakh said.

Sikhism is a sovereign, independent, monotheistic religion which believes in the equality of the whole human race, including gender equality. Sikhs pray every day for the well being of all humanity. The Sikh Nation was established as sovereign. Guru gave political power to the Sikh Nation. ("In Grieb Sikhan Ko Deon Patshahi.") "Freedom and self-determination are the birthright of all peoples and nations. The people of South Asia must have self-determination now," Dr. Aulakh said. "India is on the verge of disintegration," he said. "Khalistan will be free by 2008."

SEPTEMBER 11 ANNIVERSARY

HON. DAVID VITTER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Mr. VITTER. Mr. Speaker, on September 11, 2001 our people, our democracy, and our values were attacked in a cowardly and reprehensible way. I visited the Pentagon two days after the attacks, and the sheer devastation viewed in person was beyond the imagination.

When I made it back home to Louisiana, I hugged my wife and kids and could not help but think of the people who never returned home on September 11. That fateful day introduced us to hundreds of heroes. And it reintroduced us to the wonderful spirit of our nation.

I visited Ground Zero for the Commemorative Joint Meeting of Congress one year later and visited the Pentagon on the anniversary of the attacks. These sites—along with the Pennsylvania crash site—stand as reminders of the devastation our country suffered, but they also remind us that America is not devastated.

We are unified in the knowledge that democracy and freedom will prevail. People across the country have, over the last year, demonstrated to the world that terrorism can never destroy our way of life. And I am proud of our country, proud of my fellow citizens for the patriotism, spirit, and strength they have shown over the last year.

It is a great honor to serve in Congress at this time, and I take very seriously my pledge to protect and defend the United States of America.

May God bless us all, and may He continue to bless our great nation.

PERSONAL EXPLANATION

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Mr. McDERMOTT. Mr. Speaker, I missed some votes because I was traveling. I left for Iraq on Wednesday to get a better understanding of how a preemptive U.S. military strike against Iraq will affect the Iraqi people. Had I been able to, I would have voted:

"No" on H. Res. 552 (rollcall vote No. 416).

"No" on Approving the Journal (rollcall vote No. 417).

"Yes" on the Motion to Instruct Conferees on H.R. 3295 (rollcall vote No. 418).

"No" on H. Res. 553 (rollcall vote No. 419).

"Yes" on the Motion to Recommit H.R. 4600 with Instructions (rollcall vote No. 420).

"No" on final passage of H.R. 4600 (rollcall vote No. 421).

"Yes" on H.R. 2215 (rollcall vote No. 422).

"Yes" on H. Res. 111 (rollcall vote No. 423).

IN HONOR OF TIMOTHY GREGORY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Mr. SCHIFF. Mr. Speaker, I rise today to recognize the work of Mr. Timothy Gregory in preserving a vital part of Southern California's architectural heritage. Over the last few years, Mr. Gregory has been instrumental in bringing to light the architectural significance of the Janes Village area.

Mr. Gregory is locally known as "The Building Biographer," and his knowledge has aided countless citizens in the community in appreciation of the architectural treasures that surround them every day. Through innumerable hours devoted to researching and informing the community about Janes Village and the vision of Elisha P. Janes, the noted local builder for whom the area is named, Mr. Gregory has almost single-handedly been responsible for the rediscovery of Mr. Janes' Altadena building projects and their spectacular architecture.

The three hundred homes built between 1924 and 1926 are part of Mr. Janes' vision to build a thousand homes in Altadena. Although he never met that mark, the hundreds of homes he did build still stand as a testament to the early years of development in the Los Angeles area. Originally billed as "Homes of Distinction in Scenic Altadena," these homes are as unique and special today as the day they were built.

These homes stand as an enduring architectural monument—three hundred homes built on nine streets, of which two thirds can be directly attributed to the work of Mr. Janes. Their distinctive English Revival style marks some of the most remarkable architecture of the time.

Thanks to the efforts of Mr. Gregory, Janes Village has now established itself not only as a Heritage Area, but as a neighborhood and community with a rich historical past. I ask all Members of Congress to join me in applauding the work of Timothy Gregory in celebrating and preserving a piece of our incredible architectural history.

INDIA CANNOT GOVERN WITHOUT THE PEOPLE'S CONSENT

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Ms. McKINNEY. Mr. Speaker, no government can govern without the consent of the governed. That is one of the founding principles of America.

Earlier this year, my friend Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, issued a "New Year's Message to the Sikh Nation." In it, he noted that India is governing the Sikhs of Punjab, Khalistan, the Christians of Nagaland, the Muslims of Kashmir, and many other minority nations without their consent.

In the letter, the Council of Khalistan said that the elections earlier this year in Punjab won't have any effect in terms of freeing the people, but merely change the facts of the oppressors. The letter noted that in the likely event of a war between India and Pakistan, it will be the Sikhs and the Kashmiris who will be the primary victims. He called on Sikhs not to fight for India. He reminded us that no Sikh representative ever signed India's constitution. How can India's constitution be binding on the Sikhs when they have never been a party to it?

Dr. Aulakh wrote that India is not one country and is just a remnant of British colonialism. He wrote that its breakup is inevitable. On January 25, Indian Home Minister L.K. Advani admitted that when Kashmir leaves India, India will unravel. That is why India is so scared of the 17 freedom movements within its borders. There is clear sentiment for freedom within India's borders, Mr. Speaker. We must do what we can to help that cause along.

What can America do to help the cause of freedom in South Asia? For one thing, we can try to keep India and Pakistan at peace. Unfortunately, there has already been firing across the Line of Control in Kashmir. We should use our diplomatic power to stop the fighting before it becomes all-out war. Both sides have nuclear weapons, Mr. Speaker, and the Pakistani government has been quite helpful to us in the war on terror, at least until India's military maneuvers forced them to divert troops to the Indian-Pakistani border.

We should stop our aid to India to help stop the atrocities against Sikhs, Christians, Kashmiri Muslims, dark-skinned Dalit "untouchables," and others. We should also publicly declare our support for self-determination for Khalistan, Kashmir, Nagaland, and all the minority nations and peoples seeking their freedom from India.

Mr. Speaker, the Council of Khalistan's open letter is very informative. I think my colleagues will be very well informed by reading it. Therefore, I would like to place it in the RECORD now.

COUNCIL OF KHALISTAN,
Washington, DC, January 3, 2002.

KHALSA JI: Wahe Guru Ji Ka Khalsa, Wahe Guru Ji Ki Fateh!

Happy New Year to you and your family and friends. May 2002 be the best year you have ever had.

At the dawn of a new year, freedom for Khalistan is closer than ever. India is showing its instability. The Indian government is so desperate that it was caught red-handed murdering Sikh girls in Kashmir. Just as it did in Chithisinghpora, the regime is committing terrorist acts to try to set minority nations against one another in pursuit of India's ongoing drive for hegemony in South Asia. On May 27, several Indian soldiers were caught red-handed trying to set fire to a Gurdwara and some Sikh homes in Kashmir. Sikh and Muslim residents of the village overwhelmed the troops and stopped them from carrying out this atrocity. Now India has set up another terrorist incident that has cost the lives of at least three Sikh girls.

India has massed large numbers of troops and warheads on the border. Unfortunately, the upcoming war will result in the deaths of many Sikhs, Kashmiris, and other minorities, exactly the result the Indian government wants. I urge Sikhs not to support India. Punjab and Kashmir will be the main battlegrounds. Sikhs will be killed in the upcoming war more than any other people will, as they have in every war in the past. It is Sikhs who will suffer the most, and that suffering would be made worse by shedding Sikh blood for the oppressors of the Sikh Nation. We do not have a choice of peace or war. The Sikh Nation has a right to choose peace, and that choice requires the independence of Khalistan. To save Sikh lives, do not fight with the Hindu slavemasters. Instead, work to liberate Khalistan.

This is an ideal opportunity to begin a Shantmai Morcha and form a Khalsa Raj Party to achieve independence for Khalistan and to liberate the other countries seeking their freedom from Indian occupation. Take advantage of this opportunity. Fight to free Khalistan. Remember the words of former Akal Takht Jathedar Professor Darshan Singh: "If a Sikh is not Khalistani, he is not a Sikh." Self-determination is the right of all people and nations.

India is not one nation. It has 18 official languages. The Sikh Nation's sentiment for Khalistan is clear. Pro-Khalistan handbills were handed out at the Golden Temple on June 7 during the commemoration of Gallughara Divas and Sant Bhindranwale's martyrdom. Ajmer Singh Lakhowal, the head of the Bharat Kisan Union, has called for self-determination for the Sikhs. The flame of freedom burns bright in the hearts of the Sikhs.

India wants to wipe out minority nations so that they cannot ask for their freedom. To achieve that objective, the Indian government has murdered over 250,000 Sikhs since 1984, over 200,000 Christians in Nagaland since 1947, more than 75,000 Kashmiri Muslims since 1988, and tens of thousands of Dalits (dark-skinned "Untouchables," the aboriginal people of South Asia), Tamils, Bodos, Assamese, Manipuris, and others.

The Deccan Chronicle reported that the Indian government knew of the attack on Parliament, which killed 13 people, in advance and did nothing. The Indian army carried out the attack to provide a pretext for an attack on Pakistan and Kashmir. It hopes to use the killings of young Sikh girls to get Sikh to fight against Kashmiris.

India has a long record of terrorism. In November 1994, the Indian newspaper Hitavada reported that the Indian government paid the late governor of Punjab, Surendra Nath, approximately $1.5 billion to organize and support covert state terrorism in Punjab, Khalistan, and in Kashmir. The book Soft Target, written by two very respected journalists from the Toronto Star and the Toronto Globe and Mail, conclusively establishes that the Indian government blew up its own airliner in 1985, killing 329 innocent people. According to India Today, the Indian government created the Liberation Tigers of Tamil Eelam (LTTE) and put up LTTE leaders in New Delhi's finest hotel. According to journalist Justin Raimondo of www.antiwar.com, George Fernandes, now the Defense Minister, even raised funds for the LTTE. The LTTE were created to stoop a U.S. broadcast tower in Sri Lanka. The Indian government turned on the LTTE because the LTTE nows seeks an independent country for Tamils.

A report issued in April by the Movement Against State Repression (MASR) shows that India admitted that it held 52,268 political prisoners under the totalitarian "Terrorist and Disruptive Activities Act" (TADA), which expired in 1995. Persons arrested under TADA are routinely re-arrested upon their release. Cases were routinely registered against Sikh activists under TADA in states other than Punjab to give the police an excuse to continue holding them. The MASR report quotes the Punjab Civil Magistracy as writing "If we add up the figures of the last few years the number of innocent persons killed would run into lakhs [lsqb]hundreds of thousands.[rsqb]" As General Narinder Singh has said, "Punjab is a police state."

These Sikh political prisoners and the tens of thousands of other political prisoners held in India must be released immediately. Even before their release, the political prisoners should also be given the Khalsa Raj Party nomination for the seats in the Legislative Assembly, the SGPC, and when the parliamentary elections come up, for Parliament. The Sikh Nation will vote for these Sikh political prisoners, as they are the heroes of the Sikh Nation. No government can govern without the consent of the governed. The present Akali leadership of Badal, Tohra, Mann and others are the agents of the Indian government and are under their control. Do not trust them. Remember, Badal promised during the last election campaign that he would release Sikh political prisoners, punish guilty police officials who committed atrocities against the Sikh, and from a commission to investigate atrocities committed against the Sikhs since 1984.

In 1947, when India was divided, the cunning and deceitful Hindu leadership promised that Sikhs would have the glow of freedom in Punjab and that no law affecting Sikh rights would be passed without Sikh consent. As soon as the transfer of power had occurred and India was free, those promises were broken. Instead, India began its effort to wipe out the Sikh people, the Sikh Nation, and the Sikh religion. The Sikh Nation must regain its sovereignty to survive.

Sikh gave over 80 percent of the sacrifices to free India from the British. At that time, they were only 1.6 percent of the population. Sikhs are the ones who suffered the most after the freedom and partition of India. The Khalsa Panth can do it again to free itself from the slavery of Hindu India.

A free Khalistan will bring prosperity to the people of Punjab farmers will be able to sell their produce at high prices in the international market and buy cheaper fertilizers, insecticides, and seeds. Farm produce will not lie in the market for weeks without buyers as it did during the sale of the rice crop last year.

We must have a full, free, and fair plebiscite on the status of Khalistan and we must launch a Shantmai Morcha to liberate our homeland. Let us take this opportunity to bring freedom to our homeland and all the countries of South Asia.

Panth Da Sewadar,
Dr. Gurmit Singh Aulakh,
President,
Council of Khalistan.

INTRODUCTION OF THE HIGHER EDUCATION ACCREDITING AGENCY RESPONSIBILITY ACT OF 2002

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Mr. PETRI. Mr. Speaker, today, I have introduced legislation that will remove the requirement that institutions of higher education be accredited in order to be eligible for federal funds. The system of accreditation of colleges and universities that has developed in the United States does not serve its avowed purpose of ensuring that institutions of higher education have good academic programs and standards, and it fails to provide hardly any benefit at all to our higher education system. Additionally, more effective and less costly mechanisms are already in place to protect students because no institution can receive federal funds until the Department of Education certifies its financial and administrative capacity.

Accreditation these days has little to do with academic rigor or educational outcomes; rather, it serves only to show that a school has the right set of inputs, and virtually every college and university in the nation is able to comply with these standards. Because federal law makes eligibility to receive federal student loan funds conditional upon retaining accredited status from an accrediting association recognized by the Department of Education, schools have a rather large incentive to maintain their accreditation status. This places an enormous amount of influence in the hands of the accreditors, who oftentimes force schools to reallocate resources or even adopt policies at odds with a school's individual mission in order to comply with accreditation requirements and recommendations.

As we continue to pursue policies of accountability for our education institutions and strive to do our part in making higher education affordable for more Americans, we should examine ways that the accreditation process can be changed to play a more useful role—one that provides meaningful information about a school to students and parents. I believe my legislation is the necessary first step to achieve this goal.

RESTORING BUDGET DISCIPLINES

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Mr. SPRATT. Mr. Speaker, the end of September marks not only the end of fiscal year 2002, but also the expiration date for crucial mechanisms of budget discipline. I rise today to inform my colleagues that I have introduced the Restoring Budget Disciplines Act of 2002, a bill designed to extend budget enforcement mechanisms and get us back on the path of balanced budgets. I invite all members, from both sides of the aisle, to co-sponsor this legislation.

The 1990s were a decade of great fiscal progress, as we converted chronic deficits into hard-won surpluses. There is widespread agreement that the discretionary spending caps and the pay-as-you-go (PAYGO) rules—which were originally established in 1990 and which expire today—played a critical role in achieving this progress. Indeed, in his recent appearance before the House Budget Committee, Federal Reserve Chairman Alan Greenspan testified that the spending caps and PAYGO rules have been effective, and noted that "[lsqb]f[rsqb]ailing to preserve them would be a grave mistake."

The bill I have introduced extends the PAYGO rules through fiscal year 2007. As you know, the PAYGO rules require that the cost of all mandatory spending increases and all tax cuts enacted during a session be fully offset. If this condition is not met and the net effect of all tax legislation and mandatory spending legislation enacted during a session reduces the surpluses or increases the deficit, then the rules provide for a sequestration of resources by the Office of Management and Budget.

The bill also takes important steps toward extending the discretionary spending caps. The precise levels at which these caps should be extended can emerge only from bipartisan negotiations. But this bill puts the Congress on record as supporting a renewal of the caps, and it provides for the extension of key provisions of the Budget Act pertaining to the caps once such levels are set.

The fiscal progress of the last decade was achieved largely as a result of budget agreements between the White House and Congress. Now is the time for bipartisan action to renew the budget enforcement mechanisms that were created and extended in those landmark agreements.

TRIBUTE TO COL. AND MRS. DOUGLAS RAABERG

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Mr. SKELTON. Mr. Speaker, if has come to my attention that Claudia and Douglas Raaberg have received the 2002 Gen. and Mrs. Jerome F. O'Malley Award. The Raabergs have demonstrated a strong commitment and dedication to the United States Air Force.

The Gen. and Mrs. Jerome F. O'Malley Award recognizes the wing commander and spouse whose contributions to the nation, Air Force and local community best exemplify the highest ideals and positive leadership of a military couple in a key Air Force position. The Raabergs received this award for their efforts while stationed at Vance Air Force Base, Oklahoma.

As commander of the 71st Flying Training Wing, Col. Raaberg secured $11.5 million and 11 acres of land to build 230 new housing units, the first for the base in 60 years. His emphasis on dormitory improvements resulted in new furniture, carpet, microwaves and free Internet access for assigned airmen.

Claudia oversaw the Vance Spouses Club "compassion coalition," an initiative to invite spouse clubs across the Department of Defense to contribute to the assistance program for survivors of the September 11 terrorist attacks. She was also an active participant in "Christmas in April," mustering volunteers and $20,000 to rebuild and repair 10 homes in a day for local disabled and elderly residents.

Mr. Speaker, Claudia and Douglas Raaberg have distinguished themselves as community leaders in the United States Air Force. Their service to our nation is invaluable and I am sure that my colleagues will join me in wishing the Raaberg family all the best.

GUJARAT VIOLENCE A POGROM AGAINST MUSLIMS, NEWS REPORT SAYS

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Ms. MCKINNEY. Mr. Speaker, on June 4, an interesting article appeared at Islam Online, an Internet news site. It said that the People's Union for Democratic Rights (PUDR) had found that the recent violence in Gujarat in which, according to The Hindu newspaper, over 5,000 people were killed, was a planned pogrom designed to reduce Muslims to second-class citizens. Unfortunately, Muslim and other minorities such as Christians, Sikhs, and others are already second-class citizens in India.

The article says that the violence was well organized and planned long before the train attack in Godhra. It reports, that "the organizers of the carnage tapped on a seam of hatred, based on anti-Muslim propaganda which had been carefully cultivated over many years." It clearly points the finger at the Vishwa Hindu Parishad (VHP) and the Bajrang Dal, militant Hindu fundamentalists organizations inclined to violence which are under the umbrella of the militant, Hindu nationalist, pro-Fascist Rashtriya Swayamsewak Sangh (RSS), whose political wing is the BJP, the party that leads India's government. It was the RSS that published a booklet last year on how to implicate Christians and other religious minorities in fake criminal cases. It was the VHP that murdered missionary Graham Staines, yet has not been punished for it. In New York a couple of years ago, Prime Minister Atal Bihari Vajpayee told an audience proudly, "I will always be a Swayamsewak".

This reveals the reality of so-called democracy in India. It is a democracy for the Brahmins, but it is a tyranny for the minorities. We should stop our aid to India until they allow human rights and we should declare our support for self-determination for all the people living within its borders. Otherwise, I am afraid, violence will be even more a way of life in South Asia than it already is, and that would be a tragedy for all the people there. If we can do anything to prevent that, we should do so.

Mr. Speaker, I would like to add the Islam Online article to the RECORD at this time to give more detail on the pogrom in Gujarat.

GUJARAT POGROM AIMED AT REDUCING MUSLIMS TO SECOND CLASS CITIZENS

NEW DELHI, JUNE 3 (ISLAMONLINE).—The People's Union for Democratic Rights (PUDR), one of India's premiere human rights organizations, said in its report on the violence in Gujarat, "The whole intent of the pogrom has been to reduce Muslims to second class citizens in their own country."

The PUDR is a well-known independent human rights organization in India monitoring human rights violations against minorities and weaker sections of society.

The PUDR report "Maaro, Kaapo, Baaro: State, Society and Communalism in Gujarat" said that the organizers of the carnage tapped on a seam of hatred, based on anti-Muslim propaganda which had been carefully cultivated over many years.

The report said that the anti-Muslim carnage was planned well before the Godhra train tragedy. It says that the hate propaganda increased in the six months prior to February 2002.

The PUDR report says that the VHP (World Hindu Council) and its youth wing, the Bajrang Dal, organized trishul (tridents) distribution ceremonies in villages with Muslim populations. Speeches were made abusing and threatening Muslims during these ceremonies.

The report gives the instance of Pandarwada village where one of the worst massacres and sexual abuse cases took place. A meeting was held in this village about a fortnight before the attack.

The PUDR report provides detailed lists of people named as organizers and attackers.

Many of these are functionaries of the ruling party, BJP, the VHP and the Bajrang Dal.

The report gives a list of victims in some of the mass killings, which establishes that their numbers were higher than the ones the government admits.

The PUDR has accused the state government of abetting the anti-Muslim pogrom. "The fact that the Gujarat government supported the bandh (general strike) of February 28 and March 1 despite its experience of large-scale violence against Muslims after a similar bandh in 2000, is evidence of its complicity in the violence right from the start," it said.

The report also accuses the judiciary of not performing its duty. It illustrates as to how the criminal justice system in the state is complicit in the denial of justice to the riot victims. It corroborates the widely-reported fact that the police make a mockery of the investigative process. And that even courts have shown reluctance to do their duty.

The PUDR team visited 21 relief camps and 75 villages and towns where it spoke to government officials, members of traders' associations, the VHP, the Jamait-e-Ulema-e Hind and NGOs.

It has demanded the Narendra Modi government in Gujarat be dismissed and asked for an independent probe by the Central Bureau of Investigation into major incidents of communal violence, and expressed doubts over the Modi government's intentions to take action against the perpetrators of riots.

HONORING THE ONE HUNDREDTH ANNIVERSARY OF THE McLENNAN COUNTY COURTHOUSE

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Mr. EDWARDS. Mr. Speaker, the citizens of McLennan County, Texas are celebrating today, September 26, 2002, the 100th Anniversary of the McLennan County Courthouse, located in my hometown of Waco.

On April 28, 1900, at the turn of the last century, the needs of a growing Central Texas population demanded a new courthouse and jail. To pay for a structure, bonds were approved by the voters, and construction of the Courthouse began with the purchase of land on the corner of North 5th and Washington St. In December 1900, a contract for construction of the Courthouse was awarded, and in June 1901, the cornerstone was laid. Less than a year later, in 1902, the project was completed.

Today, the McLennan County Courthouse is a Texas Historical Landmark and is listed on the National Register of Historic Places. With its classic Renaissance Revival design, it is widely recognized as one of the most beautiful public buildings still in use. Recent additions to the Courthouse include a series of paintings celebrating the rich history of Waco and McLennan County.

Atop the building stands Themis, the Greek personification of Justice, Justitia, her Roman counterpart, and Liberty, the torchbearer, representing the importance of justice and the law to the citizens of McLennan County for the past hundred years. Although much has changed in that hundred years, the McLennan County Courthouse continues to provide integral services to the community, and stands as an important monument to the long tradition of the rule of law in Central Texas.

Mr. Speaker, I ask the Members of the House of Representatives to join me in celebrating, with the City of Waco, Texas and its surrounding communities, the 100th Anniversary of the McLennan County Courthouse.

CONGRESS MUST NOT UPSET THE DELICATE ECOLOGICAL BALANCE OF THE ST. LAWRENCE RIVER

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Mr. MCHUGH. Mr. Speaker, for all the aspects of natural beauty that grace the North Country, few equal the splendor of the St. Lawrence River. From the wide expanse of its Gulf to the grandeur of the Thousand Islands, the St. Lawrence River is truly a wonder to behold.

For those of us who call this special region home, the St. Lawrence has long been a vital source of commercial and recreational activity. From its waters and its fragile environs, many thousands earn their living and renew their lives. Simply put, our welfare in very tangible and vital ways is inextricably linked and dependent upon the vitality of the St. Lawrence.

It is, therefore, both understandable and logical that many who know this river best have viewed with great skepticism recent initiatives that seek to measure the potential impact of conducting a massive construction and dredging project designed to significantly expand the existing shipping locks and channel depths to accommodate Seaway access to a larger class of freight vessels. Their concern has focused on the unavoidable scope of such an undertaking and the disruptive effects that would result upon a delicately balanced ecosystem that even today is severely stressed by existing Seaway traffic.

As someone who has been granted the honor of representing the entire New York State span of the St. Lawrence, I have spent much time in recent months considering the views of both those who doubt and those who embrace the proposed project. Clearly, the Seaway serves a vital purpose both to this region and to others throughout the Great Lakes that utilize the shipping it accommodates. Just as evident is the need to reformulate this vital system's operations to ensure its highest utilization into the future. Indeed, the observation that the proposal in question is no more than a study designed to identify the existence and scope of any resulting problem is not without merit.

In the final analysis, however, my foremost responsibility is to assume those positions that represent the greater interests of those I represent. In my opinion, no matter what merits any study may offer, the inescapable fact remains that the perils of such a project, if initiated, would far outweigh any benefits that may result to our region. The viability of our vital tourism industry, the generation of economically stimulating hydropower, and the untold enjoyment that the St. Lawrence provides derives less from the shipping that the river supports than the delicate environment it nurtures. As past studies have invariably found, the effects of a project of the magnitude in question would unavoidably and unilaterally upset the delicate ecological balance of the St. Lawrence River and all that prospers from it.

Given the great importance of this issue to our region, I feel compelled to declare my opposition to the proposed study and the requested funding to advance it. I fully recognize the likely reality that my views may be shared by few in the House of Representatives. While the area I represent affords me the distinction of being the only Member from New York to have the St. Lawrence River shores within their district, it also means that many others hail from areas that stand to realize greater benefits any expansion of the existing systems might afford. The fact that both the Energy and Water Development Subcommittee and full House Appropriations Committee have provided $2 million to advance this study attest to the support this initiative has gained thus far. Nevertheless, I have no intention of abandoning the higher interests of my district because the odds may be long.

I have begun the preparation of an amendment that will seek to remove the $2 million in study funding currently contained in the FY03 House Appropriations bill should this legislation be advanced. I will submit that amendment to the Rules Committee requesting that it be approved for consideration if and when the full bill is brought to the House Floor for a vote. In this way, I hope to convey to other Members the peril that such an initiative holds and, hopefully, gain the support of those who recognize the need to stand on the side of preserving a resource that is so critically important to so many.

S. 1105 THE GRAND TETON NATIONAL PARKLAND EXCHANGE ACT

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today in support of the Grand Teton National Park Land Exchange Act (S. 1105) and specifically its amended version that includes legislation that I introduced named the McLoughlin House Preservation Act (H.R. 3434).

Standing six feet four inches, John McLoughlin cast a giant of a shadow on the early development of the Oregon frontier. For twenty-one years his powerful voice was the only influence of law and order over an empire two and a half times the size of Texas. He had absolute control, and he maintained it peacefully and profitably with a balanced sense of justice. With an overwhelming sense of compassion and generosity beyond reproach, it's of little wonder that he was regarded by Native Americans as, "The Great White Eagle." John McLoughlin, did indeed, walk taller and cast the greatest shadow that ever fell so humbly on the changing face of Oregon.

McLoughlin was born in 1784 outside of Quebec, Canada. When McLoughlin was only 14 years old, he began an apprenticeship with a doctor and in 1803, at the youthful age of 19, was granted his license to practice surgery and pharmacy. Shortly thereafter Dr. McLoughlin obtained an appointment as medical officer for the North West Company, fierce competitor of the Hudson's Bay Company in the fur trade. McLoughlin continued his employment and partnership with the North West Company until 1821, at which point it was absorbed by the Hudson's Bay Company in a merger.

In 1824, McLoughlin arrived at Fort George, now called Astoria, Oregon near the mouth of the Columbia River, to further establish an administrative headquarters and supply depot for the ever expanding Hudson's Bay Company. In part, his duties were to create a mercantile arm of the British government, to monopolize the fur trade business, and maintain peace among the numerous tribes of Indians. Finding the facility at Astoria to be grossly rundown, unfertile and too far from inland trade facilities, in 1825 McLoughlin moved the northwest headquarters to a more favorable location on the northern side of the Columbia. He built the new site at Belle Vue Point in what is now Washington State and named it, Fort Vancouver.

The new fort was nearly 750 feet long and 450 feet wide with a stockade about 20 feet high. There were about 40 buildings inside the fort. The fort housed a school, a library, pharmacy, power house, chapel, officers, warehouses, workshops, a blacksmith shop, and the largest manufacturing facility west of the Rocky Mountains. Fully contained, behind the fort were fields of grains, an orchard and a vegetable garden. The Indians, with whom Dr. McLoughlin maintained a very good relationship, were not allowed inside the stockade and would conduct their trading through a porthole in the door. In 1829, a ship arrived from Boston bringing with it a horrible fever which broke out among them. Dr. McLoughlin spent much of his own time tending to the ills of the stricken, but within four years over 30,000 Indians lay dead.

The fort flourished under the leadership of Dr. McLoughlin. Without any type of military force, he was able to maintain law and order by his own personality and by the cooperation of his officers and employees. There were no Indian wars in the Oregon Country until after his resignation. Dr. John McLoughlin was so revered for his work in the Oregon Country that in 1841 McLoughlin was knighted by Queen Victoria at Buckingham Palace.

By the 1840's, the British knew that they couldn't keep the American settlers out of Oregon, but they wanted to control as much of the land as possible. Discouragement came in the form of tall tales of fierce Indians, poor farming conditions, and terrible weather. Even though it was against the policy of the Hudson's Bay Company, Dr. McLoughlin was sympathetic to the plight of the settlers and offered them aid. Often arriving sick, hungry, and without provisions, his kindly heart extended them credit, fed and clothed them, cared for the sick, and supplied them with seed for farming. His personal decision to provide supplies and support to the American settlers coming over the Oregon Trail, contrary to his orders from the Hudson's Bay Company Governor, proved to be critical to the peaceful settlement of the territory in favor of U.S. claims.

In 1845, no longer able to stomach company policy toward American settlers, Dr. McLoughlin resigned his position with the Hudson's Bay Company. After his resignation, he purchased Hudson's Bay Company's land claim at Willamette Falls in Oregon City, and he and his family moved into his newly-built house (The McLoughlin House) in 1846. McLoughlin remained a public figure during his retirement and became a U.S. citizen in 1849. He donated land for a jail and female seminary, and in 1851 he was elected mayor of Oregon City. He died in his home only six short years later.

In 1941, the McLoughlin House was designated a National Historic Site, the first one in the west, and in 1957, Dr. John McLoughlin was named "Father of Oregon" by the Oregon State Legislature.

As you can see, Fort Vancouver and the McLoughlin House National Historic Site have a long and storied history together. The intent of this legislation is to see that history continued by expanding the boundaries of Fort Vancouver to include the McLoughlin House National Historic Site.

Currently the McLoughlin House National Historic Site is maintained and managed by the non-profit McLoughlin Memorial Association. When the McLoughlin House faced demolition in 1909, the Memorial Association was formed and money was raised to move the house to a public park atop the bluff. McLoughlin's home opened as a museum in 1910. For almost 100 years, the association has done admirable work to preserve and maintain this historic treasure so thousands of people can continue to tour the site annually. However, over the past several years, the association has been unable to raise the funds required to provide the needed maintenance and upkeep of the property that is now in jeopardy of failing into disrepair.

The McLoughlin House National Historic Act would do what I believe should have occurred over 60 years ago and that is include these properties as part of the National Park System to be managed by the National Park Service. Again, it is my intent that this would be done, not by creating a new unit of the National Park System, but rather by simply including the McLoughlin House into the boundaries of Fort Vancouver National Historic Site which is already administered as part of the National Park System. I believe that including the McLoughlin House into the boundaries of Fort Vancouver is the only way to preserve in perpetuity the cultural, educational, and historical benefits of this historic site for future generations.

In closing I would like to convey my sincere appreciation to Chairman HANSEN, Ranking member RAHALL, and Chairman RADANOVICH for so generously agreeing to work with me on this bill and helping to move it forward. I would also like to extend my gratitude to Luke Johnson and David Watkins of the Resources Committee staff for their tireless efforts on behalf of this bill. Thank you to John Salisbury and the McLoughlin Memorial Association for all your hard work to preserve this Oregon treasure. And lastly I'd like to thank Tracy Fortmann for her advocacy on behalf of the McLoughlin House over the years. She's done wonderful work and we are extremely lucky to have her at Fort Vancouver.

I urge my colleagues to support this legislation today.

INDIANS BOAST OF SUCCESSFUL INTERVENTION IN U.S. ELECTION

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 30, 2002

Ms. McKINNEY. Mr. Speaker, as you know, I recently suffered a setback in my bid for reelection. I am beginning to get over the disappointment that I will no longer be able to serve the people of Georgia in the next Congress. I will miss serving.

However, there were some alarming things about the campaign to defeat me that I think my colleagues of both parties should look out for. I am not talking about the Republicans who crossed over to vote for my opponent, but the heavy involvement of Indians in the primary. I am one of the Members of Congress who has tried to get out the truth about South Asia, and I am proud of that. Earlier this year, I was one of 42 Members of Congress who wrote to President Bush to urge the release of Sikh and other political prisoners in India.

Apparently, this irritated the Indians because the newspaper article I am inserting in the RECORD along with this statement shows that they admitted that they invested heavily in the effort to defeat me. To my colleagues of both parties who have also been involved in the effort to expose India's brutal record, I say: Watch out; they are coming after you, too.

India has a record of illegal interference in U.S. elections. Former Ambassador S.S. Ray publicly urged the reelection of former Senator Larry Pressler and in opposition to now Senator ROBERT TORRICELLI. An Indian American immigration lawyer named Lalit Gadhia funneled money from the Indian Embassy to Congressional candidates, according to the Baltimore Sun. Most of the candidates were of my party, people I am proud to have had as my colleagues during my service in Congress. But it is still illegal and wrong for India to funnel Embassy money to these Members' campaigns.

Now I have become the latest political officeholder in India's cross hairs. I won't be the last unless their activities are exposed. Mr. Speaker, whether I am in office or not, I don't intend to let a foreign power determine the results of American elections if I can help it.

Mr. Speaker, I would like to insert the article showing Indian involvement in my primary into the RECORD to help expose their activities.

[lsqb]From The Times of India, Aug. 21, 2002[rsqb]

INDIAN-AMERICANS HELP UNSEAT US LAWMAKER

(By Chidanand Rajghatta)

WASHINGTON.—The headlines credit the Jewish lobby for the defeat of lawmaker Cynthia McKinney in the Congressional primaries on Tuesday. But a neophyte Indian-American activists group, which co-wrote the script for this unusual Georgia election that attracted nationwide attention, is happy with just the footnote that recorded their role.

They like to do it quietly. They are not as political or as established as the Jewish lobby.

Congresswoman McKinney outraged a lot of people with some bizarre remarks. Among her more provocative comments was her theory that President Bush purposely ignored warnings about 9/11 to help the U.S. arms industry. The comment angered not just the Jewish groups, but regular Americans as well.

The African American incumbent was not shy of expressing her opinion on the subcontinent either—mostly ill-informed repeats made at the behest of the Pakistani and Khalistani lobby, according to Indian-Americans.

A sample: The Indian government is responsible for terrorism against its own people. It engineered the massacre of bus passengers in Kashmir and the blowing up of a passenger airliner.

Community leaders said she recorded that kind of "unsubstantiated nonsense, usually peddled by disgruntled and discredited conspiracy theorists," in the Congressional Record.

But it was when she began talking about the imminent breakup of India because of its "17 different separatist movements" that the Indians of Georgia lost it for her and banded together.

One prominent activist sent out an e-mail to 3400 Indian-Americans in the area reporting her remarks (under the subject line—"Balkanisation of India—advocated by Rep. Cynthia McKinney") and urging them to work for her opponent, a local judge named Denise Majette.

Led by a prominent dotcommer in the area, they were soon holding fund-raisers for Majette, who like McKinney is also African-American. They chipped in with $20,000, although much larger sums came in later from Middle East groups—the Jews backing Majette and Arabs and Muslims supporting McKinney.

Indian-Americans contributed in other ways too. Several volunteers worked full weeks for Majette's campaign. She was invited as the chief guest for an Indian-American beauty pageant. A motel owner turned his electronic billboard next to the main highway into her campaign sign.

It was much after the Indian-American effort began that the Jewish lobby rolled into town. But the two sides joined hands for a phono-thon and pooled other resources for the campaign.

When the results came in on Tuesday, Majette had polled 58 per cent to McKinney's 42 per cent. The Indian bush telegraph—e-mail—was buzzing.

"Money is important. But volunteer and other efforts are equally important. Even more important is that we need to be on the radar screen of the candidate we are supporting. Ms. Denise Majette hopefully knows that we made a difference in her bid. Please keep in communication with her to further the relationship between IA (Indian Americans) and her," one prominent activist wrote. "The good news is that we offered our support before the poll numbers and Jewish money transpired. Thus, we got noticed," another group leader responded.

In keeping with the low-profile effort, none of them were eager to be identified.

The Indian embassy also quietly celebrated McKinney's loss, although, sticking to the principle of non-interference in local elections, it declined any comment. The embassy has been accused in the past of being a little too interested in the Congressional races.

Democrat Majette will now go up against the winner of the Republican primary for a seat in the Congress in the main elections due in November. But for now, Indians and Indian-Americans can breathe easy that they do not have to hear Cynthia McKinney's conspiracy theories in Congress.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 1, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 2

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine airlines viability in the current economic climate.
SR–253

10 a.m.
Judiciary
To hold hearings to examine protecting children from child pornography.
SD–226

Appropriations
Treasury and General Government Subcommittee
To hold hearings to examine the appropriateness of U.S. companies moving their headquarters to offshore tax havens.
SD–192

10:30 a.m.
Finance
Business meeting to consider S. 848, to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and an original bill to make miscellaneous and technical corrections amendments to the trade laws.
SD–215

2 p.m.
Environment and Public Works
To hold hearings to examine the status and studies of the health impacts of fine particles which result from fuel combustion from motor vehicles, power generation, and industrial facilities, as well as from residential fireplaces and wood stoves, known as PM–2.5, focusing on those effects associated with power plant emissions.
SD–406

OCTOBER 3

9 a.m.
Rules and Administration
To hold hearings to examine the nomination of Bruce R. James, of Nevada, to be Public Printer, Government Printing Office.
SR–301

Foreign Relations
To hold hearings to examine certain pending nominations.
SD–419

9:30 a.m.
Commerce, Science, and Transportation
To hold oversight hearings to examine park overflight regulations.
SR–253

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

Banking, Housing, and Urban Affairs
To hold oversight hearings to examine the Administration's national money laundering strategy for 2002.
SD–538

10:30 a.m.
Foreign Relations
To hold hearings to examine the nominations of Maura Ann Harty, of Florida, to be Assistant Secretary of State for Consular Affairs; Kim R. Holmes, of Maryland, to be Assistant Secretary of State for International Organization Affairs; Francis X. Taylor, of Maryland, to be Assistant Secretary of State for Diplomatic Security, and Director for the Office of Foreign Missions, with the rank of Ambassador; and Ellen R. Sauerbrey, of Maryland, for the rank of Ambassador on the Commission on the Status of Women of the Economic and Social Council of the United Nations.
SD–419

11 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the nomination of Nancy C. Pellett, of Iowa, to be a Member of the Farm Credit Administration Board, Farm Credit Administration.
SR–328A

2:30 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine Title IX, the equal treatment of women in education focusing on the sciences.
SR–253

Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of Alberto Faustino Trevino, of California, to be an Assistant Secretary of Housing and Urban Development; Armando J. Bucelo, Jr., of Florida, to be a Director of the Securities Investor Protection Corporation; Diana E. Furchtgott-Roth, of Maryland, to be a Director of the Federal Housing Finance Board; Carolyn Y. Peoples, of Maryland, to be an Assistant Secretary of Housing and Urban Development; John M. Reich, of Virginia, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.
SD–538

OCTOBER 4

9:30 a.m.
Joint Economic Committee
To hold hearings to examine the employee situation focusing on September 2002.
1334, Longworth Building

10 a.m.
Foreign Relations
To hold hearings to examine certain pending nominations.
SD–419

OCTOBER 7

1:30 p.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the nomination of Mark McClellan to be Commissioner of the Food and Drug Administration, Department of Health and Human Services (pending receipt by the Senate).
SD–430

OCTOBER 8

10 a.m.
Judiciary
Constitution Subcommittee
To hold hearings to examine the detention of U.S. citizens.
SD–226

Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia
Subcommittee
To hold hearings to examine the current system of regulation of the herb ephedra and oversight of dietary supplements.
SD–342

SENATE—*Tuesday, October 1, 2002*

The Senate met at 9:30 a.m. and was called to order by the Honorable ZELL MILLER, a Senator from the State of Georgia.

The PRESIDING OFFICER. Today's prayer will be offered by Rabbi Gerald Kane of Temple Beth-El, Las Cruces, NM.

PRAYER

The guest Chaplain offered the following prayer:

In these most challenging of times, may this parable from Jewish tradition provide inspiration and guidance to you, the distinguished Senators of our wonder-filled country.

A man, wandering lost in a dark forest for several days, finally encounters another. He calls out: "Brother, show me the way out of here."

The man replies: "Brother, I too am lost. I can only tell you this: the paths I have tried to get out of this forest have led me nowhere. They have only led me astray. Here, take hold of my hand, and let us search for a way out of this dark place together."

"And so it is with us," the author of the parable concludes. "When we go our separate ways, we may go astray. Let us join hands and look for the path out of the darkness together."

Dear God, inspire those gathered in this historic chamber to walk on the path of freedom, respect, and solidarity together in to the light of a sun-filled day.

Imbue them with Your wise guidance, tremendous strength, and awesome courage. Together may we better pursue the high ideals of liberty, justice, and equality for all upon which this, our great Nation, is founded.

Lift up Thy countenance upon us, and grant us Thy most precious of blessings, the gift of shalom, balance, and peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ZELL MILLER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 1, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ZELL MILLER, a Senator from the State of Georgia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MILLER thereupon assumed the Chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, the Chair will shortly announce a period of morning business with the first half under the control of the Republicans and the second half under the control of the majority. I ask unanimous consent that after the Chair's ruling the Senator from New Mexico be recognized for up to 5 minutes to speak, as the guest Chaplain is from the State of New Mexico. I ask unanimous consent that the time not be charged against either the Democrats or the Republicans in that morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

THE GUEST CHAPLAIN

Mr. BINGAMAN. Mr. President, I wish to take a moment of the Senate's time to particularly acknowledge the presence of our guest Chaplain, Gerald Kane, who is the Rabbi of Temple Beth-El in Las Cruces, NM.

Rabbi Kane was ordained first in Cincinnati in 1970 at the Hebrew Union College-Jewish Institute of Religion. He has served pulpits in Portland, OR, New Orleans, Phoenix, and in Kansas City, before coming to Las Cruces some 3 years ago.

Las Cruces is the second largest city in my home State of New Mexico, a very vibrant, growing metropolitan area. It is one of only five communities in New Mexico that has a synagogue. It has the third synagogue that was built in our State.

Our Jewish community has always had a special role in the life of Las Cruces. Three of the mayors of that city have been of the Jewish faith.

Following the September 11 attacks, Rabbi Kane, together with other religious leaders in Las Cruces, issued a statement of unity and support at the Las Cruces Islamic Center. He has coordinated clergy participation in this year following 9/11, and has worked very hard to bring the community together in that regard.

We are very proud that he is here. In talking with him this morning, we were at a loss to think when we last had a clergyman from New Mexico as our guest Chaplain in the Senate. But it is entirely appropriate that we do today.

I am very honored that Rabbi Kane was able to be with us.

Also, I wish to acknowledge the presence of his wife Cyrille, who is here with him. They have four children and nine grandchildren.

Let me also acknowledge the very good work of one of the staff people who works with me, Jeff Steinborn, who works in our Las Cruces office and who helped make the arrangements today for Rabbi Kane to be here.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time shall be under the control of the Republican leader or his designee.

The Senator from Florida is recognized.

ORDER OF PROCEDURE

Mr. NELSON of Florida. Mr. President, I have already cleared this with the Senator from Wyoming. I ask unanimous consent that I be allowed to speak for up to 10 minutes and it be charged against the Democrat's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEFICIT SPENDING

Mr. NELSON of Florida. Mr. President, during the last few weeks, there has been much discussion about whether or not we should expand our war against terrorism to a specific war in Iraq. A lot of us have been on the talk shows and on the news programs. This morning Senator BROWNBACK of Kansas and I were on CNN talking about this very subject. It is expected that we will take up a resolution with regard to a war with Iraq probably later this week.

In the midst of this very public discussion, largely neglected have been conversations about a battle we are in the midst of fighting on our own soil—an economic battle against the long-term fiscal stability of our country, an economic battle involving the condition of our budget and our national economy.

As we talk about protecting against terrorism and protecting against Saddam Hussein in Iraq, clearly, we have to talk about military strength. But there is also a major component to being militarily strong; that is, to be economically strong.

Let's look at our condition. Last year the administration told us we could expect over $5 trillion of surpluses over the next decade. As a member of the Budget Committee, having gone through a similar situation way back in the early 1980s, I warned that that was a risky gamble. I cited the experiences of 1981 when we voted for a huge tax cut. I recalled, as we had this debate over a year ago about the projected surpluses over time, that those surpluses may not materialize. If you give a tax cut that is too large, it is going to throw you back into deficit financing.

Indeed, that is what happened in 1981. We had a tax cut that was so huge, we had to undo it—not once, not twice, but three times in the decade of the 1980s.

Last year when we were having this debate, I suggested that you just couldn't count on a 10-year forecast, that there was too much risk associated with planning that far in advance. At the time I supported a huge tax cut. I supported one version on an amendment that was up to $1.2 trillion over a decade and one that would give back to our citizens and assist those who were struggling to make ends meet but one that wouldn't break the back of the Federal Government should things not appear quite as rosy as we thought they were going to be, which has been the case.

Things didn't turn out anywhere close to the rosy picture that was painted for us a year ago. After passing last year's tax cut, which goes upwards of $2 trillion over a decade, we find that if we adopt over the next decade the administration's, the President's spending and tax policies, we will not see the $5.6 trillion of surpluses, but we will see instead $400 billion of deficits.

Some point to congressional spending as the root of this problem. That is simply not accurate. We will experience these deficits using the administration's, the President's, the White House's own proposals for spending and additional tax cuts. This doesn't even take into account the trillions of dollars of Social Security funds that are also going to be spent.

The true deficit, not counting Social Security surpluses, is not $400 billion. Over that decade, it is going to be $2.7 trillion. Remember, in the election of 2000 we all said we were not going to touch the surpluses in Social Security; that we were going to leave those alone; that there was going to be a fence off of Social Security surpluses. Then those surpluses would pay off the national debt over a 12-year period. That didn't happen.

The Congressional Budget Office tells us nearly $6 trillion of last year's projected surplus is gone. There is nothing left.

Now, let's recap where it went. According to CBO, 34 percent of the lost surplus went to last year's tax cuts. Twenty-nine percent of it was lost due to the overestimations of revenue by the administration; that was the rosy picture of what the surpluses were going to be, projecting over 10 years. In other words, lost revenue accounts for 63 percent of the disappearance of last year's surplus.

The remainder of the lost surplus went to the war on terrorism—something we obviously have to finance—or was directly related to the recession. Twenty-two percent of that went to increased spending on national defense, and only 15 percent of the disappearance of the surplus is as a result of the economic downturn.

For all of those folks asserting the overspending has eaten through our surplus projects, that is simply not accurate. The two largest reasons for the disappearance of the surplus are tax cuts and the administration's rosy estimates of the revenue.

The third biggest reason is what you would expect: Spending on defense. The smallest cause of the disappearance is the economic downturn.

The fact is, the surplus is gone. We are back up to our eyeballs in national debt. Last year, the administration said the debt held by the public would be virtually eliminated. Last year, the administration said the debt would be eliminated by 2008. It didn't happen that way.

Now we are in the middle of deficit financing. Instead of having no debt, we are going to be stuck over that decade with $3.8 trillion of debt, and the consequences of this enormously increased debt are that the interest cost to the Federal Government will have tripled from $620 billion over the decade to $1.9 trillion. That is going to have real consequences in our national economy.

Why do you think the stock market is going in the tank, it is right now? Every day it is losing. It is down in the 7,000 range on the Dow Jones. It is not just because of the threatened war on Iraq. That is one element of it. But it is a fact that the Federal Government has now gone back into its old ways of deficit financing; that is, borrowing money to pay present bills every year, projected over this decade to the point that we said we were not going to do it. We must pay attention to our bottom line and to the economic security and the fundamental financial strength of America. That is what gives texture and vibrancy for us as a Nation that needs to be militarily strong, as well as morally strong. We need that undergirding of economic strength.

With deficits projected the rest of the decade, we are going to be digging a deeper national debt hole. And when is that going to occur? Lo and behold, it is going to occur just at the time that all of the baby boomers are going to retire and our cashflow situation is going to get worse.

We are living right now on the positive cashflow out of the Medicare and the Social Security trust funds. But by the year 2016, those trust funds go from cash positive to cash negative, and they do it in a very big way.

We cannot afford to continue to cut receipts in the hope that doing so will somehow miraculously turn into more revenues. We have to begin to think more realistically before our overly rosy optimism financially paralyzes our Federal Government. At the same time, our economy is continuing to be sluggish. Although most analysts remain optimistic that we will pull out of this recession eventually, the path is not rising very fast, if it is rising at all.

The economic indicators are disturbing: Last week, leading economic indicators dropped for the third month in a row, and Nasdaq hit a 6-year low. The Dow Jones is down 1,200 points since August 22. Oil prices just recently spiked to a 19-month high, and consumer confidence is at its lowest since November 2001.

Since the beginning of 2001, 2 million jobs have been lost, the first decline in the number of private sector jobs in 50 years. The U.S. poverty rate rose last year for the first time in 8 years.

Last year's administration spending and tax cut plan has resulted in today's collision course of more deficits, more debt, more economic insecurity, higher interest rates, lower economic growth and lower employment.

All of this is occurring right under our noses. Yet I do not believe that the administration is paying attention. I appreciate the ongoing dialog about a potentially impending war in the Middle East—but we also need to pay attention to the battles that we are already waging. We must do something to reinvigorate the economy. We must pay attention to our Government bottom line. We must not continue to raise the debt for our grandchildren to later pay off.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I want to make a few short comments before I turn it over to my friend from Iowa. I have been listening to my friend from Florida. He is blaming the administration for the deficit. I remind him who it is that spends the money. The administration cannot spend a dime unless it is authorized by the Congress.

We find ourselves in a Congress that doesn't even have a budget. When we talk about spending and deficits, we should talk about ourselves and wonder why we haven't done one of the things we have done every year, and that is have a budget. We don't have a budget.

So I agree, as a matter of fact, with the spending, but we need to take action.

SENATE AGENDA

Mr. THOMAS. Mr. President, there are a lot of rumors about where we are going in the next few days we have remaining, basically the rest of this week and I presume next week, as to what is going to be done. There is talk about pulling homeland defense. I hope that is not the case. Of all the issues we have before us, certainly that has to be one of the most important.

There is talk of bringing all the kind of politically oriented issues to the floor, knowing they will not pass, but to be able to say we tried. I don't think that is the best way to govern. It seems to me we have to make some priorities. We have a shortage of time. We have to decide what are the most important things that need to be done during that time. It seems to me they are fairly clear.

I hope we will address those things. Homeland defense has been on the floor for 4 weeks now. It is one that, obviously, is necessary. I don't think there is a soul here who believes we ought not to be doing that. We have argued about governmental employee unions. Certainly, the highest priority of this administration, and I think for the Congress, would be to put into place a homeland defense program, which we have before us.

The Iraq resolution apparently is coming to the floor, hopefully tomorrow, to be discussed a rather short time. It is very obvious that needs to be done.

We have passed no appropriations this year. We are supposed to have been finished with appropriations. Today, we start a new fiscal year—without the passage of any appropriations bills. Obviously, we plan to go with a continuing resolution for most of them, but we cannot do that for Defense or military construction. We have to decide those as priorities. Then we have to have a continuing resolution to carry on Government operations until sometime in the future—whether it is a November return, December, January or February, whatever. That has to be done and, I hope, in a clean way that allows us to move forward with attaching a great many things to it.

So that is where we are. Certainly, we are all aware of the necessity of accomplishing those things in a reasonably short time we have in which to do that. So I urge the leadership and all of us to try to decide how we handle those things and do them as quickly as we can, so we will be able to leave here when the time comes. These things must be done in the meantime.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

DEMOCRATIC LEADERSHIP'S ATTACK ON PRESIDENT BUSH'S FISCAL POLICIES

Mr. GRASSLEY. Mr. President, I want to respond to what has been a coordinated attack by the Democratic leadership on President Bush. This drumbeat, as we all know, started a couple of weeks ago. Our distinguished majority leader, Senator DASCHLE, took the lead on a Senate floor speech to question the leadership of President Bush. He was joined by others in the Democratic leadership who pummeled the President and used many colorful charts and other props to make their points. I was tempted to respond at that time, but, as you know, the Senate has been in debate on homeland security, so I didn't have an opportunity at that time.

It is probably good to reflect upon what was said 2 weeks ago and remind the public once again. The attack basically blamed the President for all that ails our economy. There was an article in the Wall Street Journal, dated September 18 of this year, the day the attacks started, summarizing the strategy of the other party and the substance of their arguments. I will put that article in the RECORD. I will quote from it:

> In a Senate floor speech he plans to make following the breakfast meeting with Mr. Bush, Mr. DASCHLE . . . expected to say the President's policies are responsible for U.S. job losses, weak economy, declining business investment, shrinking retirement accounts, an erosion of consumer confidence, rising health care costs, vanishing budget surpluses and record executive pay.

Indeed, we have seen our Democratic friends on several occasions use charts with the listing referenced in the article. Let me be clear on the attack because this kind of summarizes the various issues I am going to address. According to the Democratic leadership, the President's policies are the cause of job losses, weak economic growth, declining business investment, shrinking retirement accounts, an erosion in consumer confidence, rising health care costs, vanishing budget surpluses, and record executive pay—meaning record executive pay in the private sector.

I will tell you, Mr. President, that is an awesome amount of power that has been attributed to one individual—the President of the United States. But there is a little bit of irony here. The distinguished majority leader ascribes so much power to the President you could almost make the public believe the President is a king. Maybe this much power makes the President an emperor. Now, how many times have we heard another Democrat—the distinguished chairman of the Appropriations Committee, Senator BYRD—pull his Constitution out of his pocket and say the President is not a king. So who is right? Is it Senator DASCHLE, who has made the President such an imperial figure, or is it Senator BYRD, who says the President is not a king?

I think we need to work through this. My view is reality and history favor Senator BYRD's point of view that the President is only the President of the United States and not an imperial power.

So I want to go through the Democratic leadership's attack point by point. According to Senator DASCHLE, the President singlehandedly fired millions of workers. Funny, Mr. President, I thought employers laid off workers, not the President of the United States. It seems to me the President can fire political appointees, such as White House staff, but I don't think he can even fire Federal workers in America. Heck, right now we are hung up on the homeland security debate. That is a fight over the extent of the President's powers with respect to Federal workers in the Department of Homeland Security.

The next charge, Mr. President. All by himself, the President has slowed economic growth. Funny, I thought we had a global economic downturn, we had war on terrorism, we had overcapacity in telecom, and we had a bubble in the stock market during the Clinton years. These things might have had something to do with it—but not acccording to Senator DASCHLE. No. Under the Democratic leadership's theory, all of these things are the fault of the President of the United States.

A third charge. Declining business investment is all George W. Bush's fault under the Daschle theory as well. Funny, I thought businesses made investment decisions, not the President of the United States. Actually, we had a stimulus package pushed by the President. Well, that hasn't had any effect, according to Democratic leadership. I guess the business cycle doesn't exist under Daschle economics.

The fourth charge. Democratic leaders blame recent decline in 401(k) accounts all on President Bush. Senator DASCHLE seems fixated on recent stock market decline. I have a lot of concern myself.

The Democratic leadership, however, seems very obsessed with assigning blame. By contrast, folks in the heartland, such as my State of Iowa, tell me they want us to look forward and do something. They do not want a bunch of political fingerpointing.

If we look forward, we see some very good issues in the area of retirement security. In fact, last year's bipartisan tax relief bill contained the largest expansion of tax incentives for retirement security in a whole generation. There is $50 billion in new incentives. I guess Senator DASCHLE's opposition to the largest increase in IRA and 401(k) account contributions in last year's tax bill does not make a bit of difference; it just does not matter. While some may want to find fault, constructive legislators can point to bipartisan initiatives on retirement security that workers can look forward to in the future.

Why scare workers? Why whip up anger? Why not work together? Why not recognize some good we do around here, such as the retirement security package that phases in as part of the bipartisan tax relief legislation?

Why not bring up the bipartisan Finance Committee pension bill which has been on the calendar for the last 3 months? I introduced it only this year as a consensus document, and the Finance Committee approved it. Let's get out of the partisan blame game and do some bipartisan work for the benefit of our workers. Let's build on what we did last year.

The fifth charge: Senator DASCHLE blames an erosion in consumer confidence all on President Bush. Funny, it seems to me that the President, although being a very important leader, cannot stimulate consumer confidence all by himself. What he can do is propose to return more taxpayers' money to the taxpayers so they have a brighter future. As policymakers in a time of slackening demand, we hope consumers will spend the extra tax dollars that were left in their pockets by this tax bill.

So the Bush tax cut, the largest tax cut in a whole generation, with checks to every taxpayer, which the Democratic leadership opposed, had a negative effect on consumer confidence? Give me a break. But that is the charge Senator DASCHLE has made. More money to spend for every American on their needs negatively affects their confidence? That is the charge.

It goes to tell you, this makes no sense. In the parlance of a hunter, that dog does not hunt.

The sixth charge: The Democratic leadership says rising health care costs are all the fault of the President. Funny, the last time I checked, the President of the United States was not a physician. He is not a nurse. He is not an insurance company executive. He is not a pharmaceutical executive. He is not a trial lawyer who sues physicians, nurses, and hospitals. The President of the United States does not send you a health care bill. But none of that matters. It just does not matter. No, ignore market dynamics and other conditions. According to Daschle economics, the President all by himself is responsible for these rising health care costs.

The seventh charge: Vanishing budget surpluses are all the President's fault, according to Senator DASCHLE. According to the Democratic leadership, their spending demands have never fit into the ledger. The recession does not matter. The money for rebuilding New York after September 11 does not matter. Bailing out airlines has no consequences on the budget, or fighting the war in Afghanistan and the war on terrorism have no consequences. These are all unanticipated bipartisan responses to unexpected events, and all that does not matter.

No, under Daschle economics, it is all the fault of President Bush. Just plain and simple, it is the President's fault.

Fairminded folks back home know it is not that plain. They know it is not that simple. And the folks in the heartland of America are right. I will get back to that in just a minute. I want to go to the eighth and final charge. And hold on to your hat. This one is pretty amazing.

According to the Democratic leadership, record executive pay is all the President's fault. Apparently, Senator DASCHLE thinks the President votes every share, controls every board of every corporation that has suffered from excessive executive pay. So folks such as Terry McAuliffe, the Democratic National Committee chairman who profited from insider deals, are somehow not accountable for their own actions. The boards of directors do not matter, according to Daschle economics.

Oh, and there is another thing. Just ignore the fact that a lot of these sweetheart insider deals occurred long before President Bush was ever sworn in on January 20, 2001. Do not let that little fact get in the way of the debate.

How can anyone take that charge seriously, that the President of the United States is responsible for excessive executive pay of corporations? The President no more sets executive pay than you or I do, Mr. President. It is true that we can affect how executive pay is taxed, or disclosure, but we do not decide the level of that pay.

Let's be clear: Either the President is an imperial figure or the charges made by the Democratic leadership are without merit. Both cannot be true in a modern global economy.

I will take a few minutes to talk specifically about the bipartisan tax relief package enacted last year. Despite the-sky-is-falling partisan opposition during the tax debate last year, the passage of time tells a very different story and it discounts the fictitious picture of doom and gloom portrayed last year by my big-spending friends, most on the other side of the aisle.

According to revised economic data released by the Federal Government in August, the economy started to falter earlier than previously believed. The figures from economists show that the economy started negative growth as early as January 2001, 20 days before President Bush was sworn in. This proves the economy needed a shot in the arm sooner rather than later to get things rolling again; quite frankly, even more so than we thought at the time we passed the tax bill.

What is more, the primary weakness causing the economy to sputter was lackluster business investment, not a waning of personal consumption and the expenditure by our consumers.

Clearly, the job-creating machine in America needed a tuneup, and that is just what the President set out to do when he took his oath of office. As a cornerstone of his campaign for the White House, the President made good on his pledge to return more hard-earned money to the working men and women of America.

As the chairman of the Senate Finance Committee at that time, I had the privilege of steering through Congress the largest Federal income tax cut in a generation.

The best way to grow the economy is not by growing Government, it is by allowing the industrious people of the United States to manage their own income.

Reducing marginal tax rates on income and investment was exactly the right policy prescription to cure sluggish business investments and prime the pumps that enable American entrepreneurs, small business owners, manufacturers, and corporate employers to grow the economy and create jobs.

It was the right policy. We thought so at the time. History now, learning that the recession started on January 1, 2001, and not in the fall 2001, as we had anticipated, it was absolutely the right policy to do. And we are fortunate it came along at the time it did, in the middle of that recession.

Letting workers, investors, entrepreneurs, employers, families, and retirees keep more of their money unleashes chain reaction because they spend two-thirds of the economy. They save it—not enough of our economy. They invest it—probably not enough of our economy. But they open small businesses, creating jobs; they pay higher wages, or they buy a house, upgrade manufacturing equipment, pay for higher education. The list goes on.

It is a fundamental principle that policymakers need to remember. Money recycled through Washington does not squeeze the most bang out of our almighty dollar, and yet plenty of critics continue to blame the Republican tax cut rather than the bipartisan tax cut for the Federal budget shortfall. This was a bipartisan tax bill because one-quarter of the Democratic caucus in the Senate voted for the tax cuts. In an election year, too many candidates still like to divide the American electorate, and they do that in the demagogic way of pitting the rich against everyone else.

I am sure voters will get their fill of statistics claiming that the Bush tax cut hands out 40 percent of the benefit to the top 1 percent of the taxpayers. This is not merely misleading, it is outright false. Some folks must be under the impression that as long as something is repeated often enough, it will become true. That was how Adolf Hitler got to the top.

The facts certainly are thorny little details for the critics of the bipartisan tax relief package. According to the Joint Committee on Taxation, Congress's official nonpartisan scorekeeper, the Federal Tax Code became more progressive with the tax relief package passed in Congress last year, and taxpayers in the lower to middle income brackets get the biggest break.

For example, taxpayers with incomes between $10,000 and $20,000 will see their taxes reduced almost 14 percent when the tax cut takes full effect, whereas taxpayers with over $200,000 a year in income will see their taxes reduced by a mere 6 percent compared to that 14 percent.

As for the budget, the bipartisan tax cut was a minimal factor in the Federal Government's surplus to deficit situation. In its first year, the tax cut accounted for just 8 percent of the shortfall. Indeed, increased spending outpaced tax cuts by $6 billion. In other words, Congress spent $6 billion more than the taxpayers got back in their pocket from the tax bill.

Over the long term, the 10-year surplus declines from $5.6 trillion to $300 billion. The tax cut represents 33 percent of the decline. Those who are looking to lay blame need to point their fingers then at Congress's appetite to spend. Folks who decry the tax cut should instead weep for the hard-working taxpayer because of the bite that Uncle Sam takes out of their paychecks.

The Bush tax cut saved Iowa households $752, on average, in its first year. So I ask Iowans if they can't use that money and if that money probably has not been put to good use, now that the economy has slowed, to keep the economy out of recession once again.

Even with that tax cut, the Federal Government takes 19 cents out of every dollar earned. That is a record burden, higher than any decade since World War II. So thanks in part to the bipartisan tax cut enacted in the summer of 2001, things are starting to turn around. Weaknesses persist in the manufacturing and employment sectors, but regardless, the U.S. economy is as resilient as the spirit of the American people.

Lowering the tax burden in America triggers growth, creates jobs, spreads economic opportunity. Plus, tax cut opponents need to be reminded that a bigger economic pie will dish up a bigger slice of revenue to fulfill the Government's needs and priorities, including what is a result of the war on terrorism and the need for homeland security.

As the top Republican on the Senate tax-writing committee, I will continue to champion progrowth economic policies. That includes making last year's tax cuts a permanent part of the Tax Code.

We have, as I am told, maybe just a handful of days between now and the end of the session. There are a lot of bipartisan measures that are on the agenda that are going to be left undone because we have wasted the whole month of September not wanting to vote on a lot of critical issues.

We have the Enron-induced 401(k) refinements so that workers can control their own 401(k). We have prescription drugs for senior citizens on the agenda. We have the bipartisan approach to recapturing lost corporate tax revenue because corporations overseas set up shell corporations to avoid tax policy. We have welfare reform that needs to be reauthorized. We can go on and on.

Not just economic policy but the management of the Senate needs to be an issue in this election because with so much left undone on the Senate calendar that is bipartisan, there is no excuse for that not having been done because somebody does not want to take some hard political votes between now and the election that could have moved the Interior appropriations bill and homeland security along very quickly.

Management of the Senate is a very important issue in this upcoming election based upon what is left on the calendar's unfinished business.

The PRESIDING OFFICER (Mr. CARPER). The Senator from New York.

THE ECONOMY

Mrs. CLINTON. Mr. President, I rise to talk about hard-working Americans, their needs in our current economy, and the kind of obligations we owe to one another.

I have the greatest respect for the ranking member on the Finance Committee. Senator GRASSLEY is an extraordinarily effective advocate and Senator on behalf not only of the people from Iowa he represents but on behalf of Americans. Of course, we have a difference of opinion about what is the best thing to do to get the economy going, to start creating jobs, to put people back to work, and to make sure that the economic prospects are bright for our young people. That is an honest disagreement, but there could be no disagreement that we do, unfortunately, at this moment have what is called a jobless recovery.

That is half right. I think the jobless part is right. I think the recovery part is a bit of a stretch. Unfortunately, many hard-working Americans, from New York City to Des Moines to San Francisco, have been unemployed through no fault of their own but through the downturn in the economy, through the economic impacts of the disastrous and horrible terrorist attacks we suffered. I think we owe something to these hard-working Americans. Every other Congress, every other administration, has recognized that obligation.

When you do what you are supposed to, when you get up, you go to your job, and you do what you are asked to do to get the paycheck at the end of the week to support yourself and your family, that is what we want for all Americans. The goal of our economic policy in this wonderful free enterprise society that we cherish is to create enough jobs so everyone who is willing to work can work.

Unfortunately, we now have rising unemployment, and 1.2 million Americans have exhausted the safety net that has always been there for people who lose their jobs. That is called unemployment insurance. Believe me, no one I know wants to be on unemployment insurance instead of having a job. It does not provide enough benefits. It does not take you anywhere. It is the dead end of all dead ends, but it does provide subsistence support for you and your family. I have been talking with so many of the Americans, especially New Yorkers, who are unemployed. That is what they tell me. They have been looking for work.

The economy of the 1990s has receded. There are not enough jobs for the people who are looking for work. Many have told me heartbreaking stories of going to job fairs, of walking the streets, of answering every ad they can find, of absolutely making a nuisance of themselves to try to find some job opening to get working again. Unfortunately, there are not enough jobs right now.

We have an honest disagreement in this Chamber about the best way to start creating jobs again. It will not surprise my colleagues that I come from the Clinton school of economics. We need a balanced approach. Stimulate the economy, have targeted tax cuts, pay down the debt, and make investments that will lead to our Nation being richer, safer, smarter, and stronger.

The administration and my colleagues on the other side of the aisle have a different theory. Evidence does count for something. The evidence is on our side, not their side. Eventually they will get around to recognizing that and we will go back to a sensible economic policy. In the meantime, honest, hard-working Americans should not bear the brunt for bad economic policies. They should not bear the brunt because the administration does not have an economic plan. We need to help them. We have the means to do so. We should act immediately.

Around the country the headlines read: "Prospects for Work Fade with Economy," "Jobless Recovery," "Help is Needed on the Home Front," "The Jobless Need the Helping Hand of Congress and the President."

In addition to no jobs for honest, hard-working people looking for jobs, the poverty rate has gone back up. For the first time in 8 years, the poverty rate increased by 1.3 million people. For families, that number increased by almost half a million. For the first time since 1991 the median household income dropped by 2.2 percent. The DOW has had its worst September since 1937. The number of Americans who no longer have health insurance has increased by 1.4 million.

How much more of a wakeup call do we need to penetrate the fog of ideology that sits over this Capitol? How much more information and evidence do we require to admit we have millions of Americans who are unemployed, on the brink of financial ruin because we are not giving them a helping hand? We can take steps right now to extend unemployment insurance. It may seem like a small step to some who are not unemployed. That is always the problem. We are sitting here with a cushy job, and we hear of people who do not have work, thinking good luck to them. That is inexcusable. Those fortunate enough to have a job to count on during a jobless recovery know there are a lot of people "there but for the grace of God go us." We should be there with a helping hand. It is not right to ignore their plight any longer.

Many Americans are exhausting all of their unemployment benefits. That is understandable; we only extended it for 13 weeks. I keep thinking of the contrast between the recession of the early 1990s and this recession. In the early 1990s, former President Bush extended unemployment three times. And then President Clinton extended it twice until the economy began picking up and jobs began to be available again. I don't think we need to look any further than our own history of the past 10 years.

When times get tough and people cannot find work because the economy is not creating jobs, that is what unemployment insurance is for. It is not only the right thing to do, it is also smart. It provides a direct stimulus into our economy. Every dollar we spend on unemployment insurance generates $2.15 in our gross domestic product. It puts into the hands of people who will spend that money immediately the means to pay their rent, to buy the food, to buy the school books, to pay the mortgage, to pay the car payment.

I don't think there is any doubt that Americans are the hardest working people in the world. We do not take vacations like the rest of the developed world. We work longer hours. Some of us take more than one job in order to get ahead. It is the story of America. It is a great story. It is filled with optimism. It rests on the bedrock belief that hard work will pay off.

Sometimes, through no fault of someone, something terrible happens, something unforeseen happens. A CEO of a major corporation starts looting the corporation to have a $100 million house or a $30 million boat. All of a sudden people are down the drain: Their jobs, their income, their pensions, their retirement security. They are unemployed. Sometimes the worst happens and the waiters and waitresses and janitors and maintenance people who got up every day and for years went to work at the World Trade Center see not just their jobs but their friends' lives and literally the buildings in which they work collapse.

I am hoping we will extend benefits once again. We have only done it once. We have the money in the fund to pay for the right thing and the smart thing. We need to do it because so many of our unemployed will run out of benefits completely by the end of December. I am hoping this Congress will act to extend unemployment insurance and disaster unemployment assistance for an additional 13 weeks for all States and 20 weeks for States such as New York that are suffering from high unemployment, much of it directly related to the attacks we also suffered. I don't think we should take another day. We should send a clear message that we care about the working men and women of this country. We care about their families. We are going to try to help them get back on their feet. We will give them the help they deserve because they paid into this fund. We just have to pull the trigger so it goes out to them in their time of need.

The PRESIDING OFFICER. The Senator from Utah.

THE ECONOMY

Mr. BENNETT. Mr. President, I have listened with some interest to the Senator from New York and I have some comments to make which I hope will clearly set the record in some areas.

She referred to the jobless recovery in which we find ourselves. This is exactly parallel to the jobless recovery that occurred in the early 1990s as we came out of the recession that started in 1990, and the recovery started in 1991. There was a period when the Congress was concerned about the fact that we were recovering, but not enough jobs were created. That is fairly typical of a recovery.

The present recovery is no different in that regard.

Mrs. CLINTON. Will the Senator yield?

Mr. BENNETT. I will be happy to yield for a comment.

Mrs. CLINTON. The Senator is correct, we had a jobless recovery in the early 1990s, and a jobless recovery in the early part of this new century. In the early jobless recovery of the early 1990s, the first President Bush extended unemployment benefits three times. Is it the position of the Senator that this job of recovery means it is so different we shouldn't extend the same helping hand the President did in the early nineties to those who lost their jobs then?

Mr. BENNETT. I have not gotten to the issue of extending unemployment. I have no particular objection to extending unemployment. I am trying to set the record straight about some of the statistics that are being quoted.

Mrs. CLINTON. I thank the Senator for his lack of objection, and I hope it transforms into support for extending unemployment insurance.

Mr. BENNETT. When the bill comes to the floor of the Senate, I will be happy to give it consideration, and I see no reason at the moment why I should oppose it.

The Senator commented on unemployment rising. The fact is the unemployment rate is falling. The unemployment rate hit its high in the circumstance of 6 percent and starting to come down in August. It was 5.7 percent. We do not have the September numbers yet.

I remember being taught in economics if we were at 6 percent unemployment, we were at full employment. The assumption was the economy could not absorb more jobs than that without going into inflation. We have proven that is not the case.

But to panic because unemployment hits 6 percent and is now falling and to say we are not in recovery is, frankly, not accurate. We are in a recovery. However slow it may be, however sluggish it may be, it is a genuine recovery, and we should not panic everybody into believing we are on the verge of a double dip or a major recurrence of recession.

Personal income was unchanged in July and rose in August. The Senator said personal income was falling. Again, that is not sustained by the actual numbers. Personal income is rising, and the recovery is stronger than the Senator from New York would have us believe.

I spoke on this issue yesterday, and pointed out we were in a recovery which began in the fourth quarter of 2001 when the gross domestic product rose at 2.7 percent. From the first quarter of this year, gross domestic product rose at 5 percent. Previous figures for the second quarter of this year indicate the gross domestic product was rising at 1.1 percent. Those figures have now been revised. They have been revised upward.

Looking back over it, we are now told the recovery continued in the second quarter with gross domestic product rising at 1.3 instead of 1.1, and the blue-chip forecast which said in the current quarter—the third quarter—we would see gross domestic product rising at 2.7, the same rate it did in the fourth quarter of last year, that those figures are low; that, in fact, the forecast now is the third quarter of this year will see gross domestic product numbers closer to 3 percent instead of 2.7 as previously forecast.

I don't expect anyone to remember all of these numbers I recite. I hope they will remember that the general trend is up and is more encouraging than the Senator from New York and others would lead us to believe.

We keep being told we are in a period of great distress and disaster, and we must do something and do something drastic about it. One of the things that is proposed is we must postpone the effect of the tax cut that was passed by wide margins—both in this body and the other body—at the beginning of the Bush Presidency.

I want to discuss that for just a moment. It has been framed with the same kind of statistical maneuvering I have tried to address here. The question that makes for a good headline in a political stump speech is who lost the surplus? They are talking about a $5.6 trillion surplus that was projected at the time we had the tax cut debate. That surplus has now disappeared in the projections that were being made, and we are being asked again and again, Who lost the surplus?

The first point I want to make on that score is the surplus never existed. The surplus was a projection. I can take the Nation back through every projection made by the CBO; before that by the Office of Management and Budget; before the Congressional Budget Office was created, by the old Bureau of Budget; and before the Office of Management and Budget was created, and demonstrate virtually every projection of surplus or deficit made by those entities has always been wrong. Sometimes it has been wrong on the high side. Sometimes it has been wrong on the low side. But the one consistency is every project, surplus, or deficit in future years has always been wrong.

It comes as no surprise to discover the projection of the $5.6 trillion surplus was wrong in this case as well.

I remember a discussion with Alan Greenspan when he was before the Banking Committee, or perhaps the Joint Economic Committee. I sit on both, and he testifies before both. Someone asked him about the projections that were being given to us at the time with great confidence. They said, Mr. Chairman, how likely is it this projection will be realized? He said it will not be realized. This projection will be wrong. He said I cannot tell you whether it will be wrong on the high side or the low side. I cannot tell you and neither can any other economist tell you whether we will reap the benefits of the new age economy to a degree far greater than demonstrated by this projection or whether we will fall on our face and come in flat.

The problem is—I am not now quoting Greenspan—with an economy doing something like $11 trillion a year and subject to the uncertainties of the business cycle as well as the outside shocks that can occur in this world, no one can look 10 years into a crystal ball and tell you with absolute certainty what is going to happen.

I find it interesting that those who insist the loss of the $5.6 trillion surplus is due to the Bush tax cut and solely to the Bush tax cut also say to us why don't we deal with our current economic problems by postponing the effective date of the Bush tax cut? And, after all, that is going to take place in the outyears, anyway. So postponing the effective date will have no particular impact short term.

All right. Hold onto that argument for just a minute and listen to the other argument that we are being told.

We are being told it was the Bush tax cut that blew the hole into the surplus. Wait a minute. If the impact of the Bush tax cut is going to come in later years so it can be postponed without making any difference, how could it have been the primary mover in creating the deficit right now? Well, I can tell you how. I was part of the discussions as we crafted the tax cut. Democrats said to us at the time the tax cut was being considered it would have to have an immediate impact. We have to put money in the hands of people right now. We can't wait for the tax cut impact in the outyears.

The proposal was made primarily from the Democratic side of the aisle that in addition to cutting the marginal rates for taxes there be an immediate rebate, $300 per taxpayer, right away. That was not part of the original Bush proposal. That came out of Democratic proposals. And, frankly, it seemed like a good idea. The Bush administration embraced it. We have a combination of cutting the marginal tax rates over a period of time into the future and a rebate to get money into the hands of the economy and into the hands of people right away.

If, indeed, it was the tax cut that destroyed the surplus right away, it was the rebate side of the tax cut that was proposed by Members of the Democratic party and endorsed certainly by me and other Members of the Republican party.

You cannot have it both ways. You cannot say postponing the effective date of the tax cut won't affect the present situation. You cannot say there was an immediate impact which was bad and then say our proposal will have no immediate impact and that is good. This debate has gotten somewhat into Alice in Wonderland. I hope we can stay with the facts.

The PRESIDING OFFICER. The deputy majority leader.

ORDER OF PROCEDURE

Mr. REID. Mr. President, the majority has 21 minutes. I am going to use a few minutes. Following my remarks, I ask unanimous consent that the Senator from Missouri, Mrs. CARNAHAN, have 6 minutes; the Senator from Washington, Ms. CANTWELL, have 5 minutes; and Senator KENNEDY have 10 minutes. And if we use extra time, that would just be counted against the time we have before the cloture vote. We each have a half hour on that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE ECONOMY

Mr. REID. Mr. President, my friend from Utah—and he is my friend; I think the world of him—has a unique argument: Who lost the surplus? I never heard that until he talked about it. I think we all know who lost the surplus. He never answered that question.

And then the unique observation is: It never existed. We never had a surplus.

Talk about Alice in Wonderland. About a month ago—actually it was in August—I went on a family vacation. I had not read "Alice in Wonderland" for a long time. I read "Alice in Wonderland," and there are a lot of strange things that go on in that little girl's life when she takes this strange odyssey.

But part of that is, as the Senator from Utah mentioned, Alice in Wonderland, because the statements he has just made really are—I say this respectfully—illogical and, illusionary. They simply do not exist.

The fact is we have, in the Bush economic record, weak economic growth, record job loss, declining business investment, a falling stock market, shrinking retirement accounts, eroding consumer confidence, rising health care costs, escalating foreclosures, vanishing surpluses, higher interest costs, raiding Social Security, record executive pay, and stagnating minimum wage.

In the Bush world, everything that should be up is down, and everything that should be down is up. Job losses should be down; they are up. Health care costs should be down; they are up. Foreclosures should be down; they are up. The national debt should be down; it is up. Federal interest costs should be up; they are down. The Social Security trust, we should not be raiding it. In fact, we are doing just the opposite of what we should be doing.

Those things that should be going up in the Bush economic plan are going down: economic growth, going down; business investment, going down; the stock market, going down; retirement accounts, going down; consumer confidence, going down; minimum wage, going down. Everything you would think should be up economically is down.

They have things reversed.

For someone to come on this floor and tell people we are in the midst of a recovery? Come on. We are in the midst of a recovery? I talked to Senator JOHN KERRY today. He indicated that a company in Massachusetts is laying off, I think he said, 9,000 or 10,000 people today. That is economic recovery? Last week we had all these layoffs taking place with a phone company where they laid off 14,000 people.

More than 2 million jobs have been lost in 18 months. That is economic recovery? We have the weakest economic growth in 50 years. That is economic recovery? Business investment was down each of the last six quarters; the weakest trend in 50 years. That is economic recovery?

There has been $4.5 trillion of lost stock market wealth; the sharpest decline since President Hoover was President of the United States in the early 1930s; $440 billion of lost 401(k) and IRA retirement savings in the last year. That is economic recovery?

The Nasdaq Stock Exchange is down to its lowest level in 6 or 7 years; the Dow Jones Industrial Average is down drastically and still going down; the poverty rate up for the first time since 1992.

Let's at least talk realism. We are not in an economic recovery. We have to address the economy, as Congress should. We are not doing that. We are focusing on only Iraq. I have no problem with focusing on Iraq, but we can do more than one thing. This is the beginning of the fifth week since we came back after the August recess, and we have not done a single thing to address the staggering, faltering, stumbling economy.

Mr. President, was my unanimous consent request granted?

The PRESIDING OFFICER. It was.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

EXTENSION OF UNEMPLOYMENT COMPENSATION

Mrs. CARNAHAN. Mr. President, the state of our economy is causing great concern. The experts may tell us the recession is officially over, but that is cold comfort to many Americans.

Last week, we got some startling new numbers on the pain being felt by working families. The income of middle-class families fell for the first time since the last recession. And for the first time in 12 years, our national poverty rate grew. Today, almost 33 million Americans live below the poverty line.

The stock market is also reflecting the uncertainty Americans feel. Yesterday, the market finished its worst quarter since 1987. The Dow Jones lost nearly 1,200 points in the last month, and the Nasdaq just hit a 6-year low.

These losses are more than numbers. They are a crushing reality for far too many Americans who are working hard to save for their retirement.

The recent declines are especially painful to our seniors who are living off their savings or planned to in the next couple of years.

Congress has taken some important steps to address our economic woes. In July, we worked together to pass accounting reform legislation to begin restoring investor confidence. The American people are now receiving accurate information about a company's financial condition.

Congress also worked across party lines last spring to enact a stimulus package. That legislation provides tax incentives for businesses to help them grow, invest, and avoid laying off employees.

That law also extended unemployment insurance for workers who were hit the hardest by the economic slowdown. At that time, we made sure workers who had lost their jobs and exhausted their State employment compensation received an additional 13 weeks of unemployment insurance while they were looking for jobs.

It is urgent that Congress act again. Our economic recovery is disappointingly slow.

Last quarter, our economy grew at a meager 1.3 percent. Such an anemic growth rate means businesses are struggling to stay afloat and workers are struggling to pay their bills.

Some have called this a jobless recovery. But there is no recovery for the jobless. Over the last year, my home State of Missouri has lost more than 55,000 jobs in manufacturing and farming.

More than 8 million Americans are unemployed today. An alarming number of unemployed workers have been looking for jobs for more than 6 months. By the end of the year, more than 2 million workers are expected to exhaust their unemployment compensation.

Unemployment benefits are supposed to help tide workers over during hard times. It is intended to help them support their families, to help them pay the rent, and put food on the table.

Right now our economy is not creating enough jobs for these people to get back to work. It will take more time for them to find a job.

It is appropriate that we respond to this emergency as we have done in the past. In the early 1990s, Congress provided 26 weeks of additional unemployment insurance.

I am very pleased to be a cosponsor of legislation introduced last week that will provide the same temporary relief. Our bill will ensure that if a worker cannot find a new job, and if that worker has completely exhausted the unemployment insurance currently available, then that worker could receive another 13 weeks of assistance.

Workers and their families deserve this safety net. Congress cannot turn a blind eye to the hardships of jobless men and women, those who are hurting in this economy: the hurting, the helpless, and the hopeless.

I urge my colleagues to act quickly. The time is running out for too many Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise today to urge my colleagues to consider a bipartisan effort to pass legislation on which Senators KENNEDY, CLINTON, and WELLSTONE have worked so hard. Their leadership has shown it is critical that we pass this legislation now.

No other State, probably, needs this legislation more than Washington.

Washington State is in the middle of an economic crisis resulting from a downturn in both our aviation and high-tech sectors. With the jobless rate at 7.2 percent, we are teetering among the highest, if not the highest, unemployment rates in the country.

Mr. President, 202,000 Washingtonians are unable to find work. And over the last 12 months, our State has lost 50,000 jobs, and 60 percent of those are in the high-paying manufacturing sector.

Just in the last 2 weeks, Boeing announced it would exceed its original projections of 30,000 layoffs that it has already carried out.

Last month alone, 56,000 unemployed workers of Washington State received extended unemployment benefits. But all those benefits will expire on December 31, 2002, unless we take the proposal before us today and pass it into legislation. That means if we don't pass this legislation, those 56,000 workers will not be adding to our State's troubled economy.

We can no longer wait because things are not getting better. Our State economist Chang Mook Sohn issued a report saying we are not going to see a recovery anytime soon and very little growth in the next 6 months.

We understand that unemployment checks are not long-term answers; jobs are. But while people look for new work, extending unemployment benefits will help unemployed workers make mortgage payments, put food on the table, pay utility bills, health care bills, and, in my State, the high cost of energy bills.

Extending unemployment benefits will give people a new opportunity to upgrade their skills. As has been pointed out, extending benefits will also boost our economy, injecting into communities that have already been strapped with high unemployment rates a little bit of stimulus. A 1999 Department of Labor study concluded that for every dollar spent on unemployment, it generates $2.15 of economic activity. This proposal for Washington State over the next 6 months would mean over $1 billion in economic stimulus.

The cost of extending this program will be paid by the unemployment insurance trust fund, which has nearly $30 billion in it and is a very healthy account.

Congress created unemployment insurance in 1935 to help unemployed workers get through the Great Depression. In the 1990s, we expanded that five times and even higher for the States that had high unemployment. So far this year, Congress has only done this once.

We, in Washington State, need the support of our colleagues and of the White House in dealing with this economic crisis. It is clearly imperative that we should pass the Kennedy-Clinton-Wellstone legislation and do so immediately so that as our economy continues to struggle, we bridge the gap with a stimulus and a helping hand to working men and women in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I bring to the attention of the Senate a major challenge facing many of the families in my State of Massachusetts, and that is the continued escalation of those on the unemployment list. We have seen that grow to a figure of 175,000.

In Massachusetts, we have the highest number of unemployed workers of any of the New England States. Two years ago we had the lowest unemployment of any of the States. Now we have the highest, with very little hope in the future for getting these workers back to work.

There has been a reduction in the total number of jobs. We have more workers searching for fewer jobs than at any time in recent history. These are not just figures developed by the Democratic Party. They are figures developed by the Department of Labor: 8.1 million unemployed, trying to fill 3.2 million positions. The disparity between the high number of unemployed and the available jobs is one of the highest percentages of any recent time, and that is true all over this country.

The people of my State are wondering how they are going to make ends meet, whether they are going to see the expiration of their unemployment compensation.

I was here in the early 1990s, when on four to five different occasions we had bipartisan support for extension of unemployment compensation.

The purpose of unemployment compensation is to reach out a helping hand to workers who work hard, play by the rules, are trying to pay a mortgage, trying to pay for children's school clothes, and to live a somewhat normal life, but because of the economic exigencies they are out of a job.

The unemployment fund is now at a surplus of some $25 billion. It was developed for just the kinds of reasons we are facing today. We, on this side, believe we ought to have an opportunity to extend unemployment compensation to the families of this country thrown out of work through no fault of their own. They ought to be able to at least have this lifeline that will help support them during this difficult time before they are able to get back on their feet.

That is the issue. It is one of decency, fairness, and humanity. At other times in our history, Republicans and Democrats in this body came together in order to provide that.

Now we are finding the Republican leadership opposing this proposal, effectively saying thumbs down to workers in my State, thumb downs to workers all across New England and all across the country. It is the wrong policy at the wrong time.

I join with my colleagues, with Senator WELLSTONE, who has been the leader in this battle for extended unemployment compensation, and my friend and colleague, Senator CLINTON, Senator CARNAHAN, Senator CANTWELL and others, urging the Senate to take action. We can do it. It has been done in a bipartisan way. It should not be partisan. This is about hard-working Americans. Are we going to reach out with a helping hand to make sure their interests are going to be protected?

We ask the Senate for consent to provide additional unemployment benefits for millions of out-of-work Americans. I urge my colleagues to give that consent.

Over 2 million Americans who have lost their jobs are about to also lose their unemployment benefits. The Emergency Unemployment Compensation Act of 2002 will extend their benefits just as we have every recession over the past three decades. Families are struggling, and we must act.

In fact, since President Bush assumed office in January 2001, the economic well-being of America's families has dramatically deteriorated. This is not just an economic coincidence, it is the result of the economic policies of this administration—policies which neglect the basic needs of working men and women, lavish extravagant tax breaks on the wealthiest taxpayers, and allow corporate abuse and excess to go unchecked.

President Bush says he has already taken care of the troubled economy by cutting taxes and, instead of supporting our bill, called on Congress to make the tax cuts permanent.

There are now 8.1 million unemployed Americans, 2.2 million more than when President Bush took office. And no amount of tax cuts for the wealthy can restore their jobs and pay their bills.

But this is deja vu all over again. The first President Bush twice blocked legislation to provide much-needed unemployment benefits before finally signing into law three benefit extensions. In this recession, 800,000 more workers are expected to run out of unemployment benefits than in the last recession during the early 1990s. It will only get worse if we don't act.

Last March, Congress extended benefits for the first and only time during this recession. That is not enough. Already, more than 1 million workers have exhausted these benefits without finding a new job, and another 2 million will join their ranks by the end of the year.

Most of them have families to support. They are scrimping on school supplies; maxing out credit cards; and juggling electric bills with mortgage payments. These are our fellow citizens, and they need help now.

We are supporting legislation that mirrors the benefits signed into law by the first President Bush in the early 1990s. The bill will extend benefits for workers in all States, and provide additional benefits for those in high-unemployment States. This bill will ensure that workers can keep a roof over their heads and food on their tables while they search for jobs in this tight economy.

This Bush administration has fought efforts to provide adequate unemployment assistance to workers. But the administration can no longer afford to ignore the pain and the needs of struggling families. We must act—and act now—to live up to our obligations to help our fellow citizens in their time of need.

Alan Gonsenhauser of Northborough, MA, is one of those workers who has exhausted his benefits. Formerly the vice president of a consulting firm whose largest client was Enron, he was laid off last December. Nine months later, he is still looking for a job. He, his wife, and their two children have relied on unemployment benefits and personal savings, to cover family expenses, but his benefits expired last month.

Many hard-working Americans and their families have suffered as a result of the recent spate of corporate scandals and the failure of the administration to take decisive action. At WorldCom, more than 20,000 workers were laid off. At Arthur Andersen, 7,000 workers were laid off. At Global Crossing, over 9,000 workers were laid off. Enron laid off about 4,000 workers.

Americans who are out of work are watching their savings shrink while the cost of living just grows and grows. The cost of health insurance for families has risen 16 percent in the last year and a half, and 27 percent for single individuals. Even more workers are being forced to go without health insurance. The cost of prescription drugs is going up at three times the rate of inflation. Yet this administration repeatedly sides with the health care industry and against working families.

Families are struggling to pay for college for their children. Tuition alone at a public 4-year college costs nearly 8 percent more this year than last year—an increase of more than triple the rate of inflation. The importance of higher education is increasing but the ability of middle-class families to pay for it is decreasing.

Out-of-work Americans are not only losing their health benefits, they are also losing their homes. According to new data from the Mortgage Bankers Association of America, home foreclosures are at all-time highs. Families who spent years saving to purchase their dream homes are now unable to afford to keep them.

These are the economic fears which are keeping American workers up at night—losing their job, losing their homes, losing their retirement savings, losing their health care, and paying for college.

Millions more of them are kept awake by these fears today than were 18 months ago. The Bush economy has turned the American dream into a nightmare for them.

It's time to restore economic security for workers and the Nation. Democrats support extending unemployment benefits, guaranteeing retirement security through pension reform, raising the minimum wage, insuring health care for the uninsured, and making prescription drugs and college more affordable for millions of Americans. America's working families deserve nothing less.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished Senator from Massachusetts for his powerful statement and my colleagues, the Senators from New York, Missouri, and Washington State, and others, in support of the Wellstone unanimous consent request. I know he will propound it momentarily. We are waiting for the assistant Republican leader to come to the Chamber.

In the meantime, I add my voice to those who have spoken this morning. The economic conditions in this country continue to worsen. We now have 2 million jobs that have been lost over the last 20 months. The number of the private sector unemployed has gone up by over 2 million people. We have seen the number of long-term unemployed go from about 650,000 now to 1.5 million people—those who are unemployed for more than 6 months. We have seen a $4.5 trillion loss in market capitalization. We have seen the number of foreclosures go up at a rate higher than anything in recent years.

Over and over, every single indicator points to the fact that this economy continues to worsen. Yet we have an administration that, for whatever reason, chooses to ignore it entirely.

The point we make this morning and have made now for some time is that at the very least we ought to be sensitive to those who are the victims of this tragic set of economic circumstances.

Felix Batista is one of those people. I heard about Mr. Batista when I was in New York in the last couple of days. Felix Batista worked for the World Trade Center for 23 years. After the tragedy of 9/11, Mr. Batista was left unemployed. He has yet to find a job more than a year later, in spite of the fact that he was an outstanding employee, that he has family, that he has run out of his unemployment benefits. He has no recourse but to continue to plead for help, ask for our understanding. I don't know whether Mr. Batista is watching this morning, but I am sure if there are those who are unemployed with access to C-SPAN, they have to be wondering, hoping, wishing the Senate would act expeditiously.

They didn't have to hope or wait 10 years ago. We went through a recession at that time and we extended unemployment benefits—not once, not twice, but on three occasions. We provided the safety net to those who were unemployed in the long term. We provided some hope, some opportunity to have a sense of worth. That is all we are asking, Mr. President. Give these people a chance. Give them the hope and the real opportunity they need to be able to pay their bills, buy groceries, to ensure that their rent payments are made so they are not evicted in addition to being unemployed. So I hope that, at the very least, we can extend unemployment benefits again. We have done it before. The need could not be more urgent.

While we can talk about all the other things we need to do about the economy, there should not be any difference in opinion whatsoever, Republican or Democrat, when it comes to economic security for these unemployed workers, these families left with nothing—the Felix Batistas of the world, who are good employees, who work hard, who expect at least some understanding for their circumstances now.

I yield to the Senator from Minnesota to make his unanimous consent request.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I know the Senator wants to speak on this matter as well. I can do this in a very brief timespan, though I think this is a critically important issue. I thank, as always, my colleague Senator KENNEDY for his leadership, along with Senator CLINTON.

My State of Minnesota has lost 40,000 jobs in the last 18 months. I have not seen anything like this for a long time. We have 123,000 Minnesotans who are officially unemployed, and that doesn't include people who are self-employed, people who work part time, and those people who have become discouraged workers. Right now, unemployed workers in Minnesota are looking for jobs, and they outnumber unfilled jobs by 2 to 1. This is a serious situation.

Look at the reports today about the stock market and the economy. The good thing we did in the 1990s, in a bipartisan way, is that when we were in the earlier years, before President Clinton, in recession, we extended the unemployment benefits another 13 weeks. That is exactly what we are talking about here—the Emergency Unemployment Compensation Act. It is a bipartisan measure. It is critically important. Basically what we are saying is that we ought to at least, with this Economic Security Act, provide an additional 13 weeks of extended benefits for workers who are either running out of benefits and won't even get the 13 weeks they are due in December or those who have already run out of all of their benefits. For those States with high levels of unemployment, we are talking about another 20 weeks of unemployment benefits.

Colleagues, this is compassion. This is bipartisan. The economy is not doing well, and the families we represent in our States are not doing well.

UNANIMOUS CONSENT REQUEST— S. 3009

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 3009, a bill to provide economic security for America's workers; that the bill be read the third time, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

I say to my colleague from Oklahoma, I don't know whether he wants to do this. I know Senator SMITH wanted to speak. If you are going to support this, I hope he can speak after—or maybe you want to let him speak a few words before. Would that be possible?

Mr. NICKLES. Is the Senator going to make a unanimous consent request?

Mr. WELLSTONE. The Senator can follow then. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 3009, a bill to provide economic security for American workers—this is to extend it another 13 weeks, and we should do that—that the bill be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object, I need to ask my colleague a couple of questions.

I am sympathetic to granting an extension of unemployment compensation. As the Senator mentioned, we have done it in the past. I am not familiar with the Senator's bill. Has the bill been printed yet? Not to get in too big a hurry, but is the bill available? My staff said maybe we can find it on the Internet, but I don't believe it has been printed yet.

Mr. WELLSTONE. I have a copy of the bill that I would be pleased to give to the Senator.

Mr. NICKLES. I would appreciate a copy. I would like to look at it.

Mr. WELLSTONE. There is nothing really complicated about this. We have a lot of people out of work. The economy is not doing well. They have run out of benefits, and they need another 13 weeks.

Mr. NICKLES. I don't think asking a couple of questions is too much to ask. Is this a clean 13-week extension in unemployment compensation?

Mr. WELLSTONE. The Senator is absolutely correct.

Mr. NICKLES. Is that all it is?

Mr. WELLSTONE. The Senator is correct. Although it is 13 weeks, it is 20 weeks for States with higher levels of unemployment.

Mr. NICKLES. Back to my question, it is not just a 13-week extension of unemployment compensation——

Mr. WELLSTONE. The same way, I say to my colleague, we did it in a bipartisan way in the early 1990s, where it was 13 weeks, and for States with higher levels of unemployment, it went to 20 weeks. We have done it before, and we can do it again right now.

Mr. NICKLES. I will just inform my colleague that I just need to see his bill.

One additional question: Has there been a cost estimate? I think I am familiar with old cost estimates on a clean 13-week extension, but I am not familiar with how much additional the Senator is asking. Does he have a cost estimate on his bill?

Mr. WELLSTONE. CBO has not given us an estimate. I think it will be $10 billion to $13 billion. If I may say to my colleague for a moment, I appreciate his question and what he is talking about, and we will let you read it. But people are flat on their backs. In the case of States with high unemployment, it would be 20 weeks. We have done it before. The CBO estimate—I have given you what I believe it is going to be. I am not neutral. We need to do this. We need to take this action.

Mr. NICKLES. Just for my colleagues' information, I have not seen his bill. I understand from staff it was introduced on Thursday, but it has not been printed yet. I would appreciate a copy of the bill. We would like to review it and see what it is. I will work with my colleague and my friend from Oregon, who I know is interested in the bill as well. We have other colleagues who are also interested in passing some extension of unemployment. Whether it goes beyond the 13 weeks or not needs to be discussed. There are Democrats and Republicans—other Senators—besides just a couple who want to address this issue.

At this point, I will object. But I will tell my colleague that I will work with all interested Senators to see if we can pass some form of unemployment compensation extension before we adjourn in the next week or so. We at least need to see the bill. This idea of having a bill introduced on Thursday and not printed in the RECORD yet, and then wanting to pass it on Tuesday, without other people looking at it, I think is premature. So at this point I shall object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, if I may say to my colleague from Oklahoma, I appreciate what I heard and his willingness to move forward. I can guarantee him that he will have the bill in a matter of seconds, lest we harp on the complexity of all of this to the point where it becomes a reason for not taking action; it is very simple and straightforward, as I have defined. We have done this before in a bipartisan way. God knows, there is not one Senator in here who doesn't understand the economy in their State. We can take prompt action right away, and for people out of work in Minnesota and around the country, they need this. We are pleased to do this. We will come back to the floor ASAP and pass it in a bipartisan fashion.

The PRESIDING OFFICER. At this time, all time remaining under morning business belongs to the minority.

Mr. REID. Parliamentary inquiry, Mr. President. The minority has how much time remaining?

The PRESIDING OFFICER. Two minutes 17 seconds.

Mr. REID. Mr. President, we have a number of people who wish to speak. We are told we are not going to be able, even though we are going forward for the fifth time, to invoke cloture. I do not think on our side we need all that time. Each side has a half hour. While my friend, the distinguished Senator from Oklahoma, is in the Chamber, I am wondering if we can have 15 minutes on our side for Senator LIEBERMAN to talk about cloture, and the other 15 minutes would be for morning business because Senator KENNEDY has been here all morning wishing to speak, Senator SARBANES is here, and Senator DURBIN has shown up.

I, therefore, ask unanimous consent we have the vote at 12:15 p.m. rather than 12 o'clock, and that the time be apportioned accordingly.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, the vote was originally scheduled for 12 o'clock, with 1 hour debate equally divided. I know my colleague from Oregon wishes to speak on the unemployment compensation issue. I know he has not had a chance. Does the Senator want to move the vote to 12:15 p.m.?

Mr. REID. Yes, we want to use 15 minutes of Senator LIEBERMAN's time for morning business. Senator LIEBERMAN only needs 15 minutes. He is so good he can handle it in 15 minutes.

Mr. NICKLES. That is perfectly acceptable. The assistant majority leader is basically saying this side gets 30 minutes and his side gets 30 minutes, and he is going to change the time allocation of the 30 minutes?

Mr. REID. That is right.

Mr. NICKLES. I have no objection, except I would like the Senator from Oregon to be able to speak.

Mr. SMITH of Oregon. I wonder if I may take the remaining 2 minutes on the minority side even though I am speaking for the majority position.

Mr. NICKLES. The Senator is entitled to speak. They can get their vote at 12:15 p.m. Can the Senator from Oregon have 5 minutes to speak on the unemployment compensation issue, and then we will divide the hour as described?

Mr. REID. The Republican side has 2 minutes left. He can take that 2 minutes.

Mr. NICKLES. We will give him 5 minutes.

Mr. REID. From where does his 5 minutes come? I do not care as long I know.

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senator from Oregon have 5 minutes and then the hour be apportioned as described by the assistant Democratic leader.

Mr. REID. I dare the Presiding Officer to tell us what we have just done.

Mr. NICKLES. The Senator from Oregon gets 5 minutes and then we have 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask the Chair, how much time do we have for the three speakers on our side?

The PRESIDING OFFICER. Thirty minutes.

Mr. REID. Ten minutes per speaker. Ten minutes to Senator KENNEDY, 10 minutes to Senator SARBANES——

Mr. SARBANES. Five minutes. We are saving 15 minutes for Senator LIEBERMAN. It will be 5 minutes.

Mr. REID. Five minutes for Senator KENNEDY, 5 minutes for Senator SARBANES, 5 minutes for Senator DURBIN, and then the other 15 minutes for Senator LIEBERMAN. If he feels very generous, he can yield part of his 15 minutes to these other Senators.

The PRESIDING OFFICER. The Senator from Oregon.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 2002

Mr. SMITH of Oregon. Mr. President, I probably will not use all the 5 minutes allocated. I thank my colleagues for their courtesy in granting me this time.

I have been on the floor this morning listening to charges and countercharges between the parties as to who is to blame for the current state of the economy. Frankly, I do not believe we planned this economy. I think Congresses and Presidents are given too much credit and blame for the free-market system. I think the people at home could care less about all the fingerpointing. In my view, now is the time to come together, not as partisans but as Americans and as bipartisans, if you will, to support legislation that is critical to those who are bearing the brunt of the economic downturn our country has been experiencing.

I have joined Senator KENNEDY as the lead cosponsor of this legislation to extend emergency benefits for workers who have already exhausted their benefits under the Unemployment Insurance Program. I am here again to offer my support for another attempt to extend the emergency benefits for unemployed workers.

Last week, Senator KENNEDY, Senator WELLSTONE, and I introduced the Emergency Unemployment Compensation Act of 2002. This is yet another effort to push the issue to provide benefits from this Congress before it adjourns.

I note for the record, I have been pushing emergency benefits for unemployed workers in Oregon for a year now, since October of 2001. After months of work, last March Congress finally extended emergency unemployment benefits to workers who have lost their jobs during the economic downturn, but this is no longer adequate.

Under the extension, unemployed workers in 48 States received 13 additional weeks of benefits, and those in 2 States received 26 weeks. My State, the State of Oregon, was one of those two States, as our economy has been hurt, in a relative sense, worse than any other in the United States.

Now those benefits are ending for Oregonians. Starting this month about 1,000 Oregonians a week will stop receiving badly needed emergency unemployment benefits. That is a lot of buying power that will leave the economy of the State of Oregon if it happens but, more importantly, there will be an awful lot of human hardship that will ensue among these Oregonians if it happens.

These benefits are not gratuitous. They are not excessive. They are the barest of safety nets required by these families. For many of these families, as I have said, 1,000 a week, these benefits will cease if we do not act before we go home. For that reason, we are, again, introducing legislation, this time the Emergency Unemployment Compensation Act of 2002, in an effort to provide for these families.

Under this new legislation, those Oregonians will receive up to an additional 20 weeks of emergency benefits. This is a temporary extension through July of 2003. Oregon's unemployment rate is simply the highest in America, and this is the least we can do for those who are bearing most of the burden of this economic downturn.

I am going to join with Senator KENNEDY and Senator WELLSTONE again to work in a bipartisan way to get this bill passed before we go home and influence our leadership to come to an agreement, as the assistant Republican leader indicated his willingness to do. This is a must-do before we go home.

I thank my colleagues for the time and yield the floor.

Mr. BINGAMAN. Mr. President, I rise today to address the increasingly serious problem of unemployment in the United States, in particular the number of workers who have exhausted their unemployment insurance benefits and are still unable to find work.

According to the latest data from the Department of Labor, the adjusted unemployment rate in the United States is now 5.7 percent, with over 8.1 million, 8.1 million, workers now unemployed. 1.4 million other workers who want work but cannot find it are not included in this total because they had not looked for work in the four weeks before the survey was completed.

In my State of New Mexico, we are doing much, much worse than this. Our adjusted unemployment rate is 6.3 percent, which puts us at number nine in the Nation in terms of the worst unemployment rate. Our unadjusted unemployment rate is 6.6 percent. We have had an increase of 31.6 percent in initial unemployment insurance claims since July 2001, and an increase of 33.4 percent in continued unemployment insurance claims in that same timeframe.

The bottom line in my State and across the Nation is that jobs are being lost, and there are no new jobs being created that workers can apply for. Even worse, the workers that have not been able to find work now face an additional crisis, that being that they have been on unemployment insurance for as long as allowed and will soon no longer be eligible for new benefits.

According to the Department of Labor, by the end of August over 1.1 million workers have exhausted the extended unemployment insurance benefits provided by the stimulus legislation and now have no funding at all available to them. According to the Center for Budget and Policy Priorities, this number will rise to over 2.2 million by the end of 2002. The number of workers who exhausted their regular unemployment insurance benefits in August 2002 was 46 percent higher than the number of who exhausted such benefits in August 2001. The number who exhausted their regular unemployment benefits in the first six months of 2002 is 75 percent greater than the number who exhausted these benefits in the first eight months of 2001, and is more than double the number who exhausted these benefits during the same months of 2000.

For workers in New Mexico and across the Nation, these data are truly frightening. And in spite of these data, the comments we keep hearing from the administration is that we are on the verge of a recovery, or we have a strong foundation for a recovery, or the recovery is just around the corner. But I see no evidence of this. Investment in new research and development is falling. Investment in new equipment is flat. Production is falling. Layoffs are rising. From what I can tell the economy stalled, and I have seen no evidence at all that the administration knows what to do. Even worse, from what I can tell there is a complete lack of concern in the administration about where the economy is going right now. Nothing is being said about what should be done or when it should be done.

Given this lack of response by the administration, I say it is time we in Congress act. The Emergency Unemployment Insurance Act of 2002 is a very positive step in this direction. Its purpose is very straightforward: it will revise and extend the temporary unemployment program to provide an additional 20 weeks of temporary extended benefits for "high unemployment" States, States like New Mexico, and an additional 13 weeks to all other states until June 2003.

As a practical matter, this means workers can continue to get unemployment insurance benefits while they continue to search for work. In my view it is the least we can do for these folks. Unemployment insurance offers at most a subsistence-level existence, and most workers who receive benefits are forced to choose between paying for education, health care, mortgages, and food. These are folks that have played by the rules over the years and now find themselves in hard times. Personally, I would prefer that we offer them more, but if we cannot, then it seems to me we should be able to offer them some minimal financial security when they need it the most.

So I want to add my voice to the others today and say that we must pass this legislation before we go out on recess. American workers deserve to be dealt with in a fair and equitable manner, especially in this time of need. They need a lifeline, and its up to us to provide it. I recognize that there are a number of important issues that we have to address in a very short timeframe. But from where I sit, this is a priority. The administration can talk all it wants about how the economy is going to improve, but what matters to the folks in my home state is whether they can find good jobs and keep them. Right now, they can't do that. We need to give them some help until they can. This is one step in that direction.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mrs. CARNAHAN.) Morning business is closed.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will resume consideration of H.R. 5005, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Gramm-Miller amendment No. 4738 (to amendment No. 4471), of a perfecting nature, to prevent terrorist attacks within the United States.

Nelson of Nebraska amendment No. 4740 (to amendment No. 4738) to modify certain personnel provisions.

The PRESIDING OFFICER. Under the previous order, there will now be an hour for debate equally divided between the two leaders or their designees. The Senator from Maryland.

Mr. SARBANES. Madam President, pursuant to the unanimous consent agreement, I have been allocated 5 minutes to speak?

The PRESIDING OFFICER. The Senator is correct.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 2002

Mr. SARBANES. Madam President, I rise in very strong support of the legislation to extend unemployment insurance benefits, the Emergency Unemployment Compensation Act, which Senator WELLSTONE and others have introduced. I am very pleased to have joined in cosponsoring this legislation.

I have a few points to make in the limited amount of time that has been allotted to me this morning. First of all, we have extended unemployment benefits in every previous recession. The concept behind extending benefits is that when the economy goes soft and people lose their jobs, in order to help support them, we extend unemployment benefits beyond the standard 26 weeks. Otherwise, benefits are limited to 26 weeks. Let me underscore we are talking about working people. One cannot draw unemployment insurance if one has not been working. So by definition, the people we are trying to help are people who were working and producing and helping to move our economy forward and, because of conditions beyond their control, find themselves out of a job. Therefore, they are out of income that is needed in order to support themselves and often their families.

Traditionally, we give benefits for 26 weeks and then we figure that people will find a job and go back to work. But when the economy goes soft, then we have a very difficult problem on our hands, which is there are not any jobs to go back to.

Most of the economic indicators now are trending downwards. We continue to face a serious economic problem, and the effort to extend the unemployment insurance benefits is a response to this pressing need. This need is felt by unemployed workers all across the country as they confront the problem of how will they take care of their families, and where will they find the income with which to make it from day to day.

Unemployment insurance pays only a small percentage of what people were previously earning. When a person is receiving unemployment insurance benefits their income takes a real hit. In any event, these benefits provide unemployed workers some support so that they are not completely cast out without any means of sustenance.

Unemployment insurance has been carefully devised to be a countercyclical measure against recession because it provides extra income at a time of economic downturn. Almost by definition this money will be spent since the formerly employed workers are receiving benefits that are far below what they were previously earning. Thus, these benefits will all go into the income stream. They will help to provide an impetus to the economy. Those who talk about how can we get the economy moving again, this is one way to do it.

Furthermore, there is a trust fund that is designed to take care of paying these unemployment benefits. Payments have been made into the trust fund in good times, such as when we experienced low unemployment rates over the last 7 or 8 years, and as a result of this we have well over $20 billion in that Federal trust fund. That money is in the trust fund because it was paid for the purpose of paying unemployment benefits when we confronted an economic downturn.

People ask: Where is the money going to come from? It is going to come from the trust fund. It ought to come from the trust fund. That is why the trust fund is there, and that is why the money has been paid into the trust fund—for the purpose of providing a safety net at the very time that we run up against the kind of economy we are witnessing today.

So the rationale for extending these unemployment benefits is overwhelming. It is consistent with past precedents. We have done it in every previous recession. It conforms to the structure of the system in the sense that we have paid into a trust fund to pay this money out. It will meet the pressing needs of formerly employed workers now confronting the very real problem of how they are going to support their family now that they have lost their income, and it will provide a boost to the economy because this money will be paid to formerly employed workers who will spend this money back into the economy, helping to boost this economy.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. SARBANES. I urge my colleagues to support this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, it is my understanding that I was allotted 5 minutes under the unanimous consent request.

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. Madam President, we are discussing unemployment insurance. A few of these charts really tell the story. If we take a look at the economic record over the last year and a half, we see some rather dramatic things have occurred. When President Bush took office in January 2001, 648,000 Americans were listed as "long-term unemployed." That is more than just a temporary loss of a job. These are people who have been unemployed for more than 26 weeks.

By August of this year, that number had more than doubled to 1.4 million Americans facing long-term unemployment. In fact, if we compare the record of the Bush administration on private sector jobs, it is a dramatic indication of the failure of our economic policy.

This chart starts with President Eisenhower, goes through every single President, all the way to President George W. Bush. Without exception, every one of these Presidents saw an increase in private sector jobs during their administration. The largest increases came under President Johnson, then President Carter and President Clinton. There is only one President who has seen a decline in the number of private sector jobs in their administration, and that is the current President, George W. Bush.

So fewer jobs are being created, and there is higher unemployment. Traditionally, the Senate has not wasted any time in reacting. Take a look at what happened in the second worst record of the last 50 years—under President Bush's father—when they had a job increase of only four-tenths of 1 percent. When they faced high unemployment under President Bush's father, the Senate went to great lengths to pass extensions of unemployment benefits, realizing there were hundreds of thousands, perhaps millions, of Americans out of work. Look at how quickly Congress responded, not only once but five times, to increase and extend unemployment benefits.

Then look at the votes in the Senate. There is not a single vote with fewer than 66 Senators supporting it. In some cases, as many as 94 Senators supported it. So there has been strong bipartisan support.

I cannot understand this, but why is this administration resisting the effort of providing unemployment compensation to Americans who have lost their jobs? The President's economic policy has failed. It has created an economy which is sluggish. Take a look at the stock market on a day-to-day basis and tell me there is any indication of hope on the horizon.

This morning, I met with representatives of major businesses. I went around the table and asked: What do you think the future holds? And not a single one of them is optimistic beyond the range of a year or two from now. So more and more people will face unemployment.

Why, then, should unemployment insurance become this political football? The Democratic side is insisting we extend unemployment insurance, to make certain that people have some more money to live on in the hopes that they can find another job or at least keep their families together during some of the most perilous times.

In the State of Illinois, we announced an unemployment rate in the month of August that put us fifth in the Nation for the highest unemployment rate. We frankly have a situation now where across this country many people are losing their jobs and, frankly, have nowhere to turn. The August 2002 unemployment rate of 5.7 percent nationwide is more than 18 percent higher than it was the year before.

So under the Bush administration, the value of people's savings has declined because of the stock market crashing. We have seen people's pension plans decimated and their plans for their actual activity changed because they have had to decide to go back to work.

I heard a report recently where one investment counselor said: I never dreamed there would come a day when I had to call a retired person and say I am sorry, I have taken a look at your portfolio, and you are not going to make it. You have to go back to work. But this person said they had to do it. That is a reality. That is what is facing people.

So there is a rush on for these jobs and for a lot of people who have lost their pension savings. Now, there is a situation where people who are unemployed have nowhere to turn. They have run out of unemployment insurance benefits.

This morning, the minority whip, Senator NICKLES from Oklahoma, said the Senate Republicans would certainly consider unemployment insurance extensions.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. DURBIN. Madam President, I believe Senator KENNEDY was given 5 minutes, and I ask unanimous consent that I be given that time pending his return.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. The point I am getting to is that this effort by Senator KENNEDY, Senator CLINTON, Senator WELLSTONE, myself, and Senator SMITH of Oregon is a really tradition that we have seen over and over again in the Senate and the Congress. When we are in a recession, the best thing that can be done to spark economic activity is to give some buying power to people who are out of work. We have done that repeatedly, no questions asked.

For some reason, the Bush administration, which has presided over this recession getting deeper, darker, and gloomier, does not want to do that. They do not want to provide the basic necessities of life for these people. I do not understand that. One would think the President would have stepped up as his father did three different times and say we are going to provide the resources for these people who, through no fault of their own, are out of work. Yet the Bush administration has not done it.

The situation gets worse. The Bush economic record shows in private sector jobs, we have lost more than 2 million jobs. We had 111.7 million private sector jobs when President George W. Bush took office. Today, we are down to 109.6 million. It is an indication of how serious it is. Unemployment has become a national phenomenon under this failed Bush economic record.

I mentioned earlier the situation with people and their savings and investments. This chart is a graphic presentation of something we all know. Look at the impact of President Bush's policies on worker retirement savings. Take an average person. Assume, for example, they had $100,000 in their 401(k) retirement plan as of the date President George W. Bush took office and they had it invested in the Standard & Poors 500—considered a pretty good barometer of business success in America. They would have lost 30 percent of the value of their retirement. People who were tied into it have seen their retirement savings go down. Many have been forced to go back to work. The stock market losses, $4.5 trillion, are an indication of lost stock market wealth since President Bush took office. I caution people who are following this debate, this chart was prepared last week. The numbers are worse today. We know what is going on.

We need to do something in this country. We focus on national security. We should. Shouldn't we spend time discussing economic security? Or some time addressing this dramatic loss of wealth and savings in America through no fault of the families who thought they were well invested in a strong economy? This economy has hit the skids under President Bush. His idea to hold a conference with close friends in Texas will not cut it. We need to do things to make a dramatic difference.

Ask economists the thing to do to put life back in the economy, and they say: Put buying power back in the hands of people who are unemployed. They will spend the money. They have to, for the necessities of life. Spending it, with the multiplier in our economy, creates jobs as a result.

This Senate, before it adjourns and goes home to campaign or relax or whatever individual Senators care to do, should face its responsibility. The responsibility faced earlier by President Bush's father should be faced by this President Bush as well, to extend the unemployment benefits.

This bill we are supporting, the Emergency Unemployment Compensation Act of 2002, ensures that the millions of workers exhausting their regular unemployment benefits will have a safety net on which they can rely. It ensures that over 800,000 workers benefitting from temporary extended benefits at the end of the year will not be faced with the abrupt expiration of that benefit on December 28. It ensures that over 863,000 workers who have already exhausted their temporary extended benefits and remain unemployed for over 39 weeks have a place to which to turn. It is basic. It is essential.

For goodness' sake, don't we owe it to the people of America to talk about the issues that hit them at home? Hit them in their pocketbooks? It is enough to talk about the Middle East and Iraq 23 hours a day, but can we spend an hour a day on the economy? I don't think it is unreasonable. If the President would suspend his conversations relative to campaigns for 1 hour a week to address the economy, it is something the American people believe is long overdue.

I hope my colleagues will support this extension of unemployment benefits.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Parliamentary inquiry: Are we on the homeland security bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Madam President, I have sought recognition to urge my colleagues to work to resolve the outstanding differences on the labor-management issues because I believe the two sides are very close. I submit further that it is of vital importance that the Congress proceed to enact legislation on homeland security and the Senate move ahead to iron out the remaining differences, go to conference with the House, and then present a bill to the President for signature. It is imperative that all of the intelligence agencies be brought under one umbrella in an effort to avoid a repetition of 9/11.

My analysis shows me that had all of the dots been put together prior to 9/11, 9/11 might well have been avoided. I am not prepared to accept the Intelligence Committee's analysis that another terrorist attack will occur. I believe if we put all the dots together, we can prevent it.

Had we had the Phoenix FBI report, together with the information from Kuala Lumpur about two of the hijackers known to the CIA, not told to the FBI or INS, had we had the National Security Agency warning on September 10 that something was going to happen the next day, had the warrant under the Foreign Intelligence Surveillance Act been pursued as to Mr. Zacarias Moussaoui, there would have been a blueprint. But the system broke down because there was not one overall umbrella.

What we are faced with now, the differences in the two positions, involves the labor-management issues. Last Thursday, we had a discussion in the Senate where it was agreed that the provisions of the Nelson-Chafee-Breaux amendment did not supplant the provisions of title V which have a national security exemption but were in addition to the existing provisions of title V on collective bargaining. When you take a look at the language in the Nelson amendment, it is very close to the language of the existing law. The existing law refers to counterintelligence, investigative, or national security, and the Nelson amendment refers to counterintelligence or investigative work directly related to terrorism investigation.

It may be that the language of Nelson would have to be modified slightly so that instead of providing for a "majority" of such employees, it would be a "significant number" of such employees.

Then with respect to the issue of negotiability, the Gramm-Miller bill has six categories: Performance appraisal under chapter 43, classification under chapter 51, pay rates and systems under chapter 53, labor-management relations under chapter 71, adverse actions under chapter 75, and appeals under chapter 77.

The Nelson amendment would leave in four of those categories—performance appraisal, classification, pay rates and systems, and adverse actions—and would subject their implementation to review by the Federal Services Impasses Panel, seven appointees, all appointed by the President.

It seems to me we could borrow the language from chapter 71 under labor-management relations, under a national security waiver, and provide flexibility which the President is seeking in the event that there is a national security issue.

I believe it is very important we resolve this matter so we can move ahead with enactment of a homeland security bill. As I said last Thursday and repeated yesterday, I have not taken a position in favor either of the provisions of the Nelson amendment or of the provisions which are in the Gramm amendment.

But I believe we are so close together these differences can be reconciled.

I wonder if I might have the attention of the manager of the bill, the Senator from Connecticut. Will the Senator from Connecticut respond to a question?

I ask unanimous consent I may ask a question of the Senator from Connecticut without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. My question to the Senator from Connecticut is:

When you take the language of title V, chapter 71, which specifies the President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines (a) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative or national security work; and, (b) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements or considerations;

And, add to that the language from the Nelson-Chafee-Breaux amendment which specifies that the President could not use his authority without showing that, (1) the mission and responsibilities of the agency or subdivision materially change; and, (2) a majority of such employees within such agency or subdivision have as their primary duty intelligence, counterintelligence or investigative work directly related to terrorism investigation.0

My question is, isn't it true the provisions of existing law and the additions made by the Nelson amendment are very close?

Mr. LIEBERMAN. Responding, Madam President, to the Senator from Pennsylvania, that is my understanding as well. The language with regard to the particular section cited by the Senator from Pennsylvania in the Nelson-Chafee-Breaux language is supplementary to what is in the statute, and essentially adds those two extra determinations the President makes to waive collective bargaining rights of Federal employees because of national security reasons, and the determination is totally that of the President.

Mr. SPECTER. Madam President, I direct another question to the Senator from Connecticut; that is, it has been reported to me the White House may be willing to accept the language of Nelson on the clause if a "majority" of such employees was modified to "significant number" of such employees. I ask the Senator from Connecticut if he thinks we might be able to make that minor modification if that would in fact close the area of disagreement on this issue.

Mr. LIEBERMAN. Madam President, responding to my friend from Pennsylvania, I think the question in the report of what the White House has really demonstrates how close we are to an agreement. I prefer the word "majority;" that is, to set some standard. Basically, this provision of Nelson-Chafee-Breaux gives some minimal due process protection for Federal workers in the future from a President who would arbitrarily apply this national security waiver to remove collective bargaining rights of Federal employees.

One of the elements of due process is to say for the determination to be made, a "majority" of the employees of the agency or office department would have to be involved and, speaking generally, national security. A "significant" number seems a little lower. I think we can probably find a word. It is a little too low, it seems to me, between those two words to grant both some comfort level for Federal employees without diminishing the authority of the President.

I say again these statements are some of the reasons the President will have to make his determination. But the President's determination, for all intents and purposes, is final. As we discussed last week, there is one reported case where an appeal was made of a determination by President Reagan. He just gave an order. He didn't make a determination. The circuit court even upheld that because the presumption in favor of the President when he invokes national security is so high.

But I welcome this colloquy with the Senator from Pennsylvania. I think somewhere, if the concern of the White House on this particular section is about the word "majority," we can find another word which I hope can satisfy all concerned and still provide that minimal due process for Federal employees.

After this vote that is coming up, I hope we will continue to work. I fear cloture will not be invoked. I think the Senator from Pennsylvania, along with my colleague, the Senator from Tennessee, can play a critical role in getting us over this last obstacle which stands between us and adopting a bill we all say we agree on 95 percent of, except this major disagreement.

Mr. SPECTER. Madam President, I thank the Senator from Connecticut for that answer. The purpose of the question and the colloquy is to demonstrate how close we are; that when the Senator from Connecticut says he prefers language of a "majority" of such employees to a "significant number" of such employees, I can understand his preference. But what I especially liked about his answer was his determination which matches mine to find language which will find another word which will bridge the gap. When we talk about a 95 percent agreement, I think we are really much closer than that when you really strip down all the language.

If I might have the attention of the Senator from Connecticut again for another question, moving now to the issue of so-called flexibility where the Nelson amendment is willing to give the flexibility which the President sought under four of the six chapters, subject only to reference to the Federal Services Impasses Panel in the event of disagreement over implementation—again, noting that all seven of those appointees are designated by the President—the thought I believe might bridge the gap would be if as to five of these areas—performance appraisal, chapter 43; classification, chapter 51; pay raise systems, chapter 53; adverse actions, chapter 75; and appeals, chapter 77, excluding only labor-management relations under chapter 71, for which there already is a national security waiver—my question to the Senator from Connecticut is whether we might be able to bridge the gap by giving the President national security authority for waiver to devise the human resource management system in the event the President makes a determination national security requires it, borrowing the language from chapter 71 where the agency or subdivision has a primary function of intelligence, counterintelligence, investigative or national security work, and the human resources arrangements cannot be applied in a manner consistent with national security requirements and considerations so in effect we are borrowing the national security waiver provisions which apply as to collective bargaining for the other five categories where the President is seeking some flexibility.

Mr. LIEBERMAN. Madam President, responding through you to the Senator from Pennsylvania, I genuinely appreciate the thought and effort he is giving to this to try to find a way out of an impasse that is stopping us from doing what we really have a responsibility to do, which is to create the Department of Homeland Security as soon as possible. And he has just offered, on the floor of the Senate, a new idea, at least one I had not heard before and I do not believe has been part of the negotiations.

I think we ought to try to sit down—involving, obviously, some of those who have been working on this compromise; Senators NELSON, CHAFEE, BREAUX, folks from the White House, Senator THOMPSON and I and yourself, I say to you, Senator SPECTER—as soon as we can to see whether this idea you have offered can be a breakthrough.

The fact is, on collective bargaining rules, as I have been saying throughout this debate, not on a national security premise for eliminating the right to be a member of a union, but throughout the statute there is a system that says that a President, a Secretary, an agency head, in time of national emergency, can do almost anything to override collective bargaining provisions because the national emergency, national security comes first.

In a way, you are suggesting a similar priority, hierarchy, for the civil service rules. It is an idea very much worth considering. I fear we are kind of on automatic pilot, with a cloture vote—the fifth one, if I count correctly—on which we are not going to invoke cloture. And the clock is running because we are heading, soon, towards a debate on an Iraq resolution, which would take the homeland security measure back to the calendar.

So I welcome your thoughtful initiative. I, for one, will be glad to spend any amount of time with you and the others I mentioned, and anyone else, to see if we can break this logjam, present some due process for Federal workers—which I know is your desire as well, I say to Senator SPECTER—but also preserve the executive authority, not just of this President but of the Presidency on into the future, particularly when national security is involved.

So I thank my colleague, and I hope we can go to work on this idea.

Mr. SPECTER. Madam President, I thank the Senator from Connecticut for that answer. When he focuses in on the national security requirements, I think he puts his finger on the nub of the issue: That if there is a national security interest here that would warrant the waiver on the collective bargaining matters, which are already set forth in existing law, the same rationale ought to apply to give the President greater authority under the other chapters where there really is a national security issue at stake.

I quite agree with the statement by the Senator from Connecticut that we have to move with speed because if we do not come to terms, this matter will be removed from the calendar in deference to the consideration of a resolution authorizing the use of force as to Iraq.

We all know there is a target date of this Friday, October 4, which has been delayed until next Friday, October 11; and that is the date by which we are likely to be out of session. So if we do not bridge this narrow gap now, and if we then go on to the resolution for the use of force, it is highly likely we will not conclude the legislation on homeland security before we recess. I think that would be a grave mistake.

The proponents of the Gramm-Miller amendment have asked for a vote on their amendment without any intervening second-degree amendments. And while I would be prepared to give the proponents of Gramm-Miller such a vote, the proponents of the Nelson amendment have a right, as a second-degree amendment, to proceed to have a vote on their second-degree amendment.

So while I supported the position and voted against cloture when the cloture motion was made on Gramm-Miller last week—and I did so in part to give an opportunity for compromise on this matter, but also in part to leave an opportunity for an amendment which this Senator intends to offer, which would bring all of the intelligence agencies under one umbrella—but it seems to me at this point that we ought to move ahead and invoke cloture on Gramm-Miller. That will then bring to a head the second-degree amendment offered by Senator NELSON. And then we would finally get down to some of the really tough negotiations to try to bridge the gap. There is nothing that promotes the negotiations like the imminence of a vote on a specific subject.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. May I inquire as to how much time we have left?

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield?

Mr. SPECTER. I do, without losing my right to the floor, for a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. Madam President, let me withdraw that inquiry for the moment and say that it appears we are about out of time with regard to those who oppose cloture. The time has been running against us. And now it appears that the Senator from Pennsylvania supports cloture. I would suggest that the time should not run against those of us who oppose cloture. Should that time not be allocated differently?

Mr. SPECTER. Madam President, I think the Senator from Tennessee raises a very good point. I will yield the floor momentarily. But before doing so, if I might have the attention of the Senator from Tennessee. I will yield the floor after a question to the Senator from Tennessee.

The Senator from Connecticut and the Senator from Tennessee and I had been in the cloakroom discussing these matters, and we had discussed how close we are. As the Senator from Tennessee has noted, the Senator from Connecticut ventured the view that we were very close on the two labor-management issues, as to adding the language of Nelson to the existing law which retains the national security waiver, and then the suggestion of giving the President flexibility where the President makes a determination of national security.

I inquire of the Senator from Tennessee what his view is as to how close we are to resolving these two outstanding issues.

Mr. THOMPSON. Madam President, if I may respond.

Unfortunately, not as close as I think the Senator apparently thinks. With regard to the labor-management relations issue that was referred to initially by the Senator from Pennsylvania, and was the subject of the conversation, the dialog, a moment ago with the Senator from Connecticut with regard to the Presidential authority, the point was made that there is a disagreement with the wording of the portion of the amendment that refers to the "majority of the employees." The suggestion was made it should be "substantial number of employees." The Senator is correct that is a point, but it is only one point.

My understanding is we have submitted language to those on the other side of this issue that addresses, in addition to that, the concern that the President is limited to acting with regard to matters of terrorism only.

It is the last couple of lines of page 12, of the draft that I have anyway, where the current language says "or investigative work directly related to terrorism investigation."

The language that has been submitted by us is "or preventing investigation or responding to terrorists or other serious threats to homeland security." In other words, why should this President be limited to exercising his authority to a more narrow range of activity—that would be terrorism—when there could be some other national security issues that prior Presidents have had the opportunity to deal with that this President would not? So the compromise was suggested to keep the focus on terrorism but also add other serious threats to homeland security.

As I understand it, that suggestion lies at this moment with the other side. We have not had a response to that. I wouldn't want those listening to think there is only a one-word difference between us with regard to that issue, as unfortunate as that may be.

Mr. SPECTER. Madam President, I thank the Senator from Tennessee for that response. He raises a good issue. I agree with him the earlier language which exists presently, categorizing national security generally and consistent with national security requirements and considerations, is the broader language. I do not think the additional language of terrorism seeks to limit that, but I think the Senator from Tennessee raises a good point that it ought to be clarified so the national security considerations are broader than just terrorism.

I direct the attention of the Senator from Tennessee to the second consideration; that is, whether a national security waiver or determination by the President of national security considerations would be sufficient on the issues of the flexibility on the other five chapters.

Mr. THOMPSON. Madam President, that is certainly worth considering, as Senator LIEBERMAN reflected a moment ago. Once you get down to it, the issue has to do with two situations, as I see it. One has to do with disputes involving collective bargaining agreements and what you do about that. There are issues as to matters somewhat minor, if not frivolous. Some matters have taken years to resolve—whether or not the annual company picnic was called off and things of that nature.

On the other hand, there are other issues that may be part of a collective bargaining agreement that might limit, for example, the authority to transfer someone to a border where that was needed.

Unless there is a national emergency situation, the President or the Secretary should not be limited to situations that have already become emergencies. They should be proactive and preventive. That is one category of issues.

I could see why we might have the status quo with regard to the run-of-the-mill kind of collective bargaining issues we have, limit the Secretary's flexibility even with regard to those matters, as long as with regard to the matters that really mattered, the President had such a waiver or a certain amount of discretion in that area.

The same thing could be said with regard to the second category of matters at issue; that is, matters concerning individual employees in terms of dismissal, discipline, things of that nature. It often takes up to 18 months to process—multilevel, multiappeal, multiavenue, multimonths, into years. The status quo with the national security waiver would be less likely to work in such a situation because I can't imagine a situation where the President would want to step in and intervene with regard to the disciplining of one particular employee.

There is a category, that first category I mentioned, of things where what the Senator suggests should be seriously considered.

The PRESIDING OFFICER (Mrs. CLINTON). Time allotted to the minority has expired.

The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, had my friend from Tennessee used his time?

The PRESIDING OFFICER. Yes.

Mr. THOMPSON. In a manner of speaking, I have now discovered that the Senator from Pennsylvania is on the other side of this issue.

Mr. LIEBERMAN. May I say to my friend from Tennessee, that was a surprise to me as well, a pleasant surprise in my case, one I appreciate.

Mr. THOMPSON. Madam President, I ask whether or not the Senator would entertain a unanimous consent request perhaps for however much time the Senator needs, 15 minutes, and perhaps 10 minutes additional time for me.

Mr. REID. Reserving the right to object, we have our party conferences starting at 12:30. We really have a lot to do today. If we do that, this vote will not be completed until nearly 1 o'clock. I would have to respectfully object.

The PRESIDING OFFICER. The Senator from Connecticut has 12 minutes 30 seconds remaining.

Mr. THOMPSON. Would the Senator from Connecticut give me a couple of minutes of his time?

Mr. REID. Madam President, I ask unanimous consent that the Senator from Tennessee have 3 minutes on his own time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I rise to express my deep disappointment in the language in the Gramm substitute related to unaccompanied alien children. As a result, I stand in support of Title XII of the Lieberman substitute, which contains provisions based on S. 121, bipartisan legislation I introduced in Jan. 2001.

My disappointment is best understood with the following example. Not long ago, the Nation's attention was focused on the plight of Elian Gonzalez and whether he should be allowed to stay in the U.S. or return to Cuba.

At the same time, a young 15-year old Chinese girl stood before a U.S. immigration court facing deportation proceedings.

She had found her way to the United States as a stowaway in a container ship captured off Guam, hoping to escape the repression she had experienced in her home country.

And although she had committed no crime, the INS sent her to a Portland jail, where she languished for seven months. When the INS brought her before an immigration judge, she stood before him confused, not understanding the proceedings against her.

Tears streamed down her face, yet she could not wipe them away because her hands were handcuffed and chained to her waist.

While the young girl eventually received asylum in our country, she unnecessarily faced an ordeal no child should bear under our immigration system.

This young Chinese girl represents only one of 5,000 foreign-born children who, without parents or legal guardians to protect them, are discovered in the United States each year in need of protection.

When discovered by Federal authorities, these children are not always greeted with the special care and attention they deserve. Nearly 2,000 of them served time in juvenile jails, even though most had committed no crime. One child was even detained for 5 years. Many are handcuffed and placed in cells with other juveniles who have committed serious violent crimes.

Because of their age and inexperience, children may not be able to articulate their fears or testify to their needs with the same degree of accuracy as adults. Yet despite these facts, no Federal laws and policies have been developed and implemented, thus far, to protect them.

While not all children will merit asylum, providing them appointed counsel would help the INS and the courts understand the special circumstances of the child's arrival in the United States, while at the same time help the child to understand the process he or she is undergoing.

In my mind this goes a long way in explaining my opposition to the Gramm substitute as it relates to unaccompanied alien children and why the Lieberman substitute is much stronger in this regard.

Both pieces of legislation sought comprehensive reform in the way in which these vulnerable children are treated while under the watch of immigration authorities.

The Gramm substitute, however, would strip many of the important reforms relating to unaccompanied alien children from the homeland security bill.

Moreover, the provisions with respect to these children included in the Gramm substitute are nothing more than a legislative sleight of hand that appears to make reforms, but in reality would render those provisions meaningless.

Clearly, most unaccompanied alien children do not pose a threat to our national security, and must be treated with all the care and decency they deserve outside the reach of this new Department.

More specifically, the unaccompanied child protection provisions now contained in Title XII of the Lieberman substitute would make critical reforms to the manner in which unaccompanied alien children are treated under our immigration system.

These provisions would also: preserve the functions of apprehending and adjudicating immigration claims of such children, and, when the situation warrants, of repatriating a child to his home country, within the Immigration Affairs Agency, and under the larger umbrella of homeland security.

The unaccompanied alien child protection provisions would transfer the care and custody of these children to the Department of Health and Human Services. Its Office of Refugee Resettlement has real expertise in dealing with both child welfare and immigration issues.

At the same time, these provisions would establish minimum standards for the care of unaccompanied alien children; provide mechanisms to ensure that unaccompanied alien children have access to counsel; permit the Director of the Office of Refugee Resettlement to appoint guardian ad litem, if necessary, to look after the children's interests; and provide safeguards to ensure that children engaged in criminal behavior remain under the control of immigration enforcement authorities at all times.

Roughly 5,000 foreign-born children under the age of 18 enter the United States each year unaccompanied by parents or other legal guardians. Some have fled political persecution, war, famine, abusive families, or other life-threatening conditions in their home countries.

They often have a harder time than adults in expressing their fears or testifying in court, especially if they lack English language proficiency.

Unbelievably, some of these children are subjected to such punitive actions as shackling, the use of leg manacles, and strip searches while in INS custody. Others are housed with violent juvenile offenders, or subjected to solitary confinement.

Despite these horrific circumstances, the Federal response has fallen short in providing for their protection.

Unaccompanied minors are among the most vulnerable of the world's asylum seekers, and they deserve our support and protection.

And yet, no immigration laws or policies currently exist that effectively meet the needs of these children. Instead, children are being forced to struggle through a complex system that was designed for adults.

It is important that we address this issue in this present legislation for a number of reasons.

First of all, as we contemplate transferring the functions of the Immigration and Naturalization Service (INS) into the proposed new Department of Homeland Security, we must ensure that the new Department is not burdened with functions that do not relate to its core mission.

For decades now, the INS has failed in its responsibility to care for these vulnerable children. As we transfer and reshape the INS in this legislation, it is imperative to relieve the agency of its responsibility of the care and custody of unaccompanied children.

Doing so would accomplish two ends: one, it would permit the INS to focus its energies, efforts, and attention on its core missions; and two, it would transfer the care and custody of the these children to the Office of Refugee Resettlement, ORR, an office that is better suited and much more experienced in handling the complexities of the children's situations.

As we turn over these responsibilities to a different agency, Congress must clearly define its expectations of the agency regarding the standards of care for these children.

It would be irresponsible for us to do anything less.

Quite frankly, it confounds me that, after more than a century since the first federal immigration law was enacted, our immigration system is still incapable of meeting the special needs of these children, whether those needs are medical, psychological, or legal.

This is why, in an effort to change current U.S. policy toward the treatment of unaccompanied foreign-born children, I introduced the "Unaccompanied Alien Child Protection Act", S. 121.

The overall purpose of this legislation is to refocus our policy away from treating these children like criminals, and to move toward a system that protects and serves their best interests.

Sometimes, this means safely returning them to a parent or guardian in their home country.

In other, more extraordinary cases, a child's best interest may involve a grant of asylum.

As introduced, S. 121 was a reasonable, moderate, bipartisan bill with the main purpose of reforming the care of unaccompanied alien children who come to the attention of Federal authorities.

As reasonable as it was, my staff and I conducted numerous meetings and phone calls with the Department of Justice and the INS, to further refine the bill's provisions.

Last February, the Judiciary Subcommittee in Immigration held a hearing on the legislation.

I listened to all of the ideas that they expressed, and I addressed almost all of them in the modifications that were made in the version of the legislation now included in Title XII of the Lieberman substitute.

Still, after all this compromise, the administration did not bother to even mention Title XII in its statement of administration policy of this legislation.

Given the moderate nature of Title XII, and given the fact that so many Republicans are cosponsors of it, I urge the Senate to maintain the provisions I have outlined today, rather than accept the evisceration of the bill's core protections that would result under the Gramm substitute.

If it becomes necessary, in the coming days I intend to offer an amendment to restore these important provisions to the homeland security bill.

And I will call on my colleagues to support that amendment.

Mr. AKAKA. Mr. President, today I rise once again to point out problems with the amendment offered by Senators GRAMM and MILLER which would take away the rights of Federal workers. Last week I spoke of the need to provide full whistleblower protection to employees in the new Department of Homeland Security, and how the Gramm-Miller amendment fails to provide such protection despite claims to the contrary. While the substantive rights are maintained for whistleblowers, the methods to enforce such rights are not part of the amendment.

And despite claims made by the Senator from Tennessee, Senator THOMPSON, yesterday that veterans' preference would be protected, the Gramm-Miller amendment fails to fully protect veterans in the new Department.

It appears that my colleagues believe that by maintaining the merit system principles, the new Department will protect our Federal employees from retaliation for blowing the whistle and from violations of veterans' preference requirements. However, simply following the merit principles will not fully protect the Federal workers who protect our Nation from terrorist attacks. We must provide a neutral third-party method to enforce such rights.

The Gramm-Miller amendment fails to do this.

Currently, Federal employees, who believe that they have been denied a position or have been subject to a designer Reduction-In-Force, RIF, action in violation of veterans' preference requirements, can challenge such wrongful actions through the Merit Systems Protection Board or through a union grievance procedure. Whistleblowers who allege that they have been subject to a prohibited personnel practice may go through the Office of Special Counsel and to the MSPB for corrective action. In addition, whistleblowers can bring allegations of retaliation through the union grievance procedure. The Gramm-Miller substitute amendment would block both routes for redress.

Under Gramm-Miller, the Department of Homeland Security could waive any and all due process appeals to the Merit Systems Protection Board. Instead, the due process procedures in current law would be replaced with an internal department appeals process. By allowing the agency, rather than an independent third party, to determine whether the agency violated veterans' preference or other employee protection laws, we will have removed the impartiality of the process.

However, under the Lieberman substitute, as well as the Nelson-Chafee-Breaux amendment, veterans' rights are not compromised. The appeals to the MSPB under 5 U.S.C. Chapter 77 may not be waived.

In addition, Chapter 71 of Title 5 which relates to Labor-Management Relations, may not be waived. This allows veterans and whistleblowers who are in collective bargaining units to exercise their right to use a negotiated grievance process to challenge violations of veterans' preference requirements or the Whistleblower Protection Act. Under the Gramm-Miller substitute, the new Department could waive the labor-management statutory requirements in Title 5. As such, grievance rights and union representation could quickly disappear.

Quite simply, under the Gramm-Miller substitute, veterans may still have veterans' preference rights, but they will have no way to seek redress for any violation of those rights. We have a proud history of protecting the rights of veterans and federal workers who protect this country. Whether they are whistleblowers or veterans, these Federal employees serve their Nation well. We need to support those who are willing to serve their Government.

Mrs. FEINSTEIN. Mr. President, I rise to reaffirm my overall support for a Department of Homeland Security. And I remain convinced that it is still possible to reach a consensus on this critical issue, and that we must strive to do so before the end of this session.

However, after giving this matter a great deal of thought, I must stand in opposition to the provisions in the Gramm-Miller bill that would strip many of the protections afforded to employees of the new Department.

As it stands, the bill's language would take away rights from some 200,000 Federal employees, rights that have been available for decades to most of the Federal workforce.

None of us dispute that any organization, particularly one entrusted with such a vital mission as homeland security, can function properly only if its managers have the authority both to offer incentives to talented employees and to fire negligent or ineffective employees.

And despite a great deal of rhetoric to the contrary, such flexibility already exists under the current labor provisions that govern the Federal workforce.

This flexibility was granted under the terms of the Civil Service Reform Act of 1978, allowing managers to: performance standards, and have the power to fire employees for performance failures as long as there is at least some plausible evidence.

In light of these facts, it is downright wrong to suggest that the Government cannot fire employees who, say, are drunk on the job or who commit crimes.

In fact, under current law, managers can remove such employees from their jobs immediately, while the employees' appeal can be settled definitively within 30 days.

Under current law, managers also have wide latitude in transferring, suspending, and reassigning employees, as well as in appointing candidates from outside the federal government to fill open positions.

On both sides of the aisle, there is virtual unanimity that any homeland security legislation must include a package of additional flexibilities regarding hiring, training, separation, and retirement. These additional flexibilities are in the Lieberman substitute.

And yet, the President has threatened to veto the Lieberman substitute, unless the Senate agrees to the labor provisions of the Gramm-Miller substitute.

Apparently, the President is willing to scrap crucial legislation to protect our country from terrorism if he is not given open-ended authority to abolish or limit federal employee rights and protections.

In my view, this threat is unnecessary, unwarranted, and highly unproductive.

And now the President has rejected a perfectly sound bipartisan compromise proposed by Senators NELSON, BREAUX, and CHAFEE. This compromise, which I support, provides what he wants, management flexibility authority, and what the Federal Government requires, safeguards to ensure that he cannot abuse that power.

This amendment provides the President broad leeway to change the civil service rules governing hiring, promotions, dismissals, performance appraisals, classifications, and pay rates for Homeland Security Department employees.

At the same time, Federal employee unions could object. If the two sides could not agree on the changes, then the Federal Services Impasses Panel, a board of seven presidential appointees, would arbitrate.

This amendment allows the President to revoke an employee's rights to collectively bargain and to form unions, if that employee's duties materially change and these duties directly relate to intelligence, counter-intelligence, or investigations relating to terrorism.

In threatening to veto this compromise, the administration has tried to frame the debate in terms of national security.

For instance, the President's spokesman recently said that the compromise bill would prevent the president "from making decisions based on national security, no matter how urgent a crisis we find ourselves in."

I find it disturbing that the administration has suggested that putting any restriction on the President's authority to limit or abolish federal employee rights and protections somehow jeopardizes our national security.

The way I see it, the administration is getting it exactly backwards.

The administration's attempt to give the executive branch total authority to rewrite the civil service system without consulting anyone would not help protect our country. Indeed, it would leave it more vulnerable.

At a time of such massive restructuring of the federal government, it is absolutely critical that we maintain as much continuity as possible.

Yet the Gramm-Miller substitute's open-ended language would allow the President to eliminate, by fiat, many important workers' rights.

This would be a huge blow to the morale and productivity of many thousands of Federal employees, and would risk the loss of many highly qualified individuals to the private sector.

There is also a large percentage of workers who, if push comes to shove, can option for early retirement. This is no time for the federal government to suffer a so-called "brain drain," and be forced to train novices from scratch.

In the middle of our war on terrorism, the last thing we want to do is lose experienced employees on the front lines of this war.

We are talking about employees at the Coast Guard, the Department of Defense, the Federal Emergency Management Administration, the Border Patrol, the Federal Aviation Authority, and other agencies.

We are talking about men and women who are working around the clock to prevent another terrorist attack and to protect our citizens.

I for one do not see any inherent clash between collective bargaining rights and homeland security.

For example, Department of Defense civilians with top secret clearances are long-standing union members whose membership has not compromised our national security.

And many of the heroes of September 11 were unionized. The New York City firefighters who ran up the Twin Towers did not see any conflict between worker rights and emergency response.

And let's not forget that Federal employees do not have the right to strike.

Why haven't supporters of the President's proposal not been able to identify one instance of a labor dispute which contributed to a breakdown in our national security?

I have heard from many Federal employees in California who would be affected by this legislation. I would like to share with you the words of just one.

Joseph Dassaro is a Senior Border Patrol Agent assigned to the San Diego Sector of our southern border. He has been an agent for ten years, and is President of the San Diego Chapter of the National Border Patrol Council. In his words: "The loss of collective bargaining rights and civil service protections would force me to leave the Border Patrol. Simply put, without the union and the Civil Service Reform Act . . ."

"I have no faith in the ability of the agency, or any subsequently created agency, to provide working conditions in which I can operate in the best interests of this nation. Additionally, based on the vast input I have received from the many agents I represent, I can assure you that [if the President's proposal is enacted], Border Patrol attrition rates would more than double . . .

"At record levels, agents are applying for local police positions in Southern California. Recently, the San Diego County Sheriffs [Department] interviewed over twelve agents from one Border Patrol station. Not only do these agencies offer better pay, incentives, and working conditions, they also offer an environment which rewards merit and seniority."

Mr. Dassaro, along with the hundreds of thousands of other Federal employees, has been working day in and day out to keep our country secure.

I do not know why the administration wants to take fundamental rights and protections away from these patriotic Americans. We should not be attacking job security under the guise of national security.

This debate on homeland security should not be an exercise in scoring political points at the expense of labor protections for Federal employees, protections that are already in place at virtually every other Federal agency and which have functioned smoothly for many years.

Which is why I ask my colleagues to vote against the anti-union provisions in Gramm-Miller, while urging the Bush Administration to reconsider the compromise offered by Senators NELSON, BREAUX and CHAFEE.

Mr. KENNEDY. Mr. President, we know that our Nation faces a very serious threat of terrorism. To protect our national security in today's world, we need an immigration system that can carefully screen foreign nationals seeking to enter the United States and that can protect our Nation's borders. We need a system that can make effective use of intelligence information and identify those who seek to harm us.

Unfortunately, our current Immigration and Naturalization Service is not up to these challenges. For years, INS has been plagued with problems, from mission overload to mismanagement to inadequate resources. As a result, INS has been unable to meet its dual responsibility to enforce our immigration laws and to provide services to immigrants, refugees, and aspiring citizens.

The immigration reforms in the Lieberman substitute amendment are carefully designed to correct these problems and bring our immigration system into the 21st century. The amendment untangles the overlapping and often confusing structure of the INS and replaces it with two clear lines of command, one for enforcement and the other for services. It also includes a strong chief executive officer, the Under Secretary for Immigration Affairs, who, under the direction of the Secretary of Homeland Defense, will act as a central authority to ensure a uniform immigration policy and provide effective coordination between the service and the enforcement functions. Developed on a bipartisan basis, in consultation with respected experts, the immigration reforms in the Lieberman substitute emphasize clear direction, close coordination, and genuine accountability to the American people.

On these key issues, the Gramm-Miller substitute moves in exactly the wrong direction. Rather than establishing a single, accountable director for immigration policy, Gramm-Miller establishes three: the Under Secretary for Border and Transportation Security, the Under Secretary for Immigration Affairs, and the Chief of Immigration Policy within the Deputy Secretary's office. Little coordination is provided among these three positions. These officials will have authority to issue conflicting policies and conflicting interpretations of law. The result for the Nation's immigration system is likely to be a new period of disarray, not real reform.

Given the vast responsibilities of our immigration agency, the large number of people who cross our borders, and the major national-security concerns that have arisen since September 11, we will do the country a great disservice if we enact a so-called "reform" that makes the chronic problems of the INS even worse. We deserve a well-thought-out, effective reform, like that included in the Lieberman substitute, not the proposal offered by Gramm-Miller.

We need a separate and comprehensive directorate within which we can balance border security, provision of services, and efficient and fair enforcement of the immigration laws. Within this separate directorate, it is essential to include both the service and the enforcement components of immigration policy. Nearly every immigration-related action involves both enforcement and service components. Coordination between the two is critical to ensure that the laws are interpreted and implemented consistently. Coordination cannot be achieved merely by sharing a database or having a common management structure far up the ladder. Coordination will not be achieved if enforcement and services are housed in different departments.

That, however, is exactly what the Gramm-Miller proposal does. The two most critical enforcement functions, border patrol and inspections, will be taken from other immigration functions and placed in the Border and Transportation Protection Directorate. The formulation of immigration policy, our only chance to achieve coordination between these dispersed functions, will be subject to the conflicting views of various officials spread out in the new Department. With its dispersed immigration functions and failure to provide centralized coordination, Gramm-Miller is a recipe for failure.

Consider this example. An executive for a large international corporation arrives in the United States with a business visa that expires in 30 days. The inspector is reluctant to admit the executive, since his visa will soon expire. The executive states that his attorney has filed for a renewal of the visa. Under Gramm-Miller, with its failure to provide coordination between the service and enforcement functions, the inspector will not be able to verify that a renewal application has been filed, and the executive will be denied admission. Such a mistake, repeated many times each year, will be disruptive to our economy.

Or consider an asylum seeker picked up by a border patrol agent. He claims that he will face persecution if returned to his home country. His brother enters the U.S. with a visa and is granted asylum, a service bureau function. Without effective coordination between services and enforcement, the brother processed by the service bureau will be allowed to stay and become a permanent resident, while the brother picked up by the border patrol may be returned to face persecution or even death. These are mistakes that we cannot tolerate.

We need a reform that ensures uniform policies and consistent interpretations of the law. We know from painful experience that inconsistencies in interpretation and enforcement, with no one in charge to resolve differences, can lead to unacceptable results. We need an immigration system that works. The Lieberman substitute will give us that system. The Gramm-Miller substitute will repeat—and increase—the mistakes of our past.

The Lieberman substitute also deals with another serious flaw in our current immigration system—the care and custody of unaccompanied alien children. Senator FEINSTEIN has been working on this issue for many years, and her bipartisan legislation is included in our reforms. It addresses the needs of children arriving alone in the United States. Often, these children have fled from armed conflict and abuses of human rights. They are traumatized and desperately need protection. As children, they deserve special care and protection.

Jurisdiction over their care and custody does not belong in a department dedicated to preventing security threats. Our plan transfers responsibility for these children to the Office of Refugee Resettlement in the Department of Health and Human Services, an office that has decades of experience working with foreign-born children and is well-equipped to place these children in appropriate facilities where they will receive the care and attention they deserve.

We also provide safeguards to ensure that children have the assistance of counsel and guardians in the course of their proceedings. Currently, over half of the children in immigration proceedings are unrepresented by counsel. Children as young as 18-months-old have appeared in immigration court without a lawyer. These children simply cannot be expected to effectively represent themselves when faced with the complexities of U.S. immigration law.

The Gramm-Miller substitute provides plainly inadequate protections for these vulnerable children. Although care and custody is transferred to the Office of Refugee Resettlement, this substitute leaves out the counsel and guardian provisions.

The fear that providing government-funded counsel for children will set a precedent for the provision of counsel for other populations in immigration proceedings is unfounded. Our plan contains a very narrow exception for vulnerable children, and only Congress can extend that exception to other groups.

Guardians are crucial in order to ensure that the best interests of children are addressed throughout their immigration proceedings. Guardians would ensure that the child understands the nature of the proceedings. Immigration proceedings are the only legal proceedings in the United States in which children are not provided the assistance of a guardian or court-appointed special advocate.

Finally, the Lieberman substitute remedies decades-old problems with our immigration court system. That system—called the Executive Office for Immigration Review—is part of the Department of Justice. Every day, immigration courts make life-altering decisions. The interests at stake are significant, especially for persons facing persecution and for long-time permanent residents, who face permanent separation from family members.

Despite these major responsibilities, the immigration court system exists by regulation only. As such, it can be moved, dissolved, or reconfigured at any time, without Congressional involvement. For years, immigration judges have been criticized because they are too closely aligned with immigration enforcers. Their impartiality is jeopardized when both judge and prosecutor are too closely linked. These criticisms will only intensify if the immigration courts are relocated to the new security agency.

We need an immigration court system that provides individuals with a fair hearing before an impartial and independent tribunal, and meaningful appellate review. The Lieberman substitute maintains the immigration court system at the Justice Department, so that immigration judges and immigration enforcers are effectively separated. It also codifies the existing court structure and its components, making it a permanent part of our immigration system.

The Gramm-Miller substitute would seriously undermine the role of immigration judges. It vests the Attorney General with all-encompassing authority, depriving immigration judges of their ability to exercise independent judgement. Even more disturbing, the Gramm-Miller proposal could curtail the right to appeal adverse decisions, since the Attorney General will have the authority to change or even eliminate appellate review. This result is a recipe for mistakes and abuse. An independent judicial system is essential to our system of checks and balances. Immigrants who face the severest of consequences deserve their day in court.

In reforming our immigration system, we must isolate terrorists without isolating America. We must protect our Nation, and we must also protect immigrants. In strengthening our defenses against terrorism, we must settle for nothing less. Americans are united in our commitment to win the war on terrorism and protect the country from future attack. An essential part of meeting this challenge is protecting the ideals that America stands for here at home and around the world.

The Lieberman substitute acts on this principle by providing basic civil rights and privacy safeguards in the new Department of Homeland Security. A civil rights officer will oversee civil rights issues and advise the Secretary on policy matters. A privacy officer will perform similar functions on privacy issues. An official in the Inspector General's office will investigate civil rights abuses.

We have heard no complaint from either the administration or our Republican colleagues about these civil rights provisions. The administration's detailed Statement of Policy on September 3rd did not contain a single objection to them. Nevertheless, all of these provisions have been removed from the Gramm-Miller substitute.

Today, many Americans are concerned about the preservation of basic liberties protected by the Constitution. There continues to be a debate over the constitutionality and wisdom of some of the administration's polices and actions since September 11. Clearly, as we work together to bring terrorists to justice and enhance our security, we must also act to preserve and protect our Constitution.

The civil rights provisions in the Lieberman substitute are limited in scope, but will be essential to the proper role of the new Department of Homeland Security. They should be included in whatever bill the Senate ultimately passes, and I urge the Senate to accept them.

Earlier this week, our committee held a hearing on the grave public health challenge of West Nile fever. We heard how vital it is for CDC, NIH and FDA to work together closely to respond to this deadly epidemic. The same health agencies that are responding to West Nile today may need to respond to a biological attack tomorrow. The last thing we should do is disrupt the close coordination among our health agencies that will be needed for an effective response to such an attack. Yet this is exactly what the Gramm-Miller amendment would do by transferring responsibilities for bioterrorism research and response to the new Department of Homeland Security. While claiming to enhance our preparedness for bioterrorism, the amendment would actually diminish it by needlessly splitting responsibilities for bioterrorism between HHS and the new Department.

We heard from Dr. Tony Fauci, the Nation's leading expert on infectious disease, that NIH is working swiftly to develop a new vaccine against the West Nile virus. Dr. Fauci and the other medical leaders at NIH should retain the responsibility for developing new vaccines for anthrax, Ebola and other biological weapons. These responsibilities should not be transferred to a new department with unproven scientific expertise. Certainly, the new Department should set broad priorities for our homeland security research program, but the funding and the scientific responsibility for carrying out that research should remain with NIH.

Sadly, the Gramm-Miller amendment also includes fails to include protections for the ethical treatment of human subjects in research. America has a tragic history of ethical abuses in national security research. In our Senate inquiries during the 1970s, we learned how the CIA had given LSD and other dangerous drugs to experimental subjects without their knowledge or their consent. These shameful experiments led to the death by suicide of an agent in New York.

We must not let history repeat itself in the research carried out by this new Department. Basic protections for human subjects cover research conducted by all other Federal agencies. They should also apply to the new Department. These protections should not be discretionary. They should be a required element of every research project that the new Department conducts.

I also want to speak today about America's workers. We live in a nation forever changed by the tragic events of September 11. The dreadful images seared into our memories on that fateful day were grim proof to every American that we are vulnerable to grave new threats. We must take the necessary steps to protect America from these new dangers. We must act wisely as we create a new Department of Homeland Security. We must ensure that our actions truly enhance, rather than diminish, our Nation's security. And we must meet our security needs in ways that reflect the values that make America the envy of the world.

As we debate the formation of this new agency, we should remember the events of September 11 and the heroism of our Nation's union workers in the cause of homeland security. Union members risked and lost their lives and saved countless others through their actions on September 11. We will never forget the example that firefighters, construction workers and many government workers set that day.

Union workers have also shown great bravery and extraordinary sacrifice in the service of homeland security since September 11. The postal workers and the hospital worker killed as a result of bioterrorism were all union members. The brave flight attendant, whom the President recognized in the State of the Union Address for preventing terrorism, is a member of a union.

The dedication and resolve of these union members truly represents the best of America. Over 43,000 of the Federal workers affected by the proposed Government reorganization are currently union members. These are the workers who risk their lives each day to protect our Nation's borders. They are the workers from the Federal Emergency Management Authority who coordinated the Federal emergency response on September 11. These workers are out every day on the high seas to rescue those in need and to prevent dangerous cargo from reaching our shores. They are also the workers dedicated to making our Nation safer from the threat of bioterrorism.

Among the ranks of unionized Federal workers are true heroes who have served their Nation with distinction in battle and are now contributing to our Nation as civilian employees and as active members of their community. I am talking about Federal workers like Robert J. Patterson, who was awarded the Purple Heart medal and the Bronze Star and many other honors for his service in Vietnam. He was ambushed and shot in the legs, the stomach and the shoulder while on patrol in Vietnam, but he still managed to call for backup and save the lives of many other members of his squad. For nearly 20 years now, Mr. Patterson has worked as a civilian employee for the Federal Government, and he now serves as Vice Commander of his local VFW post and is active with the Boy Scouts and as a mentor for troubled youth.

Dedicated Federal workers like Mr. Patterson take pride in their work, love their country, and have served it with distinction for decades. Nearly half a million Federal workers are veterans of our Nation's armed services. Veterans are represented at twice the rate in the Federal workforce as in the private sector. Disabled veterans, those who have paid a great price for serving this Nation, are five times more likely to work in the Federal Government as the private sector.

On September 11, unionized Federal workers were on the scene and played critical roles at both the World Trade Center and the Pentagon as they worked round-the-clock to make our homeland secure. Denise Dukes, of the Federal Emergency Management Agency, worked a 24-hour shift in Washington on September 11 to ensure that food and water was reaching the rescue personnel at Ground Zero. Afterwards, she left her two children to go to New York and coordinate the response and recovery effort on the ground. As Ms. Dukes explains of her fellow Federal workers: "We were proud and eager to serve our fellow Americans, and we would never allow anything to stand in the way of that mission."

Michael Brescio, who works for the Environmental Protection Agency's Response Team, got tens of thousands of urgently needed respirators to the rescue workers at Ground Zero immediately after the attack. Far away in Kodiak, AK, Mark Andrew Jamison went on high security alert in order to protect our Nation's coastline. Mr. Jamison, a veteran of our Nation's armed services who was entrusted with a top secret security clearance, loves his job because, as he put it: "Above all . . . I'm a patriot like the hundreds of thousands of other Federal employees who keep our country secure and safe day-in and day-out."

We must protect the rights of these dedicated Federal workers to remain union members and we must allow other workers in the new department to exercise their fundamental right to form a union.

Unions are critical to protecting our Nation's homeland security. Many Federal workers would not speak out about security lapses without the protection of a union because of the legitimate fear of retaliation by their supervisors. After September 11, an 18-year veteran of the U.S. Border Patrol named Mark Hall bravely spoke out about the vulnerability of our Northern border after INS management ignored this concern. Mr. HALL was threatened with being fired by the INS and faced a 90-day suspension without pay for speaking out to protect the American public.

The actions of Mr. HALL helped to make our borders safer. Congress subsequently acted to triple the border patrol personnel on the Northern border.

Union membership was critical to Mr. HALL's ability to speak out in the first place. As he explains, he "would never have spoken out if I hadn't had my union behind me because whistleblower protections alone would not have been enough." Federal workers who are denied union rights will be far less likely to speak out and protect the public in the future for fear of unjust retaliation. Denying Federal workers fundamental rights will undermine our Nation's homeland security at a time when we can ill afford it.

The President now has the executive authority to exclude workers engaged in intelligence work or particularly sensitive investigative work from basic collective bargaining. Past presidents have used this authority sparingly, out of respect for government workers—even in times of war. They have barred collective bargaining only in highly specialized and sensitive positions, such as U.S. Army Intelligence, Naval Intelligence, Naval Special Warfare Development Group and the Air Force Office of Special Investigations.

This administration has already demonstrated its intention to go far beyond every past administration in its use of this authority. Earlier this year, this Administration stripped clerical and other workers in the Department of Justice and the U.S. Attorney's office of their long-held union membership. After decades of dedicated service to this Nation as union members, secretaries in the civil division of the U.S. Attorney's office were excluded from collective bargaining. These secretaries were not involved in national security; they were processing claims by people injured on government property and others suing over their denial of benefits. Nonetheless, this administration chose to deny these dedicated workers their fundamental rights.

We all know that this administration is not a champion of worker rights. They do not support a much-needed extension of unemployment insurance benefits. They oppose an increase in the minimum wage for the millions of Americans who work hard but still don't make enough to stay above the poverty line. This administration opposes ergonomic protections that would keep millions of workers from suffering debilitating injuries while at work. Immediately after taking office, this administration overturned rules requiring Federal contractors to obey our Nation's labor laws and undermined protections for Federal workers. But how far is this anti-worker agenda going to go?

We have witnessed the bravery of these workers, their dedication to their country, their military service, their contributions to their communities. Yet, this administration displays a contempt for workers and particularly for the Federal workers who serve with dedication every day to keep our Nation safe.

These unionized contract workers maintain the highest security clearances and do extensive work for the Department of Defense. Under the administration's proposal, we could well see Federal workers working alongside contractors with the federal workers being denied the same fundamental rights and protections that the contractors continue to hold.

These are the very rights held by the brave firefighters and police in New York City who paid the ultimate price to protect others. They are the rights that allowed those courageous border patrol officers to speak out and improve homeland security. It is essential that any reorganization respect and protect the rights of these, and thousands of other hardworking Federal employees, whose work is so vital to the new Department's success and the Nation's security. Denying basic rights to those who strive and sacrifice to make us safer will not protect homeland security.

Some on the other side of the aisle claim that union membership is inconsistent with service to our country. For example, Senator GRAMM claims that union workers kept Logan Airport's luggage inspection area from being renovated by the Customs Service. He claims that the renovation had to be negotiated with the union as part of a collective bargaining agreement.

This is just one example of the many distortions being offered on the other side by those who want to deny dedicated Federal workers their fundamental rights. In fact, the collective bargaining agreement of those dedicated Customs workers did not prevent the Customs Service from renovating the terminal. The union did not have the right to bargain over whether any renovation could take place. The agreement between these workers and the Customs service simply provided that the workers should be notified of the change and be able to discuss the impact of the particular implementation of the change. Since the workers were not notified, the new construction was poorly done. It left the Customs inspectors with an obstructed view, making it much harder for them to do their job well. The result was that the rate of Customs seizures subsequently went down at the airport.

This case is a perfect example of how ignoring the front-line workers who protect America day in and day out will not make us safer. These workers want to do the best job possible each and every day. For that reason, they challenged the Customs service for failing to properly notify and consult the workers and won the case before the Federal Labor Relations Authority.

The real test of our core values come not during easy times but during times of crisis. We must stand up for the right of free association and the basic protections for these dedicated Federal workers. This is the real test of who we are as a nation. By being true to the values that make America great, we honor the sacrifices of America's veterans even as we protect the security of our homeland.

Mr. LIEBERMAN. Madam President, we have now entered the sixth week in which the Senate has been considering legislation to create a Department of Homeland Security which all of us, most all of us, agree is urgently necessary because the current disorganization in the Federal homeland security apparatus is dangerous. This is the sixth week, not all day every day, but parts of 6 weeks, beginning today.

Second, we are about to have the fifth opportunity to invoke cloture on this bill, to stop the debate in deference to the urgent national security interests in adopting this legislation.

I fear the majority of my colleagues are on automatic pilot in which they are, once again, for reasons I consider to be peripheral, marginal, and unknowing, insensitive to the fact that the Senator from Texas, Mr. GRAMM, and I and everybody else have acknowledged that on more than 90 percent of this bill, we all agree. So we are prohibiting action on a matter of urgent national security importance because of a small disagreement.

There is a lot of interest in it. It means a lot to Members on both sides. Why not follow the leadership and independence of the Senator from Pennsylvania who has just said: My Republican colleague, this is too urgent a matter to delay any longer. I will vote for cloture.

There is nothing like cloture and the imminence of a vote on the underlying bill to force the kind of compromise that we need to have in the interest of national security and that we are so close to having.

Up until this time, largely through the good work of Senators BEN NELSON, JOHN BREAUX, LINCOLN CHAFEE, encouraged by a lot of us, there has been a show of flexibility with regard to the protections for homeland security workers and the President's desire for executive authority, particularly in cases of national emergency, that Federal employees and those who are concerned about their rights in the Chamber have moved.

In fact, the Nelson-Chafee-Breaux compromise moves back from the protections for homeland security workers our bipartisan committee bill provided.

I supported those compromises, and the Federal employee associations, workers groups, unions also supported them because they know how urgent it is to adopt a homeland security bill.

The White House regrettably has moved hardly at all. The Senator from Texas who led the debate on the other side has moved hardly at all. That is why we are at this impasse.

Mr. DURBIN. If the Senator will yield, I want to point out how hard the

Senator has worked on this, even before the President announced his commitment to a Department of Homeland Security. The Senator worked through the Governmental Affairs Committee on a bill. There were long hearings and markups, and they brought it to the floor, and now for 6 weeks we have been on it. This is the fifth time we are going to try to bring debate to a close and a final vote.

I say to my colleague from Connecticut, if the Senate Republicans reject this effort to end the debate, I frankly think we ought to harken back to the Cub fans back in Chicago, who said: It is time to wait until next year.

Mr. LIEBERMAN. I thank my friend from Illinois for his kind comments. I hate to say it because, by nature, I am an optimistic and trusting person. As we all know, the clock is ticking and the Senate is going to move to debate on a resolution concerning possible military action in Iraq. That means this will go back to the calendar. Will it ever emerge? I don't know. I would hate to think that will happen on a matter of such critical national security interest. This is the protection of the lives and safety of the American people we are discussing.

The evidence grows that the disorganization of the Federal bureaucracy contributed to the vulnerability that the terrorists took advantage of on September 11. As I say, I am a trusting person. So I keep asking myself, why won't the White House negotiate on these matters? I have been reading and listening with alarm to some of the things being said, and they trouble me because I worry now that we are being stopped from achieving an agreement on a matter that we agree 95 percent on, for reasons that have something to do with the election.

Last week on this floor, Senator HARRY REID of Nevada introduced into the RECORD an e-mail sent apparently to almost 2 million people on the Republican National Committee mailing list that said the Senate is more interested in special interests in Washington and not in the security of the American people, and we will not accept a Homeland Security Department that doesn't allow this President and—et cetera, et cetera, and then quoting President Bush. It also says the bipartisan approach is stalled in the Senate because some Democrats chose to put special interests and Federal Government employees ahead of the American people. That is untrue.

President Bush altered his rhetoric at the end of last week after the eruption over that language and toned it down a bit—but still kept it in a political context. In Flagstaff, AZ, last week, reading from the Washington Post of September 28, the day before, the reporter Edward Walsh says:

> The President today portrayed his differences with the Senate over the creation of a Department of Homeland Security as a struggle between common sense and business as usual, and he urged the election of Republicans to help him implement his idea.

Mort Kondracke reports yesterday Roll Call a conversation with our colleague, the other Senator from Tennessee, Mr. FRIST, chair of the National Republican Senate Committee:

> In an interview, Bill Frist, chairman of the NRSC told me he has no intention of turning Iraq into a campaign issue, but every intention of doing so with homeland security.

Of course, it is the right of the Republican Party and the President to make an election issue out of anything they want to make an election issue out of, but this is a matter on which we should not be engaged in politics. This is a matter on which we should be reasoning together to get over the small differences that remain on this question, to reach common ground and get this done. The Gramm-Miller substitute leaves out some very critical parts that our committee put in. Senator DURBIN has a part on information technology. Of course we should support it. Senators CARNAHAN and COLLINS put in an amendment to create a COPS-like program for firefighters. There should be broad, bipartisan agreement on that. I could go on. Senator CARPER has a provision relating to the safety and security of Amtrak facilities. None of those are in Gramm-Miller. If we can reach agreement on this question of protection for Federal Homeland Security workers and protecting also the President's prerogatives regarding national security, I would guess that the Gramm-Miller substitute, as amended by NELSON-CHAFEE-BREAUX, would have a real head of steam behind it and would probably find its way rapidly to the conference committee.

Let me make this appeal to my colleagues on the other side. We are not a unicameral legislature. The White House seems to be insisting that we negotiate to the final point here in the Senate bill, and with that stubborn intransigence they are blocking us from achieving all the rest that we want to achieve in terms of homeland security. We can pass the bill here. It then goes to conference. The process continues.

So let's not have it reach a dead end here, which it is rapidly approaching, as we move on to the Iraq resolution and the probability of adjourning—or at least recessing—quite soon thereafter. I appeal to my colleagues—mostly Republicans, but some of those Democrats who voted against cloture the first time on Gramm-Miller—to listen to the words of the Senator from Pennsylvania. The best way to get this moving is to invoke cloture, force the compromises we need. Let's have the meetings that Senator THOMPSON, Senator SPECTER and I have talked about with Senators NELSON, BREAUX, CHAFEE, and anybody else who wants to come. This is an eminently solvable dispute, if we have the will to do it. Then we can go on to protect the security of our people and dispatch our responsibility under the Constitution.

How much time do I have remaining?

The PRESIDING OFFICER. Two minutes.

Mr. LIEBERMAN. I yield that time to the Senator from Louisiana, unless the Senator from Tennessee wishes to go forward.

Mr. THOMPSON. No.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I think the Senator is right on target. We have two differences of opinion about how to approach this matter, and there is not a dime's worth of difference between the two. The easiest way to figure out how to reach a legitimate compromise is to vote cloture, and then we can negotiate what is the proper approach to this legislation. If you read both offerings in this particular area, we will give the President essentially the authority to take away collective bargaining rights of American workers if they are related to national security or threats of national security. We also basically give him the authority to make management changes. I will address this quickly.

If you are going to make management changes, do you want the people whose jobs are being changed to be involved in that decision or do you want to take away their collective bargaining rights, one, and tell them arbitrarily what they are going to have to do? What type of a worker are you going to have if you take that away and then not even let them talk about what their duties are going to be. You are going to have a very reluctant workforce, which is not in the interest of this country from a homeland security standpoint. We have suggested models after the IRS, which say let them come in and negotiate, talk, and find out what their duties are going to be. If you cannot agree, we suggested turning it over to a Federal board that the President appoints to resolve the conflict and let them make the decision. At least the workers will have an opportunity to be heard. I don't think that is asking too much when you have taken away all of their collective bargaining rights.

This thing can be resolved. We are going to continue our meetings this afternoon. We have taken 3, 4 weeks already and have not made a lot of headway. Perhaps we ought to appoint a Federal negotiating board to handle the Senate, and maybe we can resolve it that way because, obviously, right now we are not making progress. But we are going to continue our efforts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Madam President, the issue here with regard to this cloture motion is whether or not the

President of the United States is entitled to an up-or-down vote on his proposal to make this country more safe. I repeat. The issue—and the only issue—on this cloture vote is whether or not the President of the United States, at this time in our history, is entitled to an up-or-down vote on his proposal to make this country safer. I think the answer to that is yes and the answer to cloture should therefore be no.

If there is not a dime's worth of difference between these proposals, I would like to think the President in this time in our history would be given the benefit of the doubt on these issues, which our friends on the other side say are really insignificant.

The Senator from Connecticut says the evidence mounts as to shortcomings of the Federal bureaucracy and that it contributed to the problem we had on September 11. I could not agree more. My only question is: Then why are we not allowed to make some changes that might improve the situation?

Gramm-Miller does provide for consultation. The implication has just been made that Gramm-Miller does not provide for consultation. Why shouldn't employees be brought in and enter into a dialog? It provides for that.

However, the Nelson-Chafee-Breaux so-called compromise still puts additional hurdles in the path of this President that other Presidents have not had. For some reason, at this time, with regard to this Department of Homeland Security, we are putting forward additional hurdles and additional determinations this President must make that other Presidents have not had to make.

The Nelson-Chafee-Breaux compromise takes the issue of labor-management and the issue of appeals off the table altogether and says: You shall make no changes, regardless of the myriad indications we have had where we have deficiencies in our system with regard to these issues.

There is no reason why these issues should take years and years to resolve. There is no reason why we should fiddle while Rome is burning. Surely we can do better, but this so-called compromise takes those issues off the table and out of the power to make any kind of adjustments. I suggest that is not a reasonable compromise. I suggest the President is entitled to an up-or-down vote.

I agree with my good friend from Connecticut; we are in the last stages of this discussion. If we do not resolve this matter within the next day or so, there will be no homeland security bill this year. That is a tragedy for this country. We apparently divided sides and decided who benefits. That is the fact, and, therefore, I urge no on the cloture vote.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Gramm-Miller amendment No. 4738:

Joseph Lieberman, Max Baucus, Ben Nelson of Nebraska, Dianne Feinstein, Tim Johnson, Patrick Leahy, Jeff Bingaman, Jack Reed, Hillary Rodham Clinton, Jim Jeffords, Debbie Stabenow, Daniel K. Akaka, Harry Reid, Maria Cantwell, Byron L. Dorgan, Herb Kohl.

By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the Gramm-Miller amendment No. 4738 to H.R. 5005, an act to establish the Department of Homeland Security, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CORZINE) would vote "aye".

Mr. NICKLES. I announce that the Senator from Colorado (Mr. ALLARD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 45, nays 52, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—45

Akaka
Baucus
Bayh
Biden
Bingaman
Breaux
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Conrad
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Schumer
Specter
Stabenow
Wellstone
Wyden

NAYS—52

Allen
Bennett
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Campbell
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Feingold
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kennedy
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NOT VOTING—3

Allard
Corzine
Torricelli

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having come and gone, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:52 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, the majority leader shortly wishes to make a statement. I see my friend from Missouri is in the Chamber, and a number of other Senators.

Do any of the Senators wish to speak now?

I yield to my friend from Missouri for purposes of a question. Does the Senator wish to speak now?

Mr. BOND. Mr. President, I have a number of issues to speak about. I wish to speak in relation to a welcoming resolution, and then I have further remarks upon which I wish to expound.

I am happy to accommodate the floor leader's desire. I ask what his intentions are.

Mr. REID. My intention was that we go into a quorum call until the majority leader appears on the floor. But maybe—and does the Senator from Louisiana wish to speak?

Ms. LANDRIEU. Yes. Thank you. I say to the assistant majority leader. I wish to talk about the West Nile virus for a few moments because it is an issue that is so important to Louisiana and many States.

Mr. REID. How long does the Senator wish to speak?

Ms. LANDRIEU. Maybe 10 minutes. But we may not be ready. The House is passing their bill. I am kind of open to the time.

Mr. REID. How long does the Senator from Missouri wish to speak, approximately?

Mr. BOND. Mr. President, I have one matter that will take 2 minutes and another matter that will take 10 to 15 minutes. And if nothing else is happening, I could go for another 20.

Mr. REID. I am wondering if my two friends, the Senator from Louisiana and the Senator from Missouri, if the majority leader comes to the floor, would be willing to yield to him for his statement?

Mr. BOND. Pardon?

Mr. REID. I said, if the majority leader appears on the floor, will you be willing to yield to him for a statement?

Mr. BOND. Mr. President, of course. I am always happy to accommodate my colleague.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Missouri be recognized for up to 20 minutes; and that following that, the Senator from Louisiana be recognized for 10 minutes; and that they both agree, when the majority leader appears, that they will yield to him for his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I thank my good friend, the majority floor leader. My first item should be a noncontroversial one.

WELCOMING HER MAJESTY QUEEN SIRIKIT OF THAILAND

Mr. BOND. Mr. President, we are going to be having a visit from a very important leader of a great ally, the Queen of Thailand. Her Majesty Queen Sirikit arrives here in Washington on Friday of this week.

We know that Thailand and the United States have a shared commitment to peace, liberty, democracy, and free enterprise. We are very dependent upon that country for economic trade as well as security. Queen Sirikit has done a remarkable job in leading the way in humanitarian efforts, including in rural Thailand.

Mr. President, we are experiencing a period of national tension as the United States girds itself to confront those nations and those faceless individuals who would threaten our prosperity, our security and, indeed, our very lives. However, in such times of anxiety, it is important that we recall that the globe is populated much more heavily with our friends than with our enemies and that, while we must face those enemies, we should also pause to honor our faithful allies.

With this thought in mind, I take a moment to draw the attention of the Senate to the Government and people of Thailand whose Queen, Her Majesty Queen Sirikit, arrives here in Washington, D.C. on Friday, October 4, 2002.

The United States enjoys a long and constructive relationship with the people of Thailand, dating back to 1833 when the administration of President Andrew Jackson negotiated and signed the Treaty of Amity and Commerce in which the two signatories pledged to establish "a perpetual peace" between them. That treaty, the first such that the United States signed with any Asian nation, commenced a 169-year period of amicable, mutually beneficial relations.

Thailand and the United States enjoyed a shared commitment to peace, liberty, democracy and free enterprise, enabling us to cooperate both in the broadening and the protection of those values. Thailand is one of the only five countries in Asia with whom the United States has a bilateral security agreement. Furthermore, this country has a military assistance agreement with Thailand that was negotiated and signed following the end of the conflict in the Korean peninsula. Each year, our armed forces join with the Thai defense establishment in military maneuvers dubbed "Cobra Gold". These are the largest military exercises involving U.S. forces in the whole of the Asian continent.

We are all aware of, and deeply regret, the pain that many of the Thai people have had to absorb following the recent retreat of many Asian economies. However, after implementing painful but necessary reforms, the Thai economy is clearly bouncing back, with a recovered currency and annual economic growth that could prove to be as high as 5 percent this year. The U.S. remains Thailand's largest export market while Thailand ranks 22nd as a destiny of U.S. exports. This nation has an aggregate investment of almost $20 billion, while 600 U.S. companies, large and small, are currently doing business there.

But I do not wish to talk solely of general U.S.-Thai relations. I also wish to acquaint the Senate with the splendid humanitarian work of Queen Sirikit, who has worked tirelessly to promote the well being of both Thais and non Thais alike. For the past 46 years she has served as President of the Thai Red Cross Society. In this capacity, she had to address the massive humanitarian problems posed by the influx of 40,000 Cambodian refugees as they flooded across the Thai border to flee the turmoil in their country. Many of those people lived for years in the Khao Larn Center that she set up to shelter, feed and care for families with small children and unaccompanied orphans.

Her own people have similarly benefited from Her Majesty's close attention. To increase the income of the country's rural families, Her Majesty has initiated many projects, such as the Foundation for the Promotion of Supplementary Occupations and Techniques, better known as the SUPPORT Foundation. This is certainly a model for other developing countries as many are discovering to their cost that the early stages of economic development can often prompt a rush from the land to the city that the nascent urban economy is often unable to bear. If developing nations are to achieve sustainable growth, they will have to emulate Queen Sirikit's attention to the needs of the rural population.

I am by no means the first person to recognize Her Majesty's accomplishments. She has been awarded the prestigious CERES medal by the Food and Agriculture Organization of the United Nations. Tufts University has honored her with an Honorary Doctorate in Humane Letters in recognition of her work for the rural poor of Thailand. Her care for the health of those same people has won her an Honorary Fellowship from Great Britain's Royal College of Physicians.

I ask my colleagues from both sides of the aisle to join me in welcoming Queen Sirikit to the United States. I understand that Her Majesty will preside over an event at the Library of Congress next Wednesday, October 9 during which the work and activities of the SUPPORT Foundation will also be exhibited and I look forward to seeing many of you there.

I have a resolution that I hope to be able to bring up which will join with the House in extending the welcome of Congress to Her Majesty, the Queen. We look forward to discussing that with the leaders on both sides. And I hope to be able to address that later on.

SENATE INACTION

Mr. BOND. Mr. President, I think it is time that we take a look at where we are and determine what is happening in this body. We have not completed an energy bill, a Defense authorization bill, a terrorism reinsurance bill, a homeland security bill, or a bill to provide a prescription drug benefit.

Even though we are beginning the new fiscal year today, this is not a happy occasion. We have not considered a budget on this floor. We have not completed and sent to the President a single 1 of the 13 appropriations bills. I fear that the President's pen may dry up before we send him a bill to sign or veto.

Our distinguished former colleague and leader, Senator Bob Dole, once said:

> 'I do believe we spend a lot of time doing very little, and that may be an understatement.

Meanwhile, there are great needs. Our economy struggles. We have not passed a terrorism risk reinsurance bill that would put our construction industry back to work. We haven't passed an energy bill that could put literally three-quarters of a million people to work in the construction area, in the development of the goods and the products, the pipelines we need to secure our energy future.

The economy is a problem. This summer, the Governor of the State of Missouri announced that Missouri's relative job loss was the highest in the Nation over the past year. There are measures pending before us that have been recommended that we have not passed. Here we are, the first day of the new fiscal year, and we have not yet begun to debate a budget that would be the framework for our appropriations bills. It was to be completed on April 15. We worked on it in the Budget Committee. It was a contentious debate. But we said at the time that the bill that was reported out of the Budget Committee was not one that could pass. Unfortunately, we were correct. It has not even been brought up.

The majority has not even brought up their own budget bill to be amended or to be debated on the floor. Even if the bill is not perfect, we should at least bring it up for debate so we can proceed to get a budget. Since 1976, when the Congressional Budget Act of 1974 first went into effect, this has never happened. This is the first time the Senate has not seen fit to consider a budget since the Ford administration.

Historically, the budget resolution has been a difficult matter to resolve. On average, it has been adopted late some 40 days. It is never pleasant. I see the distinguished former chairman of the Budget Committee on the floor. He has fought many difficult battles, but he has accomplished the purpose. And we passed a budget so we could pass appropriations bills; so we have some discipline. This one is over 5 months late and counting.

One of the key congressional responsibilities provided for in the Constitution remains unscheduled. Furthermore, as of midnight last night, there are no budget enforcement provisions, no pay-as-you-go requirements, no points of order against overspending. They are all relaxed. As of today, all budget enforcement provisions have expired. I hope nobody will take this as an invitation to break the budget with more directed spending.

On top of this, we have not completed a single appropriations bill, which was supposed to have been completed by midnight last night. We have begun the fiscal year of 2003 with a record of zero for 13—not a very good average. Only three bills have completed Senate consideration in appropriations.

We all know resolving spending matters is always difficult. There is always someone else to blame. But clearly the Senate has not completed its most primary responsibility, which is expressing the will of the public in the form of a budget. I understand in the last 8 weeks we have not completed action and had a rollcall vote to pass a major piece of legislation. We have been on the Interior appropriations bill for 4 weeks. This is week 5.

In this case, we are making no progress because the majority will not permit the Senate to cast a vote on an amendment designed to prevent forest fires from destroying forests and homes and taking human life.

I know members of the Appropriations Committee are ready to bring their bills before the Senate for consideration. The chairman, Senator BYRD, and ranking member, Senator STEVENS, reported all 13 bills out of the Appropriations Committee by the end of July.

The Senator from Maryland, Ms. MIKULSKI, and I are ready to bring our bill to the floor to fund veterans and housing and the environment and space and science and emergency management. Well, it is not there. We go into the new year without any of these bills being passed.

I don't want to be confrontational with those managing the Senate, but this is week 5 on a bill that should have taken 2 days. As someone who has spent a lot of time in my few years working with the majority and minority and with the House and the administration resolving difficult matters of disagreement, I know how difficult it is to complete spending bills. However, I fear this process is bogged down by design.

Last week, we were told we may have to vote on Saturday. But instead of voting on Saturday, we canceled votes on Friday and Monday. On the Interior bill, western Senators have an amendment to protect their forests and their citizens from fire. But the majority, apparently on behalf of certain interest groups, will not permit the Senate to vote. We should vote. That is our job. We vote up or down. We should vote, win or lose. The whole purpose of this delay, regrettably, is to avoid voting.

What is reprehensible is that the authors of the amendment to prevent devastating, deadly fires—deadly to humans, to forests, property, and wildlife—are not even given an opportunity to get a vote. If we would vote, we could get to the remaining amendment, pass this bill, and move on in the next day or two.

Some are suggesting—this I believe is outrageous—that the sponsors of the amendment should have to pull their amendment so we would not have to vote. We have only cast 227 votes this year. I can't remember any year in my history where we passed so few. But this would be a good time to pass another one. We could cast another vote and pass this bill.

The sponsors of this amendment have had people in their States die. They have had millions of acres of trees, including old-growth trees, habitat, and wildlife ruined, killed by fire, and houses burned. They have a solution on which the Senate should have the courtesy, if not the common sense, to vote. How poorly is the majority leadership willing to treat Senators from these States?

The Senators and their constituents deserve a vote, period. If Senators want to vote against it, then do so. Senator CRAIG has not had the opportunity to slip this provision into a conference report, so he is doing what the Senator is paid to do, which is to offer an amendment up or down and have a vote. Why can't we? Should the sponsors be asked to ignore their burning States and set their amendments aside or should the people preventing a vote decide that the Senate should do what we are paid to do? To me, the answer is obvious.

We have been in session for over 4 weeks. The last 4 weeks, we have cast a whopping 19 votes, many of them on noncontroversial judges. I compliment our colleagues from South Dakota for figuring out a way to protect their State from fire. But I want others to have the same opportunity. I have farmers who want farm aid. The Senator from South Dakota got his vote on farm aid. I voted for it. It was not germane to the bill, it was not relevant to the bill, but I voted for it because it is important to farmers all across the heartland of America.

Why can't the Senators whose States are on fire or threatened to be on fire have a vote? I haven't heard one good explanation as to why Members whose States are on fire should not be entitled to a vote. I would urge the leadership to explain to the people of the western States that are on fire why they are not deserving of a vote.

The amendment is pending. Let us vote. South Dakota got the protection. Are California or New Mexico less important?

Mr. DOMENICI. Will the Senator yield?

Mr. BOND. I am happy to yield.

Mr. DOMENICI. If you think through the Craig-Domenici amendment, which was going to permit us to have a vote in reference to the thinning of forest accumulations in certain parts of the West to avoid fire, here is the logic: We won't let you vote. But do you know why they won't let us vote?

Mr. BOND. I am puzzled why we can't get a vote on this commonsense, sound forest management plan. I defer to my colleague and ask for his guidance.

Mr. DOMENICI. Two reasons: One, some of their Senators would have to vote for it because it is such a good amendment; they know some of them are yearning to vote for it so they get to vote. Secondly, if it got enough votes, they would have to filibuster it—"they" being the other side of the aisle—because it would then be an amendment that the environmentalists who don't support it would insist that their Members on that side vote against.

It is the strangest kind of filibuster you ever saw. It is a filibuster so as to never let an amendment pass so that the majority won't have to vote on it. And if it were to pass, they would have to filibuster it. So they are clean and blaming us for the filibuster.

Mr. BOND. Mr. President, I thank my colleague from New Mexico for the informative discussion. Maybe they have the votes to defeat it. If they defeat it, then there is no problem. But I have to say, having studied this issue and having been added as a cosponsor of this amendment, as one whose hobby and avocation is forestry and having talked to Forest Service personnel in my State, to leading academic foresters from institutions in my State and across the West, this is just common sense. The foresters, the academic foresters, the professional Forest Service people, know you cannot leave the fuel that sets off catastrophic fires in the forests or you will have catastrophic fires.

In my State, we have not only oak decline and beetle infestation; we have had tornadoes. They have knocked over trees. Guess what. It was a very dry summer. These trees have dried out. A spark from lightning or any kind of manmade spark could set these off. Ours is not the biggest problem. The biggest problems are faced by our colleagues in the West. I simply want to get an up-or-down vote. I know somebody might be put in a difficult spot. They have to either vote for their constituents and the safety of forests or for the environmental groups who don't seem to understand the problems that arise in the forests of the West. I daresay none of those groups live next to the forests, which could become a raging inferno if those fuels are not removed from the forests.

I think we are going to have to make a choice. Do we want to serve our citizens and protect the environment, prevent catastrophic forest fires or do we want to take care of politically active and well-financed interest groups? I can certainly understand the free speech and the desire for people in the environmental groups to have their views and express them, but I don't believe we are obliged to skip a vote on the amendment because they oppose it. They have a right to jump up and explain their arguments and try to urge people not to vote for it. Senator CRAIG, Senator KYL, Senator DOMENICI, and I would be happy to try to discuss that with anybody. But we have discussed it. It is about time we vote. I think it should be resolved with a vote. They can move to table and vote up or down. The effort of Senator CRAIG to prevent forest fires is worth the Senate's time and I would like to hear from somebody why it should not be voted on. We have lost forests the size of New Jersey. Firefighters have died. South Dakota is protected, but Idaho, New Mexico, Montana, Missouri, and other Western States deserve to be protected as well.

I think we at least have a right to have a vote on it. I plead with those objecting to permit us to do what the people sent us to do—cast a vote.

Mr. DOMENICI. Will the Senator yield whatever time he has remaining?

Mr. BOND. Yes. How much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. BOND. I yield 4 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to merely comment on the issue raised by my good friend from Missouri. I think the people in the West understand we are not being dealt with fairly. The Western States have this large accumulation of debris and forests are burning down. Our amendment would permit some help to those States where we see these enormous accumulations going up in flames. We could take that out.

NEW FISCAL YEAR—2003

Mr. DOMENICI. Mr. President, Happy New Fiscal Year.

Mr. President, the new fiscal year began at midnight last night and none of the 13 regular appropriation bills has been enacted. Over the last decade, this has happened only two other times—in 1996 and last year.

Now, one could make a good argument that the failure to complete any of the regular appropriations bills last year was completely understandable given the events of last September.

But I think the failure this year to complete any appropriations bills before the beginning of this fiscal year today lies squarely at the foot of the Congress for not adopting a congressional budget resolution last spring.

There is a reason why we have a congressional budget process! And I think if ever we needed an example of why we must not let this process atrophy and die on the vine, this year is a good example of why we need this process.

For the first time in the 27-year history of the Congressional Budget and Impoundment Control Act, the U.S. Senate did not consider and did not adopt its own budget plan for this year.

To be completely accurate, we do have in place a congressional budget resolution but it is the one that I helped to have enacted in the spring of 2001. And that Fiscal Year 2002 budget resolution remains in effect until replaced with a new one, but I think we all know that the economic downturn that became clear after that resolution was adopted and the attacks of last September have made many of the numbers in that resolution outdated for guiding fiscal policy here in the Congress.

Further, let us remember that many of the Budget Enforcement Act provisions that were enacted in 1990 and extended in the negotiated 1997 Balanced Budget agreement, expired at midnight last night.

I am talking about no appropriation spending caps for this year or beyond. This will be the first time since 1987 that we have not had these spending caps to help guide our budgeting and appropriation process.

I am talking bout no 60-vote points of order for violation of some of the major points of order in the Budget Act. As I said, until replaced the FY 2002 Budget Resolution with its 10 year numbers is still the enforceable resolution in the Senate even if the numbers in it are outdated. But as of today we can not even enforce that resolution with our normal 60-vote points of order.

We do not have our normal 60-vote point of order for pay-as-you-go violations.

My colleagues will remember that the Senate has operated since the 1990's with this deficit-neutral requirement and they will also know that it was one of our most effective tools in our quest for balanced budgets. In the absence of this pay-as-you-go enforcement provision today, any major tax or entitlement spending program could be considered without addressing the fiscal impact that legislation will have on surpluses or deficits in the future.

Just for the record, in this 107th Congress alone, budgetary points of order have been raised in the Senate over 65 times. And on only 8 occasions did the matter receive sufficient votes—that is 60 or more—to waive the point of order.

I have helped draft with the Chairman of the Budget Committee, Leaders DASCHLE and LOTT, and with the support of President Bush, a simple Senate resolution to extend these pay-go and other enforcement provisions that expired at midnight last night.

We should adopt this resolution without delay; it is the least we can do to keep some hope alive that the budget process will survive the set backs this last year.

I think, as Chairman Greenspan—maybe I should say Sir Chairman Greenspan in recognition of his knighting last week—that we need to do at least this small resolution to send a signal to the markets and the public that fiscal discipline has not been totally abandoned.

Again, today is the first day of a new year. October 1 is the first day of the new year under our budgets and it has been so for quite some time. It used to be July 1. Everybody thought it was too soon, so they moved it to October so there would be plenty of time. So it is the first day, but we don't have a budget resolution.

Today, we start a budget and start spending money—if we ever get around to it—under a budget that doesn't exist. I think it is time we do that. Seeing the majority leader on the floor, I want to ask in a forthright way—because I know he is aware of this—when does he think we might be able to take up the resolution I am going to introduce with the ranking member of the Budget Committee, the so-called pay-go resolution? I ask the leader, is that on his agenda somewhere? I would be here to help him if there is anything I could do to move the time.

Mr. DASCHLE. If the Senator will yield, I will be happy to respond.

Mr. DOMENICI. Yes.

Mr. DASCHLE. As he knows, we have attempted to bring debate on homeland security to a close now on 5 separate occasions. We failed to do that again this morning. It was my expectation we were going to take up the budget enforcement mechanism prior to the time we moved to the Iraqi resolution. That may be complicated now, in part, because I think we need to get started on the resolution on Iraq prior to the end of this week. But without any doubt, we will address the budget enforcement resolution the Senator has addressed prior to the time we depart, prior to adjournment.

I have made that commitment to the budget chair and I have said it on the floor on several occasions. I think it is essential. I have not heard all of his remarks, but I assume the Senator from New Mexico made a similar statement. So we will make that effort. I am quite confident when we do, it will be successful.

Mr. DOMENICI. That means before we recess, is that correct?

Mr. DASCHLE. The Senator is correct.

Mr. DOMENICI. It only has to be passed by the Senate, and we will have extended the pay-go provisions.

MOTION TO PROCEED—H.R. 2215

Mr. DASCHLE. Mr. President, I move to proceed to the conference report to accompany H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object. I will ask the majority leader a question. The majority leader is wanting to move to a conference report on the Department of Justice reauthorization bill, is that correct?

Mr. DASCHLE. Correct.

Mr. NICKLES. So we will be setting aside the homeland security bill?

Mr. DASCHLE. No. We will only interrupt the ongoing consideration of homeland security. This does not displace homeland security on the calendar. The regular order would be we would revert right back to homeland security once the conference report has been disposed of, with no additional action required on the part of the Senate.

Mr. NICKLES. Mr. President, I appreciate the Senator's explanation. I know there have been some negotiations, though not as fruitful as we would like, on homeland security, but I trust the negotiations will be ongoing, and maybe we will have some success upon the conclusion of the DOJ authorization bill. I shall not object.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

Mr. DASCHLE. Mr. President, prior to the clerk reporting the conference report, I ask unanimous consent I be able to speak as in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOMELAND SECURITY

Mr. DASCHLE. Mr. President, I simply add to the comments I have just made to the Senator from Oklahoma, that we are going to finish the debate on homeland security, even if it is the night before the election. So I want those Senators on both sides of the aisle thinking that somehow this is going to go away to be very clear. We have voted now on cloture five times: Three times on the pending bill, the original bill, and twice on the Republican amendment—twice on the Republican amendment.

I have offered the Republican leadership the opportunity for an up-or-down vote on the Republican amendment, and I am still told that is not good enough. For the life of me, I do not know what else to do. But we will continue to have cloture votes. We will continue to stay here. To the extent we can, we will interrupt—and I use that word "interrupt" as opposed to "displace"—homeland security with other pieces of business so we do not keep spinning our wheels.

If it is November 4, we will be here. If it is November 7, we will be here. I have heard there are those on the other side who believe somehow they can make this a political issue if we just drag it out and blame the Democrats. We are not going to do that. I think the record is abundantly clear who is holding this up. We will vote on it. We will vote on final passage at some point this fall. I just want to make sure my colleagues all understand that.

This is the sixth week—the sixth week—we have debated this bill, and there are probably 70 or 80 amendments pending. So you tell me when we will finish; I will tell you whenever that is we are going to be here. I yield the floor.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2215), to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and an amendment to the title, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of September 25, 2002.)

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished majority leader for moving to the Department of Justice Authorization Act. This is the first one in 21 years. I note for my friend from South Dakota and my friend from Nevada, this passed the House of Representatives 400 to 4. The conferees, Republicans and Democrats, endorsed it unanimously. It should be able to pass, I hope, easily here.

I spoke at some length yesterday about all the items that law enforcement has asked for in this bill.

I know the distinguished Senator from Louisiana is waiting to speak. I will take only a few seconds. I wish to emphasize again, this is legislation that passed 400 to 4 in the other body. It has been endorsed across the political spectrum—law enforcement, antiterrorist groups, schools, those small towns in rural America facing drug problems. They are all looking for the adoption of this conference report.

The high-tech industry is looking for the passage of the Madrid Protocol which is in the bill.

There are 20 new judge positions. Actually, we were trying to get these authorized during the last 6 years of President Clinton's term, and they were blocked. Now with President Bush in office, I put the same 20 in to show bipartisanship. They are back in there and should be passed. President Bush can nominate the people for these positions. I cannot believe either side would hold us up.

I hope we will have a consent agreement for a limited amount of debate at some point and then go to a vote.

Mr. REID. Will the Senator yield?

Mr. LEAHY. Yes.

Mr. REID. Under the previous unanimous consent agreement that has been granted, the Senator from Louisiana has 10 minutes before we get to debate on this bill. It has been 21 years since this bill has been reauthorized, so I do not think anyone can criticize the Senator from Vermont and/or Senator HATCH for taking a little time talking about this bill. But it appears this is such important legislation that we will probably have a rollcall vote on it, I would think.

Mr. LEAHY. I hope so.

Mr. REID. I ask my friend from Vermont, does he have an idea how long he and/or Senator HATCH will take debating this conference report?

Mr. LEAHY. I cannot speak for Senator HATCH, Mr. President, but I will be happy to vote later this afternoon at 4:30 or so.

Mr. REID. It is quarter to 3 now. So within the next couple hours, it is likely we could have a vote.

Mr. LEAHY. I hope.

Mr. REID. Has the Senator asked for the yeas and nays on this yet?

Mr. LEAHY. No, but I will. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I yield the floor and thank my good friend from Louisiana for her usual courtesy and cooperation.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair. Mr. President, I thank the Senator from Vermont and the Senator from Utah for their very hard work over a long period of time on this major piece of legislation. The vote was overwhelming in the House, and it is due to the bipartisan work that has gone into crafting the reauthorization of the Justice Department. I look forward to voting for that legislation later today.

I have been contacted by many of my sheriffs and law enforcement officials and, of course, I have been particularly interested in some specific aspects of the bill particularly dealing with violence against women and violence against children and child abuse and the good work that the Department of Justice is doing to help our local counties and communities fight these terrible incidents that occur in our country.

My heart is heavy and very sad to say that just this last weekend we lost another child to child abuse in a horrific way. A little 7-year-old was stabbed to death in front of about 10 people by a deranged and very sick individual who had threatened the life of this child's mother. The 7-year-old was trying to protect his mother and was killed on the streets of New Orleans.

The Senator from Vermont knows well the great needs of the country regarding these issues. I thank him for working so hard on them.

Mr. LEAHY. Mr. President, if the Senator will yield, due to her good work on the bill, of which she is a prime sponsor, reauthorization of the Juvenile Justice and Delinquency Prevention Act is in this bill. It tracks the Leahy-Hatch-Kennedy-Landrieu bill.

We also have authorized funding for the Centers for Domestic Preparedness. I note that because it has been the persuasive persistence of my friend from Louisiana that has improved this bill so much, and I commend her.

WEST NILE VIRUS

Ms. LANDRIEU. Mr. President, I thank the Senator. While this underlying bill is important, I wish to take a moment this afternoon to urge my colleagues to take up another bill that does not have the same breadth and depth as the one that was just described. The people of Louisiana, and I might add, the people of Illinois—Senator DURBIN has been working hard on this particular issue—and many other States have been severely affected by the West Nile virus. In fact, over 17 people have died in Louisiana and over 2,400 people have been affected and infected by this very frightening disease.

If we can manage today—and I have had discussions with the leadership—we are going to hopefully pass this bill by unanimous consent, which will give grants to our counties and parishes in Louisiana to help their local officials do more effective pest eradication, whether that is through traditional spraying or larvacide techniques that are used to kill mosquitos at their various stages before they can attack human beings and carry this deadly disease.

The effects are quite frightening. People in my State are having a very tough week. We had a terrible storm that was not a hurricane but nonetheless it was a very large and intense tropical storm. So the headlines at home have been filled with storm warnings, storm preparations, and consequences of the storm management.

Now, in the gulf, we find ourselves facing yet another potential hurricane that is moving toward the shores of Louisiana. So this summer has been a very anxious time between the storms and the West Nile virus at home where a lot of the parishes in Louisiana were affected. Seventeen deaths are quite extraordinary. I think it is the largest outbreak in many years. We are really struggling with providing some help to the local communities and parishes that, in fact, do have mosquito abatement control districts and, under normal circumstances, can take care of those needs on a local level. But when something such as this breaks out, it is important for us to step up to the plate and help.

This bill will give local governments an opportunity to submit for grants to take care of their businesses and to upgrade their eradication programs. There are other parts of the Federal Government that can be helpful in educating people about how to stay safe from this virus, such as what to do, what symptoms it shows.

This bill that I hope we can take up today will provide hard dollars, not for bureaucracies, not for a new Federal agency but to get grants to Georgia, the State of the Presiding Officer, and my State, for those local jurisdictions to get their spraying up to par and to do it in an environmentally safe way.

Hopefully, the worst is behind us, but we do need to prepare in the event we have another outbreak. Getting this grant program established will help us next year if this happens again.

I urge my colleagues to consider H.R. 4793—I am not asking that it be called up at this time—which I hope we can pass by unanimous consent later on today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

HOMELAND SECURITY

Mr. BOND. Mr. President, it is important for us to understand where we are on the homeland security bill. This is, obviously, a very important bill for the President. The President has outlined extensively his plan of organizing this agency.

The one thing he has asked is that he be given an agency that is workable. The distinguished majority leader has pointed out there have been a number of cloture votes and we have not gotten cloture, so by that he suggests that somehow this side of the aisle is the problem.

I believe it was June of this year that the majority leader promised he would not fill up the tree. For those who may be listening at home, that is a means of adding a number of amendments so that the other side cannot offer any amendments for a vote. Well, they filled up the tree to keep the President from getting an up-or-down vote on his proposal. As a result, we have opposed cloture because it would have prevented us from getting to the President's proposal.

If we get to the President's proposal—and I hope we will—the majority leader may have the votes to defeat it. But I think, since we are dealing with this subject in wartime, where we need to reorganize Government to make it flexible, to make it responsive, to make it effective in defending the homeland, we ought to give the Commander in Chief at least a vote on his proposal.

I believe my colleagues who have been working on the bipartisan bill that reflects the President's proposals have taken some 25 different amendments to accommodate the interests of Congress and various bodies. The distinguished junior Senator from Georgia and the senior Senator from Texas have worked with the Senator from Tennessee on this measure. They have gotten to the point where they have made compromises. It comes down to the point where the President believes, and most of us on this side agree, that he could not manage the Department effectively if his hands were tied. Whether my colleagues want to vote on it or not, I think it makes sense, out of common courtesy, if nothing else, to give the Commander in Chief an up-or-down vote on his proposal.

As has been pointed out, the Senate bill does not include the managerial flexibilities the President needs to run the Department. His representative, Dr. Falkenrath, stated we think the bill, as reported by the Governmental Affairs Committee, would create an extremely rigid bureaucracy. There would be a huge gap between the responsibilities of the Secretary to integrate the units as to what it says in article 102 and actually do that in practice.

What it means is we set up a new Homeland Security Department that is supposed to be fast and responsive, assimilate the information that comes in from all the varying intelligence sources, and then develop an appropriate response. Unfortunately, too many elements of the Governmental Affairs bill tie the President's hands and keep him or his Secretary of the Department from taking a responsive action to make sure the Department is responsive and effective in searching out and trying to stop direct threats to the health, safety, and, frankly, the lives of people in America.

It was surprising to me that the bill even moved backward from where this President, the previous President, the previous President, the previous President, and so forth down the line, had the ability, in national security interests, to make some of the changes in terms of promoting and rewarding exceptional employees, assigning them to the right duties and getting rid of employees who do not want to or are not able to do the service expected of them.

When we are talking about national security, it has been the long accepted practice that commanders have to be able to command their troops. They are still protected by some 65 to 68 different provisions assuring there is no discrimination and a whole other range of protections, but to give the managers the flexibility to manage the Department of Homeland Security is simply consistent with what previous Presidents have exercised for decades. The Presidents can use the power of Commander in Chief to make sure the military works. If somebody slacks off in the Army, does not show up for a job as a sentry, they do not get 30 days of pay and a year and a half of appeals. They have real problems right now, and that is because they are dealing with national security.

I believe it is time we move on with homeland security. I was delighted to know that the majority leader is committed to moving this bill prior to our adjournment. I want to go home as much as anybody else, but the very simple way to do that would be to give us an up-or-down vote on the Gramm-Miller, or Miller-Gramm, substitute, as amended, which reflects the President's views to accommodate the interests of the reasonable requests made by Members of Congress and others who wanted to see changes in it.

We can pass this bill. All we ask for is an up-or-down vote. If we have an up-or-down vote, those who favor the system that has been reported out of the Governmental Affairs Committee may win or we may win, but we certainly ought not hold up the bill simply to prevent a vote on what the President said is a critically important issue for national security.

I believe the time has come to stop filling up the trees, trying to invoke cloture to prevent a vote, trying to lock in an amendment that would undercut the President's power before he has an opportunity to have a vote on his proposal. That does not make any sense.

This body ought to show not only concern for the Commander in Chief's request but ought to respect the needs of the American people who must be assured we are doing everything in our power to move forward on homeland security with the Department that is effectively constituted and set up to carry out the responsibilities.

USE OF FORCE AGAINST IRAQ

We also have another important issue before the Senate. Before we get out of here, I hope very shortly, we will be moving toward a resolution authorizing the use of force against the threat posed by Saddam Hussein. Let's be clear about the intent. The resolution, that I trust the House will adopt and we will adopt, should send a clear message to the world community and the Iraqi regime that the demands of the United Nations Security Council must be followed. Saddam Hussein must be disarmed.

Previous administrations, both President Clinton and Vice President Gore, have outlined the dangers that Saddam Hussein has posed. President Clinton made a very forceful statement in 1998 and then on May 23 of 2000. The Vice President, Al Gore, said we must get rid of Saddam Hussein.

Regrettably, the situation has gotten worse. Without inspectors, there has been no check on the development of weapons of mass destruction. We know from defectors and other intelligence sources he is moving forward on these issues. We know the Iraqi regime possesses biological and chemical weapons. It is rebuilding the facilities to make more. According to the report we received from British Prime Minister Tony Blair, he could launch a chemical or biological attack in as little as 45 minutes after the order is given. The regime has longstanding and continuous ties to terrorist groups. We know there are terrorists operating inside of Iraq. Members of al-Qaida and the Iraq Government have been in contact for many years. This regime is seeking a nuclear weapon and the delivery capability to go with it.

Unfortunately, he has readily available other weapons of mass destruction such as biological and chemical weapons. The Iraqi dictator has answered a decade of resolutions from the United Nations with a decade of defiance. In the southern and northern fly zones over Iraq, coalition aircraft continue to be fired upon and coalition pilots continue to put their lives on the line just to enforce these resolutions.

Unfortunately, some elected officials went to Iraq this past weekend and said: We trust Saddam Hussein; we do not trust our President. They should have watched what we have seen on television, the firing on the coalition aircraft by Iraqi forces. In the last 2 weeks alone, coalition aircraft have been fired on 67 times. Saddam Hussein claims to be willing to accept inspections. He wants to work with us. However, 67 times he has tried to kill our pilots who are flying to enforce the resolutions of the United Nations Security Council.

As President Bush stated this past weekend, the Iraqi regime is led by a dangerous and brutal man. We know he is actively seeking the destructive technologies to match his hatred. We know he must be stopped. The dangers we face will only worsen from month to month and year to year. To ignore these threats is to encourage them. When they fully materialize, it may be too late to protect ourselves and our allies. By then, the Iraqi dictator will have had the means to materialize and dominate the region and each passing day could be the one in which the Iraqi regime gives anthrax or VX nerve gas or a nuclear weapon to a terrorist group.

The mantle of leadership requires this body to act. We have seen the United Nations speak loudly and carry a soft stick too long. I am pleased to be able to work with my colleagues on both sides of the aisle. I believe we made reasonable accommodations in the resolution the President has recommended. I hope we can have hearings on that resolution. We see the final words, get it passed by the House, and pass it out of this body by a very significant majority vote of both parties. That is the clearest message we can send to the United Nations, to our allies, to those on the fence, and to the malefactors of great evil who lurk in our world today.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Georgia.

BUS SAFETY

Mr. CLELAND. Madam President, I rise today to address two timely issues.

It is with a heavy heart over the loss of two passengers on a Greyhound bus last night in California and the injury of several others that I turn the attention of the Senate to bus security. This tragedy occurred when a passenger attacked the driver of the bus. After a heroic struggle upon being stabbed in the neck, the driver lost control of the bus. That is when the bus careened off Interstate 5. The alleged attacker was subsequently arrested by the police.

While terrorism is not suspected as the cause of the attack, no one knows what would have happened had the attacker gained control of the bus. Also, this attack occurs almost exactly 1 year after the October 3, 2001, Greyhound attack in Tennessee that left 7 dead.

However, we have seen the all-too-often result of buses used to commit terror attacks in the Middle East where suicide bombers have used buses to carry out their deadly work. Historically, between 1920 and 2000, about half of the terrorist acts in the world occurred against buses or bus companies. With intercity buses serving almost 800 million passengers annually in over 4,000 communities, I believe Congress must act to protect our travelers from being subject to the same terror and safety concerns.

Last November, I introduced S. 1739 to authorize a 2-year grant program to improve the safety and security of buses. Funding could be used for safety improvements inside the terminals and on buses—for equipment such as metal detectors, database programs for sharing passenger lists, communication technology, cameras, and more. My legislation passed the Commerce Committee earlier this year without opposition, but unfortunately, it has been stalled waiting for floor action. I urge my colleagues to clear this bill for passage by the full Senate today. We owe it to the families of those who have been touched by this tragedy, and we owe it to the millions of passengers embarking on a trip or tour via bus service.

Also, the House companion legislation, H.R. 3429, has passed the House Transportation and Infrastructure Committee and is pending on the House floor. It has strong bipartisan support, including its sponsor Committee Chairmen DON YOUNG.

Congress has already expressed its approval for funding of such security measures in the 2002 supplemental appropriations bill by providing $15 million for bus security. My legislation authorizes the program at more adequate levels and provides much-needed congressional commitment for implementation of the program. Intercity bus passengers—our fellow citizens—should feel secure and safe, and Congress should not stand in the way.

Additionally, I would like to ask my colleagues to examine the issue of access to technology, which is also important to protecting the security of our people. Over 7 months ago the Commerce committee held a hearing on the so-called digital divide at our colleges and universities that serve the largest concentrations of the Nation's minority students. We heard compelling testimony that a significant technology gap exists for a majority of these students at a time when the world economy is becoming increasingly technology driven. Only one tribal college has funding for a broadband connection, and it is not yet in place. At private historically black colleges and universities, 75 percent of their servers and printers are obsolete or nearly obsolete and in need of replacement. Half of the HBCUs surveyed in a landmark study 2 years ago by the Department of Commerce did not have computers available in the location most accessible to students—their dormitories. Hispanic students are almost 20 percent less likely than non-Hispanic whites to have a home computer and almost 25 percent less likely to use the Internet at home.

Curerntly there is no Federal program that provides funds to minority-serving colleges and universities for computer hardware and software acquisition. S. 414, the NTIA Digital Technology Program Act, would provide this critically needed resource for America's under-represented and educationally disadvantaged minorities in higher education. It has been lauded as the most significant tool for addressing the infrastructure and instrumentation needs of the Nation's minority-serving institutions since the reauthorization of title III of the Higher Education Act. It is a bipartisan bill sponsored by 18 Senators from both sides of the aisle. The bill was reported unanimously by the Senate Commerce Committee in May and also enjoys bipartisan cosponsorship and support in the House of Representatives.

In the ever-expanding world of the information highway, it should be our mandate to work to ensure that no one in this country is left behind-least of all our leaders of tomorrow.

UNANIMOUS CONSENT REQUEST—S. 414

Mr. CLELAND. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 487, S. 414; that the committee-reported amendments be agreed to, the bill, as amended, be read three times and passed, and the motion to reconsider be laid upon the table without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Madam President, I object on behalf of Members on this side.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 1739

Mr. CLELAND. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar No. 544, S. 1739; that the Cleland amendment at the desk be agreed to, the bill, as amended, be read three times and passed, and the motion to reconsider be laid upon the table without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Madam President, I object on behalf of Members on this side.

The PRESIDING OFFICER. Objection is heard.

Mr. CLELAND. Madam President, I yield the floor.

Mr. BOND. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH COST OF HEALTH INSURANCE

Mr. BOND. Madam President, there is another matter that is extremely important for small businesses in this country; that is, the high cost of health insurance.

I have, along with my colleague, Senator HUTCHINSON from Arkansas, introduced a measure to authorize association of health plans so small businesses can come together in trade associations or other multistate bodies with similar interests to purchase their health insurance with a large pool.

If you purchase as an individual or as a very small business, it is like going into the store and buying soda one can at a time. You can't get a very good price. It also costs you a lot more in administrative costs to administer that plan if you are the sole administrator. From the health insurance standpoint, you don't share the risks over a broad group of people so that you can make an actuarially sound determination of how much health insurance costs.

We have seen health insurance costs rising all across the Nation.

Early last month, I hosted my second National Conference for Women and Small Business Owners in St. Louis. And not surprisingly, some 72 percent of them said providing health insurance, which is extremely costly, was one of the most important challenges they face.

We also found another statistic that I found very amazing. We have 39 or 40 million people without health insurance in the country today. That is far too many. But did you know that 60 percent—roughly 24 million of those people—are either employees, employers, or members of the families of people employed in small business? Some 24 million people are without health insurance today because their chief breadwinner belongs to a small business that cannot afford health insurance.

I think that is just too many. The high costs of health insurance have made it difficult for small businesses to get the health insurance coverage they need. They do not have the bargaining power. They cannot spread the administrative cost. They cannot spread the risk. Basically, they cannot get as good a deal as a large corporation or a union or the Government can get.

We are very fortunate, as Federal employees, to have access to the Federal Employees Health Benefits Program. That is because we have a great big pool and we can bargain to get the best rates and we have choices from health insurance providers. Those choices are not available to small business. So we have developed a plan, with the full support and leadership of the President, to authorize establishing association health plans. The time has come for those health plans to be set up by legislation.

On Monday of this week, we found that there has been a jump in the number of those Americans without health insurance. It is extremely timely.

Yesterday, I understand, the Secretary of Labor wrote to the majority leader and asked that we bring up and try to pass association health plans. It has already been passed by the House. It is just sitting here.

We need to pass it. I hope before we get out of here—I hope that is October 11; I am not sure from what the majority leader said whether we will make it by October 11—but before we go, I hope we have a vote on association health plans.

The Secretary of Labor has said this is the highest priority. And the Secretary of Labor would be the one who would regulate these plans to make sure they do not cherry-pick, that they are financially sound, and that they meet the requirements of the law.

The law is carefully structured to prevent picking out only healthy insured groups. You could not set up a group of fitness instructors, for example, in a health plan because that would take the lowest risk people and give them an unfair advantage over others, when health insurance is supposed to spread the risk over a broad population.

Association health plans are just one, but a very important, step we need to take in assuring that a significant number of those 24 or more million Americans who do not have health insurance get it.

This is something I have heard from small business groups, as I have listened to them in my State and across the country, in forums of all sizes. We get e-mails. We do not get letters very often; they still get held up in the radiation process, but when we do get letters, they are still talking about the high cost of health care.

Association health plans are one way we could give small business the power to deal with the high cost of health insurance. I have spoken to my colleagues about this before. This has been an item of great interest in our Small Business Committee. I hope more colleagues will look into this question of getting adequate and affordable health insurance coverage through association health plans.

The President has made a very strong and clear statement in favor of association health plans. I would hope this body could follow the leadership of the House of Representatives, which has already passed the association health plan legislation. This would be something very important we could do for small businesses and their employees and their employees' families.

Madam President, I am happy to respond to questions from my colleagues to provide them further information. I invite their attention and I hope we can get action on that measure.

Madam President, I yield the floor. Seeing no one seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTION REFORM

Mr. BOND. Madam President, I was interested to read in today's Washington Post an editorial urging us to move forward on the election reform bill. This bill has been championed by Senator DODD, the chairman of the committee, and Senator McCONNELL, the ranking member. I have had a role in some antifraud provisions.

The Florida elections of this year seem to have brought more attention to the need for election law reform. The conclusion of the Washington Post is that:

> At a time when voter turnout is at an all-time low, bolstering public confidence in the machinery of democracy is especially urgent.

I agree with that. That is why I worked so hard to see if we could get a bill passed that would do that. We need to make it easier to vote and tougher to cheat. Unfortunately, what we saw in Florida this year was the old truth: No matter how much appropriations in or what kind of legislation you have, if you have incompetence in local election officials, incompetence trumps everything. We know there were tremendous problems this year in an area where there were problems in 2000, even though they had new machines.

Nevertheless, we have worked on a bill that has many compromises and has a good structure for getting the kind of equipment we need to improve elections, providing additional safeguards, voting machines for those with disabilities and, in my view, the very important role of preventing dead people, nonexistent people, and dogs from voting.

Many of my colleagues don't want to hear me talk anymore about Ritzy Mekler, the dog that was registered in Missouri. Unfortunately, Ritzy joins a very distinguished group of dogs registered to vote around the country because motor voter does not have protection against phony registration.

We spent more than 7 months last year negotiating a bill. We brought it to the floor. There was some backsliding. We got it passed late this winter. It has been stalled in trying to work out the final details.

I have been discouraged because I have worked with the leaders from the other side on the bill to offer some compromises. We want to get the bill passed. I believe, along with Senator McCONNELL, that we have proposed reasonable means of dealing with the problems they have. Unfortunately, the negotiations at the staff level have been stymied. Every time we get the wheelbarrow full of frogs, we find, as we try to wrap up the final details and get the final frogs in, some of the frogs have jumped out of the wheelbarrow.

Election reform is another bill that is long overdue for passage. I see my colleague from Kentucky in the Chamber who has been a champion in this area. I appreciate working with him and Senator DODD. I hope we can work with our colleagues on the House side, if we will just move forward and deal with some very important protections against more fraud in voting.

Since I see the manager of the bill is ready to go, I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I also see my friend from Kentucky. I want to go back to the bill.

Mr. McCONNELL. I say to the Senator from Vermont, I am looking at 10 max, probably less.

Mr. LEAHY. I am wondering, I know the distinguished Senator from Kentucky can say more in less time than most people I know, and brilliantly. Could he perhaps say it in 5 minutes?

Mr. McCONNELL. If I could beg the indulgence of the Senator from Vermont, this is a speech I have hoped to make on homeland security for some time now. We are only talking about 10 minutes. I would appreciate the opportunity to make the statement.

Mr. LEAHY. Madam President, I am trying to be helpful. I ask unanimous consent that the Senator from Kentucky be recognized for 10 minutes and then the floor revert to the senior Senator from Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky.

HOMELAND SECURITY

Mr. McCONNELL. Madam President, the homeland security bill is being held up because some labor unions want to put their special interests ahead of the collective interests of the Nation's security. Remember, these unions are not fighting against any increase in the President's authority to override collective bargaining agreements in the interest of national security. No, they actually want to roll back this authority that every President has had and has used since President Jimmy Carter.

How do union special interests affect national security? Here are just a few examples:

In 1987, a union objected to renovating border protection areas at Logan Airport—the same airport used by the 9-11 hijackers.

In 1990, a union prevented the INS from adding extra immigration inspectors in the Hawaii airport because it might affect the overtime pay of existing workers.

In 2000, a union objected to a Customs Service drug interdiction along the Florida coast because it would interfere with vacation days.

Let me say that again. In 2000, a union objected to a Customs Service drug interdiction along the Florida coast simply because it would interfere with vacation days.

So why are our colleagues on the other side advancing the labor union's agenda? Well, let's take a look at this chart. Four of the five major public sector unions who are publicly pushing for the Lieberman bill have showered over 93 percent of their campaign contributions to Democrats. The fifth contributed 87 percent.

Here are the top contributors supporting the Lieberman bill: American Federation of State, County, and Municipal Employees contributed 99 percent of their funds to Democrats; American Federation of Teachers, 99 percent; International Association of Fire Fighters, 87 percent; American Federation of Government Employees, 93 percent; and National Treasury Employees Union, 94 percent.

When it comes to the accusations of linking campaign contributions to political payoffs, my Democratic colleagues and their friends in the media continue to believe influence pedals down a one-way street. Remember the energy bill? You could hardly sit down to breakfast in the morning without reading about how Republicans were shamelessly catering to big oil and big energy interests at the expense of the environment. These accusations have blared forth from every corner of the media establishment. The New York Times—surprise, surprise—on several occasions editorialized about big money driving the energy bill, essentially viewing it as a payoff to oil companies and their friends in the administration, which include "the biggest and dirtiest utilities."

The Boston Globe judged a House-passed energy bill as "little better than the one cobbled together by Enron, other utilities, and big oil for the Bush administration."

The Fort Worth Star ominously warned of the "propriety of allowing big contributors to shape public policy to their personal benefit."

The Greensboro, North Carolina News and Register declared "clearly something is wrong when big business shapes the nation's energy policy."

This rhetoric also blared forth from my colleagues on the other side of the aisle who charged this bill was "crafted behind closed doors," and that it "looked like the Exxon-Mobil report," and that Exxon-Mobil, Enron, and Chevron enjoyed an excess bonanza at the expense of consumers.

Finally, the rhetoric blares out of our television sets every Wednesday night at 9 o'clock on the "West Wing," a 60-minute political commercial masquerading as a television drama. On the premiere last week, the pretend president proclaimed, "The Republicans are busy. They are trying to convince us that they care about new energy and that they are not in the vest pockets of big oil, and that is a tough sell."

He then charged, "This isn't the time for people whose doomsday scenario is a little less at the pump for Texaco and Shell. This isn't a time for people who say there aren't any energy alternatives just because they can't think of any. This is the time for American heroes, and we reach for the stars."

Mr. President, this is a gift from NBC and GE to the Democratic Party, financed by millions of—you guessed it—corporate dollars. That is what the "West Wing" has been. I hope Senators don't dispute these corporations have a right to express political opinions. I do not believe political donations dictate public policy. In fact, I have been vigorously involved throughout my career defending the right of all these entities to contribute to the candidates of their choice and say, through issue advocacy, whatever they choose to say during the course of a year.

But as long as people are going to make that charge, they ought to do it evenly. For those who do believe contributions impact policy, then let's, in the name of basic fairness, apply the same scrutiny to unions on the homeland security bill that the New York Times, NBC, and my Democratic colleagues applied to energy companies on the energy bill. If they did, here is what they would find. The biggest public sector unions—American Federation of State, County, and Municipal Employees; the American Federation of Teachers; International Association of Fire Fighters; the American Federation of Government Employees; and the National Treasury Employees Union—give almost 9 out of every 10 cents to Democratic candidates. Their agenda to weaken the President's national security powers is being advanced by the beneficiaries of those contributions. But we are hard-pressed to find anybody or any hotly accusatory stories in the New York Times or on CNN.

Remember, Madam President, when corporate corruption called for a corporate accountability bill, unions—many of which were knee-deep in financial corruption themselves—rallied to block a very modest amendment to require better disclosure, simple disclosure on union financial reports.

So where are the editorials in the New York Times? Where are they connecting the dots and condemning the specter of influence peddling? Where are the rants from my colleagues on the other side of the aisle against the influence-peddling of big union bosses? Where is that episode of the "West Wing"—you know, the one where the pretend president tells Josh and Sam, above the obligatory orchestral crescendo, how much he yearns for "American heroes" to sever the menacing hold unions have on the homeland security bill?

I could settle down in my favorite chair every Wednesday night at 9 p.m. waiting for that episode, but I am not a fool. My mother didn't raise any children as fools. I know that would be a wait in vain, for there are too many other Republican bogeymen to expose, too many conservative policies to mock with the elitist derision only Hollywood can muster, too many ways to stage easy political victories that real-life Democrats are simply unable to win in Congress because too many hard-working Americans do not believe in them.

I call on my colleagues to put aside the pet grievances of the labor unions and return to the task at hand because I just don't see how any of us can go home and explain to the families in our States we may be giving the President less power to protect them than he had before September 11.

So it continues to be my hope we will be able to get an up-or-down vote on the President's homeland security bill. It seems to me that is not asking too much. I know the Senator from Texas, and others, have spent an enormous amount of time to see to it the President's proposal at least gets an up-or-down vote in the Senate.

I yield the floor.

Mr. KYL. Mr. President, I come to the floor today in opposition to the

Lieberman Homeland Department proposal and in support of the Gramm/Miller, administration-supported, bipartisan substitute. As Senator GRAMM and others have so ably demonstrated, the Lieberman proposal takes away the President's existing authority to exempt personnel in the new department from collective bargaining requirements when national security requires it. The substitute reinstates the President's authority in this area.

While I understand that those on the other side might have a different political agenda than the President of the United States on this, time has almost run out. If we don't soon get together and acknowledge the importance of passing a bill to allow Government to better deal with the threat of terrorism, Congress might adjourn without passing anything. After 6 weeks of Senate floor consideration, that would be a shame.

Under the Lieberman approach to providing labor flexibility to the President when it comes to issues of national security, the President would be better off with the agencies as they exist, coupled with his authority, from an administrative or executive point of view, to move people around within those agencies; he would be better able to achieve his goals without any legislation than by adopting the legislation that is before us or under the amendment being proposed by the Senators from Nebraska, Rhode Island, and Louisiana.

The labor issues that we must settle in this bill are extremely important, but I believe they are moving the debate far from some of the other important differences between the Lieberman homeland bill and the Republican homeland, Gramm-Miller, substitute. As the Senate continues to consider the homeland security proposal pending in Congress, I want to reemphasize the relatively few, but very important changes, that the Republican substitute makes to address border and immigration security concerns raised by the Lieberman substitute.

"Division B" of the Lieberman bill creates the "Immigration Affairs Directorate," with an undersecretary to oversee all immigration functions of the U.S. government. "Division A" of the Lieberman bill, among other things, creates the "Border and Transportation Protection Directorate," with an undersecretary to manage all activities and policies related to border and transportation security.

Under Division B, all immigration functions, including all immigration enforcement functions—intelligence, investigations, detention, border patrol, and border inspections—are under the "Immigration Affairs Directorate," informally referred to as the "Immigration Affairs box." The problem with this approach is that it leaves a gaping hole in the "Border and Transportation box." One of the biggest priorities of the Bush administration, and of the Congress, has been to create a more streamlined border, both along the U.S.-Mexico and U.S.-Canada border. The Lieberman bill, by refusing to move the Border Patrol and border inspections functions out of the Immigration Affairs box and into the Border and Transportation box, will only exacerbate the coordination problems that currently exist at our nation's southern and northern border. Most importantly, coordination of personnel and the sharing of security information will be compromised.

Mr. President, all of our Nation's immigration enforcement functions, including intelligence, detention, and investigations, have border components and could arguably be better placed with the undersecretary for Border Protection. At the very least, I repeat, the Border Patrol and Border Inspections functions should be included in the Border and Transportation box.

Instead, in the Lieberman proposal, a bare-bones, almost meaningless "Border and Transportation" box is created. It includes Customs, but maintains that Customs is its "own distinct entity" so that Customs can continue to operate almost independently of the Under Secretary of the Border and Transportation Directorate. Coast Guard—again as a distinct entity, divisions of the Animal and Plant Health Inspection Service, and the Federal Law Enforcement Training Center, FLETC. Without including Border Patrol and border inspections as a function of the Border Protection Directorate, this "box" will not effectively streamline much border activity at all. Another ironic point is that FLETC is included in the Border Protection box. FLETC trains Border Patrol agents and yet the Border Patrol is not included in the Border Protection box.

Mr. President, the Republican substitute, or Gramm-Miller substitute as it is known, in this area is a much wiser approach—it includes the Border Patrol and Border Inspections functions in the Border and Transportation Directorate. This will allow for better coordination of resources and elimination of duplicative functions at the border. Protecting our borders is one of our first lines of defense against terrorism, and we must get it right.

Another major problem with Division B, "Immigration Affairs," of the Lieberman bill is its inclusion of language that would abolish the Executive Office for Immigration Review and create within the Department of Justice what amounts to an independent agency for immigration judges.

Immigration law is complicated. There is a process by which you have a decision made, a review of that decision, and eventually the final review all the way up the chain into the Department of Justice by the Attorney General of the United States. There is a body of case law built around this. There are procedures that are built around it. As far as I know, those procedures are working. I do not know of any reason, for homeland security, why we would want to change that.

It seems at the very least that the Lieberman language, which designates when and how this new Executive Office for Immigration Review operates, needs to be changed so that the checks and balances that exist today with respect to EOIR will continue to exist—the Gramm-Miller substitute maintains this check by keeping the currently-existing authority for review of EOIR decisions with the Attorney General.

Mr. President, one of the most critical functions of the reorganization of agencies that deal with our homeland security is the border function, and we must get it right. Let's work to pass the Gramm/Miller substitute, which, among the numerous other important improvements, incorporates two important border/immigration changes to the pending Lieberman homeland bill.

Mr. GRASSLEY. Mr. President, I would like to take a few minutes to speak in support of an amendment that Senator BAUCUS and I introduced which modifies the Customs provisions of the homeland security bill.

The creation of a Department to oversee homeland security is a tremendous undertaking for Congress and the White House which will face multiple challenges. This is certainly true in the context of incorporating the U.S. Customs Service into the new Department.

The U.S. Customs Service is one of the oldest agencies in the U.S. Government. Created in 1789 to enforce U.S. tariff policy, the agency's mission has continually adapted to meet the changing needs of our Nation.

Today, it is one of the most modernized agencies in the U.S. Government, responsible for managing over 23 million entries and 472 million passengers a year. It collects over $23 billion dollars in duties and fees and is responsible for seizing millions of pounds of contraband narcotics every year. The Customs Service is a vital component of our Government.

Given the importance of the agency in facilitating international trade and law enforcement, I think we have an obligation to do everything we can to enhance the effectiveness of the new Department as it moves from Treasury to Homeland Security.

That is why I, working closely with Senator Baucus, developed a series of recommendations regarding the Customs Service which we presented to the Committee on Governmental Affairs early in the process of developing this bill.

I would like to take this opportunity to thank Senators LIEBERMAN and THOMPSON for incorporating the vast majority of our recommendations into the homeland security bill. I especially appreciate the collegial and bipartisan spirit in which the recommendations were developed and adopted by the committee. I think we will have a much better product because of our joint efforts.

The additional changes we are offering to the bill will further enhance the effectiveness of the Customs Service as it moves into the Department of Homeland Security.

The ability of the Customs Service to effectively facilitate international trade while at the same time perform its law enforcement functions is in large part due to the cooperative relationship which the Customs Service has with much of the international trade community. This cooperative relationship benefits both parties and has been developed over a long period of time. By understanding the business community and how international trade actually works, the Customs Service is much more adept at identifying anomalies in trade patterns that often point to illicit activity. I want to make sure these relationships are not lost with the transfer of the Customs Service to Homeland Security.

Part of the key in maintaining this traditional cooperative relationship is to maintain the advisory elements on which they are built. This means carrying forth such committees as the Treasury Advisory Committee on the Commercial Operations of the Customs Service, or COAC, to the new Department of Homeland Security. This is precisely what our amendment does.

I also want to make sure the international trade functions of the Customs Service continue to receive adequate resources to continue their work. A good example of this is the continued construction of the automated commercial environment, or ACE. Currently, the automated commercial system is the only comprehensive mechanism to monitor trade flows. Yet it is antiquated and subject to periodic slowdowns. We must do better.

That is why I strongly support rapid and efficient deployment of ACE, the automated commercial environment. The ACE system will be key to facilitating economic trade in the future. We must make sure than, even in these times of tight budget constraints and intense focus on homeland security, we continue to provide Customs with the funds needed to get the ACE system up and running. A well-functioning automated mechanism for monitoring trade flows will help facilitate international trade and help Customs more effectively perform its law enforcement functions.

Our amendment establishes a new account within the Customs Service called the Customs Commercial and Homeland Security Automation Account. For fiscal years 2003 through 2005, $350 million in Customs user fees would be allocated specifically to this account. Creation of this account will ensure that sufficient funding is available to complete construction of the automated commercial environment ACE after Customs moves from the Department of the Treasury to Homeland Security.

As we move forward in enhancing our border security efforts, it is important to keep in mind that a large part of homeland security is economic security. And, international trade is a critical component of our economic security. Exports alone accounted for 25 percent of U.S. economic growth from 1990–2000. Exports alone support an estimated 12 million jobs. Trade also promotes more competitive businesses—as well as more choices of goods and inputs, with lower prices. If we impede trade, we impede our own economic growth and our own well-being.

The tragedy of September 11 make it clear that the United States must be at the forefront in developing the border technologies and enforcement methodologies which will enable our economy to prosper and grow in the new global environment. We cannot afford to do any less. A nation which masters the competing goals of international trade facilitation and border security will be a nation which can confidently embrace new world trading system. It will be a nation which prospers well into this new millennium. I stand ready to work with my colleagues and President Bush to make sure our Nation rises to meet this challenge.

Mr. FEINGOLD. Mr. President, I rise today to express my support for the amendment offered by the Senator from Nebraska, Mr. NELSON, and others to protect the rights of the thousands of Federal employees who will be transferred to the proposed Department of Homeland Security, and to express my opposition to the amendment offered by the Senator from Texas, Mr. GRAMM and the Administration's efforts to lessen those rights.

The employees of the 22 agencies that are slated to be reorganized into the Department of Homeland Security are on the front lines of the effort to respond to and investigate the September 11 attacks and to prevent further acts of terrorism. These dedicated men and women, who have served the American people during this uncertain time, are about to undergo a professional upheaval while at the same time being expected to maintain their high level of performance. This massive reorganization should not be used as an excuse to take from these employees the one constant that they expect would follow them to their new department: the Federal civil service protections which they all have in common, regardless of their current home agency.

The civil service system was put into place in order to end the corrupt patronage system that had permeated government hiring and advancement. The creation of a new department should not be used as an excuse to roll back these protections and plunge these workers into uncertainty regarding their professional futures.

I am concerned that the administration appears ready to use the creation of this new cabinet-level department as an opportunity to eliminate or weaken the civil service protections currently in place for the Federal employees who would be transferred to the that department. Unless it is amended by the Nelson amendment, the pending Gramm amendment would have this effect of weakening these civil service protections.

Some in the administration and some on this Senate floor have argued that the civil service system is rigid and could prevent the new Secretary from acting quickly in the face of an imminent threat. This is not the case. The existing civil service system already provides the administration with broad flexibility, while at the same time ensuring that Federal workers have a consistent framework of basic protections, including appeal rights. This flexibility is important in an issue as critical as our Nation's security, but the underlying Lieberman substitute and the Nelson amendment would provide the flexibility needed.

Supporters of stripping these protections also have argued that the new Department should be allowed to scrap the existing system because that system has some problems. The ongoing debate over civil service reforms should not be used as an excuse to allow the Department of Homeland Security to be the only Federal department with employees who are not covered by this system.

I regret that the administration has issued a veto threat against the Senate Homeland Security bill as reported by the Governmental Affairs Committee because it ensures that the approximately 170,000 federal workers slated to be transferred to the new department would retain basic civil service protections. Civil service protections level the playing field for Federal workers, ensuring that they are treated equitably. To propose to treat workers in one department, many of whom have had these protections for years, differently from their counterparts in other departments would undermine seriously the entire civil service system.

No one, including the President, has demonstrated how maintaining these basic protections could jeopardize our national security. We can protect both our country and the rights of our workers. In fact, we can better protect our country if our workers' rights are well-protected, too. The United States affords its workers some of the best labor and employment protections in the world. But a wholesale elimination of those rights under the guise of homeland security would send exactly the wrong message.

The amendment offered by the Senator from Nebraska would grant the new Secretary of Homeland Security expanded authority to create a new personnel system while still ensuring that the rights of workers are protected. This compromise will help to ensure that workers have input into the structure of any new system that is created. As a number of our colleagues have said, it would be harmful to worker morale and to worker-management relations to simply foist a new system upon these workers without their input and then expect them to accept it.

In addition to basic civil service protections, the Nelson amendment addresses the issue of collective bargaining. I support the right of workers to join a union and I am troubled that the administration appears poised to strip existing union representation and collective bargaining rights from many of these workers. I also am troubled by the implication that union membership is somehow a threat to our national security.

The Nelson amendment would allow workers who are covered by existing collective bargaining agreements to keep those rights. It does not hamper the ability of the new Secretary or the President to remove collective bargaining rights from individual workers or newly-created agencies within the department if there is a valid national security concern. Simply being an employee of a department with the word "security" in its name is not sufficient cause to be stripped of collective bargaining rights.

I urge my colleagues to support the Nelson amendment and to oppose the Gramm amendment.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I am glad we are on the Department of Justice authorization. As I said earlier, I appreciate the fact the distinguished majority leader moved to it. This is actually a very important bill. At a time when it seems so much good legislation is being stalled, it would be a shame if this was, too.

I know since January of last year Senate Democrats have tried to bridge the gap and make bipartisan progress on campaign finance reform, corporate accountability, and a real Patients' Bill of Rights, and a number of bipartisan anticrime, antidrug, antiterrorism bills. We worked with the administration after September 11 on the USA Patriot Act; we passed that in record time. We created the September 11 victims' trust fund and we enhanced border security.

We tried to work as supportive partners in the effort against terrorism. Throughout that effort in the Judiciary Committee, we rose above the bitterness and partisanship that had been exhibited by my predecessors during the last 6 years of the previous administration. We have held more hearings on more judicial nominees and held more committee votes on them and confirmed more judges in 15 months than the Republicans were willing to confirm in the last 30 months when they controlled the Senate.

I emphasize that for the 30 months prior to the change in the control of the Senate, the Republicans controlled the Senate Judiciary Committee during both the time of President Clinton and President Bush. In the 15 months we have been in control—it has been only with President Bush—we have put through twice as many judges in 15 months. We put through more judges in 15 months than they did in 30 months.

I mention this because some at the White House, who should know better, talk about the holdup on judges but do not like it when they are reminded that we have done more under President Bush than they did for both President Bush and President Clinton during a period twice as long. It is an interesting point.

I remember Adlai Stevenson once said to some of his Republican friends: If you promise to stop talking lies about us, I will stop talking the truth about you. But I find the statements and statistics continue, so I thought I would throw a little truth on the matter.

I mention this because we have tried to go more than halfway. As I said, during 15 months, we moved more judges than the Republicans did during 30 months. We have reached out in order to pass legislation from our committee—and the distinguished Presiding Officer is a valued member of that committee—and passed out piece after piece either unanimously or by a strong bipartisan majority. We passed intellectual property legislation, consumer legislation, anticrime legislation, antidrug legislation, but then mysterious Republican holds came up and stopped them.

Here are some of the bills we passed out of the committee that have been held up on the Republican side: the Leahy-Grassley FBI Reform Act; the Hatch-Leahy Drug Abuse Education Prevention and Treatment Act; the DREAM Act, championed by Senators Durbin and Hatch; a charter amendment to the Veterans of Foreign Wars, something totally without partisanship. We passed it unanimously, as the distinguished Senator from Washington State knows. We passed out a charter amendment to the Veterans of Foreign Wars, a nonpartisan request. We cannot get it through the Senate because it is being held up on the Republican side of the aisle.

We passed out a charter amendment for AMVETS, a wonderful veterans organization. The distinguished Presiding Officer and I voted for it and it was voted unanimously out of our committee. It is being held up on the Republican side of the aisle.

We passed out a charter amendment for the American Legion. Every Democrat voted for that. Every Democrat has agreed: Move that through the Senate. It is being held up on the Republican side.

Now we find there is a Republican hold on the Department of Justice Appropriations Authorization Act. This is the first one in 21 years. It passed in the House of Representatives by a vote of 400 to 4. The chief sponsor is a leading Republican Member of the House.

We strengthen our Justice Department, increase our preparedness against terrorist attacks, prevent crime and drug abuse, improve our intellectual property and antitrust laws, strengthen our judiciary, and offer our children a safe place to go after school. It is a product of years of work.

I commend Senator DASCHLE for bringing this up for a vote. Let me show my colleagues some charts. This is not a hodgepodge where one might go in and look as to whether you wear a green tie or paisley tie or drive a blue car or a black car; this is something that really affects Americans.

It was passed by the House of Representatives. If it is allowed to come to a vote, it could pass easily in this body: border security, domestic preparedness, suppression of financing terrorism treaty.

Let me mention the last part. We worked this out with the Bush administration. They said there is a difficulty in following the money used by terrorists around the world. We know how quickly President Bush and Secretary O'Neill moved after September 11 last year to freeze the assets of some of these terrorist groups, and I commend the President for that action; I praise the President for doing that. But I wish the President now would tell his own party that we have the legislative tools that President Bush has asked for to go after the money of terrorists, and it is being blocked on the Senate floor by a Republican hold.

Let's pass this. Let's do what we all know has to be done. This is not partisan—grabbing the money of terrorist organizations that are after the United States. That is not a Democratic or Republican issue. But when every single Democrat said they will vote to go after that money, it is time for the anonymous Republican who has a hold to let us go forward.

Let me show a few other items that are in the bill. We improve law enforcement. We have FBI reform and FBI agent danger pay. Some of these FBI agents are working in some of the most dangerous places, especially overseas. Sometimes their mere presence targets them for assassination. This is agent danger pay. We ought to be doing that.

The Body Armor Act is something every law enforcement agency from which I have heard wants to protect police officers from those who would attack them. I cannot understand why this is being held up on the other side. We ought to go forward with this bill. We ought to pass it. We ought to tell our law enforcement officers that we will help them.

Senator CARNAHAN's Law Enforcement Tribute Act is in this legislation. It authorizes grants to States, local governments, and Indian tribes for memorials to honor killed or disabled officers while serving as law enforcement safety officers. How can anybody oppose that without looking terribly political? Senator CARNAHAN deserves credit for this bill.

Senator FEINSTEIN and Senator SESSIONS joined in a bipartisan effort on the Body Armor Act. That should be allowed to go through.

Then we have some ways to stop crime from happening in the first place. We reached a bipartisan agreement to give the Boys and Girls Clubs the funds they need for 1,200 additional clubs across the Nation. Next to motherhood and apple pie, I cannot imagine anything that should have more support than helping the Boys and Girls Clubs of America. We have an excellent one in Burlington, VT. I know it very well. It just celebrated its 40th birthday.

I remember that Boys and Girls Club back in the days when I was State's attorney. I know those kids who went there had a place to go, had a place to learn, had a place to gather, had a place to constructively work, and were not the kids who got in trouble. They were not the ones I saw in juvenile court. They were not the ones who made our crime list. They were the ones who made the star list in our community.

I mention this because Senator HATCH and I went to the Boys and Girls Club congressional breakfast honoring the regional youth of the year. We also honored Senator THURMOND. I heard, and I know they were sincere, Republican Senator after Republican Senator come forward and say we have to authorize and expand the Boys and Girls Clubs. All right. Let's do it.

Last week, we offered to pass this bill on a voice vote to zip it through. We polled every single member of this side of the aisle. They were all in support of that Boys and Girls Club authorization, as they were the Body Armor Act and the help for law enforcement. Every single Democrat was ready to vote for it. We were willing to have it go by on a voice vote. An anonymous objection came from the Republican side.

I know in an election year some politics gets played, but not with the Boys and Girls Clubs and not with the Violence Against Women Office. We want to increase Federal focus on this tragic and recurring problem. Preventing domestic violence is not a partisan issue.

I remember going into the emergency rooms of our hospitals at 3:00 in the morning when I was in law enforcement. I saw the results of domestic violence. I saw women beaten so badly that even though we had an idea who may have beaten them, they could not even tell us through a broken jaw, swollen lips, and bloody faces. I saw that. I saw domestic violence even in a bucolic State like mine, but the amount of domestic violence is the same in every State.

It was not just those battered individuals I saw in the emergency room—at least we had hopes they would be brought back to health. We at least had hopes that medical care would return them to their ability to function—I still have nightmares sometimes of some of the others I saw, but I didn't see them in the emergency room. I saw them one floor up in the morgue.

This happens in every single State, and I never heard a police officer say: I wonder if this victim is Republican or Democrat. The police officer said: Why don't we do something to stop it?

Here is a chance to do something. Let's vote for it.

The Crime Free Rural States Grants, we have crime in our cities, but we also have crimes in our rural areas. The distinguished Presiding Officer was Governor in one of our finest States, a State that is a part of the American heartland, a State I have had the pleasure of visiting.

In fact, there were Leahys who moved out to Nebraska in the 1850s when my great-grandfather and his brothers came over from Ireland, some staying in Vermont, some staying in New York and others going to Nebraska. I know how beautiful a State it is, and I know there are both cities and rural areas. I know how hard the distinguished Presiding Officer as Governor fought against crime in both areas. He knows, as I do, that crime is a fact of life in rural areas. It is sometimes more difficult to fight because there are not all the needed resources available. It might be a small sheriff's department. The chief of police may be the whole police force.

We can help. This legislation authorizes programs that will reduce drug abuse and recidivism, mandatory, to increased funding for drug treatment in prisons, to funding for police training in South and Central Asia. These proposals are not Republican or Democrat; these are bipartisan. Most of them were in the Hatch-Leahy Drug Abuse Education, Prevention and Treatment Act.

Drug courts, drug-free prisons, reauthorizing the Juvenile Justice and Delinquency Prevention Act—one of the saddest things is going to juvenile court and seeing 12- or 13-year-old boys and girls who are already recidivists, people who have committed crimes that one would think a child that age would not even know about.

In going back through the reports, there are steps that could have been taken 2, 3, or 4 years before that might have prevented that. Now these boys and girls are people who are probably going to end up in an adult jail somewhere, lost to society and lost to themselves. We should have stopped it. That help is in here.

That is one of the reasons the House of Representatives, facing some of the same kind of partisan divisions that we face in this great body, passed it 400 to 4. I do not need to tell the distinguished Presiding Officer the need for these kinds of investments. He has had the experience both as a Governor, a Senator, and a parent. He knows what we have to do, just as I do. Let's go ahead and do it. Let's set aside the partisanship for a while and let's do something.

There are intellectual property provisions in this bill. We are in the United States seeing an enormous loss of jobs. In the last 2 years, we have had the biggest drop in jobs that I can remember, the largest number of layoffs we have seen in years. The economy is in a tailspin. The stock market has had a greater drop than at any time since the Presidency of Herbert Hoover. If anything, we should be helping American innovators and businesses, both big and small. We want these businesses to prosper. We want these businesses to be able to compete on a worldwide scale. We want these businesses to hire the people of Nebraska, Vermont, South Dakota, New York, California, Florida, Arizona, Alabama, and all our other States. So we put in the Leahy-Hatch Madrid Protocol Implementation Act.

What this does is the sort of thing that the President and all the people around him say we need, something to simplify life for businesses. We would implement a treaty to allow American businesses to have one stop for international trademark registration which they can do only to countries that sign on to the protocol.

American businesses and companies that need to protect their trademarks if they sell their goods and services in international markets, especially over the Internet, would be helped by this legislation. Every single business leader I have heard of, regardless of their political background—from chambers of commerce, to business leaders, Republicans and Democrats alike—say pass this bill.

I checked on this side of the aisle. Every single Democrat is ready to vote for it right now. It has been held up for over a year by a Republican hold. I say to some of the businesses, talk to the Members of the Republican Party. The Democrats are ready to pass it.

We have another provision in the TEACH Act, an exemption that allows educators to use the same rich material of distance learning over the Internet as in face-to-face classrooms. Let me state why that is important. In rural areas—such as Nebraska or Vermont—there may be a number of small schools that cannot each support a library and sometimes cannot afford a teacher in a specialized area such as science, history, or math. Together they can, but you have to link them. So copyright laws apply. We worked that out. This is a no-brainer. It will help the kids. It should be a no-brainer for the Senate to pass.

We reauthorize and modernize the Patent and Trademark Office and give them funds they need. When I hear the baloney that comes out of the political people in the Attorney General's office and the White House about judges, this would be the one they should want. There are 20 new judges included to be appointed by President Bush. For a little bit of history, this is more than were created during the 6-plus years that the Republican Party controlled the Senate. The Clinton administration wanted to create these judgeships. They wanted to create new Federal judicial positions, and they were blocked by the Republicans. I believed the judicial positions were needed when President Clinton was President. I thought it was wrong that the Republicans stopped us from doing that. I did not want to do the same thing to President Bush that they did to President Clinton. Two wrongs do not make a right. So it was included. These are Federal judges in States we know are Republican and will be chosen by Republican Senators—in Arizona, Alabama, Texas. We include them just the same.

Why did that not pass last week? One may wonder, finally, having blocked it for 6 years during the Clinton administration, now they have 20 judges President Bush may appoint—one may wonder why it has not been passed by a Democratic-controlled Senate. The Democratic-controlled Senate wanted to. But I will tell you the secret: A Republican Senator held it up. That is what happened. I hope no one comes down and says, We need more judges. We have 20 judgeships included, mostly in Republican States.

There are a lot of other provisions, including the Radiation Exposure Compensation Act. A lot of western Senators want that. We get into immigration matters. I talked a lot about rural areas.

Let me talk about the rural underserved medical areas. Every Senator has rural areas in their State. My State happens to be predominantly rural. But even the States of New York, California, Texas, and Illinois have large rural areas. It is very hard sometimes to get doctors into those areas. If you have someone injured in a farming accident, there may not be a doctor. That injured person may die for want of needed medical treatment. You may have a woman in a difficult childbirth. She may die or her baby may die for want of medical care. There may be an elderly person who just needs a certain amount of preventive care to lead a happy, productive life. We have worked on the visa provisions of INS to allow doctors from outside this country to serve in rural areas: Extend their visa providing they will stay in rural areas and help where there is a need. It allows grandparents to apply for citizenship on behalf of orphaned children, grandparents who saw their grandchildren orphaned in the tragedy of last September 11. These are some items included.

This is as much a bipartisan piece of legislation as I have seen in 28 years. The people supporting this legislation are wide ranging. By golly, I just happen to have a chart. Let's see who is in favor of this: Boys and Girls Clubs of America; the Coalition for Juvenile Justice; the Fraternal Order of Police; Family Violence Prevention Fund; National Automobile Dealers Association; National Association of Counties; National Association of Police Organizations; National Coalition Against Domestic Violence; National Mental Health Association; National Network to End Domestic Violence; Presbyterian Church, Washington office; Volunteers of America; U.S. Council for International Business; National Association of Manufacturers; the International Trademark Association; American Intellectual Property Law Association; U.S. Copyright Office; the American Library Association; Association of American Universities; American Research Libraries; Intellectual Property Owners Association; American Intellectual Property Law Association; Avon Products; Nintendo; Warner Brothers; IBM—I could go on. That is about as broad a cross section supporting this as we will see in the Senate.

I am not sure what game is being played. I urge my good friends on the other side of the aisle to come forward, belly up to the bar, pay the price, pass the bill.

I ask unanimous consent to have printed in the RECORD a number of letters of support.

There being no objection, the material was ordered to be printed in the RECORD as follows:

BOYS AND GIRLS CLUBS OF AMERICA,
Rockville, MD, September 27, 2002.

Senator PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR LEAHY: I am writing to you today in regard to H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act. As you know, in addition to the many other critical components of the bill, H.R. 2215 authorizes continued funding to Boys & Girls Clubs of America, so that we may continue our aggressive growth efforts in disadvantaged communities throughout the country.

Today, thanks in large part to Congress, Boys & Girls Clubs of America is serving more than 3,300,000 youth in more than 3,200 Clubs. We are located in all 50 states, and now have more than 420 Clubs in public housing and 120 Clubs on Native American lands. We are located in inner-city, and rural communities throughout America playing a vital role in the development of our children.

During the past 5 years, we have grown by more than 1,000 Clubs and 1,000,000 new youth served. The Congressional funding that we have received is matched at least dollar for dollar nationally, brining true public-private partnerships to communities all over America.

Senator, we thank you for your strong support of Boys & Girls Clubs of America, and ask that you move quickly and decisively in passing the 21st Century Department of Justice Appropriations Authorization Act.

Sincerely,

MR. ROBBIE CALLAWAY,
Senior Vice President.

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE; NATIONAL NETWORK TO END DOMESTIC VIOLENCE; FAMILY VIOLENCE PREVENTION FUND; NOW LEGAL DEFENSE AND EDUCATION FUND,
September 26, 2002.

DEAR SENATOR: As national organizations working to address the varied needs of victims of domestic and sexual violence and the service providers in the field, we urge you to support the Violence Against Women Office in the Department of Justice by voting in favor of the Conference Report of H.R. 2215, the 21st Century Department of Justice (DOJ) Appropriations Authorization Act.

As you know, the Violence Against Women Office (VAWO) was created in 1995 to implement the Violence Against Women Act of 1994 and to lead the national effort to stop domestic violence, sexual assault, and stalking. Because ending violence against women is an on-going struggle, it is imperative to statutorily authorize the Violence Against Women Office in order to institutionalize policy development, observe trends, raise awareness, serve as a crucial resource for the Attorney General, prosecutors, police and other community agencies, and provide technical assistance. In addition, the Office ensures federal dollars under the Violence Against Women Act of 2000, passed by Congress with overwhelming bi-partisan support, are administered in the most effective manner possible to best serve victims and end violence.

With strong bi-partisan support, both the House and the Senate have passed H.R. 2215, which would statutorily establish a strong VAWO. On behalf of all victims of domestic and sexual violence and the service providers who help them, we thank Congress for this strong statement from our federal government that violence against women will not to tolerated. As you know, it is critical that the statutory creation of the Violence Against Women Office reflect the essential components of the office. Currently, VAWO is part of the Office of Justice Programs—the grant-making body of the Department of Justice. However, VAWO cannot serve as the leader in promoting the changes needed to effectively serve victims of domestic violence, sexual assault, stalking, and trafficking if it is merely a grant-making office. VAWO needs the authority to create policy regarding violence against women and needs to have a Presidentially-appointed, Senate-confirmed Director, in order to ensure that these issues continue to have a high profile on local, state, federal and international levels.

The Conference Report of H.R. 2215 accomplishes this and creates a separate and independent Violence Against Women Office in the Department of Justice, under the general authority of the Attorney General. We urge you to lead the way for a safer nation for women and children by voting in favor of the Conference Report of H.R. 2215, the 21st Century Department of Justice (DOJ) Appropriations Authorization Act.

If you have any questions, please do not hesitate to contact us at the numbers listed below.

Sincerely,

JULEY FULCHER,
Public Policy Director, National Coalition Against Domestic Violence;
LISA MAATZ,
Vice President of Government Relations NOW Legal Defense and Education Fund;
LYNN ROSENTHAL,
Executive Director, National Network to End Domestic Violence;
KIERSTEN STEWART,
Director of Public Policy, Family Violence Prevention Fund.

BUSINESS SOFTWARE ALLIANCE,
September 30, 2002.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY: I am writing to support Senate passage of H.R. 2215, the Department of Justice Reauthorization Act. The members of the Business Software Alliance work with a variety of Justice departments to reduce software piracy and to ensure a safe and legal online world in this heightened cybersecurity environment.

The legislation strengthens our nation's criminal justice system and increases the frequency and quality of reports to Congress. Effective criminal enforcement requires both initiatives by prosecutors and timely action by the courts. BSA is particularly supportive of funding for the enforcement of our nation's intellectual property laws in Section 101 and the related reporting requirement contained in Section 206. The robustness of our nation's tech sector depends in part upon the strength of the laws that govern intellectual property as well as the enforcement of such laws. Until recently, there have been few criminal copyright cases brought by the Department. Simply put, there is nowhere else to turn if the federal government does not enforce our nation's intellectual property laws.

We appreciate the longstanding efforts of Congress to strengthen our nation's criminal laws and make our nation's intellectual property laws a catalyst for growth.

Sincerely,

ROBERT W. HOLLEYMAN, II,
President and CEO.

SEPTEMBER 27, 2002.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to express our support of the inclusion of the modified versions of H.R. 1900 and H.R. 863 in the conference report on H.R. 2215, legislation to reauthorize the Department of Justice. The undersigned members of the Juvenile Justice and Delinquency Prevention Coalition appreciate your efforts to approve a reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974 that retains the rehabilitative principles of our juvenile justice system.

In particular, we appreciate your efforts to preserve current law in several key areas that has been working well for more than 25 years to ensure that youth in the juvenile justice system are protected from abuse and assault by adults in adult jails. The modified version of H.R. 1900 codifies the separation protection for youth, which requires that states prevent all contact between juvenile and adult inmates, including any 'sight or sound' contact. The proposal also drops a harmful provision that would have permitted children to be placed in adult facilities with parental consent. This provision represented a radical change from current law and would have resulted in children being unnecessarily placed in adult jails.

The revised version of H.R. 1900 also includes an appropriate concentration on prevention through the restoration of the Title V Local Delinquency Prevention Grant program. In order to ensure that children stay out of trouble and on the right track, a significant investment in and emphasis on prevention, particularly primary prevention, is crucial. The Title V program is an effective model of community collaboration in which community stakeholders—including locally elected officials, law enforcement, school officials, public recreation, private nonprofit organizations, and youth workers—come together to develop a plan for juvenile delinquency prevention. Working in more than 1,000 communities nationwide, Title V is currently the only federal program providing delinquency prevention funding to communities through a flexible, local prevention block grant approach to help communities reduce juvenile delinquency and related problems and enable young people to transition successfully into adulthood.

Finally, we are pleased that H.R. 863, legislation to authorize the Juvenile Accountability Block Grant (JAIBG), has also been included in the conference report. Never authorized, the JAIBG was created in the FY98 Commerce Justice State Appropriations bill to provide states and units of local government with funds to develop programs to promote greater accountability in the juvenile justice system. Under H.R. 863, the program purpose areas are expanded significantly to provide additional services and treatment for troubled youth. By supporting these additional purposes, JAIBG will provide needed resources to proven strategies for rehabilitating, adjudicated youth and families as well as reducing juvenile re-offense rates.

We appreciate your continued efforts on behalf of children and youth and look forward to final approval of H.R. 2215.

Sincerely,

American Academy of Child and Adolescent Psychiatry; American Civil Liberties Union, Washington National Office; American Probation and Parole Association; American Psychological Association; Bazelon Center for Mental Health Law; Child Welfare League of America; Children & Adults with Attention-Deficit/Hyperactivity Disorder (CHADD); Children's Defense Fund; Coalition for Juvenile Justice; Education Fund to Stop Gun Violence; Justice Policy Institute; National Association for the Advancement of Colored People (NAACP); National Association of Counties; National Association of Criminal Defense Lawyers; National Education Association; National Mental Health Association; National Network for Youth; National Recreation and Park Association; Presbyterian Church (USA), Washington Office; Volunteers of America; Women of Reform Judaism; Youth Law Center.

Mr. LEAHY. Mr. President, we don't have one of the leaders on the floor at the present time. I was going to ask that we proceed to a vote. But I am not going to do that until the other side is represented here. But I know everyone on this side is ready to vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, while the distinguished committee chairman is on the floor, Senator LEAHY, I would like to ask him a couple of questions.

Mr. LEAHY. Sure.

Mr. REID. We are now on this conference report. It is my understanding that it passed the House 400 to 4. We moved to this a couple of hours ago. Does the Senator know of any opposition to this matter on either side of the aisle?

Mr. LEAHY. Mr. President, I tell my distinguished friend, the senior Senator from Nevada, that I checked. I know his office also checked on our side of the aisle. Everybody is in favor. We were told that the Democratic side of the aisle wanted to let it go through in wrap-up last week. I am told there is a lot of legislation in here sponsored by distinguished members of the Republican Party who support it. But the hold has been a continuing hold on the Republican side. I can't understand why. This is as close to a motherhood bill as I have seen here in years.

Mr. REID. I say to my friend, the chairman of the committee, that it would seem to me that at an appropriate time we should move for a vote. We want to make sure everyone has an opportunity to speak. There is certainly ample opportunity to do that. But I hope before the day ends we can pass this very important piece of legislation. I know there are things in here which are important to the people of Nevada and to the rest of the country. I think the committee should be commended for passing this, moving it to the floor, and getting to conference.

Getting anything out of conference under the present atmosphere is a remarkable feat. Senator LEAHY is to be admired and commended for doing this. I hope that before the day is out we can pass this important piece of legislation.

Mr. LEAHY. Mr. President, I thank my friend from Nevada. The committee of conference went across the political spectrum. Every conferee—Republican and Democrat—signed that conference report. They passed it 400 to 4 in the House. I am amazed that we are still even on the floor. I have been advised by the Republican side that a Republican Senator wants to come over and speak. Otherwise, I would have said let us go to a vote now. Obviously, I don't want to cut off any Senator who wishes to speak. But I tell my friend from Nevada that, as far as this Senator is concerned, I am perfectly willing to go to a vote anytime we want. It is now 4:30. I can't imagine why we need to wait beyond 5 o'clock.

Again, just before the Senator from Nevada came to the floor I read a list.

Mr. REID. I was listening.

Mr. LEAHY. I am sure he was. I read a list of all those who support it. This is probably as broad a spectrum—National Association of Manufacturers to the Boys and Girls Clubs of America. It sure encompasses a lot.

We have a charter change for the Veterans of Foreign Wars in here; a charter change for AMVETS; a charter change for the American Legion. All of those organizations support it.

As chairman of the Judiciary Committee, I pushed that through.

This is something that the AMVETS and Veterans of Foreign Wars discussed and asked for, this charter change. They all support it. All the Republicans and Democrats on the committee support it. We ought to pass it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I want to make sure that it is clearly stated and make sure it is clear in the RECORD. The charter changes for the American Legion, the charter changes for AMVETS, the charter changes for Veterans of Foreign Wars are in a separate bill that has the Republican hold on it. However, there is no opposition from members of the Judiciary Committee. I am told there is no Democrat who opposes those charter changes. I am told that every Democrat in the Senate is perfectly willing to pass the charter changes for the American Legion, for the AMVETS, and for the Veterans of Foreign Wars, and as soon as the Republican hold is lifted on the charter changes for the Veterans of Foreign Wars, the American Legion, and AMVETS, we can pass it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. KYL. Mr. President, I will speak to the legislation that has been placed before us this afternoon, the Department of Justice reauthorization bill or, as it is officially titled, the 21st Century Department of Justice Appropriations Authorization Act.

I begin by putting this in the context of what I would call priorities. We are now less than 2 weeks, probably, from closing the session of this Congress, and there is a great deal of unfinished business to which we need to attend.

As a matter of fact, we are bringing this legislation up—I should say the majority leader has brought this legislation up—deferring, for our consideration, the bill that is currently on the floor, the homeland defense reorganization bill that the President asked us to deal with about 3 months ago. That bill has now been on the floor of the Senate for at least a month, and we still have not even voted on the President's proposal.

This DOJ, or Department of Justice, reauthorization bill has a lot of important provisions in it. I am going to get to those in a moment. But in terms of priorities, it seems to me the reauthorization of a Department which has not been reauthorized for more than two decades, and clearly is going to continue to operate—that is, the Department of Justice—is a little bit lower priority, at this point in this legislative session, than voting on the President's homeland reorganization legislation. It is a lower priority than adopting a resolution dealing with the Senate's position with respect to the authorization of the President to utilize force in any action he may decide to take against Iraq. And it is less of a priority than having the Senate act upon the Defense appropriations and authorization bill.

It is clear, because the majority was not able to pass out a budget this year—the first time since the creation of the Budget Act, which I think was in 1974—that we do not have a budget. That has been one of the reasons we do not have any appropriations bills done. I am not aware of any bill that has come from the House to the Senate and been voted on by both bodies and sent to the President. I might be wrong, but I do not recall any. I think we have only acted on three or four.

It is common knowledge that in order to fund the Government beyond October 1, it is going to require the adoption of what we call continuing resolutions or CRs. We have already adopted one, and we are going to have to adopt another and then another one after that. These continuing resolutions will authorize Government to continue to be funded at some level; last year's level plus some increment of inflation, I suppose.

Because we didn't pass a budget and because we haven't passed the appropriations bills, we don't have all of the other specific programmatic funding that would ordinarily be included in these appropriations bills, including new programs. That is not good.

We can get by with these continuing resolutions for a matter of weeks and perhaps a few months if we have to. Where we can't get along without an appropriations bill is for the Department of Defense and the conduct of the war. Things have changed so dramatically since last year when an appropriations bill was passed for the Department of Defense that all recognize—this is not a partisan issue; I think everybody recognizes—we are going to have to pass a Defense authorization bill and a Defense appropriations bill for the next fiscal year. We are going to have to do that as a matter separate and apart from the continuing resolutions we will adopt.

Those are the first three things we have to do before we complete our work. In one way or another they all deal with national security, which, obviously, is the first thing about which we have to be concerned. And in a time of war, I know it is very much on the minds of all Members.

Again, a Defense authorization and appropriations bill to actually provide the programs and the funding for our military forces for this next year; an authorization that this body would approve the use of some kind of force for the President, should he deem it necessary in taking action against Iraq; and completion of our work on development of the Department of Homeland Security so that the President would know how he can organize the Government to best deal with the threat to the homeland—those should be our top three priorities.

We don't yet have the Defense bill. It is ready but it hasn't been brought to the floor. The homeland security bill has been pending for 4 weeks perhaps. We still didn't even have a vote on the President's proposal for a Department of Homeland Security. The majority leader keeps filing cloture which is defeated because people are not ready to finish that bill until we have a chance to vote on the President's proposal. That is only fair. He ought to have some say in how his Department is going to be reorganized. Perhaps his idea won't prevail, but it will, if we can ever get it to a vote. He is at least entitled to a vote.

Instead of granting that, we have left that national security debate, and we are now on the question of whether we should reauthorize the Department of Justice.

What is an authorization? Ordinarily an authorization for a program tells you what you can do from year to year in this Department of Government. It is important in an organization such as the Department of Defense, where we have had such a dramatic change in requirements since last year with the war on terror.

As I said, it has been now more than two decades since the Department of Justice has had a reauthorization. All we have done in those two decades is each year appropriate money for the various programs we have passed for funding of the Department. That has worked fine. It could work, obviously, again.

One could argue that because of the war on terror, there are a lot of new things that need to be done in the Department of Justice—new authorities granted, new capabilities, new funding, and that it might justify a new authorization act. I could abide by that rationale, if we had before us a reauthorization that embodied those kinds of new programs. But that is not what we have. This is the same old, warmed over stuff that we have had for the last couple of decades.

If we want to fight the war on terror and we want to take our precious time to reauthorize the Department of Justice with that in mind, we would write an entirely different bill than this.

One example, just off the top of my head: We had testimony in the Intelligence Committee last week that there is a great deal of confusion about the FISA Act, the forward intelligence surveillance law under which our law enforcement officials have the ability to collect intelligence on people who are thought to be foreign agents or working on behalf of foreign governments or engaged in terrorist activities internationally. It is a little bit easier to collect intelligence on people like that than it is under our normal criminal justice system where a crime has been committed or is being committed and the FBI is investigating that crime.

As part of the USA Patriot Act last year, we made changes to the FISA law to make it more effective in the new era of the war on terror. We found out something. This came about in a variety of different ways, but it has all come together here. This FISA law has one aspect that needs to be fixed. Senator SCHUMER and I have a proposal to fix it, but we haven't been able to get it on to the floor. As a matter of fact, I had anticipated including it in the intelligence reauthorization. We will have the conference on that tomorrow evening. It is almost to the floor.

But I was told by Chairman GRAHAM that a member on the majority side was going to object to the inclusion of the Schumer-Kyl provision and, therefore, would I please not include it in that bill. I said, of course, I would be happy to because we want to get the intelligence authorization passed. But at some point we have to make this change in FISA. I will describe what the change is.

It should have been in here but it is not. If we are talking about priorities, I would much rather get that done than have to wade through all of this. We have gone two decades without this. But we need to make some of these changes for law enforcement.

The evidence before the Intelligence Committee was that the FBI thought, with respect to Zacarias Moussaoui, thought to be the 20th hijacker, that he had some connection to international terrorism. He was a foreign person, not a U.S. citizen, and had engaged in flight training up in Minneapolis under conditions deemed to be suspicious by the FBI there. We all heard about the memorandum or letter from agent Rowley from the Minneapolis office complaining about the fact that the FBI had not seen fit to apply for a FISA warrant to look into Zacarias Moussaoui's computer to see what was there.

We all know that after the fact, after September 11, this was done, and certain things were found, and so on, which we don't discuss here.

The fact is, a lot of people criticized the FBI for misunderstanding or misapplying the law and not seeking a FISA warrant on Moussaoui. The testimony we had before the committee was that there was a dispute within the FBI about what they had to prove, and there was some suggestion that maybe he might have been connected in some way with a group of Chechens, but nobody could connect him to a foreign power or an international terrorist organization. Those are the two requirements for FISA to apply.

Had the change that Senator SCHUMER and I advocate been in effect, it is clear that we could have gotten a warrant against Moussaoui because it would simply add the phrase "or foreign person," which would mean that if you had probable cause to believe that someone is involved in a terrorist kind of enterprise, but you don't necessarily know what country he is working for and you can't necessarily connect him to a particular terrorist organization, you think maybe he is just a terrorist, and with this warrant you might find out exactly who it is he is connected to, but you don't really have that information at this point, you could go ahead and seek the warrant to tap his telephone or look in his computer, search his house, whatever the case may be.

It is a very straightforward approach. Agent Rowley, who testified before the Intelligence Committee or the Judiciary Committee—we had a combined hearing—said she thought that would have been a very good thing and strongly supported it.

It has the support of the Department of Justice and the FBI. We have had several different witnesses from those organizations testify both before the Judiciary Committee and the Intelligence Committee, both of which I sit on. They have all indicated this would be a very helpful change in the law, so that with respect to a guy like Moussaoui, if you didn't have the evidence that he was connected to a particular terrorist organization, or that he was working for a particular foreign power, you could still get a warrant to investigate exactly what he was up to if you could demonstrate to the judge you thought he was up to something, that he was a foreign person, and that the kind of activity that he appeared to be looking at was a terrorist kind of activity.

I cannot imagine anybody who would oppose that, but I understand maybe there is somebody who would. We need to vote on that before we leave here in a way that the House can also approve it, so that we can actually improve our ability to fight international terrorism.

You would think those kinds of changes would be in this reauthorization act. It is not in here. Not only that, but one of the authors is alleged to be one of the people who would object to what Senator SCHUMER and I are trying to do. We need to get to the bottom of these things. I want to find out. If anybody objects to the Schumer-Kyl amendment, come to the Senate floor and tell us so we can find out who is behind the objection, get it on the floor, get it approved and enacted into law and signed by the President. Our law enforcement officials want it. It is important to fight the war on terror, to get after the terrorists so we can investigate them before rather than after they commit crimes against us. That is the kind of priority we ought to be engaged in here.

Instead, what does this bill have in it? Well, it is about 240 pages long. It has a lot of provisions. For example, it authorizes $75,000 for an exchange program with Thailand for prosecutors. That is probably a nice thing. I don't know of any reason why that isn't a good thing to do. But $75,000, as you know, is kind of decimal dust around here. We would ordinarily be focused on somewhat larger issues. Here is a bigger one: $5 million for a DEA training site in south and central Asia. Probably a good idea, although I don't know.

One thing that we have been asked by the administration—especially at this time of war—not to do is to impose any more reporting requirements on our agencies that are involved in the war on terror. I am trying to count the number of reports and commissions contained in the bill. There are too many to count so far. I am trying to get an accurate count. Suffice it to say there are numerous reports—report after report—that we are asking the Justice Department to prepare and send up to us on a whole variety of issues.

Oversight is very important, and we need to engage in oversight of the Department of Justice. But there is a balance between causing them to have to spend so much time preparing reports that they literally cannot do the job we ask them to do. I am not sure how some of these reports, anyway, will advance the ball with respect to justice.

The bill speaks of the 21st Century Department of Justice Appropriations Act, but it contains a lot more than just appropriations. It seems to me that we ought to be pretty well focused on the mission. If the FBI, for example, is going to literally change its focus from, first and foremost, being an investigator of crimes that have been committed so they can be prosecuted in court, to an agency—and remember it is part of the Department of Justice—which has now its first and foremost focus of preventing terrorism by conducting investigations that will potentially lead to uncovering the possibility of terrorists in the United States who would perform these horrible acts against us, if that is the new mandate—and certainly Robert Mueller, Director of the FBI, has been very forthright about the need for change in the FBI and the need to create this new priority in the FBI, and I commend him, and Attorney General John Ashcroft has supported the same kind of reformation of the Department of Justice and the FBI—then why is that kind of priority not reflected in this document? It is kind of the same old thing, rather than a new 21st century mission with terrorism at the core.

We need to find resources to fight terrorism. A lot in this bill has nothing to do with terror. That is not to say there is not a great deal the Department needs to do that doesn't relate to terrorism, and we all understand and appreciate that. One would think there would at least be something here that represents the case for looking forward into the 21st century, rather than just looking back for the last couple of decades and trying to pull together different things that we would like for the Department of Justice to do for us.

Let me get back to the issue of reports. Do we need to require the Attorney General to submit to the Committees on the Judiciary and Appropriations of both the House and the Senate a report identifying and describing every grant and cooperative agreement that was made for which additional or supplemental funds were provided in the immediately preceding year? I suppose somebody should put that information together. I wonder whether we need to mandate it in this authorization bill. Here is another report identifying and reviewing every office of justice program grant, cooperative agreement, or programmatic contract. I suppose some auditor needs to have that on the books, but is it necessary to send a report to the committees of the House and the Senate? Do we need to require that the Attorney General submit, within 6 months of enactment, a report to the chairman and ranking member of the House and Senate Committees on the Judiciary, detailing the distribution and allocation of appropriated funds, attorneys, and pre-attorney workloads for each office of the U.S. attorney, except those at the justice management division? That is an internal matter that is important to the proper functioning and operation of the Department of Justice offices of U.S. attorney, but there is an office of U.S. attorney that is supposed to keep track of those things.

It doesn't seem to me that this rises to the level of what we are including within the reauthorization. Do we need to require the Attorney General to conduct a study of offenders with mental illness who are released from prison or jail to determine how many such offenders qualify for Medicaid, SSI, or SSDI, and other Government aid? Do we need that? Should that be included in this 21st Century Department of Justice Appropriations Authorization Act? At least, if it is, does it rise to the level of priority greater than giving the President the authority to take action to deal with Iraq, giving the President a vote on his idea for reorganizing a Department of Homeland Security and providing the Senate's approval of funding so our military can do what we ask it to do? Which of those ought to come first?

We have now taken these other items and put them over here so we can deal with this Department of Justice reauthorization—an action that doesn't need to be done at all. We haven't had a reauthorization of the Department of Justice for over 20 years and yet it has functioned very well.

There is more. I will cite one more. The bill provides the inspector general discretion to investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice—authority which already exists—and allows the inspector general to refer such allegations to the office of professional responsibility or the internal affairs office of the appropriate component of the Department of Justice.

It seems to me that a lot of what is in the legislation is questioning the Department of Justice rather than supporting it. It is asking it to do a lot of things that will take time and money and divert resources from the job that is first and foremost on the minds of Americans. I will let that point go for the moment.

It is not that this is a bad bill. That is not my point. My point is that this is an old bill that was written for another time and which isn't really necessary today—certainly not to take the time of the Senate away from those other items that I mentioned. We should not be taking the time to debate this.

Now, I was just notified a couple hours ago that this bill was going to be brought to the floor. The problem with dealing with a bill such as this in this context is that there is naturally a tendency to hurry up and rush to get it over with because we have more important things to do. I suspect that is what you are going to hear from perhaps the chairman and ranking member of the Judiciary Committee or others—"If these other things are so important, then hurry up and pass this bill."

That is a nice technique: find a time when we really ought to be doing something else, insert this into the agenda and argue that we better hurry and get it over with so we can get back to these more important items. If it is so all-fired important to do, then it is important enough to be done right. I will give you one example of a part of it that wasn't done right.

(Mr. KOHL assumed the chair.)

Mr. KYL. Mr. President, we have a strict rule around here that a conference report, which is what this is—and for those who are not aware, that means the Senate has passed a bill, the House has passed a bill, representatives of the two bodies have gotten together and agreed on a compromise, a conference report. They held a conference and they agreed. The bill goes to the House and the Senate, and we are supposed to act on the conference report. That is our process.

The idea is that the conference committee is supposed to iron out differences between the House and the Senate. That is what happens in a conference committee. What you do not do is bring up new issues in a conference committee. That is verboten. That is not right. If it was not in the House or the Senate bill, then it is not germane to the conference. Every now and then, people look the other way and forget about the rules and say: There is a group who wants another provision; granted it was not in the Senate bill and it was not in the House bill, but we are getting a lot of pressure to get it done, so we are going to stick it in the conference report. There is such a provision in this conference report.

I do not know if it is a good or bad provision. I have heard arguments both ways. I have gotten a lot of pressure from the group who wants it. They are good people. They are friends of mine. I would like to support them. I do not know whether they are right or wrong on the provision, and I will describe it in a moment.

The fact is, when it whizzed through the Judiciary Committee, I thought I would have an opportunity to come to the floor and hear a debate about it and perhaps be involved in that debate and ask questions, understand it, and maybe even offer an amendment or two, and then either pass it or not pass it or vote for it or vote against it.

I am not sure what I would do, but when it comes in the form of a conference report, as you know, it is unamendable. Whatever is in here, you take it or you leave it. You either take everything or the whole bill goes down. This bill may not have a whole lot that is important or good in it, but I do not know that it has a whole lot of bad provisions in it. There are at least some good provisions in the conference report. I want to make that point, and I will speak to them. There are a couple items I like in this bill.

I am not arguing this bill should not be adopted. The problem is, when the House and Senate conferees take something out of left field and stick it in the bill when it was neither in the Senate bill nor in the House bill, it comes back in a form we cannot even amend.

That is what happened with this arbitration issue. I am not sure exactly what it is called—the motor vehicle franchise dispute resolution process bill. This is a bill that is supported by a lot of local auto dealers. As I said, at least the auto dealers in Arizona are, for the most part, good folks, as far as I am concerned. They have a complaint against the motor companies whose cars they sell having to do with the contracts, the franchise agreements they sign when they become a dealer for these cars.

What they complain about is the fact that when they sign the contract, it pretty well binds them to a process of arbitrating disputes in a certain way so that if they and their parent company have a dispute, the contract says, you resolve that dispute by arbitration. In that way, the parties do not have to go to court.

Arbitration is actually a good thing, not a bad thing. I would think you would want to keep the parties from having to go to court. And if both parties, the franchisee and the franchiser, agree they will resolve their disputes through arbitration, through the American Arbitration Association, rather than going to court, one would think that is a good thing. These dealers believe it is a bad thing. They said they signed bad contracts and were under pressure by the franchisers, the big auto companies, that had bargaining power leverage over them, basically, to say: You either sign the contract the way we have presented it to you or you cannot be our franchisee. I do not know whether that is right or not, but that is their argument.

They say the Federal Government has to intervene and, in effect, create an opportunity for the voiding of those provisions of those contracts so they can literally take these disputes into court and fight it out with their lawyers in court.

They were in my office a week or so ago wanting to talk to me about this. I will honestly tell you, I had no idea this provision was coming up then. I thought: Why are you guys coming in here? It turned out there was a mixup and I could not meet with them.

I spoke with one of their representatives last Friday. I said: I am sorry you all were in and you thought we had a meeting, but I really did not think this issue was coming up. Little did I know. They probably knew something I did not know. I guess they might have known this was coming to the floor and I did not realize that was the situation. I perhaps should have.

The problem now is that we debate this in a scenario in which there can be no amendments. The conference report, under our rules, cannot be amended. The only way to amend it is to send it back and have the conference committee revisit it, and that is a motion that very rarely is accepted. I am not even sure I would be for doing that.

This is the kind of thing that should not be done in this type of bill. It was done by a very few people. I am on the Judiciary Committee, as is the Presiding Officer. I did not know it was put in there. I did not have anything to do with it. I was not asked, and yet we are members of the Judiciary Committee and this is supposed to be our product.

Again, I do not know whether this is a good idea or a bad idea. I would have liked to have heard debate on it, perhaps an opportunity for it to be amended, but that will not be possible. That is another problem with the conference report as it has come to us.

What I am talking about is the motor vehicle franchise dispute resolution process bill. That is not the only example of items that were added to the conference report and which had never been passed by the House of Representatives or by the Senate. Let me give some examples.

In title I, subtitle A, there is something called the Law Enforcement Tribute Act. This section authorizes grants for the construction of memorials to honor the men and women in the United States who were killed or disabled while serving as law enforcement or public safety officers. Is there anything wrong with that? Absolutely not. I presume there is nothing wrong with it. I suppose if the grants for construction got out of hand from a monetary standpoint we might have some objection. We obviously want to use some prudence in what kind of money is appropriated for that purpose.

I do not know anything about that issue. I am on the Judiciary Committee and that was never considered. It did not come through the Senate. It did not come through the House. But it is in the conference report. It was put in in the conference.

There is a section 11002, disclosure of grand jury matters relating to money laundering offenses. This would add two sections relating to money laundering to the list of banking law violations where a prosecutor can disclose grand jury information to a State financial or a Federal financial institution or regulatory agency.

We have had a lot of complaints in the war on terror about the disclosure of grand jury testimony. Here national security is involved. There are some who still say that we should not release grand jury testimony on a very classified basis to other law enforcement or intelligence agencies, such as the CIA, so that it can do its work better to protect us from terrorists; that when information is presented to a grand jury, it is as if it is sacred and nobody else can know about it. We cannot even use it for protection against terrorism. But this bill, without having passed through the House or Senate, includes a section that would let grand jury information be disclosed to either a State financial or a Federal financial institution or regulatory agency.

That may well be a good thing if you are trying to go after people who launder money. That may well be a good section. I just do not know. Again, being a member of the Judiciary Committee and a Member of the Senate does not provide enough protection for us really to have had the opportunity to debate or amend this provision.

There is a section called grant program for State and local domestic preparedness support. This would seem to be a good purpose, expanding the uses of grant funds and changes the name from the Office of State and Local Domestic Preparedness Support to the Office of Domestic Preparedness. It does not seem to me there would be anything wrong with that. It did not pass the Senate. It did not pass the House.

There is a provision, section 11004, U.S. Sentencing Commission Act access to NCIC terminal. This is a big deal. It would allow the Attorney General to exchange NCIC information with the U.S. Sentencing Commission. The reason, I guess, is the Sentencing Commission has stated it is necessary for it to help complete a study that it wants to do on recidivism rates that they have been charged—by who else?—by Congress to complete. They are currently working with the FBI, and they support this.

There is another section dealing with danger pay for FBI agents, and this could conceivably fall into the category of a response to the war on terror, although I do not know.

It is the kind of thing one might expect to see in the bill even though it was not in the Senate-passed or House-passed bill. It would be interesting to find out whether or not the granting of the danger pay allowance is a response to the war on terror. That might well be an appropriate one of those rare exceptions where even though the House and Senate bills did not have this in it, it might be a good thing to include in the conference report, but one would hope there would be some description and discussion of that so we would all appreciate the reason for doing it.

There is a section on Police Corps. It provides for increases in the tuition allotments for Police Corps officers; scholarship reimbursement from $10,000 to $13,333 a year; reauthorizes the program for 4 more years. It increases the stipend for training from $250 to $400 a week and eliminates the $10,000 direct payment to participating police agencies requirement—or opportunity, I should say.

Again, that is what one ordinarily would have seen come before the committee and the Senate, but it did not pass this body. Section 11007, radiation exposure compensation technical amendments; section 11008, Federal Judiciary Protection Act of 2002—I have pages of these—persons authorized to serve search warrants; a study on reentry, mental illness and public safety; technical amendments to the Omnibus Crime Control Act; debt collection improvement; use of annuity brokerage instruction settlements.

There is a provision which I would certainly support, section 11014, reauthorization of a State criminal alien assistance program. There are those who oppose this. I favor it. For those who oppose it, maybe they would want to offer an amendment reducing the amount of it.

Frankly, I would love to offer an amendment increasing the amount because the amount that is authorized is about one-third what is necessary to reimburse the States for the housing of criminal illegal aliens who are the responsibility of the Federal Government but whom the States undertake to house in their prisons.

I am denied the opportunity to offer an amendment to increase the funding under this very good program because it comes to us in the conference report upon which we did not act.

I will not go through all of these, but there are INS processing fees; U.S. Parole Commission extension; the waiver of foreign country residence requirement with respect to international medical graduates; pretrial disclosure of expert testimony relating to a defendant's mental condition; Multiparty/Multiform Trial Jurisdiction Act of 2002; direct shipment of wine, there is a provision on that; Webster Commission Implementation Report. There is a very large provision in effect authorizing the establishment of a police force within the FBI to provide protection for FBI buildings and personnel in various areas. There is a report on information management technology; a GAO report on crime statistics. There is a big grant program—well, not big. It authorizes $30 million for the Attorney General to make grants to States for various reasons. There is a new motor vehicle franchise—excuse me, that is the one I mentioned before. There is a new holding court in a certain State. I will not mention the State, but just one State though.

The point is that this bill includes numerous provisions which did not pass the House, did not pass the Senate, which we have no opportunity therefore to seek to amend, and which are presented to us in a take-it-or-leave-it form in the conference report. It is not the right way for us to do business, again, in the last 10 days or so of our session.

I will not say anything more about the bill itself because I do not want one to get the impression that reauthorizing the Department of Justice is not a good thing; it is—that many of the provisions I read to you are not good provisions. Some of them I know are good provisions because I know what they are. Others I presume are good, though I do not necessarily know that. But I would like to at least offer one amendment to one of them, and I know I will not be given that opportunity.

It is not what we should be doing in the context of the debate we are having in these last 10 days, which is, How do we enhance the national security of the United States of America?

I go back to the three things we should be doing right now. We should be completing our work on the Homeland Security Department. At a minimum, the President should be granted an opportunity for Senators to vote on his proposal. Why have we not been allowed to do that? Why, right after the debate on that very issue, right after another cloture motion on that failed, do we in effect call a timeout on the Homeland Security Department legislation and go to this bill instead? That is more important, and that should take precedence. So should the Defense authorization and appropriations bills.

Presumably, we are going to leave time to debate a resolution with respect to granting the President the authority he needs to take action in Iraq.

I see my good friend and colleague on both the Judiciary and Intelligence Committees, the Senator from California, is in the Chamber and appears ready to speak. I will yield the floor to her in about 1 minute.

It has always been my great pleasure first to chair and now to be the ranking Republican on the Judiciary Committee's Subcommittee on Terrorism and Technology, a committee that has worked over the years, whether under my chairmanship or Senator FEINSTEIN's chairmanship, on the kinds of legislation I was speaking of earlier, the very things we need to do to help our law enforcement agencies have the power to do the job we want them to do.

I am very proud to say that legislation we worked on together as a result of hearings we held together was finally passed as part of the USA Patriot Act, and the work that that subcommittee has done over the years has really paved the way for a lot of what we now know was important to do but until, unfortunately, after September 11 people were not willing to focus on in order to get done.

I conclude by saying it is a matter of priorities. We ought to be focused right now on first things first, and that is our national security, and that means first and foremost passing legislation such as the Schumer-Kyl amendment to FISA, getting our Homeland Security Department legislation concluded, getting our Defense authorization and appropriations bills concluded, and paving the way for action on a resolution of force with respect to Iraq.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. FEINSTEIN. Mr. President, I appreciate the words of my distinguished colleague and friend from Arizona. I must say I differ with him on this bill because I am very much in support of this bill. In particular, I commend both Senators LEAHY and HATCH for bringing this first Department of Justice authorization report to the Senate floor in 20 years. I very much hope the Senate is going to adopt the report.

Before I go into saying what this bill does with respect to Federal judgeships, I want to comment that this bill does deal with homeland security, particularly border security. This bill specifically authorizes more than $4 billion for the administration and enforcement of laws relating to immigration, naturalization, and alien registration. More than $3.2 billion of this amount will be allotted to the National Border Patrol. That is something for which both Senator KYL and I have worked on our subcommittee for a substantial period of time, and I am very pleased to see this authorization. It deals with domestic preparedness.

For example, the Conference Report authorizes funding for the Centers for Domestic Preparedness in Alabama, Texas, New Mexico, Louisiana, Nevada, Vermont, and Pennsylvania. It adds additional uses for grants for the Office of Domestic Preparedness to support State and local law enforcement agencies. This bill also has FBI reform. It includes provisions from the Leahy-Grassley FBI Reform Act to codify the authority of the Department of Justice inspector general to investigate allegations of misconduct by FBI employees.

The conference report provides special danger pay allowances to FBI agents in hazardous duty locations outside of the United States, something we should very much want to speed through at this time.

It has the Law Enforcement Tribute Act. It has the Feinstein-Sessions-Carnahan-Durbin, James Guelff and Chris McCurley Body Armor Act, which imposes criminal penalties on individuals who use body armor in the commission of crimes of violence or drug trafficking crimes. This bill specifically originated as a product of the work of Lee Guelff, whose brother, James Guelff, was a police officer at San Francisco's northern station. Officer Guelff responded to a sniper incident at the corner of Franklin and Pine Streets and encountered an individual completely clad in Kevlar—Kevlar helmet, Kevlar vest, Kevlar pants, the whole thing—with about 1,100 rounds of ammunition. Officer Guelff only had his police revolver, which he emptied to no effect against his Kevlar protected assailant, who shot the officer in the head and killed him. It took 150 police officers to equal the firepower of this one man with semiautomatic weapons clad in Kevlar standing in the intersection.

This is a very important bill. We have worked for 6 years. To Lee Guelff, congratulations.

This bill authorizes a separate and independent Violence Against Women Office within the Department of Justice similar to S. 570 introduced by Senator BIDEN with 22 cosponsors. It is a very important step for those who would like to see this separate office set up.

The bill has crime-free rural States grants. It creates and authorizes $30 million for the crime-free rural States program to make grants to rural States to help local communities prevent and reduce crime, violence, and substance abuse.

For many of us, this bill is important because it restores a vital program, the SCAAP program, that the President cut out. SCAAP is an acronym for the State Criminal Alien Assistance Program. Under law, the Federal Government is responsible for the borders. If we do not protect the borders, people come to our country illegally. Some commit crimes, they are convicted, they do time in jails, but the local jurisdictions pay for that time in jail in State prison and in jails. SCAAP is the only program that reimburses the States for their cost of incarcerating illegal aliens. It is a very important program. Senator KYL and the people of Arizona support it. I support it. I believe every member of the Judiciary Committee supports it. I believe the Presiding Officer supports it. That authorization is in this bill.

Regarding drug abuse, this bill includes several provisions from the Hatch-Leahy-Biden-Feinstein Drug Abuse Education Prevention and Treatment Act that will move Federal antidrug policy toward a more balanced approach that includes added attention to prevention and treatment. The provisions in this bill, for example, authorize funding for drug courts. We know drug courts work in prevention of narcotic use. The bill authorizes $172 million over the next 3 fiscal years to support State and local adult and juvenile drug courts. These courts provide treatment as an alternative to jail for nonviolent offenders who stay off drugs. The statistics of recidivism show this approach works.

There are provisions with respect to drug-free prisons. The bill authorizes the use of Federal funds for jail-based substance abuse programs, for reentry programs, for DEA, and police training. It authorizes funding for the drug enforcement agency police training in South and Central Asia to reduce the supply of drugs entering the United States.

The bill has a myriad of proposals with respect to protecting intellectual property: The Madrid Protocol, distance learning, Patent and Trademark Office authorization and modernization, and enhanced enforcement of intellectual property laws.

Most importantly, this bill authorizes a number of new judgeships. It authorizes five new permanent judgeships in the southern district of California at San Diego, as well as two in the western district of Texas. The western district of North Carolina receives one. It converts four temporary judgeships to permanent judgeships: One in the central district of Illinois, the northern district of New York, the eastern district of Virginia. And it creates seven new temporary judgeships, one in each of the northern districts of Alabama, Arizona, central district of California, southern district of Florida, district of New Mexico, western district of North Carolina, eastern district of Texas. It extends the temporary judgeship in the northern district of Ohio for 5 years.

I have heard Members of this body implore the Judiciary Committee about the need for additional judgeships. The Southern District court in San Diego, for example, has the heaviest caseload in the nation. This court has operated in a state of emergency since September, 2000. The Southern District handles complex litigation as well as major drug cases that emanate from the closeness of San Diego to the Mexican border. The district is relying on temporary and senior judges. The bench has been close to real catastrophe. This bill finally brings relief.

This bill improves civil justice; has motor vehicle franchise fairness; the Radiation Exposure Compensation Act; and the Antitrust Technical Corrections Act. There are a number of things in this bill to improve immigration procedures: The J–1 visa program, the H–1B visas, help to children, and more.

I conclude by noting that this bill is not unrelated to our present place in time. It is not unrelated to the need to protect our borders, to seeing that our nation has adequate border security, to seeing that FBI agents have hazardous duty pay, and to seeing that our visa program is improved. The bill provides authorization for the payment to State and local jurisdictions for the incarceration of illegal immigrants and for the addition of additional judgeships. It is a very important bill.

Again, I particularly thank the Chairman and the Ranking Member. Without them, this bill would not be on the floor today. It is a very important bill. I urge an "aye" vote.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JO-ANNE COE

Mr. DASCHLE. Mr. President, last week we regrettably learned of the passing of Jo-Anne Coe. She served the Senate and Senator Dole for many years. She was an admirable public servant.

From 1985 to 1987, during the 99th Congress, she became the Senate's first woman to serve as Secretary of the Senate. Our condolences and prayers go out to her daughter Kathryn Coombs, her niece Kindra, her nephew Kevin, and of course to our former colleague. Senator Bob Dole not only had an ally, a friend, a staff person, he had someone who was his presence on the floor on so many occasions. We regret her loss, not only the loss of an employee, not only the loss of an important public servant, but the loss of a friend.

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, there will be no further rollcall votes today. I yield the floor.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT—CONFERENCE REPORT—Continued

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 2215, the 21 Century Department of Justice Appropriations Authorization Act.

Harry Reid, Jeff Bingaman, Jean Carnahan, Hillary Clinton, Thomas Carper, Richard Durbin, Paul Sarbanes, Daniel Inouye, Bill Nelson of Florida, Jack Reed, Patrick Leahy, Benjamin Nelson of Nebraska, John Edwards, Tim Johnson, Joseph Lieberman, Byron Dorgan, Tom Daschle.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I want to speak briefly on the reauthorization conference report that is before the Senate today. There are many parts of this legislation I want to talk about. One part that is very important to me is the new judgeships that would be created in the border areas of our country, including two new district judgeships in the western district of Texas, and one temporary judgeship in the eastern district of Texas.

The conference report contains language that Senator FEINSTEIN and I put forward because of the judicial emergencies that we find in our States. Largely in the border regions, we have had an onslaught of caseload that has made it very difficult for our judges to not even stay even but just to try to handle the most important cases. So we have been trying to add some judgeships, both in California and in Texas, to relieve some of this emergency.

The judgeships in the western and eastern districts of Texas have been declared "judicial emergencies" by the nonpartisan Judicial Conference of the United States. The creation of new judgeships will certainly bring much needed relief.

Of all the courts in the country that are desperate for judges, the United States-Mexico border courts have the most critical need. According to the statistics from last year, the western district of Texas handles the most criminal cases in the country; last year, 4,434.

Currently, the western district of Texas is facing a criminal caseload of 1,987 pending cases; that is 2,758 defendants. In El Paso, 884 cases are pending overall—more than any other region in the district. Each day, more cases are added, overwhelming an already overburdened western district.

As our war against terrorism is advancing, as well as our war against drugs, it is even more crucial we have highly qualified judges and law enforcement officials in charge of our justice system.

Mr. President, I really appreciate the fact that we do have a cloture motion on this conference report. I hope very much we will be able to pass this legislation and create these courts. Hopefully, they will be able to be up and running sometime next year and try to bring justice. Justice delayed is justice denied in many instances. We would like to clear out the backlog and let people face trials and either serve their sentences or, if they are acquitted, of course, allow them to go free. Right now, they are incarcerated, and it is creating not only a burden on the court system but on the prison system. Many of our county prisons and State prisons are overloaded and trying to help with the backlog, but it is very hard for these counties to justify the costs when they do not get full reimbursement.

So we would appreciate passing this bill so we could get these courts. I hope the Senate will act expeditiously on this bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DAYTON). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I wish to speak a few minutes on the Department of Justice conference report that is before the Senate.

The Department of Justice is one of the great Departments of our Government. It is one of the oldest, one of the original Departments. I served in that Department for 15 years. It was the greatest honor for me. I believe it has worked, and I believe, all in all, this bill is a healthy bill. I am pleased to support it.

It came out of the Judiciary Committee on which I serve, and we talked about many of the issues. Hopefully, when the dust settles, the bill we pass will strengthen justice in America. I am pleased with that.

There is one provision that came out of this conference committee, however, with which I am not pleased. It was not in the Senate bill; it was not in the House bill. It was placed in the conference report without having been passed by either body, which is against the tradition of the Senate and the House. This should not be done. It is normally not done.

That provision deals with automobile dealers and arbitration clauses they have with automobile manufacturers. The truth is, most automobile dealers today are pretty sizable entities. They have lawyers. They negotiate these contracts when they have an agreement with a big company. It requires arbitration apparently in most of these contracts. They reject it. They want to alter this right of contract and eliminate it. I objected to it in committee.

I believe the question of binding arbitration is one that requires a good deal of thought. I believe pretty strongly that if we are going to change arbitration law in America to exempt people from binding arbitration, I am not sure the first place we should start is between automobile dealers and automobile manufacturers. That seems to me to be an odd place to start. There was not a lot of thought put into it. There are disputes and arguments between the dealers and the manufacturers, and the dealers believe they will have a better chance in court, if they can try the case at home, in a lawsuit, probably throwing some claims in that lawsuit. They want to do it that way.

Apparently, most of our colleagues agreed; an overwhelming number of people supported the amendment. It is now included in the bill.

I say that because I earlier introduced an arbitration bill that focuses on improving arbitration across the board. It was a broad bill and had a lot of positive changes in it. I will be introducing today another, even more comprehensive, bill to deal with arbitration. I will not go into all the details of it, but I call this bill the Arbitration Fairness Act of 2002, and it will continue the changes we offered in the 106th Congress when I introduced the consumer and employee arbitration bill of rights.

This will be a broader procedure. It will deal with the question of Federal arbitration. Congress enacted the Federal Arbitration Act in 1925. It has served us well for three-quarters of a century.

Under the act, if parties agree to a contract affecting interstate commerce that contains a clause requiring arbitration, the clause will be enforceable in court. That is the fundamental issue with which we have been dealing.

My State has had a lot of debate about arbitration. It is healthy to look at what we did 75 years ago. We found there are legitimate complaints about arbitration. Our act, a bill of rights of protections for people who are involved in arbitration, I think will take us a step in the right direction.

It will maintain cost-benefits of arbitration. Many times it is quite cost-effective to arbitrate, but there are instances in which arbitration costs more and is more of a headache than perhaps going to small claims court or other courts.

There have been some concerns that the arbitrators under these agreements are not independent and the corporation or the larger entity has too much power in selecting who might arbitrate.

The bill provides the following rights:

No. 1: Notice. Under the bill, an arbitration clause, if it is to be enforceable, would have to have a heading in large, bold print that states whether arbitration is binding or optional and identify a source that the parties may contact for more information and state that a consumer could opt out and go to small claims court.

In other words, when you have an arbitration, you have to pay the arbitrators. Both parties have to go. Many States have effective small claims courts where you file a $25 fee and an independent judge will hear the case. Sometimes that is better. This would allow an opt-out for a person who is involved in an arbitration matter if they choose and if they qualify for the small claims court. That probably is healthy.

It would eliminate a lot of the complaints we have heard about over a small item, say a television or sofa or refrigerator, that could cost more to arbitrate than the merchandise is worth. This would at least give that option, so a party could opt out if it chose.

No. 2: The independent selection of arbitrators. The bill would grant all parties the right to have potential arbitrators disclose relevant information concerning their business ties and employment. All parties to the arbitration would have an equal voice in selecting a neutral arbitrator.

This ensures that the large company that sold a consumer product will not select the arbitrator itself because the consumer with a grievance will have the right to nominate potential arbitrators, too. As a result, the final arbitrator selected will have to have the explicit approval of both parties to the dispute. This means the arbitrator will be a neutral party with no allegiance to either party. There are some instances when that has not been the case.

We deal with choice of law. We make clear that parties can be represented by counsel at their own expense. It guarantees that all parties will have a fair hearing in a forum that is reasonably convenient to the consumer or employee to prevent a large company, for example, from requiring a consumer or an employee or small business owner to travel across the country to arbitrate a claim.

The bill grants to all parties the right to conduct discovery and present evidence; to have cross-examination; that there should be a tape recording or a stenographer to make a record of the hearing, and that there would be a timely resolution. That is important.

One of the reasons we choose arbitration is for timely resolution. There have been complaints that these have not been timely and in fact have been just as long, in some instances longer, as going to court.

Under the bill, the defendant must file an answer within 30 days of the filing of a complaint. The arbitrator has 90 days to hold a hearing and must render a decision within 30 days after the hearing. That would be the maximum time that would be allowed. It would require a written decision. As to expenses, it grants all parties the right to have an arbitrator provide for reimbursement of arbitration fees in the interest of justice; the reduction, deferral, or waiver of arbitration fees in cases of extreme hardship; and also the small claims opt-out.

This is a Department of Justice bill that I believe has some good things in it. It has 20 new Federal judges, pretty much selected on a need all across America. Some States are really in crisis, such as California and they need some additional district judges. We need several in Alabama. It has that in there.

It has a body armor bill that Senator FEINSTEIN and I worked on that says if you deal with such a violent criminal who is involved in a serious crime, who wears body armor while they are committing that crime, then the judge is authorized to give a more substantial penalty where that occurs and make it a separate offense for wearing body armor during the commission of a felony.

We had an instance in my State, and Senator FEINSTEIN in California, in which a criminal actually wore body armor and killed a law enforcement officer, thereby gaining an advantage in weaponry by being so protected.

There are some other provisions in the bill that are good. We strengthen the Coverdell Act that deals with forensic laboratories. In my view, as a prosecutor for many years, perhaps the greatest single bottleneck in justice today is a delay that so often occurs in obtaining scientific analysis of evidence. A prosecutor cannot go forward with a case involving cocaine, white powder, until some chemist reports that it is actually cocaine. Most prosecutors probably will not take it to a grand jury until they have that chemical report.

If there are fingerprints, an analysis is needed. If there is a weapon involved, the ballistics need to be examined. If there are DNA issues, DNA is needed. If there has been a rape, the DNA analysis and blood samples are needed. Those are procedures that are being delayed.

In my State, we saw delays of as much as a year or more in actually receiving the scientific analysis. On a routine basis, that is happening around America. It is important we assist in that. The bill we named after former Senator Paul Coverdell—who was such a wonderful Member of this body, a bill he worked on before his death—would help strengthen that.

I believe we are moving in the right direction, and I would like to see the Federal Government take a stronger lead in encouraging the States to move forward on forensic capabilities.

We spend huge amounts of money on prisons. We spend huge amounts of money on probation officers. We spend huge amounts of money on sheriffs' deputies, police officers, prosecutors, judges, and juries, but we are spending only a pittance on getting our scientific evidence produced in an honest and effective way. As a result, justice is being delayed. And justice delayed is justice denied.

Recently, in Alabama, we had probably the most horrendous crime ever. A man killed six members of one family. The newspaper reported he was out on bail pending trial. The prosecutor said they were waiting on the chemical analysis of the drugs he had been arrested with. Had that come in promptly, had he been indicted, gone to trial, and been in jail, six people would probably be alive today.

That is occurring around America today. Make no mistake about it, it is something we need to do to improve. It is primarily a State function, but this Government does a lot to encourage and help States do better, and we really ought to step it up in this area.

I yield the floor.

Mr. GRAHAM. Mr. President, I commend Senator LEAHY and Senator HATCH for their hard work on the Department of Justice authorization bill. This bill will strengthen our Department of Justice and increase our preparedness against terrorist attacks, prevent crime, and improve our intellectual property and antitrust laws.

However, I am disappointed that the ecstasy provisions I sponsored in the Senate version were removed in the conference committee. These provisions would have directed the National Institute on Drug Abuse, NIDA, to continue researching and evaluating the effects of ecstasy on an individual's health and authorized money to the High Intensity Drug Trafficking Areas, HIDTA, program for combating ecstasy use.

I am concerned that ecstasy has become the "feel good" drug of choice among many of our young people and drug pushers are marketing it as a "friendly" and "safe" drug to mostly teenagers and young adults. But we know this is not true.

Just last week a new study conducted by researchers at John Hopkins University found that a single use of ecstasy could seriously harm the brain and put users at risk of damage that mimics Parkinson's disease.

I ask unanimous consent that the following article from Reuters titled, "Ecstasy's Brain Drain Possibly Wider Than Thought," be printed in the CONGRESSIONAL RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. Mr. President, several recent studies have also revealed an alarming increase in the availability and abuse of ecstasy across the United States.

According to the Partnership for Drug Free America's 2001 National Survey, more teens in America have now experimented with Ecstasy than cocaine, crack or heroin. Approximately 2.8 million teenagers in America, roughly one of every 11 teens in the Nation, have now tried ecstasy.

Even the Armed Services have been impacted by this dangerous drug. In July 2002, 82 marines and soldiers at Camp Lejeune, NC, were convicted in a military court for either using or distributing ecstasy.

Despite the abundant evidence to the contrary, young people have been lulled into believing that ecstasy and other designer drugs are safe ways to get high without risking addiction or physical harm.

As legislators, we have a responsibility to stop the proliferation of this potentially life threatening drug. I remain firmly committed to working on legislation to combat this dangerous drug and I appreciate my colleagues' willingness to work with me to pass this legislation next year.

EXHIBIT 1

ECSTASY'S BRAIN DRAIN POSSIBLY WIDER THAN THOUGHT

(By Amy Norton)

NEW YORK (Reuters Health).—The club drug Ecstasy may damage a broader range of brain cells than most research has suggested, according to a new study in monkeys.

Researchers at Johns Hopkins University found that one round of the drug, designed to simulate what many Ecstasy users take in a night, was toxic to dopamine-producing cells in the brain. Dopamine is a brain chemical that helps regulate mental and emotional functions, as well as movement. This is the first time Ecstasy has been shown to have such dopamine effects in primates.

Previous studies in animals and humans had shown the drug to selectively affect brain cells that carry out the work of serotonin, a chemical involved in mood, memory and other vital functions. Both serotonin-cell loss and memory problems have been found in regular users of Ecstasy, also known as MDMA.

Similarly, monkeys and baboons in the new study showed damage to the serotonin system. But the dopamine effects, which were even more substantial, were "totally unexpected," lead author Dr. George A. Ricaurte told Reuters Health.

He and his colleagues at the Baltimore, Maryland university report the findings in the September 27th issue of Science.

According to the researchers, these findings are particularly concerning because dopamine is vital to movement, and a loss of dopamine brain cells is known to be involved in Parkinson's disease (news-web sites) and the related movement disorder parkinsonism.

Of course, whether the primate findings extend to humans at all is unknown, Ricaurte pointed out.

"Clearly," he said, "most MDMA users have not developed parkinsonism."

Still, the researcher added, if the drug does have dopamine effects in humans, this raises the possibility that with age and its accompanying, natural dopamine decline, Ecstasy users could face a heightened risk of parkinsonism.

Before this study, only mice had been shown to have dopamine effects after Ecstasy exposure, making mice "an enigma" in the field, Ricaurte said. His team's working hypothesis, he explained, is that the pattern of MDMA exposure in this primate study is behind the dopamine damage.

The animals were given three does of the drug at 3-hour intervals, in an amount and time frame designed to simulate what often goes on at "raves"—all-night dance parties where Ecstasy use is pervasive.

It may be that taking multiple does in a night, known as "stacking," is required for dopamine damage to occur, according to Ricaurte, but there's no evidence of that yet.

And whether any dopamine-cell loss would be lasting in humans is also unknown. In this study, primates showed "profound" dopamine-cell loss 2 to 8 weeks after Ecstasy exposure, according to the researchers.

"We were struck by the severity of the dopaminergic injury, "Ricaurte said.

To begin to see whether such injury occurs in humans, his team plans to take brain scans of former Ecstasy users to look for signs of dopamine depletion.

In a statement released in response to the study, Dr. Glen R. Hanson, acting director of the US National Institute on Drug Abuse, said the findings "are cause for concern and should serve as warning to those thinking about using Ecstasy."

Earlier this month, US health officials reported that the number of Americans using Ecstasy went up 25% between 2000 and 2001.

Mr. KOHL. Mr. President, I rise today in strong support of the Department of Justice reauthorization bill. The reauthorization of the Department of Justice and all of its component parts is long overdue. In particular, this bill is important because it reauthorizes the Incentive Grants for Local Delinquency Prevention Program, Title V, which is the cornerstone of our national juvenile crime prevention strategy. Senator LEAHY deserves special mention for recognizing the importance of juvenile justice policy and waging a successful fight to reauthorize many important programs.

Effective prevention programs are critical to any juvenile crime strategy, and title V is one of the programs that deserve our support. Let me tell you why. It relies on local communities, who know their needs better than the Federal Government, to identify solutions tailored to local problems. Communities qualify for funds only if they establish local boards to design long-term strategies for combating juvenile crime, and if they match Federal funds with a 50-percent local contribution.

And, title V works. Participating communities, from 49 States, believe in this program so much that, according to the GAO, they've matched Federal money almost dollar-for-dollar, far more than the 50-percent match this program requires. In addition, studies confirm that many of these programs have reduced crime in cities across the Nation. A program that can motivate communities both to cooperate in improving safety and to collect the resources to do so is one that really works.

I would also like to commend the conferees for including in the final bill important provisions from S. 1165, the Biden-Kohl-Reed-Landrieu-Daschle Juvenile Crime Prevention and Control Act. Senator BIDEN has always been a leader on juvenile crime control issues and it has been a pleasure to work with him. This bill understands the importance of federal assistance to our communities in the area of juvenile crime control and delinquency prevention programs.

Finally, on a different issues, I am pleased that the bill makes several needed technical corrections to the Nation's antitrust laws. It will also eliminate unnecessary and unused antitrust review authority placed in the Nuclear Regulatory Commission, and will therefore further our goal to consolidate antitrust oversight.

Again, I applaud the Senate's consideration and passage of this important legislation.

Mrs. CARNAHAN. Mr. President, I rise today to express my support for passage of the 21st Century Department of Justice Appropriations Authorization Act, H.R. 2215. I applaud Chairman LEAHY, who along with his staff, has put in long hours to complete this bill. It is my hope that the conference report, which has passed the House by a vote of 400-4, will pass the Senate today.

I am pleased that H.R. 2215 includes the Law Enforcement Tribute Act, a bill I introduced. The Law Enforcement Tribute Act authorizes $3 million in grant funding to States, localities, and Indian tribes to provide for permanent tributes to the police officers and firefighters who have been injured or killed in the line of duty. I have been contacted by numerous law enforcement and public safety organizations that have voiced their support for the bill, including the National Association of Police Organizations, the International Association of Fire Fighters, the Missouri Fraternal Order of Police, and the Missouri Police Chiefs Association. These organizations believe, as I do, that it is appropriate for our national Government to help local communities pay tribute to those who have made the ultimate sacrifice.

H.R. 2215 also authorizes language for many programs of critical importance to our nation's security. It authorizes funds to enhance border security and increase domestic preparedness. The bill includes important provisions to strengthen law enforcement, such as FBI reform, and better witness protection. H.R. 2215 improves state and local forensic science capabilities, and implements appropriate sentencing enhancements when defendants use body armor in crimes of violence or drug trafficking crimes.

H.R. 2215 establishes a permanent, separate, and independent Violence Against Women Office within the Justice Department, similar to S. 570, which I cosponsored. It also authorizes $30 million for the Crime-Free Rural States program to make grants to rural States to help local communities prevent and reduce crime, violence, and substance abuse. H.R. 2215 reauthorizes the Juvenile Justice and Delinquency Prevention Act, and preserves the core protections that ensure juvenile delinquents are dealt with firmly but fairly.

Support for these law enforcement programs comes at an important time. Crime rates, which had fallen to record lows during the 1990's, have begun to creep up, and our Federal, State, and local law enforcement agencies have had new and important responsibilities placed on them following the September 11 attacks. So, I am extremely pleased that we are expressing our support and providing resources that will make a real difference in increasing the personal security of all Americans.

Mr. KENNEDY. Mr. President, I strongly support this bipartisan legislation. The fact that it is now before the Senate for a final vote is primarily due to the skill, patience, and determination of our colleagues on the Senate and House Judiciary Committees, especially Chairman LEAHY, Senator HATCH, Chairman SENSENBRENNER, and Congressman CONYERS, and I commend them for their leadership. They have guided our Senate-House conference with a steady hand and have kept the process moving, even when the prospect of the bill's passage appeared in doubt. As a result, we are about to complete action on a genuinely comprehensive authorization bill for the Department of Justice—something Congress has not managed to enact since 1979.

The need for this legislation is urgent. The terrorist attacks of September 11 made clear that we must strengthen the ability of our justice system to deal with the threat of terrorism. Since September 11, Congress has enacted laws giving law enforcement and intelligence officials enhanced powers to investigate and prosecute terrorism, improving the security of our borders, and strengthening our defenses against bioterrorism.

On May 14, President Bush signed the Enhanced Border Security and Visa Entry Reform Act. The Department of Justice Authorization Act builds on that bipartisan legislation by authorizing over $4 billion for the administration and enforcement of our immigration laws—$3.2 billion of which will be allotted to the Border Patrol. The act authorizes funding for the Drug Enforcement Administration to conduct police training in South and Central Asia, and improves our implementation of the International Convention for the Suppression of Financing Terrorism. These will be important tools in our effort to win the war on terrorism and protect the country for the future.

Here at home, the Department of Justice Authorization Act achieves many important goals: It implements needed reforms of the Federal Bureau of Investigation, including a long-overdue plan to improve the Bureau's outdated computer system. It also provides special danger pay to F.B.I. agents who perform hazardous duties outside the United States.

The bill closes a number of loopholes in our criminal code, and increases the protection of witnesses who report criminal activity. It increases sentences for defendants who use body armor during the commission of violent crimes. It reauthorizes the State assistance program to help States deal more effectively with the problem of criminal aliens. It authorizes funding for the Boys and Girls Clubs of America, including the creation of 1,200 new clubs across the Nation to improve the lives of at-risk youth. It reauthorizes the Juvenile Justice and Delinquency Prevention Act, while preserving the core protections to see that juvenile delinquents are treated fairly and humanely.

It authorizes a number of important drug treatment and prevention programs, including programs to reduce drug dependency among prisoners and to support State and local drug courts. These cost-effective programs will reduce the demand for drugs in America, which President Bush has called "the most effective way to reduce the supply of drugs in America."

I am also pleased that this legislation contains a provision to extend H-1B visa status for persons with pending labor certification applications. Unfortunately, this application process now takes years to complete, and is undermining the ability of American companies to keep qualified workers.

The Department of Justice Authorization Act also reauthorizes the Police Corps, a program that I have strongly supported since its creation in 1994, to improve the quality of police training, develop strong community-police partnerships, and produce officers who will take future positions of leadership and responsibility in law enforcement.

The Department of Justice Authorization Act is an impressive bipartisan achievement that will strengthen our justice system and our defenses against terrorism. I commend all the conferees for their effective work.

The House of Representatives overwhelmingly adopted this legislation last week by a vote of 400 to 4, and I urge the Senate to support it now.

Mr. BIDEN. Mr. President, I rise in support of the conference report on H.R. 2215.

With approval of this conference report, we are one step closer to authorizing the operations of the Justice Department for the first time since 1979. I commend the conferees, and particularly the Chairman of the Judiciary Committee Senator LEAHY, for the work they have done on this measure. It will improve the operations of the Department, and in so doing it will strengthen our efforts against terrorism, help protect our borders, and prevent crime and drug abuse.

I would like to highlight a few of the provisions of the conference report that I think are particularly important, beginning with the establishment of the Violence Against Women Office. Today is the first day of Domestic Violence Awareness Month, and it is a fitting tribute to this special month that H.R. 2215 provides this Senate with an opportunity to make our voices heard loud and clear on the importance of continuing the fight against domestic violence, sexual assault and stalking.

A key tool in that fight is the permanent and independent Violence Against Women Office, a proposal I first introduced in the Senate in March, 2001, and now established in the Conference Report. This provision means that the Office will be removed from its current location inside the Office of Justice Programs, and become its own freestanding entity. The bill also sets out the jurisdiction of the Office and the extensive duties and functions of the Director. It also requires that the Director be nominated by the President, confirmed by the Senate and report directly to the Attorney General.

With this bill, the Violence Against Women Office is set out in black and white. Its leadership and agenda cannot be pushed to the sidelines nor marginalized as one of many offices in a large bureau. Instead, this law gives the Violence Against Women Office the foundation and roots it deserves. It will be its own, separate and distinct office within the Department of Justice with a Director who answers only to the Attorney General. This statutory authority is long overdue.

Since we passed my Violence Against Women Act in 1994, the Office has been charged with disbursing billions of dollars to states, localities, tribal governments and private organizations to improve the investigation and prosecution of crimes of domestic violence, sexual assault and stalking; to train prosecutors, law enforcement and judges on the unique aspects of cases involving violence against women; and to offer needed services to victims and their families.

The Violence Against Women Office also handles and coordinates the Department of Justice's legal and policy issues regarding violence against women, everything from enforcing protection orders across State lines to issuing annual reports on stalking. The

Office also works with other Federal agencies, such as the Department of Housing and Urban Development, and the Immigration and Naturalization Service about Federal policies, programs, statutes, and regulations that impact violence against women.

It is a tall order for the Violence Against Women Office, and to carry out these critical mandates, we must ensure that the Office has the sufficient visibility, prestige and authority. An independent office will provide just that platform. An independent office will be insulated from any attempts to undo the great work it has historically accomplished. A director nominated by the President and confirmed by the Senate will have the credibility and the bully pulpit to travel this country and get local people to the table. Let me be clear, to meet its mandate, the Violence Against Women Office should not, must not, and cannot be buried within a grant-making bureaucracy.

Since the Violence Against Women Act passed in 1994, we have changed the way folks think about domestic violence and sexual assault. We have hauled these matters out from the closet, and called them their proper names, "crimes", crimes that warrant investigation and prosecution with crime victims who desperately need our help. Across the country there are signs that the law is working. Statistics released by the Justice Department last month indicate that rape and sexual assault crimes dropped 8 percent from 2000 to 2001. The New York City Police Department is beginning to use digital cameras to capture the injuries of domestic violence which has drastically improved the way these cases are prosecuted. One of the first trials for cyberstalking is underway in Chicago.

In my home State of Delaware, the Violence Against Women Act and the leadership of the Office have made an enormous impact. Just last week, the STOP grant program, one of several grant programs in the Violence Against Women Act, awarded $85,000 to the Sexual Assault Network of Delaware so that it can formalize community responses to sexual assault crimes and victims. Since 1995, Delaware has received more than 30 grants totaling almost $8.5 million dollars, all of it designated to combat violence against women.

But sadly, we are not done.

The National Violence Against Women Survey reports that nearly 25 percent of women sometime in their lives has been raped or physically assaulted by an intimate partner.

One out of 5 adolescent girls in America becomes victims of physical or sexual abuse in a dating relationship according to a report issued by the Journal of American Medicine.

We still need Domestic Violence Awareness Month this October. And we need the leadership of an independent and separate Violence Against Women Office. I want to thank the Senate conferees, Senators LEAHY, HATCH and KENNEDY, who worked long and hard to get an ensure that the Violence Against Women Office Act was included in the compromise Conference Report, and I thank Senators DEWINE, LEVIN, SPECTER, CARNAHAN, HUTCHISON, MILLER, COLLINS and CARPER who originally joined me when I first introduced a bill for an independent office in March, 2001. And finally, in this first week of Domestic Violence Awareness Month, it is right to give thanks for the tireless efforts of advocates and service providers who support the women and children victimized by domestic violence and sexual assault.

The next point I would like to highlight is that the Conference Report reauthorizes the Juvenile Justice and Delinquency Prevention Act of 1974. Congress has tried for over six years to get this job done and as the former Chairman of the Judiciary Committee and the current Chairman of the Subcommittee on Crime and Drugs I am extremely gratified we were able to renew the juvenile justice law here.

Last year, Senators KOHL and REED and I introduced S. 1165, the Juvenile Crime Prevention and Control Act. That bill reauthorized the 1974 Act, authorized the Juvenile Accountability Incentive Block Grant for the first time, and proposed to close the gun show loophole. S. 1165 contained provisions similar to H.R. 1900 and H.R. 863, and provisions complimentary to Senator LEAHY'S S. 1174. Major provisions of H.R. 1900, H.R. 863, S. 1165 and S. 1174 are included in this Conference Report today. Provisions from S. 1165 included in the Conference Report will ensure that youth in the juvenile justice system are protected from abuse and assault by adults in adult jails. The Conference Report ensures we will remain focused on preventing juvenile crime before it occurs: it reauthorizes Title V, the Justice Department's juvenile crime prevention grant program. Title V resources have been critical in Delaware to sponsor programs to reduce school violence, provide transition counseling to students returning to their local school from alternative school placement, reduce suspensions, expulsions, truancy, and teen pregnancy, and provide services to the children of incarcerated adult offenders. I compliment Senator KOHL for his steadfast devotion to Title V and for ensuring it is continued through this Conference Report.

The Conference Report adopts provisions of S. 1165 that authorize the Juvenile Accountability Incentive Block Grant. This program was created in the 1998 Commerce Justice State appropriations bill but has never been authorized. It provides resources to States and units of local government so programs can be developed to promote greater accountability in the juvenile justice system. The Conference Report also expands the purposes to which JAIBG funds can be put, for the first time, resources are provided to support proven strategies for rehabilitating adjudicated youth and families as well as for reducing juvenile re-offense rates. In years past, my state has used JAIBG funds to establish a Serious Juvenile Offender program through the Delaware Division of Youth Rehabilitative Services, which provides an immediate secure placement of violent youth offenders who have violated the terms of their probation. Delaware has also used these funds to expand diversionary programs such as Teen Court and Drug Court, thus reducing the time between arrest and disposition of juvenile offenders, and to add psycho-forensic evaluators in the Delaware Office of the Public Defender to identify and address mental illness as a cause for delinquent conduct. I compliment the conferees for including provisions drawn from S. 1165 and H.R. 863 in this Report.

I would also like to highlight the provisions in the Conference Report that are designed to strengthen Boys and Girls Clubs of America. Provisions here will allow for the establishment of 1,200 additional Clubs across the Nation. This will bring the number of Clubs to nearly 4,000, serving nearly 6 million young people across America.

Finally, this Conference Report also incorporates much of S. 304, the Drug Abuse Education Prevention and Treatment Act, a bill which Senators HATCH, LEAHY and I introduced together. While I am disappointed that many of the bill's drug treatment provisions were dropped in conference, I promise to fight for those provisions again in the next Congress.

I want to draw attention to three of the important provisions from S. 304 that were included in the conference report to address addiction among those in the criminal justice system and make sure that we are doing all we can to keep them from reoffending. Specifically, the conference report reauthorizes two key programs created in the 1994 Biden Crime Law to deal with drug addicts in the criminal justice system, prison-based drug treatment and the drug court program, and includes my "Offender Reentry and Community Safety Act of 2001," which creates demonstration programs to oversee the reintegration of high-risk, high-need offenders into society upon release.

Let me address prison-based drug treatment first. Providing prison-based treatment is not "soft": it is smart crime prevention policy as the Key and Crest programs in my home state of Delaware have shown. If we do not treat addicted offenders before they are released, they will return to our streets with the same addiction problem that got them in trouble in the first place, and they are likely to re-offend. This is not my opinion; it is fact. More than 80 percent of inmates with five or more prior convictions have been habitual drug users, compared to approximately 40 percent of first-time offenders. Prison-based treatment programs are a good investment and an important crime prevention initiative.

And so are drug courts. The Federal Government has funded drug courts since 1994 as a cost-effective, innovative way to deal with non-violent offenders who need drug treatment. Rather than just churning people through the revolving door of the criminal justice system, drug courts help these folks get their acts together so they won't be back. When they graduate from drug court programs they are clean and sober and more prepared to participate in society. In order to graduate, they are required to finish high school or obtain a GED, hold down a job, and keep up with financial obligations, including drug-court fees and child-support payments.

Drug courts have been proven effective at keeping offenders with little previous treatment history in treatment, providing closer supervision than other community programs to which the offenders could be assigned, reducing crime and being cost-effective.

Just as treating addicted offenders when they are in the criminal justice system is smart crime policy, so is making sure that high-risk, high-need offenders get reintegrated into society upon release. These individuals have served their prison sentences, but they pose the greatest risk of re-offending because they lack the education, job skills, stable family or living arrangements, and the substance abuse treatment and other mental and medical health services they need to successfully re-integrate into society. The demonstration reentry programs created in this conference report will help supervise high-risk people when they are released from jail and make sure they get the services and other support that they need so they won't go back to a life of crime and can be productive members of our society.

Once again, I thank the conferees, Senators LEAHY, HATCH and KENNEDY and their staff, including Bruce Cohen, Beryl Howell, Ed Pagano, Tim Lynch, Steve Dettelbach, Makan Delrahim, Leah Belaire, Wan Kim, Melody Barnes and Robin Toone, for their unfailing support for these provisions, and for their hard work in bringing the Conference Report to the floor.

VIOLENCE AGAINST WOMEN OFFICE

Mr. LEAHY. As you stated earlier, the pending Justice reauthorization conference report establishes an independent Violence Against Women Office, and isn't it true that this Office will be an autonomous and separate office within the Department of Justice and no longer underneath the jurisdiction of the Office of Justice Programs?

Mr. BIDEN. That is absolutely correct. Rather than be one of many offices subsumed in a larger bureau or office, the Violence Against Women Officer will now be its own, separate and distinct entity within the Department of Justice. This provision means that the Office will be removed from its current location in the Office of Justice Programs, and become its own free-standing entity. This is a non-negotiable and unambiguous provision of the act. What this means is that the leadership and the agenda of the Office cannot be pushed to the sidelines or marginalized. You and I both know that ending violence against women is too important of an issue to be relegated to a back office.

Mr. LEAHY. I couldn't agree with you more, Senator. I am particularly pleased that the Violence Against Women Office will now be led by a Director nominated by the President and confirmed by the Senate. How will this provision affect our nation's fight to end domestic violence and sexual assault?

Mr. BIDEN. A director who is nominated by the President and confirmed by the Senate will have the stature, credibility and authority necessary to spearhead the efforts to end violence against women. In practical terms, a director within this sort of clout will attract the attention of key Congressional leaders, will be able to travel the country and bring state leaders to the table for local initiatives, and will be able to command the nation's bully pulpit on these issues. Another key provision in the statute creating the Violence Against Women Office is the explicit instruction that the Director report directly to the Attorney General. Would the Senator agree?

Mr. LEAHY. Yes, the statute is unequivocal. The director shall report directly to the Attorney General—do not pass go, do not get out of jail free. The law is clear that the director is not to report to various deputies or assistants, but rather straight to the Attorney General. That kind of unfettered access to the Attorney General will ensure that issues of violence against women remain in the forefront, and part of the decision-making and policy-development done by those at the highest levels of government, isn't that so?

Mr. BIDEN: That is right. As the former Director of the Violence Against Women Office said: "There is a world of difference between full participation in the highest levels of decision-making and being buried in a satellite grant office in the Department." When the director is out of the leadership circle and placed in a satellite office, the Violence Against Women Office's involvement in activities decrease; for example, it is no longer involved in educating U.S. Attorneys about their role in local communities' efforts to stop violence or it is no longer involved in deciding whether to bring or appeal specific cases. The new Violence Against Women Office Act will be ensure that the Director has the access he or she needs to fully participate—the fight to end violence against women deserves no less.

I thank the Senator for his efforts as our Judiciary Committee Chairman and as a conferee to the Justice Reauthorization Act in moving this important act forward.

Mr. ENZI. Mr. President, I rise in support of the Conference Report for the U.S. Department of Justice Reauthorization. We are debating legislation that overwhelmingly passed the House last Thursday on a vote of 400-4. It is my hope that it will pass the Senate with an equally strong majority.

I am speaking in support of legislation included in the conference report that protects the rights of motor vehicle dealers, many of which are small businesses, under State law. The provision is identical in substance to Senators HATCH and FEINGOLD's bill, S. 1140, which has bipartisan support of 64 cosponsors. I ask my colleagues to pass this legislation and restore desperately needed rights to small businesses throughout the nation.

S. 1140 is necessary to restore fairness for automobile dealers by preserving their state rights in dispute resolution with manufacturers under motor vehicle dealer contracts. All 50 States, including Wyoming, have enacted laws to regulate the relationship between motor vehicle dealers and manufacturers and curb unfair manufacturer practices. These laws are necessary to protect auto dealers since they must sign contracts with the much larger manufacturers to sell the product. A Supreme Court decision, however, allows manufacturers to skirt these State laws by including mandatory binding arbitration in their dealer contracts.

Congress never intended to strip the State's role in regulating the motor vehicle dealer franchise relationship, but because of the Supreme Court interpretation, states cannot prohibit manufacturers from forcing dealers to waive their state rights and forums. Dealers must sign "take-it-or-leave it contracts" drafted by the manufacturer to stay in business, and are vulnerable to manufacturer abuses of power. Since States cannot remedy this problem, Federal legislation is necessary to restore dealers' rights.

Specifically, the legislation included in the conference report States that whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a contractual controversy, arbitration may be used to settle the controversy only if both parties consent in writing after the controversy arises. It also requires the arbitrator to provide the parties with a written explanation of the factual and legal basis for the award.

The arbitration language in the conference report before us is supported by Wyoming automobile and truck dealers and dealers throughout the country because it would merely restore State law. It is consistent with Wyoming law, which does not allow a manufacturer to force a dealer to prospectively waive rights and remedies under State law. I urge my colleagues to pass this legislation and protect our States' interest in regulating the auto dealer/manufacturer relationship.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—H.R. 4069

Mr. REID. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 4069 and the Senate now proceed to its consideration, that it be read the third time and passed, and the motion to reconsider be laid upon the table, all with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object. There are individuals on this side who have an objection. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. Mr. President, I appreciate the courtesy of the Senator from Alabama waiting.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPOSING BUDGET ENFORCEMENT RULES

Mr. DASCHLE. Mr. President, yesterday marked the end of the fiscal year, and, absent action by the Senate, it will also mark the end of a fiscal discipline system that has served this country very well for more than a decade.

Earlier this year, we had a chance to pass a budget blueprint for 2003. It was jointly co-sponsored by Senators CONRAD and DOMENICI, the chair and ranking member of the Senate Budget Committee. It received 59 votes, one vote short of passage. It would have done exactly what everyone in this chamber knows we should do. It would have extended the pay-as-you-go rules and the other points of order that have helped enforce at least some measure of fiscal discipline around here since 1990.

When we voted in the spring, many Republicans voted "no," citing the total amount for 2003 discretionary spending. That issue has been removed from the current effort to extend the budget enforcement rules, and there is no longer any plausible reason to oppose a simple extension of the points of order.

Prior to the time President George H.W. Bush signed the budget act into law in 1990, there were no procedural barriers to the most irresponsible fiscal propositions. Spending proposals could be offered without any consideration for offsetting their budgetary affects. Tax cuts could be implemented without the slightest thought for their long-term consequences. Enormous fiscal damage could be inflicted with a simple majority vote.

The 1990 Budget Act ended the bad old days, and it did so with overwhelming bipartisan support. It has subsequently been extended each time it expired whether the Senate was in Democratic or Republican hands.

It should be extended here today.

I think we all know that the budgetary trend of the last year has been profoundly negative. For many years, the two parties have disagreed vehemently about the most fundamental aspects of our country's spending and tax policies—and we will continue to disagree. But the times when we were able to restore fiscal balance, like we did in the 1990s, were the times when both parties agreed to retain basic discipline at the procedural level. We very much need to agree to that right now.

Democrats will continue to press for adoption of the Conrad-Domenici budget enforcement resolution as soon as possible, and we urge all Senators to support it.

CHALLENGES TO CONCURRENT RECEIPT OF BENEFITS FOR DISABLED VETERANS

Mr. REID. Mr. President, I have worked hard to make sure all the brave men and women who have served in our Armed Forces are treated fairly.

Many military retirees, like so many other Americans, have relocated to fast-growing Nevada because of its high quality of life. And Nevada is also home to some of the country's finest military installations.

Regardless of where our loyal veterans and service members live, they all deserve our gratitude, respect, and fair treatment.

For several years I have introduced and championed legislation that would end the unfair policy of denying America's disabled veterans retirement benefits they have earned through years of service and sacrifice.

Changing the current law that requires disabled retirees to forfeit a dollar of their earned retired pay for each dollar they receive in veterans' disability compensation is simply the right thing to do.

I am therefore extremely troubled that the Bush administration opposes a provision in the Senate Defense authorization bill allowing so-called concurrent receipt of retirement pay and disability pay by disabled military retirees.

Some officials have been quoted in recent newspaper articles as stating that retired pay and disability pay are "two pays for the same event" and that receiving both would be "double-dipping" not permitted other retirees. These statements are simply not true.

Career military retired veterans are the only group of Federal retirees required to waive their retirement pay in order to receive VA disability. Other Federal retirees get both disability and retirement pay.

This antiquated law that denies our veterans concurrent receipt in effect implies wrongly and unfairly that disabled military retirees neither need nor deserve the full compensation they earned for their 20 or more years served in uniform.

Military retirement pay and disability compensation are earned for entirely different purposes and therefore a disabled veteran should be allowed to receive both. Current law ignores the distinction between these two benefits.

Military retired pay is earned compensation for the extraordinary demands and sacrifices inherent in a military career. It is a reward promised for serving two decades or more under conditions that most Americans find intolerable.

Veterans' disability compensation, on the other hand, is recompense for pain, suffering, and lost future earning power caused by a service-connected illness or injury. Few retirees can afford to live on their retired pay alone, and a severe disability only makes the problem worse by limiting or denying any postservice working life. A retiree shouldn't have to forfeit part or all of his or her earned retired pay as a result of having suffered a service-connected disability.

Likewise, the administration's assertion that if concurrent receipt passes "1.2 million veterans could qualify" for extra payments is simply not credible. The Department of Defense and Department of Veterans Affairs previously informed Congress that about 550,000 disabled retirees would qualify if the Senate concurrent receipt plan were approved. But the new administration speculation that an additional 700,000 might apply for and be granted disability ratings is an unfounded exaggeration.

The administration's argument that funding benefits for America's disabled veterans would hurt current military personnel is also misleading. Congress is not cutting funding for those who are now serving our country in order to provide benefits for those from previous generations who served loyally and made tremendous sacrifices. Congress will appropriate the money to pay for it.

Enacting my concurrent receipt legislation will not cause service members to live in substandard quarters, as some Defense leaders try to claim in a misguided attempt to turn one generation of patriots against others.

Moreover, at a time when our Nation is calling upon our Armed Forces to defend democracy and freedom, we must be careful not to send the wrong signal to those now in uniform. All who have selected to make their career in the U.S. military now face an additional unknown risk in our fight against terrorism. If they are injured, they would be forced to forego their earned retired pay in order to receive their VA disability compensation. In effect, they would be paying for their own disability benefits from their retirement checks unless my legislation is enacted.

We must send a signal to these brave men and women that the American people and Government take care of those who make sacrifices for our Nation. We have a unique opportunity this year to redress the unfair practice of requiring disabled military retirees to fund their own disability compensation. It is time for us to show our appreciation to these men and women.

Finally the assertion that the veterans who would benefit from concurrent receipt are already doing well financially is ridiculous. NBC News recently aired three news stories documenting the dire situation that veterans are facing today. The Pentagon has acknowledged that its studies of retiree income included very few seriously disabled retirees.

On July 8, 2002, I sent a letter to the President urging him to support the inclusion of a concurrent receipt provision in the final Defense Authorization Act. Our veterans have heard enough excuses. Now it is time for them to receive the benefits they earned.

TRIBUTE TO COMMANDER DAVID G. MANERO, U.S. NAVY

Mr. LOTT. Mr. President, I wish to take this opportunity to recognize an outstanding Naval Officer, Commander Dave Manero, for the tremendous work he has done as a member of my staff during the second session of the 107th Congress. It is my privilege to recognize his many career accomplishments and to commend him for the superb service he has provided the Navy, the great State of Mississippi, and our Nation.

Commander Manero is the son of Carmen and Rosemary Manero of Highland Park, NJ. He earned his commission through NROTC at the University of Pennsylvania where he graduated in 1988 with a Bachelor of Science in Electrical Engineering. He received his Wings of Gold from Helicopter Training Squadron Eight at NAS Whiting Field, FL. on July 7, 1989.

Following flight school, Commander Manero reported to Helicopter Anti-Submarine Squadron Light, HSL, 41 where he received training in the SH-60B Seahawk with a follow-on tour at the HSL-45 'Wolfpack.' While assigned to the Wolfpack, he deployed in USS *Paul F. Foster*, DD-964, as Detachment One Operations Officer in support of Operation Desert Storm. During the Gulf War, he worked in close coordination with British Lynx helicopters in the destruction of six hostile surface combatants. He subsequently cruised as Detachment Three Maintenance Officer embarked in USS *Jarrett*, FFG-33, in support of Operation Southern Watch. He was presented with the 1991 Naval Helicopter Association national "Aircrew of the Year" and the 1993 Wolfpack "Officer of the Year" awards.

Commander Manero's next assignment included selection for the Navy's Advanced Education Program where he attended a two-year Masters Program at Harvard University. He graduated in 1995 with a Master of Public Policy specializing in International Affairs and Security. After graduate school, Commander Manero was assigned as Flag Lieutenant, Commander Carrier Group ONE located in San Diego, CA. He deployed to the South Pacific embarked in USS *Blue Ridge*, LCC-19, and Arabian Gulf in USS *Carl Vinson*, CVN-70, as a member of the fly-away Joint Forces Air Component Commander's staff.

Commander Manero returned again to the East Coast where he attended the U.S. Naval Test Pilot School and graduated in December 1997 with Class 112. In January 1998, he reported in to the Naval Rotary Wing Aircraft Test Squadron in Patuxent River, MD where he served as a Test Pilot and as the Sea-Control Department Head. A Member of the Society of Experimental Test Pilots, he has accumulated over 2800 flight hours in over 30 different aircraft types.

In May 1999, Commander Manero reported to the HSL-43 'BattleCats' where he served as Training Officer, Detachment Officer-in-Charge and Squadron Maintenance Officer. Prior to his detachment from his department head tour, he was selected for Commander and was nominated for the prestigious 'John Paul Jones Inspirational Leadership' award. Dave is currently assigned as a Legislative Fellow on my staff and has made tremendous contributions towards shaping our Navy's future through the DD(X), Littoral Combat Ship, LHD, and LHR programs. He also was instrumental in securing over $108 million in Military Construction funding for Mississippi. I offer my sincere congratulations for Dave's recent selection to command. He will depart my staff in December to take command of a squadron in mid-2004.

Throughout his most distinguished career, Dave has served the United States Navy and our Nation with pride and excellence. His awards include the Air Medal, two Strike Flight, the Navy Commendation Medal, five, two with Combat Valor distinction, the Navy Achievement Medal, the Combat Action Ribbon, and numerous other campaign and unit distinctions.

Commander Dave Manero has been an integral member of my staff and has contributed greatly to the best-trained, best-equipped, and best-prepared naval force in the history of the world. Dave's superb leadership, integrity, and limitless energy have had a profound impact on my entire staff and will continue to positively impact the United States Navy and our Nation. On behalf of my colleagues on both sides of the aisle, I wish Dave, his wife Justina, and their children Michael and Elizabeth "Fair Winds and Following Seas" and the best of luck in their bright future.

TRIBUTE TO LIEUTENANT COLONEL JAMES B. HECKER, U.S. AIR FORCE

Mr. LOTT. Mr. President, I would like to take this opportunity to recognize and say farewell to an outstanding Air Force officer, Lieutenant Colonel Jim "Scorch" Hecker, upon his departure from my staff. Lieutenant Colonel Hecker was selected as an Air Force Fellow to work in my office during the Second Session of the 107th Congress due to his professional reputation and superior knowledge of Defense issues, the United States Air Force requirements process, and the military presence in my home State. He has been a valued team member and it is a privilege for me to recognize his many outstanding achievements and the superior service he has provided the United States Senate, the Air Force, and our Nation.

Lieutenant Colonel Hecker, the son of Rick Hecker and Cindy Walker, was a graduate of the Air Force Academy where he was commissioned as a Second Lieutenant. Since then, Lieutenant Colonel Hecker has spent the majority of his career patrolling the world's skies as an Air Force fighter pilot. Following flight training, he began his service flying the F–15C "Eagle" in the 8th Fighter Squadron, 49th Tactical Fighter Wing at Holloman AFB, NM. When the F–15C's left Holloman AFB, so did Lieutenant Colonel Hecker. He was reassigned to the 390th Fighter Squadron, 366th Wing, Mountain Home AFB, ID. During this tour, Lieutenant Colonel Hecker was instrumental in bedding down the F–15C aircraft in the first Composite Wing in the Air Force. After this tour, Lieutenant Colonel Hecker attended the Air Force Weapons School at Nellis AFB, NV with a follow-on tour at the 44th Fighter Squadron, 18th Air Base, Okinawa, Japan. As the squadron Weapons Officer, Lieutenant Colonel Hecker was the lead pilot responsible for preparing the squadron to go to war. During this tour, Lieutenant Colonel Hecker deployed in support of Operations SOUTHERN WATCH where he led combat missions patrolling the skies over Iraq enforcing the no-fly zone. In July 1998, Lieutenant Colonel Hecker was handpicked to return as an instructor at the Air Force Weapons School where he deployed in support of Operation ALLIED FORCE. Lieutenant Colonel Hecker led 10 combat missions and was the focal point in the Combined Air Operations Center C5 Strategy Cell for resolving air-to-air issues. In 2000, Lieutenant Colonel Hecker left the cockpit to serve on the staff of the Secretary of the Air Force in Washington, DC as an Air Force Senate Liaison Officer and then was selected to serve as a Military Legislative Fellow during the 2nd session of the 107th Congress.

Lieutenant Colonel Hecker quickly became a valued member of my staff sharing his proven operational experience and insightful knowledge on a number of Department of Defense issues, including defense health care, operational beddown of C–17 and C–130J aircraft, various weapons systems, military construction, university research programs, and economic development projects. Specifically, Jim was instrumental in helping the Air Force gain Congressional support for the F/A-22 aircraft and solve the weather radar problem with the WC–130J aircraft at Keesler AFB. He helped me articulate a successful case for adding funding for additional maintenance training simulators and military construction projects that will help ensure the successful beddown in Jackson, MS of the first ever C–17 aircraft assigned to the National Guard. He successfully negotiated with Northrop Grumman Corporation to move the production of the Global Hawk's wing as well as full assembly of the Fire Scout to Mississippi. Lieutenant Colonel Hecker's coordination with the staffs of the Senate Armed Services Committee and the Senate Appropriations Defense Subcommittee led to over $108 million in military construction funding for Mississippi's military bases.

Lieutenant Colonel Hecker is married to the former Terrie Lee Draney of Colorado Springs, CO. They have two children, 7 year-old son Jaden and 5 year-old son Colton. The Congress and the country applaud the selfless commitment his entire family has made to the Nation in supporting his military career. Among Lieutenant Colonel Hecker's many awards and decorations are the Meritorious Service Medal with two oak leaf clusters, Air Medal with oak leaf cluster, and Air Force Achievement Medal along with numerous other campaign and unit distinctions.

Lieutenant Colonel Hecker will return to the Air Force at Langley AFB, VA where he will once again control the skies in the F–15C. I have appreciated greatly Lieutenant Colonel Hecker's contributions to my team and I will miss him. On behalf of my colleagues on both sides of the aisle, I wish Lieutenant Colonel Hecker and his family "Good Hunting and Godspeed."

HOLLADAY JOHNSTON RICHARDSON

Mr. HELMS. Mr. President, our friend and distinguished colleague, STROM THURMOND, has a lost a dear member of his Senate Family. Holly Richardson's courageous battle with breast cancer ended early Monday morning. I do not use the word courageous lightly; if there ever was a courageous cancer patient, it was Holly Richardson. She fought until the end and never gave up.

Holly was one of the most delightful people I have ever met. She was STROM THURMOND's right-hand lady for almost 25 years and she meant so much to the entire Thurmond family. Holly's strong faith helped her immeasurably and while we all mourn her passing, we know where she is.

Her obituary in this morning's Columbia, SC, newspaper, *The State*, poignantly describes this remarkable lady, as does the article about her in today's Charlotte Observer. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the State, Columbia, SC, Oct. 1, 2002]

HOLLY JOHNSTON RICHARDSON—LONGTIME THURMOND CONFIDANTE

(By Lauren Markoe)

WASHINGTON.—Holly Johnston Richardson—confidante, gatekeeper and personal adviser to U.S. Sen. Strom Thurmond since 1978—died Monday of breast cancer.

"Early this morning, I lost one of my closest friends and staff members," Thurmond said in a statement issued by his office. "She was a member of my extended family in every sense of the word."

The Summerville native was 48. Since 1979, Richardson functioned as Thurmond's master scheduler, making sure he was in the right place at the appointed time. Her supersized Rolodex included the numbers for scores of average South Carolinians and several heads of state, and she could get most of them on the phone in seconds.

But generations of staffers say it was her Southern charm, impeccable manners and love for Thurmond that made her one of the most important people in his life.

"I've seen the senator cry twice. When his daughter died and today, when Holly died," said Mark Goodin, a former press secretary and adviser to Thurmond. "She was always there for him. I don't think anybody ever thought she would go before he did."

Thurmond's daughter Nancy Moore Thurmond died in a car crash in 1993. The oldest living and longest-serving senator, he will turn 100 on Dec. 5.

Chris Kelley Cimko, Thurmond's press secretary from 1993 to 1997, said Richardson went well beyond her office duties in her service to Thurmond, particularly before he began living at Walter Reed Army Medical Center last year.

"When she was cooking Sunday night, she would make a double batch of whatever it was and make sure it was in his refrigerator," said Cimko.

"Like all trusted staff members, Holly Richardson had my ear," Thurmond's statement continued. "What she probably never knew fully is that she had my heart."

Richardson met the Thurmond family after joining his 1978 re-election campaign, just after her graduation from Converse College in Spartanburg. She drove a camper, nicknamed "Strom Trek," over 10,000 miles in 10 weeks, recalled Nancy Thurmond, the senator's now-estranged wife.

Her first job in Thurmond's office was to answer phones, greet visitors and help out with constituents' problems. She also oversaw the office's intern and page programs, which gave high school and college students opportunities to learn the workings of a congressional office.

Generations of interns, staffers and members of Congress recall her courtesy and work ethic.

"Holly Richardson was one of the most personable and efficient people I've ever known," said N.C. Sen. Jesse Helms. "She was unfailingly pleasant and devoted to Strom Thurmond—a feeling that was mutual."

"She treated everyone the same way, with dignity and respect," said Cimko.

She is survived by her husband, Phil, and two children, Emmett, 12, and Anne 9, and her parents, Joanne and Coy Johnston of Summerville.

Richardson, an active member of St. Paul's Episcopal Church in Alexandria, Va., her adopted hometown, had a strong faith that supported here and others. She was also an active member of the Junior League.

"When we lost our daughter, Holly's vigilant faith helped to sustain all of us," Nancy Thurmond said.

But as devoted as she was to the Thurmond's her own family still came first, said Nancy Thurmond. She and staffers said they marveled at Richardson's ability to balance her family life and her work on Capitol Hill.

She was diagnosed with breast cancer less than a year ago, and rebounded after rounds of chemotherapy. But the disease spread, and she had to stop working several months ago.

A memorial service will be held at 11 a.m. Saturday at Trinity Episcopal Cathedral in Columbia.

[From the Charlotte Observer, Oct. 1, 2002]

THURMOND STAFFER DIES OF CANCER AT 47

(By Charles Hurt)

WASHINGTON.—Holladay Richardson, one of Sen. Strom Thurmond's top aides for nearly a quarter century, died Monday morning after a year-long, fight against breast cancer. She was 47 and the mother of two children.

"Words cannot begin to express my deepest sadness and pain with the loss of Holly," Thurmond wrote in a statement.

In a statement made part of the Senate's public record, South Carolina's senior senator said many aides over the years had his ear, but that only Richardson "had my heart." He called her his "unofficial third daughter."

Richardson's most recent post was scheduler, the person who sets up Thurmond's calendar.

She first worked for him in South Carolina on his 1978 Senate campaign. Since 1979, she has shared Thurmond's Washington office, where she has seen eight chiefs of staff come and go.

Nationally syndicated political columnist Armstrong Williams recalled Richardson's importance from his days on Thurmond's staff more than 20 years ago.

"I can't remember the senator without Holly," he said. "I knew she had cancer, but this is terrible. She was always there."

As Thurmond's health faded in recent years, Richardson and other top staffers assumed greater roles in the office of American history's oldest and longest-serving senator.

"Holly protected him, would finish sentences for him and knew what he was thinking," Williams said. "She was everything that anybody would ever want in a daughter. She was like a child protecting her parent."

In May, Richardson and her family walked in the National Race for the Cure in Washington.

She described to a reporter for Roll Call at the time how she and her family had coped with her diseases by helping people less fortunate, such as a bed-ridden neighbor for whom they cooked.

"You go through a few minutes of self pity before you realize that you can either sit here and feel sorry for yourself or you can put it aside and move on," she was quoted as saying. "That's how my family has gotten through this, by focusing on others who are in bad situations. Extending a hand to others, that's what life is all about."

Richardson is survived by her husband, Phil, their children Anne, 9, and Emmett, 12, and her parents, Joanne and Coy Johnston of Summerville, S.C.

TRIBUTE TO CONGRESSWOMAN PATSY T. MINK

Mr. INOUYE. Mr. President, on Saturday, September 28, 2002, Hawaii lost a beloved and extraordinary daughter, PATSY TAKEMOTO MINK, who represented Hawaii in the U.S. House of Representatives for 24 years. I extend to her husband, John, and daughter, Wendy, my sincerest condolences.

The passing of Congresswoman MINK is a great loss for our Nation and our State, and it is a personal loss for me. She was an honorable colleague and a dear friend throughout our political careers.

I was privileged to work with PATSY in 1956, when we were both members of the Hawaii Territorial House of Representatives. She was the first Asian-American woman elected to the Hawaii Legislature. In the 1960s, we both gave speeches at Democratic National Conventions. She was Chairwoman of the Honolulu City Council. In 1964, she joined me as a member of Hawaii's Congressional Delegation when she became the first Asian-American woman elected to the U.S. House of Representatives. For 24 years, she was an integral part of the Hawaii Delegation. I appreciated her honesty, I respected her thoughts, and I admired her resolve.

Throughout her public service, PATSY concerned herself with making our country a better place for all people. She will be remembered for her powerful and passionate voice as she championed causes for women, children, the elderly, and the needy. For those who were vulnerable or mistreated, she was their able and loyal defender.

Born Patsy Takemoto in a plantation community in Paia, Maui, on December 6, 1927, PATSY had the intelligence and work ethic to succeed in any profession. However, medical school eluded her and the legal community did not embrace her after she received her law degree from the University of Chicago in 1951. The reason she was rejected by medical schools and legal circles? Her race and her gender.

Rather than accept defeat, the strong-willed PATSY set out to eliminate the societal barriers of the day, and ran for office in the U.S. House of Representatives, which at that time was comprised of mostly white and mostly male members. She won the election and went on to pave the way for new generations of women to more fully enjoy their rights as citizens of a great nation.

PATSY co-authored and spearheaded the difficult passage of Title IX of the Education Amendments of 1972, which prohibits discrimination in educational opportunities based on gender at institutions receiving federal funds. It opened academic opportunities for women, and revolutionized the world of sports. Since the passage of this landmark legislation, participation by girls in high school athletics nationwide has increased nearly tenfold, and college participation has grown almost five times. College scholarships awarded to women in 2002 were worth $180 million. Title IX serves as the foundation of the careers of today's top professional U.S. female athletes. The U.S. women soccer team's 1999 World Cup triumph, U.S. women's domination of Olympic sports, and the birth of the women's professional National Basketball Association are rooted in Title IX.

To fully appreciate the significance of Title IX, compare women's sports in 1972 to today as reported by the Honolulu Advertiser. In 1972, the only woman with an athletic scholarship at the University of Hawaii was a drum majorette. Of UH's $1 million athletic budget, $5,000 was given to women's club sports. Today, UH spends $4 million annually on 11 women's teams.

PATSY's reputation as a relentless and formidable lawmaker extends beyond the passage of Title IX. She advocated for civil rights, peace, education, health care, and the environment with equal eloquence and effectiveness.

I last spoke with my friend, PATSY, in August at a fund-raising event in Hawaii. She mingled and talked with constituents with her trademark vim and vigor. Her deep love for her constituents and her nation was evident. She was focused on the future and continuing her service to the people of Hawaii.

PATSY answered the call to public service to the end, and her work immeasurably improved America's landscape for the under-represented and down-trodden for whom she had so much compassion. As my colleagues and I continue our work, we will long be able to look to Mrs. PATSY MINK's life of service for inspiration and hope.

REFLECTING ON THE ANNIVERSARY OF SEPTEMBER 11

Mr. ENSIGN. Mr. President, one year ago, this Nation stood united. Together we mourned, prayed, and hoped. We hugged our loved ones a little bit longer and a little bit tighter. Our hearts wept for the thousands of families who unexpectedly and unbelievingly lost a husband or wife, a mother or father, a son or daughter at the hands of evil.

It's hard to believe that an entire year has passed since that surreal day. While we have observed holidays, celebrated milestones, and continued with life, there are still daily reminders of the horrific events of one year ago. Flags still fly more frequently than before, security precautions still cause delay, and our hearts still weigh heavy when we think about the dreams that were cut short that tragic day.

As we remember September 11, I encourage you to make today a day of introspection and compassion.

Remember where you were last year when you heard the news. Remember the footage you watched in disbelief. Remember the pain you felt in your heart. Take those images with you throughout the day. Make it a point to leave work on time, have dinner with your family, talk to each other about what today means, and hug your loved ones a little bit longer and a little bit tighter.

On your own or as a family, consider doing something for your community in honor of the victims of 9/11. It can be donating blood, making a financial contribution to a needy cause, or giving your time and energy to a worthwhile organization.

I hope that we can all make today a positive and meaningful opportunity to unite our communities in helping others and honoring the victims of 9/11. Together we will send a strong message to the world that Americans remain united. Time will not steal our memory of the victims and attacks of September 11.

AMENDMENT TO HOMELAND SECURITY ACT OF 2002

Mr. SPECTER. Mr. President, I ask unanimous consent to have printed in the RECORD the text of an amendment regarding the Homeland Security bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPECTER AMENDMENT 2 TO LIEBERMAN SUBSTITUTE

Insert on page 59, line 21, of the Lieberman Amendment No. 4471, a new section (c) entitled "HOMELAND SECURITY ASSESSMENT CENTER." After inserting the title, insert attached text with designated edits (revising sections, subsections, paragraphs and subparagraphs accordingly).

(c) Homeland Security Assessment.—

(1) Establishment.—There is established in the Department the Homeland Security Assessment Center.

(2) Head.—The Under Secretary of Homeland Security for Intelligence shall be the head of the Center.

(3) Responsibilities.—The responsibilities of the Center shall be as follows:

(A) To assist the Directorate of Intelligence in discharging the responsibilities under subsection (b) of this section.

(B) To provide intelligence and information analysis and support to other elements of the Department.

(C) To perform such other duties as the Secretary shall provide.

(4) Staff.—

(A) In general.—The Secretary shall provide the Center with a staff of analysts having appropriate expertise and experience to assist the Center in discharging the responsibilities under this section.

(B) Private sector analysts.—Analysts under this subsection may include analysts from the private sector.

(C) Security clearances.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(5) Cooperation within department.—The Secretary shall ensure that the Center cooperates closely with other officials of the Department having responsibility for infrastructure protection in order to provide the Secretary with a complete and comprehensive understanding of threats to homeland security and the actual or potential vulnerabilities of the United States in light of such threats.

(6) Support.—

(A) In general.—The following elements of the Federal government shall provide personnel and resource support to the Center:

(i) Other elements of the Department designated by the Secretary for that purpose.

(ii) The Federal Bureau of Investigation.

(iii) Other elements of the intelligence community, as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(iv) Such other elements of the Federal Government as the President considers appropriate.

(B) Memoranda of understanding.—The Secretary may enter into one or more memoranda of understanding with the head of an element referred to in paragraph (1) regarding the provision of support to the Center under that paragraph.

(7) Detail of personnel.—

(A) In general.—In order to assist the Center in discharging the responsibilities under subsection (c), personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(B) Covered agencies.—The agencies referred to in this paragraph are as follows:

(i) The Department of State.

(ii) The Central Intelligence Agency.

(iii) The Federal Bureau of Investigation.

(iv) The National Security Agency.

(v) The National Imagery and Mapping Agency.

(6) The Defense Intelligence Agency.

(7) Other elements of the intelligence community, as defined in this section.

(8) Any other agency of the Federal Government that the Secretary considers appropriate.

(C) Cooperative agreements.—Personnel shall be detailed under this subsection pursuant to cooperative agreement entered into for that purpose by the Secretary and the head of the agency concerned.

(D) Basis.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(8) Study of placement within intelligence community.—Not later than 90 days after the effective date of this Act, the President shall submit to the Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a report assessing the advisability of the following:

(A) Placing the elements of the Center concerned with the analysis of foreign intelligence information within the intelligence community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(B) Placing such elements within the National Foreign Intelligence Program for budgetary purposes.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 14, 2001 in Alexandria, VA. A truck driver of Afghani descent was attacked in a parking lot just days after the terrorist attacks of September 11. The assailant, Michael Wayne Johnson, 49, pulled alongside the victim, asked if he was from Afghanistan, then jumped out of his truck and punched the victim. During the attack Mr. Johnson yelled "I'm going to kill you!"

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE NEED FOR BROADBAND DEPLOYMENT IN RURAL AMERICA

Mr. JOHNSON. Mr. President, as I have on many occasions, I want to speak to the very important issue of broadband deployment, especially in rural States like my home State of South Dakota. I want to ensure new technology is utilized in ways that will help link rural communities to new and exciting opportunities available via the Internet. New technology will be critical to bringing new jobs, educational opportunities, and health care to South Dakota communities.

As the Senate considers the various proposals on how best to encourage the deployment of broadband, I want to make absolutely certain that any legislation we pass takes into account the extraordinary challenges we face in rural America to deploy advanced telecommunications services at an affordable cost to consumers. On this point, I must acknowledge and comment on the terrific effort put forth by so many of our rural independent and cooperative telecommunications providers in South Dakota. These companies have taken very seriously their commitment to serving rural communities, and now it's our turn in Congress to do our part towards this effort.

Not only will broadband deployment assist rural communities in developing new opportunities, I believe increased broadband deployment will help jumpstart our lagging economy. A recent study by an economist with the Brookings Institution concluded that adding more broadband connections could boost the economy by $500 billion per year. To support this finding, computer and technology companies like Microsoft, Cisco, Hewlett Packard, Dell, Intel, Corning, Motorola, and NCR have weighed in, saying it is critically important for the United States to adopt a national broadband policy that encourages investment in new broadband infrastructure, applications, and services.

Broadband deployment should be a national priority in the 21st century. In order to be competitive, educate our workforce, and increase productivity, the United States must have universal broadband. Millions of Americans in rural areas and inner cities are impeded in accessing the full range of services available from the Internet because they do not have access to broadband service. We should strive to connect all Americans to the Internet through broadband technology. I will work with my colleagues to find a way to accomplish this goal in a fair manner that supports broadband deployment throughout all of our Nation.

ADDITIONAL STATEMENTS

HISPANIC HERITAGE MONTH

• Mr. SARBANES. Mr. President, every year the Congress designates the September 15—October 15 period as Hispanic Heritage Month, but even as we do so we know that the contributions Hispanic Americans make to our national life are much greater than the modest tribute we pay them. Of all the varied cultures and traditions that are woven together into the distinctive fabric of American life, Hispanic Americans have some of the most distinctive, vigorous, and sustained culture and traditions.

In recent years the Hispanic American population in the United States has grown very rapidly. According to the 2000 census it stands at 35 million, which represents an increase of 58 percent in the previous decade alone. Projections show that by mid-century Hispanic Americans will make up 24 percent of the population; put another way, just about one in every four Americans will be of Hispanic-American origin. We have see this trend very clearly in my own State of Maryland, where the Hispanic American population has grown more than 82 percent since 1990, and now makes up more than 4 percent of the population statewide. But numbers and percentages, while impressive, only hint at the vigor and the variety of the Hispanic contribution to Maryland's culture and economy.

Just as the U.S. population is diverse, so is the Hispanic American community itself. There have long been established Puerto Rican and Dominican communities in New York City, Central American communities in the Washington metropolitan area, Cuban Americans in Florida, Mexican Americans in California and the Southwest; but Hispanics from many different countries now live in cities and towns and villages in every corner of the Nation, and they bring to the communities in which they settle the rich cultures of the nations from which they have come. They are moving forward to take their place in community and political institutions at every level. They are changing the face of America, and changing the way we see America. As Hispanic Americans participate increasingly in every aspect of our national life grows, they bring a new dimension to ethnic diversity; with their presence they challenge the old, corrosive assumptions that divided the world into black and white.

We must see to it that Hispanic Americans, like all others Americans, have access to all the opportunities that make our society stronger, opportunities for education, employment, health care and housing. We must also see that language barriers do not create unnecessary and unproductive impediments to participation. Sensitivity to cultural differences is important in our schools and clinics, our financial institutions, government offices and courts; appropriate bilingual materials can often solve problems of communication. Hispanic Americans have given much to our national life, and with adequate opportunities they will give much more.

Succeeding generations of immigrants have come to this country in search of a better life. They have worked hard, often against the most difficult odds, to make a place for themselves and their families, and to realize fully the promise this Nation offers. Diversity has always been the hallmark of the Republic; the attacks of September 11 a year ago have brought home to us, perhaps more so than ever in the past, that in the diversity of our people lies one of our greatest strengths. Hispanic Americans are now helping to write an important new chapter in our history, and I am pleased and proud to offer this tribute to Hispanic Heritage Month, which recognized and celebrates their accomplishments.•

HONORING FRED ABRAHAM

• Mr. DEWINE. Mr. President, I rise today to congratulate and honor an outstanding Ohioan, Fred Abraham, on his upcoming retirement. Fred is retiring from Ducks Unlimited, DU, where he has become widely recognized as the expert on wetlands restoration and protection. During his time at Ducks Unlimited, he has been an incredibly valuable resource to my staff and to me. We have relied on him for accurate information and clear advice on countless occasions.

Fred has dedicated more than three decades of his life to the preservation and restoration of wetlands. Through his work at Ducks Unlimited, Fred has advocated on behalf of wetlands across the country, working on projects in Ohio, Indiana, Michigan and California. Today, thanks to Fred's tireless efforts, America's wetlands are in great shape and have ample resources.

Fred was born in Canton, OH, and served time in the Air Force during the Korean War. He then returned to Ohio, where he worked in the steel mills and began a career marketing baked goods. His passion for conservation grew as he started organizing sportsmen's clubs throughout Ohio to voice their concerns on wildlife and conservation issues. Fred was one of the early advocates of fostering industrial responsibility as acid-mine runoff and other pollutants threatened wildlife and their habitat.

He developed such a talent for conservation advocacy that he was recruited by the Ohio Division of Wildlife and took a position as a District Supervisor. While there, he helped resolve many of the challenging habitat and conservation issues facing Ohio in the 1970s and 1980s, and solidified his status as a leader on wetland and wildlife issues.

Fred then went on to work for one of the most influential conservation organizations in the country, Ducks Unlimited. At DU, he built strong coalitions and made countless friends, advocating on behalf of sportsmen at the national level. After 16 years at DU, where he engaged in fundraising and grassroots advocacy, Fred came to Washington as DU's Director of Conservation Policy.

Fred was the force behind some of the most important conservation legislation that has been signed into law. His accomplishments on behalf of the North American Wetlands Conservation Act, the Wetlands Reserve Program, and the National Wildlife Refuge System Improvement Act have had a profound effect on wetlands, waterfowl, and wildlife across the country. Under his leadership and advocacy, the North American Wetlands Conservation Fund has increased dramatically, rising to $43,500,000 in 2002.

I first met Fred several years ago on a trip to the Ottawa National Wildlife Refuge and Metzger March in Northwest Ohio. I immediately could sense his passion for wetlands and his motivation to preserve these areas for us now and for generations in the future. There is no question that Fred Abraham is "the Man" when it comes to wetlands. Both in Washington and around the country, he is widely recognized as the foremost advocate on wetland restoration.

Everyone who has had the opportunity to work with Fred is proud to call him a friend. We admire his energy, enthusiasm, and commitment to the conservation cause. I am sure that he will spend his retirement enjoying some of the wetlands areas he has helped preserve, and I am confident that we will still hear his voice on many conservation issues. I ask my colleagues in the Senate to join me in congratulating Fred Abraham on his retirement and wish him the best of luck in the future.•

A TRIBUTE TO MR. RALPH PAIGE

• Mr. MILLER. Mr. President, it is a pleasure for me to recognize Ralph Paige, executive director of the Southern Federation of Cooperatives/Land Assistance Fund, or LAF, as the recipient for the National Cooperative Month Economic Freedom Award.

For the past 14 years, under Mr. Paige's direction, the Federation/LAF has aided the underserved communities in the great State of Georgia, and the rural South, by creating credit unions, farmer-owned cooperatives, and new sources of affordable housing for low-income people. He has also been a leading advocate for fair treatment and land retention for African-Americans and other minority farmers. The Federation/LAF has created more than 70 cooperative member groups with a membership of more than 20,000 families across 10 Southern States, 200 units of affordable housing, and 19 credit unions with more than 10,000 members.

Under Mr. Paige's leadership, the Federation/LAF has been a frontrunner in not just developing new rural businesses and cooperatives but also provides the training and resources necessary so that they may continue to thrive. The Federation/LAF continues to also advance forestry cooperatives, providing special landowner training programs to advance their development.

Mr. Paige has given selflessly of his time to promote and enhance cooperative business. He serves on the boards of the National Cooperative Business Association, Nationwide Insurance, and the Cooperative Development Foundation. He has served as an appointee to several USDA advisory committees, including the 21st Century Production Agriculture Commission, the Agriculture Policy Advisory Committee for Trade, and the National Agricultural Research, Extension, Education and Economics Advisory Board.

Mr. Paige is a past member of the boards for the Georgia Advisory Board on Small and Minority Business, Cooperative Business International, and Cooperative Works, which is a national network of cooperative development centers.

His achievements have been noted by national and international organizations. The Congressional Black Caucus recognized Mr. Paige's contributions to rural communities with the 2001 George Collins Rural Agriculture Advocacy Award. He is also an entrant into the George Washington Carver Public Service Hall of Fame, and has received the Georgia Distinguished Cooperator Award from the Georgia Cooperative Council. Under Mr. Paige's direction, the Federation/LAF received the Humanitarian Award from the Martin Luther King, Jr. Center for Non-violent Social Change and an award from the United Nations for "significant contributions of adequate shelter to the poorer segments of the community."

Ralph Paige epitomizes cooperation. Since 1967, the Federation/LAF has worked on behalf of some of the most disadvantaged citizens of our Nation to enable them to do two of the things most basic to economic freedom: own land and operate businesses. For these reasons, it is my honor to recognize Ralph for his work to advance cooperatives and serve disadvantaged communities. I congratulate you on receiving the 2002 Cooperative Month Economic Freedom Award.●

IN MEMORY OF HOLLY J. RICHARDSON

● Mr. HOLLINGS. Mr. President, this week my colleague, the senior Senator from South Carolina, had a great loss on his staff with the passing of Mrs. Holly J. Richardson, after a battle with cancer. She was Senator THURMOND's executive assistant and personal secretary, having worked for him for half of his career in this body.

But Holly also was a part of the entire Senate family from South Carolina, being as kind and accommodating to my office in the many dealings that we have together as she was to Senator THURMOND. She was the most efficient, conscientious person you'll ever want to meet, always doing her job with the gracious attitude of the fine southern lady she was. We will miss her.

We extend our deepest sympathies to her husband, Phil, and to her children, Anne and Emmett.●

TRIBUTE TO ANNIE REINHARDT LORITTS

● Mr. SESSIONS. Mr. President, today I pay tribute to an outstanding citizen of the great State of Alabama, Mrs. Annie Loritts. Mrs. Loritts will celebrate her 100th birthday on December 15, 2002.

Over the past 100 years Mrs. Loritts has displayed a dedication to her family, her friends, her students, and her community. As a young woman in Lincolnton, North Carolina, in the 1920's, she pursued a teaching certificate from the Livingstone Normal Teachers School and taught under the supervision of her father, for a year. She then married Emory Loritts and went on to become very active in her community. Mrs. Loritts was involved with the Arts Council of Lincoln County, the Lincoln County Library, and the Seniors Center. However, Mrs. Loritts still had a desire to work with the young people of Lincoln County and returned to college to earn her Bachelor of Science and Masters of Science. She went on to teach in Lincoln County Schools for the next fifty years and was instrumental in shaping the minds and lives of thousands of American citizens.

Mrs. Loritts, who now resides in Huntsville, AL, is an example of the dedicated professionals that teach our young people every day. Her commitment to improving the lives of children and producing solid citizens should serve as an example to each of us. I applaud her tireless efforts on the behalf of others and would like to take this opportunity to thank her for all that she has contributed to her community and the impact she has made on the lives of others.

I ask my colleagues to join me today in recognizing Mrs. Annie Loritts for her outstanding achievements and in wishing her a happy upcoming birthday.●

TRIBUTE TO TECHNICAL SERGEANT CAESAR KELLUM

● Mr. SESSIONS. Mr. President, it has come to my attention that Technical Sergeant Caesar Kellum has been recognized as one of 12 Outstanding Airmen of the Year by the United States Air Force. Technical Sergeant Kellum is the noncommissioned officer in charge of the Airspace Division, Southeast Air Defense Sector, SEADS, Florida Air National Guard FLANG, Tyndall AFB, FL.

Caesar has excelled as a member of the United States Air Force. For example, he maintained a 100 percent academic average on all written evaluations; unprecedented in his unit's history. Out of 36 weapons directors, he is the only one to earn an "exceptionally qualified" rating on back-to-back evaluations. Additionally, he is a key member of an evaluation team to assess operations control center's readiness to help detect and identify 800,000 aircraft annually.

In addition to his excellent work with the U.S. Air Force, TSgt Kellum has exhibited a great deal of involvement within the local community. He orchestrated the sector's participation in the American Cancer Society's Annual Relay for Life event and served as team captain for the Millennium Cure Walkers. He raised $5,061,56 for the American Cancer Society, exceeding the goal by 237 percent. As a result of his performance, he was awarded the highly coveted "Team Spirit" award, which is extended to the team with the best overall effort and attitude.

Caesar Kellum was raised in Athens, AL and, after graduating from West Limestone High School in Salem, AL, enlisted in the United States Air Force in August of 1990. Since arriving at Tyndall AFB, FL, Technical Sergeant Kellum has completed all the requirements and received his associate of science degree in Instructor of Technology from the Community College of the Air Force. Currently, he is in his junior year at the American Military University working on a bachelor of science degree in Management.

SGT Kellum's military decorations include the Air Force Commendation Medal with two oak leaf clusters, Air Force Achievement Medal, Combat Readiness Medal, Air Force Outstanding Unit Award, Organizational Excellence Award, Humanitarian Service Medal, National Defense Ribbon, Good Conduct Medal, and the Air Force Professional Military Education Graduate Ribbon.

TSgt Caesar Kellum deserves the thanks and praise of the nation that he continues to faithfully serve. I know the Members of the Senate will join me in wishing him and his wife Tiffiney Ann, also in the USAF, all the best in the years ahead. Well done, TSgt Kellum. You have made Alabama and America Proud.

I had the pleasure recently to visit with Caesar and Tiffney. They are the very model of a couple that have given their lives to excellence in public service. I was inspired just talking to them.●

50TH ANNIVERSARY OF DANIEL J. EDELMAN, INC.

● Mr. DURBIN. Mr. President, I am pleased today to congratulate Daniel J. Edelman, Inc., as it commemorates its 50th anniversary. Public relations firms look to Edelman as a company to follow, and I commend their work.

Since its founding in Chicago in 1952 by Daniel J. Edelman, the agency that bears his name has consistently been identified for its leadership in public relations. Edelman has received several awards, including the Golden World Award from the International Public Relations Association and the Sword of Excellence Award from the Institute of Public Relations in London.

Mr. Edelman is widely regarded in public relations circles as a leader and innovator in the development of public relations practices, standards and ethics in the United States and internationally. He has generously given his time to the Public Relations Society of America and to students seeking public relations careers. Mr. Edelman believes that public relations should be practiced in a professional manner with commitment to the highest standards. Edelman Public Relations has contributed significant time to local, national and international philanthropic causes and organizations.

I know my fellow Senators will join me in congratulating Edelman on its 50th Anniversary. I applaud this company for its dedication and extend my best wishes for the future.●

CONGRATULATIONS TO WKDZ RADIO

● Mr. BUNNING. Mr. President, I rise today to congratulate and honor the men and women at WKDZ FM radio in Cadiz, KY on winning the most prestigious nationwide award broadcasting has to offer. WKDZ was recently awarded a Marconi Radio Award by the National Association of Broadcasters, recognizing it as the "Small Market Station of the Year." WKDZ is the only Kentucky station to ever receive a Marconi Award as Small Market Station of the Year.

WKDZ did not win this award based solely on their ability to play good music or put interesting personalities on the air. Criteria used by the Marconi judges included ratings, community awards and recognition, events sponsored by the station, continuing community service broadcasts, and staff involvement in the community.

Over the years, WKDZ has raised thousands upon thousands of dollars for the community. The station raised more than $150,000 during the Relay for Life, $82,000 on the Rotary Radio Auction, surpassing their goal of $75,000 and helped gather 4,000 cans for the community Thanksgiving Food Bank. WKDZ has furthermore sponsored such local events as the Community Easter Egg Hunt, Halloween Safety Night and the Trigg County Country Ham Festival.

WKDZ is a shining example of how a private-owned business can on one hand be a profitable contributor to the local economy and on the other be an active and influential participant in the community. I applaud WKDZ's efforts and congratulate them on this noteworthy honor.●

IN RECOGNITION OF MARYGROVE COLLEGE'S 75TH ANNIVERSARY

● Mr. LEVIN. Mr. President, I would like to extend my congratulations to Marygrove College in Detroit on the celebration of its 75th anniversary.

For the last three-quarters of a century, Marygrove College has offered a strong liberal arts education to students from a wide-variety of backgrounds. Marygrove was originally founded in 1846 as St. Mary Academy in Monroe, MI, by the Sister, Servants of the Immaculate Heart of Mary. The school was originally designed to teach young women and girls. The gates of Marygrove College opened in September 1927 to welcome 287 students through its doors. Today, 6,000 students crisscross its metropolitan Detroit campus to take advantage of a quality and diverse education.

The college offers associate's, bachelor's, and master's degrees in 54 areas of study. The courses range from arts, music, and social work to radiology and science. Taking into account the fact that the average undergraduate student is 33 years old and the average graduate student is 36, Marygrove offers a special opportunity for students to advance their education within a schedule built around their established lives. Without an educational opportunity like Marygrove's, many people might choose not to pursue their education because they believe they are too busy or too entrenched in their "normal" lives.

Marygrove's importance to Detroit is enhanced by its contributions to the arts community. The school enriches Detroit's cultural scene through its extensive art, dance, and music programs. The school regularly sponsors exhibits in its beautiful art gallery as well as frequent recitals and concerts for the public. Two years ago, Marygrove became the home of Detroit's 80-year-old Institute of Music and Dance.

Along with the celebrations for its 75-year anniversary, Marygrove will open its newly-renovated 400-seat theater in November. In addition to a more dancer-friendly surface, the theater will contain a new multipurpose room for rehearsals and dance classes. The facility will have new acoustical systems, new house and theatrical lighting, better dressing room facilities, and better lines of sight from the balcony seats. The reopening of this theater, once used by the native Michigander, Madonna, will provide a new chance for developing and pursuing performing arts opportunities in Detroit.

I am sure that my Senate colleagues join me in congratulating the staff, teachers, and students of Marygrove College on its 75 years of educational accomplishments. Best of luck to Marygrove on the next 75.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3018. A bill to amend title XVIII of the Social Security Act.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-9137. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Triticonazole; Pesticide Tolerance" (FRL7200-6) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-9138. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sucrose Octanoate Esters; Exemption from the Requirement of a Tolerance" (FRL7199–1) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9139. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Spinosad; Pesticide Tolerance" (FRL7199–5) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9140. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pyraclostrobin; Pesticide Tolerance" (FRL7200–7) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9141. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pseudozyma Flocculosa Strain PF-A22 UL; Exemption from the Requirement of a Tolerance" (FRL7198–8) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9142. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lambda-cyhalothrin; Pesticide Tolerance" (FRL7200–1) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9143. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Glyphosate; Pesticide Tolerances" (FRL7200–2) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9144. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenamidone; Pesticide Tolerance" (FRL7196–8) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9145. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dimethomorph; Pesticide Tolerance" (FRL7199–2) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9146. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clopyralid; Pesticide Tolerance" (FRL7198–4) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9147. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cyfluthrin; Pesticide Tolerance" (FRL7199–8) received on September 25, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9148. A communication from the Army Federal Register Liaison Officer, Office of the Assistant Secretary for Installations and Environment, transmitting, pursuant to law, the report of a rule entitled "Environmental Analysis of Army Actions" (RINA702–AA34) received on September 23, 2002; to the Committee on Armed Services.

EC–9149. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–9150. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, pursuant to law, a report on family subsistence supplement allowance for the period May 1, 2001 through February 1, 2002; to the Committee on Armed Services.

EC–9151. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Economic Exclusive Zone Off Alaska; Closure for the Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska" received on September 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9152. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Closure of Pollock Fishery in Statistical Area 630 in Gulf of Alaska" received on September 23, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9153. A communication from the Senior Regulations Analyst, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Procedures for Compensation of Air Carriers" ((RIN2105–AD06)(2002–0002)) received on September 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9154. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of the Maritime Administration (MARAD) for Fiscal Year 2001; to the Committee on Commerce, Science, and Transportation.

EC–9155. A communication from the Supervisory Personnel Management Specialist, Department of the Army, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Assistant Secretary of the Army, Civil Works, received on August 15, 2002; to the Committee on Environment and Public Works.

EC–9156. A communication from the Supervisory Personnel Management Specialist, Department of the Army, transmitting, pursuant to law, the report of the designation of acting officer for the position of Assistant Secretary of the Army, Civil Works, received on August 15, 2002; to the Committee on Environment and Public Works.

EC–9157. A communication from the Supervisory Personnel Management Specialist, Department of the Army, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary of the Army, Civil Works, received on August 15, 2002; to the Committee on Environment and Public Works.

EC–9158. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Industry Codes and Standards; Amended Requirements" (RIN3150–AG61) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9159. A communication from the General Counsel, United States Access Board, transmitting, pursuant to law, the report of a rule entitled "Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities; Recreation Facilities" (RIN3014–AA16) received on September 20, 2002; to the Committee on Environment and Public Works.

EC–9160. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Solicitation of Applications for Lead-Based Paint Program Grants; Notice of Availability of Funds"; to the Committee on Environment and Public Works.

EC–9161. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Amendment to the Effluent Limitations Guidelines and Standards for the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper, and Paperboard Point Source Category: Final Rules; OMB Approvals Under the Paperwork Reduction Act: Technical Amendment" (FRL7379–4) received on September 17, 2002; to the Committee on Environment and Public Works.

EC–9162. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Guidelines Establishing Test Procedures for the Analysis of Pollutants under the Clean Water Act; National Primary Drinking Water Regulations; and National Secondary Drinking Water Regulations; Methods Update" (FRL7379–6) received on September 17, 2002; to the Committee on Environment and Public Works.

EC–9163. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the Arizona State Implementation Plan, Arizona Department of Environmental Quality" (FRL7380–9) received on September 17, 2002; to the Committee on Environment and Public Works.

EC–9164. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality State Implementation Plans; Louisiana: Motor Vehicle Inspection and Maintenance Program" (FRL7382–7) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9165. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; (SIP); Louisiana: Substitute Contingency Measures" (FRL7382–6) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9166. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans for Kentucky; Vehicle Emissions Control Programs" (FRL7381–2) received on September 25, 2002; to the Committee on Environment and Public Works.

EC–9167. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Louisiana; Control of Emissions of Nitrogen Oxides in the Baton

Rouge Ozone Nonattainment Area" (FRL7384-5) received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9168. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation; Georgia Transportation Conformity State Implementation Plan Memorandum of Agreement for the Atlanta Metropolitan Area" () received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9169. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Revisions to the Louisiana Department of Environmental Quality Title 33 Environmental Quality Part III; Air Chapter 5, Permit Procedures, 504; Nonattainment New Source Review Procedures" (FRL7384-7) received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9170. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(l) Authority for Hazardous Air Pollutants; Delegation of Section 111 and Section 112 Standards; State of New Hampshire" (FRL7378-4) received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9171. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Correction of Implementation Plans; California" (FRL7376-2) received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9172. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hawaii; Final Approval of State Underground Storage Tank Program" (FRL7381-6) received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9173. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production" (FRL7382-4) received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9174. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approvals under the Paperwork Reduction Act; Technical Amendment" (FRL7381-4) received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9175. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revocation of Significant New Uses of Certain Chemical Substances" (FRL7186-9) received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9176. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality State Implementation Plans (SIP); Louisiana; Emissions Reduction Credits Banking in Nonattainment Areas" (FRL7384-6) received on September 25, 2002; to the Committee on Environment and Public Works.

EC-9177. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Oil Pollution Act (OPA) Removal Project Plan"; to the Committee on Environment and Public Works.

EC-9178. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Emissions from Nonroad Large Spark-ignition Engines, and Recreational Engines (Marine and Land-based)" (FRL7380-2) received on September 17, 2002; to the Committee on Environment and Public Works.

EC-9179. A communication from the Secretary of Commerce, transmitting, pursuant to law, the fourth annual report addressing the challenges of international bribery and fair competition for 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9180. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Amendment to the Bank Secrecy Act Regulations—Requirement that Casinos and Card Clubs Report Suspicious Transactions" (RIN1506-AA22) received on September 19, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9181. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Amendments to the Bank Secrecy Act—Joint Rule on (1) Prohibition on United States Correspondent Accounts with Foreign Shell Banks and (2) Recordkeeping Requirements and Termination of Correspondent Accounts for Foreign Banks" (RIN1505-AA87) received on September 19, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9182. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Special Information Sharing Procedures to Deter Money Laundering and Terrorist Activity" (RIN1506-AA27) received on September 19, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9183. A communication from the Assistant General Counsel for Regulatory Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Guidelines for Physician Panel Determinations on Worker Request for Assistance in Filing for State Workers' Compensation Benefits" (RIN1901-AA90) received on August 27, 2002; to the Committee on Energy and Natural Resources.

EC-9184. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a vacancy and a nomination for the position of Deputy Secretary, Office of the Secretary of Energy, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC-9185. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Director, Office of Economic Impact and Diversity, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC-9186. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for Environment, Safety and Health, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC-9187. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Administrator, Energy Information Administration, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC-9188. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Director, Office of Science, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC-9189. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for Fossil Energy, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC-9190. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Assistant Secretary for International Affairs, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC-9191. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination and a nomination confirmed for the position of Deputy Administrator for Defense Programs, received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC-9192. A communication from the Acting Director of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer for the position of Under Secretary for Nuclear Security, received on September 10, 2002; to the Committee on Armed Services.

EC-9193. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—December 2001" (Rev. Rul. 2001-58) received on September 23, 2002; to the Committee on Finance.

EC-9194. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—September 2001" (Rev. Rul. 2001-54) received on September 23, 2002; to the Committee on Finance.

EC-9195. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—October 2002" (Rev. Rul. 2002-61) received on September 23, 2002; to the Committee on Finance.

EC-9196. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Standard Mileage Rates—2003" (Rev. Proc. 2002-61) received on September 21, 2002; to the Committee on Finance.

EC-9197. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Obligations of State and Political Subdivisions" (RIN1545-AY71) received on September 20, 2002; to the Committee on Finance.

EC-9198. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 45D and Other Federal Tax Benefits" (Notice 2002-64) received on September 20, 2002; to the Committee on Finance.

EC-9199. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Fringe Benefits Aircraft Valuation Formula" (Rev. Rul. 2002-56) received on September 17, 2002; to the Committee on Finance.

EC-9200. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the Annual Report of Continuing Disability Reviews for Fiscal Year 2001; to the Committee on Finance.

EC-9201. A communication from the Chief of the Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Import Restrictions Imposed on Archaeological Material From Mali" (RIN1515-AD16) received on September 17, 2002; to the Committee on Finance.

EC-9202. A communication from the Executive Resources Coordinator, Department of the Treasury, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Tax Policy, received on September 23, 2002; to the Committee on Finance.

EC-9203. A communication from the Executive Resources Coordinator, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy for the position of Member, IRS Oversight Board, received on September 23, 2002; to the Committee on Finance.

EC-9204. A communication from the Executive Resources Coordinator, Department of the Treasury, transmitting, pursuant to law, the report of a vacancy, the designation of acting officer, and a nomination for the position of Assistant Secretary, Financial Institutions, received on September 23, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC-9205. A communication from the Investment Manager, Treasury Division, Army and Air Force Exchange Service, transmitting, pursuant to law, the Retirement Annuity Plan for Employees of the Army and Air Force Exchange Service, the Supplemental Deferred Compensation Plan for Members of the Executive Management Program of the Army and Air Force Exchange Service, and the Retirement Savings Plan and Trust for Employees of the Army and Air Force Exchange Service dated 2002; to the Committee on Governmental Affairs.

EC-9206. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement with the United Kingdom; to the Committee on Foreign Relations.

EC-9207. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-9208. A communication from the Acting General Counsel, National Endowment for the Arts, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Chairman, received on September 3, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-9209. A communication from the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the Annual Report on Grants Streamlining for the period beginning May 2001 through May 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-9210. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Annual Report on the Federal Work Force for Fiscal Year 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-9211. A communication from the Regulations Coordinator, Indian Health Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character" (RIN0917-AA02) received on September 23, 2002; to the Committee on Indian Affairs.

EC-9212. A communication from the Secretary of Labor, transmitting , pursuant to law, the certification that during calendar year 2001 the Department substantially complied with the requirement in section 212(n)(1) of the INA relating to the Department's certification of employers' LCAs within seven days of their filing; to the Committee on the Judiciary.

EC-9213. A communication from the Program Manager, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Transfer and Possession of Machineguns" (ATF Rul. 2002-5) received on September 12, 2002; to the Committee on the Judiciary.

EC-9214. A communication from the Program Manager, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Indoor Storage of Explosives in Business Premises Directly Adjacent to a Residence or Dwelling" (ATF Rul. 2002-4) received on September 12, 2002; to the Committee on the Judiciary.

EC-9215. A communication from the Program Manager, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Indoor Storage of Explosives in a Residence or Dwelling" (ATF Rul. 2002-3) received on September 12, 2002; to the Committee on the Judiciary.

EC-9216. A communication from the Director of the Regulations and Forms Service Division, Immigration and Naturalization Service, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Requiring Certification of All Service Approved Schools for Enrollment in the Student and Exchange Visitor Information System (SEVIS)" (RIN115-AG71) received on September 25, 2002; to the Committee on the Judiciary.

EC-9217. A communication from the Staff Director of the Commission on Civil Rights, transmitting, pursuant to law, the list of state advisory committees recently rechartered by the Commission; to the Committee on the Judiciary.

EC-9218. A communication from the Chair of the Sentencing Commission, transmitting, pursuant to law, the Commission's Annual Report for Fiscal Year 2001; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Small Business and Entrepreneurship, with amendments:

S. 1994: A bill to establish a priority preference among certain small business concerns for purposes of Federal contracts, and for other purposes. (Rept. No. 107-294).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2664: A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction, and for other purposes. (Rept. No. 107-295).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2980: A bill to revise and extend the Birth Defects Prevention Act of 1998.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Charles S. Abell, of Virginia, to be Deputy Under Secretary of Defense for Personnel and Readiness.

Charles E. Erdmann, of Colorado, to be a Judge of the United States Court of Appeals for the Armed Forces for the term of fifteen years to expire on the date prescribed by law.

By Mr. INHOFE for the Committee on Armed Services.

Thomas Forrest Hall, of Oklahoma, to be an Assistant Secretary of Defense.

By Mr. LEVIN for the Committee on Armed Services.

Air Force nomination of Lt. Gen. Charles F. Wald.

Air Force nomination of Lt. Gen. Thomas B. Goslin, Jr.

Air Force nomination of Brig. Gen. George W. Keefe.

Air Force nomination of Brigadier General Joseph P. Stein.

Army nomination of Lt. Gen. Kevin P. Byrnes.

Army nomination of Lt. Gen. John B. Sylvester.

Army nomination of Lt. Gen. Edward G. Anderson III.

Army nomination beginning Brigadier General Dorian T. Anderson and ending Brigadier General Walter Wojdakowski, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2002.

Army nominations beginning Brig. Gen. Paul E. Mock and ending Col. Bruce A. Casella, which nominations were received by the Senate and appeared in the Congressional Record on September 18, 2002.

Army nominations beginning Brigadier General Harry B. Burchstead, Jr. and ending Colonel Mark E. Zirkelbach, which nominations were received by the Senate and appeared in the Congressional Record on July 25, 2002.

Army nomination of Col. Clarence M. Agena.

Marine Corps nomination of Gen. James L. Jones, Jr.

Marine Corps nomination of Lt. Gen. Michael W. Hagee.

Marine Corps nomination of Maj. Gen. Michael A. Hough.

By Mr. NELSON for the Committee on Armed Services.

Navy nomination of Adm. James O. Ellis.

By Mr. LEVIN for the Committee on Armed Services.

Navy nomination of Rear Adm. General L. Hoewing.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Army nomination of Maurice L. McDougald.

Army nominations beginning John R. Hinson and ending Joseph M. Scaturo, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nominations beginning Cathi A. Kiger and ending Timothy R. Warrick which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nominations beginning Jay F. Daley and ending Donna S. Woodby, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nominations beginning Paul M. Amalfitano and ending James S. Hoggard, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nomination of Stephen M. Bloomer.

Army nomination of Theodore A. Mickevicius.

Army nomination of Hugo E. Salazar.

Marine Corps nomination of David A. Suggs.

Marine Corps nomination of Chandler P. Seagraves.

Navy nomination of Arthur R. Stiffel IV.

Navy nomination of Jeffrey Ball.

Navy nominations beginning Enein Y H Aboul and ending Kimberly A Zuzelski, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Navy nominations beginning Christopher H Berkers and ending Richard L Zimmermann, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Navy nominations beginning David R Brown and ending George B Younger, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

Army nominations beginning Jeffrey W * Abbott and ending X122, which nominations were received by the Senate and appeared in the Congressional Record on September 18, 2002.

Marine Corps nomination of Brent A. Harrison.

Navy nomination of Edward T. Moldenhauer.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 3018. A bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes; read the first time.

By Mr. McCAIN:

S. 3019. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

By Mr. ENZI:

S. 3020. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Cheyenne, Wyoming, metropolitan area; to the Committee on Veterans' Affairs.

By Mr. VOINOVICH (for himself, Mr. DEWINE, Mr. LEVIN, and Ms. STABENOW):

S. 3021. A bill to establish in the State of Ohio a wildlife refuge complex comprised of land designated as national wildlife refuges, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROBERTS:

S. 3022. A bill to amend the Food Security Act of 1985 to suspend the requirement that rental payments under the conservation reserve program be reduced by reason of harvesting or grazing conducted in response to a drought or other emergency; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 3023. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 3024. A bill to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 3025. A bill to reauthorize and improve the Chesapeake Bay Environmental Restoration and Protection Program; to the Committee on Environment and Public Works.

By Mr. SESSIONS:

S. 3026. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 710

At the request of Mr. KENNEDY, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 710, a bill to require coverage for colorectal cancer screenings.

S. 1226

At the request of Mr. CAMPBELL, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1226, a bill to require the display of the POW/MIA flag at the World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1655

At the request of Mr. BIDEN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1739

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1739, a bill to authorize grants to improve security on over-the-road buses.

S. 2219

At the request of Mr. EDWARDS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2219, a bill to provide for compassionate payments with regard to individuals who contracted the human immunodeficiency virus due to provision of a contaminated blood transfusion, and for other purposes.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2566

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of

S. 2566, a bill to improve early learning opportunities and promote school preparedness, and for other purposes.

S. 2613

At the request of Mr. LIEBERMAN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2672

At the request of Mr. BINGAMAN, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2672, a bill to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, and for other purposes.

S. 2821

At the request of Mr. FRIST, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2821, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 2892

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2892, a bill to provide economic security for America's workers.

S. 2903

At the request of Mr. JOHNSON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 2922

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2922, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 2949

At the request of Mr. HOLLINGS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2949, a bill to provide for enhanced aviation security, and for other purposes.

S. 2965

At the request of Mr. KENNEDY, the name of the Senator from Montana (Mr. BAUCUS) was withdrawn as a cosponsor of S. 2965, a bill to amend the Public Health Service Act to improve the quality of care for cancer, and for other purposes.

S. 3009

At the request of Mr. WELLSTONE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3009, a bill to provide economic security for America's workers.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 11, A concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 94

At the request of Mr. WYDEN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. Con. Res. 94, A concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 138, A concurrent resolution expressing the sense of Congress that the Secretary of Health And Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. Con. Res. 142, A concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 3018. A bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes; read the first time.

Mr. BAUCUS. Mr. President, I rise today, along with Senator GRASSLEY, to introduce the "Beneficiary Access to Care and Medicare Equity Act." This legislation is critical to ensuring access to quality, affordable health care for the 40 million Medicare beneficiaries nationwide.

Medicare is one of America's great success stories. Since its inception 36 years ago, Medicare has provided millions of elderly and disabled Americans with insurance coverage they would not have otherwise had. When Medicare was enacted, about half of America's elderly lacked health insurance. Now nearly all are covered by Medicare.

Over the past three decades, Medicare has undergone significant changes, including changes in the way that health care providers are reimbursed. In response to rising Medicare expenditures, Congress has responded with complex cost-containment mechanisms: diagnosis related groups, or DRGs, for hospital inpatient services in the early 1980s, a fee schedule for physicians' services in 1989. And in 1997, Congress passed the Balanced Budget Act, which mandated prospective payment systems for hospital outpatient departments, home health agencies, and skilled nursing facilities. Gradually, Medicare has changed from a cost-based system to one of prospective, flat-rate payment.

The significant changes in payment policy have resulted in a few bumps along the way, particularly those enacted as part of the Balanced Budget Act of 1997. The BBA was a well-intended attempt to get our Nation's fiscal house in order and extend the life of the Medicare trust fund. And in that regard, the goal of the legislation was achieved. Solvency of the Part A Trust Fund was extended by almost 30 years. But in some instances, the BBA cuts went too far.

In such cases, these cuts threatened to reduce Medicare and Medicaid beneficiaries' access to quality medical care and services. Congress responded by passing the Balanced Budget Refinement Act, BBRA, of 1999 and the Beneficiary Improvement and Protection Act, BIPA, of 2000. I was proud to play a role in both of these bills, including help for rural areas, which were disproportionately affected by the BBA.

Despite the policies and payment changes enacted as part of BBRA and BIPA, we still find that in some cases more improvements and adjustments are needed. And that is why Senator GRASSLEY and I are introducing this bill today.

So what does this bill do? Most importantly, this bill would restore payments to physicians, which were cut in 2002 by about five percent. Under the Medicare fee schedule, payment for physician services depends on several factors, including the growth in medical inflation, performance of the

American economy, and changes in law and regulation.

Also central to the calculation of payments are estimates by the Centers for Medicare and Medicaid Services, or CMS, which was formerly known as the Health Care Financing Administration, of the numbers of Medicare beneficiaries in traditional fee-for-service Medicare. Largely because of significant estimation errors and a weakened economy, physicians under Medicare experienced an average payment reduction of five percent in 2002. If Congress does not act to fix the system, further large cuts are forecast for the coming years. And the potential consequences of inaction are serious.

According to a 30-State survey by the Medicare Rights Center, Medicare beneficiaries in 15 states and the District of Columbia are already having trouble finding a physician who accepts new Medicare patients. And researchers from the Center for Studying Health System Change have found that the percentage of Medicare beneficiaries who reported delaying or not getting necessary physician care rose from 9.1 percent in 1997 to 11 percent in 2001. The study also showed that of the near-elderly, patients between 50 and 64, 18.4 percent experienced difficulty in seeing a physician in 2001, up from 15.2 percent in 1997.

This bill would provide positive payment updates to the physician fee schedule over the next three years, representing a dramatic turnaround in Medicare physician payments. It would also modify the formula that is used to increase payments each year, the so-called SGR, which most physicians have learned to view with uncertainty and distrust.

While this proposal on physician updates represents progress, I acknowledge that it is imperfect, producing large reductions in Medicare physician payments in 2006 and beyond. I am committed to working with my colleagues in the Congress and the Administration to find a more reasonable solution.

Aside from physician payments, this legislation addresses a number of other important Medicare reimbursement issues, many of which are set to take effect today, October 1. The bill will completely eliminate the 15 percent cut in home health payments. It will forestall large cuts to indirect medical education, so critical to the well-being of our nation's teaching hospitals. And the bill will continue additional payments to nursing homes to help them hire more staff to care for patients.

It should come as no surprise that another priority of mine, and Senator GRASSLEY's, is ensuring that rural areas are treated on par with their urban counterparts. I represent a state with a population density of about six people per square mile where patients and providers are often separated by vast distances. The current Medicare payment structure does not adequately account for the unique circumstances and challenges of providing medical care in such areas, where economies of scale often make systems like prospective payment unworkable.

That's why I was proud to help write the Sole Community Hospital law in the early 1980s and the Critical Access Hospital, CAH, program in 1997. Based on the Montana Medical Assistance Facility program, or MAF, the CAH concept has been a lifeline for over 600 rural communities nationwide, allowing hospitals that might have otherwise closed to stay open. This bill makes a number of important changes to the CAH program, including a provision allowing greater flexibility in the use of acute care and swing beds, as well as reauthorization of the Rural Hospital Flexibility Grant Program, which assists facilities in making the switch to CAH status.

Aside from Critical Access Hospitals, this legislation makes a number of other important changes to bring Medicare equity to rural America. By making the Medicare Incentive Payment Program, MIPP, automatic, physicians can more easily receive their 10 percent bonus for practicing in health professional shortage areas. And by setting a floor for the physician work component of Medicare's geographic cost index, payments to rural physicians will be raised.

This bill also puts rural and urban areas on a more level playing field with respect to non-CAH hospital payments. It equalizes the base payment rate for all PPS hospitals, eliminating the differential in the so-called "standardized amount," which systematically pays rural areas less than large urban ones. And it makes Disproportionate Share Hospital, DSH, payments more equitable by allowing rural facilities to receive increased payments for treating indigent patients.

Many of these provisions are based on the work and recommendations of the Medicare Payment Advisory Commission, MedPAC, in their report on rural Medicare policy. That report included telling statistics, and reinforced what I hear from my constituents on a regular basis: Medicare payment policy disadvantages rural areas and changes are needed. For example, in 1999, overall Medicare margins for rural hospitals with 50 beds or less were negative 5.4 percent, worse than any other category of hospital. And total margins for these hospitals are also the lowest, at 1.7 percent in 1999, compared to 3.6 percent for all hospitals. Clearly Congress has work to do to ensure greater geographic equity in Medicare payment, and this bill makes great strides to that end.

In addition to many reimbursement changes, this legislation contains important relief for providers struggling with Medicare's regulatory framework. Many of these regulatory relief provisions were contained in legislation I wrote with Senators KERRY, MURKOWSKI and GRASSLEY last year. Among other things, these provisions will: ensure that CMS answers questions posed by health care providers in a timely manner; give additional appeals rights to providers, so that they receive fair treatment for honest billing mistakes; and ensure that CMS demands on providers to return overpayments are reasonable and do not force small providers to declare bankruptcy.

In addition to Medicare provisions, this legislation addresses many critical issues related to Medicaid and the State Children's Health Insurance Program. The bill provides $5 billion in fiscal relief to states struggling with tight Medicaid budgets and nearly $3 billion to help safety net hospitals continue to provide critical health care services to low-income Americans. The bill also ensures the continued success of the S–CHIP program by giving States more time to spend their S–CHIP allotments and ensuring that as many children as possible are covered.

The bill provides immediate, temporary fiscal relief to states in two ways: by giving states a temporary increase in their Medicaid match rate, or FMAP; and by increasing funding for the Social Services Block Grant. Taken together, these two approaches will help alleviate the pressure on states to cut programs that serve low income families, children, seniors and the disabled.

The State fiscal relief provision recognizes that States are in the midst of their worst fiscal crisis since the early 1990s. States have cut their budgets across many programs, from education to health care to other social programs. And because Medicaid is one of the largest parts of state budgets, Medicaid continues to be a prime target for spending cuts.

According to a recent report from the Kaiser Commission on Medicaid and the Uninsured, 45 states took action to reduce their Medicaid spending growth in fiscal year 2002, and 41 states are planning further reductions in fiscal year 2003. In my own State of Montana, Medicaid beneficiaries have been asked to pay a larger share of the costs of their coverage, and provider reimbursement rates have been cut.

These program cuts have come about at the same time that Medicaid rolls are increasing due to the recession. As more people lose their jobs and health insurance—just yesterday, we learned that in 2001 another 1.4 million people joined the ranks of the uninsured, many become eligible for Medicaid. At the same time, States are forced to cut back on this vital safety net program when people need it most. This is a vicious cycle that we must help end. If we don't, the ultimate result of all this is an increase in the uninsured. Just as we saw in the early 1990s.

The financial crisis facing State Medicaid programs is also felt by the facilities that provide care to Medicaid beneficiaries and low-income insured populations. To ensure that hospitals serving our most vulnerable populations can continue providing their vital services, this bill eliminates the scheduled reduction in federal Medicaid funding for hospitals that serve a disproportionate share of Medicaid beneficiaries and low-income, uninsured patients. Without the restoration of these DSH funds, safety net hospitals would lose nearly $3 billion in federal Medicaid funding over the next three years. States with smaller DSH programs will also benefit through this legislation, as it provides them with greater resources to serve their low-income patients.

This bill also seeks to continue the unqualified success of the S-CHIP program by ensuring that S-CHIP funds are used to cover as many children as possible, as efficiently and effectively as possible. By giving states an additional year to spend funds that would otherwise be returned to the Federal Treasury and renewing the ongoing system to allocate unspent S-CHIP funds equitably among the States, the legislation will help sustain the significant progress S-CHIP has made in reducing the ranks of uninsured children. In addition, the new caseload stabilization pool will provide additional funds to states expected to have insufficient federal funds over the next few years, reducing the chance that children will be dropped from the rolls.

This bill would also make important improvements to the Medicaid and S-CHIP waiver process. Medicaid and S-CHIP waivers have become an increasingly powerful way for the Secretary of Health and Human Services to make changes to crucial health programs without having to consult with, or seek, legislative change from, the Congress.

The General Accounting Office recently identified serious problems with the current waiver approval process, including a lack of accountability in several areas. I am pleased to have worked with Senator GRASSLEY to develop legislation that would address the key GAO recommendations and begin to restore integrity to the waiver process. More specifically, this bill would require that the waiver process be more transparent and require public notification when major changes are in store.

Our bill would also prohibit approval of future waivers that would take dollars set aside for children's health and use them instead on childless adults. Where Congress has set limits on the use of federal dollars, waivers should not be used as a back door way to get around those limits.

Without question, the Medicaid and S-CHIP programs are vital components of America's health care safety net, and both programs are critical to the well-being of thousands in my State. The Billings Gazette reported yesterday that about 14,000 of the 18,000 newly-insured Montanans since 1999 were additions to Montana's Medicaid and S-CHIP programs.

But despite the critical role these programs play, I am not convinced that we know enough about our nation's health care safety net. Based on legislation I introduced last congress with Senator GRASSLEY, the bill we are introducing today would change that, by establishing the Safety Net Organizations and Patient Advisory Commission. SNOPAC would be an independent and nonpartisan commission charged with the authority to oversee all aspects of America's health care safety net, including Medicaid and S-CHIP. Based on an Institute of Medicine report, SNOPAC will include health care experts from the disparate parts of our safety net system, reporting to Congress on recommendations to maintain our intact, but endangered, health care safety net.

Some will argue that Congress has more pressing Medicare priorities to address than restoring payments to health care providers. They argue will that before action on a bill concerning Medicare payment policy, Congress should debate and enact a solid prescription Medicare drug benefit.

I agree wholeheartedly with the need for a good drug benefit. I have worked for years to enact one, and I think that the lack of a drug benefit is the greatest deficiency in the Medicare program today. Almost 40 percent of seniors currently lack drug coverage. And for those who have it, it is often unreliable and unaffordable.

I did my utmost to pass a drug benefit this year, and I will continue my efforts until one is signed into law. But I will not support a benefit that is unworkable for Montana. And I will not support reviving a prescription drug debate that threatens passage of the important bill Senator GRASSLEY and I are introducing today.

The United States Senate debated Medicare prescription coverage in July. We had four votes on four different proposals to establish a drug benefit under Medicare. But all of those votes failed. None came close to getting the required 60 votes for passage in the Senate.

Voting again on a prescription drug bill that has not changed materially from the proposals we voted on in July is not the way to pass a drug benefit. In fact, it's a prescription for legislative impasse—on prescription drugs and on provider reimbursement issues.

For those reasons, I urge my colleagues to support this legislation, with the recognition that there are other pressing issues facing the Medicare program besides provider payments, but with the acknowledgment that maintaining access to health care services is also an important goal.

As Calvin Coolidge once said, "We cannot do everything at once . . . but we can do something at once." Today is October 1, and large Medicare, Medicaid and S-CHIP payment reductions and changes will go into effect. Congress should act as soon as possible to address these issues, to get something done, and to ensure access to care for our seniors, our children, and our disabled population. This bill is necessary, timely and should be considered with expedition. I urge Congress and the President to act swiftly on this comprehensive legislation and enact it into law.

Mr. GRASSLEY. Mr. President, I am joining Chairman BAUCUS today to introduce the Beneficiary Access to Care and Medicare Equity Act of 2002.

This legislation arrives at an important time for Medicare beneficiaries and the providers that care for them: October 1. Many provisions of the Medicare law that ensure adequate payment for providers, and in turn, beneficiary access to care, expire today. I urge the Senate to consider this legislation with all speed, as soon as possible.

Our bill addresses pressing needs. The clock is running out on Medicare payments to doctors, who are scheduled for yet another reduction in their fees for a second straight year, absent Congressional action. Skilled Nursing Facilities also face a major reduction in payment today. In other areas facing imminent payment cuts, such as home health and hospital services, our bill injects financial support that will stabilize these essential services our seniors rely on. The legislation also provides billions in aid to State governments, many of them facing steep budget deficits, so they can meet the needs of citizens who rely on the Medicaid and Children's Health Insurance Programs.

In addition to ensuring continued access to quality care for Medicare beneficiaries, our bipartisan Beneficiary Access to Care and Medicare Equity Act makes long overdue improvements to health care in rural America. Our bill invests in States like Iowa, my home State, where small providers that practice efficient medicine are hurt by complex payment formulas that favor high-cost care in big cities.

The formulas also don't recognize special costs faced by smaller, more isolated physicians, hospitals and clinics. It obviously doesn't make sense to penalize States like Iowa who do more with less. That's why I'm so committed to fixing these formulas. The proposal I've put together with Senator BAUCUS would provide a tremendous infusion of cash to hard-pressed health care providers across Iowa and to other rural States. It takes money to ensure access to care for Iowans, and this will help make the federal government part of the solution instead of part of the problem.

Together, Senator BAUCUS and I have introduced our bill under Rule 14, which means the bill will be placed directly on the calendar two days from now, rather than referred to our own Committee, the Finance Committee. We agreed to take this extraordinary step because the Senate is basically tied up in knots right now. Well, our message is that Medicare fairness is too urgent to let this bill be a victim of gridlock. Our action today gives Senate Majority Leader DASCHLE the ability to call the bill up as early as Thursday. In short, there's no time to waste.

By Mr. McCAIN:

S. 3019. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

Mr. McCAIN. Mr. President, I am introducing legislation today to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez. Chavez is one of the most revered public servants in our history for his leadership in helping organize migrant farm workers, and for providing inspiration to the most oppressed in our society. It is important that we cherish his struggle and do what we can to preserve certain sites located in Arizona, California and other states that are significant to his life.

My fellow Arizonan, Cesar Chavez was born in Yuma. He was the son of migrant farm workers, and an exemplary American hero. He no doubt loved qualities of life associated with his family's heritage, but he will be remembered for the sincerity of his American patriotism. He fought to help Americans transcend distinctions of experience, and share equality in the rights and responsibilities of freedom. He made America a bigger and better Nation.

While Chavez and his family migrated across the southwest looking for farm work, he evolved into a defender of worker's rights. He founded the National Farm Workers Association in 1962, which later became the United Farm Workers of America. Essentially, he gave a voice to those that had no voice. In his words: "We cannot seek achievement for ourselves and forget about progress and prosperity for our community . . . our ambitions must be broad enough to include the aspirations and needs of others, for their sakes and for our own."

This legislation, almost identical to the House bill, H.R. 2966, introduced by Congresswoman HILDA SOLIS, D–CA, in September 2001, would specifically authorize the Secretary of the Interior to determine whether any of the sites meet the criteria for being listed on the National Register of Historic Landmarks. The study would be conducted within three years. The goal of this legislation is to establish a foundation for a future bill that will designate land for these sites to become Historic Landmarks.

Cesar Chavez was a humble man of deep conviction who understood what it meant to serve and sacrifice for others. He was a true American hero that embodied the values of justice and freedom this nation holds dear. Honoring the places of his life will enable his legacy to inspire and serve as an example for our future leaders.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "César Estrada Chávez Study Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) on March 31, 1927, César Estrada Chávez was born on a small farm near Yuma, Arizona;

(2) at age 10, Chávez and his family became migrant farm workers after they lost their farm in the Great Depression;

(3) throughout his youth and into adulthood, Chávez migrated across the Southwest, laboring in fields and vineyards;

(4) during this period, Chávez was exposed to the hardships and injustices of farm worker life;

(5) in 1952, Chávez's life as an organizer and public servant began when he left the fields and joined the Community Service Organization, a community-based self-help organization;

(6) while with the Community Service Organization, Chávez conducted—

(A) voter registration drives; and

(B) campaigns against racial and economic discrimination;

(7) during the late 1950's and early 1960's, Chávez served as the national director of the Community Service Organization;

(8) in 1962, Chávez founded the National Farm Workers Association, an organization that—

(A) was the first successful farm workers union in the United States; and

(B) became known as the "United Farm Workers of America";

(9) from 1962 to 1993, as leader of United Farm Workers of America, Chávez achieved for tens of thousands of farm workers—

(A) dignity and respect;

(B) fair wages;

(C) medical coverage;

(D) pension benefits;

(E) humane living conditions; and

(F) other rights and protections;

(10) the leadership and humanitarianism of César Chávez continue to influence and inspire millions of citizens of the United States to seek social justice and civil rights for the poor and disenfranchised; and

(11) the life of César Chávez and his family provides an outstanding opportunity to illustrate and interpret the history of agricultural labor in the western United States.

SEC. 3. RESOURCE STUDY.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior (referred to in this section as the "Secretary") shall complete a resource study of sites in the State of Arizona, the State of California, and other States that are significant to the life of César E. Chávez and the farm labor movement in the western United States to determine—

(1) appropriate methods for preserving and interpreting the sites; and

(2) whether any of the sites meets the criteria for listing on the National Register of Historic Places or designation as a national historic landmark under—

(A) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(B) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) REQUIREMENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) consider the criteria for the study of areas for potential inclusion in the National Park System under section 8(b)(2) of Public Law 91–383 (16 U.S.C. 1a–5(b)(2)); and

(2) consult with—

(A) the César E. Chávez Foundation;

(B) the United Farm Workers Union;

(C) State and local historical associations and societies; and

(D) the State Historic Preservation Officers of the State of Arizona, the State of California, and any other State in which a site described in subsection (a) is located.

(c) REPORT.—On completion of the study under subsection (a), the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on—

(1) the findings of the study; and

(2) any recommendations of the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. ENZI:

S. 3020. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Cheyenne, Wyoming, metropolitan area, to the Committee on Veterans' Affairs

Mr. ENZI. Mr. President, I rise today with great honor and pride to introduce a bill that would direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in Cheyenne, WY.

As our Nation's veterans have proven time and time again, whenever the fear of war has knocked on America's door, we have had the strength to open it. This year has been no different. Since last September, we have witnessed the beginning of a new kind of war, a war on terrorism, and we have been confronted by the most evil of leaders who seek to destroy our love of country and freedom. Yet, our Nation's military men and women and our veterans have once again responded to the call of duty to protect everything we hold dear. They remind us that our faith in

God, our belief and trust in our communities, and our strength as a Nation can and will endure through these extraordinary times.

This is why I am introducing a bill to honor those who have given so much in defense of our great country. The price of freedom is not free, and many of our Nation's veterans have paid the ultimate price. Millions have been laid to rest in our Nation's national cemeteries, and millions more will follow. These veterans deserve to be placed next to those veterans with whom they so courageously engaged in battle throughout the years.

All veterans deserve the opportunity to be buried in a veterans cemetery regardless of their place of residency. Fortunately, the Department of Veterans Affairs recognizes the importance of providing burial sites for our Nation's veterans next to their comrades and near their families. As such, they have established a goal to increase the percentage of veterans served by a national or State veterans cemetery within 75 miles of their residence to 88 percent by 2006. I commend the VA's efforts and believe my bill will help the department reach that goal.

There are currently more than 53,000 veterans in Wyoming. They live in every town, big and small, and they must often travel hundreds of miles for health care and other veteran benefits. The largest and most concentrated group of veterans in Wyoming live near Wyoming's only military base, F.E. Warren Air Force Base in Cheyenne. Unfortunately, this veteran population must travel either 110 miles to the national cemetery in Colorado or 235 miles to the national cemetery in Maxwell, NE. It is worse for the veteran population living in other areas of the State. There are no national cemeteries in Montana, Idaho or Utah, which leaves veterans in the northwest with few options.

Regardless of a veteran's place of residency in Wyoming, most are forced to select the Wyoming State Cemetery as their place of burial because it is the only state or national cemetery in the entire state. Although it is located in Wyoming's second-largest city of Casper, Wyoming's State cemetery does not adequately meet the needs of veterans in a State that spans more than 97,000 square miles. It is, on average, 150 miles from any other incorporated city, and is more than 175 miles from the most concentrated veteran population in Cheyenne. While I commend the Wyoming State Cemetery for its exceptional service and careful maintenance, this is an extraordinary distance for friends and family to travel to visit their deceased loved ones.

As such, I am introducing legislation today to create a National Veterans Cemetery in Cheyenne, WY because every veteran deserves to be buried near their families and with the honor that comes with being laid to rest in a national veterans cemetery.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF NATIONAL CEMETERY IN CHEYENNE, WYOMING, METROPOLITAN AREA.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall establish, in accordance with chapter 24 of title 38, United States Code, a national cemetery in the Cheyenne, Wyoming, metropolitan area to serve the needs of veterans and their families.

(b) CONSULTATION IN SELECTION OF SITE.—Before selecting the site for the national cemetery established under subsection (a), the Secretary shall consult with—

(1) appropriate officials of the State of Wyoming and local officials of the Cheyenne metropolitan area; and

(2) appropriate officials of the United States, including the Administrator of General Services, with respect to land belonging to the United States in that area that would be suitable to establish the national cemetery under subsection (a).

(c) AUTHORITY TO ACCEPT DONATION OF PARCEL OF LAND.—(1) The Secretary may accept on behalf of the United States the gift of an appropriate parcel of real property. The Secretary shall have administrative jurisdiction over such parcel of real property, and shall use such parcel to establish the national cemetery under subsection (a).

(2) For purposes of Federal income, estate, and gift taxes, the real property accepted under paragraph (1) shall be considered as a gift to the United States.

(d) REPORT.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a report on the establishment of the national cemetery under subsection (a). The report shall set forth a schedule for the establishment of the national cemetery and an estimate of costs associated with the establishment of the national cemetery.

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 3023. A bill to require the Secretary of Agriculture to establish a program to expand and strengthen cooperative efforts to restore and protect forests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SARBANES. Mr. President, today I am introducing legislation to continue and enhance the USDA Forest Service's role in the restoration of the Chesapeake Bay watershed. Joining me in sponsoring this legislation are my colleagues, Senators WARNER and MIKULSKI.

Forest loss and fragmentation are occurring rapidly in the Chesapeake Bay region and are among the most important issues facing the Bay and forest management today. According to the National Resources Inventory, the States closest to the Bay lost 350,000 acres of forest between 1987–1997 or almost 100 acres per day. More and more rural areas are being converted to suburban developments resulting in smaller contiguous forest tracts. These trends are leading to a regional forest land base that is more vulnerable to conversion, less likely to be economically viable in the future, and is losing its capacity to protect watershed health and other ecological benefits, such as controlling storm water runoff, erosion and air pollution, all critical to the Bay clean-up effort.

Since 1990, the USDA Forest Service has been an important part of the Chesapeake Bay Program. Administered through the Northeastern Area, State and Private Forestry, this program has worked closely with Federal, State and local partners in the six-state Chesapeake Bay region to demonstrate how forest protection, restoration and stewardship activities, can contribute to achieving the Bay restoration goals. Over the past 12 years, it has provided modest levels of technical and financial assistance, averaging approximately $300,000 year, to develop collaborative watershed projects that address watershed forest conservation, restoration and stewardship. With the signing of the Chesapeake 2000 Agreement, the role of the USDA Forest Service has become more important than ever. Among other provisions, this Agreement requires the signatories to conserve existing forests along all streams and shoreline; promote the expansion and connection of contiguous forests; assess the Bay's forest lands; and provide technical and financial assistance to local governments to plan for or revise plans, ordinances and subdivision regulations to provide for the conservation and sustainable use of the forest and agricultural lands. To address these goals, the USDA Forest Service must have additional resources and authority, and that is what my amendment seeks to provide.

This legislation codifies the roles and responsibilities of the USDA Forest Service to the Bay restoration effort. It strengthens existing coordination, technical assistance, forest resource assessment and planning efforts. It authorizes a small grants program to support local agencies, watershed associations and citizen groups in conducting on-the-ground conservation projects. It also establishes a regional applied forestry research and training program to enhance urban, suburban and rural forests in the watershed. Finally it authorizes $3.5 million for each of fiscal years 2004 through 2010, a modest increase in view of the six-state, 64,000 square mile watershed. I urge my colleagues to join me in supporting this legislation.

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 3025. A bill to reauthorize and improve the Chesapeake Bay Environmental Restoration and Protection Program; to the Committee on Environment and Public Works.

Mr. SARBANES. Mr. President, today I am introducing legislation, together with Senators WARNER and MIKULSKI, to reauthorize and enhance the Chesapeake Bay Environmental Protection and Restoration Program. This program, which was first established in Section 510 of the Water Resources Development Act of 1996, Public Law 104-303, authorizes the U.S. Army Corps of Engineers to provide design and construction assistance to State and local authorities in the environmental restoration of the Chesapeake Bay.

In 1994, when I first introduced the legislation to create this program, I spoke about the need for this assistance and the unique capabilities the Army Corps of Engineers brings to the Chesapeake Bay restoration effort. I want to underscore some of those arguments today and the vital importance of continuing and enhancing this program.

The Army Corps of Engineers has been an integral part of the Chesapeake Bay Program for many years. In 1984 the Corps completed one of the most comprehensive investigations of the entire Chesapeake Bay basin, a landmark report which identified many of the serious problems facing the Bay. The Corps played a vital role in the development of the Bay Program's state-of-the-art computer model and has undertaken a variety of major projects in the 6-state Chesapeake Bay watershed including the Poplar Island beneficial use of dredged material project, oyster reef restoration, and removal of blockages to fish passage. The agency is currently conducting investigations on sedimentation, shoreline erosion, and environmental problems in specific watersheds that we hope will result in additional projects to restore the Bay. And I am delighted that the Environment and Public Works Committee has just approved our new Study Resolution directing the Corps to integrate these existing and future work efforts into a coordinated, comprehensive master plan.

But while these projects and studies continue and the master plan is being developed, it is vital that environmental restoration efforts be sustained and expanded. Two years ago, the States in the Chesapeake Bay watershed and the Federal Government conducted an extensive evaluation of cleanup progress since the 1980s and determined that, despite important advances, efforts must be redoubled to restore the integrity of the Chesapeake Bay ecosystem. A new Chesapeake 2000 agreement was signed to serve as a blueprint for the restoration effort over the next decade. To meet the goals established in the new agreement, it is estimated that the local, State and Federal Governments must invest more than $8.5 billion over the course of the next ten years. Nutrient and sediment loads must be significantly reduced, oyster populations must be increased, Submerged Aquatic Vegetation and wetlands must be protected and restored, and remaining blockages to fish passage must be removed, among other actions. As the lead Federal agency in water resource management, the Corps has an essential role to play in this effort.

Since the Chesapeake Bay Environmental Restoration and Protection Program was first established and funding was appropriated, requests from State and local governments for assistance under the program has grown dramatically. The design-construct nature of this program, which enables the Corps to streamline its process of undertaking on-the-ground environmental restoration projects, is particularly appealing to State and local governments. To date, the Corps of Engineers has constructed or approved $9.3 million in projects under the Chesapeake Bay Environmental Restoration and Protection Program including oyster restoration projects in Virginia, shoreline protection and wetland/sewage treatment projects at Smith Island in Maryland and the upgrade of the Scranton Wastewater Treatment Plant in Pennsylvania to reduce the amount of nutrients delivered to the Chesapeake Bay. These projects have nearly exhausted the current $10 million authorization.

The legislation which I am introducing increases the authorization for this program from $10 million to $30 million. Consistent will all other environmental restoration authorities of the Corps of Engineers, it enables States and local governments to provide all or any portion of the 25 percent non-Federal share required in the form of in-kind services. It also establishes a new small-grants program for local governments and nonprofit organizations to carry out small-scale restoration and protection projects in the Chesapeake Bay watershed. The program would be administered by the National Fish and Wildlife Foundation which has extensive experience and expertise in managing these kinds of grants for other Federal agencies. Ten percent of the funds appropriated each year under this program would be set-aside for these grants.

In view of the great need and the many requests for assistance from the Bay area states, this legislation is clearly warranted and I urge my colleagues to join me in supporting this measure. I ask unanimous consent that the text of legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.

Section 510 of the Water Resources Development Act of 1996 (110 Stat. 3759) is amended—

(1) in subsection (d)(2), by adding at the end the following:

"(C) IN-KIND SERVICES.—A non-Federal interest may provide all or any portion of the non-Federal share referred to in paragraph (1) in the form of in-kind services.";

(2) by striking subsection (i);

(3) by redesignating subsection (h) as subsection (i);

(4) by inserting after subsection (g) the following:

"(h) SMALL WATERSHED GRANTS.—

"(1) IN GENERAL.—The Secretary shall establish a program, to be administered by the National Fish and Wildlife Foundation, to provide small watershed grants for technical and financial assistance to local governments and nonprofit organizations in the Chesapeake Bay region.

"(2) USE OF FUNDS.—A local government or nonprofit organization that receives a grant under paragraph (1) shall use funds from the grant only for implementation of cooperative tributary basin strategies that address the establishment, restoration, protection, or enhancement of habitat associated with the Chesapeake Bay ecosystem."; and

(5) by inserting after subsection (i) (as redesignated by paragraph (3)) the following:

"(j) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000.

"(2) ANNUAL GRANT EXPENDITURE.—Of the amount made available under paragraph (1) to carry out this section for a fiscal year, not more than 10 percent may be used to carry out subsection (h) for the fiscal year.".

By Mr. SESSIONS:

S. 3026. A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process; to the Committee on the Judiciary.

Mr. SESSION. Mr. President, I rise to send to the desk a bill entitled, "The Arbitration Fairness Act of 2002." This bill continues the legislative process that I started in the 106th Congress with the introduction of the Consumer and Employee Arbitration Bill of Rights. The purpose of these bills is to improve the Federal Arbitration Act so that it will remain as a cost-effective means of resolving disputes, but will do so in a fair way. The Arbitration Fairness Act will provide procedural protections to everyone who enters into a contract that contains an arbitration clause. This bill would ensure that consumers, employees, and small businesses that enter into contracts covered by the Federal Arbitration Act will have their disputes resolved in accordance with due process of law, and in a speedy and cost effective manner.

Congress enacted the Federal Arbitration Act in 1925. It has served us as well for three-quarters of a century. Under the Act, if the parties agree to a contract affecting interstate commerce that contains a clause requiring arbitration, the clause will be enforceable in court. In short, the Federal Arbitration Act allows parties to a contract to agree not to take their disputes to court, but to resolve any dispute arising from that contract before a neutral decision-maker, generally selected by a non-profit arbitration organization, such as the American Arbitration Association or the National Arbitration Forum. The parties can generally present evidence and be represented by counsel. And the decision-makers will apply the relevant State law in resolving the dispute. Arbitration is generally quicker and less expensive than going to court.

In recent years, there have been some cases where the arbitration process has not worked well, but thousands of disputes have been fairly and effectively settled by arbitrators. Such a system is even more important because of skyrocketing legal costs where attorneys require large contingent fees. Accordingly, I have opposed piecemeal legislative changes to the act. Instead, I believe that the Senate should approach the Federal Arbitration Act in a comprehensive manner.

The approach of reforming arbitration, rather than abandoning the arbitration process provides several benefits. Arbitration is one of the most cost-effective means of resolving a dispute. Unlike businesses, consumers and employees generally cannot afford a team of lawyers to represent them. And their claims are often not being enough so that a lawyer would take the case on a 25 percent or even a 50 percent contingent fee. In an article in the Columbia Human Rights Law Review, Lewis Maltby, Director, National Task Force on Civil Liberties in the Workplace of the American Civil Liberties Union and a Director of the American Arbitration Association—not die-hard conservative entities—explains how court litigation is too expensive for most employees:

"Even if the client has clearly been wronged and is virtually certain to prevail in court, the attorney will be forced to turn down the case unless there are substantial damages. A survey of plaintiff employment lawyers found that a prospective plaintiff needed to have a minimum of $60,000 in provable damages—not including pain and suffering or other intangible damages—before an attorney would take the case.

Even this, however, does not exhaust the financial obstacles an employee must overcome to secure representation. In light of their risk of losing such cases, many plaintiffs' attorneys require a prospective client to pay a retainer, typically about $3,000. Others require clients to pay out-of-pocket expenses of the case as they are incurred. Expenses in employment discrimination cases can be substantial. Donohue and Siegelman found that expenses in Title VII cases are at least $10,000 and can reach as high as $25,000. Finally, some plaintiffs' attorneys now require a consultation fee, generally $200–$300, just to discuss their situation with a potential client.

"The result of these formidable hurdles is that most people with claims against their employer are unable to obtain counsel, and thus never receive justice. Paul Tobias, founder of the National Employment Lawyer's Association, has testified that ninety-five percent of those who seek help from the private bar with an employment matter do not obtain counsel. Howard's survey of plaintiffs' lawyers produced the same result. A Detroit firm reported that only one of eighty-seven employees who came to them seeking representation was accepted as a client."

Lewis L. Maltby, Private Justice: Employment Arbitration and Civil Rights, 30 Col. Hum. R.L. Rev. 29, 57–58 (1998).

Without arbitration, the consumer or employee is faced with having to pay a lawyer's hourly rate, which may amount to several thousand dollars to litigate a claim in court, for a broken television that cost $700 new. If this is what consumers and employees are left with, many will have no choice but to drop their claim. This is not right. It is not fair. Thus, Professor Stephen Ware of the Cumberland Law School, states in a recent paper published by the CATO Institution that "current [arbitration] law is better for all consumers [than an exemption from the FAA] except those few who are especially likely to have large liability claims . . ." Stephen J. Ware, Arbitration under Assault, CATO Policy Analysis No. 433 p. 10 (2002).

Thus, while some have argued that the Congress should enact exemptions from the FAA for different classes of contracts from automobile franchise contracts to employment contracts, such exemptions would not help the overwhelming majority of the people who could not afford a lawyer to litigate in court. This is where arbitration can give the consumer or employee a cost-effective forum to assert their claim. Thus, before we make exceptions to the FAA for some of the most well to do corporations in our society, I think it is our duty to consider how we can improve the system for those less financially able.

Can we improve the arbitration system? Yes, but we must take a balanced approach. In this approach we should protect the sanctity of legal contracts. In any contract, the parties agree to all the terms and clauses included in the contract document. This includes the arbitration clause. This is basic contract law, and the basic principle upon which the FAA has been supported for 75 years.

But this is not always the case. In certain situations, consumers, employees, or businesses have not been treated fairly. That is what the Arbitration Fairness Act is designed to correct.

The bill will maintain the cost benefits of binding arbitration, but will grant several specific "due process" rights to all parties to an arbitration. The bill is based on the consumer and employee due process protocols of the American Arbitration Association that have broad support. The bill provides the following rights: 1. Notice. Under the bill an arbitration clause, to be enforceable, would have to have a heading in large, bold print, would have to state whether arbitration is binding or optional, identify a source that the parties may contact for more information, and state that a consumer could opt out to small claims court.

This will ensure, for example, that consumers who receive credit card notices in the mail will not miss an arbitration clause because it is printed in fine print. Further, it will give all parties means to obtain more information on how to resolve any disputes. Finally, the clause would explain that if a party's claims could otherwise be brought in small claims court, he is free to do so. Small claims court, unlike regular trial court, provides another inexpensive and quick means of dispute resolution.

2. Independent selection of arbitrators. The bill will grant all parties the right to have potential arbitrators disclose relevant information concerning their business ties and employment. All parties to the arbitration will have an equal voice in selecting a neutral arbitrator. This ensures that the large company who sold a consumer a product will not select the arbitrator itself, because the consumer with a grievance will have the right to nominate potential arbitrators too. As a result, the final arbitrator selected will have to have the explicit approval of both parties to the dispute. This means the arbitrator will be a neutral party with no allegiance to either party.

3. Choice of law. The bill grants the non-drafting party, usually the consumer or the employee, the right to have the arbitrator governed by the substantive law that would apply under conflicts of laws principles applicable in the forum in which the non-drafting party resided at the time the contract was entered into. This means that the substantive contract law that would apply in a court where the consumer, employee, or business resides at the time of making the contract will apply in the arbitration. Thus, in a dispute arising from the purchase of a product by an Alabama consumer from an Illinois company, a court would have to

determine whether Alabama or Illinois law applied by looking to the language of the contract and to the place the contract was entered into. The bill ensures that an arbitrator will use the same conflict of laws principles that a court would in determining whether Alabama or Illinois law will govern the arbitration proceedings.

4. Representation. The bill grants all parties the right to be represented by counsel at their own expense. Thus, if the claim involves complicated legal issues, the consumer, employee, or small business is free to have his lawyer represent him in the arbitration. Such representation should be substantially less expensive than a trial in court because of the more abbreviated and expedited process of arbitration.

5. Hearing. The bill grants all parties the right to a fair hearing in a forum that is reasonably convenient to the consumer or employee. This would prevent a large company from requiring a consumer, employee, or small business owner to travel across the country to arbitrate his claim and to expend more in travel costs than his claim may be worth.

6. Evidence. The bill grants all parties the right to conduct discovery and to present evidence. This ensures that the arbitrator will have all the facts before him prior to making a decision.

7. Cross examination. The bill grants all parties the right to cross-examine witnesses presented by the other party at the hearing. This allows a party to test the statements of the other party's witnesses and be sure that the evidence before the arbitrator is correct.

8. Record. The bill grants all parties the right to hire a stenographer or tape record the hearing to produce a record. This right is key to proving later that the arbitration proceeding was fair.

9. Timely resolution. The bill grants all parties the right to have an arbitration proceeding to be completed promptly so that they do not have to wait for a year or more to have their claim resolved. Under the bill a defendant must file an answer within 30 days of the filing of the complaint. The arbitrator has 90 days after the answer to hold a hearing. The arbitrator must render a final decision within 30 days after the hearing. Extensions are available in extraordinary circumstances.

10. Written decision. The bill grants all parties the right to a written decision by the arbitrator explaining the resolution of the case and his reasons therefor. If the consumer or employee takes a claim to arbitration, he deserves to have an explanation of why he won or lost.

11. Expenses. The bill grants all parties the right to have an arbitrator provide for reimbursement of arbitration fees in the interests of justice and the reduction, deferral, or waiver of arbitration fees in cases of extreme hardship. It does little good to take a claim to arbitration if the consumer or employee cannot even afford the arbitration fee. This provision ensures that the arbitrator can waive or reduce the fee or make the company reimburse the consumer or employee for a fee if the interests of justice so require.

12. Small claims opt out. The bill grants all parties the right to opt out of arbitration into small claims court if that court has jurisdiction over the claim and the claim does not exceed $50,000.

The bill also provides an effective mechanism for parties to enforce these rights. At any time, if a consumer or employee believes that the other party violated his rights, he may ask and the arbitrator may award a penalty up to the amount of the claim plus attorneys fees. For example, if the defendant party fails to provides discovery to a plaintiff party, the plaintiff can make a motion for fees. The amount of fee award is limited, as it is in court, to the amount of cost incurred by the employee in trying to obtain the information from the company. This principle is taken from Federal Rule of Civil Procedure 37. After the decision, if the losing party believes that the rights granted to him by the Act have been violated, he may file a petition with the Federal district court. If the court finds by clear and convincing evidence that his rights were violated, it may order a new arbitrator appointed. Thus, if a consumer, employee, or small business has an arbitrator that is unfair and this causes him to lose the case, the plaintiff can obtain another arbitrator.

This bill is an important step to creating a constructive dialog on arbitration reform. This bill will ensure that those who can least afford to go to court can go to a less expensive arbitrator and be treated fairly. It will ensure that every arbitration carried out under the Federal Arbitration Act is completed fairly, promptly, and economically. I look forward to working with my colleagues in the Senate to ensure that consumers, employees, and small business who agree in a contract to arbitrate their claims will be afforded due process of law.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arbitration Fairness Act of 2002".

SEC. 2. ELECTION OF ARBITRATION.

(a) Fair Disclosure.—In order to be binding on the parties, a contract containing an arbitration clause shall—

(1) have a printed heading in bold, capital letters entitled "ARBITRATION CLAUSE", which heading shall be printed in letters not smaller than ½ inch in height;

(2) explicitly state whether participation within the arbitration program is mandatory or optional;

(3) identify a source that a consumer or employee can contact for additional information on costs and fees and on all forms and procedures necessary for effective participation in the arbitration program; and

(4) provide notice that all parties retain the right to resolve a dispute in a small claims court, if such dispute falls within the jurisdiction of that court and the claim is for less than or equal to $50,000 in total damages.

(b) Procedural Rights.—If a contract provides for the use of arbitration to resolve a dispute arising out of or relating to the contract, each party to the contract shall be afforded the following rights, in addition to any rights provided by the contract:

(1) Competence and neutrality of arbitrator and administrative process.—

(A) In general.—Each party to the dispute (referred to in this section as a "party") shall be entitled to a competent, neutral arbitrator and an independent, neutral administration of the dispute.

(B) Arbitrator.—Each party shall have an equal voice in the selection of the arbitrator, who—

(i) shall comply with the Code of Ethics for Arbitrators in Commercial Disputes of the American Arbitration Association and the State bar association of which the arbitrator is a member;

(ii) shall have no personal or financial interest in the results of the proceedings in which the arbitrator is appointed and shall have no relation to the underlying dispute or to the parties or their counsel that may create an appearance of bias; and

(iii) prior to accepting appointment, shall disclose all information that might be relevant to neutrality, including service as an arbitrator or mediator in any past or pending case involving any of the parties or their representatives, or that may prevent a prompt hearing.

(C) Administration.—The arbitration shall be administered by an independent, neutral alternative dispute resolution organization to ensure fairness and neutrality and prevent ex parte communication between parties and the arbitrator. The arbitrator shall have reasonable discretion to conduct the proceeding in consideration of the specific type of industry involved.

(2) Applicable law.—In resolving a dispute, the arbitrator—

(A) shall be governed by the same substantive law that would apply under conflict of laws principles applicable in a court of the forum in which the party that is not drafter of the contract resided at the time the contract was entered into; and

(B) shall be empowered to grant whatever relief would be available in court under law or equity.

(3) Representation.—Each party shall have the right to be represented by an attorney, or other representative as permitted by State law, at their own expense.

(4) Hearing.—

(A) In general.—Each party shall be entitled to a fair arbitration hearing (referred to in this section as a "hearing") with adequate notice and an opportunity to be heard.

(B) Electronic or telephonic means.—Subject to subparagraph (C), in order to reduce cost, the arbitrator may hold a hearing by electronic or telephonic means or by a submission of documents.

(C) Face-to-face meeting.—Each party shall have the right to require a face-to-face hearing, which hearing shall be held at a location that is reasonably convenient for the party who did not draft the contract unless in the interest of fairness the arbitrator determines otherwise, in which case the arbitrator shall use the process described in section 1391 of title 28, United States Code, to determine the venue for the hearing.

(5) Evidence.—With respect to any hearing—

(A) each party shall have the right to present evidence at the hearing and, for this purpose, each party shall grant access to all information reasonably relevant to the dispute to the other parties, subject to any applicable privilege or other limitation on discovery under applicable State law;

(B) consistent with the expedited nature of arbitration, relevant and necessary prehearing depositions shall be available to each party at the direction of the arbitrator; and

(C) the arbitrator shall—

(i) make reasonable efforts to maintain the privacy of the hearing to the extent permitted by applicable State law; and

(ii) consider appropriate claims of privilege and confidentiality in addressing evidentiary issues.

(6) Cross examination.—Each party shall have the right to cross examine witnesses presented by the other parties at a hearing.

(7) Record of proceeding.—Any party seeking a stenographic record of a hearing shall make arrangements directly with a stenographer and shall notify the other parties of these arrangements not less than 3 days in advance of the hearing. The requesting party or parties shall pay the costs of obtaining the record. If the transcript is agreed by the parties, or determined by the arbitrator to be the official record of the proceeding, it shall be provided to the arbitrator and made available to the other parties for inspection, at a date, time, and place determined by the arbitrator.

(8) Timely resolution.—Upon submission of a complaint by the claimant, the respondent shall have 30 days to file an answer. Thereafter, the arbitrator shall direct each party to file documents and to provide evidence in a timely manner so that the hearing may be held not later than 90 days after the filing of the answer. In extraordinary circumstances, including multiparty, multidistrict, or complex litigation, the arbitrator may grant a limited extension of these time limits to a party, or the parties may agree to an extension. The arbitrator shall notify each party of its decision not later than 30 days after the hearing.

(9) Written decision.—The arbitrator shall provide each party with a written explanation of the factual and legal basis for the decision. This written decision shall describe the application of an identified contract term, statute, or legal precedent. The decision of the arbitrator shall be final and binding, subject only to the review provisions in subsection (d).

(10) Expenses.—The arbitrator or independent arbitration administration organization, as applicable, shall have the authority to—

(A) provide for reimbursement of arbitration fees to the claimant, in whole or in part, as part of the remedy in accordance with applicable law or in the interests of justice; and

(B) waive, defer, or reduce any fee or charge due from the claimant in the event of extreme hardship.

(11) Small claims opt out.—

(A) In general.—Each party shall have the right to opt out of binding arbitration and into the small claims court for the forum, if such court has jurisdiction over the claim. For purposes of this paragraph, no court with jurisdiction to hear claims in excess of $50,000 shall be considered to be a small claims court.

(B) Exception.—Where a complaint in small claims court is subsequently amended to exceed the lesser of the jurisdictional amount or a claim for $50,000 in total damages, the small claims court exemption of this paragraph shall not apply and the parties are required to arbitrate.

(c) Denial of Rights.—

(1) Denial of rights by party misconduct.—

(A) In general.—At any time during an arbitration proceeding, any party may file a motion with the arbitrator asserting that the other party has deprived the movant of 1 or more rights granted by this section and seeking relief.

(B) Award by arbitrator.—If the arbitrator determines that the movant has been deprived of a right granted by this section by the other party, the arbitrator shall award the movant a monetary amount, which shall not exceed the reasonable expenses incurred by the movant in filing the motion, including attorneys' fees, unless the arbitrator finds that—

(i) the motion was filed without the movant's first making a good faith effort to obtain discovery or the realization of another right granted by this section;

(ii) the opposing party's nondisclosure, failure to respond, response, or objection was substantially justified; or

(iii) the circumstances otherwise make an award of expenses unjust.

(2) Denial of rights by arbitrator.—A losing party in an arbitration may file a petition in the district court of the United States in the forum in which the party that did not draft the contract resided at the time the contract was entered into to assert that the arbitrator violated 1 or more of the rights granted to the party by this section and to seek relief. In order to grant the petition, the court must find clear and convincing evidence that 1 or more actions or omissions of the arbitrator resulted in a deprivation of a right of the petitioner under this section that was not harmless. If such a finding is made, the court shall order a rehearing before a new arbitrator selected in the same manner as the original arbitrator as the exclusive judicial remedy provided by this section.

(d) Effective Date.—This section shall apply to any contract entered into after the date that is 6 months after the date of enactment of this Act.

SEC. 3. LIMITATION ON CLAIMS.

Except as otherwise expressly provided in this Act, nothing in this Act may be construed to be the basis for any claim in law or equity.

AMENDMENTS SUBMITTED & PROPOSED

SA 4847. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4848. Mr. HOLLINGS (for himself, Mr. McCain, Mr. Reid, Mr. Jeffords, Mr. Carper, and Mr. Torricelli) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4849. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. GRAMM (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4847. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4438 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Homeland Security and Combating Terrorism Act of 2002".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) Divisions.—This Act is organized into 5 divisions as follows:

(1) Division A—National Homeland Security and Combating Terrorism.

(2) Division B—Immigration Reform, Accountability, and Security Enhancement Act of 2002.

(3) Division C—Federal Workforce Improvement.

(4) Division D—E-Government Act of 2002.

(5) Division E—Flight and Cabin Security on Passenger Aircraft.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

Sec. 100. Definitions.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

Sec. 101. Establishment of the Department of Homeland Security.
Sec. 102. Secretary of Homeland Security.
Sec. 103. Deputy Secretary of Homeland Security.
Sec. 104. Under Secretary for Management.
Sec. 105. Assistant Secretaries.
Sec. 106. Inspector General.
Sec. 107. Chief Financial Officer.
Sec. 108. Chief Information Officer.
Sec. 109. General Counsel.
Sec. 110. Civil Rights Officer.
Sec. 111. Privacy Officer.
Sec. 112. Chief Human Capital Officer.
Sec. 113. Office of International Affairs.
Sec. 114. Executive Schedule positions.

Subtitle B—Establishment of Directorates and Offices

Sec. 131. Directorate of Border and Transportation Protection.
Sec. 132. Directorate of Intelligence.
Sec. 133. Directorate of Critical Infrastructure Protection.
Sec. 134. Directorate of Emergency Preparedness and Response.
Sec. 135. Directorate of Science and Technology.
Sec. 136. Directorate of Immigration Affairs.
Sec. 137. Office for State and Local Government Coordination.
Sec. 138. United States Secret Service.
Sec. 139. Border Coordination Working Group.
Sec. 140. Office for National Capital Region Coordination.
Sec. 141. Executive Schedule positions.
Sec. 142. Preserving Coast Guard mission performance.

Subtitle C—National Emergency Preparedness Enhancement

Sec. 151. Short title.
Sec. 152. Preparedness information and education.
Sec. 153. Pilot program.
Sec. 154. Designation of National Emergency Preparedness Week.

Subtitle D—Miscellaneous Provisions

Sec. 161. National Bio-Weapons Defense Analysis Center.
Sec. 162. Review of food safety.
Sec. 163. Exchange of employees between agencies and State or local governments.
Sec. 164. Whistleblower protection for Federal employees who are airport security screeners.
Sec. 165. Whistleblower protection for certain airport employees.
Sec. 166. Bioterrorism preparedness and response division.
Sec. 167. Coordination with the Department of Health and Human Services under the Public Health Service Act.
Sec. 168. Rail security enhancements.
Sec. 169. Grants for firefighting personnel.
Sec. 170. Review of transportation security enhancements.
Sec. 171. Interoperability of information systems.
Sec. 172. Extension of customs user fees.
Sec. 173. Conforming amendments regarding laws administered by the Secretary of Veterans Affairs.
Sec. 174. Prohibition on contracts with corporate expatriates.
Sec. 175. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 176. Coordination of information and information technology.

Subtitle E—Transition Provisions

Sec. 181. Definitions.
Sec. 182. Transfer of agencies.
Sec. 183. Transitional authorities.
Sec. 184. Incidental transfers and transfer of related functions.
Sec. 185. Implementation progress reports and legislative recommendations.
Sec. 186. Transfer and allocation.
Sec. 187. Savings provisions.
Sec. 188. Transition plan.
Sec. 189. Use of appropriated funds.

Subtitle F—Administrative Provisions

Sec. 191. Reorganizations and delegations.
Sec. 192. Reporting requirements.
Sec. 193. Environmental protection, safety, and health requirements.
Sec. 194. Labor standards.
Sec. 195. Procurement of temporary and intermittent services.
Sec. 196. Preserving non-homeland security mission performance.
Sec. 197. Future Years Homeland Security Program.
Sec. 198. Protection of voluntarily furnished confidential information.
Sec. 199. Establishment of human resources management system.
Sec. 199A. Labor-management relations.
Sec. 199B. Authorization of appropriations.

TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS

Sec. 201. Law enforcement powers of Inspector General agents.

TITLE III—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Temporary Flexibility for Certain Procurements

Sec. 301. Definition.
Sec. 302. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 303. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
Sec. 304. Increased micro-purchase threshold for certain procurements.
Sec. 305. Application of certain commercial items authorities to certain procurements.
Sec. 306. Use of streamlined procedures.
Sec. 307. Review and report by Comptroller General.

Subtitle B—Other Matters

Sec. 311. Identification of new entrants into the Federal marketplace.

TITLE IV—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Sec. 401. Establishment of Commission.
Sec. 402. Purposes.
Sec. 403. Composition of the Commission.
Sec. 404. Functions of the Commission.
Sec. 405. Powers of the Commission.
Sec. 406. Staff of the Commission.
Sec. 407. Compensation and travel expenses.
Sec. 408. Security clearances for Commission members and staff.
Sec. 409. Reports of the Commission; termination.
Sec. 410. Authorization of appropriations.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

TITLE X—SHORT TITLE AND DEFINITIONS

Sec. 1001. Short title.
Sec. 1002. Definitions.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

Sec. 1101. Abolition of INS.
Sec. 1102. Establishment of Directorate of Immigration Affairs.
Sec. 1103. Under Secretary of Homeland Security for Immigration Affairs.
Sec. 1104. Bureau of Immigration Services.
Sec. 1105. Bureau of Enforcement and Border Affairs.
Sec. 1106. Office of the Ombudsman within the Directorate.
Sec. 1107. Office of Immigration Statistics within the Directorate.
Sec. 1108. Clerical amendments.

Subtitle B—Transition Provisions

Sec. 1111. Transfer of functions.
Sec. 1112. Transfer of personnel and other resources.
Sec. 1113. Determinations with respect to functions and resources.
Sec. 1114. Delegation and reservation of functions.
Sec. 1115. Allocation of personnel and other resources.
Sec. 1116. Savings provisions.
Sec. 1117. Interim service of the Commissioner of Immigration and Naturalization.
Sec. 1118. Executive Office for Immigration review authorities not affected.
Sec. 1119. Other authorities not affected.
Sec. 1120. Transition funding.

Subtitle C—Miscellaneous Provisions

Sec. 1121. Funding adjudication and naturalization services.
Sec. 1122. Application of Internet-based technologies.
Sec. 1123. Alternatives to detention of asylum seekers.

Subtitle D—Effective Date

Sec. 1131. Effective date.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

Sec. 1201. Short title.
Sec. 1202. Definitions.

Subtitle A—Structural Changes

Sec. 1211. Responsibilities of the Office of Refugee Resettlement with respect to unaccompanied alien children.
Sec. 1212. Establishment of Interagency Task Force on Unaccompanied Alien Children.
Sec. 1213. Transition provisions.
Sec. 1214. Effective date.

Subtitle B—Custody, Release, Family Reunification, and Detention

Sec. 1221. Procedures when encountering unaccompanied alien children.
Sec. 1222. Family reunification for unaccompanied alien children with relatives in the United States.
Sec. 1223. Appropriate conditions for detention of unaccompanied alien children.
Sec. 1224. Repatriated unaccompanied alien children.
Sec. 1225. Establishing the age of an unaccompanied alien child.
Sec. 1226. Effective date.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

Sec. 1231. Right of unaccompanied alien children to guardians ad litem.
Sec. 1232. Right of unaccompanied alien children to counsel.
Sec. 1233. Effective date; applicability.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

Sec. 1241. Special immigrant juvenile visa.
Sec. 1242. Training for officials and certain private parties who come into contact with unaccompanied alien children.
Sec. 1243. Effective date.

Subtitle E—Children Refugee and Asylum Seekers

Sec. 1251. Guidelines for children's asylum claims.
Sec. 1252. Unaccompanied refugee children.

Subtitle F—Authorization of Appropriations

Sec. 1261. Authorization of appropriations.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function

Sec. 1301. Establishment.

Sec. 1302. Director of the agency.
Sec. 1303. Board of Immigration Appeals.
Sec. 1304. Chief Immigration Judge.
Sec. 1305. Chief Administrative Hearing Officer.
Sec. 1306. Removal of judges.
Sec. 1307. Authorization of appropriations.

Subtitle B—Transfer of Functions and Savings Provisions

Sec. 1311. Transition provisions.

Subtitle C—Effective Date

Sec. 1321. Effective date.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

Sec. 2101. Short title.
Sec. 2102. Agency Chief Human Capital Officers.
Sec. 2103. Chief Human Capital Officers Council.
Sec. 2104. Strategic human capital management.
Sec. 2105. Effective date.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 2201. Inclusion of agency human capital strategic planning in performance plans and program performance reports.
Sec. 2202. Reform of the competitive service hiring process.
Sec. 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 2204. Student volunteer transit subsidy.

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

Sec. 2301. Repeal of recertification requirements of senior executives.
Sec. 2302. Adjustment of limitation on total annual compensation.

TITLE XXIV—ACADEMIC TRAINING

Sec. 2401. Academic training.
Sec. 2402. Modifications to National Security Education Program.
Sec. 2403. Compensatory time off for travel.

DIVISION D—E-GOVERNMENT ACT OF 2002

TITLE XXX—SHORT TITLE; FINDINGS AND PURPOSES

Sec. 3001. Short title.
Sec. 3002. Findings and purposes.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 3101. Management and promotion of electronic Government services.
Sec. 3102. Conforming amendments.

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 3201. Definitions.
Sec. 3202. Federal agency responsibilities.
Sec. 3203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 3204. Federal Internet portal.
Sec. 3205. Federal courts.
Sec. 3206. Regulatory agencies.
Sec. 3207. Accessibility, usability, and preservation of Government information.
Sec. 3208. Privacy provisions.
Sec. 3209. Federal information technology workforce development.
Sec. 3210. Common protocols for geographic information systems.
Sec. 3211. Share-in-savings program improvements.
Sec. 3212. Integrated reporting study and pilot projects.
Sec. 3213. Community technology centers.
Sec. 3214. Enhancing crisis management through advanced information technology.
Sec. 3215. Disparities in access to the Internet.
Sec. 3216. Notification of obsolete or counterproductive provisions.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

Sec. 3301. Information security.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 3401. Authorization of appropriations.
Sec. 3402. Effective dates.

DIVISION E—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

TITLE XLI—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

Sec. 4101. Short title.
Sec. 4102. Findings.
Sec. 4103. Federal flight deck officer program.
Sec. 4104. Cabin security.
Sec. 4105. Prohibition on opening cockpit doors in flight.

DIVISION A—NATIONAL HOMELAND SECURITY AND COMBATING TERRORISM

SEC. 100. DEFINITIONS.

Unless the context clearly indicates otherwise, the following shall apply for purposes of this division:

(1) Agency.—Except for purposes of subtitle E of title I, the term "agency"—

(A) means—

(i) an Executive agency as defined under section 105 of title 5, United States Code;

(ii) a military department as defined under section 102 of title 5, United States Code; and

(iii) the United States Postal Service; and

(B) does not include the General Accounting Office.

(2) Assets.—The term "assets" includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(3) Department.—The term "Department" means the Department of Homeland Security established under title I.

(4) Enterprise architecture.—The term "enterprise architecture"—

(A) means—

(i) a strategic information asset base, which defines the mission;

(ii) the information necessary to perform the mission;

(iii) the technologies necessary to perform the mission; and

(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

(B) includes—

(i) a baseline architecture;

(ii) a target architecture; and

(iii) a sequencing plan.

(5) Federal terrorism prevention and response agency.—The term "Federal terrorism prevention and response agency" means any Federal department or agency charged with responsibilities for carrying out a homeland security strategy.

(6) Functions.—The term "functions" includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(7) Homeland.—The term "homeland" means the United States, in a geographic sense.

(8) Local government.—The term "local government" has the meaning given under section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288).

(9) Personnel.—The term "personnel" means officers and employees.

(10) Risk analysis and risk management.—The term "risk analysis and risk management" means the assessment, analysis, management, mitigation, and communication of homeland security threats, vulnerabilities, criticalities, and risks.

(11) Secretary.—The term "Secretary" means the Secretary of Homeland Security.

(12) United states.—The term "United States", when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288)), any possession of the United States, and any waters within the jurisdiction of the United States.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Establishment of the Department of Homeland Security

SEC. 101. ESTABLISHMENT OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) In General.—There is established the Department of National Homeland Security.

(b) Executive Department.—Section 101 of title 5, United States Code, is amended by adding at the end the following:

"The Department of Homeland Security.".

(c) Mission of Department.—

(1) Homeland security.—The mission of the Department is to—

(A) promote homeland security, particularly with regard to terrorism;

(B) prevent terrorist attacks or other homeland threats within the United States;

(C) reduce the vulnerability of the United States to terrorism, natural disasters, and other homeland threats; and

(D) minimize the damage, and assist in the recovery, from terrorist attacks or other natural or man-made crises that occur within the United States.

(2) Other missions.—The Department shall be responsible for carrying out the other functions, and promoting the other missions, of entities transferred to the Department as provided by law.

(d) Seal.—The Secretary shall procure a proper seal, with such suitable inscriptions and devices as the President shall approve. This seal, to be known as the official seal of the Department of Homeland Security, shall be kept and used to verify official documents, under such rules and regulations as the Secretary may prescribe. Judicial notice shall be taken of the seal.

SEC. 102. SECRETARY OF HOMELAND SECURITY.

(a) In General.—The Secretary of Homeland Security shall be the head of the Department. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Responsibilities.—The responsibilities of the Secretary shall be the following:

(1) To develop policies, goals, objectives, priorities, and plans for the United States for the promotion of homeland security, particularly with regard to terrorism.

(2) To administer, carry out, and promote the other established missions of the entities transferred to the Department.

(3) To develop a comprehensive strategy for combating terrorism and the homeland security response.

(4) To make budget recommendations relating to a homeland security strategy, border and transportation security, infrastructure protection, emergency preparedness and response, science and technology promotion related to homeland security, and Federal support for State and local activities.

(5) To plan, coordinate, and integrate those Federal Government activities relating to border and transportation security, critical infrastructure protection, all-hazards emergency preparedness, response, recovery, and mitigation.

(6) To serve as a national focal point to analyze all information available to the United States related to threats of terrorism and other homeland threats.

(7) To establish and manage a comprehensive risk analysis and risk management program that directs and coordinates the supporting risk analysis and risk management activities of the Directorates and ensures coordination with entities outside the Department engaged in such activities.

(8) To identify and promote key scientific and technological advances that will enhance homeland security.

(9) To include, as appropriate, State and local governments and other entities in the full range of activities undertaken by the Department to promote homeland security, including—

(A) providing State and local government personnel, agencies, and authorities, with appropriate intelligence information, including warnings, regarding threats posed by terrorism in a timely and secure manner;

(B) facilitating efforts by State and local law enforcement and other officials to assist in the collection and dissemination of intelligence information and to provide information to the Department, and other agencies, in a timely and secure manner;

(C) coordinating with State, regional, and local government personnel, agencies, and authorities and, as appropriate, with the private sector, other entities, and the public, to ensure adequate planning, team work, coordination, information sharing, equipment, training, and exercise activities;

(D) consulting State and local governments, and other entities as appropriate, in developing a homeland security strategy; and

(E) systematically identifying and removing obstacles to developing effective partnerships between the Department, other agencies, and State, regional, and local government personnel, agencies, and authorities, the private sector, other entities, and the public to secure the homeland.

(10)(A) To consult and coordinate with the Secretary of Defense and the governors of the several States regarding integration of the United States military, including the National Guard, into all aspects of a homeland security strategy and its implementation, including detection, prevention, protection, response, and recovery.

(B) To consult and coordinate with the Secretary of Defense and make recommendations concerning organizational structure, equipment, and positioning of military assets determined critical to executing a homeland security strategy.

(C) To consult and coordinate with the Secretary of Defense regarding the training of personnel to respond to terrorist attacks involving chemical or biological agents.

(11) To seek to ensure effective day-to-day coordination of homeland security operations, and establish effective mechanisms for such coordination, among the elements constituting the Department and with other involved and affected Federal, State, and local departments and agencies.

(12) To administer the Homeland Security Advisory System, exercising primary responsibility for public threat advisories, and (in coordination with other agencies) providing specific warning information to State and local government personnel, agencies and authorities, the private sector, other entities, and the public, and advice about appropriate protective actions and countermeasures.

(13) To conduct exercise and training programs for employees of the Department and other involved agencies, and establish effective command and control procedures for the full range of potential contingencies regarding United States homeland security, including contingencies that require the substantial support of military assets.

(14) To annually review, update, and amend the Federal response plan for homeland security and emergency preparedness with regard to terrorism and other manmade and natural disasters.

(15) To direct the acquisition and management of all of the information resources of the Department, including communications resources.

(16) To endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable.

(17) In furtherance of paragraph (16), to oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation.

(18) As the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (17).

(19) To report to Congress on the development and implementation of the enterprise architecture under paragraph (17) in—

(A) each implementation progress report required under section 185; and

(B) each biennial report required under section 192(b).

(c) VISA ISSUANCE BY THE SECRETARY.—

(1) DEFINITION.—In this subsection, the term "consular officer" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(2) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided under paragraph (3), the Secretary—

(A) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(B)(i) may delegate in whole or part the authority under subparagraph (A) to the Secretary of State; and

(ii) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in subparagraph (A).

(3) AUTHORITY OF THE SECRETARY OF STATE.—

(A) IN GENERAL.—The Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State considers such refusal necessary or advisable in the foreign policy or security interests of the United States.

(B) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(i) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(15)(A)).

(ii) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(iii) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(iv) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182 (a)(3)(B)(vi)(II)).

(v) Section 212(a)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(vi) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(vii) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(viii) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(ix) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(x) Section 104 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034).

(xi) Section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (Public Law 105–277).

(xii) Section 103(f) of the Chemical Weapons Convention Implementation Act of 1998 (112 Stat. 2681–865).

(xiii) Section 801 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2002 and 2001 (113 Stat. 1501A–468).

(xiv) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(xv) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(xvi) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption).

(4) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(5) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(A) IN GENERAL.—The Secretary is authorized to assign employees of the Department to diplomatic and consular posts abroad to perform the following functions:

(i) Provide expert advice to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(ii) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(iii) Conduct investigations with respect to matters under the jurisdiction of the Secretary.

(B) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in subparagraph (A) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(C) TRAINING AND HIRING.—

(i) IN GENERAL.—The Secretary shall ensure that any employees of the Department assigned to perform functions described under subparagraph (A) and, as appropriate, consular officers, shall be provided all necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(ii) FOREIGN LANGUAGE PROFICIENCY.—Before assigning employees of the Department to perform the functions described under subparagraph (A), the Secretary shall promulgate regulations establishing foreign language proficiency requirements for employees of the Department performing the functions described under subparagraph (A) and providing that preference shall be given to individuals who meet such requirements in hiring employees for the performance of such functions.

(iii) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in clause (i).

(6) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(7) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(d) MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following:

"(5) the Secretary of Homeland Security; and

"(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.".

SEC. 103. DEPUTY SECRETARY OF HOMELAND SECURITY.

(a) IN GENERAL.—There shall be in the Department a Deputy Secretary of Homeland Security, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Deputy Secretary of Homeland Security shall—

(1) assist the Secretary in the administration and operations of the Department;

(2) perform such responsibilities as the Secretary shall prescribe; and

(3) act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.

SEC. 104. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—There shall be in the Department an Under Secretary for Management, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Under Secretary for Management shall report to the Secretary, who may assign to the Under Secretary such functions related to the management and administration of the Department as the Secretary may prescribe, including—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;

(2) procurement;

(3) human resources and personnel;

(4) information technology and communications systems;

(5) facilities, property, equipment, and other material resources;

(6) security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources; and

(7) identification and tracking of performance measures relating to the responsibilities of the Department.

SEC. 105. ASSISTANT SECRETARIES.

(a) IN GENERAL.—There shall be in the Department not more than 5 Assistant Secretaries (not including the 2 Assistant Secretaries appointed under division B), each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—

(1) IN GENERAL.—Whenever the President submits the name of an individual to the Senate for confirmation as an Assistant Secretary under this section, the President shall describe the general responsibilities that such appointee will exercise upon taking office.

(2) ASSIGNMENT.—Subject to paragraph (1), the Secretary shall assign to each Assistant Secretary such functions as the Secretary considers appropriate.

SEC. 106. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) REVIEW OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General shall designate 1 official who shall—

(1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department;

(2) publicize, through the Internet, radio, television, and newspaper advertisements—

(A) information on the responsibilities and functions of the official; and

(B) instructions on how to contact the official; and

(3) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(A) describing the implementation of this subsection;

(B) detailing any civil rights abuses under paragraph (1); and

(C) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve the national security; or

"(C) prevent significant impairment to the national interests of the United States.

"(3) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice, together with such comments concerning the exercise of such power as the Inspector General considers appropriate, to—

"(A) the President of the Senate;

"(B) the Speaker of the House of Representatives;

"(C) the Committee on Governmental Affairs of the Senate;

"(D) the Committee on Government Reform of the House of Representatives; and

"(E) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(4) If the Inspector General initiates an audit or investigation under paragraph (3) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (c)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

SEC. 107. CHIEF FINANCIAL OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Financial Officer, who shall be appointed or designated in the manner prescribed under section 901(a)(1) of title 31, United States Code.

(b) ESTABLISHMENT.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

"(G) The Department of Homeland Security.".

SEC. 108. CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—There shall be in the Department a Chief Information Officer, who shall be designated in the manner prescribed under section 3506(a)(2)(A) of title 44, United States Code.

(b) RESPONSIBILITIES.—The Chief Information Officer shall assist the Secretary with Department-wide information resources management and perform those duties prescribed by law for chief information officers of agencies.

SEC. 109. GENERAL COUNSEL.

(a) IN GENERAL.—There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The General Counsel shall—

(1) serve as the chief legal officer of the Department;

(2) provide legal assistance to the Secretary concerning the programs and policies of the Department; and

(3) advise and assist the Secretary in carrying out the responsibilities under section 102(b).

SEC. 110. CIVIL RIGHTS OFFICER.

(a) IN GENERAL.—There shall be in the Department a Civil Rights Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Civil Rights Officer shall be responsible for—

(1) ensuring compliance with all civil rights and related laws and regulations applicable to Department employees and participants in Department programs;

(2) coordinating administration of all civil rights and related laws and regulations within the Department for Department employees and participants in Department programs;

(3) assisting the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that civil rights considerations are appropriately incorporated and implemented in Department programs and activities;

(4) overseeing compliance with statutory and constitutional requirements related to the civil rights of individuals affected by the programs and activities of the Department; and

(5) notifying the Inspector General of any matter that, in the opinion of the Civil Rights Officer, warrants further investigation.

SEC. 111. PRIVACY OFFICER.

(a) IN GENERAL.—There shall be in the Department a Privacy Officer, who shall be appointed by the Secretary.

(b) RESPONSIBILITIES.—The Privacy Officer shall—

(1) oversee compliance with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974) and all other applicable laws relating to the privacy of personal information;

(2) assist the Secretary, directorates, and offices with the development and implementation of policies and procedures that ensure that—

(A) privacy considerations and safeguards are appropriately incorporated and implemented in Department programs and activities; and

(B) any information received by the Department is used or disclosed in a manner that minimizes the risk of harm to individuals from the inappropriate disclosure or use of such materials;

(3) assist Department personnel with the preparation of privacy impact assessments when required by law or considered appropriate by the Secretary; and

(4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.

SEC. 112. CHIEF HUMAN CAPITAL OFFICER.

(a) IN GENERAL.—The Secretary shall appoint or designate a Chief Human Capital Officer, who shall—

(1) advise and assist the Secretary and other officers of the Department in ensuring that the workforce of the Department has the necessary skills and training, and that the recruitment and retention policies of the Department allow the Department to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the Department to achieve its missions;

(2) oversee the implementation of the laws, rules and regulations of the President and the Office of Personnel Management governing the civil service within the Department; and

(3) advise and assist the Secretary in planning and reporting under the Government Performance and Results Act of 1993 (including the amendments made by that Act), with respect to the human capital resources and needs of the Department for achieving the plans and goals of the Department.

(b) RESPONSIBILITIES.—The responsibilities of the Chief Human Capital Officer shall include—

(1) setting the workforce development strategy of the Department;

(2) assessing workforce characteristics and future needs based on the mission and strategic plan of the Department;

(3) aligning the human resources policies and programs of the Department with organization mission, strategic goals, and performance outcomes;

(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

(5) identifying best practices and benchmarking studies;

(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth; and

(7) providing employee training and professional development.

SEC. 113. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, an Office of International Affairs. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall have the following responsibilities:

(1) To promote information and education exchange with foreign nations in order to promote sharing of best practices and technologies relating to homeland security. Such information exchange shall include—

(A) joint research and development on countermeasures;

(B) joint training exercises of first responders; and

(C) exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage activities under this section and other international activities within the Department in consultation with the Department of State and other relevant Federal officials.

(5) To initially concentrate on fostering cooperation with countries that are already highly focused on homeland security issues and that have demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism.

SEC. 114. EXECUTIVE SCHEDULE POSITIONS.

(a) EXECUTIVE SCHEDULE LEVEL I POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

"Secretary of Homeland Security.".

(b) EXECUTIVE SCHEDULE LEVEL II POSITION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Secretary of Homeland Security.".

(c) EXECUTIVE SCHEDULE LEVEL III POSITION.—Section 5314 of title 5, United States

Code, is amended by adding at the end the following:

"Under Secretary for Management, Department of Homeland Security.".

(d) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretaries of Homeland Security (5).

"Inspector General, Department of Homeland Security.

"Chief Financial Officer, Department of Homeland Security.

"Chief Information Officer, Department of Homeland Security.

"General Counsel, Department of Homeland Security.".

Subtitle B—Establishment of Directorates and Offices

SEC. 131. DIRECTORATE OF BORDER AND TRANSPORTATION PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Border and Transportation Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Border and Transportation, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Border and Transportation Protection shall be responsible for the following:

(1) Securing the borders, territorial waters, ports, terminals, waterways and air, land (including rail), and sea transportation systems of the United States, including coordinating governmental activities at ports of entry.

(2) Receiving and providing relevant intelligence on threats of terrorism and other homeland threats.

(3) Administering, carrying out, and promoting other established missions of the entities transferred to the Directorate.

(4) Using intelligence from the Directorate of Intelligence and other Federal intelligence organizations under section 132(a)(1)(B) to establish inspection priorities to identify products and other goods imported from suspect locations recognized by the intelligence community as having terrorist activities, unusual human health or agriculture disease outbreaks, or harboring terrorists.

(5) Providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities that have established partnerships with the Federal Law Enforcement Training Center.

(6) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(7) Consistent with section 175, conducting agricultural import and entry inspection functions transferred under section 175.

(8) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—Except as provided under subsection (d), the authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The United States Customs Service, which shall be maintained as a distinct entity within the Department.

(2) The Transportation Security Administration of the Department of Transportation.

(3) The Federal Law Enforcement Training Center of the Department of the Treasury.

(d) EXERCISE OF CUSTOMS REVENUE AUTHORITY.—

(1) IN GENERAL.—

(A) AUTHORITIES NOT TRANSFERRED.—Notwithstanding subsection (c), authority that was vested in the Secretary of the Treasury by law to issue regulations related to customs revenue functions before the effective date of this section under the provisions of law set forth under paragraph (2) shall not be transferred to the Secretary by reason of this Act. The Secretary of the Treasury, with the concurrence of the Secretary, shall exercise this authority. The Commissioner of Customs is authorized to engage in activities to develop and support the issuance of the regulations described in this paragraph. The Secretary shall be responsible for the implementation and enforcement of regulations issued under this section.

(B) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under paragraph (2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

(C) LIABILITY.—Neither the Secretary of the Treasury nor the Department of the Treasury shall be liable for or named in any legal action concerning the implementation and enforcement of regulations issued under this paragraph on or after the date on which the United States Customs Service is transferred under this division.

(2) APPLICABLE LAWS.—The provisions of law referred to under paragraph (1) are those sections of the following statutes that relate to customs revenue functions:

(A) The Tariff Act of 1930 (19 U.S.C. 1304 et seq.).

(B) Section 249 of the Revised Statutes of the United States (19 U.S.C. 3).

(C) Section 2 of the Act of March 4, 1923 (19 U.S.C. 6).

(D) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).

(E) Section 251 of the Revised Statutes of the United States (19 U.S.C. 66).

(F) Section 1 of the Act of June 26, 1930 (19 U.S.C. 68).

(G) The Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

(H) Section 1 of the Act of March 2, 1911 (19 U.S.C. 198).

(I) The Trade Act of 1974 (19 U.S.C. 2101 et seq.).

(J) The Trade Agreements Act of 1979 (19 U.S.C. 2502 et seq.).

(K) The North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 et seq.).

(L) The Uruguay Round Agreements Act (19 U.S.C. 3501 et seq.).

(M) The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.).

(N) The Andean Trade Preference Act (19 U.S.C. 3201 et seq.).

(O) The African Growth and Opportunity Act (19 U.S.C. 3701 et seq.).

(P) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(3) DEFINITION OF CUSTOMS REVENUE FUNCTIONS.—In this subsection, the term "customs revenue functions" means—

(A) assessing, collecting, and refunding duties (including any special duties), excise taxes, fees, and any liquidated damages or penalties due on imported merchandise, including classifying and valuing merchandise and the procedures for "entry" as that term is defined in the United States Customs laws;

(B) administering section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks;

(C) collecting accurate import data for compilation of international trade statistics; and

(D) administering reciprocal trade agreements and trade preference legislation.

(e) CONTINUATION OF CERTAIN FUNCTIONS OF THE CUSTOMS SERVICE.—

(1) IN GENERAL.—

(A) PRESERVATION OF CUSTOMS FUNDS.—Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(1) through (8)) may be transferred for use by any other agency or office in the Department.

(B) CUSTOMS AUTOMATION.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(i) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).";

(ii) in paragraph (4), by striking "(other than the excess fees determined by the Secretary under paragraph (5))"; and

(iii) by striking paragraph (5) and inserting the following:

"(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

"(B) There is authorized to be appropriated from the Customs Commercial and Homeland Security Automation Account for each of fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

"(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Customs Commercial and Homeland Security Automation Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.".

(2) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—Section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 19 U.S.C. 2071 note) is amended—

(A) in paragraph (1), by inserting "in consultation with the Secretary of Homeland Security" after "Secretary of the Treasury";

(B) in paragraph (2)(A), by inserting "in consultation with the Secretary of Homeland Security" after "Secretary of the Treasury";

(C) in paragraph (3)(A), by inserting "and the Secretary of Homeland Security" after "Secretary of the Treasury"; and

(D) in paragraph (4)—

(i) by inserting "and the Under Secretary of Homeland Security for Border and Transportation" after "for Enforcement"; and

(ii) by inserting "jointly" after "shall preside".

(3) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107–210) is amended by striking paragraph (2).

SEC. 132. DIRECTORATE OF INTELLIGENCE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—

(A) IN GENERAL.—There is established a Directorate of Intelligence which shall serve as a national-level focal point for information available to the United States Government relating to the plans, intentions, and capabilities of terrorists and terrorist organizations for the purpose of supporting the mission of the Department.

(B) SUPPORT TO DIRECTORATE.—The Directorate of Intelligence shall communicate, coordinate, and cooperate with—

(i) the Federal Bureau of Investigation;

(ii) the intelligence community, as defined under section 3 of the National Security Act of 1947 (50 U.S.C. 401a), including the Office of the Director of Central Intelligence, the National Intelligence Council, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the Bureau of Intelligence and Research of the Department of State; and

(iii) other agencies or entities, including those within the Department, as determined by the Secretary.

(C) INFORMATION ON INTERNATIONAL TERRORISM.—

(i) DEFINITIONS.—In this subparagraph, the terms "foreign intelligence" and "counterintelligence" shall have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(ii) PROVISION OF INFORMATION TO COUNTERTERRORIST CENTER.—In order to ensure that the Secretary is provided with appropriate analytical products, assessments, and warnings relating to threats of terrorism against the United States and other threats to homeland security, the Director of Central Intelligence (as head of the intelligence community with respect to foreign intelligence and counterintelligence), the Attorney General, and the heads of other agencies of the Federal Government shall ensure that all intelligence and other information relating to international terrorism is provided to the Director of Central Intelligence's Counterterrorist Center.

(iii) ANALYSIS OF INFORMATION.—The Director of Central Intelligence shall ensure the analysis by the Counterterrorist Center of all intelligence and other information provided the Counterterrorist Center under clause (ii).

(iv) ANALYSIS OF FOREIGN INTELLIGENCE.—The Counterterrorist Center shall have primary responsibility for the analysis of foreign intelligence relating to international terrorism.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1)(A) Receiving and analyzing law enforcement and other information from agencies of the United States Government, State and local government agencies (including law enforcement agencies), and private sector entities, and fusing such information and analysis with analytical products, assessments, and warnings concerning foreign intelligence from the Director of Central Intelligence's Counterterrorist Center in order to—

(i) identify and assess the nature and scope of threats to the homeland; and

(ii) detect and identify threats of terrorism against the United States and other threats to homeland security.

(B) Nothing in this paragraph shall be construed to prohibit the Directorate from conducting supplemental analysis of foreign intelligence relating to threats of terrorism against the United States and other threats to homeland security.

(2) Ensuring timely and efficient access by the Directorate to—

(A) information from agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, private sector entities; and

(B) open source information.

(3) Representing the Department in procedures to establish requirements and priorities in the collection of national intelligence for purposes of the provision to the executive branch under section 103 of the National Security Act of 1947 (50 U.S.C. 403–3) of national intelligence relating to foreign terrorist threats to the homeland.

(4) Consulting with the Attorney General or the designees of the Attorney General, and other officials of the United States Government to establish overall collection priorities and strategies for information, including law enforcement information, relating to domestic threats, such as terrorism, to the homeland.

(5) Disseminating information to the Directorate of Critical Infrastructure Protection, the agencies described under subsection (a)(1)(B), State and local governments, local law enforcement and intelligence agencies, and private sector entities to assist in the deterrence, prevention, preemption, and response to threats of terrorism against the United States and other threats to homeland security.

(6) Establishing and utilizing, in conjunction with the Chief Information Officer of the Department and the appropriate officers of the agencies described under subsection (a)(1)(B), a secure communications and information technology infrastructure, and advanced analytical tools, to carry out the mission of the Directorate.

(7) Developing, in conjunction with the Chief Information Officer of the Department and appropriate officers of the agencies described under subsection (a)(1)(B), appropriate software, hardware, and other information technology, and security and formatting protocols, to ensure that Federal Government databases and information technology systems containing information relevant to terrorist threats, and other threats against the United States, are—

(A) compatible with the secure communications and information technology infrastructure referred to under paragraph (6); and

(B) comply with Federal laws concerning privacy and the prevention of unauthorized disclosure.

(8) Ensuring, in conjunction with the Director of Central Intelligence and the Attorney General, that all material received by the Department is protected against unauthorized disclosure and is utilized by the Department only in the course and for the purpose of fulfillment of official duties, and is transmitted, retained, handled, and disseminated consistent with—

(A) the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures; or

(B) as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information, and the privacy interests of United States persons as defined under section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(9) Providing, through the Secretary, to the appropriate law enforcement or intelligence agency, information and analysis relating to threats.

(10) Coordinating, or where appropriate providing, training and other support as necessary to providers of information to the Department, or consumers of information from the Department, to allow such providers or consumers to identify and share intelligence information revealed in their ordinary duties or utilize information received from the Department, including training and support under section 908 of the USA PATRIOT Act of 2001 (Public Law 107–56).

(11) Reviewing, analyzing, and making recommendations through the Secretary for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to threats of terrorism against the United States and other threats to homeland security within the United States Government and between the United States Government and State and local governments, local law enforcement and intelligence agencies, and private sector entities.

(12) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(13) Performing other related and appropriate duties as assigned by the Secretary.

(c) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Unless otherwise directed by the President, the Secretary shall have access to, and United States Government agencies shall provide, all reports, assessments, analytical information, and information, including unevaluated intelligence, relating to the plans, intentions, capabilities, and activities of terrorists and terrorist organizations, and to other areas of responsibility as described in this division, that may be collected, possessed, or prepared, by any other United States Government agency.

(2) ADDITIONAL INFORMATION.—As the President may further provide, the Secretary shall receive additional information requested by the Secretary from the agencies described under subsection (a)(1)(B).

(3) OBTAINING INFORMATION.—All information shall be provided to the Secretary consistent with the requirements of subsection (b)(8), unless otherwise determined by the President.

(4) COOPERATIVE ARRANGEMENTS.—The Secretary may enter into cooperative arrangements with agencies described under subsection (a)(1)(B) to share material on a regular or routine basis, including arrangements involving broad categories of material, and regardless of whether the Secretary has entered into any such cooperative arrangement, all agencies described under subsection (a)(1)(B) shall promptly provide information under this subsection.

(d) AUTHORIZATION TO SHARE LAW ENFORCEMENT INFORMATION.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, or national security official for purposes of information sharing provisions of—

(1) section 203(d) of the USA PATRIOT Act of 2001 (Public Law 107–56);

(2) section 2517(6) of title 18, United States Code; and

(3) rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(e) ADDITIONAL RISK ANALYSIS AND RISK MANAGEMENT RESPONSIBILITIES.—The Under Secretary for Intelligence shall, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, be responsible for—

(1) developing analysis concerning the means and methods terrorists might employ to exploit vulnerabilities in the homeland security infrastructure;

(2) supporting experiments, tests, and inspections to identify weaknesses in homeland defenses;

(3) developing countersurveillance techniques to prevent attacks;

(4) conducting risk assessments to determine the risk posed by specific kinds of terrorist attacks, the probability of successful attacks, and the feasibility of specific countermeasures.

(f) MANAGEMENT AND STAFFING.—

(1) IN GENERAL.—The Directorate of Intelligence shall be staffed, in part, by analysts as requested by the Secretary and assigned by the agencies described under subsection (a)(1)(B). The analysts shall be assigned by reimbursable detail for periods as determined necessary by the Secretary in conjunction with the head of the assigning agency. No such detail may be undertaken without the consent of the assigning agency.

(2) EMPLOYEES ASSIGNED WITHIN DEPARTMENT.—The Secretary may assign employees of the Department by reimbursable detail to the Directorate.

(3) SERVICE AS FACTOR FOR SELECTION.—The President, or the designee of the President, shall prescribe regulations to provide that service described under paragraph (1) or (2), or service by employees within the Directorate, shall be considered a positive factor for selection to positions of greater authority within all agencies described under subsection (a)(1)(B).

(4) PERSONNEL SECURITY STANDARDS.—The employment of personnel in the Directorate shall be in accordance with such personnel security standards for access to classified information and intelligence as the Secretary, in conjunction with the Director of Central Intelligence, shall establish for this subsection.

(5) PERFORMANCE EVALUATION.—The Secretary shall evaluate the performance of all personnel detailed to the Directorate, or delegate such responsibility to the Under Secretary for Intelligence.

(g) INTELLIGENCE COMMUNITY.—Those portions of the Directorate of Intelligence under subsection (b)(1), and the intelligence-related components of agencies transferred by this division to the Department, including the United States Coast Guard, shall be—

(1) considered to be part of the United States intelligence community within the meaning of section 3 of the National Security Act of 1947 (50 U.S.C. 401a); and

(2) for budgetary purposes, within the National Foreign Intelligence Program.

SEC. 133. DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Critical Infrastructure Protection.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Critical Infrastructure Protection shall be responsible for the following:

(1) Receiving relevant intelligence from the Directorate of Intelligence, law enforcement information, and other information in order to comprehensively assess the vulnerabilities of the key resources and critical infrastructures in the United States.

(2) Integrating relevant information, intelligence analysis, and vulnerability assessments (whether such information, analyses, or assessments are provided by the Department or others) to identify priorities and support protective measures by the Department, by other agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities, to protect the key resources and critical infrastructures in the United States.

(3) As part of a homeland security strategy, developing a comprehensive national plan for securing the key resources and critical infrastructure in the United States.

(4) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate. This shall include, in coordination with the Office of Risk Analysis and Assessment in the Directorate of Science and Technology, establishing procedures, mechanisms, or units for the purpose of utilizing intelligence to identify vulnerabilities and protective measures in—

(A) public health infrastructure;

(B) food and water storage, production and distribution;

(C) commerce systems, including banking and finance;

(D) energy systems, including electric power and oil and gas production and storage;

(E) transportation systems, including pipelines;

(F) information and communication systems;

(G) continuity of government services; and

(H) other systems or facilities the destruction or disruption of which could cause substantial harm to health, safety, property, or the environment.

(5) Enhancing the sharing of information regarding cyber security and physical security of the United States, developing appropriate security standards, tracking vulnerabilities, proposing improved risk management policies, and delineating the roles of various Government agencies in preventing, defending, and recovering from attacks.

(6) Acting as the Critical Information Technology, Assurance, and Security Officer of the Department and assuming the responsibilities carried out by the Critical Infrastructure Assurance Office and the National Infrastructure Protection Center before the effective date of this division.

(7) Coordinating the activities of the Information Sharing and Analysis Centers to share information, between the public and private sectors, on threats, vulnerabilities, individual incidents, and privacy issues regarding homeland security.

(8) Working closely with the Department of State on cyber security issues with respect to international bodies and coordinating with appropriate agencies in helping to establish cyber security policy, standards, and enforcement mechanisms.

(9) Establishing the necessary organizational structure within the Directorate to provide leadership and focus on both cyber security and physical security, and ensuring the maintenance of a nucleus of cyber security and physical security experts within the United States Government.

(10) Performing such other duties as assigned by the Secretary.

In this subsection, the term "key resources" includes National Park Service sites identified by the Secretary of the Interior that are so universally recognized as symbols of the United States and so heavily visited by the American and international public that such sites would likely be identified as targets of terrorist attacks, including the Statue of Liberty, Independence Hall and the Liberty Bell, the Arch in St. Louis, Missouri, Mt. Rushmore, and memorials and monuments in Washington, D.C.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Critical Infrastructure Assurance Office of the Department of Commerce.

(2) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section).

(3) The National Communications System of the Department of Defense.

(4) The Computer Security Division of the National Institute of Standards and Technology of the Department of Commerce.

(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.

(6) The Federal Computer Incident Response Center of the General Services Administration.

(7) The Energy Security and Assurance Program of the Department of Energy.

(8) The Federal Protective Service of the General Services Administration.

SEC. 134. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Assuming the responsibilities carried out by the National Domestic Preparedness

Office before the effective date of this division.

(3) Organizing and training local entities to respond to emergencies and providing State and local authorities with equipment for detection, protection, and decontamination in an emergency involving weapons of mass destruction.

(4) Overseeing Federal, State, and local emergency preparedness training and exercise programs in keeping with intelligence estimates and coordinating Federal assistance for any emergency, including emergencies caused by natural disasters, manmade accidents, human or agricultural health emergencies, or terrorist attacks.

(5) Creating a National Crisis Action Center to act as the focal point for—

(A) monitoring emergencies;

(B) notifying affected agencies and State and local governments; and

(C) coordinating Federal support for State and local governments and the private sector in crises.

(6) Managing and updating the Federal response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(7) Coordinating activities among private sector entities, including entities within the medical community, and animal health and plant disease communities, with respect to recovery, consequence management, and planning for continuity of services.

(8) Developing and managing a single response system for national incidents in coordination with all appropriate agencies.

(9) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(10) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(5).

(11) Collaborating with the Under Secretary for Science and Technology, Secretary of Agriculture, and the Director of the Centers for Disease Control and Prevention in establishing and updating the list of potential threat agents or toxins relating to the functions described in subsection (c)(6)(B).

(12) Developing a plan to address the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(13) Activate and coordinate the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(14) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(15) Performing such other duties as assigned by the Secretary.

(c) Transfer of Authorities, Functions, Personnel, and Assets to the Department.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department.

(2) The National Office of Domestic Preparedness of the Federal Bureau of Investigation of the Department of Justice.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(5) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(6)(A) Except as provided in subparagraph (B)—

(i) the functions of the Select Agent Registration Program of the Department of Health and Human Services, including all functions of the Secretary of Health and Human Services under title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188); and

(ii) the functions of the Department of Agriculture under the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(B)(i) The Secretary shall collaborate with the Secretary of Health and Human Services in determining the biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a).

(ii) The Secretary shall collaborate with the Secretary of Agriculture in determining the biological agents and toxins that shall be included on the list of biological agents and toxins required under section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401).

(C) In promulgating regulations pursuant to the functions described in subparagraph (A), the Secretary shall act in collaboration with the Secretary of Health and Human Services and the Secretary of Agriculture.

(d) Appointment as Under Secretary and Director.—

(1) In general.—An individual may serve as both the Under Secretary for Emergency Preparedness and Response and the Director of the Federal Emergency Management Agency if appointed by the President, by and with the advice and consent of the Senate, to each office.

(2) Pay.—Nothing in paragraph (1) shall be construed to authorize an individual appointed to both positions to receive pay at a rate of pay in excess of the rate of pay payable for the position to which the higher rate of pay applies.

(e) Report.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of a national medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

SEC. 135. DIRECTORATE OF SCIENCE AND TECHNOLOGY.

(a) Purpose.—The purpose of this section is to establish a Directorate of Science and Technology that will support the mission of the Department and the directorates of the Department by—

(1) establishing, funding, managing, and supporting research, development, demonstration, testing, and evaluation activities to meet national homeland security needs and objectives;

(2) setting national research and development goals and priorities pursuant to the mission of the Department, and developing strategies and policies in furtherance of such goals and priorities;

(3) coordinating and collaborating with other Federal departments and agencies, and State, local, academic, and private sector entities, to advance the research and development agenda of the Department;

(4) advising the Secretary on all scientific and technical matters relevant to homeland security; and

(5) facilitating the transfer and deployment of technologies that will serve to enhance homeland security goals.

(b) Definitions.—In this section:

(1) Council.—The term "Council" means the Homeland Security Science and Technology Council established under this section.

(2) Fund.—The term "Fund" means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.

(3) Homeland security research and development.—The term "homeland security research and development" means research and development applicable to the detection of, prevention of, protection against, response to, and recovery from homeland security threats, particularly acts of terrorism.

(4) OSTP.—The term "OSTP" means the Office of Science and Technology Policy.

(5) SARPA.—The term "SARPA" means the Security Advanced Research Projects Agency established under this section.

(6) Technology roadmap.—The term "technology roadmap" means a plan or framework in which goals, priorities, and milestones for desired future technological capabilities and functions are established, and research and development alternatives or means for achieving those goals, priorities, and milestones are identified and analyzed in order to guide decisions on resource allocation and investments.

(7) Under secretary.—The term "Under Secretary" means the Under Secretary for Science and Technology.

(c) Directorate of Science and Technology.—

(1) Establishment.—There is established a Directorate of Science and Technology within the Department.

(2) Under secretary.—There shall be an Under Secretary for Science and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate. The principal responsibility of the Under

Secretary shall be to effectively and efficiently carry out the purposes of the Directorate of Science and Technology under subsection (a). In addition, the Under Secretary shall undertake the following activities in furtherance of such purposes:

(A) Coordinating with the OSTP and other appropriate entities in developing and executing the research and development agenda of the Department.

(B) Developing a technology roadmap that shall be updated biannually for achieving technological goals relevant to homeland security needs.

(C) Instituting mechanisms to promote, facilitate, and expedite the transfer and deployment of technologies relevant to homeland security needs, including dual-use capabilities.

(D) Assisting the Secretary and the Director of OSTP to ensure that science and technology priorities are clearly reflected and considered in a homeland security Strategy.

(E) Establishing mechanisms for the sharing and dissemination of key homeland security research and technology developments and opportunities with appropriate Federal, State, local, and private sector entities.

(F) Establishing, in coordination with the Under Secretary for Critical Infrastructure Protection and the Under Secretary for Emergency Preparedness and Response and relevant programs under their direction, a National Emergency Technology Guard, comprised of teams of volunteers with expertise in relevant areas of science and technology, to assist local communities in responding to and recovering from emergency contingencies requiring specialized scientific and technical capabilities. In carrying out this responsibility, the Under Secretary shall establish and manage a database of National Emergency Technology Guard volunteers, and prescribe procedures for organizing, certifying, mobilizing, and deploying National Emergency Technology Guard teams.

(G) Chairing the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(H) Assisting the Secretary in developing a homeland security strategy for Countermeasure Research described under subsection (k).

(I) Assisting the Secretary and acting on behalf of the Secretary in contracting with, commissioning, or establishing federally funded research and development centers determined useful and appropriate by the Secretary for the purpose of providing the Department with independent analysis and support.

(J) Assisting the Secretary and acting on behalf of the Secretary in entering into joint sponsorship agreements with the Department of Energy regarding the use of the national laboratories or sites.

(K) Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(L) Carrying out other appropriate activities as directed by the Secretary.

(3) RESEARCH AND DEVELOPMENT-RELATED AUTHORITIES.—The Secretary shall exercise the following authorities relating to the research, development, testing, and evaluation activities of the Directorate of Science and Technology:

(A) With respect to research and development expenditures under this section, the authority (subject to the same limitations and conditions) as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), for a period of 5 years beginning on the date of enactment of this Act. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph. The annual report required under subsection (h) of such section, as applied to the Secretary by this subparagraph, shall—

(i) be submitted to the President of the Senate, the Speaker of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives; and

(ii) report on other transactions entered into under subparagraph (B).

(B) Authority to carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), for a period of 5 years beginning on the date of enactment of this Act. In applying the authorities of such section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) of that section. Competitive, merit-based selection procedures shall be used for the selection of projects and participants for transactions entered into under the authority of this paragraph.

(C) In hiring personnel to assist in research, development, testing, and evaluation activities within the Directorate of Science and Technology, the authority to exercise the personnel hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261), with the stipulation that the Secretary shall exercise such authority for a period of 7 years commencing on the date of enactment of this Act, that a maximum of 100 persons may be hired under such authority, and that the term of appointment for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extensions under subsection (c)(2) of that section.

(D) With respect to such research, development, testing, and evaluation responsibilities under this section (except as provided in subparagraph (E)) as the Secretary may elect to carry out through agencies other than the Department (under agreements with their respective heads), the Secretary may transfer funds to such heads. Of the funds authorized to be appropriated under subsection (d)(4) for the Fund, not less than 10 percent of such funds for each fiscal year through 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways, and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways, and coastal security mission.

(E) The Secretary may carry out human health biodefense-related biological, biomedical, and infectious disease research and development (including vaccine research and development) in collaboration with the Secretary of Health and Human Services. Research supported by funding appropriated to the National Institutes of Health for bioterrorism research and related facilities development shall be conducted through the National Institutes of Health under joint strategic prioritization agreements between the Secretary and the Secretary of Health and Human Services. The Secretary shall have the authority to establish general research priorities, which shall be embodied in the joint strategic prioritization agreements with the Secretary of Health and Human Services. The specific scientific research agenda to implement agreements under this subparagraph shall be developed by the Secretary of Health and Human Services, who shall consult the Secretary to ensure that the agreements conform with homeland security priorities. All research programs established under those agreements shall be managed and awarded by the Director of the National Institutes of Health consistent with those agreements. The Secretary may transfer funds to the Department of Health and Human Services in connection with those agreements.

(d) ACCELERATION FUND.—

(1) ESTABLISHMENT.—There is established an Acceleration Fund to support research and development of technologies relevant to homeland security.

(2) FUNCTION.—The Fund shall be used to stimulate and support research and development projects selected by SARPA under subsection (f), and to facilitate the rapid transfer of research and technology derived from such projects.

(3) RECIPIENTS.—Fund monies may be made available through grants, contracts, cooperative agreements, and other transactions under subsection (c)(3) (A) and (B) to—

(A) public sector entities, including Federal, State, or local entities;

(B) private sector entities, including corporations, partnerships, or individuals; and

(C) other nongovernmental entities, including universities, federally funded research and development centers, and other academic or research institutions.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for the Fund for fiscal year 2003, and such sums as are necessary in subsequent fiscal years.

(e) SCIENCE AND TECHNOLOGY COUNCIL.—

(1) ESTABLISHMENT.—There is established the Homeland Security Science and Technology Council within the Directorate of Science and Technology. The Under Secretary shall chair the Council and have the authority to convene meetings. At the discretion of the Under Secretary and the Director of OSTP, the Council may be constituted as a subcommittee of the National Science and Technology Council.

(2) COMPOSITION.—The Council shall be composed of the following:

(A) Senior research and development officials representing agencies engaged in research and development relevant to homeland security and combating terrorism needs. Each representative shall be appointed by the head of the representative's respective agency with the advice and consent of the Under Secretary.

(B) The Director of SARPA and other appropriate officials within the Department.

(C) The Director of the OSTP and other senior officials of the Executive Office of the President as designated by the President.

(3) RESPONSIBILITIES.—The Council shall—

(A) provide the Under Secretary with recommendations on priorities and strategies, including those related to funding and portfolio management, for homeland security research and development;

(B) facilitate effective coordination and communication among agencies, other entities of the Federal Government, and entities in the private sector and academia, with respect to the conduct of research and development related to homeland security;

(C) recommend specific technology areas for which the Fund and other research and development resources shall be used, among other things, to rapidly transition homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities;

(D) assist and advise the Under Secretary in developing the technology roadmap referred to under subsection (c)(2)(B); and

(E) perform other appropriate activities as directed by the Under Secretary.

(4) ADVISORY PANEL.—The Under Secretary may establish an advisory panel consisting of representatives from industry, academia, and other non-Federal entities to advise and support the Council.

(5) WORKING GROUPS.—At the discretion of the Under Secretary, the Council may establish working groups in specific homeland security areas consisting of individuals with relevant expertise in each articulated area. Working groups established for bioterrorism and public health-related research shall be fully coordinated with the Working Group established under section 108 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188).

(f) SECURITY ADVANCED RESEARCH PROJECTS AGENCY.—

(1) ESTABLISHMENT.—There is established the Security Advanced Research Projects Agency within the Directorate of Science and Technology.

(2) RESPONSIBILITIES.—SARPA shall—

(A) undertake and stimulate basic and applied research and development, leverage existing research and development, and accelerate the transition and deployment of technologies that will serve to enhance homeland defense;

(B) identify, fund, develop, and transition high-risk, high-payoff homeland security research and development opportunities that—

(i) may lie outside the purview or capabilities of the existing Federal agencies; and

(ii) emphasize revolutionary rather than evolutionary or incremental advances;

(C) provide selected projects with single or multiyear funding, and require such projects to provide interim progress reports, no less often than annually;

(D) administer the Acceleration Fund to carry out the purposes of this paragraph;

(E) advise the Secretary and Under Secretary on funding priorities under subsection (c)(3)(E); and

(F) perform other appropriate activities as directed by the Under Secretary.

(g) OFFICE OF RISK ANALYSIS AND ASSESSMENT.—

(1) ESTABLISHMENT.—There is established an Office of Risk Analysis and Assessment within the Directorate of Science and Technology.

(2) FUNCTIONS.—The Office of Risk Analysis and Assessment shall assist the Secretary, the Under Secretary, and other Directorates with respect to their risk analysis and risk management activities by providing scientific or technical support for such activities. Such support shall include, as appropriate—

(A) identification and characterization of homeland security threats;

(B) evaluation and delineation of the risk of these threats;

(C) pinpointing of vulnerabilities or linked vulnerabilities to these threats;

(D) determination of criticality of possible threats;

(E) analysis of possible technologies, research, and protocols to mitigate or eliminate threats, vulnerabilities, and criticalities;

(F) evaluation of the effectiveness of various forms of risk communication; and

(G) other appropriate activities as directed by the Secretary.

(3) METHODS.—In performing the activities described under paragraph (2), the Office of Risk Analysis and Assessment may support or conduct, or commission from federally funded research and development centers or other entities, work involving modeling, statistical analyses, field tests and exercises (including red teaming), testbed development, development of standards and metrics.

(h) OFFICE FOR TECHNOLOGY EVALUATION AND TRANSITION.—

(1) ESTABLISHMENT.—There is established an Office for Technology Evaluation and Transition within the Directorate of Science and Technology.

(2) FUNCTION.—The Office for Technology Evaluation and Transition shall, with respect to technologies relevant to homeland security needs—

(A) serve as the principal, national point-of-contact and clearinghouse for receiving and processing proposals or inquiries regarding such technologies;

(B) identify and evaluate promising new technologies;

(C) undertake testing and evaluation of, and assist in transitioning, such technologies into deployable, fielded systems;

(D) consult with and advise agencies regarding the development, acquisition, and deployment of such technologies;

(E) coordinate with SARPA to accelerate the transition of technologies developed by SARPA and ensure transition paths for such technologies; and

(F) perform other appropriate activities as directed by the Under Secretary.

(3) TECHNICAL SUPPORT WORKING GROUP.—The functions described under this subsection may be carried out through, or in coordination with, or through an entity established by the Secretary and modeled after, the Technical Support Working Group (organized under the April, 1982, National Security Decision Directive Numbered 30) that provides an interagency forum to coordinate research and development of technologies for combating terrorism.

(i) OFFICE OF LABORATORY RESEARCH.—

(1) ESTABLISHMENT.—There is established an Office of Laboratory Research within the Directorate of Science and Technology.

(2) RESEARCH AND DEVELOPMENT FUNCTIONS TRANSFERRED.—There shall be transferred to the Department, to be administered by the Under Secretary, the functions, personnel, assets, and liabilities of the following programs and activities:

(A) Within the Department of Energy (but not including programs and activities relating to the strategic nuclear defense posture of the United States) the following:

(i) The chemical and biological national security and supporting programs and activities supporting domestic response of the nonproliferation and verification research and development program.

(ii) The nuclear smuggling programs and activities, and other programs and activities directly related to homeland security, within the proliferation detection program of the nonproliferation and verification research and development program, except that the programs and activities described in this clause may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(iii) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(iv) The Environmental Measurements Laboratory.

(B) Within the Department of Defense, the National Bio-Weapons Defense Analysis Center established under section 161.

(3) RESPONSIBILITIES.—The Office of Laboratory Research shall—

(A) supervise the activities of the entities transferred under this subsection;

(B) administer the disbursement and undertake oversight of research and development funds transferred from the Department to other agencies outside of the Department, including funds transferred to the Department of Health and Human Services consistent with subsection (c)(3)(E);

(C) establish and direct new research and development facilities as the Secretary determines appropriate;

(D) include a science advisor to the Under Secretary on research priorities related to biological and chemical weapons, with supporting scientific staff, who shall advise on and support research priorities with respect to—

(i) research on countermeasures for biological weapons, including research on the development of drugs, devices, and biologics; and

(ii) research on biological and chemical threat agents; and

(E) other appropriate activities as directed by the Under Secretary.

(j) OFFICE FOR NATIONAL LABORATORIES.—

(1) ESTABLISHMENT.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(2) JOINT SPONSORSHIP ARRANGEMENTS.—

(A) NATIONAL LABORATORIES.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work on behalf of the Department.

(B) DEPARTMENT OF ENERGY SITE.—The Department may be a joint sponsor of Department of Energy sites in the performance of work as if such sites were federally funded research and development centers and the work were performed under a multiple agency sponsorship arrangement with the Department.

(C) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement entered into under subparagraph (A) or (B).

(D) CONDITIONS.—A joint sponsorship arrangement under this subsection shall—

(i) provide for the direct funding and management by the Department of the work being carried out on behalf of the Department; and

(ii) include procedures for addressing the coordination of resources and tasks to minimize conflicts between work undertaken on behalf of either Department.

(E) LEAD AGENT AND FEDERAL ACQUISITION REGULATION.—

(i) LEAD AGENT.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship agreement between the Department and a Department of Energy national laboratory or site for work on homeland security.

(ii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATION.—Any work performed by a national laboratory or site under this section shall comply with the policy on the use of federally funded research and development centers under section 35.017 of the Federal Acquisition Regulation.

(F) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under this section under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of subparagraph (B).

(3) OTHER ARRANGEMENTS.—The Office for National Laboratories may enter into other arrangements with Department of Energy national laboratories or sites to carry out work to support the missions of the Department under applicable law, except that the Department of Energy may not charge or apply administrative fees for work on behalf of the Department.

(4) TECHNOLOGY TRANSFER.—The Office for National Laboratories may exercise the authorities in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) to permit the Director of a Department of Energy national laboratory to enter into cooperative research and development agreements, or to negotiate licensing agreements, pertaining to work supported by the Department at the Department of Energy national laboratory.

(5) ASSISTANCE IN ESTABLISHING DEPARTMENT.—At the request of the Under Secretary, the Department of Energy shall provide for the temporary appointment or assignment of employees of Department of Energy national laboratories or sites to the Department for purposes of assisting in the establishment or organization of the technical programs of the Department through an agreement that includes provisions for minimizing conflicts between work assignments of such personnel.

(k) STRATEGY FOR COUNTERMEASURE RESEARCH.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall develop a comprehensive, long-term strategy and plan for engaging non-Federal entities, particularly including private, for-profit entities, in the research, development, and production of homeland security countermeasures for biological, chemical, and radiological weapons.

(2) TIMEFRAME.—The strategy and plan under this subsection, together with recommendations for the enactment of supporting or enabling legislation, shall be submitted to the Congress within 270 days after the date of enactment of this Act.

(3) COORDINATION.—In developing the strategy and plan under this subsection, the Secretary shall consult with—

(A) other agencies with expertise in research, development, and production of countermeasures;

(B) private, for-profit entities and entrepreneurs with appropriate expertise and technology regarding countermeasures;

(C) investors that fund such entities;

(D) nonprofit research universities and institutions;

(E) public health and other interested private sector and government entities; and

(F) governments allied with the United States in the war on terrorism.

(4) PURPOSE.—The strategy and plan under this subsection shall evaluate proposals to assure that—

(A) research on countermeasures by non-Federal entities leads to the expeditious development and production of countermeasures that may be procured and deployed in the homeland security interests of the United States;

(B) capital is available to fund the expenses associated with such research, development, and production, including Government grants and contracts and appropriate capital formation tax incentives that apply to non-Federal entities with and without tax liability;

(C) the terms for procurement of such countermeasures are defined in advance so that such entities may accurately and reliably assess the potential countermeasures market and the potential rate of return;

(D) appropriate intellectual property, risk protection, and Government approval standards are applicable to such countermeasures;

(E) Government-funded research is conducted and prioritized so that such research complements, and does not unnecessarily duplicate, research by non-Federal entities and that such Government-funded research is made available, transferred, and licensed on commercially reasonable terms to such entities for development; and

(F) universities and research institutions play a vital role as partners in research and development and technology transfer, with appropriate progress benchmarks for such activities, with for-profit entities.

(5) REPORTING.—The Secretary shall report periodically to the Congress on the status of non-Federal entity countermeasure research, development, and production, and submit additional recommendations for legislation as needed.

(l) CLASSIFICATION OF RESEARCH.—

(1) IN GENERAL.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(2) CLASSIFICATION AND REVIEW.—The Under Secretary shall—

(A)(i) decide whether classification is appropriate before the award of a research grant, contract, cooperative agreement, or other transaction by the Department; and

(ii) if the decision under clause (i) is one of classification, control the research results through standard classification procedures; and

(B) periodically review all classified research grants, contracts, cooperative agreements, and other transactions issued by the Department to determine whether classification is still necessary.

(3) RESTRICTIONS.—No restrictions shall be placed upon the conduct or reporting of federally funded fundamental research that has not received national security classification, except as provided under applicable provisions of law.

(m) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—The National Science and Technology Policy, Organization, and Priorities Act is amended in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting "homeland security," after "national security,".

SEC. 136. DIRECTORATE OF IMMIGRATION AFFAIRS.

The Directorate of Immigration Affairs shall be established and shall carry out all functions of that Directorate in accordance with division B of this Act.

SEC. 137. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to be headed by a director, which shall oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland;

(4) develop a process for receiving meaningful input from State and local government to assist the development of homeland security activities; and

(5) prepare an annual report, that contains—

(A) a description of the State and local priorities in each of the 50 States based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(B) a needs assessment that identifies homeland security functions in which the Federal role is duplicative of the State or local role, and recommendations to decrease or eliminate inefficiencies between the Federal Government and State and local entities;

(C) recommendations to Congress regarding the creation, expansion, or elimination of any program to assist State and local entities to carry out their respective functions under the Department; and

(D) proposals to increase the coordination of Department priorities within each State and between the States.

(c) HOMELAND SECURITY LIAISON OFFICERS.—

(1) DESIGNATION.—The Secretary shall designate in each State and the District of Columbia not less than 1 employee of the Department to serve as the Homeland Security Liaison Officer in that State or District.

(2) DUTIES.—Each Homeland Security Liaison Officer designated under paragraph (1) shall—

(A) provide State and local government officials with regular information, research, and technical support to assist local efforts at securing the homeland;

(B) provide coordination between the Department and State and local first responders, including—

(i) law enforcement agencies;

(ii) fire and rescue agencies;

(iii) medical providers;

(iv) emergency service providers; and

(v) relief agencies;

(C) notify the Department of the State and local areas requiring additional information, training, resources, and security;

(D) provide training, information, and education regarding homeland security for State and local entities;

(E) identify homeland security functions in which the Federal role is duplicative of the State or local role, and recommend ways to decrease or eliminate inefficiencies;

(F) assist State and local entities in priority setting based on discovered needs of first responder organizations, including law enforcement agencies, fire and rescue agencies, medical providers, emergency service providers, and relief agencies;

(G) assist the Department to identify and implement State and local homeland security objectives in an efficient and productive manner;

(H) serve as a liaison to the Department in representing State and local priorities and concerns regarding homeland security;

(I) consult with State and local government officials, including emergency managers, to coordinate efforts and avoid duplication; and

(J) coordinate with Homeland Security Liaison Officers in neighboring States to—

(i) address shared vulnerabilities; and

(ii) identify opportunities to achieve efficiencies through interstate activities .

(d) FEDERAL INTERAGENCY COMMITTEE ON FIRST RESPONDERS AND STATE, LOCAL, AND CROSS-JURISDICTIONAL ISSUES.—

(1) IN GENERAL.—There is established an Interagency Committee on First Responders and State, Local, and Cross-jurisdictional Issues (in this section referred to as the "Interagency Committee", that shall—

(A) ensure coordination, with respect to homeland security functions, among the Federal agencies involved with—

(i) State, local, and regional governments;

(ii) State, local, and community-based law enforcement;

(iii) fire and rescue operations; and

(iv) medical and emergency relief services;

(B) identify community-based law enforcement, fire and rescue, and medical and emergency relief services needs;

(C) recommend new or expanded grant programs to improve community-based law enforcement, fire and rescue, and medical and emergency relief services;

(D) identify ways to streamline the process through which Federal agencies support community-based law enforcement, fire and rescue, and medical and emergency relief services; and

(E) assist in priority setting based on discovered needs.

(2) MEMBERSHIP.—The Interagency Committee shall be composed of—

(A) a representative of the Office for State and Local Government Coordination;

(B) a representative of the Health Resources and Services Administration of the Department of Health and Human Services;

(C) a representative of the Centers for Disease Control and Prevention of the Department of Health and Human Services;

(D) a representative of the Federal Emergency Management Agency of the Department;

(E) a representative of the United States Coast Guard of the Department;

(F) a representative of the Department of Defense;

(G) a representative of the Office of Domestic Preparedness of the Department;

(H) a representative of the Directorate of Immigration Affairs of the Department;

(I) a representative of the Transportation Security Agency of the Department;

(J) a representative of the Federal Bureau of Investigation of the Department of Justice; and

(K) representatives of any other Federal agency identified by the President as having a significant role in the purposes of the Interagency Committee.

(3) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee and the Advisory Council, which shall include—

(A) scheduling meetings;

(B) preparing agenda;

(C) maintaining minutes and records;

(D) producing reports; and

(E) reimbursing Advisory Council members.

(4) LEADERSHIP.—The members of the Interagency Committee shall select annually a chairperson.

(5) MEETINGS.—The Interagency Committee shall meet—

(A) at the call of the Secretary; or

(B) not less frequently than once every 3 months.

(e) ADVISORY COUNCIL FOR THE INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an Advisory Council for the Interagency Committee (in this section referred to as the "Advisory Council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Advisory Council shall be composed of not more than 13 members, selected by the Interagency Committee.

(B) DUTIES.—The Advisory Council shall—

(i) develop a plan to disseminate information on first response best practices;

(ii) identify and educate the Secretary on the latest technological advances in the field of first response;

(iii) identify probable emerging threats to first responders;

(iv) identify needed improvements to first response techniques and training;

(v) identify efficient means of communication and coordination between first responders and Federal, State, and local officials;

(vi) identify areas in which the Department can assist first responders; and

(vii) evaluate the adequacy and timeliness of resources being made available to local first responders.

(C) REPRESENTATION.—The Interagency Committee shall ensure that the membership of the Advisory Council represents—

(i) the law enforcement community;

(ii) fire and rescue organizations;

(iii) medical and emergency relief services; and

(iv) both urban and rural communities.

(3) CHAIRPERSON.—The Advisory Council shall select annually a chairperson from among its members.

(4) COMPENSATION OF MEMBERS.—The members of the Advisory Council shall serve without compensation, but shall be eligible for reimbursement of necessary expenses connected with their service to the Advisory Council.

(5) MEETINGS.—The Advisory Council shall meet with the Interagency Committee not less frequently than once every 3 months.

SEC. 138. UNITED STATES SECRET SERVICE.

There are transferred to the Department the authorities, functions, personnel, and assets of the United States Secret Service, which shall be maintained as a distinct entity within the Department.

SEC. 139. BORDER COORDINATION WORKING GROUP.

(a) DEFINITIONS.—In this section:

(1) BORDER SECURITY FUNCTIONS.—The term "border security functions" means the securing of the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States.

(2) RELEVANT AGENCIES.—The term "relevant agencies" means any department or agency of the United States that the President determines to be relevant to performing border security functions.

(b) ESTABLISHMENT.—The Secretary shall establish a border security working group (in this section referred to as the "Working Group"), composed of the Secretary or the designee of the Secretary, the Under Secretary for Border and Transportation Protection, and the Under Secretary for Immigration Affairs.

(c) FUNCTIONS.—The Working Group shall meet not less frequently than once every 3 months and shall—

(1) with respect to border security functions, develop coordinated budget requests, allocations of appropriations, staffing requirements, communication, use of equipment, transportation, facilities, and other infrastructure;

(2) coordinate joint and cross-training programs for personnel performing border security functions;

(3) monitor, evaluate and make improvements in the coverage and geographic distribution of border security programs and personnel;

(4) develop and implement policies and technologies to ensure the speedy, orderly, and efficient flow of lawful traffic, travel and commerce, and enhanced scrutiny for high-risk traffic, travel, and commerce; and

(5) identify systemic problems in coordination encountered by border security agencies and programs and propose administrative, regulatory, or statutory changes to mitigate such problems.

(d) RELEVANT AGENCIES.—The Secretary shall consult representatives of relevant agencies with respect to deliberations under subsection (c), and may include representatives of such agencies in Working Group deliberations, as appropriate.

SEC. 140. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Homeland Security Liaison Officers for Maryland, Virginia, and the District of Columbia within the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with

regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 141. EXECUTIVE SCHEDULE POSITIONS.

Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary for Border and Transportation, Department of Homeland Security.

"Under Secretary for Critical Infrastructure Protection, Department of Homeland Security.

"Under Secretary for Emergency Preparedness and Response, Department of Homeland Security.

"Under Secretary for Immigration, Department of Homeland Security.

"Under Secretary for Intelligence, Department of Homeland Security.

"Under Secretary for Science and Technology, Department of Homeland Security.".

SEC. 142. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (e.g., fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term "homeland security missions" means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, assets, organizational structure, units, personnel, and non-homeland security missions of the Coast Guard shall be maintained intact and without reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts. Nothing in this paragraph shall prevent the Coast Guard from replacing or upgrading any asset with an asset of equivalent or greater capabilities.

(d) CERTAIN TRANSFERS PROHIBITED.—

(1) IN GENERAL.—None of the missions, functions, personnel, and assets (including ships, aircraft, helicopters, and vehicles) of the Coast Guard may be transferred to the operational control of, or diverted to the principal and continuing use of, any other organization, unit, or entity of the Department.

(2) APPLICABILITY.—The restrictions in paragraph (1) shall not apply—

(A) to any joint operation of less than 90 days between the Coast Guard and other entities and organizations of the Department; or

(B) to any detail or assignment of any individual member or civilian employee of the Coast Guard to any other entity or organization of the Department for the purposes of ensuring effective liaison, coordination, and operations of the Coast Guard and that entity or organization, except that the total number of individuals detailed or assigned in this capacity may not exceed 50 individuals during any fiscal year.

(e) CHANGES TO NON-HOMELAND SECURITY MISSIONS.—

(1) PROHIBITION.—The Secretary may not make any substantial or significant change to any of the non-homeland security missions of the Coast Guard, or to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, without the prior approval of Congress as expressed in a subsequent Act. With respect to a change to the capabilities of the Coast Guard to carry out each of the non-homeland security missions, the restrictions in this paragraph shall not apply when such change shall result in an increase in those capabilities.

(2) WAIVER.—The President may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the President to Congress that a clear, compelling, and immediate state of national emergency exists that justifies such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively to the national emergency if the restrictions under paragraph (1) are not waived.

(f) ANNUAL REVIEW.—

(1) IN GENERAL.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) REPORT.—The Inspector General shall submit the detailed results of the annual review and assessment required by paragraph (1) not later than March 1 of each year directly to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) DIRECT REPORTING TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

Subtitle C—National Emergency Preparedness Enhancement

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "National Emergency Preparedness Enhancement Act of 2002".

SEC. 152. PREPAREDNESS INFORMATION AND EDUCATION.

(a) ESTABLISHMENT OF CLEARINGHOUSE.—There is established in the Department a National Clearinghouse on Emergency Preparedness (referred to in this section as the "Clearinghouse"). The Clearinghouse shall be headed by a Director.

(b) CONSULTATION.—The Clearinghouse shall consult with such heads of agencies, such task forces appointed by Federal officers or employees, and such representatives of the private sector, as appropriate, to collect information on emergency preparedness, including information relevant to a homeland security strategy.

(c) DUTIES.—

(1) DISSEMINATION OF INFORMATION.—The Clearinghouse shall ensure efficient dissemination of accurate emergency preparedness information.

(2) CENTER.—The Clearinghouse shall establish a one-stop center for emergency preparedness information, which shall include a website, with links to other relevant Federal websites, a telephone number, and staff, through which information shall be made available on—

(A) ways in which States, political subdivisions, and private entities can access Federal grants;

(B) emergency preparedness education and awareness tools that businesses, schools, and the general public can use; and

(C) other information as appropriate.

(3) PUBLIC AWARENESS CAMPAIGN.—The Clearinghouse shall develop a public awareness campaign. The campaign shall be ongoing, and shall include an annual theme to be implemented during the National Emergency Preparedness Week established under section 154. The Clearinghouse shall work with heads of agencies to coordinate public service announcements and other information-sharing tools utilizing a wide range of media.

(4) BEST PRACTICES INFORMATION.—The Clearinghouse shall compile and disseminate information on best practices for emergency preparedness identified by the Secretary and the heads of other agencies.

SEC. 153. PILOT PROGRAM.

(a) Emergency Preparedness Enhancement Pilot Program.—The Department shall award grants to private entities to pay for the Federal share of the cost of improving emergency preparedness, and educating employees and other individuals using the entities' facilities about emergency preparedness.

(b) Use of Funds.—An entity that receives a grant under this subsection may use the funds made available through the grant to—

(1) develop evacuation plans and drills;

(2) plan additional or improved security measures, with an emphasis on innovative technologies or practices;

(3) deploy innovative emergency preparedness technologies; or

(4) educate employees and customers about the development and planning activities described in paragraphs (1) and (2) in innovative ways.

(c) Federal Share.—The Federal share of the cost described in subsection (a) shall be 50 percent, up to a maximum of $250,000 per grant recipient.

(d) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

SEC. 154. DESIGNATION OF NATIONAL EMERGENCY PREPAREDNESS WEEK.

(a) National Week.—

(1) Designation.—Each week that includes September 11 is "National Emergency Preparedness Week".

(2) Proclamation.—The President is requested every year to issue a proclamation calling on the people of the United States (including State and local governments and the private sector) to observe the week with appropriate activities and programs.

(b) Federal Agency Activities.—In conjunction with National Emergency Preparedness Week, the head of each agency, as appropriate, shall coordinate with the Department to inform and educate the private sector and the general public about emergency preparedness activities, resources, and tools, giving a high priority to emergency preparedness efforts designed to address terrorist attacks.

Subtitle D—Miscellaneous Provisions

SEC. 161. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

(a) Establishment.—There is established within the Department of Defense a National Bio-Weapons Defense Analysis Center (in this section referred to as the "Center").

(b) Mission.—The mission of the Center is to develop countermeasures to potential attacks by terrorists using biological or chemical weapons that are weapons of mass destruction (as defined under section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))) and conduct research and analysis concerning such weapons.

SEC. 162. REVIEW OF FOOD SAFETY.

(a) Review of Food Safety Laws and Food Safety Organizational Structure.—The Secretary shall enter into an agreement with and provide funding to the National Academy of Sciences to conduct a detailed, comprehensive study which shall—

(1) review all Federal statutes and regulations affecting the safety and security of the food supply to determine the effectiveness of the statutes and regulations at protecting the food supply from deliberate contamination; and

(2) review the organizational structure of Federal food safety oversight to determine the efficiency and effectiveness of the organizational structure at protecting the food supply from deliberate contamination.

(b) Report.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall prepare and submit to the President, the Secretary, and Congress a comprehensive report containing—

(A) the findings and conclusions derived from the reviews conducted under subsection (a); and

(B) specific recommendations for improving—

(i) the effectiveness and efficiency of Federal food safety and security statutes and regulations; and

(ii) the organizational structure of Federal food safety oversight.

(2) Contents.—In conjunction with the recommendations under paragraph (1), the report under paragraph (1) shall address—

(A) the effectiveness with which Federal food safety statutes and regulations protect public health and ensure the food supply remains free from contamination;

(B) the shortfalls, redundancies, and inconsistencies in Federal food safety statutes and regulations;

(C) the application of resources among Federal food safety oversight agencies;

(D) the effectiveness and efficiency of the organizational structure of Federal food safety oversight;

(E) the shortfalls, redundancies, and inconsistencies of the organizational structure of Federal food safety oversight; and

(F) the merits of a unified, central organizational structure of Federal food safety oversight.

(c) Response of the Secretary.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress the response of the Department to the recommendations of the report and recommendations of the Department to further protect the food supply from contamination.

SEC. 163. EXCHANGE OF EMPLOYEES BETWEEN AGENCIES AND STATE OR LOCAL GOVERNMENTS.

(a) Findings.—Congress finds that—

(1) information sharing between Federal, State, and local agencies is vital to securing the homeland against terrorist attacks;

(2) Federal, State, and local employees working cooperatively can learn from one another and resolve complex issues;

(3) Federal, State, and local employees have specialized knowledge that should be consistently shared between and among agencies at all levels of government; and

(4) providing training and other support, such as staffing, to the appropriate Federal, State, and local agencies can enhance the ability of an agency to analyze and assess threats against the homeland, develop appropriate responses, and inform the United States public.

(b) Exchange of Employees.—

(1) In general.—The Secretary may provide for the exchange of employees of the Department and State and local agencies in accordance with subchapter VI of chapter 33 of title 5, United States Code.

(2) Conditions.—With respect to exchanges described under this subsection, the Secretary shall ensure that—

(A) any assigned employee shall have appropriate training or experience to perform the work required by the assignment; and

(B) any assignment occurs under conditions that appropriately safeguard classified and other sensitive information.

SEC. 164. WHISTLEBLOWER PROTECTION FOR FEDERAL EMPLOYEES WHO ARE AIRPORT SECURITY SCREENERS.

Section 111(d) of the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 620; 49 U.S.C. 44935 note) is amended—

(1) by striking "(d) Screener Personnel.—Notwithstanding any other provision of law," and inserting the following:

"(d) Screener Personnel.—

"(1) In general.—Notwithstanding any other provision of law (except as provided under paragraph (2)),"; and

(2) by adding at the end the following:

"(2) Whistleblower protection.—

"(A) Definition.—In this paragraph, the term "security screener" means—

"(i) any Federal employee hired as a security screener under subsection (e) of section 44935 of title 49, United States Code; or

"(ii) an applicant for the position of a security screener under that subsection.

"(B) In general.—Notwithstanding paragraph (1)—

"(i) section 2302(b)(8) of title 5, United States Code, shall apply with respect to any security screener; and

"(ii) chapters 12, 23, and 75 of that title shall apply with respect to a security screener to the extent necessary to implement clause (i).

"(C) Covered position.—The President may not exclude the position of security screener as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion would prevent the implementation of subparagraph (B) of this paragraph.".

SEC. 165. WHISTLEBLOWER PROTECTION FOR CERTAIN AIRPORT EMPLOYEES.

(a) In General.—Section 42121(a) of title 49, United States Code, is amended—

(1) by striking "(a) Discrimination Against Airline Employees.—No air carrier or contractor or subcontractor of an air carrier" and inserting the following:

"(a) Discrimination Against Employees.—

"(1) In general.—No air carrier, contractor, subcontractor, or employer described under paragraph (2)";

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(3) by adding at the end the following:

"(2) Applicable employers.—Paragraph (1) shall apply to—

"(A) an air carrier or contractor or subcontractor of an air carrier;

"(B) an employer of airport security screening personnel, other than the Federal Government, including a State or municipal government, or an airport authority, or a contractor of such government or airport authority; or

"(C) an employer of private screening personnel described in section 44919 or 44920 of this title.".

(b) Technical and Conforming Amendments.—Section 42121(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i), by striking "paragraphs (1) through (4) of subsection (a)" and inserting "subparagraphs (A) through (D) of subsection (a)(1)"; and

(2) in clause (iii), by striking "paragraphs (1) through (4) of subsection (a)" and inserting "subparagraphs (A) through (D) of subsection (a)(1)".

SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE DIVISION.

Section 319D of the Public Health Service Act (42 U.S.C. 2472–4) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b), the following:

"(c) Bioterrorism Preparedness and Response Division.—

"(1) Establishment.—There is established within the Office of the Director of the Centers for Disease Control and Prevention a Bioterrorism Preparedness and Response Division (in this subsection referred to as the 'Division').

"(2) Mission.—The Division shall have the following primary missions:

"(A) To lead and coordinate the activities and responsibilities of the Centers for Disease Control and Prevention with respect to countering bioterrorism.

"(B) To coordinate and facilitate the interaction of Centers for Disease Control and Prevention personnel with personnel from the Department of Homeland Security and, in so doing, serve as a major contact point for 2-way communications between the jurisdictions of homeland security and public health.

"(C) To train and employ a cadre of public health personnel who are dedicated full-time to the countering of bioterrorism.

"(3) Responsibilities.—In carrying out the mission under paragraph (2), the Division shall assume the responsibilities of and budget authority for the Centers for Disease Control and Prevention with respect to the following programs:

"(A) The Bioterrorism Preparedness and Response Program.

"(B) The Strategic National Stockpile.

"(C) Such other programs and responsibilities as may be assigned to the Division by the Director of the Centers for Disease Control and Prevention.

"(4) Director.—There shall be in the Division a Director, who shall be appointed by the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security.

"(5) Staffing.—Under agreements reached between the Director of the Centers for Disease Control and Prevention and the Secretary of Homeland Security—

"(A) the Division may be staffed, in part, by personnel assigned from the Department of Homeland Security by the Secretary of Homeland Security; and

"(B) the Director of the Centers for Disease Control and Prevention may assign some personnel from the Division to the Department of Homeland Security.".

SEC. 167. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) In General.—The annual Federal response plan developed by the Secretary under sections 102(b)(14) and 134(b)(7) shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) Disclosures Among Relevant Agencies.—

(1) In general.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) Public health emergency.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) Potential public health emergency.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 168. RAIL SECURITY ENHANCEMENTS.

(a) In General.—There are authorized to be appropriated to the Department, for the benefit of Amtrak, for the 2-year period beginning on the date of enactment of this Act—

(1) $375,000,000 for grants to finance the cost of enhancements to the security and safety of Amtrak rail passenger service;

(2) $778,000,000 for grants for life safety improvements to 6 New York Amtrak tunnels built in 1910, the Baltimore and Potomac Amtrak tunnel built in 1872, and the Washington, D.C. Union Station Amtrak tunnels built in 1904 under the Supreme Court and House and Senate Office Buildings; and

(3) $55,000,000 for the emergency repair, and returning to service of Amtrak passenger cars and locomotives.

(b) Availability of Funds.—Amounts appropriated under subsection (a) shall remain available until expended.

(c) Coordination With Existing Law.—Amounts made available to Amtrak under this section shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

SEC. 169. GRANTS FOR FIREFIGHTING PERSONNEL.

(a) Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

"(c) Personnel Grants.—

"(1) In general.—In addition to the grants authorized under subsection (b)(1), the Director may award grants to fire departments of a State for the purpose of hiring 'employees engaged in fire protection' as that term is defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203).

"(2) Duration.—Grants awarded under this subsection shall be for a 3-year period.

"(3) Maximum amount.—The total amount of grants awarded under this subsection shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

"(4) Federal share.—

"(A) In general.—The Federal share of a grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

"(B) Waiver.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

"(5) Application.—An application for a grant under this subsection, shall—

"(A) meet the requirements under subsection (b)(5);

"(B) include an explanation for the applicant's need for Federal assistance; and

"(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

"(6) Maintenance of effort.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources."; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

"(3) $1,000,000,000 for each of fiscal years 2003 and 2004, to be used only for grants under subsection (c).".

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) Review of Transportation Vulnerabilities and Federal Transportation Security Efforts.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit facilities and equipment;

(2) review all available information on vulnerabilities of the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) Report.—

(1) Content.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible, the cost of implementing the steps.

(2) Format.—The Comptroller General may submit the report in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) Response of the Secretary.—

(1) In general.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) Formats.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) Reports Provided to Committees.—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 171. INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(1) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(2) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(b) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan referred to in subsection (a).

(c) IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall ensure the implementation of the enterprise architecture developed under subsection (a)(1), and shall coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (a)(1).

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (a)(1).

(e) CONTENT.—The enterprise architecture developed under subsection (a)(1), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

(1) rapid deployment;

(2) a highly secure environment, providing data access only to authorized users; and

(3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(f) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under subsection (a), as necessary.

(g) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(h) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan referred to under subsection (a).

(i) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the duties of the Director under this section.

SEC. 172. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "September 30, 2003" and inserting "March 31, 2004".

SEC. 173. CONFORMING AMENDMENTS REGARDING LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

(a) TITLE 38, UNITED STATES CODE.—

(1) SECRETARY OF HOMELAND SECURITY AS HEAD OF COAST GUARD.—Title 38, United States Code, is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security" in each of the following provisions:

(A) Section 101(25)(D).

(B) Section 1974(a)(5).

(C) Section 3002(5).

(D) Section 3011(a)(1)(A)(ii), both places it appears.

(E) Section 3012(b)(1)(A)(v).

(F) Section 3012(b)(1)(B)(ii)(V).

(G) Section 3018A(a)(3).

(H) Section 3018B(a)(1)(C).

(I) Section 3018B(a)(2)(C).

(J) Section 3018C(a)(5).

(K) Section 3020(m)(4).

(L) Section 3035(d).

(M) Section 6105(c).

(2) DEPARTMENT OF HOMELAND SECURITY AS EXECUTIVE DEPARTMENT OF COAST GUARD.—Title 38, United States Code, is amended by striking "Department of Transportation" and inserting "Department of Homeland Security" in each of the following provisions:

(A) Section 1560(a).

(B) Section 3035(b)(2).

(C) Section 3035(c).

(D) Section 3035(d).

(E) Section 3035(e)(2)(C).

(F) Section 3680A(g).

(b) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—The Soldiers' and Sailors' Civil Relief Act of 1940 is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security" in each of the following provisions:

(1) Section 105 (50 U.S.C. App. 515), both places it appears.

(2) Section 300(c) (50 U.S.C. App. 530).

(c) OTHER LAWS AND DOCUMENTS.—(1) Any reference to the Secretary of Transportation, in that Secretary's capacity as the head of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Secretary of Homeland Security.

(2) Any reference to the Department of Transportation, in its capacity as the executive department of the Coast Guard when it is not operating as a service in the Navy, in any law, regulation, map, document, record, or other paper of the United States administered by the Secretary of Veterans Affairs shall be considered to be a reference to the Department of Homeland Security.

SEC. 174. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 50 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term "expanded affiliated group" means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting "more than 50 percent" for "at least 80 percent" each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term "foreign incorporated entity" means any entity which is, or but for subsection (b)

would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms "person", "domestic", and "foreign" have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

(e) EFFECTIVE DATE.—This section shall take effect 1 day after the date of the enactment of this Act.

SEC. 175. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) DEFINITION OF COVERED LAW.—In this section, the term "covered law" means—

(1) the first section of the Act of August 31, 1922 (commonly known as the "Honeybee Act") (7 U.S.C. 281);

(2) title III of the Federal Seed Act (7 U.S.C. 1581 et seq.);

(3) the Plant Protection Act (7 U.S.C. 7701 et seq.);

(4) the Animal Health Protection Act (7 U.S.C. 8301 et seq.);

(5) section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(6) the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.); and

(7) the eighth paragraph under the heading "BUREAU OF ANIMAL INDUSTRY" in the Act of March 4, 1913 (commonly known as the "Virus-Serum-Toxin Act") (21 U.S.C. 151 et seq.);

(b) TRANSFER.—

(1) IN GENERAL.—Subject to paragraph (2), there is transferred to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under each covered law.

(2) QUARANTINE ACTIVITIES.—The functions transferred under paragraph (1) shall not include any quarantine activity carried out under a covered law.

(c) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred under subsection (b) shall be exercised by the Secretary of Homeland Security in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of each covered law.

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary of Homeland Security in any case in which the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (b) under a covered law.

(3) EFFECTIVE ADMINISTRATION.—The Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred under subsection (b).

(d) TRANSFER AGREEMENT.—

(1) IN GENERAL.—Before the completion of the transition period (as defined in section 181), the Secretary of Agriculture and the Secretary of Homeland Security shall enter into an agreement to carry out this section.

(2) REQUIRED TERMS.—The agreement required by this subsection shall provide for—

(A) the supervision by the Secretary of Agriculture of the training of employees of the Secretary of Homeland Security to carry out the functions transferred under subsection (b);

(B) the transfer of funds to the Secretary of Homeland Security under subsection (e);

(C) authority under which the Secretary of Homeland Security may perform functions that—

(i) are delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants; but

(ii) are not transferred to the Secretary of Homeland Security under subsection (b); and

(D) authority under which the Secretary of Agriculture may use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(3) REVIEW AND REVISION.—After the date of execution of the agreement described in paragraph (1), the Secretary of Agriculture and the Secretary of Homeland Security—

(A) shall periodically review the agreement; and

(B) may jointly revise the agreement, as necessary.

(e) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Subject to paragraph (2), out of any funds collected as fees under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall periodically transfer to the Secretary of Homeland Security, in accordance with the agreement under subsection (d), funds for activities carried out by the Secretary of Homeland Security for which the fees were collected.

(2) LIMITATION.—The proportion of fees collected under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a) that are transferred to the Secretary of Homeland Security under paragraph (1) may not exceed the proportion that—

(A) the costs incurred by the Secretary of Homeland Security to carry out activities funded by those fees; bears to

(B) the costs incurred by the Federal Government to carry out activities funded by those fees.

(f) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period (as defined in section 181), the Secretary of Agriculture shall transfer to the Department of Homeland Security not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(g) PROTECTION OF INSPECTION ANIMALS.—

(1) DEFINITION OF SECRETARY CONCERNED.—Title V of the Agricultural Risk Protection Act of 2000 is amended—

(A) by redesignating sections 501 and 502 (7 U.S.C. 2279e, 2279f) as sections 502 and 503, respectively; and

(B) by inserting before section 502 (as redesignated by subparagraph (A)) the following:

"SEC. 501. DEFINITION OF SECRETARY CONCERNED.

"In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

(2) CONFORMING AMENDMENTS.—

(A) Section 502 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended—

(i) in subsection (a)—

(I) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(II) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture"; and

(ii) by striking "Secretary" each place it appears (other than in subsections (a) and (e)) and inserting "Secretary concerned".

(B) Section 503 of the Agricultural Risk Protection Act of 2000 (as redesignated by paragraph (1)(A)) is amended by striking "501" each place it appears and inserting "502".

(C) Section 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8411) is repealed.

SEC. 176. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term "affected agency" means—

(1) the Department of Homeland Security;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary of Homeland Security.

(b) COORDINATION.—Consistent with section 171, the Secretary of Homeland Security, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall ensure that appropriate information (as determined by the Secretary of Homeland Security) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) REPORT AND PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary of Homeland Security, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

Subtitle E—Transition Provisions

SEC. 181. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term "agency" includes any entity, organizational unit, or function transferred or to be transferred under this title.

(2) TRANSITION PERIOD.—The term "transition period" means the 1-year period beginning on the effective date of this division.

SEC. 182. TRANSFER OF AGENCIES.

The transfer of an agency to the Department, as authorized by this title, shall occur when the President so directs, but in no event later than the end of the transition period.

SEC. 183. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until an agency is transferred to the Department, any official having authority over, or functions relating to, the agency immediately before the effective date of this division shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may reasonably request in preparing for the transfer and integration of the agency into the Department.

(b) Services and Personnel.—During the transition period, upon the request of the Secretary, the head of any agency (as defined under section 2) may, on a reimbursable basis, provide services and detail personnel to assist with the transition.

(c) Acting Officials.—

(1) Designation.—During the transition period, pending the nomination and advice and consent of the Senate to the appointment of an officer required by this division to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent, and who continues as such an officer, to act in such office until the office is filled as provided in this division.

(2) Compensation.—While serving as an acting officer under paragraph (1), the officer shall receive compensation at the higher of the rate provided—

(A) under this division for the office in which that officer acts; or

(B) for the office held at the time of designation.

(3) Period of service.—The person serving as an acting officer under paragraph (1) may serve in the office for the periods described under section 3346 of title 5, United States Code, as if the office became vacant on the effective date of this division.

(d) Exception to Advice and Consent Requirement.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer—

(1) whose agency is transferred to the Department under this Act;

(2) whose appointment was by and with the advice and consent of the Senate;

(3) who is proposed to serve in a directorate or office of the Department that is similar to the transferred agency in which the officer served; and

(4) whose authority and responsibilities following such transfer would be equivalent to those performed prior to such transfer.

SEC. 184. INCIDENTAL TRANSFERS AND TRANSFER OF RELATED FUNCTIONS.

(a) Incidental Transfers.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this title, as the Director determines necessary to accomplish the purposes of this title.

(b) Adjudicatory or Review Functions.—

(1) In general.—At the time an agency is transferred to the Department, the President may also transfer to the Department any agency established to carry out or support adjudicatory or review functions in relation to the transferred agency.

(2) Exception.—The President may not transfer the Executive Office of Immigration Review of the Department of Justice under this subsection.

(c) Transfer of Related Functions.—The transfer, under this title, of an agency that is a subdivision of a department before such transfer shall include the transfer to the Secretary of any function relating to such agency that, on the date before the transfer, was exercised by the head of the department from which such agency is transferred.

(d) References.—A reference in any other Federal law, Executive order, rule, regulation, delegation of authority, or other document pertaining to an agency transferred under this title that refers to the head of the department from which such agency is transferred is deemed to refer to the Secretary.

SEC. 185. IMPLEMENTATION PROGRESS REPORTS AND LEGISLATIVE RECOMMENDATIONS.

(a) In General.—In consultation with the President and in accordance with this section, the Secretary shall prepare implementation progress reports and submit such reports to—

(1) the President of the Senate and the Speaker of the House of Representatives for referral to the appropriate committees; and

(2) the Comptroller General of the United States.

(b) Report Frequency.—

(1) Initial report.—As soon as practicable, and not later than 6 months after the date of enactment of this Act, the Secretary shall submit the first implementation progress report.

(2) Semiannual reports.—Following the submission of the report under paragraph (1), the Secretary shall submit additional implementation progress reports not less frequently than once every 6 months until all transfers to the Department under this title have been completed.

(3) Final report.—Not later than 6 months after all transfers to the Department under this title have been completed, the Secretary shall submit a final implementation progress report.

(c) Contents.—

(1) In general.—Each implementation progress report shall report on the progress made in implementing titles I and XI, including fulfillment of the functions transferred under this Act, and shall include all of the information specified under paragraph (2) that the Secretary has gathered as of the date of submission. Information contained in an earlier report may be referenced, rather than set out in full, in a subsequent report. The final implementation progress report shall include any required information not yet provided.

(2) Specifications.—Each implementation progress report shall contain, to the extent available—

(A) with respect to the transfer and incorporation of entities, organizational units, and functions—

(i) the actions needed to transfer and incorporate entities, organizational units, and functions into the Department;

(ii) a projected schedule, with milestones, for completing the various phases of the transition;

(iii) a progress report on taking those actions and meeting the schedule;

(iv) the organizational structure of the Department, including a listing of the respective directorates, the field offices of the Department, and the executive positions that will be filled by political appointees or career executives;

(v) the location of Department headquarters, including a timeframe for relocating to the new location, an estimate of cost for the relocation, and information about which elements of the various agencies will be located at headquarters;

(vi) unexpended funds and assets, liabilities, and personnel that will be transferred, and the proposed allocations and disposition within the Department; and

(vii) the costs of implementing the transition;

(B) with respect to human capital planning—

(i) a description of the workforce planning undertaken for the Department, including the preparation of an inventory of skills and competencies available to the Department, to identify any gaps, and to plan for the training, recruitment, and retention policies necessary to attract and retain a workforce to meet the needs of the Department;

(ii) the past and anticipated future record of the Department with respect to recruitment and retention of personnel;

(iii) plans or progress reports on the utilization by the Department of existing personnel flexibility, provided by law or through regulations of the President and the Office of Personnel Management, to achieve the human capital needs of the Department;

(iv) any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation under this division of functions, entities, and personnel previously covered by disparate personnel systems; and

(v) efforts to address the disparities under clause (iv) using existing personnel flexibility;

(C) with respect to information technology—

(i) an assessment of the existing and planned information systems of the Department; and

(ii) a report on the development and implementation of enterprise architecture and of the plan to achieve interoperability;

(D) with respect to programmatic implementation—

(i) the progress in implementing the programmatic responsibilities of this division;

(ii) the progress in implementing the mission of each entity, organizational unit, and function transferred to the Department;

(iii) recommendations of any other governmental entities, organizational units, or functions that need to be incorporated into the Department in order for the Department to function effectively; and

(iv) recommendations of any entities, organizational units, or functions not related to homeland security transferred to the Department that need to be transferred from the Department or terminated for the Department to function effectively.

(d) Legislative Recommendations.—

(1) Inclusion in report.—The Secretary, after consultation with the appropriate committees of Congress, shall include in the report under this section, recommendations for legislation that the Secretary determines is necessary to—

(A) facilitate the integration of transferred entities, organizational units, and functions into the Department;

(B) reorganize agencies, executive positions, and the assignment of functions within the Department;

(C) address any inequitable disparities in pay or other terms and conditions of employment among employees within the Department resulting from the consolidation of agencies, functions, and personnel previously covered by disparate personnel systems;

(D) enable the Secretary to engage in procurement essential to the mission of the Department;

(E) otherwise help further the mission of the Department; and

(F) make technical and conforming amendments to existing law to reflect the changes made by titles I and XI.

(2) SEPARATE SUBMISSION OF PROPOSED LEGISLATION.—The Secretary may submit the proposed legislation under paragraph (1) to Congress before submitting the balance of the report under this section.

SEC. 186. TRANSFER AND ALLOCATION.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the agencies transferred under this title, shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and to section 1531 of title 31, United States Code. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 187. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, recognitions of labor organizations, collective bargaining agreements, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(2) which are in effect at the time this division takes effect, or were final before the effective date of this division and are to become effective on or after the effective date of this division,

shall, to the extent related to such functions, continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary or other authorized official, or a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this division, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against an agency, or by or against any individual in the official capacity of such individual as an officer of an agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by an agency relating to a function transferred under this title may be continued by the Department with the same effect as if this title had not been enacted.

(f) EMPLOYMENT AND PERSONNEL.—

(1) TERMS AND CONDITIONS OF EMPLOYMENT.—The transfer of an employee to the Department under this Act shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(2) CONDITIONS AND CRITERIA FOR APPOINTMENT.—Any qualifications, conditions, or criteria required by law for appointments to a position in an agency, or subdivision thereof, transferred to the Department under this title, including a requirement that an appointment be made by the President, by and with the advice and consent of the Senate, shall continue to apply with respect to any appointment to the position made after such transfer to the Department has occurred.

(3) WHISTLEBLOWER PROTECTION.—The President may not exclude any position transferred to the Department as a covered position under section 2302(a)(2)(B)(ii) of title 5, United States Code, to the extent that such exclusion subject to that authority was not made before the date of enactment of this Act.

(g) NO EFFECT ON INTELLIGENCE AUTHORITIES.—The transfer of authorities, functions, personnel, and assets of elements of the United States Government under this title, or the assumption of authorities and functions by the Department under this title, shall not be construed, in cases where such authorities, functions, personnel, and assets are engaged in intelligence activities as defined in the National Security Act of 1947, as affecting the authorities of the Director of Central Intelligence, the Secretary of Defense, or the heads of departments and agencies within the intelligence community.

SEC. 188. TRANSITION PLAN.

(a) IN GENERAL.—Not later than September 15, 2002, the President shall submit to Congress a transition plan as set forth in subsection (b).

(b) CONTENTS.—

(1) IN GENERAL.—The transition plan under subsection (a) shall include a detailed—

(A) plan for the transition to the Department and implementation of this title and division B; and

(B) proposal for the financing of those operations and needs of the Department that do not represent solely the continuation of functions for which appropriations already are available.

(2) FINANCING PROPOSAL.—The financing proposal under paragraph (1)(B) may consist of any combination of specific appropriations transfers, specific reprogrammings, and new specific appropriations as the President considers advisable.

SEC. 189. USE OF APPROPRIATED FUNDS.

(a) APPLICABILITY OF THIS SECTION.—Notwithstanding any other provision of this Act or any other law, this section shall apply to the use of any funds, disposal of property, and acceptance, use, and disposal of gifts, or donations of services or property, of, for, or by the Department, including any agencies, entities, or other organizations transferred to the Department under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS TO CREATE DEPARTMENT.—There is authorized to be appropriated $160,000,000 for the Office of Homeland Security in the Executive Office of the President to be transferred without delay to the Department upon its creation by enactment of this Act, notwithstanding subsection (c)(1)(C) such funds shall be available only for the payment of necessary salaries and expenses associated with the initiation of operations of the Department.

(c) USE OF TRANSFERRED FUNDS.—

(1) IN GENERAL.—Except as may be provided in this subsection or in an appropriations Act in accordance with subsection (e), balances of appropriations and any other funds or assets transferred under this Act—

(A) shall be available only for the purposes for which they were originally available;

(B) shall remain subject to the same conditions and limitations provided by the law originally appropriating or otherwise making available the amount, including limitations and notification requirements related to the reprogramming of appropriated funds; and

(C) shall not be used to fund any new position established under this Act.

(2) TRANSFER OF FUNDS.—

(A) IN GENERAL.—After the creation of the Department and the swearing in of its Secretary, and upon determination by the Secretary that such action is necessary in the national interest, the Secretary is authorized to transfer, with the approval of the Office of Management and Budget, not to exceed $140,000,000 of unobligated funds from organizations and entities transferred to the new Department by this Act.

(B) LIMITATION.—Notwithstanding paragraph (1)(C), funds authorized to be transferred by subparagraph (A) shall be available only for payment of necessary costs, including funding of new positions, for the initiation of operations of the Department and may not be transferred unless the Committees on Appropriations are notified at least 15 days in advance of any proposed transfer and have approved such transfer in advance.

(C). NOTIFICATION.—The notification required in subparagraph (B) shall include a detailed justification of the purposes for which the funds are to be used and a detailed statement of the impact on the program or organization that is the source of the funds, and shall be submitted in accordance with reprogramming procedures to be established by the Committees on Appropriations.

(D) USE FOR OTHER ITEMS.—The authority to transfer funds established in this section may not be used unless for higher priority items, based on demonstrated homeland security requirements, than those for which funds originally were appropriated and in no case where the item for which funds are requested has been denied by Congress.

(d) NOTIFICATION REGARDING TRANSFERS.—The President shall notify Congress not less than 15 days before any transfer of appropriations balances, other funds, or assets under this Act.

(e) ADDITIONAL USES OF FUNDS DURING TRANSITION.—Subject to subsections (c) and (d), amounts transferred to, or otherwise made available to, the Department may be used during the transition period, as defined in section 801(2), for purposes in addition to those for which such amounts were originally available (including by transfer among accounts of the Department), but only to the extent such transfer or use is specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(f) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with subchapter IV of chapter 5 of title 40, United States Code.

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(g) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(h) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

Subtitle F—Administrative Provisions

SEC. 191. REORGANIZATIONS AND DELEGATIONS.

(a) REORGANIZATION AUTHORITY.—

(1) IN GENERAL.—The Secretary may, as necessary and appropriate—

(A) allocate, or reallocate, functions among officers of the Department; and

(B) establish, consolidate, alter, or discontinue organizational entities within the Department.

(2) LIMITATION.—Paragraph (1) does not apply to—

(A) any office, bureau, unit, or other entity established by law and transferred to the Department;

(B) any function vested by law in an entity referred to in subparagraph (A) or vested by law in an officer of such an entity; or

(C) the alteration of the assignment or delegation of functions assigned by this Act to any officer or organizational entity of the Department.

(b) DELEGATION AUTHORITY.—

(1) SECRETARY.—The Secretary may—

(A) delegate any of the functions of the Secretary; and

(B) authorize successive redelegations of functions of the Secretary to other officers and employees of the Department.

(2) OFFICERS.—An officer of the Department may—

(A) delegate any function assigned to the officer by law; and

(B) authorize successive redelegations of functions assigned to the officer by law to other officers and employees of the Department.

(3) LIMITATIONS.—

(A) INTERUNIT DELEGATION.—Any function assigned by this title to an organizational unit of the Department or to the head of an organizational unit of the Department may not be delegated to an officer or employee outside of that unit.

(B) FUNCTIONS.—Any function vested by law in an entity established by law and transferred to the Department or vested by law in an officer of such an entity may not be delegated to an officer or employee outside of that entity.

SEC. 192. REPORTING REQUIREMENTS.

(a) ANNUAL EVALUATIONS.—The Comptroller General of the United States shall monitor and evaluate the implementation of this title and title XI. Not later than 15 months after the effective date of this division, and every year thereafter for the succeeding 5 years, the Comptroller General shall submit a report to Congress containing—

(1) an evaluation of the implementation progress reports submitted to Congress and the Comptroller General by the Secretary under section 185;

(2) the findings and conclusions of the Comptroller General of the United States resulting from the monitoring and evaluation conducted under this subsection, including evaluations of how successfully the Department is meeting—

(A) the homeland security missions of the Department; and

(B) the other missions of the Department; and

(3) any recommendations for legislation or administrative action the Comptroller General considers appropriate.

(b) BIENNIAL REPORTS.—Every 2 years the Secretary shall submit to Congress—

(1) a report assessing the resources and requirements of executive agencies relating to border security and emergency preparedness issues; and

(2) a report certifying the preparedness of the United States to prevent, protect against, and respond to natural disasters, cyber attacks, and incidents involving weapons of mass destruction.

(c) POINT OF ENTRY MANAGEMENT REPORT.—Not later than 1 year after the effective date of this division, the Secretary shall submit to Congress a report outlining proposed steps to consolidate management authority for Federal operations at key points of entry into the United States.

(d) COMBATING TERRORISM AND HOMELAND SECURITY.—Not later than 270 days after the date of enactment of this Act, the Secretary shall—

(1) in consultation with the head of each department or agency affected by titles I, II, III, and XI, develop definitions of the terms "combating terrorism" and "homeland security" for purposes of those titles and shall consider such definitions in determining the mission of the Department; and

(2) submit a report to Congress on such definitions.

(e) RESULTS-BASED MANAGEMENT.—

(1) STRATEGIC PLAN.—

(A) IN GENERAL.—Not later than September 30, 2003, consistent with the requirements of section 306 of title 5, United States Code, the Secretary, in consultation with Congress, shall prepare and submit to the Director of the Office of Management and Budget and to Congress a strategic plan for the program activities of the Department.

(B) PERIOD; REVISIONS.—The strategic plan shall cover a period of not less than 5 years from the fiscal year in which it is submitted and it shall be updated and revised at least every 3 years.

(C) CONTENTS.—The strategic plan shall describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(2) PERFORMANCE PLAN.—

(A) IN GENERAL.—In accordance with section 1115 of title 31, United States Code, the Secretary shall prepare an annual performance plan covering each program activity set forth in the budget of the Department.

(B) CONTENTS.—The performance plan shall include—

(i) the goals to be achieved during the year;

(ii) strategies and resources required to meet the goals; and

(iii) the means used to verify and validate measured values.

(C) SCOPE.—The performance plan should describe the planned results for the non-homeland security related activities of the Department and the homeland security related activities of the Department.

(3) PERFORMANCE REPORT.—

(A) IN GENERAL.—In accordance with section 1116 of title 31, United States Code, the Secretary shall prepare and submit to the President and Congress an annual report on program performance for each fiscal year.

(B) CONTENTS.—The performance report shall include the actual results achieved during the year compared to the goals expressed in the performance plan for that year.

SEC. 193. ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH REQUIREMENTS.

The Secretary shall—

(1) ensure that the Department complies with all applicable environmental, safety, and health statutes and requirements; and

(2) develop procedures for meeting such requirements.

SEC. 194. LABOR STANDARDS.

(a) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance authorized under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act").

(b) SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the enforcement of labor standards under subsection (a), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40, United States Code.

SEC. 195. PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.

The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 196. PRESERVING NON-HOMELAND SECURITY MISSION PERFORMANCE.

(a) IN GENERAL.—For each entity transferred into the Department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the head of such entity, shall report to the Secretary, the Comptroller General, and the appropriate committees of Congress on the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.

(b) CONTENTS.—The report referred to in subsection (a) shall—

(1) to the greatest extent possible, provide an inventory of the non-homeland security functions of the entity and identify the capabilities of the entity with respect to those functions, including—

(A) the number of employees who carry out those functions;

(B) the budget for those functions; and

(C) the flexibilities, personnel or otherwise, currently used to carry out those functions;

(2) contain information related to the roles, responsibilities, missions, organizational structure, capabilities, personnel assets, and annual budgets, specifically with

respect to the capabilities of the entity to accomplish its non-homeland security missions without any diminishment; and

(3) contain information regarding whether any changes are required to the roles, responsibilities, missions, organizational structure, modernization programs, projects, activities, recruitment and retention programs, and annual fiscal resources to enable the entity to accomplish its non-homeland security missions without diminishment.

(c) TIMING.—Each Under Secretary shall provide the report referred to in subsection (a) annually, for the 5 years following the transfer of the entity to the Department.

SEC. 197. FUTURE YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, and each budget request submitted to Congress for the National Terrorism Prevention and Response Program shall be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and the fiscal year 2005 budget request for the National Terrorism Prevention and Response Program, and for any subsequent fiscal year.

SEC. 198. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL INFRASTRUCTURE.—The term "critical infrastructure" has the meaning given that term in section 1016(e) of the USA PATRIOT ACT of 2001 (42 U.S.C. 5195(e)).

(2) FURNISHED VOLUNTARILY.—

(A) DEFINITION.—The term "furnished voluntarily" means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) BENEFIT.—In this paragraph, the term "benefit" does not include any warning, alert, or other risk analysis by the Department.

(b) IN GENERAL.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) RECORDS SHARED WITH OTHER AGENCIES.—

(1) IN GENERAL.—

(A) RESPONSE TO REQUEST.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) SEGREGABLE PORTION OF RECORD.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED RECORDS.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) WITHDRAWAL OF CONFIDENTIAL DESIGNATION.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) PROCEDURES.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 199. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.
"9701. Establishment of human resources management system.

"§ 9701. Establishment of human resources management system

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

"(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 71, 72, 73, 77, and 79, and this chapter.

"(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of this title; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of this title;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of this title in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) NOTICE OF PROPOSAL.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) PREIMPLEMENTATION REQUIREMENTS.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(3) WRITTEN AGREEMENT.—Notwithstanding any other provision of this part, employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any system provided under this section unless the exclusive representative and the Secretary have entered into a written agreement, which specifically provides for the inclusion of such employees within such system. Such written agreement may be imposed by the Federal Service Impasses Panel under section 7119, after negotiations consistent with section 7117.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 181 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer pursuant to this act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 199A. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of

chapter 71 of title 5, United States Code, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employee first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) Coordination Rule.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SEC. 199B. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to—

(1) enable the Secretary to administer and manage the Department; and

(2) carry out the functions of the Department other than those transferred to the Department under this Act.

TITLE II—LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS

SEC. 201. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) In General.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

"(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

"(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

"(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

"(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

"(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

"(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

"(5) Powers authorized for an Office of Inspector General under paragraph (1) shall be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

"(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

"(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.".

(b) Promulgation of Initial Guidelines.—

(1) Definition.—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) In general.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) Minimum requirements.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) No lapse of authority.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) Effective Dates.—

(1) In general.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) Initial guidelines.—Subsection (b) shall take effect on the date of enactment of this Act.

TITLE III—FEDERAL EMERGENCY PROCUREMENT FLEXIBILITY

Subtitle A—Temporary Flexibility for Certain Procurements

SEC. 301. DEFINITION.

In this title, the term "executive agency" has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 302. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 303. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) Temporary Threshold Amounts.—For a procurement referred to in section 302 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $250,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $500,000.

(b) Simplified Acquisition Threshold Definitions.—In this section, the term "simplified acquisition threshold definitions" means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) Small Business Reserve.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 304. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 302, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $10,000.

SEC. 305. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 302 without regard to whether the property or services are commercial items.

(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 306. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 302, including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 302.

SEC. 307. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) REQUIREMENTS.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) CONTENT OF REPORT.—The report under subsection (a)(2) shall include the following matters:

(1) ASSESSMENT.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) RECOMMENDATIONS.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) CONSULTATION.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

Subtitle B—Other Matters

SEC. 311. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

TITLE IV—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 401. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 402. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 403. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) Quorum; Vacancies.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 404. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation; and

(vii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 405. POWERS OF THE COMMISSION.

(a) In General.—

(1) Hearings and evidence.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) Subpoenas.—

(A) Issuance.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the vice chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) Enforcement.—

(i) In general.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) Additional enforcement.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) Closed Meetings.—

(1) In general.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) Additional authority.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) Contracting.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) Information From Federal Agencies.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) Assistance From Federal Agencies.—

(1) General services administration.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) Other departments and agencies.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 406. STAFF OF THE COMMISSION.

(a) In General.—

(1) Appointment and compensation.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) Personnel as federal employees.—

(A) In general.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) Members of commission.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) Detailees.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) Consultant Services.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 407. COMPENSATION AND TRAVEL EXPENSES.

(a) Compensation.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) Travel Expenses.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 408. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 409. REPORTS OF THE COMMISSION; TERMINATION.

(a) Initial Report.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) Additional Reports.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This division shall take effect 30 days after the date of enactment of this Act or, if enacted within 30 days before January 1, 2003, on January 1, 2003.

DIVISION B—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

TITLE X—SHORT TITLE AND DEFINITIONS.

SEC. 1001. SHORT TITLE.

This division may be cited as the “Immigration Reform, Accountability, and Security Enhancement Act of 2002”.

SEC. 1002. DEFINITIONS.

In this division:

(1) ENFORCEMENT BUREAU.—The term “Enforcement Bureau” means the Bureau of Enforcement and Border Affairs established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) FUNCTION.—The term “function” includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) IMMIGRATION ENFORCEMENT FUNCTIONS.—The term “immigration enforcement functions” has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.

(4) IMMIGRATION LAWS OF THE UNITED STATES.—The term “immigration laws of the United States” has the meaning given the term in section 111(e) of the Immigration and Nationality Act, as added by section 1102 of this Act.

(5) IMMIGRATION POLICY, ADMINISTRATION, AND INSPECTION FUNCTIONS.—The term “immigration policy, administration, and inspection functions” has the meaning given the term in section 112(b)(3) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(6) IMMIGRATION SERVICE FUNCTIONS.—The term “immigration service functions” has the meaning given the term in section 113(b)(2) of the Immigration and Nationality Act, as added by section 1104 of this Act.

(7) OFFICE.—The term “office” includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(8) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(9) SERVICE BUREAU.—The term “Service Bureau” means the Bureau of Immigration Services established in section 113 of the Immigration and Nationality Act, as added by section 1104 of this Act.

(10) UNDER SECRETARY.—The term “Under Secretary” means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of the Immigration and Nationality Act, as added by section 1103 of this Act.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

SEC. 1101. ABOLITION OF INS.

(a) IN GENERAL.—The Immigration and Naturalization Service is abolished.

(b) REPEAL.—Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service), is repealed.

SEC. 1102. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

(a) ESTABLISHMENT.—Title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) by inserting “**CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES**” after “**TITLE I—GENERAL**”; and

(2) by adding at the end the following:

“CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

“SEC. 111. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

“(a) ESTABLISHMENT.—There is established within the Department of Homeland Security the Directorate of Immigration Affairs.

“(b) PRINCIPAL OFFICERS.—The principal officers of the Directorate are the following:

“(1) The Under Secretary of Homeland Security for Immigration Affairs appointed under section 112.

“(2) The Assistant Secretary of Homeland Security for Immigration Services appointed under section 113.

“(3) The Assistant Secretary of Homeland Security for Enforcement and Border Affairs appointed under section 114.

“(c) FUNCTIONS.—Under the authority of the Secretary of Homeland Security, the Directorate shall perform the following functions:

“(1) Immigration policy, administration, and inspection functions, as defined in section 112(b).

“(2) Immigration service and adjudication functions, as defined in section 113(b).

“(3) Immigration enforcement functions, as defined in section 114(b).

“(d) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out the functions of the Directorate.

“(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

“(e) IMMIGRATION LAWS OF THE UNITED STATES DEFINED.—In this chapter, the term ‘immigration laws of the United States’ means the following:

“(1) This Act.

“(2) Such other statutes, Executive orders, regulations, or directives, treaties, or other international agreements to which the United States is a party, insofar as they relate to the admission to, detention in, or removal from the United States of aliens, insofar as they relate to the naturalization of aliens, or insofar as they otherwise relate to the status of aliens.”.

(b) CONFORMING AMENDMENTS.—(1) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) by striking section 101(a)(34) (8 U.S.C. 1101(a)(34)) and inserting the following:

“(34) The term ‘Directorate’ means the Directorate of Immigration Affairs established by section 111.”;

(B) by adding at the end of section 101(a) the following new paragraphs:

“(51) The term ‘Secretary’ means the Secretary of Homeland Security.

“(52) The term ‘Department’ means the Department of Homeland Security.”;

(C) by striking “Attorney General” and “Department of Justice” each place it appears and inserting “Secretary” and “Department”, respectively;

(D) in section 101(a)(17) (8 U.S.C. 1101(a)(17)), by striking “The” and inserting “Except as otherwise provided in section 111(e), the”; and

(E) by striking “Immigration and Naturalization Service”, “Service”, and “Service’s” each place they appear and inserting “Directorate of Immigration Affairs”, “Directorate”, and “Directorate’s”, respectively.

(2) Section 6 of the Act entitled “An Act to authorize certain administrative expenses for the Department of Justice, and for other purposes”, approved July 28, 1950 (64 Stat. 380), is amended—

(A) by striking “Immigration and Naturalization Service” and inserting “Directorate of Immigration Affairs”;

(B) by striking clause (a); and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1103. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

“SEC. 112. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

“(a) UNDER SECRETARY OF IMMIGRATION AFFAIRS.—The Directorate shall be headed by an Under Secretary of Homeland Security for Immigration Affairs who shall be appointed in accordance with section 103(c) of the Immigration and Nationality Act.

“(b) RESPONSIBILITIES OF THE UNDER SECRETARY.—

“(1) IN GENERAL.—The Under Secretary shall be charged with any and all responsibilities and authority in the administration of the Directorate and of this Act which are conferred upon the Secretary as may be delegated to the Under Secretary by the Secretary or which may be prescribed by the Secretary.

“(2) DUTIES.—Subject to the authority of the Secretary under paragraph (1), the Under Secretary shall have the following duties:

“(A) IMMIGRATION POLICY.—The Under Secretary shall develop and implement policy under the immigration laws of the United States. The Under Secretary shall propose, promulgate, and issue rules, regulations, and statements of policy with respect to any function within the jurisdiction of the Directorate.

“(B) ADMINISTRATION.—The Under Secretary shall have responsibility for—

"(i) the administration and enforcement of the functions conferred upon the Directorate under section 1111(c) of this Act; and

"(ii) the administration of the Directorate, including the direction, supervision, and coordination of the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

"(C) INSPECTIONS.—The Under Secretary shall be directly responsible for the administration and enforcement of the functions of the Directorate under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

"(3) ACTIVITIES.—As part of the duties described in paragraph (2), the Under Secretary shall do the following:

"(A) RESOURCES AND PERSONNEL MANAGEMENT.—The Under Secretary shall manage the resources, personnel, and other support requirements of the Directorate.

"(B) INFORMATION RESOURCES MANAGEMENT.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including the maintenance of records and databases and the coordination of records and other information within the Directorate, and shall ensure that the Directorate obtains and maintains adequate information technology systems to carry out its functions.

"(C) COORDINATION OF RESPONSE TO CIVIL RIGHTS VIOLATIONS.—The Under Secretary shall coordinate, with the Civil Rights Officer of the Department of Homeland Security or other officials, as appropriate, the resolution of immigration issues that involve civil rights violations.

"(D) RISK ANALYSIS AND RISK MANAGEMENT.—Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

"(3) DEFINITION.—In this chapter, the term "immigration policy, administration, and inspection functions" means the duties, activities, and powers described in this subsection.

"(c) GENERAL COUNSEL.—

"(1) IN GENERAL.—There shall be within the Directorate a General Counsel, who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary.

"(2) FUNCTION.—The General Counsel shall—

"(A) serve as the chief legal officer for the Directorate; and

"(B) be responsible for providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Under Secretary with respect to legal matters affecting the Directorate, and any of its components.

"(d) FINANCIAL OFFICERS FOR THE DIRECTORATE OF IMMIGRATION AFFAIRS.—

"(1) CHIEF FINANCIAL OFFICER.—

"(A) IN GENERAL.—There shall be within the Directorate a Chief Financial Officer. The position of Chief Financial Officer shall be a career reserved position in the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Directorate. For purposes of section 902(a)(1) of such title, the Under Secretary shall be deemed to be an agency head.

"(B) FUNCTIONS.—The Chief Financial Officer shall be responsible for directing, supervising, and coordinating all budget formulas and execution for the Directorate.

"(2) DEPUTY CHIEF FINANCIAL OFFICER.—The Directorate shall be deemed to be an agency for purposes of section 903 of such title (relating to Deputy Chief Financial Officers).

"(e) CHIEF OF POLICY.—

"(1) IN GENERAL.—There shall be within the Directorate a Chief of Policy. Under the authority of the Under Secretary, the Chief of Policy shall be responsible for—

"(A) establishing national immigration policy and priorities;

"(B) performing policy research and analysis on issues arising under the immigration laws of the United States; and

"(C) coordinating immigration policy between the Directorate, the Service Bureau, and the Enforcement Bureau.

"(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

"(f) CHIEF OF CONGRESSIONAL, INTERGOVERNMENTAL, AND PUBLIC AFFAIRS.—

"(1) IN GENERAL.—There shall be within the Directorate a Chief of Congressional, Intergovernmental, and Public Affairs. Under the authority of the Under Secretary, the Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

"(A) providing to Congress information relating to issues arising under the immigration laws of the United States, including information on specific cases;

"(B) serving as a liaison with other Federal agencies on immigration issues; and

"(C) responding to inquiries from, and providing information to, the media on immigration issues.

"(2) WITHIN THE SENIOR EXECUTIVE SERVICE.—The position of Chief of Congressional, Intergovernmental, and Public Affairs shall be a Senior Executive Service position under section 5382 of title 5, United States Code.".

(b) COMPENSATION OF THE UNDER SECRETARY.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Immigration Affairs, Department of Justice.".

(c) COMPENSATION OF GENERAL COUNSEL AND CHIEF FINANCIAL OFFICER.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel, Directorate of Immigration Affairs, Department of Homeland Security.

"Chief Financial Officer, Directorate of Immigration Affairs, Department of Homeland Security.".

(d) REPEALS.—The following provisions of law are repealed:

(1) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(2) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of assistant commissioners and district directors).

(3) Section 1 of the Act of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(e) CONFORMING AMENDMENTS.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:

"(8) The term 'Under Secretary' means the Under Secretary of Homeland Security for Immigration Affairs who is appointed under section 103(c).".

(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking "Commissioner of Immigration and Naturalization" and "Commissioner" each place they appear and inserting "Under Secretary of Homeland Security for Immigration Affairs" and "Under Secretary", respectively.

(C) The amendments made by subparagraph (B) do not apply to references to the "Commissioner of Social Security" in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

(2) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended—

(A) in subsection (c), by striking "Commissioner" and inserting "Under Secretary";

(B) in the section heading, by striking "COMMISSIONER" and inserting "UNDER SECRETARY";

(C) in subsection (d), by striking "Commissioner" and inserting "Under Secretary"; and

(D) in subsection (e), by striking "Commissioner" and inserting "Under Secretary".

(3) Sections 104 and 105 of the Immigration and Nationality Act (8 U.S.C. 1104, 1105) are amended by striking "Director" each place it appears and inserting "Assistant Secretary of State for Consular Affairs".

(4) Section 104(c) of the Immigration and Nationality Act (8 U.S.C. 1104(c)) is amended—

(A) in the first sentence, by striking "Passport Office, a Visa Office," and inserting "a Passport Services office, a Visa Services office, an Overseas Citizen Services office,"; and

(B) in the second sentence, by striking "the Passport Office and the Visa Office" and inserting "the Passport Services office and the Visa Services office".

(5) Section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Immigration and Naturalization, Department of Justice.".

(f) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Commissioner of Immigration and Naturalization shall be deemed to refer to the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1104. BUREAU OF IMMIGRATION SERVICES.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"SEC. 113. BUREAU OF IMMIGRATION SERVICES.

"(a) ESTABLISHMENT OF BUREAU.—

"(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the 'Service Bureau').

"(2) ASSISTANT SECRETARY.—The head of the Service Bureau shall be the Assistant Secretary of Homeland Security for Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

"(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Services shall administer the immigration service functions of the Directorate.

"(2) IMMIGRATION SERVICE FUNCTIONS DEFINED.—In this chapter, the term 'immigration service functions' means the following functions under the immigration laws of the United States:

"(A) Adjudications of petitions for classification of nonimmigrant and immigrant status.

"(B) Adjudications of applications for adjustment of status and change of status.

"(C) Adjudications of naturalization applications.

"(D) Adjudications of asylum and refugee applications.

"(E) Adjudications performed at Service centers.

"(F) Determinations concerning custody and parole of asylum seekers who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, including determinations under section 236B.

"(G) All other adjudications under the immigration laws of the United States.

"(c) CHIEF BUDGET OFFICER OF THE SERVICE BUREAU.—There shall be within the Service Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Service Bureau shall be responsible for monitoring and supervising all financial activities of the Service Bureau.

"(d) QUALITY ASSURANCE.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to the immigration service functions of the Directorate are properly implemented; and

"(2) ensure that Service Bureau policies or practices result in sound records management and efficient and accurate service.

"(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Service Bureau and for receiving and investigating charges of misconduct or ill treatment made by the public.

"(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.".

(b) COMPENSATION OF ASSISTANT SECRETARY OF SERVICE BUREAU.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Homeland Security for Immigration Services, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) SERVICE BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Services, shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consider the location's proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.

(2) TRANSITION PROVISION.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1105. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103 and 1104, is further amended by adding at the end the following:

"SEC. 114. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

"(a) ESTABLISHMENT OF BUREAU.—

"(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Enforcement and Border Affairs (in this chapter referred to as the 'Enforcement Bureau').

"(2) ASSISTANT SECRETARY.—The head of the Enforcement Bureau shall be the Assistant Secretary of Homeland Security for Enforcement and Border Affairs (in this chapter referred to as the 'Assistant Secretary for Immigration Enforcement'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

"(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Enforcement shall administer the immigration enforcement functions of the Directorate.

"(2) IMMIGRATION ENFORCEMENT FUNCTIONS DEFINED.—In this chapter, the term 'immigration enforcement functions' means the following functions under the immigration laws of the United States:

"(A) The border patrol function.

"(B) The detention function, except as specified in section 113(b)(2)(F).

"(C) The removal function.

"(D) The intelligence function.

"(E) The investigations function.

"(c) CHIEF BUDGET OFFICER OF THE ENFORCEMENT BUREAU.—There shall be within the Enforcement Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Enforcement Bureau shall be responsible for monitoring and supervising all financial activities of the Enforcement Bureau.

"(d) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Enforcement Bureau and receiving charges of misconduct or ill treatment made by the public and investigating the charges.

"(e) OFFICE OF QUALITY ASSURANCE.—There shall be within the Enforcement Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to immigration enforcement functions are properly implemented; and

"(2) ensure that Enforcement Bureau policies or practices result in sound record management and efficient and accurate recordkeeping.

"(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Enforcement Bureau.".

(b) COMPENSATION OF ASSISTANT SECRETARY OF ENFORCEMENT BUREAU.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Security of Homeland Security for Enforcement and Border Affairs, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) ENFORCEMENT BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Enforcement, shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall make selections according to trends in unlawful entry and unlawful presence, alien smuggling, national security concerns, the number of Federal prosecutions of immigration-related offenses in a given geographic area, and other enforcement considerations. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Enforcement Bureau offices adequately serve enforcement needs.

(2) TRANSITION PROVISION.—In determining the location of Enforcement Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1106. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 115. OFFICE OF THE OMBUDSMAN FOR IMMIGRATION AFFAIRS.

"(a) IN GENERAL.—There is established within the Directorate the Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

"(b) OMBUDSMAN.—

"(1) APPOINTMENT.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

"(2) COMPENSATION.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of Homeland Security so determines, at a rate fixed under section 9503 of such title.

"(c) FUNCTIONS OF OFFICE.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

"(1) to assist individuals in resolving problems with the Directorate or any component thereof;

"(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

"(3) to propose changes in the administrative practices or regulations of the Directorate, or any component thereof, to mitigate problems identified under paragraph (2);

"(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

"(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

"(d) Personnel Actions.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems.

"(e) Annual Report.—Not later than December 31 of each year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

"(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

"(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

"(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action;

"(4) an accounting of the items described in paragraphs (1) and (2) for which action remains to be completed;

"(5) an accounting of the items described in paragraphs (1) and (2) for which no action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction;

"(6) recommendations as may be appropriate to resolve problems encountered by the public;

"(7) recommendations as may be appropriate to resolve problems encountered by the public, including problems created by backlogs in the adjudication and processing of petitions and applications;

"(8) recommendations to resolve problems caused by inadequate funding or staffing; and

"(9) such other information as the Ombudsman may deem advisable.

"(f) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to the Office of the Ombudsman such sums as may be necessary to carry out its functions.

"(2) Availability of funds.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.".

SEC. 1107. OFFICE OF IMMIGRATION STATISTICS WITHIN THE DIRECTORATE.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 116. OFFICE OF IMMIGRATION STATISTICS.

"(a) Establishment.—There is established within the Directorate an Office of Immigration Statistics (in this section referred to as the 'Office'), which shall be headed by a Director who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Office shall collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Directorate and the Executive Office for Immigration Review (or its successor entity).

"(b) Responsibilities of Director.—The Director of the Office shall be responsible for the following:

"(1) Statistical information.—Maintenance of all immigration statistical information of the Directorate of Immigration Affairs.

"(2) Standards of reliability and validity.—Establishment of standards of reliability and validity for immigration statistics collected by the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity).

"(c) Relation to the Directorate of Immigration Affairs and the Executive Office for Immigration Review.—

"(1) Other authorities.—The Directorate and the Executive Office for Immigration Review (or its successor entity) shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review (or its successor entity), respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

"(2) Databases.—The Director of the Office, under the direction of the Secretary, shall ensure the interoperability of the databases of the Directorate, the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity) to permit the Director of the Office to perform the duties of such office.".

(b) Transfer of Functions.—There are transferred to the Directorate of Immigration Affairs for exercise by the Under Secretary through the Office of Immigration Statistics established by section 116 of the Immigration and Nationality Act, as added by subsection (a), the functions performed by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service, and the statistical functions performed by the Executive Office for Immigration Review (or its successor entity), on the day before the effective date of this title.

SEC. 1108. CLERICAL AMENDMENTS.

The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to the heading for title I the following:

"Chapter 1—Definitions and General Authorities";

(2) by striking the item relating to section 103 and inserting the following:

"Sec. 103. Powers and duties of the Secretary of Homeland Security and the Under Secretary of Homeland Security for Immigration Affairs.";

and

(3) by inserting after the item relating to section 106 the following:

"Chapter 2—Directorate of Immigration Affairs

"Sec. 111. Establishment of Directorate of Immigration Affairs.
"Sec. 112. Under Secretary of Homeland Security for Immigration Affairs.
"Sec. 113. Bureau of Immigration Services.
"Sec. 114. Bureau of Enforcement and Border Affairs.
"Sec. 115. Office of the Ombudsman for Immigration Affairs.
"Sec. 116. Office of Immigration Statistics.".

Subtitle B—Transition Provisions

SEC. 1111. TRANSFER OF FUNCTIONS.

(a) In General.—

(1) Functions of the attorney general.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Attorney General, immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Secretary through the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(2) Functions of the commissioner or the ins.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Directorate of Immigration Affairs on such effective date for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(b) Exercise of Authorities.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Directorate of Immigration Affairs under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 1112. TRANSFER OF PERSONNEL AND OTHER RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the Under Secretary for appropriate allocation in accordance with section 1115—

(1) the personnel of the Department of Justice employed in connection with the functions transferred under this title; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title.

SEC. 1113. DETERMINATIONS WITH RESPECT TO FUNCTIONS AND RESOURCES.

Under the direction of the Secretary, the Under Secretary shall determine, in accordance with the corresponding criteria set forth in sections 1112(b), 1113(b), and 1114(b) of the Immigration and Nationality Act (as added by this title)—

(1) which of the functions transferred under section 1111 are—

(A) immigration policy, administration, and inspection functions;

(B) immigration service functions; and

(C) immigration enforcement functions; and

(2) which of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112 were held or used, arose from, were available to, or were made available, in connection with the performance of the respective functions specified in paragraph (1) immediately prior to the effective date of this title.

SEC. 1114. DELEGATION AND RESERVATION OF FUNCTIONS.

(a) IN GENERAL.—

(1) DELEGATION TO THE BUREAUS.—Under the direction of the Secretary, and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), the Under Secretary shall delegate—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement.

(2) RESERVATION OF FUNCTIONS.—Subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), immigration policy, administration, and inspection functions shall be reserved for exercise by the Under Secretary.

(b) NONEXCLUSIVE DELEGATIONS AUTHORIZED.—Delegations made under subsection (a) may be on a nonexclusive basis as the Under Secretary may determine may be necessary to ensure the faithful execution of the Under Secretary's responsibilities and duties under law.

(c) EFFECT OF DELEGATIONS.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Under Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau, respectively, as the Under Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

(d) STATUTORY CONSTRUCTION.—Nothing in this division may be construed to limit the authority of the Under Secretary, acting directly or by delegation under the Secretary, to establish such offices or positions within the Directorate of Immigration Affairs, in addition to those specified by this division, as the Under Secretary may determine to be necessary to carry out the functions of the Directorate.

SEC. 1115. ALLOCATION OF PERSONNEL AND OTHER RESOURCES.

(a) AUTHORITY OF THE UNDER SECRETARY.—

(1) IN GENERAL.—Subject to paragraph (2) and section 1114(b), the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the performance of the respective functions, as determined under section 1113, in accordance with the delegation of functions and the reservation of functions made under section 1114.

(2) LIMITATION.—Unexpended funds transferred pursuant to section 1112 shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) AUTHORITY TO TERMINATE AFFAIRS OF INS.—The Attorney General in consultation with the Secretary, shall provide for the termination of the affairs of the Immigration and Naturalization Service and such further measures and dispositions as may be necessary to effectuate the purposes of this division.

(c) TREATMENT OF SHARED RESOURCES.—The Under Secretary is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau. The Under Secretary shall maintain oversight and control over the shared computer databases and systems and records management.

SEC. 1116. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) PROCEEDINGS.—

(1) PENDING.—Sections 111 through 116 of the Immigration and Nationality Act, as added by subtitle A of this title, shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred under this title, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This title, and the amendments made by this title, shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title, and the amendments made by this title, had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and such function is transferred under this title to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred under this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred.

SEC. 1117. INTERIM SERVICE OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

The individual serving as the Commissioner of Immigration and Naturalization on the day before the effective date of this title may serve as Under Secretary until the date on which an Under Secretary is appointed under section 112 of the Immigration and Nationality Act, as added by section 1103.

SEC. 1118. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by the Executive Office for Immigration Review of the Department of Justice (or its successor entity), or any officer, employee, or component thereof immediately prior to the effective date of this title.

SEC. 1119. OTHER AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Basic Authorities Act of 1956, or under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to the issuance and use of passports and visas;

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(3) except as otherwise specifically provided in this division, any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

SEC. 1120. TRANSITION FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS FOR TRANSITION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—

(A) to effect—

(i) the abolition of the Immigration and Naturalization Service;

(ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement and Border Affairs; and

(iii) the transfer of functions required to be made under this division; and

(B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) ACTIVITIES SUPPORTED.—Activities supported under paragraph (1) include—

(A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration

Affairs, including the preparation of any reports and implementation plans necessary for such transfer;

(B) the division, acquisition, and disposition of—

(i) buildings and facilities;

(ii) support and infrastructure resources; and

(iii) computer hardware, software, and related documentation;

(C) other capital expenditures necessary to effect the transfer of functions described in this paragraph;

(D) revision of forms, stationery, logos, and signage;

(E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and

(F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) Availability of Funds.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) Transition Account.—

(1) Establishment.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the "Directorate of Immigration Affairs Transition Account" (in this section referred to as the "Account").

(2) Use of account.—There shall be deposited into the Account all amounts appropriated under subsection (a) and amounts reprogrammed for the purposes described in subsection (a).

(d) Report to Congress on Transition.—Beginning not later than 90 days after the effective date of division A of this Act, and at the end of each fiscal year in which appropriations are made pursuant to subsection (c), the Secretary of Homeland Security shall submit a report to Congress concerning the availability of funds to cover transition costs, including—

(1) any unobligated balances available for such purposes; and

(2) a calculation of the amount of appropriations that would be necessary to fully fund the activities described in subsection (a).

(e) Effective Date.—This section shall take effect 1 year after the effective date of division A of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1121. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

(a) Level of Fees.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants" and inserting "services".

(b) Use of Fees.—

(1) In general.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refugee applicants.

(2) Prohibition.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of operation.

(c) Refugee and Asylum Adjudication Services.—

(1) Authorization of appropriations.—In addition to such sums as may be otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.

(2) Availability of funds.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) Separation of Funding.—

(1) In general.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other collections available for the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

(2) Fees.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(3) Fees not transferable.—No fee may be transferred between the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs for purposes not authorized by section 286 of the Immigration and Nationality Act, as amended by subsection (a).

(e) Authorization of Appropriations for Backlog Reduction.—

(1) In general.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out the Immigration Services and Infrastructure Improvement Act of 2000 (title II of Public Law 106–313).

(2) Availability of funds.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) Infrastructure improvement account.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvements Account established by section 204(a)(2) of title II of Public Law 106–313.

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) Establishment of On-Line Database.—

(1) In general.—Not later than 2 years after the effective date of division A, the Secretary, in consultation with the Under Secretary and the Technology Advisory Committee, shall establish an Internet-based system that will permit an immigrant, nonimmigrant, employer, or other person who files any application, petition, or other request for any benefit under the immigration laws of the United States access to on-line information about the processing status of the application, petition, or other request.

(2) Privacy considerations.—The Under Secretary shall consider all applicable privacy issues in the establishment of the Internet system described in paragraph (1). No personally identifying information shall be accessible to unauthorized persons.

(3) Means of access.—The on-line information under the Internet system described in paragraph (1) shall be accessible to the persons described in paragraph (1) through a personal identification number (PIN) or other personalized password.

(4) Prohibition on fees.—The Under Secretary shall not charge any immigrant, nonimmigrant, employer, or other person described in paragraph (1) a fee for access to the information in the database that pertains to that person.

(b) Feasibility Study for On-Line Filing and Improved Processing.—

(1) On-line filing.—

(A) In general.—The Under Secretary, in consultation with the Technology Advisory Committee, shall conduct a study to determine the feasibility of on-line filing of the documents described in subsection (a).

(B) Study elements.—The study shall—

(i) include a review of computerization and technology of the Immigration and Naturalization Service (or successor agency) relating to immigration services and the processing of such documents;

(ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and

(iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.

(2) Report.—Not later than 2 years after the effective date of division A, the Under Secretary shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the findings of the study conducted under this subsection.

(c) Technology Advisory Committee.—

(1) Establishment.—Not later than 1 year after the effective date of division A, the Under Secretary shall establish, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Under Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

(2) Composition.—The Technology Advisory Committee shall be composed of—

(A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and

(B) representatives of persons or entities who may use the tracking system described in subsection (a) and the on-line filing system described in subsection (b)(1).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) Assignments of Asylum Officers.—The Under Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take steps to ensure that asylum officers participate in the inspections process.

(b) Amendment of the Immigration and Nationality Act.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 236A the following new section:

"SEC. 236B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

"(a) Development of Alternatives to Detention.—The Under Secretary shall—

"(1) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and

"(2) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

"(b) Specific Alternatives for Consideration.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):

"(1) Parole from detention.

"(2) For individuals not otherwise qualified for parole under paragraph (1), parole with appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-secure shelter care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(4) Noninstitutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(c) Regulations.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

"(d) Definition.—In this section, the term 'asylum seeker' means any applicant for asylum under section 208 or any alien who indicates an intention to apply for asylum under that section.".

(b) Clerical Amendment.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236A the following new item:

"Sec. 236B. Alternatives to detention of asylum seekers.".

Subtitle D—Effective Date

SEC. 1131. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect one year after the effective date of division A of this Act.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Unaccompanied Alien Child Protection Act of 2002".

SEC. 1202. DEFINITIONS.

(a) In General.—In this title:

(1) Director.—The term "Director" means the Director of the Office.

(2) Office.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act.

(3) Service.—The term "Service" means the Immigration and Naturalization Service (or, upon the effective date of title XI, the Directorate of Immigration Affairs).

(4) Unaccompanied alien child.—The term "unaccompanied alien child" means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(5) Voluntary agency.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children as licensed by the appropriate State and certified by the Director of the Office of Refugee Resettlement.

(b) Amendments to the Immigration and Nationality Act.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(53) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(54) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

Subtitle A—Structural Changes

SEC. 1211. RESPONSIBILITIES OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) In General.—

(1) Responsibilities of the office.—The Office shall be responsible for—

(A) coordinating and implementing the care and placement for unaccompanied alien children who are in Federal custody by reason of their immigration status; and

(B) ensuring minimum standards of detention for all unaccompanied alien children.

(2) Duties of the director with respect to unaccompanied alien children.—The Director shall be responsible under this title for—

(A) ensuring that the best interests of the child are considered in decisions and actions relating to the care and placement of an unaccompanied alien child;

(B) making placement, release, and detention determinations for all unaccompanied alien children in the custody of the Office;

(C) implementing the placement, release, and detention determinations made by the Office;

(D) convening, in the absence of the Assistant Secretary, Administration for Children and Families of the Department of Health and Human Services, the Interagency Task Force on Unaccompanied Alien Children established in section 1212;

(E) identifying a sufficient number of qualified persons, entities, and facilities to house unaccompanied alien children in accordance with sections 1222 and 1223;

(F) overseeing the persons, entities, and facilities described in sections 1222 and 1223 to ensure their compliance with such provisions;

(G) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to contract with the Office to provide the services described in sections 1231 and 1232;

(H) maintaining statistical information and other data on unaccompanied alien children in the Office's custody and care, which shall include—

(i) biographical information such as the child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody, including each instance in which such child came into the custody of—

(I) the Service; or

(II) the Office;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the detention; and

(v) the disposition of any actions in which the child is the subject;

(I) collecting and compiling statistical information from the Service, including Border Patrol and inspections officers, on the unaccompanied alien children with whom they come into contact; and

(J) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(3) Duties with respect to foster care.—In carrying out the duties described in paragraph (3)(F), the Director is encouraged to utilize the refugee children foster care system established under section 412(d)(2) of the Immigration and Nationality Act for the placement of unaccompanied alien children.

(4) Powers.—In carrying out the duties under paragraph (3), the Director shall have the power to—

(A) contract with service providers to perform the services described in sections 1222, 1223, 1231, and 1232; and

(B) compel compliance with the terms and conditions set forth in section 1223, including the power to terminate the contracts of providers that are not in compliance with such conditions and reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(b) No Effect on Service, EOIR, and Department of State Adjudicatory Responsibilities.—Nothing in this title may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act from the authority of any official of the Service, the Executive Office of Immigration Review (or successor entity), or the Department of State.

SEC. 1212. ESTABLISHMENT OF INTERAGENCY TASK FORCE ON UNACCOMPANIED ALIEN CHILDREN.

(a) Establishment.—There is established an Interagency Task Force on Unaccompanied Alien Children.

(b) Composition.—The Task Force shall consist of the following members:

(1) The Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(2) The Under Secretary of Homeland Security for Immigration Affairs.

(3) The Assistant Secretary of State for Population, Refugees, and Migration.

(4) The Director.

(5) Such other officials in the executive branch of Government as may be designated by the President.

(c) Chairman.—The Task Force shall be chaired by the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(d) Activities of the Task Force.—In consultation with nongovernmental organizations, the Task Force shall—

(1) measure and evaluate the progress of the United States in treating unaccompanied alien children in United States custody; and

(2) expand interagency procedures to collect and organize data, including significant research and resource information on the needs and treatment of unaccompanied alien children in the custody of the United States Government.

SEC. 1213. TRANSITION PROVISIONS.

(a) Transfer of Functions.—All functions with respect to the care and custody of unaccompanied alien children under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component thereof), immediately prior to the effective date of this subtitle, are transferred to the Office.

(b) Transfer and Allocations of Appropriations and Personnel.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) Legal Documents.—All orders, determinations, rules, regulations, permits,

grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) Proceedings.—

(1) Pending.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) Orders.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) Discontinuance or modification.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) Suits.—This section shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) Continuance of Suit With Substitution of Parties.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) Administrative Procedure and Judicial Review.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1221. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) Unaccompanied Children Found Along the United States Border or at United States Ports of Entry.—

(1) In general.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act; and

(B) remove such child from the United States.

(2) Special rule for contiguous countries.—

(A) In general.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(ii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iii) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) Right of consultation.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right.

(3) Rule for apprehensions at the border.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) Custody of Unaccompanied Alien Children Found in the Interior of the United States.—

(1) Establishment of jurisdiction.—

(A) In general.—Except as otherwise provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) Exception for children who have committed crimes.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act, while such charges are pending; or

(ii) has been convicted of any such felony.

(C) Exception for children who threaten national security.—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of an unaccompanied alien child if the Secretary of Homeland Security has substantial evidence that such child endangers the national security of the United States.

(2) Notification.—Upon apprehension of an unaccompanied alien child, the Secretary shall promptly notify the Office.

(3) Transfer of unaccompanied alien children.—

(A) Transfer to the office.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child; or

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), immediately following a determination that the child no longer meets the description set forth in such paragraph.

(B) Transfer to the service.—Upon determining that a child in the custody of the Office is described in paragraph (1) (B) or (C), the Director shall promptly make arrangements to transfer the care and custody of such child to the Service.

(c) Age Determinations.—In any case in which the age of an alien is in question and the resolution of questions about such alien's age would affect the alien's eligibility for treatment under the provisions of this title, a determination of whether such alien meets the age requirements of this title shall be made in accordance with the provisions of section 1225.

SEC. 1222. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) Placement Authority.—

(1) Order of preference.—Subject to the Director's discretion under paragraph (4) and section 1223(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with one of the following individuals in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the child's well-being.

(E) A State-licensed juvenile shelter, group home, or foster home willing to accept legal custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

(2) Home study.—Notwithstanding the provisions of paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid home-study conducted by an agency of the State of the child's proposed residence, by an agency authorized by

that State to conduct such a study, or by an appropriate voluntary agency contracted with the Office to conduct such studies has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Programme of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—The Director shall take affirmative steps to ensure that unaccompanied alien children are protected from smugglers, traffickers, or others seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity. Attorneys involved in such activities should be reported to their State bar associations for disciplinary action.

(5) GRANTS AND CONTRACTS.—Subject to the availability of appropriations, the Director is authorized to make grants to, and enter into contracts with, voluntary agencies to carry out the provisions of this section.

(6) REIMBURSEMENT OF STATE EXPENSES.—Subject to the availability of appropriations, the Director is authorized to reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title.

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person listed in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

SEC. 1223. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—In the case of a placement of a child with an entity described in section 1222(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Such regulations shall provide that all children are notified orally and in writing of such standards.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary of Homeland Security shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 1224. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) ASSESSMENT OF CONDITIONS.—

(A) IN GENERAL.—In carrying out repatriations of unaccompanied alien children, the Office shall conduct assessments of country conditions to determine the extent to which the country to which a child is being repatriated has a child welfare system capable of ensuring the child's well being.

(B) FACTORS FOR ASSESSMENT.—In assessing country conditions, the Office shall, to the maximum extent practicable, examine the conditions specific to the locale of the child's repatriation.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—Beginning not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Judiciary Committees of the House of Representatives and Senate on the Director's efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(1) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(2) A description of the type of immigration relief sought and denied to such children.

(3) A statement of the nationalities, ages, and gender of such children.

(4) A description of the procedures used to effect the removal of such children from the United States.

(5) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(6) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 1225. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

The Director shall develop procedures that permit the presentation and consideration of a variety of forms of evidence, including testimony of a child and other persons, to determine an unaccompanied alien child's age for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge. Radiographs shall not be the sole means of determining age.

SEC. 1226. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 1231. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM.

(a) GUARDIAN AD LITEM.—

(1) APPOINTMENT.—The Director shall appoint a guardian ad litem who meets the qualifications described in paragraph (2) for each unaccompanied alien child in the custody of the Office not later than 72 hours after the Office assumes physical or constructive custody of such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—

(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Service.

(3) DUTIES.—The guardian ad litem shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) ensure that the child's best interests are promoted while the child participates in, or is subject to, proceedings or actions under the Immigration and Nationality Act;

(F) ensure that the child understands such determinations and proceedings; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed,

(B) the child departs the United States,

(C) the child is granted permanent resident status in the United States,

(D) the child attains the age of 18, or

(E) the child is placed in the custody of a parent or legal guardian,

whichever occurs first.

(5) POWERS.—The guardian ad litem—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings involving the child that are held in connection with proceedings under the Immigration and Nationality Act, and shall be given a reasonable opportunity to be present at such hearings; and

(E) shall be permitted to consult with the child during any hearing or interview involving such child.

(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the circumstances and conditions that unaccompanied alien children face as well as in the various immigration benefits for which such a child might be eligible.

SEC. 1232. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office or in the custody of the Service who are not described in section 1221(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of pro bono attorneys who agree to provide representation to such children without charge.

(3) GOVERNMENT FUNDED REPRESENTATION.—

(A) APPOINTMENT OF COMPETENT COUNSEL.—Notwithstanding section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) or any other provision of law, when no competent counsel is available to represent an unaccompanied alien child without charge, the Director shall appoint competent counsel for such child at the expense of the Government.

(B) LIMITATION ON ATTORNEY FEES.—Counsel appointed under subparagraph (A) may not be compensated at a rate in excess of the rate provided under section 3006A of title 18, United States Code.

(C) ASSUMPTION OF THE COST OF GOVERNMENT-PAID COUNSEL.—In the case of a child for whom counsel is appointed under subparagraph (A) who is subsequently placed in the physical custody of a parent or legal guardian, such parent or legal guardian may elect to retain the same counsel to continue representation of the child, at no expense to the Government, beginning on the date that the parent or legal guardian assumes physical custody of the child.

(4) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(5) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) INELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with such agencies, the Director shall ensure that no such agency is—

(i) a grantee or contractee for services provided under section 1222 or 1231; and

(ii) simultaneously a grantee or contractee for services provided under subparagraph (A).

(b) REQUIREMENT OF LEGAL REPRESENTATION.—The Director shall ensure that all unaccompanied alien children have legal representation within 7 days of the child coming into Federal custody.

(c) DUTIES.—Counsel shall represent the unaccompanied alien child all proceedings and actions relating to the child's immigration status or other actions involving the Service and appear in person for all individual merits hearings before the Executive Office for Immigration Review (or its successor entity) and interviews involving the Service.

(d) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(e) TERMINATION OF APPOINTMENT.—Counsel shall carry out the duties described in subsection (c) until—

(1) those duties are completed,

(2) the child departs the United States,

(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act,

(4) the child is granted protection under the Convention Against Torture,

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act,

(6) the child is granted permanent resident status in the United States, or

(7) the child attains 18 years of age,

whichever occurs first.

(f) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(g) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect one year after the effective date of division A of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant under the age of 18 on the date of application who is present in the United States—

"(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration Affairs that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien;

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2) (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply,";

(2) in subparagraph (B), by striking the period and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) the Secretary of Homeland Security may waive paragraph (2) (A) and (B) in the case of an offense which arose as a consequence of the child being unaccompanied.".

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), and who is in the custody of a State shall be eligible for all funds made available under section 412(d) of such Act.

SEC. 1242. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into currently existing education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF SERVICE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States border or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 1221(a)(2).

SEC. 1243. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the Service's implementation of such guidelines in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) TRAINING.—The Secretary of Homeland Security shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(f)(2) (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

Subtitle F—Authorization of Appropriations

SEC. 1261. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function

SEC. 1301. ESTABLISHMENT.

(a) IN GENERAL.—There is established within the Department of Justice the Agency for Immigration Hearings and Appeals (in this title referred to as the "Agency").

(b) ABOLITION OF EOIR.—The Executive Office for Immigration Review of the Department of Justice is hereby abolished.

SEC. 1302. DIRECTOR OF THE AGENCY.

(a) APPOINTMENT.—There shall be at the head of the Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) OFFICES.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

(c) RESPONSIBILITIES.—The Director shall—

(1) administer the Agency and be responsible for the promulgation of rules and regulations affecting the Agency;

(2) appoint each Member of the Board of Immigration Appeals, including a Chair;

(3) appoint the Chief Immigration Judge; and

(4) appoint and fix the compensation of attorneys, clerks, administrative assistants, and other personnel as may be necessary.

SEC. 1303. BOARD OF IMMIGRATION APPEALS.

(a) IN GENERAL.—The Board of Immigration Appeals (in this title referred to as the "Board") shall perform the appellate functions of the Agency. The Board shall consist of a Chair and not less than 14 other immigration appeals judges.

(b) APPOINTMENT.—Members of the Board shall be appointed by the Director, in consultation with the Chair of the Board of Immigration Appeals.

(c) QUALIFICATIONS.—The Chair and each other Member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(d) CHAIR.—The Chair shall direct, supervise, and establish the procedures and policies of the Board.

(e) JURISDICTION.—

(1) IN GENERAL.—The Board shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals (as in effect under the Executive Office of Immigration Review).

(2) DE NOVO REVIEW.—The Board shall have de novo review of any decision by an immigration judge, including any final order of removal.

(f) DECISIONS OF THE BOARD.—The decisions of the Board shall constitute final agency action, subject to review only as provided by the Immigration and Nationality Act and other applicable law.

(g) INDEPENDENCE OF BOARD MEMBERS.—The Members of the Board shall exercise their independent judgment and discretion in the cases coming before the Board.

SEC. 1304. CHIEF IMMIGRATION JUDGE.

(a) ESTABLISHMENT OF OFFICE.—There shall be within the Agency the position of Chief Immigration Judge, who shall administer the immigration courts.

(b) DUTIES OF THE CHIEF IMMIGRATION JUDGE.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resource and facilities and for the general management of immigration court dockets.

(c) APPOINTMENT OF IMMIGRATION JUDGES.—Immigration judges shall be appointed by the Director, in consultation with the Chief Immigration Judge.

(d) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(e) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the immigration courts within the Executive Office for Immigration Review of the Department of Justice.

(f) INDEPENDENCE OF IMMIGRATION JUDGES.—The immigration judges shall exercise their independent judgment and discretion in the cases coming before the Immigration Court.

SEC. 1305. CHIEF ADMINISTRATIVE HEARING OFFICER.

(a) ESTABLISHMENT OF POSITION.—There shall be within the Agency the position of Chief Administrative Hearing Officer.

(b) DUTIES OF THE CHIEF ADMINISTRATIVE HEARING OFFICER.—The Chief Administrative Hearing Officer shall hear cases brought under sections 274A, 274B, and 274C of the Immigration and Nationality Act.

SEC. 1306. REMOVAL OF JUDGES.

Immigration judges and Members of the Board may be removed from office only for good cause, including neglect of duty or malfeasance, by the Director, in consultation with the Chair of the Board, in the case of the removal of a Member of the Board, or in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Agency such sums as may be necessary to carry out this title.

Subtitle B—Transfer of Functions and Savings Provisions

SEC. 1311. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions under the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by section 1101(a)(2) of this Act) vested by statute in, or exercised by, the Executive Office of Immigration Review of the Department of Justice (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Agency.

(b) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Attorney General or the Executive Office of Immigration Review of the Department of Justice, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Agency, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) SUITS.—This section shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Executive Office of Immigration Review, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle C—Effective Date

SEC. 1321. EFFECTIVE DATE.

This title shall take effect one year after the effective date of division A of this Act.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

SEC. 2101. SHORT TITLE.

This title may be cited as the "Chief Human Capital Officers Act of 2002".

SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec.
"1401. Establishment of agency Chief Human Capital Officers.
"1402. Authority and functions of agency Chief Human Capital Officers.

"§ 1401. Establishment of agency Chief Human Capital Officers

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

"(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

"(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

"(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§ 1402. Authority and functions of agency Chief Human Capital Officers

"(a) The functions of each Chief Human Capital Officer shall include—

"(1) setting the workforce development strategy of the agency;

"(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

"(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

"(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

"(5) identifying best practices and benchmarking studies; and

"(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

"(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

"(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

"(A) are the property of the agency or are available to the agency; and

"(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

"(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"14. Chief Human Capital Officers ..... 1401".

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

"(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

"(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

"(ii) integrating those strategies into the budget and strategic plans of those agencies;

"(B) closing skill gaps in mission critical occupations;

"(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

"(D) sustaining a culture that cultivates and develops a high performing workforce;

"(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

"(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.''.

SEC. 2105. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this division.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAM PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) provide a description of how the performance goals and objectives are to be achieved, including the operational processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

''(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).''.

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and''.

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(3) authority for agencies to appoint, without regard to the provisions of sections 3309 through 3318, candidates directly to positions for which—

''(A) public notice has been given; and

''(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.''; and

(2) by inserting after section 3318 the following:

''§ 3319. Alternative ranking and selection procedures

''(a)(1) the Office, in exercising its authority under section 3304; or

''(2) an agency to which the Office has delegated examining authority under section 1104(a)(2);

may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

''(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

''(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

''(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

''(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

''(1) the number of employees hired under that system;

''(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islander; and

''(3) the way in which managers were trained in the administration of that system.

''(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

''3319. Alternative ranking and selection procedures.''.

SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

''SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

''§ 3521. Definitions

''In this subchapter, the term—

''(1) 'agency' means an Executive agency as defined under section 105; and

''(2) 'employee'—

''(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

''(i) is serving under an appointment without time limitation; and

''(ii) has been currently employed for a continuous period of at least 3 years; and

''(B) shall not include—

''(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

''(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

''(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

''(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

''(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

''(vi) any employee who—

''(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

''(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

''(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

''§ 3522. Agency plans; approval

''(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

''(b) The plan of an agency under subsection (a) shall include—

''(1) the specific positions and functions to be reduced or eliminated;

''(2) a description of which categories of employees will be offered incentives;

''(3) the time period during which incentives may be paid;

''(4) the number and amounts of voluntary separation incentive payments to be offered; and

''(5) a description of how the agency will operate without the eliminated positions and functions.

''(c) The Director of the Office of Personnel Management shall review each agency's plan and may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Director of the Office of Personnel Management.

''§ 3523. Authority to provide voluntary separation incentive payments

''(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

''(b) A voluntary incentive payment—

''(1) shall be offered to agency employees on the basis of—

''(A) 1 or more organizational units;

''(B) 1 or more occupational series or levels;

''(C) 1 or more geographical locations;

''(D) skills, knowledge, or other factors related to a position;

''(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

''(F) any appropriate combination of such factors;

''(2) shall be paid in a lump sum after the employee's separation;

"(3) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

"(B) an amount determined by the agency head, not to exceed $25,000;

"(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

"(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

"(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on any other separation; and

"(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

"§3524. Effect of subsequent employment with the Government

"(a) The term 'employment'—

"(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

"(2) in subsection (c) does not include employment under such a contract.

"(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in the case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT"; and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.
"3522. Agency plans; approval.
"3523. Authority to provide voluntary separation incentive payments.
"3524. Effect of subsequent employment with the Government.
"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors;".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106-303 (5 U.S.C. 8336 note; 114 Stat. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENT.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105-174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a,";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable minimum retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 2302. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), the total payment referred to under such paragraph with respect to an employee paid under section 5372, 5376, or 5383 of title 5 or section 332(f), 603, or 604 of title 28 shall not exceed the total annual compensation payable to the Vice President under section 104 of title 3. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.".

TITLE XXIV—ACADEMIC TRAINING

SEC. 2401. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§ 4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systematic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or to qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the Senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policymaking, or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.— Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and".

SEC. 2403. COMPENSATORY TIME OFF FOR TRAVEL.

Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) An employee shall receive 1 hour of compensatory time off for each hour spent by the employee in travel status away from the official duty station of the employee, to the extent that the time spent in travel status is not otherwise compensable.

"(b) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

DIVISION D—E-GOVERNMENT ACT OF 2002

TITLE XXX—SHORT TITLE; FINDINGS AND PURPOSES

SEC. 3001. SHORT TITLE.

This division may be cited as the "E-Government Act of 2002".

SEC. 3002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this division are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decision-making by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE XXXI—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 3101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

‘‘CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

‘‘Sec.
‘‘3601. Definitions.
‘‘3602. Office of Electronic Government.
‘‘3603. Chief Information Officers Council.
‘‘3604. E-Government Fund.
‘‘3605. E-Government report.

‘‘§ 3601. Definitions

‘‘In this chapter, the definitions under section 3502 shall apply, and the term—

‘‘(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

‘‘(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

‘‘(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

‘‘(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

‘‘(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

‘‘(4) ‘enterprise architecture’—

‘‘(A) means—

‘‘(i) a strategic information asset base, which defines the mission;

‘‘(ii) the information necessary to perform the mission;

‘‘(iii) the technologies necessary to perform the mission; and

‘‘(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

‘‘(B) includes—

‘‘(i) a baseline architecture;

‘‘(ii) a target architecture; and

‘‘(iii) a sequencing plan;

‘‘(5) ‘Fund’ means the E-Government Fund established under section 3604;

‘‘(6) ‘interoperability’ means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

‘‘(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

‘‘(8) ‘tribal government’ means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

‘‘§ 3602. Office of Electronic Government

‘‘(a) There is established in the Office of Management and Budget an Office of Electronic Government.

‘‘(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

‘‘(c) The Administrator shall assist the Director in carrying out—

‘‘(1) all functions under this chapter;

‘‘(2) all of the functions assigned to the Director under title XXXII of the E-Government Act of 2002; and

‘‘(3) other electronic government initiatives, consistent with other statutes.

‘‘(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

‘‘(1) chapter 35;

‘‘(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104-106; 40 U.S.C. 1401 et seq.);

‘‘(3) section 552a of title 5 (commonly referred to as the Privacy Act);

‘‘(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note);

‘‘(5) the Government Information Security Reform Act; and

‘‘(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

‘‘(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

‘‘(1) capital planning and investment control for information technology;

‘‘(2) the development of enterprise architectures;

‘‘(3) information security;

‘‘(4) privacy;

‘‘(5) access to, dissemination of, and preservation of Government information;

‘‘(6) accessibility of information technology for persons with disabilities; and

‘‘(7) other areas of electronic Government.

‘‘(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

‘‘(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

‘‘(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

‘‘(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

‘‘(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

‘‘(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(9) Sponsor ongoing dialogue that—

“(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

“(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

“(C) may include—

“(i) development of innovative models—

“(I) for electronic Government management and Government information technology contracts; and

“(II) that may be developed through focused discussions or using separately sponsored research;

“(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

“(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

“(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

“(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

“(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

“(12) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

“(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

“(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

“(B) ensuring compliance with those standards through the budget review process and other means.

“(14) Oversee the development of enterprise architectures within and across agencies.

“(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

“(16) Administer the Office of Electronic Government established under section 3602.

“(17) Assist the Director in preparing the E-Government report established under section 3605.

“(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

“§3603. Chief Information Officers Council

“(a) There is established in the executive branch a Chief Information Officers Council.

“(b) The members of the Council shall be as follows:

“(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

“(2) The Administrator of the Office of Electronic Government.

“(3) The Administrator of the Office of Information and Regulatory Affairs.

“(4) The chief information officer of each agency described under section 901(b) of title 31.

“(5) The chief information officer of the Central Intelligence Agency.

“(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

“(7) Any other officer or employee of the United States designated by the chairperson.

“(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

“(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

“(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

“(3) The Administrator of General Services shall provide administrative and other support for the Council.

“(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

“(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

“(f) The Council shall perform functions that include the following:

“(1) Develop recommendations for the Director on Government information resources management policies and requirements.

“(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

“(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

“(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title XXXII of the E-Government Act of 2002.

“(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 3207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

“(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

“§3604. E-Government Fund

“(a)(1) There is established in the Treasury of the United States the E-Government Fund.

“(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

“(3) Projects under this subsection may include efforts to—

“(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

“(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

“(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

"(b)(1) The Administrator shall—

"(A) establish procedures for accepting and reviewing proposals for funding;

"(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

"(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

"(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

"(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

"(B) Projects shall adhere to fundamental capital planning and investment control processes.

"(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

"(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

"(E) Agencies shall assess the results of funded projects.

"(c) In determining which proposals to recommend for funding, the Administrator—

"(1) shall consider criteria that include whether a proposal—

"(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

"(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

"(C) ensures proper security and protects privacy;

"(D) is interagency in scope, including projects implemented by a primary or single agency that—

"(i) could confer benefits on multiple agencies; and

"(ii) have the support of other agencies; and

"(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

"(2) may also rank proposals based on criteria that include whether a proposal—

"(A) has Governmentwide application or implications;

"(B) has demonstrated support by the public to be served;

"(C) integrates Federal with State, local, or tribal approaches to service delivery;

"(D) identifies resource commitments from nongovernmental sectors;

"(E) identifies resource commitments from the agencies involved;

"(F) uses web-based technologies to achieve objectives;

"(G) identifies records management and records access strategies;

"(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

"(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

"(J) supports integrated service delivery;

"(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

"(L) is new or innovative and does not supplant existing funding streams within agencies.

"(d) The Fund may be used to fund the integrated Internet-based system under section 3204 of the E-Government Act of 2002.

"(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

"(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

"(2) The report under paragraph (1) shall describe—

"(A) all projects which the Director has approved for funding from the Fund; and

"(B) the results that have been achieved to date for these funded projects.

"(g)(1) There are authorized to be appropriated to the Fund—

"(A) $45,000,000 for fiscal year 2003;

"(B) $50,000,000 for fiscal year 2004;

"(C) $100,000,000 for fiscal year 2005;

"(D) $150,000,000 for fiscal year 2006; and

"(E) such sums as are necessary for fiscal year 2007.

"(2) Funds appropriated under this subsection shall remain available until expended.

"§ 3605. E-Government report

"(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(b) The report under subsection (a) shall contain—

"(1) a summary of the information reported by agencies under section 3202(f) of the E-Government Act of 2002;

"(2) the information required to be reported by section 3604(f); and

"(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

"36. Management and Promotion of Electronic Government Services .. 3601".

SEC. 3102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—Chapter 3 of title 40, United States Code, is amended by inserting after section 304 the following:

"SEC. 305. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

"The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 40, United States Code, is amended by inserting after the item relating to section 304 the following:

"Sec. 305. Electronic Government and information technologies.".

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) Chair the Chief Information Officers Council established under section 3603 of title 44.".

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

"§ 507. Office of Electronic Government

"The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

"507. Office of Electronic Government.".

TITLE XXXII—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 3201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 3202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this division (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this division by the Director, and the information technology standards promulgated under this division by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 3204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) Avoiding Diminished Access.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) Accessibility to People With Disabilities.—All actions taken by Federal departments and agencies under this division shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) Sponsored Activities.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) Chief Information Officers.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this division by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-Government Status Report.—

(1) In general.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) Submission.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) Use of Technology.—Nothing in this division supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) National Security Systems.—

(1) Inapplicability.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 11103 of title 40, United States Code.

(2) Applicability.—Sections 3202, 3203, 3210, and 3214 of this title do apply to national security systems to the extent practicable and consistent with law.

SEC. 3203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) Purpose.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) Electronic Signatures.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) Authority for Electronic Signatures.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, or for other activities consistent with this section, $8,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3204. FEDERAL INTERNET PORTAL.

(a) In General.—

(1) Public access.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) Criteria.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 3205. FEDERAL COURTS.

(a) Individual Court Websites.—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) Maintenance of Data Online.—

(1) Update of information.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) Closed cases.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) Electronic Filings.—

(1) In general.—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) Exceptions.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) Privacy and security concerns.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) Dockets With Links to Documents.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) Cost of Providing Electronic Docketing Information.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary,".

(f) Time Requirements.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) Deferral.—

(1) In general.—

(A) ELECTION.—

(i) NOTIFICATION.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) REPORT.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 3206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act).

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under section 552(a)(1) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3605 of title 44 (as added by this Act).

SEC. 3207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) "Committee" means the Interagency Committee on Government Information established under subsection (c); and

(2) "directory" means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 180 days after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 180 days after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 3202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AVAILABILITY OF GOVERNMENT INFORMATION ON THE INTERNET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, each agency shall—

(A) consult with the Committee and solicit public comment;

(B) determine which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(C) develop priorities and schedules for making that Government information available and accessible;

(D) make such final determinations, priorities, and schedules available for public comment;

(E) post such final determinations, priorities, and schedules on the Internet; and

(F) submit such final determinations, priorities, and schedules to the Director, in the report established under section 3202(g).

(2) UPDATE.—Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the National Science Foundation, working with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development center; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3605 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

(h) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(1) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(A) develop and establish a public domain directory of public Federal Government websites; and

(B) post the directory on the Internet with a link to the integrated Internet-based system established under section 3204.

(2) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(A) direct the development of the directory through a collaborative effort, including input from—

(i) agency librarians;

(ii) information technology managers;

(iii) program managers;

(iv) records managers;

(v) Federal depository librarians; and

(vi) other interested parties; and

(B) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(3) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(A) update the directory as necessary, but not less than every 6 months; and

(B) solicit interested persons for improvements to the directory.

(i) STANDARDS FOR AGENCY WEBSITES.—Not later than 18 months after the effective date of this title, the Director shall promulgate guidance for agency websites that include—

(1) requirements that websites include direct links to—

(A) descriptions of the mission and statutory authority of the agency;

(B) the electronic reading rooms of the agency relating to the disclosure of information under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(C) information about the organizational structure of the agency; and

(D) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(2) minimum agency goals to assist public users to navigate agency websites, including—

(A) speed of retrieval of search results;

(B) the relevance of the results;

(C) tools to aggregate and disaggregate data; and

(D) security protocols to protect information.

SEC. 3208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that includes any identifier permitting the physical or online contacting of a specific individual; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any identifier permitting the physical or online contacting of a specific individual, if the information concerns 10 or more persons.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of personally identifiable information in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United

States Code, (commonly referred to as the Privacy Act).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of personally identifiable information as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the Privacy Act), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

SEC. 3209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(1) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(2) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(3) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(c) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this section, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 3210. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term "geographic information" means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Secretary of the Interior shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

SEC. 3211. SHARE-IN-SAVINGS PROGRAM IMPROVEMENTS.

Section 11521 of title 40, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "the heads of two executive agencies to carry out" and inserting "heads of executive agencies to carry out a total of 5 projects under";

(B) by striking "and" at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting "; and"; and

(D) by adding at the end the following:

"(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

"(A) to retain, until expended, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

"(i) the total amount of the savings; over

"(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

"(B) to use the retained amount to acquire additional information technology.";

(2) in subsection (b)—

(A) by inserting "a project under" after "authorized to carry out"; and

(B) by striking "carry out one project and"; and

(3) in subsection (c), by inserting before the period "and the Administrator for the Office of Electronic Government"; and

(4) by inserting after subsection (c) the following:

"(d) REPORT.—

"(1) IN GENERAL.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(2) CONTENTS.—The report under paragraph (1) shall include—

"(A) a description of the reduced costs and other measurable benefits of the pilot projects;

"(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

"(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.".

SEC. 3212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) PURPOSES.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) DEFINITIONS.—In this section, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) "person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the

Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) CONTENTS.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, including the underlying raw data, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make recommendations that Congress or the executive branch can implement, through the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

(1) IN GENERAL.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) GOALS OF PILOT PROJECTS.—

(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) GOALS.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) PRIVACY PROTECTIONS.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law; and

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law.

SEC. 3213. COMMUNITY TECHNOLOGY CENTERS.

(a) PURPOSES.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Secretary of Education, in consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce, the Director of the National Science Foundation, and the Director of the Institute of Museum and Library Services, shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Department of Education any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Department of Education shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Secretary of Education, in consultation with the Director of the Institute of Museum and Library Services, the Director of the National Science Foundation, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Secretary of Education shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—In consultation with other agencies and organizations, the Department of Education shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 3214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Federal Emergency Management Agency shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Federal Emergency Management Agency shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Federal Emergency Management Agency in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Emergency Management Agency for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Federal Emergency Management Agency shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Federal Emergency Management Agency shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 3215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Director of the National Science Foundation shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director of the National Science Foundation shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) CONTENTS.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation $950,000 in fiscal year 2003 to carry out this section.

SEC. 3216. NOTIFICATION OF OBSOLETE OR COUNTERPRODUCTIVE PROVISIONS.

If the Director of the Office of Management and Budget makes a determination that any provision of this division (including any amendment made by this division) is obsolete or counterproductive to the purposes of this Act, as a result of changes in technology or any other reason, the Director shall submit notification of that determination to—

(1) the Committee on Governmental Affairs of the Senate; and

(2) the Committee on Government Reform of the House of Representatives.

TITLE XXXIII—GOVERNMENT INFORMATION SECURITY

SEC. 3301. INFORMATION SECURITY.

(a) ADDITION OF SHORT TITLE.—Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-266) is amended by inserting after the heading for the subtitle the following new section:

"SEC. 1060. SHORT TITLE.

"This subtitle may be cited as the 'Government Information Security Reform Act'.".

(b) CONTINUATION OF AUTHORITY.—

(1) IN GENERAL.—Section 3536 of title 44, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3536.

TITLE XXXIV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title XXXI or XXXII, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles XXXI and XXXII for each of fiscal years 2003 through 2007.

SEC. 3402. EFFECTIVE DATES.

(a) TITLES XXXI AND XXXII.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles XXXI and XXXII and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 3207, 3214, 3215, and 3216 shall take effect on the date of enactment of this Act.

(b) TITLES XXXIII AND XXXIV.—Title XXXIII and this title shall take effect on the date of enactment of this Act.

DIVISION E—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

TITLE XLI—FLIGHT AND CABIN SECURITY ON PASSENGER AIRCRAFT

SECTION 4101. SHORT TITLE.

This title may be cited as the "Arming Pilots Against Terrorism and Cabin Defense Act of 2002".

SEC. 4102. FINDINGS.

Congress makes the following findings:

(1) Terrorist hijackers represent a profound threat to the American people.

(2) According to the Federal Aviation Administration, between 33,000 and 35,000 commercial flights occur every day in the United States.

(3) The Aviation and Transportation Security Act (public law 107-71) mandated that air marshals be on all high risk flights such as those targeted on September 11, 2001.

(4) Without air marshals, pilots and flight attendants are a passenger's first line of defense against terrorists.

(5) A comprehensive and strong terrorism prevention program is needed to defend the Nation's skies against acts of criminal violence and air piracy. Such a program should include—

(A) armed Federal air marshals;

(B) other Federal agents;

(C) reinforced cockpit doors;

(D) properly-trained armed pilots;

(E) flight attendants trained in self-defense and terrorism prevention; and

(F) electronic communications devices, such as real-time video monitoring and hands-free wireless communications devices to permit pilots to monitor activities in the cabin.

SEC. 4103. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44921. Federal flight deck officer program

"(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish a program to deputize qualified pilots of commercial cargo or passenger aircraft who volunteer for the program as Federal law enforcement officers to defend the flight decks of commercial aircraft of air carriers engaged in air transportation or intrastate air transportation against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'. The program shall be administered in connection with the Federal air marshal program.

"(b) QUALIFIED PILOT.—Under the program described in subsection (a), a qualified pilot is a pilot of an aircraft engaged in air transportation or intrastate air transportation who—

"(1) is employed by an air carrier;

"(2) has demonstrated fitness to be a Federal flight deck officer in accordance with regulations promulgated pursuant to this title; and

"(3) has been the subject of an employment investigation (including a criminal history record check) under section 44936(a)(1).

"(c) TRAINING, SUPERVISION, AND EQUIPMENT.—The Under Secretary of Transportation for Security shall provide or make arrangements for training, supervision, and equipment necessary for a qualified pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot. Such training, qualifications, curriculum, and equipment shall be consistent with and equivalent to those required of Federal law enforcement officers and shall include periodic re-qualification as determined by the Under Secretary. The Under Secretary may approve private training programs which meet the Under Secretary's specifications and guidelines. Air carriers shall make accommodations to facilitate the training of their pilots as Federal flight deck officers and shall facilitate Federal flight deck officers in the conduct of their duties under this program.

"(d) DEPUTIZATION.—

"(1) IN GENERAL.—The Under Secretary of Transportation for Security shall train and deputize, as a Federal flight deck officer under this section, any qualified pilot who submits to the Under Secretary a request to be such an officer.

"(2) INITIAL DEPUTIZATION.—Not later than 120 days after the date of enactment of this section, the Under Secretary shall deputize not fewer than 500 qualified pilots who are former military or law enforcement personnel as Federal flight deck officers under this section.

"(3) FULL IMPLEMENTATION.—Not later than 24 months after the date of enactment of this section, the Under Secretary shall deputize any qualified pilot as a Federal flight deck officer under this section.

"(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer.

"(f) AUTHORITY TO CARRY FIREARMS.—The Under Secretary of Transportation for Security shall authorize a Federal flight deck officer under this section to carry a firearm to defend the flight deck of a commercial passenger or cargo aircraft while engaged in providing air transportation or intrastate air transportation. No air carrier may prohibit a Federal flight deck officer from carrying a firearm in accordance with the provisions of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

"(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), a Federal flight deck officer may use force (including lethal force) against an individual in the defense of a commercial aircraft in air transportation or intrastate air transportation if the officer reasonably believes that the security of the aircraft is at risk.

"(h) LIMITATION ON LIABILITY.—

"(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the air carrier employing a pilot of an aircraft who is a Federal flight deck officer under this section or out of the acts or omissions of the pilot in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

"(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

"(3) EMPLOYEE STATUS OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall be considered an 'employee of the Government while acting within the scope of his office or employment' with respect to any act or omission of the officer in defending an aircraft against acts of criminal violence or air piracy, for purposes of sections 1346(b), 2401(b), and 2671 through 2680 of title 28 United States Code.

"(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Under Secretary of Transportation for Security, in consultation with the Firearms Training Unit of the Federal Bureau of Investigation, shall issue regulations to carry out this section.

"(j) PILOT DEFINED.—In this section, the term 'pilot' means an individual who is responsible for the operation of an aircraft, and includes a co-pilot or other member of the flight deck crew.".

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter 449 is amended by inserting after the item relating to section 44920 the following new item:

"44921. Federal flight deck officer program.".

(2) EMPLOYMENT INVESTIGATIONS.—Section 44936(a)(1)(B) is amended—

(A) by aligning clause (iii) with clause (ii);

(B) by striking "and" at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting "; and"; and

(D) by adding at the end the following:

"(v) qualified pilots who are deputized as Federal flight deck officers under section 44921.".

(3) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is repealed.

SEC. 4104. CABIN SECURITY.

(a) TECHNICAL AMENDMENTS.—Section 44903, of title 49, United States Code, is amended—

(1) by redesignating subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons, as added by section 126(b) of public law 107-71) as subsection (j); and

(2) by redesignating subsection (h) (relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as added by section 144 of public law 107-71) as subsection (k).

(b) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Section 44918 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) IN GENERAL.—

"(1) REQUIREMENT FOR AIR CARRIERS.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, shall prescribe detailed requirements for an air carrier cabin crew training program, and for the instructors of that program as described in subsection (b) to prepare crew members for potential threat conditions. In developing the requirements, the Under Secretary shall consult with appropriate law enforcement personnel who have expertise in self-defense training, security experts, and terrorism experts, and representatives of air carriers and labor organizations representing individuals employed in commercial aviation.

"(2) AVIATION CREWMEMBER SELF-DEFENSE DIVISION.—Not later than 60 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security shall establish an Aviation Crew Self-Defense Division within the Transportation Security Administration. The Division shall develop and administer the implementation of the requirements described in this section. The Under Secretary shall appoint a Director of the Aviation Crew Self-Defense Division who shall be the head of the Division. The Director shall report to the Under Secretary. In the selection of the Director, the Under Secretary shall solicit recommendations from law enforcement, air carriers, and labor organizations representing individuals employed in commercial aviation. The Director shall have a background in self-defense training, including military or law enforcement training with an emphasis in teaching self-defense and the appropriate use force. Regional training supervisors shall be under the control of the Director and shall have appropriate training and experience in teaching self-defense and the appropriate use of force.";

(2) by striking subsection (b), and inserting the following new subsection:

"(b) PROGRAM ELEMENTS.—

"(1) IN GENERAL.—The requirements prescribed under subsection (a) shall include, at a minimum, 28 hours of self-defense training that incorporates classroom and situational training that contains the following elements:

"(A) Determination of the seriousness of any occurrence.

"(B) Crew communication and coordination.

"(C) Appropriate responses to defend oneself, including a minimum of 16 hours of hands-on training, with reasonable and effective requirements on time allotment over a 4 week period, in the following levels of self-defense:

"(i) awareness, deterrence, and avoidance;

"(ii) verbalization;

"(iii) empty hand control;

"(iv) intermediate weapons and self-defense techniques; and

"(v) deadly force.

"(D) Use of protective devices assigned to crewmembers (to the extent such devices are approved by the Administrator or Under Secretary).

"(E) Psychology of terrorists to cope with hijacker behavior and passenger responses.

"(F) Live situational simulation joint training exercises regarding various threat conditions, including all of the elements required by this section.

"(G) Flight deck procedures or aircraft maneuvers to defend the aircraft.

"(2) PROGRAM ELEMENTS FOR INSTRUCTORS.—The requirements prescribed under subsection (a) shall contain program elements for instructors that include, at a minimum, the following:

"(A) A certification program for the instructors who will provide the training described in paragraph (1).

"(B) A requirement that no training session shall have fewer than 1 instructor for every 12 students.

"(C) A requirement that air carriers provide certain instructor information, including names and qualifications, to the Aviation Crew Member Self-Defense Division within 30 days after receiving the requirements described in subsection (a).

"(D) Training course curriculum lesson plans and performance objectives to be used by instructors.

"(E) Written training bulletins to reinforce course lessons and provide necessary progressive updates to instructors.

"(3) RECURRENT TRAINING.—Each air carrier shall provide the training under the program every 6 months after the completion of the initial training.

"(4) INITIAL TRAINING.—Air carriers shall provide the initial training under the program within 24 months of the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002.

"(5) COMMUNICATION DEVICES.—The requirements described in subsection (a) shall include a provision mandating that air carriers provide flight and cabin crew with a discreet, hands-free, wireless method of communicating with the flight deck.

"(6) REAL-TIME VIDEO MONITORING.—The requirements described in subsection (a) shall include a program to provide flight deck crews with real-time video surveillance of the cabins of commercial airline flights. In developing this program, the Under Secretary shall consider—

"(A) maximizing the security of the flight deck;

"(B) enhancing the safety of the flight deck crew;

"(C) protecting the safety of the passengers and crew;

"(D) preventing acts of criminal violence or air piracy;

"(E) the cost of the program;

"(F) privacy concerns; and

"(G) the feasibility of installing such a device in the flight deck."; and

(3) by adding at the end the following new subsections:

"(f) Rulemaking Authority.—Notwithstanding subsection (j) (relating to authority to arm flight deck crew with less than-lethal weapons) of section 44903, of this title, within 180 days after the date of enactment of the Arming Pilots Against Terrorism and Cabin Defense Act of 2002, the Under Secretary of Transportation for Security, in consultation with persons described in subsection (a)(1), shall prescribe regulations requiring air carriers to—

"(1) provide adequate training in the proper conduct of a cabin search and allow adequate duty time to perform such a search; and

"(2) conduct a preflight security briefing with flight deck and cabin crew and, when available, Federal air marshals or other authorized law enforcement officials.

"(g) Limitation on Liability.—

"(1) Air carriers.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the air carrier's training instructors or cabin crew using reasonable and necessary force in defending an aircraft of the air carrier against acts of criminal violence or air piracy.

"(2) Training instructors and cabin crew.—An air carrier's training instructors or cabin crew shall not be liable for damages in any action brought in a Federal or State court arising out of an act or omission of a training instructor or a member of the cabin crew regarding the defense of an aircraft against acts of criminal violence or air piracy unless the crew member is guilty of gross negligence or willful misconduct.".

(c) Nonlethal Weapons for Flight Attendants.—

(1) Study.—The Under Secretary of Transportation for Security shall conduct a study to determine whether possession of a nonlethal weapon by a member of an air carrier's cabin crew would aid the flight deck crew in combating air piracy and criminal violence on commercial airlines.

(2) Report.—Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall prepare and submit to Congress a report on the study conducted under paragraph (1).

SEC. 4105. PROHIBITION ON OPENING COCKPIT DOORS IN FLIGHT.

(a) In General.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§44917. Prohibition on opening cockpit doors in flight

"(a) In General.—The door to the flight deck of any aircraft engaged in passenger air transportation or interstate air transportation that is required to have a door between the passenger and pilot compartment under title 14, Code of Federal Regulations, shall remain closed and locked at all times during flight, except for mechanical or physiological emergencies.

"(b) Mantrap Door Exception.—It shall not be a violation of subsection (a) for an authorized person to enter or leave the flight deck during flight of any aircraft described in subsection (a) that is equipped with double doors between the flight deck and the passenger compartment that are designed so that—

"(1) any person entering or leaving the flight deck is required to lock the first door through which that person passes before the second door can be opened; and

"(2) the flight crew is able to monitor by remote camera the area between the 2 doors and prevent the door to the flight deck from being unlocked from that area.".

(b) Conforming Amendment.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by inserting after the item relating to section 44916 the following:

"44917. Prohibition on opening cockpit doors in flight.".

(c) Effective Date.—The amendments made by this section shall take effect 1 day after the date of enactment of this Act.

SA 4848. Mr. HOLLINGS (for himself, Mr. McCain, Mr. Reid, Mr. Jeffords, Mr. Carper, and Mr. Torricelli) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 170 and insert the following:

SEC. 170. REVIEW OF TRANSPORTATION SECURITY ENHANCEMENTS.

(a) Review of Transportation Vulnerabilities and Federal Transportation Security Efforts.—The Comptroller General shall conduct a detailed, comprehensive study which shall—

(1) review all available intelligence on terrorist threats against aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit facilities and equipment;

(2) review all available information on vulnerabilities of the aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit modes of transportation to terrorist attack; and

(3) review the steps taken by public and private entities since September 11, 2001, to improve aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security to determine their effectiveness at protecting passengers, freight (including hazardous materials), and transportation infrastructure from terrorist attack.

(b) Report.—

(1) Content.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress, the Secretary, and the Secretary of Transportation a comprehensive report, without compromising national security, containing—

(A) the findings and conclusions from the reviews conducted under subsection (a); and

(B) proposed steps to improve any deficiencies found in aviation, seaport, rail, motor carrier, motor coach, pipeline, highway, and transit security, including, to the extent possible, the cost of implementing the steps.

(2) Format.—The Comptroller General may submit the report in both classified and redacted format if the Comptroller General determines that such action is appropriate or necessary.

(c) Response of the Secretary.—

(1) In general.—Not later than 90 days after the date on which the report under this section is submitted to the Secretary, the Secretary shall provide to the President and Congress—

(A) the response of the Department to the recommendations of the report; and

(B) recommendations of the Department to further protect passengers and transportation infrastructure from terrorist attack.

(2) Formats.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is necessary or appropriate.

(d) Reports Provided to Committees.—In furnishing the report required by subsection (b), and the Secretary's response and recommendations under subsection (c), to the Congress, the Comptroller General and the Secretary, respectively, shall ensure that the report, response, and recommendations are transmitted to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, and the House of Representatives Committee on Transportation and Infrastructure.

SA 4849. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 14, insert "tribal," after "State,".

On page 7, after line 25, insert the following:

(8) Indian tribe.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 8, line 1, strike "(8)" and insert "(9)".

On page 8, strike lines 5 through 8 and insert the following:

(10) Local government.—The term "local government" means—

(A) a county, city, village, town, district, or other political subdivision of any State;

(B) an Alaska Native village or organization; and

(C) a rural community or unincorporated town or village.

On page 8, line 9, strike "(10)" and insert "(11)".

On page 8, line 13, strike "(11)" and insert "(12)".

On page 8, line 15, strike "(12)" and insert "(13)".

On page 8, strike line 17 and insert the following:

(14) Tribal government.—The term "tribal government" means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.

(15) United states.—The term "United

On page 10, line 22, insert ", tribal," after "State".

On page 17, line 24, insert ", tribal," after "State".

On page 19, line 1, insert ", tribal," after "State".

On page 19, line 9, insert ", tribal," after "State".

On page 19, line 20, insert ", tribal," after "State".

On page 20, line 7, insert ", tribal," after "State".

On page 20, line 16, insert ", tribal," after "State".

On page 20, line 22, insert ", tribal," after "State".

On page 21, line 13, insert ", tribal," after "State".

On page 22, line 10, insert ", tribal," after "State".

On page 23, line 13, insert ", tribal," after "State".

On page 23, line 21, insert "tribal," after "State,".

On page 31, line 1, insert ", tribal," after "State".

On page 34, line 12, insert ", tribal," after "State".

On page 34, line 13, insert ", tribal," after "State".

On page 34, line 23, insert ", tribal," after "State".

On page 35, line 8, insert ", tribal," after "State".

On page 38, line 1, strike "state," and insert "State, tribal,".

On page 42, line 5, insert "and the Indian Health Service" after "Service".

On page 42, line 23, insert "and the Indian Health Service" after "Service".

On page 52, line 3, insert ", tribal," after "State".

On page 81, line 7, insert "tribal," after "State,".

On page 83, line 17, insert "tribal," after "State,".

On page 83, line 21, insert "and the Indian Health Service" after "Service".

On page 87, line 12, insert ", tribal," after "State".

On page 87, line 15, insert ", tribal," after "State".

On page 87, line 22, insert ", tribal," after "State".

On page 88, line 2, insert ", tribal," after "State".

On page 88, line 6, insert ", tribal," after "State".

On page 136, line 14, insert "**, TRIBAL,**" after "**STATE**".

On page 136, line 20, insert ", a tribal government," after "State".

On page 137, line 1, insert ", a tribal government," after "State".

On page 137, line 11, insert ", tribal," after "State".

On page 137, line 19, insert "**, TRIBAL,**" after "**STATE**".

On page 137, line 23, insert ", Indian tribes," after "States".

On page 138, line 12, insert ", TRIBAL," after "STATE".

On page 138, line 16, insert ", tribal government," after "State".

On page 138, line 23, insert ", Indian tribes," after "States".

On page 139, line 4, insert ", Indian tribes," after "States".

On page 139, line 11, insert "or Indian tribe" after "State".

On page 139, line 21, insert ", Indian tribe," after "State".

On page 140, line 6, insert ", Indian tribes," after "States".

On page 140, line 11, insert ", Indian tribes," after "States".

On page 140, line 14, insert "or Indian tribe" after "State".

On page 141, line 2, insert "or Indian tribe" after "State".

On page 141, lines 6 and 7, strike "State and localities within the State" and insert "State or Indian tribe".

On page 141, line 9, insert ", Indian tribe," after "State".

On page 141, line 11, insert ", Indian tribe," after "State".

On page 143, between lines 7 and 8, insert the following:

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 143, line 8, strike "(4)" and insert "(5)".

On page 143, line 13, strike "(5)" and insert "(6)".

On page 143, lines 16 through 18, strike "an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior".

On page 235, line 19, insert "tribal," after "State,".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday, October 1, 2002, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting to consider the following: S. 2743, a bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; S. 2799, a bill to provide for the use and distribution of certain funds awarded to the Gila River, Pima-Maricopa Indian Community, and for other purposes; S. 2989, A bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land; S. Res. 321, A resolution commemorating the 30th Anniversary of the Founding of the American Indian Higher Education Consortium, AIHEC; Nomination of Phil Hogen to serve as Chairman of the National Indian Gaming Commission; and Nomination of Quannah Crossland Stamps to serve as Commissioner of the Administration for Native Americans.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on October 3, 2002 in SR-328A at 11:00 a.m. The purpose of this hearing will be to discuss a pending nomination for the Farm Credit Administration.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, October 1, 2002, at 9:30 a.m. on Government Role in Promoting the Future of Telecommunications Industry and Broadband Deployment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, October 1, 2002, at 10:00 a.m. to conduct a hearing to assess green school initiatives. Specifically, the Committee will evaluate environmental standards for schools such as school siting in relation to toxic waste sites and green building codes. The Committee is interested in evaluating activities being undertaken by the Environmental Protection Agency's Office of Children's Environmental Health and the Office of Indoor Air Quality, as well as the Department of Energy, that address environmental and energy concerns relevant to school properties.

The hearing will be held in SD-406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 1, 2002 at 2:30 p.m. to hold a nomination hearing.

AGENDA

Nominees: Mr. Gene B. Christy, of Texas, to be Ambassador to Brunei Darussalam. Mr. David L. Lyon, of California, to be Ambassador to the Republic of Fiji, and to serve concurrently and without additional compensation as Ambassador to the Republic of Nauru, Ambassador to the Kingdom of Tonga, and Ambassador to Tuvalu. Mr. Charles A. Ray, of Texas, to be Ambassador to the Kingdom of Cambodia. Mr. Grover J. Rees, of Louisiana, to be Ambassador to the Democratic Republic of East Timor.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, October 1, 2002, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to conduct a Business Meeting to consider the following: S. 2743, a bill to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes; S. 2799, a bill to provide for the use an distribution of certain funds awarded to the Gila River, Pima-Maricopa Indian Community, and for other purposes; S. 2989, a bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land; S. Res. 321, a resolution commemorating the 30th Anniversary of the Founding of the American Indian Higher Education Consortium (AIH EC); Nomination of Phil Hogen to serve as Chairman of the National Indian Gaming Commission; and Nomination of Quannah Crossland Stamps to serve as Commissioner of the Administration for Native Americans.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Narrowing the Nation's Power: The Supreme Court Sides With the States" on Tuesday, October 1, 2002 in Dirksen Room 226 at 11:00 a.m.

WITNESS LIST

The Honorable John T. Noonan, Jr., Judge, Ninth Circuit Court of Appeals San Francisco, CA; Professor Marci Hamilton, Benjamin N. Cardozo School of Law, New York, New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 1, 2002 at 10:00 a.m. to hold a joint hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration be authorized to meet to conduct a hearing on "Detention and Treatment of Haitian Asylum Seekers," on Tuesday, October 1, 2002 at 2:15 p.m. in SD226.

FINAL WITNESS LIST

Panel I: Bishop Thomas G. Wenski, Auxiliary Bishop of Miami, Florida and Chairman of the U.S. Conference of Catholic Bishops Committee on Migration, Miami, FL; Marie Ocean, Haitian Asylee and Former Detainee, Miami, Florida; Cheryl Little, Executive Director, Florida Immigrant Advocacy Center (FIAC), Miami, Florida; Stephen Johnson, Policy Analyst for Latin America, Heritage Foundation, Washington, D.C.; Dina Paul Parks, Executive Director, National Coalition for Haitian Rights (NCHR), New York, New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Wan Kim and Michael Volkov, who are detailed to Senator HATCH's staff, during the course of debate on H.R. 2215.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF THE USE OF UNITED STATES ARMED FORCES AGAINST IRAQ—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 618, S.J. Res. 45, and I send a cloture motion to the desk.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S.J. Res. 45, a joint resolution to authorize the use of U.S. forces against Iraq.

Harry Reid, Jeff Bingaman, Jean Carnahan, Daniel K. Inouye, Bill Nelson of Florida, Ben Nelson of Nebraska, Ernest F. Hollings, John Edwards, Tim Johnson, Joseph I. Lieberman, Herb Kohl, John Breaux, Joseph R. Biden, Jr., Max Baucus, Mary Landrieu, Tom Daschle.

Mr. REID. Mr. President, I withdraw that motion.

The PRESIDING OFFICER. The Senator has that right.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1055 through 1070, and the nominations placed on the Secretary's desk; that the nominations be confirmed; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; that any statements thereon be printed in the RECORD; and that the Senate then resume legislative session, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Charles F. Wald, 1222

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Thomas B. Goslin, Jr., 2970

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10 U.S.C., section 12203:

To be major general

Brig. Gen. George W. Keefe, 3692

The following named officers for appointment in the United States Air Force to the grade indicated under title 10 U.S.C., section 624:

To be major general

Brigadier General Joseph P. Stein, 2625

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be general

Lt. Gen. Kevin P. Byrnes, 7693

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. John B. Sylvester, 4619

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward G. Anderson, III, 2536

The following named officers for appointment in the United States Army to the grade indicated under title 10 U.S.C., section 624:

To be major general

Brigadier General Dorian T. Anderson, 0294
Brigadier General Guy M. Bourn, 3022
Brigadier General John M. Brown, III, 0258
Brigadier General Ronald L. Burgess, Jr., 2986
Brigadier General William B. Caldwell, IV, 8600
Brigadier General Kevin T. Campbell, 6308
Brigadier General Ann E. Dunwoody, 4139
Brigadier General Jeanette K. Edmunds, 9426
Brigadier General Galen B. Jackman, 4626
Brigadier General Ronald L. Johnson, 8452
Brigadier General John F. Kimmons, 1861
Brigadier General James A. Marks, 6071
Brigadier General Stanley A. McChrystal, 3565
Brigadier General David F. Melcher, 8170
Brigadier General Thomas G. Miller, 3543
Brigadier General Robert W. Mixon, Jr., 6735
Brigadier General James W. Parker, 8655
Brigadier General Elbert N. Perkins, 0786
Brigadier General Kenneth J. Quinlan, Jr., 0015
Brigadier General Fred D. Robinson, Jr., 0142
Brigadier General Stephen M. Speakes, 9036
Brigadier General Carl A. Strock, 1502
Brigadier General Antonio M. Taguba, 8375
Brigadier General Alan W. Thrasher, 6690
Brigadier General Randal M. Tieszen, 5163
Brigadier General Bennie E. Williams, 1311
Brigadier General Walter Wojdakowski, 0958

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Paul E. Mock, 9132

To be brigadier general

Col. Bruce A. Casella, 4615

The following Army National Guard officers for appointment in the Reserve of the Army to the grades indicated under title 10 U.S.C., Section 12203:

To be major general

Brigadier General Harry B. Burchstead, Jr., 1334
Brigadier General James A. Cozine, 4268
Brigadier General Ricky D. Erlandson, 3783
Brigadier General Gregory J. Vadnais, 4304

To be brigadier general

Colonel Bruce E. Beck, 9604
Colonel Richard M. Blunt, 2859
Colonel Tod J. Carmony, 9396
Colonel Michael J. Curtin, 4074
Colonel Huntington B. Downer, Jr., 9238
Colonel Michael P. Fleming, 3095
Colonel Ralph R. Griffin, 3888
Colonel Gregory A. Howard, 9826
Colonel Arthur V. Jewett, 2184
Colonel Michael A. Kiefer, 6239
Colonel Thomas C. Lawing, 4302
Colonel John E. Leatherman, 9004
Colonel Herbert L. Newton, 4019
Colonel Patrick M. O'Hara, 3188
Colonel Darren G. Owens, 5600
Colonel Stewart A. Reeve, 3242
Colonel Lawrence H. Ross, 5226
Colonel John E. Sayers, Jr., 4781
Colonel Theodore G. Shuey, Jr., 4807
Colonel Anthony M. Stanich, Jr., 7135
Colonel Robin C. Timmons, 7859
Colonel Jodi S. Tymeson, 7585
Colonel Edward L. Wright, 4834
Colonel Mark E. Zirkelbach, 5128

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Clarence M. Agena, 9874

MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. James L. Jones, Jr., 2699

The following named officer for appointment as Commandant of the Marine Corps, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 5043 and 601:

To be general

Lt. Gen. Michael W. Hagee, 5620

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael A. Hough, 9437

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Adm. James O. Ellis, 4995

The following named officer for appointment as Chief of Naval Personnel, United States Navy, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 5141:

To be vice admiral

Rear Adm. Gerald L. Hoewing, 6618

ARMY

PN2164 Army nomination of Maurice L. McDougald, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2165 Army nominations (4) beginning JOHN R. HINSON, and ending JOSEPH M. SCATURO, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2166 Army nominations (4) beginning CATHI A. KIGER, and ending TIMOTHY R. WARRICK, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2167 Army nominations (9) beginning JAY F. DALEY, and ending DONNA S. WOODBY, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2168 Army nominations (3) beginning PAUL M. AMALFITANO, and ending JAMES S. HOGGARD, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2169 Army nomination of Stephen M. Bloomer, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2170 Army nomination of Theodore A. Mickevicius, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2171 Army nomination of Hugo E. Salazar, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2187 Army nominations (1565) beginning JEFFREY W * ABBOTT, and ending X122, which nominations were received by the Senate and appeared in the Congressional Record of September 18, 2002

MARINE CORPS

PN2172 Marine Corps nomination of David A. Suggs, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2173 Marine Corps nomination of Chandler P. Seagraves, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2188 Marine Corps nomination of Brent A. Harrison, which was received by the Senate and appeared in the Congressional Record of September 18, 2002

NAVY

PN2174 Navy nomination of Arthur R. Stiffel, IV, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2175 Navy nomination of Jeffrey Ball, which was received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2176 Navy nominations (90) beginning ENEIN Y H ABOUL, and ending KIMBERLY A ZUZELSKI, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2177 Navy nominations (31) beginning CHRISTOPHER H BERKERS, and ending RICHARD L ZIMMERMANN, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2178 Navy nominations (30) beginning DAVID R BROWN, and ending GEORGE B YOUNGER, which nominations were received by the Senate and appeared in the Congressional Record of September 17, 2002

PN2189 Navy nomination of Edward T. Modenhauer, which was received by the Senate and appeared in the Congressional Record of September 18, 2002

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MEASURE READ THE FIRST TIME—S. 3018

Mr. REID. Mr. President, it is my understanding that S. 3018 introduced earlier today by Senators BAUCUS and GRASSLEY is at the desk and due for its first reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

> A bill (S. 3018) to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

Mr. REID. I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR WEDNESDAY, OCTOBER 2, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., tomorrow morning, October 2; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the time until 10 a.m., and the time from 11 to 11:30 a.m., under the control of the majority leader or his designee; that the first 20 minutes be under the control of Senator JEFFORDS, and that the time from 10 a.m., until 11 a.m., be under the control of the Republican leader or his designee for tributes to Senator HELMS; and at 11:30 a.m., the Senate will resume consideration of the Department of Justice authorization conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:52 p.m., adjourned until Wednesday, October 2, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 1, 2002:

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DAVID C. HARRIS, 8198

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JAMES M. KNAUF, 1913

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

GARY P. ENDERSBY, 2121

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

MARK A. JEFFRIES, 4624

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN P. REGAN, 2631

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN S. MCFADDEN, 8019

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

LARRY B. LARGENT, 9250

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

FRANK W. PALMISANO, 1925

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID S. BRENTON, 8325
BRENDA K. ROBERTS, 9975

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CYNTHIA A. JONES, 6579
JEFFREY F. JONES, 4870

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MARIO G. CORREIA, 1216

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MICHAEL L. MARTIN, 4792

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

XIAO LI REN, 6870
JEFFREY H.* SEDGEWICK, 6007

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

THOMAS A.* AUGUSTINE III, 0009
ROBERT H.* GARRISON, 0912
CHARLES E.* PYKE, 7667

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be major

SCOTT T. WILLIAMS, 5004

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

ERIK A. DAHL, 1288

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 6221:

To be captain

RALPH M. GAMBONE, 7735

CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 1, 2002:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CHARLES F. WALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. THOMAS B. GOSLIN, JR.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. GEORGE W. KEEFE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL JOSEPH P. STEIN

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. KEVIN P. BYRNES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN B. SYLVESTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EDWARD G. ANDERSON III

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL DORIAN T. ANDERSON
BRIGADIER GENERAL GUY M. BOURN
BRIGADIER GENERAL JOHN M. BROWN III
BRIGADIER GENERAL RONALD L. BURGESS, JR.
BRIGADIER GENERAL WILLIAM B. CALDWELL IV
BRIGADIER GENERAL KEVIN T. CAMPBELL
BRIGADIER GENERAL ANN E. DUNWOODY
BRIGADIER GENERAL JEANETTE K. EDMUNDS
BRIGADIER GENERAL GALEN B. JACKMAN
BRIGADIER GENERAL RONALD L. JOHNSON
BRIGADIER GENERAL JOHN F. KIMMONS
BRIGADIER GENERAL JAMES A. MARKS
BRIGADIER GENERAL STANLEY A. MCCHRYSTAL
BRIGADIER GENERAL DAVID F. MELCHER
BRIGADIER GENERAL THOMAS G. MILLER
BRIGADIER GENERAL ROBERT W. MIXON, JR.
BRIGADIER GENERAL JAMES W. PARKER
BRIGADIER GENERAL ELBERT N. PERKINS
BRIGADIER GENERAL KENNETH J. QUINLAN, JR.
BRIGADIER GENERAL FRED D. ROBINSON, JR.
BRIGADIER GENERAL STEPHEN M. SPEAKES
BRIGADIER GENERAL CARL A. STROCK
BRIGADIER GENERAL ANTONIO M. TAGUBA
BRIGADIER GENERAL ALAN W. THRASHER
BRIGADIER GENERAL RANDAL M. TIESZEN
BRIGADIER GENERAL BENNIE E. WILLIAMS
BRIGADIER GENERAL WALTER WOJDAKOWSKI

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. PAUL E. MOCK

To be brigadier general

COL. BRUCE A. CASELLA

THE FOLLOWING ARMY NATIONAL GUARD OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL HARRY B. BURCHSTEAD, JR.
BRIGADIER GENERAL JAMES A. COZINE
BRIGADIER GENERAL RICKY D. ERLANDSON
BRIGADIER GENERAL GREGORY J. VADNAIS

To be brigadier general

COLONEL BRUCE E. BECK
COLONEL RICHARD M. BLUNT
COLONEL TOD J. CARMONY
COLONEL MICHAEL J. CURTIN
COLONEL HUNTINGTON B. DOWNER, JR.
COLONEL MICHAEL P. FLEMING
COLONEL RALPH R. GRIFFIN
COLONEL GREGORY A. HOWARD
COLONEL ARTHUR V. JEWETT
COLONEL MICHAEL A. KIEFER
COLONEL THOMAS C. LAWING
COLONEL JOHN E. LEATHERMAN
COLONEL HERBERT L. NEWTON
COLONEL PATRICK M. O'HARA
COLONEL DARREN G. OWENS
COLONEL STEWART A. REEVE
COLONEL LAWRENCE H. ROSS
COLONEL JOHN E. SAYERS, JR.
COLONEL THEODORE G. SHUEY, JR.
COLONEL ANTHONY M. STANICH, JR.
COLONEL ROBIN C. TIMMONS
COLONEL JODI S. TYMESON
COLONEL EDWARD L. WRIGHT
COLONEL MARK E. ZIRKELBACH

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. CLARENCE M. AGENA

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. JAMES L. JONES, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDANT OF THE MARINE CORPS, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 5043 AND 601:

To be general

LT. GEN. MICHAEL W. HAGEE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL A. HOUGH

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED

WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

ADM. JAMES O. ELLIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF NAVAL PERSONNEL, UNITED STATES NAVY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5141:

To be vice admiral

REAR ADM. GERALD L. HOEWING

ARMY NOMINATION OF MAURICE L. MCDOUGALD.

ARMY NOMINATIONS BEGINNING JOHN R. HINSON AND ENDING JOSEPH M. SCATURO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

ARMY NOMINATIONS BEGINNING CATHI A. KIGER AND ENDING TIMOTHY R. WARRICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

ARMY NOMINATIONS BEGINNING JAY F. DALEY AND ENDING DONNA S. WOODBY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

ARMY NOMINATIONS BEGINNING PAUL M. AMALFITANO AND ENDING JAMES S. HOGGARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

ARMY NOMINATION OF STEPHEN M. BLOOMER.

ARMY NOMINATION OF THEODORE A. MICKEVICIUS.

ARMY NOMINATION OF HUGO E. SALAZAR.

ARMY NOMINATIONS BEGINNING JEFFREY W * ABBOTT AND ENDING X122, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 18, 2002.

MARINE CORPS NOMINATION OF DAVID A. SUGGS.

MARINE CORPS NOMINATION OF CHANDLER P. SEAGRAVES.

MARINE CORPS NOMINATION OF BRENT A. HARRISON.

NAVY NOMINATION OF ARTHUR R. STIFFEL IV.

NAVY NOMINATION OF JEFFREY BALL.

NAVY NOMINATIONS BEGINNING ENEIN Y H ABOUL AND ENDING KIMBERLY A ZUZELSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

NAVY NOMINATIONS BEGINNING CHRISTOPHER H BERKERS AND ENDING RICHARD L ZIMMERMANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

NAVY NOMINATIONS BEGINNING DAVID R BROWN AND ENDING GEORGE B YOUNGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 17, 2002.

NAVY NOMINATION OF EDWARD T. MOLDENHAUER.

HOUSE OF REPRESENTATIVES—*Tuesday, October 1, 2002*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. PENCE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 1, 2002.

I hereby appoint the Honorable MIKE PENCE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 331

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Patsy T. Mink, late a Representative from the State of Hawaii.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the deceased Representative.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. BOOZMAN) for 5 minutes.

IN SUPPORT OF MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT (MASH)

Mr. BOOZMAN. Mr. Speaker, my brother Fay Boozman, the director of Arkansas's Department of Health, recently testified before a congressional committee that it is very possible more Arkansans will be infected with the West Nile virus this year. Arkansas has seen six human cases of the virus so far, including one death. This time last year, Louisiana had only seen one human case. This year Louisiana has documented more than 260 cases.

States like Arkansas cannot afford to dip into their emergency funds to combat the spread of West Nile every year. This bill will help States and localities fight this virus by authorizing matching grants by up to $100,000 for the mosquito abatement programs.

I commend the gentleman from Louisiana (Mr. TAUZIN), chairman, and the gentleman from Louisiana (Mr. JOHN) for their leadership in this area and for producing and introducing this bill in the House. I encourage my colleagues to pass this bill and provide much-needed relief to our State and local governments who are on the frontlines of this fight.

QUESTIONING THE PRESIDENT'S POLICY CONCERNING IRAQ

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from New Mexico (Mr. UDALL) is recognized during morning hour debates for 5 minutes.

Mr. UDALL of New Mexico. Mr. Speaker, on September 11, the world watched with horror the terrorist attack on the United States. Congress acted by granting President Bush authority to mount a strong response. Congress appropriated money to rebuild New York and the Pentagon and roused popular support for the President as we took each step against terror. Congress and the President jointly exercised their constitutional responsibilities.

Our efforts required and received the support from the community of responsible nations. The strong backing of our allies was a reassuring sign that our international partners stood beside us as we faced this new danger.

The President now wants to reposition our efforts from fighting a war on terrorism to fighting a war against Saddam Hussein, to reposition our longstanding national policy of containment and deterrence to a policy of unilateral preemption. Over the last few weeks Members of Congress have questioned the President on this change of focus. Sadly, some in his party have said that to question the President is unpatriotic. I disagree. To question the President sends an unequivocal message to those who would attack America that our democratic system is alive and well.

Like many of my colleagues, I held a series of town hall meetings in August across my district. Virtually without dissent I heard New Mexicans express their strong concerns about a possible war with Iraq. From Gallup to Santa Fe to Clovis, it was clear that the overwhelming majority were opposed to a unilateral invasion by the United States. Some told me they believed the President should involve the Congress in a decision to go to war. Others were concerned about getting support from our allies around the world. Others were concerned about the rush. Not surprisingly, I have continued to hear from my constituents, and their questions need to be answered.

I am pleased that President Bush has taken the initial steps to seek the approval of both the Congress and the United Nations before engaging in preemptive strikes on Iraq. I firmly believe that Congress has a vital role to play and a constitutional responsibility to act on matters of national security. However, I also believe there are several questions that must be answered before we rush into war.

Was Iraq involved in the September 11 attack on the United States? I have seen no evidence that it was. A tough and strong war against terrorism in response to September 11 does not reasonably extend to launching a war against Iraq. Indeed, attacking Iraq may be a distraction from the war against terrorism, not a continuation. Al Qaeda and Saddam Hussein are natural enemies, not allies. The al Qaeda terrorist movement is based on the belief that secular regimes in the Arab world are antithetical to the fundamental teachings of Islam.

Does Iraq pose an immediate and independent threat to the United States and our allies? The President has identified the key threat from Iraq as its development of weapons of mass destruction and the potential for Iraq to transfer these weapons to the terrorist groups it sponsors. I agree with this concern. However, what weapons of mass destruction does Iraq now have at its disposal? Does Iraq now have the capability to deliver and use these weapons against the United States? The answer is we do not know. Without reinserting the U.N. weapons inspectors, we may never know.

Why do we not allow the inspections process to take place? Why do we not allow the United Nations to work its will? The first resolution the President

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sent to Congress would allow him to use all means he determines to be appropriate, including force. Giving the President a blank check to act alone will increase the danger of unilateral military action by others in the future. It will undermine our broader foreign policy goals. It will divert much-needed resources from our pressing domestic needs.

The President has submitted a second draft resolution. Although it is an improvement, I still have serious reservations. While I am confident that the leadership of both parties can work together to draft a more balanced resolution, we need more diplomacy, we need more information, and we need more international allies. I have no doubt that our military can defeat Saddam Hussein in a war. My doubts lie in what happens after we remove Saddam from power. Without the backing of the international community and, most importantly, the Arab world, the aftermath will be uncertain and precarious.

Other questions must be answered before we vote. How much will the war cost? How many American soldiers will be seriously wounded or lose their lives? How many innocent Iraqi civilians will perish?

I am disheartened that we appear to be following this course. If we take politics out of this decision, our voice will be stronger. I believe that we should not vote on this before this election. We should take politics out of it, and I think if we do that, our message to the world will be clearer. The decision is ours.

THE NATIONAL ECONOMY

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from Missouri (Mr. GEPHARDT) is recognized during morning hour debates for 15 minutes.

Mr. GEPHARDT. Mr. Speaker, I rise to urge the House Republican leadership to address people's serious economic concerns. Today we awoke to reports on the radio which said that the front pages of major newspapers were dominated by the failed performance of our stock market.

Mr. Speaker, our Nation needs an economic plan that will address some of the challenges we face today, like restoring economic growth and opportunity. While the economy is crashing around us, the House Republican leadership continues to answer by passing more tax breaks for the wealthiest Americans and legislation that blames their failure to act on the other body. At a time of mounting economic pain, Republicans have ignored the people's priorities, from investor rights to Social Security, prescription drugs to education, to economic growth.

The Census Bureau reported this week that in the last year, the number of people without health insurance rose by 1.4 million due to a faltering economy and the rise in unemployment. Republicans will pass this week another non-sense of the House resolution calling for tax cuts 9 years from now, in 2011. CNN reported this week that U.S. stocks, and I quote, looked to wrap up what might be the worst September since the Great Depression and had their worst third quarter since 1987.

In a few days Americans will start receiving 401(k) statements showing another drop, a sharp drop, in their retirement savings. Senate Democrats will attempt to extend unemployment benefits today to 1.1 million people whose benefits have been exhausted, which is the right and responsible thing to do.

Today is the first day of the new fiscal year, yet as a result of their failed economic program, the Republicans have been unable to carry out their most fundamental responsibility by passing necessary budget bills. So they will have to bring to the floor this week a second continuing resolution in as many weeks to keep the government simply operating. Their failed economic plan now threatens to cut back resources for the Securities and Exchange Commission, cut back on medical expenses for the Veterans Affairs Department, cut back education, and cut back on front-line resources for homeland defense.

Last week I discussed on this floor this bankrupt economic agenda embraced by the House Republican leadership. Today let me discuss some basic facts about our Nation's economic future. In order to make progress for all Americans, we need to understand the results that the Democratic budget produced in 1993 versus the Republican economic plan that was passed in 2001. In 1993, the House of Representatives had an impassioned debate about America's economic future. Republicans predicted then that the Democratic economic plan to cut deficits and grow the economy would drive our economy into a ditch.

If you look at this chart, Mr. ARMEY on August 5, 1993, said that "this Democratic plan is not a recipe for new jobs. It is a recipe for disaster." On another chart, Mr. DELAY said that "this plan has got to be the biggest rip-off in modern history." Finally, on another chart, Mr. HASTERT predicted that "the Democratic plan would add more than $2 trillion to the national debt."

The House Republican leadership could not have been more wrong about that Democratic economic agenda to secure the future for all Americans. In the 2 years after Democrats enacted this plan, the unemployment rate dropped by almost 2 percent. Real incomes after inflation for average families increased by more than 10 percent. We created more than 8 million jobs. The poverty rate came down. The stock market shot up. The Federal budget deficit was reduced by $126 billion in just 2 years' time and became a surplus within 5 years. Our economic plan defeated the 1991 recession, and the lives of almost every American citizen were improved due in large part to this responsible economic agenda promoting opportunity in people's lives.

□ 1045

Deficits came down; interest rates came down. The American people created a high-tech revolution that raised living standards and inspired hope in communities nationwide.

Under the Democratic plan, the facts speak for themselves. People created opportunity for themselves, their families, and they created opportunity for their fellow Americans. For almost 8 years we had record economic prosperity due to responsible economic policies that Democrats enacted.

Then, in the spring of 2001, the Republican economic plan passed the Republican House, the then-Republican Senate; and the Republican President signed it into law. But I would like to point to some other statements that were made at the time.

The gentleman from Texas (Mr. DELAY), on this chart, on March 28, 2001, said that the President's budget will spur job creation. Again on the chart, the gentleman from Oklahoma (Mr. WATTS) boasted that their budget not only provides tax relief, but secures jobs and grows the economy. But he said, we also fund our Nation's priorities and pay down the debt. Finally, the majority leader, the gentleman from Texas (Mr. ARMEY), said that the plan will promote economic growth, a strong economy, and new and better jobs for our workers.

So the question now is, Where are we today? Did the predictions come true? Well, today, 18 months after these big and bold predictions, the Nation's economy and all of the economic indicators have headed south. The stock market has lost $4.5 trillion since President Bush took office.

If we look at this chart, over 2 million people have lost their jobs since President Bush took office and the economic plan was passed. Income for American families in middle-income brackets has declined 2.2 percent since the Republicans took office and, last week, for the first time in 8 years, the poverty rate in our country went up again. Consumer confidence has dropped in each of the last 4 months and is at the lowest level since November 2001. The Federal budget, in just over a year, went from a $236 billion surplus to a $165 billion deficit. That is over a $300 billion swing, almost $400 billion. And if we look at this chart, turned record surpluses into deficits for the decade ahead. An amazing, unbelievable, incomprehensible change in our economic budget health.

A wave of corporate scandals has eroded people's faith and trust in our Nation's free markets. As Ronald Brownstein wrote yesterday in the Los Angeles Times, he said, "Almost all of the key measures of economic well-being for average families improved during Bill Clinton's 8 years in the White House and now, under the second President Bush, the trend lines are pointing down again."

This is a Republican group that has been wrong, and I mean dead wrong, twice. They were wrong about the Democratic plan in 1993, and they were again wrong when they talked about their own plan more than a year ago.

Today, they have an opportunity to sit down with Democrats and write a new economic plan in a bipartisan way that would create long-term economic growth and opportunity for all Americans. But to date, they refuse to reconsider any aspect of a plan that was passed long before September 11, 2001. In fact, what they are doing today is simply keeping on passing bills to make their failed economic plan permanent. I guess the byline here is if it is bad and not working, let us make it permanent. Let us rigidly, tenaciously hold on to what is not working, so that it can continue to not work.

The sole passion of House Republicans has been to reward their wealthy political clientele for the next decade and beyond at the expense of every need of the American people. They are content wasting the people's time with ridiculous, nonbinding House resolutions when they have at least 20 major economic issues to address that might and would affect people's lives in a positive way.

Where is the debate on the future of Social Security? Where is the minimum wage increase legislation? Where is education funding so that we really leave no child behind? Where is the real pension legislation so that we protect people's pensions against corporate misbehavior? Where is the real prescription drug legislation that will actually at least get the price down for people's prescriptions? Where is the health care and Medicare-buttressing legislation?

Well, I will tell my colleagues where it all is. It is nowhere. They have nothing better to do. They cannot finish the budget. They have put nothing substantial on the floor since the August recess. We have been here 3 days a week doing nothing but renaming post offices. We are fiddling while America's economy implodes around the American people's ears.

Mr. Speaker, I think it is time to wake up and address the most important problems that we face. Let us come together on a new budget for America, a new economic plan for America, and let us stop talking about meaningless nonsense resolutions about something that might or might not happen 10 years from now. The American people are living in today and tomorrow. They are not waiting for what might or might not happen 10 years from now. Let us stop the meaningless nonsense resolutions when we ought to be dealing with the American people's important problems today.

HONORING THE LIFE OF GUADALUPE CANTU

The SPEAKER pro tempore (Mr. PENCE). Pursuant to the order of the House of January 23, 2002, the gentleman from Texas (Mr. HINOJOSA) is recognized during morning hour debates for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, I rise today to pay tribute to a great man, Mr. Guadalupe Cantu, who passed away on May 11, 2002 in McAllen, Texas, at the age of 79. I want to express my condolences to his wife, Elida, and his son and daughters, Alonzo, Elvia, and Hilda.

Guadalupe Cantu was not famous. Outside of my Texas congressional district, very few people knew him. But to me, he epitomized what every man should strive to become. Guadalupe Cantu and his wife came to this country in search of democracy and hope and promise for a better life. He began his adult life as a Mexican migrant farm worker and expert carpenter. He traveled throughout the country doing the hard manual farm labor that most Americans refuse to do; and yet, because of his hard work and the work of others like him, America produces food enough to feed our Nation and most of the world as well.

Guadalupe Cantu was never ashamed of the hard work he did, but he wanted something better for himself and his family. He strove for personal excellence and became a successful general contractor. Mr. Cantu knew that education was the key to future success. He and his wife, Elida, made sure that their three children went to school and stayed in school. No matter where the family traveled as they followed the harvest, they always returned to the Rio Grande Valley in time for the first day of school.

Guadalupe and his wife, Elida, made the great sacrifices necessary and ensured that each of their children received a college education. From Mr. Cantu's work in the fields and in his construction business, he understood that no one can accomplish anything alone. He realized early on the power of working together and involving the community. He passed along to his son, Alonzo, the construction and building skills that he had learned so well. Armed with a college education and his father's guidance, Alonzo has become the largest and most successful residential and commercial developer in McAllen, Texas. Mr. Cantu encouraged his daughter, Elvia, to pursue a career in pharmacy entrepreneurship. Today, she and her husband own several independent pharmacies. His daughter, Hilda, inherited his love of learning and became a wonderful school teacher.

More importantly, Mr. Cantu passed along to his children a passion for working hard, perseverance, and setting high goals. Both he and his wife became American citizens to enjoy the opportunities and the freedom in this great Nation. His example of doing his best, taking responsibility, caring for others, exercising integrity, and community service was learned well by his children and grandchildren.

Guadalupe Cantu never forgot where he came from, and believed that everyone had a duty to help those less fortunate. He inspired his son, Alonzo, to initiate the McAllen Affordable Homes Project and to build the Los Encinos Project. This nationally recognized housing project has provided safe, affordable homes to many families leaving the welfare rolls. The planned community includes an elementary school, a police and fire substation, a boys and girls club satellite building, baseball and soccer fields, and other amenities. Residents of the community take pride in their homes and are building home equity.

Mr. Speaker, if all of us use Guadalupe Cantu as our example, our children would be well educated and very successful, our community would be stronger, our friends would be numerous, and our world would be a better place. I can think of no better example of greatness. Many of Mr. Cantu's hopes and dreams for his children and grandchildren were fulfilled. He will truly be missed by all, but his goodness lives on through his family and their countless accomplishments and good deeds. His kindness and generosity will never be forgotten.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 58 minutes a.m.), the House stood in recess until noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at noon.

PRAYER

The Reverend Neil D. Smith, Faith Evangelical Presbyterian Church, Alexandria, Virginia, offered the following prayer:

Almighty God, from whom all blessings flow and to whom all praise belongs, acknowledging both our dependence upon You and our accountability to You, we ask Your blessings upon this House and all our Nation's leaders as they carry out their duties under Your sovereign rule.

Grant to the Members of this body both the wisdom to know what is right in Your eyes and the resolve to do it.

Lead them in the paths of righteousness and truth for Your name's sake, so that they may serve Your purposes in this generation.

May Your grace abound to them in both their personal and public lives so that in all things, at all times, having all that they need, they may abound in every good work.

This we pray in the name of Jesus Christ, who is before all things and in whom all things hold together.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Indiana (Mr. PENCE) come forward and lead the House in the Pledge of Allegiance.

Mr. PENCE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PRIVATE CALENDER

The SPEAKER pro tempore. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

NANCY B. WILSON

The Clerk called the bill (H.R. 392) for the relief of Nancy B. Wilson.

Mr. BARR of Georgia. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

WELCOMING THE REVEREND NEIL D. SMITH

(Mr. PENCE asked and was given permission to address the House for 1 minute.)

Mr. PENCE. Mr. Speaker, on behalf of the gentleman from Oklahoma (Mr. WATTS), the conference chairman, it is my honor today to welcome Reverend Neil Smith to this Chamber, the senior pastor of Faith Evangelical Presbyterian Church in Kingstowne, Virginia, a midsized church in the Evangelical Presbyterian denomination in northern Virginia. Faith Church is the church home to numerous congressional staffers, and its ministry is felt daily here on Capitol Hill.

Reverend Smith has spearheaded his church's effort toward outreach, both in the local community and around the world, with a missions presence. He is also very active in his growing denomination, attending session and general assembly meetings around the country. Last year he served as moderator of the Presbytery of the East of the Evangelical Presbyterian Church.

Pastor Smith was born and raised in western Pennsylvania, graduated with highest honors and a BA degree from Grove City College in Pennsylvania in 1977. In 1983, he graduated from Princeton Theological Seminary with an M.Div. degree, again with highest honors, and was ordained as a Presbyterian minister. From 1983 to 1997, he served in churches in Downingtown and Altoona, Pennsylvania. Since mid-1997, he has been senior pastor at Faith Evangelical Presbyterian Church.

He and his wife Mary Sue, who joins him here today, have just celebrated 25 years of matrimony. They have three children: daughter, Erin, 19, a sophomore at Grove City College in Pennsylvania; daughter Lindsay, who is a junior at West Springfield High School in Virginia, turned 16 today; and a very special boy, Nathan, 10 years old, a fifth-grader at my son's school here in Springfield, Virginia. They reside in Springfield, and, Mr. Speaker, we join in welcoming Reverend Smith and his wonderful family to this Chamber on this occasion.

TIME TO PASS A RESPONSIBLE BUDGET

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, today is the very first day of the new fiscal year, and yet the government's budget is not in order. The Senate has not even passed a budget, while the House, we continue to fight all appropriation bills, to keep all appropriation bills in line with the President's responsible budget request.

All the while political rhetoric continues to fly in the face of the real facts. Most recently I heard the troubling rumor that somehow we are trying to cut the education budget. Nothing, Mr. Speaker, could be further from the truth.

In fact, under Republican leadership in the House, Federal funding for education has more than doubled over the past 6 years. Since 1998, the overall education budget will have increased by nearly 70 percent. The President's budget for the Department of Education for fiscal year 2003 is $1.8 billion more than last year.

Mr. Speaker, these are the facts. In spite of the twin challenges of war and economic recovery, House Republicans remain committed and dedicated to funding our priorities. It is time others joined in our efforts in this regard.

CONGRATULATING RICOH ELECTRONICS ON ENVIRONMENTAL POLICIES

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I rise today to commend Orange County-based Ricoh Electronics, Incorporated, for their exceptional environmental practices. Since 1997, Ricoh Electronics has been dedicated to establishing a progressive environmental management system within their company.

In 1999, 2000, 2001, they were awarded for their outstanding waste reduction efforts by the California Waste Management Board. In 2001, all Ricoh facilities were certified Zero Waste to Landfill by eliminating all land disposal of waste from their office areas and manufacturing units.

They have also been accepted into the EPA's premier environmental recognition program, the National Performance Track, by promoting sound environmental management, continuous environmental improvement, public outreach and sustained environmental compliance.

Once again, I commend Ricoh Electronics on being an excellent example of how today's corporations can increase protection of public health and the environment in the workplace.

U.N. CREDIBILITY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, tyrants speak only one language, and that is the language of raw power. Neville Chamberlain learned that the hard way when he came back from his meeting with Hitler and proclaimed peace. We cannot negotiate, we cannot reason, we cannot expect them to keep their word.

Saddam Hussein has already broken every promise he has made. He broke his promise to allow inspections by the United Nations. He broke his promise to return hundreds of Kuwaiti civilian prisoners. He broke his promise not to use oil revenue to buy weapons, and just about every day he breaks his promise not to shoot our planes in the no-fly zones.

Saddam Hussein is a proven liar, but somebody who orders chemical weapons used on his own people is not about to be bothered by a few lies. Some on the other side of the aisle, some nations in Europe are suggesting that we take him at his word. Somehow we are supposed to believe that this time he is telling the truth.

If the U.N. and the civilized nations of the world have learned anything in the past few years, it should be that we cannot believe Saddam Hussein. If the U.N. wants to have any credibility at all, it should enforce its resolutions that Saddam Hussein has consistently violated and authorize decisive action before it is too late.

COMMEMORATING THE 136TH ANNIVERSARY OF BETHEL AFRICAN METHODIST EPISCOPAL CHURCH

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, on Sunday our family was honored to be special guests for the 136th anniversary service of Bethel African Methodist Episcopal Church in Columbia, South Carolina.

Bethel has a rich history that is interwoven into the history of the city of Columbia, as well as the State of South Carolina. The church was organized 1 year after the close of the Civil War. It has built several historic sanctuaries, and during construction in 1921, the Bethel congregation worshipped in my family's home church, First Presbyterian of Columbia, ARP.

Reverend Ronnie E. Brailsford, Sr., with his first lady Carolyn, has been pastor of Bethel AME Church since 1992, inspiring a renaissance and revival. The membership has quadrupled to over 1,100 members, and the campus of sanctuary and support buildings make it one of the largest African Methodist Episcopal-owned campuses in the world.

The anniversary address was presented by Bethel native son Bishop John Hurst Adams, senior bishop of the 11th Episcopal District of Florida.

God has truly blessed this dear congregation, but a beloved hymn during the service was prophetic, "The Best Is Yet To Come."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on motions to suspend the rules ordered prior to 6:30 p.m. may be taken today.

Record votes on remaining motions to suspend the rules will be taken tomorrow.

MOSQUITO ABATEMENT FOR SAFETY AND HEALTH ACT

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4793) to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, as amended.

The Clerk read as follows:

H.R. 4793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mosquito Abatement for Safety and Health Act".

SEC. 2. GRANTS REGARDING PREVENTION OF MOSQUITO-BORNE DISEASES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by section 4 of Public Law 107–84 and section 312 of Public Law 107–188, is amended—

(1) by transferring section 317R from the current placement of the section and inserting the section after section 317Q; and

(2) by inserting after section 317R (as so transferred) the following section:

"SEC. 317S. MOSQUITO-BORNE DISEASES; ASSESSMENT AND CONTROL GRANTS TO POLITICAL SUBDIVISIONS; COORDINATION GRANTS TO STATES.

"(a) PREVENTION AND CONTROL GRANTS TO POLITICAL SUBDIVISIONS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to political subdivisions of States for the operation of mosquito control programs to prevent and control mosquito-borne diseases (referred to in this section as 'control programs').

"(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to political subdivisions that—

"(A) have an incidence or prevalence of mosquito-borne disease, or a population of infected mosquitoes, that is substantial relative to other political subdivisions;

"(B) demonstrate to the Secretary that the political subdivisions will, if appropriate to the mosquito circumstances involved, effectively coordinate the activities of the control programs with contiguous political subdivisions; and

"(C) demonstrate to the Secretary (directly or through State officials) that the State in which the political subdivision is located has identified or will identify geographic areas in the State that have a significant need for control programs and will effectively coordinate such programs in such areas.

"(3) REQUIREMENT OF ASSESSMENT AND PLAN.—A grant may be made under paragraph (1) only if the political subdivision involved—

"(A) has conducted an assessment to determine the immediate needs in such subdivision for a control program, including an entomological survey of potential mosquito breeding areas; and

"(B) has, on the basis of such assessment, developed a plan for carrying out such a program.

"(4) REQUIREMENT OF MATCHING FUNDS.—

"(A) IN GENERAL.—With respect to the costs of a control program to be carried out under paragraph (1) by a political subdivision, a grant under such paragraph may be made only if the subdivision agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than ⅓ of such costs ($1 for each $2 of Federal funds provided in the grant).

"(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(C) WAIVER.—The Secretary may waive the requirement established in subparagraph (A) if the Secretary determines that extraordinary economic conditions in the political subdivision involved justify the waiver.

"(5) REPORTS TO SECRETARY.—A grant may be made under paragraph (1) only if the political subdivision involved agrees that, promptly after the end of the fiscal year for which the grant is made, the subdivision will submit to the Secretary, and to the State within which the subdivision is located, a report that describes the control program and contains an evaluation of whether the program was effective.

"(6) AMOUNT OF GRANT; NUMBER OF GRANTS.—A grant under paragraph (1) for a fiscal year may not exceed $100,000. A political subdivision may not receive more than one grant under such paragraph.

"(b) ASSESSMENT GRANTS TO POLITICAL SUBDIVISIONS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to political subdivisions of States to conduct the assessments and to develop the plans that are required in paragraph (3) of subsection (a) as a condition of receiving a grant under paragraph (1) of such subsection.

"(2) AMOUNT OF GRANT; NUMBER OF GRANTS.—A grant under paragraph (1) for a fiscal year may not exceed $10,000. A political subdivision may not receive more than one grant under such paragraph.

"(c) COORDINATION GRANTS TO STATES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States for the purpose of coordinating control programs in the State.

"(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to States that have one or more political subdivisions with an incidence or prevalence of mosquito-borne disease, or a population of infected mosquitoes, that is substantial relative to political subdivisions in other States.

"(3) CERTAIN REQUIREMENTS.—A grant may be made under paragraph (1) only if—

"(A) the State involved has developed, or agrees to develop, a plan for coordinating control programs in the State, and the plan takes into account any assessments or plans described in subsection (a)(3) that have been conducted or developed, respectively, by political subdivisions in the State;

"(B) in developing such plan, the State consulted or will consult (as the case may be under subparagraph (A)) with political subdivisions in the State that are carrying out or planning to carry out control programs; and

"(C) the State agrees to monitor control programs in the State in order to ensure that the programs are carried out in accordance with such plan, with priority given to coordination of control programs in political subdivisions described in paragraph (2) that are contiguous.

"(4) Reports to Secretary.—A grant may be made under paragraph (1) only if the State involved agrees that, promptly after the end of the fiscal year for which the grant is made, the State will submit to the Secretary a report that—

"(A) describes the activities of the State under the grant; and

"(B) contains an evaluation of whether the control programs of political subdivisions in the State were effectively coordinated with each other, which evaluation takes into account any reports that the State received under subsection (a)(5) from such subdivisions.

"(5) Amount of grant; number of grants.—A grant under paragraph (1) for a fiscal year may not exceed $10,000. A State may not receive more than one grant under such paragraph.

"(d) Applications for Grants.—A grant may be made under subsection (a), (b), or (c) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) Technical Assistance.—The Secretary may provide training and technical assistance with respect to the planning, development, and operation of control programs under subsection (a) and assessments and plans under subsection (b). The Secretary may provide such technical assistance directly or through awards of grants or contracts to public and private entities.

"(f) Definitions.—For purposes of this section:

"(1) The term 'control program' has the meaning indicated for such term in subsection (a)(1).

"(2) The term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs. If State law recognizes an entity of general government that functions in lieu of, and is not within, a county, parish, or borough, the Secretary may recognize an area under the jurisdiction of such other entities of general government as a political subdivision for purposes of this Act.

"(g) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $100,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2007. In the case of control programs carried out in response to a mosquito-borne disease that constitutes a public health emergency, the authorization of appropriations under the preceding sentence is in addition to applicable authorizations of appropriations under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.".

SEC. 3. RESEARCH PROGRAM OF NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES.

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following section:

"METHODS OF CONTROLLING CERTAIN INSECT POPULATIONS

"Sec. 463B. The Director of the Institute shall conduct or support research to identify or develop methods of controlling the population of insects that transmit to humans diseases that have significant adverse health consequences.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. Tauzin) and the gentleman from Louisiana (Mr. John) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. Tauzin).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that today the House is considering legislation to address the West Nile virus outbreak. The gentleman from Louisiana (Mr. John) is the author of this legislation, and I am pleased that he joins me on the floor today to help secure House passage.

There is a reason the Chair may have said the gentleman from Virginia, because obviously there are lots of folks in Louisiana right now moving north with a new storm approaching in the Gulf of Mexico, and the gentleman from Louisiana (Mr. John) was one of those who was here working in the Nation's Capital while we watched our citizens and our friends in Louisiana being threatened once again.

Last week when Isidore came through and dumped as much as 24 inches of water on my State, it created another impending threat to the problems of mosquito growth and the spread of this virus in our home State, and we are about to see another hurricane on its way this week.

Since the Committee on Energy and Commerce reported this legislation 1 month ago, the number of human cases reported to the Centers for Disease Control and Prevention has increased 160 percent. Over 2,300 human cases are known, and almost every State in the Nation now, 43 in total, are reporting laboratory-positive West Nile virus infections in mosquitoes, animals or humans.

Three years ago, West Nile virus was detected in New York City. It was the first time the disease had been reported in this hemisphere, let alone in the United States. My home State of Louisiana, as my colleagues know, has been particularly hard hit, with 200 of the human cases reported from my home State in Louisiana.

The Bush administration has responded quickly to the West Nile virus outbreak, transferring over the past 2 months an additional $17 million in emergency funds to assist State's efforts to control the spread of the disease, and I want to thank Secretary Tommy Thompson, who took money out of his personal budget to send it to States hard hit like our own, for responding so rapidly.

☐ 1215

But the rapid outbreak of this disease this summer demands that we more effectively control the mosquito population to help reduce the risk of West Nile virus in its transmission.

Today we are considering legislation that complements the work of the Centers for Disease Control and Prevention that they are already doing in so many mosquito-borne illnesses including, by the way, the discovery here recently of malaria.

The Mosquito Abatement for Safety and Health Act provides authority for the Secretary of Health and Human Services to make grants to political subdivisions to develop comprehensive mosquito control plans and programs. And historically, mosquito control programs have been operated at the local level, and we do not want to change that. Nothing in this bill will change that. It is clear, however, that currently many of the local communities are facing hardships. The rapid outbreak across this country is fast outpacing the predictions of many scientists, and it is very difficult for communities to respond.

In Louisiana only 18 of our 64 parishes have mosquito control programs in operation. The additional Federal dollars will make the difference in saving lives not only in Louisiana but across the country. And although mosquito control programs are indeed operated locally, infected mosquitos do not voluntarily stay confined to one area. They move around, as we know, and create havoc. So this act will give some assistance from the Federal Government to make sure that these local authorities have the tools to work with.

But I want to commend the Centers for Disease Control; they have done a great job. We thank them. This bill will give them a lot more help. And the MASH Act will also direct the National Institutes of Health to conduct or support research and develop methods to control these insect populations and hopefully one day to find preventative vaccines or cures for some of these diseases. This legislation is only one way we can help Americans to "fight the bite," if you will. And I want to thank my colleague, the gentleman from Louisiana (Mr. John) who saw this problem coming before anyone else in this body, who filed this legislation months ago before it became such a severe national threat. This was great insight, and I think all of us in the Nation are indebted to him for the work he has done on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman for allowing me a few minutes to talk about H.R. 4793, the Mosquito Abatement for Health and Safety Act.

I want to thank the gentleman from Louisiana (Mr. TAUZIN), the chairman, and the gentleman from Michigan (Mr. DINGELL), the ranking member, for having the vision and having the seriousness and understanding the seriousness of this issue and expediting it through the Committee on Commerce. I really appreciate working with the staffs, both the majority and the minority staffs, working very hard to try to address this threat because without their leadership, we could not have been here today; and I really appreciate their help.

I introduced this bill back in May to address an emerging threat of mosquito-borne illness. Today it is West Nile. Tomorrow it could be any number of different diseases. We could be discussing malaria or any of the other diseases today. And since May, since I introduced the bill, the gentleman from Louisiana (Mr. TAUZIN) said there were over 2,300 cases. In fact, talking to the CDC today, there are reported cases every day. There are now confirmed when I left my office a few minutes ago 2,405 cases across the Nation and 117 deaths as of this morning.

As we can see from this map behind me, 42 States today have experienced some cases of human or animal infections. The red States are where the human cases have been found, and the blue States where they have found infected animals. As we can see from this visual, this is a national threat. This is not just about an insect that we like to call the State insect in Louisiana, but this is about a national threat to public health, especially for our most vulnerable citizens, our senior citizens, who are most vulnerable to this disease as depicted in research from the Centers for Disease Control and Prevention.

The threat today will soon force some of our State health departments into a financial crisis trying to deal with the spread of this disease, trying to deal with the health expenditures that are being caused not just in a certain section of the United States but all over including the State of California, which is now experiencing this.

In Louisiana alone we have experienced 287 cases and 14 deaths. One would think that that would top the charts, but it did not. In the State of Illinois, 551 cases, 29 deaths. In the State of Michigan, 314 cases and 16 deaths. So this is truly a national threat. Parishes and counties have stretched their budgets in trying to combat and to cover the cost of mosquito abatement, and they have just been stretched to the limits.

What H.R. 4793 would do would establish a one-time two-for-one grant program through the Centers for Disease Control and Prevention. Local governments today have tax bases, and historically that is what they have used to fund these programs. But if we can pass 4793, this will enable the local governments to fund for the purchasing of equipment, for improving laboratories, or more importantly to establish a mosquito abatement program.

In my parish of Acadia Parish, we have tried many times to establish it, but it is a very rural parish. It is mosquito prone, it is rice fields, it is bayous, lots of mosquitos; and we are trying very hard to establish a mosquito program, and this will go a long way to help that become a reality because the most effective way to combat this disease that is widespread is through education and most importantly abatement.

Today the Centers for Disease Control and Prevention provides funding for education, but no Federal agency across the gamut of all of our Federal agencies addresses the need of expenses for abatement programs whether on the State level or on the parish or county level. I know that Tommy Thompson, the Department of Health and Human Services, along with the President and the Governor of our great State, have worked together to provide some emergency money for some emergency spending. We appreciate that, but we need a solid ongoing program to help. Unfortunately, not many parishes and/or counties can afford this. So that is the real need for this program. Not only is it an epidemic, but I also think the Federal Government should play a role in this.

Again, I want to thank the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Michigan (Mr. DINGELL) for working together with me and the other co-sponsors of this bill. When I first filed this bill, never did I envision that I would have this many co-sponsors but certainly never envisioned that it would be as widespread as it is just a few months after introduction of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. SOUDER), whose hometown, by the way, has suffered 49 cases of West Nile virus.

Mr. SOUDER. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN), the distinguished chairman, and the other gentleman from Louisiana (Mr. JOHN). Our mosquitos may not be as big as Louisiana. I know that one time I tried to camp in a bayou outside New Orleans, and we quickly moved into the car. It did not fully digest the car, but we decided not to camp. But we have our own mosquito problems in the Midwest as evident from the Illinois and Michigan cases, and in northeast Indiana we have one of the highest rates of West Nile virus in the country, 157 probable cases as of 2 days ago, but another batch was due in yesterday. Forty-nine of those in my home area in Allen County in Fort Wayne, Indiana including three deaths. That is 10 times our population base in the country.

I strongly support this. Our Committee on Government Reform subcommittee that I chair has jurisdictions over matters of public health, and I join with the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Louisiana (Mr. JOHN) in supporting this bill, H.R. 4793, to help equip our communities to have the tools necessary to control the mosquito-borne diseases. We need to help rather than hinder the ability of States and municipalities to do the proper spraying.

We have had a major debate in the city of Fort Wayne that has been a controversial point about whether to spray, and we waited, bluntly put, too long to spray, and part of that was financial, part of it were other debates; but we need this type of legislation that requires that the political subdivisions do the assessments and then they are eligible for the grants.

On Thursday afternoon of this week, I will be chairing a hearing on the West Nile virus where we are going to have the Illinois Health Commissioner, Florida Health Commissioner, and the Allen County Health Commissioner, as well as the Centers for Disease Control and Prevention and NIH to look at some of these questions about research-funding levels, efficacy of mosquito spraying, the viruses communicability through blood transfusions and organ transplants and how difficult it is and what we have not learned and some of the difficulties that they have faced in being able to come up with quicker ways to get feedback to individuals for vaccines. One of the most troubling aspects in my hometown is that one cannot find out for sure whether one has West Nile. A number of people have taken 3 weeks, are down to 10 days, and if they have a severe case, the cases where they have identified it, they have died shortly thereafter because they cannot find out soon enough.

I wanted to just read a couple of comments from one couple that went public about his struggles after he received the West Nile virus and how his body started to deteriorate, how initially one of the things that is panicking everybody on the news is they say if one starts to have a headache, if one gets a neck ache and so on, they may have West Nile. So they go in for a test and this particular gentleman went in for the test, but then it was just the start. His fever climbed to 103. His body shook with chills. He became dizzy, began losing his balance, reached the point where he could not walk. After a blood test revealed that his white blood cell count was extremely high, indicating an infection of some kind, his doctor drew blood for the West Nile test. Now he has to wait multiple weeks until they can figure out what is happening. And the symptoms vary, ranging from the mild flu to this more severe case. In his case the tests came back positive. He became dehydrated. Furthermore, he got sicker. He lost 15 pounds, dry heaves, and then eventually started to get mentally confused and is still battling this even though he did not die, which is the good news.

I thank the gentlemen again for their leadership.

Mr. JOHN. Mr. Speaker, I continue to reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. UPTON) whose State, by the way, now is second only to Illinois in the number of reported cases.

Mr. UPTON. Mr. Speaker, I thank the chairman for his leadership and also the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Louisiana (Mr. JOHN) and others, the gentleman from Michigan (Mr. DINGELL), for moving this legislation so quickly.

Michigan is known as a Great Lakes State. I look at the other Great Lakes States. I look at Minnesota, the State of 10,000 lakes. Michigan has more than 11,000 inland lakes. But we have had 343 cases of West Nile this year, and the gentleman from Louisiana (Mr. JOHN) remarked that there were 16 reported deaths because of West Nile in Michigan. Actually, since those statistics, within the last couple of weeks, we have actually gone up to 21 deaths. So we are second only to the State of Illinois, which took a pounding by the Wolverines this past weekend, 45 to 28.

But in all serious, Mr. Speaker, this is a grave problem that not only Michigan but Louisiana, all States across the Nation are facing. It is important that this legislation pass today, and then the next step is to make sure that we have adequate funding so that the CDC through the Labor-HHS appropriation bill in fact have right resources to make sure that not only can we help eradicate mosquitos wherever they may be across this country but we also find a cure for those who are impacted.

I again thank the gentlemen for their leadership on this issue.

Mr. JOHN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time, and I also want to commend and thank the sponsors for the introduction of this legislation.

As has already been mentioned, Illinois has been seriously hit, hardpressed. As a matter of fact, people are afraid to go out in late evenings and early mornings for fear, and I think that this legislation will go a long way towards providing abatement resources so that people can function in safety and security; and so I thank them, commend them, and urge swift passage of this bill.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS), who also, again, represents a State with the highest incidence of this disease.

Mr. SHIMKUS. Mr. Speaker, I thank the chairman for yielding me this time. I am pleased to follow the gentleman from Illinois (Mr. DAVIS), as we have struggled with this West Nile, and we have throughout the country.

As a young child, fogging was pretty common. I remember being at the local community pool and the truck would go by, and we would all dunk underneath the water; and as it would go out, then we would get up and swim. And then we had a long reprieve from the aspects of really going after and attacking the mosquito populations, and we can no longer afford to do that, especially with the West Nile virus, and it is being carried.

□ 1230

Yes, Illinois has been hit hard. Illinois has had its fair share of deaths; and yes, we at the Federal level need to partner and assist our local responders. We need to move through this authorization, and, more importantly, work with the appropriators to help bring the resources needed to partner with the local communities.

This is a very important bill. It directly affects our constituents. This is the Federal Government responding in a timely manner to be involved in this outbreak and this attack on our citizens. I applaud the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Louisiana (Mr. JOHN) and the chairmen of the subcommittees for moving this expeditiously to the floor.

Mr. JOHN. Mr. Speaker, I reserve the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIRAKIS. Mr. Speaker, I support the bill. I am up here mostly to express my gratitude and acknowledgment to the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Louisiana (Mr. JOHN) for their efforts in bringing this important public health legislation to the floor.

It is significant that we keep pounding away on the fact that of the 239 cases of infection that we know about, three-quarters of those infections caused either meningitis or encephalitis, which are severe, life-threatening brain infections. So authorizing these centers to award grants to work with local authorities is certainly the way to do, and it is imperative that we do so. I urge Members to join us all in supporting this very important bill.

Mr. JOHN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank all Members who have cosponsored the bill, and all Members who have worked so hard on this issue. I thank all Members for helping put this bill together and making this bill a reality.

Mr. DINGELL. Mr. Speaker, I would first like to thank my distinguished colleagues Representative CHRIS JOHN and Representative TAUZIN for introducing H.R. 4793, the "Mosquito Abatement for Safety and Health Act," and for working so diligently on behalf of the people and States who have been ravaged by the West Nile virus.

Less than one month ago, on September 5th, the Committee on Energy and Commerce unanimously reported this bill out of committee. Since then, we have seen the number of confirmed human cases of West Nile virus in the United States jump dramatically from 638 to 2,206 today. In just these few weeks, we have seen the number of West Nile deaths climb from 31 to 108. Since our committee markup, 275 more people in my home State of Michigan have contracted this deadly virus and 13 more people in Michigan have died.

H.R. 4793 authorizes the secretary, acting with the Director of the Centers for Disease Control and Prevention (CDC), to make grants available, on a matching-funds basis, to political subdivisions of States for the operation of mosquito control programs to prevent and control mosquito-borne diseases. Among other necessary expenses, these grants will help pay for the costs of purchasing or updating equipment and laboratory facilities to cope with this fairly recent, evolving, and unpredictable epidemic.

In addition, the "Mosquito Abatement for Safety and Health Act" would require that the Director of the National Institutes of Health (NIH) conduct or support research to identify and develop methods of controlling the population of insects that transmit to humans diseases that have significant adverse health consequences.

In order to fight the West Nile virus, and to prevent future illness and death, we must equip States with the necessary tools to fight this deadly disease and we must aid our medical community in gathering and analyzing information.

I urge all of my colleagues to join me in support of H.R. 4793, the "Mosquito Abatement for Safety and Health Act." This bill is an important, and potentially life-saving, piece of legislation.

Mr. BENTSEN. Mr. Speaker, I rise in strong support of H.R. 4793, the Mosquito Abatement for Safety and Health Act. I would Like to commend the efforts of my colleagues, Energy and Commerce Chairman BILLY TAUZIN and Congressman CHRIS JOHN, in bringing this much-needed legislation to the House floor for consideration. I am cosponsoring H.R. 4793 because I believe it provides the crucial federal assistance needed by our local and state governments in stemming the spread of the West Nile Virus and other mosquito-borne diseases.

My own state and district have already witnessed the rapid spread of the West Nile

Virus, with the number of confirmed cases in Harris County rising from 4 to 19 in under 2 months, with already 2 fatalities. Probable cases now number at least 58. And across our country West Nile Virus is present in at least 41 states, with 2,404 people already infected and 117 having already died from the West Nile Virus. The grant programs and provisions of H.R. 4793 is an encouraging indication that federal, state, and local authorities can work together to combat and reverse this alarming trend of new cases. I believe the efforts of the federal government to assist state and local health authorities could have come no sooner, as many of these entities are already straining to protect our most vulnerable citizens on limited budgets.

By focusing on those areas that have suffered a high incidence of mosquito-borne diseases, H.R. 4793 will provide the targeted financial assistance needed by local communities to expand their mosquito spraying programs, purchase new equipment, or update their laboratories. The CDC has recommended mosquito control measures as one of the most effective methods of West Nile prevention. H.R. 4793 provides the federal assistance to help local communities maintain and expand those spraying programs. Mosquito control programs also have the added benefit of protecting local communities from a host of other diseases besides West Nile Virus, including St. Louis encephalitis, La Crosse encephalitis, and dengue fever.

For all of these reasons, I support the passage of H.R. 4793 and urge my colleagues to support this measure as well. And I will continue to work with my colleagues to ensure that adequate funding for these programs is secured to safeguard our local communities from this national public health threat.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am a cosponsor and firm supporter of H.R. 4793, the Mosquito Abatement for Safety and Health—or MASH—Act. We have a public health emergency on our hands. What was once an obscure African disease buried in the back of medical school pathology books, has the potential for turning into a full-blown epidemic if we do not make smart policy and well-directed investments in prevention and education.

So far this year 2,405 people have tested positive for West Nile Virus in the United States. The infection that starts with flu-like symptoms can end in swelling of the brain, and eventually death. There is no known cure for, or vaccine against, West Nile Virus. Out of the 2,405 infected this year, the virus has killed 117 people. And the season is not near over.

The 18th Congressional District of Texas that I represent has not been spared this insidious disease. Two months ago tragedy struck Houston when one of my constituents became the first Texan to die of complications of West Nile infection. Two weeks later, I walked the streets of her community, to check on her neighbors, and to get information and advice to those in need. I was accompanied by West Nile experts from health departments of every level—Texas, Harris County, and the City of Houston.

Although I was pleased with the expertise and dedication of those officials, I was struck by two problems. One, was that there are too many gaps in the funding and efforts to tackle this problem at the state and local levels. For example, although Harris County was playing a huge and important role in monitoring disease spread and spraying insecticides to control the mosquitoes that carry the virus—the county could not directly receive any money directly from the Centers for Disease Control and Prevention. They were forced to apply through the city of Houston or through the State Health Department, and then wait as funds trickled down to them, hoping it would get there in time to stem the tide of the encroaching epidemic.

This was unacceptable. I made calls and wrote letters to extract funds from the CDC, and ensured efficient flow of the funds down to the local levels where they could actually be put to work. But, this is not the way the system should have to work. The MASH Act addresses this problem, by providing for Mosquito Control Program Grants issued directly to counties. The grants would provide $2 of Federal funding for every $1 of local funding. The Secretary could even waive the matching portion in cases of extraordinary economic conditions. This is how to get things done.

To ensure that funds are used effectively, the MASH Act requires the counties conduct assessments and surveys of the needs of the county, submit plan of attack, and, afterward, a report that describes the effectiveness of the program. West Nile Virus is probably here to stay. These reports will enable us to hone our national strategy for controlling the associated disease.

The MASH Act also funds a one-time grant of up to $10,000 to States to develop a plan to coordinate programs within the State. This will ensure good coordination and flow of information throughout each affected state.

The other problem I notice during my walk through the neighborhood in my district struck by West Nile Virus, is that too many people are still scared and confused. Some seemed to feel like hostages in their homes. It is the elderly who are most vulnerable to West Nile Virus, and these seniors are being told to go out in their yards and remove all standing water, such as cement birdbaths and old tires. They are told by public service announcements and the news not to go without DEET-containing mosquito repellent, but of course they have to go outside to get to the drugstore to buy some. And if they do find a way to get to the drugstore to protect themselves, they find that 56 percent of mosquito repellents that contain DEET—do not have the word DEET written anywhere on the label. I am continuing my work with the EPA and industry leaders to make sure that all DEET-containing product are clearly labeled by next season, to cut down on confusion and save lives. But, we need some quick fixes to these other pressing problems as well.

The MASH Act will provide funds directly to the people who know the needs of the community. The funds will enable them to establish appropriate budgets to control mosquitoes—I hope, by going straight out into the communities, clearing out tires and stagnant water, and delivering DEET with clear labels. Most importantly, they need to get the word out that West Nile Virus is a serious problem, but with smart precautions, and a well-funded and well-coordinated effort—it does not need to become a national disaster.

I support the MASH Act and encourage my colleagues to do the same.

Mr. JOHN. Mr. Speaker, I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 4793, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HEALTH CARE SAFETY NET IMPROVEMENT ACT

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3450) to amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and for other purposes.

The Clerk read as follows:

H.R. 3450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Care Safety Net Improvement Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSOLIDATED HEALTH CENTER PROGRAM AMENDMENTS

Sec. 101. Health centers.
Sec. 102. Migratory and seasonal agricultural workers.

TITLE II—RURAL HEALTH

Subtitle A—Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement Grant Programs

Sec. 201. Grant programs.

Subtitle B—Telehealth Grant Consolidation

Sec. 211. Short title.
Sec. 212. Consolidation and reauthorization of provisions.

Subtitle C—Mental Health Services Telehealth Program and Rural Emergency Medical Service Training and Equipment Assistance Program

Sec. 221. Programs.

TITLE III—NATIONAL HEALTH SERVICE CORPS PROGRAM

Sec. 301. National Health Service Corps.
Sec. 302. Designation of health professional shortage areas.
Sec. 303. Assignment of Corps personnel.
Sec. 304. Priorities in assignment of Corps personnel.
Sec. 305. Cost-sharing.
Sec. 306. Eligibility for Federal funds.
Sec. 307. Facilitation of effective provision of Corps services.

Sec. 308. Authorization of appropriations.
Sec. 309. National Health Service Corps Scholarship Program.
Sec. 310. National Health Service Corps Loan Repayment Program.
Sec. 311. Obligated service.
Sec. 312. Private practice.
Sec. 313. Breach of scholarship contract or loan repayment contract.
Sec. 314. Authorization of appropriations.
Sec. 315. Grants to States for loan repayment programs.
Sec. 316. Demonstration grants to States for community scholarship programs.

TITLE IV—ADDITIONAL PROVISIONS

Sec. 401. Community access demonstration program.
Sec. 402. Expanding availability of dental services.
Sec. 403. Study regarding barriers to participation of farmworkers in health programs.
Sec. 404. Eligibility of certain entities for grants.
Sec. 405. Conforming amendments.

TITLE I—CONSOLIDATED HEALTH CENTER PROGRAM AMENDMENTS

SEC. 101. HEALTH CENTERS.

(a) INCREASE OF AUTHORIZATION OF APPROPRIATIONS FROM $802,124,000 FOR FISCAL YEAR 1997 TO $1,293,000,000 FOR FISCAL YEAR 2002.—Section 330(l)(1) of the Public Health Service Act (42 U.S.C. 254b(l(1))) is amended by striking "$802,124,000" and all that follows and inserting "$1,293,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.".

(b) ADDITIONAL AMENDMENTS.—Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) in subsection (b)(1)(A)—

(A) in clause (i)(III)(bb), by striking "screening for breast and cervical cancer" and inserting "appropriate cancer screening";

(B) in clause (ii), by inserting "(including specialty referral when medically , indicated)" after "medical services"; and

(C) in clause (iii), by inserting "housing," after "social,";

(2) in subsection (b)(2)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) behavioral and mental health and substance abuse services;";

(3) in subsection (c)(1)—

(A) in subparagraph (B)—

(i) in the heading, by striking "COMPREHENSIVE SERVICE DELIVERY" and inserting "MANAGED CARE";

(ii) in the matter preceding clause (i), by striking "network or plan" and all that follows to the period and inserting "managed care network or plan."; and

(iii) in the matter following clause (ii), by striking "Any such grant may include" and all that follows through the period; and

(B) by adding at the end the following:

"(C) PRACTICE MANAGEMENT NETWORKS.—The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop practice management networks that will enable the centers to—

"(i) reduce costs associated with the provision of health care services;

"(ii) improve access to, and availability of, health care services provided to individuals served by the centers;

"(iii) enhance the quality and coordination of health care services; or

"(iv) improve the health status of communities.

"(D) USE OF FUNDS.—The activities for which a grant may be made under subparagraph (B) or (C) may include the purchase or lease of equipment, which may include data and information systems (including paying for the costs of amortizing the principal of, and paying the interest on, loans for equipment), the provision of training and technical assistance related to the provision of health care services on a prepaid basis or under another managed care arrangement, and other activities that promote the development of practice management or managed care networks and plans.";

(4) in subsection (d)—

(A) by striking the subsection heading and inserting "LOAN GUARANTEE PROGRAM.—";

(B) in paragraph (1)—

(i) in subparagraph (A), by striking "the principal and interest on loans" and all that follows through the period and inserting "the principal and interest on loans made by non-Federal lenders to health centers, funded under this section, for the costs of developing and operating managed care networks or plans described in subsection (c)(1)(B), or practice management networks described in subsection (c)(1)(C), and for the costs of acquiring or leasing buildings, or purchasing or leasing equipment.";

(ii) in subparagraph (B)—

(I) in clause (i), by striking "or";

(II) in clause (ii), by striking the period and inserting "; or"; and

(III) by adding at the end the following:

"(iii) to refinance a loan to the center or centers, if the Secretary determines that—

"(I) such refinancing will result in more favorable terms;

"(II) the savings resulting from the refinancing will be beneficial to both the center (or centers) and the Government; and

"(III) the center (or centers) can demonstrate an ability to repay the refinanced loan equal to or greater than the ability of the center (or centers) to repay the original loan on the date the original loan was made."; and

(iii) by adding at the end the following:

"(D) PROVISION DIRECTLY TO NETWORKS OR PLANS.—At the request of health centers receiving assistance under this section, loan guarantees provided under this paragraph may be made directly to networks or plans that are at least majority controlled and, as applicable, at least majority owned by those health centers."; and

(C)(i) by striking paragraphs (6) and (7); and

(ii) by redesignating paragraph (8) as paragraph (6);

(5) in subsection (e)—

(A) in paragraph (1), by adding at the end the following:

"(C) OPERATION OF NETWORKS AND PLANS.—

"(i) IN GENERAL.—The Secretary may make grants to health centers that receive assistance under this section, or at the request of the health centers, directly to a network or plan (as described in subparagraphs (B) and (C) of subsection (c)(1)) that is at least majority controlled and, as applicable, at least majority owned by such health centers receiving assistance under this section, for the costs associated with the operation of such network or plan, including the purchase or lease of equipment (including the costs of amortizing the principal of, and paying the interest on, loans for equipment).

"(ii) CERTAIN REQUIREMENTS.—Subsection (j) applies with respect to grants under clause (i) to the same extent and in the same manner as such subsection applies with respect to grants under subparagraph (A) or (B), except to the extent that as applied to clause (i) the Secretary waives any requirement under subsection (j) on the basis that the requirement is not necessary with respect to the purposes for which grants under clause (i) are made."; and

(B) in paragraph (5)—

(i) in subparagraph (A), by inserting "subparagraphs (A) and (B) of" after "any fiscal year under";

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(iii) by inserting after subparagraph (A) the following:

"(B) NETWORKS AND PLANS.—The total amount of grant funds made available for any fiscal year under paragraph (1)(C) and subparagraphs (B) and (C) of subsection (c)(1) to a health center shall be determined by the Secretary, but may not exceed 2 percent of the total amount appropriated under this section for such fiscal year.";

(6) in subsection (h)—

(A) in paragraph (1), by striking "homeless children and children at risk of homelessness" and inserting "homeless children and youth and children and youth at risk of homelessness";

(B)(i) by redesignating paragraph (4) as paragraph (5); and

(ii) by inserting after paragraph (3) the following:

"(4) TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.—If any grantee under this subsection has provided services described in this section under the grant to a homeless individual, such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months."; and

(C) in paragraph (5)(C) (as redesignated by subparagraph (B)), by striking "and residential treatment" and inserting ", risk reduction, outpatient treatment, residential treatment, and rehabilitation";

(7) in subsection (j)(3)—

(A) in subparagraph (E)—

(i) in clause (i)—

(I) by striking "(i)" and inserting "(i)(I)";

(II) by striking "plan; or" and inserting "plan; and"; and

(III) by adding at the end the following:

"(II) has or will have a contractual or other arrangement with the State agency administering the program under title XXI of such Act (42 U.S.C. 1397aa et seq.) with respect to individuals who are State children's health insurance program beneficiaries; or"; and

(ii) by striking clause (ii) and inserting the following:

"(ii) has made or will make every reasonable effort to enter into arrangements described in subclauses (I) and (II) of clause (i);";

(B) in subparagraph (G)—

(i) in clause (ii)(II), by striking "; and" and inserting ";";

(ii) by redesignating clause (iii) as clause (iv); and

(iii) by inserting after clause (ii) the following:

"(iii)(I) will assure that no patient will be denied health care services due to an individual's inability to pay for such services; and

"(II) will assure that any fees or payments required by the center for such services will be reduced or waived to enable the center to fulfill the assurance described in subclause (I); and";

(C) in subparagraph (K)(ii), by striking "and" after the semicolon at the end;

(D) in subparagraph (L), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following subparagraph:

"(M) the center encourages persons receiving or seeking health services from the center to participate in any public or private (including employer-offered) health programs or plans for which the persons are eligible.";

(8) by striking subsection (k) and inserting the following:

"(k) Technical Assistance.—The Secretary shall establish a program through which the Secretary shall provide technical and other assistance to eligible entities to assist such entities to meet the requirements of paragraphs (2) and (3) of subsection (j) and in developing plans for, and operating health centers. Services provided through the program may include necessary technical and nonfinancial assistance, including fiscal and program management assistance, training in program management, operational and administrative support, and the provision of information to the entities of the variety of resources available under this title and how those resources can be best used to meet the health needs of the communities served by the entities.";

(9)(A) in subsection (l) (as amended by subsection (a) of this section), by striking "(l) Authorization";

(B) by transferring such undesignated subsection to the end of the section;

(C) by redesignating subsections (m) through (q) as subsections (l) through (p), respectively; and

(D) in the subsection transferred by subparagraph (B), by inserting "(q) Authorization" before "of Appropriations.—"; and

(10) in subsection (q) (as transferred and redesignated by paragraph (9)), in paragraph (2)—

(A) in subparagraph (A), by striking "(j)(3)(G)(ii)" and inserting "(j)(3)(H)"; and

(B) by striking subparagraph (B) and inserting the following:

"(B) Distribution of grants.—For fiscal year 2002 and each of the following fiscal years, the Secretary, in awarding grants under this section, shall ensure that the proportion of the amount made available under each of subsections (g), (h), and (i), relative to the total amount appropriated to carry out this section for that fiscal year, is equal to the proportion of the amount made available under that subsection for fiscal year 2001, relative to the total amount appropriated to carry out this section for fiscal year 2001.".

(c) Telemedicine; Incentive Grants Regarding Coordination Among States.—

(1) In general.—The Secretary of Health and Human Services may make grants to State professional licensing boards to carry out programs under which such licensing boards of various States cooperate to develop and implement State policies that will reduce statutory and regulatory barriers to telemedicine.

(2) Authorization of appropriations.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated **$10,000,000** for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2002 through 2006.

SEC. 102. MIGRATORY AND SEASONAL AGRICULTURAL WORKERS.

Section 330(g) of the Public Health Service Act (42 U.S.C. 254b(g)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by inserting "and seasonal agricultural worker" after "agricultural worker"; and

(B) in subparagraph (B), by striking "and members of their families" and inserting "and seasonal agricultural workers, and members of their families,"; and

(2) in paragraph (3)(A), by striking "on a seasonal basis".

TITLE II—RURAL HEALTH

Subtitle A—Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement Grant Programs

SEC. 201. GRANT PROGRAMS.

Section 330A of the Public Health Service Act (42 U.S.C. 254c) is amended to read as follows:

"SEC. 330A. RURAL HEALTH CARE SERVICES OUTREACH, RURAL HEALTH NETWORK DEVELOPMENT, AND SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANT PROGRAMS.

"(a) Purpose.—The purpose of this section is to provide grants for expanded delivery of health care services in rural areas, for the planning and implementation of integrated health care networks in rural areas, and for the planning and implementation of small health care provider quality improvement activities.

"(b) Definitions.—

"(1) Director.—The term 'Director' means the Director specified in subsection (d).

"(2) Federally qualified health center; rural health clinic.—The terms 'Federally qualified health center' and 'rural health clinic' have the meanings given the terms in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)).

"(3) Health professional shortage area.—The term 'health professional shortage area' means a health professional shortage area designated under section 332.

"(4) Medically underserved community.—The term 'medically underserved community' has the meaning given the term in section 799B.

"(5) Medically underserved population.—The term 'medically underserved population' has the meaning given the term in section 330(b)(3).

"(c) Program.—The Secretary shall establish, under section 301, a small health care provider quality improvement grant program.

"(d) Administration.—

"(1) Programs.—The rural health care services outreach, rural health network development, and small health care provider quality improvement grant programs established under section 301 shall be administered by the Director of the Office of Rural Health Policy of the Health Resources and Services Administration, in consultation with State offices of rural health or other appropriate State government entities.

"(2) Grants.—

"(A) In general.—In carrying out the programs described in paragraph (1), the Director may award grants under subsections (e), (f), and (g) to expand access to, coordinate, and improve the quality of essential health care services, and enhance the delivery of health care, in rural areas.

"(B) Types of grants.—The Director may award the grants—

"(i) to promote expanded delivery of health care services in rural areas under subsection (e);

"(ii) to provide for the planning and implementation of integrated health care networks in rural areas under subsection (f); and

"(iii) to provide for the planning and implementation of small health care provider quality improvement activities under subsection (g).

"(e) Rural Health Care Services Outreach Grants.—

"(1) Grants.—The Director may award grants to eligible entities to promote rural health care services outreach by expanding the delivery of health care services to include new and enhanced services in rural areas. The Director may award the grants for periods of not more than 3 years.

"(2) Eligibility.—To be eligible to receive a grant under this subsection for a project, an entity—

"(A) shall be a rural public or private entity;

"(B) shall represent a consortium composed of members—

"(i) that include 3 or more health care providers; and

"(ii) that may be nonprofit or for-profit entities; and

"(C) shall not previously have received a grant under this subsection for the same or a similar project, unless the entity is proposing to expand the scope of the project or the area that will be served through the project.

"(3) Applications.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

"(B) a description of the manner in which the project funded under the grant will meet the health care needs of rural underserved populations in the local community or region to be served;

"(C) a description of how the local community or region to be served will be involved in the development and ongoing operations of the project;

"(D) a plan for sustaining the project after Federal support for the project has ended; and

"(E) a description of how the project will be evaluated.

"(f) Rural Health Network Development Grants.—

"(1) Grants.—

"(A) In general.—The Director may award rural health network development grants to eligible entities to promote, through planning and implementation, the development of integrated health care networks that have combined the functions of the entities participating in the networks in order to—

"(i) achieve efficiencies;

"(ii) expand access to, coordinate, and improve the quality of essential health care services; and

"(iii) strengthen the rural health care system as a whole.

"(B) Grant periods.—The Director may award such a rural health network development grant for implementation activities for a period of 3 years. The Director may also award such a rural health network development grant for planning activities for a period of 1 year, to assist in the development of an integrated health care network, if the proposed participants in the network do not have a history of collaborative efforts and a 3-year grant would be inappropriate.

"(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, an entity—

"(A) shall be a rural public or private entity;

"(B) shall represent a network composed of participants—

"(i) that include 3 or more health care providers; and

"(ii) that may be nonprofit or for-profit entities; and

"(C) shall not previously have received a grant under this subsection (other than a grant for planning activities) for the same or a similar project.

"(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

"(B) an explanation of the reasons why Federal assistance is required to carry out the project;

"(C) a description of—

"(i) the history of collaborative activities carried out by the participants in the network;

"(ii) the degree to which the participants are ready to integrate their functions; and

"(iii) how the local community or region to be served will benefit from and be involved in the activities carried out by the network;

"(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the integration activities carried out by the network;

"(E) a plan for sustaining the project after Federal support for the project has ended; and

"(F) a description of how the project will be evaluated.

"(g) SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANTS.—

"(1) GRANTS.—The Director may award grants to provide for the planning and implementation of small health care provider quality improvement activities. The Director may award the grants for periods of 1 to 3 years.

"(2) ELIGIBILITY.—To be eligible for a grant under this subsection, an entity—

"(A)(i) shall be a rural public or rural nonprofit private health care provider or provider of health care services, such as a critical access hospital or a rural health clinic; or

"(ii) shall be another rural provider or network of small rural providers identified by the Secretary as a key source of local care; and

"(B) shall not previously have received a grant under this subsection for the same or a similar project.

"(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health, another appropriate State entity, or a hospital association, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

"(B) an explanation of the reasons why Federal assistance is required to carry out the project;

"(C) a description of the manner in which the project funded under the grant will assure continuous quality improvement in the provision of services by the entity;

"(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the activities carried out by the entity;

"(E) a plan for sustaining the project after Federal support for the project has ended; and

"(F) a description of how the project will be evaluated.

"(4) EXPENDITURES FOR SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANTS.—In awarding a grant under this subsection, the Director shall ensure that the funds made available through the grant will be used to provide services to residents of rural areas. The Director shall award not less than 50 percent of the funds made available under this subsection to providers located in and serving rural areas.

"(h) GENERAL REQUIREMENTS.—

"(1) PROHIBITED USES OF FUNDS.—An entity that receives a grant under this section may not use funds provided through the grant—

"(A) to build or acquire real property; or

"(B) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment.

"(2) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate activities carried out under grant programs described in this section, to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar grant programs, to maximize the effect of public dollars in funding meritorious proposals.

"(3) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to entities that—

"(A) are located in health professional shortage areas or medically underserved communities, or serve medically underserved populations; or

"(B) propose to develop projects with a focus on primary care, and wellness and prevention strategies.

"(i) REPORT.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsections (e), (f), and (g).

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.".

Subtitle B—Telehealth Grant Consolidation

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "Telehealth Grant Consolidation Act of 2001".

SEC. 212. CONSOLIDATION AND REAUTHORIZATION OF PROVISIONS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq) is amended by adding at the end the following:

"SEC. 330I. TELEHEALTH NETWORK AND TELEHEALTH RESOURCE CENTERS GRANT PROGRAMS.

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR; OFFICE.—The terms 'Director' and 'Office' mean the Director and Office specified in subsection (c).

"(2) FEDERALLY QUALIFIED HEALTH CENTER AND RURAL HEALTH CLINIC.—The term 'Federally qualified health center' and 'rural health clinic' have the meanings given the terms in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)).

"(3) FRONTIER COMMUNITY.—The term 'frontier community' means an area with fewer than 6 residents per square mile, based on the latest population data published by the Bureau of the Census.

"(4) MEDICALLY UNDERSERVED AREA.—The term 'medically underserved area' has the meaning given the term 'medically underserved community' in section 799B.

"(5) MEDICALLY UNDERSERVED POPULATION.—The term 'medically underserved population' has the meaning given the term in section 330(b)(3).

"(6) TELEHEALTH SERVICES.—The term 'telehealth services' means services provided through telehealth technologies.

"(7) TELEHEALTH TECHNOLOGIES.—The term 'telehealth technologies' means technologies relating to the use of electronic information, and telecommunications technologies, to support and promote, at a distance, health care, patient and professional health-related education, health administration, and public health.

"(b) PROGRAMS.—The Secretary shall establish, under section 301, telehealth network and telehealth resource centers grant programs.

"(c) ADMINISTRATION.—

"(1) ESTABLISHMENT.—There is established in the Health and Resources and Services Administration an Office for the Advancement of Telehealth. The Office shall be headed by a Director.

"(2) DUTIES.—The telehealth network and telehealth resource centers grant programs established under section 301 shall be administered by the Director, in consultation with the State offices of rural health, State offices concerning primary care, or other appropriate State government entities.

"(d) GRANTS.—

"(1) TELEHEALTH NETWORK GRANTS.—The Director may, in carrying out the telehealth network grant program referred to in subsection (b), award grants to eligible entities for projects to demonstrate how telehealth technologies can be used through telehealth networks in rural areas, frontier communities, and medically underserved areas, and for medically underserved populations, to—

"(A) expand access to, coordinate, and improve the quality of health care services;

"(B) improve and expand the training of health care providers; and

"(C) expand and improve the quality of health information available to health care providers, and patients and their families, for decisionmaking.

"(2) TELEHEALTH RESOURCE CENTERS GRANTS.—The Director may, in carrying out the telehealth resource centers grant program referred to in subsection (b), award grants to eligible entities for projects to demonstrate how telehealth technologies can be used in the areas and communities, and for the populations, described in paragraph (1), to establish telehealth resource centers.

"(e) GRANT PERIODS.—The Director may award grants under this section for periods of not more than 4 years.

"(f) ELIGIBLE ENTITIES.—

"(1) TELEHEALTH NETWORK GRANTS.—

"(A) GRANT RECIPIENT.—To be eligible to receive a grant under subsection (d)(1), an entity shall be a nonprofit entity.

"(B) TELEHEALTH NETWORKS.—

"(i) IN GENERAL.—To be eligible to receive a grant under subsection (d)(1), an entity shall demonstrate that the entity will provide services through a telehealth network.

"(ii) NATURE OF ENTITIES.—Each entity participating in the telehealth network may be a nonprofit or for-profit entity.

"(iii) COMPOSITION OF NETWORK.—The telehealth network shall include at least 2 of the following entities (at least 1 of which shall be a community-based health care provider):

"(I) Community or migrant health centers or other Federally qualified health centers.

"(II) Health care providers, including pharmacists, in private practice.

"(III) Entities operating clinics, including rural health clinics.

"(IV) Local health departments.

"(V) Nonprofit hospitals, including community access hospitals.

"(VI) Other publicly funded health or social service agencies.

"(VII) Long-term care providers.

"(VIII) Providers of health care services in the home.

"(IX) Providers of outpatient mental health services and entities operating outpatient mental health facilities.

"(X) Local or regional emergency health care providers.

"(XI) Institutions of higher education.

"(XII) Entities operating dental clinics.

"(2) TELEHEALTH RESOURCE CENTERS GRANTS.—To be eligible to receive a grant under subsection (d)(2), an entity shall be a nonprofit entity.

"(g) APPLICATIONS.—To be eligible to receive a grant under subsection (d), an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a description of the project that the eligible entity will carry out using the funds provided under the grant;

"(2) a description of the manner in which the project funded under the grant will meet the health care needs of rural or other populations to be served through the project, or improve the access to services of, and the quality of the services received by, those populations;

"(3) evidence of local support for the project, and a description of how the areas, communities, or populations to be served will be involved in the development and ongoing operations of the project;

"(4) a plan for sustaining the project after Federal support for the project has ended;

"(5) information on the source and amount of non-Federal funds that the entity will provide for the project;

"(6) information demonstrating the long-term viability of the project, and other evidence of institutional commitment of the entity to the project; and

"(7) in the case of an application for a project involving a telehealth network, information demonstrating how the project will promote the integration of telehealth technologies into the operations of health care providers, to avoid redundancy, and improve access to and the quality of care.

"(h) TERMS; CONDITIONS; MAXIMUM AMOUNT OF ASSISTANCE.—The Secretary shall establish the terms and conditions of each grant program described in subsection (b) and the maximum amount of a grant to be awarded to an individual recipient for each fiscal year under this section. The Secretary shall publish, in a publication of the Health Resources and Services Administration, notice of the application requirements for each grant program described in subsection (b) for each fiscal year.

"(i) PREFERENCES.—

"(1) TELEHEALTH NETWORKS.—In awarding grants under subsection (d)(1) for projects involving telehealth networks, the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

"(A) ORGANIZATION.—The eligible entity is a rural community-based organization or another community-based organization.

"(B) SERVICES.—The eligible entity proposes to use Federal funds made available through such a grant to develop plans for, or to establish, telehealth networks that provide mental health, public health, long-term care, home care, preventive, or case management services.

"(C) COORDINATION.—The eligible entity demonstrates how the project to be carried out under the grant will be coordinated with other relevant federally funded projects in the areas, communities, and populations to be served through the grant.

"(D) NETWORK.—The eligible entity demonstrates that the project involves a telehealth network that includes an entity that—

"(i) provides clinical health care services, or educational services for health care providers and for patients or their families; and

"(ii) is—

"(I) a public school;

"(II) a public library;

"(III) an institution of higher education; or

"(IV) a local government entity.

"(E) CONNECTIVITY.—The eligible entity proposes a project that promotes local connectivity within areas, communities, or populations to be served through the project.

"(F) INTEGRATION.—The eligible entity demonstrates that health care information has been integrated into the project.

"(2) TELEHEALTH RESOURCE CENTERS.—In awarding grants under subsection (d)(2) for projects involving telehealth resource centers, the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

"(A) PROVISION OF SERVICES.—The eligible entity has a record of success in the provision of telehealth services to medically underserved areas or medically underserved populations.

"(B) COLLABORATION AND SHARING OF EXPERTISE.—The eligible entity has a demonstrated record of collaborating and sharing expertise with providers of telehealth services at the national, regional, State, and local levels.

"(C) BROAD RANGE OF TELEHEALTH SERVICES.—The eligible entity has a record of providing a broad range of telehealth services, which may include—

"(i) a variety of clinical specialty services;

"(ii) patient or family education;

"(iii) health care professional education; and

"(iv) rural residency support programs.

"(j) DISTRIBUTION OF FUNDS.—

"(1) IN GENERAL.—In awarding grants under this section, the Director shall ensure, to the greatest extent possible, that such grants are equitably distributed among the geographical regions of the United States.

"(2) TELEHEALTH NETWORKS.—In awarding grants under subsection (d)(1) for a fiscal year, the Director shall ensure that—

"(A) not less than 50 percent of the funds awarded shall be awarded for projects in rural areas; and

"(B) the total amount of funds awarded for such projects for that fiscal year shall be not less than the total amount of funds awarded for such projects for fiscal year 2001 under section 330A (as in effect on the day before the date of enactment of the Health Care Safety Net Improvement Act).

"(k) USE OF FUNDS.—

"(1) TELEHEALTH NETWORK PROGRAM.—The recipient of a grant under subsection (d)(1) may use funds received through such grant for salaries, equipment, and operating or other costs, including the cost of—

"(A) developing and delivering clinical telehealth services that enhance access to community-based health care services in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations;

"(B) developing and acquiring, through lease or purchase, computer hardware and software, audio and video equipment, computer network equipment, interactive equipment, data terminal equipment, and other equipment that furthers the objectives of the telehealth network grant program;

"(C)(i) developing and providing distance education, in a manner that enhances access to care in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations; or

"(ii) mentoring, precepting, or supervising health care providers and students seeking to become health care providers, in a manner that enhances access to care in the areas and communities, or for the populations, described in clause (i);

"(D) developing and acquiring instructional programming;

"(E)(i) providing for transmission of medical data, and maintenance of equipment; and

"(ii) providing for compensation (including travel expenses) of specialists, and referring health care providers, who are providing telehealth services through the telehealth network, if no third party payment is available for the telehealth services delivered through the telehealth network;

"(F) developing projects to use telehealth technology to facilitate collaboration between health care providers;

"(G) collecting and analyzing usage statistics and data to document the cost-effectiveness of the telehealth services; and

"(H) carrying out such other activities as are consistent with achieving the objectives of this section, as determined by the Secretary.

"(2) TELEHEALTH RESOURCE CENTERS.—The recipient of a grant under subsection (d)(2) may use funds received through such grant for salaries, equipment, and operating or other costs for—

"(A) providing technical assistance, training, and support, and providing for travel expenses, for health care providers and a range of health care entities that provide or will provide telehealth services;

"(B) disseminating information and research findings related to telehealth services;

"(C) promoting effective collaboration among telehealth resource centers and the Office;

"(D) conducting evaluations to determine the best utilization of telehealth technologies to meet health care needs;

"(E) promoting the integration of the technologies used in clinical information systems with other telehealth technologies;

"(F) fostering the use of telehealth technologies to provide health care information and education for health care providers and consumers in a more effective manner; and

“(G) implementing special projects or studies under the direction of the Office.

“(l) PROHIBITED USES OF FUNDS.—An entity that receives a grant under this section may not use funds made available through the grant—

“(1) to acquire real property;

“(2) for expenditures to purchase or lease equipment, to the extent that the expenditures would exceed 40 percent of the total grant funds;

“(3) in the case of a project involving a telehealth network, to purchase or install transmission equipment (such as laying cable or telephone lines, or purchasing or installing microwave towers, satellite dishes, amplifiers, or digital switching equipment);

“(4) to pay for any equipment or transmission costs not directly related to the purposes for which the grant is awarded;

“(5) to purchase or install general purpose voice telephone systems;

“(6) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment; or

“(7) for expenditures for indirect costs (as determined by the Secretary), to the extent that the expenditures would exceed 10 percent of the total grant funds.

“(m) COLLABORATION.—In providing services under this section, an eligible entity shall collaborate, if feasible, with entities that—

“(1)(A) are private or public organizations, that receive Federal or State assistance; or

“(B) are public or private entities that operate centers, or carry out programs, that receive Federal or State assistance; and

“(2) provide telehealth services or related activities.

“(n) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate activities carried out under grant programs described in subsection (b), to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar programs, to maximize the effect of public dollars in funding meritorious proposals.

“(o) OUTREACH ACTIVITIES.—The Secretary shall establish and implement procedures to carry out outreach activities to advise potential end users of telehealth services in rural areas, frontier communities, medically underserved areas, and medically underserved populations in each State about the grant programs described in subsection (b).

“(p) TELEHEALTH.—It is the sense of Congress that, for purposes of this section, States should develop reciprocity agreements so that a provider of services under this section who is a licensed or otherwise authorized health care provider under the law of 1 or more States, and who, through telehealth technology, consults with a licensed or otherwise authorized health care provider in another State, is exempt, with respect to such consultation, from any State law of the other State that prohibits such consultation on the basis that the first health care provider is not a licensed or authorized health care provider under the law of that State.

“(q) REPORT.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsection (b).

“(r) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) for grants under subsection (d)(1), $40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006; and

“(2) for grants under subsection (d)(2), $20,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.”.

Subtitle C—Mental Health Services Telehealth Program and Rural Emergency Medical Service Training and Equipment Assistance Program

SEC. 221. PROGRAMS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 212) is further amended by adding at the end the following:

“SEC. 330J. RURAL EMERGENCY MEDICAL SERVICE TRAINING AND EQUIPMENT ASSISTANCE PROGRAM.

“(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this section as the ‘Secretary’) shall award grants to eligible entities to enable such entities to provide for improved emergency medical services in rural areas.

“(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

“(1) be—

“(A) a State emergency medical services office;

“(B) a State emergency medical services association;

“(C) a State office of rural health;

“(D) a local government entity;

“(E) a State or local ambulance provider; or

“(F) any other entity determined appropriate by the Secretary; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—

“(A) a description of the activities to be carried out under the grant; and

“(B) an assurance that the eligible entity will comply with the matching requirement of subsection (e).

“(c) USE OF FUNDS.—An entity shall use amounts received under a grant made under subsection (a), either directly or through grants to emergency medical service squads that are located in, or that serve residents of, a nonmetropolitan statistical area, an area designated as a rural area by any law or regulation of a State, or a rural census tract of a metropolitan statistical area (as determined under the most recent Goldsmith Modification, originally published in a notice of availability of funds in the Federal Register on February 27, 1992, 57 Fed. Reg. 6725), to—

“(1) recruit emergency medical service personnel;

“(2) recruit volunteer emergency medical service personnel;

“(3) train emergency medical service personnel in emergency response, injury prevention, safety awareness, and other topics relevant to the delivery of emergency medical services;

“(4) fund specific training to meet Federal or State certification requirements;

“(5) develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);

“(6) acquire emergency medical services equipment, including cardiac defibrillators;

“(7) acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; and

“(8) educate the public concerning cardiopulmonary resuscitation, first aid, injury prevention, safety awareness, illness prevention, and other related emergency preparedness topics.

“(d) PREFERENCE.—In awarding grants under this section the Secretary shall give preference to—

“(1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (F) of subsection (b)(1); and

“(2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (c).

“(e) MATCHING REQUIREMENT.—The Secretary may not award a grant under this section to an entity unless the entity agrees that the entity will make available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to 25 percent of the amount received under the grant.

“(f) EMERGENCY MEDICAL SERVICES.—In this section, the term ‘emergency medical services’—

“(1) means resources used by a qualified public or private nonprofit entity, or by any other entity recognized as qualified by the State involved, to deliver medical care outside of a medical facility under emergency conditions that occur—

“(A) as a result of the condition of the patient; or

“(B) as a result of a natural disaster or similar situation; and

“(2) includes services delivered by an emergency medical services provider (either compensated or volunteer) or other provider recognized by the State involved that is licensed or certified by the State as an emergency medical technician or its equivalent (as determined by the State), a registered nurse, a physician assistant, or a physician that provides services similar to services provided by such an emergency medical services provider.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

“(2) ADMINISTRATIVE COSTS.—The Secretary may use not more than 10 percent of the amount appropriated under paragraph (1) for a fiscal year for the administrative expenses of carrying out this section.

“SEC. 330K. MENTAL HEALTH SERVICES DELIVERED VIA TELEHEALTH.

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a public or nonprofit private telehealth provider network that offers services that include mental health services provided by qualified mental health providers.

“(2) QUALIFIED MENTAL HEALTH PROFESSIONALS.—The term ‘qualified mental health professionals’ refers to providers of mental health services reimbursed under the medicare program carried out under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who have additional training in the treatment of mental illness in children and adolescents or who have additional training in the treatment of mental illness in the elderly.

“(3) SPECIAL POPULATIONS.—The term ‘special populations’ refers to the following 2 distinct groups:

“(A) Children and adolescents in mental health underserved rural areas or in mental health underserved urban areas.

"(B) Elderly individuals located in long-term care facilities in mental health underserved rural areas or in mental health underserved urban areas.

"(4) TELEHEALTH.—The term 'telehealth' means the use of electronic information and telecommunications technologies to support long distance clinical health care, patient and professional health-related education, public health, and health administration.

"(b) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Office for the Advancement of Telehealth of the Health Resources and Services Administration, shall award grants to eligible entities to establish demonstration projects for the provision of mental health services to special populations as delivered remotely by qualified mental health professionals using telehealth and for the provision of education regarding mental illness as delivered remotely by qualified mental health professionals and qualified mental health education professionals using telehealth.

"(2) POPULATIONS SERVED.—The Secretary shall award the grants under paragraph (1) in a manner that distributes the grants so as to serve equitably the populations described in subparagraphs (A) and (B) of subsection (a)(4).

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible entity that receives a grant under this section shall use the grant funds—

"(A) for the populations described in subsection (a)(3)(A)—

"(i) to provide mental health services, including diagnosis and treatment of mental illness, in public elementary and public secondary schools as delivered remotely by qualified mental health professionals using telehealth; and

"(ii) to collaborate with local public health entities to provide the mental health services; and

"(B) for the populations described in subsection (a)(3)(B)—

"(i) to provide mental health services, including diagnosis and treatment of mental illness, in long-term care facilities as delivered remotely by qualified mental health professionals using telehealth; and

"(ii) to collaborate with local public health entities to provide the mental health services.

"(2) OTHER USES.—An eligible entity that receives a grant under this section may also use the grant funds to—

"(A) pay telecommunications costs; and

"(B) pay qualified mental health professionals on a reasonable basis as determined by the Secretary for services rendered.

"(3) PROHIBITED USES.—An eligible entity that receives a grant under this section shall not use the grant funds to—

"(A) purchase or install transmission equipment (other than such equipment used by qualified mental health professionals to deliver mental health services using telehealth under the project involved); or

"(B) build upon or acquire real property.

"(d) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure, to the greatest extent possible, that such grants are equitably distributed among geographical regions of the United States.

"(e) APPLICATION.—An entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary determines to be reasonable.

"(f) REPORT.—Not later than 4 years after the date of enactment of the Health Care Safety Net Improvement Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall evaluate activities funded with grants under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006.".

TITLE III—NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 301. NATIONAL HEALTH SERVICE CORPS.

(a) IN GENERAL.—Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by adding at the end of subsection (a)(3) the following:

"(E)(i) The term 'behaviorial and mental health professionals' means health service psychologists, licensed clinical social workers, licensed professional counselors, marriage and family therapists, psychiatric nurse specialists, and psychiatrists.

"(ii) The term 'graduate program of behavioral and mental health' means a program that trains behavorial and mental health professionals.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "health professions" and inserting "health professions, including schools at which graduate programs of behavioral and mental health are offered,"; and

(B) in paragraph (2), by inserting "behavioral and mental health professionals," after "dentists,"; and

(3) by striking subsection (c) and inserting the following:

"(c)(1) The Secretary may reimburse an applicant for a position in the Corps (including an individual considering entering into a written agreement pursuant to section 338D) for the actual and reasonable expenses incurred in traveling to and from the applicant's place of residence to an eligible site to which the applicant may be assigned under section 333 for the purpose of evaluating such site with regard to being assigned at such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

"(2) The Secretary may also reimburse the applicant for the actual and reasonable expenses incurred for the travel of 1 family member to accompany the applicant to such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

"(3) In the case of an individual who has entered into a contract for obligated service under the Scholarship Program or under the Loan Repayment Program, the Secretary may reimburse such individual for all or part of the actual and reasonable expenses incurred in transporting the individual to the site of the individual's assignment under section 333. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.".

(b) DEMONSTRATION PROJECTS.—Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i)(1) In carrying out subpart III, the Secretary may, in accordance with this subsection, carry out demonstration projects in which individuals who have entered into a contract for obligated service under the Loan Repayment Program receive waivers under which the individuals are authorized to satisfy the requirement of obligated service through providing clinical service that is not full-time.

"(2) A waiver described in paragraph (1) may be provided by the Secretary only if—

"(A) the entity for which the service is to be performed—

"(i) has been approved under section 333A for assignment of a Corps member; and

"(ii) has requested in writing assignment of a health professional who would serve less than full time;

"(B) the Secretary has determined that assignment of a health professional who would serve less than full time would be appropriate for the area where the entity is located;

"(C) a Corps member who is required to perform obligated service has agreed in writing to be assigned for less than full-time service to an entity described in subparagraph (A);

"(D) the entity and the Corps member agree in writing that the less than full-time service provided by the Corps member will not be less than 16 hours of clinical service per week;

"(E) the Corps member agrees in writing that the period of obligated service pursuant to section 338B will be extended so that the aggregate amount of less than full-time service performed will equal the amount of service that would be performed through full-time service under section 338C; and

"(F) the Corps member agrees in writing that if the Corps member begins providing less than full-time service but fails to begin or complete the period of obligated service, the method stated in 338E(c) for determining the damages for breach of the individual's written contract will be used after converting periods of obligated service or of service performed into their full-time equivalents.".

SEC. 302. DESIGNATION OF HEALTH PROFESSIONAL SHORTAGE AREAS.

(a) IN GENERAL.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting after the first sentence the following: "All Federally qualified health centers and rural health clinics, as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)), that meet the requirements of section 334 shall be automatically designated as having such a shortage. Not earlier than 6 years after such date of enactment, and every 6 years thereafter, each such center or clinic shall demonstrate that the center or clinic meets the applicable requirements of the Federal regulations, issued after the date of enactment of this Act, that revise the definition of a health professional shortage area for purposes of this section."; and

(B) in paragraph (3), by striking "340(r)) may be a population group" and inserting "330(h)(4)), seasonal agricultural workers (as defined in section 330(g)(3)) and migratory agricultural workers (as so defined)), and residents of public housing (as defined in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1))) may be population groups";

(2) in subsection (b)(2), by striking "with special consideration to the indicators of" and all that follows through "services." and inserting a period; and

(3) in subsection (c)(2)(B), by striking "XVIII or XIX" and inserting "XVIII, XIX, or XXI".

(b) Regulations.—

(1) Report.—

(A) In general.—The Secretary shall submit the report described in subparagraph (B) if the Secretary, acting through the Administrator of the Health Resources and Services Administration, issues—

(i) a regulation that revises the definition of a health professional shortage area for purposes of section 332 of the Public Health Service Act (42 U.S.C. 254e); or

(ii) a regulation that revises the standards concerning priority of such an area under section 333A of that Act (42 U.S.C. 254f–1).

(B) Report.—On issuing a regulation described in subparagraph (A), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that describes the regulation.

(2) Effective date.—Each regulation described in paragraph (1)(A) shall take effect 180 days after the committees described in paragraph (1)(B) receive a report referred to in paragraph (1)(B) describing the regulation.

(c) Scholarship and Loan Repayment Programs.—The Secretary of Health and Human Services, in consultation with organizations representing individuals in the dental field and organizations representing publicly funded health care providers, shall develop and implement a plan for increasing the participation of dentists and dental hygienists in the National Health Service Corps Scholarship Program under section 338A of the Public Health Service Act (42 U.S.C. 254l) and the Loan Repayment Program under section 338B of such Act (42 U.S.C. 254l–1).

(d) Site Designation Process.—

(1) Improvement of designation process.—The Administrator of the Health Resources and Services Administration, in consultation with appropriate State and territorial dental directors, dental societies, and other interested parties, shall revise the criteria on which the designations of dental health professional shortage areas are based so that such criteria provide a more accurate reflection of oral health care need, particularly in rural areas.

(2) Public health service act.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended by adding at the end the following:

"(i) Dissemination.—The Administrator of the Health Resources and Services Administration shall disseminate information concerning the designation criteria described in subsection (b) to—

"(1) the Governor of each State;

"(2) the representative of any area, population group, or facility selected by any such Governor to receive such information;

"(3) the representative of any area, population group, or facility that requests such information; and

"(4) the representative of any area, population group, or facility determined by the Administrator to be likely to meet the criteria described in subsection (b).".

(e) GAO Study.—Not later than February 1, 2005, the Comptroller General of the United States shall submit to the Congress a report on the appropriateness of the criteria, including but not limited to infant mortality rates, access to health services taking into account the distance to primary health services, the rate of poverty and ability to pay for health services, and low birth rates, established by the Secretary of Health and Human Services for the designation of health professional shortage areas and whether the deeming of Federally qualified health centers and rural health clinics as such areas is appropriate and necessary.

SEC. 303. ASSIGNMENT OF CORPS PERSONNEL.

Section 333 of the Public Health Service Act (42 U.S.C. 254f) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the matter before subparagraph (A), by striking "(specified in the agreement described in section 334)";

(ii) in subparagraph (A), by striking "nonprofit"; and

(iii) by striking subparagraph (C) and inserting the following:

"(C) the entity agrees to comply with the requirements of section 334; and"; and

(B) in paragraph (3), by adding at the end "In approving such applications, the Secretary shall give preference to applications in which a nonprofit entity or public entity shall provide a site to which Corps members may be assigned."; and

(2) in subsection (d)—

(A) in paragraphs (1), (2), and (4), by striking "nonprofit" each place it appears; and

(B) in paragraph (1)—

(i) in the second sentence—

(I) in subparagraph (C), by striking "and" at the end; and

(II) by striking the period and inserting ", and (E) developing long-term plans for addressing health professional shortages and improving access to health care."; and

(ii) by adding at the end the following: "The Secretary shall encourage entities that receive technical assistance under this paragraph to communicate with other communities, State Offices of Rural Health, State Primary Care Associations and Offices, and other entities concerned with site development and community needs assessment.".

SEC. 304. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.

Section 333A of the Public Health Service Act (42 U.S.C. 254f–1) is amended—

(1) in subsection (a)(1)(A), by striking ", as determined in accordance with subsection (b)";

(2) by striking subsection (b);

(3) in subsection (c), by striking the second sentence;

(4) in subsection (d)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

"(1) Proposed list.—The Secretary shall prepare and publish a proposed list of health professional shortage areas and entities that would receive priority under subsection (a)(1) in the assignment of Corps members. The list shall contain the information described in paragraph (2), and the relative scores and relative priorities of the entities submitting applications under section 333, in a proposed format. All such entities shall have 30 days after the date of publication of the list to provide additional data and information in support of inclusion on the list or in support of a higher priority determination and the Secretary shall reasonably consider such data and information in preparing the final list under paragraph (2).";

(C) in paragraph (2) (as redesignated by subparagraph (A)), in the matter before subparagraph (A)—

(i) by striking "paragraph (2)" and inserting "paragraph (3)";

(ii) by striking "prepare a list of health professional shortage areas" and inserting "prepare and, as appropriate, update a list of health professional shortage areas and entities"; and

(iii) by striking "for the period applicable under subsection (f)";

(D) by striking paragraph (3) (as redesignated by subparagraph (A)) and inserting the following:

"(3) Notification of affected parties.—

"(A) Entities.—Not later than 30 days after the Secretary has added to a list under paragraph (2) an entity specified as described in subparagraph (A) of such paragraph, the Secretary shall notify such entity that the entity has been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

"(B) Individuals.—In the case of an individual obligated to provide service under the Scholarship Program, not later than 3 months before the date described in section 338C(b)(5), the Secretary shall provide to such individual the names of each of the entities specified as described in paragraph (2)(B)(i) that is appropriate for the individual's medical specialty and discipline."; and

(E) by striking paragraph (4) (as redesignated by subparagraph (A)) and inserting the following:

"(4) Revisions.—If the Secretary proposes to make a revision in the list under paragraph (2), and the revision would adversely alter the status of an entity with respect to the list, the Secretary shall notify the entity of the revision. Any entity adversely affected by such a revision shall be notified in writing by the Secretary of the reasons for the revision and shall have 30 days to file a written appeal of the determination involved which shall be reasonably considered by the Secretary before the revision to the list becomes final. The revision to the list shall be effective with respect to assignment of Corps members beginning on the date that the revision becomes final.";

(5) by striking subsection (e) and inserting the following:

"(e) Limitation on Number of Entities Offered as Assignment Choices in Scholarship Program.—

"(1) Determination of available corps members.—By April 1 of each calendar year, the Secretary shall determine the number of participants in the Scholarship Program who will be available for assignments under section 333 during the program year beginning on July 1 of that calendar year.

"(2) Determination of number of entities.—At all times during a program year, the number of entities specified under subsection (c)(2)(B)(i) shall be—

"(A) not less than the number of participants determined with respect to that program year under paragraph (1); and

"(B) not greater than twice the number of participants determined with respect to that program year under paragraph (1).";

(6) by striking subsection (f); and

(7) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d) respectively.

SEC. 305. COST-SHARING.

Subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by striking section 334 and inserting the following:

"SEC. 334. CHARGES FOR SERVICES BY ENTITIES USING CORPS MEMBERS.

"(a) Availability of Services Regardless of Ability To Pay or Payment Source.—An entity to which a Corps member is assigned shall not deny requested health care services, and shall not discriminate in the provision of services to an individual—

"(1) because the individual is unable to pay for the services; or

"(2) because payment for the services would be made under—

"(A) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(B) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.); or

"(C) the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.).

"(b) Charges for Services.—The following rules shall apply to charges for health care services provided by an entity to which a Corps member is assigned:

"(1) In general.—

"(A) Schedule of fees or payments.—Except as provided in paragraph (2), the entity shall prepare a schedule of fees or payments for the entity's services, consistent with locally prevailing rates or charges and designed to cover the entity's reasonable cost of operation.

"(B) Schedule of discounts.—Except as provided in paragraph (2), the entity shall prepare a corresponding schedule of discounts (including, in appropriate cases, waivers) to be applied to such fees or payments. In preparing the schedule, the entity shall adjust the discounts on the basis of a patient's ability to pay.

"(C) Use of schedules.—The entity shall make every reasonable effort to secure from patients fees and payments for services in accordance with such schedules, and fees or payments shall be sufficiently discounted in accordance with the schedule described in subparagraph (B).

"(2) Services to beneficiaries of federal and federally assisted programs.—In the case of health care services furnished to an individual who is a beneficiary of a program listed in subsection (a)(2), the entity—

"(A) shall accept an assignment pursuant to section 1842(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(3)(B)(ii)) with respect to an individual who is a beneficiary under the medicare program; and

"(B) shall enter into an appropriate agreement with—

"(i) the State agency administering the program under title XIX of such Act with respect to an individual who is a beneficiary under the medicaid program; and

"(ii) the State agency administering the program under title XXI of such Act with respect to an individual who is a beneficiary under the State children's health insurance program.

"(3) Collection of payments.—The entity shall take reasonable and appropriate steps to collect all payments due for health care services provided by the entity, including payments from any third party (including a Federal, State, or local government agency and any other third party) that is responsible for part or all of the charge for such services.".

SEC. 306. ELIGIBILITY FOR FEDERAL FUNDS.

Section 335(e)(1)(B) of the Public Health Service Act (42 U.S.C. 254h(e)(1)(B)) is amended by striking "XVIII or XIX" and inserting "XVIII, XIX, or XXI".

SEC. 307. FACILITATION OF EFFECTIVE PROVISION OF CORPS SERVICES.

(a) Health Professional Shortage Areas.—Section 336 of the Public Health Service Act (42 U.S.C. 254h–1) is amended—

(1) in subsection (c), by striking "health manpower" and inserting "health professional"; and

(2) in subsection (f)(1), by striking "health manpower" and inserting "health professional".

(b) Technical Amendment.—Section 336A(8) of the Public Health Service Act (42 U.S.C. 254i(8)) is amended by striking "agreements under".

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

Section 338(a) of the Public Health Service Act (42 U.S.C. 254k(a)) is amended—

(1) by striking "(1) For" and inserting "For";

(2) by striking "1991 through 2000" and inserting "2002 through 2006"; and

(3) by striking paragraph (2).

SEC. 309. NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

Section 338A of the Public Health Service Act (42 U.S.C. 254l) is amended—

(1) in subsection (a)(1), by inserting "behavioral and mental health professionals," after "dentists,";

(2) in subsection (b)(1)(B), by inserting ", or an appropriate degree from a graduate program of behavioral and mental health" after "other health profession";

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking "338D" and inserting "338E"; and

(B) in subparagraph (B), by striking "338C" and inserting "338D";

(4) in subsection (d)(1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) the Secretary, in considering applications from individuals accepted for enrollment or enrolled in dental school, shall consider applications from all individuals accepted for enrollment or enrolled in any accredited dental school in a State; and";

(5) in subsection (f)—

(A) in paragraph (1)(B)—

(i) in clause (iii), by striking "and" after the semicolon;

(ii) by redesignating clause (iv) as clause (v); and

(iii) by inserting after clause (iii) the following new clause:

"(iv) if pursuing a degree from a school of medicine or osteopathic medicine, to complete a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and"; and

(B) in paragraph (3), by striking "338D" and inserting "338E"; and

(6) by striking subsection (i).

SEC. 310. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.

Section 338B of the Public Health Service Act (42 U.S.C. 254l–1) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "behavioral and mental health professionals," after "dentists,"; and

(B) in paragraph (2), by striking "(including mental health professionals)";

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

"(A) have a degree in medicine, osteopathic medicine, dentistry, or another health profession, or an appropriate degree from a graduate program of behavioral and mental health, or be certified as a nurse midwife, nurse practitioner, or physician assistant;";

(3) in subsection (e), by striking "(1) In general.—"; and

(4) by striking subsection (i).

SEC. 311. OBLIGATED SERVICE.

Section 338C of the Public Health Service Act (42 U.S.C. 254m) is amended—

(1) in subsection (b)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking "section 338A(f)(1)(B)(iv)" and inserting "section 338A(f)(1)(B)(v)"; and

(B) in paragraph (5)—

(i) by striking all that precedes subparagraph (C) and inserting the following:

"(5)(A) In the case of the Scholarship Program, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for the degree for which the individual receives the scholarship, except that—

"(i) for an individual receiving such a degree after September 30, 2000, from a school of medicine or osteopathic medicine, such date shall be the date the individual completes a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and

"(ii) at the request of an individual, the Secretary may, consistent with the needs of the Corps, defer such date until the end of a period of time required for the individual to complete advanced training (including an internship or residency).";

(ii) by striking subparagraph (D);

(iii) by redesignating subparagraphs (C) and (E) as subparagraphs (B) and (C), respectively; and

(iv) in clause (i) of subparagraph (C) (as redesignated by clause (iii)) by striking "subparagraph (A), (B), or (D)" and inserting "subparagraph (A)"; and

(2) by striking subsection (e).

SEC. 312. PRIVATE PRACTICE.

Section 338D of the Public Health Service Act (42 U.S.C..254n) is amended by striking subsection (b) and inserting the following:

"(b)(1) The written agreement described in subsection (a) shall—

"(A) provide that, during the period of private practice by an individual pursuant to the agreement, the individual shall comply with the requirements of section 334 that apply to entities; and

"(B) contain such additional provisions as the Secretary may require to carry out the objectives of this section.

"(2) The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to.".

SEC. 313. BREACH OF SCHOLARSHIP CONTRACT OR LOAN REPAYMENT CONTRACT.

(a) In General.—Section 338E of the Public Health Service Act (42 U.S.C. 254o) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking the comma and inserting a semicolon;

(B) in subparagraph (B), by striking the comma and inserting "; or";

(C) in subparagraph (C), by striking "or" at the end; and

(D) by striking subparagraph (D);

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking "338F(d)" and inserting "338G(d)";

(ii) by striking "either";

(iii) by striking "338D or" and inserting "338D,"; and

(iv) by inserting "or to complete a required residency as specified in section 338A(f)(1)(B)(iv)," before "the United States"; and

(B) by adding at the end the following new paragraph:

"(3) The Secretary may terminate a contract with an individual under section 338A if, not later than 30 days before the end of the school year to which the contract pertains, the individual—

“(A) submits a written request for such termination; and

“(B) repays all amounts paid to, or on behalf of, the individual under section 338A(g).”;

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “338F(d)” and inserting “338G(d)”; and

(ii) by striking subparagraphs (A) through (C) and inserting the following:

“(A) the total of the amounts paid by the United States under section 338B(g) on behalf of the individual for any period of obligated service not served;

“(B) an amount equal to the product of the number of months of obligated service that were not completed by the individual, multiplied by $7,500; and

“(C) the interest on the amounts described in subparagraphs (A) and (B), at the maximum legal prevailing rate, as determined by the Treasurer of the United States, from the date of the breach;

except that the amount the United States is entitled to recover under this paragraph shall not be less than $31,000.”;

(B) by striking paragraphs (2) and (3) and inserting the following:

“(2) The Secretary may terminate a contract with an individual under section 338B if, not later than 45 days before the end of the fiscal year in which the contract was entered into, the individual—

“(A) submits a written request for such termination; and

“(B) repays all amounts paid on behalf of the individual under section 338B(g).”; and

(C) by redesignating paragraph (4) as paragraph (3);

(4) in subsection (d)(3)(A), by striking “only if such discharge is granted after the expiration of the five-year period” and inserting “only if such discharge is granted after the expiration of the 7-year period”; and

(5) by adding at the end the following new subsection:

“(e) Notwithstanding any other provision of Federal or State law, there shall be no limitation on the period within which suit may be filed, a judgment may be enforced, or an action relating to an offset or garnishment, or other action, may be initiated or taken by the Secretary, the Attorney General, or the head of another Federal agency, as the case may be, for the repayment of the amount due from an individual under this section.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(4) shall apply to any obligation for which a discharge in bankruptcy has not been granted before the date that is 31 days after the date of enactment of this Act.

SEC. 314. AUTHORIZATION OF APPROPRIATIONS.

Section 338H of the Public Health Service Act (42 U.S.C. 254q) is amended to read as follows:

“SEC. 338H. AUTHORIZATION OF APPROPRIATIONS.

“(a) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this subpart, there are authorized to be appropriated $146,250,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

“(b) SCHOLARSHIPS AND LOAN REPAYMENTS.—With respect to certification as a nurse practitioner, nurse midwife, or physician assistant, the Secretary shall, from amounts appropriated under subsection (a) for a fiscal year, obligate not less than a total of 10 percent for contracts for both scholarships under the Scholarship Program under section 338A and loan repayments under the Loan Repayment Program under section 338B to individuals who are entering the first year of a course of study or program described in section 338A(b)(1)(B) that leads to such a certification or individuals who are eligible for the loan repayment program as specified in section 338B(b) for a loan related to such certification.”.

SEC. 315. GRANTS TO STATES FOR LOAN REPAYMENT PROGRAMS.

Section 338I of the Public Health Service Act (42 U.S.C. 254q–1) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

“(1) AUTHORITY FOR GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability of primary health care services in health professional shortage areas. The National Advisory Council established under section 337 shall advise the Administrator regarding the program under this section.”;

(2) in subsection (e), by striking paragraph (1) and inserting the following:

“(1) to submit to the Secretary such reports regarding the States loan repayment program, as are determined to be appropriate by the Secretary; and”; and

(3) in subsection (i), by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $12,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.”.

SEC. 316. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

Section 338L of the Public Health Service Act (42 U.S.C. 254t) is repealed.

TITLE IV—ADDITIONAL PROVISIONS

SEC. 401. COMMUNITY ACCESS DEMONSTRATION PROGRAM.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by inserting after subpart IV the following new subpart:

“Subpart V—Community Access Demonstration Program

“SEC. 340. GRANTS TO STRENGTHEN EFFECTIVENESS, EFFICIENCY, AND COORDINATION OF SERVICES FOR THE UNINSURED AND UNDERINSURED.

“(a) IN GENERAL.—

“(1) GRANTS.—The Secretary may make not more than 35 grants for the purpose of carrying out demonstration projects to improve the effectiveness, efficiency, and coordination of services for uninsured and underinsured individuals.

“(2) PROJECT PERIOD.—A demonstration project under this section may not receive funding under this section for more than three fiscal years.

“(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity must—

“(1) be an entity that is a public or private entity such as—

“(A) a Federally qualified health center (as defined under section 1861(aa)(4) of the Social Security Act);

“(B) a hospital that meets the requirements of section 340B(a)(4)(L) (or, if none are available in the area, a hospital that is a provider of a substantial volume of non-emergency health services to uninsured individuals and families without regard to their ability to pay) without regard to 340B (a)(4)(L)(iii); or

“(C) a public health department; or

“(2) represent a consortium of providers and, as appropriate, related agencies or entities—

“(A) whose principal purpose is to provide a broad range of coordinated health care services in a geographic area defined in the entity’s grant application;

“(B) that includes health care providers that serve such geographic area and that have traditionally provided care (beyond emergency services) to uninsured and underinsured individuals without regard to the individuals’ ability to pay; and

“(C) that may include other health care providers and related agencies and organizations;

except that preference may be given to applicants that are health care providers identified in paragraph (1).

“(c) APPLICATIONS.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary an application, in such form and manner as the Secretary shall prescribe, that shall—

“(1) define a geographic area of uninsured and underinsured individuals;

“(2) identify the providers who will participate in the consortium’s program under the grant, and specify each one’s contribution to the care of uninsured and underinsured individuals in such geographic area, including the volume of care it provides to medicare and medicaid beneficiaries, to individuals served by the program under title XXI of the Social Security Act (relating to SCHIP), and to privately paid patients;

“(3) describe the activities that the applicant and the consortium propose to perform under the grant to further the purposes of this section;

“(4) demonstrate the consortium’s ability to build on the current system for serving uninsured and underinsured individuals by involving providers who have traditionally provided a significant volume of care for that community;

“(5) demonstrate the consortium’s ability to develop coordinated systems of care that either directly provide or ensure the prompt provision of a broad range of high-quality, accessible services, including, as appropriate, primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services in a manner which assures continuity of care in the community;

“(6) provide evidence of community involvement in the development, implementation, and direction of the program that it proposes to operate;

“(7) demonstrate the consortium’s ability to ensure that individuals participating in the program are enrolled in public insurance programs for which they are eligible (or know of private insurance options available to them, if any);

“(8) present a plan for leveraging other sources of revenue, which may include State and local sources and private grant funds, and integrating current and proposed new funding sources in a way to assure long-term sustainability;

“(9) describe a plan for evaluation of the activities carried out under the grant, including measurement of progress toward the goals and objectives of the program;

“(10) demonstrate fiscal responsibility through the use of appropriate accounting procedures and appropriate management systems;

"(11) include such other information as the Secretary may prescribe; and

"(12) demonstrate the commitment to serve individuals in the geographic area without regard to the ability of the individual or family to pay by arranging for or providing free or reduced charge care for the poor.

"(d) PRIORITIES.—In awarding grants under this section, the Secretary may accord priority to applicants—

"(1) whose consortium includes public hospitals, Federally qualified health centers (as defined in section 1905(l)(2)(B) of the Social Security Act), and other providers that are covered entities as defined by section 340B(a)(4) of this Act (or that would be covered entities as so defined but for subparagraph (L)(iii) of such section);

"(2) that identify a geographic area has a high or increasing percentage of individuals who are uninsured;

"(3) whose consortium includes other health care providers that have a tradition of serving uninsured individuals and underinsured individuals in the community;

"(4) who show evidence that the program would expand utilization of preventive and primary care services for uninsured and underinsured individuals and families in the community, including mental health services or substance abuse services;

"(5) whose proposed program would improve coordination between health care providers and appropriate social service providers, including local and regional human services agencies, school systems, and agencies on aging;

"(6) that demonstrate collaboration with State and local governments;

"(7) that make use of non-Federal contributions to the greatest extent possible; or

"(8) that demonstrate a significant likelihood that the proposed program will continue after support under this section ceases.

"(e) USE OF FUNDS.—

"(1) USE BY GRANTEES.—

"(A) IN GENERAL.—Except as provided in paragraphs (2) and (3), a grantee may use amounts provided under this section only for—

"(i) direct expenses associated with operating the greater integration of a health care delivery system so that it either directly provides or ensures the provision of a broad range of services, as appropriate, including primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services; and

"(ii) direct patient care and service expansions to fill identified or documented gaps within an integrated delivery system.

"(B) SPECIFIC USES.—The following are examples of purposes for which a grantee may use grant funds, when such use meets the conditions stated in subparagraph (A):

"(i) Increase in outreach activities.

"(ii) Improvements to case management.

"(iii) Development of provider networks.

"(iv) Recruitment, training, and compensation of necessary personnel.

"(v) Acquisition of technology for the purpose of coordinating health care.

"(vi) Identifying and closing gaps in health care services being provided.

"(vii) Improvements to provider communication, including implementation of shared information systems or shared clinical systems.

"(viii) Other activities that may be appropriate to a community that would increase access to the uninsured.

"(2) RESERVATION OF FUNDS FOR NATIONAL PROGRAM PURPOSES.—The Secretary may use not more than 3 percent of funds appropriated to carry out this section for technical assistance to grantees, obtaining assistance of experts and consultants, meetings, dissemination of information, evaluation, and activities that will extend the benefits of funded programs to communities other than the one funded.

"(f) MAINTENANCE OF EFFORT.—With respect to activities for which a grant under this section is authorized, the Secretary may award such a grant only if the recipient of the grant and each of the participating providers agree that each one will maintain its expenditures of non-Federal funds for such activities at a level that is not less than the level of such expenditures during the year immediately preceding the fiscal year for which the applicant is applying to receive such grant.

"(g) REPORTS TO THE SECRETARY.—The recipient of a grant under this section shall report to the Secretary annually regarding—

"(1) progress in meeting the goals stated in its grant application; and

"(2) such additional information as the Secretary may require.

The Secretary may not renew an annual grant under this section unless the Secretary is satisfied that the consortium has made reasonable and demonstrable progress in meeting the goals set forth in its grant application for the preceding year.

"(h) AUDITS.—Each entity which receives a grant under this section shall provide for an independent annual financial audit of all records that relate to the disposition of funds received through this grant.

"(i) TECHNICAL ASSISTANCE.—The Secretary may, either directly or by grant or contract, provide any funded entity with technical and other non-financial assistance necessary to meet the requirements of this section.

"(j) REPORT.—Not later than September 30, 2005, the Secretary shall submit to the Congress a report describing the extent to which demonstration projects under this section have been successful in improving the effectiveness, efficiency, and coordination of services for uninsured and underinsured individuals in the geographic areas served by such projects, including providing better quality health care for such individuals, and at lower costs, than would have been the case in the absence of such projects.

"(k) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.".

SEC. 402. EXPANDING AVAILABILITY OF DENTAL SERVICES.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

"Subpart X—Primary Dental Programs

"SEC. 340F. DESIGNATED DENTAL HEALTH PROFESSIONAL SHORTAGE AREA.

"In this subpart, the term 'designated dental health professional shortage area' means an area, population group, or facility that is designated by the Secretary as a dental health professional shortage area under section 332 or designated by the applicable State as having a dental health professional shortage.

"SEC. 340G. GRANTS FOR INNOVATIVE PROGRAMS.

"(a) GRANT PROGRAM AUTHORIZED.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, is authorized to award grants to States for the purpose of helping States develop and implement innovative programs to address the dental workforce needs of designated dental health professional shortage areas in a manner that is appropriate to the States' individual needs.

"(b) STATE ACTIVITIES.—A State receiving a grant under subsection (a) may use funds received under the grant for—

"(1) loan forgiveness and repayment programs for dentists who—

"(A) agree to practice in designated dental health professional shortage areas;

"(B) are dental school graduates who agree to serve as public health dentists for the Federal, State, or local government; and

"(C) agree to—

"(i) provide services to patients regardless of such patients' ability to pay; and

"(ii) use a sliding payment scale for patients who are unable to pay the total cost of services;

"(2) dental recruitment and retention efforts;

"(3) grants and low-interest or no-interest loans to help dentists who participate in the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to establish or expand practices in designated dental health professional shortage areas by equipping dental offices or sharing in the overhead costs of such practices;

"(4) the establishment or expansion of dental residency programs in coordination with accredited dental training institutions in States without dental schools;

"(5) programs developed in consultation with State and local dental societies to expand or establish oral health services and facilities in designated dental health professional shortage areas, including services and facilities for children with special needs, such as—

"(A) the expansion or establishment of a community-based dental facility, free-standing dental clinic, consolidated health center dental facility, school-linked dental facility, or United States dental school-based facility;

"(B) the establishment of a mobile or portable dental clinic; and

"(C) the establishment or expansion of private dental services to enhance capacity through additional equipment or additional hours of operation;

"(6) placement and support of dental students, dental residents, and advanced dentistry trainees;

"(7) continuing dental education, including distance-based education;

"(8) practice support through teledentistry conducted in accordance with State laws;

"(9) community-based prevention services such as water fluoridation and dental sealant programs;

"(10) coordination with local educational agencies within the State to foster programs that promote children going into oral health or science professions;

"(11) the establishment of faculty recruitment programs at accredited dental training institutions whose mission includes community outreach and service and that have a demonstrated record of serving underserved States;

"(12) the development of a State dental officer position or the augmentation of a State dental office to coordinate oral health and access issues in the State; and

"(13) any other activities determined to be appropriate by the Secretary.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(2) Assurances.—The application shall include assurances that the State will meet the requirements of subsection (d) and that the State possesses sufficient infrastructure to manage the activities to be funded through the grant and to evaluate and report on the outcomes resulting from such activities.

"(d) Matching Requirement.—The Secretary may not make a grant to a State under this section unless that State agrees that, with respect to the costs to be incurred by the State in carrying out the activities for which the grant was awarded, the State will provide non-Federal contributions in an amount equal to not less than 40 percent of Federal funds provided under the grant. The State may provide the contributions in cash or in kind, fairly evaluated, including plant, equipment, and services and may provide the contributions from State, local, or private sources.

"(e) Report.—Not later than 5 years after the date of enactment of the Health Care Safety Net Improvement Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to dental services in designated dental health professional shortage areas.

"(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $50,000,000 for the 5-fiscal year period beginning with fiscal year 2002.".

SEC. 403. STUDY REGARDING BARRIERS TO PARTICIPATION OF FARMWORKERS IN HEALTH PROGRAMS.

(a) In General.—The Secretary shall conduct a study of the problems experienced by farmworkers (including their families) under Medicaid and SCHIP. Specifically, the Secretary shall examine the following:

(1) Barriers to enrollment.—Barriers to their enrollment, including a lack of outreach and outstationed eligibility workers, complicated applications and eligibility determination procedures, and linguistic and cultural barriers.

(2) Lack of portability.—The lack of portability of Medicaid and SCHIP coverage for farmworkers who are determined eligible in one State but who move to other States on a seasonal or other periodic basis.

(3) Possible solutions.—The development of possible solutions to increase enrollment and access to benefits for farmworkers, because, in part, of the problems identified in paragraphs (1) and (2), and the associated costs of each of the possible solution described in subsection (b).

(b) Possible Solutions.—Possible solutions to be examined shall include each of the following:

(1) Interstate compacts.—The use of interstate compacts among States that establish portability and reciprocity for eligibility for farmworkers under the Medicaid and SCHIP and potential financial incentives for States to enter into such compacts.

(2) Demonstration projects.—The use of multi-state demonstration waiver projects under section 1115 of the Social Security Act (42 U.S.C. 1315) to develop comprehensive migrant coverage demonstration projects.

(3) Use of current law flexibility.—Use of current law Medicaid and SCHIP State plan provisions relating to coverage of residents and out-of-State coverage.

(4) National migrant family coverage.—The development of programs of national migrant family coverage in which States could participate.

(5) Public-private partnerships.—The provision of incentives for development of public-private partnerships to develop private coverage alternatives for farmworkers.

(6) Other possible solutions.—Such other solutions as the Secretary deems appropriate.

(c) Consultations.—In conducting the study, the Secretary shall consult with the following:

(1) Farmworkers affected by the lack of portability of coverage under the Medicaid program or the State children's health insurance program (under titles XIX and XXI of the Social Security Act).

(2) Individuals with expertise in providing health care to farmworkers, including designees of national and local organizations representing migrant health centers and other providers.

(3) Resources with expertise in health care financing.

(4) Representatives of foundations and other nonprofit entities that have conducted or supported research on farmworker health care financial issues.

(5) Representatives of Federal agencies which are involved in the provision or financing of health care to farmworkers, including the Health Care Financing Administration and the Health Research and Services Administration.

(6) Representatives of State governments.

(7) Representatives from the farm and agricultural industries.

(8) Designees of labor organizations representing farmworkers.

(d) Definitions.—For purposes of this section:

(1) Farmworker.—The term "farmworker" means a migratory agricultural worker or seasonal agricultural worker, as such terms are defined in section 330(g)(3) of the Public Health Service Act (42 U.S.C. 254c(g)(3)), and includes a family member of such a worker.

(2) Medicaid.—The term "Medicaid" means the program under title XIX of the Social Security Act.

(3) SCHIP.—The term "SCHIP" means the State children's health insurance program under title XXI of the Social Security Act.

(e) Report.—Not later than one year after the date of the enactment of this Act, the Secretary shall transmit a report to the President and the Congress on the study conducted under this section. The report shall contain a detailed statement of findings and conclusions of the study, together with its recommendations for such legislation and administrative actions as the Secretary considers appropriate.

SEC. 404. ELIGIBILITY OF CERTAIN ENTITIES FOR GRANTS.

If under a program established in this Act (other than section 401), or if pursuant to an amendment made by this Act, a private entity that is not a nonprofit entity is eligible for an award of a grant, contract, or cooperative agreement, such an award may not be made to such private entity unless the entity is the only available provider of quality health services in the geographic area involved.

SEC. 405. CONFORMING AMENDMENTS.

(a) Homeless Programs.—Subsections (g)(1)(G)(ii), (k)(2), and (n)(1)(C) of section 224, and sections 317A(a)(2), 317E(c), 318A(e), 332(a)(2)(C), 340D(c)(5), 799B(6)(B), 1313, and 2652(2) of the Public Health Service Act (42 U.S.C. 233, 247b–1(a)(2), 247b–6(c), 247c–1(e), 254e(a)(2)(C), 256d(c)(5), 295p(6)(B), 300e–12, and 300ff–52(2)) are amended by striking "340" and inserting "330(h)".

(b) Homeless Individual.—Section 534(2) of the Public Health Service Act (42 U.S.C. 290cc–34(2)) is amended by striking "340(r)" and inserting "330(h)(5)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. Bilirakis) and the gentleman from Texas (Mr. Green) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Bilirakis).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3450, the Health Care Safety Net Improvement Act. This bill reauthorizes our Nation's key health care delivery systems and creates additional efficiencies. Specifically, this bill reauthorizes the Community Health Center program, the National Health Service Corps and rural outreach grants. Each of these programs ensures that both the uninsured and the underinsured have access to quality health care services.

Since 1965, America's health centers have delivered comprehensive services to people who otherwise would face major barriers to obtaining quality, affordable health care. Health centers serve those who are hardest to reach and are required by law to make their services accessible to everyone, regardless of their ability to pay.

Our legislation increases the funding authorization for health centers to $1.293 billion. We have included language allowing health centers to provide behavioral, mental health, and substance abuse services if they choose. The legislation also creates a new program for practice management networks. These networks will improve access to care and reduce costs of delivering the high-quality care that health centers provide.

Many community health centers are located in America's inner cities, isolated rural areas, and migrant farm worker communities, which often lack adequate numbers of health professionals. H.R. 3450 ensures that health centers will have an easier process for becoming designated as a health professional shortage area. The HPSA designation is important because it will help health centers access health professionals through other Federal programs.

One of the most important programs for ensuring an adequate supply of health professionals is the National Health Service Corps. The National

Health Service Corps recruits, trains, and places primary care providers in both urban and rural health care shortage areas. Program participants are health professionals who receive educational assistance in return for a period of obligated service.

Our legislation reauthorizes this vital program, which serves as a pipeline for health care facilities that have trouble attracting health professionals. The bill strengthens the service obligation requirements of the National Health Service Corps. By strengthening this provision, health care facilities using program graduates can be certain that health corps personnel will fulfill their entire service contract, something I have been concerned with for years and years.

H.R. 3450 also recognizes the importance of oral health care and authorizes the inclusion of primary dental care education. The bill creates flexibility for the HHS Secretary in administering the program to ensure that resources are maximized between the loan repayment and the scholarship programs.

Another area of focus in the Safety Net Improvement Act is in the rural health arena. Often rural communities have trouble developing capacity and maintaining health care facilities. Our bill includes programs that will help rural providers develop new service capacity and integrated health delivery networks. It will help rural facilities implement quality improvement initiatives.

A concern for many rural communities is the delivery of adequate specialty care and mental health services. Our bill consolidates programs within the Office of Telehealth to build on them to deliver services via teletechnologies. We authorize funding for the creation of programs that will expand access to, coordinate, and improve the quality of health services. These programs will also improve and expand the training of health care providers and the quality of health information available to underserved communities.

Mr. Speaker, I believe using telehealth technologies is an effective and efficient way to expand access to care for those in the most remote locations of our country. H.R. 3450 authorizes for the first time a demonstration program to coordinate the care that individuals receive in a particular geographic area. I believe that programs like this may help reduce duplicative services and lead to greater efficiencies within our systems, and I anxiously await the GAO study on this program so we may better evaluate its overall effectiveness.

As health care delivery becomes more complex, we must be sure that we have the trained professionals and the necessary infrastructure to address the increasing demand for health care services.

Mr. Speaker, given recent events and news of increasing numbers of uninsured, it is vitally important that we keep our safety net strong. I believe this bill is a good start, and I am certain it will improve services for our most vulnerable populations. I urge Members to support H.R. 3450, the Health Care Safety Net Improvement Act.

Mr. Speaker, I reserve the balance of my time.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3450, the Health Care Safety Net Improvement Act, and I thank the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) for bringing this important legislation to the floor today. I would also like to thank the gentleman from Louisiana (Chairman TAUZIN) and the ranking member, the gentleman from Michigan (Mr. DINGELL), for their efforts to improve access to quality preventive and primary health care for the millions of medically underserved Americans who rely on these programs.

This important legislation strengthens our health care safety net by reauthorizing the Consolidated Health Centers program, the National Health Services Corps, certain rural health programs, and creating a new Community Access Demonstration Program.

This legislation could not come at a better time. The U.S. Census Bureau announced on Sunday that the number of uninsured people in the United States increased by 1.4 million in 2001 to more than 41 million Americans.

With the decline in the economy and escalating health care costs, the ranks of the uninsured will continue to grow. We must act now to ensure that our health care safety net is prepared for the flood of newly uninsured individuals. These programs ensure that all Americans have access to health care, regardless of their ability to pay.

I would like to take a moment to talk about the Community Access Program, or CAP program, as this is an issue I have been working on for a number of years. The CAP program was launched as a demonstration project in fiscal year 2000, providing grants to 23 communities across the country. This program has expanded in fiscal year 2001 to 77 communities, and again in fiscal year 2002 to a total of 136 communities.

The CAP program provides grants to help agencies coordinate preventive and primary care for that 41 million Americans without insurance. The uninsured and underinsured tend to be more expensive to treat, often because they fall through the cracks in our health care system. Instead of getting checkups and having small problems looked at, the uninsured often ignore the symptoms of what might be larger problems because they simply cannot afford to go to the doctor. CAP can help fill the gaps in our health care safety net by improving infrastructure and communication among the agencies to ensure that care is continuous.

With better information, agencies can provide preventive, primary, and emergency clinical health services in an integrated and coordinated manner.

I am particularly proud of the CAP program in Houston, Texas, which has been operating for the past 2 years. Using Federal CAP funds, the Harris County Community Access Collaborative was able to grow into an organization consisting of 78 member and affiliate groups working together to coordinate and improve access to health care. In just the last year, over 9,000 persons have been assisted during the 15,000 interventions to procure access to care through navigation services.

And after-hours telephone service called Ask Your Nurse has been opened that is designed to provide health care information to 20,000 callers per year as an alternative to emergency rooms. The collaborative is also supporting the redesign of existing safety net services in order to assist them to use their resources more efficiently resulting in the increase of services to 18,000 to 24,000 additional persons. This kind of program not only helps ease some of the burdens on our health care system, but makes a tremendous difference in the quality of life for many of these patients. That is why I am pleased to support H.R. 3450, including a 3-year demonstration program for the CAP program.

However, I am concerned that H.R. 3450 limits the number of grants nationally to 35 and that the initial authorization level in the bill will not adequately support the program or provide for its growth.

Given that there are currently 136 grantees and many more prospective CAP participants, I support efforts to achieve the strongest CAP provisions possible as the bill moves forward. It is my hope in the closing days of the 107th Congress, we are able to work out the differences and produce a strong and effective CAP program.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to acknowledge the work of the gentleman from Texas (Mr. GREEN) on the entire issue of the Safety Net Community Health Centers, and particularly the CAP program. It sounds like a terrific concept, and we are continuing to talk on it and hopefully improve on what we have in this legislation insofar as that area is concerned. But it is important also that we have oversight, and take a look at how it is working and is it working, as we hope and dream that it is working.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. SHIMKUS).

□ 1245

Mr. SHIMKUS. Mr. Speaker, as a cosponsor of the bill and as a proud member of the Committee on Energy and Commerce, I would like to commend the distinguished gentleman from Florida (Mr. BILIRAKIS), the Commerce Subcommittee on Health and all those who have worked to bring this legislation to the floor. This bill will improve access to quality preventative and primary health care for the medically underserved, including the millions of Americans, many who reside in Illinois, without health insurance coverage.

First and foremost, H.R. 3450 would reauthorize the critically important Community Health Centers Program for another 5 years, including reaffirmation that health centers be located in high-need areas; provide comprehensive preventive and primary health care services; governed by community boards made up of a majority of current health care center patients to assure responsiveness to local needs; and open to everyone in the communities they serve, regardless of ability to pay.

I have been in love with community health centers since I have been involved here in Washington. They are meeting a great need. That is why I wholeheartedly support what we are doing here.

This legislation also authorizes for the very first time the Community Access Program, the CAP program as has been talked about earlier before me, which supports the development of communitywide networks to organize and improve access to health care in low-income and uninsured populations. The CAP program has proven successful in improving health care access, reducing emergency room use and saving money through shared resources and economies of scale.

I have had the opportunity to observe the benefits of this important program up close when I visited Macoupin County Health Department and the Springfield and Sangamon County Comprehensive Community Health Initiative, two innovative CAP projects in my district. I am proud to report that these two projects have helped tremendously to both expand and strengthen the health care safety net in the communities I represent.

I am pleased that H.R. 3450 includes a 5-year authorization for the CAP program. However, as has been stated by the chairman and the gentleman from Texas, H.R. 3450 limits the number of grants nationally to 35. Given that there are currently 136 grantees and many more prospective CAP participants, I strongly support efforts to achieve the strongest CAP provisions possible as the bill moves forward, most importantly the elimination of the bill's limit on the number of CAP grantees.

Again, I am pleased to support passage of H.R. 3450, and I stand ready to work with my esteemed colleagues to ensure that the Health Care Safety Net Improvement Act is enacted into law. I look forward to working with the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Texas (Mr. GREEN) in the future.

Mr. GREEN of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. I thank the gentleman from Texas for yielding me this time and also for his outstanding work on this legislation.

Mr. Speaker, as a cosponsor of the bill, former president of the National Association of Community Health Centers, cochair of the Health Center Caucus, former employee of two community health centers, and with 26 community health centers in my district, I rise to add my strong support for H.R. 3450, the Health Care Safety Net Improvement Act. I would like to commend the distinguished gentleman from Florida (Mr. BILIRAKIS), chairman of the House Energy and Commerce Subcommittee on Health, and the distinguished gentleman from Ohio (Mr. BROWN), ranking member of the House Energy and Commerce Subcommittee on Health, for bringing this important legislation to the floor today. I would also like to commend the distinguished gentleman from Louisiana (Mr. TAUZIN), chairman of the Committee on Energy and Commerce and the distinguished gentleman from Michigan (Mr. DINGELL), the ranking member, for their efforts to improve access to quality preventative and primary health care for the medically underserved, including the millions of Americans without health insurance coverage.

The Federal Health Centers Program was designed as a unique public-private partnership, with Federal resources provided directly to community organizations for the development and operation of local health care systems. Under program rules, a majority of the membership on the policy boards of the local health centers must consist of individuals who receive their health care at the local center and who represent the community being served. In this way communities in need are given the resources to address their most pressing health problems, and they are held responsible for doing so.

Mr. Speaker, community health centers are truly integral threads of America's health care safety net. That is why I am pleased to support reauthorization of this critically important program for another 5 years.

Most importantly, H.R. 3450 strongly reaffirms the four foundations of the health centers programs that, one, health centers be located in high-need areas; two, provide comprehensive preventive and primary health care services; three, be governed by community boards made up of a majority of current health center patients to assure responsiveness to local needs; and, four, be open to everyone in the communities they serve, regardless of ability to pay. It is these requirements of the Health Centers Program that have made it a model of health care delivery for more than 30 years, providing high-quality, cost-effective primary and preventive health care to all who need it.

I am pleased, Mr. Speaker, that H.R. 3450 reauthorizes the Health Centers Program so that these centers can continue their proven record of attacking some of the most challenging health problems that exist. One example of this program's effectiveness is the tenacity with which health centers have addressed the racial and ethnic disparities in health care, a growing issue highlighted by the Institute of Medicine's March 2002 report entitled "Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care." This report found overwhelming evidence that minorities in America generally receive poor health care even when income, insurance and medical conditions are similar. The report identified a number of causes for racial health disparities, including language barriers, inadequate coverage, provider bias, and lack of minority doctors. For most of us, this is not new.

This bill also expands the availability of dental health services at community health centers, which is so greatly and vitally needed even for senior citizens who have Medicare and still cannot get dental services.

Mr. Speaker, this is an outstanding program. I commend all of those who continue to make it happen.

Mr. BILIRAKIS. Mr. Speaker, I, too, thank the gentleman for his kind remarks and endorse his remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, let me thank, first of all, the gentleman from Florida (Mr. BILIRAKIS), who is known as Mr. Health in the Florida delegation for his timely passage of H.R. 3450, and urge adoption. Coming from Florida, many people think of us as a very large urban regional center. They think of Palm Beach, they think of Tampa, they think of St. Petersburg, Jacksonville. They do not recognize the small agrarian rural counties that are contained in 67 counties in the great State of Florida.

I happen to represent communities that go from the east coast to the west coast, and they include such impoverished communities as Glades and Henry, where average, hard-working families have absolutely no access to quality health care. Fortunately, due to the work of the gentleman from

Florida (Mr. BILIRAKIS) and the Committee on Energy and Commerce, we have seen an outpouring and a growth, if you will, of community health centers throughout these areas.

Five years ago most of these families would have had to travel to Lee County to gain any type of health care at all. Oftentimes doctors were not even available in the communities. You could not attract or recruit them. This bill goes a long way to ensuring not only do we have a quality work force of doctors, but trained professionals to assist.

The gentleman from Illinois just mentioned another important provision in this bill, which is dental health. Dental health is part of the physical being. If we do not adequately care for the dentures, the teeth, the jaws and gums of the individuals we serve, they will have a decline, if you will, of quality of life.

The mental health coverage provided in this bill is expanded, and it brings about new innovations.

We mentioned again about providing help to migratory and seasonal agricultural workers. Oftentimes if we can catch their illnesses early, we can actually save society a great deal of money. The sicker a person becomes, whether it is pneumonia or some other disease, the more expensive it is and typically will be treated in an emergency room where the cost is that much greater for Medicaid and some of the other delivery services. Some of the hospitals in my district are going uncompensated for the care of some of these individuals.

This is the underpinnings of this very well-crafted legislation, that it reaches out and not only provides a safety net for our communities, but actually strengthens the communities through a delivery system of quality health care. Every citizen in this country is entitled to quality health care regardless of their ability to pay and regardless of their ability to speak English, because oftentimes they are the hardest working among us.

Again, I commend and salute the chairman, the ranking member, and the gentleman from Texas for his hard work on this issue. I urge all colleagues to strongly support H.R. 3450.

Mr. RICHARD BURR of North Carolina. Mr. Speaker, since its creation in 1972, the National Health Service Corps (NHSC) has made a significant impact both in improving the distribution of health care providers (physicians, physician assistants, nurse practitioners and dentists) in the underserved areas of our country and increasing primary care access for at-risk populations.

The NHSC operates two programs to help meet the needs of underserved communities: the scholarship program and the loan repayment program. The scholarship program provides funds to students for educational living expenses during health care practitioner training. The loan repayment program provides financial assistance to help newly graduated practitioners repay their educational loans. For each year of NHSC scholarship or loan repayment support, participants are obligated to provide one year of medical care in underserved communities.

Noteworthy research comparing the effectiveness of the NHSC scholarship and loan repayment programs was conducted by The Cecil G. Sheps Center at UNC Chapel Hill, NC and Mathematica Policy Research—"Evaluation of the Effectiveness of the National Health Service Corps" HRSA Contract No. 240–95–0038, May 31, 2000. This research confirmed that only 20.7 percent of NHSC scholarship recipients stayed at least one month beyond their service obligation, compared to 57.2 percent of NHSC loan repayment recipients.

In addition, the General Accounting Office (GAO), in a 1995 report entitled, "National Health Service Corp: Opportunities to Stretch Scarce Dollars and Improve Provider Placement," concluded that the NHSC scholarship program was significantly more expensive than the NHSC loan repayment program. The report stated that "loan repayment recipients cost the federal government one-half to one-third less than scholarship recipients and . . . the loan repayment program offers a better long term investment of limited federal dollars."

Given this information from both the Sheps Center/Mathematica study and the GAO report, I am a strong advocate for removing the current 30 percent set aside for NHSC scholarships. The legislation before us today, H.R. 3450, does not include a 30 percent set aside for NHSC scholarships. Instead, the legislation leaves the division of resources between the scholarship and loan repayment programs up to the experts at the Health Resources Services Administration (HRSA). This way HRSA officials can look at all of the data collected on these programs and determine the best use of taxpayer money.

We all want to see America's safety net of community health care centers, rural health care clinics, and providers for underserved areas grow stronger and more stable. The NHSC loan repayment program has proven its effectiveness in this area and I am proud to say that the House-version of this legislation will enable the fullest possible support of that program.

Mr. BROWN of Ohio. Mr. Speaker, I want to thank the Chairman of the Energy and Commerce Health Subcommittee, Mr. BILIRAKIS, for his hard work on this bill. And a special thanks to staff members Steve Tilton, Erin Okunzzi, and Pat Morissey, on the Republican side, and David Nelson and John Ford on ours.

Community Health Centers and the National Health Service Corps provide health care to an underserved and uninsured population. A population that faces poverty, hunger, poor living conditions—all of which exacerbate the need for health care and all but guarantee disenfranchisement from the private health insurance system so many of us take for granted.

Community Health Centers and the National Health Service Corps serve populations that otherwise would fall through the cracks of our patch-work public/private healthcare system. In Ohio, over 217,000 patients receive services through Community Health Centers. Lifesaving services like treatment for dehydration and for exposure to extreme heat and cold. Services as fundamental—and fundamentally important—as immunizations, child health exams, and breast and cervical cancer screening. And services as sophisticated as treatment for heart disease, diabetes, asthma and mental illness.

Since 1972, the National Health Service Act has reach millions of Americans living in areas where health care is scarce. The Corps has encouraged health professionals to go where other health professionals would not, providing access to health care and working to eliminate health disparities in underserved areas. Reauthorization of the Corps will only make this public program stronger.

Health centers and the National Health Service Corps continue to improve the quality of life for so many uninsured families. I urge my colleagues to support this popular bill.

While the committee did not report the bill, I have discussed interpretation of certain provisions with the Chairman, and the explanation follows.

We recognize the critically important role that translation and interpretation services, as well as health care services provided in a culturally competent manner, play in ensuring the delivery of appropriate health care services to patients who have limited ability to speak English, and applaud the efforts of health centers to deliver linguistically and culturally appropriate care.

We recognize that health centers serve increasing numbers of patients speaking a variety of languages and representing a variety of racial and ethnic backgrounds.

We also recognize that the particular community health centers that serve limited English proficient populations bear a disproportionate financial, administrative and clinical burden above and beyond costs associated with providing health services and other general enabling services.

It is our expectation that the Secretary will work with health centers to enable them to provide, to the maximum extent feasible, appropriate translation and interpretation services for all of the patients they serve.

Mr. CAPUANO. Mr. Speaker, I rise today in support of H.R. 3450, the Health Care Safety Net Improvement Act. As a cosponsor of this bill and Co-Chair of the Community Health Center Caucus I'd like to thank Mr. BILIRAKIS and Mr. BROWN for their leadership in bringing this legislation to the floor today.

As you know, health centers were established over 35 years ago to provide access to quality preventive and primary health care for the medically underserved—including the millions of Americans without health insurance, low income working families, members of minority groups, residents of rural areas, homeless persons, and agricultural farmworkers. Since their inception, health centers have served as a prototype for effective public-private partnerships, demonstrating an ability to meet pressing local health needs while being held accountable for meeting national performance standards.

H.R. 3450 would reauthorize the National Health Service Corps program and authorize the Community Access Program. According to the Department of Health and Human Services, over 50 million people do not have a regular health care provider, including millions with public or private health insurance coverage. This legislation is vital in light of this data, including yesterday's Census Bureau study reporting the number of Americans who lack health coverage has increased again after a two-year decline. Specifically, one-third of Latinos lack coverage, far more than any other racial or ethnic group. More than 4 in 10 residents who are not citizens are uninsured, and more than one-quarter of high school dropouts have no insurance.

Health Centers focus their efforts on these underserved and uninsured populations. H.R. 3450 continues to reaffirm the principles of health centers, by focusing on high-need areas while ensuring care to all, regardless of their ability to pay. Health centers across the nation have begun a five-year effort to expand services to millions more underserved patients. My District has over twenty-five health centers and my constituents rely on the dedicated staff to provide health care services to them and their families. We cannot jeopardize the extraordinary work of the health centers because of a lack of federal authorization.

Mr. Speaker, I urge all Members of the House to support this bill and to ensure its passage and enactment this year. The House must move quickly to ensure that health centers can continue to provide high quality health care services to vulnerable populations in underserved communities across America.

Ms. PELOSI. Mr. Speaker, I rise in strong support of H.R. 3450, the Health Care Safety Net Improvement Act. By reauthorizing the Community Health Centers program and the National Health Service Corps, this important legislation will preserve and expand access to culturally and linguistically appropriate primary health care services for the millions of uninsured and underinsured Americans who rely on these programs.

Just this week, the Census Bureau released figures showing that the number of uninsured Americans increased by 1.4 million last year to a total of 41.2 million, or 14.6 percent of the total population. Community Health Centers create a cost-effective alternative to the emergency room for those without adequate access to health care by providing comprehensive primary and preventive care to 12 million people each year, including 5 million uninsured Americans, in more than 3400 urban and rural communities. H.R. 3450 will expand the availability of cancer screening and housing service at Health Centers, and create new grants to increase access to health services in rural areas.

Existing shortages in the health professions, especially in nursing, have strained all aspects of the health care system. The National Health Services Corps helps increase the number of trained health professionals available to meet the personnel needs of safety net providers by providing scholarship and loan repayment support to 2500 health professionals, who then agree to serve in Community Health Centers and other locations in underserved communities.

H.R. 3450 also authorizes the Healthy Communities Access Program, which has demonstrated ability to strengthen our health care safety net through improved information systems, telecommunication, integrated networks, and better care management. Coordination of care is an issue that is consistently raised as one of the challenges associated with reducing the number of uninsured Americans. The Healthy Communities Access Program is the only federal program designed to address this need, and today's legislation will ensure that it is preserved.

In my district, the San Francisco Community Clinics Consortium has used these funds to build a system that will link community health centers to each other and to family planning clinics, Ryan White grantees, and all of our city's providers that serve uninsured San Franciscans. The result is a cohesive system of care that includes a common registration system, installation of electronic medical record software, standardization of referral systems, and integration of behavioral health care with primary care.

Expanding access to quality health care is one of our most important responsibilities in Congress. I urge my colleagues to vote in support of H.R. 3450.

Mr. DINGELL. Mr. Speaker, I support H.R. 3450, the "Health Care Safety Net Improvement Act," an important piece of legislation. Its progress has been delayed for nearly a year by a Republican leadership that was willing to jeopardize a bill of vital importance to millions of Americans by attempting to attach an extremely controversial, yet completely non-related, amendment to this bill. Thankfully we now have an opportunity, though long overdue, to pass this legislation.

H.R. 3450 will reauthorize the National Health Service Corps (NHSC), the Community Health Centers program, and will establish a Community Access demonstration program (CAP). H.R. 3450 is vital to providing health care services to the uninsured and under-insured. Health centers are located in more than 3,400 communities in all 50 states and often are the only available source of care for uninsured and medically under served individuals.

Health centers provide primary health care services to more than 12 million people per year—nearly five million of whom have no health insurance coverage. Currently, there are over 41 million uninsured Americans and untold numbers of under-insured. Due to the slowing economy, this number is increasing rapidly. As a result, demand for health care services has increased drastically, forcing risky delays for important primary and preventive health care services.

Health centers are effective and efficient providers of care to millions of our country's most vulnerable people. Ensuring access to primary and preventive care, regardless of insurance status or income, is an important component of H.R. 3450.

While health centers provide quality care to the uninsured for nearly one dollar per patient per day, they cannot continue to expand care to the growing number of uninsured who seek their care without a significant increase in their appropriations. This legislation is valuable because it authorizes such appropriations as may be necessary for community health centers for FY 2003 through FY 2006 so that these centers may continue to serve the public and the communities that depend on them for reliable, quality health care services. We should be passing legislation that would double these programs now, but this bill authorizes needed funding to community health centers and we should therefore support its passage.

This bill, however, has two noteworthy shortcomings. The Administration has chosen to minimize the CAP program that permits local communities to coordinate the use of scarce healthcare dollars, event though where implemented that program that has been praised by local officials. Secondly, all authorizations for construction of the physical facilities have been struck from the bill, because the Republican leadership has refused to allow vote on a bill that provides the basic labor protections found in the Davis-Bacon Act for all direct Federal construction projects. Such protections would pass if a vote were allowed, and needed construction could begin.

Though this bill is far from perfect, I urge all of my colleagues to join me in support of H.R. 3450, the "Health Care Safety Net Improvement Act." This is an important piece of legislation and its passage is long overdue.

Mr. BEREUTER. Mr. Speaker, as a cosponsor of the bill, this Member wishes to add his strong support for H.R. 3450, the Health Care Safety Net Improvement Act. Furthermore, this Member would like to commend the distinguished gentleman from Florida [Mr. BILIRAKIS], the Chairman of the House Energy and Commerce Subcommittee on Health, and the distinguished gentleman from Ohio [Mr. BROWN], the ranking member of the House Energy and Commerce Subcommittee on Health, for bringing this important legislation to the House Floor today. This Member would also like to commend the distinguished gentleman from Louisiana [Mr. TAUZIN], Chairman of the House Energy and Commerce Committee, and the distinguished gentleman from Michigan [Mr. DINGELL], the ranking member of the House Energy and Commerce Committee, for their efforts to improve access to quality preventive and primary health care for the medically underserved—including the millions of Americans without health insurance coverage.

The Health Care Safety Net Improvement Act would:

(1) reauthorize the critically important Community Health Centers program for another five years, including reaffirmation that Health Centers should be: located in high-need areas; provide comprehensive preventive and primary health care services; governed by community boards made up of a majority of current health center patients to assure responsiveness to local needs; and, open to everyone in the communities they serve, regardless of ability to pay; and

(2) reauthorize the important Telehealth Programs, as well as the Rural Health Outreach and the Rural Health Network Development. In addition, H.R. 3450 would authorize a new Small Health Care Provider Quality Improvement Program. These programs would go a long way to facilitate the provision of care to vulnerable populations living in rural areas all across the country.

This Member is particularly pleased that language is included in H.R. 3450 that would provide automatic designation to Federally Qualified Health Centers (FQHC) and Federally

Certified Rural Health Clinics as Health Professional Shortage Areas (HPSA) facilities for a period of six years. This Member recognizes that the National Health Service Corps plays a critical role in providing care for underserved populations by placing clinicians in urban and rural areas. However, it has come to this Member's attention that health centers and rural clinics must obtain Health Professional Shortage Area designation to become eligible for the placement of Nation Health Service Corps personnel. While this Member is pleased to see that H.R. 3450 would improve on the current HPSA designation process, he would have preferred that the bill include permanent automatic designation, which would have guaranteed that FQHCs and rural health clinics would not have to return to the current, cumbersome HPSA designation process. This is a process that certainly seems unnecessary and duplicative, and which in some cases may result in delays in the placement of needed practitioners at high-need health centers and rural health clinics. Last year, this Member sent a letter, along with several colleagues, to the Chairman of the Energy and Commerce Subcommittee on Health requesting this change on a permanent basis and greatly appreciates the inclusion of the provision—even in the short term.

In closing, Mr. Speaker, this Member looks forward to working with the Committee and Subcommittee leadership, as earlier noted, on this important issue and this important bill as H.R. 3450 moves foward.

Mr. GREEN of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 3450.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECOGNIZING THE DEVASTATING IMPACT OF FRAGILE X

Mr. SHIMKUS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 398) recognizing the devastating impact of fragile X, urging increased funding for research on fragile X, and commending the goals of National Fragile X Research Day, and for other purposes.

The Clerk read as follows:

H. RES. 398

Whereas fragile X is the most common inherited cause of mental retardation, affecting people of every race, income level, and nationality;

Whereas 1 in every 267 women is a carrier of the fragile X;

Whereas children born with fragile X typically require a lifetime of special care at a cost of over $2,000,000 each;

Whereas fragile X frequently remains undetected because the defect was relatively recently discovered and there is a lack of awareness about the disease, even within the medical community;

Whereas the gene causing fragile X has been discovered and is easily identified by testing;

Whereas inquiry into fragile X is a powerful research model for neuropsychiatric disorders, such as autism, schizophrenia, pervasive developmental disorders, and other forms of X-chromosome-linked mental retardation;

Whereas individuals with fragile X can provide a homogeneous research population for advancing the understanding of neuropsychiatric disorders;

Whereas with concerted research efforts, a cure for fragile X may be developed;

Whereas fragile X research, both basic and applied, has been vastly underfunded despite the prevalence of the disorder, the potential for the development of a cure, the established benefits of available treatments and interventions, and the significance that fragile X research has for related disorders;

Whereas Members of Congress are in unique positions to help raise public awareness about the need for increased funding for research and early diagnosis and treatment for fragile X; and

Whereas throughout the United States, families and friends of individuals with fragile X have designated October 5 as National Fragile X Research Day to promote efforts to find a treatment and cure for fragile X: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the devastating impact of fragile X on thousands of people in the United States and their families;

(2) calls on the National Institutes of Health, the Centers for Disease Control and Prevention, and other sources of Federal and private research funds to enhance and increase their efforts and commitments to fragile X research;

(3) calls on medical schools and other health educators, medical societies and associations, and Federal, State, and local health care facilities to promote research that will lead to a treatment and cure for fragile X; and

(4) commends the goals and ideals of a National Fragile X Research Day and supports interested groups in conducting appropriate ceremonies, activities, and programs to demonstrate support for such a day.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Texas (Mr. GREEN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SHIMKUS).

GENERAL LEAVE

Mr. SHIMKUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SHIMKUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that today the House is considering House Resolution 398 introduced by the gentleman from Oklahoma (Mr. WATKINS) to recognize the impact of fragile X on thousands of people in the United States and their families. The Committee on Energy and Commerce approved this resolution unanimously last week, and I encourage my colleagues to adopt the resolution today on the floor.

Fragile X syndrome is the most common genetically inherited form of mental retardation. Patients diagnosed with fragile X may experience mental impairments that range from mild learning disabilities and hyperactivity to severe mental retardation and autism. While there is no specific treatment for fragile X syndrome, health care professionals have directed their efforts toward training and education so that children with fragile X can reach their maximum potential.

The resolution before us today calls on both public and private researchers to enhance their efforts to find a treatment and cure for fragile X. The resolution also commends the work that advocates are doing nationwide to raise awareness about fragile X.

I would also like to express my appreciation for the outstanding work that the gentleman from Oklahoma has done to raise awareness about this genetic disorder. The work that scientific researchers are conducting throughout the United States we hope will ultimately lead to a cure. Until then it is important that all of us show our support for families affected by fragile X. I encourage my colleagues to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume. I rise to express my support for House Resolution 398, a resolution recognizing the devastating impact of fragile X, urging increased funding for fragile X research, and commending the goals of National Fragile X Research Day.

Fragile X is the most common inherited cause of mental retardation, affecting 1 in 2,000 boys and 1 in 4,000 girls. This condition causes a host of mental and physical problems, including learning disabilities, mental retardation, attention deficit and hyperactivity disorders, anxiety, autistic-like behaviors, physical abnormalities and seizures.

Despite the prevalence of this illness, many Americans, including health care providers, are unfamiliar with fragile X. As a result, 80 to 90 percent of individuals with fragile X are often misdiagnosed. Without proper diagnosis many children are unable to reach their full potential or get the education or treatment they need to better cope with fragile X.

Fragile X is also a very expensive disease to treat. Most children with fragile X require a lifetime of special care at a cost of over $2 million each. The lost wages, special education and health care costs associated with fragile X create a significant societal burden that justifies additional Federal research in this area. Advances in the current research indicate that this would be a worthwhile investment.

Many prominent scientists have undertaken fragile X research projects, rapidly accelerating the progress and leading to new breakthroughs about its cause. Researchers have identified the set of genes which are normally regulated by the fragile X gene.

□ 1300

This set is also associated with other neurological and psychiatric problems, and these advances could lead to breakthroughs in two other neurological and psychiatric disorders, such as autism, pervasive development disorder, Rett Syndrome, schizophrenia, obsessive-compulsive disorder, Tourette's Syndrome, and numerous other disorders.

Research into the treatment of this genetic malfunction could benefit the hundreds of thousands of people suffering from these diseases.

Mr. Speaker, I would like to thank my colleagues, the gentleman from Oklahoma (Mr. WATKINS) and the gentleman from Massachusetts (Mr. DELAHUNT) for their commitment to finding a cure for fragile X, and I urge my colleagues to join me in supporting this important cause.

Mr. Speaker, I reserve the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS of Oklahoma. Mr. Speaker, I rise today in support of House Resolution 398, legislation that recognizes National Fragile X Research Day this Saturday, October 5, 2002.

For several years, my good friend, the gentleman from Massachusetts (Mr. DELAHUNT), and I have actively supported the goals of fragile X families in order to help raise public awareness about the need for increased funding for research and to provide early diagnosis and effective treatment for fragile X. We have worked for funding for research, and we have now introduced this noncontroversial and much-needed resolution to show congressional support for improving the treatment and finding a cure for this disease by observing the first National Fragile X Research Day on this coming Saturday, October 5, 2002.

Mr. Speaker, fragile X is the most commonly inherited cause for mental retardation, which affects, as the gentleman from Texas (Mr. GREEN) just said, one in every 2,000 newborn boys and one in every 4,000 newborn girls in this country. One in every 261 women is a carrier and has a 50 percent chance in each pregnancy of having a child with fragile X. Most of these afflicted children will require a lifetime of special care.

In recent years, however, there have been great strides made toward finding a cure for this genetic disease. Current research holds great promise for the development of effective treatments, but additional support for these efforts are urgently needed by this Congress. Thanks to the recent increase in Federal funding, many prominent scientists have undertaken fragile X research projects for the first time, rapidly accelerating progress and leading to new breakthroughs about its cause. As one of the first discoveries of the Human Genome Project, the cause of fragile X has been linked to the absence of a single protein. Since then, our understanding of how this disease causes mental retardation, seizures, aggressive outbursts, and severe anxiety has dramatically increased. This research has lead Dr. James Watson, who shared the Nobel Prize for discovering DNA, to believe that a cure for this terrible disease is within sight, with our help, with our help from Congress.

Mr. Speaker, my cousin was afflicted by this condition, a fact which has profoundly affected our families. I have worked both to provide funding for its research and to raise public awareness of this particular problem. Additionally, I would like to mention McCall's Chapel in Ada, Oklahoma, where my wife and I raised our family in that community in my district. McCall's Chapel provides a facility for families who lots of times have no facility willing to help them and help the children who continue to suffer from mental retardation as adults. McCall's Chapel is always there with open and welcoming arms. Few States have places today that will accommodate and serve those mentally retarded adults, but many families have been blessed by the works of the good people at McCall's Chapel. Many of these families I know personally.

Mr. Speaker, I would like to mention and thank my good friends who are with us today, David and Mary Beth Busby, parents of two fragile X boys of their own. I know both of these young men and they are a great inspiration to me. This family is inspiring, and they are educating me and also a lot of other people about the need for research and treatment of fragile X.

Mr. Speaker, I urge all of my colleagues to adopt this resolution.

Mr. GREEN of Texas. Mr. Speaker, I yield 7 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for yielding me this time.

It was I think 4 years ago that a friend of mine in the Boston area approached me and described to me the characteristics and the symptoms of this disorder called fragile X. Like most Americans, I had never heard of fragile X, but he told me there was a fellow from Oklahoma, a Republican by the name of Wes Watkins, that was the champion of those who were afflicted with this particular disorder, and he encouraged me to seek him out. I am glad I did.

Fragile X, as others have said, is the most common inherited cause of mental retardation. We have heard the statistics, the high incidence rate, the fact that fragile X is relatively unknown, even among medical professionals. It is easily identified by a simple blood test, yet families are left often struggling for months, even years, searching for explanations for alarming developmental delays and behavioral problems associated with fragile X; and they live in a time of uncertainty. There are some common physical signs such as large ears, long faces, and flat feet; but half of fragile X children do not exhibit any of these characteristics. Other symptoms are less obvious, including hyperactivity, attention deficits, severe anxiety, and even violent seizures, making diagnosis difficult.

Again, I think it was the gentleman from Texas (Mr. GREEN) who indicated that it is estimated that somewhere between 80 and 90 percent of children with fragile X are currently undiagnosed or misdiagnosed. So it is fitting that today we consider a resolution recognizing National Fragile X Research Day and the urgency of the need to increase funding for fragile X research.

Mr. Speaker, 2 years ago this week, Congress enacted another bill sponsored by the gentleman from Oklahoma (Mr. WATKINS) and myself; it was labeled the Fragile X Research Breakthrough Act as part of the Children's Health Act of 2000. This law directed an arm of the National Institutes of Health to expand and coordinate research of fragile X and authorize the establishment of at least three fragile X research centers. I am pleased to report significant progress towards implementing these provisions. Early this year, the institute began accepting applications for the fragile X research centers, which hopefully will be ready to open their doors this coming spring.

Thanks to this Federal commitment, many prominent scientists have undertaken fragile X research projects, rapidly accelerating the progress and leading to new breakthroughs about its cause. In a series of landmark discoveries, researchers have identified the set of genes which are normally regulated by the fragile X gene. Scientists are also now pursuing promising drug therapies for fragile X as new evidence has shown that this type of defect may be blocked by relatively simple medications. These new discoveries may not only lead to treatments for fragile X, but also have uncovered striking connections between fragile X and a whole litany of other neurological and psychiatric disorders. So all of this holds great promise for the development of safe and effective treatments. But as the gentleman from Oklahoma (Mr. WATKINS) has indicated, there is a great more still to be done.

So I encourage all of my colleagues to support this resolution. Again, I want to commend the gentleman from Oklahoma (Mr. WATKINS). His work in this particular endeavor is part of a wonderful legacy that he can take with him as he leaves this institution after some 20 years. So I want to extend my congratulations.

Mr. WATKINS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Oklahoma.

Mr. WATKINS of Oklahoma. Mr. Speaker, as the gentleman indicated, and the gentleman is my friend, and believe me, I truly feel that. The gentleman indicated that I am leaving. This is something I am very proud of in a humanitarian way, and I am going to be, hopefully, asking the gentleman to continue this work. I am going to be leaving the House. But I know that the gentleman will continue that effort.

Mr. Speaker, I would like to dedicate this day to a classmate that I had who had this when I was growing up. I used to sit next to him at this country school with a popsicle, and I always shared half that popsicle with him. So I dedicate this day to Herman Samples, that classmate of mine.

Mr. DELAHUNT. Mr. Speaker, reclaiming my time, I promise my friend and my colleague that I will take up this cause, and I will always remember this particular story that the gentleman concluded his remarks with. I too want to share in dedicating this day to him. Again, I thank the gentleman for everything that he has done for so many.

Mr. BILIRAKIS. Mr. Speaker, I rise today in support of H. Res. 398, which recognizes the devastating impact of Fragile X, the most common inherited cause of mental retardation.

Fragile X mental impairment may range from mild learning disabilities and hyperactivity to severe mental retardation. In addition to intellectual disabilities, some individuals with Fragile X display common physical traits and characteristic facial features. Children with Fragile X often appear normal in infancy but develop typical physical characteristics during their lifetimes. Because of scientific advances, improvements in genetic testing, and increased awareness, the number of children diagnosed with Fragile X has increased significantly over the last decade.

I was proud to have worked with my friend from Ohio, Mr. BROWN, to expand research on a number of disorders that disproportionately affect children, including Fragile X, through the Children's Health Act of 2000. The law urges the Director of the National Institutes of Health (NIH) to expand, intensify, and coordinate research on Fragile X at NIH.

Mr. Speaker, I urge my colleagues to support H. Res. 398, which recognizes the devastating impact of Fragile X on thousands of people in the United States and their families. Furthermore, this resolution calls for additional Fragile X research and supports National Fragile X Research Day.

Mr. BEREUTER. Mr. Speaker, as an original cosponsor of the resolution, this Member wishes to add his strong support for H. Res. 398, which would recognize the impact of Fragile X and would call upon the Federal Government to enhance and increase its efforts and commitments to Fragile X research.

This Member would like to commend the distinguished gentleman from Louisiana [Mr. TAUZIN], the Chairman of the House committee on Energy and Commerce, and the distinguished gentleman from Michigan [Mr. DINGELL], the ranking member of the House Committee on Energy and Commerce, for bringing this important resolution to the House Floor today. This Member would also like to commend the gentleman from Oklahoma [Mr. WATKINS] for sponsoring H. Res. 398 and for his personal interest in Fragile X.

Fragile X syndrome is a hereditary condition which causes a wide range of mental impairment, from mild learning disabilities to severe mental retardation. It is the most common cause of genetically-inherited mental impairment. In addition to mental impairment, Fragile X is associated with a number of physical and behavioral characteristics.

House Resolution 398 would recognize the devastating impact of Fragile X on thousands of people in the United States and their families. In addition, the resolution would call on the National Institutes of Health, the Centers for Disease Control and Prevention, and other sources of Federal and private research funds to enhance and increase their efforts and commitment to Fragile X research.

Furthermore, the resolution also would call upon medical schools and other health care educators, medical societies, and associations, and Federal, state, and local health care facilities to promote research that will lead to a treatment and cure for Fragile X. Finally, H. Res. 398 would comment the goals and ideas of a National Fragile X Research Day and would support interested groups in conducting appropriate ceremonies, activities, and programs to demonstrate support for such a day.

Mr. Speaker, in closing, this Member urges his colleagues to support H. Res. 398.

Mr. GREEN of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I want to thank the gentleman from Oklahoma and the gentleman from Massachusetts for their fine work on this bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and agree to the resolution, H. Res. 398.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GREEN of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE DISEASE ENDOMETRIOSIS

Mr. SHIMKUS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution, (H. Con. Res. 291) expressing the sense of the Congress with respect to the disease endometriosis.

The Clerk read as follows:

H. CON. RES. 291

Whereas endometriosis is a painful, chronic gynecologic disease;

Whereas, with such disease, tissue that is similar to the endometrium (the tissue lining the inside of the uterus) grows outside the uterus in the abdominal cavity and results in internal bleeding, inflammation, and the development of scar tissue because the tissue has no means of leaving the body (unlike the monthly development and shedding of the endometrium through the menstruation process);

Whereas an estimated 10 to 20 percent of American women of childbearing age have endometriosis;

Whereas endometriosis is a poorly understood disease and can strike women of any socioeconomic class, age, or race;

Whereas the disease can affect a woman's ability to work, ability to reproduce, and relationships with her mate, children, and everyone around her;

Whereas infertility occurs in about 30 to 40 percent of women with endometriosis;

Whereas the cause of endometriosis is unknown;

Whereas the disease can only be definitively diagnosed through gynecologic surgery;

Whereas studies have shown that the average delay in actual diagnosis is more than nine years; and

Whereas there is no definitive cure for endometriosis: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) strongly supports efforts to raise public awareness of endometriosis throughout the medical and lay communities; and

(2) recognizes the need for better support of patients with endometriosis, the need for physicians to better understand the disease, the need for more effective treatments, and ultimately, the need for a cure.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Texas (Mr. GREEN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SHIMKUS).

GENERAL LEAVE

Mr. SHIMKUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SHIMKUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is considering House Concurrent Resolution 291, a resolution expressing the sense of the Congress with respect to endometriosis.

Reported unanimously by the Committee on Energy and Commerce, this resolution will help raise awareness about a common disease that can unfortunately lead to devastating consequences for many women.

Endometriosis is a painful, chronic gynecologic disease affecting approximately 10 to 20 percent of American women of childbearing age. Of those affected, about 30 to 40 percent will experience infertility.

Unfortunately, the cause of endometriosis is unknown, and there is still no cure. Diagnosis can be difficult to confirm without surgery, and it is typically delayed by an average of 9 years. The National Institutes of Health is currently conducting several studies that may lead to other treatment options. Hormone treatments may show some success so that women affected by endometriosis may still be able to bear children.

The resolution before us today recognizes the need for improved patient support, improved physician awareness, and more effective treatments, including a cure. I would like to thank the gentleman from California (Mr. McKEON) for his leadership in helping to raise awareness of endometriosis.

Mr. Speaker, I encourage my colleagues to adopt the resolution.

Mr. Speaker, I reserve the balance of my time.

☐ 1315

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 291. This legislation will bring recognition and hope to those who suffer endometriosis.

Endometriosis is a serious affliction that affects between 10 percent and 20 percent of American women of childbearing age, more than 26 million women. Endometriosis is a disease where tissue similar to the lining of a woman's uterus grows outside the uterus and into the abdominal cavity. This growth leads to internal bleeding, inflammation and scar tissue.

This disease, which is such a mystery to the medical community, has no known cause or cure. It can strike women of any age, race, income level, and it can hamper a woman's ability to work and start a family. For 30 to 40 percent of those afflicted, this disease causes infertility.

House Concurrent Resolution 291 will help raise the awareness of this devastating disorder not just to the public, but to the medical community as well. It is my hope that this resolution will lead to better support for patients who suffer from this disease, a better understanding by physicians of the needs of those who have endometriosis, and more research for treatments, and ultimately a cure for all women with this disease.

I would like to thank my colleague and good friend, the gentleman from California (Mr. McKEON), for introducing this resolution and bringing it to our attention. I urge passage. The sooner we educate ourselves about this disease, the sooner a cure will be found. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. McKEON), the author of the legislation.

Mr. McKEON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of this resolution. I introduced House Concurrent Resolution 291 to bring awareness of a serious yet obscure disease from which many American women of childbearing age suffer. Endometriosis is a disease in which tissue similar to the tissue inside of the uterus grows outside of the uterus in the abdominal cavity. Because the tissue has no natural way to leave the body, the result is internal bleeding, inflation, scar tissue, and pain.

I had never heard of endometriosis until a constituent, Mary Prenger, brought it to my attention. Since then I have come to learn that 10 to 20 percent of all women suffer from the disease, and infertility occurs in about 30 to 40 percent of all women who suffer from it.

Endometriosis is a nondiscriminating disease. It affects women from all walks of life. Socioeconomic background and race have no bearing. Because such a large percentage of women who have the disease become infertile, endometriosis has the potential to be not only a great physical disability, but also the emotional and psychological burden is great.

Mr. Speaker, it is my hope that by passing this resolution, both the medical and the lay communities will become more aware of endometriosis. It is only through awareness of the disease that we will be able to grow closer to a cure.

Mr. DINGELL. Mr. Speaker, I rise in support of H. Con. Res. 291, raising public awareness on the disease endometriosis.

Endometriosis is a painful, chronic gynecologic disease affecting 10 to 20 percent of American women of childbearing age and causing infertility in an estimated 30 to 40 percent of those afflicted. Studies have shown that the average delay in actual diagnosis of endometriosis is in excess of nine years. It is time we work together to find a cure for this life-altering, devastating disease.

H. Con. Res. 291 supports efforts to raise public awareness of endometriosis throughout the medical and lay communities. It also recognizes the need for better support of patients with endometriosis, the need for physicians to better understand the disease, the need for more effective treatments, and ultimately, the need for a cure.

I urge my colleagues to join me in supporting H. Con. Res. 291.

Mr. BILIRAKIS. Mr. Speaker, today I rise in support of H. Con. Res. 291, which expresses the sense of the Congress with respect to the disease endometriosis.

Endometriosis is a painful, chronic gynecologic disease where the lining of the uterus grows in other parts of the abdominal cavity and results in internal bleeding, inflammation, and the development of scar tissue. Endometriosis affects an estimated 10 percent of reproductive age women and may cause infertility in 30 to 40 percent of all women who suffer from this disease. Roughly 99 percent of women state that they experienced pelvic pain for about 10 years before they were diagnosed with endometriosis.

The cause of the disease is unknown but researchers have found that family members of women with endometriosis more commonly suffered from the disease. Diagnosis can be difficult to confirm without surgery.

This resolution strongly supports efforts to raise public awareness of endometriosis and recognizes the need for improved patient support, improved physician awareness and understanding, and more effective treatment, including finding a cure. Mr. Speaker, I urge my colleagues to support H. Con. Res. 291.

Mr. GREEN of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 291.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GREEN of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

RARE DISEASES ACT OF 2002

Mr. SHIMKUS. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 4013) to amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health, and for other purposes.

The Clerk read as follows:

H.R. 4013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rare Diseases Act of 2002".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Rare diseases and disorders are those which affect small patient populations, typically populations smaller than 200,000 individuals in the United States. Such diseases and conditions include Huntington's disease, amyotrophic lateral sclerosis (Lou Gehrig's disease), Tourette syndrome, Crohn's disease, cystic fibrosis, cystinosis, and Duchenne muscular dystrophy.

(2) For many years, the 25,000,000 Americans suffering from the over 6,000 rare diseases and disorders were denied access to effective medicines because prescription drug manufacturers could rarely make a profit from marketing drugs for such small groups of patients. The prescription drug industry did not adequately fund research into such treatments. Despite the urgent health need for these medicines, they came to be known as "orphan drugs" because no companies would commercialize them.

(3) During the 1970s, an organization called the National Organization for Rare Disorders (NORD) was founded to provide services and to lobby on behalf of patients with rare diseases and disorders. NORD was instrumental in pressing Congress for legislation to encourage the development of orphan drugs.

(4) The Orphan Drug Act created financial incentives for the research and production of such orphan drugs. New Federal programs at the National Institutes of Health and the Food and Drug Administration encouraged clinical research and commercial product development for products that target rare diseases. An Orphan Products Board was established to promote the development of drugs and devices for rare diseases or disorders.

(5) Before 1983, some 38 orphan drugs had been developed. Since the enactment of the Orphan Drug Act, more than 220 new orphan drugs have been approved and marketed in the United States and more than 800 additional drugs are in the research pipeline.

(6) Despite the tremendous success of the Orphan Drug Act, rare diseases and disorders deserve greater emphasis in the national biomedical research enterprise. The Office of Rare Diseases at the National Institutes of Health was created in 1993, but lacks a statutory authorization.

(7) The National Institutes of Health has received a substantial increase in research funding from Congress for the purpose of expanding the national investment of the United States in behavioral and biomedical research.

(8) Notwithstanding such increases, funding for rare diseases and disorders at the National Institutes of Health has not increased appreciably.

(9) To redress this oversight, the Department of Health and Human Services has proposed the establishment of a network of regional centers of excellence for research on rare diseases.

(b) PURPOSES.—The purposes of this Act are to—

(1) amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health; and

(2) increase the national investment in the development of diagnostics and treatments for patients with rare diseases and disorders.

SEC. 3. NIH OFFICE OF RARE DISEASES AT NATIONAL INSTITUTES OF HEALTH.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.), as amended by Public Law 107–84, is amended by inserting after section 404E the following:

"OFFICE OF RARE DISEASES

"SEC. 404F. (a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Rare Diseases (in this section referred to as the 'Office'), which shall be headed by a Director (in this section referred to as the 'Director'), appointed by the Director of NIH.

"(b) DUTIES.—

"(1) IN GENERAL.—The Director of the Office shall carry out the following:

"(A) The Director shall recommend an agenda for conducting and supporting research on rare diseases through the national research institutes and centers. The agenda shall provide for a broad range of research and education activities, including scientific workshops and symposia to identify research opportunities for rare diseases.

"(B) The Director shall, with respect to rare diseases, promote coordination and cooperation among the national research institutes and centers and entities whose research is supported by such institutes.

"(C) The Director, in collaboration with the directors of the other relevant institutes and centers of the National Institutes of Health, may enter into cooperative agreements with and make grants for regional centers of excellence on rare diseases in accordance with section 404G.

"(D) The Director shall promote the sufficient allocation of the resources of the National Institutes of Health for conducting and supporting research on rare diseases.

"(E) The Director shall promote and encourage the establishment of a centralized clearinghouse for rare and genetic disease information that will provide understandable information about these diseases to the public, medical professionals, patients and families.

"(F) The Director shall biennially prepare a report that describes the research and education activities on rare diseases being conducted or supported through the national research institutes and centers, and that identifies particular projects or types of projects that should in the future be conducted or supported by the national research institutes and centers or other entities in the field of research on rare diseases.

"(G) The Director shall prepare the NIH Director's annual report to Congress on rare disease research conducted by or supported through the national research institutes and centers.

"(2) PRINCIPAL ADVISOR REGARDING ORPHAN DISEASES.—With respect to rare diseases, the Director shall serve as the principal advisor to the Director of NIH and shall provide advice to other relevant agencies. The Director shall provide liaison with national and international patient, health and scientific organizations concerned with rare diseases.

"(c) DEFINITION.—For purposes of this section, the term 'rare disease' means any disease or condition that affects less than 200,000 persons in the United States.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and $4,000,000 for each of the fiscal years 2003 through 2006.".

SEC. 4. RARE DISEASE REGIONAL CENTERS OF EXCELLENCE.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.), as amended by section 3, is further amended by inserting after section 404F the following:

"RARE DISEASE REGIONAL CENTERS OF EXCELLENCE

"SEC. 404G. (a) COOPERATIVE AGREEMENTS AND GRANTS.—

"(1) IN GENERAL.—The Director of the Office of Rare Diseases (in this section referred to as the 'Director'), in collaboration with the directors of the other relevant institutes and centers of the National Institutes of Health, may enter into cooperative agreements with and make grants to public or private nonprofit entities to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for regional centers of excellence for clinical research into, training in, and demonstration of diagnostic, prevention, control, and treatment methods for rare diseases.

"(2) POLICIES.—A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of NIH.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director shall coordinate the activities under this section with similar activities conducted by other national research institutes, centers and agencies of the National Institutes of Health and by the Food and Drug Administration to the extent that such institutes, centers and agencies have responsibilities that are related to rare diseases.

"(c) USES FOR FEDERAL PAYMENTS UNDER COOPERATIVE AGREEMENTS OR GRANTS.—Federal payments made under a cooperative agreement or grant under subsection (a) may be used for—

"(1) staffing, administrative, and other basic operating costs, including such patient care costs as are required for research;

"(2) clinical training, including training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public with respect to rare diseases; and

"(3) clinical research and demonstration programs.

"(d) PERIOD OF SUPPORT; ADDITIONAL PERIODS.—Support of a center under subsection (a) may be for a period of not to exceed 5 years. Such period may be extended by the Director for additional periods of not more than 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and $20,000,000 for each of the fiscal years 2003 through 2006.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from Texas (Mr. GREEN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SHIMKUS).

GENERAL LEAVE

Mr. SHIMKUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SHIMKUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the distinguished gentleman from Louisiana (Chairman TAUZIN) and my good friend, the gentleman from Florida (Mr. FOLEY), for their work in bringing attention to rare diseases and disorders.

In the United States today, one in nine Americans suffer from a known rare disease or disorder for which there is often no good treatment or cure. The legislation sponsored by my colleagues works to correct that problem. Taken together, the Rare Diseases Act and its companion bill, the Rare Disease Orphan Product Development Act, encourage the development of better treatments, diagnostic procedures, and cures for large numbers of rare diseases and disorders.

There are over 6,000 known rare diseases, and although each of them individually affects less than 200,000 people, the total number of Americans affected is over 25 million people. These acts build on the success of the Orphan Drug Act of 1983, which has led to the development of over 220 treatments for rare diseases and disorders, including Huntington's disease, Lou Gehrig's disease, and Tourette syndrome.

Still, patients with rare diseases continue to face challenges in receiving appropriate and adequate treatment. The National Commission on Orphan Diseases estimated that only one-third of patients receive an accurate diagnosis in the 3 to 5 years after the onset of symptoms, and 50 percent of the population is not accurately diagnosed until 7 or more years after the onset of symptoms.

Research into rare diseases and disorders provides hope for thousands of Americans and their families. This legislation does not detract from other worthy congressional research priorities of the NIH, such as the Children's Health Act of 2000. Instead, these bills increase funding for two programs that have already had a direct and positive impact on this community. They expand and enhance existing research under way at various institutes of the NIH.

Again, I am pleased to support passage of these two pieces of legislation and stand ready to work with my esteemed colleagues to ensure that they are enacted into law.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4013, the Rare Diseases Act of 2002. I am proud to have introduced this piece of legislation with my colleague, the gentleman from Illinois (Mr. SHIMKUS). This is a bill which would work to the benefit of those suffering from rare diseases both by establishing an Office of Rare Diseases at the National Institutes of Health, and by providing for rare disease regional centers of excellence.

A rare disease is defined in the United States as one affecting fewer than 200,000 Americans. There are around 6,000 known rare diseases, and it is estimated that about 25 million Americans are affected by them. Over 220 treatments have been developed in the last two decades for rare diseases, but many more are needed.

The Office of Rare Diseases at the National Institutes of Health was established in 1993 to promote research and provide information. However, this office was not given any authority. Also, although Congress has substantially increased research funding for NIH, funding for rare diseases has only increased slightly. This legislation increases to $25 million the Orphan Product Research Grant Program administered by the Office of Orphan Product Development at the Food and Drug Administration, thus encouraging more extensive research, testing, and attention.

The Rare Diseases Act of 2002 establishes the Office of Rare Diseases as a Federal office, including its ability to coordinate research and establish regional centers of excellence for clinical research.

This is an important piece of legislation, and I urge all my colleagues to join me in supporting its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY), who has been an ardent spokesperson and supporter of this legislation.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding time to me. I thank the gentleman from Illinois (Mr. SHIMKUS) for his leadership on these very important pieces of legislation today, as well as the gentleman from California (Mr. WAXMAN) for his many, many years of outstanding service on the Subcommittee on Health.

Mr. Speaker, many people are unfamiliar with some of the diseases that were mentioned earlier. Today in Palm Beach County, there are a lot of diseases that have tremendous charity organizations helping to support them, to raise money. In fact, there is a ball a day that is pretty much dedicated to raising resources and to not only find research dollars, but hopefully find cures for diseases that ravage mankind, but most all of them are popular and well known. They may be AIDS, Alzheimer's, things that people are well familiar with.

Regrettably, the rare diseases do not have the same fan club. They do not have the same outreach, and they certainly do not have the same support network as some of the bigger charities are fortunate to have in my district and throughout the country. That is why it is critically important to pass both of these pieces of legislation today, because they create the framework to bring about an educational process, to create the framework to channel resources into the National Institutes of Health and other entities in order to find the potential cures, as well as the subsequent bill we will talk about that helps to provide, if you will, the kind of dollars necessary for pharmaceutical companies and others to be able to pursue what is not a profitable research path, but is a research path, nonetheless, that yields great results to the person suffering.

So again, I commend the gentleman from Illinois (Mr. SHIMKUS), and I am certain the citizens of Illinois appreciate the fact that he is on this very important subcommittee of the Committee on Commerce dealing with the health care of many millions of Americans who are silent on the floor today, but are watching with great anticipation as we hopefully unlock the key to one of the many doors that block some of the research available.

Hopefully with these bills we will see an outpouring of support not only into research endeavors, but also into long-term sustainability of the lives of these very important Americans we are speaking about today.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to, first of all, thank the gentleman from California (Mr. WAXMAN) for yielding time to me, and commend him and the gentleman from Illinois (Mr. SHIMKUS) for introducing this legislation.

I also want to thank the former commissioner of the Chicago Metropolitan Water Reclamation District, the distinguished JoAnn Alter, for bringing this matter to my attention. Therefore, I rise in support of H.R. 4013, the Rare Diseases Act of 2002.

Mr. Speaker, with a large low-income population, 24 hospitals, 5 medical schools, and several research institutions in my district, I know firsthand the heartbreak faced by people who struggle to find the appropriate medical treatment for themselves and their families.

We have made tremendous strides in education, research, and medical protocols for individuals with diseases that affect large populations. Much funding has been dedicated and continues to be directed to treatment of diseases such as cancer, heart disease, and diabetes, and this is all good.

There are, however, a number of rare diseases which affect 200,000 or fewer Americans which continue to go underresourced. While statistically 200,000 people may be a small number, it is a large number when we consider it represents people needing medical treatment. However, if we aggregate the number of people suffering from at least 1 of the 6,000 known rare diseases and disorders, we are talking about 25 million Americans, 1 in 9, suffering from a rare disease.

Several months ago a mother and her young son, who suffers from Crohn's disease, traveled hundreds of miles from Virginia to Northwestern Memorial Hospital in my district to see if he could be accepted into a special treatment program that was offered nowhere near his home. He wrote a letter to me thanking me for the fact that he was indeed able to get into Northwestern and to be considered for treatment for his very rare disease.

This bill, H.R. 4013, which establishing an Office of Rare Diseases at the National Institutes of Health, by increasing the national investment in the development of diagnostics and treatment for patients with rare diseases and disorders, and by allowing for rare disease regional centers of excellence, is a quantum leap in the right direction. I again commend my colleagues for its introduction and urge swift passage of this resolution.

□ 1330

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KIRK. Mr. Speaker, I rise today in strong support of H.R. 4013, the Rare Disease Act of 2002. Currently, more than 6,000 rare diseases affect 25 million Americans each year. While some progress has been made to fight rare diseases over the last twenty years, we must commit greater resources to this effort, particularly through the National Institutes of Health.

My own constituents have been very active in this fight. Families of Spinal Muscular Atrophy, based in Libertyville, Illinois, have been working to enhance research efforts of this and other rare diseases since 1984. I commend Audrey Lewis and all of the Families of SMA's staff and volunteers for their continued dedication and hard work in this field.

SMA is just one of the thousands of rare diseases that continues to impact American families, and is the number one genetic killer of children under the age of two. A child of parents who both carry the SMA gene has a one in four chance of developing this devastating disease. Inflicted children are forced to live with neuromuscular deterioration that can affect crawling, walking, head control and swallowing.

We must make every effort to expand research efforts so that those with SMA and other rare diseases have a change to live long and healthy lives. I hope that Congress can send a united message of the importance of enhanced research efforts in this field by supporting this bill. An Office of Rare Diseases at the National Institutes of Health is an essential element in our efforts to raise awareness and research for SMA and the thousands of other rare diseases affecting Americans. I urge my colleagues to support H.R. 4013.

Mr. PITTS. Mr. Speaker, the legislation before us today represents the latest steps in Congress' twenty year commitment to Americans with rare "orphan" diseases. Since its passage in 1983, the Orphan Drug Act has stimulated the development of 231 new marketed orphan products, with several hundred more in the pipeline for which we all have great hopes. Yet, there are still more than 5,000 rare diseases with no specialized treatment at all. For this reason, H.R. 4013 and H.R. 4014 represent major advances in stimulating new therapies for those with rare diseases, as well as improved care.

It is important to note, however, that even those 231 marketed orphan drugs, biologics, foods and devices are not always readily available to patients because of geographical and insurance barriers. One of the unfinished pieces of business facing this Congress is to make sure that Medicare is not contributing to this problem.

Three years ago, when Congress created the Medicare Hospital Outpatient Prospective Payment System, known as HOPPS, Congress placed all orphan products into a pass-through category where they would be paid at a higher rate. Even still, many hospitals have lost money when they stocked orphan drugs to treat patients with rare diseases.

Now we are faced with a situation where CMS has proposed a regulation for the 2003 HOPPS program that leaves most orphan drugs, biologicals and blood plasma therapies and their recombinant analogs such as clotting factors for individuals with Hemophilia without adequate reimbursement. Many hospitals will refuse to stock these drugs because of the large loss they will incur for treating a small number of patients. Without appropriate reimbursement, patients may be turned away from hospital emergency rooms or directed to alternative facilities if the location does not stock their product. The consequences of inadequate or non-existent access would be devastating, particularly in rural areas where the nearest hospital to stock a particular orphan drug may be a hundred or more miles away.

Mr. Speaker, it is critical that the House of Representatives act this year to ensure that orphan drugs are properly reimbursed.

Mr. KIND. Mr. Speaker, I rise in support of both the Rate Diseases Act (H.R. 4013) and Rare Diseases Orphan Product Development Act (H.R. 4014). A rare disease is defined as one that afflicts fewer than 200,000 individuals. Our country has over 6,000 rare diseases that affect more than 25 millions Americans.

Both of these measures will provide necessary incentives to find a cure for these ailments. H.R. 4013 establishes an Office of Rare Diseases within the National Institutes of Health director's office. In addition, the bill creates Rare Disease Regional Centers of Excellence to conduct research and training in the diagnosis, prevention, control and treatment of rare diseases. H.R. 4014 would double the funding to $25 million for the successful FDA grant program for research on orphan drugs. Since 1983, the FDA has approved more than 200 treatments for rare diseases, this additional funding will be critical to increasing the number of treatments available.

A wonderful family in my hometown, the Kirches, brought the issue of rare diseases to my attention. I have had the opportunity to meet with Larry, Susan and their daughter Allyson to hear about their struggles and triumphs with Allyson's battle with Mucopolysachharidosis (MPS) III. MPS III is a genetic disorder that results in the body's inability to produce certain enzymes. This lack of enzyme production interrupts the usual breakdown of complex carbohydrates that are stored in almost every cell in the body. Without the breakdown, storage progressively builds in each cell causing damage in multiple systems within the body including respiratory, bones, internal organs, and nervous system. The results of this damage include mental retardation, short stature, cornea damage, loss of mobility, and most importantly a drastically shortened life span. At present there is no cure for MPS III.

Allyson's future depends on investment in scientific and biomedical research by the public and private sector and, we owe it to all children with these disorders to make every effort to improve their quality of life and ultimately contribute to efforts in developing effective treatments. I urge my colleagues to support these measures and assist families like the Kirches all across our country.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 4013, the "Rare Diseases Act of 2002," of which I am proud to be an original cosponsor. I would like to thank my colleagues on both sides of the aisle for working together to introduce this important legislation and for working on behalf of the 25 million American people who suffer from rare diseases.

Rare, or orphan diseases affect fewer than 200,000 individuals in America. Nearly one million people in my home state of Michigan are afflicted with a rare disease. There are more than 6,000 rare diseases. Enactment of the Orphan Drug Act of 1983 provided incentives for drug and biological manufacturers to invest in treatment for rare diseases.

While the Orphan Drug Act has achieved dramatic increases in research into, and treatments for rare diseases, more still needs to be done. One positive step includes authorizing, in statute, the Office of Rare Diseases.

In addition, H.R. 4013 authorizes regional centers of excellence for rare disease research. This will enable the National Institutes of Health (NIH) to select sites to concentrate on finding cures and treatment methods for rare diseases.

I urge all of my colleagues to join me in support of H.R. 4013.

Mr. BILIRAKIS. Mr. Speaker, I rise today in support of H.R. 4013, the Rare Diseases Act of 2002. This bill, which was introduced by the gentleman from Illinois, Mr. SHIMKUS, would help improve research on rare diseases at the National Institutes of Health. I urge my colleagues to join me today in supporting this important piece of legislation.

A rare or "orphan" disease affects fewer than 200,000 people in the United States. There are more than 6,000 rare disorders that, taken together, affect approximately 25 million Americans. One in every 10 individuals in this country has received a diagnosis of a rare disease.

H.R. 4013 will help focus research on rare diseases at NIH. The bill also specifically gives NIH the authority to support regional centers of excellence in rare disease research. This bill will help strengthen our national research infrastructure in this area and improve our ability to treat and hopefully cure numerous rare diseases.

The Energy and Commerce Committee approved H.R. 4013 in late June, and I again urge my colleagues to support this important bill.

Mr. SHIMKUS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and pass the bill, H.R. 4013.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

RARE DISEASES ORPHAN PRODUCT DEVELOPMENT ACT OF 2002

Mr. SHIMKUS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4014) to amend the Federal Food, Drug, and Cosmetic Act with respect to the development of products for rare diseases.

The Clerk read as follows:

H.R. 4014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rare Diseases Orphan Product Development Act of 2002".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Rare diseases and disorders are those which affect small patient populations, typically populations smaller than 200,000 individuals in the United States. Such diseases and conditions include Huntington's disease, amyotrophic lateral sclerosis (Lou Gehrig's disease), Tourette syndrome, Crohn's disease, cystic fibrosis, cystinosis, and Duchenne muscular dystrophy.

(2) For many years, the 25,000,000 Americans suffering from the over 6,000 rare diseases and disorders were denied access to effective medicines because prescription drug manufacturers could rarely make a profit from marketing drugs for such small groups of patients. The prescription drug industry did not adequately fund research into such treatments. Despite the urgent health need for these medicines, they came to be known as "orphan drugs" because no companies would commercialize them.

(3) During the 1970s, an organization called the National Organization for Rare Disorders (NORD) was founded to provide services and to lobby on behalf of patients with rare diseases and disorders. NORD was instrumental in pressing Congress for legislation to encourage the development of orphan drugs.

(4) The Orphan Drug Act created financial incentives for the research and production of such orphan drugs. New Federal programs at the National Institutes of Health and the Food and Drug Administration encouraged clinical research and commercial product development for products that target rare diseases. An Orphan Products Board was established to promote the development of drugs and devices for rare diseases or disorders.

(5) Before 1983, some 38 orphan drugs had been developed. Since the enactment of the Orphan Drug Act, more than 220 new orphan drugs have been approved and marketed in the United States and more than 800 additional drugs are in the research pipeline.

(6) Despite the tremendous success of the Orphan Drug Act, rare diseases and disorders deserve greater emphasis in the national biomedical research enterprise.

(7) The Food and Drug Administration supports small clinical trials through Orphan Products Research Grants. Such grants embody successful partnerships of government and industry, and have led to the development of at least 23 drugs and four medical devices for rare diseases and disorders. Yet the appropriations in fiscal year 2001 for such grants were less than in fiscal year 1995.

(b) PURPOSES.—The purpose of this Act is to increase the national investment in the development of diagnostics and treatments for patients with rare diseases and disorders.

SEC. 3. FOOD AND DRUG ADMINISTRATION; GRANTS AND CONTRACTS FOR THE DEVELOPMENT OF ORPHAN DRUGS.

Subsection (c) of section 5 of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended to read as follows:

"(c) For grants and contracts under subsection (a), there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and $25,000,000 for each of the fiscal years 2003 through 2006.".

SEC. 4. TECHNICAL AMENDMENT.

Section 527(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc(a)) is amended in the matter following paragraph (2)—

(1) by striking ", of such certification,"; and

(2) by striking ", the issuance of the certification,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from California (Mr. WAXMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SHIMKUS).

GENERAL LEAVE

Mr. SHIMKUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill, H.R. 4014.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SHIMKUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is really my first day ever managing a bill on the floor of the House. I have done a lot of other things from speaking to presiding but never actually managing a bill; and it is really appropriate that this legislation that we just took up, H.R. 4013, and this piece of legislation, H.R. 4014, I cannot think of a better bill to have a chance to manage. And so I thank my chairman and the subcommittee chairman for doing that.

Mr. Speaker, I also want to take this time to say that it is an honor to be managing with my friend, the gentleman from California (Mr. WAXMAN), because many times we are opponents on the legislative battles and the agenda. One of the great things about this institution is when we can work together from across the political divide and ideological divide to find issues that we become impassioned about and we join in forces that really help move legislation. So I extend my thanks to my friend from California (Mr. WAXMAN) and this will be a memorable day for me as I think back on my congressional career.

Mr. Speaker, I rise today in support of this legislation, H.R. 4014, the Rare Disease Orphan Product Development Act of 2002. This bill is sponsored by my good friend, the gentleman from Florida (Mr. FOLEY), who will join us in a minute, and the gentleman from California (Mr. WAXMAN), and will increase the authorization for grants given to researchers who are developing cures and treatments for rare diseases. With more money available to these researchers, we will be better able to find cures for the 6,000 rare diseases affecting nearly 25 million Americans. And when you know a family who has someone affected by rare diseases, it does not seem that rare because it is time consuming, it is costly, and it makes you really be passionate about making sure everybody has some help in trying to find cures and drugs to help them alleviate the onset of their disease.

Prior to the passage of the Orphan Drug Act in 1983, only a handful of drug and biologics had been developed to treat rare diseases. The reasons for this were simple. There was very little economic incentive for drug companies to spend the hundreds of millions of dollars it takes to develop a drug for a patient population totalling in the thousands. That is why prior to 1983 only 38 drugs had been developed for rare diseases.

The Orphan Drug Act changes this by doing three things: offering greater exclusivity for drugs designed to treat diseases affecting fewer than 200,000

Americans, the establishing of a grant program for researchers performing clinical trials on orphan drugs, and providing a tax incentive program.

The Orphan Drug Act has been a resounding success. Whereas fewer than 40 drugs have been developed in the past for rare diseases, in the past few decades more than 200 drugs have been developed and approved to treat these diseases. The bill before us today reauthorizes a grant program contained within the bill. Presently the government funds fewer than 100 researchers performing clinical trials into rare diseases, cures and therapies. While the demand is much higher, funding has been limited. This bill reauthorizes the grant program at 25 million in fiscal years 2003 through 2006, meaning more monies will be available to finding cures for these diseases.

Mr. Speaker, I rise in strong support of this bill and commend the gentleman from Florida (Mr. FOLEY) and the gentleman from California (Mr. WAXMAN) for their sponsorship of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in support of this bill, and I am honored to be a cosponsor with the gentleman from Florida (Mr. FOLEY) and the gentleman from Illinois (Mr. SHIMKUS) in this legislation.

This bill and the previous one are two bills that are furthering the cause of developing drugs for people with rare diseases. It is very important for the progress of research on treatments and to find cures for rare diseases. There are 6,000 rare diseases that affect approximately 25 million Americans. These diseases include cystic fibrosis, Lou Gehrig's disease and muscular dystrophy, to mention three of the well-known diseases that affect less than 200,000 people, and, therefore, are designated as rare.

The availability of safe and effective treatments for rare diseases has historically been limited due to the lack of incentive for pharmaceutical firms to commercialize such medications. To address this problem, Congress passed the Orphan Drug Act, which allows for market exclusivity for products developed for rare diseases, as well as special tax treatment for the companies that are willing to make that investment.

In addition, the Food and Drug Administration supports small clinical trials through orphan products research grants. These grants have led to the development of at least 23 drugs and four medical devices for rare diseases. The purpose of this legislation is to increase the national investment in the development of diagnostics and treatments for people with rare diseases.

H.R. 4014 is for the funding of the Orphan Product Research Grant Program, and increases the national investment in the development of diagnostics and treatment for patients with these rare diseases. It is a good piece of legislation. I am pleased and honored to join with my colleagues on a bipartisan basis. There should be no partisanship or conflict that we see on other issues when it comes to trying to help Americans overcome the terror of diseases that afflict them and is such a burden to their families. I urge all of my colleagues to join all of us in supporting H.R. 4014.

Mr. Speaker, I reserve the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY), a major sponsor of the legislation.

Mr. FOLEY. Mr. Speaker, I congratulate the gentleman on his management of this important piece of legislation.

If I were Speaker of the House, I would probably declare that the only business on the House floor would be health care legislation because the bipartisanship displayed in this very important legislation is really indicative of the heart and soul of this Chamber.

Many people see us in vigorous debate over issues and why they cannot get along. Yet today you see the gentleman from Illinois (Mr. SHIMKUS) and the gentleman from California (Mr. WAXMAN) and myself all really focused on people who have been heard by us but have not been heard by society in general.

Today I rise in strong support of our mutually agreed-upon bill, H.R. 4014, the Rare Disease Orphan Product Development Act of 2002. This important piece of bipartisan legislation will encourage better treatment, diagnostic procedures, and cures for large numbers of rare diseases and disorders.

The gentleman from California (Mr. WAXMAN) mentioned the statistics, 25 million people suffering from more than 6,000 rare diseases. A rare disease, to underscore, is one that affects the population under 200,000 people, or about one in 11 Americans.

Mr. Speaker, I would like to mention just one of those Americans, a little girl fighting for her life. Her name is Madison, but her parents call her Maddy. She is a 5-year-old constituent of mine who contracted MPS 1. Hurler Syndrome, one year after she was born. This horrible disease causes shortness of stature, mental retardation, speech and hearing impairments, heart disease, and worst of all a shortened life span.

As with most persons suffering from rare diseases, her situation is made worse because there may be only one or two doctors in the world working on a cure for her disease. Our bill would double the amount currently authorized for the Orphan Product Development Grant Program from $12 million to $25 million per year. This grant program is considered one of the most successful programs at the Food and Drug Administration. To date, 23 drugs and four medical devices have been developed as a direct result of this medical program, 23 drugs and four medical devices. This is an extraordinary achievement, given these products are generally not financially profitable for the companies that make them.

Let me stop there and go just a bit off text because during the political season it is very, very easy to beat up the pharmaceutical industry. It seems to be a target on both sides of the aisle. And yet today we are talking about companies that truly do God's work here on Earth. They are working hard to develop the kind of resources and procedures, medications and things necessary to save lives. So while we can have our quarrel and disagreement with the industry over certain items, I do think it appropriate that on occasion we speak up for their great research. We are the envy of the world in development of products, pharmaceutical aids, and other things in this country. We are the envy of the world, and we should not lose sight that scientists are working collaboratively with some of these well-known brand-name manufacturers who are in fact shining some light and hopefully some hope for the people suffering.

Mr. Speaker, this medical minority cannot be ignored any longer. We cannot afford to keep paying 50 cents on the dollar when these patients are feeling 100 percent of the pain. It is time to raise the level of awareness of these diseases once and for all.

Mr. Speaker, I want to thank the gentleman from Illinois (Mr. SHIMKUS) for introducing H.R. 4013, the Rare Disease Act of 2002, which would permanently establish the Office of Rare Diseases at the National Institutes of Health. His bill will allow for continued research and information-sharing among those scientists and doctors who are in the front lines of finding cures with these horrible diseases.

I would like to thank the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), and the gentleman from California (Mr. WAXMAN), the ranking member, for their extraordinary efforts for bringing this issue to the national spotlight and for bringing these bills to the floor. I also want to commend my staff legislative counsel, Bradley Schreiber, who is here on the floor with me today who brought these bills to my attention months ago. It is actually the fastest piece of legislation in my 7½-plus years in Congress that has come from a drafting, to a conclusion, to an introduction on the House floor, to hopefully a successful passage today.

Mr. Speaker, I would also like to thank Senator EDWARD KENNEDY of

Massachusetts and Senator ORRIN HATCH of Utah for their leadership on our companion measures that reside in the other Chamber.

Again, I would thank everyone for participating in the debate. I urge my colleagues' strong approval of both bills before us, H.R. 4013 and H.R. 4014, as we proceed on these important measures today.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to use this opportunity to give some historical perspective on some of these issues with regard to the pharmaceutical industry.

Mr. Speaker, I think that the pharmaceutical industry could be credited with the enormous contribution they make in curing diseases. But I think we need to recognize that when the Orphan Drug Act was first talked about, it was due to the fact that the pharmaceutical industry did not pay attention to people who had rare diseases because the profit potential was not there for them to make the investment. They were much more interested, as any business would be, in trying to manufacture drugs that could have a widespread audience, so to speak, to buy their product.

A lot of the work they do is based on the government investment and research. We give money to the National Institutes of Health, and they work with grants and contracts with leading researchers all around the country to do the basic work. The pharmaceutical industry then takes the benefit of that public investment and finds an application which leads to products that they are able to market. They then get a patent on the product. I have always regretted the fact that the public does not get its share of the return on our investment for some of these very same products.

But in the Orphan Drug Act we said, look, we will give you every incentive in the pharmaceutical industry to make the investment because we want people with rare diseases not to be ignored. So we gave them an exclusivity. If they developed a drug for patients with rare diseases, we gave them tax breaks. We funded research as this bill and the previous one will do at the NIH and at the FDA, but we found that while in most cases it barely offered any real profit numbers to be attractive to pharmaceutical industries, they responded well to the incentives.

□ 1345

In some cases, there were diseases that were classified as rare diseases which became a windfall for the pharmaceutical industry. The pharmaceutical industry, for example, when the HIV/AIDS epidemic hit, were able to classify their drugs as orphan drugs because the patient population was not that large at that time.

Later it mushroomed, of course, as the epidemic progressed, and the Congress revisited the issues through hearings as to whether we were being much too generous to the pharmaceutical industry in giving them the exclusivity which meant they could block competition. We were willing to give them exclusivity for a disease that did not offer much profit potential, but when it was extremely profitable, there was not really any justification for that exclusivity over and above their patents and other rights that pharmaceutical manufacturers have. But we have never been able to take anything back from the drug companies once they have gotten it in law, even when it was not justified for them to have it.

There was another example of this, by the way, earlier this year. I was involved in the original legislation to say to the manufacturers, do the research on children when they get a drug approved, do that research so that we can know what the needs are for children, if they could use a certain pharmaceutical product. We tried to use a carrot and a stick. A stick would be if they were coming up with a new drug, FDA should require those tests before it approved the new drug, but a carrot for those drugs that are already on the market, we gave them an exclusivity of 6 months. Does not sound like a lot of time.

Then when we revisited the issue, it turned out that the companies were using that exclusivity in a way to enhance their monopoly over drugs that are widely used even though the studies for the children required a minimal amount of investment. Not only that, they were doing the minimal amount investment on the use for children, on drugs that were rarely used by children, so they could get the monopoly on the pharmaceuticals that were used by adults. And monopoly is a real incentive for research, but it can be abusive, because after a while monopolies are simply a way to keep out competition, and we know what happens when there is no competition. It means consumers pay the highest prices.

So we have some pharmaceuticals where there are wonderful drugs, the public investment in research paid off when they were applied by the pharmaceutical industry to get these drugs, but it meant that some consumers could not even afford the drugs that were developed.

This bill before us today is a good one. We want to encourage the development of drugs for rare diseases, and I commend the drug companies for their work, but we need to keep it in perspective, that sometimes we have to come back and review these special breaks that we give to the companies because they are willing to take a loophole and expand it so enormously that it outprices many consumers for their product. We want to give them the incentive to develop the product, but we want to let the public be able to purchase the product as well.

I take these few minutes to give some expansion of the historical perspective on the Orphan Drug Act, the pediatric exclusivity, and we will save for another time the abuses the Hatch-Waxman Act, which we, hopefully we are this year going to try to end by following the example of the U.S. Senate in stopping the loopholes that have been so abused by pharmaceutical companies, far beyond anything that any of us ever envisioned when we adopted the original Hatch-Waxman Act.

I ask my colleagues to join me in supporting this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I yield myself such time as I may consume.

I appreciate my colleague's historical background. I am a relatively new Member still, in my sixth year, and I know there is a lot of water underneath the bridge on a lot of these issues, and it is always good to look back.

He has been a leader and has been helpful on orphan drugs and pediatric exclusivity, and I am proud to have a chance to work with him on this legislation. I look forward to the opportunity to work with him more in the future as we try to make sure that all our citizens in this country have access to affordable health care.

Mr. DINGELL. Mr. Speaker, I am proud to be an original cosponsor of the bill before us today, H.R. 4014, the "Rare Diseases Orphan Product Development Act of 2002." I would like to thank my colleagues, particularly Representatives WAXMAN, BROWN, and RUSH, for their work on this legislation.

Approximately 25 million Americans suffer from more than 6,000 rare diseases. These diseases include Huntington's disease, Lou Gehrig's disease, cystic fibrosis, and Duchenne muscular dystrophy. Because of the relatively small patient populations associated with rare diseases, pharmaceutical firms are concerned about receiving an adequate return on their investment in developing medications to treat them.

In response to this problem, Congress passed the Orphan Drug Act, which allows for market exclusivity for products developed for rare diseases. Additionally, the Food and Drug Administration (FDA) has been able to support small clinical trials through Orphan Products Research Grants. These grants have been effective, leading to the development of more than 23 drugs and four medical devices for rare diseases.

The purpose of this legislation is to increase the national investment in the development of diagnostics and treatments for patients suffering from rare diseases. H.R. 4014 continues the Orphan Products Research Grant program for clinical research needed to evaluate the safety and efficacy of therapies to treat rare diseases. Specifically, this legislation authorizes such sums as already have been appropriated for fiscal year 2002, and $25 million for each of the fiscal years 2003 through 2006.

This is good legislation and I urge all of my colleagues to join me and support H.R. 4014.

Mr. BILIRAKIS. Mr. Speaker, I am also pleased today to support H.R. 4014, the Rare Diseases Orphan Product Development Act of 2002. This bill, which was introduced by our colleague from Florida, Mr. FOLEY, will ensure that cutting-edge treatments are available for a myriad of rare diseases.

Specifically, H.R. 4014 will increase funding for the Food and Drug Administration's Orphan Product Research Grants Program. This crucial program provides funding to academic scientists and small companies to conduct clinical trials on new orphan drugs, medical devices, and medical foods for rare diseases.

By definition, "orpahn products" are treatments for rare conditions that have small potential markets and thus are not attractive investments for the private sector. Such treatments were not being developed for rare diseases until the Orphan Drug Act was enacted in 1983, and it has become a highly successful government/industry partnership. Prior to 1983, only ten orphan products had come to the market, while more than 200 drugs and biological products for rare diseases have been brought to market since passage of the Orphan Drug Act.

H.R. 4014 ensures that adequate funding is available for the development of orphan products. I commend my colleagues for their bipartisan efforts in this area and look forward to voting for this legislation.

Mr. SHIMKUS. Mr. Speaker, I have no other speakers on my side, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and pass the bill, H.R. 4014.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CANCELING LOANS TO ALLOW SCHOOL SYSTEMS TO ATTRACT CLASSROOM TEACHERS ACT

Mr. McKEON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5091) to increase the amount of student loan forgiveness available to qualified teachers, with an emphasis on special education teachers, as amended.

The Clerk read as follows:

H.R. 5091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Canceling Loans to Allow School Systems to Attract Classroom Teachers Act".

SEC. 2. ADDITIONAL QUALIFIED LOAN AMOUNTS FOR STUDENT LOAN FORGIVENESS.

(a) FFEL LOANS.—Section 428J(c) of the Higher Education Act of 1965 (20 U.S.C. 1078-10(c)) is amended by adding at the end the following new paragraph:

"(3) ADDITIONAL AMOUNTS; PRIORITY.—

"(A) LARGER AMOUNTS FROM APPROPRIATED FUNDS.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary may, from funds appropriated under subparagraph (C), repay under this section is a total amount equal to not more than $17,500.

"(B) AWARD BASIS; PRIORITY.—The Secretary shall make payments under this paragraph to elementary or secondary school teachers who meet the requirements of subsection (b) on a first-come first-served basis, subject to the availability of appropriations, but shall give priority in providing loan repayment under this paragraph for a fiscal year to teachers who—

"(i)(I) are employed as special education teachers whose primary responsibility is to teach or support children with disabilities (as defined in section 602 of the Individuals with Disabilities Act); and

"(II) as certified by the chief administrative officer of the public or nonprofit private elementary or secondary school in which the borrower is employed, are teaching children with disabilities that correspond with the borrower's training and have demonstrated knowledge and teaching skills in the content areas of the elementary or secondary school curriculum that the borrower is teaching;

"(ii) are employed as teachers in local educational agencies that are determined by a State educational agency under section 2141 of the Elementary and Secondary Education Act of 1965 to have failed to make progress toward meeting the annual measurable objectives described in section 1119(a)(2) of such Act for 2 consecutive years; or

"(iii) are employed as teachers of mathematics or science.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph such sums as may be necessary for fiscal year 2003 and for each of the 4 succeeding fiscal years.".

(b) DIRECT LOANS.—Section 460(c) of the Higher Education Act of 1965 (20 U.S.C. 1087j(c)) is amended by adding at the end the following new paragraph:

"(3) ADDITIONAL AMOUNTS; PRIORITY.—

"(A) LARGER AMOUNTS FROM APPROPRIATED FUNDS.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary may, from funds appropriated under subparagraph (C), repay under this section is a total amount equal to not more than $17,500.

"(B) AWARD BASIS; PRIORITY.—The Secretary shall make payments under this paragraph to elementary or secondary school teachers who meet the requirements of subsection (b) on a first-come first-served basis, subject to the availability of appropriations, but shall give priority in providing loan repayment under this paragraph for a fiscal year to teachers who—

"(i)(I) are employed as special education teachers whose primary responsibility is to teach or support children with disabilities (as defined in section 602 of the Individuals with Disabilities Act); and

"(II) as certified by the chief administrative officer of the public or nonprofit private elementary or secondary school in which the borrower is employed, are teaching children with disabilities that correspond with the borrower's training and have demonstrated knowledge and teaching skills in the content areas of the elementary or secondary school curriculum that the borrower is teaching;

"(ii) are employed as teachers in local educational agencies that are determined by a State educational agency under section 2141 of the Elementary and Secondary Education Act of 1965 to have failed to make progress toward meeting the annual measurable objectives described in section 1119(a)(2) of such Act for 2 consecutive years; or

"(iii) are employed as teachers of mathematics or science.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph such sums as may be necessary for fiscal year 2003 and for each of the 4 succeeding fiscal years.".

SEC. 3. CANCELLATION OF STUDENT LOAN INDEBTEDNESS FOR SPOUSES, SURVIVING JOINT DEBTORS, AND PARENTS.

(a) DEFINITIONS.—For purposes of this section:

(1) ELIGIBLE PUBLIC SERVANT.—The term "eligible public servant" means an individual who—

(A) served as a police officer, firefighter, other safety or rescue personnel, or as a member of the Armed Forces; and

(B) died (or dies) or became (or becomes) permanently and totally disabled due to injuries suffered in the terrorist attack on September 11, 2001;

as determined in accordance with regulations of the Secretary.

(2) ELIGIBLE VICTIM.—The term "eligible victim" means an individual who died (or dies) or became (or becomes) permanently and totally disabled due to injuries suffered in the terrorist attack on September 11, 2001, as determined in accordance with regulations of the Secretary.

(3) ELIGIBLE SPOUSE.—The term "eligible spouse" means the spouse of an eligible public servant, as determined in accordance with regulations of the Secretary.

(4) ELIGIBLE SURVIVING DEBTOR.—The term "eligible surviving debtor" means an individual who owes a Federal student loan that is a consolidation loan that was used, jointly by that individual and an eligible victim, to repay the Federal student loans of that individual and of such eligible victim.

(5) ELIGIBLE PARENT.—The term "eligible parent" means the parent of an eligible victim if—

"(A) the parent owes a Federal student loan that is a consolidation loan that was used to repay a PLUS loan incurred on behalf of such eligible victim; or

"(B) the parent owes a Federal student loan that is a PLUS loan incurred on behalf of an eligible victim who became (or becomes) permanently and totally disabled due to injuries suffered in the terrorist attack on September 11, 2001.

(6) SECRETARY.—The term "Secretary" means the Secretary of Education.

(7) FEDERAL STUDENT LOAN.—The term "Federal student loan" means any loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965.

(b) RELIEF FROM INDEBTEDNESS.—

(1) IN GENERAL.—The Secretary shall provide for the discharge or cancellation of—

(A) the Federal student loan indebtedness of an eligible spouse;

(B) the consolidation loan indebtedness of an eligible surviving debtor;

(C) the portion of the consolidation loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim, if the amount of such indebtedness with respect to such eligible victim may be reliably determined on the basis of records available to the lender; and

(D) the PLUS loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim described in subsection (a)(5)(B).

(2) METHOD OF DISCHARGE OR CANCELLATION.—A loan required to be discharged or canceled under paragraph (1) shall be discharged or canceled by the method used under section 437(a), 455(a)(1), or 464(c)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1087(a), 1087e(a)(1), 1087dd(c)(1)(F)), whichever is applicable to such loan.

(c) FACILITATION OF CLAIMS.—The Secretary shall—

(1) establish procedures for the filing of applications for discharge or cancellation under this section by regulations that shall be prescribed and published within 90 days after the date of enactment of this Act and without regard to the requirements of section 553 of title 5, United States Code; and

(2) take such actions as may be necessary to publicize the availability of discharge or cancellation of Federal student loan indebtedness for eligible spouses, eligible surviving debtors, and eligible parents under this section.

(d) AVAILABILITY OF FUNDS FOR PAYMENTS.—Funds available for the purposes of making payments to lenders in accordance with section 437(a) for the discharge of indebtedness of deceased or disabled individuals shall be available for making payments under section 437(a) to lenders of loans to the eligible spouses, eligible surviving debtors, and eligible parents as required by this section.

(e) APPLICABLE TO OUTSTANDING DEBT.—The provisions of this section shall be applied to discharge or cancel only Federal student loans (including consolidation loans) on which amounts were owed on September 11, 2001.

SEC. 4. INFORMATION ON BENEFITS TO RURAL SCHOOL DISTRICTS.

The Secretary shall—

(1) notify local educational agencies eligible to participate in the Small Rural Achievement Program authorized under subpart 1 of part B of Title VI of the Elementary and Secondary Education of 1965 of the benefits available under the amendments made by section 2 of this Act to the teachers in the rural schools of such agencies; and

(2) encourage such agencies to notify their teachers of such benefits.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. MCKEON) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. MCKEON).

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5091.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5091, the Canceling Loans to Allow School Systems to Attract Classroom Teachers Act, or the CLASS Act, which will help low-income school districts recruit and retain high-quality teachers. The bill would provide up to $17,500 in student loan forgiveness for teachers who agree to serve in low-income schools, with a priority on special education, math and science teachers.

We all know that in order to ensure the academic success of our Nation's students, there must be a highly qualified teacher in the classroom. In fact, outside of the influence of parents, no other factor has a greater correlation to student success.

Already the Nation faces a serious teacher shortage, and over the next decade we must prepare for recruitment of an even larger pool of teachers.

Over the last few years this Congress has looked for ways to provide a major boost to schools in their effort to establish and support a high-quality teaching force. With passage of the No Child Left Behind Act, we have gone a long way toward improving our children's education by allowing greater flexibility for local school districts which would make it easier for them to recruit and retain excellent teachers.

One of the hallmarks of the law asks States to have a highly qualified teacher in every public classroom by the year 2005, emphasizing State and local methods. Since passage of the law, there have been numerous reports about the difficulty that some States will have in meeting this deadline. This is especially true in those States where experienced teachers are in short supply, particularly in schools serving low-income and minority children.

In my home State of California, it will be a tremendous undertaking due to the fact that we have more than 50,000 teachers who do not have full credentials now. The ranks of these newcomers are expected to grow as retirements and attrition take place over the next few years.

While States should continue to work with the Department of Education to meet these challenges, Congress must continue to work to increase the number and quality of teachers in the classrooms. The CLASS Act helps accomplish this goal by providing local and State school systems with a powerful teacher recruitment tool. It will provide a positive incentive for college students to enter the field of teaching and to make a long-term commitment to the classrooms and students that need them most.

No job is more important to this Nation's future than the education of its children. For this reason, I would like to thank the gentleman from South Carolina (Mr. GRAHAM), my good friend and colleague, for his long-standing commitment to improving the quality of education in our Nation's schools, as well as his commitment to the teachers in this country.

This bill recognizes and supports the service and commitment of both teachers who serve our children every day in the classroom. I urge my colleagues to vote yes on H.R. 5091 and continue our commitment to the men and women of this country who do so much for us each day.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5091, the CLASS Act. This bill would forgive student loans for teachers and of certain September 11 victims. I support this legislation to provide loan forgiveness for teachers in high-poverty schools and for special ed teachers. This legislation will be a very, very important tool in terms of recruiting and our desire to recruit and our ability to recruit and retain those teachers in high-poverty schools.

All Members of Congress are pretty familiar with the challenges that are faced by teachers who are teaching in high-poverty schools and the set of circumstances that they confront. We believe by directing loan forgiveness to these individuals that we will have an opportunity not to have them just come in on a revolving-door basis, where they come in for 1 year and then bid out of those systems, but they will stay in those systems for 4 or 5 years, they will provide some continuity to those children, and we will get the results that we desire to have under the Leave No Child Behind Act.

I appreciate the opportunity to work with the gentleman from South Carolina (Mr. GRAHAM) and others on this legislation. I will have to say, however, that I wish that we would have been able to support the gentleman from South Carolina's (Mr. GRAHAM) original legislation, which was to provide that this forgiveness would be guaranteed and not subject to a year-to-year appropriations. That effort we will have to continue to work on.

My concern is there teachers will not know that this incentive is really going to be in place on a year-to-year basis, and it will make our job more difficult in getting highly qualified individuals into high-poverty schools. If it was not subject to appropriations, then we could assure individuals who qualify for it that it would be available over the time that they spent in those schools.

We have a similar program and equally important program dealing with child care providers. It is subject to annual appropriations, and so far I think we have only helped 76 people nationwide. That is not the kind of program that we envision for this piece of legislation, but it is also the kind of guarantee that we should be able to provide to teachers that that would not happen in this program. Depending on what happens in year-to-year budgets within the House of Representatives or in years like this where we do not get budgets, we do not get appropriations bills, what happens to the teachers who have already started teaching for this year? Would they know or not know whether they would be eligible for loan forgiveness?

Next year in March in the State of California that my colleague has spoken to, and we are terribly concerned about the teacher shortage and recruitment in these schools, next year in March they will be getting pink slips because of the Federal funding. If we kick over the continuing resolution until March of next year, those teachers will not have the certainty of whether or not this appropriation would be available. That happens, unfortunately, all too often in the Congress, and that is why I would hope that this would be a guaranteed entitlement program for the length of the program.

Finally, that part of the problem could be solved if we would, in fact, pass an education budget, if we would pass the education appropriations bill, but we will hear more about that on the topic of the continuing resolution tomorrow when it comes before this House where, once again, we will have to pass a continuing resolution because we have not been able to pass the appropriations bill because of the fight within the Republican Caucus dealing with the Education, Health and Human Services bill that has not been brought to the floor, although we were told in July it would be the first bill brought to the floor when we returned from our August break.

Finally, let me just mention a portion of this bill. It is a rather small portion, but I think a terribly important portion in terms of a statement by this Congress, and a very humane statement by this Congress, and a compassionate statement of this Congress, and that is a provision that was added to this bill in committee by our colleague, the gentlewoman from New York (Mrs. MCCARTHY). She represents a district in New York that suffered a great many losses from individuals who were killed in the vicious attacks of September 11 on the World Trade Center in New York City. Many people in the district suffered losses of friends in the attack of the Pentagon and the downing of the plane in Pennsylvania.

This legislation that was added to the bill is to provide for loan forgiveness to the families of firefighters, police officers and military personnel killed on September 11. The gentlewoman from New York (Mrs. MCCARTHY) fought for this legislation almost immediately after September 11, and it took a whole year. We tried to offer it numerous times on the floor of the House. It was not allowed to come up. We tried to offer it as amendments. It was not allowed to come up. We were given assurances early on that it would be considered on the floor of the House last year. That turned out to be a hollow promise. It did not happen.

□ 1400

Finally, this year the gentleman from Ohio (Mr. BOEHNER), our chairman, gave his word that the committee would address this legislation. His word was good. The deal stuck, and because of that guarantee by him and the tenacity and the doggedness of the gentlewoman from New York (Mrs. MCCARTHY) to make sure that this provision was brought to the Congress so the Congress would have a chance to vote on it so these families would get relief because of the economic setbacks that they suffered along with the tragedy they suffered of the loss of a member of their family in that tragedy, I simply want to recognize her for her effort.

She was told so many times a lesser person might have gone away and figured out it could not be done. She continued to scheme and to persuade and to work on and to lobby Members of the House and the leadership and the rest to get this done, and I believe now today with the passage of this legislation she is going to realize the success that should have been hers many, many months ago and the benefits that will go to these families now; and I want to thank her, and I know Members of the committee want to thank her, for all of her effort on behalf of these families who suffer the tragedy of September 11.

Mr. Speaker, I yield the balance of my time to the gentlewoman from New York (Mrs. MCCARTHY) to manage the bill.

The SPEAKER pro tempore (Mr. BOOZMAN). Without objection, the gentlewoman from New York (Mrs. MCCARTHY) will manage the remainder of the time.

There was no objection.

Mr. MCKEON. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. GRAHAM), the author of this very important bill.

Mr. GRAHAM. Mr. Speaker, I thank the chairman for yielding me this time.

About this committee, there is so much going on in America that is uncertain, with a potential military confrontation around the corner, a downturn in the economy, how to fix it. There is much to be debated on the floor of the House before we leave. The committee is operating in a fashion, the Committee on Education and the Workforce, that I am very proud of; and the gentleman from Ohio (Mr. BOEHNER), chairman, and the gentleman from California (Mr. GEORGE MILLER), ranking member, deserve much credit. Not enough is being said about how this committee has produced quality legislation to address real problems. There is no uncertainty about teacher recruitment. We are going to have to replace half of the teachers that exist today in the next decade. And how do we get quality teachers to fill in those slots?

Most college students graduating from college, the biggest debt they face is a student loan. It is a good investment to get a college degree. I think it is a good investment for the taxpayers to help forgive those loans if those college graduates go into teaching into hard-to-recruit areas. And we are not just talking about putting bodies into classrooms; we are talking about quality. And what I like most about this bill is it does provide an incentive for people who graduate college to go into teaching in the hardest-to-recruit areas. Title I schools are usually urban and rural poor schools, a hard place to recruit. So if one will teach in one of those school systems for 5 years, we will forgive their student loans in a mandatory fashion at $5,000 with this bill, up to $17,500 in discretionary money to be appropriated over time.

I wish it had been mandatory too, but we are living in a world where there is a downturn in the economy and there is a war. I am confident that the money will be there for teachers in the years to come that will get a benefit of this program, but we want quality. They have to maintain their certification. Secondary teachers have to teach in the area that they are trained, math teachers teaching math, history teachers teaching history. Elementary education teachers have to be certified to be competent. So we marry up the need for quality and the problem of recruiting in the poor urban and rural schools by putting some money on the table, $17,500, to be earned for 5 years of service in those schools.

What does it mean to America? CBO says it will result at a minimum of 35,000 new teachers coming into the profession. I think that is something to be proud of. The cost of the bill is very manageable. It is over a 5-year period, 300-and-something million dollars, which is a lot of money; but if we can get 35,000 new teachers with quality into hard-to-recruit areas, I think we all can tell the taxpayers that is a good deal because to get the money, they have got to earn it, they have got to work for 5 years; and I think that is a good deal for everybody involved.

I appreciate what the gentleman from California (Mr. GEORGE MILLER) has done to make sure this passed in a bipartisan fashion. And the part of the bill that he mentioned about the gentlewoman from New York's (Mrs. MCCARTHY) provision about survivors, family members of those people who lost their lives in 9–11, it is small. It is an asterisk in terms of funding. It is not going to cost that much, but the impact it will have is huge; and I want to congratulate her for what she has done to help those families in a very significant way.

Mrs. McCARTHY of New York. Madam Speaker, I yield myself such time as I may consume.

Before I begin my statement, I would like to take a moment to remember a great colleague and friend in the Committee on Education and the Workforce, the gentlewoman from Hawaii. She will be greatly missed and always remembered for her compassion and dedication to the people of Hawaii.

Madam Speaker, I rise today in strong support of H.R. 5091, the CLASS Act. Under this bill, special education teachers and math and science teachers who have served in a high-poverty school for 5 years are eligible for having up to $17,500 in student loans forgiven.

Giving relief to the men and women who teach children in America really is homeland security, and I hope this is the first step to forgiving the loans for all teachers who work in underserved schools.

Madam Speaker, I would like also to take this opportunity to personally thank the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from California (Mr. McKEON), and my colleagues for working with us on this, including my language to forgive student loans for the spouses of emergency personnel affected by the September 11 attacks.

Unfortunately, due to the tragic events of September 11, many spouses who lost loved ones in the attacks are enduring financial hardships. Charitable organizations have offered some assistance, but the Federal Government must also play a role. That is why I fought so hard to get these loans forgiven. Currently, individuals who die have their loans forgiven, but that is not the case for the spouses who have relied upon the income of their lost loved ones to pay the loans.

This legislation authorizes the Secretary of Education to discharge or cancel Federal student loans for the spouses. This relief is only for the spouses of policemen, firemen, emergency personnel, and members of the Armed Forces who died or became permanently disabled in the line of duty on 9-11. Relieving a student loan expense helps financially strained spouses provide for their children as well as themselves during this difficult time. This is a very low-cost, tailored provision that will help the families of our bravest men and women who perished a year ago last month.

I thank again the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for their teamwork on this legislation. I know it has been a tough time getting here, but we all did pull together and we all did work together to get this done because our committee did know this was the right thing to do; and I appreciate all the help that everyone on the other side of the aisle gave me for this.

I urge all of my colleagues to join me in my support of this very important legislation, and I ask all my colleagues to vote "yes" on this bill.

Madam Speaker, I reserve the balance of my time.

Mr. McKEON. Madam Speaker, I yield such time as he may consume to the full committee chairman, the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Madam Speaker, I thank the gentleman from California (Mr. McKEON) for yielding me this time.

Before I talk about the bill that we have on the floor today, let me pay tribute to a colleague and friend, PATSY MINK. It is my understanding the House will consider and adopt a formal resolution this week honoring her service to our country, and I am pleased that we will have that opportunity to pay tribute to her in that fashion.

PATSY was a vibrant, passionate, and effective voice for the principles that she believed in. She was a true leader on our committee, and I am deeply saddened by the news of her passing. As chairman of the committee over the last 2 years, we worked together on the historic No Child Left Behind Act, as well as bipartisan legislation to improve access to higher education for our Nation's youth. PATSY fought tirelessly for the causes she supported, and I think we are all grateful for her long record of public service. Her passing is a significant loss for our committee, the people of Hawaii, and the people of the United States. And I offer my sincerest condolences to her family and her constituents. She will be greatly missed.

Madam Speaker, today I rise in support of H.R. 5091, the Canceling Loans to Allow School Systems to Attract Classroom Teachers Act, or as we call it the CLASS Act, and I want to applaud the gentleman from South Carolina (Mr. GRAHAM), my friend and colleague, for his commitment to the education of our Nation's children and for sponsoring the legislation that we have before us today. This bill provides an important opportunity for high-need schools and school districts to recruit and retain highly qualified and committed teachers, and we are asking a lot of our Nation's teachers and they deserve our full support.

The No Child Left Behind Act calls for States to have a qualified teacher in every public classroom by the end of the 2005–2006 school year. With large numbers of teachers retiring over the next 10 years, estimates are that more than 2 million teachers will be needed to fill these vacancies, and that will be no easy task. Demand for high-quality teachers has never been higher, but in some cases unqualified teachers are being hired to fill these open vacancies.

This bill, I think, will help solve that problem. It provides an increase in the total amount of loan forgiveness for teachers now provided in the Higher Education Act from a maximum of $5,000 to a new level of $17,500. This bill also places a priority for providing loan forgiveness to those teachers teaching special education, mathematics, science, or those teaching in schools that are failing to adequately recruit highly qualified teachers as required by No Child Left Behind. This loan forgiveness is provided to teachers who teach for 5 consecutive years at a title I school, and as my colleagues know, these schools serve a high concentration of students from low-income families.

As a result of President Bush's involvement in No Child Left Behind, Federal funding for teacher programs is being increased by 38.1 percent, or $787 million, this year to help States train, recruit and retain quality teachers. This historical level of support for teachers is maintained in the President's fiscal year 2003 budget and the budget resolution passed this spring by the House. This bill continues the commitment that we have shown in supporting quality teachers for all of our Nation's children.

We have all had that one special teacher who had an impact on our lives, that one teacher who has helped us find the success and direction that we now enjoy. And this bill will help make it possible for all children to have that qualified and caring teacher who will have a positive impact on their lives.

The new realities of a wartime budget and economic recovery now require us to exercise fiscal discipline and responsibility; and to meet this important responsibility, we have crafted this program as a discretionary, rather than mandatory, program. At this time, budgetary offsets necessary to make this a mandatory spending program have not been found. However, we think it is vitally important to get the program authorized, and then we will work with our appropriators and our colleagues on both sides of the aisle to fund this program in a responsible, bipartisan way.

In addition, H.R. 5091 contains a provision authored by my good friend and colleague, the gentlewoman from New York (Mrs. McCARTHY), that would forgive the student loans of the spouses of fire, police, military, and rescue personnel who were victims of the September 11, 2001, tragedy. We can never fully repay the debt we owe these families, but I believe this provision can help bring a small element of healing to the families of those heroes.

Finally, I want to thank the gentleman from California (Mr. GEORGE MILLER), the ranking member of our committee, for his help in pushing this bill through and dealing with the gentlewoman from New York's (Mrs. MCCARTHY) provision as well.

This bill exemplifies the commitment that this Congress has shown to education, and I urge my colleagues to vote "yes" on this important bill for our Nation's teachers.

Mrs. MCCARTHY of New York. Madam Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. KIND), my colleague who sits on our committee.

Mr. KIND. Madam Speaker, I thank the gentlewoman from New York (Mrs. MCCARTHY) for yielding me this time.

Madam speaker, I want to preface my remarks by stating that today is truly a sad day in the House of Representatives for the people of the second district of Hawaii, for the people of the Nation who may not have seen or appreciated the fine work that PATSY MINK did in representing her constituents in Hawaii. In all my years of public service, Madam Speaker, I never met anyone with a deeper commitment and passion for serving her constituents than PATSY MINK. I believe she was the first woman of color to be elected to the United States Congress, and I have had the pleasure of serving with her for three terms now on the Committee on Education and the Workforce.

The depth of knowledge that she brought to the committee on issues of education, her fight to ensure that quality of education was a reality for native Hawaiian children was unrivaled; and we will miss her guidance and her leadership and her expertise in these areas. Most of all, we will miss her for what she was, and that was a dynamic personality with unlimited energy and compassion for the issues she felt so deeply about. I hope that the people will in the next week take a little time to read a little bit about PATSY MINK, the stories being written, to better understand her contribution for our great democracy and for the people of the second district in Hawaii.

Madam Speaker, I rise in support of H.R. 5091, the CLASS Act. I think this is an important piece of legislation to be able to attract young, qualified teachers into at-risk school districts where recruitment has proven difficult, where retention of quality teachers in the classroom has proven to be a great challenge.

□ 1415

We know that the second most important determinative of how well a child is going to succeed in school is the quality of the teacher in front of them in the classroom. That is why this legislation is long overdue. We had some differences of opinion in the committee in regards to whether this should be a mandatory program as opposed to a discretionary program. I would hope that even though we went the discretionary route, effort would still be given to try to find offsets to make this a mandatory program. I think it is important to be able to offer this type of incentive for young, qualified teachers to enter very difficult school districts and to serve children in need.

Madam Speaker, I also want to commend the gentlewoman from New York (Mrs. MCCARTHY) for her passion in being able to bring loan forgiveness to the victims of September 11. She was there from the very beginning, advocating the importance of doing this. It is a token gesture, but I think an important gesture for those families that carry student loan debts that those be forgiven in recognition of the events of September 11.

I also thank the leadership on the committee for accepting my amendment, which is a notification requirement to rural school districts so they too will recognize the existence of this program and will better understand how they can qualify and apply for loan forgiveness. Oftentimes rural school districts are understaffed, underfinanced, and do not have professional grant writers to really take advantage of the various educational programs that exist at the Federal level.

This notification requirement is a small way to help get word out to school districts throughout the country that this is available and another tool of recruitment for rural school districts that are facing very difficult challenges in attracting young, qualified bright minds into the school system.

Many of my school districts in western Wisconsin have a difficult time finding any AP teachers to teach high school classes. If it were not for certain online opportunities, many of the students would have to go without because of the shortage and great demand for teachers. Hopefully with this notification requirement, more rural school districts will realize the availability of the program and the additional tool that they can now use to attract young teachers into the classroom.

Mr. MCKEON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I associate myself with the remarks of the gentleman from Ohio (Mr. BOEHNER), the gentleman from Wisconsin (Mr. KIND), and the gentlewoman from New York (Mrs. MCCARTHY) regarding Mrs. MINK. The gentlewoman will be missed by all of us, but I will especially miss her because for the last 2 years she has been the ranking member on this subcommittee, and we have had the opportunity of getting to go know each other and working well together. I will miss her greatly.

Madam Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Madam Speaker, I want to add my expression of sympathy to the family of PATSY MINK and to the citizens of Hawaii and recommend Members read an editorial that I read on the plane today about the contributions of her life, in particular in the field of politics and the law where she broke the glass ceiling for women in an era and a period where that ceiling was very low. She was an outstanding colleague and an outstanding individual, and she shall be missed.

Madam Speaker, I commend the gentleman from South Carolina (Mr. GRAHAM) for his contribution to improving the education of America's most needy and in-need students. With the addition of the CLASS Act and the incentive to attract teachers to our title I schools in rural and urban poor centers, what the gentleman from South Carolina (Mr. GRAHAM) has done is he has the second one-two punch to what this Congress and this President has done to really focus on where educational needs are the greatest.

If we combine the ability to attract teachers through loan forgiveness, to make the commitment to our children who are the most in need, with the investment this Congress made last year in No Child Left Behind in our title I schools, we will find the two greatest contributions, in my opinion, ever by the Congress of the United States in terms of truly meeting the needs we will have in the 21st century to be sure that opportunity is available to every child and that no child is left behind.

On a side note, I want to commend the gentleman from Ohio (Mr. BOEHNER) and the gentlewoman from New York (Mrs. MCCARTHY), who is one of the sweetest people in the whole world. Her amendment and the Kind amendment being in this bill recognize and represent what the gentleman from Ohio (Mr. BOEHNER) has done, and that is pull together bipartisan ideas to improve the education of America's children, to join them together and bring them to the floor of this Congress, and take them to the President for his signature and enact them into law for our children.

I commend the chairman for his leadership, the gentleman from Wisconsin (Mr. KIND) and the gentlewoman from New York (Mrs. MCCARTHY) for their amendments, and I acknowledge the gentleman from South Carolina (Mr. GRAHAM), who in this Congress is making a most significant investment in the improvement of the lives of our most needy children.

Mrs. MCCARTHY of New York. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, number one, I would like to say that working on the Committee on Education and the Workforce has been truly a wonderful experience. To me it is a committee that actually has worked very well bipartisanly to get things done. I appreciate that. Sometimes I wish other committees could look at how our committee works to get things done so we can sign legislation into law. I also would like to thank the staff for all of the hard work they put in. A lot of people do not realize how much work the staff does to make this legislation come through.

The gentleman from South Carolina (Mr. GRAHAM), he and I will be working very hard to make sure that this legislation now moves in the Senate to get signed by the President. Madam Speaker, today we are talking about the next step about providing needy relief to the victims of September 11. It is my hope that the other body will move quickly to pass this important legislation so we can send this bill to the President for his signature.

Madam Speaker, I commend my colleagues, especially the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), who have spoken in favor of this bill; and I urge Members to vote in favor of this legislation, H.R. 5091.

Madam Speaker, I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Members are reminded that they should avoid urging action by the Senate.

Mr. HOLT. Madam Speaker, we have a responsibility to them to ensure that every public school and every teacher is able to help all of our school children reach their full potential.

Over 35 years ago, Congress passed the Elementary and Secondary Education Act to help improve our public schools. With its main focus on improving the educational opportunities for disadvantaged children, ESEA established bold new goals for schools to prepare children, no matter what their background, to succeed in this world by mastering the basics and reaching high standards of achievement.

Our schools are facing new and different challenges. We have an increasingly diverse and growing student population. We are facing a massive teacher shortage. In fact, over the next ten years, we will need to recruit and hire 2.2 million teachers just to keep up with the attrition of our teaching force.

We made great strides toward meeting these challenges with the passage of H.R. 5091. Today we have an opportunity to go further by encouraging students to go into the important field of teaching through loan forgiveness. The loan forgiveness program—which began in 1998 and provides up to $5,000 in student loan relief—helps ensure that disadvantaged students are taught by high quality professionals. This program must be extended to reflect the true cost of college.

This bill will increase loan forgiveness to $17,500 for Special Education, Math and Science teachers. I am pleased the majority accepted my amendment to add Math and Science teachers as a priority to the bill.

Forty-three percent of math teachers in high poverty schools have neither majored nor minored in math related fields, compared to 27 in low poverty schools. Over the next 10 years, large numbers of teachers will retire, leaving American classrooms with a serious teacher shortage, especially rural and inner city schools that already face one. By encouraging students to become math, science and special education teachers we can address this inequity.

As recent reports by the National Assessment Education Progress (NAEP) on November 21, 2001 and the Organization for Economic Co-operation and Development (OECD) on December 4, 2001 have indicated, American students are severely under-performing in math and science. According to the NAEP study, 82 per cent of high school seniors were less than proficient in science last year, while OECD reports that only four out of the 28 countries OECD tested performed worse than American students in science and five in math.

Given new challenges to our homeland defense, I think it should be obvious that having weak math and science education is not in our national interest. If we give short shrift to math and science education, how will future generations of Americans develop the vaccines to fight biological terror or the defense technology to track down and eliminate terrorists and other threats?

While this bill does not provide mandatory funding for teacher loan forgiveness, as I would have preferred, it is a step in the right direction and I ask my colleagues to support it.

Mr. MOORE. Madam Speaker, I rise today to express my strong support for H.R. 5091, the Canceling Loans to Allow School Systems to Attract Classroom Teachers Act, and I encourage my colleagues to support this important legislation.

I have long recognized the great need for teacher loan forgiveness to help our local school districts address the nationwide teacher shortage. Urban, rural and suburban districts are all struggling with this problem caused by a combination of demographic trends and a low teacher retention rate.

Under current law, teachers can receive up to $5,000 in loan forgiveness after five years of service. H.R. 5091 would expand the program to forgive up to $17,500 in loans and give priority to special education teachers.

Although I am a strong supporter of this legislation, I believe that it could be greatly improved. I introduced a bill on February 14, 2001, that I believe would go much farther in addressing our national teacher shortage. H.R. 687, the Teacher Recruitment and Retention Act, would forgive up to $10,000, over five years, for any newly qualified educator who: teaches in a low-income school, teaches special education, or teaches in a designated teacher shortage area.

I believe that offering loan forgiveness in the first year of teaching, as I have provided for in H.R. 687, would do more to encourage young teachers to stay in the profession. Also, loan forgiveness needs to be extended far beyond special education teachers. local school districts also struggle when hiring math, science and foreign language teachers.

I am glad that my colleagues have recognized our national teacher shortage as a national priority worthy of Federal investment. I believe that it is time for the Federal government to assist States and local school districts in attracting and keeping qualified teachers, and I am happy to offer my support for this legislation, which represents an important first step.

Mr. FALEOMAVAEGA. Madam Speaker, today I rise in support of H.R., the Cancelling Loans to Allow School Systems to Attract Classroom Teachers Act. This act would increase the amount of student loan forgiveness available to qualified teachers. Loan cancellations would be made on a first-come, first-served basis, subject to the availability of appropriations, and with emphasis on special education, mathematics and science teachers.

I believe this legislation is solid and it is necessary legislation. As we are aware, across this Nation, States and Territories struggle to retain and attract teachers. Our school systems are overcrowded. Our test scores are down, and our resources are limited. Many of our students are also disadvantaged by poverty and live in communities that are unable to raise revenue to meet the growing challenge of elevating learning.

As lawmakers, we are painfully aware that we must provide adequate funding for education if we are to maintain cohesion in our society. As lawmakers, we also agree that no child should be left behind. This is why we are disappointed that President Bush signed legislation promising a $5.65 billion increase in the No Child Left Behind legislation, but 4 weeks later provided an increase of only $1 billion. We are also disappointed that the President's budget holds aid to local schools virtually flat.

Like every other State and Territory, American Samoa depends on Federal assistance to improve classroom learning. We struggle to recruit, certify, and retain teachers. Yet we also want to ensure that our children are not left behind.

Passage of H.R. 5091 is a small step in the right direction. It will help alleviate some of the National and local problems we all face. For American Samoa, it will help us bring back and retain some of our own teachers. I support this legislation and I ask my colleagues to also support passage of H.R. 5091.

Mr. MCKEON. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MCKEON) that the House suspend the rules and pass the bill, H.R. 5091, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to increase the amount of student loan forgiveness available to qualified teachers, and for other purposes.".

A motion to reconsider was laid on the table.

RECOGNIZING CONTRIBUTIONS OF HISPANIC-SERVING INSTITUTIONS

Mr. McKEON. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 561) recognizing the contributions of Hispanic-serving institutions.

The Clerk read as follows:

H. RES. 561

Whereas there are more than 200 Hispanic-serving institutions in the United States;

Whereas Hispanic-serving institutions provide the quality education so essential to full participation in a complex, highly technological society;

Whereas the number of Hispanic Americans enrolled in college is growing twice as quickly as enrollment at all colleges, according to a recent report from the Department of Education;

Whereas Hispanic-serving institutions have allowed many students to attain their full potential through higher education;

Whereas the achievements and goals of Hispanic-serving institutions are deserving of national recognition; and

Whereas Hispanic Heritage Month is an appropriate time to express that recognition: Now, therefore, be it

Resolved,

SECTION 1. RECOGNITION OF HISPANIC-SERVING INSTITUTIONS.

The House of Representatives—

(1) recognizes the significance of Hispanic-serving institutions;

(2) recognizes that Hispanic-serving institutions are indispensible in meeting the educational needs of one of the Nation's youngest and fastest-growing populations;

(3) commends the Nation's Hispanic-serving institutions for their commitment to academic excellence for all students, including low-income and educationally disadvantaged students;

(4) urges the presidents, faculty, and staff of the Nation's Hispanic-serving institutions to continue their efforts to recruit, retain, and graduate students who might otherwise not pursue a postsecondary education;

(5) recognizes the importance of title V of the Higher Education Act of 1965, which aids in strengthening the academic quality, institutional management, and financial stability of Hispanic-serving institutions; and

(6) requests that the President issue a proclamation calling on the people of the United States and interested groups to demonstrate support for Hispanic-serving institutions in the United States during that month with appropriate ceremonies, activities, and programs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. McKEON) and the gentleman from Texas (Mr. HINOJOSA) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. McKEON).

GENERAL LEAVE

Mr. McKEON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 561.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McKEON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of House Resolution 561, in recognition of the contributions that Hispanic-serving institutions make in helping educate America's youngest and fastest-growing population. Hispanic-serving institutions are vital components of the higher education equation. Not only do they improve access to higher education for Hispanic Americans, they are committed to providing academic excellence to low-income and disadvantaged students.

HSIs enroll and graduate thousands of impressive students each year, despite often-limited resources. Prior to the reauthorization of the Higher Education Act of 1998, HSIs were eligible for Federal funds under title III, part A, the strengthening institutions program.

During reauthorization, we created a separate program and funding stream for Hispanic-serving institutions in an effort to expand educational opportunities for Hispanic students. The new program under title V allows institutions to use Federal money to build their endowments and provide scholarships and fellowships for needy students. The gentleman from Texas (Mr. HINOJOSA) is the one that brought that to our attention, and I thank the gentleman for his effort in that regard.

Since the Higher Education Act of 1998, Federal support of HSIs has increased to $86 million, and President Bush's budget, passed by the House earlier this year, would increase support for HSIs by an additional 3.5 percent.

It is important to also note that today's recognition of HSIs and last week's resolution recognizing the Historically Black Colleges and Universities are a continued commitment by this Congress to increase access to post-secondary education for not only minority students, but to all American students.

For example, Congress has made the Pell Grant program their highest priority for post-secondary education. Since 1995, we have increased the maximum Pell Grant every year. For 2002, the maximum Pell Grant reached a record high of $4,000, up from just $2,340 in 1995. This is a 71 percent increase in the maximum Pell Grant award and helps over 4.4 million low-income students each year. Next year, the Committee on Education and the Workforce will begin the process of reauthorizing the Higher Education Act, where our main focus will center on examining Federal policy that provides access to a high-quality and affordable college education.

During the process, we will continue to promote the role of HSIs in higher education and celebrate contributions they make to better the lives of so many young Americans.

Finally, I want to take this opportunity to highlight California State University Northridge, a Hispanic-serving institution located in my congressional district in California. According to the U.S. Department of Education, CSUN ranked among the top 100 universities nationwide in graduating Hispanic students at the bachelor's and master's level. The university also places highly in Hispanic Outlook in Higher Education and Black Issues in Higher Education rankings for degrees awarded.

I am pleased to be able to recognize the impact that institutions like Cal State Northridge make on local and national communities. I urge the House to adopt this important resolution.

Madam Speaker, I reserve the balance of my time.

Madam Speaker, I ask unanimous consent to have the time I control be controlled by the gentleman from Georgia (Mr. ISAKSON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HINOJOSA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I also want to first express my condolences to the family of my good friend and colleague, PATSY MINK. The people of Hawaii and this Nation have experienced a tremendous loss. I worked with PATSY MINK for 6 years on the Committee on Education and the Workforce and always found her to be a tireless advocate for children and workers. I will truly miss her wisdom, her wit, and her fighting spirit. She fought for all students to have an opportunity to access quality education and have access to higher education.

Madam Speaker, with those thoughts having been expressed, I rise today to strongly support H. Res. 561, honoring the contributions of the more than 200 Hispanic-serving institutions, known as HSIs, throughout the United States.

☐ 1430

I want to acknowledge the assistance of the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. McKEON) in bringing this bill to the House floor. I also want to acknowledge the contributions which the gentleman from California (Mr. GEORGE MILLER) has made to HSIs over the years. It is encouraging to see bipartisan support for these educational institutions of higher learning.

I was very pleased to hear the gentleman from California (Mr. McKEON) talk about the opportunity that I had in 1997–1998 during reauthorization of higher education to raise the level of awareness of the Nation for the work that the Hispanic-serving institutions are making in helping so many Latino students go to college and be able to raise the level of education attainment for this community. This bipartisan support will become increasingly important as we reauthorize the Higher Education Act in 2003.

In the last decade we have made significant progress in narrowing the gap of achievement between minority students and Anglo-Saxon students. We must continue to close that gap for Hispanics so that they, too, are successful in their higher education pursuits. Why is this important? It is important because Latinos are the fastest-growing population in the country. If Latinos are to fully contribute to society and this great Nation, then Hispanic students must be given access to educational opportunities. While the increase in Hispanics pursuing a postsecondary education is significant, it is still not keeping pace with the Hispanic American presence in the general population, nor with the pool of Latino high school graduates.

For my colleagues who are not familiar with HSIs, they are defined as institutions of higher learning with a Hispanic student enrollment of 25 percent or greater. A percentage must be low-income and first-generation students. These college institutions are often located in low tax-base communities and too often are grossly underfunded. Until 1996, there were 200 eligible HSIs competing for only $10 million for the whole country. Needless to say, only a small percentage received funding.

During the 1997–1998 reauthorization of the Higher Education Act, Congress included for the first time language that addressed these woefully neglected institutions. Since then, funding has significantly increased. Yes, as the gentleman from California (Mr. McKEON) said earlier, it has now gotten up to $86 million. We certainly hope that the leadership will consider some amount greater than 3 or 4 percent, but instead possibly looking at a 25 percent increase to be able to keep up with the need that we have for HSIs.

Yet despite these increases, it has been difficult to further develop these institutions because funding remains problematic at both the State and Federal levels. This neglect is a national crisis because HSIs produce most of the Nation's Hispanic college graduates receiving associate's, bachelor's, master's and doctoral degrees. Almost two-thirds of the 1.5 million Hispanic students in higher education are enrolled in these HSIs. These colleges offer a real future to those who successfully complete their high school requirements.

The majority of HSIs are found in California, Arizona, Florida, Puerto Rico, New York and Illinois. There are also institutions in Washington State and New Jersey. Due to the projected growth of the Hispanic population nationwide, the number of HSIs are expected to increase significantly. There are currently 100 additional institutions on the verge of being declared HSIs.

In closing, today we are honoring and recognizing the tremendous positive contributions that HSIs are making in training the next generation of Americans. However, we need to do more than commend HSIs. We need to give them the resources they need to continue their work. I strongly urge all my colleagues to support House Resolution 561.

Madam Speaker, I reserve the balance of my time.

Mr. ISAKSON. Madam Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio (Mr. BOEHNER), chairman of the committee.

Mr. BOEHNER. Madam Speaker, I thank the gentleman from Georgia for yielding me this time. I want to thank and congratulate the gentleman from California (Mr. McKEON), chairman of the Subcommittee on 21st Century Competitiveness, for introducing this important resolution, and I appreciate his efforts to recognize the importance of Hispanic-serving institutions.

Let me also congratulate the gentleman from Texas (Mr. HINOJOSA) for his work in the last reauthorization and his continued commitment to helping these very important institutions.

Hispanic-serving institutions, or HSIs as we like to call them, have played an important role in educating America's students. HSIs are defined as those institutions with Hispanic enrollments of at least 25 percent, with 50 percent of those students being low-income. As we all know, Hispanics are one of the fastest growing populations in the United States, and we need to reaffirm our commitment to those institutions serving this vital population.

I am proud of the efforts put forward by this Congress and by this administration to help meet the needs of HSIs. In fiscal year 2002, we provided $86 million to support these institutions, and President Bush has increased that commitment again this fiscal year.

I applaud the efforts of the HSIs in the country for their commitment to academic excellence and to serving low-income and disadvantaged students. For many, without the commitment of institutions such as these, achieving a postsecondary education would be all but impossible. The work done by HSIs and their dedicated faculty and staff, I think, are critical to the success of the country as a whole. As the Committee on Education and the Workforce moves forward with the reauthorization of the Higher Education Act next year, we will do all we can to continue to support these institutions and the academic excellence they provide to their students.

I urge my colleagues to support the resolution today. It recognizes and honors the important work that Hispanic-serving institutions are doing in this country as we look forward to helping students from all walks of life learn and prepare to pursue the American dream.

Mr. HINOJOSA. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. BACA), a good friend and important member of the Hispanic Caucus.

Mr. BACA. Madam Speaker, first of all I would like to commend the gentleman from California (Mr. McKEON) and the gentleman from Texas (Mr. HINOJOSA) for bringing this resolution before us, which I strongly support, H. Res. 561, recognizing the contributions of Hispanic-serving institutions. Hispanic-serving institutions are located in fast-growing Hispanic communities. As we look at the number of Hispanics and growth within our communities, Hispanic-serving institutions continue to provide services to our communities. They are reaching out not only to low-income people, but are providing an opportunity to many individuals that otherwise would not have an opportunity to go to a State college or university to pursue their dreams and fulfill those dreams to become productive citizens in our communities.

It is the Hispanic-serving institutions within our communities that are now reaching out and providing opportunities not only in academics, but opportunities in careers and the potential to fulfill the goals for many of these students who will end up being our mayors, our city council members, our Members of Congress, and members of our communities who are contributing.

Recent studies by the Department of Education shows that the number of Hispanics are growing, and enrollment is increasing within our Hispanic communities. It is important that we continue to fund Hispanic-serving institutions to make sure that no child is left behind, that no student is left behind, and that each student has an opportunity to be all that he or she wants to be. This can only happen if we continue to provide the funding to these important institutions that are reaching out and giving an opportunity to many kids that do not have one.

I commend the Hispanic-serving institutions in providing this important vehicle and an opportunity such as those that I have in my district. I have two community colleges, San Bernardino Valley College and Cal State San Bernardino, with the possibility of UC-Riverside being another Hispanic-serving institution. These are a few of the many that we are going to see in the future, but it is our responsibility to make sure that they have the funds to provide for books, professors, laboratories, curriculum and other services that are rapidly growing within the Hispanic population to make sure that these students have the needs and the tools to perform in school. Hispanic-serving institutions provide that vehicle.

I want to commend our colleagues for bringing this resolution forward. I encourage the administration to continue to support the growth that we have.

Mr. ISAKSON. Madam Speaker, I reserve the balance of my time.

Mr. HINOJOSA. Madam Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Madam Speaker, I rise today in support of H.R. 561, recognizing the contributions of Hispanic-serving institutions. It is important that Congress credit the institutions' commitment to academic excellence through high-quality education. These institutions have worked with students from low-income and disadvantaged backgrounds to successfully help them achieve their academic ambitions and continue to strive for loftier goals upon graduation. Hispanic students are at greater risk of not enrolling or graduating from college. This disparity continues to increase. Without the continued efforts of Hispanic-serving institutions towards recruitment and retention in postsecondary schools, these students would have missed the opportunity to contribute their knowledge and insight to our evolving technological work force.

In my district, 10 Hispanic-serving institutions reach out to students throughout rural northern New Mexico. They present students with opportunities for higher education through universities, community colleges, vocational and technical institutes in a traditional and/or long-distance learning setting. The degree and certificate programs give students the tools they need to move beyond their history of disadvantages and towards a future of successful endeavors.

I urge my colleagues to support Hispanic-serving institutions and recognize the valuable academic support these centers have given to the recruitment and retention of our Nation's youngest and fastest-growing population.

Mr. HINOJOSA. Madam Speaker, I am very pleased to yield 3 minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Madam Speaker, I would like to thank the gentleman from Texas for working so hard on this issue of Hispanic-serving institutions. Obviously I am a proud cosponsor of House Resolution 561, which recognizes the contributions of Hispanic-serving institutions.

As a Hispanic, it might be a little different than what most people realize is going on in our Nation. First of all, the youngest population in the United States, the largest group of youngsters is the Hispanic population. In fact, over 50 percent of the Hispanic population in the Nation is under 18 years of age. We also make more and more of the work force every single day. The projection into the future will be that the workers of this country will be a large group of Hispanic people. So we need to educate them.

We have seen the graduation rates be very low for Hispanics. In fact, I would venture to say that unofficially probably about 50 percent of Hispanic students do not graduate from high school. Why is that? Because if someone goes and gets a job at McDonald's before they graduate from high school, he is not considered a dropout. He is considered an employed person. But when you take a look at the population of Hispanics, it is a very high ratio. So we are not only trying to increase the number of Hispanics who graduate from the high school level, but also to prepare them well so that they can go on to universities, community colleges, et cetera.

Our Hispanic-serving institutions work very well in that arena. They work with the middle and high schools in the area to help to ensure that the students are taking the right classes, the building blocks they need to get into the university. And then they welcome them into the university, and they retain them.

One of the biggest problems the Hispanic population has is that we drop out of college, so it is important to acknowledge the contribution to this Nation, to America, that the Hispanic-serving institutions are doing. I would like to in particular acknowledge the two Hispanic-serving institutions that I have in Orange County in my area. Santa Ana College ranks 30th among the top 100 associate's degree producers in the Nation, and it is the second highest producer of minority graduates in California.

□ 1445

Also, Cal State Fullerton, which also does extensive outreach to ensure that our Hispanic students are getting to college, are learning in college, and are graduating from college so that they can enter the workforce.

Mr. HINOJOSA. Madam Speaker, I yield myself the balance of the time.

Madam Speaker, I wish to say that this resolution is recognizing over 200 HSIs that are making a great contribution towards raising the level of education attainment for thousands and thousands of minority students. I want to say that on a personal note, in my congressional district I have four colleges and universities with this HSI designation. The first one, the University of Texas Pan American, with over 14,000 students and how, in these last 5 years, we have seen a tremendous increase of students now enrolled at that university.

The Texas A&M Kingsville, another fine university with over 5,000 students also issuing lots of degrees in engineering and Ph.D.s in both education and engineering and other majors. Also, the South Texas Community College in the Rio Grande Valley of south Texas with an enrollment of over 13,000 students of which 95 percent are Hispanic. They are doing a wonderful job. Within only 8 years of having been founded, I can see the difference that it is making in our region of the country. The fourth one is the Coastal Bend Community College, with more than 5,000 students, in the center part of my district. Again, they are raising those opportunities and the hope for so many young men and women.

So again, it is an honor for us to be able to speak to this resolution and to be working on a bipartisan manner with our friends on the other side of the aisle. We are very appreciative of the support that is being given by all of our colleagues, and I urge that they approve this wonderful resolution.

Madam Speaker, I yield back the balance of my time.

Mr. ISAKSON. Madam Speaker, I yield myself such time as I may consume.

I am very pleased to commend this resolution to the House and to commend the gentleman from California (Mr. MCKEON), the chairman of the subcommittee, who took the initiative during Hispanic Heritage Month in America to introduce this resolution to commend Hispanic-serving institutions who are providing postsecondary education to the growing number of Hispanic American students. I want to also acknowledge the statements of the gentlewoman from California (Ms. SÁNCHEZ).

Many of the Hispanic American children in school today, elementary and high school in America, came to America or were born in America to parents whose jobs were on the low end, many times, of the employment spectrum. And to raise the opportunity for a postsecondary education by having available institutions like these to provide Hispanic American children with a higher education will ensure a richer life for them and for their children to come.

Madam Speaker, I commend this resolution to the body. I thank the gentleman from Texas (Mr. HINOJOSA) for his leadership. He is a tireless worker on behalf of the Hispanic American community.

Ms. NAPOLITANO. Madam Speaker, it is with great pleasure that I rise today in support of the resolution to honor the contributions of Hispanic-Serving Institutions (HSIs) to our nation. The 203 Hispanic-Serving Institutions throughout the country comprise two-thirds of the 1.5 million Hispanic students in postsecondary programs. Without these dedicated HSIs, many Hispanic students would not have the opportunity to go to college and realize their full academic and professional potential.

There are two HSIs in my district—Rio Hondo College and Cerritos College—and I have personally seen the impact these schools have on young Latinos in my community. Rio Hondo College has a wide variety of course offerings in fields including math, natural science, social science, humanities, communications and the arts. Rio Hondo College also offers pre-professional courses in fields such as nursing, psychology, education, law enforcement, fire-fighting and international trade. Cerritos College also offers courses in a number of fields, including health occupations, social sciences, technology training and liberal arts. Cerritos College is also providing Ford Motor Company Foundation mechanic training. Through a Department of Labor grant, Cerritos College also provides high-tech, high-numeric engineering training to fill the gap left by retiring workers.

Schools like these reach out to the Hispanic population and provide them with the opportunities and support they need. In addition to helping students continue their education, HSIs help current workers update their skills and help older as well as non-traditional students prepare to re-enter the workforce.

Despite the success of HSIs, Hispanics still suffer the lowest high school and college completion rates of any racial or ethnic group in our country. The high school dropout rate among Hispanics remains over 40 percent, and in some areas is as high as 70 percent. These statistics are very troubling. We must provide our Latino youth with high quality education to ensure that they are prepared to enter the workforce, become productive and involved citizens, and lead the next generation of Hispanics in the U.S.

It is clear that more work is needed, and we must build upon the achievements of our Hispanic-Serving Institutions and provide them with the funding they need to continue their valuable task of educating the Latino population in the U.S. This is not only good for Latinos, but will benefit our entire economy. More education and training leads to better jobs, and the more money Latinos make, the more they can spend and put back into our economy. We are taking an important step today by honoring HSIs and recognizing their importance to our nation. I look forward to working with my colleagues as we continue to help HSIs in their excellent work.

Mr. RODRIGUEZ. Madam Speaker, I rise today to recognize the contributions of Hispanic Serving Institutions (HSI's). An HSI is defined as an institution that has at least 25 percent full time Hispanic enrollment, and of the Hispanic student enrollment, at least 50 percent are low income. There are over 200 HSI's in the United States, and eight in my 28th Congressional District in Texas. As a former educator, I understand the importance of a quality education—both to the success of the individual student, and ultimately to the success of our country. It should be clear that in order for America to maintain and build upon our global competitiveness we must have a capable and technologically advanced workforce. Studies show that by the year 2008, 60 percent of all new jobs will require skills that are held by just 20 percent of the current workforce.

To meet this goal, we must ensure quality instruction and resources at our institutions of higher learning, especially in the areas of science and mathematics. Even if students do not pursue a career in these fields, they still will need basic knowledge in science and technology to be successful in our competitive work force. As a country we cannot afford to have students complete high school and pursue a higher education scientifically and technologically illiterate.

According to a study by the Department of Education the number of Hispanic Americans enrolled in college is growing twice as quickly as overall enrollment at all colleges. With the beginning of the 21st Century, a larger proportion of the U.S. population will be composed of African Americans, Hispanics, and Native Americans. As a group, these populations have traditionally been underrepresented in the science and engineering disciplines compared to their proportion of the total population.

A recent report produced by the National Science Foundation (NSF) reveals that African Americans, Hispanics and Native Americans as a whole comprise 23 percent of the population and earn, as a whole, 14.7 percent of the bachelor degrees, 8.2 percent of the masters degrees, and 5.5 percent of the doctorate degrees in science and engineering.

There are few within the scientific community who argue about the effect of demographics on the future science and engineering workforce. These fields have been the primary domain of white males. This can and must change. African Americans, Hispanics, and Native Americans, with Hispanics, being the fastest-growing, will comprise a more significant segment of the workforce and will need to fill more positions within the scientific community.

Hispanics are improving their academic achievement levels. They have increased their share of earned bachelors degrees from 4 percent in 1990 to 6.5 percent in 1998. The proportion of masters degrees received by Hispanics increased from 2.2 percent in 1990 to 3.5 percent in 1998. In doctoral candidates our progress has slowed in 1990 at 2 percent in 1998 at 2.8 percent. We must continue to move forward and in order to succeed it will take a national commitment to education. The success illustrated by these increases reflect the hard work of HSI's and other institutions in recruiting, and retaining Hispanic students.

Today I congratulate all HSI's, especially those in San Antonio: Our Lady of the Lake University Palo Alto College, San Antonio College, St. Mary's University, St. Phillips College, The University of Texas at San Antonio, The University of Texas Health Science Center, and The University of the Incarnate Word, for all their wonderful contributions. HSI's recognize how indispensable the contributions of Hispanics will be in the future, as they continue on their path of growth and dominance within our workforce. I commend HSI's for their many contributions to the academic excellence within the Hispanic community and society at large. Further, I encourage all the presidents, faculty and staff of our nation's HSI's to continue their efforts in recruiting, retaining and graduating students who might otherwise not purse a post-secondary education. Our country's future is in your hands.

Mr. REYES. Madam Speaker, I am proud to be an original co-sponsor of House Resolution 561, Recognizing the Contributions of Hispanic-Serving Institutions, and I commend my colleague and fellow Texan, Congressman RUBÉN HINOJOSA, for authoring it. It is most fitting that during Hispanic Heritage Month we take a moment to reflect on the tremendous contributions made to the Latino community and the nation as a whole by Hispanic-Serving Institutions (HSIs).

Over 200 colleges and universities across the country are considered HSIs as defined by the Higher Education Act. Together, these HSIs serve over 1.5 million Latino students, about forty percent of all Latinos in higher education. Thousands of future teachers, engineers, businessmen and women, lawyers, doctors, authors and artists are currently conducting their undergraduate studies at HSIs, and many more are yet to come. Hispanics form the fastest-growing sub-population of students in the country, making the continued support of HSIs all the more important.

Since coming to Congress, I have worked hard to increase the resources available to HSIs. Working with Congressman HINOJOSA, who chairs the Congressional Hispanic Caucus' Education Task Force, we have increased Title V funding for the infrastructure and faculty development of HSIs from $12 million in 1998 to $86 million this year.

We are working to see that number increase again in the fiscal year 2003 appropriations, currently stalled in the House. What a fine tribute to HSIs it would be if we could move the Labor-HHS-Education appropriations bill through the House and include a hefty increase in HSI funding, and funding for all Hispanic-serving education programs because if we fail to help children succeed in elementary and secondary school, they will never make it an HSI or any other institution of higher education.

As Chair of the Congressional Hispanic Caucus, I am pleased to recognize the role HSIs play in the advancement of the Latino community and urge all my colleagues to show their support for HSIs today and in the coming months and years.

Mr. ORTIZ. Madam Speaker, I rise in support of H. Res. 561 Recognizing the Contributions of Hispanic Serving Institutions. Hispanic Serving Institutions are an important link in our institutions of higher learning.

It is the education provided by our colleges and universities upon which the future of our labor force and our economy depend. Hispanic Serving Institutions are the keyhole through which average students in Hispanic enclaves around the nation can unlock an education to prepare them for a career of professional work.

Here are some of the successful Hispanic Serving institutions in my congressional district: Coastal Bend College, Del Mar College, South Texas Community College, Texas A&M-Corpus Christi, Texas A&M-Kingsville, Texas State Technical College, and the University of Texas at Brownsville and Texas Southmost College. I want to offer my personal thanks to those institutions, and to their presidents and faculty, for the education that so many Hispanics have achieved at these great schools, these pillars of our economy.

Hispanic Serving Institutions are an important tool in developing Hispanic talent in communities, which is an even more important tool in local economic development and prosperity. By focusing on institutions of higher education with a population of at least 25 percent Hispanic students, we have focused federal efforts on schools that can make the most difference in Hispanic communities.

By further targeting schools with a high enrollment of disadvantaged students, and low general expenditures—and where 50 percent of Hispanic students are from low-income families—we are making maximum effort where the need is the greatest for young Hispanics trying to get an education.

Madam Speaker, Hispanic Heritage Month is an appropriate time for Congress to formally show our appreciation for the significance of Hispanic-serving institutions, and to commend these higher-education institutions for their commitment to academic excellence. Title V of the Higher Education Act strengthened the academic quality and financial stability of Hispanic-serving institutions and insured their longevity.

I join my colleagues in supporting this resolution, which urges the president to issue a proclamation calling on the American people and interested groups to demonstrate support for Hispanic educational institutions during National Hispanic Heritage Month.

We should be grateful for the people who created and nurtured this program; we are a stronger society for it. I urge the presidents and faculty of these institutions to continue recruiting, retaining and graduating students who might not otherwise pursue higher education.

Mr. SERRANO. Madam Speaker, it with great pride that I rise to recognize the extensive contributions of Hispanic-Serving Institutions. The opportunity to go to college is one that many Americans take for granted because it has become an accepted norm for many families in our society. For too many Hispanic families, however, it is not the norm and for many it is even seen as an unattainable reality. The increase and development of HSIs is significantly changing that, however. At this very moment, nearly half a million Hispanic youth are studying at these 219 exceptional institutions and realizing the dreams of their grandparents. These young people will become critical actors in many parts of our society and will hopefully lead and inspire the next generation of Hispanic-Americans, so that going to college will become a norm, and not a rare privilege in our community. With steadfast support and dedication to the proliferation of HSIs, Hispanic parents attending their son's or daughter's college graduation will become a customary occurrence.

An education revolution is necessary in this country for Hispanic and African-American youth to catch up to their peers. The key to increasing college enrollment for these communities lies in the reformation of elementary and secondary schools, where overcrowded classrooms, under-trained educators, limited resources, and social risk factors make academic success a near impossibility. However, along with working to improve these fundamental aspects of education, we must support an celebrate the accomplishments of HSIs, which allow students of exceptional aptitude the opportunity to succeed, no matter what barriers they may have encountered.

Madam Speaker, when an institution is identified as an HSI, this means that this school is responsible for educating a large number of Hispanic students who come from economically adverse backgrounds. These schools successfully educate these young people and prepare them for fruitful careers in a myriad of professions. This is important work—crucial work—and is worthy of unfailing support and commemoration. HSIs have helped to realize the dreams of generations and empower the entire Hispanic community.

Mr. ISAKSON. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from California (Mr. MCKEON) that the House suspend the rules and agree to the resolution, H. Res. 561.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING GRATITUDE FOR FOREIGN GUEST LABORERS, KNOWN AS BRACEROS, WHO WORKED IN THE UNITED STATES FROM 1942 TO 1964

Mr. BOEHNER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 522) expressing gratitude for the foreign guest laborers, known as Braceros, who worked in the United States during the period from 1942 to 1964.

The Clerk read as follows:

Whereas because of a labor shortage resulting from the entry of the United States into World War II, the Federal Government issued contracts to Mexican, Canadian, Jamaican, and Puerto Rican citizens willing to cross into the United States to accept temporary employment;

Whereas hundreds of thousands of these men and women, known as Braceros, labored in the Nation's agricultural, transportation, and other industries during the period from 1942 to 1964;

Whereas the first 1,500 Braceros arrived in California from Mexico City, Mexico, on September 29, 1942, to work in the sugar beet fields until December 24 of that year;

Whereas thousands of Braceros labored on the Nation's railroads, maintaining and expanding critical infrastructure for the transportation of food, equipment, and other valuable supplies during and after World War II;

Whereas the heroic work effort of the Braceros has been recognized by many State and local governments around the Nation, but has not been recognized by the Federal Government;

Whereas the Nation and the world owe a debt of gratitude for the contribution the Braceros made to the war effort that defeated fascism in Europe and Asia;

Whereas more than 1,000,000 Braceros and their families or descendants are still United States residents or citizens; and

Whereas September 29, 2002, is the 60th anniversary of the first arrival of Bracero guest workers in the United States: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses gratitude for the foreign guest laborers, known as Braceros, who worked in the United States during the period from 1942 to 1964; and

(2) recognizes the Braceros for their contributions to the war effort and for their hard work, which helped to keep the United States strong and prosperous during this challenging period.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Texas (Mr. HINOJOSA) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 522.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of this resolution sponsored by my friend and colleague, the gentleman from California (Mr. OSE), which recognizes and honors the foreign guest laborers who worked here in the United States during a 22-year period from 1942 to 1964.

As a result of severe wartime shortages, the United States entered into an agreement with Mexico for the legal employment of agricultural workers from Mexico. During this time, between 4 and 5 million guest workers known as "braceros," were employed in the United States. They were an important source of labor during this period, helping to alleviate shortages of workers, particularly in the agricultural industry.

Thousands of braceros also labored on our Nation's railroads, maintaining and expanding critical infrastructure that provided transportation for food and supplies during and after World War II.

This past Sunday marked the 60th anniversary of the arrival of the first of these guest workers in the United States. They constituted an important part of our country's workforce during World War II, when labor became a valuable commodity, especially on farms. Today, many of these workers and their families or descendants are residents of the United States.

Madam Speaker, I urge my colleagues today to join me in supporting this resolution expressing gratitude for the braceros and acknowledging their hard work and important contribution to our economy during a most challenging period in our Nation's history.

Madam Speaker, I reserve the balance of my time.

Mr. HINOJOSA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank my good friend, the gentleman from Ohio

(Mr. BOEHNER), the chairman of the committee, as well as my good friends, the gentleman from California (Mr. OSE) and the gentleman from Illinois (Mr. GUTIERREZ), for their work in bringing H.R. 522 to the floor today.

During World War II, America experienced an enormous labor shortage. The U.S. asked the Mexican Government to send guest workers to help relieve the shortage, particularly in the agricultural regions of California and Texas, as well as Florida. Between 1942 and the 1960s, approximately 5 million guest workers called braceros came and worked in America's fields and on our railroads. They helped us grow the food we needed to feed American soldiers. By maintaining the railroads, they kept our guns and tanks and military equipment moving to our ports for shipment to soldiers overseas.

When we asked them to come, they came and did the back-breaking manual labor necessary to get the job done. The braceros asked for very little in return. They only wanted a fair wage for their work. As government contract workers, they were required to have 10 percent of their wages withheld. This money was to be placed in savings accounts and paid to the workers upon their return to Mexico.

Unfortunately, many braceros fell prey to abusive employers and the negligence of the U.S. Government and the Mexican Government. This money, estimated between 60 and $70 million, was never repaid; and there is no clear accounting of where it went. A class action suit has been filed on their behalf to finally bring them redress, relief from distress.

Despite the way they were treated, these braceros valued their contributions to the United States. Many have kept their identification cards as a proud remembrance of their service to this country. Many ultimately settled here and have raised families.

More than 1 million braceros and their descendants are now permanent residents, or they have applied for and received American citizenship. Sunday, September 29, 2002 was the 60th anniversary of the day the first braceros arrived in this country. It is fitting that today we take this time to finally say "thank you" to these workers who came and helped us in our time of need.

Madam Speaker, I urge my colleagues to support this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. BOEHNER. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. OSE), the sponsor of this resolution.

Mr. OSE. Madam Speaker, I rise today to honor a group of individuals known as the braceros for their incredible contributions to our great Nation. As a result of the bombing of Pearl Harbor on December 7, 1941, the United States formally entered the Second World War. This was a fight for freedom, both foreign and domestic, to protect our allies and our own Nation, and to end a war we neither started nor wanted. This part of the history lesson is taught in virtually every school in our Nation. It is well known by our students, far and wide. However, one particular group is often left out of the history books.

World War II forced our Nation to shift our economy. Throughout the war, upwards of 13 million men and women served in our Nation, roughly one-tenth of the total population. While our service people were fighting across the oceans, millions more were working constant shifts in the factories to support the effort. This resulted in a severe labor shortage in concentrated areas, such as agriculture.

In an effort to minimize this loss of labor, the United States and our good friend to the south, Mexico, entered into a bilateral agreement in August of 1942 to provide contract labor. These guest workers known as braceros, literally meaning "strong arms," were recruited and hired to work in the fields and on the railroads across the United States.

The first 1,500 braceros to enter the United States arrived in California to work in the sugar beet fields outside of Stockton on September 29, 1942, where they worked until December 24th of that same year. I would like to point out, as the gentleman from Texas has, my good friend, that this past Sunday marked the 60th anniversary of the first braceros in the United States.

Over the course of the next 22 years, as many as 5 million braceros participated in the program supporting our critical infrastructure. It was through their hard work that our Nation was able to effectively sustain our agricultural economy, as well as expand and maintain our railroads, resulting in a safe, reliable, and effective means of transporting food, medicine, troops, and other supplies for the war.

In 1964, the last braceros fulfilled their contracts and the program came to an end. However, their contributions last even today.

The United States did suffer a severe labor shortage as a result of World War II, but thanks to the efforts and hard work of millions of braceros from our good neighbor to the south, our Nation survived and today prospers. It is time we honor their contributions during this time of crisis and recognize the braceros for their place in American history. I rise today to say "thank you" to those who lent a hand.

Mr. HINOJOSA. Madam Speaker, I yield myself such time as I may consume.

I was very pleased to hear my friend, the gentleman from California (Mr. OSE), talk about the need for the braceros who came to the United States to help us, who had strong arms, as he said. They also had strong backs. They worked very hard, just like our friends from other countries who came at the turn of the century from the European countries that included the Irish and included the Polish and Czechoslovakians and Germans and many others who came to help us build our country.

I am very pleased that I was invited to come and speak on behalf of this resolution, H.R. 522, because I come from Mexican immigrants, Mexican immigrant parents who came in 1910 as children.

□ 1500

My father was 9 years old and had just lost his father during the beginning of the Mexican Revolution of 1910, and my mother came at the age of 5 with her parents from Chihuahua, Mexico, so I can relate to many of the braceros who came to work in agricultural fields and other jobs where we needed them in the United States. I have seen how this kaleidoscope of people from different countries has helped us build a country that we enjoy today.

Madam Speaker, I yield 6 minutes to our good friend, the gentleman from California (Mr. GEORGE MILLER), the ranking member of the subcommittee.

Mr. GEORGE MILLER of California. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I rise in support of this resolution to honor the foreign guest workers who worked in the United States from 1942 to 1964. Those of us who represent California and Texas and other areas along the border can clearly remember the hard work performed by the braceros.

When I was a young person going to school, I worked alongside of many of the braceros in what is now my congressional district in the fields there and in the orchards, with people who worked very, very hard, toiled at great length, and provided badly needed labor in our agricultural sector of the California economy.

As many have pointed out, they originally came here in World War II so we could free many of our citizens to go off and fight in the Second World War and they could continue to provide work here on the home front. This resolution honors those individuals, and it honors their dignity, and it honors the contribution that they have given to this country.

What we should not honor is the conditions under which they worked, the conditions under which they were forced to live, the conditions under which they were separated from their families, the hours that they were required to toil, and the actual working conditions.

We had what became a big issue, a critical issue of the short-handled hoe that they were required to work with that led to disabilities of very young people, and in many instances permanent disabilities of their ability to work.

It was a fact that many of their children were kept from the schools of various States and this Nation, and there was very little or no sanitation for these individuals; that they were required to work constantly around pesticides that at that time were literally put on the crops without protective gear, without being able to wash up after work, without being able to protect their families and places that they lived from those very same pesticides.

I say that because I spent time in what we called the bracero camps at that time, with as many as 12 or 14 people sharing a single room, or multiple families, or families sharing space with individuals, or individuals sleeping in the trucks at night when they were not used by the farmers that they were working for.

So while we think back about the dignity of those workers and the contribution they made to this Nation, Madam Speaker, we should understand the problems that they had when they tried to get fair wages; when, in many instances, they worked and were not paid; when, in many instances, they were worked, and unjust withholding was taken from their paycheck.

Yet out of this incredibly disgraceful treatment of these individuals, we saw the growth and the beginning of a very powerful movement that gave additional dignity and power to these men and women, led by Cesar Chavez and Dolores Huerta of the United Farm Workers Union, born in the 1960s, to demand decent living and working conditions. That movement brought to the attention of consumers across this Nation how the inexpensive food, fruits and vegetables they were eating were subsidized by the poor working conditions and the poor wages of these individuals, which led to a nationwide boycott of the grape industry that was one of the most successful in the history of this country. That continues today to vigorously pursue the rights of these individuals to improve their working conditions.

Just this week, Governor Gray Davis signed into legislation a bill that requires mandatory mediation of labor disputes in the agricultural industry in our State. Why? Because many of these workers had a right to a union 23 years ago, and they still have not gotten the union. They won the elections, they won them all. They have not been recognized. Now we are saying if, after 3 years, you cannot get it, we will have mandatory mediation.

He also signed legislation to try to get back the wages that were withheld from them so they could pay for their trip back to Mexico, but they were never returned to them, the 10 percent that was withheld. I wish this House would address that same issue. I wish this House would address agricultural labor. I wish this House would address the restitution to these people.

So as we speak here today and we talk about their dignity and their contribution, we have to recognize that many of these same conditions exist today. We have to recognize that this House, the Republican leadership, refuses to bring to the floor a resolution honoring Dolores Huerta, one of the most powerful labor leaders in the country, one of the most importantly symbolic labor leaders in this country with respect to females working in the agricultural movement and working in so many endeavors in this country; a woman who gave almost her life with the terrible illnesses, from all of her exposures in the field, this last year. Yet this House cannot summon its ability to recognize her dignity and her contribution to the American fabric and the fabric of this society.

So I join this, because these people were entitled to this recognition. But this cannot be the only agenda for people who continue to toil in our fields, for people who continue to be exploited, for people who even have less status than the braceros, people who are hired every day. They are hired on Monday, and come payday on Friday, they call the INS service rather than pay them, and the government rounds up the workers in the Napa Valley, in the Central Valley, in the Imperial Valley of California, people who today have no housing, no housing. These are people today who harvest the grapes that go into a $100 or $200 bottle of wine, and they have no housing. They sleep in the fields, in the cars, in the culverts. Those are the descendents of the braceros.

There are some who want to create a new bracero program. While we honor their dignity and contribution, let us remember before we ever contemplate a new bracero program that these people had no status in terms of their ability to have decent working conditions, decent living conditions, and decent wages. We can never recreate that situation in the United States.

I thank my colleagues on the committee for bringing this legislation to the floor. I hope the braceros and their descendants will understand what we are trying to do with this legislation, but I also would hope that they understand that the struggle continues, and I would hope that this Congress understands that the struggle continues for these people to receive economic and social justice, and dignity for their families.

Mr. HINOJOSA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I wish to associate myself with the remarks of the gentleman from California (Mr. GEORGE MILLER), because I agree with all that he says of the injustices that braceros and guest workers have had to face over the many years that they have been helping us here in the United States.

I wish to say that the story that I was telling you before I recognized the gentleman from California (Mr. GEORGE MILLER) was that my parents were Mexican immigrants. They met here in the United States as adults, married, and had 11 children. I happened to be the eighth of those 11 children. They went on to become American citizens, and my father was an entrepreneur who created a small meat processing company, and it grew to where they hired over 350 employees. Over the last 54 years, that business has been one that has been recognized here by the Department of Commerce and the Small Business Administration.

All of this is to say that many of the immigrants, from whatever country they came from, have been making great contributions. So this resolution that we are asking our colleagues to support, H.R. 522, is one that is very noble and one that we urge everyone to support.

Madam Speaker, I yield back the balance of my time.

Mr. BOEHNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me congratulate my colleague, the gentleman from California (Mr. OSE), for bringing this resolution honoring the braceros and their contribution to our country during a very difficult period.

Mr. GUTIERREZ. Madam Speaker, I am pleased to express my support for House Resolution 522. This resolution is a modest, but important, first step in recognizing and honoring the tremendous contributions of Mexican guest workers, known as braceros, to our country in a time of great need.

On September 29, 1942, sixty years ago this past Sunday, the U.S. government entered into a program that was designed to help America get through the economic challenges that accompanied World War II. Under the program, nearly 5 million workers came to the U.S. from Mexico, to carry out the backbreaking labor that kept our nation going. They filled in where labor was in short supply—especially in agriculture. Their work allowed America to carry out its war effort and to feed the country and its troops.

In the years that followed, the program was expanded to include railroad laborers and guest workers from other nations. Working under harsh conditions and living far from their families and loved ones, these guest workers filled critical jobs, bolstered wartime production, put food on our tables, and helped build our country's transportation system. Braceros represented up to twenty-five percent of farm workers in several states, providing a significant source of labor that secured our nation's global leadership in agriculture. Many of the workers ultimately settled in the United States and raised families—more than one million braceros and their descendants are now permanent residents or citizens of our nation.

Despite these significant contributions, however, braceros suffered neglect and injustice at the hands of our government, the Mexican government, and many of the contractors that employed them. Despite putting in a full day's work in the fields, despite being fully exposed to the elements and a full range of other challenges, braceros did not receive compensation for their back-breaking work in full. As many as 400,000 workers saw their paychecks reduced by ten percent, totaling an estimated $70 million.

During the first seven years of the program, the explicit policy governing the program required that each worker sacrifice ten percent of his or her salary, with the promise that it would be available to them upon their return to Mexico. These deductions disappeared and went unaccounted for. At least $70 million of it—which, with interest, may be worth as much as $500 million to a billion dollars today—was gone.

Do we know where the money went? No. However, we do know this: under the bracero program, the U.S. government acted as the employer. Workers were contracted out to various businesses—farms, for example. The U.S. government withheld ten percent of their wages. The funds were then to be transferred to Wells-Fargo bank. The bank would transfer it to the Banco de Mexico which would then (supposedly) transfer it to regional banks.

Somehwere along the way—sometime during a process which we know began on U.S. soil and may, for all we know, ended on U.S. soil, too—the money was lost or taken away. All we know for sure is one thing: the money is still owed.

In June of this year, I was pleased to introduce legislation that sought to secure relief for braceros who have long-awaited the compensation that they are due. My bill, the Bracero Justice Act of 2002, H.R. 4918, would allow people to seek resources in a venue that so often has protected the most vulnerable in our society: the federal judicial system. In short, my bill would help secure a deserving group of people their day in court and to have their case heard on the merits.

Madam Speaker, I urge my colleagues to vote in favor of H. Res. 522. This nation owes the braceros a great debt for having helped us win World War II. Let us regard this resolution as the first step on the road to justice for these former guest workers, who, despite their sacrifices and suffering, remained hard-working compatriots in the war effort. I urge my colleagues to recognize the invaluable contributions of the braceros on this sixtieth anniversary and to support this resolution.

Ms. SCHAKOWSKY. Madam Speaker, I rise today to honor the hundreds of thousands of foreign workers, or braceros, who came to this country between 1942 and the late 1960s and to urge my colleagues to vote for H. Res. 522, expressing gratitude for their work. However, for Congress to truly honor the legacy of the braceros, it must pass the Bracero Justice Act. As many as 400,000 Mexico braceros who came to the U.S. before 1949 had money withheld from their paychecks, with the promise that it would be saved on their behalf, yet it was never returned. The Bracero Justice Act would help right this wrong.

In many cases, braceros left their families in Mexico to come work for our benefit. For the most part, braceros took physically demanding jobs in agriculture and railroad construction, and worked for as little as 40 cents an hour. Many had to put up with slave-like conditions, working long hours with few or no breaks, suffering injuries, and dealing with abusive employers. Many of the bracero families were impoverished. The time to honor these workers and the sacrifices they made is long overdue.

It would be a shame if further efforts to demand fairness for braceros were dismissed. It is unacceptable that workers who came to the U.S. in response to our call for help and our need for workers now be denied a voice to fight for what has always been theirs. The money taken from the braceros' paychecks could have been extremely helpful to their families, either at the time or had it been returned to them when they returned to Mexico, as was promised. Instead, it was never seen.

Bracero workers of the past and immigrant workers today continue to contribute to the richness and diversity of this country. I am grateful for the work and sacrifices the braceros made. I will continue to work for the passage of the Bracero Justice Act. Justice and fairness have been denied these workers and their families for too long.

Mrs. NAPOLITANO. Madam Speaker, it is with great pleasure that I rise today in support of the resolution to honor our guest laborers from the Republic of Mexico, known as the Braceros, who worked here from 1942 to 1964 and assisted the United States during World War II's severe labor shortage. It is most appropriate that we honor these Braceros now, on the 60th anniversary of the arrival of the first Braceros in the U.S. Without them, this country would have been in dire straits.

At the start of the World War II, the United States needed hundreds of thousands of new workers to help with the war effort and make up for those who left their jobs to serve in the military. Men and women worked 24 hour shifts, seven days a week to maintain the war effort, all the while trying to live their normal lives. We all recognize the image of Rosie the Riveter, but few know about another key and important element of the wartime workforce—the Mexican Braceros.

In August 1942, the United States and Mexico signed a historic treaty for the purpose of recruiting and hiring Mexicans to work in agriculture and to expand and maintain U.S. railroads. These guest workers were known as the Braceros, literally meaning "strong arms". It was through their hard work that our agricultural economy was able to survive and our railroads were able to safely and effectively transport food, medicine, equipment, and soldiers for the war.

The first 1,500 Braceros in the United States arrived for work in California on September 29, 1942, where they worked in the sugar beet fields outside of Stockton until December 24 of that year. Over the next twenty years, hundreds of thousands of Braceros labored across the United States supporting our critical infrastructure. Braceros constituted up to twenty-five percent of farm workers in several states, providing a significant source of labor that secured our nation's global dominance in agriculture.

Join me as I enthusiastically support this long overdue resolution to honor the Braceros. We cannot allow such an important part of our nation's history to continue to be overlooked. Americans owe a debt of gratitude to them and their families.

Mr. RODRIGUEZ. Madam Speaker, I rise today to recognize the contributions of "Braceros," to the United States workforce. During World War II the United States suffered from a shortage of labor as young men from across the country were shipped overseas in the armed forces or took factory jobs to support the war effort. In order to compensate for the lack of workers, especially in physically demanding jobs such as agriculture and railroad construction, the United States made arrangements with Mexico, Canada, Jamaica, and Puerto Rico to welcome hundreds of thousands of guest workers a year to fill the labor gap—the birth of the Bracero.

On August 4, 1942, the United States government signed the Mexican Farm Labor Program Agreement with Mexico, the first among several agreements aimed at legalizing and controlling Mexican migrant farm workers along the southern border of the United States. Managed by several government agencies, including the Department of Agriculture, as a temporary, war-related measure to supply much-needed workers during the early years of World War II, the Bracero program continued uninterrupted until 1964. The agreement guaranteed a minimum wage of thirty cents an hour and humane treatment (in the form of adequate shelter, food, sanitation, etc.) of Mexican farm workers in the United States.

It has been estimated that in the 1950s the United States welcomed as many as 300,000 Mexican workers annually. By the end of the 1950s, Texas and other border states were receving large numbers of Braceros. Mexican agricultural workers, often considered an unlimited supply of cheap labor, have unfortunately often been the target of repressive work and living conditions and have been forced to seek assistance from a host of economic, political, social and humanitarian interests. Regrettably, poor wages, lack of educational opportunities for their children, malnutrition, poor sanitation, and discrimination have often colored these workers' exposure to the United States. These inexcusable conditions did not discourge or slow the flow of workers, but rather raised consciousness and unity amongst these exploited class of workers—leading to the creation of several mutual aid societies and the facility of labor organizing. Between 1942 and 1964 more than 4.5 million Braceros entered the United States. Most remained to contribute their labor to the domestic economy.

September 29, 2002, marks the 60th anniversary of the first arrival of Bracero guest workers into the United States. Without the many and great contributions of Braceros, the foundation upon which our great country has been built would not exist. I congratulate the more than 1,000,000 Braceros and their families or descendants who still live in the United States for their relentless work ethic, pride, strength and endurance. I congratulate you today not only for the historic contributions you have made to our workforce, but also for your commitment to seek justice and equity in your homes and workplace. You have been relentless in your pursuit of enhanced opportunity for all workers and the improvement of opportunities available to you and your families through political and legal advocacy.

Mr. REYES. Madam Speaker, I am proud to support this resolution that recognizes the countless contributions of thousands of hardworking immigrants who came to the U.S. more than fifty years ago to work in our nation as guest workers. They worked in our farms and railroads and produced with their labor the many things we needed at the time.

They gave part of their lives to the United States and followed the rules as they were told.

It is only fitting that today this House recognize their many contributions.

As Chair of the Congressional Hispanic Caucus, just like I am proud to support this recognition, I am also disappointed that this House has been unable to respond to the plight of the very same people we honor today by enacting the Bracero Justice Act.

The Bracero Justice Act would go beyond the recognition that we support today and allow thousands of Braceros to be heard in court and make their case, and potentially receive money owed to them.

Braceros came to work for America. They fulfilled their part of the agreement that brought them here, but apparently money that had been withheld from their paychecks never made it back to their hands as was promised. And now we are looking for that lost money and we want the courts to look into the allegations of these hard-working individuals and see that justice is done.

It is only fair that if money was withheld and never made it back to the people who earned it we do the right thing for the Braceros and their families, and give them the opportunity to get it back.

I strongly support this symbolic resolution and express my gratitude for all the contributions Braceros made to our country. I also call on this Congress to take a look at the Bracero Justice Act, to do the right thing and to move to help thousands of Braceros and their families.

Mr. FILNER. Madam Speaker, I rise today to convey my support for H. Res. 522. A great debt is owed to the workers who came to our country during World War II, known as Braceros, when we were experiencing a labor shortage. We needed these workers in order to keep our agricultural and transportation sectors going. Indeed, we needed them in order to keep our entire country going. Without the work of these men and women on the railroads, we could not have transported the food and supplies needed at home and for the war effort. Without their labor in the fields, we would not have had an ample food supply here at home or for our soldiers. While long over due, this resolution is a token of our country's gratitude for the contributions these men and women made to our country. I am proud to support this resolution.

Ms. ROYBAL-ALLARD. Madam Speaker, I rise today in support of House Resolution 522 that celebrates the contributions that braceros have made to America.

From 1942 to 1950, nearly 400,000 Mexican guest workers, known as braceros, were recruited to work in the United States in response to the severe labor shortage during World War II.

They toiled in our fields and on our railroads 10 to 12 hours a day.

Eager to make better lives for themselves and their families, these tireless workers helped to keep the United States stable and strong during a sad chapter in our nation's history.

The contributions of braceros to our country and its economy were immeasurable.

It is for that reason that we must also pass the Bracero Justice Act. For in spite of the hard work performed by the braceros, many never received full compensation for their work.

In fact, an estimated $60 million was withheld from their paychecks. Sixty years later thousands are still waiting to receive wages they earned.

Men like 75-year-old Mr. Andres Islas, a naturalized U.S. citizen, from my district, who performed backbreaking work in the agriculture fields of California in the 1940s.

Mr. Islas, the father of Bell councilwoman Theresa Jacobo, recalls being told that the U.S. government was taking a portion of his paycheck, but was never told how or where he could reclaim it.

He and all the braceros of that time have a right to be paid for their hard work during this time of crisis in our nation's history.

The Bracero Justice Act, currently before the House of Representatives, will help this to happen by requiring the U.S. and Mexican governments to give these men their day in court.

Justice is long overdue for Mr. Islas, his family, and the other braceros of that era, who sadly are passing away before this issue is resolved.

This resolution correctly praises the braceros for their contributions and should be passed, but there is still an injustice that needs rectification.

I urge the House leadership to bring the Bracero Justice Act to the floor for a vote and send a clear message that the U.S. is fair, just, and appreciative of those who toil on behalf of our country.

Mr FARR of California. Madam Speaker, I strongly support H. Res. 522, a long overdue resolution to thank the Braceros for their contributions to the war effort.

As the Representative of California's Central Coast, I have the distinct honor of representing the Salad Bowl of the Country, the Salinas Valley, known world wide for its lettuce and strawberry fields.

The agriculture industry in the Salinas Valley was memorialized in John Steinbeck's novel, "Grapes of Wrath." I am proud to state that the Bracero workforce contributed significantly to the economic development of the Salinas Valley and the surrounding region.

Their hard labor then became the foundation for a thriving $2 billion fresh produce industry today.

At the onset of WWII, many Americans left their civilian jobs to join the war effort. This left labor shortages in many sectors of the national economy, particularly in agriculture and transportation. The U.S. government looked to Mexico as a ready source to fill these labor needs.

For the first time in our relationship with Mexico, the U.S. need for cooperation gave the Mexican government unprecedented bargaining power. The Mexican government insisted on a bilateral treaty to goven any large scale recruitment and movement of Mexican workers to the U.S.

In 1942, a treaty between the two governments was signed that allowed for the recruitment and employment of agricultural workers and contemplated that further agreements might be negotiated for recruitment of workers in other industries. The agreement regarding railroad workers followed shortly thereafter. This program became known as The Bracero Program.

These agreements covered a number of topics regarding recruitment, transport, salary and other terms and conditions of employment. The treaty contained a requirement that 10% of the salary of each worker was to be deducted by his employer and transmitted to the U.S. government for transfer to banks in Mexico. This 10% deduction was to be used for creation of a savings fund that the bracero could claim upon his return to Mexico. The savings fund for agricultural workers was to be held by Banco de Credito Rural; for railroad workers, by Banco del Ahorro National. Both banks were wholly owned by the Mexican government, and the transfers were to occur through the Banco de Mexico, the equivalent of our Federal Reserve Bank.

According to documents from that era, an estimated $35 million was transferred through these various deduction programs between 1942 and 1949. In 1949, the two governments dropped the 10% savings withholding and made several other reforms to the program. The Bracero program continued until 1964, but without the wage withholding provision.

Due to a series of problems, including maladministration of the program, delays in the sending of funds from the U.S. to Mexico, the lack of adequate information regarding how to retrieve funds, worker illiteracy, and the difficulty for workers residing in isolated rural areas in Mexico to access funds held in banks headquartered in Mexico City, a significant percentage of this money was never retrieved by the workers for whose benefit it was supposedly being held. The facts regarding the deduction and transmission of these funds have only recently come to light as a result of investigations of the savings fund program undertaken by bracero advocates in recent years. Most of these workers appear to have been unaware of the savings funds supposedly held on their behalf until recent publicity regarding this program and the filing of the lawsuit.

In consequence, many Mexican workers—some of whom made a significant contribution to the effort of democratic governments to defeat fascism in Europe and Asia, never received the full salary to which they were entitled for their work. These men are now in their 60's, 70's, 80's and 90's. Many of them are in ill health. Due to the economic crises that have plagued Mexico for the last several decades, many are poor, and without any source of income to provide even the barest of necessities.

While this resolution is a good first step, it is only that, a first step. What this body really needs to do is pass H.R. 4918, the Bracero Justice Act of 2002. That bill will provide standing to the Braceros to take their case to court, statute of limitations notwithstanding. The responsible parties in this matter have made it clear that they intend to hide behind legal technicalities to prevent these Mexican workers and their families from recouping what they lost. H.R. 4918 would ensure that the workers receive these long overdue funds.

So I ask my colleagues today to pass H. Res. 522, but also to bring true justice to the Braceros and pass H.R. 4918 as well.

Ms. SOLIS. Madam Speaker, I rise in strong support of House Resolution 522, honoring braceros. During World War II, working people across the country left their jobs to fight the war in Europe and the Pacific. Under an agreement between Mexico and the United States, thousands of Mexicans, known as braceros, left their homelands and came to the United States to help fill the labor shortage.

The braceros performed labor-intensive work, toiling in the fields and building railroads. Their work kept the U.S. strong during a time of tremendous need and helped the Allies win World War II. Today, on International Bracero Day, we honor these hard-working men and pay them the respect they deserve.

Unfortunately, the braceros' struggle for full recognition of their work continues. The agreement between the U.S. and Mexican governments called for 10 percent of their wages to be deducted, with the promise that the money would be refunded when the workers returned to Mexico. Sixty years later, that promise has yet to be kept. Thousands have never received these wages.

I commend California Governor Gray Davis who recognized this struggle by signing into law yesterday a measure to help former braceros recover millions of dollars in lost wages by extending the applicable California statute of limitations.

The braceros worked hard and played by the rules established by the U.S. and Mexican governments. Some eventually served in the military defending our nation an became United State citizens. In return for their hard work, the braceros simply asked to be treated fairly and honorably. It is time that we honor our commitment to the braceros and their families. I am glad that the House is taking a step in that direction today.

Mr. BOEHNER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and agree to the resolution, House Resolution 522.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

HONORING CAEL SANDERSON FOR HIS PERFECT COLLEGIATE WRESTLING RECORD

Mr. ISAKSON. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 399) honoring Cael Sanderson for his perfect collegiate wrestling record, as amended.

The Clerk read as follows:

H. RES. 399

Whereas Cael Sanderson, continuing the storied tradition of Iowa State University wrestling, achieved a perfect collegiate wrestling record of 159 wins and no losses and is the first person ever to finish undefeated in collegiate wrestling;

Whereas Cael Sanderson is a four-time national wrestling champion, a four-time National Collegiate Athletic Association championship outstanding wrestler, and a three-time winner of the Dan Hodge Trophy;

Whereas the April 1, 2002, issue of Sports Illustrated ranked Cael Sanderson's perfect wrestling record second in a list of the top ten "most impressive college sports feats ever";

Whereas Cael Sanderson is a two-time Academic All-American, a champion in the classroom as well as on the mat;

Whereas Cael Sanderson's achievements have set a new benchmark for excellence in the sport of wrestling and will forever have an impact on college wrestling; and

Whereas through his persistence, hard work, and dedication, Cael Sanderson has set an example for all: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates Cael Sanderson for finishing his career as the first ever undefeated collegiate wrestler;

(2) recognizes the contributions of Cael Sanderson's parents, Stephen and Debbie Sanderson, his coach, Robert "Bobby" Douglas, the support staff of Iowa State University, and Cyclone fans;

(3) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to—

(A) Cael Sanderson;

(B) Coach Robert "Bobby" Douglas of Iowa State University; and

(C) Cael Sanderson's parents, Stephen and Debbie Sanderson.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. ISAKSON) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. ISAKSON).

GENERAL LEAVE

Mr. ISAKSON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 399.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. ISAKSON. Madam Speaker, I yield such time as he may consume to the distinguished gentleman from the State of Iowa (Mr. LATHAM).

Mr. LATHAM. Madam Speaker, I thank the gentleman from Georgia for yielding time to me.

Madam Speaker, I include for the RECORD a resolution from the Iowa State University Government of the Student Body.

The document referred to is as follows:

Iowa State University,
Government of the Student Body

SENATE RESOLUTION 2001-3-060SR THE GREATEST EVER

Whereas, Cael Sanderson, an Art and Design major, has recently completed his four seasons as a collegiate athlete, and

Whereas, Mr. Sanderson has won more matches than any other wrestler in collegiate history, and

Whereas, Mr. Sanderson is the first wrestler ever to win the Dan Hodge Trophy three (3) years in a row and the first three-time winner of this honor, and

Whereas, Mr. Sanderson has won the national championship each of the four years he has competed, and

Whereas, Mr. Sanderson was the first college wrestler to ever win the NCAA Tournament's Outstanding Wrestler award four times, and

Whereas, Mr. Sanderson has finished his collegiate career with a 159–0 record, and

Whereas, Mr. Sanderson has brought new spectators to his sport in droves, and

Whereas, Mr. Sanderson is not only a great wrestler, but also a humble contributor to the Iowa State Community, be it therefore

Resolved, That the Government of the Student Body recognizes Cael Sanderson as a legendary campus figure whose athletic achievements are unparalleled not only at Iowa State, but unparalleled throughout collegiate history, and be it further

Resolved, That the achievements of Cael Sanderson have made the students of Iowa State University very proud, and be it further

Resolved, The students of Iowa State University wish to commemorate Cael Sanderson and his accomplishments on our campus, and be it further

Resolved, That copies of this legislation be sent to Cael Sanderson, President Gregory Geoffroy, Board of Regents, State of Iowa, Vice President Warren Madden, Vice President for Student Affairs Thomas Hill, Athletic Director Bruce Van De Veldc, The ISU Foundation, ISU Alumni Association, ESPN, Sports Illustrated, and all other appropriate print and broadcast media.

Madam Speaker, this is a great day to be an Iowa State fan. It is a great day to be from the State of Iowa to show honor and recognition for a tremendous young man, a tremendous athlete who did an astounding thing through his collegiate career at Iowa State. Cael Sanderson is that young man.

We just had the honor to be with the President, Cael, myself, and the Speaker, down in the Oval Office, and the chance to visit with the President. Cael, all the honors bestowed on him are very, very much deserved. I congratulate him, as the entire House will, with this resolution.

Cael is now married to Kelly. His parents, Steve and Debbie, had four sons, Cody, Cole, Cyler, and Cael. Apparently they wrestled a lot in the house. They are still trying to fix a few walls around there from all the wrestling going on.

Cael Sanderson is truly the pride of Iowa State; and not only really Iowa State, but the entire State. With the history we have, the tradition of wrestling in the State of Iowa, he is someone that we hold in extraordinary high esteem. Not since Dan Gable back in my days at Iowa State has there been anything close to what Cael has accomplished. I would like to really personally thank him. I have a new bobblehead doll of Cael Sanderson which will be my number one prize possession now.

Just to bring part of the record forward for Cael, he had a perfect collegiate record, which had never been achieved before: 159 wins, no losses. He was four-time NCAA national champion; he was four-time NCAA outstanding wrestler; and three times a winner of the Dan Hodge Trophy, which is the highest acknowledgment that you can have as a college wrestler.

I would say, Madam Speaker, that Cael Sanderson is much more. He is a tremendous young man. He was a two-time All-American academic winner at Iowa State. He is truly an inspiration and an example for all young people today. The way Cael conducts himself makes us all very, very proud. He is the type of young man that we would like all of our young people to emulate.

We hear so many times about the problems we have today with our youth, and some troubles they get into; but someone like Cael Sanderson is an individual that these young people can look up to as an example of someone with his leadership that they can follow and really get themselves on the right path in life.

Just on behalf of the Iowa delegation, all Iowans and, I think, all Americans, we want to congratulate Cael Sanderson and thank him for his tremendous achievements, and wish him and his wife Kelly the best of luck. Cael is going to be in the Olympics in 2004 and is working very hard towards that goal.

We wish him the best of luck, and we thank especially his family for all their tremendous support; and the family at Iowa State, Coach Bobby Douglas and everyone, especially the fans at Iowa State, for the tremendous support they have given to Cael, and wrestling in general at Iowa State.

Madam Speaker, again, congratulations and thanks to Cael Sanderson.

□ 1515

Mr. GEORGE MILLER of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, those of us who have followed wrestling and have followed Iowa State, if you were just named one of the outstanding wrestlers at Iowa State, you would think you had had a very successful career. But to achieve this feat of 159 matches without a loss, for those of you who are better at mathematics than I am, you can figure out the probabilities of that happening. I once read the mathematics of Joe DiMaggio's 56 straight games and that streak and what it meant and what the probabilities were for happening. But this is an incredible feat. And I note here that "Sports Illustrated" said this is a most impressive college feat of all time, and they rated this the second. The first-place winner was Jessie Owens, who set four world records in 1935, which puts Cael Sanderson ahead of Barry Sanders, Jim Brown, Oscar Robinson and so many others that we are familiar with this string. And he is certainly due the congratulations and the honor of this resolution of this House.

Madam Speaker, I would urge all Members to support this resolution and extend to him our congratulations. I thank the committee for bringing this resolution to the floor.

Madam Speaker, I yield back the balance of my time.

Mr. ISAKSON. Madam Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Madam Speaker, I thank my friend and colleague, the gentleman from Georgia (Mr. ISAKSON) for yielding me time and congratulate the gentleman from Iowa (Mr. LATHAM) for bringing this resolution to the floor today.

This really is quite an accomplishment that Cael Sanderson has contributed; 159 wins, no losses in a 4-year college career is really unheard of. I think his contributions as a two-time academic all-American also speak loudly to his dedication not only to his sport but to his academic studies. So Cael is a shining example of what someone can do with determination, commitment and a sense of excellence. And I am happy to rise today in support of the Latham resolution.

Mr. ISAKSON. Madam Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Madam Speaker, it is my privilege to join in recognizing one of the greatest athletes in American history, a wrestler who went through college undefeated. I saw another great wrestler, Dan Gable, in his last match in college. Dan was undefeated in high school and college, but fell short in his final match. He used that defeat as motivation and then won the Olympics without a point being scored on him. Big shoes to fill.

But Cael Sanderson of the same Iowa State Cyclones as Dan Gable wrestled for has now surpassed Dan's achievements at the college level. The pressure on him was immense. The way he wrestled his last NCAA tournament is a testament to his greatness. He wrestled aggressively but intelligently. He never coasted on a lead. His athletic prowess is awesome. But it is his soft spoken humility, his grace under pressure, his good sportsmanship, his example as a role model for younger kids that make him special to Iowans.

He is the Cyclone version of Nile Kinnick, and whether we are Hawkeyes or Cyclones or UNI Panthers, we are proud of him. And we all hope that he too wins the Olympics. But if Cael Sanderson never stepped on a mat again, we would still have to say, thanks for the great memories.

Mr. ISAKSON. Madam Speaker, I yield myself the balance of my time.

I acknowledge that the Speaker of this House, the gentleman from Illinois (Mr. HASTERT), is a famous wrestler and wrestling coach of great renown; and I am confident, were he not busy working on the business of the American people, he would be here on this floor to commend not only Cael but also to commend his parents, his coach and his supporters.

In a time of desperate need in America for role models for our young people, it is only appropriate that this House acknowledge a young man who has distinguished himself by achieving a record never before accomplished at a time while still maintaining an average to become an Academic All American 2 years in a row.

I join my other colleagues who have spoken in commending Cael Sanderson for his achievement and his contribution and his role model life that he leads in the State of Iowa.

Madam Speaker, I rise in support of House Resolution 399. This resolution congratulates Cael Sanderson for finishing his career as the first ever undefeated collegiate wrestler. This resolution provides much deserved recognition to Mr. Sanderson's parents, Steven and Debbie Sanderson as well as his Iowa State University coach, Robert Douglas.

Our distinguished Speaker of the House, himself, was once a wrestling coach on the high school level, and I am sure would want to extend his congratulations to this accomplished young man, as well.

Mr. Sanderson has completed his college career with a perfect record of 159 wins and no losses and is the first undefeated four-time Division I college-wrestling champion. Mr. Sanderson has quite an outstanding record of achievement, including being a four-time NCAA champion, a four-time NCAA outstanding wrestler, a three-time Hodge award winner and a two-time Academic All American. This young man has a great deal to be proud of and I am happy to join my colleague, Representative LATHAM, in honoring him and all he has accomplished.

I want to thank my colleague from Iowa for introducing this resolution and extend my congratulations to Mr. Sanderson, his family, his coach and Iowa State University.

I ask all my colleagues to support this resolution.

Mr. HASTERT. Madam Speaker, I rise today to recognize the remarkable accomplishments of Cael Sanderson, who this year became the first in his sport to finish undefeated over the course of four seasons and only the second NCAA Division I wrestler in history to win four NCAA Championships.

Growing up in Utah, Cael Sanderson was one of four wrestling brothers, who over the years combined for 11 Utah prep crowns. During this prep years, Cael was coached by his father at Wasatch High, where he was a four-time State Champ. After high school, Cael decided to follow in his older brothers' footsteps by attending Iowa State University where he would leave his mark on the sport of wrestling, which I believe is safe to say will never be forgotten.

After 4 years at Iowa State University, Cael broke virtually every record and received every award he could garner. As I previously mentioned, Cael is a four-time national wrestling champion and finished his career with an overall record of 159–0. Moreover, he is also a four-time national Collegiate Athletic Championship Outstanding Wrestler, a three-time recipient of the Dan Hodge Trophy, given to the sport's most outstanding collegiate wrestler and was recently named the 2001–2002 Big 12 Conference Male Athlete of the Year.

In addition to taking care of business on the mat, Cael Sanderson also excelled in the classroom as he has twice been named an Academic All-American. Graduating in December 2001 with a Bachelor's degree in art and design, Cael showed patience, hardwork and dedication as he was able to balance the popularity that comes with being a collegiate star, as well as the long hours needed to accommodate a full academic schedule.

Finally, Cael Sanderson has been a model member of the community and has had a positive impact on all those around him. Besides offering his time to a number of community services, Cael also makes frequent visits to elementary schools and Boys and Girls Clubs in the Ames area, and spends his summers as a wrestling spokesman traveling across the nation to various wrestling camps, generating interest in the sport.

As a teacher and former wrestling coach, I commend Cael Sanderson on his many accomplishments on and off the mat. I think all of us in this body can appreciate the time and effort he has put into the sport so many of us love. Cael is a champion in the true sense of the word, as well as an inspiration and role model, not just to wrestling fans, but to everyone chasing a goal of a dream.

Mr. ISAKSON. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Georgia (Mr. ISAKSON) that the House suspend the rules and agree to the resolution, H. Res. 399, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF CONGRESS REGARDING PERSONAL SAFETY FOR CHILDREN

Mr. CASTLE. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 484) expressing the sense of the Congress regarding personal safety for children, and for other purposes.

The Clerk read as follows:

H. CON. RES. 484

Whereas 840,279 individuals were reported missing in 2001, and 85 to 90 percent of these missing persons were children;

Whereas approximately 58,200 children were abducted by nonfamily members in 1999, often in connection with another crime;

Whereas 115 of all nonfamily abductions (those perpetrated by strangers) resulted in the child being kept overnight, held for ransom, or killed;

Whereas over 50 percent of the children kidnapped in nonfamily abductions were taken away from the street in a vehicle or from a park or wooded area;

Whereas a central element of the congressionally-mandated mission of the National Center for Missing and Exploited Children (NCMEC) is the prevention of child victimization;

Whereas the National Center for Missing and Exploited Children, with the help of parents, local communities, and law enforcement, has assisted in the recovery of approximately 67,000 children;

Whereas the Departments of Justice, Health and Human Services, and Education recently developed a booklet, entitled "Personal Safety for Children", which offers easy-to-read tips for parents to discuss safety and protection measures with their children;

Whereas parents and educators need to teach children about safety measures they can use to protect themselves against abduction and exploitation and to encourage them to be smart, strong, and safe; and

Whereas President George W. Bush plans to convene the first-ever White House Conference on Missing, Exploited, and Runaway Children with policymakers, experts, community leaders, teachers, and law enforcement to discuss how to prevent the victimization of children: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) it is the sense of the Congress that—

(A) Federal, State, and local law enforcement agencies and communities should work together to prevent the victimization of children; and

(B) communities, schools, and parents should learn more about the steps that may be taken to safeguard children and teach children the skills they need to be safe; and

(2) the Congress recognizes the booklet, "Personal Safety for Children", as one of the tools available to help parents and teachers talk with children about personal safety.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 484.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CASTLE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H. Con. Res. 484, a resolution which recognizes the importance of personal safety for children.

Last summer, child abductions dominated the news. Five-year-old Samantha Runnion was taken from the driveway in front of her home in Stanton, California. Six-year-old Cassandra Williamson was abducted from her home in St. Louis, Missouri. And 7-year-old Erica Pratt of Philadelphia, Pennsylvania, was snatched from her yard but managed to escape from her kidnappers.

Last year 725,000 children were reported missing or abducted. Although many of these children ran away or were taken by a parent, 3,000 to 5,000 of these child abductions did not involve a family member, and 115 of these cases were the most serious type, where the stranger was the perpetrator and the child was kept overnight, held for ransom or killed.

Fortunately, increased public awareness and a more coordinated response to child abductions has resulted in a decline of this most serious type of abduction. Thanks to law enforcement, the National Center on Missing and Exploited Children, media saturation and a concerned public, the recovery rate of missing children is up from 62 percent just 10 years ago to 93 percent.

While we are all thankful to those who have helped return so many of our children safely home, I believe we can do more to prevent crimes against our children. Parents need to keep current photos of their child, as well as a detailed description, including eye color, weight and height, in the event of the unthinkable; and they need to talk to their children about personal safety.

Recognizing that many parents do not know how to talk about safety in a way that does not unduly alarm children and that Federal, State and local law enforcement agencies and communities need to work together to protect children, President and Mrs. Bush are hosting a conference tomorrow, October 2, to raise public awareness about child victimization and help families and communities to share ideas how they can protect children.

In addition, the Departments of Justice, Health and Education, and the National Center on Missing and Exploited Children created a booklet, "Personal Safety for Children, a Guide for Parents," which will help parents discuss what children may be hearing about child abductions. Among other things, the book gives parents commonsense tips to help keep children safe, such as teaching them never to go anywhere without permission. It gives children simple-to-follow safety rules such as saying no if someone treats them in a way that makes them feel scared or uncomfortable.

At President Bush's request, this booklet has been distributed by the Department of Education to every school in the country. The recent rash in child abductions and murders reminds us that we must work harder to keep children and youth from becoming victims. Our children need to understand that they are our number one priority and their safety is our number one concern. To that end, I urge parents, schools and communities to learn more about the steps they can take to safeguard their children. I encourage all parents to use the booklet "Personal Safety for Children," available at www.missingkids.com as a tool to talk to their children about personal safety and keep them smart, safe and strong.

Madam Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this legislation and the resolution to draw attention to the victimization of missing and exploited children.

Madam Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. LAMPSON), who has given an extraordinary amount of his time and effort and public service on this issue.

Mr. LAMPSON. Madam Speaker, I thank the gentleman from California (Mr. GEORGE MILLER) for yielding me time to speak on this issue that I have indeed considered a passion of my service in Congress and have done a great deal of work. I also want to thank the gentleman from Delaware (Mr. CASTLE) for the wonderful work he has done. He is the former Governor of Delaware. I thank the gentleman for the work that he has done not only when he served that State in the capacity as Governor; but since he has been in Congress, he has been one of the true leaders on the issue that has to do with child safety. We have worked on not just this piece of legislation today, but others; and I thank the gentleman for that. I think the people of the country will be indebted to the gentleman forever.

Madam Speaker, I am proud to ask all of my colleagues to support H. Con. Res. 484. We all know now the names of Elizabeth Smart and Michelle VanDamme and all the other children who were tragically abducted this summer. This sense of Congress expresses that we, the representatives of children all across America, care about their well-being and safety.

In 1996 just after I was elected, shortly after I took the oath of office to this wonderful body, I did not even know about the issue. I had not spoken about it. I knew a little bit about it because I have children myself; but it came to my attention in such a way that it was dramatic in that a little girl, Laura Kate Smither, was abducted and murdered in my district. The search for her went on for 2½ weeks before her body was found in a drainage ditch. The outpouring of support that came from Friendwood, Texas, the support that the friends and neighbors of the Smithers showed, and in the hurt that I saw in the eyes of Bob and Gaye Smither when they learned of the death of their daughter was phenomenal to me; and I vowed to come back here to Washington, D.C. to do my best to make some kind of a difference on these horrendous issues that affect so many of our children.

We soon found the wonderful people at the National Center for Missing and Exploited Children and learned of the need to have a coordinated effort here in the House of Representatives, that we might be able to work on legislation that so many different Members were working on in a coordinated manner. So I was proud to be the person who spearheaded the founding of the Congressional Caucus on Missing and Exploited Children. The goal of that caucus was to serve as a unified voice for missing and exploited children and to increase awareness on this issue.

This resolution serves both of those purposes. I stand here today with my Republican and Democratic colleagues to say that missing kids are not a partisan issue. We have worked together on this legislation and many other pieces of legislation, including legislation on the Amber Plan and Code Adam and the wonderful work that the gentleman from Delaware (Mr. CASTLE) has done on curriculum that has been distributed. And one of the things I often tell people at home when they ask, What is it we can do? What can we do? It is easy for folks to pick up the telephone and call a local school and ask them what their curriculum is to teach children and at what levels. They need to be taught all the way through school about what they can do.

It is no longer a simple matter of telling people, Do not talk to strangers. The issue is much more significant than that. We say to the public, Congress is concerned about our American children and their safety. We believe that Federal, State and local law enforcement and communities should work together to prevent the victimization of children, and we are indeed trying to do just that.

The program that we have been hearing about with the Amber Alert that I have just mentioned is one where the public becomes a partner with law enforcement and extends law enforcement's ability to do significantly greater things within our communities.

□ 1530

We say to communities, schools and parents should learn more and teach their children the skills they need to be safe.

I want to thank the gentleman from Delaware (Mr. CASTLE) for introducing this legislation and letting me join him in the work on it and all of our other colleagues. Together, Republican and Democrat alike, we can make a difference in the lives of children everywhere. We are doing so with this and other pieces of legislation.

I urge my colleagues to support H. Con. Res. 484.

Mr. CASTLE. Madam Speaker, I yield myself 30 seconds just to thank the gentleman from Texas (Mr. LAMPSON) for all the work he has done. They say nice things about the rest of us in terms of what we have done, but he has spearheaded the movement to help in this area of safety of children and deserves a tremendous amount of credit for that. I just wanted to make sure that was understood.

Madam Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Madam Speaker, I thank the gentleman from Delaware (Mr. CASTLE) for yielding me the time.

I rise in support of the resolution that he has brought to the floor and commend him for the timeliness of it, the timeliness of it in several different respects. It is very timely with respect to the national discourse that is taking place on the exploitation of children, the victimization of children in every kitchen across the Nation, abduction of children, murder of children, kidnapping, exploitation of every type. So it is timely in the national discourse.

But in the work of the Congress it is also timely, because tomorrow the Committee on the Judiciary will be putting finishing touches on an omnibus bill that includes many of the elements outlined in the resolution that we are now considering.

I myself remember that about a month ago or so, I introduced a bill which passed the House that had to do with offering more monitoring capability on the part of judges to watch a sexual predator of children after he is convicted and after his release to make sure that perhaps even for a lifetime of that offender there is monitoring taking place. That bill, which passed the House, is going to be part of this omnibus bill tomorrow, as will several other items of new ideas in the question of victimization of children.

Then, as the gentleman himself observed, tomorrow many of us will be joining the President and the First Lady in the conference on victimization on children, missing children, exploited children, and that will highlight even more the awareness to which the gentleman from Delaware has contributed by this resolution.

It seems to me that we are all on our way as Members of Congress in reflecting the high level of concern that our families across the Nation are feeling about the new wave of dastardly things that are happening to our children, and so we are now in a position well poised with the President and some of the initiatives to actually adopt concrete measures dealing with the problem.

Mr. GEORGE MILLER of California. Madam Speaker, I yield myself such time as I may consume.

I just would say in closing that again I want to thank the gentleman from Texas (Mr. LAMPSON) and the gentleman from Delaware (Mr. CASTLE) for their work on this legislation, and the fact that this legislation is on the floor, I think, is a tribute. I am sure many of us have heard our parents or grandparents say, out of a dark cloud comes a silver lining, and that is that some of these parents who have suffered some of the most horrible things that we could imagine happening to us, our families, our children, ourselves, have found the energy to carry on in the name of their children, efforts at the local community level and now at the national level with the national center. There are so many local organizations.

I know in my own area in Contra Costa County and Solasta County, we have had a number of children who have gone missing; not only gone missing and later found, but clearly children who have gone missing and were killed and violently assaulted, that local organizations have come into existence because of the energy of these parents and of the community to help other parents and families when this happens to them and in a number of instances have, because of their quick response, because of their understanding of the nature of this crime and what needs to be done in the first few hours of the discovery, have facilitated the rescue of some children. And the national center has continued that effort and has provided recognition of those local programs, of those local individuals who really have taken a tragedy and turned it to positive energy, and have taken the tragic loss and victimization of a child and used that to save other children and to prevent other children and families having to go through this.

I would say as part of this resolution to recognize those individuals, I think almost tragically so, but almost every Member of Congress has experienced this in their own congressional district where these individuals have gone on, where we think one would be so devastated that they would cease to function, they have gone on to provide an incredible amount of leadership, and fortunately the national center has recognized these individuals and their efforts.

We had a young girl, Ms. Sanchez, who I had the opportunity to give an award to because of her courage, who was abducted, kidnapped, taken, but somehow found it within herself at a given moment when her abductor happened to look the other way, since he stopped to ask directions from somebody, she ran from his vehicle and was saved by a passing truck driver. Her own personal courage has been an example, and she shared that with other children.

Amber Schwarz, who many years ago disappeared from our community in Pinole. Her mother has gone on to develop the Amber Foundation, which has provided assistance to law enforcement, assistance to families and to communities to cope with these incidents and to bring resources to try and save and recover these children, and the Amber Alert in California that was so successful just recently and now many States are looking at replicating.

We owe a great deal of thanks to those families who have been able to summon the courage and the wherewithal to share their tragedy with others to try and avoid that tragedy from happening to other children and to the families. And again, I thank the gentleman from Delaware (Mr. CASTLE) so much for shepherding this resolution to the floor of the House.

Madam Speaker, I yield back the balance of my time.

Mr. CASTLE. Madam Speaker, I yield myself such time as I may consume, which will not be much.

Let me start by thanking the gentleman from California, whose interest in children is well-defined and well-known throughout this body, particularly in that of education; again, the gentleman from Texas (Mr. LAMPSON) for his abiding and continuing concern for the children of America; for the gentleman from Pennsylvania (Mr. GEKAS) for the same, for his abiding and continuing concern for the children of America, indeed for all the Members of the House and of, I am sure, the Senate. It is a concern of all of us, and I am delighted this conference is going to take place.

I think we all realize that the Presidential conference will call attention to an issue as much as anything that can happen. So I look forward to that happening tomorrow, and today we look forward to passing this resolution.

Mr. BOEHNER. Madam Speaker, I rise today in support of this resolution, which expresses the sense of Congress about the safety of America's children and points out the need for parents and educators to teach our children about safety measures they can use to protect themselves against abduction and exploitation.

During the past spring and summer, the American public has watched in horror as daily news reports have highlighted numerous stories of kidnapped children. According to the National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children, there were 203,900 children abducted by family members and 58,200 children abducted by non-family members in 1999, the most recent year of collected and analyzed data. The U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention released part of this study in August 2002, and the remainder of study will be released in November this year. Non-family abductions are the smallest category of missing children, but the one in which the child is at greatest risk of injury or death.

These statistics highlight the need for communities, schools, and parents to learn more about the specific steps that can be taken to facilitate children's safety and teach children the skills and know-how they need to enable them to stay safe. I commend the Departments of Justice, Health and Human Services, and Education for their recently developed booklet, "Personal Safety for Children," which offers tips to parents for discussing safety and protection measures with their children. For example, the booklet instructs parents to make a list with their children of their neighborhood boundaries, choosing significant landmarks and telling their children whose homes they are allowed to visit.

I would also like to commend the National Center for Missing and Exploited Children for their fight to prevent child victimization and their assistance in the recovery of countless missing children. Furthermore, the President will convene a White House Conference on Missing, Exploited and Runaway Children tomorrow, October 2. The Conference will promote public awareness of the cause of missing, exploited and runaway children, and it will bring policymakers, experts, key officials, community leaders, teachers and law enforcement officials together to share progress made and generate new ideas to help prevent the victimization of children. In August the President stated that the "Personal Safety for Children" handbook holds practical advice to help families and communities make their homes, their schools, and their neighborhoods safer and added that he was calling on "all Federal, State and local law enforcement agencies and our communities and our citizens to work together to do everything in our power to better protect our children."

I would also remind my colleagues that the House more than six months ago overwhelmingly passed bipartisan legislation, H.R. 3839, the Keeping Children and Families Safe Act, to help ensure that assistance is provided in the most effective manner for children caught in abusive situations. That bipartisan bill is the product of efforts by members on both sides of the aisle to ensure that all children grow up in a safe and loving environment.

I am pleased that my colleague and friend from Delaware has brought this issue to the Floor of the U.S. Congress, and I urge my colleagues to support this resolution.

Mr. CASTLE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 484.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING IMPORTANCE OF TEACHING U.S. HISTORY IN ELEMENTARY AND SECONDARY SCHOOLS

Mr. OSBORNE. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 451) recognizing the importance of teaching United States history in elementary and secondary schools, and other purposes, as amended.

The Clerk read as follows:

H. CON. RES. 451

Whereas gaining a sense of history is a gradual and cumulative process, and history education should therefore begin at the early stages of a student's classroom experience and continue to develop throughout a student's entire educational career and beyond;

Whereas when students study United States history they become familiar with the development and expansion of the country, which enables them to better understand the present relationship between the United States and other countries and to anticipate future international interaction;

Whereas when students have a foundation of basic United States history they can better understand their roles and responsibilities as citizens of the United States and as a part of the global community;

Whereas the National Assessment of Educational Progress (NAEP) United States History Assessment of 2001 found that 89 percent of high school seniors, 84 percent of 8th graders, and 82 percent of 4th graders scored below "proficient" levels;

Whereas the results of the 1998 National Assessment of Educational Progress Civics Assessment showed that 77 percent of all 4th graders sampled scored below "proficient" levels and showed similar results for 8th and 12th graders, with approximately three-fourths of students at both grade levels scoring below "proficient" levels;

Whereas the 1998 National Assessment of Educational Progress Civics Assessment showed that one-third of 4th graders could not explain the meaning of "I pledge allegiance to the flag" on a multiple-choice test and a majority of 4th graders could not answer why "citizens elect people to make laws for them" in a democracy;

Whereas in 1999, the United States placed 6th in the International Civic Education (CivEd) Study, a study of 27 countries sponsored by The National Center for Education Statistics (NCES) designed to tap the civic knowledge and skills of 14-year-olds and their attitudes toward democracy and citizenship;

Whereas according to the CivEd study, 12 percent of students in the United States reported never or hardly ever studying history in school, and the majority of 9th graders typically spent less than one hour per week doing history homework;

Whereas according to the Center for Survey Research and Analysis, fewer than half of the seniors surveyed at top universities across the United States can identify crucial events in United States history;

Whereas distinguished historians and intellectuals fear that without a common civic memory and common understanding of the remarkable individuals, events, and ideals that have shaped the Nation, people in the United States risk losing much of what it means to be an American, as well as the ability to fulfill the fundamental responsibilities of citizens in a democracy; and

Whereas citizens who lack knowledge of United States history will also lack an understanding and appreciation of the democratic principles that define and sustain the Nation as a free people, such as liberty, justice, government by consent of the governed, and equality under the law: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the importance of teaching United States history and civics in elementary and secondary schools;

(2) expresses concern regarding the lack of basic understanding of United States history among students of all levels in the United States; and

(3) strongly supports efforts to promote the value of education in United States history and to ensure that students in the United States graduate from high school with a significant understanding of United States history and civics.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

GENERAL LEAVE

Mr. OSBORNE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 451.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. OSBORNE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H. Con. Res. 451, recognizing the importance of teaching U.S. history and civics. I would particularly like to thank the gentleman from Wisconsin (Mr. KIND) for introducing this piece of legislation and for his leadership in this area.

As I thought about speaking on this subject today, I was reminded of the fact that a couple of months ago, I had a civics teacher from Nebraska who came into my office. This particular individual had paid his own way back to Washington, and I asked him what was on his mind, and he said, well, he had been teaching U.S. government for over 20 years, and he was really distressed by the fact that he had seen his students become increasingly less and less engaged with the political process, or even being interested in government, certain issues. So his sole purpose of paying his way back here was just to try to talk to people and apprise us of the situation.

Of course, this has certainly not been a very encouraging trend. In 2001, the NAEP test indicated that in testing 4th, 8th and 12th graders, that between 80 to 90 percent of those students were below acceptable levels of achievement in history and government. Actually, the 12th graders had 89 percent of the students below satisfactory level. Again, this is a rather alarming trend because a democracy depends upon an informed, engaged electorate, and it is alarming to see that we apparently have been losing ground in this regard.

One might ask, well, why this decline; why have things gone south on us in this regard? I would say, I would suggest maybe two reasons. One, I think there has been an increasing lack of emphasis in the schools on teaching of history, particularly U.S. history and U.S. government, and this is reflected in the test scores and in some of the apathy.

I think second, and we are all probably somewhat involved here, there has been an increasing cynicism on the part of the general public in regard to the political process. We may say, well, why are people more cynical today? I think one reason is that they feel more powerless. I think they see the emphasis upon money, the factor that many special interest groups play in the legislative process.

Then the other night I was reminded as I sat on the floor and listened to the debate, which became increasingly rancorous and increasingly partisan, and I thought if I were a young person who was just kind of getting acquainted with the political process, how would I feel about what is going on on the floor? These are the Representatives, these are the people who are supposed to be striving for the common good and are supposed to be representing us, and I think to some degree the attack ads, the partisanship and some of the negativity that we hear right here on the floor has also led to some of the disaffection that people have with the political process.

I do not want to be totally negative here today, because I think there are some answers. I think there are some things being done. President Bush has announced three initiatives that are designed to support teaching American history and civics. The first of these are some grants to develop curricula and to train teachers, particularly in these areas; second, an Internet program which will provide historical documents on the Internet and also promote a greater understanding of U.S. history; and third, a forum at the White House which is intended to address these very issues that we have been talking about.

The second initiative I think is very important and is something called Freedom's Answer, and this is something that has been espoused and promoted by the gentleman from Texas (Mr. DELAY) and the gentlewoman from California (Ms. PELOSI). It is a nonpartisan campaign extending from September 11 to November 5, encouraging young people to register to vote. A great many young people are too young to vote, but they are encouraged to promote an interest on the part of their parents to get into the legislative process and to vote as well.

I certainly urge support for H. Con. Res. 451. Again I would like to thank the gentleman from Wisconsin (Mr. KIND) for his leadership on the issue.

Madam Speaker, I reserve the balance of my time.

□ 1545

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am passionate about American history. I believe there is an important role for it to play and be taught in our elementary and our secondary schools throughout the country, especially in light of modern times, especially in light of the last year that our Nation has gone through; and I want to thank the leadership, first of all, Madam Speaker, for bringing this resolution to the floor today. I also want to thank the chairman and the ranking member and their respective staffs on the committee. But most of all, I would like to thank the gentleman from Nebraska (Mr. OSBORNE) for co-sponsoring this legislation with me, for championing it through the Committee on Education and the Workforce, for being here on the floor today.

On September 17, 1787, the delegates to the Constitutional Convention signed the United States Constitution. Consideration of this resolution, H. Con. Res. 451, recognizes the importance of teaching American history and civics, and it coincides nicely with the 215th anniversary of the signing of our Constitution and with the President's recent announcements supporting new policies and initiatives for teaching American history and civics. I commend the administration's efforts to encourage the teaching of these important issues, and I will continue to work to build support for them in this body.

When students have a solid foundation of basic American history and civics, they can better understand their roles and responsibilities as citizens of this great Nation and as a part of our global community. Furthermore, when students study U.S. history, they become familiar with the development and the expansion of our own country. This knowledge enables youth to better understand the present relationship between the United States and other countries and to anticipate future international relations.

Since the tragic events of September 11, 2001, this has become even more imperative. Knowing our Nation's history and our civic duties as citizens of the United States is vital to preventing similar attacks both here and abroad and provides an important knowledge on how to cope with a drastically changed world for us.

I believe that one of the most important parts of teaching history and learning civic education is to prepare people for bad times. The question is not whether people will remember the right phrases but whether they will turn words and lessons into practice when they fear for their freedom and their security. The chances for democratic principles to survive such crises depend upon the number of citizens who remember how free societies have responded to crises in the past, how free societies have acted to defend themselves and emerge from the bad times.

Why have some societies fallen and others have stood fast? Citizens need to tell one another what struggles have had to be accepted, what sacrifices borne, and comforts given up to preserve freedom and justice. The deep discriminating historical knowledge required to ward off panic, self-pity, and resignation is not always fun to acquire; but it is important.

Sadly, results recently revealed, as the gentleman from Nebraska (Mr. OSBORNE) recently indicated, from the 2001 study by the National Assessment of Educational Progress of U.S. History found 89 percent of high school seniors, 84 percent of eighth graders, 82 percent of fourth graders scored below proficient levels in the understanding of their history. In addition, in 1999, the International Civic Education study of 14-year-old students reported the majority of ninth graders typically spent less than 1 hour per week doing history homework. Unfortunately, this is not only true in the elementary and secondary schools. It also appears to be prevalent in our universities. According to the Center for Survey Research and Analysis, fewer than half of the seniors surveyed at top universities across the United States can identify crucial events in our Nation's history.

Thus in light of these troubling facts, this resolution before us today recognizes the importance of teaching American history and civics in elementary and secondary schools. Further, it supports efforts that ensure students graduate from high school with significant understanding of these issues. Our elementary and secondary schools are a vital resource to teach, study, and disseminate the information about past and present events. Gaining a sense of history is a gradual and cumulative process. Therefore, history education should begin at the earliest stages of a student's classroom experience and continue to develop through a student's entire educational career and then beyond.

I am pleased that the reauthorization of the Elementary and Secondary Education Act included the Teaching American History grant program and the Civic Education program. I would like to see American history and civic education remain a fundamental part of our schools' curriculum. The Teaching American History program supports programs to raise student achievement by improving teachers' knowledge of understanding and appreciation of American history. It also prioritizes teaching American history as a separate academic subject. This program received $50 million in the 2002 fiscal year, and it must receive adequate appropriations again for the next fiscal year.

Just this last week I was notified by the Department of Education that the Cooperative Education Service Agency District 10 in my congressional district received a grant under this program for nearly $1 million for the next 3 years. This grant will serve 30 school districts, 200 teachers, and 5,205 students. I applaud the school districts for applying and receiving this grant.

The Civic Education Program in ESEA is a combination of domestic and international initiatives. The We the People program promotes civic competence and responsibility by educating elementary and secondary students about the institutions of our constitutional democracy. The International Education Initiative provides assistance to ensure that children in emerging democracies throughout the world are exposed to democratic principles. The Civic Education Program received $27 million in this last fiscal year but was zeroed out, unfortunately, in the next fiscal year appropriations bill.

I urge the appropriators to fund this initiative, and at its authorization level of $30 million. Now is not the time to eliminate a program that has continually shown that students involved in civic education develop greater commitment to democratic principles and values.

Madam Speaker, I urge my colleagues to support this resolution today. Citizens who lack knowledge of United States history will also lack an understanding and appreciation of the democratic principles that define and sustain the Nation as a free people, such as liberty, justice, government by consent of the governed, and equality under the law.

Mr. BOEHNER. Madam Speaker, I rise today in support of this resolution to recognize the importance of teaching United States history and civics in elementary and secondary schools. I would like to thank Mr. KIND and Mr. OSBORNE for sponsoring the resolution, and I appreciate their efforts to bring it before the House today.

Madam Speaker, our nation's students do not have even the most basic knowledge of American history. The 1998 National Assessment of Educational Progress—or NAEP—on U.S. history showed that one-third of our 4th graders could not explain the meaning of "I pledge allegiance to the flag" on a multiple-choice test and a majority of 4th graders could not answer why "citizens elect people to make laws for them" in a democracy. Furthermore, the 2001 NAEP found that 89 percent of high school seniors, 84 percent of 8th graders, and

82 percent of 4th graders scored below "proficient" levels.

As President Bush recently noted, "This is more than academic failure. Ignorance of American history and civics weakens our sense of citizenship. To be an American is not just a matter of blood or birth; we are bound by ideals, and our children must know those ideals."

I agree with President Bush and believe that our children truly benefit when they learn about our nation's victory in the Revolutionary War or the debates that took place at the Constitutional Convention. It is critical that they understand the meaning of the Declaration of Independence and the Bill of Rights.

Last January, President Bush signed into law the No Child Left Behind Act, which will help address this problem. First, the law authorizes the Civic Education program, which supports the Center for Civic Education and its program that encourages instruction on: the principles of our constitutional democracy; the history of the Constitution and the Bill of Rights; and how the Congress functions on a day-to-day basis.

Secondly, the No Child Left Behind Act also authorizes the "Teaching American History Grant Program," in which the Education Secretary will award grants to help local educational agencies develop, implement, and strengthen American history programs. These grants will also be used for professional development and teacher education programs in American history.

Madam Speaker, teaching United States history and civics in our schools has never been more important. This resolution builds on our efforts in No Child Left Behind Act and I ask my colleagues to vote "yes" on it.

Mr. KIND. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OSBORNE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 451, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution recognizing the importance of teaching United States history and civics in elementary and secondary schools, and for other purposes.".

A motion to reconsider was laid on the table.

LEACH-LAFALCE INTERNET GAMBLING ENFORCEMENT ACT

Mr. LEACH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 556), to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes, as amended.

The Clerk read as follows:

H.R. 556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Leach-LaFalce Internet Gambling Enforcement Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Internet gambling is primarily funded through personal use of bank instruments, including credit cards and wire transfers.

(2) The National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent them.

(3) Internet gambling is a major cause of debt collection problems for insured depository institutions and the consumer credit industry.

(4) Internet gambling conducted through offshore jurisdictions has been identified by United States law enforcement officials as a significant money laundering vulnerability.

SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY BANK INSTRUMENT FOR UNLAWFUL INTERNET GAMBLING.

(a) IN GENERAL.—No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling—

(1) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);

(2) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the other person;

(3) any check, draft, or similar instrument which is drawn by or on behalf of the other person and is drawn on or payable at or through any financial institution; or

(4) the proceeds of any other form of financial transaction as the Secretary may prescribe by regulation which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person.

(b) DEFINITIONS.—For purposes of this Act, the following definitions shall apply:

(1) BETS OR WAGERS.—The term "bets or wagers"—

(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of greater value than the amount staked or risked in the event of a certain outcome;

(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

(C) includes any scheme of a type described in section 3702 of title 28, United States Code;

(D) includes any instructions or information pertaining to the establishment or movement of funds in an account by the bettor or customer with the business of betting or wagering; and

(E) does not include—

(i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) for the purchase or sale of securities (as that term is defined in section 3(a)(10) of such Act);

(ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade pursuant to the Commodity Exchange Act;

(iii) any over-the-counter derivative instrument;

(iv) any other transaction that—

(I) is excluded or exempt from regulation under the Commodity Exchange Act; or

(II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

(v) any contract of indemnity or guarantee;

(vi) any contract for insurance;

(vii) any deposit or other transaction with a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act);

(viii) any participation in a simulation sports game or an educational game or contest that—

(I) is not dependent solely on the outcome of any single sporting event or nonparticipant's singular individual performance in any single sporting event;

(II) has an outcome that reflects the relative knowledge and skill of the participants with such outcome determined predominantly by accumulated statistical results of sporting events; and

(III) offers a prize or award to a participant that is established in advance of the game or contest and is not determined by the number of participants or the amount of any fees paid by those participants; and

(ix) any lawful transaction with a business licensed or authorized by a State.

(2) BUSINESS OF BETTING OR WAGERING.—The term "business of betting or wagering" does not include, other than for purposes of subsection (e), any creditor, credit card issuer, insured depository institution, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or any participant in such network, or any interactive computer service or telecommunications service.

(3) DESIGNATED PAYMENT SYSTEM DEFINED.—The term "designated payment system" means any system utilized by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or any participant in such network, that the Secretary, in consultation with the Board of Governors of the Federal Reserve System and the Attorney General, determines, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

(4) INTERNET.—The term "Internet" means the international computer network of interoperable packet switched data networks.

(5) INTERACTIVE COMPUTER SERVICE.—The term "interactive computer service" has the same meaning as in section 230(f) of the Communications Act of 1934.

(6) RESTRICTED TRANSACTION.—The term "restricted transaction" means any transaction or transmittal involving any credit, funds, instrument, or proceeds described in

any paragraph of subsection (a) which the recipient is prohibited from accepting under subsection (a).

(7) UNLAWFUL INTERNET GAMBLING.—The term "unlawful Internet gambling" means to place, receive, or otherwise transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State in which the bet or wager is initiated, received, or otherwise made.

(8) OTHER TERMS.—

(A) CREDIT; CREDITOR; AND CREDIT CARD.—The terms "credit", "creditor", and "credit card" have the meanings given such terms in section 103 of the Truth in Lending Act.

(B) ELECTRONIC FUND TRANSFER.—The term "electronic fund transfer"—

(i) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; and

(ii) includes any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

(C) FINANCIAL INSTITUTION.—The term "financial institution" has the meaning given such term in section 903 of the Electronic Fund Transfer Act.

(D) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—The terms "money transmitting business" and "money transmitting service" have the meanings given such terms in section 5330(d) of title 31, United States Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(c) CIVIL REMEDIES.—

(1) JURISDICTION.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of this section by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this section.

(2) PROCEEDINGS.—

(A) INSTITUTION BY FEDERAL GOVERNMENT.—

(i) IN GENERAL.—The United States, acting through the Attorney General, may institute proceedings under this subsection to prevent or restrain a violation of this section.

(ii) RELIEF.—Upon application of the United States under this subparagraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation of this section, in accordance with Rule 65 of the Federal Rules of Civil Procedure.

(B) INSTITUTION BY STATE ATTORNEY GENERAL.—

(i) IN GENERAL.—The attorney general of a State (or other appropriate State official) in which a violation of this section allegedly has occurred or will occur may institute proceedings under this subsection to prevent or restrain the violation.

(ii) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this subparagraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation of this section, in accordance with Rule 65 of the Federal Rules of Civil Procedure.

(C) INDIAN LANDS.—

(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), for a violation that is alleged to have occurred, or may occur, on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—

(I) the United States shall have the enforcement authority provided under subparagraph (A); and

(II) the enforcement authorities specified in an applicable Tribal-State compact negotiated under section 11 of the Indian Gaming Regulatory Act shall be carried out in accordance with that compact.

(ii) RULE OF CONSTRUCTION.—No provision of this section shall be construed as altering, superseding, or otherwise affecting the application of the Indian Gaming Regulatory Act.

(3) EXPEDITED PROCEEDINGS.—In addition to any proceeding under paragraph (2), a district court may, in exigent circumstances, enter a temporary restraining order against a person alleged to be in violation of this section upon application of the United States under paragraph (2)(A), or the attorney general (or other appropriate State official) of an affected State under paragraph (2)(B), in accordance with Rule 65(b) of the Federal Rules of Civil Procedure.

(4) LIMITATION RELATING TO INTERACTIVE COMPUTER SERVICES.—

(A) IN GENERAL.—Relief granted under this subsection against an interactive computer service shall—

(i) be limited to the removal of, or disabling of access to, an online site violating this section, or a hypertext link to an online site violating this section, that resides on a computer server that such service controls or operates; except this limitation shall not apply if the service is subject to liability under this section pursuant to subsection (e);

(ii) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

(iii) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this section;

(iv) specify the interactive computer service to which it applies; and

(v) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

(B) COORDINATION WITH OTHER LAW.—An interactive computer service that does not violate this section shall not be liable under section 1084 of title 18, except this limitation shall not apply if an interactive computer service has actual knowledge and control of bets and wagers and—

(i) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

(ii) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

(5) FACTORS TO BE CONSIDERED IN CERTAIN CASES.—In considering granting relief under this subsection against any payment system, or any participant in a payment system that is a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or a participant in such network, the court shall consider the following factors:

(A) The extent to which such person is extending credit or transmitting funds knowing the transaction is in connection with unlawful Internet gambling.

(B) The history of such person in extending credit or transmitting funds knowing the transaction is in connection with unlawful Internet gambling.

(C) The extent to which such person has established and is maintaining policies and procedures in compliance with regulations prescribed under subsection (f).

(D) The feasibility that any specific remedy prescribed in the order issued under this subsection can be implemented by such person without substantial deviation from normal business practice.

(E) The costs and burdens the specific remedy will have on such person.

(6) NOTICE TO REGULATORS AND FINANCIAL INSTITUTIONS.—Before initiating any proceeding under paragraph (2) with respect to a violation or potential violation of this section by any creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or any participant in such network, the Attorney General of the United States or an attorney general of a State (or other appropriate State official) shall—

(A) notify such person, and the appropriate regulatory agency (as determined in accordance with subsection (f)(5)) for such person, of such violation or potential violation and the remedy to be sought in such proceeding; and

(B) allow such person 30 days to implement a reasonable remedy for the violation or potential violation, consistent with the factors described in paragraph (5) and in conjunction with such action as the appropriate regulatory agency may take.

(d) CRIMINAL PENALTY.—

(1) IN GENERAL.—Whoever violates this section shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

(2) PERMANENT INJUNCTION.—Upon conviction of a person under this subsection, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making illegal bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.

(e) CIRCUMVENTIONS PROHIBITED.—Notwithstanding subsection (b)(2), a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or any participant in such network, or any interactive computer service or telecommunications service, may be liable under this section if such creditor, issuer, institution, operator, business, network, or participant has actual knowledge and control of bets and wagers and—

(1) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

(2) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

(f) POLICIES AND PROCEDURES TO IDENTIFY AND PREVENT RESTRICTED TRANSACTIONS IN

PAYMENT FOR UNLAWFUL INTERNET GAMBLING.—

(1) REGULATIONS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System and the Attorney General, shall prescribe regulations requiring any designated payment system to establish policies and procedures reasonably designed to identify and prevent restricted transactions in any of the following ways:

(A) The establishment of policies and procedures that—

(i) allow the payment system and any person involved in the payment system to identify restricted transactions by means of codes in authorization messages or by other means; and

(ii) block restricted transactions identified as a result of the policies and procedures developed pursuant to clause (i).

(B) The establishment of policies and procedures that prevent the acceptance of the products or services of the payment system in connection with a restricted transaction.

(2) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations pursuant to paragraph (1), the Secretary shall—

(A) identify types of policies and procedures, including nonexclusive examples, which would be deemed to be "reasonably designed to identify" and "reasonably designed to block" or to "prevent the acceptance of the products or services" with respect to each type of transaction, such as, should credit card transactions be so designated, identifying transactions by a code or codes in the authorization message and denying authorization of a credit card transaction in response to an authorization message;

(B) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing the acceptance of the products or services of the payment system or participant in connection with restricted transactions; and

(C) consider exempting restricted transactions from any requirement under paragraph (1) if the Secretary finds that it is not reasonably practical to identify and block, or otherwise prevent, such transactions.

(3) COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.—A creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service, or a participant in such network, meets the requirement of paragraph (1) if—

(A) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant to—

(i) identify and block restricted transactions; or

(ii) otherwise prevent the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

(B) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under paragraph (1).

(4) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTIONS.—A person that is subject to a regulation prescribed or order issued under this subsection and blocks, or otherwise refuses to honor, a restricted transaction, or as a member of a designated payment system relies on the policies and procedures of the payment system, in an effort to comply with this section shall not be liable to any party for such action.

(5) ENFORCEMENT.—This subsection shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act.

SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS.

(a) IN GENERAL.—In deliberations between the United States Government and any other country on money laundering, corruption, and crime issues, the United States Government should—

(1) encourage cooperation by foreign governments and relevant international fora in identifying whether Internet gambling operations are being used for money laundering, corruption, or other crimes;

(2) advance policies that promote the cooperation of foreign governments, through information sharing or other measures, in the enforcement of this Act; and

(3) encourage the Financial Action Task Force on Money Laundering, in its annual report on money laundering typologies, to study the extent to which Internet gambling operations are being used for money laundering.

(b) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress on the deliberations between the United States and other countries on issues relating to Internet gambling.

SEC. 5. AMENDMENTS TO GAMBLING PROVISIONS.

(a) AMENDMENT TO DEFINITION.—Section 1081 of title 18, United States Code, is amended—

(1) by designating the five undesignated paragraphs that begin with "The term" as paragraphs (1) through (5), respectively; and

(2) in paragraph (5), as so designated—

(A) by striking "wire communication" and inserting "communication";

(B) by inserting "satellite, microwave," after "cable,"; and

(C) by inserting "(whether fixed or mobile)" after "connection".

(b) INCREASE IN PENALTY FOR UNLAWFUL WIRE TRANSFERS OF WAGERING INFORMATION.—Section 1084(a) of title 18, United States Code, is amended by striking "two years" and inserting "5 years".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Madam Speaker, I yield myself such time as I may consume.

First, let me express my gratitude to the gentleman from Ohio (Mr. OXLEY), the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from New York (Mr. LAFALCE), the gentleman from Alabama (Mr. BACHUS), the gentlewoman from New York (Mrs. KELLY), the gentleman from Virginia (Mr. GOODLATTE), the gentleman from Virginia (Mr. WOLF), the gentleman from Nebraska (Mr. OSBORNE), the gentleman from Michigan (Mr. ROGERS), as well as the gentleman from Pennsylvania (Mr. PITTS) for their commitment and leadership on this subject.

I would also like to express my appreciation to groups ranging from the Christian Coalition to the Family Research Council, from the NCAA to the NFL and Major League Baseball for their support of this legislation.

The problem posed by Internet gambling is one we ignore at our peril. Gambling on the Internet is fast becoming one of the most critical issues confronting the American family. Casino gambling as it has been sanctioned in Western democracies is only allowed to exist with comprehensive regulation, to protect participants from fraud, and to prevent criminal manipulation of the industry. Generally, casinos also add entertainment and involve elements of socialization. Gambling alone, on the other hand, whether using a laptop at home or computer in the workplace, involves no entertainment or socialization element and lacks the fundamental protections of law and regulation.

The very characteristics that make the Internet such a valuable resource are also the reasons why it has such huge potential to impinge on the stability of the American family, American financial institutions, and our national security. The easy access, anonymity, and speed of transactions which make such positive contributions to efficiency and cost for legitimate American enterprises also in the case of gambling make safeguards for society impractical. Internet gambling increases consumer debt, makes bankruptcy more likely, money laundering an easy endeavor, and identity theft a likely burden.

The financial and economic implications of Internet gambling cannot be exaggerated. It is simply not good for the economy at large to have Americans send billions to overseas Internet casinos which often have shady or unknown owners. Nearly 80 percent of the money handed over to this industry is impossible to account for because these illegal gambling sites are located in the Caribbean or other jurisdictions with no effective regulation of gambling.

By definition, activities of these gambling sites are illegal under U.S. law, which means that over 1 million Americans are giving their personal financial information to criminals on a daily basis. Because this industry cannot and is not regulated, there is no way to track how this personal financial information is being used or by whom.

The FBI has testified that Internet gambling is a haven for money laundering and that Internet gambling remains a loophole in our fight against terrorist financing. Additionally, a recent GAO report highlights the ease at which criminal proceeds can be obscured through Internet gambling. Given the commitment of this Congress to quash the money-laundering efforts of terrorists and narco-traffickers, it would be irresponsible to leave such an enormous institutional loophole unplugged.

It is a myth to think that gambling alone only affects gamblers. Gambling losses and the resulting debt spill over to the financial and social services system and to those who may never engage in gambling. Not only does Internet gambling put strains on financial standing but those who become addictive gamblers frequently find themselves contemplating divorce and in some cases suicide.

This bill, which represents the group efforts of the Committee on Financial Services and the Committee on the Judiciary, gives law enforcement new tools to enforce existing laws in a three-pronged approach.

First, it creates a new crime—accepting identifiable instruments such as credit cards or fund transfers for debts incurred in illegal Internet gambling. Secondly, because the perpetrators of this crime are often offshore and beyond the reach of traditional law enforcement, the bill enables State and Federal Attorneys General to request that injunctions be issued to any party such as a financial institution, credit card company, Internet service provider, computer software provider, to assist in the prevention and restraint of this crime. And, thirdly, the bill allows Federal bank regulators to create rules which will require financial institutions to use designated methods to filter illegal Internet gambling transactions.

In conclusion, let me just stress that at a personal level I am a skeptic about all forms of gambling, but each of us is obligated to the maximum extent possible to be respectful of legitimate choices made by others. The problem is that Internet gambling serves no legitimate purpose in our society. It is a danger to the family. It is a danger to society at large. It should be ended.

Madam Speaker, I reserve the balance of my time.

□ 1600

Mr. LAFALCE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, 3 years have passed since the congressionally mandated National Gambling Impact Study Commission released its final report on gambling in the United States. While reaffirming the principle of State regulation of gambling, the commission did make an important exception for Internet gambling. The report called on Congress to enact legislation to restrict illegal Internet gambling, and specifically, legislation to prohibit wire transfers and other payments to known Internet gambling sites.

The bill before us today implements this important recommendation of the national commission. Contrary to what some would have us believe, the bill does not purport to prohibit Internet gambling, nor interfere with any State and tribal rights to regulate gambling within their jurisdiction.

Internet gambling is already illegal under a variety of Federal statutes. What the bill does is provide new enforcement tools for blocking credit card, wire transfer and other forms of payment to illegal Internet gambling sites identified by law enforcement. It simply blocks the payments that permit on-line betting and makes Internet gambling possible.

Any American with a computer and a credit card can find numerous opportunities for high-stakes gambling on the Internet. The number of Internet gambling sites has grown geometrically in recent years. Where the National Commission identified approximately 90 online casinos in 1998, a recent study by Bear Stearns & Company estimated that there are now more than 1,500 such sites. The typical Internet gambling operation is located in places such as Antigua or the Netherlands Antilles, which impose little regulatory scrutiny other than collecting licensing fees. This should make most of these sites highly suspect.

There is no meaningful way to determine the legitimacy of the games or the gambling operators. There are little or no protections against security breaches, hacking, diversion of credit card payments or identity theft.

More importantly, there is a high probability that many offshore gambling operations are being used as part of money laundering and other criminal operations, including terrorist financing. The FBI director recently testified before us and said offshore Internet gambling is a substantial problem as a loophole in our fight against terrorist financing.

Despite these obvious problems, online gambling continues to attract gamblers and has become extremely lucrative for both the site operators and the host countries. Combined annual revenues received by Internet gambling sites nearly tripled between 1999 and 2001 from $1.3 billion to $3.1 billion, and this year revenues will easily exceed $4 billion.

Over 80 percent of the bets received by Internet gambling sites come from the United States, and almost all of this is illegal under United States law. The very features that make the Internet so attractive, its accessibility, convenience and anonymity, combine to enable and encourage ordinary people to break the law. The Internet breaks down inhibitions to violate the law because the risks appear so much lower. As "Business Week" noted last week, people who would not even jaywalk find themselves bombarded with offers to place bets at offshore casinos that are hard to resist.

The national commission emphasized that the social and economic problems associated with traditional gambling will increasingly be exacerbated by Internet gambling. The problems with compulsive gambling, which were largely confined to areas that legalized high-stakes casino gambling, can now be found virtually anywhere where there is a personal computer. This poses significant risks for our Nation's youth.

A number of factors converge to make today's youth particularly vulnerable to the lure of Internet gambling. They are more experienced and comfortable with computers than their parents and have grown up playing a wide variety of computer and video games, and most have broad access to the Internet, and large numbers of youth now have access to some form of credit, debit or stored-value cards to make online bets. Banks and credit card companies have aggressively marketed credit cards on college campuses for years and have recently initiated new programs to market stored-value cards to high school-aged youth.

A young person sitting alone, whether at home or in a college dormitory with a laptop, can gain access to thousands of gambling sites across the world and can easily run up the credit line on their own credit cards or parents' credit cards on games that appear little different than the computer card games they have played since childhood. It seems an easy opportunity to win a big jackpot, could result in financial losses that could harm their families and destroy their future plans.

Madam Speaker, this is a problem that must be dealt with. The bill does it in a surgical manner. It does it by blocking the source of credit, blocking the use of that credit card so that kids in their college dormitory rooms will not be able to gamble at thousands of casino online sites across the world.

The issue that needs to be addressed is how we can protect our nation's youth from the growing availability and potential negative consequences of Internet gambling. To me, the answer is simple. We cut off Internet gambling at its soruce by prohibiting the primary payment vehicles that make illegal on-line betting possible. H.R. 556 would prohibit known Internet gambling sites from accepting any check, credit card, debit card or other form of electronic transfer as payment of any bet or wager over the Internet. The effect of this prohibition is to deny known Internet gambling sites from being approved for credit card, debit and other electronic transfer accounts. This is currently being done voluntarily by numerous credit card banks—including American Express, Bank of America, Providian, Citibank and Discover—and there is substantial justification for making this practice obligatory for all institutions and payment networks.

The bill incorporates proposals suggested by Visa and MasterCard that would permit payment transfer networks to establish policies and procedures for identifying and blocking payments to known Internet gambling sites. Financial institutions who are members of these networks and follow these procedures would be considered in compliance under the bill. I believe this is a reasonable accomodation that will expand the means to block illegal gambling payments and also ease the compliance concerns and burdens of individual institutions.

H.R. 556 is endorsed by many of the nation's largest credit card companies and by the largest online payment service, PayPal. It is supported by a growing number of Internet service providers and their trade groups, including NetCoalition.com and the United States Telecom Association. It is supported by law enforcement groups at all levels, including the FBI, the Federal Law Enforcement Officers Association and the Fraternal Order of Police. And it has the support of religious and family organizations across the nation.

Madam Speaker, the time has come to protect our youth from the unnecessary and potentially disastrous consequences of Internet gambling. It is time to eliminate Internet gambling as a convenient financial tool for criminals and terrorists. And it is time to provide law enforcement with the tools its needs to address this growing illegal activity. H.R. 556 can achieve all of these important objectives and deserves our support.

Madam Speaker, I reserve the balance of my time.

Mr. LEACH. Madam Speaker, I yield 3½ minutes to the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, who has led this effort with great distinction.

Mr. OXLEY. Madam Speaker, this bill is the product of a lot of hard work on the part of many Members, and I want to pay special tribute to the gentleman from Iowa (Mr. LEACH) for his dogged determination, as well as the hard work of the gentleman from New York (Mr. LAFALCE) in maybe his last major effort on a piece of legislation. Well, we hope to get to terrorism insurance before we adjourn; but the gentleman's work has been extraordinary, along with the gentleman from Virginia (Mr. GOODLATTE) as well as the gentleman from Virginia (Mr. WOLF) for their efforts.

This bill has been touted by a number of groups, Madam Speaker. It enjoys universal support from family and religious groups, antigambling groups, professional sports, college athletics, major players in the banking and credit card industries, and law enforcement and Internet service providers. The list goes on and on and is getting larger every day. This is why this bill needs to pass, because of its broad base of support.

Five years ago, Internet gambling was almost nonexistent. The Internet was just coming into its own; but apparently this kind of activity abhors a vacuum, and we have seen a huge growth of this type of gambling taking place, preying on the most vulnerable in our society, including our college-aged students and people who can least afford it.

We heard testimony in the committee from the Department of Justice and the FBI that Internet gambling serves as a haven for money launderers and that unregulated offshore gambling sites can be exploited by terrorists to launder money. That position was reiterated just recently by FBI Director Mueller when he cited Internet gambling as a substantial problem for law enforcement.

We know of at least two open cases before the bureau involving Internet gambling as a conduit for money laundering by organized crime. The GAO, in an interim report to our committee, highlighted law enforcement's concerns with Internet gambling and its vulnerability to money laundering, "including the volume, speed, and international reach of Internet transactions and the offshore locations of Internet gambling sites" which "can promote a high level of anonymity and give rise to difficult jurisdictional issues."

The Financial Action Task Force, an international body that seeks to combat money laundering, stated in a February 2001 report that some member countries had evidence that criminals were using Internet gambling to launder their illicit funds.

For the record, let us make clear what the bill does and what it does not do. It does prohibit the acceptance of U.S. financial instruments, such as credit cards, for use in unlawful Internet gambling transactions. By so doing, it cuts off the financial lifeblood of the illegal Internet gambling industry. It does not expand gambling in any way, shape or form. Those who claim otherwise are not telling the truth, or they simply do not get it.

The bill's provisions kick in only where a court or banking regulator determines that an illegal activity is taking place and relies on current Federal and State law to guide it in that determination.

H.R. 556 protects the right of States to regulate gambling within their borders. It neither expands nor limits gambling beyond what is allowed under existing Federal, State, and tribal law.

This bill represents legislation at its best. It is a direct approach to a serious problem. It will give law enforcement an important new tool to fight crime and will protect families throughout America. It deserves the support and vote of every Member of this House.

Mr. LAFALCE. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is a bill that had joint jurisdiction at one time. The Committee on Financial Services and the Committee on the Judiciary were working on it together. It is interesting that the Committee on the Judiciary came forward with a bill that affirmed that all Internet wagers were illegal. But what happened?

On page 6 of the bill that is before us, we find that all Internet gambling transactions are illegal, except "any transaction authorized under State law with a business licensed or authorized by a State."

Mr. Speaker, I refer Members to this crucial phrase, a legal phrase. Contrary to the Wire Act of 1949, which has already made any interstate gambling by wire illegal, we have created this wonderful little exception. I wonder what it means. And I wonder why the credit card companies are for this bill if they are prohibited from the bill.

And would somebody in the course of this brief discourse before us on this suspension explain to me how the Christian Right, a great group of American patriots in this country, have been persuaded that this bill bans gambling on the Internet; but yet two other industries, the horse racing industry, is supporting this bill because they are persuaded it does not, and State lotteries are found to be supporting the bill because they feel that they will be exempted under this beautiful little provision, section (ix) on page 6, which says any lawful transaction with a business licensed or authorized by the State is exempt from this bill.

We cannot have it both ways. So we are doing nothing here but making some wonderfully effective speeches about what we are stopping from happening on the Internet, but somebody besides the Committee on the Judiciary must be aware that this is not the case.

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Speaker, nothing in this bill is designed to overturn the Wire Act, Federal prohibitions on lotteries, or the Gambling Ship Act.

Mr. CONYERS. Reclaiming my time, this bill exempts any lawful transaction with a business licensed or authorized by the State, including lotteries. The gentleman must know that is a State business.

Mr. LEACH. Mr. Speaker, if the gentleman would continue to yield, only for intra-, not inter-, state and only if authorized by the State law of the State.

This bill is an enforcement mechanism that stops the ability of all interstate Internet gambling.

☐ 1615

Mr. CONYERS. Let me ask the gentleman, why are they supporting the bill?

Mr. LEACH. It is in the national interest.

Mr. CONYERS. I thank the gentleman.

Mr. LEACH. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Alabama (Mr. BACHUS), who has led this fight so well.

Mr. BACHUS. Mr. Speaker, I think my comments may shed some light on the last speaker and some of what he said.

Imagine, if you will, if you heard news from home that they had built a casino next to your house, and, worse than that, they had invited your kids over to gamble in the casino which was built next door. You would say that was about as bad a news as you could receive. But it is actually worse than that. Sitting right on the computer desk in your home, or better still up in your child's bedroom, is a computer. On that computer today, there is a child-accessible casino, because we have got 1,500 offshore, and they are offshore, this may address the last speaker's concerns, because it is against the law in all 50 States to operate these Internet gambling sites. It is against the law in all the States, so they are all offshore. Your child could go in, he could turn on his computer, and he could gamble.

Mr. Speaker, I have five children. I knew nothing about this. We ought to thank the gentleman from Iowa (Mr. LEACH) and the gentleman from Virginia (Mr. GOODLATTE). It is also, I think, fortuitous that the gentleman from Iowa sits on the Committee on Financial Services and the gentleman from Virginia sits on the Committee on the Judiciary, because I know that the gentleman from Virginia will continue to do what he can in the Committee on the Judiciary, and this bill which the gentleman from Iowa has offered is going to go a long way.

What about the demographics? What did we hear? We heard that in the over-65 age group, only 1 in 10 senior citizens in that group uses a computer as a hobby or to pursue their interests in an active way. We heard that 7 out of 10 in the 18-to-24 group use a computer. American Demographics, a study 2 years old, 7 out of 10 18-to-24-year-olds are on the computer. A survey for Public Participation in the Arts did a study about 5 years ago, and they said that the average teenager or college student is spending 4 hours on the computer.

What else do we know about college kids? Eighty percent of them have credit cards. What do they need to play on the Internet? All they need is the use of a computer, which they are on 4 hours a day, and a credit card. They have that.

Are they doing it? You bet they are doing it. The NCAA came to us and told us testimony about students losing $10,000, $5,000. Gambling addiction by college students as a result partially of Internet gambling on these illegal sites is reaching epidemic proportions.

I guess the most chilling testimony, and I will close with this, is what Dr. Howard Shaffer at Harvard University said. He said, I would compare what this illegal Internet gambling is doing to our youth in the gambling spectrum to what we saw with the introduction of crack cocaine, where it changed the drug experience and caused millions of people to become addicted within a year or two. He said the same thing is happening today with illegal Internet gambling.

We have got to move against it. I commend the gentleman from Virginia. I commend the gentleman from Iowa. This bill shuts off the money. That is what these people are there for, the money. If we shut off the money, we shut off the sites.

Mr. LAFALCE. Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. I thank the gentleman from Iowa for yielding me this time.

Mr. Speaker, I would like to enter into a colloquy with the gentleman from Iowa, the author of this bill.

Certain State, tribal and private entities have raised concerns, and I would like to clarify the intention of the drafters of H.R. 556 on one point. Section 3, subsection (b)(1)(E)(ix) exempts from the bill's provisions lawful transactions carried out with a business licensed or authorized by a State. Some parties have raised concerns that this could be read broadly to allow the transmission of casino or lottery games in interstate commerce, for example, over the Internet, simply because one State authorizes its businesses to do so.

I want to make clear that this exception will not expand the reach of gambling in any way. It is simply intended to recognize current law, which allows States jurisdiction over wholly intrastate activity, not interstate but intrastate activity, where bets or wagers, or information assisting bets or wagers, do not cross State lines or enter into interstate commerce. The exemption would leave intact the current interstate gambling prohibitions such as the Wire Act, Federal prohibitions on lotteries, and the Gambling Ship Act so that casino and lottery games could not be placed on the Internet.

Put another way, this exemption does not allow for interstate wagering. For example, under this bill a resident of one State could not legally use the Internet to purchase a lottery ticket in another State. This exemption is simply intended to recognize current law, which allows States to regulate wholly intrastate gambling activity and would leave intact the current Wire Act, which prohibits interstate gambling. Is that correct?

Mr. LEACH. Mr. Speaker, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Speaker, the gentlewoman's assessment is entirely accurate. I thank the gentlewoman for clarifying this point.

Mrs. KELLY. Reclaiming my time, Mr. Speaker, I thank the gentleman for that clarification. I strongly support this legislation and urge my colleagues to join us in standing against illegal Internet gambling and voting for this bill.

In a few short years, the Internet gambling industry has exploded. According to an Internet gambling committee of the National Association of Attorneys General, there were less than 25 such sites on the Web in the mid-1990s. Bear Stearns, one of the nation's leading securities firms, estimates that there are between 1,200 and 1,400 e-gaming Web sites. Bear Stearns projects that as the industry continues to grow; such Internet sites could generate an estimated $5 billion in revenues by 2003. That figure approximates roughly half of last year's casino earnings in the State of Nevada.

Internet gambling presents a complex set of legal, financial, technical, and social challenges. On the legal front, it is believed that most forms of interstate Internet gambling are prohibited by Federal law under the Interstate Wire Act in Section 1084 of Title 18 of the U.S. Code. For years, authorities have used the Wire Act to combat illegal betting by phone or other wire communications. Now, with the advent of Internet technology, the Wire Act and other related provisions of Federal law also stand as a legal obstacle against the establishment of Internet casinos on U.S. soil.

The most serious offenders in the Internet gambling arena are the virtual casinos operating offshore, beyond the research of U.S. law. One estimate puts the number of foreign jurisdictions authorizing or tolerating Internet gambling at fifty. This includes not just the well-known bank secrecy jurisdiction of the Caribbean but other countries like Australia.

The lure of lucrative licensing fees and the possibility of sharing in gambling receipts are proving to be powerful incentives to enter the Internet gambling business. Antigua and Barbuda have reportedly licensed more than 80 Internet gaming websites already, charging a $75,000–$85,000 licensing fee for a sports betting site and $100,000 for a virtual casino. A report prepared for the South African government, as reported in the Bear Stearns study, revealed that Internet gaming revenues could yield up to $140 million in foreign exchange.

While Internet gambling represents a jackpot for such foreign justifications, it is a wheel of misfortune for far too many Americans who struggle with gambling addictions and the loss of jobs, wrecked marriages, and destroyed finances that often follow. With a click of a computer mouse, any American armed with a credit card can have instant, anonymous access to round-the clock gambling from the privacy of their homes. All of the social hazards associated with problem gambling at brick-and-mortar sites are of equal, if not greater, concern when it comes to on-line gambling.

Furthermore, Internet gambling poses a serious problem to our youth. In the areas in which gambling is legal, strict laws have been enacted to ensure our children are prohibited from participating. In many homes the children are far more computer literate than the parents. What possibly would stop a child from placing a bet with their parent's credit card? Since our society has made a conscious decision to keep children from this activity we must take steps to ensure that online casinos do not victimize our children. The issue of what can we do to protect children from these sites will be one of my first questions for our panelists today.

In addition to the social problems associated with Internet gambling, U.S. authorities warn that Internet gaming offers a powerful vehicle for laundering funds from illicit sources as well as to evade taxes. A 2001-2002 Financial Action Task Force (FATF) report on money laundering typologies indicates that there is evidence in some FATF jurisdictions that criminals are using the Internet gambling industry to commit crime and to launder the proceeds thereof. The use of credit cards and the placement of sites offshore make locating the relevant parties, gathering the necessary evidence, and prosecuting those parties difficult if not impossible.

Despite the many problems associated with Internet gambling, there is clearly money to be made in this business, and U.S. firms are increasingly eager to claim their share. U.S. software firms, public relations and advertising companies, and other U.S.-based enterprises are already knee-deep in the Internet gambling business. Within the last year, two U.S. companies—MGM Mirage and Harrah's—have announced new on-line play-for-free or play-for-prizes operations that are but a short step away from actual Internet gambling. Nevertheless, it is clear that absent strong Congressional action, the United States may be poised itself to head down the slippery slope of Internet gambling.

In 1999, the Congressionally-mandated National Gambling Impact Study Commission unanimously recommended a Federal ban on Internet gambling. Testifying at a hearing before the Banking Committee last Congress, Commission Member Richard Leone explained that unlike the regulatory regimes that have accompanied the expansion of other forms of gambling in the United States, the emergence of Internet gambling has occurred with no regulatory structure. As a result, the current framework of Federal and State laws governing gambling can be easily circumvented. The Commission noted that the problems associated with Internet gambling include: (1) the potential for abuse by gambling operators who can alter, move, or entirely remove sites within minutes; (2) the ability of gambling operators or computer hackers to tamper with gambling software to manipulate games to their benefit; and (3) the provision of additional means for individuals to launder money derived from criminal activities.

The Commission concluded that because Internet gambling crossed state lines, it would be difficult for States to effectively control it and that Federal legislation was the only recourse. The Commission further rejected the argument that Internet gambling could be effectively regulated. and recommended, instead, a ban on any Internet gambling not already authorized by law, and without new or expanded exemptions. Although the States do not normally welcome Federal legislation on such matters, the National Association of Attorneys General, speaking on behalf of State Attorneys General, has indicated strong support for Federal action.

In response to the Commission's recommendations and testimony from other interested parties, the House Financial Services Committee approved this legislation now before us, H.R. 556, the Unlawful Internet Gambling Funding Prohibition Act. This bill tackles the problem of Internet gambling by prohibiting gambling operations from accepting credit cards, checks, or other bank instruments in connection with illegal Internet gambling. The justification for this bill is simple: if we cut off the Internet gambling industry's access to money it will die.

If we fail to act and pass this legislation I fear that our actions will be misinterpreted as a green light to those in U.S. industry who are interested in launching on-line gambling operations of one type or another. This issue can no longer simply be left to random events and foreign jurisdictions. It is time for Congress to address these issues and identify an appropriate public policy response. It is time for Congress to pass the Unlawful Internet Gambling Funding Prohibition Act. I ask all my colleagues on both sides of the aisle to join me in support of this important legislation.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Let me point out a little bit of history. In 1994, as chairman of the Committee on Small Business, I conducted some hearings into the problems of the proliferation of gambling across the United States of America. At that time I introduced a bill to create a national commission to study the impact of gambling. In the November elections we lost, and the chief cosponsor of my bill was the gentleman from Virginia (Mr. WOLF).

In the next Congress the gentleman from Virginia became the chief sponsor of the bill, and I became the chief cosponsor. With his great leadership and the assistance of a good many groups, and most especially the Christian Coalition, we were able to get the Commission's bill enacted into law. It had a difficult time getting started, having members appointed who would give us the type of objective analysis we wanted, but finally it did render a report, and there was one specific provision that, as I recall, they were unanimous on. and that was the issue of Internet gambling.

It has taken us a long time. As soon as they came out with that recommendation, I introduced a bill in the House that proceeded through the payment mechanism. The gentleman from Iowa (Mr. LEACH) introduced a bill, too, that took slightly different approaches, although we were both going in exactly the same direction. The gentleman from Virginia (Mr. GOODLATTE) has been magnificent over the years in pursuing it, especially in the Committee on the Judiciary and working with the religious organizations.

Can we nitpick a bill? Sure we can. But as far as I am concerned, if this bill is not perfect, it is 99 percent close to perfect. It is pretty good. It is certainly as good as we are going to be able to pass, and it does block off Internet gambling at its source by going to the credit card, the debit card, any electronic funds transfer. This is a growing, growing problem.

I hope, also, there are countless other problems in the United States of America associated with gambling, that we will have the courage to deal with those problems, because right now we have legalized gambling within about a half an hour drive of virtually any spot in the United States of America. So it is no longer an economic development tour. Now it is just a way of snaring people's discretionary money, and usually in preying upon people. It needs far more effective regulation than it is receiving from either the Federal or the State governments.

We do not deal with all those problems here. We deal with one very, very narrow but large problem, and that is the problem of Internet gambling, not just because of the way it is preying on our youth, but because of the way it is being used for money laundering, the way it is being used for terrorist activity, et cetera, et cetera. This bill should be passed unanimously.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. WOLF), one of the Congress' profoundest voices on moral issues, a great friend and a man I admire greatly.

Mr. WOLF. Mr. Speaker, I want to personally thank the gentleman from Iowa for staying with this and having the courage, and, as people back in Iowa ought to know, that because of him this thing is up.

I also thank the gentleman from New York (Mr. LAFALCE), who unfortunately is going to be leaving us, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Virginia (Mr. GOODLATTE). Because of them this bill is here.

To vote against this bill would be unbelievable. If anyone votes against this bill, I will not understand it. I just appreciate the gentleman from New

York's comments on the critical nature with regard to the terrorism. The FBI has testified there is a huge potential for offshore gambling sites being used for money laundering, for terrorist and criminal activities. We have said it. Terrorist and criminal activities.

Again, the gentleman from Iowa (Mr. LEACH) should be thanked by everyone in the country. The gentleman from New York (Mr. LAFALCE) should be thanked by everyone in the country, as should the gentleman from Ohio (Mr. OXLEY) and the gentleman from Virginia (Mr. GOODLATTE). They have made a difference and will save a lot of lives and will really put a stake in the heart with regard to terrorism.

Mr. Speaker, I rise in strong support of H.R. 556 and want to commend my colleagues JIM LEACH, JOHN LAFALCE, and MIKE OXLEY and Virginia colleague BOB GOODLATTE for their partnership, their hard work and persistence to get this bill to the floor today.

The legislation before us has at its heart the kind of consensus building and compromise that I believe can attract the level of support needed to pass this important measure to give law enforcement agencies the tools they need to stop the criminal activity associated with unlawful Internet gambling.

In 1999, The National Gambling Impact Study Commission issued a report urging Congress to pass legislation "prohibiting wire transfers to known Internet gambling sites, or to the banks that represent them." As the author of the legislation that established the Commission, I have maintained a keen interest in following through on its recommendations which included addressing the explosive growth in Internet gambling.

According to the National Gambling Impact Study Commission, gambling on the Internet is especially enticing to youth, pathological gamblers, and criminals. There are currently no mechanisms in place to prevent youth—who make up the largest percentage of Internet users from using their parents' credit card numbers to register and set up accounts for use at Internet gambling sites.

In addition, pathological gamblers may become easily addicted to online gambling because of the Internet's easy access, anonymity and instant results. Dr. Howard J. Shaffer, director of addiction studies at Harvard University, likens the Internet to new delivery forms of addictive drugs: "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced."

Finally, Internet gambling can provide a nearly undetectable harbor for criminal enterprises. The anonymity associated with the Internet makes online gambling more susceptible to crime.

In 2001, Chairman LEACH and Chairman GOODLATTE listened to the Commission's request and introduced two separate bills to fight illegal Internet gambling. Over the August recess, provisions from the two measures were combined into an amended version of H.R. 556, the Leach-LaFalce Internet Gambling Enforcement Act, which is before us today.

This balanced compromise worked out between the Financial Services and Judiciary committees makes it a crime to accept payment for illegal Internet gambling transactions by credit card, check, or electronic funds transfer. Under the bill, banks and credit card companies would be required to block payments to Internet casinos and other illegal Internet gambling operations. As a testament to the fairness of this bill, it has attracted the support of the major issuers of credit cards including Bank of America, MBNA America, American Express, Citigroup, and Discover Financial Services, among others.

The negative consequences of online gambling can be as detrimental to the families and communities of addictive gamblers as if a bricks and mortar casino were built right next door. Internet gambling is affiliated with a host of social ills, including gambling addiction, bankruptcy, divorce, and even suicide and just as with traditional forms of gambling, the costs must ultimately be borne by society.

As the gambling commission noted, one of the most troubling aspects of Internet gambling is that many of those enticed into addictive online gambling behavior are school-aged children with no previous exposure to gambling. Internet gambling also has been linked to specific cases of corruption in professional and amateur sports.

As a result, H.R. 556 has been endorsed by a host of anti-gambling organizations, including the American Family Association, Christian Coalition of America, Concerned Women for America, Focus on the Family, Family Research Council, the Traditional Values Coalition, the National Collegiate Athletic Association, the National Football League and Major League Baseball, among others.

There is one final and perhaps most critical issue that unlawful Internet gambling raises—Internet gambling has been linked by the FBI to organized crime and international money laundering.

The FBI has testified that there is a huge potential for offshore gambling sites to be used for money laundering for terrorist and criminal activity. The FBI and law enforcement organizations including the Federal Law Enforcement Officers Association and the Fraternal Order of Police agree about the necessity for this legislation to thwart Internet gambling operators attempts to launder money and engage in terrorist and other illegal activities.

Mr. Speaker, it is time for this Congress to address the growing problems associated with illegal Internet gambling. I urge a unanimous vote for H.R. 556, and again want to express my deep gratitude to Mr. LEACH, Mr. LAFALCE, Mr. OXLEY and Mr. GOODLATTE for their commitment and their work to pass this legislation.

Mr. LAFALCE. Mr. Speaker, I yield myself 30 seconds. I just want to point out that one of the individuals who was arrested and living in Lackawanna a few weeks or so ago was found to have expended $89,000 at Casino Niagara in Niagara Falls, Canada. The Governor of the State of New York now has an application pending with the Department of the Interior to establish Indian gambling in Niagara Falls, New York. So these individuals would not have had to go to Canada if we are able to establish Indian gambling in Niagara Falls. They would be able to go to Niagara Falls, New York, to do whatever they want with their money.

Mr. LEACH. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), who has worked harder on this issue and is more thoughtful on this subject than anyone in the history of the Congress.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I would like to start by thanking the gentleman from Iowa for yielding me this time and for his perseverance. I know that his work on this dates back a long time, including to when he was chairman of the Committee on Financial Services.

Likewise, I thank the gentleman from New York (Mr. LAFALCE). He and I have had many conversations and have worked on this for a long time. I know his dedication to dealing with this problem.

Likewise, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), and the gentleman from Texas (Mr. SMITH) of the Committee on the Judiciary, and the gentleman from Ohio (Mr. OXLEY), and the gentleman from Alabama (Mr. BACHUS) of the Committee on Financial Services for their hard work on this as well.

Mr. Speaker, just over 40 years ago, Attorney General Robert Kennedy in the midst of a fight in the war against organized crime sent legislation to Congress targeted at organized crime to crack down on gambling over telephone wires. That legislation was passed by the Congress, signed into law and has become commonly known as the Wire Act. However, because the Internet does not always travel over telephone wires, this law, which was written before the invention of the World Wide Web, has become outdated. Therefore, it is fitting that 40 years after enactment of the Wire Act and in the midst of a new war on terrorism, we are considering legislation to update the Wire Act to clarify the state of the law by bringing the current prohibition against wireline interstate gambling up to speed with the development of new technology.

□ 1630

I have long been a champion of the Internet and an advocate of limited government regulation of this new medium. However, that does not mean that the Internet should be a regulatory free zone or that our existing laws should not apply to the Internet. I think we can all agree that it would be very bad public policy to allow offline activity deemed criminal by States to be freely committed online and to go unpunished simply because we are reluctant to apply our laws to the Internet.

Gambling on the Internet has become an extremely lucrative business. Numerous studies have charted the explosive growth of this industry, both by the increases in gambling Web sites available and via industry revenues.

Almost all of the more than 1,400 Internet gambling sites are offshore. Why? Because they seek to evade the laws of this country. This bill is directly targeted at those scofflaws sucking billions of dollars out of this country who are unaccountable to the people who go online and place bets, not knowing whether they are going to get fair odds, not knowing whether they are even going to get paid. This indeed will be very effective, so I commend the gentlemen from Iowa and New York.

Mr. Speaker, it adds three provisions from the Committee on the Judiciary bill, which was a tough bill and which I would love to see passed. But we have spent a long time juggling the interests of all of the various legal gambling organizations, and this approach is the right approach at this time, just targeting the offshore folks.

I want to explain to everybody these three provisions. They are very important and valuable additions to the Committee on Financial Services bill. First, there is a provision that will allow law enforcement to obtain the cooperation of Internet service providers to not only deal with the credit cards and other financial transactions, but to require the taking down of those prolific ads on the Internet where you can click here and be at some offshore site. Those ads, if they are involving an entity that is engaged in illegal activity, will be subject to being taken down with a court order by the Internet service providers.

Secondly, it increases the penalties for violating the Wire Act from 2 years to 5 years. Finally, it makes it clear, and this is vitally important, it makes it clear that despite the changes in technologies, these new technologies being deployed today do not bypass the Wire Act. It makes it clear that the Wire Act applies regardless of the technology.

So I urge my colleagues to support this fine legislation.

A study by the research group Christiansen/Cumming Associates estimated that between 1997 and 1998, Internet gambling more than doubled, from 6.9 million to 14.5 million gamblers, with revenues doubling from $300 million to $651 million. More recently, Bear, Stearns & Co. Inc. reported that there were at that time as many as 1,400 gambling sites, up from 700 just a year earlier. Other estimates indicate that Internet gambling could soon easily become a $10 billion a year industry.

Almost all virtual betting parlors accepting bets from individuals in the United States have attempted to avoid the application of United States law by locating themselves offshore and out of our jurisdictional reach. These offshore, fly-by-night Internet gambling operators are unlicensed, untaxed and unregulated and are sucking billions of dollars out of the United States.

The FBI and the Department of Justice have testified that Internet gambling serves as a vehicle for money laundering activities and can be exploited by terrorists to launder money.

The negative consequences of online gambling can be as detrimental to the families and communities of addictive gamblers as if a bricks and mortar casino was built right next door. Online gambling can result in addiction, bankruptcy, divorce, crime, and moral decline just as with traditional forms of gambling, the costs of which must ultimately be borne by society.

Internet gambling is especially enticing to youth, pathological gamblers, and criminals. There are currently no mechanisms in place to prevent youth—who make up the largest percentage of Internet users—from using their parents' credit card numbers to register and set up accounts for use at Internet gambling sites. In addition, pathological gamblers may become easily addicted to online gambling because of the Internet's easy access, anonymity and instant results. Dr. Howard J. Shaffer, director of addiction studies at Harvard, likens the Internet to new delivery forms of addictive drugs: "As smoking crack cocaine changed the cocaine experience, I think electronics is going to change the way gambling is experienced." Finally, Internet gambling can provide a nearly undetectable harbor for criminal enterprises. The anonymity associated with the Internet makes online gambling more susceptible to crime.

Gambling is currently illegal in the United States unless regulated by the States. As such, every state has gambling statutes to determine the type and amount of legal gambling permitted. With the development of the Internet, however, prohibitions and regulations governing gambling have been turned on their head. Since 1868, the federal government has enacted federal gambling statutes when a particular type of gambling activity has escaped the ability of states to regulate it. For over one hundred years, Congress has acted to assist states in enforcing their respective policies on gambling when developments in technology of an interstate nature, such as the Internet, have compromised the effectiveness of state gambling laws.

The more than 1,400 gambling websites from the Caribbean and elsewhere are unlicensed, untaxed, and unregulated by any state, and thus violate all 50 state laws in which they are available. That is why state attorneys general, pro-family/anti-gambling groups, professional and amateur sports leagues, and the Department of Justice all agree that federal legislation is needed to clarify federal law that offshore Internet gambling businesses are illegal.

The National Gambling Impact Study Commission recommended to Congress that federal legislation is needed to halt the expansion of Internet gambling and to prohibit wire transfers to known Internet gambling sites, or the banks who represent them.

Under current federal law, it is unclear that using the Internet to operate a gambling business is illegal. The closest useful statute is the Wire Act which prohibits gambling over telephone wires. However, because the Internet does not always travel over telephone wires, the Wire Act, which was written well before the invention of the World Wide Web, has become outdated—it is not clear that it applies to the Internet at all.

H.R. 556, as amended by provisions in Internet gambling legislation I introduced, clarifies the state of the law by amending the Wire Act to bring the current promotion against wireline interstate gambling up to speed with the development of new technology. This provision settles the uncertainty about whether the Wire Act applies to the Internet and at the request of the Justice Department, makes the Wire Act technology neutral so that the law applies to both the telephone and the Internet.

Language has also been included in H.R. 556 from my bill that provides for further cooperation between law enforcement and Interactive Computer Service Providers to combat illegal Internet gambling. This provision provides for ISPs to respond to injunctions to take down illegal gambling websites or websites containing hypertext links hosted by the ISP. The bill makes clear that such injunctions would issue only after the opportunity for a hearing, would specify the service to which the order applies, and provide enough information so that the interactive computer service could locate the site or hypertext link. As a result of striking this balance between the responsibilities of Internet companies and the needs of law enforcement, the bill has the support of the ISP community.

As the National Gambling Impact Study Commission has documented, and Senate and House hearings have confirmed, Internet gambling is growing at an explosive rate. It evades existing anti-gambling laws, endangers children in the home, promotes compulsive gambling among adults, preys on the poor, and facilitates fraud. H.R. 556 will put a stop to this harmful activity before it spreads further.

Mr. LEACH. Mr. Speaker, if I could first inquire of my good friend, the gentleman from New York (Mr. LAFALCE), we have two speakers and only 1½ minutes remaining.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I thank the gentleman from New York (Mr. LAFALCE) for yielding me time.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS), and I note that the gentleman has worked on this very assiduously and is a man of great dignity and respect.

Mr. PITTS. Mr. Speaker, first of all, I want to thank and commend the gentleman from Iowa (Mr. LEACH), the gentleman from Ohio (Mr. OXLEY), the gentleman from Virginia (Mr. GOODLATTE), and the gentleman from New York (Mr. LAFALCE), and the other sponsors for developing and moving this important legislation.

In the last couple of decades, gambling has exploded across this country, both legal and illegal forms of gambling. While many of us are concerned about legal gambling and its impact on society, this bill is about illegal gambling.

The Internet has made it possible to gamble away your money to offshore criminals right from your bedroom.

Millions of Americans send these crooks their money; and up until now, the States have been powerless to do anything about it. With this bill, we solve the problem. It may be impossible to keep illegal gambling sites off the World Wide Web, but it is entirely possible to prevent American credit cards companies from completing these transactions that these crooks need to make their money, and that is what this bill does. It does nothing to roll back legal gambling in this country. This is entirely about activities that are already against the law and need to be stopped. Some Americans do not seem to have discretion not to do this; this will help keep the money out of the hands of illegal people running these gambling sites, and I urge my colleagues to support the bill.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. OSBORNE), one of Congress's most unique and distinguished Members.

Mr. OSBORNE. Mr. Speaker, I rise in support of H.R. 556. Like others, I would like to thank the gentleman from Iowa (Mr. LEACH) for his work; the ranking member, the gentleman from New York (Mr. LAFALCE); the gentleman from Virginia (Mr. GOODLATTE); and others for their leadership.

The main reason I am here today is that I am really interested in young people, and I am interested in sports gambling; and of course, Internet gambling has really lead to an explosion of gambling of intercollegiate athletics, and that is one reason why the NCAA, the NFL, and Major League Baseball all support this legislation.

College students often run up huge credit card debts on these sites, and this is involved with sports betting. According to the Federal Trade Commission, Internet gambling sites are advertising on Web pages normally visited by children. A child cannot gamble in a casino or race track or any other establishment because of age limits, but some young people are using parents or their own credit cards on these sites. One really alarming statistic I want to mention: it is estimated that 1.1 million adolescents between the ages of 12 and 18 are pathological gamblers. This is a higher percentage than adults by age group. Young people become addicted to alcohol, drugs, and gambling more quickly than adults because of psychological and physiological immaturity. So I believe this is especially pernicious and particularly dangerous; and I urge support of this important legislation.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

I think this is an extremely important bill. I think it is an extremely important bill for all Americans, but most especially for our youth who use computers every single day, hours and hours every day, and have countless, in the course of a week, dozens or hundreds of opportunities flashed in their face to engage in Internet gambling. They are flooded with credit cards that if they use them will extend their credit far beyond their capacity to pay, perhaps for the next 40, 50 years or so.

There has been a growing tendency too of obtaining student loans to pay off credit card debt, credit card debt that has often been incurred during the course of Internet gambling. There is a difficulty. Student loans cannot be discharged in bankruptcy. So the lives of these students are at stake, and we can do something about it. We can follow the recommendation of the national commission. We can follow the recommendations of the various religious organizations across America, the various athletic associations across America. We can follow the recommendations of the police organizations across America. We can follow the recommendations and vote "yes," or we could ignore them and flaunt them and vote "no."

Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Let me just conclude by thanking, if I can, the gentleman from New York (Mr. LAFALCE) and all of the others who have led this charge. I will just conclude with one observation. Gambling alone leads too easily to addiction. It leads to a situation where fathers lose their homes, mothers their families, students access to college and, in far too many instances, violence to the person and to their friends. This is a family issue. It is a national issue. We must act. I urge its adoption.

Mr. BACA. Mr. Speaker, I oppose H.R. 556, the Unlawful Internet Gambling Funding Prohibition Act. Although this bill is entitled a "prohibition" act, it is really an authorization act. Section 3 of the bill provides a carve-out for transactions with businesses licensed or authorized. by States. It provides exemptions that, in essence, would allow States to license new Internet gaming operations for lotteries, horse tracks, and corporate gambling operations. The House Judiciary Committee rejected a similar provision in July when it adopted an amendment to delete all authorizations for interstate Internet gaming.

Although the bill grants States these exemptions, it does not provide Tribal governments with the same exemptions. I would not be standing here today, in opposition to this bill, if there were a flat prohibition on internet gaming. But that is not what this bill does.

The bill gives an advantage to private gaming enterprises. It does not treat tribal governments as equals. Just when we think that the centuries of mistreatment and discrimination are ending, something comes up to show us that they haven't. We are learning that the more things change, the more they stay the same.

Once again, Congress is trying to put tribal governments at a disadvantage. And once against, I will stand up and defend the sovereignty of tribal governments! I will stand up and make sure that our government lives up to its trust responsibility!

Gaming provides the financial resources that tribes need to survive and to bring economic development to their people. It provides the resources that tribal governments need to provide health, education and hope to their people. It is the lifeblood of our Native American brothers and sisters! I will not stand by and watch as Congress puts tribes behind the eight-ball.

I urge my colleagues to vote "no" on H.R. 556.

Mr. PAUL. Mr. Speaker, H.R. 556 limits the ability of individual citizens to use bank instruments, including credit cards or checks, to finance Internet gambling. This legislation should be rejected by Congress since the federal government has no constitutional authority to ban or even discourage any form of gambling.

In addition to being unconstitutional, H.R. 556 is likely to prove ineffective at ending Internet gambling. Instead, this bill will ensure that gambling is controlled by organized crime. History, from the failed experiment of prohibition to today's futile "war on drugs," shows that the government cannot eliminate demand for something like Internet gambling simply by passing a law. Instead, H.R. 556 will force those who wish to gamble over the Internet to patronize suppliers willing to flaunt the ban. In many cases, providers of services banned by the government will be members of criminal organizations. Even if organized crime does not operate Internet gambling enterprises their competitors are likely to be controlled by organized crime. After all, since the owners and patrons of Internet gambling cannot rely on the police and courts to enforce contracts and resolve other disputes, they will be forced to rely on members of organized crime to perform those functions. Thus, the profits of Internet gambling will flow into organized crime. Furthermore, outlawing an activity will raise the price vendors are able to charge consumers, thus increasing the profits flowing to organized crime from Internet gambling. It is bitterly ironic that a bill masquerading as an attack on crime will actually increase organized crime's ability to control and profit from Internet gambling.

In conclusion, Mr. Speaker, H.R. 556 violates the constitutional limits on federal power. Furthermore, laws such as H.R. 556 are ineffective in eliminating the demand for vices such as Internet gambling; instead, they ensure that these enterprises will be controlled by organized crime. Therefore I urge my colleagues to reject H.R. 556, the Internet Gambling Prohibition Act.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the bill, H.R. 556, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROTECTION OF FAMILY FARMERS ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5472) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted.

The Clerk read as follows:

H.R. 5472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection of Family Farmers Act of 2002".

SEC. 2. 6-MONTH EXTENSION OF PERIOD FOR WHICH CHAPTER 12 OF TITLE 11 OF THE UNITED STATES CODE IS REENACTED.

(a) AMENDMENTS.—Section 149 of title I of division C of Public Law 105-277 is amended—

(1) by striking "January 1, 2003" each place it appears and inserting "July 1, 2003"; and

(2) in subsection (a)—

(A) by striking "May 31, 2002" and inserting "December 31, 2002"; and

(B) by striking "June 1, 2002" and inserting "January 1, 2003".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Pennsylvania (Mr. HOLDEN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5472, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a lengthy statement which I shall put into the RECORD; but, basically, this bill reenacts and extends chapter 12 of the bankruptcy code, which is a specialized form of bankruptcy relief for family farmers, for a period of 6 months from January 1, 2003 until July 1, 2003.

Currently, chapter 12 expires on January 1 of next year. There is a permanent extension and recodification of chapter 12 and the conference report on H.R. 333, the bankruptcy reform legislation which the conferees have agreed on, but which have not been scheduled for House consideration, it is my hope that the House and the Senate will pass this conference report before adjournment; but, since we do not know when adjournment will be, and since we do not know whether there will be a lame duck session, this is an essential safety valve to keep chapter 12 in place should, for any reason whatsoever, the bankruptcy conference report fail enactment during the current Congress.

So I would urge my colleagues to support this legislation.

Mr. Speaker, I rise in support of H.R. 5472.

This bill reenacts and extends Chapter 12 of the Bankruptcy Code—a specialized form of bankruptcy relief for family farmers—for a period of six months, from January 1, 2003 until July 1, 2003. This extension is necessary in light of the pending expiration of Chapter 12—due to occur on January 1st of next year.

Chapter 12 was enacted on a temporary basis in 1986 in response to the financial upheaval farmers were facing at that time. Owing to the continued volatility of the agricultural market, Chapter 12 has been extended on several occasions over the years. The most recent extension was enacted as part of the Farm Security and Rural Investment Act of 2002, which became law last May.

Without question, family farmers play a critical role in our nation's health and economic well-being. Unfortunately, recurrent bad weather, rising energy costs, unpredictable market conditions, and competition from large agribusinesses and overseas producers are just some of the economic forces experienced by family farmers across our nation.

Chapter 12 addresses the special needs of family farmers by giving them the tools, under the protection of bankruptcy, to facilitate their financial rehabilitation. On the other hand, Chapter 12 is utilized infrequently. While total bankruptcy filings in each of the past six years surpassed more than one million cases, the number of Chapter 12 cases exceeded one thousand on only one occasion and that was back in 1996. In the absence of Chapter 12, family farmers may apply for relief under the Bankruptcy Code's other alternatives, although these generally do not work quite as well for farmers as Chapter 12.

Nevertheless, Chapter 12 is important for family farmers and—to his great credit—my colleague from the Commonwealth of Pennsylvania (Mr. GEKAS) should be commended for his leadership and unwavering efforts over the years to make this form of bankruptcy relief a permanent component of the Bankruptcy Code. As you know, the conference report on H.R. 333, the "Bankruptcy Abuse Prevention and Consumer Protection Act," would not only make Chapter 12 permanent, but amend the current law to include many other significant farmer-friendly provisions. These provisions include the following.

First, H.R. 333 would increase the debt eligibility maximum and require this cap to be automatically adjusted for inflation on a periodic basis. In addition, H.R. 333 would lower the income percentage limit so that more family farmers will be able to file for Chapter 12 relief.

Second, H.R. 333 gives farmers more protections with respect to how they may treat the claims of creditors.

For example, it allows certain tax claims to be reclassified in order to free up assets so that they can be sold. This will enhance a farmer's ability to propose a plan of repayment to creditors and help the farmer better effectuate his or her financial "fresh start."

Third, H.R. 333 prohibits a farmer from being required, under a modified plan of reorganization, to make payments that would leave the farmer with insufficient funds to maintain the farm's operations after all payments under the modified plan are made.

In addition, H.R. 333—for the first time in the history of Chapter 12—would allow certain family fishermen to be eligible for this special form of bankruptcy relief.

I ask all of you who say they support Chapter 12 and family farmers to put your words into action and support final passage of the conference report on H.R. 333.

H.R. 5472 is good for family farmers because it ensures Chapter 12 will be available in the upcoming months while we continue our efforts to complete consideration of the bankruptcy conference report, which will provide even more protections for family farmers when enacted.

Accordingly, I urge my colleagues to support H.R. 5472.

Mr. Speaker, I reserve the balance of my time.

Mr. HOLDEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to reluctantly offer my support for H.R. 5472, the Family Farmer Protection Act of 2002. I say "reluctantly" because the legislation before us today is an incomplete solution to a problem that has existed for more than 5 years.

In 1997, Mr. Speaker, the National Bankruptcy Review Commission recommended that chapter 12 of the Federal Bankruptcy Code, the chapter which contains bankruptcy protections for family farmers, be made permanent.

The bill we are considering today marks the sixth time we are ignoring that 1997 recommendation and are instead extending chapter 12 on a temporary basis. It does not make sense. Chapter 12 is by no means a controversial issue. It was enacted in 1986 as a temporary measure to allow family farmers to repay their debts according to a plan under court supervision. Chapter 12 prevents the situation from occurring where a few bad crop years results in the loss of the family farm. In the absence of chapter 12, family farmers are forced to file for bankruptcy relief under the bankruptcy code's other alternatives, none of which work quite as well for farmers as chapter 12 does. Chapter XI, for example, will require a farmer to sell the family farm to pay the claims of creditors. How can a farmer be expected to come up with the money to pay off his debts when he is out of his farm?

Chapter XI is an expensive process that does not accommodate the special needs of farmers. This Congress, just as in previous Congresses, the larger Bankruptcy Reform Act includes a provision that will permanently extend chapter 12. Also, in this Congress, just as in previous Congresses, the larger Bankruptcy Reform Act remains a controversial bill whose enactment is an uncertainty. For 5 years now, family farmers have been held hostage by the contentious debate surrounding the larger bankruptcy issue. For years they have been made to sit on pins and needles waiting to see if Congress will extend these protections for another few months until we reach the next legislative hurdle on the larger bankruptcy issue.

Mr. Speaker, family farmers have waited long enough. The games must stop. Right now, family farmers are making plans to borrow money based on next year's expected harvest. As these farmers leverage themselves, they need to have the assurance that chapter 12 family farmer bankruptcy protections are going to be there for them on a long-term basis. Sporadic and temporary extensions do not do the job.

Permanently extending chapter 12 will give farmers the kinds of protections they desperately need, the kind of protections we already voted for three times in the 107th Congress.

Mr. Speaker, this bill does little more than extend for another 6 months the time when family farmers are, once again, put at risk. I will support this bill today, because it is the only option available. But I continue to urge my friends on the other side, let us end this cliff-hanger once and for all; let us give family farmers the permanent protection they deserve.

□ 1645

Mr. Speaker, I have a chart detailing each of the occasions that Chapter 12 has been extended.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I notice that none of the Committee on the Judiciary Democrats decided to take the time to come to the floor to manage this legislation, and that the Democratic manager is someone who does not serve on the Committee on the Judiciary.

Be that as it may, I appreciate the support for my bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GEKAS), who has spent much more time in the vineyards of trying to pass bankruptcy reform than our newfound convert over on the other side of the aisle.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is true that from the very first moment that we began the movement for bankruptcy reform, farmers in Chapter 12 were always one of the priorities, and not a day passed in the formation of the new bankruptcy reform bill that we did not insist that the final version that we were going to pass in this House and hopefully in the Senate and sign into law would contain Chapter 12 permanency for our farmers.

What happened was that even though we made measured progress by passing the bankruptcy reform bill overwhelmingly in the House and overwhelmingly in the Senate at different times, the conference that was then formed never came to fruition. When it finally did, and we did pass it and presented it to the then incumbent President, Bill Clinton, he allowed it to fade into oblivion through a pocket veto.

So we are back at it again. We passed another bankruptcy reform bill. Again, we had the farmers in mind in Chapter 12, because we made it permanent. It is a permanent solution to a vexing problem, and it is in bankruptcy reform.

Now we have again at hand a conference report that treats our farmers in Chapter 12 the way they deserve to be treated, along with many other elements of our society who are protected and whose lives are enhanced by the other provisions in the bankruptcy reform measure. We await now the dissolution of that one little quarter-inch problem that vexes us that keeps us from final passage of bankruptcy reform.

In the meantime, we will continue with our vigilance for the farmers under Chapter 12 by passing this legislation.

Mr. HOLDEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I say to my friend, the gentleman from Wisconsin, he is right, I do not serve on the Committee on the Judiciary, but I proudly serve on the Committee on Agriculture, and have done so for the past 10 years.

During that time period, I have worked very closely with my farmers in my congressional district, as well as farmers throughout the Commonwealth of Pennsylvania. I can tell the Members that they want to have us permanently extend or to make permanent Chapter 12 of the bankruptcy code. They do not want us to continually just do it as we go along, giving them an extension; they want it to be made permanent.

I am here to lend my support to that. I will support this bill today, but hopefully we will be able to make Chapter 12 permanent in the very near future.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we would not be here today talking about Chapter 12 or the whole issue of bankruptcy reform had not former President Clinton pocket-vetoed the bankruptcy reform bill introduced by the gentleman from Pennsylvania (Mr. GEKAS) in the last Congress, which passed both Houses, and then President Clinton decided that he would let the 10 days go by after the adjournment of Congress, and the bill did not become law because of a pocket veto. Because of that pocket veto, we have been struggling with bankruptcy reform again during this Congress.

Now, the gentleman from Pennsylvania (Mr. GEKAS) has been a leader since 1998 in bankruptcy reform. He introduced the first bill to make Chapter 12 permanent. He introduced a bill in the last Congress to make Chapter 12 permanent. He has been the principal author of the bill in this Congress to make Chapter 12 permanent.

Now, maybe my other friend, the gentleman from Pennsylvania, maybe his farmers are a little different from Wisconsin farmers. Wisconsin farmers do not want to go bankrupt. Chapter 12 is not a very commonly used provision in the bankruptcy law, but it is a necessary provision in the bankruptcy law.

I appreciate the recent interest of the gentleman from Pennsylvania (Mr. HOLDEN) in this issue. Unlike the other the gentleman from Pennsylvania (Mr. GEKAS), he has not introduced a single bill on Chapter 12. He has cosponsored one, but that was just very recently.

So I hope that we can have a groundswell of support, and I welcome him aboard.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for H.R. 5472, which extends Chapter 12 bankruptcy for family farms and ranches to July 1, 2002. Chapter 12 bankruptcy once again is set to expire on January 1, 2002. This legislation is very important to the nation's agriculture sector.

This Member would express his appreciation to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the Chairman of the House Judiciary Committee, for introducing H.R. 5472. In addition, this Member would like to express his appreciation to the distinguished gentleman from Michigan (Mr. SMITH) for his efforts in getting this measure to the House Floor for consideration.

This extension of Chapter 12 bankruptcy is supported by this Member as it allows family farmers to reorganize their debts as compared to liquidating their assets. The use of the Chapter 12 bankruptcy provision has been an important and necessary option for family farmers throughout the nation. It has allowed family farmers to reorganize their assets in a manner which balances the interests of creditors and the future success of the involved farmer.

If Chapter 12 bankruptcy provisions are not extended for family farmers, it will be another very painful blow to an agricultural sector already reeling from low commodity prices. Not only will many family farmers have no viable option other than to end their operations, but it will also cause land values to likely plunge. Such a decrease in value of farmland will negatively affect the ability of family farmers to earn a living. In addition, the resulting decrease in farmland value will impact the manner in which banks conduct their agricultural lending activities. Furthermore, this Member has received many contacts from his constituents supporting the extension of Chapter 12 bankruptcy because of the situation now being faced by our nation's farm families—it is clear that the agricultural sector is hurting.

Mr. Speaker, in closing, this Member urges his colleagues to support H.R. 5472.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 5472.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NOTIFICATION OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. HOLDEN. Mr. Speaker, pursuant to rule IX, clause 1, I rise to give notice of my intent to present a question of the privileges of the House. The form of the resolution is as follows:

> A resolution in accordance with House Rule IX, expressing a sense of the House that its integrity has been impugned and its Constitutional duty hampered by the inability of the House to bring to the floor, a clean bill permanently extending Chapter 12 of title 11 of the U.S. Code which provides bankruptcy protections to family farmers.
>
> Whereas, Chapter 12 of the Federal bankruptcy code was enacted in 1986 as a temporary measure to allow family farmers to repay their debts according to a plan under court supervision, preventing. a situation from occurring where a few bad crop years lead to the loss of the family farm; and
>
> Whereas, in the absence of Chapter 12, farmers are forced to file for bankruptcy relief under the Bankruptcy Code's other alternatives, none of which work quite as well for farmers as chapter 12; and
>
> Whereas, since its creation, the Chapter 12 family farmer bankruptcy protection has been renewed regularly by Congress and has never been controversial; and
>
> Whereas in 1997, the National Bankruptcy Review Commission recommended that Chapter 12 be made permanent; and
>
> Whereas in this Congress, just as in previous Congresses, the larger Bankruptcy Reform Act includes a provision that permanently extends Chapter 12. And, in this Congress, just as in previous Congresses, the larger Bankruptcy Reform Act is a controversial bill whose enactment is an uncertainty; and
>
> Whereas, for 5 years now, family farmers have been held hostage by the contentious debate surrounding the larger bankruptcy issue. For 5 years, the family farmer has been waiting to see if Congress will extend these protections for another few months until we reach the next legislative hurdle on the larger bankruptcy issues; and
>
> Whereas right now, family farmers are making plans to borrow money based on next year's expected harvest in order to be able to buy the seeds needed to plant the crops for that harvest. As these farmers leverage themselves, they need to have the assurance that Chapter 12 family farmer bankruptcy protections are going to be there for them on a permanent basis. Sporadic and temporarily extensions do not do the job.
>
> Now therefore, be it resolved that it is the sense of the House of Representatives that the Speaker should immediately call up for consideration by this body, HR 5348, the Family Farmers and Family Fishermen Protection Act of 2002, which will once and for all give family farmers the permanent bankruptcy protections they have been waiting over five years for.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that resolution, the form of the resolution noticed by the gentleman from Pennsylvania will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. HOLDEN. Mr. Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a question of privilege.

The SPEAKER pro tempore. That time will be designated.

FEDERAL COURTS IMPROVEMENT ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4125) to make improvements in the operation and administration of the Federal courts, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Courts Improvement Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

Sec. 101. Authority of bankruptcy administrators to appoint trustees and to serve as trustees in bankruptcy cases in the States of Alabama and North Carolina.
Sec. 102. Change in composition of divisions of Eastern District of Texas.
Sec. 103. Conditions of probation and supervised release.
Sec. 104. Reporting of wiretap orders.
Sec. 105. Clarifying the scope of diversity of citizenship for resident aliens.
Sec. 106. Authority of district courts regarding jurors.
Sec. 107. Deletion of automatic excuse from jury service for members of the Armed Forces, members of fire and police departments, and public officers.
Sec. 108. Elimination of the public drawing requirements for selection of juror wheels.
Sec. 109. Supplemental attendance fee for petit jurors serving on lengthy trials.
Sec. 110. Change in composition of divisions in Western District of Tennessee.
Sec. 111. Place of holding court in the Southern District of Ohio.
Sec. 112. Place of holding court in the Northern District of New York.

TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

Sec. 201. Disability retirement and cost-of-living adjustments of annuities for territorial judges.
Sec. 202. Federal Judicial Center personnel matters.
Sec. 203. Annual leave limit for judicial branch executives.
Sec. 204. Supplemental benefits program.
Sec. 205. Inclusion of judicial branch personnel in organ donor leave program.
Sec. 206. Maximum amounts of compensation for attorneys.
Sec. 207. Maximum amounts of compensation for services other than counsel.
Sec. 208. Protection against malicious recording of fictitious liens against Federal judges.
Sec. 209. Appointing authority for circuit librarians.

TITLE III—ADDITIONAL PROVISIONS

Sec. 301. Monitoring of communications of officers and employees of judicial branch.
Sec. 302. Clerical amendments.

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

SEC. 101. AUTHORITY OF BANKRUPTCY ADMINISTRATORS TO APPOINT TRUSTEES AND TO SERVE AS TRUSTEES IN BANKRUPTCY CASES IN THE STATES OF ALABAMA AND NORTH CAROLINA.

Until the amendments made by subtitle A of title II of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law 99-554; 100 Stat. 3088) become effective in and with respect to a judicial district in the State of Alabama, or in and with respect to a judicial district in the State of North Carolina—

(1) a reference in sections 303(g), 701(a), 703(b), 703(c), 1102(a), 1104(d), 1163, 1202, and 1302 of title 11, United States Code, to the United States trustee shall be deemed to be a reference to the bankruptcy administrator appointed and serving in such district under the authority of section 302(d)(3)(I) of such Act;

(2) a reference in sections 1202(a) and 1302(a) of title 11, United States Code, to section 586(b) of title 28, United States Code, shall be deemed to be a reference to such section as modified in operation by the other provisions of this section;

(3) a reference in sections 701(a)(1) and 703(c) of title 11, United States Code, to a panel of private trustees established under section 586(a)(1) of title 28, United States Code, shall be deemed to be a reference to the panel of private trustees established in such district under the authority of section 302(d)(3)(I)(i) of such Act; and

(4) a reference in subsections (b), (d), and (e) of section 586 of title 28, United States Code—

(A) to the Attorney General shall be deemed to be a reference to the Director of the Administrative Office of the United States Courts;

(B) to the United States trustee for the region shall be deemed to be a reference to the bankruptcy administrator appointed for such district;

(C) to a standing trustee shall be deemed to be a reference to a standing trustee appointed by the bankruptcy administrator;

(D) to the designation of one or more assistant United States trustees shall be disregarded; and

(E) to the deposit in the United States Trustee System Fund shall be deemed to be a reference to the payment to the clerk of the court for deposit in the Treasury;

for purposes of cases pending under title 11, United States Code, in such district.

SEC. 102. CHANGE IN COMPOSITION OF DIVISIONS OF EASTERN DISTRICT OF TEXAS.

(a) In General.—Section 124(c) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "Denton, and Grayson" and inserting "Delta, Denton, Fannin, Grayson, Hopkins, and Lamar"; and

(B) by inserting "and Plano" after "held at Sherman";

(2) by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively; and

(3) in paragraph (5), as so redesignated, by inserting "Red River," after "Franklin,".

(b) Texarkana.—Sections 83(b)(1) and 124(c)(5) (as redesignated by subsection (a) of this section) of title 28, United States Code, are each amended by inserting after "held at Texarkana" the following: ", and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas".

(c) Effective Date.—

(1) In general.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Pending cases not affected.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Eastern District of Texas on such date.

(3) Juries not affected.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Eastern Judicial District of Texas on the effective date of this section.

SEC. 103. CONDITIONS OF PROBATION AND SUPERVISED RELEASE.

(a) Conditions of Probation.—Section 3563(a)(2) of title 18, United States Code, is amended by striking "(b)(2), (b)(3), or (b)(13)" and inserting "(b)(2) or (b)(12)".

(b) Supervised Release After Imprisonment.—Section 3583(d) of title 18, United States Code, is amended by striking "section 3563(b)(1)" and all that follows through "appropriate." and inserting "section 3563(b) and any other condition it considers to be appropriate, except that a condition set forth in subsection 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with subsection (e)(2) of this section and only when facilities are available.".

(c) Conforming Amendment.—Section 3563(b)(10) of title 18, United States Code, is amended by inserting "or supervised release" after "probation".

SEC. 104. REPORTING OF WIRETAP ORDERS.

Paragraph (1) of section 2519 of title 18, United States Code, is amended by striking all that precedes "(a)" and inserting the following:

"(1) In January of each year, any judge who has issued an order (or extension thereof) under section 2518 which expired during the preceding year or who has denied approval of an interception during that year, shall report to the Administrative Office of the United States Courts—".

SEC. 105. CLARIFYING THE SCOPE OF DIVERSITY OF CITIZENSHIP FOR RESIDENT ALIENS.

Section 1332(a) of title 28, United States Code, is amended by striking the last sentence and inserting the following: "The district courts shall not have original jurisdiction under paragraph (2) or (3) where the matter in controversy is between a citizen of a State and a citizen or subject of a foreign state admitted to the United States for permanent residence and domiciled in the same State.".

SEC. 106. AUTHORITY OF DISTRICT COURTS REGARDING JURORS.

Section 1866(g) of title 28, United States Code, is amended in the first sentence—

(1) by striking "shall" and inserting "may"; and

(2) by striking "his" and inserting "the".

SEC. 107. DELETION OF AUTOMATIC EXCUSE FROM JURY SERVICE FOR MEMBERS OF THE ARMED FORCES, MEMBERS OF FIRE AND POLICE DEPARTMENTS, AND PUBLIC OFFICERS.

(a) Removal of Exemption.—Section 1863(b) of title 28, United States Code, is amended by striking paragraph (6) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) Conforming Amendments.—(1) Section 1865(a) of title 28, United States Code, is amended in the first sentence by striking ", or exempt,".

(2) Section 1866 of title 28, United States Code, is amended—

(A) in the first sentence of subsection (a), by striking "exempt or";

(B) in the first sentence of subsection (c)—

(i) by striking "or (6)"; and

(ii) by striking "excused, or exempt" and inserting "or excused"; and

(C) in subsection (d), by striking "exempt,".

(3) Section 1869 of title 28, United States Code, is amended—

(A) in the first sentence of subsection (h), by striking "or exempted"; and

(B) by repealing subsection (i).

(c) Discretionary Exemption From Service.—(1) Section 982 of title 10, United States Code, is amended—

(A) by amending the section heading to read as follows:

"§982. Members: service on Federal, State, and local juries";

and

(B) by striking "State or" and inserting "Federal, State, or".

(2) The item relating to section 982 in the table of sections for chapter 49 of title 10, United States Code, is amended to read as follows:

"982. Members: service on Federal, State, and local juries.".

SEC. 108. ELIMINATION OF THE PUBLIC DRAWING REQUIREMENTS FOR SELECTION OF JUROR WHEELS.

(a) Drawing of Names From Jury Wheel.—Section 1864(a) of title 28, United States Code, is amended—

(1) in the first sentence, by striking "publicly"; and

(2) by inserting after the first sentence the following new sentence: "The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.".

(b) Selection and Summoning of Jury Panels.—Section 1866(a) of title 28, United States Code, is amended—

(1) in the second sentence, by striking "publicly"; and

(2) by inserting after the second sentence the following new sentence: "The clerk or jury commission shall post a general notice for public review in the clerk's office explaining the process by which names are periodically and randomly drawn.".

(c) Conforming Amendment.—Section 1869(k) of title 28, United States Code, is repealed.

SEC. 109. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT JURORS SERVING ON LENGTHY TRIALS.

Section 1871(b)(2) of title 28, United States Code, is amended by striking "thirty" each place it appears and inserting "five".

SEC. 110. CHANGE IN COMPOSITION OF DIVISIONS IN WESTERN DISTRICT OF TENNESSEE.

(a) In General.—Section 123(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "Dyer," after "Decatur,"; and

(B) in the last sentence, by inserting "and Dyersburg" after "Jackson"; and

(2) in paragraph (2)—

(A) by striking "Dyer,"; and

(B) in the second sentence, by striking "and Dyersburg".

(b) Effective Date.—

(1) In general.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Pending cases not affected.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) Juries not affected.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the Western Judicial District of Tennessee on the effective date of this section.

SEC. 111. PLACE OF HOLDING COURT IN THE SOUTHERN DISTRICT OF OHIO.

Section 115(b)(2) of title 28, United States Code, is amended by striking "and Steubenville" and inserting ", Steubenville, and St. Clairsville".

SEC. 112. PLACE OF HOLDING COURT IN THE NORTHERN DISTRICT OF NEW YORK.

Section 112(a) of title 28, United States Code, is amended by striking "and Watertown" and inserting "Watertown, and Plattsburgh".

TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 201. DISABILITY RETIREMENT AND COST-OF-LIVING ADJUSTMENTS OF ANNUITIES FOR TERRITORIAL JUDGES.

Section 373 of title 28, United States Code, is amended—

(1) by amending subsection (c)(4) to read as follows:

"(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.";

(2) by amending subsection (e) to read as follows:

"(e)(1) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) shall be entitled, upon attaining the age of sixty-five years or upon relinquishing office if the judge is then beyond the age of sixty-five years—

"(A) if the judicial service of such judge, continuous or otherwise, aggregates fifteen years or more, to receive during the remainder of such judge's life an annuity equal to the salary received when the judge left office; or

"(B) if such judicial service, continuous or otherwise, aggregated less than fifteen years, to receive during the remainder of such judge's life an annuity equal to that proportion of such salary which the aggregate number of such judge's years of service bears to fifteen.

"(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who has served at least five years, continuously or otherwise, and who retires or is removed upon the sole ground of mental or physical disability, shall be entitled to receive during the remainder of such judge's life an annuity equal to 40 percent of the salary received when the judge left office or, in the case of a judge who has served at least ten years, continuously or otherwise, an annuity equal to that proportion of such salary which the aggregate number of such judge's years of judicial service bears to fifteen."; and

(3) by amending subsection (g) to read as follows:

"(g) Any retired judge who is entitled to receive an annuity under this section shall be entitled to a cost-of-living adjustment in the amount computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.".

SEC. 202. FEDERAL JUDICIAL CENTER PERSONNEL MATTERS.

Section 625 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by striking ", United States Code,";

(B) by striking "pay rates, section 5316, title 5, United States Code" and inserting "under section 5316 of title 5, except that the Director may fix the compensation of 4 positions of the Center at a level not to exceed the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5"; and

(C) by striking "the Civil" and all that follows through "Code" and inserting "subchapter III of chapter 83 of title 5 shall be adjusted pursuant to the provisions of section 8344 of such title, and the salary of a reemployed annuitant under chapter 84 of title 5 shall be adjusted pursuant to the provisions of section 8468 of such title";

(2) in subsection (c), by striking ", United States Code,"; and

(3) in subsection (d)—

(A) by striking "United States Code,"; and

(B) by striking ", section 5332, title 5, United States Code" and inserting "under section 5332 of title 5".

SEC. 203. ANNUAL LEAVE LIMIT FOR JUDICIAL BRANCH EXECUTIVES.

Section 6304(f)(1) of title 5, United States Code, is amended—

(1) in subparagraph (D), by striking "or";

(2) in subparagraph (E), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(F) the judicial branch designated as a court unit executive position by the Judicial Conference of the United States or designated as an executive position in the Federal Judicial Center by the Board of the Federal Judicial Center.".

SEC. 204. SUPPLEMENTAL BENEFITS PROGRAM.

Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (6) through (24) as paragraphs (7) through (25), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) In the Director's discretion, establish a program of benefits, in addition to those otherwise provided by law, for officers and employees of the judicial branch, including justices and judges of the United States;".

SEC. 205. INCLUSION OF JUDICIAL BRANCH PERSONNEL IN ORGAN DONOR LEAVE PROGRAM.

Section 6327(a) of title 5, United States Code, is amended by inserting "or an entity of the judicial branch" after "An employee in or under an Executive agency".

SEC. 206. MAXIMUM AMOUNTS OF COMPENSATION FOR ATTORNEYS.

Paragraph (2) of subsection (d) of section 3006A of title 18, United States Code, is amended—

(1) by striking "$5,200" and inserting "$7,000";

(2) by striking "$1,500" and inserting "$2,000";

(3) by striking "$3,700" and inserting "$5,000";

(4) by striking "$1,200" each place it appears and inserting "$1,500"; and

(5) by striking "$3,900" and inserting "$5,000".

SEC. 207. MAXIMUM AMOUNTS OF COMPENSATION FOR SERVICES OTHER THAN COUNSEL.

Subsection (e) of section 3006A of title 18, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking "$300" and inserting "$500"; and

(B) in subparagraph (B), by striking "$300" and inserting "$500"; and

(2) in paragraph (3), by striking "$1,000" and inserting "$1,600".

SEC. 208. PROTECTION AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following:

"§1521. Retaliating against a Federal judge by false claim or slander of title

"(a) Whoever files or attempts to file, in any public record or in any private record which is generally available to the public, any lien, encumbrance, civil claim, or other document against a Federal judge or against the real or personal property of a Federal judge, knowing or having reason to know that such claim, lien, encumbrance, or document is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than five years, or both. In the case of an offense under this subsection which was committed after the defendant had previously been convicted of an earlier offense under this subsection, the defendant shall be fined under this title or imprisoned for not more than ten years, or both.

"(b) As used in this section, the term 'Federal judge' means a justice or judge of the United States as defined in section 451 of title 28, a judge of the United States Court of Federal Claims, a United States bankruptcy judge, a United States magistrate judge, and a judge of the United States Court of Appeals for the Armed Forces, United States Court of Appeals for Veterans Claims, United States Tax Court (including any special trial judge appointed under section 7443A of the Internal Revenue Code of 1986), District Court of Guam, District Court of the Northern Mariana Islands, or District Court of the Virgin Islands.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

"1521. Retaliating against a Federal judge by false claim or slander of title.".

SEC. 209. APPOINTING AUTHORITY FOR CIRCUIT LIBRARIANS.

Section 713 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "Each court of appeals" and inserting "The judicial council of each circuit"; and

(B) by striking "the court" and inserting "the judicial council"; and

(2) in subsection (b), by striking "court" each place it appears and inserting "judicial council".

TITLE III—ADDITIONAL PROVISIONS

SEC. 301. MONITORING OF COMMUNICATIONS OF OFFICERS AND EMPLOYEES OF JUDICIAL BRANCH.

Section 604 of title 28, United States Code, is amended by adding at the end the following:

"(i)(1) The Judicial Conference should take such steps as it deems necessary and appropriate to safeguard the privacy of officers and employees of the judicial branch by ensuring that—

"(A) the Director does not intercept electronic communications of any such officer or employee (including any electronic communication consisting of an electronic mail message or a transfer of information by means of the World Wide Web or the Internet) between or among computers, or hire or enter into a contract with another entity to monitor or intercept such communications, except pursuant to—

"(i) a law enforcement investigation;

"(ii) prior authorization by the Judicial Conference or its Executive Committee; or

"(iii) a policy adopted by the Judicial Conference setting forth the procedures under which the interception of such communications may be authorized; and

"(B) any information obtained pursuant to interception of communications authorized under subparagraph (A) is used solely for the purposes for which the interception is authorized.

"(2) In this subsection—

"(A) the term 'electronic communication' has the meaning given that term in section 2510 of title 18;

"(B) the terms 'by means of the World Wide Web' and 'Internet' have the meanings given those terms in section 231(e) of the Communications Act of 1934 (47 U.S.C. 231(e)); and

"(C) the term 'computer' has the meaning given that term in section 1030(e) of title 18.".

SEC. 302. CLERICAL AMENDMENTS.

Section 332 of title 28, United States Code, is amended—

(1) in subsection (a)(3), by striking "371(f)(1)" and inserting "371(e)(1)";

(2) by striking the second subsection designated "(h)"; and

(3) in subsection (f)(4), by striking ", United States Code".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Pennsylvania (Mr. HOLDEN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 4125, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is necessary for the proper functioning of the Federal court system. The legislation addresses various judicial process matters, as well as personnel and compensation issues. I will briefly mention a few of the major provisions included in this legislation.

The bill makes changes in places of holding court in order to alleviate hardships placed upon parties, jurors, lawyers, and judges that must otherwise travel great distances to participate. This will have a positive impact on the administration of justice.

The bill will permit judges to submit annual summary reports on wiretap orders acted on during the previous calendar year, such as prosecutors do. This change would simplify the reporting requirements for the judges and their staffs without affecting the accuracy or timeliness of the reporting required by statute.

The bill gives territorial judges in the District Courts of Guam, the Northern Mariana Islands, and the Virgin Islands comparable retirement arrangements as other judges.

The bill includes the judicial branch personnel in the Organ Donor Leave Program, and provides Federal judges with protection against the malicious recording of fictitious liens.

The manager's amendment makes only noncontroversial technical changes.

Section 101 is amended to clarify that bankruptcy administrators in North Carolina and Alabama have the same authority as U.S. trustees to appoint bankruptcy case trustees, standing trustees, examiners, and committees of creditors and equity security holders. It also corrects several highly technical drafting errors.

Finally, Mr. Speaker, section 204 authorizes the Director of the Administrative Office to establish a program of benefits not currently authorized by law. The Judicial Conference request for this authority is based on the conclusion that the health benefits provided for employees of the judicial branch need to be upgraded to attract and retain employees in future years.

The Administrative Office intends to expand an existing cafeteria health benefit plan by adding a dental benefits program to it. The judiciary currently provides health benefit programs which involve the use of employee compensation contributions to medical savings accounts and long-term disability accounts. These health care costs can then be paid with pretax dollars. The dental program will require appropriated funds, and enactment of section 204 will allow the judiciary to seek funding for it from the Committee on Appropriations.

The authority provided in section 204 is not intended to provide open-ended discretion to the Director of the Administrative Office to establish benefit programs. The Committee on the Judiciary and Committee on Government Reform will exercise their oversight responsibility on this program. Also, the Committee on Appropriations will have a significant role to play as appropriations are requested to continue and expand judiciary employee benefits in the future.

I am assured that the Judicial Conference will work closely with the Congress as these programs progress in future years.

Mr. Speaker, H.R. 4125 will greatly assist the Federal courts in their operation. This is noncontroversial legislation, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. HOLDEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4125, the Federal Courts Improvement Act of 2002. H.R. 4125 is a noncontroversial bill that will contribute to judicial efficiency and promote the sound management of the judicial branch.

H.R. 4125 and its predecessor have been fully considered by the Committee on the Judiciary. On July 17, 2001, the Subcommittee on Courts, the Internet, and Intellectual Property of the Committee on the Judiciary held a legislative hearing on H.R. 2522, the precursor to H.R. 4125. Based on testimony received at the hearing and subsequent reaction, the subcommittee chairman, the gentleman from North Carolina (Mr. COBLE), and the ranking member, the gentleman from California (Mr. BERMAN), introduced a clean bill, H.R. 4125, devoid of all controversial items.

On May 2, the subcommittee conducted a markup of H.R. 4125. On September 10, 2002, the full Committee on the Judiciary held a markup, adopted several amendments, and reported H.R. 4125 favorably.

☐ 1700

The version of H.R. 4125 before the House today contains several amendments to the version reported by the Committee on the Judiciary. Most of these amendments are technical but one is substantive. The amendments in section 101 ensure that the bankruptcy administrators have the same powers as bankruptcy trustees, no more and no less. With these amendments and those made during the committee consideration, I believe that H.R. 4125 has been rendered wholly noncontroversial.

H.R. 4125 contains a variety of noteworthy provisions, but I wish to highlight one in particular. Section 301 states that the Judicial Conference of the U.S. Courts should take certain steps to protect the privacy of judges and judicial employees. Namely, the Judicial Conference should ensure that the Administrative Office of the U.S. Courts does not intercept electronic communications of judges and judicial employees without authorization from the Judicial Conference.

I fully support H.R. 4125 and encourage my colleagues to do the same.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4125, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING AND HONORING THE CAREER AND WORK OF JUSTICE C. CLIFTON YOUNG

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 417) recognizing and honoring the career and work of Justice C. Clifton Young.

The Clerk read as follows:

H. RES. 417

Whereas Justice C. Clifton Young, a native Nevadan, has served in public office since 1950;

Whereas Justice Young was elected to the House of Representatives in 1952 where he served for 2 terms and never missed a vote;

Whereas Justice Young served for 14 years in the Nevada State Senate where he focused principally on land use issues;

Whereas Justice Young has served on the Nevada Supreme Court since 1984;

Whereas Justice Young was inducted into the Nevada State Senate Hall of Fame in 1995;

Whereas in addition to his service in elected office, Justice Young has remained active in various community and service organizations, including serving as President of the National Wildlife Foundation;

Whereas Justice Young attended the University of Nevada in Reno, and Harvard Law School;

Whereas Justice Young proudly served as an officer in the 103rd Infantry Division in France, Germany, and Austria during World War II;

Whereas Justice Young has been a loving husband to Jane Hempfling Young for almost 50 years, and together they have raised 5 children; and

Whereas Justice Young stands as a role model to all people of the United States as a proud and successful public servant: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the dedication and commitment of Justice C. Clifton Young to the people of Nevada and the United States;

(2) congratulates Justice Young on his long and successful career; and

(3) expresses its best wishes to Justice Young upon his retirement from the Nevada Supreme Court.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Pennsylvania (Mr. HOLDEN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 417.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution was introduced by our distinguished colleague, the gentleman from Nevada (Mr. GIBBONS).

The honoree, C. Clifton Young, was a Member of Congress representing Nevada and currently serves on the Nevada Supreme Court. He has had a remarkable career beginning in his childhood where he sold newspapers, was the local soda jerk, the valedictorian of his high school class, went to the University of Nevada at Reno, and was the only student with membership in both the University Singers and the college wrestling team. He joined the Army after college and served tours of duty in France, Germany and Austria and was honorably discharged as a major at the age of 23. He then went to Harvard Law School. I think that may have compromised his Western values a bit. But from there he went on to have over a half century of public service.

He served two terms as Nevada's then lone representative in Congress. He was elected to the Nevada State Senate, following his service in Congress, and served 14 years there. And in 1984 he was elected to the Nevada Supreme Court and will have served 18 years until his retirement at the end of the year.

He has been active in the Boy Scouts, the YMCA, and he also served as president of the National Wildlife Federation. I have a lengthy statement I will put in the RECORD, but I think that he is really an example of the American dream come true and an individual who returned many of his talents to his community, his State and his Nation, serving both in volunteer capacities and in the legislative and judicial branches of government.

H. Res. 417 introduced by Representative GIBBONS of Nevada, recognizes the career and efforts of former Member C. Clifton Young, Currently serving on the Nevada Supreme Court, Justice Young will be retiring from the Court at the end of this year when his term expires, thus completing a career which was comprised of decades of selfless public service.

Justice C. Clifton Young prepared for his illustrious career growing up in Lovelock, Nevada, selling newspapers and Grit magazine, shining shoes, painting houses, and satisfying the community thirst in the hot Nevada plains as the local soda jerk. Even with all of these commitments Young graduated Valedictorian of his High School class.

At the University of Nevada in Reno, Young remained active, becoming President of the Lamda Chi Fraternity, cadet commander of the campus ROTC, and was perhaps the only student with membership in both the University Singers and the college wrestling team.

Young went on to join the army after college, and spent the next three and a half years in the Infantry of the 103rd Division. After serving tours of duty in France, Germany, and Austria, he was honorably discharged as a Major at the age of 23.

After the war, Young went on to graduate from Harvard Law School. From there Young set in for the beginnings of what would become over a half century of public service. From a country public administrator, Young went on to become Nevada's then lone Representative in Congress, and over his two terms never missed a vote. In 1966 he was elected to the Nevada State Senate, where he served for 14 years.

He was then elected in 1984 to the Nevada Supreme Court, where he will have served for 18 years upon his retirement. While engaged in all of these life activities, Young also found time to be active in the Boy Scouts, YMCA, and serve as President of the National Wildlife Federation.

C. Clifton Young has given much to his community, and I support this resolution recognizing his public service. And let me just state that Justice Young deserves something back from the District of Columbia. You see, when he first came here with his wife back in 1952, full of the excitement of representing the people of Nevada, he was greeted by the District not with parades or fanfare, but instead by having his car stolen. We cannot replace his car, but we can support this resolution, which I urge all Members to do.

Mr. Speaker, I reserve the balance of my time.

Mr. HOLDEN. Mr. Speaker, I rise in support of H. Res. 417, which honors the life and work of Nevada Justice C. Clifton Young, and I urge my colleagues to vote for this resolution.

This bill was marked up by the Committee on the Judiciary in June of this year. No objections have been registered about this bill either before, during or after the Committee on the Judiciary considered the resolutions. In fact, H. Res. 417 has garnered universal support. While I do not know Justice Young personally, I was told in the committee's consideration of this bill, and it became apparent he is quite a remarkable man.

Justice Young has led a life of public service. He served his country as an officer in the 103rd Infantry Division in France, Germany and Austria in World War II. He has served on the Nevada Supreme Court since 1984. He also served as president of the National Wildlife Foundation.

Sadly, Justice Young is retiring from the Nevada Supreme Court. It is only right at this time Congress pause to honor Justice Young and reflect on his public service. Once again, I urge all my colleagues to support H. Res. 417.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I thank my friend, the chairman of the Committee on the Judiciary, for yielding me time.

Mr. Speaker, it is my great honor today to be on the floor to speak in favor of H. Res. 417, a resolution I introduced to recognize the distinguished career and extraordinary life of Justice C. Clifton Young. Justice Cliff Young will be retiring this year after serving 18 years on the Nevada Supreme Court. However, this achievement is only one in a long list of accomplishments which span Justice Young's lifetime.

As a young boy in the rural, agricultural community of Lovelock, Nevada, Cliff Young was the son of pioneers and soon learned at an early age the value of hard work. As a youth he had a series of odd jobs from shining shoes to painting houses to installing sidewalks.

His work ethic earned him the honor of being named valedictorian of his high school class and then earning the highest scholastic achievement at graduation from the University of Nevada at Reno. He would eventually continue his studies at Harvard Law School thanks to the G.I. Bill, but before he embarked on a career in law and public service, Justice Young served his Nation as an officer in the 103rd Infantry Division during World War II. He was honorably discharged as a major at the sage age of 23.

After his military service and finishing law school, Cliff Young was elected to his first public office, the Washoe County public administrator. Two years later he would be elected the Representative of Nevada in this Chamber, the House of Representatives, where he served two terms, never missing a single vote. His time in Washington proved to be quite eventful and not solely due to legislation which came before Congress. Upon his arrival to the Nation's Capital with his wife, their car was stolen. Then while serving in Congress, shots were fired into the Chamber wounding the Member sitting next to him.

Yes, Justice Young's service in Congress was certainly eventful. After serving two terms, Cliff Young would return home to the State of Nevada. He would then serve 14 years in the Nevada State senate and be elected to the Nevada Supreme Court in 1984. At the end of this term, Justice Young will have completed 50 years of public service to his State and to the Nation. All the while he remained active in his local community as a member of various organizations including serving as President of the YMCA, State chairman of the Nevada Cancer Association Campaign, and chairman of the Washoe County Parks and Recreation Board.

Justice Young not only devoted his life to public service but also to our legal system as a leader for meaningful judicial reform. His years of commitment to fairness and equality set him apart and earned him the respect of his colleagues and fellow Nevadans.

Justice Young stands as a role model to all Americans. This resolution celebrates Justice Young's life, his work and, yes, his dedication. May this recognition inspire others to follow in his footsteps and embark on similar courses of distinguished service.

Mr. HOLDEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 417.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

ROBERT WAYNE JENKINS STATION

Mr. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4851) to redesignate the facility of the United States Postal Service located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, as the "Robert Wayne Jenkins Station."

The Clerk read as follows:

H.R. 4851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROBERT WAYNE JENKINS STATION.

(a) DESIGNATION.—The facility of the United States Postal Service located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, and known as the Southside Station, shall be known and designated as the "Robert Wayne Jenkins Station".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Robert Wayne Jenkins Station.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma (Mr. SULLIVAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. SULLIVAN).

GENERAL LEAVE

Mr. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4851.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the House consider H.R. 4851, a bill to designate the postal facility located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, as the Robert Wayne Jenkins Station. I would like to thank my colleagues from Oklahoma for co-sponsoring this legislation.

On December 12, 2001, Robert Wayne Jenkins left his home to go to work at the Southside Postal Station in Tulsa, leaving his wife Amber and daughter Caitlyn safely at home. He arrived at work in his usual quiet, but friendly, demeanor and proceeded to prepare his mail route.

Before leaving the office to deliver his route, he told a fellow letter carrier, "Be safe," and then he left to deliver his own route. He was shot at about 2:45 in the afternoon by an armed assailant and died instantly.

Robert was in his sixth year of service and had just turned 30 years old and had recently become a father. He had gained the respect and admiration of his colleagues for his professionalism and devotion to his wife and daughter. My heart goes out to his wife, Amber, and daughter, Caitlyn.

His co-workers began working towards this honor for him immediately after the tragedy, and I was notified of the request from Dick Schweitzer of the Oklahoma division of the U.S. Postal Service. I am happy to introduce this bill because I believe that it is most appropriate to honor a man who asked for so little but gave so much to his family, his friends, the U.S. Postal Service and the Tulsa community.

I think it is right to remember Robert Wayne Jenkins, the victim of a horrific senseless crime, by renaming the facility he worked for after him. Postal workers work through many tough conditions every day throughout our country, and I believe we honor both Robert Wayne Jenkins and all of his honorable public servants by passing this bill. Therefore, I urge all Members to support the adoption of H.R. 4851.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a Member of the House Committee on Government Reform, I rise to join my colleague in the consideration of H.R. 4851, which names a postal facility in Tulsa, Oklahoma, after Robert Wayne Jenkins.

H.R. 4851, which enjoys the support and co-sponsorship of the entire Oklahoma delegation, was introduced by the gentleman from Oklahoma (Mr. SULLIVAN) on May 23, 2002. Mr. JENKINS was a postal letter carrier who was delivering mail on his route when he was shot to death for no reason. A 9-year career letter carrier, Mr. JENKINS was a dedicated and trusted postal employee who went about his job in an efficient and effective manner. Sadly, he leaves behind a wife, Amber, and her infant, Caitlyn.

Mr. Speaker, I applaud the support of naming a post office after Mr. Robert Wayne Jenkins, slain postal letter carrier. But I am deeply disappointed and saddened that we were unable to also consider additional naming postal legislation today. Let me explain.

Last week two postal naming bills were placed on the postal naming list for floor consideration and subsequently removed from consideration. Those bills were H.R. 5340, sponsored by the gentleman from California (Mr. SHERMAN), which names a post office after the late great broadcaster Francis Dayle "Chick" Hearn, and H.R. 2578, sponsored by the gentlewoman from California (Ms. WATERS), which names a postal facility after former Representative Augustus F. Hawkins. These bills too have met the Committee on Government Reform policy and have been co-sponsored by the entire California delegation.

□ 1715

They, too, deserve prompt consideration and name postal facilities after deserving individuals. Both H.R. 5340 and H.R. 2578 deserve immediate consideration on the House floor.

While we will not object to today's bill, we will object to future bills if the Republican leadership does not schedule Democratic postal-naming bills for a House vote so that there can be equity and fairness in the process.

Mr. Jenkins was a letter carrier, one of a proud group of employees who performed a valuable service to our country. In serving his country, Mr. Jenkins could not have paid a higher price. I believe that we should honor him by naming a postal facility after him. I shall indeed vote for H.R. 4851 and urge my colleagues to take similar action. However, I reiterate and urge the Republican leadership to schedule votes on H.R. 5340, H.R. 2578, and other Democratic postal-naming bills so that we can honor these deserving individuals by naming postal facilities after them.

I commend the gentleman from Oklahoma for introducing this legislation, urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. SULLIVAN. Mr. Speaker, I urge the adoption of this measure, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and pass the bill, H.R. 4851.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NOTIFICATION OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. BROWN of Ohio. Mr. Speaker, pursuant to House rule IX, clause 1, I rise to give notice of my intent to present a question of privileges of the House.

The form of the resolution is as follows:

A resolution, in accordance with House Rule IX, expressing a sense of the House that its integrity has been impugned due to the failure of the House to fulfill its obligations under Article I, Section VIII of the Constitution

Whereas Article I. Section VIII, of the Constitution states Congress shall have Power to promote the progress of Science and the useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

Whereas such protections on Writings and Discoveries have been promulgated by patent, copyright, and other laws, including Public Law 98–417, affording Authors and Inventors the exclusive Right to their respective Writings and Discoveries for a limited period of time;

Whereas Public Law 98–417 breaches this constitutional requirement by failing to impose such limitation on the protection of certain medical inventions;

Whereas provisions of Public Law 98–417 imbue the Food and Drug Administration with the authority to secure for limited time for Inventors the exclusive Right to their respective Medical Inventions;

Whereas Public Law 98–417 fails to provide the Food and Drug Administration the authority to refrain form securing this exclusive right for inventors if the conditions for such exclusivity are not met;

Whereas due to the failure of Congress to provide the Food and Drug Administration with the proper authority to fulfill obligations under the Act, certain medical inventions have received the exclusive Right to their respective Inventions without limitation;

Whereas the unlimited exercise of exclusivity by prescription drug manufacturers subjects healthcare consumers and third party payers to no-competitive prices and results in significantly higher prescription drug costs for purchasers;

Whereas health care costs increased by 5% in 2001, 3.7 times faster than overall inflation rate;

Whereas prescription drug cost spending is the fastest growing component of health care costs, and rose 17% in 2001;

Whereas health insurance premiums rose by 11% in 2001, driven largely by the increased cost of prescription drugs;

Whereas state Medicaid spending increased by 11% in Fiscal year 2002, driven primarily by increased prescription drug spending and enrollment growth;

Whereas the number of individuals with health insurance declined by 1.4 million in 2001, a function of the faltering economy, rapid health inflation, and a growing number of states in which public insurance programs are outpacing budgets;

Whereas prescription drugs are prescribed by licensed healthcare professionals to consumers as a non-discretionary purchase essential to their welfare;

Whereas it is in the public interest to grant a limited period of exclusivity to inventors of prescription drugs, but extending that exclusivity places an inappropriate fiscal burden on consumers, insurers, and pubic sector payers;

Whereas generic drugs are sold as alternatives to medical inventions for which exclusivity is no longer available;

Whereas generic drugs have the same dosage, safety, strength, quality, and performance as the medical inventions for which they serve as substitutes, according to the Food and Drug Administration;

Whereas limitations on exclusivity have allowed prescription drug prices to drop 40–80 percent when generic drugs enter the market;

Whereas limitations allowing generic drugs to enter the market saved consumers $8–$10 billion in 1994 alone, according to the Congressional Budget Office;

Whereas the failure to apply limitations to the Exclusive rights granted under Public Law 98–622 has afforded widely used medicines, including Prilosec and Paxil, an indefinite period of exclusivity;

Whereas Prilosec and Paxil were among the 50 medicines seniors used most in 2001:

Whereas the Senate has passed S. 812, which amends Public Law 98–417 to restore constitutionally mandated limitation on medical inventions;

Whereas the House has not considered Legislation to amend Public Law 98-417 to restore constitutionally mandated limitations in medical inventions;

Whereas it is the obligation of the House to consider such legislation in keeping with its constitutionally mandated obligations to secure for Limited Times to Authors and inventors the right to their Writings and Inventions;

Whereas the failure of the House to restore limitations on the exclusivity afforded to the inventors of prescription drugs, if not remedied, will cost consumers and other purchasers $60 billion over the next ten years, according to the Congressional Budget Office;

Whereas the failure of the House to restore limitations on the exclusivity afforded to the inventors of prescription drugs, if not remedied, will leave more seniors and other Americans without access to needed medicines;

Resolved, that it is the sense of the House of Representatives that the House should consider pending legislation to amend Public Law 98–417 to restore constitutionally mandated limitations on medical inventions on behalf of American consumers, including seniors, American businesses, and tax-funded federal and state health insurance programs.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from Ohio will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. BROWN of Ohio. Mr. Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a question of privilege.

The SPEAKER pro tempore. That time will be designated.

CONGRATULATING OAKLAND ATHLETICS FOR SETTING MAJOR LEAGUE BASEBALL RECORD FOR LONGEST WINNING STREAK

Mr. SULLIVAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 530) congratulating the players, management, staff, and fans of the Oakland Athletics organization for setting the Major League Baseball record for the longest winning streak by an American League baseball team.

The Clerk read as follows:

H. RES. 530

Whereas on September 4, 2002, the Oakland Athletics set the Major League Baseball record for the longest winning streak by an

American League baseball team by winning 20 consecutive games;

Whereas before September 4, 2002, the record for the longest winning streak by an American League baseball team had stood for 55 years;

Whereas the only other 2 American League baseball teams to win 19 consecutive games were the 1947 New York Yankees and the 1906 Chicago White Sox;

Whereas only 2 Major League Baseball teams have won 20 or more consecutive games—this year's Oakland Athletics with 20 consecutive wins and the 1935 Chicago Cubs with 21 consecutive wins;

Whereas the team also set a record for the Oakland Athletics by winning 24 games during the month of August;

Whereas during their winning streak the Oakland Athletics outscored their opponents 141 to 65 and trailed their opponents during only 10 innings of the 180 innings of the streak;

Whereas the starting pitchers of the Oakland Athletics—Barry Zito, Tim Hudson, Mark Mulder, and Cory Lidle—pitched into the seventh inning in all but 6 of the games won as part of the streak and were credited with 15 of the 20 consecutive wins;

Whereas shortstop Miguel Tejada and first baseman Scott Hatteberg each hit walk-off hits or home runs during the streak;

Whereas the Oakland Athletics were 4½ games out of first place in the Western Division of the American League and 2½ games out of the lead for the American League wild card at the beginning of the streak, and ended the streak with a 2 game lead in the division;

Whereas the Oakland Athletics accomplished this feat with the help of wise decisions by Manager Art Howe and General Manager Billy Beane; and

Whereas the Oakland Athletics had to sweep some formidable opponents in order to achieve this record, including the leader of the Central Division of the American League, the Minnesota Twins: Now, therefore, be it

Resolved, That the House of Representatives congratulates the players, management, staff, and fans of the Oakland Athletics organization for setting the Major League Baseball record for the longest winning streak by an American League baseball team.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the rule, the gentleman from Oklahoma (Mr. SULLIVAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. SULLIVAN).

GENERAL LEAVE

Mr. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 530.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. SULLIVAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I am pleased to have the House consider House Resolution 530, legislation introduced by my distinguished colleague from California (Mr. OSE). This resolution congratulates the players, management, staff and fans of the Oakland Athletics organization for setting the Major League Baseball record for the longest winning streak by an American League baseball team.

The Athletics, or A's as they are affectionately known, won 20 straight games earlier this season en route to winning their second American League West Division championship in the last three seasons.

During their remarkable streak, the A's outscored their opponents 141 to 62. The A's were defeated 2 to 1 on August 12 by the Toronto Blue Jays and did not lose until September 6 against the Minnesota Twins.

After the game that ended the improbable streak, Twins third baseman Corey Koskie said, "To win 20 games in a row, I don't know too many high school teams that do that. To do that at the major league level is an amazing feat."

Mr. Speaker, manager Art Howe and the Oakland Athletics have enjoyed a wonderful season, winning 103 games and qualifying for the playoffs, highlighted by their phenomenal 20-game winning streak.

I ask that all Members honor the efforts of the Oakland Athletics this season by supporting the adoption of House Resolution 530.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, on the evening of Wednesday, September 4, the Oakland Athletics made baseball history by becoming the first American League team to win 20 consecutive games.

With a 12–11 victory over the Royals before a record crowd at Network Associates Coliseum of 55,528 fans, the A's passed the 1947 Yankees and the 1906 White Sox for the longest-running streak in American League history.

The game had plenty of drama and made-for-television episodes. The A's jumped out to an 11–0 lead after 3 innings, but ended up getting caught with 11 unanswered runs. The game was tied when the A's pulled off a game-winning homer in the bottom of the ninth.

The Oakland A's accomplished this feat by beating many formidable opponents, and I, too, want to congratulate the team for earning its place in the baseball record book, and I would urge adoption of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SULLIVAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. OSE).

Mr. OSE. Mr. Speaker, I thank the gentleman from Oklahoma for yielding me the time.

Mr. Speaker, it is October 1, and every October 1 every American wakes up and realizes that it is playoff time. Today we across the country and in the cities fortunate enough to have teams still participating, those playoffs started.

In the National League, the defending world champion Arizona Diamondbacks face off against the St. Louis Cardinals while the San Francisco Giants challenge the Atlanta Braves. Over in the American league, the Yankees face the Anaheim Angels, and the Oakland A's take on the Minnesota Twins.

It is only appropriate that we take this opportunity at the end of the season to look back at the season and at an amazing record by those amazing A's.

The truly historic part of this past season is what we are here to honor today, and that is the record 20-game winning streak of the Oakland A's. When the A's took the field on August 14, they were 4½ games back in the American League West division standings. They were 2½ games out in the wild card race, and they got hot. They did not just get hot, Mr. Speaker, they started to cook.

Left-handed pitcher Barry Zito took the mound that night and, as he has for much of the Athletics' season, set the tone for what was to come. Zito led the A's to a narrow 5-to-4 victory, and he started something truly amazing.

The A's won their next 19 games in a row. They had a second victory against Toronto.

They took three against the White Sox where shortstop Miguel Tejada got his 100th RBI of the season.

They took four against the Cleveland Indians, including pitcher Corey Lidle's one-hit shutout.

They took three against Detroit where even Mother Nature, Mother Nature, conspired to try to stop them, but where the A's returned from a 2-hour rain delay to keep on winning.

They won three against Kansas City, took all three, and Zito led them to their 10th straight road victory.

At that point, they took three more against Minnesota where Tejada went yard off the almost unhittable Twins closer Eddie Guardado and kept the streak alive.

Then two more against the Royals where Tejada and first baseman Scott Hatteberg led the A's back in the late innings with game-winning hitting, but as everything must, this came to an end.

Finally, Twins pitcher Brad Radke stopped the seemingly unstoppable A's, and that is what makes today's game, incidentally between the A's and the Twins, round 1 in the American League West playoffs. That is all much more exciting. Guess who is pitching for the Twins today? It is Brad Radke, and I just want to bring my colleagues up to date.

It is the third inning, and the A's are up 5 to 3.

□ 1730

The 20 games the A's won is the longest winning streak in American League history. In the past 55 years, no team had even won 19 in a row. In fact, the only two American League teams to win 19 straight were the 1947 Yankees and the 1906 Chicago White Sox. In fact, only one other Major League Baseball team has ever won 20 in a row and that is the '35 Chicago Cubs who won 21 consecutive games.

Baseball is a game of statistics. Think about this. This is truly amazing. Every year every major league team has 142 opportunities to create a 20-game win streak; yet for 55 years, 55 years, this is 2002, so that would have been back to just after the end of World War II, for 55 years no team has accomplished what the A's did this year. Right in the face of a heated pennant race, they kept at it.

Let us look at some of their numbers. During this winning streak, the A's outscored their opponents 141 to 65 and trailed their opponents during only 10 innings of the 180 innings of the streak. Their starting pitchers, Zito, Tim Hudson, Mark Mulder, and Corey Lidle, pitched into the seventh inning in all but six of the 20 games won and were credited with 15 of the 20 wins; and even when they did trail, as we all would hope, they fought back.

I mentioned that Tejada and Hatteberg each had walk-off hits contributing to victories, game-ending rallies. This is a team that was trailing the Seattle Mariners and the Anaheim Angels when August began, and they came back to win the division. It was a great run.

Mr. Speaker, as in everything we do in this country, this 20-game winning streak took true teamwork. Defense, baseball is defense, baseball is pitching, baseball is offense, baseball is scouting. Credit not only goes to the players, but to the entire A's organization. I join with my colleagues in congratulating owners Steve Schott and Ken Hoffman; Billy Beane, who used to play himself; manager Art Howe, who used to play for Houston; and the other members of staff who contributed to building this record-setting team. They put this remarkable squad together despite losing many team leaders to free agency and with one of the smallest budgets of the league. Despite these challenges, they not only set records, the A's finished the season with a better record this year than last. In Sacramento, home of the A's AAA affiliate, the Sacramento River Cats, we watch many of the young men hope to make it to the big leagues with Oakland. It is truly a great pleasure to see them move up and move into the majors and make such an impact.

I look forward to seeing more great baseball as the playoffs begin today, but in my mind 2002 will always be the year of the Oakland streak.

I would like to thank my colleagues for their support of this resolution, especially my cosponsors, the gentlewoman from California (Ms. LEE), the gentleman from California (Mr. POMBO), the gentleman from California (Mr. CALVERT), the gentleman from California (Mr. HERGER), the gentleman from California (Mr. MATSUI), the gentlewoman from California (Mrs. NAPOLITANO), the gentleman from California (Mr. RADANOVICH), the gentleman from California (Mr. SHERMAN), the gentleman from California (Mr. STARK), the gentlewoman from California (Mrs. TAUSCHER), the gentleman from California (Mr. THOMAS), the gentleman from California (Mr. THOMPSON), the gentleman from California (Mr. MCKEON), and the gentleman from California (Mr. BACA).

Mr. Speaker, it is still 5 to 3. The A's are winning. The streak is alive.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LEE). I do not know if she has had a 20 and 0 record, but I know that she has won many victories for the people of Oakland and for people all over the country.

Ms. LEE. Mr. Speaker, first I want to thank the gentleman from Illinois (Mr. DAVIS), the very distinguished member of the Committee on Government Reform, for yielding me this time and for his leadership on so many issues that we are tackling here in this House.

Also I want to thank the gentleman from California (Mr. OSE) for his efforts in bringing this resolution to commend my hometown team of the Oakland A's to the floor today.

This is a bipartisan effort; and, Mr. Speaker, as a Democratic sponsor of this resolution, I rise today to congratulate the amazing Oakland A's, the players, the management, and the staff, for setting the Major League Baseball record for the longest winning streak by an American League baseball team.

On September 4, 2002, the Oakland A's set the major league record for the longest winning streak by an American League baseball team by winning 20 consecutive games. Prior to this accomplishment, the record for longest winning streak by an American League baseball team had stood for 55 years. Only two major league baseball teams have won 20 or more consecutive games, this year's Oakland Athletics with 20 consecutive wins, and, it is my understanding, the 1935 Chicago Cubs with 21 consecutive wins.

During the winning streak, the Athletics outscored their opponents 141 to 65 and trailed their opponents in only 10 of the 180 innings of the streak. The key to any successful baseball team is of course its pitching staff. During the streak and for the duration of the season, Oakland's pitchers have been nothing short of spectacular. During the streak, Cy Young hopeful Barry Zito; Tim Hudson, Mark Mulder, and Corey Lidle pitched into the seventh inning in all six of the games, won as a part of the streak, and were credited with 15 of the 20 consecutive wins.

The phenomenal success of the Oakland Athletics can also be attributed to the team's clutch hitting. While the A's have a different hero really every night, Miguel Tejada's emerging superstardom and really uncanny knack for late-game heroics has led the A's and truly energized the fans. The A's began the streak four and a half games out of first place in the Western Division of the American League and just concluded the regular session four games ahead of second place Anaheim. Remarkably, the A's accomplishments and continued success has come with the third-lowest payroll in the major leagues. Who said that low-budget teams cannot compete and really win?

The success of the A's can also be attributed to the managerial skills of Art Howe and the unique ability of general manager Billy Beane to build a perennial contender with a very limited budget.

The winning streak and success of the Oakland A's has brought together people from all walks of life and has really brought a new-found excitement to Oakland fans and the community. The accomplishments of the Oakland Athletics organization really extend far beyond their 20-game winning streak or their American League West title. For example, the Oakland A's community fund supports charitable organizations in their efforts to improve educational programs, aid to the underprivileged. They assist in crime and drug prevention and service to children, service to our senior citizens and those who work to improve the quality of life for people throughout the Bay Area.

On September 15, another example, the Oakland Athletics organization hosted their fourth annual Breast Cancer Awareness Day and raised over $100,000 for the cause. The athletic scholarship programs, disaster support fund, Little A's, and A's Amigos are just a few examples of how the athletics organization is really truly involved in our entire community. The accomplishments and contributions of the Oakland Athletics organization both on and off the field are worthy of recognition. So today I would like to congratulate the A's and its fans on a truly remarkable record-breaking regular session.

Mr. Speaker, does the gentleman from California (Mr. OSE) know are we still in the third inning with the A's up?

Mr. OSE. Mr. Speaker, will the gentlewoman yield?

Ms. LEE. I yield to the gentleman from California.

Mr. OSE. Mr. Speaker, I do not know. My last report is 3 to 5 A's. Go A's.

Ms. LEE. The fans are rooting and cheering them on to win their real first post-season game. I know that I am not alone in wishing the amazing A's the very best in their race for the pennant. Mr. Speaker, I want to thank the gentleman from California (Mr. OSE) and the gentleman from Illinois (Mr. DAVIS) for yielding me the time.

Mr. SULLIVAN. Mr. Speaker, I have no further speakers, and I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further speakers, and I am pleased and delighted that Oakland has had such a great run. It is also great to know that Chicago teams, although quite aways back, 1905 and 1936, at least we were there at that time; but I certainly congratulate Oakland fans, the team, its management.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SULLIVAN. Mr. Speaker, I thank my distinguished colleague from California for bringing this resolution to the floor. We congratulate the Oakland Athletics for the terrific 2002 season highlighted by their 20-game winning streak. I urge all Members to support this resolution.

Mr. POMBO. Mr. Speaker, growing up in Tracy, California, I have been a fan of the Oakland Athletics ever since they first came to Oakland in 1968. I was 7 years old at the time.

I remember their World Series Championship three-peat teams from 1972, 1973 and 1974, which featured players like Vida Blue, Bert Campaneris, Rollie Fingers, Jim "Catfish" Hunter, Joe Rudi and a young "Mr. October," Reggie Jackson. Being from the northern part of California's Central Valley, just over the Altamont Pass, the fact that their 1974 World Series Championship came by defeating the Los Angeles Dodgers made the victory even sweeter.

And what baseball fan can forget the 1989 World Series, the "Bay Bridge Series" between Oakland and the San Francisco Giants? A great Oakland team, led by Jose Canseco, Dennis Eckersley, Rickey Henderson, Mark McGwire, and Dave Stewart prevailed in that series, but it was an earthquake that registered 7.1 on the Richter Scale, and the area uniting in response to the emergency situation, that we remember best.

Today, Mr. Chairman, as the Major League Baseball postseason begins, I am proud that the House of Representatives is taking a moment to recognize the latest accomplishment by the Oakland A's, their amazing 20 game-winning streak. And I am proud to be an original cosponsor of this resolution honoring this great team.

Mr. Chairman, winning 20 games in a row is no fluke. It takes a sustained effort both by the pitching staff and batting line up to win 20 in a row. I'm proud to say that the fearsome Oakland starting pitching staff, Barry Zito, Tim Hudson, Mark Mulder and Corey Lidle won 15 of the 20 games in the streak.

At the plate, the A's showed a never say die attitude, with shortstop Miguel Tejada and first baseman Scott Hatterberg each hitting an RBI at the final at bat of the game, winning the game and keeping the streak alive. This streak is the longest in American League history, second only to the 1935 Chicago Cubs' 21 game-winning streak. As we enter baseball's post season, the 20 game-winning streak serves notice to the other teams in the playoffs that the Oakland A's are a team to be reckoned with.

I congratulate Manager Art Howe, General Manager Billy Beane and the entire Oakland Athletics organization.

Mr. SULLIVAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and agree to the resolution, H. Res. 530.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

HONORING JOHNNY UNITAS AND EXTENDING CONDOLENCES TO HIS FAMILY ON HIS PASSING

Mr. SULLIVAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 538), honoring Johnny Unitas and extending condolences to his family on his passing.

The Clerk read as follows:

H. RES. 538

Whereas, as a member of the Baltimore Colts, Johnny Unitas' leadership and passing skills helped change the game of football;

Whereas throughout his life, Unitas defined humility, grace, and determination;

Whereas in 1955 Unitas played for the love of the sport of football, earning just $6 per game as a player in the Greater Pittsburgh Football League;

Whereas Unitas led the Baltimore Colts over the New York Giants for the 1958 NFL championship in what came to be known as "The Greatest Game Ever Played" and quarterbacked the Colts to a 2nd consecutive title in 1959;

Whereas Unitas threw a touchdown pass in the Colts victory over the Dallas Cowboys in Super Bowl V;

Whereas when Unitas retired from the NFL in 1974, he held 22 NFL records, including the record of 47 consecutive games with a touchdown pass;

Whereas Unitas was named Player of the Year in 1959, 1964, and 1967, and played in 10 Pro Bowls;

Whereas Unitas completed 2,830 of 5,186 passes for 40,239 yards and 290 touchdowns during his career;

Whereas Unitas was elected to the Pro Football Hall of Fame in 1979;

Whereas Unitas was named the "Greatest Player in the First 50 Years of Pro Football", and named to the NFL's 75th Anniversary Team;

Whereas throughout his career Unitas played for the love of the game, his city, and its fans;

Whereas Unitas established the Johnny Unitas Golden Arm Educational Foundation, supported cystic fibrosis research, and with his wife Sandra, sought to assist victims of sexual assault and domestic violence; and

Whereas Unitas' compassion and sense of charity gave hope to those in need in Baltimore and throughout the Nation: Now, therefore, be it

Resolved, That the House of Representatives—

(1) celebrates the remarkable life of Johnny Unitas and his indelible impression on the City of Baltimore;

(2) honors him for his leadership, sportsmanship, and outstanding achievements on the football field;

(3) recognizes his remarkable spirit and tireless work to improve the lives of those in need; and

(4) extends its heartfelt condolences to the family of Johnny Unitas on his passing.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma (Mr. SULLIVAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. SULLIVAN).

GENERAL LEAVE

Mr. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 538.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the House consider House Resolution 538, important legislation introduced by my distinguished colleague, the gentleman from Maryland (Mr. EHRLICH). This resolution celebrates the life and achievements of the greatest quarterback who ever lived, Johnny Unitas.

Johnny Unitas passed away suddenly last month at the age of 69. He may be gone but his greatness on the football field will never be forgotten. Unitas played 17 seasons for the Baltimore Colts. He led the Colts to three NFL championships and held nearly every NFL passing record at the time of his retirement in 1973. He was the first quarterback to throw over 40,000 yards in a career and holds the record for throwing a touchdown pass in an incredible 47 consecutive games, nearly a 4-year span of games. But numbers alone do not adequately tell the story of his greatness on the football field.

Considered the ultimate team leader, Unitas is credited with inventing the 2-minute drill, leading the Colts to many victories in the final seconds of the game. His most famous game-winning drive came in 1958 when he led the Colts on an 80-yard drive in a sudden death overtime to beat the Giants for the NFL championship. To this day the 1958 championship game is known as the greatest game ever played. His composure and courage on the field were legendary. Former teammate John Mackey, himself a Hall of Famer and considered by many the best tight end to have played, once said of Unitas, "It's like being in the huddle with God."

Unitas led by example. On a Colts team full of tough, gritty players, former teammate and fellow Hall of Famer Art Donovan was asked who he considered to be the toughest of all. Without hesitation Donovan said "Unitas, because he took the punishment. And never said a word about it."

After his football career ended in 1973, Unitas made Baltimore his home. The city loved and admired Unitas not only for his toughness and ability on the field but for his humanity. Even though he was revered by millions, he was a humble and gracious man. At his funeral mass in Baltimore, his youngest daughter, Paige, spoke of her father's tenderness. When she once grew impatient with fans seeking his autograph, Unitas told her, "It takes so little to make people smile." He was untiring in his work for charity, including supporting research for leukemia, cystic fibrosis, and prostate cancer. Also, he formed the Johnny Unitas Golden Arm Educational Foundation to provide financial assistance to underprivileged and deserving young scholar-athletes.

Johnny Unitas may have left us too soon, but his legend will live on. The sight of a hunched-over Johnny U., No. 19, slowly walking off the field at Baltimore's Memorial Stadium in his black high-topped shoes after throwing a touchdown pass will be etched in the memories of football fans for years to come. We offer condolences to Unitas's family and celebrate the life of the greatest quarterback who ever played the game, Johnny Unitas. Mr. Speaker, I ask all Members to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

National Football League Commissioner Paul Tagliabue said, "Unitas epitomized football, the enduring values of toughness and competition, and he epitomized this community and America."

□ 1745

Johnny Unitas, the Hall of Fame quarterback who broke nearly every National Football League passing record and won three championships with the Baltimore Colts in an 18-year career, died of a heart attack in Baltimore on September 11.

Born in Pittsburgh, Pennsylvania, in 1933, Johnny Unitas was raised in a working-class family during the Depression. His father, a coal delivery man, died when he was 5, and his mother worked two jobs to raise four kids.

Inducted into the Pro Football Hall of Fame in Canton, Ohio, in 1979, Unitas retired after the 1973 season with 22 National Football League records, among them marks for the most passes attempted and completed, most yards gained passing, most touchdown passes, and most seasons leading the league in touchdown passes.

Unitas was voted the Most Valuable Player in 1964 and in 1967, and played in 10 Pro Bowls. He led Baltimore to the National Football League championship in 1958, 1959, and the Super Bowl in 1970. He was named the Greatest Player in the First 50 Years of Pro Football, and was named to the National Football League's 75th anniversary team.

This long list of accomplishments stems from a player who hitchhiked home from his first National Football League training camp after the Pittsburgh Steelers cut him in 1955. He spent that season playing semipro football on rock-and-glass covered fields in Pittsburgh for $6 a game and working as a pile driver at a construction site.

At his induction in the Pro Football Hall of Fame, Unitas said, "A man never gets this station in life without being helped, aided, shoved, pushed and prodded to do better. I want to be honest with you: the players I played with and the coaches I had, they are directly responsible for my being here. I want you all to remember that. I always will."

Those who helped, aided, shoved, pushed and prodded him to do better, the players he played with and the coaches, as well as those who simply enjoyed watching him play the game of football, will always remember him and his contributions to the sport. His comments epitomize the career of Johnny Unitas, who was always giving credit to others for helping to make him the star that he was.

Mr. Speaker, I urge Members to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SULLIVAN. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. EHRLICH).

Mr. EHRLICH. Mr. Speaker, we have heard about the numbers, about the greatest game ever played; and I just spoke with the gentleman from Maryland (Mr. CARDIN) about what a sad day it was at the funeral.

But I have a quick story about my friend and constituent. A couple years ago, Johnny Unitas was doing an event for me and the Q&A time came. The question was, "Mr. Unitas, if you were playing today, how much money would you be making?"

The gentleman from Nebraska (Mr. OSBORNE) will appreciate this. Johnny thought for a second and said, "About 3 million bucks."

There was a murmur in the crowd, and they were all thinking 3 million bucks for Johnny U, and that players get $100 million contracts these days and so the questioner said, "Aren't you really underselling yourself, the greatest quarterback who ever played?"

Johnny thought for a second and said, "Well, I am 66 years old."

Mr. Speaker, I have told that story a lot because it says all one needs to know about my friend and my constituent. And as Kendall Ehrlich, my wife, always likes to say, the coolest celebrity she has ever met because Johnny U. will always be the coolest celebrity one could ever meet because he was an ordinary person who was able to achieve extraordinary things on the football field and he never took himself too seriously. He always had time for whomever wanted an autograph or needed help, the charity of the day, the week, the month or of the year in Baltimore, the State of Maryland, or in the United States of America.

That was our Johnny U. I will miss him. The people of Baltimore, the State of Maryland, United States of America, sports fans around the world will miss No. 19.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me pay my respects to Johnny Unitas, what he meant as an individual and what he meant to our community. I agree with the gentleman from Maryland (Mr. EHRLICH) and his comments. I feel very privileged because I had the opportunity to witness Johnny play at just about every one of his home football games in Baltimore.

During the NFL's 50th anniversary, he was voted the Greatest Quarterback of All Times, and clearly he was the greatest quarterback of all times on the field. He established just about every record during his time, and currently holds the record for throwing a touchdown pass in the most consecutive games, a record that is not likely to be challenged for a long time to come.

But that is just half the story about Johnny Unitas. Members know him as a great athlete, a person during the time of football when the quarterback really controlled the game, called the plays, was responsible for the leadership of the team. Johnny Unitas represented the best that there was in that regard. He is responsible for getting the American public interested in the game of football. He probably is responsible for a lot of the high salaries today because of the interest on television for football today.

But the other story is Johnny Unitas the individual, off the field. I feel privileged not only to have witnessed him as a great athlete on the field, but to see how he worked within our community. He was always there to help our community. Baltimore was his adopted home. He came to us through other towns, but Baltimore is where he lived his life and where he gave back so much to the community. He was responsible for a lot of charitable activities. He always worked with young people and never turned down a request for an autograph, not because he was honored to be asked to give an autograph, but because he did not want to disappoint anybody. That was the type of life he lived. He was a great individual.

He will always be remembered as the person who led Baltimore to championships, the person who always was on the sidelines during all of our games. His number 19, of course, is known by all; but he is clearly number one in the hearts of all of the people of the Nation. I thank the gentleman for bringing this resolution before us.

Mr. SULLIVAN. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I rise in support of H. Res. 538. I was fortunate enough to play in several games against Johnny Unitas, I guess maybe a better word is "unfortunate" because Johnny's team always came out on top.

One time we played in Baltimore, and they had a white horse that ran around the field every time Baltimore scored. On that day we almost killed the horse because the horse ran around the field 15 to 20 times. Johnny was sharp that day, and we were not very good.

Johnny had a quick release, excellent skills, arm strength and accuracy. But as many Members have mentioned, probably his greatest attribute was physical toughness because at the time Johnny played, we did not have the rules protecting the quarterback that we have today. Today players can hardly touch a NFL quarterback, but Johnny took a licking for 18 years, and he always got up. I was impressed by his leadership and his physical toughness.

He did not have early NFL success. As was mentioned, he was cut by the first team he tried out for. He played semipro football for $6 a game, a tough league. Many Members have mentioned the 1958 championship game against the Giants, which the Colts won 23 to 17. That was a landmark game. I remember watching that game that day. That was the game that caught people's attention. That was the game that launched the National Football League as it is today.

Johnny played at a unique time. The top players were paid $10,000 a year. When compared to today's salaries, just imagine the difference. Most players at that time worked in the off season to make ends meet. He had no agent. He had great loyalty to his team and community. He did not bounce around for the best deal. He stayed most all of his career in one place.

When he played, there were 36 players on a team. Today there are 53, so every one of those 36 players had to contribute. At that time there were about one dozen NFL teams. Today there are roughly 30.

I think today's NFL teams and players owe a lot to Johnny Unitas and others like him who played at that time. He was a great humanitarian and a great human being. Much has been said about his 22 NFL passing records, his three NFL MVPs, his 18 years with one team; but probably the greatest credit to Johnny was the fact that he was named the greatest NFL player in the first 50 years of the league. Of course, that takes in a lot of great players. I urge support of this resolution and again would like to offer my condolences to the family and in support of Johnny and all that he represents.

Mr. DAVIS of Illinois. Mr. Speaker, I do not have any additional requests for time, and I yield back the balance of my time.

Mr. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Maryland for bringing this resolution to the floor and giving this House the opportunity to express its admiration for this extraordinary athlete and extraordinary man.

We extend our condolences to the Unitas family on the death of Johnny Unitas. To us, he was the greatest quarterback to ever play the game of football, a man whose toughness and compassion embodied the spirit of Baltimore and whose talent on the gridiron made him a legend in his own time.

But he was much more. They know him as a husband and father and had the opportunity to share in his extraordinary life.

We can only hope that the outpouring of admiration from the many people who were touched in some way by Johnny Unitas will provide a comfort to them in the days ahead. I urge all Members to support this resolution.

Mrs. MORELLA. Mr. Speaker, I rise in favor of H. Res. 538 honoring Johnny Unitas and extending condolences to his family on his passing. I thank my Maryland colleague and friend Congressman EHRLICH for introducing this legislation.

Johnny Unitas set 22 NFL records, went to 10 pro bowls, was player of the year 3 times, and was named Pro Football's Greatest Player in the first 50 years. But interestingly, all this came from an inauspicious beginning.

Notre Dame didn't want him because he was thought to be too small. Others didn't think he had the smarts to play quarterback. The Pittsburgh Steelers drafted and promptly cut him. Later, with the Baltimore Colts, Johnny Unitas was put in for their injured starter, and his pass was intercepted. On the next two possessions, he fumbled. Since the other Colts backup quarterback had decided to go to law school, Unitas started the next game. Unitas and the Colts beat the Green Bay Packers; then they beat the Cleveland Browns; and so began Johnny Unitas's ascendance. Later that very season, he began his string of 47 consecutive games with a touchdown pass. That record is still unrivaled to this day. And no one has even come close.

He typified an athletic style that at times seems of a bygone era. He was famously hard-working, had a self-effacing manner, and was public spirited with an uncanny devotion to his adopted city and fans. With his modest style, it was said that one couldn't tell from the way Johnny Unitas walked off a football field whether he'd thrown a touchdown or an interception. In fact, the photo of him taken moments after he threw the game-winning overtime touchdown in the 1958 NFL Championship—in what is known as the Greatest Game Ever Played—shows Johnny Unitas, head bent, walking toward the Colts bench as if nothing much had happened.

His skills, warmth, charities, and remarkable life have touched people far beyond the gridiron. During his funeral, a small plane pulled the same banner that flew above Memorial Stadium on his last game in Baltimore. It read: "Unitas We Stand."

He played for the love of the game, his city, and its fans. He was Baltimore. Our prayers are with the Unitas family. We all miss you, Johnny U.

Mr. CUMMINGS. Mr. Speaker, I rise today to honor the life of Johnny Unitas—a great football player, a great Baltimorean, and a great human being. Johnny Unitas epitomized all that is right about sports, and he put Baltimore on the map with his dazzling skill and workmanlike attitude.

Johnny Unitas hitchhiked home from his first training camp in 1955, cut from the Pittsburgh Steelers. He spent that year playing semipro ball for $6 a game, and working at a construction site nearby to make ends meet. The rest, as they say, is history.

The Baltimore Colts signed Unitas the next year. He retired after the 1973 season, setting 22 NFL records, including the most passes attempted and completed, most yards gained passing, most touchdown passes and most seasons leading the league in TD passes.

Unitas completed 2,830 of 5,186 passes for 40,239 yards and 290 touchdowns. He completed at least one touchdown pass in 47 straight games, a record not challenged since it was set from 1956–60.

Johnny Unitas was the Most Valuable Player in 1964 and 1967 and played in 10 Pro Bowls. He led Baltimore to the NFL championship in 1958 and 1959 and the Super Bowl in 1970. On the NFL's 50th anniversary in 1969, Unitas was voted the greatest quarterback of all time. He also was selected at quarterback for the NFL's All-Time team in 2000 by the 36 Pro Football Hall of Fame voters.

To many, including myself, Johnny Unitas was the greatest quarterback to play the game. He left an indelible mark on football, Baltimore, and this nation.

Johnny never strayed far from the game. After his retirement in 1973, he was a fixture in the Baltimore football scene that he made famous, watching the Baltimore Colts move to Indianapolis and the Ravens take their place.

Johnny was famous for saying, "Talk is cheap. Let's go play." I believe this is advice we could all afford to heed.

On September 11, at the age of 69, Johnny Unitas suffered a heart attack and passed away.

I extend my condolences to the family of Johnny Unitas, to his fans, and to all those people he touched. He will be missed.

Mr. SULLIVAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and agree to the resolution, H. Res. 538.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SULLIVAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

FEDERAL-UTAH STATE TRUST LANDS CONSOLIDATION ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4968) to provide for the exchange of certain lands in Utah, as amended.

The Clerk read as follows:

H.R. 4968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal-Utah State Trust Lands Consolidation Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The San Rafael Swell in Utah is a 900-square mile, wild and beautiful region west of the Green River. The San Rafael Swell is dominated by the jagged, uplifted San Rafael Reef, which has nearly two dozen major canyons and many side draws and box canyons. The San Rafael Swell towers above the desert like a wilderness castle, ringed by 1,000-foot ramparts of Navajo sandstone. Its highlands have been fractured by uplift and scooped hollow by erosion over countless millennia, leaving a tremendous basin punctuated by mesas, buttes, and canyons and traversed by sediment-laden desert streams.

(2) The San Rafael Swell region was one of the country's last frontiers and possesses important natural, historical, and cultural resources, including exceptional backcountry recreation opportunities, productive habitat for Desert Bighorn Sheep, important historical sites, including sections of the Old Spanish Trail and the Outlaw Trail, significant paleontological resources, and multiple wilderness study areas created pursuant to section 603 of the Federal Lands Policy and Management Act of 1976, or otherwise identified by local government and conservation interests as having significant conservation values. The beautiful rural landscapes, historic and cultural landscapes, and spectacular scenic vistas of the San Rafael Swell region contain significant undeveloped recreational opportunities for people throughout the United States.

(3) The State of Utah owns approximately 102,871 acres of land located in the San Rafael Swell region and administered by the Utah School and Institutional Trust Lands Administration. These lands were granted by the Congress to the State of Utah pursuant to the Utah Enabling Act of 1894 (chapter 138; 23 Stat. 107), to be held in trust for the benefit of the State's public school system and other public institutions. The lands are largely scattered in checkerboard fashion amidst the Federal lands comprising the remainder of the San Rafael Swell area.

(4) Development of surface and mineral resources on State trust lands within the San Rafael Swell area, or the sale of such lands into private ownership, could be incompatible with management of such lands for nonimpairment of their wilderness characteristics pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976, with future congressional designation of the lands as wilderness, or with future designation of such lands as a national monument, national heritage area, or other conservation designation.

(5) The State of Utah also owns 3,533 acres of land within or directly adjacent to the Manti-La Sal National Forest in Grand and Emery Counties, Utah, and 6,411 acres of land within the Red Cliffs Desert Reserve, a conservation reserve established in 1995 by the United States and Washington County, Utah, to implement a multiple-species habitat conservation plan approved by the Fish and Wildlife Service under section 10(a) of the Endangered Species Act of 1973. The Reserve contains the highest density of critical habitat for the Mojave desert tortoise, a threatened species, in the United States. These State trust lands are also administered by the Utah School and Institutional Trust Lands Administration, but the use of such lands by the State is limited because of the conservation designations of surrounding Federal lands.

(6) The United States owns lands and interests in lands elsewhere in Utah that can be transferred to the State of Utah in exchange for the San Rafael Swell inholdings, the Manti-La Sal forest lands, and the Red Cliffs Desert Reserve lands without jeopardizing Federal management objectives or needs.

(7) The large presence of State trust land inholdings in the San Rafael Swell region, the Manti-La Sal National Forest, and the Red Cliffs Desert Reserve makes land and resource management in these areas difficult, costly, and controversial for both the State of Utah and the United States.

(8) It is in the public interest to reach agreement on exchange of such inholdings, on terms fair to both the State of Utah and the United States. Such an agreement, subject to ratification by Congress and consent by the Utah legislature, would save much time and delay in meeting the legitimate expectations of the State school and institutional trusts, in simplifying management of Federal lands, and in avoiding the significant time and expense associated with administrative land exchanges.

(9) The State of Utah and the United States have reached an agreement under which the State would exchange certain State trust lands within the San Rafael Swell region, the Manti-La Sal National Forest, and the Red Cliffs Desert Reserve for various Federal lands outside of those areas but in the same region of Utah.

(10) The parties agreed at the outset of negotiations to avoid identifying Federal assets for conveyance to the State where any of the following was known to exist or likely to be an issue as a result of foreseeable future uses of the lands:

(A) Wilderness study areas.

(B) Areas proposed for wilderness designation in pending Federal legislation.

(C) Significant endangered species habitat.

(D) Significant archaeological resources.

(E) Areas of critical environmental concern.

(F) Other lands known to raise significant environmental concerns of any kind.

(11) Because the State trust lands to be acquired by the Federal Government include properties within some of the most spectacular wild areas in the western United States, and because a mission of the Utah School and Institutional Trust Lands Administration is to produce economic benefits for Utah's public schools and other beneficiary institutions, the exchange of lands called for in this agreement will resolve longstanding environmental conflicts with respect to existing and proposed wilderness study areas, place important natural lands into public ownership, and further the interests of the State trust lands, the school children of Utah, and these conservation resources.

(12) Under this agreement, the State interests to be conveyed to the United States by the State of Utah, and the Federal interests to be conveyed to the State of Utah by the United States, have been examined by licensed independent real estate consultants and, taken as a whole, have been found to be approximately equal in value.

(b) PURPOSE.—The purpose of this Act is to enact into law and direct prompt implementation of this agreement, and thereby to further the public interest by consolidating State and Federal lands into manageable units while facilitating the protection of lands with significant scientific, cultural, and natural resources.

SEC. 3. RATIFICATION OF THE AGREED EXCHANGE BETWEEN THE STATE OF UTAH AND THE UNITED STATES.

(a) AGREEMENT.—The State of Utah, the Department of the Interior, and the Department of Agriculture have agreed to exchange certain Federal lands in the State of Utah for lands of approximately equal value managed by the Utah School and Institutional Trust Lands Administration in the San Rafael Swell area of Utah, the Manti-La Sal National Forest, and the Red Cliffs Desert Reserve.

(b) RATIFICATION.—All terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled "Agreement for Exchange of Lands 2002 Federal-Utah State Trust Lands Consolidation", dated June 18, 2002 (in this Act referred to as "the Agreement"), are hereby incorporated in this Act, are ratified and confirmed, and set forth the obligations of the United States, the State of Utah, and the Utah School and Institutional Trust Lands Administration, as a matter of Federal law.

SEC. 4. CONVEYANCES.

(a) CONVEYANCES.—All conveyances under sections 2, 3, and 4 of the Agreement shall be completed not later than 70 days after enactment of this Act.

(b) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—The maps and legal descriptions referred to in the Agreement depict the lands subject to the conveyances under the Agreement.

(2) PUBLIC AVAILABILITY.—The maps and legal descriptions referred to in the Agreement shall be on file and available for public inspection in the offices of the Secretary of the Interior, the Secretary of Agriculture, the Intermountain Regional Office of the Forest Service, and the Utah State Director of the Bureau of Land Management.

(3) CONFLICT.—In case of any conflict between the maps and the legal descriptions in the Agreement, the legal descriptions shall control.

(c) CERTAIN COAL LANDS.—

(1) IDENTIFICATION.—The Secretary of the Interior shall prepare legal descriptions for the approximately 4,000 acres of Federal lands that State of Utah and the Secretary have identified within sections 1 through 17 of township 22 south, range 6 east, and within township 22 south, range 7 east, Salt Lake Base and Meridian, Utah.

(2) RESTRICTION ON CONVEYANCE.—Conveyance of the lands identified in paragraph (1) shall reserve to the United States the coal estate and the right to develop the coal estate.

(3) FUTURE DISPOSITION.—Reservation of the coal estate pursuant to paragraph (2) shall not restrict future disposition of the coal estate pursuant to applicable law.

(d) SPECIES IDENTIFICATION.—Prior to any conveyances under this Act, the Secretary of the Interior shall identify Federal lands subject to the Agreement which contain wildlife species, or habitat of wildlife species, listed as a threatened species or an endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or that is a candidate for such a listing.

(e) INDEPENDENT MINERAL ASSESSMENT.—Prior to any conveyances under this Act, the Secretary of the Interior and the State of Utah shall select an independent qualified mineral appraiser, or other qualified expert agreeable to both parties, who shall determine whether the terms of the Agreement related to the UA/UB parcel, identified in section 3(d) of the Agreement, are fair and equitable to both parties. If there is a contrary determination, the Secretary and the State shall adjust the exchange or terms of the Agreement so that the terms are fair and equitable to both parties.

(f) EXCEPTIONS TO CONVEYANCES.—

(1) LEGAL DESCRIPTIONS.—The Secretary of the Interior shall prepare legal descriptions, using the smallest possible aliquot parts, for lands within sections 4, 5, 8, and 9, township 22 south, range 7 east, and within section 12, township 22 south, range 6 east, Salt Lake Base and Meridian, and which are identified on the map entitled "Emery County Lands", dated September 27, 2002.

(2) LANDS NOT AUTHORIZED TO BE CONVEYED.—The lands identified in paragraph (1) shall not be conveyed pursuant to subsection (a). In addition, lands within section 17, township 22 south, range 7 east, and within section 33, township 21 south, range 7 east, Salt Lake Base and Meridian, shall not be conveyed pursuant to subsection (a).

(3) LANDS NOT AUTHORIZED TO BE ACCEPTED.—The Secretary of the Interior shall not accept conveyance of section 36, township 24 south, range 6 east; section 32, township 24 south, range 14 east; and section 2, township 26 south, range 8 east, Salt Lake Base and Meridian, Utah, pursuant to subsection (a).

SEC. 5. PLANT AND WILDLIFE SPECIES.

For the lands identified under section 4(d), and the lands identified in Exhibit E to the Agreement, the Secretary of the Interior and the State of Utah shall enter into an agreement which provides a process for the State to consult or take other appropriate action to avoid, offset, or mitigate adverse effects to any species or habitat identified.

SEC. 6. MINERAL DEVELOPMENT.

All payments received by the United States pursuant to section 13(c) of the Agreement shall be subject to sharing with the State of Utah in the same manner the United States shares bonus bids, rentals, and royalties with the State of Utah under section 35 of the Mineral Leasing Act (30 U.S.C. 191).

SEC. 7. AUTHORIZATION.

There are authorized to be appropriated such sums as are necessary to carry out this Act, including such sums as may be desired to reduce the balance of the interest and principal amounts owed by the United States to the Trust Lands Administration pursuant to sections 4 and 5 of the Agreement.

SEC. 8. COSTS.

The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4968, introduced by the gentleman from Utah (Mr. CANNON), would ratify a land exchange between the State of Utah and the Departments of the Interior and Agriculture. The bill would exchange approximately 108,000 acres of State trust lands for 136,000 acres of Federal land.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

□ 1800

Mr. Speaker, the gentleman from Utah has adequately explained this bill. We have no problem on my side of the aisle. I support the gentleman's legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. CANNON), the author of the bill.

Mr. CANNON. Mr. Speaker, I rise in support of H.R. 4968, the Federal-Utah State Trust Lands Consolidation Act. This land exchange represents the third major effort by Congress, the School and Institutional Trust Lands Administration, the State of Utah and the Department of the Interior to block up the checkerboard ownership of lands dedicated to the benefit of Utah's schoolchildren.

H.R. 4968 will ratify an agreement signed by the Secretary of the Interior, the Secretary of Agriculture and the Governor of Utah that agrees to exchange over 100,000 acres of land within Emery, Uintah, Utah, Washington and Sevier Counties. The Federal Government will gain ownership of spectacular lands located within the San Rafael Swell area, critical species habitat in the Red Cliffs Desert Reserve in Washington County and in—holdings within the Manti-La Sal National Forest. In return, the school children of Utah will receive developable lands that may contain recoverable oil, gas, coal or other resources.

In this exchange, the two parties took a real world, businesslike approach. As someone with a background in business, I am fully aware of the extreme difficulty in negotiating the value of assets. In particular, I am aware of how difficult it is to place a value on something as intangible as the worth of a coherent, manageable piece of land as compared to scattered, checkerboard parcels of land. The two parties in this exchange have done as good a job as can be done.

Futhermore, this exchange has been certified by an outside, third party expert who has fully analyzed these lands and minerals and submitted a report stating that this is an equal-value exchange.

Mr. Speaker, this is a fair exchange that continues our efforts to protect those funds in Utah that should not be developed and allows the school children of Utah to fully appreciate the assets they own. We have wide spread support for this effort throughout the State, among the Congressional delegation, from the NEA, PTA, the Administration and members of the environmental community. Critics of the exchange have made completely contradictory claims. They have asserted that the federal lands being granted to the state have huge value, but then say that the lands won't generate significant revenue. In reality, the lands that the Utah school trust will acquire have potential to generate reasonable future income, which will provide additional income to each of Utah's public schools, in a state where every penny counts.

This bill has received prominent attention in the national press. Much of that attention has been focused on what Utah stands to gain from the exchange. It is important that we look at the other side of the exchange as well. Under H.R. 4968, the Federal Government will acquire over 100,000 acres of conservation lands in the San Rafael Swell, as well as the balanced of the Red Cliffs Desert Reserve in Washington County, in exchange for less sensitive federal lands that can generate revenue for Utah's schools.

This is the third land exchange in Utah in the last three Congresses. We are improving the process and we will do better next time. It is imperative that these exchanges to be transparent and evenhanded. It is important that valuable resources are protected and that both parties be treated equitably. I am convinced this exchange meets those criteria.

I urge my colleagues to support H.R. 4968.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4968, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COAL ACCOUNTABILITY AND RETIRED EMPLOYEE ACT FOR THE 21ST CENTURY

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 3813) to modify requirements relating to allocation of interest that accrues to the Abandoned Mine Reclamation Fund, as amended.

The Clerk read as follows:

H.R. 3813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coal Accountability and Retired Employee Act for the 21st Century".

SEC. 2. TREATMENT OF ABANDONED MINE RECLAMATION FUND INTEREST.

(a) IN GENERAL.—Notwithstanding any other provision of law, any interest credited to the fund established by section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) shall be transferred to the Combined Fund identified in section 402(h)(2) of such Act (30 U.S.C. 1232(h)(2)), up to such amount as is estimated by the trustees of such Combined Fund to offset the amount of any deficit in net assets in the Combined Fund.

(b) PROHIBITION ON OTHER TRANSFERS.—Except as provided in subsection (a), no principal amounts in or credited to the fund established by section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) may be transferred to the Combine Fund identified in section 402(h)(2) of such Act (30 U.S.C. 1232(h)(2)).

(c) LIMITATION.—This section shall cease to have any force and effect after September 30, 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3813 the Coal Accountability and Retired Employee Act for the 21st Century introduced by the gentleman from West Virginia (Mr. RAHALL) transfers any interest credited to the Abandoned Mine Reclamation Fund established under the Surface Mining Control and Reclamation Act of 1977 to the Combined Benefit Fund for 2 years.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, enactment this year of the pending legislation will stave off any potential reduction in health care coverage for 54,000 retired coal miners and their widows, whose average age is 78 years old. These miners bravely served their country through both war and peace, many of them working deep within the bowels of this Earth to produce the coal that powered this Nation through both the industrial and now the technological revolution. We owe them a debt of gratitude and as a society would be ill-served by not keeping the promise to them of lifetime health care.

In this regard I do want to express my sincere appreciation to the gentleman from Utah (Mr. HANSEN), chairman of the Committee on Resources, for his support of this legislation. He has not only been of tremendous help on this, but a great many other pieces of legislation that this committee has produced. I salute him for his leadership.

I also want to thank the gentleman from Ohio (Mr. NEY), who is an original cosponsor of this bill, who does care very deeply about our Nation's coal miners. I salute him for his work as well.

Finally, I want to say to the gentlewoman from Wyoming (Mrs. CUBIN), I thank her for working with me on this bill and for helping to make it possible for this legislation to be considered on the floor today.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 3813, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE EQUITABLE COMPENSATION ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 434) to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands, as amended.

The Clerk read as follows:

S. 434

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COMPENSATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act".

SEC. 102. FINDINGS.

Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the "Flood Control Act of 1944" (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the "Pick-Sloan program")—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

SEC. 103. DEFINITIONS.

In this title:

(1) INDIAN TRIBE.—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SANTEE SIOUX TRIBE.—The term "Santee Sioux Tribe" means the Santee Sioux Tribe of Nebraska.

(3) YANKTON SIOUX TRIBE.—The term "Yankton Sioux Tribe" means the Yankton Sioux Tribe of South Dakota.

SEC. 104. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Yankton Sioux Tribe Development Trust Fund" (referred to in this section as the "Fund"). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the

Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 106.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 106.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 105. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Santee Sioux Tribe Development Trust Fund" (referred to in this section as the "Fund"). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTEE SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 106.

(C) USE OF PAYMENTS BY SANTEE SIOUX TRIBE.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 106.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 106. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 104(d) or 105(d) (referred to in this subsection as a "tribal plan").

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under section 104(d) or 105(d) to promote—

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(1) IN GENERAL.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) UPDATING OF TRIBAL PLAN.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) CONSULTATION.—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) ANNUAL REPORTS.—Each tribe shall submit an annual report to the Secretary describing any expenditures of funds withdrawn by that tribe under this title.

(d) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this title may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

SEC. 107. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this title shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this title shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this title shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 108. STATUTORY CONSTRUCTION.

Nothing in this title may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this title, any treaty right that is in effect on the date of enactment of this Act, or any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 104 and the Santee Sioux Tribe Development Trust Fund under section 105.

SEC. 110. EXTINGUISHMENT OF CLAIMS.

Upon the deposit of funds under sections 104(b) and 105(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 102(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

TITLE II—MARTIN'S COVE LAND TRANSFER

SEC. 201. SHORT TITLE.

This title may be cited as the "Martin's Cove Land Transfer Act".

SEC. 202. CONVEYANCE TO THE CORPORATION OF THE PRESIDING BISHOP.

(a) CONVEYANCE REQUIRED.—Notwithstanding the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Secretary of the Interior (hereafter in this section referred to as the "Secretary") shall offer to convey to the Corporation of the Presiding Bishop, all right, title, and interest of the United States in and to the public lands identified for disposition on the map entitled "Martin's Cove Land Transfer Act" numbered MC/0002, and dated May 17, 2002, for the purpose of public education, historic preservation, and the enhanced recreational enjoyment of the public. Such map shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management and the Lander District of the Bureau of Land Management.

(b) CONSIDERATION.—

(1) IN GENERAL.—The Corporation of the Presiding Bishop shall pay to the United States an amount equal to the historic fair market value of the property conveyed under this section, including any improvements to that property.

(2) DETERMINATION OF FAIR MARKET VALUE.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall determine the historic fair market value of the property conveyed under this section, including any improvements to the property.

(c) ACCESS AGREEMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary and the Corporation of the Presiding Bishop shall enter into an agreement, binding on any successor or assignee, that ensures that the property conveyed shall, consistent with the historic purposes of the site—

(1) be available in perpetuity for public education and historic preservation; and

(2) provide to the public, in perpetuity and without charge, access to the property conveyed.

(d) RIGHT OF FIRST REFUSAL.—As a condition of any conveyance under this section, the Secretary shall require that the Church of Jesus Christ of Latter Day Saints and its current or future affiliated corporations grant the United States a right of first refusal to acquire all right, title, and interest in and to the property conveyed under this section, at historic fair market value, if the Church of Jesus Christ of Latter Day Saints or any of its current or future affiliated corporations seeks to dispose of any right, title, or interest in or to the property.

(e) DISPOSITION OF PROCEEDS.—Proceeds of this conveyance shall be used exclusively by the National Historic Trails Interpretive Center Foundation, Inc., a nonprofit corporation located in Casper, Wyoming, for the sole purpose of advancing the public understanding and enjoyment of the National Historic Trails System in accordance with subsection (f).

(f) USE OF PROCEEDS.—Funds shall be used by the Foundation only for the following purposes and according to the following priority:

(1) To complete the construction of the exhibits connected with the opening of the National Historic Trails Center scheduled for August 2002.

(2) To maintain, acquire, and further enhance the exhibits, artistic representations, historic artifacts, and grounds of the Center.

(g) NO PRECEDENT SET.—this title does not set a precedent for the resolution of land sales between or among private entities and the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

S. 434 would provide compensation for the Yankton Sioux and Santee Sioux Indian tribes for tribal lands condemned for the Pick-Sloan Missouri River Basin program project.

The second title of this bill is the text of my bill, H.R. 4103, which has already passed the House. It would direct the Secretary of the Interior to offer to sell 940 acres of BLM land in the Natrona County, Wyoming, to the LDS Church for the purpose of its historic preservation, public education and enjoyment of the public. Funds from the sale would be directed for the sole purpose of public understanding and enjoyment of the National Historic Trail System at the National Historic Trails Interpretive Center in Casper, Wyoming.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume. The minority has reviewed the legislation and has no problem with it.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I rise very reluctantly today to oppose this bill. First of all, this is occurring in my State. We tried to get through to the chairman's staff, to his chief of staff, all day today. We could not find out that this Martin's Cove bill was on the Senate bill, S. 434, until late this afternoon, at which time we had to call the Democrat side to find out that it was hooked on to this bill.

I have agreed that I would work with the chairman on finding a way to get a vote on this bill in the Senate because it did pass the House. However, Mr. Speaker, we all know the backlog of House bills, over 60, that are sitting at the floor of the Senate, and for us to attach a piece of legislation in a Member's district without the Member having any knowledge whatsoever of this until late this afternoon on a Tom Daschle bill, Mr. Speaker, this is just wrong.

There has to be another way for the chairman to deal with the Martin's Cove bill. I am willing to work with him, but I have to speak against this right now because we were totally left out of the loop. I believe that the chairman's chief of staff deliberately would not call us back and let us know. He e-mailed us finally late in the afternoon after many attempts to find out. We certainly thank the gentleman from West Virginia and his staff for letting us know what happened, or what was going to happen before this came up.

At any rate, Mr. Speaker, I am opposed for that reason. I think we need to look at these things separately. I will be calling for a vote, and very regretfully so.

Mr. THUNE. Mr. Speaker, I would like to thank you for bringing this bill to the floor, which would provide compensation to the Yankton and Santee Sioux Tribes for the land they sacrificed in the construction of the Pick-Sloan water project on the Missouri River. I would also like to thank Congressman OSBORNE for introducing H.R. 2408, the House version of this important piece of legislation, of which I am proud to be a cosponsor.

The Pick-Sloan Missouri River program authorized in 1944 was implemented to ease downstream funding of the Missouri River, offer irrigation water for farmers and ranchers, and produce hydroelectric power.

While the intentions of these projects proved to be fruitful for some, it is fair to say that the Pick-Sloan program has certain negative impacts on the Yankton and Santee Sioux Tribes. Much of the land taken and destroyed to create the Ft. Randall and Gavins Point Dams and reservoirs belonged to these tribes.

H.R. 2408 and S. 434 would offer monetary compensation to these tribes for their lost and destroyed land along the Missouri River. These funds will be held in trust by the Department of Interior and will be released contingent upon a Tribal plan. The Tribal plan will be designed to promote economic development, infrastructure, education, health care and social welfare for the Yankton and Santee Sioux Tribes.

These funds will be of great benefit to the Yankton and Santee Sioux tribes as they work to improve the standard of living for the members of their tribe. These tribes, like many others, face significant challenges such as meeting important health care and education needs.

This legislation is not the first time tribes will have been compensated for destroyed and lost land as a result of the Pick Sloan project. In my state alone, the Standing Rock, Lower Brule, Cheyenne River and Crow Creek Sioux Tribes have received compensation for land taken by the Pick-Sloan project. It is now time for the Yankton and Santee Sioux tribes to be compensated.

It is now time for action on this bill. I urge all of my colleagues to support this legislation, so these tribes may receive the much-needed compensation they truly deserve.

Mr. OSBORNE. Mr. Speaker, I am pleased that today the House is taking up S. 434, the Yankton and Santee Sioux Compensation Act. Today's mark-up is the culmination of many years of work on the part of the Santee Sioux tribe, which I represent, and the Yankton Sioux Tribe. I want to thank Chairman HANSEN for bringing this legislation forward. I also want to thank Chairman HANSEN's Chief Counsel, Lisa Pittman, as well as Mike Olsen and former staffer Renee Howell in the Committee's Office of Native American and Insular Affairs, who were instrumental in its drafting.

S. 434 would provide long overdue compensation by establishing two trust funds to be used by the Santee Sioux and Yankton Sioux tribes. Specifically, this bill directs the U.S. Treasury to deposit about $23 million into a special trust fund account for the Yankton Sioux and approximately $4.7 million for the Santee Sioux. The tribes would then be allowed to draw on the interest earned from the trust funds for economic and infrastructure development and other activities. The tribes would also be required to adopt economic development plans to account for the way in which these funds will be spent.

This legislation is necessary because when the Federal Government built the dams on the upper reaches of the Missouri River under the Pick-Sloan Missouri River Basin program, the Yankton Sioux and Santee Sioux were not provided compensation for the taking of their land. While the dams were designed to promote general economic development in the region, provide for irrigation, and protect from flooding, their construction inundated productive agricultural and pastoral lands and the traditional homeland of the tribes. In the case of the Santee Sioux, the Gavins Point Dam permanently flooded about 600 acres of the tribe's land.

S. 434 is not without precedent. Over the past decade, Congress has passed three laws providing compensation to other tribes affected by the Pick-Sloan projects. Additional tribes were compensated in 1992, 1996, and 1997. I believe it is only fair that we work to find a way to compensate the Yankton Sioux and Santee Sioux tribes.

I am so pleased that the House is taking up this legislation today. This bill will provide the necessary resources to compensate for a longstanding debt owed to these tribes. Perhaps just as important, the compensation provided in this bill has the potential to change the lives of members of these tribes who face numerous challenges. On behalf of the Santee Sioux tribe in particular, I am so grateful that this bill has been brought forward. I strongly urge its passage.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 434, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. CUBIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECLAMATION RECREATION MANAGEMENT ACT OF 2002

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5460) to reauthorize and amend the Federal Water Project Recreation Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reclamation Recreation Management Act of 2002”.

SEC. 2. AMENDMENTS TO THE FEDERAL WATER PROJECT RECREATION ACT.

(a) CONGRESSIONAL POLICY.—The first section of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–12) is amended by striking “public bodies” and inserting “entities”.

(b) ALLOCATION OF COSTS.—Section 2 of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–13) is amended—

(1) in subsection (a) by striking “, before authorization of a project,”;

(2) in subsection (a), by striking “public bodies” and inserting “entities” and by striking “Projects authorized during the calendar year” and all that follows to the end of the subsection;

(3) in subsection (b) by striking “non-Federal interests” each place it appears and inserting “non-Federal entities”;

(4) in subsection (b)(2)—

(A) by striking “: *Provided*, That the source of repayment may be limited to” and inserting “. The source of repayment may include”; and

(B) by inserting “and retained” after “collected”; and

(5) in subsection (b)(2) by adding at the end the following: “Fees and charges may be collected, retained and used by the non-Federal entities for operation, maintenance, and replacement of recreation facilities on project lands and waters being managed by the non-Federal entities. As established by the Secretary, any excess revenues will be credited to the Reclamation Fund to remain available, without further Act of appropriation, to support recreation development and management of Bureau of Reclamation land and water areas.”.

(c) RECREATION AND FISH AND WILDLIFE ENHANCEMENT.—Section 3 of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–14) is amended—

(1) by striking subsection (a), redesignating subsection (b) as subsection (a), and inserting after subsection (a) (as so redesignated) the following:

“(b) In the absence of a non-Federal managing partner, the Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized, as a part of any water resource development project under the Secretary's control heretofore or hereafter authorized or reauthorized, to investigate, plan, construct, replace, manage, operate and maintain or otherwise provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes; the costs of which are nonreimbursable.”;

(2) in subsection (a) (as so redesignated)—

(A) by inserting “or enhance” after “project construction to preserve”;

(B) by striking “enhancement potential” each place it appears and inserting “resources”;

(C) by striking “public bodies” each place it appears and inserting “entities”;

(D) by striking “public body” and inserting “entity”; and

(E) by striking “or, in the absence thereof, will not detract from that potential”;

(3) in subsection (c)(1)(B) by striking “public body” each place it appears and inserting “entity”; and

(4) by adding at the end of subsection (c) the following:

“(3) In the absence of a non-Federal managing partner, the Secretary of the Interior, acting through the Commissioner of Reclamation, may modify or expand existing facilities, the costs of which are nonreimbursable.”.

(d) LEASE OF FACILITIES.—

(1) REPEAL.—Section 4 of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–15) is repealed, and sections 5 through 12 of such Act are redesignated as sections 4 through 11, respectively.

(2) CONFORMING AMENDMENT.—Section 6(e) of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–17(e)) is amended by striking “4, and 5” and inserting “, and 4”.

(e) POST AUTHORIZATION DEVELOPMENT.—Section 5 of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–16) is amended by striking “public bodies” and inserting “entities”.

(f) PROVISION OF FACILITIES.—Section 7 of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–18) is amended—

(1) in subsection (e) by striking “and 5” and inserting “and between 3 and 4”;

(2) in subsection (g) by striking “3(b)” and inserting “3(a)”; and

(3) in subsection (h) by striking “public bodies” and inserting “entities”; and by striking “3(b)” and inserting “3(a)”.

(g) MISCELLANEOUS REPORTS.—Section 6 of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–17) is amended by adding at the end the following:

“(i) Amounts collected under section 2805 of Public Law 102–575 for admission to or recreation use of project land and waters shall be deposited in a special account in the Reclamation Fund and remain available to the Commissioner of Reclamation without further appropriation until expended. Such funds may be used for the development, reconstruction, replacement, management, and operation of recreation resources on project lands and waters with not less than 60 percent being used at the site from which the fees were collected.”.

(h) MANAGEMENT FOR RECREATION, FISH AND WILDLIFE, AND OTHER RESOURCES.—Section 7 of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–18) is amended—

(1) by amending subsection (a) to read as follows:

“(a) The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized, in conjunction with any water resource development project heretofore or hereafter constructed or which is otherwise under the Secretary's control, to—

“(1) investigate, plan, design, construct, replace, manage, operate, and maintain or otherwise provide for recreation and fish and wildlife enhancement facilities and services, the costs of which may be nonreimbursable;

“(2) provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes, including by entering into grants, cooperative agreements, and similar instruments with non-Federal entities, without cost sharing, for recreation projects and activities; and

“(3) to acquire or otherwise make available such adjacent lands or interests therein as are necessary for public recreation or fish and wildlife use.”;

(2) in subsection (b)—

(A) by inserting “, acting through the Commissioner of Reclamation,” after “the Secretary of the Interior”;

(B) by inserting “and management” after “administration”;

(C) by striking “lease”; and

(D) by adding at the end the following: “All such agreements or contracts for administration or management shall identify the terms and conditions of administration, management, and use, approvals required from Bureau of Reclamation, and assure public access to project lands managed for recreation.”;

(3) by adding at the end the following:

"(d) The Secretary of the Interior, acting through the Commissioner of Reclamation, is also authorized to enter into agreements with other non-Federal entities for recreation and concession management at Bureau of Reclamation projects. All such agreements or contracts for management shall identify the terms and conditions of management and use, approvals required from the Bureau of Reclamation, and assure public access to project lands managed for recreation."; and

"(e) The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized to approve the administration, management, and use of Bureau of Reclamation lands, waters, and the resources thereon by means of easements, leases, licenses, contracts, permits, and other forms of conveyance instruments.

"(f) The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized to produce, sell, or otherwise make available to the public: information about Bureau of Reclamation programs including publications, photographs, computer discs, maps, brochures, posters, videos, and other memorabilia related to the Bureau of Reclamation, and the natural, historic, and cultural resources of the area; and, other appropriate and suitable merchandise to enhance the public's use of the area. Income from such sales shall be credited to the Reclamation Fund to remain available, without further Act of appropriation, to pay costs associated with the production and sale of items, and any remaining revenue shall be available, without further Act of appropriation, to support recreation development and management of Bureau of Reclamation land and water areas.".

(i) DEFINITIONS.—Section 10 of the Federal Water Project Recreation Act (16 U.S.C. 460*l*–21) is amended by adding at the end the following:

"(f) The term 'non-Federal entity' means non-Federal public bodies, nonprofit organizations, Indian tribes, or entities within the private sector.".

(j) AUTHORIZATION OF APPROPRIATIONS.—The Federal Water Project Recreation Act (16 U.S.C. 460*l*–12 et seq.) is amended by redesignating section 11 (as redesignated by subsection (d) of this section) as section 12, and by inserting after section 10 the following:

"SEC. 11. AVAILABILITY OF APPROPRIATIONS.

"Funds appropriated under this section may remain available until expended.".

(k) LIMITATION ON APPLICATION.—This section and the amendments made by this section shall apply only to water resource development projects under the control of the Secretary of the Interior.

SEC. 3. RECREATIONAL FACILITIES AT LOST CREEK RESERVOIR.

(a) CONSTRUCTION OF FACILITIES.—As soon as practicable after funds are made available for this section, the Secretary of the Interior shall construct recreational facilities at Lost Creek Reservoir in Utah.

(b) MAINTENANCE AND OPERATION OF FACILITIES.—Construction of recreational facilities under subsection (a) shall begin only after the Secretary has entered into a cooperative agreement with the State of Utah that provides for the operation and maintenance of the recreational facilities.

(c) COST SHARING.—The Federal share of the cost of construction carried out under this section shall be 50 percent.

SEC. 4. TECHNICAL CORRECTION.

Section 1(g) of Public Law 107–69 (115 Stat. 595) is amended by striking "section 2(c)(1)" and inserting "subsection (c)(1)".

SEC. 5. AUTHORIZATION OF AUSTIN, TEXAS, WASTEWATER RECLAMATION AND REUSE PROJECT.

(a) AUTHORIZATION OF PROJECT.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1635. AUSTIN, TEXAS, WATER RECLAMATION AND REUSE PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Austin Water and Wastewater Utility, Texas, is authorized to participate in the planning (including an appraisal and feasibility study), design, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the City of Austin Water and Wastewater Utility, Texas.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.".

(b) CLERICAL AMENDMENT.—The table of contents in section 2 of Public Law 102–575 (106 Stat. 4600) is amended by adding at the end of the items relating to chapter XVI the following:

"Sec. 1635. Austin, Texas, Water Reclamation and Reuse Project.".

SEC. 6. WILLARD BAY RESERVOIR ENLARGEMENT STUDY.

(a) AUTHORIZATION OF FEASIBILITY STUDY.—Pursuant to the reclamation laws, the Secretary of the Interior, through the Bureau of Reclamation, may conduct a feasibility study on raising the height of Arthur V. Watkins Dam and thereby enlarging the Willard Bay Reservoir for the development of additional storage to meet water supply needs within the Weber Basin Project area. The feasibility study shall include such environmental evaluation as required under the National Environmental Policy Act of 1969 and a cost allocation as required under the Reclamation Projects Act of 1939.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report on the results of the study to the Congress for review and approval.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $2,000,000.

SEC. 7. REAUTHORIZATION OF WATER DESALINATION ACT OF 1996.

(a) AUTHORIZATION OF COOPERATIVE AND INTERAGENCY AGREEMENTS.—Section 3(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note) is amended in the first sentence by inserting "and cooperative and interagency agreements" after "contracts".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of such Act is amended—

(1) in subsection (a) by striking "1997 through 2002" and inserting "2003 through 2008"; and

(2) in subsection (b) by striking "$25,000,000 for fiscal years 1997 through 2002" and inserting "$25,000,000 for fiscal years 2003 through 2008".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

This legislation provides the Bureau of Reclamation the authority to develop and manage recreation at reclamation water projects. The legislation also authorizes the Secretary of the Interior to participate in the design, planning and construction of a project to reclaim and reuse wastewater within the city of Austin, Texas.

Furthermore, the bill provides for the reauthorization of the Water Desalinization Act of 1996 and provides authority for the Secretary to study the feasibility of raising Willard Bay Reservoir in Utah.

Mr. Speaker, I include the following for the RECORD:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE,
Washington, DC, October 1, 2002.

Hon. JAMES HANSEN,
Chairman, Committee on Resources,
Washington, DC.

DEAR CHAIRMAN HANSEN: I am writing with regard to H.R. 5460, to reauthorize and amend the Federal Water Project Recreation Act, which was referred to the Committee on Resources on September 25, 2002. This legislation affects programs under the jurisdiction of the Transportation and Infrastructure Committee.

I recognize your desire to bring this bill before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a sequential referral of the legislation. By agreeing to waive its consideration of the bill, however, the Committee on Transportation and Infrastructure does not waive its jurisdiction over H.R. 5460. In addition, the Transportation and Infrastructure Committee reserves its authority to seek conferees on provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Transportation and Infrastructure Committee for conferees on H.R. 5460.

I request that you include a copy of our exchange of letters in the CONGRESSIONAL RECORD during consideration on the House Floor. Thank you.

Sincerely,

DON YOUNG,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is legislation that was introduced by the gentleman from Texas (Mr. DOGGETT). I want to commend him for this very worthy piece of legislation and his persistence and dedication to helping provide his people high-quality water supplies.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentleman from West Virginia for his help on this legislation, and I thank the gentleman from Utah (Mr. HANSEN), the chairman of the committee, as well as the gentleman from California (Mr. CALVERT), the subcommittee chairman who was very helpful to us during the subcommittee proceedings on this legislation, which has now been appended to some legislation of the gentleman from California (Mr. CALVERT).

Mr. Speaker, I would also want to recognize the contribution of Mayor Gus Garcia of Austin. He ably presented the city's case for this legislation in his first testimony before the Congress as our mayor.

After witnessing the catastrophic floods that struck central Texas earlier this year, many people may wonder why we need to conserve water. But, in fact, though we have some mighty powerful rivers, we also have a mighty thirsty State. Austin is a city that has been blessed with many resources. We believe that by conserving these resources in part through this bill that we will have an ample water supply in the future. This legislation will enable the city of Austin, with the assistance of the Bureau of Reclamation, to conserve our water supply through planning and development of a project to reclaim and reuse treated wastewater. The initiative will reduce demand on Austin's water supply and conserve water for human consumption. It is estimated that the project can save as much as 9 billion gallons of water each year.

Austin is already a recognized leader in water resource planning, and with this Federal legislative backup, our community can further address water conservation and sustainable development.

The growth of the city of Austin has been tremendous in the last decade and has presented us with challenges, one of which is planning for our water needs. This legislation will help assure that. The water reclamation project will provide assistance to beneficiaries as diverse as the city itself, from municipal parks to schools to industrial facilities. Indeed, our high-tech manufacturing plants are major water consumers and with this legislation they are assured not only greater water availability, but water at a lesser cost, which is very important to them.

Mr. Speaker, I believe it was Ben Franklin who said, "When the well is dry, we know the worth of water." Fortunately, there is no danger of the Colorado River running dry, but there are many demands on water rights from that river, and it is well that through this legislation we move forward progressively, working with the Federal Government and the Bureau of Reclamation to assure that we have our water needs met in the future.

Mr. HANSEN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 5460, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CEDAR CREEK AND BELLE GROVE NATIONAL HISTORICAL PARK ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4944) to designate the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park as a unit of the National Park System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cedar Creek and Belle Grove National Historical Park Act".

SEC. 2. PURPOSE.

The purpose of this Act is to establish the Cedar Creek and Belle Grove National Historical Park in order to—

(1) help preserve, protect, and interpret a nationally significant Civil War landscape and antebellum plantation for the education, inspiration, and benefit of present and future generations;

(2) tell the rich story of Shenandoah Valley history from early settlement through the Civil War and beyond, and the Battle of Cedar Creek and its significance in the conduct of the war in the Shenandoah Valley;

(3) preserve the significant historic, natural, cultural, military, and scenic resources found in the Cedar Creek Battlefield and Belle Grove Plantation areas through partnerships with local landowners and the community; and

(4) serve as a focal point to recognize and interpret important events and geographic locations within the Shenandoah Valley Battlefields National Historic District representing key Civil War battles in the Shenandoah Valley, including those battlefields associated with the Thomas J. (Stonewall) Jackson campaign of 1862 and the decisive campaigns of 1864.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The Battle of Cedar Creek, also known as the battle of Belle Grove, was a major event of the Civil War and the history of this country. It represented the end of the Civil War's Shenandoah Valley campaign of 1864 and contributed to the reelection of President Abraham Lincoln and the eventual outcome of the war.

(2) 2,500 acres of the Cedar Creek Battlefield and Belle Grove Plantation were designated a national historic landmark in 1969 because of their ability to illustrate and interpret important eras and events in the history of the United States. The Cedar Creek Battlefield, Belle Grove Manor House, the Heater House, and Harmony Hall (a National Historic Landmark) are also listed on the Virginia Landmarks Register.

(3) The Secretary of the Interior has approved the Shenandoah Valley Battlefields National Historic District Management Plan and the National Park Service Special Resource Study, both of which recognized Cedar Creek Battlefield as the most significant Civil War resource within the historic district. The management plan, which was developed with extensive public participation over a 3-year period and is administered by the Shenandoah Valley Battlefields Foundation, recommends that Cedar Creek Battlefield be established as a new unit of the National Park System.

(4) The Cedar Creek Battlefield Foundation, organized in 1988 to preserve and interpret the Cedar Creek Battlefield and the 1864 Valley Campaign, has acquired 308 acres of land within the boundaries of the National Historic Landmark. The foundation annually hosts a major reenactment and living history event on the Cedar Creek Battlefield.

(5) Belle Grove Plantation is a Historic Site of the National Trust for Historic Preservation that occupies 383 acres within the National Historic Landmark. The Belle Grove Manor House was built by Isaac Hite, a Revolutionary War patriot married to the sister of President James Madison, who was a frequent visitor at Belle Grove. President Thomas Jefferson assisted with the design of the house. During the Civil War Belle Grove was at the center of the decisive battle of Cedar Creek. Belle Grove is managed locally by Belle Grove, Incorporated, and has been open to the public since 1967. The house has remained virtually unchanged since it was built in 1797, offering visitors an experience of the life and times of the people who lived there in the 18th and 19th centuries.

(6) The panoramic views of the mountains, natural areas, and waterways provide visitors with an inspiring setting of great natural beauty. The historic, natural, cultural, military, and scenic resources found in the Cedar Creek Battlefield and Belle Grove Plantation areas are nationally and regionally significant.

(7) The existing, independent, not-for-profit organizations dedicated to the protection and interpretation of the resources described above provide the foundation for public-private partnerships to further the success of protecting, preserving, and interpreting these resources.

(8) None of these resources, sites, or stories of the Shenandoah Valley are protected by or interpreted within the National Park System.

SEC. 4. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the Cedar Creek and Belle Grove National Historical Park Advisory Commission established by section 9.

(2) MAP.—The term "Map" means the map entitled "Boundary Map Cedar Creek and Belle Grove National Historical Park", numbered CEBE-80,001, and dated September 2002.

(3) PARK.—The term "Park" means the Cedar Creek and Belle Grove National Historical Park established under section 5 and depicted on the Map.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 5. ESTABLISHMENT OF CEDAR CREEK AND BELLE GROVE NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—There is established the Cedar Creek and Belle Grove National Historical Park, consisting of approximately 3,000 acres, as generally depicted on the Map.

(b) AVAILABILITY OF MAP.—The Map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 6. ACQUISITION OF PROPERTY.

(a) REAL PROPERTY.—The Secretary may acquire land or interests in land within the boundaries of the Park, from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange.

(b) BOUNDARY REVISION.—After acquiring land for the Park, the Secretary shall—

(1) revise the boundary of the Park to include newly acquired land within the boundary; and

(2) administer newly acquired land subject to applicable laws (including regulations).

(c) PERSONAL PROPERTY.—The Secretary may acquire personal property associated with, and appropriate for, interpretation of the Park.

(d) CONSERVATION EASEMENTS AND COVENANTS.—The Secretary is authorized to acquire conservation easements and enter into covenants regarding lands in or adjacent to the Park from willing sellers only. Such conservation easements and covenants shall have the effect of protecting the scenic, natural, and historic resources on adjacent lands and preserving the natural or historic setting of the Park when viewed from within or outside the Park.

(e) SUPPORT FACILITIES.—The National Park Service is authorized to acquire from willing sellers, land outside the Park boundary but in close proximity to the Park, for the development of visitor, administrative, museum, curatorial, and maintenance facilities.

SEC. 7. ADMINISTRATION.

The Secretary shall administer the Park in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including—

(1) the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.); and

(2) the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 8. MANAGEMENT OF PARK.

(a) MANAGEMENT PLAN.—The Secretary, in consultation with the Commission, shall prepare a management plan for the Park. In particular, the management plan shall contain provisions to address the needs of owners of non-Federal land, including independent nonprofit organizations within the boundaries of the Park.

(b) SUBMISSION OF PLAN TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit the management plan for the Park to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 9. CEDAR CREEK AND BELLE GROVE NATIONAL HISTORICAL PARK ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established the Cedar Creek and Belle Grove National Historical Park Advisory Commission.

(b) DUTIES.—The Commission shall—

(1) advise the Secretary in the preparation and implementation of a general management plan described in section 8; and

(2) advise the Secretary with respect to the identification of sites of significance outside the Park boundary deemed necessary to fulfill the purposes of this Act.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members appointed by the Secretary so as to include the following:

(A) 1 representative from the Commonwealth of Virginia.

(B) 1 representative each from the local governments of Strasburg, Middletown, Frederick County, Shenandoah County, and Warren County.

(C) 2 representatives of private landowners within the Park.

(D) 1 representative from a citizen interest group.

(E) 1 representative from the Cedar Creek Battlefield Foundation.

(F) 1 representative from Belle Grove, Incorporated.

(G) 1 representative from the National Trust for Historic Preservation.

(H) 1 representative from the Shenandoah Valley Battlefields Foundation.

(I) 1 ex-officio representative from the National Park Service.

(J) 1 ex-officio representative from the United States Forest Service.

(2) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members to serve a term of one year renewable for one additional year.

(3) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) TERMS OF SERVICE.—

(A) IN GENERAL.—Each member shall be appointed for a term of 3 years and may be reappointed for not more than 2 successive terms.

(B) INITIAL MEMBERS.—Of the members first appointed under paragraph (1), the Secretary shall appoint—

(i) 4 members for a term of 1 year;

(ii) 5 members for a term of 2 years; and

(iii) 6 members for a term of 3 years.

(5) EXTENDED SERVICE.—A member may serve after the expiration of that member's term until a successor has taken office.

(6) MAJORITY RULE.—The Commission shall act and advise by affirmative vote of a majority of its members.

(7) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or a majority of the members of the Commission.

(8) QUORUM.—8 members shall constitute a quorum.

(d) COMPENSATION.—Members shall serve without pay. Members who are full-time officers or employees of the United States, the Commonwealth of Virginia, or any political subdivision thereof shall receive no additional pay on account of their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of service for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) HEARINGS; PUBLIC INVOLVEMENT.—The Commission may, for purposes of carrying out this Act, hold such hearings, sit and act at such times and places, take such public testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise any subpoena authority.

SEC. 10. CONSERVATION OF CEDAR CREEK AND BELLE GROVE NATIONAL HISTORICAL PARK.

(a) ENCOURAGEMENT OF CONSERVATION.—The Secretary and the Commission shall encourage conservation of the historic and natural resources within and in proximity of the Park by landowners, local governments, organizations, and businesses.

(b) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to local governments, in cooperative efforts which complement the values of the Park.

(c) COOPERATION BY FEDERAL AGENCIES.—Any Federal entity conducting or supporting activities directly affecting the Park shall consult, cooperate, and, to the maximum extent practicable, coordinate its activities with the Secretary in a manner that—

(1) is consistent with the purposes of this Act and the standards and criteria established pursuant to the general management plan developed pursuant to section 8;

(2) is not likely to have an adverse effect on the resources of the Park; and

(3) is likely to provide for full public participation in order to consider the views of all interested parties.

SEC. 11. ENDOWMENT.

(a) IN GENERAL.—In accordance with the provisions of subsection (b), the Secretary is authorized to receive and expend funds from an endowment to be established with the National Park Foundation, or its successors and assigns.

(b) CONDITIONS.—Funds from the endowment referred to in subsection (a) shall be expended exclusively as the Secretary, in consultation with the Commission, may designate for the interpretation, preservation, and maintenance of the Park resources and public access areas. No expenditure shall be made pursuant to this section unless the Secretary determines that such expenditure is consistent with the purposes of this Act.

SEC. 12. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—In order to further the purposes of this Act, the Secretary is authorized to enter into cooperative agreements with interested public and private entities and individuals (including the National Trust for Historic Preservation, Belle Grove, Inc., the Cedar Creek Battlefield Foundation, the Shenandoah Valley Battlefields Foundation, and the Counties of Frederick, Shenandoah, and Warren), through technical and financial assistance, including encouraging the conservation of historic and natural resources of the Park.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may provide to any person, organization, or governmental entity technical and financial assistance for the purposes of this Act, including the following:

(1) Preserving historic structures within the Park.

(2) Maintaining the natural or cultural landscape of the Park.

(3) Local preservation planning, interpretation, and management of public visitation for the Park.

(4) Furthering the goals of the Shenandoah Valley Battlefields Foundation related to the Park.

SEC. 13. ROLES OF KEY PARTNER ORGANIZATIONS.

(a) IN GENERAL.—In recognition that central portions of the Park are presently owned and operated for the benefit of the public by key partner organizations, the Secretary shall acknowledge and support the continued participation of these partner organizations in the management of the Park.

(b) PARK PARTNERS.—Roles of the current key partners include the following:

(1) CEDAR CREEK BATTLEFIELD FOUNDATION.—The Cedar Creek Battlefield Foundation may—

(A) continue to own, operate, and manage the lands acquired by the Foundation within the Park;

(B) continue to conduct reenactments and other events within the Park; and

(C) transfer ownership interest in portions of their land to the National Park Service by donation, sale, or other means that meet the legal requirements of National Park Service land acquisitions.

(2) NATIONAL TRUST FOR HISTORIC PRESERVATION AND BELLE GROVE INCORPORATED.—The National Trust for Historic Preservation and Belle Grove Incorporated may continue to own, operate, and manage Belle Grove Plantation and its structures and grounds within the Park boundary. Belle Grove Incorporated may continue to own the house and grounds known as Bowman's Fort or Harmony Hall for the purpose of permanent preservation, with a long-term goal of opening the property to the public.

(3) SHENANDOAH COUNTY.—Shenandoah County may continue to own, operate, and manage the Keister park site within the Park for the benefit of the public.

(4) PARK COMMUNITY PARTNERS.—The Secretary shall cooperate with the Park's adjacent historic towns of Strasburg and Middletown, Virginia, as well as Frederick, Shenandoah, and Warren counties in furthering the purposes of the Park.

(5) SHENANDOAH VALLEY BATTLEFIELDS FOUNDATION.—The Shenandoah Valley Battlefields Foundation may continue to administer and manage the Shenandoah Valley Battlefields National Historic District in partnership with the National Park Service and in accordance with the Management Plan for the District in which the Park is located.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF), the author of the bill.

Mr. WOLF. Mr. Speaker, I rise in support of H.R. 4944, a bill to create the Cedar Creek and Belle Grove National Historical Park. I want to personally thank my good friend, the gentleman from Utah (Mr. HANSEN), for moving this bill so much. I really want to thank him.

I also want to acknowledge our former colleague, French Slaughter, who has passed away, for creating this idea. I want to acknowledge the gentleman in the chair, Mr. GOODLATTE, who has been such a help.

Mr. Speaker, I rise in support of H.R. 4944, a bill to create the "Cedar Creek and Belle Grove National Historical Park."

I want to thank Chairman HANSEN and the Resources Committee staff for their valuable assistance in moving this bill.

I also want to recognize the efforts of one of our former colleagues: the late D. French Slaughter who served in the House from 1985 until 1991. He help lay the ground work for the creation of this park.

This legislation is the result of the tireless work of a number of people and organizations, including the National Park Service, local elected officials and landowners in the Shenandoah Valley, and prominent historians and preservationists.

An outgrowth of the efforts of the Shenandoah Valley Battlefields National Historic District Commission established by Congress in 1996, the park will help preserve and interpret the rich history of the Shenandoah Valley.

In addition to preserving the site of the Civil War Battle of Cedar Creek—it was the last battle of the 1864 Civil War Valley campaign, marking the end of Confederate power in the Valley and its timing just three weeks before the 1864 presidential election also unquestionably influenced the magnitude of President Lincoln's reelection—the park will help tell the story of Native American burial grounds in the region, the influence of German settlers who migrated to the area along the Great Wagon Road and the creation of massive wheat plantations that foreshadowed the Valley's future as the "Breadbasket of the Confederacy."

Historic Belle Grove Plantation also will be within the park's boundaries. It was built by Major Isaac Hite, who served in the Continental Army during the Revolutionary War, and married Nelly Conway Madison, the sister of President James Madison.

Belle Grove is one of the many outstanding mansions of the Shenandoah Valley and like other period houses built in that region, the design shows Thomas Jefferson's influence from the Tidewater and Piedmont areas, and also Classical Revival elements, an architectural innovation of the day.

The park also will help protect the historic scenic landscape of the region which features panoramic views of the Blue Ridge mountains, natural areas and waterways in the northern Shenandoah Valley.

The proposed park boundary includes approximately 3,000 acres at the intersection of Frederick, Shenandoah and Warren counties and is based on the 1969 boundary established for the Cedar Creek and Belle Grove National Historic Landmark.

What makes this park even more special is that it will serve as a model for future national parks because:

It is based on partnerships and local community involvement;

Private organizations, families, and individuals will continue to live and work within its boundaries;

Landowners hold their right to sell their land whenever and to whomever they choose;

No land will be condemned or taken by eminent domain;

The Park Service will only purchase land from willing sellers; and

Finally, land use and zoning decisions within the park's boundaries will continue to be administered by local authorities at the county or municipal levels.

This park will go a long way toward preserving an important part of our Nation's rich heritage and history.

It also has the full support of the local community.

I urge support for H.R. 4944.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker the purpose of H.R. 4944 has been explained by the majority and our colleague on the other side. This legislation is a result of a National Park Service study that worked with the local community on developing joint efforts to protect these Civil War resources. We have no objection to its passage.

Mr. GOODLATTE. Mr. Speaker, I would like to thank the gentleman from Utah for yielding. I would also like to thank Congressman WOLF for his vision and leadership in bringing this legislation to the floor. I am pleased to share a bordering district with Mr. WOLF and share part of the Cedar Creek and Belle Grove properties.

I have the distinct honor of representing a significant part of the Shenandoah Valley. The Valley is one of the most diverse and beautiful regions in the country, and is noted for its role in Civil War history—even being referred to by historians as the "breadbasket of the confederacy" for supplying food to soldiers. While my district is dotted with national parks, I would like to see added a new national park—the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park to ensure the preservation of the history surrounding this site.

This park will also serve as a new model for future development of national parks because it is a collaboration of efforts between public and private entities. What is also unique about this park is that all landowners will continue working collectively for the visiting public while continuing to retain the right to sell their land—whenever and to whomever they choose. In addition, the park will work hand-in-hand with the local community because land use and zoning will continue to be administered by local authorities at the county or municipal level.

In addition, there are 9 other Civil War battlefield sites within the Shenandoah Valley that will also benefit from the national involvement in the Shenandoah Valley, while continuing to maintain its rural character and be protected and managed at a local level. Increased visitation to the new park and surrounding battlefields will bring added value and benefits to the local economy and play a significant role in hosting visitors from all over the country.

I would also like to take this time to pay tribute to Mr. Carrington Williams. I am deeply saddened by his recent death. It was an honor to work with Carrington in establishing and securing funds for the Shenandoah Valley Battlefields Commission. He was a true leader in the appreciation and preservation of our nation's Civil War Battlefields and his passion for protecting American heritage will be sorely missed. From his military service to this great Nation to his public service in the Virginia House of Delegates and his extensive community service, Carrington was a respected civic leader and visionary.

I appreciate the historic value and significance of Cedar Creek and Belle Grove. During my weekly drives through the Valley on my way to D.C. or back home to Roanoke, I am reminded almost every stretch of mile of the historic role the Shenandoah Valley has played during the events of the Civil War. I believe it is important to preserve this battlefield so it will continue to provide a historical lesson and glimpse into our nation's past for future generations.

Mr. Speaker, I urge the adoption of this measure and yield back the remainder of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

□ 1815

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4944, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the Cedar Creek and Belle Grove National Historical Park as a unit of the National Park System, and for other purposes.".

A motion to reconsider was laid on the table.

EDUCATION LAND GRANT CONVEYANCE REVIEW COST ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3802) to amend the Education Land Grant Act to require the Secretary of Agriculture to pay the costs of environmental reviews with respect to conveyances under that Act, as amended.

The Clerk read as follows:

H.R. 3802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COSTS OF REVIEWS FOR CONVEYANCES UNDER EDUCATION LAND GRANT ACT.

Section 202 of the Education Land Grant Act (16 U.S.C. 479a) is amended by adding at the end the following:

"(f) COSTS OF REVIEW.—The Secretary shall pay the costs of all action required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to any conveyance under this section.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, the bill, H.R. 3802, was introduced by the gentleman from Arizona (Mr. HAYWORTH), and I yield such time as he may consume to the gentleman to explain this legislation.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Utah for yielding me this time. He has done an outstanding job as chairman of the Committee on Resources and we shall miss him very much in that capacity.

Mr. Speaker, the Education Land Grant Act set up a national mechanism to convey small parcels of U.S. Forest Service land to local educational agencies for the purpose of renovation, expansion, or construction of school facilities. Mr. Speaker, the good news is that this bill was signed into law on December 28 of the year 2000.

Here is where the difficulty has arisen, Mr. Speaker. In implementing this law, Forest Service staff have administratively determined that schools that apply for a conveyance under this act would need to pay various administrative costs, analyses, and environmental compliance assessments. In fact, the interim directive that has now finally been distributed states various costs to be borne by the school districts. I quote: "Nominal costs includes the nominal fee of $10 per acre conveyed, plus all costs directly associated with the project that the Forest Service may incur to evaluate and process at the school district's request to acquire national Forest Service lands under the Education Land Grant Act, such as costs associated with National Environmental Policy Act compliance, document preparations, surveys, posting of property monuments, markers, or posts, and recordation."

In fact, another memo mentioned that even staff time, even staff time used to process requests will need to be paid by school districts.

Mr. Speaker, here we have an example of bureaucrats trying to reinterpret what was very clear in the law. That is why we come to the floor today with H.R. 3802.

This bill simply requires the Forest Service to bear the cost of environmental assessments and administrative costs associated with an exchange under the Education Land Grant Act. The purpose of the act in the first place was to help those cash-strapped districts to make sure their funds were going to help teachers teach and help children learn. Now we have a situation, through bureaucratic extrapolation, where the unelected are trying to reinterpret the will of the Congress.

So, Mr. Speaker, we come here today to speak unequivocally to say that the Congress makes it very clear. Here are the instruments that will be utilized to help these cash-strapped districts realize the benefits of the Education Land Grant Act, and this legislation is the last step toward making school construction and expansion a reality for many rural schools across our country.

So it is in that spirit, Mr. Speaker, that I urge this House to adopt H.R. 3802.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3802 would require the Secretary of Agriculture to pay the costs of environmental reviews conducted pursuant to the Education Land Grant Act. The majority, in the person of the gentleman from Arizona (Mr. HAYWORTH), has very clearly and passionately explained the bill. We have no objection, Mr. Speaker.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 3802, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RED ROCK CANYON NATIONAL CONSERVATION AREA PROTECTION AND ENHANCEMENT ACT OF 2002

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4141) to authorize the acquisition by exchange of lands for inclusion in the Red Rock Canyon National Conservation Area, Clark County, Nevada, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002".

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) CORPORATION.—The term "Corporation" means The Howard Hughes Corporation, an affiliate of the Rouse Company, with its principal place of business at 10000 West Charleston Boulevard, Las Vegas, Nevada.

(2) RED ROCK.—The term "Red Rock" means the Red Rock Canyon National Conservation Area, consisting of approximately 195,780 acres of public lands in Clark County, Nevada, specially designated for protection in the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), as depicted on the Red Rock Map.

(3) RED ROCK MAP.—The term "Red Rock Map" means the map entitled "H.R. 4141–Boundary Modifications", dated July 1, 2002.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Red Rock is a natural resource of major significance to the people of Nevada and the United States. It must be protected in its natural state for the enjoyment of future generations of Nevadans and Americans, and enhanced wherever possible.

(2) In 1998, the Congress enacted the Southern Nevada Public Lands Management Act of 1998 (Public Law 105–263), which provided among other things for the protection and enhancement of Red Rock.

(3) The Corporation owns much of the private land on Red Rock's eastern boundary, and is engaged in developing a large-scale master-planned community.

(4) Included in the Corporation's land holdings are 1,071 acres of high-ground lands at the eastern edge of Red Rock. These lands were intended to be included in Red Rock, but to date have not been acquired by the United States. The protection of this high-ground acreage would preserve an important element of the western Las Vegas Valley view-shed.

(5) The Corporation has volunteered to forgo development of the high-ground lands, and proposes that the United States acquire title to the lands so that they can be preserved in perpetuity to protect and expand Red Rock.

(b) PURPOSES.—This Act has the following purposes:

(1) To accomplish an exchange of lands between the United States and the Corporation that would transfer certain high-ground lands to the United States in exchange for the transfer of other lands of approximately equal value to the Corporation.

(2) To protect Red Rock and to expand its boundaries as contemplated by the Bureau of Land Management, as depicted on the Red Rock Map.

(3) To further fulfill the purposes of the Southern Nevada Public Lands Management Act of 1998 and the Red Rock Canyon National Conservation Area Establishment Act of 1990.

SEC. 4. RED ROCK LAND EXCHANGE.

(a) ACQUISITION REQUIREMENT.—If the Corporation offers to convey to the United States all right, title, and interest in and to the approximately 1,082 acres of nonfederal land owned by the Corporation and depicted on the Red Rock Map as "OFFERED LANDS TO BE INCORPORATED INTO NCA", the Secretary shall accept such offer on behalf of the United States, and not later than 90 days after the date of the offer, except as otherwise provided in this Act, shall make the following conveyances:

(1) To the Corporation, the approximately 998 acres of Federal lands depicted on the Red Rock Map as "BLM LANDS SELECTED FOR EXCHANGE".

(2) To Clark County, Nevada, the approximately 1,221 acres of Federal lands depicted on the Red Rock Map as "BLM LANDS FOR CLARK COUNTY PARK".

(b) SIMULTANEOUS CONVEYANCES.—Title to the private property and the Federal property to be conveyed pursuant to this section shall be conveyed at the same time.

(c) MAP.—The Secretary shall keep the Red Rock Map on file and available for public inspection in the Las Vegas District Office of the Bureau of Land Management in Nevada, and the State Office of the Bureau of Land Management, Reno, Nevada.

(d) CONDITIONS—

(1) HAZARDOUS MATERIALS.—As a condition of the conveyance under subsection (a)(1), the Secretary shall require that the Corporation be responsible for removal of and remediation related to any hazardous materials that are present on the property conveyed to the United States under subsection (a).

(2) SURVEY.—As a condition of the conveyance under subsection (a)(1), the Secretary shall require that not later than 90 days after the date of the offer referred to in subsection (a), the Corporation shall provide a metes and bounds survey, that is acceptable to the Corporation, Clark County, and the Secretary, of the common boundary between the parcels of land to be conveyed under subsection (a).

(3) LANDS CONVEYED TO CLARK COUNTY.—As a condition of the conveyance under subsection (a)(2), the Secretary shall require that—

(A) the lands transferred to Clark County by the United States must be held in perpetuity by the County for use only as a public park or as part of a public regional trail system; and

(B) if the County attempts to transfer the lands or to undertake a use on the lands that is inconsistent with their preservation and use as described in subparagraph (A), such lands shall revert to the United States.

SEC. 5. STATUS AND MANAGEMENT OF LANDS.

(a) INCLUSION OF BASIN LANDS.—Upon the date of the enactment of this Act, the Secretary shall administer the lands depicted on the Red Rock Map as "Flood Control Detention Basin Lands", exclusive of those lands used for the Corps of Engineers R-4 Detention Basin, as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), the Southern Nevada Public Lands Management Act of 1998 (Public Law 105-263), and all other applicable laws.

(b) INCLUSION OF ACQUIRED LANDS; MAPS REFLECTING BOUNDARY ADJUSTMENTS.—Upon acquisition by the United States of lands under this Act, the Secretary shall—

(1) administer the lands as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), the Southern Nevada Public Lands Management Act of 1998 (Public Law 105-263), and all other applicable laws; and

(2) create new maps showing the boundaries of Red Rock as modified by or pursuant to this Act, and make such maps available for review at the Las Vegas District Office of the Bureau of Land Management and the State Office of the Bureau of Land Management, Reno, Nevada.

(c) CONFORMING AMENDMENT.—Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-1(a)(2)) is amended by inserting before the period the following: ", and such additional areas as are included in the conservation area pursuant to the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002".

SEC. 6. GENERAL PROVISIONS.

(a) REVIEW OF APPRAISAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall complete a review of the appraisal entitled "Complete Self-Contained Appraisal Red Rock Exchange, Las Vegas, Nevada", completed on or about June 3, 2002. The difference in appraisal values shall be reimbursed to the Secretary by the Corporation in accordance with the Southern Nevada Public Lands Management Act of 1998.

(b) VALID EXISTING RIGHTS.—The land exchange under this Act shall be subject to valid existing rights. Each party to which property is conveyed under this Act shall succeed to the rights and obligations of the conveying party with respect to any lease, right-of-way, permit, or other valid existing right to which the property is subject.

(c) TECHNICAL CORRECTIONS.—Nothing in this Act prohibits the parties to the conveyances under this Act from agreeing to the correction of technical errors or omissions in the Red Rock Map.

(d) WITHDRAWAL OF AFFECTED LANDS.—To the extent not already accomplished under law or administrative action, the Secretary shall withdraw from operation of the public land and mining laws, subject to valid existing rights—

(1) those Federal lands acquired by the United States under this Act; and

(2) those Federal lands already owned by the United States on the date of the enactment of this Act but included within the Red Rock National Conservation Area boundaries by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS) as the author of this bill to explain this legislation.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman from Utah (Mr. HANSEN), the chairman of the Committee on Resources, for yielding me this time to speak on this important piece of legislation.

Mr. Speaker, a previous bill considered by this Congress, the Southern Nevada Public Land Management Act of 1998, was enacted to provide for the orderly disposal of Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State. Pursuant to these goals, and to those of the Recreation and Public Purposes Act, on April 10 of this year I introduced H.R. 4141 to further enhance the Red Rock Canyon National Conservation Area.

This legislation will promulgate the exchange of approximately 1,000 acres of private, environmentally-sensitive, mountainous land on the eastern border of the Red Rock National Conservation Area held by the Howard Hughes Corporation for approximately 1,000 acres of Bureau of Land Management lands. In addition, approximately 1,200 acres of BLM land will be transferred to Clark County to be used as a public park.

The exchange is fully consistent with the objectives of the Southern Nevada Public Land Management Act to dispose developable Federal lands in exchange for those that are environmentally sensitive. The land to be conveyed to the BLM by the Howard Hughes Corporation has archeological, scenic, and recreational values. The public lands to be acquired by the Hughes Corporation in exchange are adjacent to the Hughes Corporate land holdings and lie within the disposable boundaries identified by the Southern Nevada Public Land Management Act for development.

Mr. Speaker, Congress recognized the benefit of conveying Federal lands to local government without compensation for recreational purposes when it passed the Recreation and Public Purposes Act of 1954. The transfer of approximately 1,200 acres to Clark County to be used as a park or part of the trail system meets with the objectives of the Recreation and Public Purposes Act, as well as the Southern Nevada Public Land Management Act.

Mr. Speaker, H.R. 4141 is a bill that has strong support of both Nevada's Senators, both of Nevada's Representatives, Clark County, and the city of Las Vegas.

Further, the Southern Nevada Group of the Sierra Club has stated in a communication to the Howard Hughes Corporation that they are not opposed to this bill and that it will be a positive gain for public holdings, which make this bill a bill to celebrate.

The Howard Hughes Corporation deserves praise for its advocacy of an exchange that not only benefits their development interests, but also those of the local public. This sentiment is echoed by longtime southern Nevada environmentalist Jeff van Ea who said, "Never in my history of environmental activism have I seen a developer or corporation that has been more responsive to orderly environmental-conscious development than Howard Hughes Corporation. I often say that they are setting the example for others to follow."

Mr. Speaker, I want to make it clear that this is probably the last time that this proposal will come before this body. If this legislation fails to pass, it is very possible that the Hughes Corporation will choose a course of planning action that would not be as favorable to the multiple environmental interests that have expressed their support. I encourage my colleagues to pass this legislation which blends development and consideration interests into a wise and sensible solution for Red Rock Canyon and the citizens of Nevada.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while H.R. 4141 has been explained by the majority, the legislation raises a number of concerns. Land exchanges in Las Vegas have been an ongoing problem. In fact, these land exchanges have been such a problem that in 1998 Congress enacted Public Law 105-263 to basically halt land exchanges in this particular area and, instead, direct that public lands be disposed of by auction with the proceeds earmarked to the acquisition of conservation and recreational lands in Nevada.

Mr. Speaker, H.R. 4141 bypasses that policy and appears to reopen ongoing issues with land exchanges, such as land selection, valuation, and environmental reviews. The lands that are proposed to be exchanged by the bill have been altered several times over the past 2 years. With the high prices being paid for public land sales in Las Vegas, these lands present a significant economic resource.

An amendment was adopted by the Committee on Resources that made a number of changes to alleviate the most serious problems with the bill as introduced. I appreciate the efforts of my colleague, the gentlewoman from Nevada (Ms. BERKLEY), to facilitate these improvements to the bill. It is a better bill today than what was attempted to be passed just 2 months ago.

While the legislation continues to cut corners and avoid the normal review and appraisal requirements of land exchange, we will not object to its passage today. It is our hope that as H.R. 4141 continues through the legislative process, that further improvements can be made to the bill.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada (Ms. BERKLEY), and I want to thank her for her leadership and her hard work in making this bill the better bill that it is before us today.

Ms. BERKLEY. Mr. Speaker, I would like to thank the gentlewoman from the Virgin Islands for being so sensitive about the needs of my community.

Mr. Speaker, I rise in support of this legislation. I would like to thank the gentleman from Nevada for his work on this bill and the members of the committee on both sides of the aisle for coming up with a compromise that serves the people that I represent very well.

Mr. Speaker, the Red Rock Canyon National Conservation Area is one of our Nation's great treasures. Its spectacular views and exciting trails have provided tremendous enjoyment to the people of Nevada and the United States. Everyone who visits agrees that Red Rock Canyon must be protected in its natural state for future generations to come.

Development in Las Vegas now threatens approximately 1,000 acres of high-ground lands at the eastern edge of Red Rock. This land directly connects to some of the mountains surrounding Red Rock Canyon, making protection of this high-ground acreage an important element of the western Las Vegas Valley view-shed.

While these acres appear to be part of the Red Rock Canyon National Conservation Area, they are actually owned by the Howard Hughes Corporation. We are extremely fortunate that the Howard Hughes Corporation never developed this land. In fact, it is the Howard Hughes Corporation who has volunteered to forgo development of the high-ground lands and proposed that the United States acquire title to the land so that they can be preserved in perpetuity to protect and expand Red Rock.

This bill would accomplish that acquisition. It would transfer the high-ground lands to the United States in exchange for the transfer of other lands of approximately equal value to the corporation. The net effect will be to expand the Red Rock Canyon area.

The bill also contains a provision that will provide Clark County with over 1,000 acres of land for the purpose of developing a nature park. Clark County will construct the trails and the trail heads within this open space with the intent of leaving portions of the Old Mormon/Spanish Trail with the regional trail system.

Mr. Speaker, under this bill, our entire community will benefit. The Federal Government obtains invaluable environmentally-sensitive land, Clark County obtains a nature park that it will care for, and the Howard Hughes Corporation obtains lands that it will be able to develop. As someone that grew up in the southern Nevada area, I cannot emphasize how beautiful this area is and how important this legislation is to protect it. My entire community supports this legislation. Environmental groups, nature lovers, homeowners, and the Howard Hughes Corporation, have been instrumental in our efforts to preserve Red Rock Canyon so that future generations of Nevadans and generations to come, my children and my children's children, and beyond that will all be able to look up and enjoy Red Rock Canyon just as I did as a child.

☐ 1830

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4141, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CIVIL WAR BATTLEFIELD PRESERVATION ACT OF 2002

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5125) to amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program, as amended.

The Clerk read as follows:

H.R. 5125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil War Battlefield Preservation Act of 2002".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Civil War battlefields provide a means for the people of the United States to understand a tragic period in the history of the United States.

(2) According to the Report on the Nation's Civil War Battlefields, prepared by the Civil War Sites Advisory Commission, and dated July 1993, of the 384 principal Civil War battlefields—

(A) almost 20 percent are lost or fragmented;

(B) 17 percent are in poor condition; and

(C) 60 percent have been lost or are in imminent danger of being fragmented by development and lost as coherent historic sites.

(b) PURPOSES.—The purposes of this Act are—

(1) to act quickly and proactively to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchases of those battlefields from willing sellers; and

(2) to create partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields.

SEC. 3. BATTLEFIELD ACQUISITION GRANT PROGRAM.

The American Battlefield Protection Act of 1996 (16 U.S.C. 469k) is amended—

(1) by redesignating subsection (d) as paragraph (3) of subsection (c), and indenting appropriately;

(2) in paragraph (3) of subsection (c) (as redesignated by paragraph (1))—

(A) by striking "APPROPRIATIONS" and inserting "APPROPRIATIONS"; and

(B) by striking "section" and inserting "subsection";

(3) by inserting after subsection (c) the following:

"(d) BATTLEFIELD ACQUISITION GRANT PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) BATTLEFIELD REPORT.—The term 'Battlefield Report' means the document entitled 'Report on the Nation's Civil War Battlefields', prepared by the Civil War Sites Advisory Commission, and dated July 1993.

"(B) ELIGIBLE ENTITY.—The term 'eligible entity' means a State or local government.

"(C) ELIGIBLE SITE.—The term 'eligible site' means a site—

"(i) that is not within the exterior boundaries of a unit of the National Park System; and

"(ii) that is identified in the Battlefield Report.

"(D) SECRETARY.—The term 'Secretary' means the Secretary of the Interior, acting through the American Battlefield Protection Program.

"(2) ESTABLISHMENT.—The Secretary shall establish a battlefield acquisition grant program under which the Secretary may provide grants to eligible entities to pay the Federal share of the cost of acquiring interests in eligible sites for the preservation and protection of those eligible sites.

"(3) NONPROFIT PARTNERS.—An eligible entity may acquire an interest in an eligible site using a grant under this subsection in partnership with a nonprofit organization.

"(4) NON-FEDERAL SHARE.—The non-Federal share of the total cost of acquiring an interest in an eligible site under this subsection shall be not less than 50 percent.

"(5) LIMITATION ON LAND USE.—An interest in an eligible site acquired under this subsection shall be subject to section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(3)).

"(6) REPORTS.—

"(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this subparagraph, the Secretary shall submit to Congress a report on the activities carried out under this subsection.

"(B) UPDATE OF BATTLEFIELD REPORT.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall submit to Congress a report that updates the Battlefield Report to reflect—

"(i) preservation activities carried out at the 384 battlefields during the period between publication of the Battlefield Report and the update;

"(ii) changes in the condition of the battlefields during that period; and

"(iii) any other relevant developments relating to the battlefields during that period.

"(7) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Land and Water Conservation Fund to provide grants under this subsection $10,000,000 for each of fiscal years 2004 through 2008.

"(B) UPDATE OF BATTLEFIELD REPORT.—There are authorized to be appropriated to the Secretary to carry out paragraph (6)(B), $500,000."; and

(4) in subsection (e)—

(A) in paragraph (1), by striking "as of" and all that follows through the period and inserting "on September 30, 2008."; and

(B) in paragraph (2), by inserting "and provide battlefield acquisition grants" after "studies".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GARY G. MILLER) to explain this legislation.

Mr. GARY G. MILLER of California. Mr. Speaker, I rise today in support of H.R. 5125, the Civil War Battlefield Preservation Act of 2002.

On July 15, I introduced this bill, along with five of my colleagues, to show Congress's continued commitment to preserving these historic sites.

I believe by preserving history, we teach future generations not only where we are from, but also what we are about and where we are heading. Preserving our past allows us to teach our children about the valor of the soldiers who fought and died, the strife families overcame, challenges that our society met, and struggles our ideals conquered. These battlefields are living classrooms to remind future generations of our Nation's history.

If enacted, this measure seeks to authorize the American Battlefield Preservation Program, ABPP, a proven program Congress funded in 1999 at $8 million and again in 2002 at $11 million.

The Civil War Battlefield Preservation Program, CWBPP, has been enormously successful. The fiscal year 1999 appropriations were used to save nearly 7,000 acres of battlefield land, and generated an additional $16 million in non-Federal money for preservation.

This is a fiscally responsible program that promotes non-Federal partnerships with States and localities. Grants are competitively awarded through the American Battlefield Protection Program, ABPP, an arm of the National Park Service.

Money authorized in H.R. 5125 is to be used for the acquisition from willing sellers of priority battlefield properties outside NPS boundaries. Last year 63 Members and 12 Senators signed bipartisan letters supporting the fiscal year 2002 appropriation for this same purpose.

A companion bill, S. 2968, was introduced with tripartisan support. Senators SARBANES, SESSIONS and JEFFORDS are all in support of this. Funding will take place in 2002 after last year's $11 million appropriation is exhausted. Thereafter the bill authorizes $10,000 a year for Civil War battlefield preservation, with a minimum one-to-one match requirement.

This bill also authorizes $500,000 for ABPP to update the 993 Civil War Sites Advisory Commission report, which prioritizes the 384 major conflicts of the Civil War by the status of threats to their integrity.

This authorization bill, which would fund battlefield preservation from fiscal year 2004 through 2008, would provide predictability and certainty to the program's nonfunded partners as they prepare grant applications and make budgetary decisions.

I would like to thank the gentleman from Utah (Chairman HANSEN) and the gentleman from California (Mr. RADANOVICH), as well as the gentleman from West Virginia (Mr. RAHALL) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for their commitment to preserving our Nation's past.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill has a very worthy goal, and we have no objection to its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 5125, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CENTRAL UTAH PROJECT COMPLETION ACT AMENDMENTS ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4129) to amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment, as amended.

The Clerk read as follows:

H.R. 4129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE CENTRAL UTAH PROJECT COMPLETION ACT.

(a) TREATMENT OF INVESTIGATION COSTS.—Section 201(b) of the Central Utah Project Completion Act (106 Stat. 4607) is amended following paragraph (2) by inserting the following: "All amounts previously expended in planning and developing the projects and features described in this subsection including amounts previously expended for investigation of power features in the Bonneville Unit shall be considered non-reimbursable and non-returnable.".

(b) CLARIFICATION OF SECRETARIAL RESPONSIBILITIES.—Section 201(e) of the Central

Utah Project Completion Act (106 Stat. 4608) is amended—

(1) in the first sentence—

(A) by striking "identified in this Act" and inserting "identified in this title and the Act of April 11, 1956 (chapter 203; 70 Stat. 110 et seq.), popularly known as the Colorado River Storage Project Act,";

(B) by inserting "relating to the Bonneville Unit of the Central Utah Project including oversight for all phases of the Bonneville Unit, the administration of all prior and future contracts, operation and maintenance of previously constructed facilities" before "and may not delegate";

(C) by striking "his responsibilities under this Act" and inserting "such responsibilities"; and

(D) by striking the period after "Reclamation" and inserting: ", except through the pilot management program hereby authorized. The pilot management program will exist for a period not to exceed 5 years and shall provide a mechanism for the Secretary and the District to create a mutually acceptable organization within the Bureau of Reclamation to assist the Secretary in his responsibilities for the long-term management of the Bonneville Unit. Such pilot management program may be extended indefinitely by mutual agreement between the Secretary and the District.";

(2) in the second sentence—

(A) by inserting "technical" before "services"; and

(B) by inserting "for engineering and construction work" before "on any project features"; and

(3) by inserting at the end thereof the following new sentence: "These provisions shall not affect the responsibilities of the Bureau of Reclamation and the Western Area Power Administration regarding all matters relating to all Colorado River Storage Project power functions, including all matters affecting the use of power revenues, power rates and ratemaking.".

(c) MUNICIPAL AND INDUSTRIAL WATER.—Section 202(a)(1)(B) of the Central Utah Project Completion Act (106 Stat. 4608) is amended in the last sentence by inserting "and municipal and industrial water" after the word "basin".

(d) USE OF UNEXPENDED BUDGET AUTHORITY.—Section 202(c) of the Central Utah Project Completion Act (106 Stat. 4611) is amended to read as follows: "The Secretary is authorized to utilize all unexpended budget authority for units of the Central Utah Project up to $300,000,000 and the balance of such budget authority in excess of this amount is deauthorized, Such $300,000,000 may be used to provide 65 percent Federal share pursuant to section 204, to acquire water and water rights for project purposes including instream flows, to complete project facilities authorized in this title and title III, to implement water conservation measures under section 207, including use of reverse osmosis membrane technologies, water recycling, and conjunctive use, to stabilize high mountain lakes and appurtenant facilities, to develop power, and for other purposes. In addition, funds may be provided by the Commission for fish and wildlife purposes. The District shall comply with the provisions of sections 202(a)(1), 205(b), and Title VI with respect to the features to be provided for in this subsection.".

(e) PREPAYMENT OF REPAYMENT.—Section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended—

(1) in the second sentence—

(A) by inserting "or any additional or supplemental repayment contract" after "1985,"; and

(B) by inserting "of the Central Utah Project" after "water delivery facilities"; and

(2) by striking "The District shall exercise" and all that follows through the end of that sentence.

SEC. 2. USE OF PROJECT FACILITIES FOR NONPROJECT WATER.

The Secretary of the Interior may enter into contracts with the Provo River Water Users Association or any of its member unit contractors for water from Provo River, Utah, under the Act of February 21, 1911 (43 U.S.C. 523), for—

(1) the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes, using facilities associated with the Provo River Project, Utah; and

(2) the exchange of water among Provo River Project contractors, for the purposes set forth in paragraph (1), using facilities associated with the Provo River Project, Utah.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. CANNON), the author of this legislation, to explain this legislation.

Mr. CANNON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 4129, the Central Utah Project Completion Act Amendments Act.

As in most Western States, water in Utah is a valuable and rare resource. Some of the most difficult and important decisions we make today are about how water should be conserved, transported, and allocated. This bill will help us move in the right direction by providing CUP with the necessary flexibility to meet the existing and future water needs of the State.

This bill provides fine-tuning to the original CUPCA authorization to make changes to CUP reflecting the current needs of Utah's water users.

H.R. 4129 modifies reimbursement costs for investigation of certain power features in the Bonneville unit. It also modifies the repayment schedule for CUP projects. The bill will give CUP the opportunity to fund projects that have been promised but not yet constructed.

H.R. 4129 does not add any additional authorization to the Central Utah Project, but rather, enables the CUP to take the money granted under previous Central Utah Project Completion Act authorizations and redirect it to other projects.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill has been explained, and we support it.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4129, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DISCLAIMER OF INTEREST IN LANDS ADJACENT TO SPIRIT LAKE AND TWIN LAKES, IDAHO

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4874) to direct the Secretary of the Interior to disclaim any Federal interest in lands adjacent to Spirit Lake and Twin Lakes in the State of Idaho resulting from possible omission of lands from an 1880 survey.

The Clerk read as follows:

H.R. 4874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The meander lines in the original surveys by John B. David, deputy surveyor, of two lakes in the State of Idaho, Spirit Lake, formerly known as Lake Tesemini, located in T. 53 N., R. 4 W., Boise Meridian, and Twin Lakes, formerly known as Fish Lake, located in T. 52 N. and T. 53 N., R. 4 W., Boise Meridian, do not reflect the current line of ordinary high water conditions.

(2) All lands adjacent to the original meander lines have been patented.

(b) PURPOSE.—The purpose of this Act is to direct the Secretary of the Interior to issue a recordable disclaimer of interest by the United States to any omitted lands or lands lying outside the record meander lines in the vicinity of the lakes referred to in subsection (a).

SEC. 2. DEFINITIONS.

In this Act:

(1) RECORDABLE DISCLAIMER OF INTEREST.—The term "recordable disclaimer of interest" means a document recorded in the county clerk's office or other such local office where real property documents are recorded, in which the United States disclaims any right, title, or interest to those lands found lying outside the recorded meander lines of the lakes referred to in section 1(a)(1), including omitted lands, if any.

(2) OMITTED LANDS.—The term "omitted lands" means those lands that were in place on the date of the original surveys referred to in section 1(a)(1) but were not included in the survey of the township and the meander lines of the water body due to gross error or fraud by the original surveyor.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. SURVEYS.

The Secretary shall—

(1) conduct a survey investigation of the conditions along the lakeshores of Spirit

Lake and Twin Lakes in the townships referenced in section 1(a); and

(2) after the completion of the survey investigation, resurvey the original meander lines along the lakeshores, using the results of the survey investigation.

SEC. 4. DISCLAIMER OF INTEREST IN LANDS ADJACENT TO SPIRIT LAKE AND TWIN LAKES, IDAHO.

Upon acceptance and approval of the surveys under section 3 by the Secretary, the Secretary shall—

(1) prepare a recordable disclaimer of interest with land descriptions, using the lot or tract numbers of the omitted lands, if any, and lands lying outside the record meander lines, as shown on the survey plats; and

(2) record such recordable disclaimer of interest simultaneously with the filing of the surveys.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $400,000 to carry out this Act. Funds appropriated to carry out the purposes of this Act may be available without fiscal year limitation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4874, introduced by our colleague on the Committee on Resources, the gentleman from Idaho (Mr. OTTER), would direct the Secretary of the Interior to disclaim any Federal interests in lands adjacent to Spirit Lake and Twin Lakes in the State of Idaho resulting from faulty Federal surveys conducted in the 1880s.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the correction of the survey errors are long overdue. We support H.R. 4874.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4874.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CALLING FOR FULL APPROPRIATION OF STATE AND TRIBAL SHARES OF ABANDONED MINE RECLAMATION FUND

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 425) calling for the full appropriation of the State and tribal shares of the Abandoned Mine Reclamation Fund.

The Clerk read as follows:

H. CON. RES. 425

Whereas the Surface Mining Control and Reclamation Act of 1977 (33 U.S.C. 1201 et seq.) created the Abandoned Mine Reclamation Fund capitalized with a reclamation fee assessed on every ton of domestic coal production, for the purposes of protecting the environment by restoring lands and waters adversely affected by past mining practices;

Whereas under the Act, each State and Indian tribe having a federally approved abandoned mine reclamation program is to be allocated 50 percent of the reclamation fees collected in such State, or collected with respect to Indian lands under the jurisdiction of such tribe, respectively, subject to appropriations;

Whereas by the end of March 2002, $6,400,000,000 in reclamation fees had been deposited into the Abandoned Mine Reclamation Fund, but only $5,000,000,000 had been appropriated from the fund, leaving an unappropriated balance of $1,400,000,000;

Whereas by the end of March 2002, the State and tribal share of the unappropriated balance in the Abandoned Mine Reclamation Fund was $876,000,000;

Whereas—

(1) the State of Alabama should have received $15,000,000 of the unappropriated balance in the Abandoned Mine Reclamation Fund;

(2) the State of Alaska should have received $1,800,000 of such unappropriated balance;

(3) the State of Arkansas should have received $4,000 of such unappropriated balance;

(4) the State of Colorado should have received $19,300,000 of such unappropriated balance;

(5) the State of Illinois should have received $26,000,000 of such unappropriated balance;

(6) the State of Iowa should have received $38,000 of such unappropriated balance;

(7) the State of Kansas should have received $393,000 of such unappropriated balance;

(8) the State of Kentucky should have received $109,800,000 of such unappropriated balance;

(9) the State of Louisiana should have received $1,100,000 of such unappropriated balance;

(10) the State of Maryland should have received $2,600,000 of such unappropriated balance;

(11) the State of Missouri should have received $901,000 of such unappropriated balance;

(12) the State of Montana should have received $39,800,000 of such unappropriated balance;

(13) the State of New Mexico should have received $18,200,200 of such unappropriated balance;

(14) the State of North Dakota should have received $10,200,000 of such unappropriated balance;

(15) the State of Ohio should have received $21,500,000 of such unappropriated balance;

(16) the State of Oklahoma should have received $1,900,000 of such unappropriated balance;

(17) the State of Pennsylvania should have received $51,600,000 of such unappropriated balance;

(18) the State of Texas should have received $17,300,000 of such unappropriated balance;

(19) the State of Utah should have received $12,300,000 of such unappropriated balance;

(20) the State of Virginia should have received $23,200,000 of such unappropriated balance;

(21) the State of West Virginia should have received $107,400,000 of such unappropriated balance;

(22) the State of Wyoming should have received $323,900,000 of such unappropriated balance;

(23) the Crow Tribe should have received $6,200,000 unappropriated balance;

(24) the Hopi Tribe should have received $4,700,000 unappropriated balance;

(25) the Navajo Tribe should have received $26,000,000 unappropriated balance; and

Whereas such States and tribes are being denied the use of the unappropriated balance in the Abandoned Mine Reclamation Fund for the benefit of their citizenry and their environment: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Federal budget for fiscal year 2004 should keep faith with the goals of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.) by providing to eligible States and Indian tribes their lawful share of the unappropriated balance in the Abandoned Mine Reclamation Fund so that they may further protect and enhance the environments of their States and tribal lands.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 425 encourages the administration to pay down the debt owed to 25 States and Indian tribes as part of their share to the Abandoned Mine Reclamation Fund, or AMR Fund.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we support this resolution.

Mr. GEKAS. Mr. Speaker, as an original cosponsor of H. Con. Res. 425, I rise today to support its passage and to highlight the problem of abandoned mines in the Commonwealth of Pennsylvania.

The industrialization of the United States was fueled largely by Pennsylvania coal. Today, the Commonwealth still bears the scars from centuries of mining. Acid discharge still pollutes our streams and abandoned strip mines still make parts of Pennsylvania look like a lunar landscape. It is sad to see our environment in such a state but it is even more tragic that these abandoned mines pose a serious threat to the general public. So far this year, 26 people have died as a result of accidents at abandoned mine sites. Since January 2000, 78 individuals have died at abandoned mine sites. From hunters who have stumbled off rock faces to the youth who drown to the nine miners who were rescued from the Quecreek Mine after their mine was flooded by an adjacent abandoned mine, we in Pennsylvania know all too well the dangers these abandoned mines pose.

I applaud the gentlewoman from Wyoming, Mrs. CUBIN, for introducing H. Con. Res. 425, and my many colleagues from Pennsylvania for cosponsoring it. The Abandoned Mine Land Trust Fund was created to erase the scars that mining has left and the Federal budget for FY 2004 should keep faith with the goals of the Surface Mining Control and Reclamation Act of 1977 by providing to eligible states their share of the unappropriated balance in the fund so that they may further protect and enhance the environments of their states. Pennsylvania is essentially owed $51.6 million from the fund and has more abandoned mines yet to be reclaimed than any other state.

On August 22 of this year I toured the Keim Tunnel in Dauphin County, one of the many abandoned mines in my district. I saw the effects it has on nearby streams and the potential dangers it poses to the public. In the past I have always advocated that Pennsylvania receive its full share of the Abandoned Mine Land Trust Fund. I will continue this important work and I genuinely hope that the passage of H. Con. Res. 425 will bring us one step closer to this goal.

Mr. Speaker, as we consider H. Con. Res. 425 today, we must also remember that in the very near future we will be debating the reauthorization of the Abandoned Mine Land Trust Fund. I hope that when that time arises Members of Congress from mining states, current and past, and non-mining states can get together and once and for all come up with a way to get abandoned mines in states like Pennsylvania cleaned up immediately. We owe this not only to our environment which has been scarred but also to the many people who have been killed or injured as a direct result of these abandoned mines.

Mr. RAHALL. Mr. Speaker, I join in the support of this resolution.

It is no secret that for many years I have worked to liberate the unspent balance in the Abandoned Mine Reclamation Fund for its intended purpose. And that is, the restoration of abandoned coal mines sites which pose a threat to human health, safety and the environment of coalfield residents.

The program has enjoyed success, to date, $1.4 billion worth of public health and safety coal related problems have been addressed. Yet, at the same time, there exists an unspent balance in the fund of an estimated $1.9 billion as of the end of fiscal year 2002.

The expenditure of these funds is certainly need. There remains about $2.8 billion or so worth of outstanding high priority problems.

While record keeping is sporadic, just last week the New York Times reported there have been 78 deaths in abandoned or inactive mines since January 2000, including 26 this year.

And the West Virginia Charleston Gazette noted in an September 13th editorial: "If West Virginia could simply get its share of the $1.4 billion locked up in the Abandoned Mine Lands reclamation fund, hundreds, if not thousands, of miners oculd be put to work cleaning up the industry's past messes."

It should be noted that this fund is not financed by general taxpayer dollars, but rather, from a fee assessed on every ton of mined coal. Yet, to date, both the Administration and the Congress have failed to keep faith to the coal producing States by making this money available on a more sufficient basis.

I thank the gentlelady from Wyoming, the author of this resolution, for her efforts in this matter.

I urge all Members with an interest in this issue to work with this gentleman from West Virginia to press for greater appropriations from the Abandoned Mine Reclamation Fund.

Mr. KANJORSKI. Mr. Speaker, I rise today to speak in favor of and express my strong support for House Concurrent Resolution 425, which the gentlelady from Wyoming, Congresswoman BARBARA CUBIN, introduced. I am pleased to be an original cosponsor of this important legislation.

Although more than $1.5 billion collected from coal producers and dedicated for cleaning up our Nation's abandoned coal mine sites is currently available for reclamation projects in Pennsylvania and throughout the United States, these funds sit unappropriated in the Abandoned Mine Land Trust Fund. As a result, we are needlessly postponing important reclamation work so that the federal government's bookkeepers can offset other expenditures from the Federal budget.

In fiscal 2002, Congress appropriated $203.5 million for abandoned mine land reclamation projects nationwide. For fiscal 2003, however, the Administration has requested just $175.5 million for this critical program, a cut of almost 14 percent. With an estimated total cost of abandoned coal land reclamation at $20 billion, we need to do more to fix this problem.

Past coal mining practices have had a devastating effect on the environment and the economic potential of our Nation. Additionally, this problem is widespread. In fact, more than 120 congressional districts in 27 states, represented by both political parties, are affected by the problem of abandoned mines. At the current rate of expenditures for mine land cleanup, however, some of our Nation's abandoned coal land areas will remain unreclaimed 200 years from now. That is wrong.

To fix this problem, House Concurrent Resolution 425 would ensure that the goals of the Surface Mining Control and Reclamation Act of 1977 are met by providing the States with their lawful share of the unappropriated balance of the Abandoned Mine Land Trust Fund. States need these funds to revitalize their economies, restore their environments, and protect the safety of their citizens. I therefore commend Congresswoman CUBIN for helping to bring this legislation to the Floor.

In addition to cosponsoring this important resolution, I have introduced a bill to establish an alternative to the trust fund. H.R. 3218, the Abandoned Mine Land Area Redevelopment Act would provide capital to fund the health, safety, and environmental restoration and economic redevelopment of abandoned coal mine land areas.

More specifically, my bill would allow for comprehensive regional cleanup efforts without reliance on federal appropriations by authorizing a qualified entity to issue special tax credit bonds. Holders of the Abandoned Mine Land Area Redevelopment Bonds would receive a federal tax credit in lieu of interest. Regions afflicted by abandoned coal lands would then use the proceeds from the sale of the bonds to design, undertake, and oversee a reclamation and redevelopment plan.

As we have heard today, while the Abandoned Mine Land Trust Fund provides much-needed resources for redeveloping areas devastated by coal mining, these funds have proven insufficient to address all of health, safety, and environmental problems of abandoned mine land areas. The tax credit system established by my bill would result in the complete restoration of our Nation's abandoned coal land areas in roughly 30 years.

In closing, Mr. Speaker, I again thank Congresswoman CUBIN for introducing House Concurrent Resolution 425, and I encourage my colleagues to support this legislation to help our Nation's mining communities. I also look forward to working with her and my other colleagues to consider other innovative solutions like the Abandoned Mine Land Area Redevelopment Act for addressing this longstanding problem in the near future.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 425.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SOUTHERN CAMPAIGN OF THE REVOLUTION HERITAGE AREA STUDY ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4830) to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Southern Campaign of the Revolution Heritage Area in South Carolina, and for other purposes.

The Clerk read as follows:

H.R. 4830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southern Campaign of the Revolution Heritage Area Study Act".

SEC. 2. STUDY.

The Secretary of the Interior, in consultation with appropriate State historic preservation officers, States historical societies, and other appropriate organizations, shall conduct a study regarding the suitability and feasibility of designating the study area described in section 3 as the Southern Campaign of the Revolution Heritage Area. The study shall include analysis, documentation, and determination regarding whether the study area—

(1) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(3) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme or themes of the study area that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government), and have demonstrated support for the concept of a national heritage area;

(7) has a potential management entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(8) has a conceptual boundary map that is supported by the public.

SEC. 3. STUDY AREA.

(a) IN GENERAL.—

(1) SOUTH CAROLINA.—The study area shall include the following counties in South Carolina: Pickens, Greenville County, Spartanburg, Cherokee County, Greenwood, Laurens, Union, York, Chester, Darlington, Florence, Chesterfield, Marlboro, Fairfield, Richland, Lancaster, Kershaw, Sumter, Orangeburg, Georgetown, Dorchester, Colleton, Charleston, Beaufort, and Williamsburg.

(2) NORTH CAROLINA.—The study area may include sites and locations in North Carolina as appropriate.

(b) SPECIFIC SITES.—The heritage area may include the following sites of interest:

(1) NATIONAL PARK SERVICE SITE.—Kings Mountain National Military Park, Cowpens National Battlefield, Fort Moultrie National Monument, Charles Pickney National Historic Site, and Ninety Six National Historic Site as well as the National Park Affiliate of Historic Camden Revolutionary War Site.

(2) STATE-MAINTAINED SITES.—Colonial Dorchester State Historic Site, Eutaw Springs Battle Site, Hampton Plantation State Historic Site, Fort Watson, Landsford Canal State Historic Site, Andrew Jackson State Park, and Musgrove Mill State Park.

(3) COMMUNITIES.—Charleston, Beaufort, Georgetown, Kingstree, Cheraw, Camden, Winnsboro, Orangeburg, and Cayce.

(4) OTHER KEY SITES OPEN TO THE PUBLIC.—Middleton Place, Goose Creek Church, Hopsewee Plantation, Walnut Grove Plantation, and Historic Brattonsville.

SEC. 4. REPORT.

Not later than 3 fiscal years after the date on which funds are first made available for this Act, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4830, introduced by the gentleman from South Carolina (Mr. SPRATT), would authorize the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Southern Campaign of the Revolution Heritage Area.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we fully support H.R. 4830.

Mr. Speaker, I yield 30 seconds to the gentleman from South Carolina (Mr. SPRATT), the sponsor of this bill.

Mr. SPRATT. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, this is about the most important part of the campaign for the revolution, the revolution in the South, where the revolution was largely won after the fall of Charleston in the back country.

The whole matter has been popularized by Mel Gibson and others in a movie called The Patriot. The story now needs to be told right. There are over 200 battles and skirmishes, military incidents. We need this national corridor to tell it right.

We had 1 million visitors to 8 different battlefields in South Carolina in the year 2000, and even more now. This is a perfectly fit bill for those circumstances. The story needs to be told right and well.

I would like to commend the chairman and the ranking member for allowing this bill to come to the floor. I urge everyone to vote for it.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4830.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ANDERSONVILLE NATIONAL HISTORIC SITE BOUNDARY ADJUSTMENT ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4692) to amend the Act entitled "An Act to authorize the Establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes", to provide for the addition of certain donated lands to the Andersonville National Historic Site.

The Clerk read as follows:

H.R. 4692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL LANDS AUTHORIZED TO BE ADDED TO HISTORIC SITE.

The first section of the Act entitled "An Act to authorize the establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes", approved October 16, 1970, is amended by striking "five hundred acres" and inserting "520 acres".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4692, introduced by the gentleman from Georgia (Mr. BISHOP), would amend the enabling legislation of the Andersonville National Historic Site to authorize the addition of 20 acres.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Georgia (Mr. BISHOP) for his work on this bill. We are in support of its passage.

Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. BISHOP), the sponsor of the bill.

Mr. BISHOP. Mr. Speaker, I thank the gentlewoman for yielding time to me. I thank the committee for their strong support of this legislation.

Mr. Speaker, this bill is designed to increase the size of the Andersonville National Historic Site in Andersonville, Georgia, which is the site of America's only official National Prisoner of War Museum, exhibit, and the Andersonville National POW Cemetery.

It is necessary to expand the size because it is statutorily limited. In order to make the road safer and provide for better security, the Friends of Andersonville, a 501(c)(3) corporation, purchased the land and wishes to donate it. With this legislation, it can receive the land. The land can be made safer, and the Prisoners of War and America's people can properly recognize and commend the work of our POWs.

□ 1845

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4692.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3534) to provide for the settlement of certain land claims of Cherokee, Choctaw, and Chickasaw Nations to the Arkansas Riverbed in Oklahoma, as amended.

The Clerk read as follows:

H.R. 3534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to encourage the resolution of disputes over historical claims through mutually agreed-to settlements between Indian Nations and the United States.

(2) There are pending before the United States Court of Federal Claims certain lawsuits against the United States brought by the Cherokee, Choctaw, and Chickasaw Nations seeking monetary damages for the alleged use and mismanagement of tribal resources along the Arkansas River in eastern Oklahoma.

(3) The Cherokee Nation, a federally recognized Indian tribe with its present tribal headquarters south of Tahlequah, Oklahoma, having adopted its most recent constitution on June 26, 1976, and having entered into various treaties with the United States, including but not limited to the Treaty at Hopewell, executed on November 28, 1785 (7 Stat. 18), and the Treaty at Washington, D.C., executed on July 19, 1866 (14 Stat. 799), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(4) The Choctaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Durant, Oklahoma, having adopted its most recent constitution on July 9, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 3, 1786 (7 Stat. 21), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(5) The Chickasaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Ada, Oklahoma, having adopted its most recent constitution on August 27, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 10, 1786 (7 Stat. 24), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(6) In the first half of the 19th century, the Cherokee, Choctaw, and Chickasaw Nations were forcibly removed from their homelands in the southeastern United States to lands west of the Mississippi in the Indian Territory that were ceded to them by the United States. From the "Three Forks" area near present day Muskogee, Oklahoma, downstream to the point of confluence with the Canadian River, the Arkansas River flowed entirely within the territory of the Cherokee Nation. From that point of confluence downstream to the Arkansas territorial line, the Arkansas River formed the boundary between the Cherokee Nation on the left side of the thread of the river and the Choctaw and Chickasaw Nations on the right.

(7) Pursuant to the Act of April 30, 1906 (34 Stat. 137), tribal property not allotted to individuals or otherwise disposed of, including the bed and banks of the Arkansas River, passed to the United States in trust for the use and benefit of the respective Indian Nations in accordance with their respective interests therein.

(8) For more than 60 years after Oklahoma statehood, the Bureau of Indian Affairs believed that Oklahoma owned the Riverbed from the Arkansas State line to Three Forks, and therefore took no action to protect the Indian Nations' Riverbed resources such as oil, gas, and Drybed Lands suitable for grazing and agriculture.

(9) Third parties with property near the Arkansas River began to occupy the 3 Indian Nations' Drybed Lands—lands that were under water at the time of statehood but that are now dry due to changes in the course of the river.

(10) In 1966, the 3 Indian Nations sued the State of Oklahoma to recover their lands. In 1970, the Supreme Court of the United States decided in the case of Choctaw Nation vs. Oklahoma (396 U.S. 620), that the Indian Nations retained title to their respective portions of the Riverbed along the navigable reach of the river.

(11) In 1987, the Supreme Court of the United States in the case of United States vs. Cherokee Nation (480 U.S. 700) decided that the riverbed lands did not gain an exemption from the Federal Government's navigational servitude and that the Cherokee Nation had no right to compensation for damage to its interest by exercise of the Government's servitude.

(12) In 1989, the Indian Nations filed lawsuits against the United States in the United States Court of Federal Claims (Case Nos. 218–89L and 630–89L), seeking damages for the United States' use and mismanagement of tribal trust resources along the Arkansas River. Those actions are still pending.

(13) In 1997, the United States filed quiet title litigation against individuals occupying some of the Indian Nations' Drybed Lands. That action, filed in the United States District Court for the Eastern District of Oklahoma, was dismissed without prejudice on technical grounds.

(14) Much of the Indian Nations' Drybed Lands have been occupied by a large number of adjacent landowners in Oklahoma. Without Federal legislation, further litigation against thousands of such landowners would be likely and any final resolution of disputes would take many years and entail great expense to the United States, the Indian Nations, and the individuals and entities occupying the Drybed Lands and would seriously impair long-term economic planning and development for all parties.

(15) The Councils of the Cherokee and Choctaw Nations and the Legislature of the Chickasaw Nation have each enacted tribal resolutions which would, contingent upon the passage of this Act and the satisfaction of its terms and in exchange for the moneys appropriated hereunder—

(A) settle and forever release their respective claims against the United States asserted by them in United States Court of Federal Claims Case Nos. 218–89L and 630–89L; and

(B) forever disclaim any and all right, title, and interest in and to the Disclaimed Drybed Lands, as set forth in those enactments of the respective councils of the Indian Nations.

(16) The resolutions adopted by the respective Councils of the Cherokee, Choctaw, and Chickasaw Nations each provide that, contingent upon the passage of the settlement legislation and satisfaction of its terms, each Indian Nation agrees to dismiss, release, and forever discharge its claims asserted against the United States in the United States Court of Federal Claims, Case Nos. 218–89L and 630–89L, and to forever disclaim any right, title, or interest of the Indian Nation in the Disclaimed Drybed Lands, in exchange for the funds appropriated and allocated to the Indian Nation under the provisions of the settlement legislation, which funds the Indian Nation agrees to accept in full satisfaction and settlement of all claims against the United States for the damages sought in the aforementioned claims asserted in the United States Court of Federal Claims, and as full and fair compensation for disclaiming its right, title, and interest in the Disclaimed Drybed Lands.

(17) In those resolutions, each Indian Nation expressly reserved all of its beneficial interest and title to all other Riverbed lands, including minerals, as determined by the Supreme Court in Choctaw Nation v. Oklahoma, 397 U.S. 620 (1970), and further reserved any and all right, title, or interest that each Nation may have in and to the water flowing in the Arkansas River and its tributaries.

SEC. 3. PURPOSES.

The purposes of this Act are to resolve all claims that have been or could have been brought by the Cherokee, Choctaw, and Chickasaw Nations against the United States, and to confirm that the 3 Indian Nations are forever disclaiming any right, title, or interest in the Disclaimed Drybed Lands, which are contiguous to the channel of the Arkansas River as of the date of the enactment of this Act in certain townships in eastern Oklahoma.

SEC. 4. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) DISCLAIMED DRYBED LANDS.—The term "Disclaimed Drybed Lands" means all Drybed Lands along the Arkansas River that are located in Township 10 North in Range 24 East, Townships 9 and 10 North in Range 25 East, Township 10 North in Range 26 East, and Townships 10 and 11 North in Range 27 East, in the State Oklahoma.

(2) DRYBED LANDS.—The term "Drybed Lands" means those lands which, on the date of enactment of this Act, lie above and contiguous to the mean high water mark of the Arkansas River in the State of Oklahoma. The term "Drybed Lands" is intended to

have the same meaning as the term "Upland Claim Area" as used by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River. The term "Drybed Lands" includes any lands so identified in the "Holway study."

(3) INDIAN NATION; INDIAN NATIONS.—The term "Indian Nation" means the Cherokee Nation, Choctaw Nation, or Chickasaw Nation, and the term "Indian Nations" means all 3 tribes collectively.

(4) RIVERBED.—The term "Riverbed" means the Drybed Lands and the Wetbed Lands and includes all minerals therein.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) WETBED LANDS.—The term "Wetbed Lands" means those Riverbed lands which lie below the mean high water mark of the Arkansas River in the State of Oklahoma as of the date of the enactment of this Act, exclusive of the Drybed Lands. The term Wetbed Land is intended to have the same meaning as the term "Present Channel Claim Areas" as utilized by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River.

SEC. 5. SETTLEMENT AND CLAIMS; APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) EXTINGUISHMENT OF CLAIMS.—Pursuant to their respective tribal resolutions, and in exchange for the benefits conferred under this Act, the Indian Nations shall, on the date of enactment of this Act, enter into a consent decree with the United States that waives, releases, and dismisses all the claims they have asserted or could have asserted in their cases numbered 218–89L and 630–89L pending in the United States Court of Federal Claims against the United States, including but not limited to claims arising out of any and all of the Indian Nations' interests in the Disclaimed Drybed Lands and arising out of construction, maintenance and operation of the McClellan-Kerr Navigation Way. The Indian Nations and the United States shall lodge the consent decree with the Court of Federal Claims within 30 days of the enactment of this Act, and shall move for entry of the consent decree at such time as all appropriations by Congress pursuant to the authority of this Act have been made and deposited into the appropriate tribal trust fund account of the Indian Nations as described in section 6. Upon entry of the consent decree, all the Indian Nations' claims and all their past, present, and future right, title, and interest to the Disclaimed Drybed Lands, shall be deemed extinguished. No claims may be asserted in the future against the United States pursuant to sections 1491, 1346(a)(2), or 1505 of title 28, United States Code, for actions taken or failed to have been taken by the United States for events occurring prior to the date of the extinguishment of claims with respect to the Riverbed.

(b) RELEASE OF TRIBAL CLAIMS TO CERTAIN DRYBED LANDS.—

(1) IN GENERAL.—Upon the deposit of all funds authorized for appropriation under subsection (c) for an Indian Nation into the appropriate trust fund account described in section 6—

(A) all claims now existing or which may arise in the future with respect to the Disclaimed Drybed lands and all right, title, and interest that the Indian Nations and the United States as trustee on behalf of the Indian Nation may have to the Disclaimed Drybed Lands, shall be deemed extinguished;

(B) any interest of the Indian Nations or the United States as trustee on their behalf in the Disclaimed Drybed Lands shall further be extinguished pursuant to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all subsequent amendments thereto (as codified at 25 U.S.C. 177);

(C) to the extent parties other than the Indian Nations have transferred interests in the Disclaimed Drybed Lands in violation of the Trade and Intercourse Act, Congress does hereby approve and ratify such transfers of interests in the Disclaimed Drybed Lands to the extent that such transfers otherwise are valid under law; and

(D) the Secretary is authorized to execute an appropriate document citing this Act, suitable for filing with the county clerks, or such other county official as appropriate, of those counties wherein the foregoing described lands are located, disclaiming any tribal or Federal interest on behalf of the Indian Nations in such Disclaimed Drybed Lands. The Secretary is authorized to file with the counties a plat or map of the disclaimed lands should the Secretary determine that such filing will clarify the extent of lands disclaimed. Such a plat or map may be filed regardless of whether the map or plat has been previously approved for filing, whether or not the map or plat has been filed, and regardless of whether the map or plat constitutes a final determination by the Secretary of the extent of the Indian Nations' original claim to the Disclaimed Drybed Lands. The disclaimer filed by the United States shall constitute a disclaimer of the Disclaimed Drybed Lands for purposes of the Trade and Intercourse Act (25 U.S.C. 177).

(2) SPECIAL PROVISIONS.—Notwithstanding any provision of this Act—

(A) the Indian Nations do not relinquish any right, title, or interest in any lands which constitute the Wetbed Lands subject to the navigational servitude exercised by the United States on the Wetbed Lands. By virtue of the exercise of the navigational servitude, the United States shall not be liable to the Indian Nations for any loss they may have related to the minerals in the Wetbed Lands;

(B) no provision of this Act shall be construed to extinguish or convey any water rights of the Indian Nations in the Arkansas River or any other stream or the beneficial interests or title of any of the Indian Nations in and to lands held in trust by the United States on the date of enactment of this Act which lie above or below the mean high water mark of the Arkansas River, except for the Disclaimed Drybed Lands; and

(C) the Indian Nations do not relinquish any right, title, or interest in any lands or minerals of certain unallotted tracts which are identified in the official records of the Eastern Oklahoma Regional Office, Bureau of Indian Affairs. The disclaimer to be filed by the Secretary of the Interior under section 5(b)(1) of this Act shall reflect the legal description of the unallotted tracts retained by the Nations.

(3) SETOFF.—In the event the Court of Federal Claims does not enter the consent decree as set forth in subsection (a), the United States shall be entitled to setoff against any claims of the Indian Nations as set forth in subsection (a), any funds transferred to the Indian Nations pursuant to section 6, and any interest accrued thereon up to the date of setoff.

(4) QUIET TITLE ACTIONS.—Notwithstanding any other provision of law, neither the United States nor any department of the United States nor the Indian Nations shall be made parties to any quiet title lawsuit or other lawsuit to determine ownership of or an interest in the Disclaimed Drybed Lands initiated by any private person or private entity after execution of the disclaimer set out in section 5(b)(1). The United States will have no obligation to undertake any future quiet title actions or actions for the recovery of lands or funds relating to any Drybed Lands retained by the Indian Nation or Indian Nations under this Act, including any lands which are Wetbed Lands on the date of enactment of this Act, but which subsequently lie above the mean high water mark of the Arkansas River and the failure or declination to initiate any quiet title action or to manage any such Drybed Lands shall not constitute a breach of trust by the United States or be compensable to the Indian Nation or Indian Nations in any manner.

(5) LAND TO BE CONVEYED IN FEE.—To the extent that the United States determines that it is able to effectively maintain the McClellan-Kerr Navigation Way without retaining title to lands above the high water mark of the Arkansas River as of the date of enactment of this Act, said lands, after being declared surplus, shall be conveyed in fee to the Indian Nation within whose boundary the land is located. The United States shall not be obligated to accept such property in trust.

(c) AUTHORIZATION FOR SETTLEMENT APPROPRIATIONS.—There is authorized to be appropriated an aggregate sum of $40,000,000 as follows:

(1) $10,000,000 for fiscal year 2004.

(2) $10,000,000 for fiscal year 2005.

(3) $10,000,000 for fiscal year 2006.

(4) $10,000,000 for fiscal year 2007.

(d) ALLOCATION AND DEPOSIT OF FUNDS.—After payment pursuant to section 7, the remaining funds authorized for appropriation under subsection (c) shall be allocated among the Indian Nations as follows:

(1) 50 percent to be deposited into the trust fund account established under section 6 for the Cherokee Nation.

(2) 37.5 percent to be deposited into the trust fund account established under section 6 for the Choctaw Nation.

(3) 12.5 percent to be deposited into the trust fund account established under section 6 for the Chickasaw Nation.

SEC. 6. TRIBAL TRUST FUNDS.

(a) ESTABLISHMENT, PURPOSE, AND MANAGEMENT OF TRUST FUNDS.—

(1) ESTABLISHMENT.—There are hereby established in the United States Treasury 3 separate tribal trust fund accounts for the benefit of each of the Indian Nations, respectively, for the purpose of receiving all appropriations made pursuant to section 5(c), and allocated pursuant to section 5(d).

(2) AVAILABILITY OF AMOUNTS IN TRUST FUND ACCOUNTS.—Amounts in the tribal trust fund accounts established by this section shall be available to the Secretary for management and investment on behalf of the Indian Nations and distribution to the Indian Nations in accordance with this Act. Funds made available from the tribal trust funds under this section shall be available without fiscal year limitation.

(b) MANAGEMENT OF FUNDS.—

(1) LAND ACQUISITION.—

(A) TRUST LAND STATUS PURSUANT TO REGULATIONS.—The funds appropriated and allocated to the Indian Nations pursuant to sections 5(c) and (d), and deposited into trust fund accounts pursuant to section 6(a), together with any interest earned thereon, may be used for the acquisition of land by the 3 Indian Nations. The Secretary may accept such lands into trust for the beneficiary

Indian Nation pursuant to the authority provided in section 465 of title 25, United States Code, and in accordance with the Secretary's trust land acquisition regulations at part 151 of title 25, Code of Federal Regulations, in effect at the time of the acquisition, except for those acquisitions covered by paragraph (1)(B).

(B) Required trust land status.—Any such trust land acquisitions on behalf of the Cherokee Nation shall be mandatory if the land proposed to be acquired is located within Township 12 North, Range 21 East, in Sequoyah County, Township 11 North, Range 18 East, in McIntosh County, Townships 11 and 12 North, Range 19 East, or Township 12 North, Range 20 East, in Muskogee County, Oklahoma, and not within the limits of any incorporated municipality as of January 1, 2002, if—

(i) the land proposed to be acquired meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of acquisition; and

(ii) the title to such land meets applicable Federal title standards in effect on the date of the acquisition.

(C) Other expenditure of funds.—The Indian Nations may elect to expend all or a portion of the funds deposited into its trust account for any other purposes authorized under paragraph (2).

(2) Investment of trust funds; no per capita payment.—

(A) No per capita payments.—No money received by the Indian Nations hereunder may be used for any per capita payment.

(B) Investment by secretary.—Except as provided in this section and section 7, the principal of such funds deposited into the accounts established hereunder and any interest earned thereon shall be invested by the Secretary in accordance with current laws and regulations for the investing of tribal trust funds.

(C) Use of principal funds.—The principal amounts of said funds and any amounts earned thereon shall be made available to the Indian Nation for which the account was established for expenditure for purposes which may include construction or repair of health care facilities, law enforcement, cultural or other educational activities, economic development, social services, and land acquisition. Land acquisition using such funds shall be subject to the provisions of subsections (b) and (d).

(3) Disbursement of funds.—The Secretary shall disburse the funds from a trust account established under this section pursuant to a budget adopted by the Council or Legislature of the Indian Nation setting forth the amount and an intended use of such funds.

(4) Additional restriction on use of funds.—None of the funds made available under this Act may be allocated or otherwise assigned to authorized purposes of the Arkansas River Multipurpose Project as authorized by the River and Harbor Act of 1946, as amended by the Flood Control Act of 1948 and the Flood Control Act of 1950.

SEC. 7. ATTORNEY FEES.

(a) Payment.—At the time the funds are paid to the Indian Nations, from funds authorized to be appropriated pursuant to section 5(c), the Secretary shall pay to the Indian Nations' attorneys those fees provided for in the individual tribal attorney fee contracts as approved by the respective Indian Nations.

(b) Limitations.—Notwithstanding subsection (a), the total fees payable to attorneys under such contracts with an Indian Nation shall not exceed 10 percent of that Indian Nation's allocation of funds appropriated under section 5(c).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. Hansen) and the gentleman from Oklahoma (Mr. Carson) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. Hansen).

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. Watkins).

Mr. WATKINS of Oklahoma. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I fully support H.R. 3534 and express my thanks to the people.

Mr. Speaker, I rise today in support of the Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act. I am happy to be an original co-sponsor of H.R. 3534 and I thank Mr. Hansen, the gentleman from Utah, Ranking Member Mr. Rahall, the gentleman from West Virginia, and my colleague, Mr. Carson, the gentleman from Oklahoma, for their work in bringing this legislation to the House Floor.

In 1970 the United States Supreme Court ruled the Tribes were the true owners of the Arkansas Riverbed. After many attempts to settle with the government for the mismanagement of the riverbed, the tribes files lawsuits for damages in 1989. These lawsuits are still pending in Federal Court and without this legislation as many as 1200 potential future lawsuits will be filed.

The Arkansas Riverbed encompasses over 7,500 acres of the Indian Nations' drybed lands that have been occupied and settled by a large number of adjacent landowners in Oklahoma. Without a settlement, further litigation against thousands of landowners would be likely. The potential of these lawsuits and the time and increased expense to not only the government and tribes, but also to the private citizens is in my opinion a valid enough and strong enough reason to settle the Arkansas Riverbed issue once and for all.

This legislation would bring a quick settlement to a claim the tribes have had against the United States for over 30 years. It would end the pending lawsuits between the Tribes and the United States. H.R. 3534 would allow for a multi-year payment totaling 40 Million to be divided among the tribes. This amount represents a settlement agreement made by the tribes and the Departments of Interior and Department of Justice. Most of all, settling with the tribes would avoid thousands of future lawsuits brought by the United States against individuals who currently own drybed lands.

It is in the best interest of not only the tribes, but also the United States to pass H.R. 3534 and I urge my colleagues to support this legislation.

Mr. CARSON of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Oklahoma (Mr. Watkins) for his great leadership on this bill.

Mr. Speaker, I would like to thank the gentleman from Utah Mr. Hansen and the gentleman from West Virginia Mr. Rahall for working on the details of the bill, supporting it and bringing it to the Floor.

I would also like to take this opportunity to extend a special thank you to my colleagues the gentleman from Oklahoma Mr. Watkins, the gentleman from Oklahoma Mr. Sullivan, and the gentleman from Michigan Mr. Kildee for their strong support and co-sponsorship of this legislation.

I rise in strong support of H.R. 3534, the Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act. The dispute involving the three tribes along the Arkansas River has been ongoing since 1907. This settlement will lay to rest and compensate these three tribes for the lands and resources that have been wrongfully taken from them, misused, and left dormant. The leaders of the tribal nations—Principal Chief Chad Smith of the Cherokee Nation, Governor Bill Anoatubby of the Chickasaw Nation and Chief Gregory Pyle of the Choctaw Nation have all communicated to me and the Resources Committee their unanimous support for the legislation and the great need for settlement.

First, in order to understand the need for this legislation, you must turn to the history of these tribal lands. In the 1830s, the Cherokee, Choctaw, Chickasaw, Creek and Seminole Nations were forcibly removed to Indian Territory, now known as Oklahoma, to occupy lands ceded to them by the United States, through which the Arkansas River runs. In 1907, due to an erroneous legal opinion, the Arkansas riverbed was conveyed to the new State of Oklahoma. All navigable rivers of the United States were deemed property of the State under the Equal Footing Doctrine. However, the treaties of the three tribes came long before the Equal Footing Doctrine. And, in 1970, in Choctaw Nation vs. Oklahoma, the U.S. Supreme Court ruled in favor of the tribes and determined that the tribes, indeed, were the rightful owners of the riverbed and not the State of Oklahoma.

Nevertheless, from 1907 through 1970, the Bureau of Indian Affairs acted on the assumption that Oklahoma owned the riverbed and, therefore, took no action to protect tribal resources such as oil and gas production, sand and gravel, grazing and croplands. The Government itself constructed hydroelectric powerheads and other improvements in the channel of the river on tribal lands, using sand and gravel belonging to the three Indian Nations. Due to the Bureau's inaction, individuals with property near the Arkansas River also began to occupy the three Indian Nations' "dry-bed" lands—amounting to approximately 7,750 acres of land that was under water at the time of statehood but that is now dry due to changes in the course of the river.

Enactment of H.R. 3534 will bring about clear and tangible benefits to Indians and non-Indians. In exchange for $40 million dollars provided to the Nations under this settlement legislation, the Indian Nations agree to dismiss and release claims asserted against the United States in the Court of Federal Claims. The Indian Nations also agree to disclaim its right, title and interest in the 7,750 acres of disclaimed drybed lands, thus eliminating the need for the Department of Justice to bring hundreds of defendants into court due to their occupancy on parts of the drybed lands. The Indian Nations reserve the beneficial interest and title to all other Riverbed lands, including minerals, and the right, title and interest that each Nation may have in any water flowing in the Arkansas River and its tributaries. H.R. 3534 directs that the $40 million dollars be disbursed in four annual installments and deposited into a tribal trust fund for the Indian Nations. I would like to make it clear that the funds appropriated into the tribal trust funds are to be made available to the tribes as the funds are appropriated. This will assist the Indian Nations in further economic development in the region, benefiting Indian and non-Indian members of these communities alike.

Since the Supreme Court decision of 1970, there has been little disagreement that a settlement should be reached. Recent discussions between Federal, State and tribal entities involved in this dispute have been extremely productive and make the 107th Congress a most appropriate time for settlement.

I urge my colleagues to support this legislation and bring closure to an issue that has plagued eastern Oklahoma for far too long.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 3534, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the 14 bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in following order:

H. Res. 398, de novo;
H. Con. Res. 291, de novo;
H.R. 4013, de novo;
H.R. 4014, de novo;
S. 434, yeas and nays;
H.R. 4125, yeas and nays;
H. Res. 538, yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

RECOGNIZING THE DEVASTATING IMPACT OF FRAGILE X

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 398.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and agree to the resolution, H. Res. 398.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE DISEASE ENDOMETRIOSIS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 291.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 291.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RARE DISEASES ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4013.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and pass the bill, H.R. 4013.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RARE DISEASES ORPHAN PRODUCT DEVELOPMENT ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4014.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SHIMKUS) that the House suspend the rules and pass the bill, H.R. 4014.

The question was taken: and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE EQUITABLE COMPENSATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 434, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 434, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 357, nays 37, not voting 37, as follows:

[Roll No. 424]

YEAS—357

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barr
Barrett
Bartlett
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Cooksey
Costello
Coyne
Cramer
Crane

Crenshaw
Crowley
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stupak
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Terry
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—37

Aderholt
Barton
Blunt
Brown (OH)
Callahan
Chabot
Chambliss
Coble
Collins
Cubin
Everett
Fattah
Fossella
Hall (TX)
Hefley
Hobson
Jenkins
Jones (NC)
Kerns
Miller, Jeff
Norwood
Paul
Riley
Saxton
Schaffer
Sensenbrenner
Slaughter
Snyder
Stearns
Stenholm
Strickland
Taylor (NC)
Thomas
Vitter
Weller
Whitfield
Young (FL)

NOT VOTING—37

Barcia
Becerra
Blagojevich
Bonior
Borski
Combest
Condit
Cox
Cummings
Deal
Diaz-Balart
Gallegly
Harman
Hastings (FL)
Hilleary
John
Jones (OH)
LaHood
Mascara
McDermott
McKinney
Menendez
Moran (VA)
Pallone
Payne
Portman
Price (NC)
Reyes
Rothman
Roukema
Royce
Stump
Sullivan
Tanner
Tauscher
Thompson (CA)
Wexler

☐ 1910

Mr. HEFLEY changed his vote from "yea" to "nay."

Mr. SMITH of New Jersey changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the Senate bill was amended so as to read: "An Act to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands, and for other purposes.".

A motion to reconsider was laid on the table.

MOURNING THE PASSING OF THE HON. PATSY MINK

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute.)

Mr. ABERCROMBIE. Mr. Speaker, it is very difficult for me to grasp that I would be standing here this evening to announce to the House, with the most profound regret, that our dear friend and colleague PATSY MINK has passed away.

I know there are many Members who wish to express their respects to John Mink and Wendy Mink, PATSY's husband and daughter, and to share with other Members and perhaps those who are observing our proceedings the measure of their feelings for PATSY and about her.

So at the proper time, Mr. Speaker, which I believe is after the votes which will be called, I will call up a resolution expressing the sorrow of the House of Representatives upon her death and offer the opportunity for such Members as would like to speak to indicate to the House their feelings on this most sad, profoundly sad, occasion.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GOODLATTE). Without objection, and pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

There was no objection.

FEDERAL COURTS IMPROVEMENT ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4125, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4125, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 370, nays 21, not voting 40, as follows:

[Roll No. 425]

YEAS—370

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Cooksey
Costello
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht

Hall (TX)
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Morella
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—21

Capuano
Conyers
DeFazio
DeGette
Dingell
Filner
Jackson (IL)
Kerns
Kucinich
Lewis (GA)
Mollohan
Obey
Paul
Rivers
Sabo
Sanders
Sawyer
Stark
Waters
Watson (CA)
Woolsey

NOT VOTING—40

Armey
Barcia
Becerra
Blagojevich
Bonior
Borski
Combest
Condit
Cox
Cummings
Deal
Diaz-Balart
Gallegly
Hansen
Harman
Hastings (FL)
Hilleary
John
Jones (OH)
LaHood
Mascara
McDermott
McKinney
Menendez
Moran (VA)
Murtha
Pallone
Payne
Price (NC)
Reyes
Ros-Lehtinen
Rothman
Roukema
Rush
Saxton
Stump
Tanner
Tauscher
Thompson (CA)
Wexler

□ 1925

Mr. SAWYER and Ms. WATERS changed their vote from "yea" to "nay."

Mr. WATT of North Carolina, Mr. GEORGE MILLER of California, and Ms. RIVERS changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING JOHNNY UNITAS AND EXTENDING CONDOLENCES TO HIS FAMILY ON HIS PASSING

The SPEAKER pro tempore (Mr. GOODLATTE). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 538.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SULLIVAN) that the House suspend the rules and agree to the resolution, H. Res. 538, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 389, nays 0, not voting 42, as follows:

[Roll No. 426]

YEAS—389

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Conyers
Cooksey
Costello
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Morella
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)

Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—42

Armey
Barcia
Becerra
Blagojevich
Bonior
Borski
Combest
Condit
Cox
Cummings
Deal
Diaz-Balart
Frank
Gallegly
Hansen
Harman
Hastings (FL)
Hilleary
Horn
John
Jones (OH)
LaHood
Mascara
McCrery
McDermott
McKinney
Menendez
Moran (VA)
Murtha
Pallone
Payne
Phelps
Price (NC)
Reyes
Ros-Lehtinen
Rothman
Roukema
Stump
Tanner
Tauscher
Thompson (CA)
Wexler

□ 1934

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO S. 2690, PLEDGE OF ALLEGIANCE REAFFIRMATION ACT

(Mr. SESSIONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SESSIONS. Mr. Speaker, a "Dear Colleague" letter is being sent to all Members informing them that the Committee on Rules may meet this week to grant a rule for S. 2690, to reaffirm the reference to "one Nation under God" in the Pledge of Allegiance, which may require that amendments be printed in the CONGRESSIONAL RECORD prior to their consideration on the floor.

Amendments should be drafted to the text of the bill as reported by the Committee on the Judiciary, which was filed September 17, 2002. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check also with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 3295, HELP AMERICA VOTE ACT OF 2001

Mrs. MEEK of Florida. Mr. Speaker, pursuant to clause 7(c) of rule XX, I hereby announce my intention to offer a motion to instruct conferees on H.R. 3295 tomorrow.

The form of the motion is as follows:

Mrs. MEEK of Florida moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 3295 be instructed to take such actions as may be appropriate—

(1) to convene a public meeting of the managers on the part of the House and the managers on the part of the Senate; and

(2) to ensure that a conference report is filed on the bill prior to October 4, 2002.

PERSONAL EXPLANATION

Mr. GREEN of Texas. Mr. Speaker, last Thursday I was unavoidably detained and missed rollcall vote No. 423. Had I been present, I would have voted "aye."

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE PATSY T. MINK, MEMBER OF CONGRESS FROM THE STATE OF HAWAII

Mr. ABERCROMBIE. Mr. Speaker, I offer a privileged resolution (H. Res. 566) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 566

Resolved, That the House has heard with profound sorrow of the death of the Honorable PATSY T. MINK, a Representative from the State of Hawaii.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of applicable accounts of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from Hawaii (Mr. ABERCROMBIE) is recognized for 1 hour.

Mr. ABERCROMBIE. Mr. Speaker, I ask unanimous consent that at the end of the allotted time, the House rise for a moment of silence out of respect for the Honorable PATSY T. MINK.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with a heavy heart that I take this action. The hearts of all of us here go out in sympathy to PATSY's husband, John, and her daughter, Gwendolyn; to her brother, Eugene; to her staff in Washington and in Hawaii; and to her large family of friends and admirers.

Mr. Speaker, I am devastated by her loss. PATSY MINK was more than my friend and my colleague; she was a true daughter of Hawaii. She was a person of enormous spirit and tenacity and inner strength. I will miss her terribly. I will especially miss her wisdom, her energy, her readiness to fight for principle. She fought all her life for social and economic justice.

Throughout nearly 50 years of public service, she championed America's most deeply held values: equality, fairness, above all honesty. Her courage, her willingness to speak out and champion causes that others might shun resulted in tremendous contributions in the fields of civil rights and education. She has earned in my estimation an honored place in the history of the United States House of Representatives as the co-author of title IX, which guarantees equality for women in education programs.

Every single woman in this Nation who today has the advantage of the capacity to command equal opportunity in education, and by extension in virtually every other field of endeavor, owes the impetus to that in modern times to PATSY MINK. She was one of the pioneers who transformed Hawaii and transformed this Nation. Her legacy will live on in every campus in America and in the heart of every American woman who aspires to greatness. Most profoundly, it lives on in my estimation in hope, hope for the millions of lives that she touched.

Mr. Speaker, it is difficult for me to realize that I am standing here this evening paying my respects to the memory of PATSY MINK because my first memories of her go back to when I was a student at the University of Hawaii involved in one of her first campaigns, not for elective office because she did that when Hawaii was still a territory.

She came back to Hawaii from her early plantation days, running around as a little kid in the plantation ditches over in Maui, encouraged by her family, most particularly her father, to reach for her star in the Hawaii firmament.

She was turned down for medical school, discriminated against because she was female, because she was Japanese, because she came from an unknown territory out in the Pacific. That is why she went to law school, fought her way into law school so that she could achieve a degree that would enable her to fight against the discrimination she had suffered.

She was a champion then. We all recognized it. She was smart and she was tough and she was articulate and she would not quit. She was an inspiration then and now.

Whenever any of us felt some sense of discouragement, whenever any of us felt some sense of despair or feeling that we could not succeed, it was only required for PATSY to come in the room to change the atmosphere.

□ 1945

PATSY MINK had the capacity to make dead air move. PATSY MINK, this little lady from Hawaii, was a giant in her heart and in her commitment. With every breath that she took, she championed those who had no one to stand up and speak out for them. A little lady with a big heart, a lioness. We will not see her like again. Someone will take her place here in the House, that is the way of it in our democracy, but no one will replace her in the hearts of the people of Hawaii. No one will replace her in the role that she played in this House of Representatives. No one was more beloved than PATSY MINK in this House.

Mr. Speaker, as an expression of the gravity of the feelings of the Members of this House, I yield 4 minutes to the gentlewoman from Ohio (Ms. KAPTUR), whom I think has an opportunity for Members of the House to be able to express in a more concrete fashion the feelings that we all have for PATSY.

Ms. KAPTUR. Mr. Speaker, I would like to thank the distinguished gentleman from Hawaii (Mr. ABERCROMBIE), now the senior Member representing that great State here for our Republic in the House, and rise in support of his Resolution with all of our colleagues on both sides of the aisle to honor our friend and colleague Congresswoman PATSY MINK, as this beautiful, beautiful poster indicates, a woman of hope.

PATSY's service, now 24 years, places her among the longest-serving women in the House, certainly currently. She was honest and intelligent, gifted and dedicated, and leaves behind a stellar record of accomplishments. For almost half a century, she was a devoted advocate for her constituents and her native State of Hawaii. She served America with distinction. She will be deeply missed.

She was a trailblazer. Her career embodied a series of firsts. She was the first Asian American woman to practice law in Hawaii, and the first Asian American woman to be elected to the Hawaii Territorial Legislature. And then in 1964 she became the first, in her own words, woman of color ever elected to the United States Congress, an Asian American woman of Japanese American heritage from the then new State of Hawaii.

She transcended race and gender throughout her life. She was a leader on women's rights, social and economic justice, health care and child care, and no one here knew more about education. She came to this House at the beginning of the 88th Congress in 1965, served until 1977, and then again from 1990 until her untimely passing this past Sunday.

When PATSY first began her career in this Congress, she was one of only 11 women serving in the House. She watched as Members came in the 1980s and began to double the number of women to 24, up to the current House level of 62 with 13 women now in the Senate.

I agree with my colleagues that PATSY viewed as her most important achievement passage of Title IX of the Education Amendments of 1972. She, as the gentleman from Hawaii indicated, had experienced race and gender discrimination. She often said her life experiences challenged her to lead the fight for women and girls to have equal access to education and athletic opportunities. Title IX has torn down barriers for women and girls in America. Title IX has had a dramatic impact on women's access to higher education opportunities, especially medical and law school, in addition to the more publicized impact on girls' and women's athletics.

Throughout our Nation, millions of girls participate in sports programs today, and millions of girls and women have more opportunities available to them because of Congresswoman PATSY MINK. She stood up for them and for us. Her legacy will survive in every classroom, every school and every campus. In celebrating the 30th anniversary of Title IX, PATSY stated her belief that "we must rededicate ourselves to the continued pursuit of educational opportunities for girls and women." Her leadership on a wide range of issues, the environment, poverty, civil rights, helped shape a stronger America.

PATSY will live forever in our hearts and in this great institution. She truly remains America's daughter for all time, a woman of hope.

In that regard, Mr. Speaker, I would like to place on the record and ask my colleagues to sign a letter being sent to the Speaker from all of us that asks the Speaker to work with the membership as the Speaker deems appropriate to commission a portrait or sculpture of Congresswoman MINK to memorialize her contributions to our Nation. We would expect that the costs of this effort would be privately financed, working with an appropriate nonprofit entity, and that following the completion of this work of appropriate artistic quality, we would like to have it placed in a fitting public space here in the Capitol, perhaps in the new Capitol Visitors Center, so that her story can continue to inspire the millions of visitors who come to Washington to learn more about our democratic system, which she strengthened every day of her service to our country and indeed the world.

Mr. Speaker, the text of the letter is as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, October 1, 2002.

Hon. DENNIS HASTERT,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Appreciation for the diversity and accomplishment of our nation's leaders throughout our history strengthens people's understanding of freedom's legacy and potential. This is a key reason why so many of us have urged that the artwork displayed in the public spaces of the House be more representative of this rich history of accomplishment, including correcting the underrepresentation of women in the current collection on display.

The passing of our beloved colleague, Patsy Takemoto Mink of Hawaii, offers us the opportunity to both improve our representation of women who have contributed to this institution and our nation, as well as pay proper recognition to a woman whose path-breaking efforts have shaped a more optimistic future for generations of Americans.

Congresswoman Mink's life embodied a series of firsts.

She was the first Asian-American woman to practice law in Hawaii, and was the first Asian American Women to be elected to the Territorial House before Hawaii became a State in 1959, and she was one of the pioneers that advocated for Hawaii's statehood.

In 1964, she became, in her words, the first woman of color ever elected to the U.S. Congress. As the first Asian American woman of Japanese-American heritage elected, she served with distinction twelve terms in the House of Representatives for two 12-year periods.

Congresswoman Mink transcended race and gender discrimination throughout her career. Her life experiences challenged her to lead the fight for women and girls to have equal access to education and athletic opportunities. She played the leading role in the enactment of Title IX of the Education Amendments of 1972, which prohibited for the first time gender discrimination by federally funded institutions. That law has become the major tool for women's fuller participation not only in sports, but also in all aspects of education.

Patsy's leadership on a wide range of issues as the environment, poverty, education, and civil rights shaped a stronger America. During her tenure in Congress Mrs. Mink helped write environmental protection laws safeguarding land and water, and communities affected by coal strip mining.

For these reasons, Mr. Speaker, we respectfully request the opportunity to work with you and other officials of the House whom you deem appropriate to commission a portrait or sculpture of Congresswoman Mink to memorialize her contributions. We would expect that the costs of this effort would be privately financed, with an appropriate nonprofit entity being designated for the receipt of any contributions. Following the completion of this work of appropriate artistic quality, we would like to have it displayed in a fitting public space of the House, including possibly the new Capitol Visitors' Center, so that her story can continue to inspire the millions of visitors who come to Washington to learn more about our democratic system which calls for the inclusion of all Americans, regardless of race, gender, or origin.

We look forward to this opportunity to work with you.

Sincerely,

NEIL ABERCROMBIE,
MARCY KAPTUR,
ROBERT A. UNDERWOOD,
DIANE E. WATSON,
MICHAEL M. HONDA,
ROBERT T. MATSUI,
Members of Congress.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MICA), who was Representative MINK's chairman in the 107th Congress.

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding time, and I also extend my condolences to the Hawaii delegation and especially to John Mink, to John and his daughter Wendy.

It is hard to believe that PATSY MINK is gone. PATSY MINK was truly an American icon. I had the wonderful privilege and opportunity to serve with PATSY. She was my ranking member as I chaired the Subcommittee on Criminal Justice, Drug Policy and Human Resources. Sometimes in this body we get to know folks from a distance, but sometimes when you work with them as I worked with PATSY, you get to know them as a friend.

This House and this Nation and certainly Hawaii just received a tremendous legacy from her service. This lady served in this Chamber as a role model for young women, for Asian Americans and for all Americans. I remember PATSY because of her conviction, because of her determination, because of her caring and love for people truly in her heart, and I honestly cannot believe she has left us. Not only will she be remembered for her public service in local government, in the territory of Hawaii and in the State of Hawaii, but for all she has done for so many people. She worked with me on our national drug policy, and the education program that we now have nationally is a legacy from PATSY MINK.

Again, her heart, her trust, and her love was with the people that she represented. So I salute her on her years of service. I will miss her from the bottom of my heart. As I came to the Capitol, I saw the flags flying at half mast, and how proud she would be that we honor her today for her service, which she so richly deserves. She was a great American and a great colleague, PATSY MINK, the gentlewoman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. I thank the gentleman from Hawaii for yielding me this time.

Mr. Speaker, first I would like to offer my condolences to John, PATSY's husband, and Wendy, PATSY's daughter, and obviously her staff both in Hawaii and in Washington, for the wonderful job that they have given her and the people of her State over the past 24 years. And this goes from the time she was in Congress, from 1964 to 1976, and from 1990 until she passed away last Saturday.

It is somewhat unique when a colleague of ours dies. I remember when Walter Capps, the member from California, passed away. We had a chance then to look at his accomplishments over the years, and we began then to realize what a great human being he really was. We see our colleagues on the floor every day, and we obviously know them, we like them, we have friendships, but until they leave us do we really have an opportunity to really look at their careers. Unlike Members of the other body and unlike Governors in statehouses, we do not have an opportunity to view our colleagues as we do PATSY MINK today.

Her political career went over 46 years. If one really thought about it, she was the first Asian American, she was the first woman of color to enter the House of Representatives. I had not known that until this week. I think many of my colleagues did not know that. She was the first Asian American woman to be admitted to the Hawaii bar, and she had to do it by challenging the residency requirements because her husband was from Pennsylvania, and in those days she had to take the residency of her husband, and so she was first not admitted. But at the age of 26, PATSY MINK challenged the Hawaii residency requirements in respect to admission to the bar, and her life was like that.

I think the gentlewoman from Ohio stated that PATSY was the one who made an amendment through the Higher Education Act, Title IX, back in 1972. Because of her, young elementary schoolgirls can say that they want to be like Mia Hamm. A young woman in college now can aspire to be a professional player in the WNBA. She has just done so much.

Two things stick out in my mind about PATSY, if I may just say this, and I know there are so many speakers that want to talk about PATSY. When she came back in 1990, Bill Ford was the chairman of what was then known as the Committee on Education and Labor. Bill said, "PATSY MINK, she's coming back. I'm going to get her on my committee. She's just a great Member."

I said, "Yeah, I know."

He said, "No, no, you don't understand. PATSY MINK is a great legislator. She knows how to bring people together, she knows how to develop a consensus, she knows how to use words that are words of art. She is a legislator's legislator." I think all of us that have worked with PATSY know that.

Last, let me just say that I have worked with PATSY on welfare and on a number of issues. I have never seen anyone in this body, or in any body, any more impassioned, any more committed to the forgotten people, the people that perhaps do not have the chance that many of us have, for people that really want to aspire in America. That is what PATSY MINK means to me and to all of us. She is truly a role model not just for Asian Americans or women, but for all Americans.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Hawaii for bringing this resolution to the floor and for yielding me this time.

Mr. Speaker, on days such as this, we sadly woe the present but nostalgically reflect upon the past. Hawaii and the Congress has lost one of its great leaders this week, a Congresswoman whose life and her 24-year congressional career have been nothing short of amazing. The passing of Congresswoman PATSY MINK is felt not only by her family, her husband John and daughter Wendy, and those close to her, but also by her constituents and all of us in the Congress who had the privilege to serve with PATSY.

□ 2000

I served with her on the Committee on Education years ago. Known for her strong, sincere demeanor, PATSY MINK has been an outstanding asset to Hawaii's Second Congressional District. She achieved significant support for the people of Hawaii. In those respects, PATSY was close to us all. Mrs. MINK was one of our Nation's strongest proponents of women's equality, pushing feminism from a fringe cause to an important rallying cry. Her sense of what was needed to be done to help her native Hawaiians and immigrant citizens alike has marked her as a sympathetic and caring congressional Member. She championed important reforms in education, such as smaller class sizes, passage of title IX, and more spending on special education and school construction, and the need to provide more assistance for Impact Aid, for which I had the honor and pleasure of working with PATSY.

All of PATSY's work in education demonstrates her desire to improve the future of our children who one day will be our Nation's leaders. This Congress will sorely miss PATSY MINK. She will be remembered for her leadership, her concerns, her compassion, for her positive aspects and the efforts she has undertaken to make Hawaii a strong political force in our Nation. May it be of some consolation to her husband, John, to her daughter, Wendy, that the people of Hawaii and so many others across the country will not forget our outstanding colleague, Congresswoman PATSY MINK.

Mr. ABERCROMBIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I rise to express my condolences on the death of the Honorable PATSY MINK.

Mr. Speaker. I rise this evening to join my colleagues in commemoration of the remarkable life and tremendous achievements of the woman who served with great distinction in the House of Representatives, PATSY MINK. I offer my condolences to the Mink family, especially her husband John and daughter Wendy, and to the people of her district who have lost a leader and a friend.

From age 4 when she insisted on joining her brother at school to her service as the first Asian-American woman to practice law in Hawaii, and to her election as the first woman of color to Congress, PATSY broke down barriers—first for herself, and then for others.

PATSY left a legacy for millions of working families she helped lift out of poverty with education and job training programs ranging from the War on Poverty to Welfare Reform, and the generation of female student athletes for whom she drafted, passed and implemented Title IX, the 30 year anniversary of which we just commemorated this June.

I was proud to serve with PATSY on both the House Education and the Workforce Committee and the Government Reform Committee, where she gave a voice to the voiceless every day that she served.

PATSY provided vision, courage and leadership—speaking out on all the vital issues of the day and inspiring us, her colleagues, with here fiery oratory on the House Floor and policy negotiations that combined her mastery of education, labor and economic issues with the persuasive power of Hawaiian chocolate-covered macadamia nuts.

Mr. Speaker, the Members and staff of this great institution mourn the loss of a valued friend and colleague whose distinguished service to the House made a difference in the lives of millions of Americans. We will miss her dearly.

Mr. ABERCROMBIE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, I would just make a quick comment to the family. My favorite scripture is "To whom God has given much, much is expected." Our colleague has given much to this country on women's issues and on education. She has done her work. We have to carry on the legacy.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him for bringing this together this evening to be able to express ourselves about PATSY and the wonderful person she was.

PATSY had a wonderful sense of urgency about being a Member of Congress. She was so clearly aware that she had been given a gift by the people of Hawaii, and she was so clearly aware that it was not to be wasted and not a moment was to be wasted as long as she was in this body.

When I first came here in 1974, she was a very senior member of the Committee on Natural Resources and of the Committee on Education and Labor, and I was the most junior member. When PATSY came back, I was one of the most senior members of those two committees, and she was the junior member of those two committees. The relationship never changed from the first day in 1974. I admired her skill on the Committee on Natural Resources as we argued mining law, public lands issues, forest issues, law of the sea. I asked her once, How do you do it? How do you do it? She was so engaged in the debate, and that is when debate really took place in the House of Representatives. She said, Read the bill and make them defend it. Make them defend it. And she did. She read every word in the legislation. And in those committee hearings, you had to defend your amendment; you had to defend your bill. And if you could not, she was not with you.

No matter what the topic was, whether it was title IX or pay equity or natural resources or mining law, the issues that she was involved in span the globe, but the reason was always the same: economic and social justice. She never waivered. It did not matter if it was welfare reform or water reform. She wanted to know what the implications were for economic and social justice, who was getting and who was giving.

She never waivered from that, and for that she made many of us uncomfortable, as we thought we could waiver; and she would reach out and grab you and say, you cannot do that. You cannot be for this. You cannot vote for this. She said it to me when I was her chairman, and she said it to me when I was her ranking member; and she said it to me when I was a freshman member. That little woman that the gentleman from Hawaii (Mr. ABERCROMBIE) described was so full of commitment that she was compelling in all of our lives. There are so many firsts in her history.

But her sense of urgency and her sense of justice were her guiding stars. I think that when I came here at the end of a war, and here we are on possibly the eve of yet another war, and of those battles inside of the democratic study group which basically amends organization, and this woman went at it toe to head to toe to head on the arguments of ending the war.

I also think tonight that we send Ben Rosenthal and Bella Abzug and Phil Burton a great companion in heaven.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, I rise to highlight the legacy of one of the most distinguished and honorable women of this august body, my friend, my colleague, Congresswoman PATSY MINK.

I shall remember her as a giant who spoke in gentle tones, but very fierce and very deliberate, whose frame towered with her ability to rise above the fray and get to the substantive issues at hand. In a career that began before territorial Hawaii became a State in 1959, PATSY MINK, with authority, wit, and clear perspective, became one of the best-known women politicians in these United States and, of course, as everyone has said, the first woman of color.

I stand today to celebrate the role that PATSY played in the life of this great Nation. Her career spanned over 24 years of service in this House of Representatives; and PATSY concentrated upon the removal of negative factors, social, economic, and educational restrictions which had been directed against minority groups, and which prevented the full development of an individual's ability and dignity.

It is hardly possible to stand here today to recapitulate on the extraordinary career of PATSY MINK, except to point out that a succession of legislative victories are owed to her tireless work. Later on next week, the women of the House will highlight the many legislative victories that this great woman has brought to the forefront, like improved opportunity in education, elimination of much overt discrimination, and modifying environmental policies which were part of the hallmark of her career.

Her persistent and passionate campaign for equity for women is credited as a centerpiece for the Democratic Party today. I can recall a couple of months ago when PATSY celebrated 30 years of the passage of title IX, and I came on the floor to talk with her and I asked PATSY, I said, PATSY, are all of the States in compliance with this law? She says, JUANITA, I don't know, but why don't you get on that? And Mr. Speaker, I have begun to get on that. I thank her so much for giving me the courage and tenacity to move forward on title IX.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, until last Saturday, PATSY was one of the three people left in this House who was here when I first came. At that time, she was one of a handful of progressives who would gather each week to discuss ways that we could prod our own party into being more aggressive in pushing for education and health and retirement needs of working people. I learned oh, so much from her. She was one of the best debaters in this House. She was a superb legislative craftsman; and above all, she had steel, and she had something else. She had a passion for justice, for women, for minorities, and the poor. She had a sense of rage about the opportunities that this House misses every day to do more for the people who have no other resource. We respected her, we loved her, this tiny woman with that giant heart. We were very lucky to have her as long as we had her. She made us all better than we ever expected to be.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON of California. Mr. Speaker, I join my colleagues in paying tribute to an outstanding United States Congresswoman. I am saddened, like the rest of my colleagues, by the loss of a tireless advocate for civil rights for women and minorities, especially native Hawaiians.

First elected in 1965, PATSY MINK was a pioneer for women across this country. As the first minority woman elected to Congress, PATSY has always been an inspiration to me as an elected official. On the path of good policy, PATSY MINK never backed down and she never gave up. PATSY was a true champion for American values and ideals. Early in her first term, she lent her unyielding support to the creation of Medicare. I first became directly involved with PATSY and her work when title IX was passed 30 years ago. Back then, as a member of the Los Angeles Unified School Board, I was charged with implementing a title IX plan for the Los Angeles Community College system. I have followed and I have had admiration for PATSY's work and for her public service career ever since then.

Now as a Member of the 107th Congress, replacing another strong public servant prematurely taken from us, Julian Dixon, and one of the highlights of my short time here so far has been the opportunity to work with PATSY on welfare reform. In the fast-moving world of Congress, I was able to spend some quality time with PATSY after going on a trip to Sacramento to collect the data on our welfare reform program. We worked together to compile information for legislation. We might have been unsuccessful; but in working with her, I knew I had someone who really understood what we were trying to achieve.

Mr. Speaker, although our most recent attempt for meaningful change was rebuffed in committee, I want my colleagues to know that PATSY, that working with her, she leaves a legacy that we can all model after. Her dedication, her strength, her principled and hard-working self will remain with us forever. PATSY, thank you for what you have done for all of us, especially women.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time.

PATSY MINK was a thoughtful, passionate, kind, strong, gentle, and lovely person who bravely and courageously fought and spoke out for those who could not always do it for themselves. She fought undeterred for social and economic justice in our country and around the world, and she never gave up. She is, in my eyes, Winston Churchill's ideal model when he spoke to a group of young men, young boys during the war, the Second World War, and told them "Never, give up. Never give up. Never, never, never give up."

She was a giant. I did not even know that she was small in figure. She always, to me, was a giant, a champion and someone I wanted to know better. I loved her passion, but I loved more understanding why she felt so passionate. She wanted to make a difference in this place. I want her family to know her efforts were worth every minute. She did make a difference, a huge difference. I loved, no, I want to say I love PATSY MINK.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I rise today to pay tribute to a distinguished legislator and an amazing activist and a wonderful person, PATSY MINK. President Kennedy once said, "A nation reveals itself not only by the men it produces, but also by the men it honors, the men it remembers." Because of PATSY, both from her example and her legislative teachings, we know that quote needs to be amended, for a Nation is revealed not only by its men, but also by the women produced, honored, and remembered.

□ 2015

As we know from working with her, PATSY made sure that, as a Nation, we honored and remembered those who might otherwise be pushed aside and forgotten. PATSY was a voice, loud and strong, for those who had no voice, or those whose voices were in danger of being drowned out.

As the author of Title IX, she drew attention to women's educational needs and abilities. When we consider that over 80 percent of women in senior executive positions today report having participated in organized sports after grammar school, we can know that PATSY MINK's work has changed the face of the Nation.

Through her years in the House, she tirelessly fought for women, for the poor, for immigrants, for children, for workers. She fought for civil rights, for health care, education, child care, teachers' professional development.

I had the honor of knowing PATSY for the last 10 years. We were on the Committee on Education and the Workforce, where I had the privilege of watching her at her best.

Although we mourn the loss of PATSY, I will always honor the privilege of having served alongside such a tenacious and thoughtful legislator. The legacy of her life and accomplishments are great lessons to us all. We owe many thanks to her work and her memory, and that has revealed a lot about this Nation. So today we are better for honoring and remembering the gentlewoman from Hawaii, the Honorable PATSY MINK.

Mr. ABERCROMBIE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I rise to speak of the gentlewoman from Hawaii, PATSY MINK, and especially to her daughter, my constituent, Wendy.

GENERAL LEAVE

Mr. ABERCROMBIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in support of the pending resolution.

The SPEAKER pro tempore (Mr. PLATTS). Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, my dear departed friend and colleague, PATSY MINK, was a big girl. She was slight and small in stature, but great in spirit and heart.

I think God thought about PATSY and decided he needed somebody in the Congress who could reach out to everyone, who could make laws, who could extend her hand to everyone. God needed a very strong person. He needed a woman who would stand up against everybody and bring a voice to this Congress for the voiceless people.

That is what he did: He chose PATSY. She came in and broke down barriers. She opened doors. She did everything God would have her do. In terms of race, color, gender, she had nothing to stop her.

PATSY was a woman of great honor, and we come here tonight to honor her, because God chose PATSY. She spent a lot of her time working for all of us. Every woman in this country stands now on the shoulders of PATSY MINK. I feel much stronger and taller because of what PATSY left, the legacy she left to us. She was a tireless advocate for her constituents in Hawaii. She was a great leader. She was a great model.

I remember the many things, being one of the older women here in the Congress, of the work that PATSY did: Equal pay for equal work; all of it. There is a litany of things that PATSY did which I will put in the RECORD.

She was a great friend and kindred spirit. She used to send me candy on my birthday; and I had plenty of those, Mr. Speaker. She would send me whatever those nuts are that they grow in Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, will the gentlewoman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, I will keep on doing that for the gentlewoman.

Mrs. MEEK of Florida. Good. I hope the gentleman will keep it up.

PATSY MINK was the first woman of color admitted in Congress, and the first Japanese woman admitted to the bar in Hawaii.

So I say, I stand on her shoulders, Mr. Speaker, and I pray that each of us here would take a pattern from PATSY, because she was a great leader who gave service to God for the space she occupied.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, with real sorrow I come to the podium today to honor a truly memorable colleague, the Honorable PATSY MINK. As a freshman Member, it has been so inspiring to serve on a committee with a role model who has made a real mark on our society through her lengthy service in the House of Representatives.

It was an honor for me to join her at this podium on June 19 in the commemoration of the 30th anniversary of Title IX. Seldom does one get to join forces with one of the original sponsors of legislation that was not only landmark legislation for our country, but was so formative for my children's generation.

When I was a local school board member, I remember how hard we had to work to change the culture of our society to implement the equality embodied in this bill. She lived the battle for equal opportunity that that bill codified.

I was so touched that she thanked those of us who spoke honoring this legislation by presenting us with the T-shirt that I wear very, very proudly today.

The comment has already been made: We know how giving PATSY was, because whenever we did something that she liked, she showered us with macadamia nuts so we would have a taste of Hawaii.

I thank my colleague, the gentleman from Hawaii (Mr. ABERCROMBIE), for bringing us all together this evening. No one will easily fill the chair of PATSY MINK, but we were all privileged to call ourselves her colleague, and we will rekindle the commitment she made to the issues which empowered her life: working for children, their education, their homes, and their health care. I thank her for showing us the way.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Just before I go on, Mr. Speaker, I most deeply want to thank everyone who has spoken so far. There are many more people to come, as we can see, Mr. Speaker, but the depth and the breadth of what PATSY accomplished I think is now going on the RECORD here in the 107th Congress. It will be there for all to see and view, and I know it will be an inspiration.

I am very, very grateful, as are the people of Hawaii, to all who have appeared so far and are yet to come for letting everyone know of PATSY's legacy.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I thank the honorable gentleman from Hawaii (Mr. ABERCROMBIE) for yielding time to me.

Mr. Speaker, I want to first include for the RECORD comments from my predecessor, the Honorable Congressman from Indianapolis, Mr. Andy Jacobs, who was in the class of the honorable gentlewoman from Hawaii, Mrs. MINK. He wrote a letter to the family, John and Wendy, which simply says: "I hurt, dear God, do I hurt. You are in my prayers and in my heart, Andy Jacobs."

The letter referred to is as follows:

CONGRESSMAN ANDY JACOBS (RET.)
D–INDIANA.

TO JOHN—WENDY,
I hurt, Dear God do I hurt.
You are in my prayers and in my heart.
ANDY JACOBS.

Mr. Speaker, in the greatest book ever written, in the most universally read book of all times, it is worth recalling in this most special period in the U.S. House of Representatives an inscription in the book of Ecclesiastes.

It says: "For everything there is a season, and a time for every purpose under heaven: A time to be born, and a time to die; a time to plant, and a time to pluck up that which has been planted."

Representative PATSY MINK represented her seasons and her purpose under heaven. She planted great, eternal seeds in her season, and certainly fertilized them well.

Often when I would see Mrs. MINK fight for a cause on the floor, I was reminded of a cliche that we often used when we were coming up describing PATSY MINK: She was a little piece of leather, but well put together.

Today I am filled with sorrow over the passing of Congresswoman PATSY MINK. She was a remarkable, extraordinary woman, and certainly a wonderful friend. Perhaps I can shed a few of those pounds that I kept saying that I was going to do now that she is no longer here. The gentleman from Hawaii (Mr. ABERCROMBIE) promised he was going to bring some to us.

Congresswoman MINK had on her Web page a quote from a 1973 news article. She said: "It is easy enough to vote right and be consistently with the majority, but it is more often more important to be ahead of the majority, and this means being willing to cut the first furrow in the ground and stand alone for a while if necessary."

So please know, to the Mink family, her husband John and daughter Wendy, her many loyal constituents, they are all in my thoughts and prayers these days. I extend to all of them my heartfelt appreciation for loaning us PATSY, even if it was just for a little while, and something called the chicken pox came through and decided that she needed to do work elsewhere.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentleman for yielding time to me, and for bringing this resolution honoring our colleague, the gentlewoman from Hawaii, and our dear friend.

First I want to begin by extending my deepest and most heartfelt condolences to PATSY's family, to John, Wendy, friends, and constituents, and to the entire State of Hawaii. My thoughts and prayers are with them during this very difficult period.

In the words of our Secretary of Transportation, Norm Mineta, Norm said: PATSY MINK spoke for the forgotten, the disenfranchised, the poor, and worked unceasingly to remind the Nation of its obligations to those whom it sometimes forgets.

PATSY spoke not only for the forgotten, the disenfranchised, the poor, but also to the conscience of all Americans. The leadership that PATSY commanded on the welfare reauthorization debate this year really exemplified her values and her character.

During that debate and during our work on that bill, PATSY MINK authored a fair and compassionate bill that would have helped women provide for their families and enhance their futures through education. Although that bill was not voted out of the House, it was really the right bill, and many of my colleagues, myself included, supported it. We were determined to stand by PATSY through this. I am glad we did. She was right.

I also appreciate her passion for peace. PATSY was an early opponent of the Vietnam War, and accompanied another great woman, Bella Abzug of New York, to Paris to participate during the Vietnam-era peace talks.

In 1967, right here on this floor, and I want to quote this, because PATSY spoke of peace instead of war, she said right here, "America is not a country which needs to punish its dissenters to preserve its honor." PATSY said, "America is not a country which needs to demand conformity of all its people, for its strength lies in all of our diversities converging in one common belief, that of the importance of freedom as the essence of our country." PATSY said that in 1967 right here.

Of course, I have thought long on this issue, and truly respect PATSY for her courage and her fortitude.

She was tremendously supportive of me on many tough issues and truly was an inspiration. PATSY had a brilliant intellect, yet a big heart and a lot of soul. As a leader and advocate on so many issues, she always took the time to say thank you, as we heard earlier. Sometimes she sent candy or flowers or nuts or coffee from her home State as a token of her appreciation and her friendship.

To know PATSY was really to love her. Many of us, myself included, have benefited from PATSY's warm hospitality when visiting her beautiful home, the State of Hawaii. She happily shared information and knowledge about her home, and wanted her friends to experience it to its fullest, and to really feel at home.

Mr. Speaker, let me just say, I will miss PATSY. She was a woman whose wisdom and genius really helped us make a better world. May she rest in peace.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me. I know this is a very hard and difficult time for the gentleman and for all of us, and for the people of Hawaii.

Mr. Speaker, I rise today in support of this resolution remembering the life and the work of our colleague, the gentlewoman from Hawaii, PATSY MINK. PATSY was beautiful and smart. I loved this woman. I loved PATSY MINK. Sometimes on this floor when PATSY was sitting here, I would just walk over and say, hello, PATSY, how are you? What are you thinking about?

I first met PATSY when she was a keynote speaker at a Democratic convention during the 1960s. PATSY was one of the most liberal and most progressive Members of this Congress.

□ 2030

When PATSY spoke, she spoke from her soul. She spoke from her heart. She had the capacity to get our attention and hold our attention when she stepped in the well of this House. She spoke with passion. Determined, dedicated and committed, PATSY was a fighter. She fought for civil rights, social justice and equality. She was a champion of education. PATSY stood by her convictions. She would not yield to the prevailing wind. She did not put her fingers into the air to see which way the wind was blowing.

PATSY will be forever missed. We will miss her as a Nation and as a people. We will never be so lucky, not so blessed to see her likeness again.

Mr. Speaker, when the Master created PATSY MINK, he threw away the mold. May the mercy and the grace of God be with her family and with all of us.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2¼ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Hawaii for bringing us together to acknowledge our dear and loved colleague.

It is a sad day for the House of Representatives. We mourn the loss of a great American, not only a friend whom we loved but a dedicated public servant who loved her country, and through the course of her life literally changed the course of history. How many people can we say that about?

We all come to this institution with the hope in trying to make a difference. PATSY MINK made a difference, whether it was fighting poverty, standing up for civil rights, for education, for women's rights or her passionate and articulate opposition to the Vietnam War.

PATSY MINK was there in the forefront fighting for the causes she believed in and for the people she believed society had forgotten. She gave voice to those who did not have a voice. Her legacy was about more than issues. PATSY MINK personified the fight for social change, for social justice, and for equality among all people, no matter their race, religion or gender. PATSY may have been small in stature, as we have said; but she was a giant when it came to fighting for the causes that she believed in. There would be no title IX without PATSY MINK. She was the mother of title IX. And when we look at those soccer fields with those little girls in their uniforms or when we watch the UCONN women Huskies play that game, we know who was responsible for making that happen. And only just 3 months ago, we honored her and her 30th anniversary on title IX, perhaps her greatest triumph in a large and distinguished career. But when you also think about education, less than one in five young women completed 4 or more years of college 30 years ago, but by the middle of this decade women are expected to earn more than half of all bachelors degrees.

PATSY MINK made a difference. That we have come so far is PATSY's legacy. She knew what it required to put our country on a path to social justice. She knew how to make her case, to bring people together, and make us a better and more understanding Nation for it.

Pushing against the social norms is what trail blazers do, and PATSY MINK was a trail blazer to her core. PATSY changed so many lives during her time here. We will miss her passion and her voice; but what we will most miss is her spirit, her easy-going sense of humor, her laughter, and her eyes crinkled up when she laughed. She was a good friend to me, a kind soul, reliable, and profoundly decent. We loved her and we will miss her more than words can say.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to pay tribute to my dear friend and colleague, Congresswoman PATSY MINK. PATSY spoke for the women of the world, children of the world, and really broke so many barriers that she also was a role model for women and children of the world. She was an aggressive fighter for what was best for citizens of the second district in Hawaii, but also for the Nation and for the whole world.

She was a tireless supporter of the Congressional Black Caucus and its agenda. She was a disciplined and focused advocate for the voiceless, and she was my dear friend. As heaven gains another angel, we in Congress mourn our unfortunate loss. May God be with the Mink family.

Mr. Speaker, I rise today to pay final tribute to my dear friend and colleague, Congresswoman PATSY MINK.

Congresswoman MINK was able to break through racial and gender barriers to attain goals that others thought were impossible. Her career was a series of firsts: the first woman of color elected to Congress, the first Asian-American woman to practice law in Hawaii, the first Asian-American woman to be elected to the Territorial House.

Representative MINK entered this world as a fighter for equality. Born in Maui in December of 1928, from her earliest years, she was encouraged to excel in academic courses. As a four year old, she recalled how she hung onto the shirt of her older brother, demanding, and eventually winning the right to accompany him to the first grade.

As PATSY MINK grew up in Hawaii, she saw her life change overnight with the bombing of Pearl Harbor. She turned 14 the day before the bombing of Pearl Harbor. At that time, anyone who was looked up to in the Japanese community was seen as a threat; this included her father. He was taken away for questioning but returned to the family. PATSY realized that anyone could be arrested for no reason except that they were Japanese.

MINK attended Maui High School, where she played basketball at a time when girls played half-court because, as MINK put it, "they said it was too strenuous for us." When she ran for student body president during her junior year in high school and won that campaign, she began her unofficial political career. In 1944 she graduated as high school class valedictorian.

Representative MINK went on to attend college at the University of Hawaii, but transferred to the University of Nebraska where she faced a policy of segregated student housing. She arrived at the campus and was housed at the international house. When she found that this housing was for the "colored" students, she was outraged. PATSY wrote a letter of protest and sent it to the local newspaper. The accompanying protests and objections resulted in the University changing its policies.

However, PATSY was not able to enjoy the changes she had caused to be made because she became very ill and had to return to Hawaii where she finished her baccalaureate degree.

She returned to the University of Hawaii to prepare for medical school and graduated with a degree in zoology and chemistry. However, in 1948, none of the twenty medical schools to which she applied would accept women.

She decided to study law and was accepted by the University of Chicago because they considered her a "foreign student." Choosing not to inform the University that Hawaii was an American territory, she obtained her Doctor of Jurisprudence in 1951.

Getting a job in the legal field was not easy for a woman at that time, but that did not deter

PATSY. No one was willing to hire her, even as a law clerk. She worked at the University of Chicago Law School library until the eighth month of her pregnancy. Six months after giving birth, she, her husband John and baby daughter Gwendolyn moved to Hawaii.

When she found no law firm that would hire a woman, she decided to start her own firm. She became the first Japanese-American woman lawyer in Hawaii. She also taught at the University of Hawaii.

In 1965, PATSY MINK was elected to the U.S. House of Representatives and began the first of six consecutive terms in the House of Representatives. Again, she was the first woman of color to be elected to Congress.

MINK'S ability to build coalitions for progressive legislation continued during her tenure in Congress. She introduced the first comprehensive Early Childhood Education Act and authorized the Women's Educational Equity Act.

MINK believed one of her most significant accomplishments in Congress was Title IX of the Education Act, which she helped author in 1972. It mandated gender equality in any education program or activity receiving federal financial assistance. Title IX has become the major tool for women's fuller participation, not only in sports, but in all aspects of education. The law promotes equality in school athletics. Scholarship money for women increased from $100,000 in 1972 to $179 million in 1997, but was equally important in opening academics.

Representative MINK was an early opponent of the Vietnam War and accompanied fellow Representative Bella Abzug, D–N.Y., to Paris to talk to participants in the Vietnam War peace talks. She supported women's rights, was against the death penalty and had as her spending priorities education, housing and health. MINK'S strong liberal stands led conservative opponents to dub her "PATSY Pink."

Her career included an appointment by President Jimmy Carter as Assistant Secretary of State for Oceans, International, Environmental and Scientific Affairs from 1977 to 1978.

PATSY MINK returned to Washington, DC in 1991 and has been here ever since.

Congresswoman PATSY MINK was an aggressive fighter for what was best for citizens of the second district in Hawaii, as well as this nation as a whole. She was a tireless supporter of the Congressional Black Caucus. She was a disciplined and focused advocate for the voiceless. And she was my dear friend. As Heaven gains another angel, we in Congress mourn our unfortunate loss. May God be with the Mink family.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I cannot thank the distinguished gentleman from Hawaii (Mr. ABERCROMBIE) enough for bringing us together for this very special tribute. Might I also add my deepest sympathy to PATSY's husband and daughter.

I cannot recall when I last saw John with PATSY, but I can assure you I have never seen such a bond, such a sense of connection and friendship, such a joy of being together. And I hope that as he mourns the loss of his dearly beloved wife, he will remember her with the wonderful memories that so many of us saw.

This past summer I had the opportunity to speak in Hawaii, and I took time to visit in and about the area and mentioned PATSY's name frequently to those I would meet. And interestingly enough, as I called her name PATSY, it is not out of disrespect. It is because those who lived there, they would say, That is our PATSY. That is how we know her. That is how we vote for her. That is how she comes to us. That is our PATSY.

That is the way the Congresswoman was to her colleagues as well, caring and nurturing; and I stand here this evening just to thank the gods, if you will, to have allowed me to not be in that time frame between 1977 and 1990 but to come to this House when PATSY came back to this House.

We deal a lot now with 9–11 issues and there is fear in America, but PATSY stood above that fear. And I want to pay tribute to her ancestry, which is a noted classic story of immigrants seeking and determined to live a better life in America for themselves and their families. Her four grandparents immigrated from Japan in the late 1800's to work as contract laborers in Maui's sugar plantations. That is why she was a person who believed in lifting the boats of all others. And if there was ever any legislation to join, if you knew PATSY had authored it, you needed to be on it. You needed to be on her welfare reform legislation because she was ready to fight against those who did not understand the need for child care and transportation and training.

And then, of course, if you just take a moment, just a second of quietness, you can see PATSY running to the front, coming to this mike, and then speaking in a booming voice on her beliefs and causes.

Thank you, Congresswoman MINK for title IX because I knew what it was like when I grew up; but what joy as I watch the Olympics time after time after time to see young women rising because of you.

I close briefly because I know time draws nigh to simply say this in PATSY's words. She was asked what she wished someone had said to her when she started and she said.

> When I was in high school and college I wanted to become a medical doctor. I wish someone had told me then that medical schools in the U.S. did not admit women students except for one all-female school. I wish someone had told me about sex discrimination and about how deeply embedded it is and about how every day would be a struggle to overcome it.

PATSY, they may not have told you, but you were a fighter. May you rest in peace.

I would like to express my heart-felt condolences to the many colleagues, constituents, friends, and relatives of Congresswoman PATSY MINK of the 2nd Congressional District of Hawaii. A coalition builder for greater understanding, the Honorable PATSY MINK served in the House of Representatives for twelve terms as the first woman of Asian descent to serve in the U.S. Congress.

Representative MINK was the first woman of an ethnic minority elected to federal office and had been a member of the House for 24 years over two different stretches. She won re-election two years ago by a nearly two-to-one margin, and has been considered a sure winner in the November 5 general election.

Her ancestry has been noted as a classic story of immigrants seeking and determined to live a better life in America for themselves and their families. Her four grandparents emigrated from Japan in the late 1800's to work as contract laborers in Maui's sugar plantations.

She supported women's rights, was against the death penalty and had as her spending priorities: education, housing and health. Among her legislative involvement and victories are the first comprehensive Early Childhood Education Act and the enactment of Title IX of the Higher Education Act Amendments, prohibiting gender discrimination by federally funded institutions. Her legislation has served both as a catalyst and a major tool for women's fuller participation both in sports and in all aspects of education.

From her scholastic accolades to her congressional achievements, Congresswoman MINK accomplished much in sustaining the American spirit. This very truth was exhibited throughout her earlier academic years as a student government representative and on through her political career. As she galvanized individuals to unite for the common good, I am reminded of her leadership and keen ability to build coalitions for progressive legislation throughout her tenure in Congress.

When asked, "What advice do you wish you had when you started?," she responded by saying:

> When I was in high school and college, I wanted to become a medical doctor. I wish someone had told me then that medical schools in the U.S. didn't admit women students—except for one all-female school. I wish someone had told me about sex discrimination—about how deeply embedded it is and about how everyday would be a struggle to overcome it. I wouldn't have lived my life differently. But I wish I had known that opportunities would not come easily and that to excel in my work. I also would have [fought] discrimination, not only for myself, but for and with others (Rep. PATSY MINK).

Toward this end, she shall be remembered life-long advocate for equal opportunity.

Further, while we mourn her death, we are greatly appreciative and shall be ever mindful of the legacy that she has left for many generations to follow. Let it be said that she was a champion for the rights of all human beings and that she was bold in the face of adversity.

Mr. ABERCROMBIE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. HOUGHTON), one of PATSY's oldest and dearest friends.

Mr. HOUGHTON. Mr. Speaker, I would like to tell you a story. There was a man called Robert Fulghum and he wrote a book called "Everything I Ever Learned I Learned In Kindergarten."

He was in college and there was a Greek immigrant called Dr. Papaderos and at the end of one of the courses he said, What is the meaning of life, Dr. Papaderos? And everybody laughed. And Dr. Papaderos took this thing very seriously. He said, I will tell you a story. When I was a little boy in Greece I ran across a German motorcycle and there was a glass on the ground, a mirror. And I did not have any toys to play with and I picked up the glass and I ground it and I ground it. Soon it was perfectly circular. It was a wonderful play thing for me, but as I grew up and went into life, I realized it was sort of a metaphor for what we were all about. When I used to shine this mirror into dark places, it would light up and I could see things. And he said, One of the things that it taught me is that we are not the light, we are not the source of the light; but through our own lives, we can shine certain pieces of material, in this particular case it was the glass, so that we can illuminate an issue.

This is the thing I think that PATSY did more than anything for me on the other side of the aisle. She was able to illuminate and humanize issues in a way I will never forget.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2¼ minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I thank my friend from Hawaii (Mr. ABERCROMBIE) for yielding and thank him for this special evening for a very special lady that all of us appreciate.

Mr. Speaker, I rise tonight to join my colleagues in honoring the passing of a great Member of the U.S. House, Congresswoman PATSY MINK, and offer my condolences to her family and to the members of her staff and her many friends.

As others have noted, Representative MINK was a trail blazer whose career in Congress spanned 4 decades and whose service has left our country a far better place.

I want to focus my remarks very briefly on the work that PATSY and I had an opportunity to do just on education; it was a passion of hers and certainly is one of mine.

Prior to my service in this body, I served as the State superintendent of schools in my home State of North Carolina; and when I came here in 1996, I was appointed as co-chair along with PATSY and a number of others to the Democratic Caucus Task Force. I wanted to thank PATSY tonight for looking after the children of North Carolina as I did many times.

She was a long-time champion of the efforts to help our public schools, and she fought when others were not willing to fight. And as task force cochairs, PATSY and I worked side by side with our other colleagues here in Washington on some very positive progressive policies to strengthen public education in this country.

We may have seemed something like an odd couple. Me, a tall lanky Southerner and PATSY a little short lady from Hawaii, but she was tough as a leather knot, as we say in North Carolina, and a good Hawaiian lawyer and we made a good team along with others.

Together with the gentleman from Texas (Mr. HINOJOSA), the gentleman from Indiana (Mr. ROEMER), the gentleman from New Jersey (Mr. MENENDEZ), and the gentleman from New York (Mr. OWENS) and a number of others, we repeatedly fought back the efforts to cut education, against private school vouchers and other anti-education items. We pushed our message so successfully and PATSY was out there hammering so hard, that the other party's Presidential candidate borrowed our message and used it to talk about improving quality public education in this country.

PATSY would be proud of that tonight, as she is. Indeed, she made a difference. The list of her accomplishments have been listed already. And I thank PATSY for title IX and my daughter thanks her. All the daughters of America thank her. She made a difference in this country, in the title I children that would not have had a chance, the poor children, and all the others. I could not go through the list. Others have gone through them. I will not read them.

But most importantly, PATSY MINK was a leader whose country will forever owe her a great debt of gratitude, and there is a bright star burning in heaven tonight.

□ 2045

Mr. ABERCROMBIE. Mr. Speaker, PATSY was so moved by the gentleman from North Carolina's (Mr. ETHERIDGE) remarks that she let him know what she thought about it. She is our guardian angel here tonight. She makes her presence known.

Mr. Speaker, I yield 2¼ minutes to the gentleman from California (Mr. HONDA), who I might say could also look Mrs. MINK eye to eye.

Mr. HONDA. Mr. Speaker, I think this is what she has done a lot is draw the podium down to her height.

I thank the gentleman from Hawaii for yielding me the time and for putting this session together, and I also would like to share my deepest sympathies with PATSY MINK's family, John Francis, her husband, her daughter Wendy and her brother Eugene Takemoto. I also want to share my sympathies to the people of Hawaii.

Many things have been said here this evening, and as a child growing up I remember reading about her. I remember hearing about her in the community, her accomplishments, PATSY MINK, and this session, my first session, I had the privilege to get to know her, sit next to her through the debates and through different issues that came up on the floor, but what everybody said here this evening was new to me. So I appreciate the Members sharing.

I appreciate her life. I also appreciate the accomplishments and the work that she has done because although we say here tonight of her work, there would be many people and future generations who will not know of her work, but will be touched by her work. To her, I thank her for that.

Many quotes were given that she had said on the floor. Many thoughts were shared by them of her, and I had not had the fortune of being able to work with her through many issues on the floor and in this body, but I am the recipient of her work. I am the recipient of her toil.

One thing I did learn listening to people tonight is that many people did say, I did not know that she was the first woman of color here. I learned that, too, and I think there will be many people in this country who will learn and do well by the lessons that she has done through her life.

When I hear other people talk, I understood that she took her private and personal life and converted that into public policy that would affect this country.

Let me close with a quote that she has left behind. Many things, people have been memorialized by statutes and by the inscription of their sayings. Here is one I would like to share with my colleagues that she said, and it is especially poignant today because of what we face as a Nation: "If to believe in freedom and equality is to be a radical, then I am a radical. So long as there remains groups of our fellow Americans who are denied equal opportunity and equal protection in the law, we must remain steadfast to all shades of man we stand beside in dignity and self-respect, to truly enjoy the fruits of this great land."

Hawaii was found by Polynesians following the stars. Tonight in the skies of Hawaii there is another star to lead the islanders.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, when the gentleman from Hawaii (Mr. ABERCROMBIE) said to me last week he was concerned about PATSY, that he thought she was at risk, I could not grasp what he was saying to me. I could not think about her being at the kind of risk that would cause her death.

My sincere condolences to John and to her family. PATSY was my friend. I knew her long before I ever came to the Congress of the United States. PATSY was on the cutting edge of the women's movement. PATSY was there when all of the great strategies were formed, when all of the great organizations got started. PATSY was there with Bella

Abzug and Gloria Steinem and women who dedicated their lives so that women could have justice and equality in America.

She was there for ERA. She was there for pay equity, and certainly it has been mentioned time and time again that she cosponsored Title IX, women's educational equity.

It was just a few months ago that I sat at the WNBA All Star Game where PATSY was honored for 30 years' recognition of PATSY's work. As I looked at all of those strong, tall women out there playing and my dear child, Lisa Leslie, who won the All-Star honor that evening, I thought it was a short, little woman that caused this tall, big woman to be able to realize her dreams, to be able to hone her talents. What a wonderful moment that was.

We are going to miss her because she was a woman of impeccable integrity. She was not about misleading anybody. She did not do a lot of small talk. She was a passionate woman, a brilliant woman, who was a passionate and articulate debater and debate she could. When PATSY took the floor and she decided to let anybody have it, she really could do it.

Let me just say, PATSY was an expert on any number of subjects and certainly on education, but the mark of this woman was the fact that this brilliant woman devoted her time to poor women. Many people get very sophisticated and want to talk about other kinds of subjects once they have served in the Congress of the United States, but she stayed with poor women.

She was an advocate for poor women. She fought for poor women to have a safety net as we debated welfare reform, and people tried to make it something else. She simply talked about the need for poor women and their children to have a place to live and food to eat.

We love you, PATSY. We will miss you.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank my good friend and classmate the gentleman from Hawaii (Mr. ABERCROMBIE) for yielding me the time, and I remember that PATSY was here a few months ahead of us in the special election. She got the jump on us in seniority. Actually she had been here 25 years ahead of us. PATSY had a second coming, and the House is all the better for it, but the heart of the House is broken today. Historic woman, first woman of color, came here 4 years before even the great Shirley Chisholm, the first African American, came to the House.

She is known for two signature issues among the many issues that are around her name, education and equality. PATSY, of course, is the mother and the godmother and the protector and the fighter for Title IX. I think she would want this memorial to serve a purpose, especially today when Title IX is under attack.

I remember 2 months ago when she came to this floor to commemorate Title IX, and she said this: We have heard much about the many successes of Title IX, particularly in athletics. Most do not know of the long, arduous course we took before the enactment of Title IX and the battles that we have fought to keep it intact. And as we remember her tonight, remember, we are fighting a battle to keep it intact tonight.

She recounted some of those battles. She talked about 1975 when there was an amendment to keep then HEW from promulgating regulations under Title IX. That is how deep it got. Even after Title IX was passed, she had a way of piercing to the truth, when they said there is no Title IX. It took four men to summarize what she said on the floor, 2 months ago, that reductions in men's sports are due to choices made by college administrators in favor of the big-budget, revenue-generating programs such as football and basketball. She told it like it was. She could not help it.

Let us remember as we commemorate and celebrate Title IX and celebrate PATSY's life what we are going through today. There is an administration task force. With all her being, PATSY opposed to fix what is not broken, Title IX, 30 years later when we go from 32,000 female athletes to 150,000. Instead of commemorating, the administration is fixing. Leave Title IX alone. Let it stand. Let it be. Do it for women, and do it for PATSY MINK.

Mr. ABERCROMBIE. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Speaker, the mark of an American hero is a person who created reality and shaped the values that we take for granted today. PATSY MINK is one such American hero. Each time we look around at what America is today, we should think of PATSY MINK because our Nation is a better place due to the contributions she made throughout her life on education, immigrants' rights, health care, and protecting the poor.

She fought for civil rights in an era of segregation. She was an advocate for Asian Americans after the internment policy of World War II. She opposed a war before it made headlines. She fought to provide every child with a quality education, and she created opportunities for girls to play college sports, sparking a revolution for an entire generation that is now the envy of the world.

She was the first in so many things, the first female student body president, the first Japanese American woman to practice law in Hawaii, the first woman of color to serve in the United States Congress, all things we take for granted today. We should always remember it was PATSY who fought to get us here, especially women.

Perhaps PATSY herself could sum up her life and legacy best when she said, my career in politics has been a crucible of challenges and crises where in the end the principles to which I was committed prevailed.

We should all strive to be as dedicated to our process and as passionate in our arguments as PATSY was to hers. For the many causes she championed, there was no fiercer advocate than PATSY MINK. I will miss her friendship, her spirit and her sense of humanity.

Mr. ABERCROMBIE. Mr. Speaker, I ask unanimous consent to extend the debate time on the resolution honoring PATSY MINK by 30 minutes and that this time be controlled by the gentlewoman from Ohio (Ms. KAPTUR).

The SPEAKER pro tempore (Mr. REHBERG). Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. ABERCROMBIE. Mr. Speaker, I yield 1¾ minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank my friend from Hawaii for yielding me the time.

I rise in sincere remembrance of a gentle soul and a good friend, PATSY MINK. I offer my condolences to her husband John, daughter Wendy, and my thanks to the service that the entire family has given by permitting their wife and mother to serve this Nation.

PATSY has gone from our lives, but she will touch the lives of so many people tomorrow whose names she will never know. Tomorrow there will be welfare mothers who will get up and have a first-rate child care center to take their sons and daughters to because PATSY MINK made sure that would happen. Tomorrow there will be young women who will have a chance to learn math or science or go on to engineering careers because PATSY MINK helped lead the fight to let little girls know that they could be anything they wanted to achieve in any discipline through her work on women's equity in education.

A few hours ago on the east coast, and Mr. Speaker, right now across the country, young women are coming home from sports practice, from soccer and field hockey and all the other sports that young women play.

□ 2100

And the most talented ones know that they have a chance to compete now at the intercollegiate level because PATSY MINK wrote title IX and made sure it stuck.

PATSY MINK will touch my life for years to come. My two greatest achievements are 9 years old and 7 years old, my two daughters; and I take comfort at this time of great loss from the fact that they will live in a world where they can be anything they set their minds to, reach any heights to which they aspire, because in large part this firebrand of a woman stood on this floor and served this country.

It is my honor to call her a friend. My great expression of condolences to her family. May God rest her soul.

Ms. KAPTUR. Mr. Speaker, I yield myself such time as I may consume.

I would like the record to show that I am assuming this responsibility for the next 30 minutes only in that the rules do not allow the gentleman from Hawaii (Mr. ABERCROMBIE) to remain on the floor for more than 1 hour. He is present in the Chamber and right here at my side. We will continue paying tribute to our beloved friend, Congresswoman PATSY MINK, and send our sympathies to her precious family.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, this is a very sad day. I remember when I first met PATSY and saw PATSY. It was in 1970, and I was on the staff of then-Congressman Don Edwards, and I thought this was really somebody, this was really somebody; and I watched her and I watched her on the ERA, and I never dreamed that many years later after she had gone back to Hawaii and come back to the House that I would get to serve with her, and I really value the years I served with PATSY. I knew her really as just a tireless champion for the underdog. She believed in the power of education, and she fought to make sure that every person had the opportunity to do more in life because they had an education.

I remember participating in a Special Order with PATSY before the August recess, and we think about title IX rightly about sports; but really PATSY and I were talking about the other aspect of title IX when there were limits, there were quotas on how many women would be admitted to a college, and there were courses of study that women were not allowed to take. So I know I benefited personally from what PATSY did on title IX and my daughter still benefits from what PATSY did.

Patsy made her mark and she changed America. There are not very many women in the House who are lawyers. PATSY was one of them, and she had a fine legal mind. She was someone who I always listened to when she had advice to give. She was not afraid to lead. And petite as she was, she was always big enough to share the limelight. How someone could be so tough and so firm and yet be also warm and kind is a wonder. She was funny, smart, brave, a visionary. She helped teach all of us, and we are in her debt.

I give thanks to her husband, John, and her daughter, Wendy, for sharing her with us and thanks to the people of Hawaii for sending her to the Nation. People of Hawaii have no idea how she and NEIL would stand up and fight for them whenever they needed them to do so. So I know I am not alone in finding it hard to reconcile myself to her absence. I miss her and America is profoundly improved by her gift of time, energy, and pure goodness.

Ms. KAPTUR. Mr. Speaker, I yield 2 minutes on behalf of the gentleman from Hawaii (Mr. ABERCROMBIE) and myself to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, buenos noches, America. Today we stand here in celebration of a dynamic woman, this woman here, this face that many of us here in the House have come to know, and I as a new Member am proud to say that I was able to witness her intelligence, her tenacity, her wherewithal, a true steel magnolia, a true profile in courage, someone who fought even the last few days that we were arguing about welfare reform, how important it was for us to decide upon providing women with the ability to have child care because if they chose to go to work and could find work, the only way they were going to escape poverty was to be able to get child care. And she fought tooth and nail even sometimes against our own leadership, and many of us stood with her.

I learned a great deal from her, her compassion, and she did shower us with support and friendship. And as a new Member here in the House, she was someone I looked up to in our Committee on Education and the Workforce, always moving me, pushing me along: "Hilda, keep going. Do not give up. Stand up to those people. Do not let people make you turn your back."

She taught us a powerful lesson. She is the first in many categories in her own State and somebody who should be given the dignity and honor to stand with us forever, and that is by paying tribute to her and in either having a commissioned portrait or a statue, a woman to represent us, so proud, and throughout the world.

I am proud to know her and her family and to have worked with her staff and someone that we have to somehow undertake the courage that she had to continue the fight because PATSY is watching us and PATSY is going to hold us accountable, and she is going to say, My work was not done in vain because I have helped to lift so many people out of poverty and give them hope.

And I know she has given us that. I have heard many here speak about her attributes and everything that she gave so unselfishly; and I too, like my colleagues, join the world in praying for her because she is a wonderful, wonderful role model for so many of us. I thank this House for the opportunity to be able to pay tribute to her tonight.

Ms. KAPTUR. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Hawaii (Mr. ABERCROMBIE) for making this possible for all of us to come here to honor our colleague, PATSY MINK, with the resolution and with memories that say so very much about this woman that we loved so dearly. But as everyone has heard, no words can capture the great loss that we feel. The Congress, our country, and the rest of this world have lost a most remarkable woman. I knew of PATSY MINK from Hawaii by reputation for many, many years before I met her. In fact, PATSY is one of the reasons I decided to run for the House of Representatives. I was convinced that I would be a help to her in her work for civil rights and economic justice; but once I was elected and sworn in in 1993, I think I was more work to PATSY than I was help for her because she became a mentor, a mentor to me, and through her I learned so very much about standing up for my beliefs even when they were not always popular, knowing and trusting my constituents, remembering that those were the people that I work for and passionately fighting for those who are less well off who need a hand up.

Women and minorities in our country have benefited greatly because of PATSY MINK. She has taught us all so very much. PATSY MINK will never be forgotten, and she will always be honored.

Ms. KAPTUR. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman from Hawaii (Mr. ABERCROMBIE) for bringing us together.

I rise to join our other colleagues to pay tribute to PATSY MINK's outstanding legacy which spanned more than 24 years. Though small in stature, as many of us have made reference to, the death of our dear friend, colleague, and leader on so many important issues has left a very large void in this body. Our hearts and prayers go out to her husband, John; daughter, Wendy; brother; and other family members and the community that she loved and served so well.

I consider myself privileged to have had the wonderful opportunity to have worked with her on a number of issues. I have been particularly grateful for her tenacity in our work to eliminate health disparities for women and people of color. Just this past spring, PATSY joined me in a forum on improving health care quality for minority Americans. As ranking member on the Subcommittee on 21st Century Competitiveness of the Committee on Education and the Workforce, the gentle lady from Hawaii used her position to influence and improve education and work opportunities for all.

This summer we were all fortunate to be able to follow her leadership as she worked to craft commonsense welfare reform legislation which would not only prepare those on welfare for work but lift them out of poverty and give them the opportunity to improve their status and the status of their families. She was always sensitive to the unique issues of my district and the other offshore territories.

Congresswoman Mink is most remembered for her work on title IX of the education amendments of 1972 to eliminate sex discrimination in all educational institutions receiving Federal funds. PATSY MINK displayed a thirst for justice, a drive to convince others that it is in the best interest of all that women be treated equally, a zeal to ensure that no young girl would ever be told that she could not achieve her goals, and a disdain for any antiquated approaches which would leave women behind.

By challenging discrimination both at home and in the Nation at large, she helped this country to better live up to its obligation to improve the health and well-being of all its residents and to close the wide gaps in service and status for women and people of color.

PATSY gave herself generously. She was a warrior who never shied from the challenge when the cause was just; and by her life, her service, she has lifted us all. I am, we are all honored by having had the opportunity to know her, to serve with her, and partake of her wisdom, her warmth, and her friendship.

Mr. Speaker, I rise to join our other colleagues to pay tribute to PATSY MINK's outstanding legacy which spanned more than 24 years.

Through small in stature, the death of our dear friend, colleague and leader on so many important issues, has left a very large void in this Body. Our hearts and prayers go out to her husband, John, daughter Windy, brother, other family members, and the community she loved and served so well.

I consider myself privileged to have had the wonderful opportunity to work with her on a number of issues. I have been particularly grateful for her tenacity in our work to eliminate health disparities for women and people of color.

Just this past spring, PATSY joined me in a forum on improving health care quality for minority Americans.

As ranking member on the education and workforce subcommittee on 21st century competitiveness, the gentle lady from Hawaii used her position to influence and improve education and work opportunities for all.

This summer we were all fortunate to be able to follow her leadership as she worked to craft common sense welfare reform legislation which would not only prepare those on welfare for work, but lift them out of poverty and give them the opportunity to improve their status and the status of their families. She was always sensitive to the unique issues of my district and the other offshore territories.

Congresswoman MINK is most remembered for her work on the title IX of the education amendments of 1972 to eliminate sex discrimination in all educational institutions receiving Federal funds.

PATSY MINK displayed a thirst for justice, a drive to convince others that it is in the best interest of all that women be treated equally, a zeal to ensure that no young girl would ever be told that she could not achieve her goals, and a disdain for antiquated approaches which would leave women behind.

By challenging discrimination both at home and in the Nation at large, she helped this country to better live up to its obligation to improve the health and well-being of all of its residents and to close the wide gaps in service and status for women and people of color.

It is her legacy that allows the women of Congress to walk these hallowed halls with sure footing. I thank PATSY MINK for her grateful heart, her strong spirit, for breaking down barriers, and for leading the way as the first woman of color in the Congress of the United States. Through her presence and her determination, she set the stage to ensure that all issues—that minority issues and womens' issues are also American issues.

To her family, staff and constituents, I express my sincere condolences and that of my constituents of the U.S. Virgin Islands.

PATSY gave of herself generously. She was a warrior who never shied from a challenge when the cause was just, and by her life, and her service she has lifted us all.

I am, we all, are honored by having had the opportunity to know her, serve with her, and partake of her wisdom, her warmth and her friendship.

Ms. KAPTUR. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. KAPTUR) for yielding me this time. I thank the gentleman from Hawaii (Mr. ABERCROMBIE) for organizing, introducing the legislation allowing us to reflect on PATSY MINK's life. I think all of us have a sense of loss and especially those of us who feel that somehow we just did not take seriously that she was that ill and we just felt that we will have the rejoicing of her coming back and to feel that somehow we did not understand that. But perhaps it was wise that we did not. I was back there when the gentleman from Hawaii (Mr. ABERCROMBIE) mentioned that too.

I want to extend my sympathy to the family, John and her daughter. I got to travel on three occasions with PATSY, and I also got to feel that I knew her husband. And I remember PATSY sharing with me why I had wanted to be a doctor and missionary, and she shared with me she wanted to be a doctor and she had been discriminated against. She could not be. I shared with her the reason I did not become a doctor was because I did not do that well in organic chemistry. And graduating from the University of Chicago as a woman in 1971, an honor student, and she told me she could hardly find a job as a clerk and the difficulty they gave her in her birthplace to even pass the bar.

I also went to law school and I did not finish. I had four kids, but I understood what it meant when she was denied the right as a person, a resident of Hawaii not to be allowed to take the bar other than through her husband. That was a way of discriminating even among her own natives. I will remember PATSY for a lot of reasons, for all the legislative reasons that my colleagues know even better; but one thing I remember about PATSY is that she was a little person but had a loud voice and a very forceful voice. And the 58th chapter of Isaiah says this, and I am reading from the English version. It says: "The Lord says shout as loud as you can, tell my people Israel about their sins."

PATSY spoke loudly but clearly, eloquently, about the injustice, inequality, and she also is known not for what she passed in legislation but what she was willing to fight against. So we remember PATSY with passion and dignity, and we pray that her life will be a shining life for the rest us to carry on in the same way.

Ms. KAPTUR. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. CLAYTON) for those eloquent words.

Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, I rise to honor our friend and colleague, PATSY MINK. I was honored to serve with her on the Committee on Education and the Workforce, and I am proud to be one of her successors as Chair of the Asian Pacific American Caucus.

PATSY was an absolutely wonderful, wonderful person from a wonderful place. Mr. Speaker, I can share with my colleagues that the first time I was ever recognized on this floor, I was recognized as the gentleman from Hawaii, and I had to resist the temptation then, representing my wonderful folks, the sensible folks from Oregon, from saying yes, yes, I am the gentleman from Hawaii.

□ 2115

Mr. Speaker, Hawaii is a wonderful place, a great culture, good people and fine Representatives here in the United States Congress. It has a wonderful language, words like ohana and aloha. Sometimes we wonder whether they found too much use for consonants, but a wonderful, beautiful language; and those words embody for me what PATSY and her service here was all about, community. Communities where children, where every child would have a chance to build a better future, where all of us will go forward together rather than divided against each other.

Aloha, the spirit of aloha where PATSY was so helpful to us freshmen and junior Members. She was like a gentle Hawaiian breeze, but we all knew about her issues; she could storm up like a typhoon. I had the misfortune to follow her on a podium once, and after my rather tepid remarks, she pounded home her views and she was Olympian in her stature, and it was like thunderbolts were coming from her forehead.

There is a time when God calls us all home; and I have to say, PATSY, you are fortunate that God has called you home to Hawaii. We will miss you.

Ms. KAPTUR. Mr. Speaker, I yield 4 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, it is with great sadness that I rise to participate in this Special Order to share with my colleagues of the House and with the American people the tremendous loss to our Nation and the good people of the State of Hawaii, the recent passing of the gentlewoman from Hawaii, PATSY TAKEMOTO MINK.

PATSY was more than a friend to this Member. She was my mentor, my teacher, my senior advisor on the nuances of this institution. She was my champion fighter on any issues taken by this body on anything relating to the rights and lives of millions of American women, children, minorities, and last but not least, the poor and the needy.

Some of my colleagues have outlined a listing of so many of the accomplishments of PATSY's career in public service. So as not to be repetitious, I want to share with my colleagues and our Nation how I feel about PATSY MINK as a person.

PATSY did not share much with me concerning her early youth, born of a humble family and grew up on the Island of Maui, graduated from high school on Maui, and then enrolled at the University of Hawaii. But as I can remember, remember and well imagine the hardships PATSY had to endure, especially after the sudden attack of Pearl Harbor by Japanese war planes that Americans of Japanese ancestry immediately, herded like cattle and placed in what was then described as relocation camps but I consider them as concentration camps, I have no doubt that PATSY and her family were severely affected socially and psychologically.

How a Nation can unilaterally terminate the constitutional rights of its citizens solely on the basis of race, their lands and properties were confiscated, and some 100,000 American citizens, men, women and children, who happened to be of Japanese ancestry were placed in these so-called relocation camps throughout the United States. Despite all this, at the height of racism, hatred and bigotry placed against Japanese Americans during World War II, some 10,000 Japanese Americans, like Senator DAN INOUYE and the late Senator Spark Matsunaga among them, nevertheless volunteered to fight against our Nation's enemies in Europe. That was part of PATSY's early youth and the legacy that was given under the 100 Battalion 442nd Infantry and what they did when they fought against enemy forces in Europe.

Mr. Speaker, this was the kind of atmosphere that PATSY grew up with. The irony of it all is that PATSY MINK wanted very much to be a doctor, a healer. I guess after personally witnessing the horrors of war during her youth, PATSY wanted to enter a profession that would save lives rather than destroy them.

Mr. Speaker, I want to convey my sincere aloha pumehana and my sincere condolences on behalf of our Samoan community living in the State of Hawaii to PATSY's dear husband and my friend for many years, John Mink, and their daughter, Wendy, and her brother, Eugene Takemoto, and to Joan Manke, her administrative assistant, and members of her staff.

PATSY TAKEMOTO MINK, may you have a successful journey.

Ms. KAPTUR. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I thank the gentleman from Hawaii (Mr. ABERCROMBIE) for his leadership on this and so many important issues before this body.

It is with great sadness that we come to the floor this evening to honor the legacy and hard work of my good friend and colleague, PATSY MINK. She was a champion for women's rights, education, civil rights, and America's workers. She was a tireless advocate for our Nation.

I have a long list of firsts where PATSY was the first person to do a particular job or make a particular gift to this Nation, and I would like to enter this into the RECORD.

In fact, she told me she never intended to come to Congress. It was her dream to be a doctor. Like many very talented and intelligent women, she applied to medical school, and every single one of them turned her down. She told me that she faced great discrimination in her life, yet she turned adversity into a positive life of working to help improve the lives of women, children, minorities, and the equality of all people.

One of the things that I loved about PATSY, there was never an issue that was too large or too small for her to champion and for her to work extremely hard on. Unlike many of us, she was able to see the fruits of her hard work. As one of the principle authors of title IX, she saw the benefits of a whole generation of young women, including my two daughters, who have benefited from the equality in treatment of women in education and sports.

When I first came to Congress, I would sometimes call one of my friends and mentors from New York, Bella Abzug, and Bella would always end the conversation by saying, "Carolyn, why in the world are you calling me when you could talk to PATSY MINK on the floor?"

PATSY told me that many of her colleagues would call her in Hawaii, and because of the time difference, they would wake her up at 2, 3 in the morning; yet she would always wake up and be there to help.

It is impossible to name all of PATSY's great accomplishments, but tonight we can take the baton on one that is tremendously important. PATSY authored the Women's Educational Equity Act, and I call upon Members to name this important act for PATSY. I am circulating a letter which builds on PATSY's work. PATSY was working to restore the funding for the Women's Educational Equity Act, which has zeroed out; and the letter calls upon our President to restore the $3 million and to name this important act after our beloved friend and colleague, PATSY MINK.

PATSY did so much and I am saddened tonight, and I am going to close by saying I am saddened for many reasons, and one is that I can no longer pick up the phone and call PATSY and say, "Let me pick your brain." She would always have an idea. She would always have a strategy, and she was always helpful. We will build on her work, and we will succeed on the issues PATSY cared about because for over 150 years women have fought against much larger odds than the ones we now face in Congress. We will succeed because PATSY MINK succeeded before us and because of those who succeeded before her.

PATSY the great, I am honored to have known her. She will always be an inspiration to me and to women around the world. My condolences to her family and her constituents.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 1, 2002.

Hon. GEORGE W. BUSH,
President of the United States, The White House, Washington, DC.

DEAR PRESIDENT BUSH: We have stood together many times with Representative Patsy Mink to help the women and girls of this country. As you may know, Mrs. Mink was the strongest proponent of the Women's Educational Equity Act (WEEA) and worked very diligently in Committee to succeed in getting WEEA on the list of authorized programs. Unfortunately, your Administration zeroed out the funding for this very important act.

Mr. President, in honor of the memory of Representative Mink, we ask that you fully fund the $3 million for the Women's Educational Equity Act. We cannot think of a better way to commemorate the work and dedication Mrs. Mink offered to this body and to the people of this country.

As you know, the purpose of WEEA is to promote equal educational opportunities for girls and women by providing funds and assistance to help educational agencies and institutions to meet the requirements of Title IX of the Educational Amendments of 1972. WEEA provides grants and contracts for the development, implementation, and evaluation of a broad range of programs at the community, state, and national levels. WEEA grantees have offered leadership for inclusive education reform and many of the participants and beneficiaries of WEEA projects are at the core of the development of equity initiatives in education, work, and public life.

Mr. President, on behalf of all girls and women in America, and in memory of Representative Patsy Mink, we request full funding of $3 million for the Women's Educational Equity Act.

Sincerely,

Carolyn B. Maloney, Zoe Lofgren, Lynn C. Woolsey, Nydia M. Velázquez, David Wu, Jan Schakowsky, Lynn N. Rivers, Eni Faleomavaega, Robert E. Andrews, Neil Abercrombie, Corrine Brown, Michael M. Honda, Eddie Bernice Johnson, Sheila Jackson-Lee, Bob Etheridge, Eleanor H. Norton, Maxine Waters, Donna M. Christensen, Marcy Kaptur.

Ms. KAPTUR. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for yielding me this time and for joining the gentleman from Hawaii (Mr. ABERCROMBIE) for having this resolution on the floor tonight.

My condolences go to PATSY's family; and our condolences, of course, go to the people of Hawaii who have suffered a great loss.

For almost a generation, anyone who served in this House of Representatives has had the privilege of serving with PATSY MINK, has had the honor of calling her colleague. Anyone who knew her, worked with her on a daily basis, had his or her day brightened by the communication from PATSY. She was a patriotic, committed, dedicated American.

She was enthusiastic about America's children. She worked her heart out for them. She literally gave her life ministering to their needs, visiting a clinic for poor children where she contracted chicken pox. It just does not seem real that we have lost such a valuable, valuable person on this Earth.

I know it was intended by the gentleman from Hawaii (Mr. ABERCROMBIE) and the gentlewoman from Ohio (Ms. KAPTUR) for this to be a resolution with an hour of time, but the people of Hawaii should know because of the outpouring of love for PATSY MINK, it has not turned out to be an hour of debate on a bill, but a vigil in honor of a beloved Member of Congress.

We all know how much the people of Hawaii thought of PATSY MINK. We want them to know how much Members of Congress revered her, respected her as a person, and are mourning her leaving us so deeply.

I am sure colleagues have spoken about her incredible leadership on title IX. She conceived this idea and worked very hard for its passage, and then an accident that harmed her dear daughter, Wendy, called her away from the floor on the day of the vote, and the bill lost by one vote. True to her family values, she left immediately to go to her daughter's side. PATSY did something so incredible. She came back to Congress at a future time and persuaded the speaker, then-Speaker Carl Albert to bring the bill up again. That was not the normal regular order, but he did, and it then passed. And now generations of young women in our country can tear down the "no girls allowed" sign off the school locker rooms and, in fact, corporate board rooms, because it started momentum for women and girls.

I thank PATSY for being a mentor to so many of us, a joy in our lives. Even when PATSY was fighting in her toughest time, and she would be fighting as hard as she possibly could, she always did it with a smile. She always did it with a smile. So she attracted people to her. She attracted people to her point of view. She attracted people to her State, which she loved; and some of us will be talking about PATSY for a long time to come. We will never forget her. We will always be inspired by her, and we know that although she is no longer with us physically, that PATSY MINK lives.

She lives in the spirit of young girls playing sports all over America. She lives in the school rooms of America for all she did for America's children. She lives in the spirit that she leaves us with as she departs in such an untimely fashion.

Again, many of us will be going on Thursday, returning Friday night. The plane leaves at the close of business. I hope many Members will join those of us who are going to Hawaii to bid to our dear PATSY MINK, aloha.

□ 2130

Ms. KAPTUR. Mr. Speaker, I would like to thank all of those who have participated this evening and give special regard and thanks to the gentleman from Hawaii (Mr. ABERCROMBIE), who has brought us all together, and who has been with us on the floor working to design this resolution and to assure that all Members had an opportunity to speak this evening.

Mr. Speaker, I yield such time as he may consume to the gentleman from Hawaii (Mr. ABERCROMBIE) for the next proceeding.

Mr. ABERCROMBIE. As we draw the discussion for the passage of this resolution to a conclusion, I would ask, Mr. Speaker, that at the appropriate time if you could indicate to the House that perhaps we could rise and observe a moment of silence in honor of PATSY MINK with the passage of the resolution, I would be very appreciative, and I think it is the appropriate way to finish our commemoration.

Let me conclude my remarks, then, Mr. Speaker. I had not intended to speak much further because of the eloquent, articulate, certainly comprehensive manner in which the Members tonight have discussed the great contributions of PATSY to this body and to the Nation. But all through this evening, Mr. Speaker, I have been unable to avoid looking at the picture that has been down by the podium on the floor. That picture of PATSY really captures the essence of this tiny giant. You can see her steadfastness, her sense of perseverance, the stalwart person that she was on behalf of all those who had no hope.

Mr. Speaker, it never occurred to me in my youth that I would have the honor and privilege of serving in the people's house, the House of Representatives. I look around the floor at my colleagues here. I see my dear friend DANA ROHRABACHER and others here on the floor; NANCY PELOSI, who has just finished speaking of her friendship and love for PATSY, and I understand what it was that I knew intellectually so many years ago when I worked on PATSY's first campaign as a college student at the University of Hawaii when she first came here to the House of Representatives. I understood intellectually what it was to serve in the House of Representatives. But I am sure, Mr. Speaker, you know, as all of our colleagues do here in the people's house, that those of us who have sworn an oath to uphold and defend the Constitution in this house of freedom know what it means to have had the presence of someone like PATSY MINK.

Surely, Mr. Speaker, there is no other people so fortunate as we, free men and women, in the freest country on the face of the Earth, in the history of the planet. No one has embodied more the spirit of this House than this gentlewoman from Hawaii, a true daughter of Hawaii who celebrated in herself and in her service the true spirit and meaning of aloha.

Aloha means that our diversity defines us rather than divides us. In this world of adversity and pain and terror and cruelty and horror, PATSY MINK was able to stand for those who could not speak for themselves and was the living embodiment of what aloha meant not just for our Rainbow State, not just for our multicultural, multiethnic, multiracial people, but it gave the message of aloha to this House, to this Nation and to this world.

Aloha, PATSY.

Mr. Speaker, I believe that the time is appropriate to call for an expression of assent to the resolution before us, and if I could ask for that to be in the form of Members rising, Members and those present to rise with a moment of silence not only in commemoration of

PATSY MINK, but to constitute passage of the resolution.

Mr. FALEOMAVAEGA. Mr. Speaker, it is with great sadness that I rise to participate in this special order to share with my colleagues of the House, and with the American people—a tremendous loss to our nation, and the good people of the State of Hawaii—the recent passing of the gentle lady from Hawaii—Congresswoman PATSY TAKEMOTO MINK.

PATSY was more than a friend to this member. She was my mentor, my teacher, my senior advisor on the resources of this institution. She was my champion fighter when this body takes up issues that affect the rights and the lives of millions of Americans who are women, children, minorities—and last but not least the poor and the needy.

Mr. Speaker, some of my colleagues have already outlined a listing of so many of the accomplishments of PATSY's career in public service. So as not to be repetitious, I want to share with my colleagues and to our Nation—how I feel about PATSY MINK the person.

PATSY did not share much with me in her early youth—born of a lovable family and grew up on the island of Maui—graduated from high school in Maui and then enrolled at the University of Hawaii.

But I can well imagine the hardships PATSY had to endure especially after the sudden attack of Pearl Harbor by Japanese war planes—that Americans of Japanese ancestry immediately herded like cattle and place in what was then described as "relocation camps," but I consider them as concentration camps. I have no doubt PATSY and her family were severely affected socially and psychologically—how a nation can unilaterally terminate the constitutional right of its citizens solely on the basis of race. Their lands and properties were confiscated, and some 100,000 American citizens—men, women and children who happen to be of Japanese ancestry were placed in these so-called relocation camps throughout the United States.

And despite all this, Mr. Speaker—at the height of racism, hatred and bigotry placed against Japanese Americans during World War II—some ten thousand young Japanese-American men—Senator DAN INOUYE and the late Senator Spark Matsunaga—among them—nevertheless volunteered to fight against out nation's enemies in Europe.

This was the kind of atmosphere PATSY grew up with—and the irony of it all, Mr. Speaker, PATSY MINK wanted very much to be a doctor—a healer—and I guess after personally witnessing the horrors of war during her youth—PATSY wanted to enter a profession that would save lives, rather than destroy them.

Things did not get any better—after submitting applications to medical schools, PATSY soon realized that she was denied admission for two reasons: her ethnicity and because of her gender.

PATSY's attention turned to law—and thanks to one of our more progressive law schools in the country, she was admitted to attend the University of Chicago Law School.

With a law degree from the University of Chicago, and after gaining admission to practice law in Hawaii, PATSY MINK started her law practice, but eventually ended up in the state senate and elected as a Member of Congress.

It was in this institution that PATSY made her mark not only as an outstanding legislator to her constituents in Hawaii, but to our Nation as well. As a senior member of the House Education and Labor Committee, PATSY's commitment to provide greater educational opportunities for the less fortunate—the protection of the rights of women and children throughout our nation was women and children equal no compromise! synonymous with the name of this great lady from Hawaii—Congresswoman PATSY TAKEMOTO MINK.

I want to convey my aloha punehana sincere condolences on behalf of our Samoan community living in Hawaii, to PATSY's dear husband and my friend for years—John Mink and their daughter, Wendy, her brother Eugene Takemoto, and Joan Manke her Administrative Assistant and members of her staff—PATSY TAKEMOTO MINK—la manuia lace faiga malaga (May you have a successful journey).

Mr. OWENS. Mr. Speaker, PATSY MINK will be remembered with a broad array of accolades. She was a warm compassionate colleague, civil and generous even to the opponents who angered her the most.

For me, she will be remembered as my friend, mentor and personal whip on the floor. At the door of the House Chamber she would often meet me with instructions: "We" are voting No or "We" are voting Yes on this one. I consider it an honor to have been invited to function as an ideological twin to PATSY MINK.

In the Education and Workforce Committee as well as on the House Floor, I was always inspired by PATSY'S convictions. She was always an independent spirit and she pursued her causes with total dedication. She was not just another advocate for education, for women, for job training, for welfare mothers. PATSY MINK was forever a fiery and intense advocate on these issues. She frequently exuded an old-fashioned righteous indignation that seems to have become extinct. For PATSY there were the right policies and laws which she pushed with all the zeal she could muster. And there were wrongheaded, hypocritical, selfish and evil policies which had to be confronted and engaged to the bitter end. When colleagues spoke of bi-partisan compromise negotiations, PATSY would quickly warn Democrats to beware of an ambush or a trap.

Her profound wisdom on all matters related to education and human resources resulted from her long years of service on the Education and Labor Committee which later became the Education and Workforce Committee. Too many of us have forgotten the value of the institutional memory. While the House is filled with members who speak as experts on education, Congresswoman MINK was among the few with hard earned credentials. She was a part of the development and nurturing of Title I to the point where it has become the cornerstone of federal education reform. Title IX as a landmark reform to end the gender gap in school athletics was conceived and defended by PATSY right up until the recent skirmish in this 107th Congress. In this Congress, PATSY also declared war on the oppressors of welfare women. No one was more incensed and outraged than the member from Hawaii when the so called welfare reform program of President Bush threatened greater burdens and smaller subsidies for welfare recipients. All of PATSY's proposals in the House were voted down. But briefly PATSY MINK stirred up a long dormant conscience among Democrats which produced a continuing debate in the Senate. That fight still goes on.

PATSY MINK was a role model for decision-makers of this Congress and for the future. Compassion and righteous indignation are still vital qualifications for the leaders of a great nation. PATSY MINK was a great leader for this great nation.

Mr. GREEN of Texas. Mr. Speaker, I rise to remember my colleague of these past ten years, Representative PATSY MINK, who passed away this weekend.

During my first years in Congress, I worked closely with PATSY when we both served on the Education and Labor Committee.

PATSY was a wonderful person who believed in the power of education. She wanted to ensure that all Americans, especially women, received a quality education.

She was a tireless warrior for women and education, authoring the Women's Educational Equity Act of 1974, which provided funding for schools attempting to eliminate inequities and discrimination against women as required by Title IX.

She worked to increase Impact Aid to Hawaiian public schools, which helps offset the cost of educating the children of Federal employees and military personnel.

But PATSY did not limit herself to only education issues.

She was also a champion of all working Americans, fighting to protect the landmark Davis-Bacon Act, which requires federal contractors to pay local prevailing wages.

She lead efforts to protect the Legal Services Corporation, which provides needy individuals nationwide with legal assistance.

In short, PATSY was a champion of the forgotten—the poor, the homeless, those who needed financial assistance for college, those who were without health insurance, and those who were unemployed.

And like the best Members of Congress, PATSY fought hardest for her people at home.

She was a champion for native Hawaiians, and actively sought to make sure their interests were protected at the Federal level.

I have a special affinity for PATSY, for personal reasons as well. When my son, Chris, graduated from college, he went to Hawaii to work.

I could always count on PATSY to occasionally check on Chris, and tell me how he was doing when we both came back to Washington the next week.

Mr. Speaker, PATSY MINK, has been part of the Hawaiian political landscape since before statehood, and has served as a mentor to generations of young Hawaiians.

Her presence will be missed, both here in Washington, but even more back home. This institution will miss her greatly.

Mr. GEPHARDT. Mr. Speaker, PATSY MINK was my friend and my colleague and I am deeply saddened by her death.

PATSY fought hard every day for the values and ideals that make our nation great. She worked to ensure access to good public schools for every American child. She stood out as a leading voice for women's rights, civil rights and labor unions devoted to raising living standards and providing opportunities to all Americans. And PATSY MINK never lost her passion for righting the economic and social injustices in Hawaii and across America.

PATSY MINK blazed a trail unlike few members in the history of the House. She was the first Asian American woman admitted to the Hawaii bar, the first Asian American woman elected to the state legislature and the first woman of color to win national office in 1964. She knew first-hand the sting of discrimination as a young Asian-American woman growing up in Hawaii, and she had the ability to use her experience to lift up the hopes and dreams of other human beings. I will always admire her willpower, courage and faith in her country and in her fellow Americans.

Through sheer force of her personality, PATSY breathed life into the values and ideals enshrined in our Constitution. While she had many legislative accomplishments, her leadership on Title IX deserves special recognition for opening doors to women's achievements in athletics and beyond. As a woman of color advocating for economic and social justice as a leader of America, PATSY MINK demonstrated that one person, fighting for what's right, respecting every person, can make a difference in the lives of her fellow citizens.

I will miss her progressive voice and aggressive leadership on issues important to the American people. I hope and pray that this House will dedicate itself to working in her extraordinary spirit in the important days and months ahead.

Mr. DINGELL. Mr. Speaker—I rise in sorrow to express my sadness at the loss of the Hon. PATSY MINK, a distinguished colleague and great public servant.

She was a great lady, a superb legislator, an idealist who loved her country and her fellow Americans. She believed in the Congress and our system of Government, and she worked hard within the institution for its protection and for the betterment of our people.

She knew she was here to serve, and to serve those who have the least and need the most. She knew our system is good, but that it could be made better, and she worked to make it so, and to make it better serve those who most need the help of our country to realize their full potential as valuable, productive and happy citizens.

PATSY worked for the young, for the health, education, for their nutrition and training.

PATSY used her place in Congress to better the lives of the young with legislation which helped them to achieve their real value in our society.

Every program to help people with greatest need enacted by this Congress during her career bears the mark of her character, her leadership, and her goodness.

Her labors for the poor, downtrodden, the sick are her shining monument. Her compassion, her energy, her dedication and decency are her hallmark, and made her a leader for those who needed her most.

She is properly loved, will be long remembered for her goodness and work. She will be missed, and never will be replaced. We love her, we honor her memory and her labors and accomplishments.

We pray for her soul, we know God will receive her lovingly. We know He greeted her warmly, with the statement, "Well done, good and faithful servant. Welcome home. You have earned your place here in Heaven."

Mr. ORTIZ. Mr. Speaker, I thank my colleague, the gentlewoman from California, Ms. MILLENDER-MCDONALD, for organizing this tribute to a giant in the House of Representatives.

PATSY MINK was a fighter. She fought every day of her public service for the inclusion of women at every level of government and society. She was an inspiration to so many people: women, Pacific Islanders, mothers, children, and the working poor.

PATSY was my neighbor in the southeast corner of the Rayburn building for several years. We often walked back and forth to votes together. We rarely found ourselves on the same side of political issues, but we always marveled that our party was big enough to include both of us.

PATSY always spoke candidly, and never strayed from the business at hand. Her office brightened our corner of the hallway with beautiful, fresh exotic flowers from Hawaii every week.

Through her life, and via her work in Congress, PATSY redefined the possibilities for generations of women to come. She forced educational institutions to find equity in education between men and women through her work on Title IX.

PATSY's championed her vision of equality and justice in the Congress. From her support of Medicare in her first term of service in the House—to her work in education, labor, and Hawaiian agriculture—PATSY's legacy will live on in classrooms, union halls and farm fields in Hawaii and around the nation.

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today saddened by the death of a dear friend and colleague, the Honorable PATSY MINK. Throughout her public service career, she was a tremendous force in breaking gender and racial barriers by being the first Asian-American woman to be elected to Congress, and the first woman of color. Her dedication and drive had a major impact both at state and national levels.

One of PATSY's most influential pieces of legislation, Title IX, which she co-authored in 1972, is credited by many with changing the face of women's sports and societal attitudes about women, and bans gender discrimination in schools that receive federal funding.

During my 6 years in Congress it was both an honor and a joy to work with Congresswoman MINK on the Education Committee. I will always remember her as a strong, compassionate woman who was not only a superior colleague but also a great friend.

Not only will I miss her intelligence and her wit, but I will also miss her generosity. Congresswoman MINK's generosity was famous here in the House because of the delicious chocolate covered macadamia nuts she brought to late night sessions. Her passing not only leaves a void in Congress, but also the district and the state she represented so proudly and honorably. We will all miss her.

Ms. ROYBAL-ALLARD. Mr. Speaker, it is with a heavy heart that I rise to express my deep sadness upon the passing of my fellow Congresswoman and friend, PATSY MINK.

I had the privilege of knowing PATSY and of serving with her in the House of Representatives for many years, specifically on the Budget Committee and in the Congressional Women's Caucus.

PATSY was a trailblazer, a fighter for the rights of women and minorities, and a role model for women and people of color everywhere.

Long before becoming the first Asian-American woman elected to the U.S. House of Representatives, PATSY was breaking barriers, refusing to let society's unfair and discriminatory practices sand in the way of achieving her goals.

When PATSY was told she could not live in regular student housing but had to live at the segregated "International House" for minorities at the University of Nebraska, she successfully lead the effort that changed the university's policies.

When no law firm in her home state of Hawaii would hire her because she was a woman, PATSY opened her own practice and became the first Japanese-American woman lawyer in Hawaii.

After losing her first race for Congress, being a woman of determination and perseverance, PATSY ran again, in 1964, became the first Asian-American woman and woman of color elected to the U.S. House of Representatives.

PATSY MINK will be remembered as a Member of this House who dedicated her career in Congress to opening doors of opportunity for others. For example, PATSY played a key role in the enactment of Title IX—landmark legislation that ensures equal educational opportunities for women and girls in our country.

Mr. Speaker, PATSY will be sorely missed in this House, but she will be fondly remembered as a woman who used her success and talents to tear down barriers and provide fairness and equal opportunity for others, particularly women and minorities. Her hard work, perseverance, and dedication to the principles of equality will serve as an enduring model to us all.

I join with my colleagues and send my sincere condolences to PATSY MINK's family and friends, and to the constituents she represented so well.

Mr. GUTIERREZ. Mr. Speaker, I rise today with a heavy heart to honor and say goodbye to our good friend and colleague Congresswoman PATSY MINK. For 24 years, Congresswoman MINK served as a strong and courageous voice for those who are not always heard in our political process. She was an unwavering champion and tireless advocate for women's rights, including authoring the landmark Title IX section of the Education Act. Among her many accomplishments, we should never forget her ardent and selfless struggles to promote equal opportunity for all races, to improve the current education system across the nation and to protect our environment.

As impressive as her legislative accomplishments were, the personal and professional barriers that she had to overcome in her life were, equal, if not more, impressive: she was the first Asian-American woman to practice law in Hawaii; the first Asian-American woman elected to her state legislature and the first Asian-American woman elected to Congress. The courageous choices she made in her life made her a unique role model and afforded countless others the opportunity to follow in her amazing footsteps.

Make no mistake about it, what PATSY may have lacked in physical stature, she more than made up for with a heart that could fill this room and the courage and tenacity to match it.

Robert F. Kennedy once said, "It is not enough to understand, or to see clearly. The future will be shaped in the arena of human activity by those willing to commit their minds and their bodies to the task."

To the end, Congresswoman MINK embodied those attributes and served as role model and beacon in the fight for social and economic justice. I am humbled to have had the opportunity to work closely with her.

Congresswoman MINK received her law degree at the University of Chicago. Although there is no doubt she would have made enormous contributions to our city, PATSY was destined to return to Hawaii, where her devotion and dedication to public service helped shape the state and also our nation.

Our hearts and prayers go out to PATSY's husband, John, and daughter, Wendy.

Congresswoman MINK was a true star from heaven, who walked among us and touched our lives in countless ways.

She will be greatly missed.

Mr. HINOJOSA. Mr. Speaker, I rise tonight to honor one of my esteemed colleagues, Congresswoman PATSY MINK of Hawaii, who passed away this weekend, on September 28, 2002. This is a very sad day for me and for all of Congress as we mourn the loss of a colleague, a patriot and a friend.

While PATSY's death does bring deep sadness to this Congress and the state of Hawaii, this is a day for us to reflect on the wonderful legacy that she has left behind. I would like to state first and foremost that Congresswoman MINK was indeed a true pioneer and a maverick. I am honored to have served on the House Education and Workforce Committee with her during my tenure here in Congress. She served as a great example of someone who believed in her causes and would stop at nothing to bring her dreams and those of her constituents to fruition. PATSY will be remembered as a champion of minority education, especially Title IX legislation that mandated equal financing for women's athletics and academics at institutions receiving federal money. She will also be remembered as someone who defended worker's rights and fought for a welfare system that truly helped people receive the training and child care services they need to move into the workplace.

PATSY had the great distinction of being the first Asian American woman elected to Congress. Most of her career was spent in politics, where her focus was on education, childcare, the environment and equal opportunity. Her dedication and drive resulted in a significant impact on politics at both the state and national levels.

PATSY MINK grew up in Hawaii. After graduating as valedictorian of Maui High School, she went on to the University of Hawaii in Honolulu with hopes of becoming a doctor. After the end of the war, PATSY had planned on going to medical school. Luckily for us in Congress, for those in her district and for the United States, PATSY instead was accepted at the University of Chicago School of Law, married and returned to Hawaii. She became the first Japanese-American woman lawyer in Hawaii. Since no law firm would hire her because she was a woman, PATSY decided to open her own practice. She also taught at the University of Hawaii. She became increasingly involved in politics, and she started the Oahu Young Democrats and then the Hawaii Young Democrats. From there, PATSY worked on the 1954 elections. She decided to run for Congress and easily won a seat in the Territory of Hawaii House of Representatives in 1956. In 1959, she became a member of the Territory of Hawaii Senate. When Hawaii became a state in 1959, PATSY ran for Congress but lost to DANIEL INOUYE. In 1960, she attended the Democratic National Convention and was chosen to give the speech for the civil rights plank. In 1962, she returned to the campaign trail and easily won a seat in the Hawaii State Senate. In 1964, she ran for U.S. Congress once more. This time, she won and was sworn in on January 4, 1965. She had worked long and hard to win that seat, and she served 12 non-consecutive terms.

Recently, Congresswoman MINK and I had worked closely on H.R. 1, the "No Child Left Behind Act" which passed both houses of Congress and the President signed into law. PATSY served as a key negotiator during our Committee's consideration of that bill. I will always admire her for being the first Member of the Education Committee to stand by my side when I called for a boycott over the manner in which the Majority was organizing the Education Committee this Congress. Because of her determination and courage, all of the Democrats stood beside us. Consequently, we won the fight, and jurisdiction over Hispanic Serving Institutions now resides in the Subcommittee on 21st Century Competitiveness where it belongs. What is truly unfortunate for us here in Congress is that Congresswoman MINK will be unable to play a key role in the upcoming reauthorization of the higher education reauthorization act. Her institutional knowledge of the subject is irreplaceable.

Again, Mr. Speaker, I rise to express my sadness at the loss of a great person in PATSY MINK. I wish to express my sympathy to her family and to her constituents. This Congress, Hawaii and this nation have lost a truly wonderful person. History will be kind to her.

Mr. BERMAN. Mr. Speaker, PATSY MINK was a wonderful person with a compassionate heart and a warm and loving spirit. She was tireless and forceful in her advocacy for civil rights, for justice, for the environment, and for adequate health care and education for the disadvantaged.

Throughout her distinguished legislative career, her work was characterized by great skill and a straightforward approach that instilled confidence and won her a reputation for being forthright and honest. She was known for her ability to build coalitions for progressive legislation.

Hawaii was not yet a state when PATSY started down the path of political activism. As the first Asian-American woman elected to Congress, indeed the first woman of any ethnic minority elected to Congress, she took very seriously her responsibilities as a role model and mentor. She fought fiercely against words, actions, and policies that she saw as unfair or intolerant. She spent her life breaking down barriers and dedicated herself to fighting for equality.

For me, PATSY was not only a talented professional, but a friend and I will miss her greatly.

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to honor and remember the works of a great mentor, friend, colleague, and champion in Congress, Representative PATSY MINK.

I am saddened by the sudden loss of such a great leader and heroine. She inspired many of us through her tireless work, commitment, and dedication throughout her tenure in Congress. I send my love and condolences to Representative MINK'S family, Mr. John Francis Mink, her husband, and Gwendolyn Rachel Mink, her daughter. You are in my thoughts and prayers.

Congresswoman MINK was the first Asian American woman to serve in Congress. During her time in Congress she championed many issues including women's rights, education, the environment, equal opportunity for all citizens, and Title IX of the Education Act. She will always be remembered as an outspoken advocate for women, children, the under represented and humanity. She was the kind of public servant we all want to emulate.

She left a lasting legacy behind that has inspired us to continue her work. She touched the lives of many individuals, particularly women through her work on Title IX, which mandates gender equality in any education program or activity receiving federal financial assistance. Title IX has been instrumental in prohibiting discrimination on the basis of sex in educational programs and sports activities that receive federal funding. Before Title IX, many schools saw no problem in maintaining strict limits on the admission of women or simply refusing to admit them. Since the passage of Title IX, this has changed dramatically. In 1994, women received 38% of medical degrees, 43% of law degrees, and 44% of all doctoral degrees. In 1972, women received only 9% of medical degrees, 7% of law degrees and 25% of doctoral degrees.

Female participation in sports, like receiving a college education, has had unexpected benefits for women through Title IX. Studies have shown that values learned from sports participation, such as teamwork, leadership, discipline and pride in accomplishment, are important attributes as women increase their participation in the workforce, as well as their entry into business management and ownership positions.

More and more women are entering and graduating from college and graduate school. More women are entering and excelling in sports activities. And, more women are entering the corporate world and holding management positions. Representative MINK's leadership in enacting Title IX will continue to make a difference for young women. Thanks to her courage and foresight the country is better as women have the opportunity to achieve their full position.

Her work enabled many young women to enter the field of sports, medicine, law, and business. Women today have been empowered to reach as far as they want because of the work Representative MINK championed in Congress.

Representative PATSY MINK's dedication and perseverance will be admired. She will be forever known as a strong, intelligent, and inspirational woman. She left a legacy behind that motivated and touched me deeply. Her work has allowed women to accomplish and reach for any dream they desire to achieve. Thank you, PATSY MINK.

Mr. SKELTON. Mr. Speaker, as we gather in the House chamber with tremendous sadness over the passing of our dear friend and colleague, the Honorable PATSY MINK of Hawaii, I want to take this opportunity to pay tribute to the career of a distinguished public servant who dedicated her life to the people of Hawaii and the United States.

PATSY graduated valedictorian of her Maui High School class and received a bachelor's degree in zoology and chemistry from the University of Hawaii and a law degree from the University of Chicago, graduating as only one of two women in a class of 200. She practiced law and turned her sights to public service while mobilizing the Democratic party to take control of the Hawaii territorial government in the mid-1950s. From that time, PATSY served as an elected representative in the territorial and state legislatures, a city councilwoman, a federal official, and a Member of Congress.

In Congress, as a member of the House Education and Workforce Committee, she consistently championed legislation that would improve education, child care, welfare, and gender equality. PATSY was an especially fierce advocate for women's issues and was instrumental in the creation of Title 9 of the federal education act, which has opened many opportunities for women athletes in schools and colleges across America.

PATSY also cared deeply about the men and women who serve in our nation's military. The State of Hawaii and its citizens play an instrumental role in advancing U.S. national security presence throughout the Pacific region. As a representative from Hawaii PATSY recognized the important military function in her state, and promoted the welfare of our troops and their families.

As members of the House pay tribute to the legacy of this stateswoman, we should also take a moment to thank PATSY's staff in Washington and in Hawaii for their hard work and dedication. Because PATSY's office neighbors mine in the Rayburn building, I have seen her staff members burning the midnight oil on more than one occasion. With several time zones between Washington and Hawaii, they have often worked long hours to get the job done.

Mr. Speaker, Congresswoman PATSY MINK was a remarkable person who always stood for what she believed. She was a strong, brave American who is a role model for women throughout the Nation. Most importantly, however, PATSY was a dear friend, and I will miss her. My wife Susie and I offer our condolences to PATSY's husband, John, and to their daughter Wendy.

Mr. DAVIS of Illinois, Mr. Speaker, for those who knew her, PATSY MINK was a tiny woman physically. But don't let appearances fool you—PATSY MINK was a giant. This Nation has lost a great public servant and a true crusader for social justice. For 74 years, every time she came to a door that was slammed tightly closed—for no good reason—she used those tiny feet of hers to kick it open—and to let others follow behind her.

And those who benefited from her tenacity have not forgotten PATSY MINK's pioneering steps. The National Organization for Women, in its tribute to Representative MINK, wrote "Girls and women . . . lost one of their most valiant and steadfast champions. Every woman today who is enjoying the fruits of her education and job opportunities, and every girl who has a chance to play sports in school, owes a nod of thanks to MINK who unremittingly and dauntlessly challenged old stereotypes about 'women's place' and helped engineer the steady progress for women over the last four decades—parallel to MINK's career in politics."

PATSY MINK was born in Maui, Hawaii, in December 1927, and began her political career when she ran for and won the election for student body president during her junior year in high school—she was the first girl to run. She later went on to graduate as the class valedictorian of Maui High School—but her academic achievement became less important than her race and sex when she set off to college. She attended Wilson College, in Chambersburg, Pennsylvania, and then the University of Nebraska, where she faced segregated student housing. PATSY MINK worked with others to end this discriminatory policy. She returned to finish her studies in chemistry and zoology from the University of Hawaii in 1948, with full intentions of attending medical school. However, 20 medical schools rejected her—obviously, it was not because of her grades, but because they would not accept women.

She then decided to go to law school, and graduated with her J.D. degree in 1951 from the University of Chicago. Ironically enough, she was accepted into the school because they hadn't realized that Hawaii was an American territory at the time, and she was accepted as a foreign student!

Armed with her law degree, PATSY MINK returned to Hawaii and became the first Asian American woman to practice law, the first Asian American woman elected to the Territorial House of Representatives, and then the first Asian American woman to serve in the U.S. House of Representatives. For 24 years over two different periods she served in this body, and was re-elected two years ago by two-to-one margin. Incidentally, when she arrived in Congress, she wasn't allowed in the House gym because it was a male-only venue.

As a champion for civil rights, family rights, education, civil liberties, and equal rights and opportunities, Rep. MINK will be remembered for many things. She wrote the Women's Educational Equity Act, sponsored the first Early Childhood Education Act, and was a passionate advocate for poor families, supporting measures to provide education and skills to assist families. However, her most crowning achievement was Title IX of the Education Amendments of 1972 to the Civil Rights Act of 1964. By prohibiting schools that receive Federal funding from discriminating because of sex, Title IX has singularly been credited with changing the face of education and sports for American women—and opening up many of those closed doors. There are many who believe we would not have seen such a rise in women's athletics were it not for Title IX.

Rep MINK said of Title IX: "It's rare as a legislator that you fight for legislation you believe in and stay around or live long enough to see it come to fruition . . . To be frank, I thought this was great, a beginning statement of policy and intent. At the moment we were doing it, we didn't think it would have this fantastic momentum and the enforcement of the courts."

I think The Honolulu Advertiser summed it up right when it said: "In a day when politics appears driven by polls and focus groups, MINK stood out as a politician who was true, first and foremost, to herself and the people she served."

I will truly miss working with PATSY MINK, but I am honored to have served with her. She set the standard for public servants, and leaves some very big shoes to fill.

Mr. RAHALL. Mr. Speaker, I rise today to pay tribute to a treasured colleague, Congresswoman PATSY MINK, whom has passed. I would also like to extend my heartfelt sympathy to her family and to her staff.

Congresswoman MINK leaves this Earth as a great leader of her community, a dynamic Member of Congress and as a strong woman. Most importantly, she leaves a legacy of work that will continue on after her passing. PATSY MINK spent a life in public service working to improve the lives of her constituents, her beloved state of Hawaii, the environment, the rights of minority communities and the equality of women. She broke barriers. She opened doors of opportunity. She gave a voice to causes and people once silenced in political arenas.

Congresswoman MINK's life was a series of firsts. She was the first female student body president at Maui High School where she went on to become the class valedictorian months later. She was the first Asian-American woman to practice law in Hawaii and the first to be elected to the Territorial House. And Congresswoman MINK was the first woman of color to be elected to the United States House of Representatives.

One of Congresswoman MINK's most important legislative victories opened the doors of collegiate sports to women. She coauthored the trailblazing Title IX of the Higher Education Act Amendments in 1972 which prohibited gender discrimination by educational institutions receiving federal funds. Thirty years after the passage of this remarkable legislation we can look back at a great legacy of American women's athletics and forward to its future; a future made possible by a Congresswoman's desire to see that women be treated equally on the playing field.

I join with my colleagues in Congress mourning the passing Congresswoman PATSY MINK—a trailblazing political leader, a champion of civil rights, a strong woman and a great friend whom will be missed.

Mr. REYES. Mr. Speaker, this House, the State of Hawaii, and the nation lost a powerful figure on Saturday. Sadly, our colleague, Congresswoman PATSY MINK, passed away in her home state of Hawaii. My condolences, thoughts and prayers are with her family and friends.

PATSY spent more than four decades advancing civil rights, expanding educational and health care opportunities, and combating poverty. Her particular efforts in promoting women's rights and equality have helped change the face of this country for the better. My daughters, and my granddaughter, have had and will have greater opportunities to achieve their dreams in this great country, thanks in part to the efforts of PATSY MINK.

Earlier this year, PATSY played a key role in a joint retreat of Members of the Congressional Black, Hispanic and Asian-Pacific Caucuses, contributing her enthusiasm to strengthening bridges that unite Americans of different backgrounds. As the current Chair of the Congressional Hispanic Caucus, it has been a pleasure and inspiration to work with her on important issues such as providing assistance to low income families and protecting immigrants' rights.

Witnessing the energy PATSY brought to her work this year never would have led me to believe I would have to bid her farewell so soon. A woman of her stature, experience, expertise and dedication will be impossible to replace. PATSY MINK will be sorely missed.

Mr. BACA. Mr. Speaker, I would like to pay tribute to PATSY T. MINK a very special individual to me and to the entire 107th Congress. She was truly a beloved woman.

Born December 6, 1927, PATSY was destined for greatness. She made history as the first Asian Pacific American woman admitted the bar of Hawaii, the first Asian Pacific American woman elected to state office in Hawaii, and in 1964 became the first woman of color to be elected to the United States House of Representatives. Furthermore, her vision to change the status quo and better the livelihood of all Americans led her to sponsor Title IX of the Education Act of 1972, paving the way for every woman athlete in America.

PATSY represented her constituents of the 2nd Congressional District of Hawaii, to the fullest of her ability. Before being elected to Congress she served in both Hawaii State House of Representatives and Senate. With more than 40 years in the political arena she possessed a wealth of knowledge that poised her as one of the most revered Members of Congress. She dedicated her life to serving her fellow Hawaiians through diligently working on legislation that addressed education, health, women and veteran issues. She was a beloved community figure whose passionate voice spoke for every person regardless of race or gender.

PATSY is survived by her husband John and daughter Wendy. My prayers and condolences are with her family and friends as they have lost a great, loving, and kind woman. She will be greatly missed.

And so Mr. Speaker, I submit this loving memorial to be included in the archives of the history of this great nation, for women like PATSY T. MINK are unique in their generous contributions to this country.

Mr. PAYNE. Mr. Speaker, I join with my colleagues in expressing profound sorrow over the loss this weekend of our esteemed colleague, Congresswoman PATSY MINK of Hawaii. While her passing saddens me immensely, I find myself reflecting this evening not so much on the loss of a respected colleague and dear friend but rather on the remarkable life of PATSY MINK, one of the most courageous and inspiring women I have ever known.

I had the great privilege of serving on the Committee on Education and the Workforce with Congresswoman MINK, whose political journey began in 1956 in the U.S. territory of Hawaii, where she was elected to the Territorial House of Representatives. She had originally intended to become a medical doctor, but in 1948 few opportunities existed for women wishing to pursue a career in medicine. PATSY MINK applied to twenty medical schools, and was rejected by all of them—not because of her academic record, which was highly commendable, but rather because of her gender. She did not abandon her dream of a challenging and meaningful career, however, she simply shifted her focus. She decided to pursue a career in law instead, and was accepted by the University of Chicago School of Law. Upon finishing her legal education in Chicago, she returned to Hawaii, where she became the first Asian American woman to practice law in the territory. In 1965, PATSY MINK became the first woman of color elected to the U.S. House of Representatives. She would go on to serve twelve two year terms in Congress. During her time in office, Congresswoman MINK fought tirelessly for those issues she cared about so passionately: the environment, poverty, civil rights and, most notably, education and equality for women. In fact, she was a pioneer in the struggle for the equitable treatment of women in education, authoring the Women's Educational Equity Act. Additionally, Congresswoman MINK worked to increase funding for research on diseases primarily affecting women and to expand opportunities for women to become physicians. Unquestionably, however, her greatest accomplishment came with the passage of Title IX of the federal education act in 1972, which she co-authored. Congresswoman MINK played an instrumental role in the passage of this groundbreaking legislation, which prohibits gender discrimination by federally funded institutions. This law has become the vehicle by which girls and women have achieved greater opportunities in the professions and, most notably, athletics.

I know that I am not alone when I say that I will sorely miss the extraordinary PATSY MINK, an admirable woman who bravely challenged the status quo—tirelessly fighting for progressive legislation which has transformed not only her home state of Hawaii but also the entire nation.

Mr. CUMMINGS. Mr. Speaker, I rise today in honor of the passing of one of our own—Representative PATSY MINK was in the truest sense a leader by example, and she will be missed.

PATSY's life is a remarkable story of achievement and bravery, of fighting for what she believed in, and—at the end of the day—of incredible success in improving the lives of Hawaiians and all Americans.

I think that to understand PATSY's determination to make the United States a nation of equal opportunity is to understand her personal history. PATSY created opportunity for herself, and in her success, she has helped make opportunity for all Americans less elusive.

PATSY TAKEMATO was born to poor parents on a sugar plantation on the island of Maui in Hawaii. An excellent student, she was elected president of her high school class and, after graduation, attended the University of Hawaii. PATSY then enrolled in the prestigious University of Chicago School of Law. With her law degree, she returned to Hawaii and became the first Japanese-American woman to hold a law license in the state's history. As she was her entire life, PATSY remained unfazed by doing what had not been done before—with the bravado and grace that, as her colleagues, we all know well.

After election to the Hawaii Territorial Legislature in 1956, and the Hawaii State Senate in 1958, Ms. MINK was elected to the House of Representatives in 1965. Since then, she has championed causes that mattered to her with a rare sense of determination.

I have long marveled at PATSY's ability to get things done. She was a powerful advocate for the equal rights and fair treatment of American women—among her many achievements in this arena, she was a leading sponsor of Title IX funding that ensured that women's sports were supported at equal levels as those of men. She was an eloquent voice of caution during the unfolding debacle of Vietnam. She was an ardent supporter of civil rights. She was, in her later terms, one of the truly wise voices of this body.

Mr. Speaker, I believe I speak for all of us when I say that I am a better legislator and this is a better institution because of PATSY MINK. And I know I speak for women, minorities, and all disadvantaged communities in America when I say that this is a better nation because of the service of Congresswoman MINK.

I would like to take this opportunity to send my condolences to the entire Mink family, and to all of the people who have shared in sustaining this loss.

Ms. SLAUGHTER. Mr. Speaker, I rise today to honor my friend and colleague, Congresswoman PATSY TAKEMOTO MINK, beloved representative from the State of Hawaii for over 24 years, who passed away last week at age 74. She is survived by her husband John Mink, and their daughter, Gwendolyn, and I extend my deepest and most heartfelt condolences to them on their loss.

Congresswoman MINK has had a distinguished and extraordinary career, both in the private sector and public service. After serving the Hawaii state legislature, she was first elected to the House of Representatives in 1965, and was the first minority woman to serve in the U.S. Congress. However, this was not the first barrier she broke through. Congresswoman MINK earned a law degree at the University of Chicago in 1951, and subsequently was the first Japanese-American woman attorney in Hawaii.

Her frustration at her inability to find employment due to her gender led to her first involvement in politics. According to The Honolulu

Advertiser, Congresswoman MINK recalled that "I didn't start off wanting to be in politics—I wanted to be a learned professional, serving the community. But they weren't hiring women just then. Not being able to get a job from anybody changed things."

Her early first-hand experience with these issues led to her vocal championing of legislative responses to the problem—most notably the landmark Women's Educational Equality Act, otherwise known as Title IX, which was passed 30 years ago and mandates gender equality in any education program or activity receiving federal financial assistance. In the years since, the athletic scholarship money available to women has increased from $100,000 in 1972 to $197 million in 1997. However, Title IX also has a significant impact in the fight for parity in academic fields. One of the most important areas to reach parity in is math and science education and access to technology and technological training. These areas hold the key to achievement and employment for women now and in the future. The gains we have made in each of these areas could not have been possible without her principled leadership.

Another issue on which Congresswoman MINK led was opposition to the Vietnam War. After being elected in the fall of 1964, she was one of Congress' most vocal opponents of the prolonged military campaign. Indeed, she and fellow member Representative Bella Abzug of New York flew to Paris to talk to participants in the Vietnam War Peace Talks. Although this position brought her scathing criticism from many sources, including her own constituents, she always did what she felt was right, even in the face of namecalling, as she was labeled "Patsy Pink".

After leaving the House to pursue other political opportunities in the 70's, she returned to the House in 1990. Since then, she has continued to be a vocal leader for progressive causes, most recently as the lead sponsor of vital legislation on welfare reform. This legislation would have expanded educational opportunities for women struggling to leave government assistance, and provided ample funding for child care. Her commitment to the needs of women and children could never be questioned. Indeed, in lieu of flowers, her family has asked that donations be made to the Patsy Takemoto Mink Education Fund for Low-Income Women and Children, which will be established in her honor. What a fitting tribute to her work.

I am proud to have served with such a remarkable woman. Congresswoman MINK will be greatly missed both in this chamber and in her home state. I thank the Speaker.

Mr. ROEMER. Mr. Speaker, I rise to express my heartfelt condolences to the family of the late Congresswoman PATSY MINK, including her husband John and daughter Wendy, and the people of Hawaii's Second Congressional District who share our recent loss.

PATSY MINK was a dedicated public servant and an inspiring example of the great strides minority women have achieved in our society. She was a fierce and courageous advocate for women's rights and whose powerful voice during political rallies and congressional debate belied her petite frame.

I am very proud of my 12 years together with her on the Education and Labor Committee. I always admired her compassion, insight, and extensive knowledge of each matter considered before our committee. My colleagues and I will miss her presence on the dais, but her spirit will live on in the memory of her enduring contributions to her priorities in education, women's rights, housing and health care.

I believe PATSY's greatest accomplishment was the addition of Title IX to the Education Act, which she helped write in 1972. This landmark measure has a proven track record for increasing scholarships for women and promoting equality in athletics. Her contributions positively impacted the lives of tens of thousands of young American women. Without her leadership, the Women's National Basketball Association, women's soccer and other athletic endeavors for women would not be flourishing as they do today. The Women's Educational Equity Act and Native Hawaiian Education Act were also directly shaped by PATSY's vision of equality and opportunity.

I will always remember PATSY's friendship, collegiality and generosity, particularly several boxes of chocolate macadamia nuts from her native Hawaii that my family and I have enjoyed so much over the years! My thoughts and prayers remain with her family and constituents as we remember PATSY MINK's contributions to Congress and public service in America.

The SPEAKER pro tempore (Mr. GRUCCI). Pursuant to the request of the gentleman from Hawaii, the Chair requests that all Members stand to observe a moment of silence in memory of the late Honorable PATSY T. MINK, a Representative from the great State of Hawaii.

Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REREFERRAL OF H.R. 5498 TO COMMITTEE ON RESOURCES

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that the bill, H.R. 5498, be rereferred to the Committee on Resources.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings this evening on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken tomorrow.

REMOTE SENSING APPLICATIONS ACT OF 2002

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2426) to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Remote Sensing Applications Act of 2002".

SEC. 2. FINDINGS.

The Congress finds that—

(1) although urban land use planning, growth management, and other functions of State, local, regional, and tribal agencies are rightfully within their jurisdiction, the Federal Government can and should play an important role in the development and demonstration of innovative techniques to improve comprehensive land use planning and growth management;

(2) the United States is making a major investment in acquiring remote sensing and other geospatial information from both governmental and commercial sources;

(3) while much of the data is being acquired for scientific and national security purposes, it also can have important applications to help meet societal goals;

(4) it has already been demonstrated that Landsat data and other earth observation data can be of enormous assistance to Federal, State, local, regional, and tribal agencies for urban land use planning, coastal zone management, natural and cultural resource management, and disaster monitoring;

(5) remote sensing, coupled with the emergence of geographic information systems and satellite-based positioning information, offers the capability of developing important new applications of integrated sets of geospatial information to address societal needs;

(6) the full range of applications of remote sensing and other forms of geospatial information to meeting public sector requirements has not been adequately explored or exploited;

(7) the Land Remote Sensing Policy Act of 1992, Presidential Decision Directive 23 of 1994, and the Commercial Space Act of 1998 all support and promote the development of United States commercial remote sensing capabilities;

(8) many State, local, regional, tribal, and Federal agencies are unaware of the utility of remote sensing and other geospatial information for meeting their needs, even when research has demonstrated the potential applications of that information;

(9) remote sensing and other geospatial information can be particularly useful to State, local, regional, and tribal agencies in the area of urban planning, especially in their efforts to plan for and manage the impacts of growth, development, and sprawl, as well as in environmental impact and disaster relief planning and management;

(10) the National Aeronautics and Space Administration, in coordination with other agencies, can play a unique role in demonstrating how data acquired for scientific purposes, when combined with other data sources and processing capabilities, can be

applied to assist State, local, regional, and tribal agencies and the private sector in decisionmaking in such areas as agriculture, weather forecasting, and forest management; and

(11) in addition, the National Aeronautics and Space Administration, in conjunction with other agencies, can play a unique role in stimulating the development of the remote sensing and other geospatial information sector through pilot projects to demonstrate the value of integrating governmental and commercial remote sensing data with geographic information systems and satellite-based positioning data to provide useful applications products.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "geospatial information" means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or spaceborne platforms or other types and sources of data; and

(3) the term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 4. PILOT PROJECTS TO ENCOURAGE PUBLIC SECTOR APPLICATIONS.

(a) In General.—The Administrator shall establish a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs.

(b) Preferred Projects.—In awarding grants under this section, the Administrator shall give preference to projects that—

(1) make use of existing public or commercial data sets;

(2) integrate multiple sources of geospatial information, such as geographic information system data, satellite-provided positioning data, and remotely sensed data, in innovative ways;

(3) include funds or in-kind contributions from non-Federal sources;

(4) involve the participation of commercial entities that process raw or lightly processed data, often merging that data with other geospatial information, to create data products that have significant value added to the original data; and

(5) taken together demonstrate as diverse a set of public sector applications as possible.

(c) Opportunities.—In carrying out this section, the Administrator shall seek opportunities to assist—

(1) in the development of commercial applications potentially available from the remote sensing industry; and

(2) State, local, regional, and tribal agencies in applying remote sensing and other geospatial information technologies for growth management.

(d) Duration.—Assistance for a pilot project under subsection (a) shall be provided for a period not to exceed 3 years.

(e) Report.—Each recipient of a grant under subsection (a) shall transmit a report to the Administrator on the results of the pilot project within 180 days of the completion of that project.

(f) Workshop.—Each recipient of a grant under subsection (a) shall, not later than 180 days after the completion of the pilot project, conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

(g) Regulations.—The Administrator shall issue regulations establishing application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops required by this section.

SEC. 5. PROGRAM EVALUATION.

(a) Advisory Committee.—The Administrator shall establish an advisory committee, consisting of individuals with appropriate expertise in State, local, regional, and tribal agencies, the university research community, and the remote sensing and other geospatial information industry, to monitor the program established under section 4. The advisory committee shall consult with the Federal Geographic Data Committee and other appropriate industry representatives and organizations. Notwithstanding section 14 of the Federal Advisory Committee Act, the advisory committee established under this subsection shall remain in effect until the termination of the program under section 4.

(b) Effectiveness Evaluation.—Not later than December 31, 2006, the Administrator shall transmit to the Congress an evaluation of the effectiveness of the program established under section 4 in exploring and promoting the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs. Such evaluation shall have been conducted by an independent entity.

SEC. 6. DATA AVAILABILITY.

The Administrator shall ensure that the results of each of the pilot projects completed under section 4 shall be retrievable through an electronic, Internet-accessible database.

SEC. 7. EDUCATION.

The Administrator shall establish an educational outreach program to increase awareness at institutions of higher education and State, local, regional, and tribal agencies of the potential applications of remote sensing and other geospatial information.

SEC. 8. COST SENSITIVITY STUDY.

The Administrator shall conduct a study of the effect of remote sensing imagery costs on potential State, local, regional, and tribal agency applications. The study shall identify applications that are likely to be most affected by reductions in the cost of remote sensing imagery. Not later than 2 years after the date of the enactment of this Act, the Administrator shall transmit to the Congress the results of the study conducted under this section.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator $15,000,000 for each of the fiscal years 2003 through 2007 to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 2426.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

First of all, I congratulate the gentleman from Colorado (Mr. UDALL) for having this bill come to the floor and the hard work that he has put into this bill. He has been a tremendous inspiration to us in working for high technology and a great environment at the same time. This bill, I think, exemplifies that type of attitude and commitment. So I congratulate him first and foremost for the great work he has done that has manifested itself in this bill.

I support H.R. 2426, the Remote Sensing Applications Act of 2002. This bill provides incentives to make federally funded remote sensing data accessible and useful to address current needs in local communities. This has been a great concern of mine for several years. Since getting to Congress, I have always talked about getting down-to-earth benefits for the taxpayer from satellite data. So I am very pleased to support this legislation that will result in benefits for a broad range of users.

This bill establishes a pilot program to enable the development of creative ideas for applying remote sensing toward societal needs. These applications will benefit all who depend on or work in the areas of agriculture, urban planning, environmental management, weather forecasting, resource management and disaster relief, just to name a few. I would suggest that perhaps we could add to that list, and I hope with his leadership to work with him on this, see a way that we can use satellite sensing to help discover sources of pollution in the ocean which plague the coastal areas of California where I happen to represent.

I have always strongly supported the use of satellite remote sensing data to address current problems in our society, with tangible benefits, of course, to the taxpayers who are paying for these satellites in the first place.

This bill is not another big government program with no end, however. Yes, we are providing a service, but instead we are doing so in a very responsible way. Instead, it is a limited 3-year pilot program to jump-start projects that will benefit thousands, maybe millions of citizens. These projects will be competitively selected with preference given to those that partner with non-Federal sources of support. These projects will be evaluated for their effectiveness with the results made available to everyone through the Internet. Successful ideas will spur private industry to develop more and more useful applications for remote sensing with direct benefits, of course, to the citizens of the United States and to the world.

I urge my colleagues to support H.R. 2426 as a remarkably forward-thinking piece of legislation. Again, I would like to mention to the gentleman from Colorado (Mr. UDALL), I know that there was an older Udall that was here when I first came here. This is a bill in keeping with that fine tradition that he left in this body.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the author of this legislation, I obviously support passage of the bill. I want to thank the gentleman from California (Mr. ROHRABACHER) for his kind words and also his support. I also wanted to thank the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science, and the gentleman from Texas (Mr. HALL), the ranking member, for making it possible for the House to consider the bill today.

I introduced the Remote Sensing Applications Act in June 2001 to address a real problem we have in Colorado, the problem of excess growth and sprawl. My goal was to point to a way to utilize the resources of the Federal Government to help foster wise community planning and management at the local level. As a member of the House Committee on Science and the Subcommittee on Space and Aeronautics, it made sense to me to look for ways to help communities grow in a smarter way through the use of technology.

One new space-age tool, and the gentleman from California was talking about it, is the use of satellites to provide images of the Earth's surface. We now have the technology, using geospatial data from satellites, that can produce very accurate maps that show information about vegetation, wildlife habitat, flood plains, transportation corridors, soil types and many other things. By giving State and local governments and communities greater access to geospatial data from commercial sources and Federal agencies such as NASA, I believe that the Federal Government can help bring valuable and powerful informational planning resources to the table.

H.R. 2426 would facilitate this transfer of information. The bill would establish in NASA a program of grants for competitively awarded pilot projects. The purpose of the grants would be to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional and tribal agency needs. This legislation would build on and complement an applications program that NASA's Office of Earth Science announced last year.

State and local governments and communities can use this geospatial data in a wide variety of applications, in such areas as urban land use planning, coastal zone management and erosion control, transportation corridors, environmental planning, and agricultural and forest management.

One potential application that has garnered much attention since the tragic events of last September 11 is the use of geospatial technology to bolster our homeland security.

□ 2145

Emergency management has always been an important responsibility of State and local governments; but in the aftermath of the terrorist attacks, the scope of this responsibility has broadened. Geospatial technology can help States and localities identify the location, nature, and scope of potential vulnerabilities and the impact of potential hazards, as well as how to respond to events and recover from them.

Certainly, it is important that we continue to add to our database of available geospatial information. More information is always better than less, but we have to also make sure that we have maximum use of the information that we already have at hand, and that is the need that this bill would address.

State and local officials are becoming more familiar with the uses of geospatial technology for various planning purposes. However, there is a need for Federal agencies such as NASA, which has been pioneering the use of satellite remote sensing technologies, to work with State and local organizations to demonstrate how remote sensing and other geospatial data can offer a cost-effective planning and assessment tool.

I am pleased that there is broad bipartisan cosponsorship of the bill and that it has earned the endorsement of a number of important national organizations. The supporters of H.R. 2426 understand the importance of targeting geospatial information at the places where it will have the greatest impact, that being local and regional levels. This act can help begin to bridge the gap between established and emerging technology solutions and the problems and challenges that State and local communities face regarding growth management, homeland security, forest fire management, and other issues.

Mr. Speaker, I believe this bill will be welcomed by States and localities nationwide, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, my compliments to my colleagues, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Colorado (Mr. UDALL), on moving this ahead. My colleagues talk very calmly about what can be a useful tool in so many areas. From my experiences in agriculture, I have learned that we now have the remote sensing capability that we are really not using to predict insect infestation, to predict how the yields are going to accommodate the demand for food in this world. So with useful information of satellites and assisted land set help from the U.S. Department of Agriculture and our university of systems, so many things that we can do to make sure that we can plan ahead for such things as drought or insects or low production in certain parts of the world so we can accommodate increased production in other areas.

So I commend my colleagues for moving this bill ahead; I hope we will pass and, more than that, I hope we will eventually have the kind of funding so that we can maximize the use of these tools and techniques.

Mr. UDALL of Colorado. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I have no other speakers. I would just close by again congratulating my colleague, the gentleman from Colorado (Mr. UDALL); and I would like to thank him for the many hours of hard work he has put in to getting the bill to the floor like this. In this Congress, during this wartime has not been an easy thing. He has put in a lot of time and effort, and he is to be commended for it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 2426, the Remote Sensing Applications Act. This good common sense legislation will not cost much, but will enable us to extract huge benefits from programs that already exist.

Geospatial satellite data is expensive. Usually when groups present in the Science Committee with communications or surveillance needs, we immediately start talking about hundreds of millions, or even billions of dollars in potential funding. However, once those satellites are successfully deployed, the data they collect and transmit back is invaluable. It just makes sense that we milk every bit of useful information out of that data, and get it to the American people who pay for it. H.R. 2426 will do just that.

The National Aeronautics and Space Administration is the world leader in space and satellite technology, and commercial space entities in the U.S. are driving an exciting and growing international sector of space-based industry. From the networks of satellites produced by these groups stream a wealth of data, that needs to be put to work. Countless groups are already lining up to start taking advantage of it. For example, the American Planning Association endorses the Remote Sensing Applications Act, because it will enable them to visualize changes in patterns of urban development, and to plan emergency procedures accordingly. Environmental groups and ecologists are excited because they may be able to access the best images available to follow changes in our coastlines and our forests. The U.S. Chamber of Commerce supports this bill, because possibilities for the commercial use of geospatial data are nearly limitless. Legislation like this will most-likely lead to a new generation of consumer products—maps, weather information, land-management systems, et cetera—that will improve the lives of Americans.

H.R. 2426 will bring about these great changes by establishing a program of grants to fund pilot projects meant to bridge the gap between remote sensing technology, and the needs of the public. Project-proposals would be reviewed and funded on a competitive basis. To ensure that the pilot projects would be fruitful, the Administrator would give preference to projects that make use of existing data sets, integrate data in innovative ways, involve collaborations with and contributions from non-federal sources, and demonstrate good potential for future public sector applications. I have long felt that collaborations with NASA could be of great use in increasing homeland security by improving our nation's cyber- and satellite-security. In that same spirit, H.R. 2426 takes advantage of the great technology and expertise at NASA, and uses it to the betterment of the nation.

The bill would authorize $15 million for each of fiscal years 2002 through 2006. This is a bargain considering the potential benefits of the program. I strongly support H.R. 2426, The Remote Sensing Application Act.

Mr. BOEHLERT. Mr. Speaker, I submit the following correspondence:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC September 30, 2002.

The Hon. J. DENNIS HASTERT,
Office of the Speaker, House of Representatives, Washington, DC.

DEAR SPEAKER HASTERT: I am writing to inform you that the Committee on Science has discharged from further consideration H.R. 2426, the "Remote Sensing Applications Act of 2002." H.R. 2426 was referred to this Committee on June 28, 2001.

Sincerely,
SHERWOOD L. BOEHLERT,
Chairman.

Mr. ROHRABACHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRUCCI). The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and pass the bill, H.R. 2426, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CHARLES "PETE" CONRAD ASTRONOMY AWARDS ACT

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5303) to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories, as amended.

The Clerk read as follows:

H.R. 5303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charles 'Pete' Conrad Astronomy Awards Act".

SEC. 2. PETE CONRAD ASTRONOMY AWARD PROGRAM.

(a) PROGRAM AUTHORIZED.—The Administrator of the National Aeronautics and Space Administration (hereafter referred to as the "Administrator") is authorized to establish the Charles "Pete" Conrad Astronomy Awards Program. The Administrator is authorized to contract with the Minor Planet Center of the Smithsonian Astrophysical Observatory (hereafter referred to as the "Minor Planet Center") to administer the program.

(b) PURPOSE.—The purpose of the program authorized by subsection (a) shall be to award outstanding amateur astronomers who make asteroid discoveries and to augment asteroid discovery efforts by the Government.

(c) AWARD CATEGORIES.—The award program authorized under subsection (a) shall consist of 3 categories of awards as follows:

(1) FIRST CATEGORY.—An award in the first category shall be presented annually to the amateur astronomer who, using amateur equipment only, discovers the largest absolute magnitude new asteroid having a near-Earth orbit during the preceding calendar year.

(2) SECOND CATEGORY.—An award in the second category shall be presented annually to an amateur astronomer for pre-discovery and recovery efforts, including—

(A) the discovery of asteroids by an amateur as a result of information produced by professional telescopes or as a result of the amateur's use of time on professional equipment; and

(B) efforts to locate newly discovered asteroids using old images and already discovered near-Earth orbit asteroids that have been "lost".

(3) THIRD CATEGORY.—An award in the third category shall be presented annually to the amateur astronomer, or professional not funded for optical astronomy, who provides the greatest service to update the minor planet catalogue. Eligible discoveries may be made by visual, photographic, or electronic means.

(d) GUIDELINES FOR AWARDING PRIZES.—General guidelines for the awarding of prizes are as follows:

(1) Prizes shall be awarded to the person or group with the greatest contributions as determined by the Minor Planet Center for the second and third categories.

(2) The award in the first category shall not be presented for years in which there are no eligible asteroid discoveries.

(3) All awards are reserved for United States citizens.

(4) The decisions of the Minor Planet Center in administering the award program are final.

(e) ELIGIBILITY.—Individuals are eligible to apply for the awards authorized under this section if the following conditions are satisfied:

(1) All applicants must demonstrate that they are not funded to use professional telescopes or observations and are acting solely in an amateur capacity.

(2) Government and professional astronomers associated with the near-Earth orbit asteroid project, as well as members of their immediate families, are not eligible for the awards.

(f) REGULATIONS.—The Administrator or the Minor Planet Center may prescribe such regulations as may be necessary to implement the program authorized by this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000 for each of fiscal years 2003 and 2004 to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5303.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of my top priorities as chairman of the Subcommittee on Space and Aeronautics has been addressing the threat posed by near-Earth objects, or NEOs. Our subcommittee will, in fact, hold a second hearing on this subject this Thursday. In our first hearing, we heard disturbing testimony about the potential for a close encounter or a collision between Earth and one of these objects that are meandering around space.

Mr. Speaker, three times this year alone, two astroids came close enough to the Earth to pass within the distance between the Moon and the Earth, and the other passed at a slightly greater distance. In astronomical terms, they missed our planet by a hair.

Given the vast number of astroids and comets that inhabit our Earth neighborhood, a greater effort for tracking and monitoring these objects is critical. This is why I rise in support of H.R. 5303, the Charles "Pete" Conrad Astronomy Awards Act.

This bill is intended to encourage amateur astronomers to discover new and track previously identified large astroids, particularly those that threaten a close approach to the Earth. The bill establishes an award for outstanding amateur astronomers who make astroid discoveries.

The act contains three categories of awards to be presented annually. The first category awards amateur astronomers who discover the largest new astroid having a near-Earth orbit. The second category awards amateur astronomers for discovery of astroids using the information derived from professional sources and locating newly discovered astroids. And the third category awards those who provide the greatest service to update the Minor

Planet Center's catalog of known astroids. The funds for the annual awards shall be $2,000 per category.

This bill is a tribute to Pete Conrad for his tremendous contributions to aerospace and to his country over the last 4 decades. Pete Conrad was a pilot, explorer, and entrepreneur of the highest caliber. He commanded Apollo 12 and, during that mission, became the third man to walk on the Moon. He saw space as a place to get to, to explore, and to do business. Space exploration and commercialization is what he did. It was his job to explore the Moon. He then worked to develop new spacecraft and space transportation systems.

I might add that later in his career he lived in my congressional district and had a business in my congressional district, a space-related business of managing satellites. An interesting aside to this is that, as we are naming this bill after Pete Conrad and we are trying to encourage young astronomers, one aside of this is that a recent analysis of an orbiting object which was identified by an amateur astronomer suggests that this object, which no one could figure out what it was, they thought it might be some near-Earth object or an astroid or a comet, but it turns out that it probably is the remains of a Saturn 5 third-stage rocket, and it is most likely that this near-Earth object that has just been discovered by an amateur astronomer was part of Pete Conrad's Apollo mission. So this is a slight bit of irony as we discuss this issue today.

I find no better way to honor Pete Conrad than to establish an annual astronomer's award for the future astroid discoveries in his name. He always wanted people to be looking up with a positive can-do American spirit. This was, perhaps, exemplified by his historic description upon landing on the Moon, and Pete's description, of course, was "whoopee."

Pete was a fun-loving man who did serious things. I remember having many discussions with him because he was a constituent and he came to my office discussing new ideas; and every time we would come up with an idea, he would go "super," and that is the kind of man Pete Conrad was. Of course, he was a man filled with energy, but everybody also knew the serious nature of the work that he was in. There is a serious threat of an astroid causing great damage, if it would hit the Earth; and this is, of course, a very serious matter.

The idea of a catastrophic astroid or comet impacting on the Earth has, of course, caught the attention of Hollywood and the mass media in the past. Nevertheless, it is vital for all of us to realize that this is not science fiction that we are talking about. The Earth's moon and many other planetary bodies in our solar system are covered with impact craters. Most people have heard, of course, of the "dinosaur extinction" theory, or perhaps have seen pictures of the meteor crater in Arizona; and I remember as a young boy being taken to that meteor crater in Arizona. But however remote is the possibility of a near-Earth object striking the Earth and causing a worldwide calamity, it may be remote; but the threat is real, nonetheless.

In a hearing that we had, it was described as perhaps you have no greater chance of being killed by a comet or an astroid than getting a straight flush in Las Vegas. I remember after the witness said that, I remembered that I had gotten a straight flush in Las Vegas, a royal straight flush. And oh, my gosh. So we have to take this very seriously.

So this is no fantasy. We have to look at this as a potential threat, put it in perspective, and move forward. This bill does precisely that, and it is a first good step in cataloging these potential dangers. Indeed, the near-Earth object issue has given the topic of planetary defense a serious tone within many quarters of the space community. So far, NASA has surveyed 600 astroids, but this is but a fraction of the total number of astroids and objects in space. What needs to be done now is to fully understand the scope and the breadth of the near-Earth objects that may and could possibly hit the Earth and would be coming in our direction.

While the astroids that killed the dinosaurs is estimated to have happened perhaps 100 million years ago or more, and it may only happen that often; smaller, yet still incredibly hazardous, astroids impact happen much more frequently. For example, the destructive force of the 1908 astroid that hit in Siberia was roughly equal to a 10-megaton blast of TNT. An astroid hit South America in the 1930s; an astroid struck central Asia in the 1940s and, in 1996, satellites detected high-altitude bursts over Greenland involving an astroid which had the destructive force of 100 tons of TNT.

Ironically, if you look at an astroid from the perspective of our national goals in space, they also offer opportunities as well as dangers. In terms of pure science, astroids are geological time capsules from the era of when our solar system was formed. Even better, they are orbiting mines of metals, minerals, and other resources we can use to possibly build structures in space and carry things up or to and from Earth.

□ 2200

They are readily accessible compared to, for example, going to the moon or going to Mars, because the orbits of these asteroids may bring them closer to the Earth than the moon, and certainly than Mars.

In closing, asteroids deserve a lot more attention from the scientific community. The first step, however, is tracking all of the sizable near-Earth objects. That is what H.R. 5303 is all about. It is a modest step towards this goal.

I urge my colleagues to support this bill, and I urge them to remember Pete Conrad. A few years ago, Pete died in a motorcycle accident. That is it. The man who went to the moon, rode there on the top of a large rocket, died when his motorcycle hit a drainage ditch on a mountain road.

But Pete would want us to keep moving on. Pete would not want us to look back, and he would not want us to look down. He would always want us to keep looking up. That is what this bill is all about.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, rise in support of H.R. 5303, the Charles "Pete" Conrad Astronomy Awards Act.

The bill which was introduced by the gentleman from California (Chairman ROHRABACHER) is a bill, as he so eloquently outlined for us, that has two important purposes. By establishing an awards program, it recognizes the important role amateur astronomers can play in detecting potentially hazardous Earth-crossing asteroids, and it honors the memory of a genuine American hero, Apollo astronaut Charles "Pete" Conrad, who led the second expedition to land humans on the moon.

I have to tell my colleague, the gentleman from California, that I enjoyed hearing more about Pete Conrad. He was a true American hero, and he lived life to the fullest. I thank the gentleman for sharing some of those stories and insights into what made Pete Conrad the man that he was.

The Committee on Science has focused attention on the importance of detecting and cataloging Earth orbit-crossing asteroids for more than a decade. I venture to say that my colleague, the gentleman from California (Mr. ROHRABACHER), has led much of that work. I want to commend him for his attention to this important area.

The late Chairman George Brown held hearings on the topic early in the last decade, and Congress subsequently passed legislation directing NASA to establish a near-Earth object detection program. There is a growing scientific consensus that asteroid impacts have had profound effects on the history of our planet and may have helped lead to the demise of the dinosaurs.

I remember growing up in Arizona. In Arizona in the northern section is Meteor Crater. We were very familiar with that incredible event that led to a crater being created there that is over a mile wide, and quite an object to behold.

The gentleman mentioned later this week that the Subcommittee on Space and Aeronautics will be holding a hearing on near-Earth objects. At that hearing the subcommittee will receive an update on the nature of the potential threat posed by Earth orbit-crossing asteroids, as well as the status of the international efforts to detect them.

As noted in H.R. 5303, amateur astronauts can play a useful role in detecting asteroids, and their efforts should be recognized.

Mr. Speaker, the bill before us today is a constructive measure, and I want to commend the gentleman from California (Chairman ROHRABACHER) for his initiatives.

I urge my colleagues to suspend the rules and pass this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I would just say that this bill accomplishes a number of things that we have gone over today. I think perhaps the most important element of this legislation is that it is designed to try to enlist young people in America's space program in a very meaningful way. This bill will encourage young people, boys and girls in grade school and in scouting units and perhaps junior high schools and high schools and colleges, to actually go out and to look into the heavens and get to know about the intricacies and the stories and the forces at work in this vast area around this planet and around this universe and around our solar system.

It will, I believe, go a long way to encouraging young people who, let us say if we inspire them with this bill, they might make a lifetime of contributions. We may be encouraging a young lady or a young man who later on would become the Pete Conrad of the next generation, because he or she would be so excited in understanding that they had seen something in space that perhaps no one else had seen, and strive towards that type of accomplishment.

I think that that is one element of this legislation that we should not overlook. It is very futuristic-oriented, but there are some real positive benefits today, as well.

One last note about George Brown, who was the chairman of the Committee on Science while I was a junior member of the Committee on Science. Let me say that for George Brown, this was an area of his interest. I forgot about that until I was just reminded by my friend, the gentleman from Colorado. George Brown took a personal interest in this.

I will have the Members know that George Brown was one of the most admired men here in Congress. He was such a fine person, and his memory to this day, I am glad the gentleman brought it up here in remembering Pete, these were the kinds of Americans that really made this country. George Brown was really kind of a real liberal guy compared to my political area in the spectrum, and Pete, I guess, was a little more conservative, on the conservative side of the spectrum, although he was nonpolitical. He was just a real professional in that business.

But I would say that what we are talking about when we talk about developing technologies and taking America into the future and creating this type of a vision, it is something that can unite a country and a people and has served to unite us in the past.

I believe that America's space program has not gotten the attention it deserves in these last, I would say, 15 years. That was something that George Brown was fighting for when he was alive. That is what he really wanted to do, and I am sorry that he was not able to fully succeed in reenergizing America's space program; and I do not think we have, either. We are all working on it.

Perhaps if we can attract the younger generation by offering them a chance like this to actually participate and to find some things in space, we should go out of our way to make sure that we do that. That is what this bill does. I am sorry, maybe I should have named it the Pete Conrad and the George Brown bill, but we remember George tonight as we debate this, because I am sure he would be more than happy to be here tonight helping out, if he was alive and with us. I remember his passing, and I miss him very much.

So, Madam Speaker, I ask my fellow colleagues to support this legislation and to remember Pete Conrad and keep looking up, as we do.

Mr. BOEHLERT. Madam Speaker, I submitted the following correspondence:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC September 30,2002.

Hon. J. DENNIS HASTERT,
Speaker, Office of the Speaker, House of Representatives, Washington, DC.

DEAR SPEAKER HASTERT: I am writing to inform you that the Committee on Science has discharged from further consideration H.R. 5030, the "Charles 'Pete' Conrad Astronomy Awards Act." H.R. 5303 was referred to this Committee on July 26, 2002.

Sincerely,
SHERWOOD L. BOEHLERT,
Chairman.

Mr. UDALL of Colorado. Madam Speaker, I yield back the balance of my time.

Mr. ROHRABACHER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. HART). The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and pass the bill, H.R. 5303, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPRESSING SUPPORT FOR GOALS AND IDEAS OF DAY OF TRIBUTE TO ALL FIREFIGHTERS

Mr. SMITH of Michigan. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 476) expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the National Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

The Clerk read as follows:

H. CON. RES. 476

Whereas for over 350 years the Nation's firefighters have dedicated their lives to the safety of their fellow Americans;

Whereas throughout the Nation's history many firefighters have fallen in the line of duty, leaving behind family members and friends who have grieved their untimely losses;

Whereas these individuals served with pride and honor as volunteer and career firefighters;

Whereas until 1980 there was not a national tribute to honor these heroes for their acts of valor or a support system to help the families of these heroes rebuild their lives;

Whereas in 1992 Congress created the National Fallen Firefighters Foundation to lead a nationwide effort to remember the Nation's fallen firefighters through a variety of activities;

Whereas each year the National Fallen Firefighters Foundation hosts an annual memorial service to honor the memory of all firefighters who die in the line of duty and bring support and counseling to their families;

Whereas in 2002 the memorial service will take place the weekend of October 5 and 6;

Whereas 446 fallen firefighters, including firefighters from 34 States, will be honored in 2002; and

Whereas many of their family members are expected to attend the memorial service: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress supports the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizes the important mission of the National Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. SMITH) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of Michigan. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material in the RECORD on H. Con. Res. 476.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. SMITH of Michigan. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this important resolution that I cosponsored with my friend, the gentleman from Pennsylvania (Mr. WELDON), provides us with an opportunity to honor the commitment and bravery of those firefighters who gave their lives while in the line of duty during the year 2001. It also recognizes the important mission and contributions of the National Fallen Firefighters Foundation.

In 1992, Congress created the National Fallen Firefighters Foundation to lead a nationwide effort to remember our fallen heroes of these first responders. The Foundation has successfully met this challenge, providing a variety of supporting activities to surviving family members, including emotional support, awards, scholarships for surviving spouses and children, and the establishment of the national park in Emmitsburg, Maryland, to memorialize the fallen firefighters.

Madam Speaker, this Sunday the Foundation will honor 446 firefighters that lost their lives in the line of duty at an annual ceremony usually held in Emmitsburg, but this year held here in Washington. The Foundation is expecting over 20,000 people to attend this year's memorial weekend, a record number. Many of these people will be spouses and children of the 343 firefighters that perished September 11.

On that warm September morning in 2001, the firefighters of the New York City Fire Department reported to work as they did every day, ready to respond to whatever emergency situation might occur. But that morning was different. The 110-story World Trade Centers that were both literally and symbolically the center of world commerce were hit by two hijacked 747s.

The firefighters of the New York Fire Department received the most terrifying and overwhelming emergency call that this Nation has ever known. Still, they responded with true bravery, rushing into that burning building without hesitation. They helped evacuate 25,000 people, 25,000, the largest evacuation in the history of the world, and certainly they struggled until the last possible moments to free those who were trapped. Three hundred forty-three of them lost their lives in doing so. It was on that September day that the American firefighter, I think, became the symbol of American freedom and American bravery to not only those of us in the United States, but certainly to millions around the world.

In addition to the heroism displayed on 9–11, we know that first responders all over the country display similar heroism every day, not just when major disaster strikes, but every day, as full-time and volunteers often risk their lives to protect the lives and property of people around the country.

Fire and emergency service personnel respond to over 16 million calls annually. In addition to the 343 heroes that gave their lives in New York City on 9–11, last year we lost another 99 firefighters, volunteers and full-time, working in the line of duty to save property and lives.

I think we all agree that it is our job as Americans and as Members of Congress to never forget the sacrifices of those who protect us, and I commend the National Fallen Firefighters Foundation for its exceptional efforts in leading this charge. I offer my strongest support to this resolution, and certainly invite my colleagues to attend this Sunday's tribute.

Madam Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of House Concurrent Resolution 476. As my friend, the gentleman from Michigan, has so articulately pointed out, this resolution salutes the memory of the brave firefighters who gave their lives to help their citizens during the past year. It also recognizes the efforts of the National Fallen Firefighters Foundation to help our Nation honor the firefighters who die in the line of duty each year.

The National Fallen Firefighters Foundation is a charitable, nonprofit corporation funded by donations from individuals and corporations. The Foundation maintains and preserves the National Fallen Firefighters Memorial, which is on the grounds of the National Fire Academy in Emmitsburg, Maryland. This memorial is a 7-foot stone monument topped by a sculptured bronze Maltese cross, which is a traditional symbol of the fire service. The monument is encircled by plaques listing the names of those who have died in service to their communities.

□ 2215

In 1990, Congress approved a joint resolution to designate this striking monument as the official national memorial to volunteer and career firefighters who die in the line of duty. Each October during Fire Prevention Week, the National Fallen Firefighters Foundation organizes a memorial service held at the monument to honor all of the career and volunteer firefighters who were killed in the line of duty during the previous year. This year the ceremony will take place this coming weekend of October 5 and 6. The ceremony will honor 446 firefighters from 34 States who gave their lives last year. This includes the 347 heroes who perished at the World Trade Center. The National Fallen Firefighters Foundation will provide support for the firefighters' families wishing to attend the memorial service in honor of their loved ones. It is appropriate that Congress by means of the resolution now before the House calls to the Nation's attention the dedication and sacrifice of the fire services during this week leading to the ceremony in Washington.

I want to thank my friend, the gentleman from Michigan (Mr. SMITH), and I want to thank the gentleman from Pennsylvania (Mr. WELDON) for taking the lead in developing H. Con. Res. 476 and for their leadership in the House on fire service-related issues. And I also wanted to thank the chairman of the Committee on Science, the gentleman from New York (Mr. BOEHLERT), for his efforts to bring the resolution to the floor.

Madam Speaker, I urge my colleagues to support passage of the measure.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of Michigan. Madam Speaker, I yield 7 minutes to the gentleman from Pennsylvania (Mr. WELDON), the author of this important resolution but also a firefighter himself, the motivator for the assistance of the Firefighter Grant Program that we started a couple years ago.

Mr. WELDON of Pennsylvania. Madam Speaker, I thank my good friend and colleague for yielding me time, and I thank my friend and colleague on the other side for support. I also thank the gentleman from New York (Mr. BOEHLERT) and the gentleman from Texas (Mr. HALL) who have been outstanding advocates for the firefighters of America.

As my colleagues know, I would not be in public life were it not for the fire service, having grown up in a fire service family. The earliest recollections of spending time with my father was at the firehouse with him and with my six older brothers. It was only natural that when I became 18 I joined the department and eventually worked up to becoming president and chief. I then went back to school while teaching during the day to get a degree in fire protection. So all of my life has been devoted to these outstanding men and women who protect us in 32,000 departments and consist of 1.2 million men and women.

Madam Speaker, this resolution as has been outlined by my colleagues recognizes America's domestic defenders. These are the people who protect our country every day of the year and have been doing so for 350 years, longer than the country has been a country. Because when Ben Franklin started the first fire department in Philadelphia, it was an all-volunteer group, and it was in fact started before America became a Nation. They have been our domestic defenders ever since. In fact, I call them our first responders. Much like our military protects us against threats from outside of our country, our domestic defenders protect us from those threats within America. And in fact they are being asked to do more and more as we face the threats of terrorism on our soil.

Madam Speaker, each year we have in fact acknowledged those who have lost their lives. We average about a hundred deaths a year at Emmitsburg, the National Fallen Firefighters Memorial. I have made that trip at least three times since I have been in Congress, and I can tell you there is no more of a memorable event than to spend time with those families of brave Americans who pay the ultimate price.

Madam Speaker, as founder and original chairman of the Congressional Fire and EMS Caucus, which now has 340 members of the House and Senate, I have traveled to every disaster we have had in the country in the past 16 years. From the wild lands fires in the western part of the country, in California, in the north, in Yellowstone Park, to the hurricanes down in the South, Andrew and Hugo, the Murrah Building bombing down in Oklahoma City, the Northridge and Loma Prieta earthquake. I was up at the World Trade Center in 1993 and back 2 days after September 11.

Madam Speaker, when I went up to the Trade Center in 1993, I was escorted through that building, that bombed-out parking garage, by a rising young emerging chief of the New York City Fire Department. He and I became good friends, and we traveled around the country over the past 9 years talking about the need to understand the first responders and provide support for them.

On two o'clock on September 11, I got a frantic phone call on my cell phone from my friends in New York that my good friend who had taken me through the Trade Center in 1993 was killed when the buildings collapsed.

Ray Downing was the chief of all rescue operations for New York City on September 11. He was the guy who was overseeing the bulk of the 343 New York City firefighters who were going up in the buildings when the buildings were coming down. Ray Downing left behind a wife and five kids and grandkids. In fact, 1 month after September 11, I brought them all down to my district. We had a parade with 40,000 people to honor Ray Downing as an American hero.

Perhaps one of the most emotional days I have had during my tenure in Congress was when I went to Ground Zero and spent 12 hours there 2 days after it occurred with my friends of the New York City Fire Department. We went around the back of what used to be one of the huge towers, which is now a seven-story pile of rubble; and I saw two firefighters in their turn-out gear among thousands who were collecting rubble. And I looked on the back of their turn-out gear and on the bottom were the names Downing and Downing, because Ray Downing's two sons are officers in the New York City Fire Department. One is a captain; one is a lieutenant.

They were looking for the remains of their dad. We did not find the remains of Ray Downing until 3 months ago. It when through DNA sampling. We were able to determine that Ray in fact had been accounted for.

Madam Speaker, this coming Sunday we will honor these brave firefighters, the 343 from New York and the others that combined for a total of 442 brave Americans. Anytime this country has gone to war and lost 442 of our sons and daughters, we have mourned as a Nation. Well, this past year we have lost 442 brave Americans. They were not soldiers on the battlefield overseas. They were our defenders here at home. And it is certainly fitting and proper that we set aside a day to honor them, that we have turn out, as I will be in attendance on Sunday, to pay our respects at the MCI Center here in Washington.

It is my fervent hope that all Americans pause as we begin to celebrate the national week of recognition for the fire service, always the first week in October, and pay tribute to our true American heroes.

As I have said time and time around the country, the firefighter is more than just a person who puts out the fires. It is the person you call upon to handle the hazmat incidents, the fires, and the conflagrations, the floods, the tornados, the earthquakes, the terrorist bombings. They are the people you call when the cat is in the tree, when the cellar has been flooded. They are the first group you call to organize a search party to find your lost child.

In many of our small towns, the fire house is where you vote on election day. It is the organization that hosts the July 4 and Memorial Day parades. It is the organization where the Boy Scout troops and Girl Scout troops meet. It is the organization that makes our towns what they are. It really is, in my opinion, the heart and soul of America. I can think of no better group that represents what America is all about.

Amazingly, 85 percent of these people are volunteers. What other group in America has their volunteers killed each year in protecting the community while going out and raising the money to buy those fire trucks which costs from 4 to $600,000 by having chicken dinners and tag days? Imagine having our police departments or trash departments out and raise the money to buy the trash trucks and the police cars.

In every fire department in America, in all of our districts there are volunteers out there just doing that. In fact, this past Labor Day at Jerry Lewis' annual telethon, as has been the case every year, the IAFF Firefighters Union was the largest contributor to the fight against muscular dystrophy, the number one group in the country in reaching out to help other people.

These truly are the heroes of our country. They are the people who time and again have allowed us to understand what America is all about, selfless service to help others. And as our friend, the gentleman from Michigan (Mr. SMITH), said, we lost 343 at the Trade Center; but the real story is the success they had in rescuing tens of thousands of people that are today united with their families.

So I ask all of my colleagues to join with us in supporting this resolution and paying tribute to America's heroes.

Mr. SMITH of Michigan. Madam Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), who has been very instrumental because of many of his constituents that were involved in September 11 of 2001.

Mr. SHAYS. Madam Speaker, I thank the gentleman for yielding me time.

We appreciate what our chairman has done in regards to the National Fallen Firefighters Foundation and his strong support of.H. Con. Res. 476. I also thank the gentleman from Michigan (Mr. SMITH) for his pursuing this effort, and, particularly, the gentleman from Pennsylvania (Mr. WELDON) who has rightfully identified that the volunteer firefighters and the paid firefighters are a unique group within our country, that captures the soul and camaraderie of the spirit of America.

I do say and acknowledge that after September 11, I think all of us thought a little longer and a little harder about how much we owe to our firefighters, how much we appreciate what they do for us and how grateful we are to them.

I was reading in preparing for today to think that 446 firefighters lost their lives in the line of duty during the past year. And even if you subtract out the incredibly large number of 343 whose lives were taken on September 11, it is amazing to me to think that over 100 firefighters sacrificed themselves for the protection of their community. I am very grateful to them.

I am very grateful to our other service industry providers, our police, our EMS and others; but tonight we are recognizing the firefighters, and this is a resolution that clearly will have 100 percent support and for very good reason. We owe a debt of gratitude to our firefighters and appreciation as well to the National Fallen Firefighters Association.

Mr. UDALL of Colorado. Madam Speaker, I again want to urge support for this important resolution.

Madam Speaker, I yield back the balance of my time.

Mr. SMITH of Michigan. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank the gentleman from Colorado (Mr. UDALL). I will, Madam Speaker, close by saying this is a very partial tribute by the effort of every community, and certainly Congress should exert to help our firefighters throughout this country.

As the gentleman from Pennsylvania (Mr. WELDON) said, can you imagine between 70 and 85 percent, depending on the State, of these first responders, firefighters are volunteers? In the urban areas, that full-time firefighter is crucial; but in the remote villages in the rural townships, they depend on the volunteers to make sure that we have the kind of fire protection and the first responder protection that is necessary to save lives and protect property.

Tomorrow in our Committee on Science we will be taking up my bill, H.R. 4548, that continues the firefighter grant program and the gentleman from New York's (Mr. BOEHLERT) bill on legislation additionally assisting firefighters throughout the country with H.R. 3992. With that, I invite my colleagues again to attend this Sunday's ceremony.

Mrs. MCCARTHY of New York. Madam Speaker, as we begin National Fire Prevention Week, I rise in support of H. Con. Res. 476, a resolution paying tribute to firefighters who have died in the line of duty, and recognizing the importance of the National Fallen Firefighters Foundation which assists families of firefighters killed on the job.

On September 11, 2001, the country watched brave firefighters from New York and around the country risk their lives to save others. Firefighters have a special dedication to their jobs, community and fellow man. They willingly put their lives at risk to save the life of someone unknown to them. To do this, they train hard physically, mentally and emotionally—they are the consummate professionals. They are fearless men and women, who face death with each call.

In fact, approximately 100 firefighters die each year battling what they refer to as "the dragon." As the name implies, "the dragon" is a firefighter's vernacular for a fire. The dragon does not discriminate when it comes to who or what it destroys, man, woman, child or firefighter. Duty-related incidents include structural fires, wild land fires, vehicle fires, hazardous material fires, rescues and responding to the scene of an emergency.

From 1981–2001, New York lists the highest number of firefighters in the country who were lost in the line of duty. New York is at the very top of an extremely unfortunate list. Last year alone there were 347 dedicated firefighters who died in the World Trade Center disaster. Overall, the dragon kills about 4,500 people per year, more than all natural disasters combined. Another 27,000 people are injured, not to mention the emotional and financial injuries incurred by the families of fallen firefighters.

The families of firefighters live a life of uncertainty as to whether their loved one will come home each day after work. When a family receives the dreaded news that their loved one will not be returning home chaos sets in, and these survivors desperately need support. As part of an effort to remember America's fallen firefighters and to provide assistance to their survivors. Congress created the National Fallen Firefighters Foundation (NFFF) in 1992.

The foundation is a nonprofit organization located in Maryland which receives funding from private donations from individuals, organizations, corporations and foundations, as well as federal grant money. NFFF provides resources to families of fallen firefighters, such as a grieving network, special scholarships, and important information to families regarding federal, state, and local benefits. These benefits include lump sum death payments, workers' compensation, funeral benefits, pensions and retirement programs and private support.

NFFF also provides services such as regional training sessions to help fire departments handle a line of duty death, and an Annual National Tribute which honors survivors of firefighters who died in the previous year. This year's ceremony is scheduled for October 5 and 6, and will honor 445 firefighters, including those killed at the World Trade Center.

Last September, the entire world watched with bated breath as firefighters unselfishly and effectively did their jobs. These acts of honor and bravery were in sharp contrast to the cowardly acts of violence perpetrated on America. Our lives depend on firefighters and we are beholden to them for so very much.

I support this Resolution which reminds us all of what a difficult job firefighters have, and the sacrifices their families make. I am proud to honor the lives lost, the thousands of firefighters who continue to work tirelessly and bravely, as well as their families.

Mr. GRUCCI. Madam Speaker, I would first like to thank my colleague Congressman WELDON for his tireless efforts on behalf of America's firefighters, and for bringing this measure to the floor today.

Few images throughout history more clearly illustrate heroism better than the images of brave firefighters entering the World Trade Center—knowing they very well may never return—with one selfless goal in mind: to save lives.

On that tragic day—September 11, 2001—347 firefighters died in the line of duty, several from my own district on Long Island.

While the heroic efforts of these brave men and women may be more clear on that day there isn't a day that passes when firefighters do not risk their own lives to save others.

Last year alone, 442 firefighters sacrificed their lives in order to save the lives of innocent victims of fire and other emergencies.

Later this week, the National Fallen Firefighters Foundation will honor these firefighters and their families for the sacrifices made over the last year. We will remember the impact these brave firefighters have made in towns and communities throughout America and the heroism that has saved countless lives.

On behalf of the First Congressional District of New York—home to several fallen firefighters—I join my colleagues in support of H. Con. Res. 476.

Mr. GEKAS. Madam Speaker, I rise today in strong support of H. Con. Res. 476 and urge my colleagues to support this important piece of legislation as well.

Our firefighters protect us every day and sometimes give up their own lives to protect and serve their communities and their fellow man. This was never more evident than on September 11, 2001. On that day, as frightened and wounded civilians ran from the World Trade Center, brave firefighters rushed in, in a determined effort to save others. These brave individuals risked everything in an effort to render aid and evacuate the people trapped in the towers. This effort cost many firefighters their lives. The September 11, 2001, attacks highlighted the spirit and courage of firefighters across the nation. Mostly volunteers, these men and women protect our lives and property, and while they never boast of their heroic deeds, they are truly heroes.

H. Con. Res. 476 reaffirms that Congress supports the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizes the important mission of the National Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes. I am thankful to be able to rise today and proclaim support of H. Con. Res. 476 on behalf of every firefighter in Pennsylvania's 17th Congressional District.

Madam Speaker, this is the very least we can do. I salute Congressman WELDON for sponsoring this resolution and would like to thank him for his leadership on the Congressional Fire Services Caucus, of which I am a member. The firefighters of the United States should know that the Congressional Fire Services Caucus is continually striving to respond to their needs and to deliver to them the equipment and resources they need to do their job in a safe and effective manner.

Firefighting will never be a safe endeavor but we in Congress must do all we can to help our firefighters. No matter what we provide to our firefighters we will never equal the sacrifices they make for us. Collectively, we in Congress thank you and the passage of H. Con. Res. 476 is just a small token of appreciation. We will never be able to thank you enough.

Madam Speaker, I reaffirm my support of H. Con. Res. 476 and of the firefighters of Pennsylvania's 17th Congressional District.

Mr. BOEHLERT. Madam Speaker, I rise in strong support of H. Con. Res. 476, recognizing the goals and ideas of a day of tribute for fallen firefighters, and supporting the important mission of the National Fallen Firefighters Foundation.

Congress created this non-profit foundation ten years ago to lead a national effort to honor firefighters who have died in the line of duty and to assist surviving firefighters and family members in rebuilding their lives.

The Foundation has been steadily expanding its activities. In addition to providing emotional support services to survivors and scholarship awards for surviving spouses and children, the Foundation is now creating the first National Park to memorialize fallen firefighters in Emmitsburg, Maryland. And this Sunday, October 6th, the Foundation will sponsor a memorial weekend to honor the commitment, bravery and sacrifice of the 446 firefighters who died in the line of duty in the past year, 343 whose lives were taken on September 11th, 2001.

No one could have anticipated the magnitude of destruction and loss of life that occurred last September. In the wake of those tragic events, the value and contributions of the National Fallen Firefighters Foundation became unmistakably clear.

At the request of the Federal Emergency Management Agency, the National Fallen Firefighters Foundation sent support staff to Ground Zero within days of the attacks, working around the clock to coordinate chaplain support services, survivor support services, as well as logistical and administrative support association with the loss of the firefighters.

The Foundation's efforts in New York City during its time of greatest need were truly invaluable, and I proudly support its cause, as well this resolution recognizing its importance.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, September 30, 2002.

Hon. J. DENNIS HASTERT
Office of the Speaker, U.S. House of Representatives, Washington, DC.

DEAR SPEAKER HASTERT, I am writing to inform you that the Committee on Science has discharged from further consideration H. Con. Res. 476, a resolution "Expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the National Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes." H. Con. Res. 476 was referred to this Committee on September 19, 2002.

Sincerely,
SHERWOOD L. BOEHLERT,
Chairman

Mr. SMITH of Michigan. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. HART). The question is on the motion offered by the gentleman from Michigan (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 476.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds, of those present have voted in the affirmative.

Mr. SMITH of Michigan. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

☐ 2230

HOUSES OF WORSHIP POLITICAL SPEECH PROTECTION ACT

Mr. HERGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2357) to amend the Internal Revenue Code of 1986 to permit churches and other houses of worship to engage in political campaigns.

The Clerk read as follows:

H.R. 2357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Houses of Worship Political Speech Protection Act".

SEC. 2. HOUSES OF WORSHIP PERMITTED TO ENGAGE IN POLITICAL CAMPAIGNS, ETC.

(a) IN GENERAL.—Paragraph (3) of section 501(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking "and which does not" and inserting "except in the case of an organization described in section 508(c)(1)(A) (relating to churches), which does not", and

(2) by inserting before the period "and, in the case of an organization described in section 508(c)(1)(A), no substantial part of the activities of which is participating in, or intervening in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act.

The SPEAKER pro tempore (Ms. HART). Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Georgia (Mr. LEWIS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HERGER).

Mr. HERGER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in strong support of legislation introduced by the gentleman from North Carolina (Mr. JONES) to protect the first amendment rights of men and women of faith across America. Our Nation's pastors, priests, rabbis and clerics should be free to express their political opinions just as every other American is free to do so.

Unfortunately, many church leaders today are afraid to voice their political opinions because they fear that the IRS may revoke their tax-exempt status. This is exactly what happened to a church which criticized the views of then Governor Bill Clinton in 1992. Should any American have to forfeit their first amendment freedom of speech just because they have a religious affiliation? I certainly hope not.

The legislation before us attempts to recognize the need for an appropriate separation of church and state while not silencing the opinions of religious leaders in the process. Many conservative church leaders in particular have voiced concerns that they may be targeted by the IRS if they simply inform their parishioners of a candidate's position on an issue. These religious leaders point out that the IRS has recently investigated a number of conservative groups while leaving unscathed liberal churches which actively promote a candidate or political party.

Madam Speaker, this is wrong. During the 2000 election campaign, Americans United for the Separation of Church and State, a liberal special interest group, sent letters to houses of worship across the country warning them against distributing Christian Coalition voter guides lest they be in danger of losing their tax-exempt status. This type of action has a chilling effect on political speech due to the current ambiguity of the Federal Tax Code.

The gentleman from North Carolina's (Mr. JONES) bill will go a long way towards clarifying the tax law with respect to religious institutions and their participation in the political process.

Madam Speaker, at a time when our society can most benefit from a wide diversity of views informed by faith and conscience, we should be doing everything we can to promote freedom of speech by both religious and secular institutions. I urge my colleagues to support this bill.

Madam Speaker, I reserve the balance of my time.

Mr. LEWIS of Georgia. Madam Speaker, I yield myself 4½ minutes.

From the outset, Madam Speaker, I want to make it clear that this piece of legislation that we are considering tonight never was voted out of the subcommittee or the full committee of the Committee on Ways and Means of the House. There was only a hearing in the Subcommittee on Oversight.

Madam Speaker, the sponsor of this bill will have us believe that they are merely protecting free speech, but do not be fooled. This legislation has one purpose and one purpose only, to allow our houses of worship to become vehicles for partisan political activity.

As someone who stood alongside Dr. Martin Luther King, Jr., and the other great leaders of the civil rights movement of the 1960s, I can tell my colleagues that they would be dismayed by this legislation. During the civil rights movement, we fought to end legal segregation and break down barriers to political participation. The church was the heart and soul of our efforts because ministers had the moral authority and respect to stand against immoral and indefensible laws, bad laws, bad customs, bad tradition.

Ministers who led the civil rights movement did not select political candidates and operate our churches like political action committees. Although their churches and leaders faced violence and hatred for their efforts to protect human rights and human dignity, they were free and even protected by the Constitution to speak out on these issues. At no time did we envision or even contemplate the need for our houses of worship to become partisan pulpits.

Make no mistake, partisan politics has its place. President John F. Kennedy once said that both major parties today serve the national interest, but when party and officeholder differ as to how the national interest is to be served, we must place first the responsibility we owe not to our party or even to our constituents, but to our individual consciences.

Madam Speaker, in this matter we owe our allegiance to our individual consciences, and we owe it to those ministers and the other religious leaders and churches and institutions who speak out on the issues to protect them. Our religious organizations should continue to be places that ministers, priests and rabbis, and imams give moral and spiritual guidance. We should not allow them to be transformed into institutions that tell their members and their parishioners how to vote.

If this legislation is allowed to stand or pass, we can have a minister, a priest, a rabbi or a mosque coming in the pulpit saying vote against so and so, or God told me vote against so and so, taking up offerings in the church, in the synagogue, in the temple, in the mosque, tax-exempt organizations.

Finally, Madam Speaker, if my colleagues think that ministers and religious leaders are muzzled politically and are clamoring for this legislation, look at the list of more than 200 mainstream churches and religious organizations who are opposed to this bill: the African Methodist Episcopal Church, the American Baptist Church, the American Jewish Congress, the Islamic Supreme Council, Evangelical Lutherans, Presbyterians, Buddhists, Quakers, and the list goes on and on.

We cannot allow supporters of this measure, however well-intended they may be, to influence us to recklessly discard the time-tested system we now have in place or substitute it with a dangerous experiment in mixing religion with partisan politics.

This bill before us tonight, Madam Speaker, threatens not only our quest for meaningful campaign finance reform, but threatens the very integrity and independence of our churches and others houses of worship. Any time the wall of separation between church and State is breached, religious liberty is threatened. The wall between church and state must be solid. It has guided us for 220 years. It must not be breached for any reason. I urge my colleagues to protect our tradition of religious liberty and vote against this bill.

Madam Speaker, I reserve the balance of my time.

Mr. HERGER. Madam Speaker, I yield 6 minutes to the gentleman from North Carolina (Mr. JONES), the sponsor of this legislation.

Mr. JONES of North Carolina. Madam Speaker, I thank the gentleman from California for yielding me the time, and certainly the gentleman from Georgia, who I have great respect for, as well as the gentleman from Texas. And what makes this great body, what it is, is the freedom that we all enjoy to disagree and many times agree.

Let me talk a little bit about the history of this issue. If this was 1953, we would not be debating this issue because it would not be an issue. The churches in this country had the freedom to talk about the issues of the day, whether they be political issues or nonpolitical issues. There was no restriction from the beginning of the churches in this country.

There was never a restriction until Lyndon Johnson put an amendment on a revenue bill going through the Senate with no debate, and Mr. Johnson was opposed to the H.L. Hunt family, who were working against his reelection, and they had established two 501(c)(3)s, and so Mr. Johnson put an amendment on without any debate that said if an organization is a 501(c)(3), they may not have political speech.

Let me tell my colleagues that most of the experts, and I am certainly not an expert, most of the experts have said in analyzing this issue, and it has been analyzed by many researchers through the years; that probably Lyndon Johnson did not mean to stifle the churches or synagogues in this country, and let me explain that.

Lyndon Johnson was the VP on the ticket with John Kennedy in 1960, and the churches in Texas, many of the churches, were opposed to John Kennedy being a Catholic, being the first Catholic in the White House. So those who have researched this issue say that if Johnson had intended for the churches to be stifled in speech, that probably Mr. Johnson, being a powerful man, would have picked up the phone and called the Internal Revenue Service and said they need to look into this church. Johnson never made any call or any complaints. So the experts, which I am not one, have said that they believe that Mr. Johnson did not intend to put the muzzle on the churches and synagogues throughout this country.

Let me make a couple of other points real quickly. The letter that the gentleman from California (Mr. HERGER) made reference to that was sent out by Barry Lynn, this is how this came to my attention, quite frankly. I had a Baptist minister in my district ask me to speak in September of the year 2000 to his adult men's class, and I went, and he showed me a letter, this is a copy of it, from Barry Lynn that went to over 285,000 churches, and it is a warning to the minister that he not violate the 501(c)(3) status known as the Johnson amendment.

Let me tell my colleagues what really interests me, because I do not agree with Mr. Lynn on much, and he does not agree with me, and that is what makes America the great Nation it is. But let me read this first sentence to my colleagues because this tells it better than I can tell it.

"The first amendment of the U.S. Constitution protects the right of pastors and church leaders to speak out on religious, moral and political issues." He acknowledges that is what the Constitution guarantees, but his second sentence is, however, houses of worship, as a nonprofit entity under section 501(c)(3), cannot have political speech.

So my point is I do agree with what he said, and he was right, the Constitution does guarantee this, and Lyndon Johnson took it away from them. Maybe he did not intend to, but the churches in many places, in my opinion, the priests, the rabbis and the clerics have not had the freedom to speak about the moral and political issues of the day, and many times the moral issues become political issues, and the political issues moral issues, and we all know that.

I tell my colleagues what really concerns me even more is that Mr. Lynn, about a month later, sent out a press release. I checked with the Internal Revenue Service yesterday. We have over 880,000 houses of worship. Mr. Lynn, in 2000, sent out a press release that said, we plan to mail it to approximately 285,000 houses of worship. I am confident that every church targeted by the coalition will receive this letter.

My question to Mr. Lynn and to those who believe this is a good law, maybe we ought to hire 880,000 inspectors to represent the Internal Revenue Service at every church and every synagogue and every mosque in this Nation during the months of September and October. If we want to make the law fair so it applies to everybody, then make it fair for everybody. Do not just single out certain groups and target certain groups.

The last point I would like to make on this issue is that when we had the hearing, and I want to thank the gentleman from New York (Mr. HOUGHTON), even though he does not agree with the legislation, he did hold a hearing that was very bipartisan, and I am going to wait until the next round to go into details of the testimony, but I am pleased to tell my colleagues that two great men of God came to testify, Dr. D. James Kennedy and Pastor Walter Fauntroy right here in Washington, D.C., a former Member of Congress that we all served with.

Again, I have great respect for the gentleman from Georgia (Mr. LEWIS), and I have great respect for Pastor Fauntroy, and I know he marched with my colleague to bring civil rights to this country, to the people of this country so they could enjoy equal rights and civil rights. I applaud them, and I applaud Walter Fauntroy and certainly Martin Luther King.

In addition, I am pleased to tell my colleagues that I had a long conversation with Floyd Flake. Mr. Flake was one of the finest Members of Congress. He is a man of God. He is a man I respect. We might not politically always agree, but a man I fully respect.

□ 2245

And he is very supportive of this legislation, along with numerous other men and women of faith who are spiritual leaders.

With that I will wait until my next round.

Mr. LEWIS of Georgia. Madam Speaker, I yield 3 minutes to the gentleman from New York (Mr. HOUGHTON), chairperson of the Subcommittee on Oversight of the Committee on Ways and Means.

Mr. HOUGHTON. Madam Speaker, I thank the gentleman from Georgia (Mr. LEWIS) for yielding me this time.

I have a great deal of respect for the gentleman from North Carolina (Mr. JONES) and the gentleman from California (Mr. HERGER). I just happen to disagree with them on this particular issue, and let me tell my colleagues why. This is really a tax consideration, and all tax bills really should go through the Committee on Ways and Means, and this has not. I have been on the Subcommittee on Oversight of the Committee on Ways and Means. We reviewed this in May. We had a good meeting. There was no consensus on the part of the religious community for Tax Code change. So the whole concept of the 501(c)(3) which includes religious groups, United Way, hospitals, so on and so forth, they receive tax preferential treatment, and there is a trade-off. For that there are no political campaign activities. And today churches are free to talk about the issues in any way they want, but they cannot use the church resources on a tax deductible basis to campaign for a candidate. I think that makes perfectly good sense. They can do what they want, but they should not use the Tax Code the way no one else can use the Tax Code for this political purpose.

Mr. LEWIS of Georgia. Madam Speaker, I yield 4 minutes to the honorable gentleman from Texas (Mr. EDWARDS), my friend and colleague.

Mr. EDWARDS. Madam Speaker, from the time I was a small child my parents taught me that our church was a sacred house of worship, a spiritual place where people of faith could meet, honor God and thank Him for our many blessings. Now as a father, it is my hope that my two young sons will have the same sense of reverence for our church and all houses of worship.

Based on those values, it is my opinion that this bill demeans religion and demeans houses of worship by converting them into political campaign organizations. According to the bill itself, its purpose is "to permit churches and other houses of worship to engage in political campaigns." Madam Speaker, this bill would go so far as to even allow churches to endorse political candidates and to contribute church funds to political campaigns.

If I had a malicious intent to import divisiveness into our churches, I could find no better way to do it than to pass this ill-conceived bill into law. That is why this is not just a bad bill, it is a dangerous bill.

Think about life under this bill. Our churches, synagogues, and mosques could cut back on their spiritual worship time so they could hear from their campaign committee. Then rather than taking time to praise God, our congregations could entertain divisive partisan political debates as to which local, county, State, and Federal candidates to endorse each year. Active political partisans in each house of worship could then fight over candidates and whether one or the other is truly the faithful one. Perhaps church committees could have religious litmus tests for candidates, thus thrusting aside the spirit of article 6 of our Constitution which prohibits religious tests for positions of public trust.

After acrimonious endorsement debates for dozens of candidates, then our houses of worship could each year determine which mission fund or program for the poor could be scrapped on the alter of political contributions.

Madam Speaker, it is no surprise that so many religious organizations are opposing this bill, and I hope the national press and American people wake up to the quiet, but dangerous, effort, well intentioned or not, in this Congress that would basically interject government and politics into our churches and into our personal faith.

For example, with charitable choice legislation pending in Congress, an administration could dole out literally billions of dollars directly to preferred houses of worship; and then with the Jones bill, those same houses of worship could endorse in the next election the administration that has just given them those tax dollars, thus obliterating the wall of separation between church and State.

If I had planned a lifetime to undermine religious liberty and tolerance in America and to demean houses of worship, I could not have ever devised a more effective plan than to combine charitable choice legislation with this bill. Thankfully through the wisdom of Mr. Madison and Mr. Jefferson, the first amendment places religion on a pedestal far above the reach of politics and politicians. To drag religion down from that lofty pedestal of protection into the quagmire of political endorsements is to demean religion, not protect it; and Madam Speaker, for any bill that deals with the fundamental constitutional principles of church and State to be brought to this House floor under a suspension calendar late at night with only a handful of Members present is a disservice to this House and to the profound importance of religious liberty.

Whether one agrees or disagrees with my position on this bill, I would remind all of us that religious liberty is a gift of God and that for over 200 years our Bill of Rights has protected that divine gift for all our citizens and that any congressional action that treats the fundamental issue of church and State and religious liberty with less than the greatest of careful deliberation puts at risk America's historic legacy of religious freedom and tolerance.

Mr. HERGER. Madam Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Madam Speaker, I thank the gentleman for yielding me this time.

I rise today in strong support of the Houses of Worship Political Speech Protection Act and commend the gentleman from North Carolina (Mr. JONES) for sponsoring this important piece of legislation.

H.R. 2357 seeks to allow our churches and religious institutions to address the moral and political issues of the day, as they have for the first 300-plus years of America's history, without fear of the IRS imposing financial penalties or revoking their tax-exempt status altogether. This legislation frees our clergy to speak their consciences from the pulpit on all issues, even those which may stem from the political arena, without the chilling effect that the Tax Code has on our houses of worship. As the French author, Alexis de Tocqueville, observed in 1835 in his published accounts of life in American society: "Religion in America takes no direct part in the government of society but it must be regarded as the first of their political institutions for if it does not impart a taste for freedom, it facilitates the use of it."

Our clergy and religious institutions have played a significant role in our Nation's political life from the earliest days of our Republic. A clear example can be found right here in the Capitol. The statue of Reverend John Peter Gabriel Muhlenberg depicts him removing his clerical robes to reveal the uniform of a military officer following his farewell sermon to his Virginia congregation on January 21, 1776. From the pulpit Muhlenberg declared that "there is a time to fight, and that time has now come." Reverend Muhlenberg's rousing sermon led 300 men from his congregation to join him that day in America's war for independence. Reverend Muhlenberg was not interested in the endorsement of a political candidate. He preached the overthrow of the government of the colonies.

While this illustrates only one incident in our Nation's past, it still leads one to consider what the fabric of American society would look like today without our past clergymen and women denouncing the evils of tyranny, slavery, and segregation.

H.R. 2357 simply attempts to return our houses of worship to the role they have historically held as an active participant in the political process, addressing the important issues of the day. This bill assures that those who hold to fundamental truths are not divorced from the arena of ideas simply because they happen to be standing behind a pulpit.

I urge my colleagues to support the Houses of Worship Political Speech Protection Act.

Mr. LEWIS of Georgia. Madam Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS), my friend and colleague.

Mr. SHAYS. Madam Speaker, I want to first say that I was deeply impressed by the presentation made by the gentleman from Texas (Mr. EDWARDS), and I could feel his pain as he spoke on this legislation and against it because I believe he is a deeply religious man. And this is an awkward issue for us, but we need to speak plainly about it. I too strongly oppose H.R. 2357, the House of Worship Political Speech Protection Act, because I believe it flies in the face of our campaign finance laws and more importantly would create a large soft money loophole. I also have serious concerns the legislation would erode the separation of church and State, a bedrock value of our Nation and one I strongly support.

Religious institutions should be able to speak out on issues, and current law already gives these institutions the absolute right to use their pulpit to address an issue they wish. One has to wonder, therefore, why this legislation is necessary. What religious institutions cannot do is use their tax-exempt donations to contribute to a candidate's political campaign.

H.R. 2357 would allow religious organizations to maintain their 501(c)(3) tax-exempt status, which allows them to receive tax-deductible contributions while permitting them to contribute to politicians and political campaigns. This legislation does not extend the same privilege to nonreligious 501(c)(3) organizations.

In February, this body demonstrated a strong commitment to reforming our campaign finance laws when it voted to ban the use of soft money, corporate treasury money, union dues money, and unlimited sums from individuals. H.R. 2357 would be a major step backward. This legislation, if enacted, would permit big-dollar political donors, corporate, union, or individual, to funnel soft money through partisan incorporated religious organizations and fund sham issue ads, really campaign ads with these funds.

I strongly urge my colleagues to vote against H.R. 2357. We should not allow tax-exempt institutions to make campaign contributions.

Mr. HERGER. Madam Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Madam Speaker, I thank the chairman and I also want to thank my friend and colleague, the gentleman from North Carolina (Mr. JONES), for his efforts. We are here on the floor again with some deep differences of people who share very strong commitments on this issue and of the role of how we work through as Christians and people of multiple and diverse faiths in America, how we work through the role of those who have deeply felt views and how they can express those and participate.

I do want to correct a couple of things on the record from the gentleman from Texas (Mr. EDWARDS) because I think there is a little bit of overparanoia.

One is that in the idea that charitable choice is somehow going to be tied in with this, as the gentleman knows, while the bill passed the House, it is pending in nowhere. We have agreed with a compromise, and many of us here tonight have agreed with compromise, and then the Senate developed a compromise and there will be no charitable choice grants coming through, authorized by Congress. They are working through some of those things in the executive branch, but we have worked out that we have shared concerns about the Federal Government getting it directly into funding and what that could mean to the separation of church and State if churches become dependent on Federal funding.

Furthermore, the statement that we are doing this late at night is because of the death of our friend and colleague, PATSY MINK, we had a waiver. This was originally scheduled to occur much earlier in the evening. We had a 2-hour debate tonight and that pushed it later in the evening. This in fact would have been debated in prime time. It is near prime time in much of the country anyway. But this is, first, a fundamental disagreement about what the bill is. I do not believe nor do any of the people who wrote the bill nor do most people who do not have a position that is overtly against the conservative churches basically being able to speak out believe this affects money. This affects endorsement. I do not believe it changes campaign finance one wit. And I was talking with my dear friend, the gentleman from Connecticut (Mr. SHAYS) because I share his concern about churches having, as the gentleman from Georgia (Mr. LEWIS), my friend, said, taking up collections for political campaigns. That would be horrendous.

☐ 2300

That is not what this bill does. We have fundamental disagreements even about what the bill does. This is supposed to be able to clarify Internal Revenue Code that pastors who speak on behalf of the church can say what they believe.

We know in America that many churches in fact do that. In fact, in the civil rights movement had brave people not been willing to stand up and register in churches, and Reverend Jesse White is getting a statue in Fort Wayne for his work. He was active through his church in registering voters, bringing in candidates, endorsing candidates because he felt that was the only way in my home area to change some of the civil rights areas.

In the Vietnam War era, pastors were endorsing candidates in liberal churches. There are many conservative Christians in this country who deeply feel in the fundamental part of their heart, and we can see it in which groups are backing this, that conservative churches, once they got active, and most denominations like mine are very separatist and would never endorse from the pulpit and believe in that separation.

But many churches believe, including those churches that do not endorse, that there has been a difference in America; and when the conservative churches started to get politically involved, the Clinton administration came down on them. And that belief is deeply felt. That is what we are trying to address.

We believe that all people ought to be created equally. There should not be direct funding. That is covered in campaign finance law. There should not be church funds intermingled. That is the point of (c)(3)s and (c)(4)s. But when there are deeply felt issues like abortion that conservatives feel deeply about; the pastor should be allowed to say this is what we believe. These are candidates who share those views. They should not be able to use church funds to promote that view. That is the point of (c)(3)s. They can have their voter guides outside the sanctuary, and they can do other things with non-church money; but they ought to be allowed, when a Christian world view is fully comprehensive, the beliefs of Jesus Christ are not just faith, they are also works. If one believes they are works, a pastor whether he sees civil rights or war or abortion or pornography, he ought to be allowed to speak out and the congregation ought to be allowed to speak out.

Mr. LEWIS of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is not one thing in the present code that would prohibit ministers, religious leaders, rabbis, any church organization from speaking out on the great issues of our time.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I rise in opposition to this bill. Once again we are here debating a very controversial bill with profound constitutional implications which has bypassed the regular order in the committee of jurisdiction, has been placed on the suspension calendar late at night with limited time for debate and no amendments allowed.

I do not know what the supporters of the bill think it does, but this bill is in fact a tax bill and describes what a church can do and still maintain its tax exemption. The legislation before us allows a religious tax-exempt organization to engage in political activities, partisan political activities, while using tax-exempt resources so long as those activities are not more than an "insubstantial part" of their activities.

Pursuant to the Tax Code, that means anywhere from 5–15 percent of an organization's budget can be used for partisan political activities. For a church with a $1 million budget, that is 50,000 to $150,000 in campaign cash.

Mr. Speaker, we also have to consider the bill in light of legislation that has already passed the House, and that is H.R. 7, the so-called Charitable Choice bill, which allows the church to be directly funded with government contracts. This bill will allow those churches to show their appreciation to the government officials that helped them with campaign contributions amounting to 5–15 percent of the grant. This gives a new meaning to the idea of tithing.

Contrary to assertions, churches and other houses of worship can and do speak out on issues of the day. When the gentleman from California says they cannot speak, it is true, they cannot take out a paid political ad paid for with tax-deductible money. But under current law, churches can host candidate forums, can issue unbiased voting guides, engage in lobbying activities on legislation, endorse or oppose referendums, constitutional amendments or other ballot initiatives, and they can certainly speak out on the moral issues of the day, whether it be civil rights, universal health care, or education.

Furthermore, ministers or religious leaders in their private capacity can and do endorse political candidates and even become candidates themselves. In fact, my representative in the Virginia Senate is a pastor of a Baptist church. The difference is they cannot use the resources of a tax-exempt church in a partisan political campaign.

Churches, like other tax-exempt organizations, are prohibited from using tax-exempt church contributions for candidates. They cannot create PACs or solicit or provide financial support to a candidate. That would change under this legislation, which specifically allows our houses of worship to funnel tax-exempt funds to candidates in political parties. There are other issues that we have to consider as we debate this measure.

For example, houses of worship are exempt from certain Internal Revenue filings; and, therefore, we will never know whether they are spending 5 percent or 50 percent of their funds on political activities unless the supporters expect the IRS to be auditing church finances.

In addition, unlike other organizations exempt under section 501(c), churches do not have to file for incorporation. Essentially any organization claiming to be a church gets automatic tax-exempt status from the IRS. As a result, during election cycles we might see the formation of new churches formed for the express purpose of political activity on behalf of a candidate or political party.

Mr. Speaker, current law treats our houses of worship and secular nonprofits with respect to partisan political activity equally. Neither can use tax-exempt resources for partisan political activities. If they want their organizational resources to be used for partisan political activities, they can. They just cannot get tax deductions and use tax-deductible resources for that purpose. Should this legislation pass, our houses of worship may risk becoming sham political organizations. As the gentleman from Connecticut (Mr. SHAYS) explained, we would have created a gaping loophole in our campaign finance laws. I strongly urge rejection of this legislation.

Mr. LEWIS of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, let me just relate that a leading supporter of this piece of legislation, a minister, is sending out fund-raising literature, seeking tax-deductible contributions to support the church's efforts in lobbying the Congress to pass H.R. 2357. What this minister really wants and gets under the bill is the ability to use unreported, unlimited charitable contributions to defeat or elect someone in Congress or some place else.

Is this what we want happening in November, on November 5, or some other time? Of course not. Churches, synagogues, temples, and mosques are houses of worship. Let us keep them that way and not let politics get in the way. Let us keep a separation of church and State. Keep that wall solid and strong. If churches, synagogues, mosques and temples want to go out and raise money and have their leaders preaching from the pulpit, then they should form another organization or group. I ask Members to vote against this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. HERGER. Mr. Speaker, I yield the balance of my time to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I would like to say to the gentleman from Georgia (Mr. LEWIS), I agree totally with the gentleman's statement. This is a separation of church and State. The reason it is is that the State, being the Internal Revenue Service, should not influence any statement or comment that the church pulpit, the preacher, the priest, the rabbi might want to make.

□ 2310

This way, because of the Johnson amendment, they do have influence as to what can be said.

To the gentleman from Texas, whom I like very much, I want to say that he is right. I agree with him up to 152 years, but the last 48 years since 1954, Lyndon Johnson's amendment put the Internal Revenue Service into the churches as to restricting what they can and cannot say. Prior to that time, he and I agree 100 percent.

Let me also say to the gentleman from New York (Mr. HOUGHTON) that when churches qualified for the status of 501(c)(3)s, and I have researched this, there is no restriction in the law as to what they could and could not say when they became classified as 501(c)(3)s.

Let me also say that one of the biggest concerns that some people have mentioned tonight, I cannot begin to tell you, when D. James Kennedy came to testify, he brought over 60,000 petitions to present to the committee. In addition to that, this past week over 4,500 ministers throughout this country, some being Baptist, wrote and said they were in strong support of this legislation.

Let me also say to my friend, the gentleman from Connecticut (Mr. SHAYS), who is my friend, that under the Bipartisan Campaign Finance Reform Act of 2002, which amends the Federal Election Campaign Act, all corporations including tax-exempt churches and nonprofit corporations are barred from making hard-money contributions or any direct or indirect disbursement for electioneering communications. That is on page 101 and 102 (A and B). I just want to get that on the record, also.

Let me also say that, again, when you think about the fact that prior to 1954 there were no restrictions of speech on our churches, and I am pleased to say that the gentleman from Georgia (Mr. LEWIS), for whom I do have great respect, during the hearing with the Internal Revenue Service, his question to Mr. Miller who worked with IRS is: As a rule do you monitor the activities of churches during the political season?

Mr. Miller's answer to Mr. LEWIS is: We do monitor churches. So our monitoring is mostly as a recipient of information from third parties who are looking in. That is Barry Lind looking in. What are you saying? "I'm going to report you to the Internal Revenue Service." That is not America. If a priest wants to say that George Bush is prolife, let the priest say George Bush is prolife. If my dear friend and your dear friend Floyd Flake wants to have Al Gore in his church, and when Al Gore finishes speaking he puts his hand on his shoulder and he says, "I think this is the right man to lead America," he should be able to do it. He got a letter of reprimand from the Internal

Revenue Service. Somebody snitched on him because the Internal Revenue Service is dependent on a third party to report because, quite frankly, I will be honest with the gentleman from Virginia (Mr. SCOTT), they cannot enforce the law to begin with. That is an absolute joke. They cannot enforce the law. So they are dependent on a third party.

That somewhat reminds me of my history about Germany, quite frankly, somebody looking in on what the priest says or the preacher says or what the rabbi might say. That in itself should be enough to offend all of us on both sides of the aisle who raise our hand to defend the constitutional rights of the American people, that we make sure that anyone, whether they be a preacher, a priest, a rabbi or a cleric, that they have a right to speak from their heart, and if they believe that that is the right thing to say to educate their people in that congregation, then they should say it.

Let me close this way from Floyd Flake, a great, great man of spiritual faith and a spiritual leader. He says, "It is unjust that churches and clergy men and women are unfairly targeted when they exercise their rights as American citizens. I am pleased to offer my wholehearted support with sincere prayer for passage of this important and liberating legislation. Floyd Flake." He is talking about H.R. 2357.

Mr. WATTS of Oklahoma. Mr. Speaker, under the First Amendment to the United States Constitution, Americans have the freedom of speech. In the same amendment, our founding fathers declared Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Much to the dismay of many of my friends on the other side of the aisle, the two concepts do not cancel out each other. They are not mutually exclusive. Americans who believe in God ought not to have their freedom of speech muzzled in the name of the law.

I am pleased to be a co-sponsor of this legislation to stop harassing churches and other places of worship when someone mentions politics. Those of us who support this bill are not advocating turning religious organizations into political parties. Rather, the legislation before us would permit the occasional discussion of issues of importance to congregations comprised of voting citizens.

The gag rule on pastors, priests, rabbis and other religious leaders was not part of the Bill Of Rights. It was an amendment to a 19–54 tax bill by Senator Lyndon Johnson. There were no hearings. Rather, restrictions were imposed on people of faith as revolutionaries began their quest to remove any reference to a Creator from our one nation under God.

I don't believe Al Gore or HILLARY CLINTON should be banned from speaking at Riverside Baptist Church just because it is a place of religion. When the pastor invites them up to the pulpit during their campaigns, he should not have to worry about breaking the law or losing his tax-exempt status. But if this bill fails, the pastor will have no choice but to say no.

Churches have integrity. They are sacred places, protected under law and deserving of the liberties afforded to the rest of our great nation.

The First Amendment rights of our constituents shouldn't be curtailed because they happen to be sitting in a pew or on bended knee. I commend the gentleman from North Carolina for his leadership on the bill and urge my colleagues to support the Houses of Worship Political Speech Protection Act.

Mr. CRANE. Mr. Speaker, I rise in support of the Houses of Worship political speech protection act. I believe that we must remove the Gag that restricts our clergymen from discussing candidates for office or political issues. Religious organizations are the moral compass for tens of millions of Americans and I have no qualms about their leaders articulating the pros and cons of a particular candidate for office or issue.

While I strongly commend the gentleman from North Carolina for advancing this issue, I do have some concerns with the way this particular bill has been drafted. In my opinion, the substantiality test in the code is entirely too ambiguous. It has not been defined by Congress, the Treasury Department or the courts, so passage of this bill will require that we wait until the IRS prosecutes a church for a violation to learn what substantial means.

Since the 104th Congress, I have introduced the Brightline Act that clearly defines, using dollar limitations, the activities that religious organizations may engage in while maintaining their tax-exempt status. It is a clean, easy way for churches to know whether or not they have run afoul of the Internal Revenue Code. I hope, that as we continue to move this issue forward, the gentleman from North Carolina will be willing to work with me to ensure that whatever we put on the President's desk for signature provides churches with clear rules so that this matter is not resolved by the courts.

Finally, I would be remiss if I didn't take a moment to thank the people who have worked so hard over the years to advance this issue. First and foremost, I want to thank the millions of Americans at the grassroots level who have contacted their members of Congress to get their support. Second, and most importantly, I want to thank my good friend Reverend Lou Sheldon for his tireless efforts to advance this issue. Pastor Lou has led the change on this issue since 1994 and I hope those who support this bill will recognize his hard work.

Mr. SMITH of New Jersey. Mr. Speaker, today I rise in strong support of the Houses of Worship Political Speech Act, introduced by my good friend, WALTER JONES. For too long, the separation of church and state has been tilted too far towards one extreme and has restricted the free speech rights of religious communities in America. HR 2357 attempts to restore balance and reasonableness by amending the Internal Revenue Code to permit churches and other houses of worship to fully participate in the democratic political process.

I believe that the First Amendment's prohibition against the establishment of an official religion akin to the Church of England in the UK was never meant to mean that communities of faith were barred from a robust participation in all aspects of our nation's political life. America's system is weaker and less representative when important voices are excluded from the political dimension.

Prior to 1954, pastors and religious leaders spoke freely about candidates and political issues that directly affected the interests of their congregations. The anti-slavery and abolitionist organizations and the civil rights movement are examples of church-inspired political agents of change in our society. In fact, churches played a central role in dismantling the Jim Crow laws that so egregiously violated the civil rights of African Americans. Our society would have been much worse off if historically black churches and clergy were prohibited from sermonizing or distributing materials.

The origins of current law, which this bill seeks to correct, are very instructive. In 1954, Senator Lyndon Johnson added language to pending tax legislation to prevent two nonprofit groups that opposed him in 1948 from speaking out against him in his 1954 re-election.

The vexing perception is that the IRS is empowered with sweeping powers to strip a church's tax-exempt status if clergymen express particular views on a candidate. That is clearly wrong and the framers of the Constitution would be appalled at this abuse of power. Priests, pastors, rabbis, or any religious leader should not be bullied into silence by the IRS.

LBJ's capricious and punitive tax proviso has been used in an arbitrary manner to silence political speech in America's houses of worship. The Church at Pierce Creek in Vestal, New York, for example, came under IRS' sanction when it published an "open letter" to then-candidate Bill Clinton in 1992. The church took issue with Mr. Clinton's stances on several compelling moral issues. Even though the church leadership cited biblical passages to buttress its argument, the IRS revoked its tax-exempt status in 1995.

The American Center for law and Justice, which represented the Church at Pierce Creek, has subsequently documented more than 500 instances where candidates had appeared before churches. Yet no enforcement action was taken in those cases perhaps suggesting a double standard. Mr. Speaker, I ask that these instances be made a part of the record.

Approximately two years ago, former President Bill Clinton stood in the pulpit of the Alfred Street Baptist Church in Alexandria, Virginia—just a few miles from this building—and openly urged parishioners to vote for then-Senator Chuck Robb and Vice President Al Gore.

Mr. Speaker, why is it permissible for Bill Clinton to make partisan speeches in churches, while other church leaders are gagged if they critique Bill Clinton?

In a national poll conducted this summer by The Poling Company, 84 percent of men, and 77 percent of women agreed that the First Amendment should protect religious leaders from being penalized for political speech.

I want to remind my colleagues that the separation of church and state stemmed from Americans' desire to have church and state operate independently from one another, in order to avoid the establishment of a state church. The affairs of states however often compare with, contradict or comply with the moral imperatives found in Holy Writ.

Nothing in this legislation demands that a church get involved in the political dialogue of our nation. Issues of war and peace and other important issues shouldn't be the exclusive preserve of the political elite. The Jones bill would simply allow them that opportunity should they choose to speak about those matters, without the coercive power of government putting their tax-exempt status at risk.

TABLE OF CONTENTS

Date	Candidate	Church	Activity
1. 9/11/94	Sue V. Mills (P.G. County, Exec.)	Nat'l Church of God, Fort Washington, MD	Addressed church members from the pulpit.
2. 10/9/94	George Pataki (NY Gub. Cand.)	Abyssinian Baptist, Harlem, NY	Addressed church members from the pulpit.
3. 10/9/94	Carl McCall (NY State Comptroller)	Abyssinian Baptist, Harlem, NY	Addressed church members from the pulpit.
4. 9/8/94	Ron Simms (U.S. Senate candidate)	First A.M.E. Church, Seattle, WA	Breakfast Forum, Debate.
5. 9/8/94	Scott Hardman (U.S. Senate candidate)	First A.M.E. Church, Seattle, WA	Breakfast Forum, Debate.
6. 9/8/94	Mike James (U.S. Senate candidate)	First A.M.E. Church, Seattle, WA	Breakfast Forum, Debate.
7. 9/8/94	Jesse Wineberry (U.S. Senate candidate)	First A.M.E. Church, Seattle, WA	Breakfast Forum, Debate.
8. 10/10/94	All Candidates for City Council	Bethlehem Missionary Baptist Church, Memphis, TN	Meeting/Forum at church open to public.
9. 5/24/92	Gov. Clinton (Pres. Cand.)	Greater Paradise Miss., Baptist Church	Addressed parishioners & "campaigning".
10. 3/13/92	Gov. Clinton (Pres. Cand.)	Pleasant Grove Baptist Church, Chicago, IL	Addressed parishioners from pulpit.
11. 10/12/94	School Board Candidates	Oak Falls Church, Sacramento, CA	Candidates forum.
12. 9/30/94	All Candidates (600)	Calvary Chapel, Costa Mesa, Ca	Candidates results distributed to more than 50,000 people.
13. 11/22/92	Pres. Clinton (President)	St. Theresa's Catholic Church, Little Rock, AR	Jesse Jackson endorsed Bill Clinton from the pulpit.
14. 3/29/88	Jesse Jackson (Pres. Cand.)	Unknown, Flint, MI	Addressed the parishioners.
15. 7/2/88	George Bush (Pres. Cand.)	Greek Orthodox Ch., Mass	Church dinner.
16–515. 1/31/88	Jesse Jackson (Pres. Cand.)	St. Joseph's Cath. Ch., West Liberty IA Fellowship Missionary Baptist Church, Chicago, & 498 others	Collection for Jackson from all 500 churches.
516–518. 11/22/92	Wyche Fowler (U.S. Senate run-off Cand.)	3 Black Churches, Savannah, GA	Gore spoke to 3 churches supporting people voting (Fowler "got help from" Gore's efforts).
519. 2/8/88	J. Jackson	Lutheran Church, Clinton, IA	Jackson "opposed" there.
520. 2/25/92	B. Clinton	A.M.E. Church, Memphis, TN	Clinton gave a speech to delegates to the church reception.
521. 4/26/87	Gary Hart (Pres. Cand.)	Antioch Baptist Ch., Atlanta, GA	Hart took the pulpit to deliver combination "stump" speech & sermon.
522. 1/20/93	Clinton/Gore	A Small Meth.-Epis. Ch, Washington, DC	Official inaugural church ceremony.
523. 1/93 (preinaug.)	Clinton/Gore	First Baptist Church, Washington, DC	Private, preinaug. gathering for supporters.
524. 1/16/94	Clinton	Temple of the Church of God in Christ, Memphis, TN	Delivered a speech from the pulpit.
525. 3/8/92	Clinton	Lyons Unity Church, Houston, TX	After speech, he received congrats. from church members.
526. 8/14/94	Clinton	Full Gospel A.M.E. Zion Church, Temple Hills, MD	Speaking from the pulpit, delivered a political speech.
527. 1/27/92	Tom Harkin (Pres. Cand.)	Heritage United Church of Christ, Baltimore, MD	Delivered speech in church.
528. 9/25/94	Mario Cuomo	Bethel A.M.E. Church, Harlem, NY	Delivered praises to Clinton from pulpit.
529. 9/25/94	Cuomo	Bethel A.M.E. Church, Harlem, NY	Clinton endorsed Cuomo & told parishioners to support him.
530. 4/5/92	Clinton	Bridge Street, A.M.E., Harlem, NY	Courted black voters w/a speech to parishioners.
531. 5/10/92	Clinton	Unknown, S.F., CA	Speeches at a church.
532. 5/10/92	Clinton	Unknown, S.F., CA	Speeches at a church.
533. 8/14/90	Marion Barry, (D.C. Mayoral Cand.)	Israel Baptist Ch., Washington, D.C	Attendance & a "victory dance".
534. 8/19/88	Dukakis, (Pres. Cand.)	Sixth Ave. Bap. Ch., Birmingham, AL	Spoke to a black church.
535. 11/8/86	Marion Barry	NY Ave. Presby, Ch., Washington, D.C	Jesse Jackson endorsed Marion Barry.
536. 1/15/89	Jesse Jackson	Unknown, Harlem, NY	Speech at a church.
537. 3/4/88	Jesse Jackson	Westside Baptist Ch., St. Louis, MO	His son delivered speech for him at the church.
538. 11/6/88	Dukakis/Bentsen	Macedonia Miss. Bapt. Church, Flint, MI	Endorsement by Jesse Jackson from pulpit.
539. 3/18/88	Jesse Jackson	Chapel Hill Bapt. Ch., Detroit, MI	Addressed the church's "rally".
540. 1/15/90	Mayor Maynard Jackson	Ebenezer Baptist Ch., Atlanta, GA	Delivered speech at an ecumenical service.
541. 1/15/90	Mayor David Dinkins	Unknown, New York, NY	Gave a speech at a church.
542. 4/10/88	Jesse Jackson	Abyssinian Bap. Ch., New York, NY	Delivered speech to the church parishioners demeaning two other candidates.
543. 4/16/84	Jesse Jackson	Second Bapt. Ch., Columbia, MD	Speech.
544. 8/21/92	Clinton/Gore	Olivet Instit. Bap. Chur., Cleveland, OH	Speeches at a rally.
545. 10/26/92	Gore	Black Church, Atlanta, GA	Speech to parishioners.
546. 10/26/92	Gore	Black Church, Atlanta, GA	Speech to parishioners.
547. 1/10/93	Clinton	Immanuel Bapt. Ch., Little Rock, AR	Speech (took to the podium bade farewell).
548. 9/10/94	Kathleen Brown (CA Gubernt. Race)	1st Church of God in Christ, Los Angeles, CA	Attending.
549. 9/10/94	Kathleen Brown (CA Gubernt. Race)	Bethel A.M.E. Ch., Los Angeles, CA	Attending.
550. 9/10/94	Kathleen Brown (CA Gubernt. Race)	Mount Tabor Miss. Baptist Church, Los Angeles, CA	Attending.
551. 9/10/94	Kathleen Brown (CA Gubernt. Race)	1st A.M.E. Church, Los Angeles, CA	Attending.
552. 9/10/94	Kathleen Brown (CA Gubernt. Race)	West Angeles Ch. of God, Los Angeles, CA	Attending.
553. 9/3/94	Ken Connor (FL Gub. Cand.)	Coral Ridge Presby., Ft. Lauderdale, FL	Attending.
554. 3/1/92	George Bush	1st Baptist Church, Atlanta, GA	Attending.
555. 4/9/90	Ann Richards	Various churches, Dallas, TX	Visited.
556. 4/9/90	Jim Mattox	Various churches	Visited.
557. 10/23/94	Charles Robb	Trinity Baptist Church, Richmond, VA	Speech to parishioners from pulpit.
558. 10/23/94	Charles Robb	Trinity Baptist Church, Richmond, VA	Wilder endorsed Robb from pulpit.
559. 10/23/94	Oliver North	Cedar St. Baptist Church, Virginia	Introduced by minister, gave brief remarks (not political).
560. 10/18/94	Phil Bredesen (TN Gub. Cand.)	Greater Second Baptist Ch., Chattanooga, TN	Addressed TN Baptist Missionary and Education Convention.
561. 3/8/94	Clinton	Southern Churches	Courted black votes.
562. 3/8/94	Tsongas	Southern Churches	Courted black votes.

Mr. CLEMENT. Mr. Speaker, I want to express my strong support for this legislation and to thank my colleague Representative WALTER JONES for his leadership on this important issue. Passage of H.R. 2537, the Houses of Worship Political Speech Protection Act is vital to ensure that churches and synagogues are free to speak out on the many moral and political issues affecting our nation.

For the first 178 years in our nation's history, America's religious leaders had the right to speak their conscience on issues of politics and morality. Then, in 1954, an amendment was added to a revenue bill that extended the reach of the Internal Revenue Service into our nation's houses of worship. That amendment has had the effect of restricting freedom of speech, by threatening to revoke the tax-exempt status of any house of worship whose ministers speak out on moral and political concerns.

Since that time, the IRS has used the church tax exemption to discourage members of the clergy from communicating even the fundamental principles of their faith in any way that might be viewed as "partisan political issues" during an election period. And the scope of the ban goes well beyond a prohibition on active political campaigning. The restrictions bans all forms of political expression, which has prompted some churches to avoid distributing voter guides and from taking positions on issues that are debated in political campaigns.

Mr. Speaker, this prohibition on free speech has limited the ability of houses of worship to exercise their freedom of speech, as guaranteed under our Constitution. It burdens the free exercise of religion by telling houses of worship how they can and cannot practice their religion. And the ban has been enforced in a way that prevents religious leaders from speaking on religious issues that are also political, for fear that such speech might be viewed as support for a candidate or party. Any member of the clergy, for example, who takes a position against defense spending or abortion during a campaign season may have their speech and tax-exempt status scrutinized by the IRS. That is simply not right—not in America.

I strongly support this bill because I believe churches and synagogues have a right, based on the First Amendment, to speak about issues they believe are important to our nation. Additionally, I do not think churches should be scrutinized by the IRS for freely expressing political views—a form of speech that is protected in every other venue. Quite simply, our houses of worship should be places free from government control.

Finally, I want to point out that this is not a partisan issue. I am proud to work with my colleagues—Democrats and Republicans alike—to pass this important legislation. I urge my colleagues to help restore freedom of speech to churches, synagogues and other houses of worship by voting yes on this critical legislation.

Mr. STARK. Mr. Speaker, I rise today in opposition to H.R. 2357, the Houses of Worship Political Speech Protection Act.

This bill is an assault on the Constitution's fundamental separation between church and state. It was crafted with the single purpose of giving right-wing religious groups—like the Christian Coalition—a special advantage in the political process. It would allow them to promote their narrow political agenda while exploiting the tax-exempt status traditionally reserved for non-partisan religious and charitable organizations.

Various types of organizations are allowed to be tax exempt because they do not engage in or sponsor partisan political activity. This bill would grant religious organizations a special right to maintain that tax-exempt status while freely engaging in partisan politics.

Supporters of H.R. 2357 have cloaked the real intent of the bill in the blatant falsehood that religious leaders cannot speak on moral and political issues. This right is freely exercised and clearly protected by the Constitution.

In addition to speaking freely from the pulpit, members of the clergy can endorse partisan candidates, publicly express their opinion on political issues, and contribute their time and money to any political campaign they choose. Under their current tax-exempt status, religious organizations are allowed to work in a non-partisan capacity to register voters, provide voter education, and encourage people to go to the polls on Election Day.

A wide array of religious leaders have spoken out in opposition to this bill because they don't want the integrity of their institutions undermined by partisan politics. This bill puts partisanship ahead of piety in the nation's churches, synagogues, and mosques. It allows religious institutions to endorse political candidates, broadcast issue ads, conduct voter mobilization, and engage in political fundraising.

This would blow a gaping hole through the landmark campaign finance reform law enacted this year. In allowing tax-exempt and tax-deductible money to be given for political purposes, churches would now be allowed to launder soft-money contributions. Many churches—those that are not incorporated—would be exempt from campaign finance laws altogether.

I urge my colleagues to vote no on this cynical scheme to breach the separation of church and state and give special interests a blank check to undermine our democracy. Vote no on H.R. 2357.

PARLIAMENTARY INQUIRY

Mr. EDWARDS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. REHBERG). The gentleman will state it.

Mr. EDWARDS. Mr. Speaker, in the spirit of honest discussion on an issue that was so important that Mr. Madison and Mr. Jefferson debated it for 10 years in the Virginia Legislature, I am wondering if it would be within the rules of the House for me to now ask for unanimous consent to have 3 minutes of discussion with the author of the bill so I can clarify what the direct impact of this bill would be. If I do have that parliamentary right, I would like to make that unanimous-consent request.

The SPEAKER pro tempore. By unanimous consent, there would have to be 3 minutes equally divided.

Mr. EDWARDS. That would be fine.

Mr. JONES of North Carolina. Mr. Speaker, I object to that for this reason. I respect the man, and this just continues this debate. Obviously I would have liked to have been here earlier this afternoon. I was hoping we would be here earlier. But at 11:15 at night, I think I know your position, which I respect, and you know my position, so I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 2357.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LEWIS of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HERGER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of H.R. 2357.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IS WAR THE ANSWER?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, as so many of my colleagues, I went home this weekend and talked to our constituents about the very serious and all-important subject of war, and I thought that I would put some of this on the record tonight, because my constituents are asking me, is war the answer? Is war the answer to meet the terrorist threat? Who is really the enemy, and what are the roots of the terrorism that America faces?

I found a great ambivalence among the people, wanting to say, "Well, we want to be united even though we do not understand the cause. We want to stand with the President. We may not agree with what is being done, but if we stand united, then we will win whatever we go into because we remember Vietnam, and the reason we lost in Vietnam is we were not united, and so this time united we stand."

I just wanted to say to those who may not have lived during the Vietnam period, America did not lose in Vietnam because she was not united. America did not carry the day because there was no way any Western power could have carried the day in a country that was undergoing regime change, fundamental, a fight we never should have been into in the first place, and we asked the impossible.

□ 2320

So we think about what is happening with the terrorist situation and some of the breeding grounds for those who hate the West in the Middle East and Central Asia, and it is important to ask ourselves whether war will solve the problem; will solve the problem of growing terrorism; will solve the problem of hatred expressed against the United States and other Western countries and installations.

I have done quite a bit of research, and I want to put on the RECORD tonight what I call a terrorism chart that covers the entirety of the 20th century and goes back actually to 1902 and to how the original countries in the Middle East and Central Asia were formed. But it reminds us also, it takes us through the Suez crisis back in 1956; and then when I came of political age, the assassination of Robert Kennedy as a Democratic candidate for President by a Jordanian Arab national who felt he had lost his homeland in east Jerusalem. And still remaining, the Israeli-Palestinian conflict that remains unsolved and remains a lightning rod and source of discontent in that region of the world. Then, in 1968, the beginning of mass terrorism. One can go through 1979; we probably remember the Iranian hostage-takers, held 52 Americans for 444 days.

The point I wish to make is, with all of the turmoil, all of the assassinations, and the growing level of violence, did the Persian Gulf War really solve the growing level of terrorism and violence we see? Did the wars of the Middle East and Central Asia solve the terrorism that we now see springing up all the way from Malaysia to central and East Africa?

I think it is important for us to understand the roots of the terrorism that have resulted in the loss now last year of 3,025 additional lives here in our country. So I wish to place on the RECORD this summary. It also exists on our Web site.

Mr. Speaker, I wanted to quote from a very, very prescient author, Robin Wright, "Sacred Rage," written back during the 1980s and recently updated from the first chapter where she talks about the crusade, that, indeed, the challenge of terrorism is really the challenge of meeting a different point of view arising globally from many sources. She quotes the former Lebanese Prime Minister, Saeb Salam, who said, "The growth of Islamic fundamentalism is an earthquake."

I can remember being elected in 1982, coming here in 1983, in the fall; and we saw the U.S. marine command center at Beirut's International Airport devastated by two car bombs and we lost 240 Marines, and Navy personnel dead. I can remember at that time becoming brutally aware of a changing world and the shifting sands of the politics of that region of the world.

In Robin Wright's book she talks about a wall in our State Department where if you walked in the door at that time, two greenish-black stone plaques listed in gold letters the names and dates of diplomats of the United States killed in the line of duty since the founding of our Republic. Over that period, from 1780 to 1967, over 187 years, we had lost 143 U.S. diplomats killed in the line of duty. But the second plaque that sits at the State Department was filled in equal number in almost 18 years. And, if one looks at the pace of terrorist attacks against the West, one sees that the pace is increasing in spite of wars, in spite of additional military actions. So one has to ask ourselves whether more wars lead to less terrorism or more terrorism, and whether war is really the answer to give at the root of what the problem is.

I commend this book, "Sacred Rage," to those who are listening among our colleagues here and only end with one of the sentences in the book that points out some of the mistakes, particularly by the West, that have only provoked the Muslim fundamentalists rather than cope realistically with what they represent: "The stakes have never been so high, the potential for misunderstanding and further violence never so great."

Mr. Speaker, war may not be the answer to solving the terrorist threat.

THE NATIONAL PARK SYSTEM

The SPEAKER pro tempore (Mr. REHBERG). Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, we have many, many difficult and complex issues that we each face every day. We just heard from the gentlewoman from Ohio (Ms. KAPTUR), my friend and colleague, about war. Most of us spend probably the majority of our time, or at least the largest percentage of our time, dealing with economic growth and recovery, jobs, and what we need to do to help attract or keep companies in our district, and the regulatory issues, and many other things. We also work regularly on other issues that come up. For example, I am chairing a hearing Thursday on the West Nile virus which has particularly hit my hometown hard. We just had an hour debate on moral issues.

But in addition to these kinds of issues, we deal inside the Federal budget with an incredible array of issues. I would like to address one tonight that is in danger of being overlooked as we address the big issues that are in front of Congress.

Former President Theodore Roosevelt once said: "Nothing short of defending this country during wartime," which is now, "compares in importance with the great task of leaving this land a better land for our descendants than it is for us."

His legacy was the National Park system. I want to talk a little bit about the financial pressures on our National Park system. This legacy is important. It is not just what we are doing today with the different pieces of legislation, but what are we going to leave for future generations; what are they going to remember America by; are they going to have the natural and cultural beauty.

The Park Service manages 385 sites; has more than 83 million acres of land to manage; habitat for 168 threatened and endangered species; more than 80 million museum artifacts, some of the greatest collections of museum artifacts than other museums combined, for the most part; 1.5 million archeological sites; and 26,000 historic structures.

Now, the problem that we have is that we have a shortfall of $600 million just to keep the maintenance backlog covered, which amounts to 32 percent of what the Park Service needs to fulfill its mission, and we are falling more and more deeply behind. What I wanted to address in addition to the very specific thing that a number of us have requested is that the conference committee, and the gentleman from Georgia (Mr. LEWIS), who just a little bit ago and I were debating on another matter have cosponsored legislation or efforts to raise the National Parks funding to $280 million. We were successful in getting an additional $118.5 million, working with the gentleman from New Mexico (Mr. SKEEN) and the gentleman from Washington (Mr. DICKS), the chairman and ranking member. And the wonderful people on the Interior Committee on Appropriations actually boosted the park funding over the President's request. However, the Senate bill is much less, and we need to make sure we hold that House position.

Let me give an illustration of why this is so important. Earlier this month, this House passed these boundary adjustments for the Pemberton's headquarters in Vicksburg National Military Park, the George Washington Birthplace National Monument, the Santa Monica Mountains National Recreation Area, the Golden Gate Recreation Area boundary adjustment, and the Allegheny Portage, Pennsylvania Railroad National Historical Park.

We also did land acquisition at the Salt Lake City Museum of Natural History, Salt River Bay St. Croix, Virgin Islands and Timpanogos Cave National Monument, Grand Teton land exchange, James V. Hansen Shoshone National Trail, the McLoughlin House Preservation and the William Jefferson Clinton Birthplace.

We also passed in this House a study for feasibility and inclusion of the Miami Circle site, a very expensive site, by the way, in the city of Miami, but worthwhile; Gateway Communities Cooperation, Mount Nebo Wilderness Boundary, and Bainbridge Island Japanese American Memorial.

We also voted to establish Victims of Terrorist Attacks Memorial in Washington, D.C. We also asked for more funding for Historically Black Colleges and Universities; historic preservation, which could be as high as $120 million from 2003 to 2007; and we passed the Vancouver, Washington National Historic Reserve Development costs from $5 million to $25 million.

Tonight, alone, on Monday night we passed the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park Act. We passed the Spirit Lake and Twin Lakes Land Adjustment Act. We passed the Red Rock Canyon National Conservation Area Protection Enhancement Act of 2002. We passed tonight the Southern Campaign of the Revolution Heritage Area Study Act. We passed tonight the Andersonville National Historic Site Boundary Adjustment Act.

□ 2330

We also have passed the Civil War Battlefield Preservation Act to preserve Civil War battlefields.

These are all worthy projects, but how can we stand here and pass bill after bill after bill after bill after bill to go into the National Park Service, and then say we have no more money, when we have a backlog of $600 million? There has to be some sort of accountability within this Congress.

I supported these bills. I was here tonight and let them go through on unanimous consent. But then I have an obligation to say we are going to fund these efforts, because otherwise we are pulling the wool over the Americans' eyes. We cannot keep saying that we are going to do this new park, this new park, this new heritage area, we are going to maintain Glacier and Yellowstone National Parks, we are going to make sure the campgrounds are up to snuff, we are going to make sure there are decent roads, we are going to make sure the resources are protected, and then not do the funding.

We need to make sure we hold the House funding level. It is a critical part of our national heritage.

BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. SANDLIN) is recognized for half the time before midnight as the designee of the minority leader.

Mr. SANDLIN. Mr. Speaker, I think it is important that we ask ourselves: What are we doing here today? What have we been doing recently?

During the day we waste our time on mostly ridiculous nonbinding resolutions while major economic issues are needed to be addressed. Where is the debate on Social Security? What are we doing about economics? What about our education reform? Where is some real pension reform legislation? What about a real prescription drug plan for this country? What about health care, Medicare? What about these issues? What are we doing; and importantly, where are we on the budget?

Mr. Speaker, today, as we stand here today, it marks the first day of the fiscal new year. As Alan Jackson, a country western singer, says, Who says you can't have it all? Well, apparently not our friends on the other side of the aisle. While most New Years are a cause for celebration, this particular fiscal new year is anything but joyous and provides us with a very sober opportunity to examine the sorry state of our country's fiscal health: $6.15 trillion in debt, $1 billion a day interest payments, increasing obligations, decreasing investments, and broken promises.

The Blue Dog Coalition has worked hard to sustain the Federal budget surpluses that our country has enjoyed for the last several years. Make no mistake about it, we have huge deficits, we have huge debts. Those deficits are growing day by day. Right now, as our friend Chris Farley would say, we do not have Jack squat.

The deteriorating state of our Nation's fiscal situation is well known to Members of the Congress and to the public, though it is worth recalling exactly how drastically our budget surpluses have turned into budget deficits.

Just last year, in 2001, the CBO projected that the Federal Government would run a 10-year budget surplus of $3.4 trillion, excluding the Social Security surplus. The CBO now predicts that the government will run a 10-year budget deficit of $1.5 trillion, a staggering reversal of approximately $5 trillion.

Further, the CBO estimates that the Federal Government will run a unified deficit of $157 billion in fiscal year 2002. When the Social Security surplus is excluded, however, the CBO projects a deficit of $314 billion. For the current fiscal year, which starts today, the CBO estimates a unified budget deficit of $145 billion and a deficit of $315 billion when the Social Security surplus is excluded.

Now, while Members of both parties argue over the specific reasons for the shift from surpluses to deficits, the fact remains that the Federal budget is now in the red and will remain in the red for the foreseeable future. Further, though our country's anticipated effort to disarm Saddam Hussein's weapons of mass destruction is necessary, any future action in Iraq will increase Federal spending and almost certainly expand deficits in the near future.

In light of our current and anticipated deficits, the Blue Dogs believe that the Congress must take several vitally important steps to return our Federal budget to fiscal health and fiscal responsibility.

For starters, the other body needs to extend the pay-go provision of the Budget Enforcement Act, which expired just yesterday. Our country is in real danger of suffering from a budget hangover in the aftermath of this fiscal new year. As we all know, pay-go restrains the natural tendencies of Congress to overspending by renewing enforceable spending limits. As called for in the Blue Dogs' ABC budget plan, Congress can take the necessary first step towards reestablishing balanced budgets and possibly budget surpluses.

As Federal Reserve Chairman Alan Greenspan noted recently in his September 12 testimony before the Committee on the Budget, "The pay-go rules served as useful tools to control the deficits. In essence, the rules provided a means for advancing the broader good of sound fiscal policy over narrower interests."

Chairman Greenspan went on to assert that "now is not the time to abandon the discipline and structure that worked so well for so long. The framework enacted in the Budget Enforcement Act of 1990 and extended several times must be preserved."

But the pay-go rules to which Congress has adhered for the past decade are not an end to themselves. They serve only as a means to very important ends. The people of east Texas in my district have felt the negative impact of the national economic downturn, and seniors in my district need assurances that Congress will not end up raiding the Social Security fund to make up for budget shortfalls.

During 2001, Congress and the President promised to secure the Social Security Trust Fund surplus in a so-called lockbox. The Democrats proposed a true lockbox. The Republican lockbox had a trap door and is nothing more than a figment of their collective imagination. Our country's anticipated budget deficits will siphon money out of the Social Security Trust Fund for years and years and years and years to come.

Last year a number of Blue Dogs, including myself, introduced the Restore Fiscal Discipline and Safeguard Social Security Act. This legislation, which would require Congress and the President to have a midyear review if the CBO projects ongoing deficits during its annual budget reestimates in August, is an important step toward ensuring the continued existence of the Social Security Trust Fund.

Unfortunately, the Blue Dogs' efforts to offer this measure on the House floor were repeatedly denied by the Republican House leadership. Budget deficits have consequences and are financed by sacrificing national priorities like Social Security and Medicare.

The Federal Government is projected to borrow nearly all of the Social Security surpluses to pay for the deficits in the remainder of the budget. We are scheduled to borrow nearly all of it, $964 billion over the next 5 years, and more than $2 trillion over the next 10 years.

Mr. Speaker, deficit spending to compensate for a downturn in the economy and a war in Iraq should not jeopardize the retirement security of our Nation's seniors, who in most cases have contributed to the Social Security system for all of their working lives.

In addition to preserving Social Security for current and future generations, the Blue Dogs continue to work for fiscal discipline in an effort to lower long-term interest rates. Congress has a significant role to play in keeping the growth of long-term interest rates in check through the enforcement of fiscal discipline.

□ 2340

According to Alan Greenspan in his testimony, "If you watch the way markets behave, long-term interest rates, both real and nominal, are affected in a significant manner by the long-term fiscal outlook, and when you change the long-term fiscal outlook or, more exactly, when the markets perceive a change in the long-term fiscal outlook, interest rates react immediately."

Lower interest rates represent a de facto tax cut for millions of American families and serve as an effective economic stimulus as families and individuals save money on their mortgages, save money on their car loans, save money on their credit cards payments, save money on all consumer debt. It is the best tax cut of all for American families.

The Blue Dogs remain committed to strong economic growth which does not represent party labels and it benefits all Americans. Fiscal responsibility includes transparent budgeting, paying down the debt, balancing the budget, and keeping our commitment to respect our seniors and invest in the children of America.

Let us give the budget debate the time it deserves. Let us do it now. Let us stay here hour to hour, day to day, week to week and, yes, month to month until the important work of the people is complete.

We need a prescription drug plan. We need legislation to protect pensions and to jail corporate thieves. We need a true Patients' Bill of Rights. We need to protect Social Security from privatization. To address these needs we need a firm financial foundation.

Mr. Speaker, to address these needs we need a fiscally responsible budget. Let us do it. Let us do it now. Let us take the time to do the people's work.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT) for today on account of personal reasons.

Mr. HASTINGS of Florida (at the request of Mr. GEPHARDT) for today and the balance of the week on account of official business.

Ms. MCKINNEY (at the request of Mr. GEPHARDT) for today on account of a family emergency.

Mr. MASCARA (at the request of Mr. GEPHARDT) for today on account of illness in the family.

Mr. MENENDEZ (at the request of Mr. GEPHARDT) for today on account of a death in the family.

Mr. TANNER (at the request of Mr. GEPHARDT) for today and October 2 on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SANDLIN) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. ROYBAL-ALLARD, for 5 minutes, today.

Mr. HONDA, for 5 minutes, today.

Mr. PAYNE, for 5 minutes, today.

Mrs. DAVIS of California, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Ms. SLAUGHTER, for 5 minutes, today.

Mr. SAWYER, for 5 minutes, today.

Mr. SHERMAN, for 5 minutes, today.

Ms. LOFGREN, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mrs. NAPOLITANO, for 5 minutes, today.

Ms. WATSON of California, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

Mr. FARR of California, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

Mr. OBEY, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

(The following Members (at the request of Mr. SOUDER) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, today, October 2 and 3.

Mr. PAUL, for 5 minutes, October 2 and 3.

Mr. GUTKNECHT, for 5 minutes, October 2.

Mr. KENNEDY of Minnesota, for 5 minutes, October 2.

Mr. SOUDER, for 5 minutes, today.

Mr. PENCE, for 5 minutes, October 2.

Mr. DREIER, for 5 minutes, today and October 2.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on September 30, 2002 he presented to the President of the United States, for his approval, the following bill.

H.R. 1646. To authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

ADJOURNMENT

Mr. SANDLIN. Mr. Speaker, pursuant to House Resolution 566, I move the House do now adjourn in memory of the late Hon. PATSY T. MINK.

The motion was agreed to; accordingly (at 11 o'clock and 43 minutes p.m.), pursuant to House Resolution 566, the House adjourned until tomorrow, Wednesday, October 2, 2002, at 10 a.m. in memory of the late Hon. PATSY T. MINK.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9437. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Establishment of Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States and Termination of the Peanut Marketing Agreement and Associated Rules and Regulations [Docket No. FV02-996-1 IFR] received September 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9438. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit [Docket No. FV02-905-5 IFR] received September 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9439. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Vidalia Onions Grown in Georgia; Revision of Reporting and Assessment Requirements [Docket No. FV02-955-1 FIR] received September 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9440. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Nectarines Grown in California; Decreased Assessment Rate [Docket No. FV02-916-2 FIR] received September 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9441. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Sucrose Octanoate Esters; Exemption from the Requirement of a Tolerance [OPP-2002-0016; FRL-7199-1] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9442. A letter from the Principal Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pseudozyma flocculosa strain PF-A22 UL; Exemption from the Requirement of a Tolerance [OPP-2002-0233; FRL-7198-8] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9443. A letter from the Comptroller General, General Accounting Office, transmitting a report of deferrals of budget authority for information technology and business management systems that should have been, but were not, reported to the Congress by the President, pursuant to 2 U.S.C. 685; (H. Doc. No. 107—269); to the Committee on Appropriations and ordered to be printed.

9444. A letter from the Comptroller, Department of Defense, transmitting the Department's letter certifying that the current Future Years Defense Program fully funds the support costs associated with the UH-60/MH-60 multiyear program; to the Committee on Armed Services.

9445. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9446. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7527] received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9447. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations — received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9448. A letter from the Director, Cooperative and State Programs, Department of Labor, transmitting the Department's final rule — Changes to State Plans: Revision of Process for Submission, Review and Approval of State Plan Changes [Docket No. T-035] (RIN: 1218-AB91) received September 25, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9449. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — State Children's Health Insurance Program; Eligibility for Prenatal Care and Other Health Services for Unborn Children [CMS-2127-F] (RIN: 0938-AL37) received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9450. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [FRL-7381-4] received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9451. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — State Implementation Plan Revisions for Ozone (1-Hour Standard), California —— San Joaquin Valley [CA-084-FON; FRL-7387-9] received September 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9452. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; Ohio [OH153-1a; FRL-7386-9] received September 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9453. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Louisiana; Baton Rouge Nonattainment Area; Ozone; 1-Hour Ozone Attainment Demonstration; Attainment Date Extension, and Withdrawal of Nonattainment Determination and Reclassification [FRL-7387-5] received September 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9454. A letter from the Principal Deputy Associate Administrator, Envrionmental Protection Agency, transmitting the Agency's final rule — Revocation of Significant New Uses of Certain Chemical Substances [OPPT-2002-0030; FRL-7186-9] (RIN: 2070-AB27) received September 24, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9455. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Industry Codes and Standards; Amended Requirements (RIN: 3150-AG61) received September 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9456. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 28-02 which informs of our intent to sign an Amendment to the Memorandum of Understanding (MOU) between the United States, the United Kingdom, Canada, Denmark, The Netherlands, Norway, Italy, Turkey and Australia concerning the Cooperative Framework for the System Development and Demonstration (SDD) Phase of the Joint Strike Fighter (JSF) Program and the Australian Supplement between the United States and Australia, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9457. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification for FY 2003 that no United Nations organization or United Nations affiliated agency grants and official status, accreditation, or recognition to any organization which promotes, condones, or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization, pursuant to Public Law 103—236, section 565(b) (108 Stat. 845); to the Committee on International Relations.

9458. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Audit of Advisory Neighborhood Commission 2B for Fiscal Years 2000, 2001, and 2002 Through March 31, 2002," pursuant to D.C. Code section 47—117(d); to the Committee on Government Reform.

9459. A letter from the Comptroller General, General Accounting Office, transmitting the Month in Review: July 2002 Reports, Testimony, Correspondence, and Other Publications; to the Committee on Government Reform.

9460. A letter from the Assistant Secretary of the Interior, Bureau of Land Management, Department of the Interior, transmitting the Department's final rule — Permits for Recreation on Public Lands [WO- 250-1220-PA-24 1A] (RIN: 1004-AD25) received September 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9461. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Rights-of-Way Under The Mineral Leasing Act; Timing of Approvals [WO-350-1430-PE-24-1A] (RIN: 1004-AD55) received September 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9462. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department's final rule — Withdrawal of Proposed Rulemaking Actions; Nondiscrimination on the Basis of Age, Charter Transportation, Notice of Terms of Contract of Carriage Part 399--Statement of General Policy, Simplified Airline Counter Sign Notices, Rules of Practice in Board Proceedings--Fees and Charges for Special Services; and Statements of General Policy, Baggage Liability Notices in International Air Transportation, Price Advertising, Procedures for Transportation Workplace Drug Testing Programs, and Transportation for Individuals with Disabilities [Docket No. OST-02-13179] (RIN: 2105-AD16) Received September 27, 2002, to the Committee on Transportation and Infrastructure.

9463. A letter from the Senior Regulations Analyst, Department ofTransportation, transmitting the Department's final rule — Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Procedures for Non-Evidential Alcohol Screening Devices [Docket OST-02] (RIN: 2105-AD13) received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9464. A letter from the Deputy Assistant Administrator for Satellite and Information Services, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Call for Proposals for Research in Satellite Data Assimilation for Numerical and Climate Prediction Models [Docket No. 020821203-2203-01] (RIN: 0648-ZB24) received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9465. A letter from the Chief, Regulations Unit, Department of the Treasury, transmitting the Department's final rule — Extension of Import Restrictions Imposed on Archaeological Material from Guatemala [T.D. 02-56] (RIN: 1515-AD17) received September 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9466. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Amounts received under accident and health plans (Rev. Rul. 2002-58) received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9467. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and in methods of accounting (Rev. Proc. 2002-65) received September 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9468. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Archer MSA's (Announcement 2002-90) received September 27, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 4014. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the development of products for rare diseases (Rept. 107–702)). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 5083. A bill to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the "Santiago E. Campos United States Courthouse" (Rept. 107–703). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 5335. A bill to designate the Federal building United States courthouse located at 200 West 2nd Street in Dayton Ohio, as the "Tony Hall Federal Building and United States Courthouse" (Rept. 107–704). Referred to the House Calendar.

Mr. HANSEN: Committee on Resources. H.R. 4141. A bill to authorize the acquisition by exchange of lands for inclusion in the Red Rock Canyon National Conservation Area, Clark County, Nevada, and for other purposes; with an amendment (Rept. 107–705). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. S. 434. An act to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands (Rept. 107–706). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 5097. A bill to adjust the boundaries of the Salt River Bay National Historical Park and Ecological Preserve located in St. Croix, Virgin Islands; with an amendment (Rept. 107–707). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3476. A bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land, and for other purposes (Rept. 107–708). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4968. A bill to provide for the exchange of certain lands in Utah; with an amendment (Rept. 107–709). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 5125. A bill to amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program; with an amendment (Rept. 107–710). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4830. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Southern Campaign of the Revolution Heritage Area in South Carolina, and for other purposes (Rept. 107–711). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4692. A bill to amend the Act entitled "An Act to authorize the Establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes", to provide, for the addition of certain donated lands to the Andersonville National Historic Site (Rept. 107–712). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4944. A bill to designate the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park as a unit of the National Park System, and for other purposes; with amendments (Rept. 107–713). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on Ways and Means. H.R. 4889. A bill to amend title XI of the Social Security Act to improve patient safety; with an amendment (Rept. 107–714 Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 4889. Referral to the Committee on Energy and Commerce extended for a period ending not later than October 4, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHIMKUS (for himself, Mr. Tauzin, Mr. Walden of Oregon, Mr. Pickering, Mr. Terry, Mrs. Bono, and Mr. Barton of Texas):

H.R. 5504. A bill to provide for the improvement of the safety of child restraints in passenger motor vehicles, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOUGHTON:

H.R. 5505. A bill to simplify certain provisions of the Internal Revenue Code of 1986 and to establish a uniform pass-thru regime; to the Committee on Ways and Means.

By Mr. MICA:

H.R. 5506. A bill to amend title 49, United States Code, to provide relief to the airline industry, to reform the Federal Aviation Administration, and to make technical corrections, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. LaFALCE:

H.R. 5507. A bill to amend the Truth in Lending Act to adjust the exempt transactions amount for inflation; to the Committee on Financial Services.

By Mr. DEAL of Georgia (for himself and Mr. Towns):

H.R. 5508. A bill to amend title XVIII of the Social Security Act to exclude brachytherapy devices from the prospective payment system for outpatient hospital services under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of South Carolina:

H.R. 5509. A bill to permit the transportation of passengers between United States ports by certain foreign-flag vessels and to encourage United States-flag vessels to participate in such transportation; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself, Mr. Frost, Mr. Rangel, Ms. Jackson-Lee of Texas, Ms. Waters, Mr. Clyburn, Mr. Davis of Illinois, Mr. Brown of Ohio, Mr. Rush, Mr. Owens, Ms. Kilpatrick, Mr. Wynn, Mr. Jackson of Illinois, Mr. Hastings of Florida, Mr. Fattah, Ms. Lee, Mr. Cummings, Mr. Hilliard, Mr. Brady of Pennsylvania, Mr. Ford, Mrs. Jones of Ohio, Ms. Schakowsky, Mr. Lewis of Georgia, and Ms. Norton):

H.R. 5510. A bill to secure the Federal voting rights of persons who have been released from incarceration; to the Committee on the Judiciary.

By Ms. DeLAURO:

H.R. 5511. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of paramedic intercept services provided in support of public, volunteer, or non-profit providers of ambulance services; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DUNN (for herself, Mr. Dicks, Mr. Hastings of Washington, and Mr. Larsen of Washington):

H.R. 5512. A bill to provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes; to the Committee on Resources.

By Mr. HAYWORTH (for himself, Mr. Stump, and Mr. Flake):

H.R. 5513. A bill to authorize and direct the exchange of certain land in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership; to the Committee on Resources.

By Ms. KILPATRICK (for herself, Ms. Lee, Mr. Frost, Mr. Rangel, Mr. Owens, Mr. Matsui, and Mrs. Maloney of New York):

H.R. 5514. A bill to provide grants to States for establishing sexual assault response team programs, and for other purposes; to the Committee on the Judiciary.

By Mrs. MORELLA (for herself and Ms. Norton):

H.R. 5515. A bill to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release; to the Committee on Government Reform.

By Mr. PAUL:

H.R. 5516. A bill to amend the Communications Act of 1934 with respect to retransmission consent and must-carry for cable operators and satellite carriers; to the Committee on Energy and Commerce.

By Mr. REYES:

H.R. 5517. A bill to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District, El Paso County, Texas; to the Committee on International Relations.

By Mr. SCHROCK:

H.R. 5518. A bill to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations; to the Committee on the Judiciary.

By Mr. SMITH of Texas:

H.R. 5519. A bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Florida:

H.J. Res. 112. A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes; to the Committee on Appropriations.

By Mr. ROHRABACHER:

H. Con. Res. 492. Concurrent resolution welcoming Her Majesty Queen Sirikit of Thailand upon her arrival in the United States; to the Committee on International Relations.

By Mrs. JONES of Ohio (for herself, Mr. Owens, Mr. Lipinski, and Mr. Frost):

H. Con. Res. 493. Concurrent resolution expressing the sense of the Congress that the United States Postal Service should issue a commemorative stamp on the subject of school safety awareness; to the Committee on Government Reform.

By Mr. ORTIZ (for himself, Mr. Hinojosa, Mr. Reyes, Mr. Rodriguez, Mr. Green of Texas, Mrs. Napolitano, Mr. Pastor, Mr. Bonilla, Mr. Frost, and Mr. Bentsen):

H. Con. Res. 494. Concurrent resolution expressing the sense of the Congress regarding the obligations of Mexico under the Treaty Between the United States of America and Mexico of 1944 relating to the use of the Colorado, Rio Grande, and Tijuana Rivers; to the Committee on International Relations.

By Mr. KNOLLENBERG (for himself and Mr. Ehlers):

H. Res. 565. A resolution honoring Ernie Harwell; to the Committee on Government Reform.

By Mr. ABERCROMBIE:

H. Res. 566. A resolution expressing the condolences of the House of Representatives on the death of the Honorable Patsy T. Mink, a Representative from Hawaii; considered and agreed to.

By Mr. GARY G. MILLER of California (for himself, Mr. Young of Alaska, Mr. Oberstar, Mr. Blumenauer, Mr. Honda, Mr. Rogers of Michigan, Mr. Otter, Mr. Graves, Mr. Shuster, Mr. Platts, Mr. Brown of South Carolina, Mr. Isakson, and Mr. Boozman):

H. Res. 567. A resolution recognizing the importance of surface transportation infrastructure to interstate and international commerce and the traveling public and the contributions of the trucking, rail, and passenger transit industries to the economic well being of the United States; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 239: Mr. Honda.

H.R. 280: Mr. Graves.

H.R. 344: Mr. Brown of Ohio.

H.R. 438: Mr. Graves.

H.R. 440: Ms. Lofgren.

H.R. 826: Ms. Bachus and Mr. Lucas of Oklahoma.

H.R. 914: Mr. Deal of Georgia, Mr. McKeon, Mr. Bachus, and Mr. Young of Alaska.

H.R. 952: Mr. Quinn.

H.R. 968: Mr. Crane.

H.R. 1090: Mr. Pascrell.

H.R. 1324: Mr. Etheridge.

H.R. 1368: Mr. Jeff Miller of Florida.

H.R. 1581: Mr. Sam Johnson of Texas.

H.R. 1642: Ms. Lofgren.

H.R. 1786: Mrs. Kelly, Mr. Camp, and Ms. Norton.

H.R. 1808: Mr. Farr of California.

H.R. 1839: Mr. Allen.

H.R. 1911: Mr. Maloney of Connecticut.

H.R. 1918: Mr. Green of Texas.

H.R. 1983: Mr. Jones of North Carolina.

H.R. 2053: Mr. Frank and Ms. Waters.

H.R. 2125: Mrs. Cubin, Mr. Sabo, and Mr. Dingell.

H.R. 2207: Mr. Engel and Ms. McCollum.

H.R. 2357: Mr. Kennedy of Minnesota.

H.R. 2457: Mr. Combest.

H.R. 2527: Ms. Solis, Ms. Slaughter, and Mr. Aderholt.

H.R. 2609: Ms. Slaughter.

H.R. 2755: Mr. Rodriguez.

H.R. 2836: Mr. Moore.

H.R. 2868: Mr. Kildee, Ms. Brown of Florida, Ms. Carson of Indiana, and Mr. Deutsch.

H.R. 2874: Ms. Pelosi.

H.R. 2908: Mr. Fattah.

H.R. 3053: Ms. Harman.

H.R. 3183: Ms. Lofgren.

H.R. 3320: Mr. Hayworth.

H.R. 3414: Ms. Eshoo, Mr. Menendez, Mr. Wu, and Mr. Smith of Washington.

H.R. 3450: Mrs. Capps.

H.R. 3808: Mr. Radanovich.

H.R. 3831: Mr. Deutsch and Mr. Cannon.

H.R. 3974: Ms. Norton.

H.R. 4018: Ms. Lofgren.

H.R. 4058: Mrs. Davis of California.

H.R. 4524: Mrs. Tauscher.

H.R. 4548: Mr. Hilleary

H.R. 4614: Mr. Frost.

H.R. 4706: Mr. McInnis.

H.R. 4707: Mrs. Jones of Ohio.

H.R. 4748: Ms. Velázquez.

H.R. 4763: Mr. Gordon, Ms. Lee, Mr. Green of Texas, Mrs. Biggert, Mr. Stump, Ms. Hooley of Oregon, Mr. Goode, and Mr. Filner.

H.R. 4780: Ms. McCollum and Ms. Sánchez.

H.R. 4840: Mr. Lewis of Kentucky.

H.R. 4875: Mr. Tancredo.

H.R. 4943: Mrs. Jo Ann Davis of Virginia.

H.R. 4963: Mr. Crowley.

H.R. 5047: Mr. Gonzalez and Mr. Allen.

H.R. 5061: Mrs. McCarthy of New York, Mr. Hinchey, Ms. Brown of Florida, Ms. Norton, and Mr. Wexler.

H.R. 5078: Mr. Wexler.

H.R. 5089: Mr. Berman.

H.R. 5125: Mr. Isakson and Ms. McCarthy of Missouri.

H.R. 5158: Mr. Pascrell.

H.R. 5191: Mr. Udall of New Mexico.

H.R. 5226: Mr. Waxman.

H.R. 5250: Mr. Gutierrez, Mr. Andrews, Mr. Boozman, Mr. Cummings, Mr. Ramstad, Mr. Green of Texas, Ms. Lee, Mr. Pascrell, Mr. Holt, Mr. Stupak, Ms. Baldwin, Mr. McIntyre, Ms. Carson of Indiana, Ms. Lofgren, Ms. Millender-McDonald, Mr. Kennedy of Rhode Island, and Mr. Jeff Miller of Florida.

H.R. 5253: Mr. Kanjorski.

H.R. 5272: Mr. Abercrombie.

H.R. 5317: Mr. Bishop.

H.R. 5322: Mr. Kennedy of Minnesota, Mr. Jeff Miller of Florida, and Mr. Deal of Georgia.

H.R. 5326: Ms. Pelosi and Mrs. Davis of California.

H.R. 5334: Mr. Pastor, Ms. Norton, Mr. Baca, Mr. Bentsen, Mr. Boehlert, and Mr. Matheson.

H.R. 5346: Ms. Kaptur, Mr. Brown of Ohio, and Ms. Carson of Indiana.

H.R. 5348: Mr. Udall of New Mexico.

H.R. 5358: Mr. Barrett, Mr. McDermott, Mr. Wexler, and Mr. Pascrell.

H.R. 5359: Mr. Strickland.

H.R. 5376: Mr. McKeon, Mr. Hastings of Washington, Mr. Calvert, Mr. Thomas, and Mr. Thune.

H.R. 5383: Mr. Meeks of New York, Mr. Sanders, Mr. Cooksey, Mr. Boucher, Mr. Dingell, Mr. Etheridge, Mr. Tancredo, Mr. Quinn, Mr. English, and Mr. Wilson of South Carolina.

H.R. 5396: Mr. Quinn, Mr. Dingell, Mr. Saxton, Mr. George Miller of California, Ms. Lee, and Mr. McGovern.

H.R. 5409: Mr. Gary G. Miller of California.

H.R. 5413: Mr. Kingston, Mr. Foley, Mr. Souder, Mr. Armey, and Mr. Sensenbrenner.

H.R. 5414: Mr. Boswell and Mrs. Roukema.

H.R. 5416: Ms. Norton.

H.R. 5422: Mr. Green of Wisconsin, Mr. Keller, Mr. Sweeney, Mr. Stenholm, Mr. Rogers of Michigan, Mr. Moore, Mr. Cannon, Mr. Chabot, Mr. Meehan, Mr. Jenkins, Mr. Schiff, Mr. Pence, Mr. Coble, Ms. Hart, and Mr. Graham.

H.R. 5439: Mr. Regula, Mr. Sawyer, Mr. Hobson, Mr. Tiberi, Mr. LaTourette, Mr. Brown of Ohio, Mrs. Jones of Ohio, Mr. Oxley, Mr. Boehner, Mr. Chabot, Ms. Pryce of Ohio, Mr. Portman, Mr. Ney, Mr. Kucinich, Ms. Kaptur, and Mr. Strickland.

H.R. 5445: Mr. Bartlett of Maryland, Mr. Visclosky, Mr. Boozman, and Mr. Hostettler.

H.R. 5449: Mr. Ortiz and Ms. Velázquez.

H.R. 5469: Mr. Underwood, Mr. English, Mr. Pence, Ms. Rivers, Ms. Dunn, and Mr. Cox.

H.R. 5491: Mr. Meehan.

H.R. 5493: Mr. Inslee and Mr. LaTourette.

H.R. 5499: Mrs. Roukema, and Mr. Baker.

H.J. Res. 23: Mr. Jeff Miller of Florida.

H.J. Res. 108: Mr. Turner and Mr. Jones of North Carolina.

H. Con Res. 116: Mr. Delahunt.

H. Con Res. 177: Mrs. Wilson of New Mexico and Mr. Levin.

H. Con Res. 418: Ms. McCollum.

H. Con Res. 445: Mr. Wolf, Mr. DeLay, Mr. Vitter, Mr. Tiahrt, Mr. Hunter, Mr. Hayes, Mr. Cannon, Mr. Herger, and Mr. Issa.

H. Con Res. 459: Mr. Borski.

H. Con Res. 462: Mr. Dingell, Mr. Allen, Mr. Visclosky, and Ms. McCarthy of Missouri.

H. Con Res. 466: Mr. Graves, Mr. Nethercutt, Mr. Stenholm, and Mr. Gutknecht.

H. Con Res. 473: Mr. Gutierrez, Mr. Towns, Mr. Bonior, Mr. Sanders, and Mr. Coyne.

H. Con Res. 476: Mr. Castle, Mr. Walsh, Mr. Gonzalez, Mr. Ballenger, Mr. Walden of Oregon, Mr. Weldon of Florida, Mr. Rohrabacher, Mr. Greenwood, Mr. Gordon, Ms. Norton, Mrs. Biggert, Mr. Smith of New Jersey, Mr. Collins, Mr. Sherwood, Mr. Fossella, Mrs. Morella, Mrs. Thurman, and Mr. Wolf.

H. Con Res. 479: Mr. Smith of New Jersey, Mr. Gallegly, Mrs. Morella, Mr. Bilirakis, Ms. Watson, Mr. Kennedy of Rhode Island, Mr. Nadler, Mr. Chabot, Mr. Sweeney, Mr. Kirk, Mr. Royce, Mr. Gilman, Mr. Engel, Mr. Lantos, Mr. Diaz-Balart, Mr. Manzullo, Mr. Weldon of Pennsylvania, Mr. Dreier, Mr. Hoeffel, Mr. Bereuter, and Mr. Holt.

H. Res. 429: Mr. Scott, Mr. Graham, Mr. Olver, Mr. Shows, Mr. Pallone, Mr. Castle, Mr. Ferguson, Mr. Wu, Mr. Crenshaw, Mr. Keller, Mrs. Kelly, Mr. Ehrlich, Ms. Millender-McDonald, Ms. Norton, Mr. Udall of New Mexico, Mr. Stupak, Mr. Royce, Mr. Capuano, and Mr. Ney.

H. Res. 467: Mr. Maloney of Connecticut.

H. Res. 468: Mr. Camp.

H. Res. 499: Ms. Berkley.

H. Res. 505: Mr. Strickland.

H. Res. 530: Mr. Baca and Mr. McKeon.

H. Res. 538: Mr. Doyle, Mr. Hoyer, and Mr. Coble.

H. Res. 548: Mr. Doyle.

H. Res. 549: Mr. Watkins, Mr. Horn, Mr. Wilson of South Carolina, Mr. Weldon of Florida, Mr. Schrock, Mrs. Tauscher, Mr. Forbes, and Mr. Brown of South Carolina.

H. Res. 555: Mr. Houghton, Mr. Issa, Mr. Crane, Mr. Kirk, Mr. Shaw, Mr. Rohrabacher, Mr. Sawyer, Mr. Ackerman, Mr. Blumenauer, Mr. Horn, Mr. Oxley, Mr. Hyde, Mr. Engel, Mr. King, Mr. Kolbe, Mr.

BERMAN, Mr. LANTOS, Mr. LEACH, Mr. BRADY of Texas, Mr. KNOLLENBERG, Mrs. NAPOLITANO, Mr. MARKEY, Mr. BALLENGER, and Mr. CROWLEY.

H. Res. 557: Mr. TOWNS, Mr. BOYD, Mr. STUPAK, Mr. TAYLOR of Mississippi, Mr. ROSS, and Mr. OBERSTAR.

H. Res. 559: Mr. RADANOVICH, Mr. LINDER, and Mr. GRUCCI.

H. Res. 561: Mr. BACA.

H. Res. 564: Mr. LIPINSKI, Mr. BORSKI, Mr. DINGELL, Mr. MALONEY of Connecticut, Ms. KILPATRICK, Mr. LAFALCE, and Mr. MCNULTY.